

AG ISSUES UPDATE

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USApple Updates

USDA Releases Annual Report on Pesticide Residues

USDA released the results of its annual Pesticide Data Program report for 2022. Each year, USDA selects a basket of commodities for pesticide residue testing. A one-page backgrounder on the PDP report for apples and apple products is available on our website at [USApple Backgrounder](#). Feel free to download and share this, or any of our backgrounders, with customers or consumers.

Apple testing results were last reported for 2016, although new testing commenced in July 2023. When residues are detected DPA is the most common, however the mean of detections is 0.283 parts per million (ppm), far less than the EPA tolerance of 10.0 ppm.

Apple juice results were last reported in 2022 and applesauce results from testing in 2017. When tested, 100% of the apple, juice and sauce samples were well within the residue tolerances set by EPA, and no residues of unapproved pesticides have been detected.

Cinnamon Applesauce Recall Update

Last week, Ecuadorian officials reported to FDA that Carlos Aguilera, of Ecuador, was the processor of the ground cinnamon used in the recalled cinnamon apple products. It is reported that he is not in operation at this time. According to the Ecuadorian officials, the unprocessed cinnamon sticks used in the recalled products were sourced from Sri Lanka and were sampled and found to have no lead contamination, suggesting it was in the processing of the cinnamon sticks, by Aguilera, where the spice was contaminated with lead and chromium.

House Legislation Introduced to Stabilize H-2A Wage Rates

On January 19, Representatives John Moolenaar (R-MI), Dan Newhouse (R-WA) and others introduced the "Supporting Farm Operations Act." The legislation would provide some relief to H-2A employers by placing a two year pause on increases to the H-2A wage rate. It would also roll back changes to the H-2A wage calculation enacted last year which place additional cost and administrative burdens on employers.

USApple President and CEO, Jim Bair, is included in Rep. Moolenaar's press release, applauding the introduction: "On behalf of our growers across the nation, the U.S. Apple Association thanks Representative Moolenaar for understanding their predicament and taking this action. We call on all Members of Congress to support this effort. Bringing stability and common sense to the H-2A program will be the only way family farms can keep pace with the costs and regulatory burdens they face in producing America's favorite fruit."

Capitol Hill Day-Register Now!

USApple's Capitol Hill Day will be Tuesday, March 19. The event offers an excellent opportunity to network with leaders from other states and most importantly make our apple voice in D.C. louder and stronger! Labor costs, proposed extreme H-2A regulations, crop insurance and export promotion mean there is plenty to discuss and advocate for on behalf of the industry. For registration information and a link to the hotel room block [click here](#). If you have questions or need additional information, please contact USApple Senior Vice President, Diane Kurrle. We hope to see you in March!

Labor Tops USApple Legislative Targets for '24

Last week, USApple's Government Affairs Committee met in Washington, D.C. to discuss legislative issues and set priorities for the year. Chaired by USApple Vice Chairman, Brett Baker of New York, the Committee also includes representatives from Washington, Michigan, Pennsylvania, Virginia, and California. Agriculture labor and the upcoming Farm Bill debate dominated the discussion. Prior to the meeting, Brett and USApple Senior Vice President Diane Kurrle visited New York congressional offices and urged action on agriculture labor as well as highlighted the success of farm bill programs and the importance of export markets.

Penn State Ag and Shale Law Updates

Agricultural Finance: USDA Opens Applications for FY 2024 Value-Added Producer Grants

On January 17, 2024, the U.S. Department of Agriculture (USDA) Rural Business-Cooperative Service published in the Federal Register a notice of funding opportunity (89 FR 2919) announcing the application opening for Value-Added Producer Grants for fiscal year 2024. According to the notice, the grants are “subject to the availability of funding” because USDA has issued the notice “prior to the FY 2024 appropriations act,” although USDA “estimates that approximately \$30 million will be made available for FY 2024,” “based on FY 2023 appropriated funding.” Also announced by USDA, the grants will provide “up to \$75,000 for planning activities or up to \$250,000 for working capital expenses related to producing and marketing a value-added agricultural product.” Applications may be submitted through Grants.gov until April 11, 2024, or through state offices until April 16, 2024.

