



Minnesota Crop Production Retailers

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# INPUTS

## Capitol Update

### Will the Legislature Pass Full 179 Tax Conformity?

The second special session of 2020 came to an end last month without an agreement on much needed Section 179 tax conformity legislation supported by MCPR. Gov. Tim Walz called the special session to address items were left over from the contentious regular session that concluded in May. Namely, the omnibus tax bill and a capital investment bonding bill. In addition, Gov. Walz's emergency powers related to the COVID-19 pandemic were also set to expire and for them to be extended, the legislature was required to be in session. The Senate Republicans are dead set against Walz's ongoing Executive Order related to COVID-19 rules such as mandatory face masks, social distancing, and limits on gathering.

However, due to a breakdown during negotiations between the Walz Administration and legislative leadership during the last special session, it is uncertain as to if they will make any progress on Section 179 tax conformity. If they do not, it is

anticipated that lawmakers will be called back as of this writing to St. Paul for a fourth special session next month so Gov. Walz can extend his emergency powers again.

MCPR continues to advocate in support of full Section 179 conformity and has contacted legislators to encourage them to pass this legislation during an upcoming special session.

### Minnesota Rural Broadband Coalition Launches Statewide Speed Test Initiative

The Minnesota Rural Broadband Coalition recently introduced the Minnesota Broadband Speed Test Initiative, which will give community and state leaders granular data about where broadband internet service is available and what speeds people are receiving. The speed test can be taken with any device that has an internet or cellular connection and takes less than one minute to complete. No personal information will be collected. Testing data will be statistically valid and provide a map of what service

*(continued on page 4)*

## Executive Director's Report

Hello MCPR members,

### The Crop Pest Management Short Course and MCPR Trade Show is Cancelled.

After careful consideration and consultation with our collaboration partners for the educational program and annual trade show for 2020, the MCPR Board determined that the most responsible course of action is to cancel the December 8-10, 2020 Crop Pest Management Short Course and MCPR Trade Show.

The reasons for this decision stem from the COVID-19 Pandemic. MCPR was advised by many of our members and vendors that their employees are prohibited from attending any seminars, conventions or gathering for the remainder of 2020. We confirmed in a conversation with both the Hilton Hotel and Minneapolis Convention Center that MCPR is not the only organization

*(continued on page 2)*

# Editor's Comments on AFREC Insert Report



The MN Agricultural Fertilizer Research and Educational Council was established by the MCPR's leadership to fund production agriculture research at a time when little resources seemed to be available through the legislative appropriations process. To fund this effort, the ultimate legislative funding was placed at \$.40/ton of fertilizer each year which produces about \$1.2 million annually.

The AFREC web link <https://www.mda.state.mn.us/chemicals/fertilizers/afrec/membership> tells more about the history and leadership of the AFREC. But know this – the MCPR continues to pay

attention to the details of ensuring your hard-earned dollars are being invested in good research and important new reports, one of which is provided in this newsletter.

In addition, a gathering of middle America ag chemical companies in a trade association called the Mid America CropLife Association (MACA) has been providing leadership to insure the U.S. Environmental Agency (USEPA) does not punish our industry through ill informed decisions made by folks in Washington DC sitting in cubicles reading reports and yet have little understanding of the world in which agriculture must function to stay

economically viable. Look at the MACA report in this edition written by my friend Steve Taylor who consults for MACA on water issues. I hope after reading this report you will understand why N.N.C. is a very critical issue for your future in crop production. I shudder to think what might happen to the common sense we need from EPA under the folks trying to unseat our current occupant in the White House.

## Executive Director's Report *(continued from page 1)*

that has suffered this consequence of the pandemic. We retained former Attorney General Mike Hatch to provide legal consultation related to the contracts we have with the Hilton and Convention Center which currently stretch through 2023. A simple explanation for this length of agreement is that a meeting of our size and complexity requires significant planning and strategizing and facility reservations far into the future. We have been advised that this pandemic meets the requirements of a force majeure, to that end we believe that the MCPR is not obligated to pay any penalties for this cancellation. However, a minor disagreement with our meeting facilities has develop related to this conclusion.

As MCPR Board members would assure you, the challenge of the decision to cancel the meeting means a significant portion of MCPR annual operating income generated from the Short Course and Trade Show each year has disappeared. As a result the cancellation presents a fiscal challenge to MCPR. The further legal contractual disagreements further puts MCPR at risk financially. Of course, MCPR has satisfactory reserves to get MCPR through the fiscal year which ends May 31, 2021. But a substantial new fundraising strategy must be developed by the MCPR Board to plug the financial hole.

