

**AG ISSUES UPDATE**  
**Edited by Brad Hollabaugh**  
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**FDA Responds to Grower Concerns in Revised Produce Food Safety Proposals**

In response to concerns raised by USApple and others, the FDA issued a revised set of proposed produce food safety regulations. USApple filed a comment letter with the FDA last year challenging a number of proposals that affected apple production. In addition to USApple's comments, the Northwest Horticultural Council (NHC) also submitted an extensive comment letter on the impact on tree fruit production. While the comment letters addressed a number of areas in the proposed rules, much of our concern centered on the FDA proposals regarding "agricultural water" used for irrigation, overhead cooling, and crop protection chemical application. USApple's comments focused on these key areas:

- Apples are not a "high risk" commodity - There are no known documented cases of food borne illness associated with the consumption of fresh apples in the U.S.
- Cost of the proposed rules - USApple believes that the FDA had significantly underestimated the cost of the rules on growers.
- The agricultural water rules are excessive and could result in significant loss of fruit by potentially causing a sudden halt in irrigation and cooling usage during the growing season, and as a result reduce the food supply unnecessarily - The FDA's "one size fits all" approach to agricultural water is an example of a solution in search of a problem.

Under the original rule proposal, growers would have been required to begin testing water at the beginning of the growing season and continue testing at intervals of 7 or 30 days depending upon the water source. Even worse, if any of the tests exceeded the EPA recreational water standard, the use of water from that source would need to immediately cease until the problem was addressed.

The FDA considered the comments by USApple and other industry organizations and revised the original proposals. The new proposal replaces the original requirement of weekly or monthly testing of water throughout growing season with microbial standards based on EPA "recreational water" standard. The revision calls for growers to establish a "baseline" for microbial presence in agricultural water.

Under the new proposal, water testing will not be required throughout the growing season. Instead, after the establishment of the "baseline", growers will be required to collect and test 5 samples "as close to harvest as practical." Then, if the EPA standard for recreational water is exceeded, the growers have options short of halting the use of water completely.

In the examples accompanying the revision, the FDA shows a typical die off calculation where the microbial test was nearly double the recreational water standard. In the example, the grower would have to wait one day after the last water application before starting to harvest to allow for sufficient microbial die off.

The FDA says in the revised proposals that it intends to develop a "tool" - most likely an "App" for cell phones or software to be installed on a laptop computer - that will assist growers in doing the mathematical calculations necessary to determine the interval between last water application and harvest, based upon the individual grower's water test results.

USApple is pleased that the FDA considered grower and industry comments on the original proposal and revised them. While the new proposals may not be a perfect solution, they represent a significant

improvement. USApple will be utilizing its Technical Food Safety Task Force to further evaluate the revised proposals and will file additional comments prior to the December 15th deadline. (*Apple Bites*, 10.7.2014, U.S. Apple Association)

### **Food Facility Biennial Registration Renewal**

Food facilities required to register with FDA must renew their food facility registrations this year during the period beginning on October 1, 2014 and ending on December 31, 2014. FDA encourages food facilities to renew their registrations early on in the three-month renewal period.

The FDA Food Safety Modernization Act (FSMA), enacted on January 4, 2011, amended the food facility registration requirements of section 415 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) [21 U.S.C. § 350d]. The registration requirements in section 415 apply to domestic and foreign food facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States. FSMA amended the Act to provide that food facilities required to register with FDA must renew their registrations with FDA every other year, during the period beginning on October 1 and ending on December 31 of each even-numbered year.

FDA has three guidance documents available to provide assistance to registrants with the registration process, including information on biennial registration renewal. These guidance documents are listed below.

- **The Guidance for Industry: What You Need to Know About the Registration of Food Facilities - Small Entity Compliance Guide** was updated in 2012 to reflect FSMA amendments to the FD&C Act, and contains information regarding: who is required to register and who may be exempt; how often facilities must register and renew registrations; when FDA may suspend a registration; and how facilities may submit their registrations and registration renewals to FDA.
- **The Guidance for Industry: Questions and Answers Regarding Food Facility Registration (Fifth Edition)** was updated in 2012 and contains helpful questions and answers regarding food facility registration. Updates to questions in this edition are based on FSMA amendments.
- **The Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registration** contains information regarding food-product categories included in the food facility registration form.

These documents supersede previously released versions and may be found on the web at <http://www.fda.gov/Food/GuidanceRegulation>. (*Apple Bites*, 10.7.2014, U.S. Apple Association)

### **Farm Bill Implementation Continues**

Last week, USDA announced the recipients of the 2014 Specialty Crop Block Grants and the Specialty Crop Research Initiative (SCRI). Apple growers came out on top with 28 block grants awarded in 19 states for everything from marketing to research and food safety initiatives. A detailed list of SCRI projects has not been released, however, we know that several apple-specific projects were awarded, including the BMSB SCRI CAP Project, which has been funded in full at \$5,357,738 for an additional two years.

