



Agricultural Law Update

August 2013

GOVERNOR SNYDER SIGNS LEGISLATION FOR CONTINUED STATE CONTROL OF WETLANDS

- Liza C. Moore

On July 2, 2013, Governor Snyder signed key wetland legislation (S.B. 163) into law (Public Act 98 of 2013). The U.S. Environmental Protection Agency (EPA) has only given Michigan and one other state the power to regulate wetlands. After EPA audited Michigan's wetland program, Michigan had to take action in order to continue to regulate its own wetlands. In 2009, a Wetland Advisory Council was created to evaluate Michigan's wetland program and provide recommendations to the Michigan Legislature. The Council provided its final report on August 15, 2012, which recommended that Michigan retain its control over wetlands and make changes needed to satisfy the EPA.

According to a press release issued by Governor Snyder's office: "Michigan is best served when people right here in Michigan make decisions regarding our resources," Governor Snyder said. "We committed early in this administration to keep the state wetlands program. That requires us to make changes to address the federal audit, and ensure we provide clarity and workable, protective solutions for all kinds of Michiganders who interact with wetlands - be they farmers, utilities, local road managers or homeowners," said Governor Snyder.

The legislation provides that the Michigan Department of Environmental Quality's powers, duties, functions, and responsibilities resulting from Federal approval of Michigan's permit program under the Federal Water Pollution Control

act would apply only to "navigable waters" and "waters of the United States," and that determining the need for regulation beyond the scope of federal law would be the responsibility of the Michigan Legislature. Section 30101a. The legislation allows for some animal grazing activities to occur in a wetland without a permit, and for some farming, horticulture, silviculture, lumbering, and ranching activities to occur in a wetland without a permit if it is part of an established ongoing farming, ranching, horticultural, or silvicultural operation. Section 30305. The legislature also details other permit exemptions, including some for drain maintenance. The legislation provides for the development of a special blueberry farming permit. Section 30312.

For more information on the new legislation and its background, please visit:

- <http://bit.ly/SB-136>
- <http://bit.ly/SnyderPR>
- <http://bit.ly/DEQ-WAC>

Questions? Please contact: Liza C. Moore at lmoore@fosterswift.com or 517-371-8281

Liza Moore is the practice group leader of the agriculture law team. She currently chairs the State Bar of Michigan Agricultural Law Section.

THE BENEFITS OF A FARM ENDORSEMENT ON A DRIVER'S LICENSE

- Dirk H. Beckwith

Farm endorsement: an endorsement on a farmer's driver's license allowing him to drive the commercial type vehicles used in farming without having to comply with all the federal safety regulations normally assigned to commercial truck drivers.

Beginning in early spring and lasting until late fall, the roads in Michigan are dotted with farm tractors or other agriculture related vehicles as farmers move from field to field tending to their crops. The farmer driving a tractor or other farm machinery can travel confidently on the roads around his farm because of the F endorsement on his driver's license, which provides him with some relief from Federal Motor Carrier Safety Regulations.

Implements of husbandry, for example, which include tractors or vehicles designed to be pulled by an animal or a tractor, can be driven on the roads around the farm without the need of a driver's license. Larger rigs that require a driver's license but that do not need a special Farm (F) endorsement must meet the following conditions:

1. Controlled and operated by a farmer, farmer's employee or family member
2. Used to transport agricultural products, farm supplies or farm machinery to or from a farm
3. Not used in a for-hire operation
4. Traveling within 150 air miles or 173 statutory miles of the farm
5. A single unit truck with a Gross Vehicle Weight Rating (GVWR) under 26,000 pounds or
6. A combination vehicle with the GVWR under 26,000 pounds towing any size trailer.

When a farmer decides to use a vehicle that has a GVWR over 26,000 pounds towing any size trailer which meets conditions 1-4 above, he can get an F endorsement on his driver's license. If a farmer wants to transport hazardous material in that size vehicle or can't meet the requirements above, he must have a commercial driver's license (CDL).

The F endorsement exempts a farmer from some of the federal safety regulations required of commercial drivers such as:

- Employment applications
- Investigations and inquiries of prospective drivers
- Road tests
- Medical qualifications and medical certificates
- Maintenance of driver files.

If traveling outside of Michigan, farm vehicle drivers, in addition to the above exemptions, do not have to maintain a list of violations. However, their vehicles must still meet all safety and licensing requirements.

