

AG ISSUES UPDATE
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Growers Clear Hurdle in H2A Process

Growers in Pennsylvania can now move forward with applications under the federal H-2A visa program. Early in February, the U.S. Department of Labor (DOL) began denying applications from dozens of Pennsylvania fruit and vegetable growers, and landscape and nursery owners, who applied to use the H-2A program to hire seasonal workers.

In their applications, producers had required applicants to pass drug testing and criminal background checks. Those applications were denied by DOL, claiming the requirements were not usually needed for the agricultural industry.

DOL largely based its denial on a Pennsylvania employer prevailing practices survey for which 18 surveys were returned. Pennsylvania Labor & Industry (L&I) conducted that survey and provided the information to DOL.

Pennsylvania Farm Bureau, wrote to the Secretary of PA Labor & Industry (L&I), Julia Hearthway, asking that she intervene, since the issue of rejected applications began with the L&I survey information given by L&I to DOL. The Pennsylvania Department of Agriculture testified by telephone to a Department of Labor Judge to appeal the decision. The DOL recently overturned its denial of the application, clearing the way for the hiring process to go forward.

The victory is significant, given that agriculture producers are now in the process of applying for H2A workers. It is critical that workers appear on time and in the numbers needed. DOL's decision clears the way for H2A applications so they will not be delayed or rejected over these requirements.

The H2A temporary worker program allows agriculture employers to hire nonimmigrant foreign workers for a short period of time, such as a growing season. Agriculture employees must file an application with the federal government, explaining they could not find domestic workers for the job, and that hiring foreign workers will not harm the working conditions of similarly employed U.S. workers.

Farm Vehicle Bill Introduced in Congress

A group of Senators, including Pennsylvania Senator Pat Toomey, have recently introduced an amendment to a transportation reauthorization bill currently on the Senate floor. The amendment was authored by Sen. Jeff Merkley, D-Oregon and was co-sponsored by Toomey and Roy Blunt, R-Missouri.

Merkley's amendment would prohibit U.S. Department of Transportation from imposing requirements for medical cards, driver hour logs, and daily vehicle safety inspections on drivers of farm trucks (including farm truck-trailer combinations) used in carrying the farm's supplies, products and machinery for trips that the truck or combination is operated entirely within the farmer's home state and for trips that the truck or combination is operated entirely within a 150-mile radius of the farm (if it crosses state lines).

The amendment also would eliminate these requirements for drivers of any farm truck or combination with a weight rating of 26,000 pounds or less, regardless of the distance it is operated from the farm.

U.S. Department of Labor Backs Away From Labor Restrictions

The U.S. Department of Labor has announced it will re-propose the parental exemption in child labor standards. But concerns remain over numerous regulations that may go forward, which will prevent minors from performing needed but safe tasks around the farm.

DOL's revised proposal is expected to provide a broader scope of minors "employed by parents on farms" who are exempt from restrictions in performance of "hazardous" work tasks determined by the US Secretary of Labor. The revised proposal allows children employed by a farm business in which a parent has an ownership interest to qualify for the exemption, including farm businesses operating as corporations and partnerships.

Bob Stallman, president of the American Farm Bureau Federation, said the news was a positive step, but changes are still needed in the proposal. "Farm and ranch families are more interested than anyone else in assuring the safety of farming operations. We have no desire at all to have young teenagers working in jobs that are inappropriate or entail too much risk," said Bob Stallman, AFBF President. "But, laws and regulations need to be sensible and within reason – not prohibiting teenagers from performing simple everyday farm functions like operating a battery-powered screwdriver."

In a related matter, U.S. Sen. Jerry Moran has started a website, www.keepfamiliesfarming.com that producers can use to send pictures, videos and their stories as a way to explain to DOL the everyday work that occurs on family farms.

USDA Making Renewable Energy Loans Available

The USDA's Rural Development program is offering loans to help farmers make energy improvements on their properties, including installing renewable energy equipment. The Rural Energy for American Program (REAP) Guaranteed Loan program is available to farmers, ranchers and owners of rural small business to reduce energy costs, or utilize renewable energy sources.

The program allows farmers or business owners to work with local lenders who can use the USDA program for a loan guarantee of up to 85 percent of the loan amount. For more information on the REAP Guaranteed Loan Program, visit: http://www.rurdev.usda.gov/PA_Energy.html. Applications are accepted on a continuous basis until June 29, 2012.

EPA Extends Deadline for Agricultural Operations to Maintain or Amend Oil Spill Plan

The EPA has extended the date to *maintain* or *amend* an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan to May 10, 2013 for agricultural operations which have been in business on or before August 16, 2002.

If an SPCC plan currently *does not* exist on an agricultural operation that stores between 1320 gallons and 10,000 gallons of oil above ground or has 42,000 gallons or more of oil in underground storage and was in operation before August 16, 2002, a completed plan should be implemented as soon as possible.

When a producer completes a SPCC Plan for above ground storage, any associated underground oil storage on the premises will need to be documented in the Plan. An agricultural operation in business *after* August 16, 2002 will need to prepare a SPCC plan on or before May 10, 2013.

Budget Cuts Proposed for Agriculture, Source of Some Funding to Change

Pennsylvania's budget proposed by Gov. Tom Corbett calls for the elimination of agriculture excellence programs, such as the Center for Dairy Excellence, and also funding for livestock and

dairy shows. Under the proposal, funding for Penn State Cooperative Extension, research and payments to fairs will now be paid for through the Pennsylvania Race Horse Development Fund.

