

AG ISSUES UPDATE

Edited by Brad Hollabaugh
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FDA Tours Rice Fruit Company

On December 2, USApple and Rice Fruit Company hosted a team of seven FDA food safety officials for a tour of the Rice Fruit facility in Gardners, PA. The team included both the Director and Deputy Director of FDA's Office of Compliance, the senior microbiologist from the Office of Food Safety, plus four from the Division of Produce Safety.

The tour came about when, in a recent USApple meeting to discuss Listeria with these and other FDA leaders, they expressed interest in touring a nearby apple storage and packing facility. The activity lasted four hours including the tour followed by a robust discussion period. Takeaway points:

- FDA is not planning to ramp up compliance and enforcement inspections to sample/test for Listeria.
- There was a discussion pertaining to the definition of a "lot" for investigative or recall purposes.
- There was a detailed discussion of the water testing requirements in the FSMA final rule on produce safety.
- The FDA officials stressed the importance of properly documenting testing, remedial actions, and follow-up.

Jim Bair, President & CEO of U.S. Apple Association expressed his "personal thanks to Rice Fruit Company for their help in making this activity a success, especially John Rice, Ben Rice and Lee Showalter". He added that he's "a big believer in the importance of tours for regulators and policy makers. It helps them better understand our industry, and that helps us and you in return."
(USApple Member Alert, 12/03/2015)

Congress Includes COOL Repeal in Budget Deal

On Tuesday, December 15, Congressional leaders unveiled the \$1.15 trillion spending deal to fund the government through September 30, 2016. Included in the legislation is a repeal of the Country of Origin Labeling (COOL) requirements for beef and pork. Once the legislation is passed by the House and Senate and signed by President Obama it will bring the U.S. into compliance with the World Trade Organization and avert just over \$1 billion in tariffs that were due to be imposed as early as this week by Canada and Mexico.

Canada and Mexico represent the two largest export markets for apples. Last year, Washington State sent \$540 million in apples to the two markets. Apples were on Canada's list for retaliation and expected to be on Mexico's as well.

USApple has taken a leadership role in the broad business/agriculture coalition working to resolve this important trade issue before the tariffs were enacted. The coalition has been meeting with House and Senate leadership as well as individual congressional offices for the past few months. Kurrle has been active in those meetings as well as additional meetings with "apple" members. USApple leaders have also weighed in with key offices.

USApple joined nearly 250 organizations in urging action. "The damage that the U.S. would suffer in lost trade and jobs resulting from such retaliation is a price too high to experiment with any action short of full repeal of the offending provisions in the Country of Origin Labeling (COOL) law."

The House and Senate are expected to vote on the spending bill later this week. It should be signed into law by early next week [week of December 21]. (*Apple Bites - 12.16.15, US Apple Association*)

Transportation Bill Passes House

The U.S. House passed a long-term transportation funding bill that includes language that will give states flexibility to provide exemptions to farm vehicles and drivers traveling intrastate without jeopardizing federal funding. The Surface Transportation Reauthorization and Reform Act (STRR Act), was introduced by Rep. Bill Shuster, a Pennsylvania Republican who chairs the House Transportation and Infrastructure Committee.

"A long-term highway bill impacts the life of every single American," Shuster said. "Our families will have safer roads and our small businesses and communities will thrive with a stronger transportation network. This long-term bill accomplishes something long overdue. It provides our state and local partners the certainty needed to invest in major projects that will spur economic growth."

A similar bill was approved earlier this year by the Senate. Representatives and Senators serving on a conference committee are working out differences in both bills to create legislation that both chambers could support. If the final bill is approved and signed by President Barack Obama, it would provide a six-year blueprint for highway infrastructure development. Pennsylvania Farm Bureau worked closely with members of Congress to include provisions in the bill that will give states the ability to adopt their own agriculture exemptions. There was concern at the state level that Federal Motor Carrier Safety Administration could have withheld federal highway funds if Pennsylvania adopted standards different than federal requirements.

Attempts to Defeat WOTUS Rule Fails in Senate

The effort to send the misguided "Waters of the U.S." rule back to the Environmental Protection Agency failed by a few votes in the U.S. Senate. The Senate was unable to find the 60 votes needed to end debate on a bill and put the measure up for a vote. The Federal Water Quality Protection Act (S. 1140) would have required the EPA and U.S. Army Corps of Engineers to start over again in crafting new regulations to clarify their authority under the Clean Water Act.

