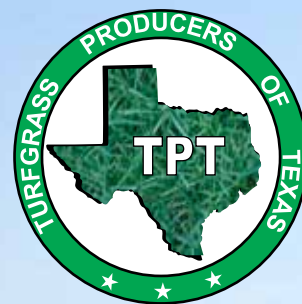


The PALLET

Newsletter of Turfgrass Producers of Texas



Spring 2019

New Trucking Laws Shine Headlights on Agricultural Commodities



By CASEY REYNOLDS, PhD

Previously printed in TPI TurfNews

Many of our TPI members in the United States have likely seen recent changes enacted by the Federal Motor Carrier Safety Administration (FMCSA) that impacts how they haul sod. The FMCSA is an agency within the United States Department of Transportation (USDOT) that regulates the trucking industry in the United States, and in December of 2015 published a Final Rule in the Federal Register regarding Electronic Logging Devices (ELDs) and Hours of Service (HOS) Supporting Documents [Federal Register: Docket No. FMCSA-2010-0167]. The intended objective of this ruling was to improve commercial motor vehicle (CMV) safety and reduce the overall paperwork burden for both motor carriers and drivers by increasing the use of ELDs within the motor carrier industry, which will in turn, improve compliance with the applicable HOS rules. Specifically, this rule: (1) Requires new technical specifications for ELDs that address statutory requirements; (2) mandates ELDs for drivers currently using records of duty status (RODS); (3) clarifies supporting document requirements so that motor carriers and drivers can comply efficiently with HOS regulations; and (4) adopts both procedural and technical provisions aimed at ensuring that ELDs are not used to harass CMV operators.

(See NEW MANDATE, Page 4)

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New Texas Turfgrass Extension Specialist Joins The A&M Team

CHRISSIE SEGARS, Ph.D.

Extension Turfgrass Specialist
Texas A&M AgriLife Extension



Hello, Turfgrass Producers of Texas! My name is Dr. Chrissie Segars and I am the new Extension Turfgrass Specialist at Texas A&M AgriLife in Dallas.

Background

I grew up in small town of less than 1,000 people in South Carolina, where the peaches are sweet, but the people are sweeter. I received my undergraduate degree from Clemson University (Go Tigers), a master's degree from both Louisiana State University and Oklahoma State University, and went on to receive my Ph.D. in Crop Science from Oklahoma State University. During my time at Oklahoma State, my research focused on screening turfgrasses for various characteristics including sod tensile strength, photosynthetic capabilities concerning athletic field paint applications, and carbohydrate production. In February of 2019, I began my journey of becoming an Extension Turfgrass Specialist in Dallas and am excited to see what the future may bring.

I Love Turfgrass

Green grass is a lifestyle for all of us. I certainly believe in the future of turfgrass, but I also believe in the future of the people in the turfgrass industry. It is my hope, that through this position, I can positively impact not only the grass that grows on home lawns, athletic surfaces, and sod farms but also, the people that manage those areas. My goal is to provide resources, education, hands-on demonstrations, and real-life data to the producers and turfgrass managers in the state of Texas on topics that you want, and feel are needed. I hope that you and I can develop a positive relationship that not only helps your production but will lead to a better turfgrass industry in the future. I look forward to meeting you all and working with you in the future.

New Trucking Mandates Cause Confusion

(Continued from Page 1)

The final ruling was published on December 16th, 2015 and is being implemented in three compliance phases (Figure 1). Phase 1 – Awareness and Transition phase, was a two-year period until December 2017 where carriers and drivers could voluntarily use ELDs but could also use paper logs, devices with logging software, or automatic on-board recording devices (AOBRDs). Phase 2 – Phased-in Compliance phase began on December

ELD Rule Implementation Timeline



18th, 2017 and currently exists until December 16th, 2019. During this time, carriers and drivers subject to the rule can use AOBRDs that were installed prior to December 18th, 2017 or ELDs that are self-certified and registered with the FMCSA. However, beginning on December 16th, 2019, Phase 3 – Full Compliance phase begins where all drivers and carriers subject to the rule must use self-certified ELDs that are registered with the FMCSA.

This new mandate includes an exemption for hauling agricultural products within a specified distance of an owner's farm but has also raised the question among state and federal regulators and enforcement officers as to what exactly constitutes an agricultural commodity. TPI members from the southern and northeastern U.S. have already experienced problems and have even had trucks stopped and ordered to drop their sod. On the contrary, in many states there have yet to be any problems brought to TPI's attention. The lack of consistency in current interpretation of the term agricultural commodity and subsequent enforcement has been an issue since the Phased-in Compliance phase began last December



and will likely continue to be a concern until further clarification is provided.

