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April 7, 2010

### FROM STEVE'S DESK Taylor

by Steve



### Missouri Legislative Update

With the Missouri Legislature in its final six weeks of session, legislators at the state Capitol have stepped up their pace. I will touch on the bills we are following the closest and those issues on which we have engaged.

On behalf of MO-AG, I testified in favor of SB1019 which was introduced by Senator Frank Barnitz (D) of Lake Spring, MO. SB1019 would authorize the Missouri Agricultural and Small Business Development Authority to expand its agricultural business development loans and loan guarantees programs to include marketing, expanding, acquiring, constructing, or improving an eligible agribusiness. SB1019 was voted "do-pass" out of the Senate Ag Committee on March 31st.

Another bill that would directly impact many MO-AG members is SB622, introduced by Senator Wes Shoemyer (D), which would increase pesticide registration fees. During a hearing of the Senate Ag Committee on SB622, I testified that MO-AG supports adequate funding of the Mo Dept of Agriculture's Pesticide Program and MDA's goal of "preventing unreasonable adverse effects of pesticide use, while helping assure the availability of pesticides needed to maintain our quality of life." I also testified that MO-AG would have grave concerns if MDA would cease providing these services and if EPA were to take over the program. However, I said that MO-AG questioned the degree of the

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fee increase and how the fees were to be collected under the bill. Besides my testimony on behalf of MO-AG, the Missouri Corn Growers Association testified in favor of SB622 and the Missouri Farm Bureau testified in opposition.

The Committee offered an Senate Committee Substitute (SCS) for SB622 which stripped away some of the language that was concerning to MO-AG and the SCS for SB622 was voted "do-pass" out of the Senate Ag Committee on a three to two vote and is on the Senate Calendar for April 6th.

During the same Senate Ag Committee hearing, I testified in opposition to SB667 and SB766 which were also introduced by Senator Shoemyer. SB667 would require farmers to pay a fee for retaining seed produced from patented seed. I testified that the primary concern with SB667 is that it attempts to void federal patent law and would be ruled unconstitutional. I provided the Committee information from MO-AG affiliate, the American Seed Trade Association, which has compiled some excellent data regarding the cost of developing patented seed and its value to farmers and society. Regarding SB766, I stated that an overall concern MO-AG has is that SB766 sets up protocols for how a farmer will communicate with a business and inserts state government into private transactions between farmers and their suppliers.

Another bill that MO-AG has keen interest is HJR86. HJR86 puts a constitutional amendment on the November 2010 ballot which states that it shall be the right of citizens to raise domesticated animals in a humane manner. HJR86 is in response to the actions being taken by the Humane Society of the United States against livestock agriculture. HJR86 is supported by the Missourians for Animal Care Coalition, which includes all the major Missouri agriculture organizations, including MO-AG.

The language for HJR86 has now been included in HCS/HB1747 that is sponsored by Rep. James Viebrock (R) from Republic, MO. HCS/HB1747 authorizes the Missouri Department of Agriculture (MDA) to register horse meat processors and collect fees for

inspections of horse meat products and processing facilities. The House Ag Policy Committee is currently discussing an omnibus agriculture bill which could possibly include SB622 (pesticide fees), HCS/HB1747, and HJR86.

We will continue to monitor the legislative process and promote your interests throughout the process.

Until next time,

*Steve*

## REGULATORY NEWS

### **CSA 2010: Asmark Institute Special Report**

With fewer than two percent of the motor carriers in the U.S. currently undergoing compliance reviews each year, the Federal Motor Carrier Safety Administration (FMCSA) is in the process of launching the new Comprehensive Safety Analysis 2010 (CSA 2010) initiative. FMCSA officials began developing this data-driven system back in 2004, in order to analyze all inspection reports on motor carriers and drivers to identify trends of non-compliance.

