

AG ISSUES UPDATE

Edited by Sara Hricko

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USApple Updates

USDA Releases Annual Pesticide Residue Data Report

On January 20th, the USDA released its 30th annual Pesticide Data Program (PDP) report for 2020. The report includes pesticide residue data on 724 samples of apple juice. The analyses looked for the presence of 168 pesticides. No pesticide was detected in more than 29 percent of the samples. No pesticide residue exceeded the EPA tolerances, and most detections were at a very small fraction of the EPA tolerances. In fact, the single sample with the largest residue detected was still less than 17 percent of the EPA tolerance for that pesticide.

43 percent of the samples were U.S. origin, 31 percent were imported and 26 percent were mixed. Fresh apples were last tested in 2016 and apple sauce in 2017. High consumption commodities are cycled through the program about every five years.

USDA's Agricultural Marketing Service conducts the PDP each year to collect new and updated data on pesticide residues in food. EPA establishes pesticide residue tolerances, and the FDA enforces the EPA tolerances.

The full report can be viewed here:

<https://www.ams.usda.gov/sites/default/files/media/2020PDPAnnualSummary.pdf>

COVID-19 Vaccine Mandate for H-2A Workers

The Department of Homeland Security has announced that starting January 22, 2022, H-2A and other essential workers will no longer be exempt from the COVID-19 vaccine mandate to cross the border from Mexico into the United States. The vaccine requirements will be the same as those that have been applied to non-essential travelers for the last few months. Requests for flexibility in allowing workers to be vaccinated upon arrival in the United States were denied. Please note, individuals are considered fully vaccinated 14 days following their final dose of a CDC-approved vaccination.

Additional guidance can be found [here](#) and [Frequently Asked Questions here](#). USApple is reaching out to key Congressional offices. We will also be working with like-minded agricultural groups to ensure disruptions to the program are minimal.

In order to effectively advocate for the industry, we need to have a better sense of the potential impact on growers and when that impact is likely to occur.

Please let me know if you have workers due to arrive in the coming weeks or months who have either not been vaccinated or whose vaccination status is unknown. If you have returning workers who were vaccinated while they were here last summer and fall, they are all set. If you have returning workers who chose not be vaccinated here or were vaccinated in Mexico with a vaccine not on the approved list, please let me know that as well.

Mitchell Liwanag Joins USApple as Manager of Association Services

USApple has a new staff hire. Mitchell Liwanag has joined the organization as Manager of Association Services. Liwanag brings a background of agriculture and association management experience to the role. His portfolio will include financial and office management; meeting logistics and program support; membership, data analysis and communications assistance; and congressional visit coordination.

Liwanag comes to USApple from the National Communication Association where he managed day-to-day office and building operations and assisted with membership management. Prior to this, Liwanag worked for the National Association of State Departments of Agriculture as a policy intern. Here he conducted research on legislative issues, provided policy analysis to staff and helped manage logistics during NASDA's annual meeting. He also interned with former U.S. Congressman Jeff Denham (Calif.). A native of Stockton, Calif., Liwanag was active in both 4-H and FFA growing up and spent summers picking peaches at a local orchard. Liwanag holds a Master of Public Policy, with a concentration in environmental policy, from the University of Massachusetts Dartmouth, and a Bachelor of Science in Agricultural Communication from the California Polytechnic State University, San Luis Obispo.

Farm Bureau updates

PA Inventor Reaches Final Four in 2022 Farm Bureau Ag Innovation Challenge

ATLANTA, Ga. – Pennsylvania Farm Bureau (PFB) member Leighton Rice made it to the Final Four in the 2022 Farm Bureau Ag Innovation Challenge during the 103rd American Farm Bureau Federation (AFBF) Annual Convention, which was held Jan. 7-11 in Atlanta, Ga.

Rice was recognized for his StemPunk device, “a dual-dexterous, hands-free stem clipper” that helps apple pickers “trim stems efficiently and safely for the modern market,” according to the StemPunk website. Rice has been working in the apple industry for 15 years in his family’s business, Rice Fruit Company, and worked with Chris Toner from Team Design Group to create a solution for stem punctures.

The final four teams were selected from 10 semi-finalist business owners who presented to a panel of four industry judges. Each of the 10 semi-finalist teams was awarded \$10,000; the final four teams were awarded a total of \$15,000 each. Rice said the prize money will help tweak their product and have it ready for next season.

“Really anything helps us. We’re just getting started; we’re not funded, we’re self-funded,” said Rice.

After five years of development, Rice says the money will “keep the ship moving.”