In order to fully understand this issue, it's important to cite the code of federal regulations, which is where U.S. federal laws and the definitions used to construct them are documented. These regulations can be easily accessed in the Electronic Code of Federal Regulations at www.ecfr.gov, specifically Title 49: Transportation. Within Title 49 (49 CFR), all regulations relative to HOS and ELDs can be found in Part 395 (49 CFR 395) and are very clear as

to when HOS and ELD rules do and do not apply. For example, 49 CFR 395.1 (k) states the following: The provisions of this part shall not apply during planting and harvesting periods as determined by each state to

drivers transporting (k)(1); Agricultural commodities from the source to a location within a 150 air-mile radius from the source. Furthermore, Title 49 CFR 390.39 provides exemptions from any requirements in 49 CFR 395, Hours of Service of Drivers, for covered farm

vehicles under 49 CFR 390.39 (a) (3). This subpart defines covered farm vehicles



as straight trucks or articulated vehicles that are registered in state with license plates or other designations that identify them as farm vehicles, are operated by the owner or operator of a farm or an employee or family member of that owner, are used to transport agricultural commodities, and are not used in for-hire motor carrier operations. Additionally, 49 CFR 390.5 provides exemptions for farm vehicles that are controlled and operated by a farmer as a private motor carrier of property transporting agricultural products, farm machinery, or farm supplies to or from a farm and are being used within 150 air-miles of the farmer's farm.

While all of these regulations are quite clear, the current confusion among state and federal regulators, highway enforcement officials, and sod producers appears to be in how to define an agricultural commodity. The current definition used for enforcement of transportation

(see PHASED, Page 10)

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Executive Director's Message

By BRENT BATCHELOR

Well Spring has Sprung! Well it mostly will have by the time you read this. Actually, it is cold and dreary here today as I write this article. I read and listen to books and podcasts as I drive from place to place. Recently I ran across a quote that struck me as relevant to TPT and our future as an organization.



Eric Ken Shinseki is a retired United States Army general who served as the seventh United States Secretary of Veterans Affairs. His final United States Army post was as the 34th Chief of Staff of the Army.

Expanding my thoughts on this leads me to ask the question.

Why would a grower want to be a part of Turfgrass Producers of Texas?

My standard answer would be, to be a part of an organization that represents and promotes the use of natural grass in the state of Texas, however, I am not sure that is enough anymore. I was involved directly and indirectly with several conversations at the Annual Meeting in January concerning grower participation. I know participation is down at the annual meeting and not sure why. A few theories include:

Moving it away from Bay City. Although many of the farms used to be on the coast, the current membership is spread across the state.

No major issues. In the past, several major issues brought more folks to the meeting to discuss and develop a plan of action.

Less Farms. I

do see that this is an issue with consolidation being common in the industry.

I could continue to speculate on the reason, but that would not make the situation any better. We will be sending you a survey to let us know what you want for the 2020 Annual Meeting.

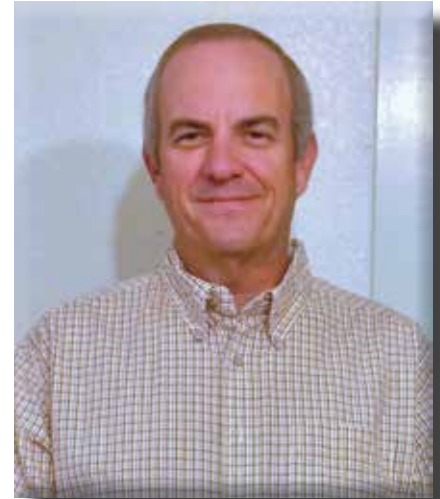
Back to the original question on why join? I will be working with the board in 2019 to try to help increase the reasons for a farm to join Turfgrass Producers of Texas. For those loyal members I say, **THANK YOU!**

In this issue we cover one option to make the association more attractive to growers; Health Insurance. The article discusses a recent change from the Department of Labor that allows organizations like TPT to band together to receive a "group" rate on health insurance which should reduce the cost per policy. We will continue to investigate this and keep you informed.

In the trucking article by Casey Reynolds, the fact that turf as a Crop was challenged by the Transportation Department at the federal level. We also had a challenge of this at the state level by a water district. We are waiting on a decision by the Texas Attorney General on the Texas matter. Most of you can imagine the impact on your farm if turf was not treated as an agriculture crop, it would not be good. We will continue to be watchful of these types of issues that effect you as a member.

Finally, Thanks to all of you who did attend the annual meeting, I hope you found it worth your time and a special thanks to our trade show sponsors. We could not do it without you!

We are working on some new things for 2019 so stay tuned.



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Housing Activity

Data Series Description

Housing statistics are based on listing data from over 50 MLS (Multiple Listing Service) systems in Texas. Statistics for each geography were calculated based on listings of properties physically located within the mapped area presented with the statistics.

Geographic Definitions

Metropolitan Statistical Area (MSA): Based on the multi-county area specified by The Office of Management & Budget in 2013.

Local Market Area (LMA): An area defined by the local Association/Board of REALTORS representing a logical market of homes that can be grouped together for meaningful statistical reporting.

DFW home prices growing slower than national average

Feb 4, 2019

DALLAS – North Texas home prices were up 4 percent over the year in November but continue to lag nationwide increases.

The Dallas-Fort Worth price gain was slightly below the nation's 5.2 percent rise in the latest Standard & Poor's/Case-Shiller Home Price Index.

