

**AG ISSUES UPDATE**  
**Edited by Brad Hollabaugh**  
**February 2019**

**Bair Urges USMCA Passage, Removal of Retaliatory Tariffs in Statement**

Immediately following President Trump's State of the Union address on February 5, 2019, USApple President and CEO Jim Bair responded with a press statement. Bair urged Congress to ratify the U.S.-Mexico-Canada Agreement (USMCA) and the Trump Administration to lift steel and aluminum tariffs on apple trading partners, particularly Mexico and Canada, to allow the USMCA to be successful.

Resulting media coverage included The Packer, Produce Blue Book, a radio interview with American Ag Network (at the :45 mark), among other outlets like Capitol Press, Perishable News, Fresh Plaza and Agri-Pulse. (*USApple, Apple Bites - 2.12.19*)

**FDA Issues Informative Documents Related to the On-Farm Inspection Process**

In early February, FDA announced the issuance of several documents related to the farm inspection stage of implementation of the Produce Safety rule. The farm inspection program is slated by the Agency to begin this spring, beginning with "On Farm Readiness Reviews" geared to help growers understand the inspection process and what to expect from a farm inspection. In a message from FDA leaders Paving the Road to Produce Safety Rule Inspections FDA Commissioner outlines agency efforts to continue implementation of the produce safety rule.

The Agency also published a fact sheet What to Expect of a Regulatory Inspection to help growers understand the inspection process and what to expect during the inspection. The Agency release also cited additional informational sources for growers on the FDA website under Additional Resources Support Compliance with the Produce Safety Rule. (*USApple, Apple Bites - 2.12.19*)

**USDA Agricultural Trade Promotion Program**

The ATP is one of three USDA programs created to mitigate the effects of unjustified trade retaliation against U.S. farmers and exporters. USDA's Foreign Agricultural Service (FAS) accepted ATP applications between Sept. 4 and Nov. 2 – totaling nearly \$600 million – from U.S. trade associations, cooperatives, and other industry-affiliated organizations. The U.S. Apple Export Council was awarded a grant of \$196,515.

**Shutdown Delays Agriculture Programs**

Implementation of the 2018 Farm Bill and a wide range of programs that farmers rely on to manage their businesses were delayed for most of January as a result of a 35-day partial shutdown of the federal government.

The U.S. Department of Agriculture reopened Farm Service Agency offices in late January, shortly before Congress and President Donald Trump reached a short-term deal to reopen the government for three weeks as they continued to work through disagreements over funding for border security. With FSA offices back open, farmers are again able to apply for

USDA programs, including agricultural loans, risk management and conservation programs and the Market Facilitation Program created to offset some of the losses farmers have suffered as a result of trade disputes.

The short-term deal gives Trump, a Republican, and congressional Democrats until Feb. 15 to settle their stalemate over funding for border security before the shutdown would potentially resume. Trump has pushed for a U.S.-Mexico border wall, while Democrats favor other border security measures.

“We are encouraged that the federal government will be re-opened for three weeks while Congress and the administration work on a permanent budget solution,” American Farm Bureau Federation President Zippy Duvall said. “Farmers have crops to plant, animals to raise and food to sell. We need the Agriculture Department and the rest of the federal government up and running to do the job the American people need us to do.”

In addition to shuttering FSA offices, the shutdown put new programs and changes brought about by the 2018 Farm Bill on hold. It also delayed government reports that farmers rely on for the market information they need to make decisions on a day-to-day basis.

### **PFB Calls for Flexibility on Job Posting Rules for H-2A**

Pennsylvania Farm Bureau is asking the U.S. Department of Labor to give farmers the option using either online or newspaper advertisements to satisfy the job posting requirements of the H-2A program.

Farmers using H-2A, which gives agricultural operations access to seasonal, foreign guest workers, must first attempt to recruit local job seekers for the available work. DOL has proposed changing its job posting rules to requiring farms to advertise positions online, instead of through newspaper advertisements.

In comments on the proposal, PFB urged DOL to allow farms to advertise jobs via either medium, noting that studies have shown online job searching remains less common in rural areas and among farm workers than in general. In addition, PFB raised concerns that having only the option to advertise online could impose an additional burden on farms due to the high volume of unqualified applications that online solicitations can generate.