Rice said he and Toner have been building the devices in their basement, and last year sent 100 units out for testing. The next step for StemPunk will be finding someone to handle assembly on a larger scale.

“It’s not a complicated assembly, so finding a Pennsylvania-based partner is what we would prefer,” said Rice.

Stem punctures occur when apple stems cause damage to other apples when they are comingling in picking bags or bulk bins and on packing lines. A punctured apple becomes unclassified by USDA standards and must be sold as juice. StemPunk provides pickers an alternative to hand clippers to more efficiently trim stems.

“This was great, good competition,” said Toner. “We really appreciate Farm Bureau doing stuff like this.”

PFB Supported Tax Bills Pass House

A pair of Pennsylvania Farm Bureau (PFB) supported bills related to tax deductions on small business machinery purchases, as well as tax tools for landowners used to calculate depreciation of natural resources, passed in the state House on Tuesday afternoon and were referred to the Senate’s finance committee for consideration.

House Bill 333 would increase the amount that business owners would be able to deduct when purchasing machinery and equipment under Section 179. The federal government recently increased the deduction limit to \$1 million, while the state currently only allows deductions up to \$25,000, which restricts the growth of small businesses.

House Bill 199 would provide two different tax strategies for landowners to use when calculating the depreciation of natural resources on their land, such as oil, gas and timber. Federal tax law currently allows two methods to calculate depreciation – the percent depletion method and the cost depletion method.

Many landowners lack the documentation needed to use the cost depletion method, as a landowner must have established the value of the asset at the time their property was purchased. The IRS gives flexibility to landowners to use either method to calculate depletion. The passage of House Bill 199 would require the state to provide those same tax tools.

Both bills are of key importance in terms of farm and small business tax reform within Pennsylvania.

Pennsylvania Lawmakers pass Broadband Bill

The Pennsylvania General Assembly passed House Bill 2071 this week, which will help bridge the digital divide when it comes to rural broadband in the state. The bill will establish the Pennsylvania Broadband Development Authority, that will address the lack of reliable broadband service in rural areas. The bill now heads to the governor for his expected approval.

The bill addresses the need for broadband expansion by creating an authoritative body that can implement a statewide broadband plan, and serve as a point of contact for entities that look to expand or start new services. The Broadband Development Authority will also oversee the allocation of federal dollars to these projects.

The bill also puts in place safeguards to ensure that areas that have the slowest internet speeds or lack of access are prioritized, and that money and resources are being distributed to those areas first.

USDA Announces Heidi Secord as PA's FSA State Executive Director

USDA announced that Heidi Secord has been appointed as Farm Service Agency (FSA) State Executive Director for Pennsylvania. The news came as part of an announcement that introduced a total of eight new appointees to regional USDA positions around the country.

Heidi Secord has over 26 years of farming and regenerative agriculture experience as the owner of the Josie Porter Farm in northeastern Pennsylvania. She currently serves as a farmer member on the Pennsylvania State Conservation Commission, which she was appointed to by Governor Tom Wolf. Secord previously served as the State President for the Pennsylvania Farmers Union and sat on the National Farmers Union Board of Directors. She has engaged in agricultural policy committee work with multiple organizations, including PASA Sustainable Agriculture Board, Pennsylvania State Council of Farm Organizations (PSCFO), All Together Now Pennsylvania, and the Monroe County Conservation District. Earlier in her career, Secord served as a Peace Corps volunteer for three years in Mali and Lesotho. She graduated with a degree in Business Management from the University of Rhode Island.

FSA State Executive Directors oversee Farm Service Agency operations and agricultural policy implementation in the state. Each State Executive Director works with the State Committee to administer FSA programs and County office operations, develops and maintains stakeholder relationships with customers and other agencies and governments.

Pennsylvania Phasing in Ban of Invasive Callery Pear

The PA Department of Agriculture added Callery pear, commonly called Bradford Pear to a list of noxious weeds — plants that cannot be legally sold or cultivated in the state. The ban on sale and cultivation will take effect February 9, 2022, with enforcement phased in over two years.

Enforcement of the ban will be phased in over two years to allow time for nurseries and landscaping businesses to eliminate it from their stock and replace the trees with alternatives that pose less threat to the environment and agriculture. The department has established an exemption procedure for breeders who own the rights to varieties that have been researched and proven sterile and will consider exempting these varieties from the ban.