This database system will calculate monthly safety ratings for companies and drivers, flagging those with numerous violations, placing themselves in the forefront of FMCSA's compliance radar. The goal of the initiative is to improve compliance and enforcement programs to facilitate reduction of large truck and bus crashes, as well as their associated injuries and fatalities, while making efficient and effective use of FMCSA resources and the state partners. **Industry observers predict that as many as 30% of current drivers could be out of a job after the first year of CSA 2010, due to deficient driver ratings.**

The FMCSA is scheduled to have CSA 2010 fully implemented between July and December of 2010. CSA 2010 is simple in concept, but complex in the details. To view the entire report

please [click here](#). [Source: *Asmark Institute*]

## **90-Day Hours of Service Waiver Granted for Anhydrous Ammonia**

On March 18th, the Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA) issued a limited 90-day waiver from the Hours-of-Service (HOS) regulations for the spring planting season. This temporary waiver, which is effective immediately, allows motor carriers with a satisfactory safety rating to use the agricultural HOS exemption when their drivers are delivering anhydrous ammonia from any distribution point to a local farm retailer or to the ultimate customer, as long as the transportation takes place within a 100-mile, air-radius of the wholesale distribution point or the farm retailer.

The waiver can be read on the MO-AG website by [clicking here](#). If you will be transporting anhydrous ammonia, we would encourage you to print off the waiver and carry it in your truck. You must maintain a satisfactory safety rating to use this waiver. If you are "unrated" as a carrier, you also can utilize the exception, since you have not yet received a compliance review to determine your safety status. If, however, you have a conditional or unsatisfactory rating, use of the waiver is prohibited. If you have any questions regarding this issue, please contact the MO-AG office by phone at 573-636-6130 or email at [mo-ag@mo-ag.com](mailto:mo-ag@mo-ag.com).

**Editor's Note: The member alert sent on 3/19/10 incorrectly stated that the waiver was not valid across state lines. This was incorrect. The waiver is valid across state lines, as long as you are within the 90-day period and within the 100-mile air radius of the wholesale distribution point or the farm retailer. We apologize for the error.**

## **EPA Pesticide Container and Containment Rule Deadlines Approaching**

EPA published a final rule called the Pesticide Container and Containment (PCC) rule in

August, 2006 and made minor amendments to the rule in October, 2008. On August 16, 2010, there will be key labeling requirements on your pesticide labels. The requirements that will need to be followed are below. To view the full details of the rule and how it applies to you [click here](#).

### **New Label Statements**

Labels (or containers) of nonrefillable containers will have:

- "Nonrefillable container" statement
- A "do not reuse" statement
  
- Recycling or reconditioning instructions
- A lot number identifying the batch
- More detailed rinsing instructions for dilutable products in rigid containers, except for household products

Labels (or containers) of refillable containers will have:

- A "refillable container" statement, and
- Instructions for cleaning the container before it is

### **EPA Has a New Inspection Policy**

EPA recently announced a new national policy at the American Association of Pesticide Control Officials meeting. The new policy allows for EPA inspections to start routinely at a facility until a violation is discovered; when that happens, the agency personnel are now directed to inspect all locations of that company. The following list outlines the top inspection areas:

1. Areas near and around water for possible pesticide contamination.
2. Compliance enforcement-Inspections will be made at facilities with past violations first.
  - a. This area also includes inspections for misbranded and/or adulterated pesticides, mainly imports from countries like China.

- b. If a company is not in compliance upon re-inspection, the agency will seek recovery of all economic benefit for non-compliance, plus regulatory fines.
3. Fumigants and fumigation practices to ensure worker protection standards are met.

