



# Agricultural Law Update

July 2014

## FIVE REASONS WHY YOU NEED A GOOD SUCCESSION PLAN NOW

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- Liza C. Moore

Remember the old saying "failing to plan is planning to fail"? Here are five reasons why you need a good succession plan now.

**Family Relationships.** Ensure family members know where they stand with the future of the farm by eliminating uncertainty of asset ownership, now and in the future. Allow the next generation to begin investing (their time and/or money) in the family business with confidence by knowing how the farm will transition down the road.

**Tax Savings.** Minimize income, gift, and estate tax liabilities by planning. Navigate PA 116, the Michigan real property transfer tax, and real property uncapping issues effectively.

**Risk Management through Business Entity Selection.** Determine whether forming a corporation, a partnership, or a limited liability company best suits your situation to minimize risks and taxes.

**Maximize Productivity.** Evaluate your situation with trusted advisors to develop strategies to meet the future income needs of the older generation while balancing the financial capacity of the younger generation. Begin formally sharing business decisions with the younger generation to help develop their management skills well before inheritance time.

**Peace of Mind.** Too many people know they need a succession plan, but, for many reasons, keep putting it off for some time in the future. Get a good plan in place now, so that you and your family can go forward to your future goals with peace of mind and confidence.

Talk to an attorney that understands the unique challenges that face agribusinesses and can help you get a plan in place that will meet your needs. Have questions? Call Liza Moore at 517.371.8281.

## CONGRATULATIONS TO CONTINENTAL DAIRY FACILITIES, LLC, THE "2014 MICHIGAN AGRICULTURE EXPORTER OF THE YEAR"

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MDARD recently recognized Continental Dairy Facilities, LLC (Coopersville, MI) as the "2014 Michigan Agriculture Exporter of the Year." In a press release about the award, MDARD Director Jamie Clover Adams said "Michigan dairy product exports in 2012 totaled over \$231 million and Continental Dairy Facilities is certainly doing their part in the

continual growth of dairy exports from the state." In 2013, five percent of all U.S. milk powder products were exported by Continental Dairy. Congratulations!

To view the press release and photograph, visit:  
<http://1.usa.gov/VI0Fsu>

## USDA ORDERS REPORTING OF PORCINE EPIDEMIC DIARRHEA VIRUS

- Liza C. Moore and Todd W. Hoppe



Over 7 million pigs have died from the Porcine Epidemic Diarrhea Virus (PEDv) since May 2013. The infected pigs come from farms of all sizes in 30 states and four Canadian Provinces. While the virus

doesn't affect humans or the safety of pork products, it is a matter of great concern to pork producers, herd veterinarians and the U.S. Department of Agriculture (USDA).

In an effort to control the spread of the virus, the USDA issued a federal order requiring pork producers, veterinarians and diagnostic labs to report both presumptive and positive occurrences of the disease. A presumptive case is one where the pigs have no clinical signs of disease but have a positive test result. A pig with both symptoms of the disease and positive test results is a positive case.

The reports must be sent to the state animal health official or to the USDA's Animal and Plant Health Inspection Service Assistant Director with offices in the state where the herd resides.

The order doesn't require herd quarantines or restrictions on the movement of the infected animals.

It does require, however, that pork producers with diseased herds create and use a herd management plan with the help of their herd veterinarian. The plan must address the following:

- Biosecurity of visitors and vehicles entering or exiting the farm,
- Monitoring of employee biosecurity,
- Periodic herd health observation,
- Movement of pigs into and out of the herd,
- Diagnostic testing to monitor the status of the herd's

infection and evaluate the effectiveness of the control strategies, and

- Maintaining records on pig movement that can be given to state or federal health officials when requested.

While the USDA will not pay indemnity for pigs that die as a result of PEDv infection under its livestock disaster programs, it will develop a cost-share plan to partially reimburse affected farms for diagnostic testing, biosecurity activities, developing herd plans and other disease-ordered activities. Information about the cost-share plan should be available in a few weeks.

Herd owners who don't report suspected or confirmed cases of PEDv or follow their herd management program may have to pay civil fines, have their herd quarantined or animal movements restricted by state or federal animal health officials. Non-reporting vets could have their veterinary accreditation revoked.

The MDARD State Veterinarian also recently added the Novel Swine Enteric Coronavirus Diseases (SECD), including PEDv and Swine Delta Corona Virus (SDCV) to the reportable animal disease list. In a press release about the requirement, State Veterinarian Dr. James Averill said: "Even though Novel SECDs are not a food safety or public health concern, swine producers, veterinarians, and laboratories are to report to MDARD all positive and suspect cases."