Extension and research services will receive \$44.7 million in funding through the race horse fund while \$971,000 is slated for state fairs from the same funding source.

For the second year in a row, the proposed budget does not give money for crop insurance premiums. Overall, the general operations budget for the Department of Agriculture will be reduced to \$26.1 million from \$26.4 million.

Funding Source for Farmland Preservation to be Eliminated

Governor Corbett's 2012/2013 budget proposes to permanently eliminate the only significant source of dedicated funding for farmland preservation in Pennsylvania.

Cigarette tax revenue is the most significant source of dedicated funding for farmland preservation in Pennsylvania. Originally 2% of all cigarette tax revenue, farmland preservation's share was later reduced to an annual amount of \$20.485M. Cigarette tax revenue has provided 45% of all state funding for farmland preservation.

Access to a steady source of matching funding has been a key reason that Pennsylvania's farmland preservation program has been so successful. State funding creates an incentive for counties and townships to allocate local funds for farmland preservation.

For 2012 and 2013, the Governor proposes to replace the cigarette tax revenue with anticipated revenue from bond premiums. After 2013, Pennsylvania will have no significant source of funding for farmland preservation.

Marcellus Shale Bill Signed by Governor

Gov. Tom Corbett has signed a bill that gives counties the option to impose an impact fee on Marcellus-type gas well development occurring in the county to help offset burdens that drilling and operation will have on communities.

County commissioners must adopt an ordinance to impose the fee, or municipalities representing at least 50 percent of the county's population must adopt resolutions. The fee is imposed on each productive well drilled.

The new law establishes a varying fee structure, with the amount determined by the price of gas in the year in which drilling occurred. The minimum fee would be \$40,000 for the first year, with well operators paying a declining amount in subsequent years, and fees no longer imposed after 15 years. Revenue would be collected by the Public Utility Commission.

Of the amount collected, 60 percent could be used locally, divided by the host municipality and county, to spend on projects such as road construction, emergency services and planning. The remaining 40 percent of the impact fee would be kept by the state and split among the Pennsylvania Department of Transportation and other state environmental and infrastructure funds. The impact fee is expected to bring in \$180 million in the first year.

Survey Confirms Pennsylvania Still Plum Pox Free

A survey conducted last summer has confirmed that Pennsylvania remains free of the Plum Pox Virus. The survey conducted by the Pennsylvania Department of Agriculture sampled trees in Adams, Cumberland, Franklin and York counties.

The results of last year's surveys show the state continues to be free of Plum Pox, and we commend the survey crews for their hard work and thank the growers for their cooperation," said PDA Secretary George Greig. Pennsylvania was declared free of Plum Pox Virus in 2009, but monitoring is still required. Another full survey will be completed in 2013.

Limited areas in Adams and Cumberland counties remain under nursery quarantine restrictions for another year. The Plum Pox Virus affects the production of fruit-bearing and ornamental varieties of stone fruit trees. The disease causes premature fruit to drop, making it difficult to sell as table fruit.

Grants Awarded to Farm Markets

The Pennsylvania Department of Agriculture has awarded \$92,000 in federal grants to farm stands and farm markets in 22 counties. Thirty-one businesses will receive up to \$7,500 in matching grants through the Direct to Farm Sales Grant Program.

Grants will be used for the promotion of existing markets, costs associated with opening a new market, promotional and educational material for markets, and for developing business plans. Recipients are required to provide at least 25 percent of the grant through matching donations or in-kind services.

U.S. Farm Exports Set Record in 2011

USDA recently released data showing that U.S. farm exports reached a record \$136.3 billion last year, rising \$20.5 billion over the previous record set in 2010. Exports grew by both volume and value.

Agriculture Secretary Tom Vilsack said the exports show that American agriculture remains a bright spot in the nation's economy.

"These figures indicate how demand for the American brand of agriculture continues to soar worldwide, supporting good jobs for Americans across a variety of industries such as transportation, renewable energy, manufacturing, food services and on-farm employment," Vilsack said, noting that every \$1 billion in agricultural exports supports 8,400 jobs. Vilsack credited American agriculture's innovation and use of the latest technology for achieving "a nearly unparalleled level of productivity."

USDA Gearing Up for 2012 Census of Agriculture

Surveys are hitting mailboxes around the nation to identify all active farms in the U.S. The National Agricultural Classification Survey, which asks landowners if they farm and for basic details about their farms, is required by law as part of the U.S. Census of Agriculture, conducted every five years, and is one of the early steps used to determine who should receive census forms.

"The NCAS survey is the first step in getting a complete count, so we ask everyone who receives a survey to complete and return it," said Renee Picanso, census and survey director for USDA's National Agricultural Statistics Service. "The Census is a valuable way for producers and rural America to show their strength—in numbers."

United States/European Union Reach Organic Produce Deal

The United States and European Union have reached an agreement that organic products certified in the U.S. or Europe may be sold as organic in either region. The partnership between the two largest organic producers in the world will establish a strong foundation to promote organic agriculture, officials with the U.S. Department of Agriculture said. Organic agriculture in the United States and European Union is valued at more than \$50 billion a year.

"This partnership connects organic farmers and companies on both sides of the Atlantic with a wide range of new market opportunities," said U.S Deputy Agriculture Secretary Kathleen Merrigan. "This partnership will open new markets for American farmers and ranchers, create more opportunities for small businesses, and result in good jobs for Americans who package, ship, and market organic products."

Previously, companies wanting to trade organic produce on both sides of the Atlantic had to obtain separate certifications and meet different standards.