Home prices in North Texas are now growing at about half the rate they were a year or two ago.

However, with the latest increases, DFW home prices are now almost 50 percent higher than they were during the Great Recession.

North Texas home sales slowed significantly in the final months of 2018, and the region was the only major Texas metro area with a drop in total home sales last year. Sales were down 2.4 percent from 2017's record level.



(Continued on next page)



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Real Estate News –

In the last year, the housing inventory has grown almost 25 percent, and the average days on market has risen more than 20 percent.

Read more at the Dallas Morning News

Houston first in 2018 construction employment growth

Feb 4, 2019

ARLINGTON, Va. – Houston-The Woodlands-Sugar Land added 19,400 construction jobs in 2018, more than any other metro, according to a report from the Associated General Contractors of America (AGC). That's a growth rate of 9 percent.

Dallas-Plano-Irving followed closely behind, growing by 12 percent, or 17,700 construction jobs, from December 2017 to December 2018.

Abilene (-300 jobs) and Wichita Falls (-200 jobs) were among the metros with the largest losses, both seeing a 7 percent decrease in construction employment.

Construction employment grew in 273 out of 358 metro areas between December 2017 and December 2018, declined in 37, and was unchanged in 48.

The largest percentage job gain occurred in Weirton-Steubenville, W. Va.-Ohio (28 percent, 500 jobs).

Anaheim-Santa Ana-Irvine, Calif. (-2,800 jobs, -3 percent) had the largest job loss. Lawrence-Methuen Town-Salem, Mass.-N.H. (-9 percent, -300 jobs) had the largest job loss by percentage.

Source: Associated General Contractors of America





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Phased Mandates For Ag Questionable

(Continued from Page 4)

laws can be found in 49 CFR 395.2 which states as follows; Agricultural commodity means any agricultural commodity, nonprocessed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471] and insects).

During the question and answer period of an FMCSA National Training Center (NTC) webinar on June 28th, 2018, someone asked if sod was considered to be an agricultural commodity and the response from the presenters was no, sod is not considered to be an agricultural commodity. A state police officer responsible for commercial enforcement then reached out to FMCSA whose response confirmed that they do not currently consider sod an agricultural commodity and sod haulers are therefore subject to the full 49 CFR 395 Hours or Service regulations. Since this time, TPI members from at least 4 states have had issues with local enforcement and have contacted us for assistance.

The primary issue to be addressed is sod's lack of recognition as an agricultural commodity under 49 CFR 395.2. During an FMCSA listening session in Reno, NV on Saturday, September 22nd, 2018, I asked FMCSA officials if their current definition of agricultural commodities was going to be clarified and they stated that the FMCSA is currently working with the USDA to further define this term. TPI is currently working with the FMCSA, USDA, state agricultural departments, and others to address this matter as well. At the heart of our case are the many other instances in which federal and state branches of government recognize sod to be an agricultural commodity. They include but are not limited to:

- The USDA's inclusion of sod in its Agricultural Census
- The USDA's definition of sod in the U.S. Farm Bill as a horticultural commodity within the agriculture sector as part of the Food, Conservation, and Energy Act of 2008
- The USDA's definition of sod in Specialty Crops found in Title 7, Chapter 38 "Distribution and Marketing of Agricultural Products"
- The Environmental Protection Agency's (EPA) recognition of turfgrass sod as an agricultural plant under Worker Protection Standard 40 CFR 170.3



- The FMCSA's recognition of sod farmers' eligibility for farmer waivers under 49 CFR 383.3 – Commercial Driver's License Standards, Requirements, and Penalties

- Sod's recognition as an agricultural commodity by U.S. state departments of agriculture
- Sod's classification as an agricultural commodity with regard to Social Security (FICA) taxes, Federal Income Tax Withholding, Federal

Unemployment Tax, Federal Wage-Hour Laws, the Migrant and Seasonal Worker Protections Act, Occupational Safety and Health Act (OSHA), and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Furthermore, turfgrass sod, much like many other agricultural commodities is planted and harvested annually, it is cultivated and managed with similar techniques and equipment as other crops, and it is subject to the same impacts of weather including rainfall, drought, temperature, etc. It is subject to weed

(See NEW FMCSA, Page 14)

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Turfgrass Producers of Texas Annual Meeting

The Turfgrass Producers of Texas held the Annual Meeting at the Hyatt Regency Houston Station, Texas. The sponsors and growers enjoyed a nice day morning brought cool temperatures but no ice this morning. The meeting covered topics such as turf diseases, and the worker protection standards. The TDA continuing education credits. The afternoon session was followed by an update on the federal trucking regulations from current Texas A&M Graduate students.