Both programs are funded under the new Farm Bill and were top priorities for USApple during the reauthorization process. The SCRI was one of a handful of programs which lost funding when Congress failed to pass a new Farm Bill and instead extended the 2008 legislation. USApple and our coalition partners in the Specialty Crop Farm Bill Alliance (SCFBA) worked to ensure the SCRI received

"permanent" funding so that it will continue if extensions occur in the future. (*Apple Bites*, 10.7.2014, U.S. Apple Association)

### **USApple President Writes Secretary Vilsack**

USApple President & CEO Jim Bair recently wrote USDA Secretary Tom Vilsack regarding Poland's request for access to our fresh market. The request came in reaction to the closure of the Russian market to Poland and other countries engaged in the situation in the Ukraine. This represents a significant loss for Poland as Russia was its top export market.

The Polish government is now utilizing social media creating the hashtag "freedom apples," and is appealing to U.S. and Canadian consumers to take their apples. They have even recruited Polish born NBA star Marcin Gortat who proclaims, "From my early childhood, I ate a lot of apples. Look how tall I grew."

Clearly, a PR campaign should in no way impact the regulatory process administered by the Animal Plant Health Inspection Service (APHIS). In fact, U.S. growers are also adversely affected by the Russian embargo. Bair spelled this out in the letter to Vilsack, stating that "The United States has a vigorous regulatory process based strictly on science and we trust it will be adhered to in this case, despite geopolitical concerns."

As the world's largest exporter of fresh apples, Poland's entry into our market would be significant. USApple will watch this issue very closely and will engage our TreeTAC scientific advisors if the process moves forward. (*Apple Bites*, 10.7.2014, U.S. Apple Association)

### **Farm Bureau Makes The Case to "Ditch the Rule"**

Pennsylvania Farm Bureau has worked hard to make sure the federal government knows that harm that could come from its misguided "waters of the U.S." rule. Recently, PFB sent a stack of post cards—towering more than two feet in height—to the U.S. Environmental Protection Agency in Washington D.C. On every card was a signature telling the EPA to "Ditch the Rule!"

If allowed to move forward, the EPA and U.S. Army Corps of Engineers would have jurisdiction over nearly every water body in the country, including small creeks, streams and rain dependent ditches. That proposed expansion brings a raft of uncertainty, including if farmers would need to obtain federal permits for normal farming activities such as weed control and fence installation near water bodies the EPA claims it can regulate.

Recently, members of the House of Representatives passed H.R. 5078 which would prevent the EPA and Army Corps from moving ahead with the rule. Passage of the bill sends "an unmistakable signal that the tide is turning against those who ignore the constitutional separation of powers in the United States," said American Farm Bureau Federation President Bob Stallman. "We will ditch this rule."

The bill now heads to the Senate, which has shown limited interest in taking up the measure. If passed, the bill would prevent the agencies from using the rule for future administrative actions that undermines the federal-state partnership or attempts to go around the authority of Congress to change the Clean Water Act.

### **Farm Bureau Lobbies for Cash Accounting**

The American Farm Bureau Federation is urging Congress to allow farmers to continue to use cash accounting. A bill currently before the Senate would require that small businesses with receipts greater than \$10 million a year would be forced to use the accrual accounting method.

A bipartisan group of Congress has signed a letter that recommends that farmers be allowed to continue with cash accounting. Under an accrual accounting system, small businesses would be taxed on non-existent income, reducing cash flow of operating costs. Farmers could be faced with the need to take out loans to cover liquidity problems.

“We are pleased to see members of Congress reach across party lines and stand together for farmers and ranchers who are working to build their businesses and communities,” AFBF President Bob Stallman said.

### **Vehicle Code Bill Advances**

A Pennsylvania Senate Committee has approved a bill that would provide exemptions from commercial driver’s license requirements for operators of farm trucks. House Bill 2092 introduced by Rep. Mark Keller would exempt drivers of farm-register trucks from the requirements when the trucks are driven anywhere in Pennsylvania, or within a 150-mile radius of the farm when crossing state lines. This bill would make state law consistent with federal law.

“Under my bill, farm drivers will be relieved of the excessive regulatory burdens that were primarily developed for commercial truck drivers,” Keller said. HB 2092 has already been approved by the House. The Senate is expected to take action on the bill before the end of this legislative session.

### **Property Tax Elimination Bill Passes Senate Committee**

Members of the Senate Finance Committee have passed a bill that would eliminate school property taxes and instead shift to an increase in income and sales taxes to fund schools. Senate Bill 76, supported by Pennsylvania Farm Bureau, was narrowly adopted by the committee, but saw bipartisan support.

If signed into law, SB 76 would increase the state income tax rate to 4.34 percent from its current rate of 3.07 percent and increase sales taxes to 7 percent from its current rate of 6 percent. Additional goods and services would be subject to sales taxes, including some food and clothing items.

