

AG ISSUES UPDATE
Edited by Brad Hollabaugh
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Legal Workforce Act & E-Verify

Recently, the House Judiciary Committee began consideration of the Legal Workforce Act (H.R. 1147). This legislation would mandate the use of E-Verify for all employers. USApple strongly opposes this "enforcement-only" approach to immigration and border enforcement. A study commissioned by the American Farm Bureau estimates that enforcement-only legislation like this could result in 61% drop in fruit production. In short, the apple industry must have access to a legal, reliable workforce before E-Verify is required.

USApple met with Judiciary Committee staff last week and let them know our concerns. We also told them what we need to make E-Verify work. Virtually all of agriculture is unified in this position including other fruit and vegetable organizations, the American Farm Bureau and the dairy industry.

USApple and the other founding members of the Agriculture Workforce Coalition sent House Judiciary Committee Chairman Bob Goodlatte (R-Va.) and Ranking Member John Conyers (D-Mich.) a letter voicing our concerns and opposition to the legislation in its current form.

The letter states, "Mandatory E-verify would have a devastating impact on our industry in the absence of a legislative solution for agriculture's labor needs. Immigration enforcement without a program flexible enough to address the labor needs of fruit, vegetable, dairy and nursery farms, and ranches, will result in many U.S. farmers and their farm employees losing their livelihoods and an overall decrease in U.S. agricultural production." USApple is communicating the same message to Judiciary Committee members from apple states.

The Committee voted and passed the legislation on March 3, 2015. It was a partisan vote with the Republicans voting yes and the Democrats opposed (20-13). It is not clear when the full House of Representatives could act. No companion legislation has been introduced in the Senate. (*source: Diane Kurrle, USApple*)

FDA Looks at 'Culture Shift' in Implementing Food Safety Act

The Federal Food and Drug Administration is going through a "culture shift" as it looks to implement a new food safety act that will bring sweeping changes to how the agency regulates food. The Food Safety Modernization Act will require farmers to keep records to document the steps they take to ensure food safety.

"There will be profound changes within FDA to implement these standards," Mike Taylor, deputy commissioner of the FDA, said during a seminar held as part of the 96th annual American Farm Bureau Federation Annual Convention. "Central to our work is to change the mindset at FDA and put education before regulation."

The agency is working to train officers that will be dedicated full-time to food safety, as opposed to having regulatory oversight in multiple areas, Taylor said. Additionally, the FDA is taking the approach that the majority of farmers and food processors are concerned about food safety.

“It is about science-based standards that can be tailored to particular operations,” he said. “Our job is to facilitate compliance, and provide education and technical assistance.” At the same time, the FDA is working to better educate consumers on how they can prepare foods safely at home. “We are starting this year to help with an educational program that can change behaviors for some consumers,” he said. “It is difficult because you can’t regulate what happens in the home.”

As the FDA looks to implement the new rules, it is focusing on three broad themes: a farm-to-table approach, practical common standards and holding imported foods to the same standards as those produced in the United States. Currently, FDA inspectors only examine around 2 percent of imported foods, so the new food safety standards shifts the onus to importers, who must provide verification that the items meet U.S. standards.

In both drafting and implementing these new rules, the FDA is focused on voluntary compliance instead of enforcement, Taylor said. “Our operating assumption is that most people want to do the right thing. We’ll get a bigger public health bang for our buck if we’re working together with stakeholders on implementation,” he said. “We really see the agriculture community as a primary constituency, a collaborative partner.”

Congress Holds Joint Hearing on EPA Proposed Water Rule

Rep. Bill Shuster chaired a joint House and Senate hearing on the impacts that a proposed federal expansion of the Clean Water Act would have on state and local governments. The move is the start of efforts by some members of Congress to prevent the Environmental Protection Agency and U.S. Army Corps of Engineers from expanding their authority under the Clean Water Act. Last year, the agencies drafted the “Waters of the United States” rule, which would give the EPA and Army Corps authority over nearly every water body in the country.

