

## **AG ISSUES UPDATE**

**Edited by Sara Hricko**

**July 2020**

### **Apples Now Included in Critical CFAP Funding; Growers Should Apply ASAP**

The Agriculture Department issued a correction to its Coronavirus Food Assistance Program (CFAP) on 9 July, 2020. Apples, initially left out of the program's component dealing with price declines, have been reconsidered by USDA and growers will now be awarded a payment rate of \$0.05 per pound.

Growers can now apply for direct payments under the CFAP program online by going to: <https://apps.fsa.usda.gov/cfap/index.jsp>. We encourage growers to act quickly to apply for this critical funding. Once a grower applies, they should receive their payment within a few days. The application deadline is August 28. CFAP funding was included in the Coronavirus Aid, Relief and Economic Security (CARES) Act and was passed by Congress with overwhelming, bipartisan support and signed into law by President Trump on March 27, 2020.

Last month, USApple, joined by apple organizations across the nation, urged USDA to reconsider growers for CFAP funding. According to the groups, USDA's analysis that determined apple prices and grower eligibility was flawed and did not match the reality of what is happening in the industry. USApple submitted more than 30 pages to USDA detailing actual sales data on more than 43 million bushels of apples, more than half of all the apples marketed in the three-month period. The various data sets showed price declines ranging from 6.5 percent to 24.9 percent. USDA's threshold for payment eligibility is a price decline of at least 5 percent; it now agrees that the average price decline was 10.9 percent.

The successful outcome was a team effort, with the overwhelming price data coming from USApple leaders and the Washington State Tree Fruit Association. Those groups, plus Northwest Horticultural Council and state apple associations across the U.S. formed an effective coalition. -*Apple Bites 7.9.20*

### **Christopher Gerlach Joins USApple as Director of Industry Analytics**

USApple is pleased to announce the new staff hire of Christopher Gerlach who will join the team as Director of Industry Analytics on July 20. Chris has a wealth of experience in public policy research and analytics for large, mission-driven organizations. His talent for economic analysis is impressive and will help take USApple to the next level of effectiveness. His skillset will supercharge everything we do.

Chris comes to USApple from the International Council of Shopping Centers (ICSC) where he served as Director of Research. In this role he was responsible for generating original research on the economic and social contributions of the \$6.7 trillion retail real estate industry. Prior to joining ICSC, Chris worked as a consultant utilizing sophisticated economic impact models to assist public-sector entities achieve long-term strategic development goals. He began his career as an analyst with the CoStar Group, Inc., a

leading provider of commercial real estate information and analytics. He holds a Master of Regional Planning degree from the University of North Carolina and an MBA from George Washington University School of Business.

Chris will be assuming the portfolio of Mark Seetin, a long-time USApple team member, who is currently a part-time employee and trending toward retirement. Mark and Chris will overlap to ensure a smooth hand-off of the baton. With Mark's eventual retirement in the offing, we looked at it as an opportunity to re-think and update the position, and bring skills that will add new value to the national voice of the apple industry.

Chris' portfolio at USApple will draw on his strong analytic and research experience to generate state-specific data on farmgate value of the apple crop and downstream jobs and economic activity; analyze and report industry analytics to support USApple policies and lobbying activities; prepare Market News, USApple's premiere monthly storage report of apple inventory; and provide market intelligence on apple varieties, availability and market conditions to assist the Agriculture Department in making government purchases for school and military programs. -*Apple Bites 7.13.20*

## **Premier Apple Cooperative Estimates the 2020 Apple Crop at 244.6 Million Bushels**

At its virtual annual meeting, the Premier Apple Cooperative issued its annual estimate of the upcoming 2020 apple crop. The cooperative's collective estimate for the 2020 apple crop was 244.6 million bushels, down 7 percent from the 2019 crop of 262.3 million bushels. Over the past 5 years, the Premier estimate has been within 4 percent or less of the final USDA crop production figure.

One significant factor in the 2020 estimate was Washington State's 166 million total production, representing a decline of 8 percent from last year. Because Washington represents roughly 65 percent of total production, the lower estimate resulted in a total production decline of 7 percent.

