

**AG ISSUES UPDATE**  
**Edited by Brad Hollabaugh**  
**December, 2014 - January, 2015**

**Labor Update: Executive Action on Immigration (US Apple)**

President Obama's executive action on immigration reform was met with mixed reaction from politicians and the general public. For the apple industry and others in labor intensive agriculture, it does not change the need for legislation that provides a permanent solution and includes guestworker reforms.

That is the message that USApple and our coalition partners in the Agriculture Workforce Coalition (AWC) will bring to the new Congress. USApple continues to play a leadership role in the coalition which continues to meet and develop strategies moving forward.

The lawyers in our coalition are also analyzing the executive order and we are meeting with key administration officials to learn how the program will be implemented and the potential impact and role of employers. The coalition plans to meet with key officials at the USDA and Department of Homeland Security. (*Apple Bites*, US Apple Association, 12/16/14)

**USApple Files Comments on FDA Revised Produce Food Safety Rule Proposals**

USApple has filed a comment letter with the FDA on the Agency's proposed revisions to the Produce Food Safety Rule. In late September, the FDA issued a revised set of proposed produce food safety regulations in an attempt to address concerns over the original proposals issued in January 2013. The revised proposals deal chiefly with concerns expressed by USApple and industry allies over the rules covering use of agricultural water.

In the revised proposals, the Agency has significantly changed the original standards and testing requirements for agricultural water. The new proposal eliminates the original requirement of weekly or monthly testing of water throughout growing season and replaces it with a tiered approach based on the EPA "recreational water" standard, and includes an option to utilize microbial "die off" rates to determine the interval in days between the last use of water and commencement of harvest. The revision calls for growers to establish a "baseline" for microbial presence in agricultural water using water samples gathered over a 2 year period.

The deadline for filing comments was December 15. The FDA is under a federal district court settlement that calls for the final produce rules to be issued by October 31, 2015. Growers would have 2 years from the effective date of the final rule (or up to 4 years for the smallest operations) in which to implement the agricultural water rules. (*Apple Bites*, US Apple Association, 12/16/14)

Note: Comments on the FDA Revised Produce Food Safety Rule Proposals were also filed by SHAP before the deadline.

**PFB Takes EPA to Task over "Waters of the U.S." Rule**

If you listen only to the rhetoric from the Environmental Protection Agency and U.S. Army Corps of Engineers, the agencies are only looking to "clarify" their jurisdiction under the Clean Water Act. But when you dig down into the hundreds of pages of rules and regulations the EPA and Army Corps have put forth in their "waters of the U.S." rule, it becomes clear the federal agencies have only muddied the waters.

That's why Pennsylvania Farm Bureau, in formal comments sent to the EPA on the proposed rule, are calling for the agencies to abandon their attempt to control nearly every body of water in the country – a serious overreach of their authority under the Clean Water Act. Under their proposed rule, the EPA and Army Corps would have jurisdiction over virtually every ditch or low spot that holds or channels any water, no matter how rare it would occur. That expansion could mean farmers would need a federal permit to perform normal farming practices, such as crop spraying.

“The EPA and Army Corps have attempted to put forth some 300 pages of text under this proposed rule without any genuine attempt to confer with or understand the potential concerns that farmers and businesses may have with this proposed rule,” PFB said in comments.

PFB also took the agencies to task for their unprecedented public relations campaign to build support behind their new rule.