### **Fresh Apple Holdings at 78.9 Million Bushels**

USApple released the report on inventories of fresh and processing apples from the 2018 crop in the February edition of Market News. The report is a summary of inventory reports from more than 200 storage facilities in all major apple producing states as of February 1.

Highlights of the report include:

- U.S. fresh-market apple holdings of 115.8 million bushels on January 1, 2018, are 12 percent more than the January 1, 2017 holdings of 103.4 million bushels, and 19 percent more than the five-year average of 97.6 million bushels.

- Total processing apple holdings as of February 1, 2019, were 30.0 million bushels, 14 percent less than those on February 1, 2018, and 13 percent less than the five-year average for that date.

The total number of apples in storage on February 1, 2019, was 108.9 million bushels, 13 percent less than last February's total of 125.0 million bushels and 9 percent below the 5-year average for that date. (*USApple, Apple Bites - 2.12.19*)

### **Livestock and Insect Haulers Remain Exempt from Electronic Logging Mandate**

The Federal Motor Carrier Safety Administration is continuing the exemption from using the Electronic Logging Device (ELD) for haulers transporting livestock and insects until further notice. Paper logs used to record hours of service will still be required.

Drivers are not required to carry any type of documentation to verify the exemption from implementing the ELD. Other types of cargo being transported outside of livestock and insects have had to implement the ELD system as of December 18, 2017.

### **Gov. Tom Wolf's Proposed Budget for Agriculture**

CAMP HILL, Pa. — Following an initial review of Gov. Tom Wolf's proposed budget for agriculture, Pennsylvania Farm Bureau indicated that the spending plan includes some helpful new proposals and retains spending for key programs affecting farm families, the agriculture industry and consumers across the state. The budget proposal maintains existing funding levels for several vital programs, including agriculture research and Cooperative Extension services administered by Penn State University and food safety and animal welfare programs managed by the University of Pennsylvania School of Veterinary Medicine.

Farm Bureau recognized that the budget includes a modest increase for the Department of Agriculture's General Government Operations, which provides funding for jobs and services that support the agriculture industry. Additionally, the spending plan calls for significant increases in funding for the Nutrient Management Fund, Agricultural Excellence programs and the PA Preferred program. Meanwhile, the budget zeroes out funding for agricultural research conducted by the state Agriculture Department, the agricultural promotion, education and exports program and the food marketing and research program.

During his budget address, the governor alluded to some new investments to support farmers, including programs to help farmers create business, transition and succession plans; increase opportunities for Pennsylvania's agricultural workforce; increase funding for Pennsylvania to quickly respond to agriculture diseases or disasters; and provide incentives for farmers to incorporate additional conservation practices on their land.

### **Gov. Tom Wolf Calls for a "Living Wage."**

The push to increase the state's minimum wage is renewed with Gov. Tom Wolf's announcement to increase minimum wage from \$7.25 to \$12 an hour by July 1. Once minimum wage reaches \$12, Wolf's "living wage" proposal calls for incremental increases in the minimum wage until it hits \$15 in 2025, reports the Tribune-Democrat.

“Pennsylvania must be a place where hard work is rewarded,” said Gov. Wolf. “But our minimum wage hasn’t changed in a decade and too many hardworking people are struggling to get by.”

But while Gov. Wolf’s call for action is aimed at helping Pennsylvanians, it may actually end up hurting them, according to NFIB’s Pennsylvania State Director Gordon Denlinger—especially those on Main Street.

“The business owner may not be able to raise prices because customers won’t pay a higher price,” Denlinger said. “The employer is [then] forced to reduce hours or eliminate jobs. You can’t change the nature of the marketplace and what people will pay for a product. If there isn’t enough coming into the business to cover the added labor costs, those lower-level jobs disappear.

“An October study of the Seattle situation showed that is just what can happen. As a result, it’s much harder for those at the very bottom of the pay scale to ever find work. That’s not good for employers or employees, and it’s not good for Pennsylvania’s economy. It actually hurts those it may be intended to help.”

### **Pennsylvania Farmers Hear from Trump**

For the second year in a row, President Donald Trump made an appearance at the American Farm Bureau Federation convention, addressing Farm Bureau members in a speech from the main convention stage.

Dozens of Pennsylvania Farm Bureau members were among the thousands of farmers across the nation who saw Trump’s address. The president acknowledged an important milestone for Farm Bureau, which celebrated its centennial at the convention. “For 100 years this organization has faithfully represented the men and women who are the backbone of our country,” he said.