MCPR is very mindful of the gap in CEU credits and excellent programing MCPR members have come to depend on each year. The MCPR Board is evaluating options to continue to meet your needs as we

move through this unusual year. While we must cancel the meeting, we look to next year in planning a very successful 2021 meeting. We hope you will continue to support MCPR as the Board and staff navigate the treacherous events and risks we must manage.

Until next time,

A handwritten signature in black ink that reads 'Bill Bond'.

Bill Bond  
Executive Director





## Water Update August 2020

Steve Taylor, MACA Water Consultant

In my update a couple months ago, I discussed EPA's announcement it had developed draft water quality criteria for states to use as they develop numeric nutrient criteria (NNC) and overall water quality standards. I discussed EPA had its recommendations out for comments and MACA, as a member of the Federal Water Quality Coalition (FWQC), would be providing comments. Our work to develop those comments is nearly complete and will be sent to EPA very soon. Here is a summary of those comments.

First, our comments will commend EPA for moving away from the 'reference' approach for developing NNCs. The reference approach generally 'references' a pristine water body by which to compare water quality. This approach was always seriously flawed, so we commend EPA for dropping that approach. However, the new 'stressor-response', EPA is proposing as the new approach for developing draft NNC comes with serious concerns. These concerns have been documented by EPA's own Science Advisory Board (SAB). The SAB has stated this approach is problematic because its statistical associations do not prove cause and effect. Without a clear causative link between nutrient levels and water impairment, there is no assurance managing for particular nutrient level will lead to the desired outcome. SAB stated a 'weight of evidence' structure establishes the likelihood of causal relationships between nutrients and their effects on the environment should be used along with the 'stressor-response' methodology.

Previously, I have mentioned how development of numeric nutrient criteria has been an ongoing issue in my home state of Missouri with the lawsuits which are now occurring and have been occurring over the years. One important problem in Missouri has been the utilization of datasets and models from areas other than Missouri. This is also a problem in EPA's new proposed approach. In our comments, we state water quality criteria for specific lakes and reservoirs should be based on the factors which exist in those particular waterbodies – especially in the case of nutrients. This is especially troubling given the fact datasets used by EPA in developing the draft criteria are extremely limited, both in terms of the short timeframe (just two years of data utilized) and the limited area from which the data is obtained. Finally, we also have concerns with EPA's use of models rather than actual data and cause/effect connections.

In summary, while EPA's abandonment of the 'reference approach' is good, it appears EPA may be proposing a new approach which is still likely to overestimate the harm nutrients do to water and results in extremely stringent water quality standards being set. These standards will cause substantial economic harm as the regulated community tries to attain these standards which may in the end simply turn out to be physically unattainable in many waterbodies. If you would like to know more details, the EPA website with all those details, can be found [HERE](#). MACA will continue to monitor and engage in the NNC issue and keep you informed! Each month Steve provides an update on a current water

\*MCPR is a member of MACA\*



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This is information is believed to be reliable by MCPR. However, because of constantly changing government regulations, interpretations and applicability or the possibility of human, mechanical or computer error, MCPR does not guarantee the information as suitable for any particular purpose.

# REGULLETER

## Large Penalties for Untimely Spill Reporting

Recent enforcement actions by EPA remind companies of the need to immediately report releases that exceed reportable quantities or reach navigable waters. One six figure penalty was issued to a company that failed to report when a product ran into the river in 2017. The company did not provide the required notification to federal, state and local emergency response officials.

EPA alleged that the company did not notify the National Response Center (NRC) for more than 4 hours after learning of the release. Another similar penalty came in Ohio to a chemical production company. Remember, EPA regulations require immediate reporting of hazardous material spills over reportable quantities to the NRC. While the term "immediate" is not defined by law, legislative history authorizes EPA to enforce for failure to report within 15 minutes. (Asmark Institute)

## DOT to Exercise Discretion for Random Testing

DOT may exercise discretion to

determine not to enforce the minimum annual percentage random testing rates for drugs and alcohol and the requirement that each employer ensure that the dates for administering random drug and alcohol tests are spread reasonably throughout the calendar year due to the COVID-19 public health emergency. However, employers capable of meeting these requirements must continue to do so.

