

# Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

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February 25, 2011

## Water Update: Water Use Registration, Reporting & Fees

*By Jordan Lamb -- DeWitt Ross & Stevens*

As a part of the Great Lakes Compact, which became effective in December 2008, the State of Wisconsin embarked on the creation of a new statewide water use registration and reporting system. Two new administrative rules, NR 850, Water Use Fees, and NR 856, Water Use Registration and Reporting, became effective in January 2011 and will apply to farmers in Wisconsin who meet certain water use thresholds.

## Water Use Registration and Reporting – NR 856

*By Jordan Lamb -- DeWitt Ross & Stevens*

New Wisconsin administrative rule, NR 856, requires every “person,” statewide, who has the *capacity* to withdraw more than 100,000 gallons of water per day in any 30 day period to register their water withdrawal with the Wisconsin Department of Natural Resources (WDNR). In addition, they must annually report their actual monthly withdrawal amounts to the WDNR. This requirement applies to both surface water and groundwater withdrawals. (“Person,” for purposes of this regulation, means an individual or an entity including a business entity.)

Withdrawal capacity for a property is the total capacity, in gallons per day, from all water sources on the property. For purposes of this rule, “one property” means “all contiguous land controlled by one owner, lessee, or any other person having a possessory interest.” Lands under single ownership that are bisected by highways or railroad right-of-ways are considered contiguous.

If a person meets the withdrawal capacity trigger, then the person must register with the WDNR and report their monthly withdrawal amounts to the WDNR each year. These annual reports are due by March 1 of every year.

If you already have high capacity wells, then you should have received a letter with 2010 reporting forms from the WDNR in early February. At this time, you are only required to submit your 2010 reporting information. You do not need to submit a paper registration form. You will receive more information about the registration process from the WDNR in the next few months.

If you withdraw water from a surface water source or if you are siting a new high capacity well, then you will need to formally register with the WDNR using either a paper form or the online registration system.

Information about water use registration and reporting is available from the DNR online at: <http://dnr.wi.gov/org/water/dwg/greatlakes/registration.htm>. In addition, the online reporting tool is available on the DNR's website at: <http://dnr.wi.gov/org/water/dwg/greatlakes/wu.htm>.

## Water Use Fees – NR 850

By Jordan Lamb -- DeWitt Ross & Stevens

Under new state law and Wisconsin administrative rule NR 850, every person, statewide, who has the capacity to withdraw more than “100,000 gallons [of water] per day or more in any 30-day period” is required to pay an annual fee of \$125. This fee applies regardless of whether 100,000 gallons is actually withdrawn. It is based on capacity to withdraw. This applies uniformly across the state to anyone who meets the capacity threshold.

The \$125 fee is assessed “per property.” In most cases, this means “per farm.” Property for purposes of this fee means, “all contiguous land controlled by one owner, lessee, or any other person having a possessory interest.” Lands under single ownership that are bisected by highways or railroad right-of-ways are considered contiguous.

In addition, any person in the Great Lakes Basin who *actually withdraws* “more than 50,000,000 gallons of water per year” shall pay a “Great Lakes Specific Fee” based on the following graduated scale:

<b>Total Water Withdrawn in Millions of Gallons per Year (MGY)</b>	<b>Great Lakes Basin Specific Fee Per Million Gallons</b> (this fee is capped at \$1000 for small businesses and \$9,500 for all others)
0-50	\$0.00
51-100	\$1.50
101-150	\$2.00
151-200	\$2.50
201-250	\$3.00
251-300	\$3.50
301-350	\$4.00
351-400	\$4.50
401-450	\$5.00
451-500	\$5.50
500+	\$6.00

Accordingly, the total annual fee for those subject to the Great Lakes Basin Specific Fee is calculated by adding the \$125 base fee to the Great Lakes Basin Specific Fee. For example, if you are located in the Basin and you withdraw 60 million gallons of water in 2011, you will pay:

$$\$125 \text{ Base Fee} + [50 \text{ million gal} \times \$0.00] + [10 \text{ million gal} \times \$1.50] = \$140.00$$

OR

$$\$125 + \$0.00 + \$15.00 = \$140.00$$

To view a map of the area that delineates the Great Lakes Basin, go to the WDNR’s website at:  
[http://dnr.wi.gov/org/water/greatlakes/images/glbasin\\_web.pdf](http://dnr.wi.gov/org/water/greatlakes/images/glbasin_web.pdf).

If you are located within the Great Lakes Basin and you believe that you withdraw more than 50,000,000 gallons of water per year, then you can estimate your fee using a worksheet on the WDNR’s website:  
<http://dnr.wi.gov/org/water/dwg/greatlakes/fees.htm>.

DNR will send a billing statement assessing these fees later this year. You do not need to pay these fees at the time you register or report your withdrawals.

## Secretary Brancel Appoints Division Heads at DATCP

*By Jordan Lamb -- DeWitt Ross & Stevens*

DATCP Secretary Ben Brancel has appointed the following administrators to lead five divisions in the Department of Agriculture, Trade and Consumer Protection: Mike Powers, Division of Agricultural Development; John Petty, Division of Agricultural Resource Management; Steven Ingham, Division of Food Safety; Sandy Chalmers, Division of Trade and Consumer Protection; and Perry Brown, Division of Management Services. Secretary Brancel previously announced the appointment of Dr. Robert Ehlenfeldt as State Veterinarian and administrator of the Division of Animal Health.

For more information about these appointees, go to the DATCP press release online at:

<http://datcp.wi.gov/news/?Id=242>.

## Manure Spreading Caution Issued

*By Jordan Lamb -- DeWitt Ross & Stevens*

The Department of Agriculture, Trade and Consumer Protection is urging farmers to use caution when spreading manure as we head into warmer weather. State agricultural and environmental officials say that, "...farmers who don't have enough storage space to avoid spreading manure should not spread on high risk areas and have a manure spill response plan in place in case an accident happens.

Farmers can locate high risk sites on their property through online maps available through DATCP's Manure Management Advisory System [[www.manureadvisorysystem.wi.gov](http://www.manureadvisorysystem.wi.gov)]. The maps identify where the risk of runoff from manure is highest because of the site's slope, soil type, and proximity to lakes, rivers, sinkholes and other sensitive features. The site also includes a National Weather Service map of predicted risk of runoff due to rain or snowmelt events.

For more information, go to DNR's website at: [http://dnr.wi.gov/news/DNRNews\\_article\\_Lookup.asp?id=1671](http://dnr.wi.gov/news/DNRNews_article_Lookup.asp?id=1671).

## Wisconsin Exports Grow in 2010

*By Jordan Lamb -- DeWitt Ross & Stevens*

On February 22<sup>nd</sup>, Governor Scott Walker announced that Wisconsin's exports increased 18.28% to \$19.78 billion in 2010. According to the DATCP press release, Wisconsin now ranks as the 18th-largest exporting state, up from its 21st-largest rank in 2006.

The state's agricultural exports increased by 36.39-percent to \$2.41 billion in 2010, which is a record high. Cereal grains ranked first with a 111.74-percent increase to \$515.91 million. Dairy Related Exports ranked second with a 27.95-percent increase to \$213.36 million. Miscellaneous Food, including ingredients, sauces, yeasts, soups, and mustards, ranked third with a 16.28-percent increase to \$200.47 million. Baking Related Exports ranked fourth with a 3.03-percent decrease to \$178.67 million; and Miscellaneous Grain, Seeds, and Fruits ranked fifth with 62.77-percent increase to \$157.97 million.

For more information, go to the DATCP press release online at: <http://datcp.wi.gov/news/?Id=243>.

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