Some of the concerns outlined by PFB with the “waters of the U.S.” rule include:

- The rule is based on two highly erroneous assumptions. The agencies are wrong in assuming the federal Clean Water Act gives them the power to regulate any land if any possible “pollutant” can reach navigable waters, no matter how distant or remote. In reality, the Clean Water Act clearly limits federal authority to “navigable” waterways and areas having a direct connection to those waterways. EPA and the Corps is also wrong in their belief that if the federal government doesn't regulate it, no one will be able to protect water quality. The reality is that state laws, such as existing laws in Pennsylvania, give state environmental agencies extensive authority to protect water quality and they are better able to do so than federal agencies.
- The new rules call for, with limited exemptions, the regulation of drains, ditches and other low spots within farm fields, making discharges into those areas unlawful without a federal permit. “The tens of thousands of dollars of additional costs for federal permitting of ordinary farming activities, however, is beyond the means of most farming operations—the vast majority of which are family-owned small businesses,” PFB said in comments.
- The proposal does nothing to clarify what types of waters bodies it intends to regulate, and instead opens farmers to potential permit violations. The agencies definition of “tributaries” is written in such a way that nearly any area that carries any water after rainfall will be considered a federally regulated “water of the U.S.” The lack of clarity in the definition must force farmers to assume that any drainage ditch is considered a “tributary” and that by failing to seek a federal permit, they are subjecting themselves to fines of up to \$37,500 a day. “With such stiff statutory penalties—including the loss of one's own personal liberty—farmers deserve much better clarity than what is provided under the extremely vague provision of the proposed rule,” PFB said.
- The proposed rule is so fundamentally flawed, the EPA and Army Corps should simply withdraw the rule, rather than making changes. “The agencies' rule would confer federal control over all but the most remote and unconnected waters—including countless features that are more like land than water. Congress did not grant the EPA or Army Corps such authority, and using the regulatory process to usurp it must end now.”

### **USApple Files Comment Letter on Pollinator Health**

The widely reported issue of managed bee colony "decline" often referred to as Colony Collapse Disorder (CCD) has generated significant discussion and attention by beekeepers, agricultural interests, researchers and public interest groups. In response to widespread concern over reports of declining numbers of pollinators, the Obama Administration created the Pollinator Health Task Force, composed of multiple federal agencies including the USDA and the EPA.

A 2013 report issued by the USDA and EPA states that multiple factors play a role in honey bee colony declines, including parasites and disease, genetics, poor nutrition and pesticide exposure and concludes that there is not a single factor causing CCD. However, despite the identification of multiple causes for CCD, a number of special interest groups have focused on just one of the five factors listed in the report - pesticides - and push for regulatory action, such as banning the use of neonicotinoid pesticides that is not supported by the underlying science.

In response to a request for stakeholder feedback from the Task Force, USApple submitted comments. The conclusion of USApple's comment letter describes USApple's position on pollinator protection:

"USApple has consistently supported a science based regulatory approach to crop protection chemical registration. Producing a crop totally dependent upon insect pollination, apple growers as a group are a major stakeholder in the work being done by the Pollinator Health Task Force and share the goal of better understanding the problem of pollinator decline as a whole.

"We strongly urge the Task Force to use a science based approach that encompasses all of the identified causes for pollinator decline and utilizes the knowledge gained to support what appears likely to be a multi-faceted solution encompassing bee nutrition, stewardship, parasite and pathogen control, habitat, and genetics in promoting a vital and healthy pollinator community."  
(*Apple Bites*, US Apple Association, 12/16/14)

### **New Pest Found in Berks County**

State agriculture officials say a new invasive species that could threaten grape, fruit and hardwood trees has been discovered in two townships in Berks County. The Spotted Lanternfly, an inch-long red and white spotted insect, is native to Asia. In Korea, where it's become an invasive pest, it has attacked 25 plant species that also grow in Pennsylvania.

"Since this is new to the country we are taking every precaution possible," said Agriculture Secretary George Greig. "We need to do everything we can to stop the spread of the Spotted Lanternfly.

The invasive pest often attacked grapes, apples and stone fruits. Adults cluster in groups and lay eggs on flat surfaces. To help thwart the spread of the lanternfly, PDA has quarantined the movement of any material that can spread the pest in several Berks County townships.