Employers must continue to select drivers at the required rate of 50 percent of their average number of driver positions for controlled substances, and 10 percent for random alcohol testing during the calendar year 2020. If a test is unable to be completed due to the COVID-19 public health emergency, the motor carrier must maintain written documentation of the specific reasons for non-compliance. For example, employers should document closures or restricted use of testing facilities or the unavailability of testing personnel. Additionally, employers should document actions taken to identify alternative testing sites or other testing resources.

Likewise, employers who are unable to ensure that the dates for administering random controlled substances and alcohol tests are spread reasonably throughout the calendar year should document the specific reasons why they did not meet this requirement. For example, in addition to the lack of available testing facilities or personnel, there may be other factors such as prolonged or intermittent driver furloughs due to the impacts of COVID-19. (Asmark Institute)

## DOT Extends Waiver for CDL Drivers

DOT has extended the waiver for expiring Commercial Driver's Licenses (CDLs) and permits until September 30, 2020 in response to the COVID-19 public health emergency. Many CDL holders have been unable to renew their licenses and are unable to provide medical certificates to their State Driver Licensing Agencies. In addition, many medical providers have canceled regularly scheduled appointments and drivers have been unable to obtain appointments for physical examinations with medical examiners who comply with the Federal Motor Carrier Safety Regulations.

Drivers claiming relief under this waiver must continue to carry a paper copy of their expired medical certificate. (Asmark Institute)

### **EPA Releases Temporary Guidance on Respiratory Protection**

EPA has provided temporary guidance regarding respiratory protection requirements for agricultural pesticide handlers during the COVID-19 public health emergency. The temporary guidance provides for the use of alternative NIOSH-approved respirators offering equivalent or greater respiratory protection than those required on the pesticide label. It encourages hiring commercial applicator services with enough respirators and respiratory protection capabilities or opting to use agricultural pesticide products that do not require respirators. Lastly, pesticide applications could be delayed until another compliant option is available.

If all of those options have been exhausted, EPA's guidance provides additional options with strict terms and conditions. These include the reuse and extended use of disposable N95 filter facepiece respirators, the use of "expired" respirators, the use of respirators certified in certain other countries or delaying the annual respirator "fit test." EPA will, on a case-by-case basis, exercise its enforcement discretion for violations of respirator-related requirements provided that handlers and handler employers demonstrate that they have exhausted all available compliance options. (Asmark Institute)

### **OSHA Revises Guidance for Recording COVID**

OSHA has issued a memo to update guidance for recording cases of COVID-19 as an occupational illness.

Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness, and must be recorded if the case is a confirmed case of COVID-19, is work-related and involves one or more of the general recording criteria in the recordkeeping regulation. Given the nature of the disease, in many instances it remains difficult to determine whether a COVID-19 illness is work-related, especially when an employee has experienced potential exposure both in and out of the workplace.

Employers must make a reasonable investigation to determine if the illness is work related. COVID-19 illnesses are likely work-related when several cases develop among workers who work closely together and there is no alternative explanation. An employee's COVID-19 illness is likely not work-related if he is the only worker to contract COVID-19 in his vicinity and his job duties do not include having frequent contact with the general public, regardless of the rate of community spread. If, after the reasonable and good faith inquiry described in the guidance, the employer cannot determine whether it is more likely than not that exposure in the workplace played a causal role with respect to a particular case of COVID-19, the employer does not need to record that COVID-19 illness.

COVID-19 is a respiratory illness and should be coded as such on the OSHA Form 300. Because this is an illness, if an employee voluntarily requests that his or her name not be entered on the log, the employer must comply. The guidance is intended to be limited to the current COVID-19 public health crisis. (Asmark Institute)

### **CFATS Program Reauthorized for 3 Years**

The Department of Homeland Security's (DHS) Chemical Facilities Anti-Terrorism Standards (CFATS) program was set to expire on July 23rd but has been reauthorized for an additional 3 years. The amendment makes no program changes, but extends the program through July 27, 2023. The CFATS program continues to identify and regulate high-risk chemical facilities to ensure they have security measures in place to reduce the risks associated with those chemicals. (Asmark Institute)

