

AG ISSUES UPDATE
Edited by Brad Hollabaugh
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Trump Administration Removes Section 232 Tariffs

On Friday, May 17, 2019, President Trump announced the removal of Section 232 steel and aluminum tariffs on Mexico and Canada. In response, on Monday, Mexico removed its retaliatory tariffs against U.S. products including apples.

USApple President & CEO Jim Bair issued the following press statement upon the announcement:

"The U.S. Apple Association commends the Trump Administration for the removal of Section 232 tariffs on steel and aluminum on Mexico and Canada and the successful negotiation of provisions going forward to protect agriculture from being drawn into future trade disputes involving metals. We welcome the return of duty-free access to Mexico, our largest export market, and continued duty-free access to Canada, our number two market. The two countries combined represent a half-billion-dollar market for U.S. apple growers.

"Removal of the Section 232 tariffs and ratification of the United States-Mexico-Canada Agreement (USMCA) have been our top priorities. Our efforts are now focused on securing congressional support and ratification of the USMCA, which will provide increased stability and predictability going forward." (*USApple.org, Apple Bites - 5.21.19*)

USApple Joins Agriculture & Business Groups in Strong Support of USMCA

USApple continues to play an active and leadership role in pushing Congress to ratify the United States-Mexico-Canada Agreement (USMCA) while also calling on the Administration to withdraw section 232 steel and aluminum tariffs on Mexico and Canada. Both must occur to maintain and build on the critical North American market which represents about half of total apple exports.

This week, USApple joined 68 food and agricultural organizations in a letter to House and Senate leadership, stating that "Canada and Mexico account for over \$45 billion in U.S. agriculture exports and support more than one million American jobs. In order to build upon that success, Congress must pass USMCA. On behalf of America's farmers, ranchers, and agribusinesses, we respectfully ask you to vote to ratify the USMCA."

Senior Vice President Diane Kurrle joined other pro-USMCA agriculture leaders, meeting with key trade and policy staff for Majority Leader McConnell. Concerns about ongoing trade negotiations with China were also raised. (*USApple.org, Apple Bites - 5.10.19*)

FDA's New Food Safety Agenda Reemphasizes Traceability & "Smart Technology"

In a press statement the FDA announced "a 'New Era of Smarter Food Safety' to augment our efforts implementing important FSMA requirements while also leveraging, among other things, the use of new and emerging technologies."

Acting FDA Commissioner Ned Sharpless and Frank Yiannas, Deputy Commissioner for Food Policy and Response said that FDA intends to develop a new food safety plan with a renewed focus on making the food supply more traceable back to its source.

The new thrust involves the creation of what the agency called a "Blueprint for a New Era of Smarter Food Safety" covering traceability, digital technologies, and "evolving food business models," the officials said. The produce industry has been working on traceability for more than a decade. The Produce Traceability Website provides a knowledge base and resources aimed at providing growers, packers and marketers with tools to enhance traceability.

The FDA has said that when the initiative is completed, a public meeting will be scheduled to accept public comment on their proposal. USApple will continue to monitor developments related to this new effort including the opportunity to offer public comment. (*USApple.org, Apple Bites - 5.10.19*)

Important Notice for All Farm Employers

Immigration and Customs Enforcement (ICE) has increased employer inspections of Form I-9 records. Every employer must take this matter seriously.

Under the Immigration Reform and Control Act ("IRCA") of 1986, all U.S. employers are required to verify that individuals they hire are authorized to work in the United States, including citizens and noncitizens. The Form I-9 is used for verifying the identity and employment authorization, and employers must ensure proper completion of Form I-9 for everyone they have hired after November 6, 1986.

ICE initiates the Form I-9 inspection process by serving a Notice of Inspection (NOI), either as an in-person visit or via Certified Mail, compelling the production of Forms I-9, and, sometimes, supporting documentation that may include a copy of the payroll, list of the current employees, articles of incorporation, and business licenses. The law provides employers with at least three business days to produce the Forms I-9, and ICE agents or auditors will then conduct an inspection of the Forms I-9 for compliance.

Once the inspection is completed, ICE will notify the audited party of the results in writing. Employers who are found to violate the verification and employment eligibility requirements may be subject to criminal and civil sanctions, with fines of several thousand dollars for each Form I-9 that is missing, improperly filled-out, or ignoring a Notice of Inspection (NOI) from ICE.

If you are served a NOI, it is recommended that you comply with the request within THREE DAYS and seek guidance from an experienced employment or immigration attorney.