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Producers of Annual Meeting

Meeting and Trade show January 28 & 29 in College
ice visit prior to dinner and the annual meeting. Tues-
s time. Those present heard from speakers on weed
lard during the morning session which counted for
ion began with a talk on turf logistics and marketing
ons. We finished the day with rapid fire presentations

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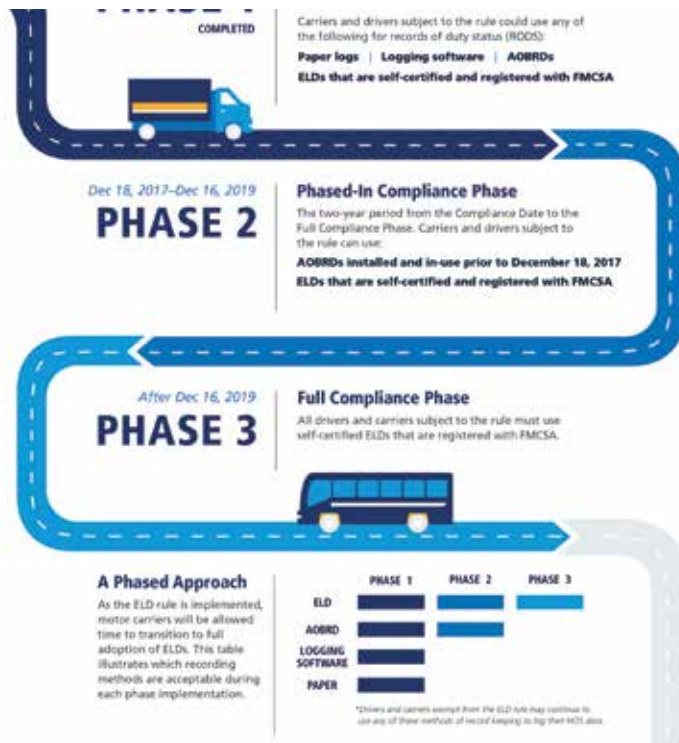
New FMCSA Guidelines

(Continued from Page 10)

infestations, insect pests, and plant disease factors that impact other agricultural crops. Similarly, once harvested for sale it is also subject to perishing in transport as is many other agricultural commodities.

On November 6th, 2018 TPI's policy and public relations consultant Jonathan Moore arranged a meeting with TPI and FMCSA officials at the USDOT headquarters in Washington, DC. We discussed this recent, more strict interpretation of agricultural commodities as defined in 49 CFR 395.2 and how it would impact sod producers, and perhaps even seed producers, throughout the United States. The FMCSA officials stated that this is an important issue to them and laid out the path for TPI to submit a request for exemption under the provisions in 49 CFR 381 – Waivers, Exemptions, and Pilot Programs, specifically 381.310, which TPI has submitted. FMCSA officials did not guarantee any outcome of this submission but were very helpful in their comments and were open to our request for exemption. TPI will also be on the lookout for any future public notifications by the FMCSA in regard to any Advanced Notices of Proposed Rule-Making (ANPRM) that may address the 49 CFR 395.2 definition of agricultural commodities. There are many agricultural commodities outside of non-processed food, feed, fiber, or livestock and sod is not the only commodity being affected by this recent interpretation. As a result, other commodity groups also have an interest in this issue and are working on behalf of their constituents. One example is American Hort who represents greenhouse and nursery growers, and TPI has been in communication with them as well as the American Farm Bureau Federation.

In addition to working with the FMCSA and USDA, TPI has visited with congressional and senate staff to seek legislative relief. Specifically, we are seeking support for a bill introduced into the U.S House of Representatives by Rep. Austin Scott (R-GA). This bill, H.R. 7004 titled the "Agricultural Trucking Relief Act of 2018" was introduced into the House of Representatives on September 28th, 2018 and referred to the House Committee on Transportation and Infrastructure. Rep. Scott, who serves on the Agriculture Committee introduced the bill in response to the needs of the agricultural industry in Georgia, and TPI is currently seeking support from lawmakers. We have met with representatives from Rep. David Rouzer (R-NC), Rep. Rob Woodall (R-GA), Rep. David Price (D-NC), Rep. Drew Ferguson (R-GA), and Rep. Brian Babin (R-TX). Reps. Babin, Ferguson, Rouzer, and Woodall all serve



on the Transportation and Infrastructure Committee, while Reps. Rouzer and Scott serve on the Agriculture Committee. This bill is relatively new and as a result there are yet to be any co-sponsors. However, TPI will continue working to generate support in the House of Representatives and will also seek a similar companion bill in the Senate. With congressional adjournment soon approaching, our primary goal is to build support on Capitol Hill so this measure has a head start when re-introduced in early 2019, the 116th session of Congress.

We are continuing to hear from TPI members on how these regulations will impact their business and their concerns are widespread. Some of the members we have talked to are more concerned about HOS than ELDs, because not being able to claim the agriculture commodity exemption in 49 CFR 395.1 (k) could drastically limit them from getting sod to customers in a timely manner. Some members we have talked to are less concerned about HOS and are more concerned about ELDs and how the mandated use of these could impact their drivers. With regard to all of these concerns, the current Phased-in Compliance phase lasts until December 16th, 2019 after which point the Full Compliance phase begins where all drivers and carriers subject to the rule must use self-certified ELDs that are registered with FMCSA.