### **Navigable Waters Protection Rule Stands**

A federal judge in California has ruled the Navigable Waters Protection Rule stands after an attempt to halt its implementation by a coalition of 17 states. After a hearing on the motions, he concluded there was not enough evidence to warrant a preliminary injunction or a delay in the rule's implementation. The Navigable Waters Protection Rule replaces the 2015 Waters of the U.S. rule and defines federal water jurisdiction. This has allowed the final rule to go into effect but stay tuned as the decision is likely to be appealed. (Asmark Institute)



## AFREC Communications Update

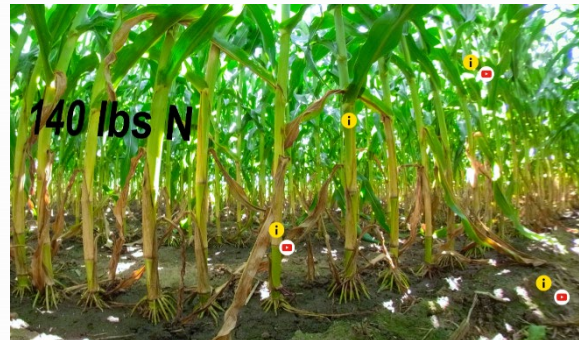
Here's a recap of what the U of M did with the AFREC communications grant in April, May, and June 2020, and a look at what's happening in the months ahead

### OVERVIEW

- Extension nutrient management web pages received **79,829 unique page views**.
- **14 nutrient management posts** were published on the *Minnesota Crop News* blog. They generated a total of **22,746 page views**.
- Facebook posts led to **9,799 link clicks, 758 likes, comments, and shares, and 193.2K impressions**. Facebook posts were shared by a variety of production ag stakeholders, including Progressive Seed/Soil Testing, Landbruk Farms Partnership, Precision Crop Services, Pipestone County Conservation & Zoning, BussSeed & Supply, Nutrien Ag Solutions, Midwest Grain Bin Supply, Bousema Farms, and Wight Soil and Water Conservation District.
- Twitter posts garnered **644 link clicks, 253 likes and 205 retweets for 94.6K impressions**.

### APRIL

- Dan Kaiser and Fabian Fernandez blogged about [nitrogen crediting for fallow fields](#).
- Melissa Wilson and colleagues wrote a blog post about [how to utilize surplus milk](#). The post was covered by [The Farmer Magazine](#).



*This image is from an [interactive tool](#) that allows you to explore a U of M on-farm nitrogen trial.*

- Greg Klinger worked with our communications team to develop an [interactive tool](#) that allows you to explore an on-farm corn research plot studying nitrogen economics in southeast Minnesota. The tool (which features 360-degree images, embedded data and graphs, and videos) generated over 2,200 views.
- [April's podcast episode](#) featured Dan Kaiser, Carl Rosen, and Paulo Pagliari discussing biostimulant products. The episode has been played over 1,200 times.
- Dan Kaiser and Fabian Fernandez's blog post about [what low residual nitrate values in recent years mean for Minnesota corn growers](#) received over 1,400 link clicks. The post was republished by [Corn & Soybean Digest](#).
- [Lindsay Pease](#) and [Anna Cates](#) were both featured guests on the Minnesota Corn Growers Association's new podcast discussing AFREC research.

## MAY

- Jared Spackman and Fabian Fernandez’s [blog post](#) on AFREC research on controlled-release nitrogen fertilizer products received over 2,400 link clicks.
- Melissa Wilson and colleagues blogged about [composting mass livestock mortalities](#).
- [Fabian Fernandez’s video](#) on nitrogen fertilizer sources was published.
- Anna Cates’ [blog post](#) on the Haney soil health test received 1,200 clicks.
- Brad Carlson and Fabian Fernandez blogged about [variable rate nitrogen and nitrogen advisory tools](#).
- Our [May podcast episode](#) featured Dan Kaiser, Fabian Fernandez, Brad Carlson and a special guest from the Minnesota Department of Agriculture, Jane Boerboom. The episode, which has been played over 1,000 times, discussed nitrogen fertilizer trends and economics. [Progressive Farmer](#) covered the episode in a feature article.

