

Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

August 29, 2011

Fall Harvest Weight Limits Take Effect Sept. 1

By Jordan Lamb -- DeWitt Ross & Stevens

Fall harvest weight limits take effect on September 1 and continue through November 30. During that time period, an overweight truck permit is not required for the transportation of corn, soybeans, potatoes, vegetables or cranberries from the field to initial storage, or from the field to the initial processing point.

Vehicles or combination of vehicles with a gross vehicle weight of 50,000 - 80,000 pounds may increase their weights by 15 percent for harvest activities. For example, a semi-trailer loaded with corn normally cannot exceed 80,000 pounds. Under the fall harvest weight limits, that same trailer can be loaded up to 92,000 pounds.

This exception does not apply on Class "B" highways or on highways designated as part of the national system of interstate and defense highways.

Recall Recap – Republicans Maintain Control of State Senate

By Jordan Lamb -- DeWitt Ross & Stevens

The votes have been counted and the Wisconsin Senate recall elections are over. The Republican majority in the State Senate has been narrowed to one. The Republicans hold 17 seats and the Democrats hold 16 seats as we enter the fall session.

This change resulted after Republican Senator Dan Kapanke lost to Democratic challenger Jennifer Shilling and Randy Hopper (R) lost to challenger Jessica King (D).

DATCP Will Revise Nonpoint Source Pollution Technical Standards

By Jordan Lamb -- DeWitt Ross & Stevens

On August 1, 2011, the Department of Agriculture, Trade and Consumer Protection (DATCP) issued an administrative rule "scope statement" indicating its intent to revise Wis. Admin. Code § ATCP 50, which establishes the technical and conservation standards used to meet the nonpoint source pollution performance standards established by the Department of Natural Resources (DNR).

DNR's revised nonpoint performance standards became effective in January 2011. They included a new tillage setback standard, a new phosphorus runoff limit (i.e., the P index), a new prohibition against discharge of process wastewater from milk houses and feedlots, and a new requirement that farmers meet runoff reductions in areas where TMDLs (total maximum daily loads) have been established.

DATCP will now engage in revising its rule such that the farm conservation standards and the soil and water resource management framework supports the implementation of the new and modified DNR standards.

NRCS has adopted standards for conservation practices that are currently incorporated into this DATCP rule. Accordingly, this rulemaking will also review those standards and incorporate updated NRCS standards or “may modify NRCS standards to make them more clear or workable in Wisconsin’s soil and water conservation program.”

It is estimated that this rule revision will take approximately 18 months until final rules are ready to be sent to the legislature.

DNR Designated First Enterprise Agency

By Jordan Lamb -- DeWitt Ross & Stevens

Gov. Scott Walker has designated the Department of Natural Resources as Wisconsin government’s first Enterprise Agency pilot through a memorandum of understanding between the Department of Administration and DNR. Under the concept, DNR will be given increased operating flexibility to enable the agency to improve customer service and business support, as well as enhance its natural resources mission. Under the Enterprise Agency agreement, DNR has committed to:

- Improve processes to reduce permit times by 5% for major air and water permits while upholding environmental standards;
- Improve communication and interaction with the regulated community to assure environmental permitting requirements are widely understandable and are issued in a timely way through creation of a new Office of Business Support and Sustainability;
- Develop internet-based tools to streamline and more effectively transmit and track permit applications;
- Increase over-the-counter service at DNR facilities by 40%;
- Improve cost-effectiveness by prioritizing work and eliminating duplicative systems for fleet and facilities construction and repair; and,
- Reduce costs by 2.5% for basic operations, and organize itself into a line authority organization to assure DNR is making consistent decisions across the state.

To achieve these goals, DNR will be given management discretion in the following areas:

- Fleet operations; and,
- Facilities repair and construction.

Initial management strategies for the Enterprise Agency include implementing a line authority system to improve consistency and accountability; better utilizing the web and information tools to streamline and simplify permitting; setting uniform performance expectations for staff and supervisors; and, implementing bi-annual program audits.

UW Enters Partnership with Ag Group to Study Central Wisconsin Water Issues

By Jordan Lamb -- DeWitt Ross & Stevens

The University of Wisconsin, through the Wisconsin Institute of Sustainable Agriculture, has announced the launch of the Central Wisconsin Water Initiative. The Initiative will be led by Dr. Sam Kung, professor of soil science at UW-Madison and will also include other scientists, representatives from DATCP, DNR and the local farming community.

The Initiative has partnered with the Wisconsin Potato & Vegetable Growers Association Groundwater Task Force to coordinate evaluation of the current groundwater use system. Preservation of the groundwater resources in the central sands region of Wisconsin while maintaining the farming operations in that area is a focus of the new Initiative.

MN Court Holds Pesticide Drift Could be Trespass

By Jordan Lamb -- DeWitt Ross & Stevens

The Minnesota Court of Appeals has held that sprayed pesticide drifting from a conventional farm to a neighboring organic farm could constitute a trespass. In *Johnson v. Paynesville Farmers Union Cooperative Oil Co.*, organic farm operators filed a lawsuit after a commercial pesticide applicator oversprayed conventional farm fields adjacent to their farm. The Minnesota Department of Agriculture required the organic farmers to plow under part of a field bordering the conventional farm and to take the field out of organic production for three years. Citing case law from other jurisdictions holding that particulate matter deposited on another's property can constitute trespass, the MN court held that a pesticide drifting from one farm to another may constitute a trespass. The case has been sent back to the lower court for additional review.

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