Advocates Call for Commonsense Clean Water Rule

Farmers want to comply with federal laws and regulations protecting water quality; but to do so, they need understandable rules that clearly spell out their obligations, Pennsylvania Farm Bureau told regulatory agencies recently.

The comments came in support of the U.S. Environmental Protection Agency's and U.S. Army Corps of Engineers' proposed clean water rule, which aims to clarify which bodies of water are subject to federal regulation. The proposed rule would replace the controversial 2015 Waters of the U.S. rule (or WOTUS), which Farm Bureau opposed.

PFB commended the agencies for drafting a rule that offers a clearer definition of federally regulated waters than WOTUS and said the proposal demonstrates that the agencies recognize the federal Clean Water Act "is not a license for the federal government to regulate every water body in the United States." PFB also recommended several improvements to the proposed rule, identifying several areas where definitions could be more precise and noting the importance to farmers of understanding what areas of their farm are subject to federal—versus state or local—regulation.

"PFB believes that the revised definition of 'waters of the United States' should include clear terms that are easy to apply in the field," the organization wrote. "Farmers cannot overstate the importance of a rule that draws clear lines of jurisdiction that can be understood without the need to hire an army of consultants and lawyers."

Farm Bureau was a leading critic of the 2015 WOTUS rule, which it argued was too broad, lacked clarity and attempted to regulate land well beyond what is allowed under federal law. The rule would have imposed hefty new costs and burdens on farmers making even minor land-use decisions. The new proposal more clearly defines what bodies of water are subject to federal regulation and which are left up to state governments to regulate.

Draft Plan to Improve Chesapeake Bay Water Quality Released

Pennsylvania farmers and other members of the public can now get a first look at what measures the state is proposing for agriculture and other sectors to improve water quality in the Chesapeake Bay.

Pennsylvania Department of Environmental Protection recently released its draft Phase 3 Watershed Improvement Plan (or WIP), which details how the state plans to meet its federally mandated goals for reducing nitrogen and phosphorus in streams and rivers within the Chesapeake Bay Watershed by 2025. The bay watershed spans 43 Pennsylvania counties, covering most of the central part of the state.

The plan identifies specific goals for farms within the watershed to implement various conservation practices, such as nutrient management planning, soil health improvements, establishment of riparian buffers and manure management. In addition, the plan calls for additional funding and staff to help fund work towards those goals.

Several recommendations of the WIP Steering Committee's Agriculture Workgroup were included in the draft WIP, including measures to improve soil health and calls for more

funding and technical support to help farmers implement conservation practices. To see a summary of the Agriculture Workgroup's recommendations, visit www.pfb.com/PaWIP3Ag.

The full draft WIP can be viewed online at <http://bit.ly/2VZnoiV>. Please see pages 41 through 44 for discussion of goals related to agriculture and pages 97 through 113 for discussion of funding and technical support needs.

DEP is accepting public comments on the plan through **June 7**. Comments can be made online at www.ahs.dep.pa.gov/eComment, by email at ecomment@pa.gov or mailed to Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063.

Arctic Fuji apple receives FDA approval

Okanagan Specialty Fruits (OSF) contacted USApple to keep us informed that within days OSF will receive full deregulation (commercial approval) by FDA to produce Arctic Fuji apples. Like the Arctic Golden and Granny Smith apples, it has been bioengineered to be non-browning. The Arctic Fuji has already been fully approved in Canada. In the U.S., both USDA and FDA must issue approvals, and USDA did so in 2018.

Under U.S. law, so long as a bioengineered product has been declared safe to eat and safe to release into the environment, the government has no authority to withhold approval for any other reason.

Deregulation means OSF can now proceed with commercial plantings, so production is still several years away. All Arctic varieties, whether marketed as slices or whole fresh, will be sold in sealed pouches carrying the bioengineered label required by law. (*USApple.org, Apple Bites - 5.10.19*)

Bill to Add Checks on Regulations Advances

A bill that would enable the General Assembly to review and initiate a repeal of state regulations was recently advanced by the House Environmental Resources and Energy Committee. The committee's 15 to 9 vote sends House Bill 430 to the full chamber for consideration.

The measure, sponsored by state Rep. Kerry Benninghoff of Centre County, would provide important checks and balances by allowing the General Assembly to initiate the process of repealing a regulation. The repeal would ultimately need to be approved by the House, Senate and governor.

