

AG ISSUES UPDATE
Edited by Brad Hollabaugh
December 2018

President Trump Signs New Farm Bill

On December 20, 2018, President Trump signed into law the Agricultural Improvement Act of 2018. USApple President & CEO Jim Bair was present at the White House to witness the President's bill signing ceremony. This new Farm Bill is excellent for the apple industry as it maintains and expands funding for key programs. The legislation passed with strong bipartisan support. The vote was 87-13 in the Senate and 369 to 47 in the House. Virtually all "apple Members" voted Yes.

USApple played a leadership role in the Specialty Crop Farm Bill Alliance which worked for the past two years with Congressional leaders to secure continued funding for programs such as the Specialty Crop Block Grants, Technical Assistance for Specialty Crops and programs to combat pests in diseases. We secured an additional \$25 million annually for the Specialty Crop Research Initiative. This priority program has been utilized by the apple industry on a variety of projects including combatting the Brown Marmorated Stink Bug, nutrient management and rootstock development.

USApple has also been active in broader coalitions working to defeat proposed cuts to programs like crop insurance and the Market Access Program. In addition to these traditional efforts, USApple teamed up with other commodity groups to push for a new provision that strengthens the "Buy American" provisions in the school meal programs. Even though the requirement to source domestically has long been in place, loopholes have resulted in the majority of apple juice, canned fruit and fish sticks coming from foreign sources. USApple's President and CEO Jim Bair joined other impacted CEOs at a meeting with Agriculture Secretary Sonny Perdue on this issue and USApple joined efforts to advocate for stronger enforcement provisions in the farm bill.

With the new Farm Bill now law, implementation efforts will begin. USApple and our coalition partners will follow the process closely to ensure the programs are administered as intended. *USAPPLE, Member Alert - 12.20.18, Diane Kurrle*

USDA Releases Final Biotechnology Labeling Rule

The USDA has just published the long-awaited final rule on a mandatory national labeling standard for food that is "bioengineered" or contains bioengineered ingredients. The term "bioengineered (BE)" is the agency's new choice of words to standardize terminology and replace the range of acronyms currently in use, e.g. GM, GMO, GE, etc. The rule is intended to provide a mandatory uniform national standard for disclosure of information to consumers about the BE status of foods.

The final BE labeling rule implements the "National Bioengineered Food Disclosure Standard," passed by Congress in 2016. The implementation date of the Standard is January 1, 2020, except for small food manufacturers, whose implementation date is January 1,

2021. The mandatory compliance date is January 1, 2022. Regulated entities may voluntarily comply with the Standard until December 31, 2021.

USApple's comment letter on the proposed rule focused in the area of labeling requirements applying to "commercially available, but not highly adopted" cultivars. Our comments stressed the need to avoid confusing consumers - particularly where apples are sold in bulk - that would result from incorrectly requiring labels on bulk apple displays where no bioengineered cultivars would be present. The comment letter noted:

"the need for the correct application of the definition of cultivar is clearly necessary to avoid forcing the (incorrect) labeling of - for example, Golden Delicious, Granny Smith, Fuji, and any other cultivars that are not bioengineered. To avoid consumer confusion that would result from incorrectly requiring the labeling of non-bioengineered apples sold in bulk bins, it is vital that the rule requirements be narrowly focused on cultivars that are directly the result of bioengineering." (*USApple Member Alert, December 20, 2018*)

President Trump Signs Free Trade Agreement: What Happens Next?

President Trump, Canadian Prime Minister Justin Trudeau and Mexican President Enrique Peña Nieto signed the new U.S. Mexico Canada Agreement — or USMCA — in Buenos Aires Friday, November 30 using the backdrop of the G-20 Summit to resolve a trade dispute between America and its closest neighbors. But this is by no means the end of the process. The agreement will have to be ratified by the House and Senate and that will be far from automatic.

The Democrats take control of the House in January and will control the agenda and timing for consideration of the agreement in the House. Some Democrats believe the new USMCA is preferable to the existing NAFTA but many are also calling for increased environmental and labor protections. Trade agreements are generally subject to a straight up or down vote but Democrats could force the Administration back to the negotiating table if the votes aren't there.

Many pro-USMCA Republicans lost their elections. In addition, some conservatives are threatening to withhold support because the agreement includes a requirement that workers are protected against discrimination including that based on sexual orientation and gender identity.

NAFTA remains in place and on a parallel track as this process moves forward but If Congress fails to ratify the USMCA, President Trump could make good on his earlier promise to withdraw from the agreement. If this happens we could be left with nothing. Tariff levels would likely revert back to the 20% in place with Mexico prior to the enactment of NAFTA. It is less clear what would happen with Canada and whether the U.S. - Canada Free Trade Agreement would still be in place.

In addition, Section 232 tariffs on steel and aluminum have resulted in pre-NAFTA level tariffs for apples and many other commodities/products into Mexico. Some observers believe that once the USMCA agreement is signed, the tariffs will be loosened or lifted while

others maintain the two are completely separate and resolving one does not impact the other. Further complicating the process, Mexico has indicated they may hold off signing the USMCA if the Section 232 tariffs are still in place.

