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Dates to Remember:

April 8, 2011 - End of Asparagus Revenue Market Loss Payment Program Sign-up

April 13, 2011 - Michigan Commission of Agriculture and Rural Development Monthly Meeting

April 15, 2011 - End of Conservation Reserve Program General Sign-up 41

April 16, 2011 - MSU College of Agriculture and Natural Resources Small Animals Day

Governor Snyder Signs Michigan Agriculture Environmental Assurance Program into Law

by: [Liza C. Moore](#)

Governor Rick Snyder's first bill signings turned the Michigan Agriculture Environmental Assurance Program (MAEAP) into law. On March 8, 2011, Gov. Snyder signed Senate Bill 122 and House Bill 4212, now Public Acts 1 and 2 of 2011. "Our journey to the 'New Michigan' requires that government, industry and stakeholder groups work together toward common goals," Gov. Snyder said.

"MAEAP has proved to be an excellent example of that cooperation. Putting this program into statute secures its place as a model for addressing environmental challenges in a way that also allows our agriculture-based businesses to expand. I am pleased that my first bill signings recognize the critical importance of Michigan agriculture as well as our need to be sound stewards of the environment. The fact that the Legislature acted on these bills so promptly also demonstrates its commitment to the agriculture industry and our shared resources," said Gov. Snyder.

Under the new law:

- The director of the Michigan Department of Agriculture will implement MAEAP in consultation with the Environmental Assurance Advisory Council. The program continues to be voluntary.
- A farmer wishing to participate in MAEAP must complete educational requirements

authorized by the Department of Agriculture, develop and implement one or more department-approved conservation plans, and pass an on-site evaluation by the department.

- MAEAP verifications are valid for three years and are renewable.
- Owners or operators of MAEAP-verified farms are not subject to civil fines for discharges into waterways if they act promptly to correct the condition upon discovering it, and report the situation to the Michigan Department of Environmental Quality within 24 hours of discovery. They still are responsible for natural resource damages.
- The director of the Department of Agriculture can revoke a farm's MAEAP verification for reasons such as gross negligence or failure to comply with program standards.
- The Department of Agriculture will establish a MAEAP grants program for uses such as technical assistance, educational programs, demonstration projects to implement conservation practices, and removal of potential contamination sources.

This law is broad. If you have specific questions, please contact [Liza Moore](#) at **517.371.8281**.

Loose Livestock

by: April L. Neihls

Several cows from a dairy escape their enclosure. They trample and eat organic herbs in a neighboring field. Law enforcement is called and takes custody of the cows. Who pays for the lost crops? What becomes of the cows?

The Michigan "Animal Running at Large" Act, M.C.L. § 433.11, et seq. ("the Act") answers these questions and others. The Act imposes absolute or strict liability on the "owner" of cattle, horses, sheep, swine, mules, burros, or goats that trespass onto the property of another and cause property damage. The Act also allows "[a] person who sustains any loss of, or damage to, property by an animal running at large" to "demand reasonable compensation from the owner of the animal . . ."

If you come across an animal running "at large" on your property, you may confine the animal and immediately notify law enforcement, which should promptly take custody of the animal. If the animal damaged your property, you may submit a written demand for compensation from its "owner" to the law enforcement agency

holding the animal. Your demand must be "verified" and include a statement of when, where, what, and how much damage was done; the identity or description of the animal that allegedly caused the damage; the identity of the animal's owner (if known); and the amount you demand.

If you are the "owner" of an animal that damaged property while "at large," you will be liable for that damage even without proof of your wrongdoing. You could also be charged with a criminal misdemeanor for enabling your animal to run "at large." If you make restitution for the damage, law enforcement must return your animal to you. When the "owner" cannot be identified or refuses to make restitution, the Act sets forth a procedure to sell the animal at public auction, but owners can redeem it within three months of the sale.

Importantly, the Act only applies to property damage and does not govern an owner's liability for personal injuries caused by loose animals. Liability for personal injuries will be discussed in upcoming newsletters.