The timeline for the two-year rollout of the ban is as follows:

- Winter 2021 – Callery pear added to Pennsylvania’s Controlled plant and Noxious Weed list as a Class B weed. Class B weeds are those that are so prolific they cannot realistically be eradicated. These plants are targeted for control measures.
- February 2022 – Nursery and landscape businesses will receive notice from the department, advising them to immediately begin adjusting propagation, ordering and planting of Callery Pear to decrease inventory.
- February 2023 – The department will issue letters of warning to any plant merchant still selling Callery Pear, providing a date in February 2024 after which remaining inventory will be subject to a destruction order.
- February 2024 – The department will issue Stop Sale and destruction orders to plant merchants selling or distributing Callery Pear.

Those with questions should contact ra-plant@pa.gov.

Property owners can find native alternatives and information on how to control the plant on the PA Department of Conservation and Natural Resources website, dcnr.pa.gov.

To find more information about Callery pear and other noxious, controlled and poisonous plants in Pennsylvania, visit agriculture.pa.gov. For comprehensive information about controlling all invasive species in Pennsylvania, visit the Governor’s Invasive Species Council.

Ag Law updates

Brook Duer—Staff Attorney

Audry Thompson—Research Assistant

Pesticides/Herbicides: EPA Announces New Policy on Endangered Species Act Analyses of New Pesticide Active Ingredients

On January 11, 2022, EPA also announced that it intends to consider the effects of pesticide active ingredients on listed federally threatened and endangered species and their designated critical habitats in early in the process of evaluating, and before registering, new pesticide active ingredients, rectifying

the agency's previous inconsistent performance of the evaluation of such effects. In addition to its official announcement, EPA published two relevant resources on its website: (1) the statement of its policy, titled Progress Toward Protections for Federally Listed Species; and (2) Endangered Species Act Policy for New Active Ingredients: Q&A. The latter document also states the following regarding registration renewals: "EPA has increasingly faced litigation on registrations of new active ingredients issued without adequate compliance with the ESA. In general, ESA section 7 obligations apply to most EPA pesticide actions, including registering new active ingredients. EPA believes that improving ESA compliance in this area will help redirect EPA's resources away from defending new registration decisions . . . In addition to this policy for new active ingredients, EPA is also developing several efforts to protect listed species from the potential effects of already-registered pesticides through the registration review process. In the coming months, EPA will release its ESA-FIFRA workplan, which will provide additional information on these efforts."

COVID-19: Application Deadline Extended for Administration of Farm and Food Worker Relief Grant Program

On January 13, the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) announced an extension of the application deadline for the \$665 million Farm and Food Worker Relief Grant Program from February 8, 2022 until March 10, 2022. This application process is to award grants of \$5,000,000 to \$50,000,000 of Consolidated Appropriations Act of 2021 funds to government entities, non-profits or others who demonstrate the capacity to reimburse individual farmworkers and meatpacking workers for up to \$600 for expenses incurred due to the COVID-19 pandemic. At least \$20 million will be set aside for a separate process to make up to \$600 payments to grocery store workers also. See *ALWR—Nov. 12, 2021*, "Applications Open for Entities to Administer Farm/Food Workers Relief Grant Program."

International Trade: USDA Publishes Report Detailing 2018 Retaliatory Tariffs' Effects

On January 11, 2022, the U.S. Department of Agriculture (USDA) Economic Research Service (ERS) published a report titled "The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture." ERS was directed to prepare the report by the Consolidated Appropriations Act of 2021, signed into law on December 27, 2020. The report details the effects of retaliatory tariffs on U.S. exports imposed in 2018 by Canada, China, the European Union, India, Mexico, and Turkey in response to the U.S.'s 2019 Section 232 tariffs on steel and aluminum imports and Section 301 punitive tariffs on Chinese imports. The

tariffs increased the price of U.S. agricultural products in those markets, anywhere from 2% to 140% and created overall U.S. agricultural product export losses valued at \$27 billion between 2018 and the end of 2019. Lost Chinese agricultural trade accounts for 95% of the total, with soybeans making up 71%, pork 6%, specialty crops 6%, and sorghum 5%. U.S. market share of Chinese agricultural imports decreased from 20% in 2017 to 12% in 2018 and further decreased to 10% in 2019. Canadian and Mexican tariffs were removed in May 2019 and some tariff exemptions were granted by China after the U.S.-China Phase One Trade Agreement signed on January 15, 2020. However, some retaliatory tariffs and resulting losses and loss of market share remain to date. The report concludes, "U.S. agricultural exports to China rebounded and hit record levels in 2020; however, some of this increase was likely driven by factors unrelated to trade policy, including China's pig-herd recovery in the wake of African Swine Fever and resulting increased feed demand. However, U.S. market share has not fully recovered to pre-retaliatory levels 1 year out from the Phase One Agreement signing."