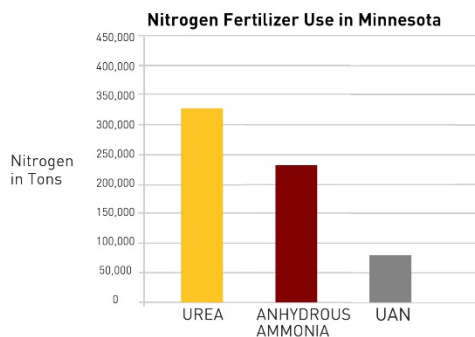
## JUNE

- Fabian Fernandez and Brad Carlson’s blog post about AFREC research on [sidedressing nitrogen](#) garnered an impressive 4,300 link clicks. Their insights were highlighted in [Progressive Farmer’s weekly fertilizer column](#).
- Dan Kaiser and Fabian Fernandez’s [blog post](#) about adding inhibitors to sidedress nitrogen applications received over 1,000 link clicks.

- [June’s podcast episode](#) featured Dan Kaiser, Craig Sheaffer, and Jared Goplen discussing alfalfa nutrient management. The episode highlights AFREC research on potassium application timing.
- We ran three “AFREC Spotlight” radio segments on the Linder Farm Network: Dan Kaiser on [sidedress nitrogen application](#) and [scouting nutrient deficiencies](#), and Brad Carlson on [post-plant nitrogen management](#).

## LOOKING AHEAD

- Look for feature articles on Paulo Pagliari’s AFREC project on nutrient deposition and Melissa Wilson’s AFREC research on manure sources, and a blog post about AFREC research findings in northwest Minnesota.
- Videos on on-farm research and cover crops will be published soon. Work is underway on videos about drainage, soil testing, tissue sampling, and scouting for nutrient deficiencies.



*Nitrogen management was a popular topic this quarter. This chart is from our [May video](#) on nitrogen sources.*



# Capitol Update

(continued from page 1)

levels are for any given area in the state. This information will be an important tool for communities that are planning a broadband expansion project through the FCC, USDA, or MN Border-to-Border Broadband Grant Program.

## MDA Announces Nitrogen Fertilizer Restrictions to Begin on September 1

The Minnesota Department of Agriculture (MDA) is reminding farmers and landowners that beginning September 1, 2020, the application of nitrogen fertilizer in the fall and on frozen soil will be restricted in areas vulnerable to groundwater contamination. This will also apply to Drinking Water Supply Management Areas (DWSMAs) with elevated nitrate levels. Vulnerable

groundwater areas include coarse textured soils, karst geology, and shallow bedrock.

According to MDA, approximately 12 to 13 percent of Minnesota's cropland is vulnerable to groundwater contamination. A map showing the vulnerable groundwater areas as well as a list of exceptions to the restrictions are outlined on the Groundwater Protection Rule website.

A short video on the fall restrictions and links for additional information are available on the MDA website.

The nitrogen fertilizer restrictions are part of the Groundwater Protection Rule, which minimizes potential fertilizer sources of nitrate pollution to the state's groundwater and works with local farmers to prevent public water supply wells from exceeding the drinking water standard for nitrate contamination. For more information, please contact Larry Gunderson at (651) 201-6168 or [Larry.Gunderson@state.mn.us](mailto:Larry.Gunderson@state.mn.us).

## USDA Investigates Packages of Unsolicited Seeds from China

The United State Department of Agriculture (USDA) is aware that people across the country have received suspicious, unsolicited packages of seeds that appear to be coming from China. USDA's Animal and Plant Health Inspection Service (APHIS) is working closely with the Department of Homeland Security's Customs and Border Protection, other federal agencies, and State

departments of agriculture to investigate the situation. USDA urges anyone who receives an unsolicited package of seeds to immediately contact their State plant regulatory official or APHIS State plant health director.

The Minnesota Department of Agriculture (MDA) also continues to receive reports of citizens getting unsolicited seed packages in the mail. To date, over 700 Minnesotans have made reports to the department. The packages have contained a variety of seeds. Seed analysts with the MDA Laboratory have identified some as cosmos, radish, mung bean, juniper, basil, cucurbit, and zinnia. While these are not seeds from invasive plants, seeds may carry disease and pests can hide in packaging. So far, there is no indication these unsolicited seeds have gone through appropriate inspection or that they are properly labeled.

The MDA is working with USDA on the issue. All seeds collected in Minnesota are being sent to USDA for additional identification and destruction. Federal officials are investigating the source of the seeds, and the USDA is currently referring to the situation as a "brushing scam" where people receive unsolicited items from a seller who then posts false customer reviews to boost sales. According to Minnesota law, all seeds sold in the state must be properly labeled, and those selling seeds are required to have a permit from the MDA.

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