### **Thousand Cankers Disease Found in Lancaster County**

With the discovery of Thousand Cankers Disease in Lancaster County, the Pennsylvania Department of Agriculture placed a quarantine on the movement of wood and wood products. Similar quarantines are in place in Bucks, Chester, Delaware, Montgomery and Philadelphia counties. The quarantine restricts the movement of all walnut material and hardwood firewood.

"Thousand Cankers Disease poses a significant threat to our billion dollar hardwoods industry, as Pennsylvania walnut is considered the best in the world," said Agriculture Secretary George Greig.

The disease strikes trees when Walnut Twig Beetles carry the fungus and tunnel beneath the bark of walnut trees. That causes small cankers to form, slowly starving the trees. Black walnut trees produce high-valued lumber for woodworking and furniture making.

## **Chemsweep Comes to 18 Counties**

The Pennsylvania Department of Agriculture's CHEMSWEEP program is coming to 18 counties in 2015. The program, which is offered to different counties each year, will be available in Bucks, Crawford, Dauphin, Erie, Fayette, Greene, Huntingdon, Juniata, Lycoming, Mercer, Mifflin, Montgomery, Perry, Philadelphia, Susquehanna, Tioga, Wayne and Westmoreland counties.

"Pesticides can be a problem when they outlive their usefulness, sitting in barns and sheds and becoming hazardous to the environment and to your safety," said Agriculture Secretary George Greig. "Thanks to CHEMSWEEP, it's easier for our agriculture industry to safeguard our environment and properly dispose of pesticides."

CHEMSWEEP has safely disposed of nearly 2.3 million pounds of unwanted or unusable pesticides since 1993. Licensed pesticide applicators, dealers and commercial pesticide application businesses in the designated counties can participate by completing a CHEMSWEEP registration form that will be direct mailed. The registration period ends February 28. CHEMSWEEP is funded by annual registration fees paid by pesticide manufactures and applicators.

## **Be a Model for the Future**

Penn State Extension is looking for host sites for demonstrating best management practices and helping beginning farmers succeed. Through funding from the USDA Beginning Farmer and Rancher Project, Penn State Extension is looking to partner with four growers across Pennsylvania to establish demonstration plots to help new growers understand and implement best management practices and improve their farm success. This 'Models for the Future' project will provide on-farm demonstration sites illustrating best management practices (BMP) and learning centers for new farmer networks.

Are you a beginning farmer who has been farming for two to ten years and excited about implementing cutting edge production information on your farm? The 'Models for the Future' project is an opportunity to work with Penn State researchers and specialists to receive specialized technical recommendations for two to three crops, including tree fruit, berries, and/ or vegetables. Researchers will work with you to track quality, profits, and pest management from the practices implemented at your farm. Grant funds will defray the costs of demonstrating best management techniques, including planting stock, cover crop seed, and other supplies. The model plot at your farm will not only help your farm succeed, but provide important information to help the next generation of farmers in Pennsylvania succeed.

Are you interested in learning from your peers and researchers? Not only will 'Models of the Future' provide a living classroom, but also will form study circles to focus on production, marketing, and business topics. As a 'Models for the Future' host you will benefit from three study circles hosted at or near your farm.

Study circles employ a discussion-based format allowing you and your fellow farmers to delve into topics of your choice, learning from an invited speaker and your peers. Study circles will begin with a 30-minute presentation by the speaker, followed by a meal and two hours of discussion. During the meal you and your fellow new farmers will have time to network and develop a community to support your new farm. Grant funds will defray the costs of the speakers and meals.

Apply by December 30th to be a 'Model of the Future.' Contact Tianna DuPont ([tdupont@psu.edu](mailto:tdupont@psu.edu)) 610.746.1970 to learn more. (Source: *Penn State*)

### **York County Couple Wins YF&R Achievement Award**

Andrew and Katie Flinchbaugh have been named the recipients of the 2014 Young Farmer & Rancher Achievement Award.