In his address to Farm Bureau members, Trump reiterated his call for a wall along the U.S.-Mexico border, the primary sticking point in standoff between the Republican president and congressional Democrats that led to a partial shutdown of the federal government in January. He also highlighted several issues important to agriculture and expressed support for reforms to enable farmers to more easily access foreign guest workers as they face growing labor shortages.

Trump also touted several key accomplishments for agriculture, including the recently signed 2018 Farm Bill, comprehensive tax reform, the recent U.S.-Mexico-Canada Agreement trade pact and his administration’s ongoing efforts to repeal and rewrite the controversial Waters of the U.S. rule.

“The greatest harvest is yet to come,” he said. “The future for America’s farmers is bigger, better, bolder and brighter than ever before.”

## **Pennsylvania to Enable Commercial Hemp Growing**

Pennsylvania has submitted a plan to the U.S. Department of Agriculture to allow farmers to grow industrial hemp commercially in light of changes in the 2018 Farm Bill. The state will also reopen the 2019 application window for growers to obtain permits to grow the crop so that more producers can apply.

Farmers have been able to grow industrial hemp in Pennsylvania under a limited pilot program created to research growing and marketing the crop. However, opportunities to grow industrial hemp commercially were limited because the plant remained regulated as a controlled substance at the federal level. The 2018 Farm Bill removed that barrier.

Hemp was grown legally in Pennsylvania until after World War II, when it was banned along with marijuana. While the plants are related, hemp does not contain any significant amount of the compound that gives marijuana its drug-like properties.

Under the new program, hemp growers will still have to apply for permits from the state. However, there will no longer be a cap on the acreage that can be grown in the state and growers will be able to cultivate hemp for commercial, rather than strictly research, purposes.

## **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.

As of early February, about \$427,000 of the funding available for reimbursements had been claimed, leaving more than \$722,000 still 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](mailto: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](mailto:jeddm@teamaginc.com) or **717.721.6795**.

## **Chlorpyrifos Update**

Feb. 7 (Reuters) - The Trump administration has persuaded a U.S. appeals court to reconsider its recent decision ordering the Environmental Protection Agency to ban the widely-used pesticide chlorpyrifos, which critics say can harm children and farmers.

In an order on Feb. 6, the 9th U.S. Circuit Court of Appeals said it will again review former EPA administrator Scott Pruitt's March 2017 refusal to ban chlorpyrifos for use on food crops such as fruits, vegetables and nuts. Pruitt's ruling reversed a 2015 Obama administration plan to extend a 2000 ban on the pesticide that had covered most household settings.

The appeals court had, in a 2-1 decision last Aug. 9, directed the EPA to ban chlorpyrifos within 60 days. It cited the agency's failure to consider, or debunk, "scientific evidence" associating the pesticide with low birth rates, impaired mental development, attention and behavior problems, and other damage to children. Wednesday's order means an 11-judge appeals court panel will reconsider the case.

Chlorpyrifos, developed as a nerve gas in World War Two, has been used commercially in the United States since 1965. Groups that challenged Pruitt's ruling included the Natural Resources Defense Council and the United Farm Workers.

"EPA's own scientists have said for more than two years that chlorpyrifos is harmful, particularly to children," said Patti Goldman, a lawyer for Earthjustice representing the groups, in a statement. "Any delay to ban this toxic chemical is a tragedy."

If the 9th Circuit upholds Pruitt's original ruling, it will be a win for President Donald Trump, who along with other Republicans has long criticized what is widely viewed as one of the more liberal federal appeals courts. In seeking a rehearing, the EPA said the appeals court lacked jurisdiction to review Pruitt's ruling, and otherwise should have simply directed him to reconsider the evidence rather than order a ban. The EPA is now overseen by acting administrator Andrew Wheeler.

A spokeswoman said the agency is pleased the case will be reheard, and that federal rules allowing the pesticide's use "can continue, as permitted by state law," during the appeals process. Judge Jed Rakoff, who normally sits on the federal district court in Manhattan, wrote the Aug. 9 decision.

Circuit Judge Ferdinand Fernandez dissented, saying the court lacked jurisdiction. The case is *League of United Latin American Citizens et al v New York et al*, 9th U.S. Circuit Court of Appeals, No. 17-71636. (Reporting by Jonathan Stempel in New York Editing by Sonya Hepinstall and Susan Thomas)