

## **AG ISSUES UPDATE**

**Edited by Brad Hollabaugh**  
**August 2017**

### **Specialty Crop Farm Bill Alliance Meets**

In early August, USApple President Jim Bair and Senior Vice President Diane Kurrle participated in an all-day meeting of the Specialty Crop Farm Bill Alliance (SCFBA) Steering Committee. The purpose of the meeting was to discuss and finalize policy recommendations for the 2018 Farm Bill. The recommendations were generated through the work of individual policy committees which reviewed all the titles (sections) of the Farm Bill relevant to specialty crops.

Areas of discussion included trade, research, crop insurance, nutrition programs and block grants. USApple played a leadership role in a number of the policy committees and Kurrle presented the recommendations of the nutrition committee which she co-chaired. Bair and Kurrle advocated strongly for USApple priorities including an increase in funding for the Market Access Program (MAP) and retaining the "fresh" designation for the fruit and vegetable snack program.

The steering committee adjourned with a few issues still unresolved and some additional follow-up needed. The final policy recommendations are expected to be completed before Congress returns in September. The SCFBA Legislative Committee will deliver the recommendations to the House and Senate Agriculture Committees and will advocate to advance them through the process. *Apple Bites - 8.8.17, US Apple, Staff Contact: Diane Kurrle*

### **Agriculture Spending Bills Advance in Congress**

Appropriations Committees in each chamber of Congress have approved their respective versions of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Bill for the 2018 fiscal year.

The measure is one of a dozen bills that allow the federal government to spend money in various areas. Each version can now be considered for a vote by the full chamber.

The Senate plan calls for \$145.4 billion in discretionary and mandatory spending. That's a \$7.9 billion cut from 2017 levels but \$4.85 billion more than President Donald Trump had proposed. The House version calls for \$144.9 billion in total spending, \$8.5 billion below 2017 levels but \$4.6 billion more than the president's budget request.

### **West Coast Labor Agreement Good News for Stability of Apple Exports**

A three-year agreement was reached Friday between the International Longshore and Warehouse Union and the Pacific Maritime Association that represents port operators. The current contract was set to expire on July 1, 2019 but has now been pushed back to 2022, welcome news for the apple industry.

When negotiations over the current contract broke down in late 2014 and early 2015, port slowdowns disrupted exports of Washington state apples causing significant impact on the entire apple industry. At that time USApple played an active role in White House meetings to bring attention to the economic impact of the slowdown, estimated at \$2 billion per day. *Apple Bites - 8.8.17, US Apple, Staff Contact: Diane Kurrle*

## **Waters of the U.S. - USApple Supports Trump Administration Proposal**

The EPA and other federal agencies have proposed to rescind the Obama Administration's definition of "Waters of the U.S." Under the 1972 Clean Water Act (CWA) in 1972, most agricultural practices were exempted from the need to obtain a permit for routine practices such as fertilizer and pesticide applications, and drainage improvements. However, a 2015 Obama Administration rule expanded CWA jurisdiction to non-navigable waters such as drainage ditches and farm ponds, and extended permitting requirements to field runoff and pesticide drift.

USApple believes that the 2015 rule was a significant, unwarranted expansion of federal jurisdiction over marginal waters and not in line with the 1972 law. In an August 1 letter to EPA, USApple commended the agencies for the action taken to rescind the 2015 rule and to revise the regulatory definition of "waters of the United States" in a manner that better reflects statutory authority. *Apple Bites - 8.8.17, US Apple, Staff: Contact: Mark Seetin*

## **EPA Accepting Public Comments on Plan to Repeal WOTUS**

As the federal government considers whether to rescind its controversial Waters of the U.S. (WOTUS) rule, farmers have an opportunity to make their voices heard.

The U.S. Environmental Protection Agency has opened a 30-day public comment period on its proposal to repeal the 2015 regulation. This the chance to submit comments directly to EPA about how WOTUS would affect agriculture.

The rule — which gave EPA and the U.S. Army Corps of Engineers broad authority to regulate as "water" nearly all land areas, including 98 percent of Pennsylvania lands — never went into effect because of injunctions issued by federal courts that questioned the rule's legality.

## **Supreme Court to Hear Arguments on Which Court May Decide WOTUS Case**

The U.S. Supreme Court has scheduled Oct. 11 to hear arguments on a technical issue which could affect farmers' future legal paths when challenging the U.S. Environmental Protection Agency's regulation of land use.

At issue is whether a person challenging EPA's regulation under the Clean Water Act may do so in one of 94 federal district courts — which normally handle and decide cases first — or is limited to bringing a lawsuit at one of the 13 federal appellate courts. This issue was raised in the legal challenge by Farm Bureau and others over the Waters of the U.S. (WOTUS) rule.

The Supreme Court's decision on the jurisdiction issue will not affect the current lawsuit challenging WOTUS or the recent announcement that President Donald Trump's administration is considering rescinding the rule. But it could potentially make it more difficult and costly for farmers and landowners to challenge federal water quality regulation and regulatory actions going forward.

