

S O U T H D A K O T A
GRAIN & FEED
A S S O C I A T I O N

July 17, 2008

Surface Transportation Board
395 E Street SW
Washington, DC 20423-0001

sub 1
**Re: Docket EP 677: Common Carrier Obligation of Railroads
— Transportation of Hazardous Materials**

Members of the Board.

On behalf of the members of the South Dakota Grain and Feed Association (SDGFA), I submit these comments regarding the Common Carrier Obligation of Railroads – Transportation of Hazardous Materials.

SDGFA is a non-profit membership association representing more than 250 companies that operate and/or provide services to county grain elevators in South Dakota. These elevators are the first point of sale for nearly all grain produced in the state.

We have been following the debate in Congress and at the Surface Transportation Board (STB) regarding the railroads' concern over the liability risk associated with rail transportation of toxic-by-inhalation (TIH) materials. Anhydrous ammonia, a TIH material, is a vital and essential plant nutrient that is critical to the nation's food supply. Rail is a safe and necessary method for transporting this critical agricultural product.

The railroad's common carrier obligation, codified by Congress in the Interstate Commerce Act in 1967 and reaffirmed by Congress in the Staggers Act, clearly shows the intent of Congress that railroads are not able to pick and choose which shippers to serve and which commodities to transport based purely upon their self interest. While the STB may have an advisory role in making recommendations to Congress on railroad common carrier obligation, only Congress has the authority to change this obligation.

Anhydrous ammonia is an essential agricultural nutrient used to grow our nation's food supply. With increased concern over escalating food prices, as well as food shortages around the world, it is critical that American farmers have anhydrous ammonia when and where they need it. Without anhydrous ammonia, U.S. farmers would be unable to produce the amount, or quality, of food the world has come to rely on. Anhydrous ammonia is the least costly and most effective source of nitrogen fertilizer for U.S. farmers. In addition to its direct application as a fertilizer, anhydrous ammonia is the primary ingredient in all other nitrogen fertilizers and is also used to produce phosphate fertilizers.

Agricultural infrastructure in many parts of the country, like South Dakota, was built around the use of anhydrous ammonia. It has taken many years of careful planning and development to create a safe and sophisticated infrastructure to deliver anhydrous ammonia to the most rural areas and farms in the U.S. It is not feasible to think that we could "turn a switch" and provide this essential product to U.S. farmers without the ability to ship by rail from production facilities to ammonia terminals, distribution centers and dealer storage tanks that supply ammonia bullets, nurse tanks and farm production. Today's infrastructure simply would not be able to handle a shift of anhydrous ammonia away from rail.

Because of the unique characteristics of anhydrous ammonia, agricultural retailers who receive this essential plant nutrient have extensive employee training requirements, personal protective equipment and facility security. If the anhydrous ammonia was received by truck, a retailer would have to incorporate additional changes to their existing infrastructure including relocating unloading areas, increasing distribution access in order to receive many trucks, and finding qualified commercial drivers with specialized hazmat licenses. In many cases, these additional requirements are

either unavailable too expensive to institute. We could not provide this essential product to U S farmers without the ability to ship and receive by rail

Rail is often the only alternative to trucks for the overland transportation of anhydrous ammonia. One tank car can transport as much anhydrous ammonia as four trucks. Rail transportation is not only more efficient than trucks, it takes a highly hazardous commodity off our nation's highways where the potential for accidents and public release are many times greater

Thank you for the opportunity to comment on this important issue

Sincerely,

Kathleen M Zander

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