Compensation Available for Asparagus Producers; Sign-Up Period Ends April 8, 2011

by: Liza C. Moore

On February 4, 2011, Agriculture Secretary Tom Vilsack announced that \$15 million is available to United States asparagus producers to compensate them for marketing losses due to imports in the 2004 through 2007 crop years. The 2008 Farm Bill authorized the Asparagus Revenue Market Loss Payment Program, and the Commodity Credit Corporation will provide an allocation of \$7.5 million for fresh-market asparagus and \$7.5 million for processed or frozen market asparagus. The maximum payment rates for processed asparagus are \$1.08 per pound and for fresh-crop asparagus, \$1.06 per pound. To qualify for the program, producers

must have produced and marketed asparagus in commercial quantities in the U.S. during both crop years 2003 and 2007, and meet highly erodible land and wetland provisions. The sign-up period for this program ends April 8, 2011.

For more information, contact the nearest Farm Service Agency county office or visit:

- www.fsa.usda.gov/FSA/webapp?area=home&subject=prsu&topic=mpp-alap
- www.fsa.usda.gov/Internet/FSA_File/alap_regs.pdf

Proposed State Budget Cuts Affect Michigan Agriculture

by: Liza C. Moore

Governor Rick Snyder's proposed budget for fiscal years 2012 and 2013 includes cuts to Michigan agriculture programs. The Governor's proposed Department of Agriculture and Rural Development budget for fiscal year 2012 recommends total funding of \$71.5 million and for fiscal year 2013, total funding of \$72.9 million.

The cuts include a proposed amendment to the drain code pertaining to intercounty drain administration, provisions to transfer on-farm

dairy inspections from the state to industry field representatives, and cuts to grain elevator surveillance.

Page B-1 of the proposed budget states: "The Governor recommends transferring the dairy farm milk safety inspection program to dairy industry field representatives who are certified by the department to conduct dairy farm inspections, realizing a savings to the general fund of \$600,000." "By focusing on surveillance activities related to

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food and animal feed safety alone, the department will recognize a savings to the general fund of \$250,000. The department will no longer collect and analyze animal feed samples for nutrient content." (Proposed budget, p. B-1). "The Governor recommends amending the Drain Code by reducing the responsibilities of the Department of Agriculture and Rural Development and creating a voluntary assessment for each Intercounty Drainage District that chooses to access state services. These changes will save \$432,300 general fund." "The Governor proposes to increase the annual grain dealer

fee which will fully fund the producer security program, saving \$300,000 general fund." (Proposed budget, p. B-1).

Governor Snyder's proposed budget for can be found at: www.michigan.gov/documents/budget/1_345974_7.pdf

This budget is not final. This is the time to communicate your concerns to your MI Representative or Senator.

Conservation Reserve Program General Sign-Up March 14, 2011 Through April 15, 2011

by: Liza C. Moore

General sign-up 41 for the Conservation Reserve Program (CRP) began on March 14, 2011 and will end on April 15, 2011. The 2008 Farm Bill authorized USDA to maintain CRP enrollment up to 32 million acres. On March 8, 2011, Agriculture Secretary Tom Vilsack announced the sign-up. "For 25 years, CRP has generated significant environmental improvements," said Vilsack. "Sound conservation practices encouraged through CRP enrollment preserve the soil, clean our water and restore habitat for wildlife. I encourage all interested farmers and ranchers to contact their local FSA office to learn more about this opportunity," said Vilsack.

Land that is not currently enrolled in CRP may be offered for enrollment during sign-up 41. CRP participants with contracts expiring on September 30, 2011 may also submit offers. Producers at any time can participate in CRP continuous sign-up, in which producers can enroll the most environmentally sensitive land.

For a producer to be eligible for enrollment, the producer must have owned or operated the land for at least 12 months prior to

the end of the CRP sign-up period, unless the new owner acquired the land due to the previous owner's death, ownership changed due to foreclosure and redemption, or circumstances of the acquisition provide adequate assurance to FSA that the new owner did not acquire the land for the purpose of placing it in CRP. For land to be eligible, it must have been planted to an agriculture commodity four of the six years from 2002 to 2007 and be physically and legally capable of being planted in a normal manner. The land must also be either a weighted erosion index of 8 or higher, expiring CRP acreage, or located in a national or state CRP conservation priority area. FSA provides rental rates to participants.