The award, presented at Pennsylvania Farm Bureau's 64<sup>th</sup> Annual Meeting, recognizes a young farmer or couple between the ages of 18 and 35, who demonstrate outstanding farming and leadership achievement. Contestants are evaluated by a panel of judges on the basis of the growth of their farm operation, their record of leadership within Farm Bureau and other organizations.

The Flinchbaughs farm in partnership with Andy's family. The family manages a diverse farm that includes agritourism activities, grain crops, pigs and an orchard. At the same time, Katie also manages a flock of egg-laying hens and makes baked goods for the farm market the Flinchbaugh's operate. Andy is a member of Pennsylvania Farm Bureau's State Board of Directors while Katie serves as newsletter editor for York County Farm Bureau.

Flinchbaugh's Orchards & Farm Market was recognized earlier this year for enrolling more than 200 acres into the state's Farmland Preservation Program, enabling Pennsylvania to become the first state in the nation to eclipse the 500,000-acre plateau in preserved farmland. The Flinchbaughs also embrace the role of being a trusted local farmer, hosting a number of tours and events at their farm market, to help the growing communities around York County better understand agriculture.

"Farming may be one of the most challenging careers, but it is that challenge that keeps you going, because every day there is something new. But that challenge keeps things exciting and keeps us going in agriculture," Andy Flinchbaugh said.

### **Vegetable and Small Fruit Production Webinars Return**

The Winter Wednesday Lunch Series of vegetable and small fruit production webinars returns for its fourth year starting December 10, 2014, and running through March 25, 2015. Penn State and Cornell University have teamed up to present this series of webinars to keep you informed about critical production issues.

This series provides convenient access to timely updates in commercial vegetable and small fruit production for extension educators, producers, and industry representatives in Pennsylvania, New York, and surrounding states.

The sessions, available live and recorded, feature both Penn State and Cornell speakers on a range of specific topics. All webinars are held from 1-2 p.m. on Wednesday afternoons, as follows:

- December 10, 2014. **Hydroponic Vegetable Production.** Tom Ford, Extension Educator, Penn State Extension.
- January 14, 2015. **Current Issues in Strawberry Pest Management.** Kathy Demchak, Senior Extension Associate, Penn State; and Cathy Heidendreich, Extension Support Specialist, Cornell.
- February 11, 2015. **Soil Health Through Reduced Tillage and Cover Crops.** Carol MacNeil, Extension Vegetable Specialist, Cornell; and Dr. Thomas Bjorkman, Associate Professor, Cornell.
- March 4, 2015. **Using Sanitizers in Wash Water.** Dr. Luke LaBorde, Associate Professor, Penn State.

- March 25, 2015. **Tomato Nutrition in High Tunnels.** Steve Bogash, Extension Educator, Penn State; and Judson Reid, Extension Vegetable Specialist, Cornell.

The cost for the webinars are \$10 per session or \$35 for the entire series. All you need to participate is access to a computer with internet access (DSL or faster) and speakers or headphones. Register online or by calling 724.627.3745. (Source: *Penn State*)

### **Ebert Elected President**

Westmoreland County dairy farmer Richard “Rick” Ebert has been elected the next president to lead Pennsylvania Farm Bureau.

Ebert, who had served as Pennsylvania Farm Bureau’s Vice President, has become the eighth president in the nearly 65 year history of the organization. Ebert was chosen by voting delegates at PFB’s 64<sup>th</sup> Annual Meeting in Hershey. The election by voting delegates, representing 54 county Farm Bureaus, took place following two-days of policy debates and action to set the course of Farm Bureau for the year ahead.

Ebert served as PFB’s Vice President since December, 2004. He chaired Pennsylvania Farm Bureau’s annual policy development process, which determines the organization’s official stand on farm and rural life issues. Ebert also chaired PFB’s Dairy Committee and has voiced PFB’s request for action to help dairy farmers during testimony on numerous occasions before the Pennsylvania Milk Marketing Board and state legislative committees. Ebert received the Mid-Atlantic Master Farmer of the Year award in 2009.