

AG ISSUES UPDATE

Edited by Sara Hricko

December/January 2020-21

USApple Updates

2020 Annual Review Now Available

2020 brought new challenges and new successes to the apple industry, but we are especially proud of our member community and all you have done to keep working, innovating and moving forward. Read more about the industry's accomplishments in USApple's 2020 Annual Review found here <https://usapple.org/wp-content/uploads/2020/12/USApple-AnnualReview-F.pdf> .

USApple/Agriculture Workforce Coalition Reach out to Transition Team

Last week, USApple and members of the Agriculture Workforce Coalition Steering Committee wrote a letter to former Senator Ted Kaufman who serves as the head of the Biden transition team. The purpose of the letter was to introduce the coalition and our priorities. We highlighted the difficulty in securing an adequate workforce and the need to pass meaningful legislation. Until legislation is enacted, we urged President-Elect Biden to streamline and improve the H-2A program and initiate protections for farmworkers from deportation. Once more appointments have been made the coalition will follow-up to initiate further discussion and meetings with key officials and staff.

USApple Releases December 2020 Storage Report – Fresh Apple Movement Accelerates

As reported in the December 2020 edition of Market News, total U.S. apple holdings are 146.8 million bushels -- a decrease of 9.2% or 15 million bushels compared to December 2019 storage levels.

Fresh apple holdings declined by 13.1% compared to the same month last year. This represents an acceleration in fresh apple movement as November 2019 to November 2020 values were only down 11.8%. Processing apple holdings were slightly greater (1.3%) than December 2019 values, but this change likely had more to do with survey participation than a significant deceleration in movement or a late season increase in storage.

Stocks of Red Delicious and Gala are significantly less than they were at the same point last year with declines of 6.9 million bushels (22.8%) and 4.1 million bushels (13.6%) respectively. As expected, given the dramatic increase in holdings last month, Cosmic Crisp stocks were almost 1.5 million bushels above December 2019 figures -- an increase of almost 365%.

Access the full report here: https://usapple.org/wp-content/uploads/2020/12/MarketNews_Dec2020.pdf for a complete analysis by state, variety, and storage facility type.

Congress Passes COVID Relief Bill - Good News for Apple Industry - December 22, 2020

On December 22nd, Congress approved \$900 billion in Coronavirus relief, including \$26 billion specified for agriculture and nutrition. This is welcome news for the apple industry as the bill includes many provisions we have been advocating for.

The legislation makes two important amendments to the second Coronavirus Food Assistance Program (CFAP 2). First, it allows producers to amend their CFAP 2 applications to include crop insurance payments in their total sales data. Second, it gives CFAP 2 recipients the choice of reporting sales data from 2018 instead of 2019.

This was included to assist growers who experienced severe losses in 2019. However, the option is open to all CFAP 2 recipients. If reporting 2018 data yields a larger payment than 2019, you may resubmit. We will provide additional information on this resubmittal process once it becomes available. Please note: the legislation does not create a CFAP 3 program nor does it change the current rule that sales data must be based on "raw" - not packed or finished - commodities.

The legislation directs the Secretary of Agriculture to use a minimum of \$1.5 billion for the purchase of food and agricultural products (specifically including produce) and to assist in protecting workers from the Coronavirus. It also provides a 15 percent increase in Supplemental Nutrition Assistance Program (SNAP) benefits for the next six months and \$75 million for the Gus Schumacher Nutrition Incentive Program (GusNIP), which incentivizes fruit and vegetable purchases by SNAP recipients. The legislation also provides an additional \$100 million for specialty crop block grants administered by the State Departments of Agriculture.

Outside of the agriculture title, the relief bill provides additional aid to business, including renewed funding for the Payroll Protection Program (PPP).

Also in the "good news" department, Congress passed a budget for the remainder of fiscal year 2021, averting the threat of government shutdown, and the Centers for Disease Prevention & Control (CDC) recommended that agricultural workers be given priority access to vaccinations along with other frontline workers under Category 1B. This is a recommendation and the States will have the final say on distribution, but USApple and our coalition partners have been advocating for CDC to make this positive determination.

Farm Bureau updates December/January 2020-21

Agriculture Included in Federal COVID-19 Package

Congress this week approved a \$900 billion COVID-19 relief and stimulus package that includes \$13 billion in funding to benefit agriculture.

The measure faces an uncertain future as it heads to President Donald Trump, who has expressed objections over parts of it, for his signature.

Some of the funding outlined in the bill would be directed towards helping farmers who were left out of previous federal aid programs, including producers who were forced to euthanize livestock amid food supply chain disruptions during the early part of the pandemic. The measure also includes additional support for dairy and both specialty and non-specialty crop growers.