Visit your local Farm Service Agency office to offer your eligible land. See the FSA's website on CRP General Sign-Up 41: www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=crp-sp

Dairy Industry Advisory Committee Approved Final Report of Recommendations to U.S. Secretary of Agriculture

by: Liza C. Moore

On March 3, 2011, the Dairy Industry Advisory Committee voted to approve a final report to submit to Secretary Vilsack. The report contains 23 recommendations to the Secretary, and reports its finding that existing federal programs and legislation had a limited impact on mitigating recent market volatility.

The recommendations include suggestions that the Secretary should develop a system that provides an accurate assessment of dairy farm profitability, review federal milk marketing orders, simplify and improve risk management products for dairy farmers, and use USDA farm loan programs and emergency interventions. With regard to price protection, the committee advised the Secretary to consider eliminating end product pricing, to collect and publish price

data, and to adopt a growth management program. For income protection, the Secretary was advised to establish risk management margin lines of credit, modify the milk income loss contract program and provide a margin insurance option, and adopt tax-deferred farm savings accounts.

To improve the market, the committee recommended the USDA support competitive market structures, develop and expand programs for export markets, reduce the somatic cell count standard, consider adopting California-type fortification standards for milk, restrict the use of dairy descriptors like cheese on products,

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support value-added dairy, offer incentives for sound environmental practices, phase out ethanol subsidies, devise programs to eradicate TB and Jones from U.S. herds, and help farms employ year-round, long-term immigrant labor. The committee report is available online: www.fsa.usda.gov/Internet/FSA_File/diac_final_rpt_0302.pdf

Many have responded to the committee's recommendations. More than 30 CEOs of dairy industry companies have written to Secretary

Vilsack, stating that they agreed with most of the recommendations but opposed the recommendation for a "growth management" program and were disappointed that the committee did not develop reforms of the Federal Milk Marketing Order System.

Visit the USDA's website to input your comments on the committee and the report: www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&to pic=dia

Proposed Changes to Michigan's Business Tax

by: Todd W. Hoppe

Michigan Governor Rick Snyder has proposed a replacement for the largely unpopular and complex Michigan Business Tax. Under the current Michigan Business Tax, most businesses with annual gross receipts in excess of \$350,000 are subject to a tax of 0.975% on their gross receipts (0.8% tax, plus a 21.99% surcharge), and an income tax of 6.0385% on their business income (4.95% tax, plus a 21.99% surcharge). Most businesses are subject to the tax. However, certain agricultural businesses (i.e., certain exempt agricultural cooperatives) are exempt. Additionally, the law contains a multitude of credits and special incentives, which reduce the tax base upon which MBT liability is calculated.

In response to the unpopularity of the Michigan Business Tax, and specifically credits and incentives that benefit only certain businesses and the gross receipts tax that burdens even unprofitable businesses, Governor Snyder has proposed a flat 6% corporate income tax on substantially all "C corporations." The tax would be calculated based upon taxpayers' federal taxable income, as reported on their IRS Form 1120 corporate income tax return. Most credits and incentives would be eliminated.

Pass-through entities, such as partnerships (including multiple-member limited liability companies taxed as a partnership), S Corporations, and sole proprietorships (including single member limited liability companies that are treated as "disregarded entities" for federal income purposes) would be exempt from the tax. Instead, the owners of those pass-through entities would be subject to Michigan's 4.35% individual income tax on all business income allocated to them.

This structure mirrors the federal income taxation of businesses, under which C corporations are subject to income tax at an entity level, pass-through tax entities pay no income tax, and the owners of pass-through entities pay taxes on business income allocated to them. The proposed Michigan corporate income tax does not exempt agricultural businesses, such as cooperatives, from the tax.

We will continue to monitor the status of Governor Snyder's legislative initiative and report on developments as they arise.

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