USApple has pressed President Trump's White House staff to lift the 232 steel and aluminum tariffs, and will continue to raise concerns about the long-term impact of the trade chaos on the health of the industry. USApple is also advocating for the USMCA and will urge new and re-elected "apple" members of Congress to vote in favor of the agreement. *USAPPLE Member Alert, November 20, 2018 and www.npr.org, November 30, 2018.*

SHAP signs onto USAPPLE Letter Regarding Tillis AEWB Amendment

Current regulations state that the Adverse Effect Wage Rate (AEWR) is the minimum wage that the U.S. Department of Labor (DOL) has determined "must be offered and paid to U.S. and alien workers by agricultural employers of nonimmigrant H-2A visa agricultural workers.

As you may have heard, the results of the wage survey used to determine the AEWB was published a few weeks ago. The official AEWB won't be published for a few more weeks but those in the "know" can calculate what they will be based on the survey results. The rates are going up for everyone – most states regions in the 3 to 6 % but a few unlikely ones as much as 20% (PA's rate is projected to increase 9.1% -- \$12.05 in 2018 to \$13.15). The Apple category was not hit as hard as some with the exception of Idaho.

In response, there is an effort underway lead by the umbrella of NCAE and working with Senator Tillis of North Carolina to freeze the current AEWB for one year. This will coincide with USDA's completion of their new wage surveys which hopefully will result in more accurate wage data. Senator Tillis is attempting to get his amendment offered to a spending bill in Early December and it is a long shot but one we must pursue.

It will be important to show strong agricultural support for the effort particularly for the Democrats who might be inclined to oppose. SHAP agreed to sign onto this letter in support of the Tillis Amendment. *Diane Kurrle, USApple*

Walmart Food Safety Head Taking Over Foods Office at FDA

Frank Yiannas, Walmart VP of Food Safety and Health is taking over the top food regulator position at the Food and Drug Administration. He is replacing the retiring Dr. Steven Ostroff. Yiannas was the keynote speaker at USApple's Outlook conference in 2016 and also participated in the meeting of USApple's Food Safety Committee.

Yiannas' position title will be Deputy Commissioner for Food Policy and Response. He will head the Office of Foods and Veterinary Medicine and report directly to FDA Commissioner Scott Gottlieb.

At Walmart he has led efforts to adopt blockchain technology for traceability. Walmart has announced it will require leafy greens suppliers to adopt blockchain in 2019, and will be

setting compliance deadlines for other produce suppliers over the next year. We can expect that given Yiannas' background and FDA's renewed emphasis on food illness response, he will be a forceful advocate for adopting blockchain technology throughout the produce industry. *Mark Seetin, USApple*

WOTUS: Washington Judge Vacates WOTUS Applicability Date

On November 28, 2018, a federal judge in the U.S. District Court, W.D. Washington vacated the U.S. Environmental Agency and U.S. Department of the Army (the agencies) addition of an applicability date to the 2015 Rule defining “waters of the United States” (Puget Soundkeeper Alliance v. Wheeler, Case 2:15-cv-01342-JCC).

On January 31, 2018, the agencies issued a final rule that added an applicability date to the 2015 Rule. As a result, the 2015 Rule was not scheduled to become applicable until February 6, 2020. According to U.S. District Judge John C Coughenour, however, the agencies violated the Administrative Procedure Act by excluding “relevant and important comments” before promulgating the 2015 Rule applicability date. Therefore, the court ruled that the applicability date was unlawful and should be vacated nationwide.

Risk of Spotted Lanternfly on Christmas Trees Slight but Take Precautions

Penn State Extension educators say the risk of Spotted Lanternflies on Christmas trees is slight and should not deter consumers from purchasing a live tree.

Christmas tree producers in the quarantine zone comprised of 13 southeastern Pennsylvania counties are working with the Pennsylvania Department of Agriculture and practicing integrated pest management to minimize chances of spreading this threatening pest.

However, there are precautions that consumers—especially within the quarantine zone—can take. Those include examining the tree before purchasing for egg masses, which resemble gray mud splatters and are easily scraped off the bark of trees. After the holidays, Christmas trees obtained in the quarantined zone should be recycled within this region to minimize the risk of spreading this destructive insect.

DEP: Farmers Working to Improve Water Quality

State inspections of nearly 3,000 small farms in the Chesapeake Bay Watershed revealed that close to all of the them are doing their part to protect water quality.

The state Department of Environmental Protection said that 96 percent of the farms inspected met state requirements for water quality planning, which include having a Manure Management, Erosion and Sediment Control Plan, or both.

DEP Secretary Patrick McDonnell said the inspection program “documents the good work many farmers are doing voluntarily to develop plans to reduce pollution. Just as important, it creates productive working relationships that help farmers meet their plan obligations.”

DEP, conservation districts and the State Conservation Commission teamed up to visit 2,924 farms, covering more than 329,000 acres. The inspections focused on smaller operations, with an average size of 87 acres. Two-thirds of the farms visited already had plans in place, while most of the others worked with conservation districts to put plans in place by the end of the year.