Agricultural Labor: Department of Labor Publishes Final Rule: ‘Employee or Independent Contractor Classification Under the Fair Labor Standards Act’

On January 10, 2024, the U.S. Department of Labor (DOL) Wage and Hour Division published in the Federal Register a final rule (89 FR 1638), titled “Employee or Independent Contractor Classification Under the Fair Labor Standards Act (FLSA),” which rescinds and replaces the 2021 rule. Also announced by DOL, the rule uses the “term ‘independent contractor’ [to] refer to workers who, as a matter of economic reality, are not economically dependent on an employer for work and are in business for themselves.” Instead of the “core factors” identified in the 2021 rule, “the final rule returns to a totality-

of-the-circumstances analysis of the economic reality test” that uses six factors that “do not have a predetermined weight and are considered in view of the economic reality of the whole activity”: (1) “any opportunity for profit or loss a worker might have,” (2) “the financial stake and nature of any resources a worker has invested in the work,” (3) “the degree of permanence of the work relationship,” (4) “the degree of control an employer has over the person’s work,” (5) “whether the work the person does is essential to the employer’s business,” and (6) “a factor regarding the worker’s skill and initiative.” The final rule becomes effective March 11, 2024. *For more on FLSA, see materials & recording from Understanding the Basics of the Fair Labor Standards Act.*

Agricultural Labor: 56-Hour Overtime Threshold for New York Farm Workers Effective January 1, 2024

On January 1, 2024, N.Y. Comp. Codes R. & Regs. tit. 12 § 190-2.4(b) became effective, establishing an overtime threshold of 56 hours per week for agricultural workers in New York state. The final regulations, adopted February 22, 2023 from recommendations by the state’s Farm Laborers Wage Board, phase in four-hour overtime threshold reductions for farm workers every two years until establishing a 40-hour workweek in 2032. *For background, see ALWR—Oct. 7, 2022, “New York Labor Commissioner Issues Order Reducing Farm Worker Overtime Threshold from 60 to 40 Hours.”*

Morning Ag Clips

2022 Census of Agriculture PA Data Now Available – February 13th, 2024

HARRISBURG, PA — The U.S. Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) Northeastern Regional Field Office announced the results of the 2022 Census of Agriculture with new information about 49,053 Pennsylvania farms and ranches and those who operate them, including data about on-farm decision making, down to the county level. The number of farms is down for Pennsylvania by 8 percent from 2017, but most of this decrease can be attributed to the mid-size farms of 50 to 179 acres being lost, according to Charles Butler, Acting Northeastern Regional Field Office Director.

Census data provide's valuable insights into demographics, economics, land and activities on U.S. farms and ranches.

Some key Pennsylvania highlights include:

- The average age of all producers was 55.4 years of age, compared to 54.8 years in 2017.
- The number of female producers decreased by 1 percent from 2017.
- The per farm average net income increased from \$42,020 in 2017 to \$66,626 in 2022.
- The total value of production of all products is \$10.3 billion, an increase of 33% over \$7.8 billion in 2017.
- Organic farm numbers decreased by 11 percent from 2017.
- Value of sales is \$628 million for organic farming, down from \$708 million in 2017.

Other demographic highlights include:

- New and beginning producers with 10 years or less of farming comprised of 24,448 producers.
- Producers with military service represented 6,058 compared to 7,549 producers represented in 2017.

The response rate for the 2022 Census of Agriculture was 61%; more than 40% of responses were submitted online. Ag census data highlight publications are available at nass.usda.gov/Publications/Highlights.

Ecuador Officials Name Likely Source of Tainted Cinnamon That Poisoned U.S. Children – February 7th, 2024

WASHINGTON — Officials in Ecuador have named the likely source of contaminated ground cinnamon used in fruit pouches tied to more than 400 potential cases of lead poisoning in U.S. children, the Food and Drug Administration said Tuesday.

Carlos Aguilera, a cinnamon-processing company in Ecuador, supplied the spice added to WanaBana and other applesauce pouches sent to the U.S., according to the Ecuadorian regulatory agency ARCSA. The cinnamon, which was sent to another supplier, Negasmart, was found to be contaminated with high

levels of lead and chromium, an FDA analysis showed. Carlos Aguilera is not operating at this time, ARCSA said.

The unprocessed cinnamon sticks used in the products were originally imported from Sri Lanka. The sticks were tested and found to have no lead contamination, ARCSA told FDA. The Ecuador agency's investigation is continuing.

FDA has limited authority over foreign ingredient suppliers who do not ship product directly to the U.S. Because the finished pouches, but not the cinnamon itself, were shipped to the U.S., the agency cannot take direct action against Negasmart or Carlos Aguilera, officials said.

The U.S. Centers for Disease Control and Prevention has received reports of 413 suspected, probable or confirmed cases of lead poisoning, mostly in young children, in 43 states.

Governor Shapiro's \$10.3 Million Agriculture Innovation Fund – *February 7th, 2024*

NEW HOLLAND, Pa. — Today, at New Holland Agriculture's Lancaster County campus, Governor Josh Shapiro and Secretary of Agriculture Russell Redding highlighted key pieces of Governor Shapiro's 2024-25 budget, focused on creating economic opportunity for all in communities across the Commonwealth. Governor Shapiro and Secretary Redding took a hands-on tour of New Holland Agriculture's Lancaster County campus, where innovative, high-tech machinery that is driving progress in agriculture and conservation is developed, manufactured, and sold.