Shuster, a Pennsylvania Republican who chairs the House Transportation and Infrastructure Committee, has been a vocal critic of the proposed rule, saying the federal government is overstepping its authority. Shuster led the hearing between his committee and the Senate Committee on Environment and Public Works, and took comments from the EPA, Army Corps, and state and local government officials.

Last year, Shuster introduced legislation that would have prevented the EPA and Army Corps from enforcing the rule. The legislation was approved by the House, but was not acted on by the Senate before the 113th Congress adjourned at the end of December. In early February, legislation was introduced in the 114th Congress that would prevent the WOTUS rule from moving forward. Shuster said he’s concerned about the impact the rule will have on farmers and landowners, along with the problems it will cause for local governments.

“I am confident that the House and Senate will be able to work together to stop this dangerous rule in its tracks,” Shuster said. “This proposal would open the door to a new level of government overreach that would include federal regulations of bodies of water as small as ponds, ditches, and wetlands on private property.”

Farmers are concerned that, if this rule moves forward, it will force them to get federal permits to perform even routine tasks on their farms. While both federal agencies said the rule was intended to “clarify” jurisdiction under the Clean Water Act, it instead created a raft of uncertainty.

Federal Budget Would Cut Crop Insurance, Fund “Waters of U.S.” Rule

In his federal budget proposal, President Obama has suggested an 18 percent cut to the crop insurance budget, which would translate into additional costs for farmers. In the Fiscal Year 2016 budget proposal, the president suggested a 10 percent premium reduction for revenue policies with a harvest price option, said Mary Kay Thatcher, a policy specialist with the American Farm Bureau Federation.

These cuts would raise costs for farmers who take advantage of revenue coverage with the harvest price option. Thatcher said she expects that if the premium costs are increased, most farmers would purchase lower coverages.

The budget also calls for a \$5 million increase of funding for the U.S. Army Corps of Engineers for staffing and permit reviews for the “Waters of the United States” rule, which would expand the agency’s authority under the Clean Water Act.

Federal Tax Bills Moving

Two federal tax bills that could provide a benefit to farm families have passed the House of Representatives. H.R. 636 would permanently extend Section 179—which allows farmers to even out their expenses from year to year—with a maximum deduction of \$500,000, reduced dollar for dollar when expenditures exceed \$2 million. The current maximum deduction is \$25,000 reduced dollar for dollar when purchases exceed \$200,000. Bob Stallman, president of the American Farm Bureau Federation, said farmers need tax policy that gives farmers long-term certainty, instead of year-to-year changes.

“Setting the maximum deduction at \$500,000, rather than the current rate of \$25,000, would give small businesses the certainty they need to invest in the future,” Stallman said.

In addition, the House passed H.R. 644, which would establish a permanent expanded deduction for food donations. Under current law, only farmers who use the accrual method of accounting can take advantage of the deduction for donated food. This bill would enhance the deduction to include cash-method accounting. The bill would also make permanent a tax incentive where farmers who donate conservation easements can deduct 100 percent of their income for the year they donate and carry over donations in excess of that for an additional 15 years. Farm Bureau wrote letters in support of the bills.

Wolf Budget Proposal Includes Tax Increases

Gov. Tom Wolf’s budget is proposing to raise the state’s personal income tax from 3.07 percent to 3.7 percent, increase the sales tax from 6 to 6.6 percent and broaden the number of items to which it will apply, and use the money raised from those tax increases to reduce school property taxes.

His administration said most families will pay less under his plan, with the *average* family receiving a net tax decrease of about 13 percent. But the determination of who gains and who loses depends on several factors - income, whether you own or rent your home, which school district you live in, and how much you spend on taxable items each year. In many rural school districts, his administration predicts that there will be a net tax decrease to the household based on their projections. (source: *pennlive.com*, March 7, 2015)

One positive aspect of using earned income tax and sales tax to help fund schools is that it helps to spread the cost of public education more broadly across all citizens rather than focusing primarily on the property tax. Based on some preliminary calculations, it appears that families who live in

more rural school districts may fare better than those in more urban areas or those who have higher incomes.

