



California Association of Wheat Growers

Newsletter

October 21, 2016

**Thank you for your commitment to
the future of agriculture and our membership.**

National Association of Wheat Growers Update

NAWG President Participates in Farm Bill Panel



This week, NAWG President Gordon Stoner attended a Farm Bill Discussion Forum hosted by Sen. Jon Tester (D-Mont), where he participated in a panel discussing what is needed in the 2018 Farm Bill to assist producers through this period of low prices and surplus commodities. Stoner said the consensus at the panel was that protecting crop insurance is a top priority, as well as addressing concerns of widely varied yields in adjacent counties for ARC-County payments. There is concern among farmers that using National Agricultural Statistics Service (NASS) data for computing ARC-county payments often results in widely differing payments between adjacent counties. Stoner said that in Montana, the belief is that crop insurance data would be a more accurate indicator than NASS data. In addition, the panel discussed the threat of reductions in cost-share conservation programs, acres enrolled in the Conservation Reserve Program (CRP), and Conservation Stewardship Program (CSP). Producers have made great strides in improved conservation and this program has been valuable in achieving those goals. NAWG commends and thanks Senator Tester for leading the discussion about future Farm Bill priorities and we look forward to working with him as the next Farm Bill develops.

Obama Administration Loosens Regulations on Cuba Exports of Agricultural Products

Last Friday, the Obama administration announced the next steps in further loosening the U.S. sanctions against Cuba, continuing the process of normalization that the Administration hopes to make permanent before leaving office. To the excitement of many, Americans have been authorized to bring back rum and cigars from Cuba, for personal use. However, for agriculture, the excitement is in an expansion of exports for goods such as farm equipment and pesticides. These new amendments allow exporters to avoid cash-in-advance requirements for transactions involving agricultural commodities that have caused significant barriers. The loosening of restrictions in trade with Cuba provides an opportunity for American wheat growers to take advantage of the available Caribbean market, in the face of declining prices and market surplus. With foreign competitors taking advantage of the Cuban wheat import market,

American growers welcome this announcement that will help decrease financial barriers and regulations that have restricted US wheat access for decades. NAWG President Gordon Stoner said that "one of the solutions to boosting the sagging farm economy is increased trade". NAWG supports efforts to liberalize trade with Cuba by loosening regulations on products exported out of the country and encourages Congress and the Obama Administration to continue on the path towards ending the embargo.

2015 Crop Year Farm Program Payment Details Posted by FSA

As was noted in last week's NAWG e-newsletter, USDA's Farm Service Agency (FSA) has begun issuing Agriculture Risk Coverage (ARC) County program and Price Loss Coverage (PLC) program payments for the 2015 crop year. Maps have been posted online showing the ranges of payments by county for wheat, corn, and soybeans. On Wednesday last week, FSA posted a document showing the aggregate dollar amounts of payments by program, commodity, and state. Additionally, FSA also posted a spreadsheet showing by county and commodity the benchmark yield and benchmark revenue as well as the final price and final actual yield used to determine payment rates. If producers have questions about the data that's used or the final payment rates, please contact the NAWG office and we would be happy to assist you with seeking information from USDA. Particularly as farmers are struggling with low prices, the Farm Bill safety net programs are more important now than ever.

Agriculture Marketing Service Moves Forward on Bioengineering Disclosure Standard

The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) posted a solicitation for proposals to conduct a Study on the Electronic or Digital Link Disclosure. The National Bioengineered Food Disclosure standard requires the study to identify any technology challenges that may influence consumer access to information regarding bioengineered ingredients on food packages. Following the passage of the GMO labeling bill into law this summer, the National Bioengineered Food Disclosure Standard was enacted; the AMS has two years of rule-making to implement a food disclosure standard, and must complete this study one year from the date of passage, or July 2017. The options for on-package disclosure range from telephone numbers to a symbol developed by the AMS, or electronic disclosure such as a QR code. The efficacy of these options in providing comprehensive information to consumers was a controversial point throughout the bill's passage, and the study to be conducted also led to controversy when AMS announced they planned to conduct two studies: one to evaluate the consumer access to digital labeling as outlined in the bill, and another to evaluate the actual use of electronic labels. After reviewing the comments provided on the proposed studies, AMS ultimately decided to only conduct the one study requested in the bill. NAWG commends AMS on their efforts to follow through with the requirements of the Bill and bring scientific-based information to consumers.