TPI will continue to work with FMCSA on this issue, and if you have any questions, concerns, or comments about how the new rules regarding Electronic Logging Devices (ELDs) and Hours of Service (HOS) Supporting Documents impact your business please reach out to us for discussion. Furthermore, if your elected congressional

(See FMCSA, Page 22)

TPT Silent Auction a Huge Success

The 2019 Turfgrass Producers Silent Auction was a huge success. What makes any silent auction work are generous donors and generous bidders. TPT was fortunate to have both at their annual meeting and trade show January 28-29, 2019 in College Station. The total collected from the auction was \$4,350.00!! Thanks to all who donated and those who bid even if you didn't win, you helped the cause.

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Myles Kubicek	Kubicek Turf Farm
Tommy Hanka	Hanka Sod
Doyle Anderton	A-1 Grass
Toby Wagner	Sod Solutions



USDA Announces November Prices

Input Price Trends

by **DR. MARK WALLER**

Extension Economist
Texas A&M AgriLife Extension

The prices paid by farmers indices by sub-component shown in the graph below represent nationwide average annual prices of inputs purchased by farmers and ranchers to produce agricultural commodities. As can be seen, on an average annual basis, price indices for nitrogen, diesel, potash & phosphate, wages, supplies & repairs, moved mostly higher, while herbicides and insecticides have moved lower.

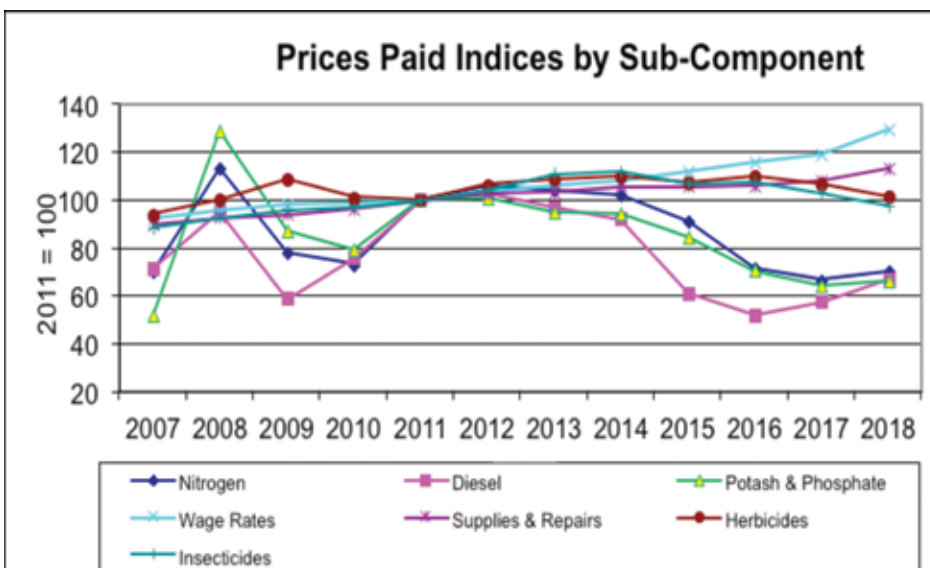
On a monthly basis, mid-November (the most recently available data) monthly input prices were steady to higher relative to the previous month (October). Nitrogen, and potash & phosphate prices increased +2.8%, and +0.5% respectively from the previous month, wage rates, supplies & repairs prices were unchanged, and diesel, herbicides and insecticides prices decreased -1.9%, -2.7%, and -2.7% respectively from October to November 2018. Relative to last year (November 2017), Nitrogen, diesel, potash & phosphate, wage rates, supplies & repairs, prices increased +11.5%, +9.8%, +11.7%, +7.8%, and +4.4% respectively, while herbicides, and insecticides prices decreased -3.6%, and -3.8% respectively.

A continued tighter labor market, tariffs on a number of imported goods, and an anticipation of possible inflation may be influencing some increasing prices. Low farm profits in general will likely restrain rising input prices, barring any supply-side changes. Trade/tariff concerns could continue to impact these markets over the coming months.

The average price when multiplied by quantity purchased should equal total producer expenditures for the item. The prices paid data are obtained from establishments that sell goods and services to farmers and ranchers. Annually, about 8,500 firms are randomly selected from lists by type of item sold with an average response rate in the range of 75-80 percent. Firms are asked to report the price for the specified item “most

commonly bought by farmers” or that was the “volume seller.”

Source: National Agricultural Statistics Service, Agricultural Statistics Board, U.S. Department of Agriculture. Agricultural Prices. Accessed February 13, 2019. Web available at <http://quickstats.nass.usda.gov>.