A few highlights of the legislation include:

- Establishing a new, \$400 million dairy donation program and supplemental payments for dairy producers with less than 5 million pounds in annual production.
- Reimbursing producers 80 percent for losses due to premature euthanization or canceled orders.
- Expanding and improving the Paycheck Protection Program to help more farms continue to pay employees during the pandemic, allow funds to be used for COVID-mitigation expenses and make expenses paid with PPP loans tax-deductible.
- Providing a supplemental payment of \$20 per planted acre for non-specialty crops and allowing specialty crop producers to increase support through CFAP 2 by including crop insurance indemnities and disaster payments in their 2019 sales or substituting 2018 sales.
- Allocating additional resources to expand rural broadband and telemedicine access.

Adverse Effect Wage Rate Frozen for Two Years

The Department of Labor announced it will stabilize the wages paid to guest farmworkers. The Adverse Effect Wage Rate (AEWR) will remain at 2020 rates for the next two years.

The final rule no longer uses USDA's Farm Labor Survey for workers who fall under core farm occupations. The survey-based wage methodology led to drastic swings from year-to-year. The new rule allows farmers to plan for the year ahead without having a drastic increase in wages at the beginning of the year.

Vilsack to Reprise Role as U.S. Secretary of Agriculture

Tom Vilsack, who served as agriculture secretary in the Obama administration, has been tapped by President-Elect Joe Biden to return to the role.

A Pittsburgh native, Vilsack was governor of Iowa before he was picked to lead the U.S. Department of Agriculture by President Barack Obama in 2009. Vilsack served throughout the Obama administration.

Regan Picked for EPA Administrator

President-elect Joe Biden has selected North Carolina's top environmental official, Michael Regan, as his nominee to lead the Environmental Protection Agency.

Regan heads North Carolina's Department of Environmental Quality and previously was an air quality specialist for EPA.

Agritourism, COVID-19 Immunity, Vetoed

Gov. Tom Wolf vetoed sweeping COVID-19 immunity legislation that contained language that would have provided civil immunity exemptions to agritourism businesses.

House Bill 1348, drafted to provide limited immunity relief to farmers that host public events and activities on their farms, was amended into a larger civil immunity bill in the final days of the General Assembly's two-year session.

Pennsylvania Farm Bureau is disappointed with Gov. Wolf's decision and will seek to address agritourism liability reform again this legislative session. The governor's veto memo expressed objections to the COVID-19-related provisions but did not mention any qualms with the legal protections for agritourism.

House Bill 1348 was approved by the full House 120-81 before it was amended into HB 1737 while in the Senate. HB 1348 had bipartisan support as it moved through the legislative process. However, the bill became more controversial when it was amended into a larger bill aimed at COVID-19 immunity. House Bill 1348 would have provided farmers limited civil immunity from accidents that occurred beyond their ability to control, such as trip and fall accidents in corn mazes. In order to receive those protections, farmers would be required to post multiple warning signs and also have visitors sign waivers, or place waivers on the back of admission tickets.

House Bill 1348 was approved by the full House 120-81 before it was amended into HB 1737 while in the Senate.

Pennsylvania Farm Bureau will work with lawmakers to reintroduce agritourism legislation in the coming months.

Broadband Expansion Bills Become Law

Two bills that will help expand broadband access in rural Pennsylvania are now law.

Gov. Tom Wolf recently signed Senate Bill 835, following its passage by the General Assembly.

The legislation, introduced by Sen. Wayne Langerholc of Cambria County, creates a special account for grants to develop broadband service in underserved areas. The grants, which will be overseen by the Commonwealth Financing Authority, will be funded by shifting an existing \$5 million tax credit.

A month earlier, the governor signed House Bill 2438, sponsored by Rep. Clint Owlett of Tioga County, after the measure cleared the General Assembly.

That bill makes it easier for rural cooperatives to offer broadband service by allowing them to use their existing utility easements to install fiber-optic lines without having to renegotiate agreements.

Cooperatives would still have to renegotiate if the installation of broadband service results in the need for new infrastructure, such as new poles.

Expanding broadband access is among Pennsylvania Farm Bureau's chief legislative priorities. While high-speed internet is becoming more and more essential to agriculture, business and daily life—a reality underscored by the COVID-19 pandemic—many rural communities lack adequate access.

MAV Width Bill Signed Into Law

A bill that would change the state's vehicle code regarding the width of multipurpose agricultural vehicles (MAVs), commonly known as ATVs or side-by-sides, has become law.

