

AG ISSUES UPDATE

Edited by Sara Hricko

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USApple Updates

Incoming chairman Chris Alpers Participates in Labor Media Event

Earlier today, USApple incoming Chair, Chris Alpers participated in the panel discussion, "Expanding the Workforce of the Midwest Through Common Sense Immigration Solutions." Sponsored by the American Business Council for Immigration Reform, the event focused on the importance of immigrant labor to the economy in the Midwest. Other panelists included representatives of dairy, nursery & landscape, restaurants and manufacturing. All participants called on Congress to act and pass bipartisan legislation. The target audience was local and national media and Midwest elected officials.

USApple joins WTO Reform Coalition

A coalition of 34 agriculture groups including USApple sent a letter to the Biden Administration advocating for reform of the World Trade Organization. The group's collective members generate 40 million jobs and contribute \$7 trillion to the U.S. economy. In the case of apples, WTO reform could lead to gains in important export markets including India, the third largest market for U.S. apples.

In the letter the coalition stated "The world is looking to the Biden Administration to provide leadership to reform the WTO, a difficult but important task that could serve as a lasting achievement and benefit American workers, including farmers and ranchers, for many years to come. The WTO has served American farmers, ranchers, and workers across the food and agriculture sector well, but in recent years the flaws in the system have become apparent. Reform is badly needed, including changes that lead to a market opening agenda for agriculture and a better functioning institution."

Farm Bureau updates

EPA Takes Action to Ban Chlorpyrifos on Food Crops

The U.S. Environmental Protection Agency is revoking all tolerances for the pesticide chlorpyrifos, effectively banning its use in food crops.

The new rule, which will take effect in six months, comes as EPA is reviewing the registration for the pesticide and soliciting public comments. Through that process, EPA will continue to review non-food uses of chlorpyrifos and said it "may consider additional measures to reduce human health and ecological risks."

EPA Will Continue to Allow Paraquat Application, Expand Safety Measures

The U.S. Environmental Protection Agency has finalized an interim decision on the herbicide paraquat, allowing the product to remain on the market for another 15 years but putting new safety restrictions in place.

The agency walked back a proposal to ban aerial application but will limit pilots to spraying 350 acres per day and impose residential buffers during aerial applications. The new rules also require enclosed tractor cabs for farmers or farmworkers applying paraquat to more than 80 acres per day, banned use of paraquat in backpack sprayers, and prohibited workers from entering a field until 48 hours after paraquat is applied.

Paraquat is applied annually to control invasive weeds and grasses in certain crops, including corn and soybeans. It's a Restricted Use Product, meaning it can only be used by certified pesticide applicators

Agritourism Civil Liability Reform Signed Into Law

Pennsylvania farm families will have more opportunity to diversify their businesses and connect with their communities around food and agriculture thanks to a new law that addresses a significant legal barrier to offering agritourism activities.

Gov. Tom Wolf recently signed legislation to enact commonsense legal protections for agritourism following its passage by the General Assembly.

Pennsylvania Farm Bureau worked closely with state Rep. Barb Gleim to introduce the legislation, House Bill 101. The state House passed the measure in February with a bipartisan, 142-60 vote. And the bill gained widespread support in the Senate, which passed the bill 48-2 last month.

The law's adoption is a major victory for Pennsylvania agriculture. Farmers have sought for years to secure civil liability limits for agritourism to help family farms remain viable through a changing farm economy and connect with their communities around family fun and local food. PFB led the effort to put momentum behind the measure, making it a priority of the organization's grassroots advocacy campaign and holding a news conference last fall to build support.

The law offers commonsense legal protection to farms that invite the public onto their property for agritourism activities, such as corn mazes, pick-your-own produce, hayrides, and similar attractions. Specifically, farms that offer agritourism activities will now have reasonable protection from lawsuits that arise from circumstances beyond their control and in which no party is at fault as long as they warn visitors of the inherent risks of being on a farm, such as uneven ground, weather, and unpredictable animals.

At the same time, farmers will still need to take reasonable steps to ensure guest safety. The law does not give farms a free pass from ensuring guest safety and farms can still be held accountable if they fail to fix or warn patrons of obvious and dangerous safety risks. The measure is modeled off similar laws already on the books in at least 20 other states, including New York and Ohio.

The threat of frivolous lawsuits has been a significant barrier for agritourism operations. In addition to putting their farms at risk by inviting the public onto their property, farmers who engage in agritourism have difficulty finding insurance coverage or have to pay high premiums due to the legal risks involved. The new law limiting civil liability seeks to address this challenge.