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Environmental Impacts and Runoff Dynamics Associated with Turfgrass Removal and Urban Landscape Conversions

By Baoxin Chang, Benjamin Wherley,
and Jacqueline Aitkenhead-Peterson

Texas A&M University, Department of Soil and Crop Sciences

As rapid population growth continues to occur in Texas' urban areas, water conservation has become a key priority for many municipalities. It has been estimated that approximately 30-50% of potable municipal water is used for residential landscape irrigation. While homeowners have traditionally installed and appreciated landscapes comprised predominantly of turfgrass; in recent years many municipalities have begun to offer rebate programs which incentivize removal of turfgrass areas and conversion to alternative 'water-efficient' landscapes, with the goal of reducing outdoor water use. As a component of these programs, homeowners are often encouraged or required to adopt specific landscape designs and planting materials, presumably with good adaptation to the region. However, the long-term environmental impacts and consequences for ecosystem services resulting from these landscape changes following lawn removal are rarely considered. Turfgrass lawns have been shown to provide an array of benefits both to the environment and to humans, including production of oxygen, carbon sequestration, improved surface and groundwater quality, heat dissipation, and temperature moderation (2). While little research is available on the subject, a recent study conducted in Arizona showed soil nitrate pools in previously converted 'water-efficient' landscapes to be 4 times higher than those of similar age composed of turfgrass, with the highest peaks occurring around 10 years after turf removal (1).

A study is being conducted at the Urban Landscape Runoff Facility, located at the Texas A&M University Soil and Crop Sciences Turfgrass Field Research Laboratory, College Station, TX. The facility had originally been constructed using 'Raleigh' St. Augustinegrass sod in 2012. During the summer of 2018, sod was

stripped off of many of the plots and various 'water-efficient' landscapes installed. In addition to the existing six-year old Raleigh St. Augustinegrass treatment, four other alternative landscapes were constructed, including water-efficient xeriscaping, water-efficient landscape-mulch, synthetic turf, and sand-capped St. Augustinegrass (Figure 1). Each treatment is replicated three times. The two water-efficient landscapes are drip-irrigated, while the St. Augustinegrass plots are overhead irrigated to meet plant demand, and synthetic turf receives no irrigation.

During the study period, runoff characteristics are being monitored following rainfall events. Each treatment plot is equipped with automated flow meter and runoff sampling device allowing for determination of runoff flow characteristics, volumes, and chemical analysis. Further, soil chemical and biological properties will also be compared among the treatments, with a focus on nitrate and microbial diversity. Reflective surface temperatures within each landscape type are also being evaluated. Of practical significance to the home owner or land-



Photos courtesy of Baoxing Chang.

scape manager, weed density counts and time required to manage weeds is also being determined to better understand the maintenance requirements for each system. Finally, emissions of greenhouse gases including N₂O are being monitored from the various landscapes.

Although the project has only been in progress for six months, preliminary observations indicate that although installation of 'water-efficient' landscapes (comprised of mulch, decomposed granite, or synthetic turf) may offer potential to reduce irrigation inputs, they also result in noticeably increased volumes of runoff during rainfall events. In addition, the extra time and cost associated with maintenance required for weed control also needs to be considered. Synthetic turf offers season-long green color, but has produced extremely

(See *LANDSCAPES*, Page 22)

TPT Launches New Website



The Turfgrass Producers of Texas recently launched a new website at TexasGrass.com, that combines the best elements of previous websites (TexasGrass.com, TXSod.com, and GetTheGrassFacts.com) into one, comprehensive, state-of-the-art site. All three domain names now direct to the new website. The goal in creating the new website is to promote the Texas turfgrass industry, as well as support TPT members and the association.

The site serves as a valuable resource for consumers and turf industry professionals. TexasGrass.com provides a bevy of information on turfgrass varieties and the benefits of Texas turf, additionally, the site includes a library of maintenance manuals and videos for managing grass on lawns, golf courses and sports fields in Texas.

The "Find a Grower Near You" function of the website works with the TPT Membership Directory to allow consumers to locate farms that grow grass varieties by cultivar name, grass family type, and within a selected radius from their location (options range from five to more than 500 miles).

The online TPT Membership Directory is designed to help drive sales to member farms by listing the varieties grown, contact information and location. Integrated with Google Maps, each farm location is shown in both map and list form, and all members have their own stand-alone page on the website to give all members an online presence.

TexasGrass.com also helps members take full advantage of their TPT membership. Easy online event registration, exhibitor booth reservations and sponsorship purchases, online membership

renewal, and the ability to buy a banner ad on the site streamline membership tasks. A news section for industry and research articles, along with an archive of recent Pallet issues, round out current content. TexasGrass.com is fully compatible with desktop, tablet and cell phone formats.

The new website is a significant step in TPT's broader marketing goal. It serves as a constant, 24/7 online advocate for the benefits of turfgrass produced in and for Texas. The website was developed by the team at What's Your Avocado? Marketing & Public Relations, a firm that specializes in marketing for the turfgrass industry.



New Labor Department Rule Expands Group Health Coverage Option

By **BRUCE ARNOLD**
July 31, 2018 - Posted in ACA

A new federal rule gives small employers and the self-employed an additional avenue for obtaining group health coverage.

The final rule, released by the U.S. Department of Labor (DOL) June 19 and published June 21, broadens the definition of “employer” for purposes of determining who can establish multiple employer group health plans under section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA).