However, one potential risk of increasing earned income and sales taxes is that, unless the legislature specifically requires that the additional revenue is dedicated to reducing property taxes, it is likely that some of that money may eventually be used for other purposes. In addition, changes in economic conditions can dramatically impact the total revenue generated by sales tax and even earned income.

For example, the recent recession created budgetary woes for all states who depended upon a sales tax to help fund the government. Accordingly, any estimated changes in net property taxes could be reduced or even eliminated.

Wolf Proposes Severance Tax For Natural Gas

Gov. Tom Wolf has proposed a severance tax on natural gas, with proceeds supporting the state's public education system. The tax plan, modeled after West Virginia's severance tax, would call for a 5 percent tax, plus 4.7 cents per thousand feet of volume on extraction. The Wolf administration predicts the tax will generate more than \$1 billion by 2017. Wolf said the severance tax will help Pennsylvania make up for prior losses in education funding.

Pennsylvania currently does not have a severance tax on natural gas production; however it assesses an impact fee with the majority of that funding going to municipalities impacted by gas drilling. Under Wolf's proposal, the severance tax would continue to make payments to communities where drilling is occurring, along with protections for property owners with gas leases.

In addition, the severance tax would make exemptions for gas that is given away for free, comes from low-producing wells and from wells brought back into production after not having produced marketable quantities of gas. Natural gas companies would be prohibited from deducting severance taxes from royalty payments, Wolf said.

Eighteen Farms Added to State Preservation Program

Pennsylvania has added 18 farms, totaling nearly 1,500 acres to its nation-leading farmland preservation program. Since its inception in 1988, Pennsylvania has preserved 504,252 acres of farmland in 57 counties.

"It's an honor to again chair the meetings of the board of our nation-leading farmland preservation program," said Agriculture Secretary Russell Redding. "The program's success comes through the work of staff at all levels of government, support from a public who values farmland, and from the farmers themselves who offer their land for preservation. I look forward to the program's future success."

The preserved farms are in: Allegheny, Berks, Bucks, Chester, Lancaster, Lehigh, Montgomery, Susquehanna, Union and York counties.

It's Time to Schedule an Airblast Sprayer Calibration

Proper calibration is a must to make sure pesticide applications get to the target at the proper rate. The Penn State Pesticide Education Program uses calibration units that enable us to collect the output from each nozzle. With the collected information, we troubleshoot any problems like worn or plugged nozzles or broken or wrong whirl plates. The end result is a calibrated sprayer ready to

go for the growing season. Growers may sign up to have their sprayers calibrated at the Penn State Pesticide Education website.

Calibrating air blast sprayers is challenging. You may be applying the correct amount of water per acre, but the distribution may be incorrect. One scenario is the tree row on the left may be getting 60% of the spray and the tree row on the right side may be getting 40% of the spray; however, you don't know which nozzles are causing the problem. The result may be insect and/or disease damage and reduced packout which ultimately lowers income.

The Penn State Pesticide Education Program has calibration units that enable us to collect the output from each nozzle. With the collected information, we troubleshoot any problems like worn or plugged nozzles, broken or wrong whirl plates, etc. The end result is a calibrated sprayer ready to go for the growing season.

Now is the time to schedule us to calibrate your air blast sprayers. If you would like more information or to have your sprayer/s calibrated, please go to the pesticide education sprayer calibration at: <http://extension.psu.edu/pests/pesticide-education/applicators/air-blast-sprayer-calibration-information>. On the webpage is a link to an online request form to sign up to have your sprayer/s calibrated. Also included is a pre-calibration checklist and a video that provides instructions to prepare your sprayer for calibration. We do have to charge \$50 for the first sprayer and \$30 for additional sprayers to help cover costs. (*Source: Penn State Extension*)