State Budget Funds Agriculture But Misses Opportunities on Conservation, Broadband

The 2021-2022 state budget will maintain funding for programs important to Pennsylvania farmers, and address two important tax issues, but misses opportunities to make additional investments that are

needed to strengthen the state's number one industry and grow rural communities throughout the commonwealth.

The budget includes a 5 percent increase for the Pennsylvania Department of Agriculture's general government operations and would maintain level funding for the Penn State Cooperative Extension, the University of Pennsylvania School of Veterinary Medicine and the Pennsylvania Agricultural Surplus System, which assists in getting excess food from Pennsylvania farms and food processors into the charitable food network. The budget also maintains funding for agriculture programs that had been zeroed out in the proposed budget Gov. Tom Wolf outlined in February and the accompanying tax code bill includes two tax provisions important to agriculture.

However, Pennsylvania Farm Bureau expressed disappointment that the spending plan does not include additional funding to expand broadband internet access in rural communities or to assist with implementation of on-farm practices to protect water quality.

Specifically, PFB had advocated for using some federal pandemic relief funding allocated to the state to help in areas such as rural broadband expansion and farm conservation.

Tax Provisions on Crop Insurance, MAVs Included in Budget Package

Two tax provisions that will benefit Pennsylvania farmers—one offering flexibility related to state taxes on crop insurance payments and another clarifying when multipurpose agricultural vehicles are exempt from state sales tax—have been adopted as part of the 2021-2022 state budget package.

The measures had been introduced as stand-alone bills but were rolled into the tax code bill that accompanies the budget.

The provision on crop insurance allows farmers to defer crop insurance payments from state income taxes for one year, bringing state tax policy on crop insurance in line with federal rules. The change gives farmers greater flexibility in paying taxes on crop insurance payments at the times when they need it the most. Because crop insurance payments are triggered at times of severe weather and significant crop loss, farmers receive such payments when the year did not go as planned. Greater flexibility for state income taxes will help farmers manage income and expenses in difficult years.

The other measure clarifies when purchases of MAVs for agricultural purposes are exempt from state sales taxes. Farmers receive a sales tax exemption when purchasing MAVs to be used primarily for farming. However, the state Department of Revenue has a narrow definition of what is considered a farming activity. Many farm chores—maintaining and repairing pasture fencing, for example—fall outside of the department's definition.

Increasingly, farmers have faced state tax audits after claiming the exemption for MAVs used on the farm and had to pay state sales tax because their use of the equipment did not meet the department's criteria for farming. The measure expands the scope of activities considered "farming" to include the wide range of ways MAVs can be used on a farm to support the farmer and their business.

Bill to Improve Broadband Infrastructure Clears House Committee

A bill that would identify opportunities to expand high-speed internet infrastructure is moving forward in the state House of Representatives.

The state House Consumer Affairs Committee approved Senate Bill 442 with a 23-2 vote, sending the measure to the full chamber for consideration. The state Senate passed the bill in May.

The legislation, sponsored by Sen. Kristen Phillips-Hill of York County, would direct the state Department of General Services to compile a list of state-owned assets that could be used to host technology to expand broadband access.

Increasingly, broadband access is becoming critical to agriculture, business and daily life but many rural areas in Pennsylvania lack adequate service. That digital divide was especially highlighted during the

COVID-19 pandemic, when many essential aspects of daily life such as work, education and medicine moved online putting residents in areas where service is lacking at a disadvantage.

Pennsylvania Farm Bureau supports the measure and believes a multi-pronged approach is needed to expand high-speed internet access in Pennsylvania and examining state assets that could assist in broadband deployment is just one of those steps.

On-Site COVID Vaccine Clinics Available for Farms, Agriculture Businesses

The Pennsylvania Department of Agriculture and Pennsylvania Emergency Management Agency are now offering on-site COVID-19 vaccination clinics for farms and other agricultural businesses throughout Pennsylvania.

The program is part of the ongoing effort to vaccinate farmers and farm workers across the state to slow the spread of COVID-19, protect the agricultural community, and prevent further disruptions to the food supply chain.

If your farm business has ten or more people in need of vaccination and is willing to do an on-site clinic, please visit <https://bit.ly/3ifXiWW> to take a survey. A representative will follow up to schedule or answer questions you may have.

Pennsylvania Farm Bureau has information about the vaccine, including where to find appointments, on our vaccine website. Visit www.pfb.com/vaccine for more information.

FSA County Committee Nominations Open

It's time for farmers to nominate candidates to represent their communities in decisions on how federal farm programs are administered at the local level.

Nominations for the U.S. Department of Agriculture Farm Service Agency's county committees are now open. Farmers will have until Aug. 2 to nominate themselves or others to serve on the FSA committee in their county. Candidates must participate or cooperate in an FSA program and live in the area where the election is being held to be eligible. Committee members serve three-year terms.