Pennsylvania's two senators were split in their support of the legislation with Sen. Pat Toomey voting in support of the bill while Sen. Bob Casey voted against it. The Senate did conduct a separate vote, passing a non-binding resolution of legislative disapproval over the rule, which was sent to the House for their consideration. The WOTUS rule grants sweeping authority to the federal government over land use decisions. Under the rule, farmers could face the need for federal permits to perform routine tasks on their land.

"While the effort to send the flawed 'Waters of the U.S.' rule back to the drawing board fell a few votes short, we applaud members of the U.S. Senate who today stood up for farmers and ranchers," American Farm Bureau Federation President Bob Stallman said. "While we are disappointed in the vote, we know this issue will remain a critical one for America's farmers, and we will continue our fight to protect them from federal regulatory overreach."

A federal judge granted an injunction against the federal government from enforcing the rule, but it is only a temporary victory in the case.

Farm Bureau Files Appeal to Supreme Court in Chesapeake Bay Case

Pennsylvania Farm Bureau and the American Farm Bureau Federation filed an appeal with the highest court in the nation seeking to overturn the Environmental Protection Agency's Chesapeake Bay Cleanup plan. Farm Bureau believes the agency is exceeding its authority in prescribing specific nutrient reduction goals and deadlines, and is preventing states and local communities from devising their own solutions.

The filing by Farm Bureau is asking the Supreme Court to hear the appeal. The Supreme Court has the jurisdiction to decide if they will hear the appeal, or let a lower court ruling stand.

"We disagree with a lower court's decision that provides EPA the authority to supersede land use decisions typically made by states located in the watershed," said PFB President Rick Ebert. "EPA's plan does much more than set a cap level of daily loads through its one-size-fits-all approach; it displaces powers reserved to states by setting specific timelines and actions to attain the plan's goals."

Farm Bureau sued the EPA after the agency announced its Chesapeake Bay Cleanup Plan, which sets specific nutrient reduction goals along with a timeline for reaching those targets. Farm Bureau is now reaching out to other interested organizations, along with county governments, that could be impacted by the EPA cleanup plan.

"It's about whether EPA has the power to override local decisions on what land can be farmed, where homes can be built, and where schools, hospitals, roads and communities can be developed," said AFBF President Bob Stallman. "This is nothing less than federal super-zoning authority. As much as we all support the goal of achieving a healthy Chesapeake Bay, we have to fight this particular process for getting there."

Farm Bureau believes the plan far exceeds authority granted to the agency under the Clean Water Act. According to EPA's own projections, roughly 20 percent of all cropland in the Chesapeake Bay Watershed will have to be removed from agriculture and converted to grassland or forest in order to achieve those water quality goals. In addition, implementing the bay cleanup plan could exceed \$30 billion. Farm Bureau has significant concerns that the agency failed to properly account for best management practices, such as cover crops and no-till planting, utilized by farmers to prevent soil and nutrients from reaching waterways.

"EPA's Chesapeake Bay Watershed Model has been flawed since day one. It fails to account for a vast amount of voluntary best management practices installed by farmers to improve the environment and water quality," Ebert said. "By failing to account for those on-farm BMPs, EPA incorrectly concludes that Pennsylvania farms are responsible for more nutrient runoff than what actually enters a water source."

Property Tax Reform Fails By One Vote

It took the vote of the Lieutenant Governor to defeat a measure that would have provided significant changes to the way schools in Pennsylvania are funded. Lt. Gov. Mike Stack cast a decisive vote to defeat an amendment that would have gradually eliminated property taxes by shifting taxation to an increase in personal income and sales taxes. The amendment was defeated 25-24. Sen. David Argall, who crafted Senate Bill 76, said he and others are not giving up on their quest to eliminate school property taxes. Argall said he wanted to see Pennsylvania move to a fairer system of taxation, one that spreads the responsibility of paying for schools to all taxpayers and not just property owners.

“While this legislation did not gain enough votes to pass the Senate, the problem of ever-rising school property taxes does not go away,” he said. “Each session, we continue to pick up support in all parts of the state and tonight’s tie vote in the Senate shows the importance of this issue.”

While Gov. Tom Wolf has proposed shifting some of the property tax burden to an increase in sales tax, that proposal would only impact homesteads and farmsteads—not farmland. Any property tax reform that does not address taxes on farm land will not help farm families address their concerns, Ebert said.

Spotted Lanternfly Now Found In Portions of Four PA Counties

The spotted lanternfly has now been found in one additional municipality in Berks County; an additional township in Montgomery County and has appeared in parts of Bucks and Chester Counties. The additional quarantined municipalities include Boyertown Borough, Berks County; Douglass Township, Montgomery County; Milford Township including Trumbauersville Borough, Bucks County; and South Coventry Township, Chester County.