Gov. Tom Wolf recently signed Senate Bill 995, sponsored by Sen. Dan Laughlin of Erie County, following its passage by the state House. The state Senate passed the bill earlier this year.

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, changes 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 measure ensures that farmers who had newer models of MAVs will still be able to legally move those vehicles on the road.

Adopted State Budget is Good News for Agriculture

In the final days of their legislative session, the Pennsylvania General Assembly adopted a budget that will fund the state through June 30, 2021.

The spending plan does not call for any broad-based tax increases and instead relies on federal stimulus dollars and transfers from special accounts to fund operations.

Nearly all of agriculture's priority line items will receive flat funding through the rest of the fiscal year. The Department of Agriculture will receive roughly \$600,000 less in spending than the previous fiscal year, and the department's disaster preparedness line will receive a \$1 million cut. In addition, the state is setting aside grant money to aid county and community fairs that had to cancel due to COVID-19. Those fairs will be able to apply for reimbursements for money they typically would have received for hosting agriculture-specific events and contests. Work on the state's 2021-2022 budget will start in February when Gov. Tom Wolf unveils his next spending plan.

General Assembly Caucuses Choose Leadership

The General Assembly's four caucus have selected their leadership for next year, with women making historic rises.

Senate Republicans selected Kim Ward, of Westmoreland County, as Majority Leader, replacing Jake Corman, of Centre County, who was elected as President Pro Tempore of the Senate—the highest ranking position in the body. Ward's selection as majority leader is the first time that a woman has held that position in the Senate.

House Democrats selected Joanna McClinton, of Philadelphia, as Democratic Leader—the first time a woman has held that position.

Also in the Senate, Republicans selected Pat Browne of Lehigh County as Appropriations Chair; John Gordner, of Columbia County, as Majority Whip; Bob Mensch, of Montgomery County, as Majority Caucus Chairman; and Ryan Aument as Majority Caucus Secretary.

Senate Democrats selected Jay Costa, Jr. of Allegheny County as Democratic Leader; Vincent Hughes of Philadelphia as Democratic Appropriations Chair; Anthony Williams of Philadelphia as Democratic Whip; Wayne Fontana of Allegheny County as Caucus Chair; Maria Collett of Montgomery County as Caucus Secretary; and Katie Muth of Montgomery County as Democratic Policy Committee Chair.

In the House, Republicans selected Bryan Cutler, of Lancaster County, as Speaker of the House; Kerry Benninghoff, of Centre County as Majority Leader; Stan Saylor of York County as Appropriations Chair; Donna Oberlander of Clarion County as Majority Whip; Marty Causer, of McKean County as Policy Chair; Mike Reese, of Westmoreland County as Caucus Chairman; Martina White, of Philadelphia, as Caucus Secretary; and Kurt Masser of Northumberland County as Caucus Administrator.

Also in the House, Democrats selected Jordan Harris, of Philadelphia County, as Democratic Whip; Matt Bradford, of Montgomery County, as Democratic Appropriations Chair; Dan Miller, of Allegheny County, as Democratic Caucus Chair; Tina Davis, of Bucks County, as Democratic Caucus Secretary; Mike Schlossberg, of Lehigh County as Caucus Administrator; and Ryan Bizarro of Erie County as Democratic Policy Chair.

Plenty of Funding Available for Farm Conservation Planning

The Pennsylvania Department of Environmental Protection has lots of funding still available to reimburse farmers in the Chesapeake Bay Watershed for costs associated with developing conservation plans.

As of mid-October, the Agricultural Plan Reimbursement Program still had \$827,000 available to reimburse producers for the cost of hiring technical experts to develop Nutrient and Manure Management and Agricultural Erosion and Sediment Control plans. Plans developed after Jan. 1, 2019 are eligible.

More than one plan may be submitted for reimbursement, for up to a maximum of \$6,000. Plans must be submitted by May 31, 2021 to be eligible for reimbursement.

More information about the program is available at <http://bit.ly/2Nranxh>.

For additional questions, farmers in Bradford, Cameron, Carbon, Centre, Clearfield, Clinton, Columbia, Elk, Jefferson, Lackawanna, Luzerne, Lycoming, McKean, Montour, Northumberland, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Union, Tioga, Wayne, and Wyoming Counties should contact Josh Glace of Larson Design Group at jglace@larsondesigngroup.com or 570.374.5700, extension 4011.

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.

Thompson Named Top Republican on House Agriculture Committee

Pennsylvania is likely to have a much stronger influence on national agriculture policy going into next year.