## **Pa. Congressmen Stress NAFTA's Importance to Agriculture**

Nearly four dozen members of Congress signed on to a letter to federal officials highlighting the importance of the North American Free Trade Agreement (NAFTA) to agriculture and asking that the farming community's interests be prioritized as the pact is renegotiated.

The effort was led by two members of the Pennsylvania delegation — Reps. Lloyd Smucker (R-Lancaster County) and Mike Kelly (R-Butler County) — as well as Rep. Ron Kind (D-Wisconsin).

The letter applauds the decision to renegotiate NAFTA, saying it offers an opportunity to help U.S. farmers stay competitive and address barriers to selling U.S. agricultural products to neighboring nations. But it also stresses the need for the renegotiation to preserve the benefits farmers have seen from NAFTA.

Other Pennsylvania lawmakers who signed on were Reps. Ryan Costello (R-Chester County), Scott Perry (R-York County), Dwight Evans (D-Philadelphia), Glenn “G.T.” Thompson (R-Centre County), Pat Meehan (R-Delaware County), Tom Marino (R-Lycoming County), and Keith Rothfus (R-Allegheny County).

### **Workforce-Training Bill Clears U.S. House**

A bill that authorizes career and technical education programs — including those that train workers for some agriculture-related careers — has cleared the U.S. House.

The Strengthening Career and Technical Education for the 21st Century Act is sponsored by U.S. Rep. Glenn “G.T.” Thompson (R-Centre County). It now heads to the Senate for consideration.

“High school career and technical education programs are vital for developing talent and leadership, especially needed in farming and agricultural services, and with regards to building economic futures in rural communities,” said RJ Karney, American Farm Bureau Federation Director of Congressional Relations. “It’s going to help focus job training, which will really benefit rural America to sustain jobs, all of which are necessary to sustain a skilled workforce.”

### **House Passes Ozone Standards Bill**

The U.S. House has passed a bill that would extend the phase-in of Environmental Protection Agency standards for ground-level ozone. The Ozone Standards Implementation Act, sponsored by Rep. Pete Olson (R-Texas), now heads to the Senate for consideration.

The proposed phase-in would delay the implementation of ozone rules set in 2015 to allow states to implement standards set in 2008 first. The bill would also extend the mandated review cycle to 10 years from five years.

American Farm Bureau Federation supports the changes and believes they would help farmers and states avoid the costly process of implementing both sets of standards at once while enabling planned initiatives to reduce ozone levels to go into effect.

“This reform will allow for environmental improvements to occur while bringing more certainty to regulators and the regulated community,” AFBF President Zippy Duvall said.

### **Funding for Penn Vet, Penn State Extension Remain in Flux as Senate OKs Tax Plan**

State aid to two programs important to agriculture — University of Pennsylvania School of Veterinary Medicine and Penn State Cooperative Extension — remains held up as lawmakers and Gov. Tom Wolf continue discussions related to the state budget.

State senators this week narrowly approved a mix of tax increases and other measures to fund the \$32 billion state budget adopted in June. That revenue plan now heads to the House where its future is uncertain.

In addition to borrowing money and transferring cash from other funds, the Senate-approved proposal would impose a tax on natural gas production; increase taxes on natural gas, electric and telephone bills; apply the state sales tax to more online sales; and expand casino gambling.

The budget bill passed in June allows the state to release money for most programs, including the Department of Agriculture's operations. But the state cannot release funds for Penn Vet or Penn State Extension without the approval of separate bills, which were approved by the Senate but have not yet received a vote in the House.

### **Rural Bridge Projects Kick into High Gear**

A joint effort between PennDOT and private companies to slash the backlog of rural Pennsylvania bridges that need to be replaced is off to a strong start. At the start of July, crews had completed 217 of the 558 bridge-replacement jobs that have been bundled together as part of a first of its kind public-private partnership. The project is kicking into full swing this year with another 81 bridges under construction now. Planning work began in 2015.

"Typically, it would take us eight to 12 years to complete this number of bridges," said Michael Bonini, of PennDOT's Public Private Partnerships Office.

But these aren't typical PennDOT bridge projects. The replacements are being handled as a single, \$899 million project. And rather than PennDOT taking the lead each step of the way and bidding out each piece of the project, a group of private companies – Plenary Walsh Keystone Partners – is responsible for designing, constructing and then maintaining all of the bridges.

That cuts much of the red tape that usually accompanies bridge work. And it frees the schedule from PennDOT's budget constraints because the private group is fronting all the costs. The state will then pay the contractors back over 25 years through payments for maintaining the spans.

There are also some cost savings. Because many of the new bridges will have similar designs, the contractor can take advantage of economies of scale when buying material and doing engineering work. The average price tag per bridge is about \$1.6 million. A similar bridge project that follows the typical PennDOT process would cost about \$2 million.