The Premier estimate, like USDA estimates, assumes normal growing conditions from the date of the estimate through harvest. -*Apples Bites 7.8.20*

## **Farm Bureau updates 7.8.20**

### **Priorities for Agriculture Relief Outlined**

In a recent letter to leaders in Congress, American Farm Bureau Federation President Zippy Duvall outlined the priorities farmers hope to see included in legislation providing relief from the economic fallout of the COVID-19 pandemic. The communication came as Congress considers follow-up legislation to the CARES Act, which provided wide-ranging relief related to the COVID-19 pandemic, including support for agriculture. Duvall noted that there are still some concerns for agriculture that were not addressed in the CARES Act and that farmers continue to suffer financially due to the pandemic. Among the priorities highlighted were:

- Supporting producers by extending relief funding for losses incurred after April 15, replenishing the Commodity Credit Corporation funding to \$68 billion, providing additional resources to state Departments of Agriculture, and supporting biofuel production facilities.
- Supporting livestock farmers by providing aid to independent and contract poultry producers, opening Conservation Reserve Program acres for emergency haying and grazing, and waiving overtime fees for FSIS meat inspectors in small and medium-sized packing plants.
- Supporting rural communities by increasing funding for community health care centers and taking steps to expand broadband access.
- Expanding eligibility and increasing funding for the Paycheck Protection Program and making the program more workable for agriculture.
- Providing housing funding to accommodate social distancing guidelines for H-2A workers and funding to help offset the cost of protective equipment and sanitizing supplies.

## **Farm Bureau Urges USDA to Expand Aid Program**

Farm Bureau is asking the U.S. Department of Agriculture to expand eligibility for its signature COVID-19 relief program for farmers so that more producers affected by the pandemic can participate. While the Coronavirus Food Assistance Program will compensate many Pennsylvania producers for losses faced as a result of the pandemic, some affected commodities—particularly poultry and eggs—were not included. The program offers \$16 billion in direct payments to farmers based on pandemic-related losses.

In a letter to USDA Farm Service Agency Director Richard Fordyce, Pennsylvania Farm Bureau President Rick Ebert called for the agency to expand the list of commodities eligible for assistance and extend the application deadline to give producers who are currently shut out of the program more time to apply. Producers have until Aug. 28 to apply for the CFAP program, which currently covers dairy, wool, cattle, hogs, sheep (lambs and yearlings only) and many specialty and non-specialty crops. Producers must apply via their local Farm Service Agency Service Center, which currently are open by phone appointment only, or through an online portal.

Learn more and find instructions for applying at [www.farmers.gov/cfap](http://www.farmers.gov/cfap).

## **Fixes to SBA Loan Program Signed Into Law**

A bill that aims to add more flexibility to the Small Business Administration's Paycheck Protection Program, which offers support to farms and other small businesses to help keep employees on the payroll during the COVID-19 pandemic, is now law.

Congress passed and President Donald Trump signed the measure recently. The bill addresses some improvements that will benefit agriculture—including extending the loan forgiveness period and the minimum loan maturity period—and makes other technical changes to the program.

Farm Bureau continues to advocate for agriculture-specific improvements to the program not included in the bill that would allow greater participation by farmers. Those include providing clarity that H-2A workers count as employees for the purpose of determining eligibility and that the program considers rental income, farm equipment trades, breeding livestock and other documented sources of income as part of a farm's net income, also for eligibility purposes.

## **New Clean Water Rule Takes Effect**

The Navigable Waters Protection Rule—the new federal clean water regulation that replaced the controversial 2015 Waters of the U.S. rule—has taken effect.

A federal judge last week denied a request from groups opposed to the new rule to block it from taking effect. However, lawsuits against the new rule are ongoing.

Farm Bureau led the fight against the 2015 WOTUS regulation and the push to implement the new rule, which takes a more clear and commonsense approach to defining which waterways are subject to federal regulation. Farm Bureau believes the federal government overstepped its authority in implementing the 2015 WOTUS rule, which was less clear, took a much broader

## **Pennsylvania COVID-19 updates**

While the COVID-19 pandemic continues to change many aspects of agriculture and daily life in Pennsylvania, the state took major strides towards reopening during the month of June.