In a message to lawmakers, Pennsylvania Farm Bureau wrote that farmers, like many small business owners, are concerned about the burden that duplicative and unnecessary regulations have on their operations and bottom line. PFB added that there are many important and necessary regulations but that the bill would facilitate an important function of government: determining which laws and regulations are still relevant.

Beginning Farmer Bill Advances in State Senate

A proposal that aims to help the next generation of Pennsylvania farmers get established has cleared its first hurdle in the General Assembly. Senate Bill 478 cleared the Senate Finance Committee in May. The bill now heads to the full chamber for consideration.

Pennsylvania Farm Bureau worked with state Sen. Elder Vogel of Beaver County to introduce the legislation, which would establish an income tax credit for landowners who lease or sell land, buildings and/or equipment to beginning farmers.

The bill would allow for a one-time tax credit for property sold to a beginning farmer or a multi-year credit for property leased. The tax credit could be used to aid in family transitions—such as sales from a parent or grandparent to a child or grandchild—or to help an unrelated beginning farmer. The bill outlines criteria defining who is a beginning farmer, excluding individuals who have been engaged in farming for more than 10 years.

For every four farmers in Pennsylvania that are age 65 or older, there is only one farmer under the age of 35. PFB believes that helping young farmers pick up the reins and get established is critical to continuing Pennsylvania's agricultural legacy and the important contributions farming makes to our state's economy and way of life. And with no neighboring states offering such a program, PFB believes a tax incentive in Pennsylvania could make the state a regional leader in agriculture.

Bill Easing Regulatory Burden on Wedding Barns Moves Forward

A bill that aims to ease the regulatory burden on agricultural buildings used occasionally for weddings and other social events has cleared its first hurdle in the General Assembly.

The Senate Labor and Industry Committee voted 6 to 3 to send Senate Bill 453, which is supported by Pennsylvania Farm Bureau, to the full chamber for consideration.

The measure, sponsored by Sen. Judy Ward of Blair County, would exempt wedding barns and similar structures from certain requirements imposed under the uniform commercial code, provided that the building still meets other standards to ensure a high level of safety. The exemption would apply to buildings first constructed prior to 1999, not new construction.

Pennsylvania Farm Bureau supports the measure and believes that the exemption is necessary to ensure farmers are able to take advantage of the opportunities that come with hosting events on the farm without being stymied by cost-prohibitive requirements intended for commercial buildings. Instead, safety would be ensured through steps that are more practical to implement in agricultural buildings.

Senate to Consider Bill Clarifying Agritourism on Preserved Farmland

A measure seeking to add more certainty for farmers who are looking to supplement their income by establishing agritourism operations on preserved farms has advanced in the

state Senate. The Senate Agriculture and Rural Affairs Committee voted unanimously to send Senate Bill 583 to the full chamber for consideration.

The legislation, sponsored by Sen. Ryan Aument of Lancaster County, would establish a uniform definition of agritourism and clarify that such activities are permissible on preserved farms. Currently, county farmland preservation boards may approve incidental businesses, including agritourism, on preserved farms.

However, the definition of what constitutes agritourism can vary between counties. The bill would maintain county boards' roles in approving agritourism on preserved farms but establish common definitions that landowners and farmland preservation boards can rely on to make decisions. A similar bill was passed by the Senate last year but was not taken up by the House.

House Passes Lyme Disease Treatment Bill

A bill that would expand Lyme disease patients' access to treatment options has cleared the state House of Representatives. The 158 to 34 vote sends House Bill 629 to the Senate for consideration. The bill, sponsored by Rep. Kathy Rapp of Warren County, would require health insurance companies to cover longer courses of treatment for Lyme disease and other tick-borne illnesses.

Once a diagnosis of Lyme disease is made, patients should be able to choose the treatment option that their health care professional believes will be most effective. Sometimes, that can mean a long-term regiment of antibiotics, which currently is not always covered by health insurance. Pennsylvania has the highest reported cases of Lyme disease in the nation and farmers are particularly at risk due to the amount of time they spend outside and near habitat favored by ticks.

Agriculture Women Encouraged to Respond to Survey

The American Farm Bureau Women's Leadership Program is hoping to gauge the goals, aspirations, achievements and needs of women in agriculture through an online survey.

The survey is open to women in all areas of agriculture, as long as they live in the United States. You do not have to be a Farm Bureau member to respond. Data collected will be used to gauge trends related to women in agriculture and will update a similar survey that was conducted in 2014.

Participants will be entered for a chance to win one of five \$100 gift cards after the survey closes on June 21. To respond to the survey, please visit fb.org/women.