U.S. Wheat Associates Update



Global Wheat Trade Expected to Set New Record

By Stephanie Bryant-Erdmann, USW Market Analyst

A fact that may be undervalued in a market fixed on supply news is that trade volume in wheat, the world's most traded grain, is on a steady increase. In its latest round of estimates, USDA now expects 2016/17 world wheat trade will reach a record large 175 million metric tons (MMT) (6.42 billion bushels). Along with rising global demand and a potential shortfall of milling quality supplies, wheat buyers would do well to watch for any price effects and act quickly to cover their needs at the best value.

In its October World Agricultural Supply and Demand Estimates (WASDE) report, USDA noted that, if realized, world wheat trade would be 9 percent greater than the 5-year average of 160 MMT (5.86 billion bushels). The trade volume increase represents availability of large supplies and the continued growth of global wheat consumption. USDA expects total consumption will increase for the fourth consecutive year and reach a record 731 MMT (26.8 billion bushels), compared to the 5-year average of 694 MMT (25.5 billion bushels). That includes estimated feed wheat demand growing 6 percent to a record high 145 MMT (5.32 billion bushels). Rain increased winter wheat yields but also hurt milling quality in many production areas. In turn, lower prices are making feed wheat more competitive with corn.

USDA expects 2016/17 world wheat production to reach 744 MMT (27.3 billion bushels), up 1 percent from 735 MMT (27.0 billion bushels) in 2015/16 and 5 percent above the 5-year average. If realized, it would be the fourth consecutive year of record world production. USDA projects production will increase in six of the eight major exporting countries. Record-large world carry-in stocks add to the global surplus, resulting in the largest estimated world wheat supply on record, of which China is now expected to hold 46 percent by the end of the marketing year. USDA estimates 2016/17 world carry-in stocks at 240 MMT (8.80 billion bushels), up 11 percent from last year and greater than the 5-year average of 196 MMT (7.22 billion bushels). Total world supply will reach a projected 984 MMT (36.1 billion bushels), up 24.1 MMT from the record set in 2015/16 and 9 percent above the 5-year average of 903 MMT (33.2 billion bushels).

The ample world supply will help meet strong global wheat demand. According to USDA's trade forecast, the U.S. will end 2016/17 with a 15 percent market share in the world wheat trade. This is up from the 2015/16 figure of 12 percent, the lowest on record, but still below the 5-year average of 17 percent. USDA now expects U.S. wheat exports to reach 26.5 MMT, up 26 percent year over year.

USDA predicts the majority of top U.S. wheat customers will import about the same amount or slightly more wheat in 2016/17 than in the prior year. Japan, the top U.S. customer over a 5-year period, will import an estimated 5.80 MMT (213 million bushels), up 1 percent from 2015/16 but 5 percent less than the 5-year average. USDA expects imports by Mexico will decline 4 percent year over year to 4.60 MMT (169 million bushels), but imports to the Philippines will increase by 3 percent to 5.00 MMT (184 million bushels). Imports by Nigeria are expected to remain unchanged year over year, but are up 3 percent from the 5-year average. Korean imports will increase 13 percent to 5.00 MMT (184 million bushels).

USDA expects Brazil to import 11 percent less wheat in 2016/17, but the origin of the Brazilian imports will also change. Argentina, Brazil's top supplier will export 12 percent less wheat in 2016/17, so Brazil will need to shift to other origins. Year to date U.S. wheat exports to Brazil total 995,000 metric tons (MT), nearly double total U.S. sales to Brazil in 2015/16.

USDA also expects India and Morocco to import more wheat after drought hurt their domestic production. India is expected to import the largest wheat volume in a decade this year after back to back years of drought. USDA estimates Indian wheat imports will grow to 3 MMT in 2016/17, compared to the 5-year average of 116,000 MT. India is the second largest producer and consumer of wheat in the world behind China, producing an average 91.5 MMT of wheat each year. India's beginning stocks of 14.5 MMT are 23 percent below the 5-year average of 18.9 MMT. However, Indian wheat production rebounded 4 percent year over year to 90.0 MMT, which is still 1.5 MMT below the 5-year average.

