

# Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

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July 1, 2011

## State Budget Bill is Signed

*By Jordan Lamb -- DeWitt Ross & Stevens*

Governor Walker has signed the 2011-12 biennial budget bill into law. Most of the provisions of the bill will go into effect on July 1. It was a very stable budget for most of agriculture from a DATCP and DNR perspective. The bill includes funding for 10 additional meat inspectors at the DATCP and provides \$27 million in farmland preservation tax credit for farmers who meet conservation requirements.

It also contains a protection for scientific researchers engaged in animal research at Wisconsin colleges, universities and private companies. Under the new law, researchers who comply with federal law and animal research protocols will be protected from criminal prosecution for animal cruelty. Animal rights advocacy groups had targeted several inconsistencies in Wisconsin state law as a way to try to stifle federally regulated scientific research at the University of Wisconsin.

## Raw Milk Legislation is Introduced

*By Jordan Lamb -- DeWitt Ross & Stevens*

Senator Glen Grothman (R-West Bend) has introduced [Senate Bill 108](#), which would allow the sale of unpasteurized milk products in Wisconsin.

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk and other milk products and prohibits the sale to consumers of milk or milk products that are not grade A. Current law requires a dairy farmer to have a milk producer license from the DATCP and requires a grade A permit from DATCP to sell grade A milk. DATCP promulgates rules governing the operation of dairy farms and the testing and quality of milk.

SB 108 allows a dairy farmer with a license and a grade A permit to register with DATCP for the purpose of selling unpasteurized milk and milk products. The bill allows a dairy farmer who does not have a license or a grade A permit to register with DATCP if the farmer milks fewer than 20 cows. A dairy farmer who registers with DATCP may sell unpasteurized milk and milk products directly to a consumer on the farm if the dairy farmer or the consumer provides a sanitary container, the container is filled in a sanitary manner, and the dairy farmer posts a sign stating "Raw milk products sold here. Raw milk products are not pasteurized." Under the bill, DATCP's rules governing the operation of dairy farms and the testing and quality of milk do not apply to a registered dairy farmer without a license or a grade A permit if the farmer milks fewer than 20 cows.

SB 108 has been referred to the Senate Committee on Agriculture, Forestry and Higher Education for consideration. To read a recent *Wisconsin State Journal* article about this legislative effort, go to:

[http://host.madison.com/wsj/news/local/health\\_med\\_fit/article\\_62cc2b84-a29c-11e0-b0e8-001cc4c002e0.html](http://host.madison.com/wsj/news/local/health_med_fit/article_62cc2b84-a29c-11e0-b0e8-001cc4c002e0.html)

## JCRAR Moves Legislation to Effectuate Air Rule Suspension

By Jordan Lamb -- DeWitt Ross & Stevens

The Wisconsin legislature has temporarily suspended the DNR rules which would impose air emissions limitations and air permitting requirements on Wisconsin livestock farms. NR 445 establishes acceptable ambient air concentrations for ammonia for air emissions from agricultural waste (livestock manure, animal waste byproducts, litter and bedding) and NR 406 and 407 impose air permitting requirements associated with those limitations. Without the action by the legislature's Joint Committee for Review of Administrative Rules (JCRAR), led by Representative Jim Ott (R-Mequon) and Senator Leah Vukmir (R-Wauwatosa), earlier this spring, these rules would have been in effect for Wisconsin farmers on August 1, 2011.

At their June meeting, the Natural Resources Board voted *against* allowing an administrative rule change that would have removed agricultural waste from NR 445, 406 and 407. It appears that, in part, this vote may have been intended to allow the legislature to address the situation through statute. The Board, however, is not foreclosed from addressing the issue at a future meeting.

The JCRAR has introduced AB 195, legislation which would statutorily remove agricultural waste from these rules. In order to become law, that legislation must have public hearings in the legislature, move through both houses and be signed by the Governor. It has been referred to the Assembly Natural Resources committee. The current suspension of these rules as applied to farms will expire at the end of this legislative session – spring of 2012.

## DNR Water Use Registration & Reporting In Effect

By Jordan Lamb -- DeWitt Ross & Stevens

The State of Wisconsin embarked on the creation of a new statewide water use registration and reporting system as a part of its enactment of the Great Lakes Compact. Accordingly, if you have a water supply system that meets certain criteria, you may have recently received a notice from the DNR indicating that you have an obligation to register, report and remit a water use fee to the DNR. These requirements are part of two new administrative rules, NR 850, Water Use Fees, and NR 856, Water Use Registration and Reporting, which became effective in January 2011.

### **Water Use Registration and Reporting – NR 856**

New Wisconsin administrative rule, NR 856, requires every person, statewide, who has a “water use system” with the *capacity* to withdraw more than 100,000 gallons of water per day (i.e., 70 gallons per minute) 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.

Withdrawal capacity is determined by the capacity of each water use system. Any water use system (high capacity well or surface water withdrawal system) that meets the 100,000 gallon per day threshold will trigger the registration and reporting rule. 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 are already registered and should have received a letter with 2010 reporting forms from the WDNR in early February.

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

Under new state law and Wisconsin administrative rule NR 850, every person, statewide, who has a water use system with 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.” 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.

As a part of the new budget bill, the State has imposed a cap on water use fees for individuals who own multiple properties that are not contiguous. The budget bill language provides that an owner of eight or more water supply systems on separate properties will not be charged more than \$1,000 in cumulative water use fees.

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 a graduated scale.

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. You do not need to pay these fees at the time you register or report.

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## Capitol Link Details

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Jordan Lamb is a partner at DeWitt Ross & Stevens’ Capitol Square office in Madison. Jordan’s law practice focuses on government relations and administrative law. She concentrates on legislative drafting, legislative research, and facilitating communication between clients and state government including administrative agencies and the State Legislature. Ms. Lamb also offers litigation support for administrative law issues. Jordan can be contacted at 608-252-9358 or at [jkl@dewittross.com](mailto:jkl@dewittross.com). For more information about DeWitt Ross & Stevens, go to [www.dewittross.com](http://www.dewittross.com).



Brought to you by: Professional Dairy Producers of Wisconsin  
N5776 County Road D, Suite 1 Fond du Lac, WI 54937  
Phone: 800-947-7379  
[www.pdpw.org](http://www.pdpw.org)