As of early July, every Pennsylvania county is in the “green phase” of Gov. Tom Wolf’s reopening plan, which allows all businesses to reopen as long as they follow certain restrictions and safety guidelines to prevent the spread of COVID-19.

The following updates reflect new information since early July. Be sure to visit [pfb.com/coronavirus](https://pfb.com/coronavirus) for the most up-to-date information.

- The “green phase” allows greater flexibility for businesses, including some farm businesses. Restaurants may resume limited, indoor dining and agritourism activities may continue while following certain safety guidelines. Large gatherings remain limited to fewer than 250 people. Businesses must continue to follow safety guidelines from the state Health Department and Centers for Disease Control, including requiring employees and customers to wear masks and following social distancing guidelines.
- A new state Health Department order requires masks to be worn in public spaces (except when maintaining at least six-foot distance outdoors) with certain exceptions for: children under the age of two; individuals who cannot wear a mask due to a medical condition or disability or who would not be able to remove a mask without assistance; or individuals working in a condition where local, state or federal regulations or guidelines determine that wearing a mask would create a safety concern.
- The U.S. Department of Agriculture will now accept applications for the Coronavirus Food Assistance Program through an online portal. The program provides direct payments to producers of certain, eligible commodities to help offset losses due to the COVID-19 pandemic. Learn more about how to apply online at [farmers.gov/cfap](https://farmers.gov/cfap).
- The deadline to apply for the Small Business Administration’s Paycheck Protection Program has been extended until Aug. 8. The program provides loans to eligible businesses, including farms, with 500 or fewer employees to continue to pay employees and cover some overhead costs during the pandemic. Sole proprietorships, independent contractors and self-employed people are also eligible. Applicants apply through eligible lenders. Visit <https://bit.ly/38jvQR0> to learn more.
- The SBA recently released a new EZ Paycheck Protection Program loan forgiveness application form in response to legislation requiring the agency to create a more “borrower-friendly” application form. The form is available at <https://bit.ly/31nPzh0>. There is also a revised version of the full form available at <https://bit.ly/2Yz8ljH>.
- Pennsylvania drivers licenses, photo ID cards and learner’s permits that have an expiration date between March 16 and July 31, will be valid until July 31. PennDOT had previously extended the expiration date for vehicle registrations of all classes, safety and emissions inspection stickers and disability parking placards until June 30; however, the expiration dates for those products are not being extended again.

- Food processors and retailers can obtain free personal protective equipment for employees through the Pennsylvania Emergency Management Agency. Equipment comes in boxes of 500. Visit <https://bit.ly/3fVYdY6> to request protective equipment.
- Pesticide applicator exams have resumed on a limited basis. Learn more at <https://bit.ly/2ZcLWb5>.
- The U.S. Environmental Protection Agency has issued guidance on conducting pesticide safety training sessions during the pandemic. Find more information at <https://bit.ly/2YARKWd>.
- The Federal Motor Carrier Safety Administration has extended until Sept. 30 its waiver regarding expiring driver's licenses and medical examiner's certificates for drivers who had current credentials as of March 1. FMCSA may use enforcement discretion to not take action in certain cases when a commercial learners' permit, CDL or Medical Certificate is expired.

## **Senate Passes Relief Bill for County Fairs**

A bill that aims to provide financial relief to county fairs that cannot be held due to the COVID-19 pandemic cleared the state Senate unanimously last month.

Senate Bill 1182, introduced by Sen. Michele Brooks of Mercer County, now goes to the House for consideration.

Normally, county fairs are eligible to receive reimbursements from the state after holding a certain number of agricultural-related activities and events during the fair. The bill would allow fairs that do not open this year due to the pandemic to apply for grants equal to the state reimbursements they received in 2019. Most, if not all, county fairs will be unable to open this year due to limits on large gatherings during the pandemic.

## **Protective Gear Bill Advances**

A measure that aims to assist food processors in securing protective equipment for employees during the COVID-19 pandemic has moved forward in the state Senate.