According to USDA, Moroccan wheat production will fall 66 percent year over year to 2.73 MMT, compared to the 5-year average of 6 MMT. Consequently, Moroccan's imports are expected to reach 5.00 MMT in 2016/17, an increase of 13 percent year over year and 25 percent greater than the 5-year average.

While global wheat supplies are large, the quantity of milling quality wheat is tightening as discussed in the Aug. 25 Wheat Letter. Continued growth in wheat trade means increased competition for that smaller, high-quality wheat supply, a market dynamic that could push prices higher. Your local USW representative is ready to help ensure you are getting the wheat you need at the greatest possible value.

Wheat Buyers Conference Reflects Loyalty and Customer Preference

Many of the buyers in East and North Asia had the opportunity to get an in-depth review of the new wheat crop at USW's North Asia Marketing Conference, Oct. 9 to 11, 2016, in Guam. USW and five state wheat commissions hosted approximately 87 flour millers and other buyers from Japan, Korea and Taiwan to promote the reliability of the U.S. wheat marketing system and share a range of emerging market factors.

"Relationships are particularly important in these three markets. This conference is an avenue to broaden our contact with East and North Asian millers and demonstrate our commitment to work on their behalf," said USW President Alan Tracy, who spoke at the conference about shifts in world wheat trade. "When our customers see and understand that supporting their interests is a key part of our mission, it generates trust, which in turn facilitates all of our work with them."

From wheat class and quality updates to a global financial outlook, retail trends and transportation challenges, the conference allowed USW to address topics that are top of mind for customers and U.S. wheat farmers. One topic that stood out to many customers, led by USW Vice President of Policy Dalton Henry, focused on innovations in plant breeding.

"Being able to learn about customer concerns and explain benefits from new technologies being used in plant breeding is a key part of the role USW plays," said Henry.

An important aspect of the conference, said USW Regional Vice President Matt Weimar, is the opportunity for participants to address concerns they have in their own markets and discuss how the U.S. wheat industry can be a partner in finding solutions. While these three markets are historically consistent buyers, USW recognizes that all customers care about where the U.S. wheat market is headed and that the wheat is

consistently dependable.

"Taiwan's millers are quality buyers, who always purchase grade No. 1 U.S. wheat," said USW Country Director Ron Lu from the USW Taipei Office. "When millers start discussing whether they should purchase lower quality, cheaper wheat to save on cost, the information shared at events like NAMC encourages them to continue purchasing high quality wheat from the United States."

The conference also allowed USW to provide updates on future market impacts such as the upcoming closure on the Columbia and Snake River System.

"I highlighted that rail loading capacity has increased with the construction of two new shuttle-train loading facilities in eastern Washington - increasing the amount of wheat that can be moved to export elevators when the systems locks and dams are closed," said USW Vice President and West Coast Office Director Steve Wirsching. "USW is recommending that overseas buyers increase soft white (SW) purchases before the closure, and buy more spring and hard red winter wheat when the river is closed because wheat in those classes moves to export elevators mainly by train."

A vital part of USW's marketing efforts, the in depth engagement at conferences such as NAMC, ultimately reflects on the loyalty and preference customers have for U.S. wheat.

"I relish the opportunity to meet with the end users who continue to be loyal customers of U.S. wheat," said USW Chairman Jason Scott who farms on Maryland's Eastern Shore. "It is great for the importers to be able to meet with the farmers that are growing their wheat and, as one of those farmers, it is also important for me to meet the people using my products and address any concerns they may have about our wheat."

USW wants to thank these conference sponsors: Washington Grain Commission, Oregon Wheat Commission, Idaho Wheat Commission, Montana Wheat and Barley Committee, North Dakota Wheat Commission and USDA's Foreign Agricultural Service.

Overseas Buyers Have a Voice in the U.S. Wheat Supply Chain

The U.S. wheat industry takes pride in its products and position as the world's most reliable choice. It is very important that both our domestic and export customers can depend on the integrity of our supply chain, the quality of U.S. wheat and our unmatched reliability as a supplier. One of the critical foundations is the unique inspection and certification available to importers from the Federal Grain Inspection Service (FGIS), an agency that is part of the USDA Grain Inspection, Stockyards and Packers Administration (GIPSA). Forty years ago this year, an act of Congress established FGIS and required either federal or state agency grain inspections for export. Read more here: "U.S. Wheat Industry Helps Celebrate 100 Years of Grain Standards."