All the bridges are expected to be completed by the end of 2018. The work so far has been spread around the state, Bonini said. Ultimately, just about every region will get a new bridge. Typically, the bridges are closed during construction. But those same factors that reduce costs also speed up construction time. So, the new bridge usually reopens in about 10 weeks.

The focus has been on replacing structurally deficient bridges on state roads in rural areas. The new bridges give farms and rural businesses confidence that their operations won't be hampered by weight restrictions or bridge closures in the future.

For more information about the project, construction schedules or details on which bridges have been (or are due to be) replaced, visit [parapidbridges.com](http://parapidbridges.com).

### **Bill to Ease Construction Rules for Roadside Stands Clears Senate**

The state Senate has approved a bill that would exempt seasonal farm stands from the burden of complying with regulations that govern construction of permanent buildings. House Bill 176, sponsored by Rep. Tina Pickett of Bradford County, passed the state House in June. Because changes were made in the Senate, the House must vote again to OK the amendments.

Some municipalities have required that even seasonal farm stands meet the requirements of the Uniform Construction Code. The bill would exempt from those rules farm stands that are 1,000 square feet or smaller and open on at least 25 percent of the perimeter when in use.

A related bill that would exempt maple sugar houses from such codes cleared the House and awaits action by the Senate Labor and Industry Committee.

### **State agencies, Farm Bureau Call for Rural Broadband Funding to Stay in Pa.**

Pennsylvania Farm Bureau has joined state agencies' request for changes to federal rules that would ensure money that was set aside to expand broadband internet in rural Pennsylvania remains available for that purpose.

The state Public Utility Commission and Department of Community and Economic Development are asking the Federal Communications Commission to modify its system for how funding for rural broadband expansion is distributed. Under the current setup, Pennsylvania could lose out on close to \$140 million over six years due to unexpected circumstances.

PFB, in a letter to the FCC supporting the state agencies' request, emphasized that access to information is critical to the success and well-being of farmers, businesses and residents in rural areas and that technology infrastructure in some parts of the state is insufficient to meet current and future needs.

### **Pennsylvania Sites to Serve as Tests for Riparian Buffer Strategies**

Penn State researchers are leading a three-year study to determine whether changes to the design-standards and regulations related to riparian buffers make the conservation practice a more feasible and attractive option for farmers.

Two Pennsylvania watersheds will serve as test sites for the study: Spring Creek in Centre County and Conewago Creek in Dauphin County.

Riparian buffers — zones of vegetation adjacent to streams that reduce the sediment, nutrients and other pollutants that enter the stream — have proven highly effective and are a top priority in many water-quality initiatives, including those related to the Chesapeake Bay. But implementing them can be restrictive and expensive for farmers.

"Even with financial assistance to help cover installation and other costs, those constraints may deter adoption," said lead researcher Heather Gall, Assistant Professor of Agricultural and Biological Engineering at Penn State. "A key issue influencing farmers' willingness to adopt this practice involves buffer design standards that must be satisfied to receive assistance — the more restrictive the standards, the greater the reluctance to install buffers."

The study, funded by a \$500,000 grant from the U.S. Department of Agriculture, will experiment with giving landowners greater flexibility when designing riparian buffers. Researchers will examine whether more farmers adopt the practice if given more options for vegetation type and arrangement. The study will also consider other incentives, such as allowing farmers to generate revenue from certain harvesting activities in buffers.

Based on their findings, researchers will develop regulation and policy suggestions for states, such as Pennsylvania, to offer more incentives and flexibility for farmers to adopt riparian buffers.

### **PFB to Offer Webinar on New Form I-9 in September**

Pennsylvania Farm Bureau is sponsoring an educational webinar **Sept. 6** to learn about changes to the new Form I-9 that must be used beginning Sept. 18.

Participants will receive an overview of recent changes and new resources available to assist with employment eligibility verification process. The presentation will review basics about the form — including step-by-step instructions and rules for retention and storage — but even the most seasoned business professionals will walk away with something new.

Employers must use Form I-9 to verify the identity and work eligibility for all employees they hire. The forms are a prominent part of government labor inspections and compliance visits.

U.S. Citizenship and Immigration Services published a new Form I-9 last month. Employers will still be allowed to use the current form (dated 11/14/16) until Sept. 18, at which point the new forms (dated 07/17/17) must be used. Changes include minor wording tweaks and the inclusion of Consular Report of Birth Abroad as one of the documents that can be accepted to establish employment authorization.

The PFB webinar begins at noon and will last approximately 1 ½ hours. To participate, go to <https://uscisconnect.connectsolutions.com/pafarm/> to access the online materials and join the conference call by dialing 866.928.2008 and entering the code 716533.

For more information about the changes to Form I-9, visit [www.uscis.gov/i-9-central/whats-new](http://www.uscis.gov/i-9-central/whats-new).