The Senate Agriculture and Rural Affairs Committee voted last month to send House Bill 2435, introduced by Rep. Bridget Kosierowski of Lackawanna County, to the full chamber for consideration. The bill cleared the state House in April.

The legislation would create a state grant program to help food production facilities with the purchase of personal protective gear for employees. Workers at food processing plants are a critical link in the supply chain. Outbreaks of COVID-19 at meat packing plants earlier this year caused severe bottlenecks in the food supply chain that prevented meat from getting from Pennsylvania farms to grocery store shelves.

## **Broadband Bills Advance in General Assembly**

Several bills that would help expand broadband access in rural Pennsylvania recently moved forward in the General Assembly.

Senate Bill 835—introduced by Sen. Wayne Langerholc of Cambria County—and House Bill 2348—introduced by Reps. Marty Causer of McKean County and George Dunbar of Westmoreland County—would create a special account for grants to develop broadband service in underserved areas. The grants, which would be overseen by the Commonwealth Financing Authority, would be funded by shifting an existing \$5 million tax credit.

The House passed House Bill 2348 and the Senate Communications and Technology Committee sent Senate Bill 835 to the full Senate for consideration.

House Bill 2438—by Rep. Clint Owlett of Tioga County, and Senate Bill 1118—by Sen. Joe Pittman of Indiana County—would allow rural electric cooperatives to use their existing utility easements to install fiber-optic lines without having to renegotiate right-of-way agreements. Cooperatives would still have to renegotiate if new infrastructure, such as new poles, is needed. House Bill 2438 cleared the state House and both bills were advanced by the Senate Communications and Technology Committee to be considered by the full chamber.

### **MAV Width Bill Clears State Senate**

The state Senate unanimously passed a bill to change the state’s vehicle code regarding the width of multipurpose agricultural vehicles (MAVs), commonly known as ATVs or side-by-sides.

Currently, the state vehicle code requires that MAVs be no wider than 62 inches; however, newer models of side-by-sides are often up to 66 inches wide. Senate Bill 995 would change the vehicle code definition of an MAV to include vehicles up to 66 inches wide.

Farmers are allowed to operate MAVs in a limited capacity on roadways as part of their farming operations. This change would make sure that farmers who have newer models of MAVs would still be able to legally move those vehicles on the road.

The legislation now heads to the House for consideration.

### **State Senate Committee Advances Wind Power Bill**

A state Senate committee has advanced a bill that would allow construction of wind turbines on preserved farmland.

House Bill 441, introduced by Rep. Curt Sonney of Erie County, was approved by the Senate Agriculture and Rural Affairs Committee and now heads to the full chamber for consideration. The state House passed the bill last year.

The plan would allow the owner of preserved farmland with 50 or more acres to grant a right-of-way for the installation of a wind power generating system. Now, such landowners may grant rights-of-way for other utilities, such as water, sewage, electric, telephone, underground mining and gas- or oil-product lines. The bill would add wind power to that list.

### **Ag Law updates**

**Brook Duer—Staff Attorney**

**Audry Thompson—Research Assistant**

### **Crop Insurance: Notice of Loss Filing Requirement Eased**

On July 2, 2020, the U.S. Department of Agriculture (USDA) Farm Service Agency (FSA) announced several “flexibilities” (more information at <https://www.fsa.usda.gov/news>) for producers filing a *Notice of Loss* on both insured and uninsured crops for prevented planted acres and failed crops. RMA states that a *Notice of Loss* “can be filed before completing the crop acreage report,” on which USDA has waived late filing fees, until a month after the original July 15, 2020 deadline.

### **COVID-19: Coronavirus Food Assistance Program (CFAP) Pennsylvania Data**

Every Monday, USDA updates its publicly available data (<https://www.farmers.gov/cfap/data>) on aggregate Coronavirus Food Assistance Program (CFAP) payments. Pennsylvania totals as of July 6, 2020, are set forth below.

<u>PENNSYLVANIA</u>	<u>Payments</u>	<u>Applications</u>
Non-Specialty Crops	\$11,830,228	2,997
Specialty Crops	\$2,290,715	32
Livestock	\$17,672,574	3,186
Dairy	\$64,974,517	1,963