"No other wheat exporter comes close in terms of the neutral, detailed, federally supervised quality assurance of the U.S. commercial transaction itself," USW Regional Technical Director Peter Lloyd has often told customers. "As far as commercially possible, FGIS inspection and certification ensures that what the buyer specifies, the buyer gets."

Even more reassuring is the fact that organizations focused on helping overseas wheat buyers get the most value from U.S. wheat are actively involved in advising the federal agencies responsible for grain inspection. To help GIPSA and FGIS better meet the needs of "customers who operate in a dynamic and changing marketplace," representatives from all segments of the U.S. grain industry are appointed by the Secretary of Agriculture to serve on a Grain Inspection Advisory Committee.

USW Vice President and West Coast Office Director Steve Wirsching has served on the Advisory Committee for several years and for the past year has served as its chairperson. Another friend of world wheat buyers, Janice Cooper, managing director of the Wheat Marketing Center in Portland OR, also serves on the Advisory Committee and, like Wirsching, was elected by committee members to serve as its chairperson. Cooper first joined the committee while she served as executive director of the California Wheat Commission.

"With a focus on providing the highest level of service in the most cost effective way, each committee member can bring issues or opportunities to the table," Wirsching said. "If the committee agrees that action is needed, they pass resolutions that FGIS acts on and then shares progress with the committee. So we really do have the chance to represent the interests of our customers as members of the Advisory Committee."

For example, Wirsching said FGIS now uses more precise, quantitative detection tests to measure mycotoxin levels because USW brought evidence to the committee that some overseas wheat buyers needed more accurate data. Based on another idea USW shared in the Advisory Committee, FGIS now places FGIS personnel on regular overseas assignments to help USDA's Foreign Agricultural Service and organizations like USW provide technical training for grain buyers.

"This is my last meeting and before Janice Cooper takes over as chairperson in May 2017," Wirsching said. "Janice is well respected and her judgement is trusted to help guide the committee on its mission to help ensure the quality and integrity of the grain marketing system."

"This committee helps the grain export industry fully engage in the inspection and certification process that is so important to buyers," Cooper said. "We have planned the Advisory Committee's fall meeting here in Portland specifically to do that. The committee members will tour an export elevator and watch how wheat is inspected first hand, and they will have a chance to meet with the Wheat Marketing Center board of directors. This will also provide a better understanding of the depth of FGIS's work, including how much effort is made to maintain integrity in its operations."

USW believes that it is important to stay actively involved in all phases of the U.S. wheat supply chain to provide a voice representing the interests of the world's wheat buyers. This helps increase the buyers' confidence in the export system and adds value to the high quality wheat our farmers produce.

U.S. Farmers Produce Another Excellent, Sound HRS Crop

The 2016/17 U.S. hard red spring (HRS) wheat crop offers buyers many positive attributes. You will find high grades and protein levels, little to no DON in most of the crop and good functional performance, especially for dough strength, absorption and bake quality. Differences in growing season environments created some variance in protein levels and functional performance among cropping regions, but key parameters

such as dough stability, absorption and loaf volume all tended to improve with protein content in 2016. The entire HRS crop quality report, including regional data, is posted at www.uswheat.org/cropQuality.

An early planting season and excellent growing season pushed the national average yield to a record, but with less planted area, production slipped 13 percent from last year. The crop averages a No. 1 Dark Northern Spring (DNS) and is very similar to the 2015/16 crop for many grade parameters. Specifically, the crop averages a 61.6 lb/bu (81 kg/hl) test weight, near zero damage and 77 percent vitreous kernels. Ninety-two percent of the samples grade No. 1, and 81 percent are above 60 lb/bu (78.9 kg/hl) test weight. The crop average vitreous kernel level is slightly lower than last year, but higher than the 5-year average and more than two thirds of the crop meets the standards for the DNS subclass.