Farmers should check with their local USDA service center to determine whether there are positions open this year. Committee members make decisions on how FSA programs operate day-to-day and on how the agency deals with disasters, conservation, emergencies, commodity price loan support, county office employment and other agricultural issues.

To be considered, a producer must sign an FSA-669A nomination form. The form and more information about the process are available at www.fsa.usda.gov/elections. Election ballots will be mailed to eligible voters beginning Nov. 1.

Ag Law updates

Brook Duer—Staff Attorney

Audry Thompson—Research Assistant

Conservation Programs: Pennsylvania Announces \$13 Million in REAP Tax Credits

On July 14, 2021, the Pennsylvania Department of Agriculture (PDA) announced the 2021-22 availability of \$13 million in first-come, first-served income tax credits through the Resource Enhancement & Protection Program (REAP) for landowners who implement best management practices (BMPs). According to the REAP guidelines, the program will provide eligible landowners up to \$250,000 in tax credits per operation within a seven-year window for 50–75% of qualified project costs, which includes the design, construction, and equipment for Nutrient Management and Manure Plans and Agricultural Erosion and Sediment Control Plans, among other plans and costs. Landowners may use the tax credits as needed for up to fifteen years and may sell them after one year. The State Conservation Commission will begin accepting applications for the 2021-22 program on August 2, 2021.

Pesticides/Herbicides: New York Finalizes Chlorpyrifos Prohibition

On July 21, 2021, the New York Department of Environmental Conservation (DEC) published in the New York State Register (43 N.Y. Reg. 29) a notice adopting revisions to 6 NYCRR Part 326, which prohibit the “distribution, sale, purchase, possession, or use of” chlorpyrifos. The agency action cancels fifteen chlorpyrifos-based products in response to New York Governor Andrew Cuomo’s December 2019 S.B. 5343 Veto, which directed DEC to ban the pesticide faster than the timeline proposed in the legislation. The recently cancelled product registrations were left active following DEC’s December 2020 cancellation of twenty-nine chlorpyrifos products in order to accommodate the 2021 apple growing season. Also announced by the New York Governor, the cancellations are effective July 31, 2021, after which all chlorpyrifos products must be discarded immediately. DEC’s May 3, 2021 Enforcement Discretion for Distribution of Unregistered Products Containing Chlorpyrifos allows for temporary in-state distribution of chlorpyrifos to remove and dispose of the cancelled products. Also, the enforcement discretion allows the storage of unopened containers of chlorpyrifos products until February 1, 2022, or until DEC retracts the enforcement discretion. See also *ALWR—December 19, 2019, “NY Governor Directs Ban on Chlorpyrifos by Agency Action.”*

Crop Insurance: USDA Announces 60-Day Crop Insurance Premium Payment Extension

On July 27, 2021, the U.S. Department of Agriculture (USDA) Risk Management Agency (RMA) announced that, as part of its drought assistance programs, it will authorize Approved Insurance Providers to extend insurance premium and administrative fee payment deadlines and defer any accruing interest for 60 days or until the policy’s termination date, whichever is sooner. The agency also authorized providers to defer interest for 60 days on Written Payment Agreements due August 1, 2021, through September 20, 2021.

International Trade: Agriculture Trade Groups Advocate for WTO Reform

On July 23, 2021, thirty-three U.S. agricultural trade organizations sent a letter to U.S. Ambassador Katherine Tai and Agriculture Secretary Tom Vilsack supporting World Trade Organization (WTO) reform and encouraging the two executives to promote their principles and priorities in the upcoming 12th Ministerial Conference. The groups call for market-based and sustainable trade liberalization and a more effective and efficient dispute settlement system. Also, they stress that the WTO should establish a graduation process to require that “significant developing country agriculture exporters meet the

same level of ambition as developed countries.” Signatories included American Farm Bureau Federation, American Soybean Association, Bayer US, National Association of State Departments of Agriculture, National Corn Growers Association, North American Meat Institute, and the U.S. Soybean Export Council.

Agricultural Finance: USDA Announces \$67 Million for Heirs’ Property Relending Program

On July 29, 2021, the U.S. Department of Agriculture (USDA) announced the Heirs’ Property Relending Program, which will provide \$67 million in competitive loans to land beneficiaries to resolve heirs’ property title and succession issues. Under the program, heirs may apply for up to \$600,000 through intermediary lenders to finance succession plan costs and consolidate property interests to clear their land title, including purchasing fractional interests from other heirs. Heirs may not use the funds to develop or improve their property. Lenders may begin applying for the program in late August, and more information for borrowers is forthcoming.