WHERE DO YOU GET AN F ENDORSEMENT?

The Michigan Secretary of State issues the endorsement. To add the "F" endorsement to your driver's or chauffeur license, you must pass both the Commercial Driver's License (CDL) General Knowledge and Combination Vehicles tests. Cost is \$5.00.

WHAT HAPPENS IF YOU DON'T HAVE AN F ENDORSEMENT AND YOU ARE PULLED OVER BY THE POLICE?

All Michigan drivers, including those driving implements of husbandry, are subject to the regulations of our Motor Vehicle Code. That means that regardless of what you are driving on public roads, or the F endorsement on your driver's license, you must follow the rules of the road. Failure to do so can lead to fines, costs, loss of driving privileges or possibly time in jail.

For more information, please contact: Dirk Beckwith at dbeckwith@fosterswift.com or 248.539.9918.

Dirk Beckwith has extensive experience with both Michigan and federal transportation law. He currently is the president of the Transportation Lawyers of America.

FOSTER SWIFT SPONSORS MICHIGAN LIVESTOCK EXPO

Foster Swift was a proud sponsor of the 2013 Michigan Livestock Expo "Sale-abration." The Livestock Expo is Michigan's premier youth livestock event featuring opportunities for youth across the state to compete with their beef, swine, sheep and goat projects. Livestock exhibition took place July 12-14, with dairy exhibition held on July 16 in conjunction with the Michigan Dairy Expo.

The Sale-abration kicked off with a Taste of Michigan reception at the MSU Pavilion. The evening proceeded with speeches from Wayne Wood, chairman of the Michigan Livestock Expo Board and Ernie Birchmeier, chairman of the Michigan Youth Livestock Scholarship Fund. Governor Rick Snyder made a special appearance at the event.

The sale of champions immediately followed the speakers. More than 30 lots were auctioned off representing the best of Michigan's beef, swine, sheep, goat, and dairy industries. Auction proceeds above a sales cap went to the Michigan Youth Livestock Scholarship Fund.



AT THE PODIUM

Scott Storey will be speaking at a Michigan State University Extension Landowner Oil and Gas Leasing and Michigan Oil and Gas Industry Educational Meeting on August 7, 2013 at 6:00 p.m. The meeting will be

held at the Commission on Aging Facility, 115 Hudson Street, Ionia, MI. Contact the Ionia County Extension Office to pre-register at (616) 527-5357.

UPCOMING AG EVENTS

- July 31, 2013** 24th Annual Viticulture Field Day, Southwest Michigan Research and Extension Center - Benton Harbor - <http://bit.ly/15Zbs06>
- Aug. 7, 2013** MSU Extension Oil and Gas Leasing and Michigan Oil and Gas Industry Educational Meeting - Ionia - Call (616) 527-5357 to preregister
- Aug. 7, 2013** Conifer Certification—A Grower Assisted Program - Sidney - <http://bit.ly/13p3A5Q>
- Aug. 17, 2013** Gratiot County Breakfast on the Farm, Humm Farm, LLC - Breckenridge - <http://bit.ly/1aSwDUD>
- Aug. 19-20, 2013** Corn Stover and Forage Harvest Program - Ottawa County MSU Extension Office, West Olive (August 19) - Huron County, Pigeon (August 20) <http://bit.ly/14sVpVD>
- Aug. 22, 2013** Preparing for Export Success - Kellogg Center, East Lansing - <http://bit.ly/13gCl17>
- Aug. 27-29, 2013** Farm Progress Show - Decatur, IL - <http://farmprogressshow.com/>



Michigan FFA Foundation 14th Annual
FFA MASTERS GOLF OUTING

Thursday, August 15
9 a.m. - 3 p.m. (9:30 Shotgun Start)

The Fields Golf Course
 1508 N. State Rd. Ithaca, MI | 989-875-4612



- Register by **August 9** at:
<http://web2.msue.msu.edu/ffagolf/>
- Registration includes: 18-hole round, cart, light breakfast, appetizers & late lunch
- \$100/person or \$400/team of four
- Skins/Mulligans Value Packs available

All proceeds benefit the 6,281 Michigan FFA members

For more information and sponsorship opportunities, visit
www.michiganffa.org/foundation or contact Ramey Lunceford, 517-432-2482

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