Protein levels are high, averaging 14.2 percent (12% moisture basis), up slightly from 14.1 percent in 2015 and the 5-year average. Kernel moisture is low, averaging 12.1 percent, as most areas had dry harvest conditions. These conditions also produced a sound crop, with an average falling number of 406 seconds, although some northern areas of the region had isolated impacts from rain during harvest. Disease pressures were nonexistent across most of the region with only northern areas facing pressure from Fusarium Head Blight. The crop as a whole is less than 0.05 ppm for DON, down from 0.1 ppm in 2015 and 0.4 ppm for a 5-year average. In areas where disease pressure was highest, DON levels may be closer to the 5-year average, but only one of the eighteen cropping region composites showed detectable DON, averaging 0.3 ppm.

Milling yields, based on a Buhler Lab Mill, are at 66.9 percent, similar to a year ago, and slightly below the 5-year average. Likewise, flour ash and wet gluten values are similar to 2015 and the 5-year, at 0.53 percent and 34.7 percent, respectively. Amylograph values are slightly lower than a year ago, but higher than the 5-year average. The average is 659 B.U., based on the 65-gram test.

The 2016 crop exhibits stronger dough properties and greater water absorption on the overall crop compared to 2015. Farinograph tests show a three-minute increase in stability, averaging 13.2 minutes, compared to 10.3 in 2015, and 10.6 for a 5-year average. Stabilities across western portions of the region are slightly weaker than a year ago, whereas some eastern areas are appreciably stronger. Environment and variety shifts are both contributing factors. Stabilities range from eight to 21 minutes across the region. Absorption values are higher than 2015 in all cropping regions, averaging 62.7 percent, but still slightly lower than the 5-year average. Dough strength as measured on the Extensograph and Alveograph indicates stronger properties overall, with slightly less extensibility.

Baking evaluations show slightly higher loaf volumes compared to 2015, averaging 976 cubic centimeters, with similar absorption, averaging 67.6 percent. Loaf volumes range from 897 to 1008. Dough handling properties are similar to a year ago with overall bread scores showing improvements.

U.S. wheat farmers, through their state commission membership in USW, and USDA's Foreign Agricultural Service fund the annual crop quality survey of all six U.S. wheat classes. USW's 2016 Crop Quality Report, regional HRS reports, along with regional reports for all six U.S. wheat classes, are available at www.uswheat.org/cropQuality. USW will also be sharing the results of the survey with hundreds of overseas customers

at several upcoming events, including USW's annual crop quality seminars. Buyers are encouraged to construct specifications carefully to be sure they receive qualities that meet their needs.

Federal Policy Update



Clinton, Trump Reps Talk, Argue Ag Positions in DC

Surrogates for Republican presidential nominee Donald Trump and Democrat Hillary Clinton this week faced off in Washington, DC, for a point-counterpoint discussion on how agriculture issues sit with the respective campaigns, and in most cases, the differences were as expected.

Dr. Sam Clovis, national co-chair of the Trump effort, and former USDA Deputy Secretary Kathleen Merrigan for the Clinton campaign, took to the National Press Club stage as part of a Farm Foundation forum. In a related development, the American Feed Industry Assn. (AFIA) staff and executive committee heard from Clovis immediately after his Press Club appearance, the feed group having hosted former Secretary of Agriculture Dan Glickman as Clinton's spokesperson last week.

At the Farm Foundation event, Merrigan and Clovis surprised participants by agreeing the 2018 Farm Bill needs to be enacted on time and it needs to include federal nutrition programs, including food stamps.

Clovis departed from GOP orthodoxy by saying spending cuts to the Supplemental Nutrition Assistance Program (SNAP) should be "natural" cuts, and that nutrition spending can be pared through economic growth and higher employment.

"If we have an economy that's growing 4% and we're able to get people off the sidelines, we have fewer and fewer people who qualify for nutrition assistance programs. Then I think we reduce that number and we reduce the cost of our food programs," said Clovis, a university economics professor when he's not standing in for the GOP nominee.

Merrigan stressed the next Farm Bill must be done on time, and that issues including SNAP and food waste need to be part of that bill to gain urban members' support. "I don't think a farm bill moves without that package," said Merrigan, who teaches food policy at George Washington University. Program costs for SNAP represent about 80% of the cost of the \$500-million farm program package.

Clovis said farmers are being overregulated, adding Trump wants to see a commission created to review regulatory issues to ensure there's no overlap among departments and agencies, and that federal laws don't conflict. He pointed to EPA's waters of the U.S. (WOTUS) rulemaking as the classic example of agency overreach. Trump has promised to rescind WOTUS should he take office. Merrigan countered that concerns about WOTUS' impact on agriculture are "blown out of proportion" by "bogeyman worries," adding that in some cases regulations are good things "that give certainty to our farmers and ranchers."