Federal inspections have remained fairly constant at approximately 1,000 annually, but state inspections have risen to 88,000, with 17,600 enforcement actions. This is a significant amount of inspections considering there are only about 9,000 U.S. facilities that sell pesticides. [Source: Asmark Institute]

### **EPA Urged to Target Facilities for RMP Inspection**

EPA's Office of Inspector General (OIG) published a report concluding that EPA should improve its program management and oversight to better assure that facilities covered by the Risk Management Program submit or re-submit a risk management plan (RMP). OIG urged EPA to develop inspection requirements to target higher-priority facilities for inspection and track its progress in completing inspections of those facilities. The Inspector General also recommends that EPA implement additional management controls to better identify facilities with regulated chemicals that have not filed RMPs. [Source: Asmark Institute]

**Editor's Note: In cooperation with the Asmark Institute, MO-AG is able to assist you in preparing and updating your RMP. Please contact MO-AG if you need help filing an RMP.**

### **OSHA Local Emphasis Program Starts Up in Eastern Missouri**

The St. Louis OSHA regional office has started up a Local Emphasis Program on the eastern portion of Missouri that is targeting the grain handling industry. Please [click here](#) for a Grain Handling Compliance Checklist. If you need help getting ready for an OSHA inspection, there is a free program put on by the state of Missouri that is called the On-Site Safety and

Health Consultation Program. The Division of Labor Standards' On-Site Safety and Health Consultation Program is a free and confidential service to help Missouri employers comply with federal OSHA regulations. Your only obligation is that you are required to correct the hazards identified by the consultant. For more information about their consultation service give them a call at 573-751-3403 or visit their website by [clicking here](#).

## NEWS YOU CAN USE

### **Ethanol Tax Credits Face Stiff Fight**

Ethanol's extended run of taxpayer backing could be in jeopardy. A coalition of opponents to the corn-based fuel is working to block the extension of billions of dollars in biofuels tax credits, set to expire at year's end. Ethanol is accustomed to getting its way in Washington. Backers have secured a guaranteed long-term market by persuading the federal government to enact tariffs limiting imports of cleaner Brazilian ethanol. But when Illinois and Missouri members of Congress opened a new effort recently to extend the tax breaks, a phalanx of opponents quickly mobilized. They include the Grocery Manufacturers of America, the American Meat Institute, the National Council of Chain Restaurants, environmental organizations and pro-taxpayer groups.

The oil industry -- not ethanol producers -- gets the 45-cent-per-gallon credit for blending the corn-made fuel with gasoline. Critics of the tax credit argue that the oil industry must do so anyway under separate legislation called the Renewable Fuels Mandate that requires increasing blend levels up to 12 billion gallons this year and 15 billion gallons in 2015. The ethanol industry argues that without continuing the tax break for U.S.-made ethanol, the oil industry will look to Brazil and elsewhere to meet the requirement. As it is, oil companies are paying minimal prices for what they blend, contends Roger Hill, general manager of Golden Triangle Energy, an ethanol plant in northwest Missouri. "If you pull that 45 cents out, it's going to take out a lot of small producers," Hill said. "Everybody is running on next to nothing now, and without that, we're toast."

Corn growers in Missouri and Illinois are squarely behind the extensions. Illinois has 14 ethanol plants operating after a turbulent period in which several filed for bankruptcy. Missouri's six ethanol plants, all majority farmer-owned, survived the difficult period and were operating at full production last week. Gary Clark, director of market development for the Missouri Corn Growers Association, said the tax credit has a significant impact on prices that both ethanol producers and corn farmers receive. He estimated that if the credit is allowed to expire as scheduled at the end of this year, it will reduce the per-bushel corn price by 15 cents to 25 cents. (Corn's cash price last week was about \$3.25 per bushel.) "If they were to lose that much, it would put many, many growers at or below the cost of production," he said.

Rep. John Shimkus of Collinsville, ranking Republican on the House Energy and Commerce Committee, is co-leader of the House effort to extend the tax breaks for five more years, to 2015. He's also pushing to extend expiring tariffs on ethanol imported from Brazil and other countries. Other co-sponsors include: GOP Reps. Blaine Luetkemeyer of St. Elizabeth and Jo Ann Emerson of Cape Girardeau, and Rep. Jerry Costello, D-Bellefonte. "If you believe in renewable fuels and you believe it reduces our dependence on imported crude oil and you believe that it helps jobs and the economy, you do not want this to expire," Shimkus said.

