

# Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

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December 17, 2010

## Legislative Committees for the 2011-2012 Session Announced

*By Jordan Lamb -- DeWitt Ross & Stevens*

The new Legislature will be sworn in on January 3, 2011 and the new leaders have announced the chairpersons of the legislative committees for next session. Full committee membership will be completed in the next several weeks. The following are committee chairs of most interest to Wisconsin farmers:

Senate Agriculture, Forestry, and Higher Education: Dan Kapanke (Chair)

Senate Natural Resources and Environment: Neil Kedzie (Chair)

Assembly Agriculture: Lee Nerison (Chair)

Assembly Natural Resources: Scott Gunderson (Chair)

Assembly Rural Economic Development and Rural Affairs: Al Ott (Chair)

## Agricultural Air Emissions Update

*By Jordan Lamb -- DeWitt Ross & Stevens*

Earlier this year, the Department of Natural Resources formed an "Agricultural Waste Air Emissions Advisory Group" to review current information and practices and develop recommended Best Management Practices (BMPs) for agricultural waste emissions. These recommendations are, presumably, going to be used to develop a new or amend current NR 445 to regulate agricultural air emissions.

This group has met since April and is currently reviewing a draft final report containing recommendations for, "Beneficial Management Practices" intended to address air emissions from farms. (The final report and corresponding materials are available online at: <http://dnr.wi.gov/air/agWasteBMPs.html> .)

Currently, air emissions from agricultural sources (livestock farms) are exempted from a requirement to get an air permit in Wisconsin. However, that exemption, which is contained in Wis. Admin. Code s. NR 445, expires on July 31, 2011. NR 445 regulates more than 600 hazardous air contaminants, from all stationary air contaminant sources in the state. Those contaminants that are likely emitted from animal agriculture include ammonia (NH<sub>3</sub>) and hydrogen sulfide (H<sub>2</sub>S). Accordingly, the DNR is working toward implementation of some kind of administrative regulation of ag air emissions prior to the expiration of the current exemption. It is expected that the recommendations from this advisory committee will be used to develop those rules.

## Incidental Take Permit for Cave Bats Revised

By Jordan Lamb -- DeWitt Ross & Stevens

There are 4 species of cave bats that are being added to the DNR's endangered or threatened animals list. In order to protect those 4 new species, the DNR has also proposed a revised broad incidental take permit for these 4 species.

In the initial draft of the incidental take permit for cave bats, the DNR prohibited "snags or dying trees" to be cut from June 1 - August 31 if they were within 1 km of a wetland or waterbody. Several agricultural organizations commented on this provision and expressed concern about the prohibition's interference with farming activities.

The DNR responded and has revised the cave bat incidental take permit to only apply this prohibition to snags or dying trees with a DBH (diameter breast height) of 10 inches or more. (NOTE: Diameter at breast height is the outside bark measurement taken at about 4.5 feet from the ground.) Evidence of bat presence must also be found before the prohibition applies.

In addition, there are restrictions that apply to building demolition from June 1 – August 15. If there is evidence of bat presence in buildings, then bats must be removed from those buildings for 5-7 days prior to building demolition. If there is no evidence of bat presence, then there are no restrictions. Building demolition from August 16 – May 31 is not restricted by this incidental take permit.

For more information about the cave bat incidental take permit, go to the DNR's web site at:  
<http://www.dnr.state.wi.us/org/land/er/take/cavebats.htm> .

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