Along with strong border controls and security, the way to fix a broken immigration system so adequate farm labor is available is to modernize the H-2A "guest worker" visa program, Clovis said. It must be changed to make it easier to get needed labor into the U.S., while giving migrant labor legal status. Merrigan emphasized Clinton's pledge on comprehensive immigration reform that includes a "path to citizenship" for the 11 million undocumented workers currently in the U.S.

The two surrogates differed sharply on the future of the estate tax, with Merrigan contending the federal estate tax impacts only the very biggest U.S. farms, and said farmers simply need to do better estate planning. Clovis said killing the "death tax" was Trump's highest priority as part of his push for "fundamental tax reform."

Both campaigns restated their opposition to the Trans-Pacific Partnership (TPP) trade deal, with Clovis citing the treaty's lopsided benefits to other nations, and Merrigan saying the treaty, if ratified as currently written, will cost U.S. jobs, and that agriculture needs to do a better job educating the public on the importance of trade to agriculture. Clovis said Trump intends to "make sure that you have access to as many markets as possible."

EPA Sends Final RFS Rule to OMB for Review

EPA's best effort to set final Renewable Fuel Standard (RFS) biofuels blending mandates for 2017 has been sent to the Office of Management & Budget (OMB) for review before publication in the Federal Register by November 30.

The formal transfer of the RFS final rule was confirmed by the Renewable Fuels Assn. (RFA), when RFA President Bob Dineen tweeted about the transfer. Politico reports OMB hopes to finish its review by November 18.

Both the corn ethanol and biodiesel industries are quietly optimistic the final RFS mandates will increase the amount of ethanol, biodiesel, renewable diesel and other biofuels which must be blended with gasoline. RFA is hoping the overall RFS mandate will hit the 15 billion gallons called for in federal law. The American Petroleum Institute (API) wants to see the levels reduced.

State Policy Update

By Legislative Advocate: Dennis Albani



New, Notable Employment Laws Signed into Law

2016 has been exceptionally active year for labor and employment issues. Issues taken up by the state Legislature this year run the gamut from new protected leave mandates; overtime for agricultural workers; workers' compensation reform and a new state run retirement savings programs for private sector workers. Unless otherwise noted, the bills below go into effect on January 1, 2017.

AB 1676, authored by Assembly Member Nora Campos (D-San Jose), was signed by Governor Brown. (Chapter 856, Statutes of 2016) **AB 1676** provides that a job

applicant's prior salary cannot, by itself, justify any disparity in compensation. The new law, effective January 1, 2017, prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates that the wage differential is based upon one or more of the following factors:

- A seniority system
- A merit system
- A system that measures earnings by quantity or quality of production
- A bona fide factor other than sex, such as education, training, or experience. This factor shall apply only if the employer demonstrates that the factor is not based on or derived from a sex-based differential in compensation, is job related with respect to the position in question, and is consistent with a business necessity

The Governor signed into law **AB 2337**, by Assembly Member Autumn Burke (D-Inglewood) that mandates employers of 25 or more employees must provide written notice to employees of their rights to take protected time off for domestic violence, sexual assault or stalking. The protected leave, in this instance, is existing law. This new law adds a new notice requirement where employers must inform each employee of his or her rights to take this protected leave upon hire and at any time thereafter upon request by the employee. The Labor Commissioner will develop a form for the notices by July 2017. (Chapter 355, Statutes of 2016).

Governor Brown has signed **AB 2535**, authored by Sebastian Ridley-Thomas (D-Los Angeles) that sets in statute an important clarification that an employer must only track the hours worked and record those hours on an itemized wage statement for hourly, non-exempt employees. This ensures that employers do not have to track and record salaried exempt employee hours. (Chapter 77, Statutes of 2016)

SB 1063 by Senator Isadore Hall (D-Compton) was also signed by Governor Brown. The new law amends the Equal Pay Act to prohibit employers, beginning January 1, 2017, from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work. (Chapter 866, Statutes of 2016).