When Congress returns from Easter recess, the ethanol industry plans a national ad campaign to present its case. The industry contends that the tax credits more than pay for themselves by pumping money through the farm-to-fuel chain. Everybody gets tax breaks of some sort, said Renewable Fuels Association spokesman Matt Hartwig. "Why should the renewable fuel community have to unilaterally disarm when we continue to give generous subsidies to oil, coal and the more established energy sources?" he asked. By contrast, the Environmental Protection Agency has classified Brazil's sugar cane ethanol as an advanced biofuel because of less overall impact on the environment. In coming years, that designation will give Brazilian ethanol a ready U.S. market under

new federal requirements for improved fuels.  
[Source: *St. Louis Post-Dispatch*]

### **Illinois, Missouri Corn Execs Expected Increases**

The additional corn acres projected by the USDA this week came as little surprise for those close to the corn industry. The 3.3 million acres of corn estimated for Missouri is just about what Missouri Corn Merchandising Council CEO Gary Marshall expected. Marshall, however, was not braced for the news of extra bushels of corn carry-over. "It looks like corn prices are going to be down from last year, so that's a little bit of concern for us from a grower perspective," Marshall told Brownfield following release of the numbers last Wednesday, "but from user perspective, that should be really good news to the livestock industry as well as the ethanol industry."

In some respects, says Marshall, the 10 percent jump in Missouri's corn acreage is positive. "We need to rotate corn and soybean acres here in Missouri, and this shows we're going to have more rotation," said Marshall. "I suspect that [the acreage estimate] might even be on the low side," he added. "If we have a nice spring, we could see Missouri corn farmers really sock a lot of corn into the ground quickly." The USDA estimates 5.4 million soybean acres in Missouri, which is one percent over 2009's 5.350 million acres. There's a 50 percent drop in Missouri's estimated winter wheat acres to 390,000.  
[Source: *Brownfield*]

### **PSF on Barn Odor: "We're Working On It"**

A large hog operation in northern Missouri says it's working to satisfy the odor abatement requirements it has agreed to with the state of Missouri. Premium Standard Farms of Princeton, a wholly owned subsidiary of Smithfield Foods, signed a consent decree over 10 years ago with the state to implement "next generation technology" to reduce or eliminate odors and pollutants. The decree comes due July 31st. PSF president Bill Homan says they're working with the attorney general and

have submitted plans to an expert panel on promising manure "scraper" technology. Homan says there are misconceptions about PSF and blames activists for going after not just CAFOs but smaller farms, "There's an assault on animal agriculture in the state of Missouri. We have trial lawyers from outside of our state who are focused in on our state because we have some favorable law to plaintiff lawyers seeking large damage claims."

PSF is appealing a recent judgment in Kansas City awarding 15 neighbors \$11 million for an odor nuisance lawsuit. Homan says Missouri law might force PSF to pack up and go elsewhere, "If it's cheaper to raise pigs in Iowa or Kansas or western Illinois, pigs can be raised and still shipped to the Farmland plant in Milan (Missouri). Perhaps Missouri isn't a state that's favorable for animal agriculture." PSF employs a combined 2,500 people at its CAFO in Princeton and at its processing facility in nearby Milan.  
[Source: *Brownfield*]

## UPCOMING EVENTS

### JULY, 2010

**6 Missouri Pork Association's Pork Classic Golf Tournament; Columbia, MO**

21-23 MO-AG Summer Meeting; Country Club Hotel;  
Lake Ozark, MO

### AUGUST, 2010

**12-22 Missouri State Fair; Sedalia, MO**

### JANUARY, 2011

**5-7 MO-AG Convention;  
Lodge of Four Seasons; Lake Ozark,  
MO**

Note: Items in **red** are new postings since the

last Wrap-Up issue.

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## **Letters to the Editor**

*Do you have a response to the Missouri Agribusiness Wrap Up? Let us know! The Missouri Agribusiness Wrap Up is a bi-weekly publication of the Missouri Agribusiness Association (MO-AG). MO-AG is a member-owned association based in Jefferson City, Mo. which protects members' interests in state legislation and provides educational opportunities.*

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