U.S. Rep. Glenn “G.T.” Thompson, who represents parts of north-central and Western Pennsylvania, has been named Republican leader of the U.S House Agriculture Committee.

As ranking member, Thompson will lead the committee’s GOP caucus and work closely with the committee’s chairman, Rep. David Scott (D-Ga.), on legislation related to agriculture, rural communities and food security.

New Program to Help Agriculture Businesses Navigate Pandemic

The Penn State Small Business Development Center and partner programs at Clarion University and The University of Scranton are launching a new Pennsylvania Small Business Development Centers Agriculture Center of Excellence, a joint initiative to help Pennsylvania agriculture businesses sustain operations and stabilize food supply chains in the wake of the COVID-19 pandemic.

The program will offer training and assistance to help agriculture businesses manage their finances, improve their businesses and navigate the aid programs and new health and safety considerations related to the pandemic.

Learn more at <https://sbdc.psu.edu/about/pasbdc-agriculture-center-of-excellence>.

Nominate Outstanding Ag Educators for 2020-21 Golden Owl Award

Do you know an outstanding agriculture educator? Nominate them now for the Golden Owl Award.

The awards program is presented by Nationwide to recognize exceptional agricultural teachers and provide financial support for their education programs. Nationwide presents the award in five states, including Pennsylvania, where it is awarded in cooperation with Pennsylvania Farm Bureau and Pennsylvania FFA.

The award was presented in Pennsylvania for the first time this year to Mark Anderson, agriculture teacher at Elizabethtown High School in Lancaster County.

Nominations for the 2020-21 award are open now through Dec. 31.

Four finalists will receive \$500 each for their programs and an overall winner will receive the Golden Owl Award trophy and \$3,000 to help bring new educational opportunities to their program.

For more information and to nominate an outstanding agriculture educator, visit www.nationwide.com/golden-owl-award/pennsylvania.

Ag Law updates

Brook Duer—Staff Attorney

Audry Thompson—Research Assistant

Agricultural Labor: United Farm Workers File Suit to Enjoin DOL H-2A Minimum Wage Rule

On November 30, 2020, United Farm Workers (UFW) filed a complaint in the U.S. District Court for the Eastern District of California seeking injunctive relief against the U.S. Department of Labor's (DOL) November 5, 2020 final rule changing the calculation of the H-2A agricultural guest worker minimum wage. *United Farm Workers v. United States Department of Labor*, No. 1:20-cv-01690-DAD-JLT. See *ALWR—week ending November 6, 2020*, "Department of Labor Modifies H2A Minimum Wage Calculation." The complaint states that the rule will result in a 4% average reduction in farmworker pay and alleges that the rule violates the Immigration and Nationality Act (INA) by failing "to protect U.S. farmworkers from the adverse effects caused by wage stagnation or depression due to an influx of foreign guestworkers." According to an order issued by the court, DOL's opposition was due December 7, 2020, the plaintiffs' response was due December 11, 2020, and a hearing on injunctive relief was held on December 14, 2020.

Pennsylvania Farm Bill: 2020 Pennsylvania Farm Bill Funded at \$16 Million Despite COVID-19

On November 23, 2020, Pennsylvania Governor Wolf signed into law Act 17A of 2020, an appropriations act which, along with Act 114 of 2020 amending the Pennsylvania Fiscal Code, completed the budget appropriation process for the entirety of state fiscal year 2020-21. Contained within that budget, is \$16 million in appropriations collectively referred to by Pennsylvania Executive and Legislative Branch officials as the 2020 Pennsylvania Farm Bill. A collection of appropriations benefitting Pennsylvania agriculture was first enacted in July 2019 as the 2019 Pennsylvania Farm Bill for state fiscal year 2019-20 in the amount of \$23 million.

Invasive Species: Emerald Ash Borer Quarantine Regulations Withdrawn

On December 14, 2020, the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) published in the Federal Register a final rule effective January 14, 2021, titled "Removal of Emerald Ash Borer Domestic Quarantine Regulations." 85 FR 81085. Infestations of the Emerald Ash Borer (EAB), a wood-boring pest that feeds on ash trees, have been detected in thirty-five states and the District of Columbia, with other undiscovered infestations highly likely. The final rule discontinues the federal domestic quarantine program in place since 2003 which sought to prevent the spread of the pest and which has proven ineffective. As a result, APHIS will no longer issue permits or compliance agreements, make site visits, or conduct investigations regarding the EAB. APHIS will direct available resources toward non-regulatory options for management and containment of the pest, such as rearing and releasing biological control agents.