If you have questions about your rights and responsibilities, please call Liza Moore at 517.371.8281 or Todd Hoppe at 616.726.2246.

- Visit the USDA website regarding PEDv at: <http://1.usa.gov/1odawyb>
- View the MDARD press release about the Michigan reporting requirement at: <http://1.usa.gov/1qiMkjw>
- View MDARD's swine health page at: <http://1.usa.gov/1qiO8ZZ>

## LITIGATION CORNER

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- Liza C. Moore

### WHAT'S A STATUTE OF LIMITATION?

Imagine you contracted with someone for certain services, but that person did not live up to his or her end of the bargain. Or, imagine someone hurt you or your property and caused you damages. Do you think you can wait and wait then file a lawsuit for these actions? Think again! If you wait too long, laws known as statutes of limitations may bar your claims. Michigan has many statutes of limitations that set how long a

plaintiff can wait to file a lawsuit after the event creating the plaintiffs' claim. These time limits vary significantly depending on the type of claim involved. If a plaintiff waits and files the suit after the time limit set by the statute of limitation has passed, then the courts will dismiss the claim. If you think you have a legal claim against someone, you need to contact an attorney as soon as possible. Don't wait until a statute of limitations might prevent you from pursuing your legal claim.

## MORE TIME TO COMMENT ON EXPANSIVE EPA CLEAN WATER PROPOSED RULES: DEADLINE EXTENDED

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- Liza C. Moore

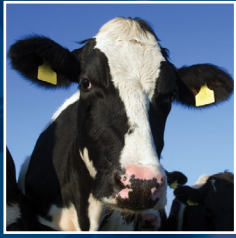
In April 2014, the Environmental Protection Agency published a proposed rule defining the "waters of the United States," meaning the waters regulated by the government through the Clean Water Act (CWA). As has been widely reported in the farm media, many people have serious concerns with some of the definitions in the proposed rule, such as "tributary," and the lack of definitions for other key terms, such as "upland," that could expand the reach of the CWA. The initial deadline to submit comments on the proposed rule was July 21, 2014; the EPA extended the deadline to October 20, 2014. As of July 17, 2014, the regulations.gov website showed that 204,477 comments had been received.

The EPA also published an interpretive rule about the agricultural exemptions from the CWA. The House Agriculture Committee's Subcommittee on Conservation, Energy, and Forestry held a public hearing on June 19, 2014 to review the interpretive rule regarding

agricultural exemptions. Some senators and members of Congress have introduced bills aimed at curbing the EPA's proposed rule.

Bottom line: There's still more time to voice your opinion about this proposed rule.

- Link to full-text of proposed rule: <http://1.usa.gov/1odcFdh>
- Link to the EPA website about the proposed rule: <http://1.usa.gov/1pZQg4h>
- Link to information on the interpretive agricultural exemption rule: <http://1.usa.gov/TRwbCB>
- Link to House Agriculture Committee press release regarding hearing: <http://1.usa.gov/1mX94IA>



# SIGN-UP FOR USDA CRP FINANCIAL INCENTIVES FOR HONEY BEE HABITAT CREATION

On June 20, 2014, the USDA announced \$8 million in financial incentives for farmers creating new honey bee habitats. The funding will come through the Conservation Reserve Program (CRP) and is only offered to farmers in Michigan and four other states. In a press release about the new program, Agriculture Secretary Tom Vilsack said: "In recent years, factors such as diseases, parasites, pesticides or habitat loss have contributed to a significant decline in

the honey bee population. This \$8 million is part of the Administration's ongoing strategy to reverse these trends and establish more plant habitat on Conservation Reserve Program lands to restore the bee population."

Visit your local USDA Farm Service Agency office for more information about this new program. View the press release at: <http://1.usa.gov/1kiBFx5>

## UPCOMING AG EVENTS

- July 16-20, 2014** Michigan Livestock Expo, MSU Pavilion - <http://bit.ly/1hpOho0>
- July 19, 2014** Breakfast on the Farm, Crandall Dairy Farm, Battle Creek - <http://bit.ly/TRxGAN>
- July 21-25, 2014** Michigan Dairy Expo and Dairy Days, MSU Pavilion - <http://bit.ly/1eJz5Dk>
- July 22-24, 2014** Michigan Ag Expo, MSU grounds - <http://bit.ly/1k52zLr>
- August 7, 2014** Michigan FFA Masters Golf Outing, Eldorado Golf Course, Mason - <http://bit.ly/1os0gDS>

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