A new set of worker's compensation system reforms was quietly negotiated between management and labor representatives over the last several months of the 2015-2016 legislative session. The Governor signed the bi-partisan package, including **SB 1160** by Senator Tony Mendoza (D-Artesia) (Chapter 868, Statutes of 2016), **AB 1244** by Assembly Member Adam Gray (D-Merced) (Chapter 852, Statutes of 2016) and **AB 2503** by Assembly Member Jay Obernolte (R-Big Bear Lake) (Chapter 885, Statutes of 2016). The Administrative Director (AD) of the Division of Workers' Compensation (DWC) will be issuing regulations over the next several months to implement these reforms. The Workers' Compensation Insurance Rating Bureau, as a result of the new laws, has recommended a 4.3 percent drop in 2017 employer premiums as part of their pure premium rating filing.

To put the package into context, today California law requires all employers to create a utilization review (UR) process as part of their workers' compensation. UR is the review process for medical treatments by physicians to determine if the treatment is medically necessary. Over all, the package does the following:

- Allows for retrospective UR to ensure a doctor is complying with the Medical

Treatment Utilization Schedule (MTUS) and if a pattern develops of a doctor failing to do so, an employer can remove the doctor from their Medical Provider Network (MPN).

- Requires any UR organization to obtain accreditation from an accrediting entity specified by the Division of Workers' Compensation.
- Requires the Administrative Director to develop a mandatory electronic system for sharing documents necessary to conduct UR.
- Provides that the MTUS may be updated with evidence-based medicine standards by an expedited process.
- Prohibits the assignment of liens unless a person has ceased doing business in the capacity held at the time the expenses were incurred and has assigned all right, title, and interest in the remaining accounts receivable to the assignee. The assignment of a lien, in violation of this paragraph is invalid by operation of law.
- Requires the DWC AD to bar medical service providers from participating in any capacity in the workers' compensation system if the provider has been convicted of fraud or abuse of the Medi-Cal, Medi-Care or workers' compensation system or has been convicted of a felony
- Requires a treating physician to file requests for authorization of treatment with the appropriate entity.

The Governor signed **SB 1167** by Senator Tony Mendoza (D-Artesia) that orders the California Division of Occupational Safety and Health Administration, (Cal/OSHA), by January 1, 2019, to propose to the state Occupational Safety and Health Standards Board, a heat illness and injury prevention standard applicable to workers working in indoor places of employment. The bill does not prohibit the division from proposing, or the standards board from adopting, a standard that limits the application of high heat provisions to certain industry sectors. (Chapter 839, Statutes of 2016)

One of the most significant employment related legislation is **SB 1234**, by Senate President Pro Tem Kevin DeLeon. SB 1234 was signed by Governor Brown. The new law establishes the Secure Choice Retirement (SCRSP) program for all covered private sector employees. The provisions of SB 1234 mandate the creation of savings accounts for covered workers whose employers do not offer a pension, 401(k) or other retirement savings option to be automatically enrolled. The program will be phased in over a 36-month period and overseen by the new Secure Choice Retirement Savings Investment Board.

- Within 12 months of the program opening for enrollment, employers with more than 100 employees and no retirement savings plan must help their employees to automatically enroll those employees that do not opt out of the program.
- Employers with 50-99 employees would have 24 months to enroll workers; and
- Employers with 5-49 employees would have 36 months.

Other key provisions of SB 1234 are:

- Employees have the right to opt out of the program.
- Allows the Board, unless otherwise specified by the employee, to set the initial employee contribution into the SCRSP between 2% and 5% of their gross wages.
- Employers always retain the right to provide their own employer-sponsored retirement plans in lieu of SCRSP.
- The SCRSP Board may implement annual automatic escalation of employee

contributions of up to 8%, but contribution level cannot rise more than 1% in a year.

- An employee may opt out of automatic escalation and set his or her contribution rate at a level determined by the employee.

In conclusion, employers will need to keep abreast of the Governor's action on the legislation above. Most of the new laws noted above will require employers to change their employment handbooks or provide new notices to employees about the changes in law.

Employers are also advised to talk to their HR specialists or attorneys in order to ensure their employment policies, procedures, training and notices meet the standards set by the new laws.

Quick Links...

California Wheat Commission

National Association of Wheat Growers

California Weekly Grain and Feed Report: USDA-AMS

CARB Diesel Fuel Ave Rack Prices

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