“For too many years, legislative plans to remedy this problem have languished in committee, never to see the light of day,” said Sen. David Argall, prime sponsor of SB 76. The Senate is not expected to take action on the bill during the remainder of this legislative session.

### **Sound Science Must Guide Endangered Species Process**

Bats play a valuable role in agriculture. Feasting on bugs and pests as they dart through the air at night, the humble bat is a pest control powerhouse, saving American farmers billions of dollars in crop protection.

However, White Nose Syndrome has decimated bat populations, particularly the Northern Long Eared Bat—which ranges throughout Pennsylvania and the East Coast. Some environmental groups have pushed for the bat to be placed on the federal endangered species act, but that designation would have far reaching consequences for farming and forestry. Recently, Farm Bureau participated in a hearing before the Congressional House Committee on Natural Resources arguing the designation would put farmers and timber companies at risk, while doing little to correct the root cause of the decline in bat populations.

White nose syndrome has decimated bat populations. Caused by a fungus, and spread by bat-to-bat contact, the disease has caused nearly 100 percent declines in some hibernating bat populations. That’s why some environmental groups are pushing for the Northern Long Eared Bat to be placed on the endangered species list. If that were to occur, it would nearly shut down the state’s forestry industry.

Loggers would be unable to move or cut timber for most of the year. Farmers with bats nesting in buildings would be unable to tear down or repair those structures, except during times when bats are hibernating. However those moves would not address white nose syndrome—the real culprit behind bat deaths.

“The Endangered Species Act has generated unintended consequences,” Rep. Glenn “GT” Thompson said during the hearing. “We want to build consensus around positive solutions that don’t have significant impacts on landowners.”

PFB State Board Member Jim Brubaker, who testified on behalf of Farm Bureau at the hearing, said farmers are concerned about the conservation of natural resources, as long as they are based on sound science. Shutting off crop production areas near bat nesting sites fails to fix the problems caused by white nose syndrome.

### **Agricultural Loads May Be Under Scrutiny During Harvest**

Pennsylvania Farm Bureau encourages farmers to be familiar with Vehicle Code laws as harvest approaches. One of the most frequent calls on agricultural transportation is concerns securing the load when transporting crops from the field and onto the highways. The Pennsylvania Vehicle Code states all loads driven on the highways must be prevented from dropping or escaping. Agriculture is not exempt from securing loads except for feathers or other matter escaping from vehicles hauling birds or animals. Visit <http://transportation.pfb.com> to learn more.

### **Penn State Extension Offering Free Energy Review**

Farmers - is your farm energy efficient? Would you like to find out how your operation compares? Penn State Extension is providing a free energy review for farms in the Keystone State. Sign up now to learn valuable information about your energy use.

Here is how it works: We analyze your energy use from the past year (or two), adjust it for factors such as farm type and farm size, and calculate an "Energy Use Index" for your farm.

You will be able to see how your farm compares to others, which will help you see whether or not it would make sense to look into energy saving measures to reduce your usage.

This is a free service, which is being done as part of a student project this year. If you are interested in taking part, please contact Dan Ciolkosz at Penn State Extension, [dec109@psu.edu](mailto:dec109@psu.edu) or 814.863.3484, or visit <http://extension.psu.edu/natural-resources/energy/energy-use/resources/farm-energy-benchmarking-project>.

*Source: Penn State*

### **New Cultivars Recently Harvested From Penn State Rock Springs Orchards**

Apples that were harvested from Penn State Rock Springs Orchards in the last week include Rubinola, Autumn Crisp and Pixie Crunch.

*Rubinola* is a product of Prima x Rubin from the Czech Republic. It is a medium sized fruit with a striped red color. The firm crisp fruit has a sweet tart slightly spiced taste that is high in vitamin C content. Fruit have about a 90 day life in regular storage although towards the end they can develop a greasy skin. Trees are moderately vigorous. The cultivar is resistant to apple scab and powdery mildew. Drawbacks are stem-end russeting and having thick skin typical of scab resistant cultivars. Rubinola is probably only suitable for home owner planting.

*Autumn Crisp* was developed at Cornell University from a cross of Golden Delicious x Monroe. It was extensively tested as NY 674. The bright red blushed fruit have a white flesh that is slow to oxidize.

Although not related to it, the texture is similar to Honeycrisp and very juicy. While good for fresh consumption it was also developed to be used as a processing cultivar. This cultivar is being produced by growers in New York and New England and one grower in Pennsylvania.

*Pixie Crunch* was released from the Purdue, Rutgers, Illinois (PRI) breeding program as Co-op 33. The fruit are a deep red with some slight russet around the stem on some fruit. Fruit are on the small side but are perfect for a snack apple. The yellow flesh is very crisp hence the “crunch” appellation. The flavor is described as rich with a complex mixture of sweet and tart. Trees are moderately vigorous and resistant to apple scab and moderately resistant to fire blight and frog eye leafspot. *Pixie Crunch* is susceptible to powdery mildew and cedar apple rust. *Source: Penn State*