These additions are a result of an ongoing delimiting survey with active participation of local, state, and community partners. New detections allow the spotted lanternfly control program to hone its outreach and control efforts, working to end the spread of the insect. The general quarantine restricts movement of any material or object that can spread the pest. This includes firewood or wood products, brush or yard waste, remodeling or construction materials and waste, packing material like boxes, grapevines for decorative purposes or as nursery stock, and any outdoor household articles like lawnmowers, grills, tarps and other equipment, trucks or vehicles typically not stored indoors.

Businesses in the general quarantine area need to obtain a Certificate of Limited Permit from the department in order to move articles. Criminal and civil penalties of up to \$20,000 and prison time can be imposed for violations by businesses or individuals.

The Spotted Lanternfly, which has no known impacts to human health, is an inch-long black, red and white spotted pest and is native to China, India, Japan and Vietnam. It’s an invasive species in Korea, where it has attacked 25 plant species which also grow in Pennsylvania.

Spotted Lanternfly, *Lycorma delicatula*, attacks grapes, apples, pines and stone fruits. It often attaches to the bark of Tree of Heaven (*Ailanthus altissima*) – sometimes referred to as Paradise Tree – an invasive species similar to Sumac that can be found around parking lots or along tree lines. Adults often cluster in groups and lay egg masses containing 30-50 eggs that adhere to flat surfaces including tree bark. Freshly laid egg masses have a grey waxy mud-like coating, while hatched eggs appear as brownish seed-like deposits in four to seven columns about an inch long. Trees attacked by the Spotted Lanternfly will show a grey or black trail of sap down the trunk.

New to the United States, the invasive insect was first found in Berks County last fall. The department is investigating the quarantined and surrounding areas to assess the spread and impact of the pest. October and November, when the insects are in their adult stage, is the easiest time to scan for and find the pest in a new area. Residents in and around the quarantine areas are encouraged to inspect their properties for spotted lanternfly.

Additional townships may be added to the quarantine, but with the identification of each infestation, we come one step closer to controlling spotted lanternfly and the damage it might cause

our economy and our environment. If you report a site: Call the Invasive Species report line at 1.866.253.7189 with details of the sighting and your contact information.

Source: Penn State

A Predatory Wasp may help Control the Brown Marmorated Stink Bug

An Asia wasp (*Trissolcus japonicus*), being studied under quarantine by the USDA, has a preference to prey on the brown marmorated stink bug. *T. japonicus* has also recently been found in the wild in the United States. The wasp, native to the regions of Asia where the brown marmorated stink bug (BMSB) originates, is known to attack the eggs of BMSB and possibly other stink bugs. Damages caused by the stink bug to orchards in the mid-Atlantic region has been estimated to be in the millions of dollars.

The brown marmorated stink bug was introduced into Pennsylvania less than 20 years ago from Asia and had no known predators to control the increasing numbers of the pest. However, the tiny Asian wasp which destroys stink bug eggs and prevents them from hatching, is thought to have traveled from Asia to the U.S. embedded in stink bug eggs laid on imported plant materials.

Farm Bureau Reaches Agreement with DEP, Penn State, On BMP Survey

Pennsylvania Farm Bureau reached an agreement with two state agencies and Penn State University to collect data on unreported best management practices utilized by farmers across the state. As part of the agreement, Penn State will collect data from members through a survey and share the aggregated results with the Department of Environmental Protection.

For a number of years, Pennsylvania Farm Bureau has argued the federal Environmental Protection Agency has significantly underreported the number of BMPs that farmers are using to reduce the amount of nutrients reaching the Chesapeake Bay Watershed. A model that the EPA used to develop its Bay cleanup plan only accounted for BMPs that were paid for using federal cost-share dollars, ignoring the voluntary practices farmers have installed on their farms. This data will be used to show the federal government a far-more accurate accounting of best management practices on farms.

To date, no survey data exists to quantify the voluntary and non-cost-share BMPs installed on Pennsylvania farms. EPA officials have set targeted reduction guidelines for nutrients like nitrogen and phosphorus from reaching the Chesapeake Bay, along with specific deadlines for states to reach those goals. PFB is concerned the lack of accurate accounting for BMPs paints an inaccurate picture of agriculture's contributions to water quality concerns within the Bay watershed.

The project may require that someone from Penn State, DEP or a local conservation district meet with a small number of randomly selected survey participants to verify that survey data reflects what is happening on the farm. PFB encourages all farmers with conservation measures on their farms to participate in this survey.