The rule will give small employers and the self-employed greater access to affordable coverage by extending regulatory and economic advantages enjoyed by larger employers and remove restrictions that are imposed on small employers.

Specifically, the rule provides additional opportunities for groups of small employers or associations to meet the definition of “employer” and sponsor an ERISA-governed group health plan. In doing so, the individual employers can be covered under a single plan. Such a plan would not be subject to small group and individual commercial health insurance requirements, such as the requirement to provide essential health benefits or to rate the plan based on the local community.

While expanding the ability of employers to join together more broadly for the purpose of sponsoring a group health plan, DOL left intact existing guidance under ERISA section 3(5). As a result, existing groups and associations are not forced to comply with the new rule’s requirements. Instead, they have a choice of complying under the old or new requirements.

The definition of “employer” under ERISA section 3(5) includes any person acting indirectly in the interest of an employer for the purpose of establishing or maintaining an employee welfare benefit plan. The final rule clarifies the criteria a bona fide group or association must meet in order to be deemed able to act in the interest of an employer:



- The primary purpose of the group or association may be to offer and provide health coverage to its employer members and their employees, but the group or association also must have at least one substantial business purpose other than providing coverage to its members. The rule clarifies that this standard will be met if the group or association would be a viable entity in the absence of sponsoring an employee benefit plan.

- Each employer member of the group or association participating in the group health plan is a person acting directly as an employer of at least one employee who is a participant covered under the plan.

- The group or association has a formal organizational structure with a governing body and has by-laws or other similar indications of formality.
- The functions and activities of the group or association are controlled by its employer members, and the participating member employers in the group health plan control the plan in both form and substance.
- The employer members have a commonality of interest. This standard is met if the employer members are in the same trade, industry, line of business or profession, or the members exist within the same geographic area, as defined in the rule.
- The group coverage available through the group or association is available only to:
 - o An employee of a current member.
 - o A former employee of a current member who became eligible for coverage when an employee of the member.
 - o A spouse or child of an employee of a member.
- The group or association and the health coverage offered by it comply with specified nondiscrimination provisions of the rule, which prevent conditioning employer membership

(See NEW LABOR, Page 22)

EL NIÑO/SOUTHERN OSCILLATION (ENSO) DIAGNOSTIC DISCUSSION

issued by

CLIMATE PREDICTION CENTER/NCEP/NWS

and the International Research Institute for Climate and Society – 14 February 2019

ENSO Alert System Status: El Niño Watch

Weak El Niño conditions are present and are expected to continue through the Northern Hemisphere spring 2019 (~55% chance).

El Niño conditions formed during January 2019, based on the presence of above-average sea surface temperatures (SSTs) across most of the equatorial Pacific Ocean (Fig. 1) and corresponding changes in the overlying atmospheric circulation. The weekly Niño indices remained above average during the month, although decreasing in the Niño-3 and Niño-3.4 regions (Fig. 2). However, the Niño-4 region remained elevated, with a value of $+0.8^{\circ}\text{C}$ in early February. Positive subsurface temperature anomalies (averaged across 180° - 100°W) increased in the last couple weeks (Fig. 3), in association with a downwelling Kelvin wave that contributed to above-average temperatures in the central Pacific (Fig. 4).

Compared to last month, the region of enhanced equatorial convection expanded near the Date Line, while anomalies remained weak over Indonesia (Fig. 5). Low-level wind anomalies became westerly across the western Pacific Ocean, while upper-level wind anomalies were mostly westerly over the eastern Pacific. The equatorial Southern Oscillation index was negative (-0.6 standard deviations). Overall, these features are consistent with borderline, weak El Niño conditions.

The majority of models in the IRI/CPC plume predict a Niño 3.4 index of $+0.5^{\circ}\text{C}$ or greater through at least the Northern Hemisphere spring 2019 (Fig. 6). Given the recent downwelling Kelvin wave and the forecast of westerly wind anomalies, most forecasters expect SST anomalies in the east-central Pacific to increase slightly in the upcoming month or so. Because forecasts through the spring tend to be more uncertain and/or less accurate, the predicted chance that El Niño

will persist beyond the spring is 50% or less. In summary, weak El Niño conditions are present and are expected to continue through the Northern Hemisphere spring 2019 (~55% chance; click [CPC/IRI consensus forecast](#) for the chance of each outcome for each 3-month period).

Due to the expected weak strength, widespread or significant global impacts are not anticipated. However, the impacts often associated with El Niño may occur in some locations during the next few months (the [3-month seasonal outlook](#) will be updated on Thursday February 21st).

This discussion is a consolidated effort of the

National Oceanic and Atmospheric Administration (NOAA), NOAA's National Weather Service, and their funded institutions. Oceanic and atmospheric conditions are updated weekly on the Climate Prediction Center web site ([El Niño/La Niña Current Conditions and Expert Discussions](#)). Forecasts are also updated monthly in the Forecast Forum of CPC's Climate Diagnostics Bulletin. Additional perspectives and analysis are also avail-

able in an [ENSO blog](#). The next ENSO Diagnostics Discussion is scheduled for 14 March 2019. To receive an e-mail notification when the monthly ENSO Diagnostic Discussions are released, please send an e-mail message to: ncep.list.ensu-update@noaa.gov.