“Education is a large part of the program, as we use inspections as a catalyst to help farmers understand what’s needed and get them on track to develop and ultimately act on their plans,” McDonnell said. “Action to improve water quality is our ultimate goal.”

Ebert Re-Elected as Pennsylvania Farm Bureau President

Westmoreland County dairy farmer Rick Ebert was elected to another two-year term as Pennsylvania Farm Bureau president by voting delegates at PFB’s 68th Annual Meeting in Hershey recently.

Ebert ran unopposed for the seat, which he has held since November 2014. Ebert, who owns Will-Mar-Re Farms in Blairsville, has been involved with PFB for decades. He served as Vice President for ten years, a member of the State Board of Directors, State Dairy Committee Chairman and State Policy Development Committee Chair. He has served on the American Farm Bureau Federation Board of Directors since January 2016 and also chairs the Pennsylvania Friends of Agriculture Foundation, a charitable organization that promotes agriculture education and literacy.

“I’m truly honored by the support I’ve received from farmers across the state and I pledge to always strive to do my best for our members and maintain Pennsylvania Farm Bureau’s status as the most influential farm organization in the state,” said Ebert said.

In addition, six new farmers were elected to PFB’s State Board of Directors: Don Buckman, of Bucks County; Charlie Porter, of Columbia County; Luke Brubaker, of Lancaster County; Rick Leese, of Fulton County; Gretchen Winklosky, of Washington County; and Raleigh Masters, of Luzerne County.

Still Plenty of Funding for Conservation Planning Reimbursements

There’s still plenty of money available through a state grant program that reimburses farmers in the Chesapeake Bay Watershed for the cost of professional assistance with conservation planning.

So far, \$205,445 of the funding available for reimbursements had been claimed, leaving more than \$900,000 available. Applications are due by **April 1, 2019** and grants will be awarded on a first come, first served basis.

Farmers can be reimbursed up to \$6,000 for the cost of hiring consultants to complete required Manure Management, Agriculture Erosion and Sediment Control, Nutrient Management, and Conservation plans. Plans developed during 2017 or later are eligible for reimbursement as long as they were not developed by the Natural Resources Conservation Service (or with NRCS funding), developed for Resource Enhancement and Protection

Program (REAP) tax credits or developed for acres that previously received reimbursement through this program.

Farmers in Bradford, Cameron, Carbon, Centre, Clearfield, Clinton, Columbia, Elk, Jefferson, Lackawanna, Luzerne, Lycoming, Montour, Northumberland, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, and Wyoming counties should contact Sara Bolton of Larson Design Group at sbolton@larsondesigngroup.com or 570.374.5700.

Farmers in Adams, Bedford, Berks, Blair, Cambria, Chester, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Indiana, Juniata, Lancaster, Lebanon, Mifflin, Perry, Somerset, and York counties should contact Jedd Moncavage of TeamAg at jeddm@teamaginc.com or 717.721.6795.

Soil Restoration from Ruts Made During Harvest

Some soils have become rutted and compacted due to harvest activities during a wet fall season. Ruts left in the field will lead to challenges to even planting depth during the following spring.

It is important to wait for optimum soil conditions this fall and then flatten the ruts using a skid-loader bucket or other similar piece of equipment. A light disking or plowing may be necessary to alleviate severe compaction. Cover crops may be used to prevent erosion and rebuilt soil structure. Practicing no-till stabilizes soils and helps support heavier farm equipment.

Grants Still Available for Conservation Projects

There's still plenty of grant money available for farms and other agri-businesses to reduce pollution or improve energy efficiency.

So far, there is still about \$300,000 available through the Pennsylvania Department of Environmental Protection's Small Business Advantage Grant program. Grants will be awarded on a first-come, first-served basis.

Small business owners or farmers with 100 or fewer full-time employees are eligible for the grants. Projects must save the business a minimum of \$500 and 25 percent annually in energy consumption, or pollution related expenses. Natural resource protection projects are exempt from the minimums, however the projects must be able to quantify sediment and nutrient reductions into nearby waterways. The grants provide 50 percent matching funds for equipment or materials, up to \$9,500.

To apply or learn more, visit <https://bit.ly/2lOp9be> or contact the DEP Small Business Ombudsman's Office at 717.772.5160 or epadvantagegrant@pa.gov

Relief Fund to Help Farmers Affected by Wildfires

California Farm Bureau Federation has established a relief fund to assist farms, ranches and rural communities hurt by wildfires, floods and other natural disasters.

“All too often, we’ve seen rural areas of California wracked by fires, floods and other natural disasters,” said CFBF President Jamie Johansson. “We created the Farm and Rural Disaster Fund in response to our members’ request to be able to provide aid to farms, ranches and rural communities that have suffered losses.”

Contributions to the fund may be made online at www.cfbf.com or www.californiabountiful.com. Donations can also be made by mailing a check payable to California Bountiful Foundation to: California Bountiful Foundation; Farm and Rural Disaster Fund; 2300 River Plaza Drive; Sacramento, CA 95833.