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College Park, MD 20740

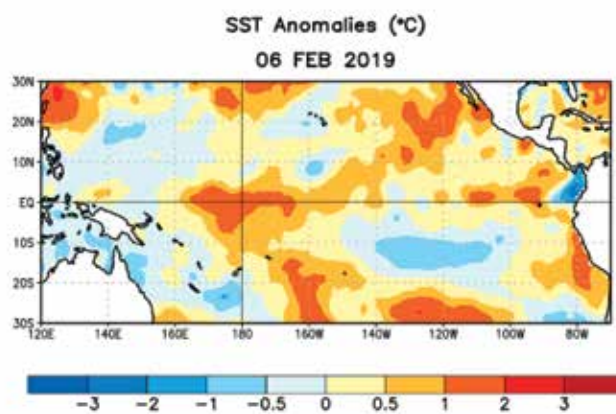


Figure 1. Average sea surface temperature (SST) anomalies ($^{\circ}\text{C}$) for the week centered on 6 February 2019. Anomalies are computed with respect to the 1981-2010 base period weekly means.



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(Continued from Page 14)

and senate officials are willing to work with TPI to support H.R. 7004 then please let us know that as well. More information on this topic will be presented at the TPI 2019 International Education Conference in Charlotte, NC from Feb 18-20th, and may also be the subject of future webinars or requests for comments. In the meantime, there are several resources below that may further explain the appropriate use of ELDs, HOS requirements, and hauling of agricultural commodities.

A special thank you to our TPI members for their membership which funds these types of efforts. We certainly could not fight these battles without your support. If you're not a TPI member and would like to join, we'd love to have you on our team! Please contact us at (800) 405-8873 for information on becoming a part of TPI and be sure to ask about our introductory rate for new members!

Federal Motor Carrier Safety Administration (FMCSA) website: www.fmcsa.dot.gov

ELD Hours of Service (HOS) and Agriculture Exemptions: <https://www.fmcsa.dot.gov/hours-service/elds/eld-hours-service-hos-and-agriculture-exemptions>

Interstate Truck Driver's Guide to Hours of Service: <https://www.fmcsa.dot.gov/regulations/hours-service/interstate-truck-drivers-guide-hours-service>

Electronic Code of Federal Regulations, Title 49: Transportation: Part 395 – Hours of Service of Drivers: https://www.ecfr.gov/cgi-bin/text-idx?SID=ed3f027b5f52785ddefdec0f7a0d23f4&mc=true&tpl=/ecfrbrowse/Title49/49cfr395_main_02.tpl

Please address any questions or comments to creynolds@TurfgrassSod.Org or (847) 737-1846.

New Labor Rule Could Benefit Self Employed

(Continued from Page 19)

based on health factors, and the association cannot treat each employer member as distinct with respect to nondiscrimination rules.

- The group or association must not be a health insurance issuer under 733(b)(2) (i.e., a state-licensed health insurer), or be owned or controlled by a health insurance issuer or by a subsidiary or affiliate of a health insurance issuer, other than to the extent the health insurance issuer or controlled entity or subsidiary or affiliate participates in the group or association as an employer member.
- The rule does not change the applicability of state law with respect to regulation of multiple employer welfare arrangements.

The rule will provide a substantial shift in how small businesses offer health insurance to their employees. The rule will allow another avenue for self-employed individuals to band with other employers to receive more affordable insurance. However, with this substantial shift come many requirements that must be satisfied under the rule.

Study Compares Landscape Ground Covers

(Continued from Page 17)

high surface temperatures (nearly double that of natural grass) making it a poor alternative for warm climates, such as Texas. Also, the initial construction cost for artificial turf is relatively higher than other landscapes, and it is not included as an option in many rebate programs. The natural grass St. Augustinegrass lawn treatments demonstrated the greatest capacity to capture rainfall, thus mitigating runoff losses, lower overall weed counts, and have moderated surface temperatures.

It is our hope that the information gained from this research will benefit municipalities, water purveyors, and home owners associations as they weigh the long-term consequences and impacts of lawn removal and landscape conversion programs. A comprehensive

update on the project will be presented at the October 9, 2019 Turfgrass Field Day in College Station.

Funding for this research has been made possible through grants from The Lawn Institute, Scotts Miracle-Gro, Texas Turfgrass Research, Extension, and Education Endowment, and Texas Water Resources Institute.

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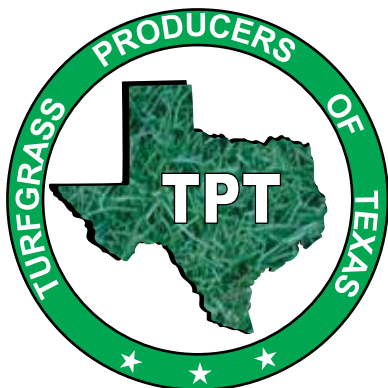
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