Governor Shapiro understands that our economic success is dependent on our rural communities and our farmlands – and his 2024-25 budget proposal puts agriculture front and center in that conversation, investing \$10.3 million in Agriculture and Conservation Innovation funds that will support innovative manufacturers and provide opportunities for farmers to be more efficient and productive, while enhancing the soil and water resources key to Pennsylvania's future.

New Holland Agriculture – a brand of CNH Industrial – has a 341-acre campus in Lancaster County that includes a 150-acre test farm and a 700,000-square-foot equipment manufacturing plant. The campus

provides 600 jobs, including a Pennsylvania-certified earn-while-you-learn Ag Equipment Service Technician Apprenticeship designed to fill a pipeline for skilled technicians who can service cutting-edge, computerized equipment.

Some of the innovative equipment developed and manufactured by New Holland runs on alternative energy sources and autonomous technology. The Pennsylvania-based business is helping make it possible for farmers to precisely target fertilizer and pesticide applications where problems exist, and deliver precision planting and harvesting to lower costs, increase productivity, and sustain their farms' future.

The Innovation and Conservation program will magnify the impact of conservation investments in the PA Farm Bill, including the Resource Enhancement and Protection Program that helps farmers purchase conservation equipment, Conservation Excellence Grants, Farm Vitality Grants for planning, the Agricultural Conservation Assistance Program and others.

The Governor's Economic Development Strategy, the first in nearly 20 years, puts agriculture front and center in the conversation. The strategy recognizes that the 53,000 farms across the Commonwealth support over 600,000 jobs and contribute \$132 billion to our state's economy.

The agriculture sector is a critical economic driver – and to continue Pennsylvania's national legacy as an agriculture leader, the 2024-25 budget proposes investing:

- \$10.3 million in agriculture innovation to help support and attract new agricultural businesses, including energy and conservation endeavors, and to continue to build the future of American agriculture right here in Pennsylvania.
- \$5.6 million to reform the Dairy Margin Coverage Protections that protect dairy farmers from harmful price fluctuations.
- \$5 million for a new state laboratory in western Pennsylvania that will provide much needed testing capacity, helping with rapid diagnosis and mitigation of future highly pathogenic avian influenza (HPAI) outbreaks across the state.
- \$1.7 million in cloud computing solutions and migration of state laboratory data to a more advanced information management system.
- \$655,000 to fund a groundbreaking new state program for agricultural seed certification and trade assistance that will grow Pennsylvania's role as a national and international agricultural leader.

- \$145,000 for a novel pest detection program using dogs to prevent pest outbreaks without the expensive and potentially harmful use of pesticides.

PA Awards \$2.232 Million for Research – January 28th, 2024

HARRISBURG, Pa. — Agriculture Secretary Russell Redding announced \$2.232 million in funding for research proposals on issues critical to sustaining and growing Pennsylvania’s \$132.5 billion agriculture industry. Funded projects will address complex challenges ranging from reducing impacts of climate change and measuring soil and water conservation, to tackling emerging animal care issues, and developing plant-based solutions to reduce threats to human health.

Research grants currently funded through the PA Department of Agriculture are developing novel solutions to controlling animal and plant diseases and pests; increasing regenerative and organic farming methods that enrich and sustain our soil and water resources; advancing human and animal medicine; applying emerging technology in food safety; and protecting pollinators that are crucial to our food supply.

Learn more about agriculture research funding and initiatives and investments to grow, protect, and sustain Pennsylvania’s agriculture industry at agriculture.pa.gov.

National Association of State Departments of Agriculture Sets Its Federal Policy Focus – January 23rd, 2024

ARLINGTON, Va. — NASDA members, the state commissioners, secretaries and directors of agriculture, have chosen five issues to serve as the organization’s primary policy focus for 2024. They include the 2024 Farm Bill, food safety, labor reform, pesticide regulation and PFAS.

NASDA CEO Ted McKinney remarked on the gravity of these issues for 2024.

“These issues were chosen for the organization’s 2024 focus as NASDA members see urgent need for action in these areas to support farmers and ranchers in their ability to grow our nation’s food, fiber and

fuel. Further, we believe these are the areas where state departments of agriculture are uniquely positioned to champion policy solutions this year,” McKinney said.

NASDA has published one-pagers offering background and insight for each policy priority.

2024 Farm Bill

NASDA implores Congress to expedite passage of a unified farm bill that secures a commitment to American agriculture, notably its farmers and ranchers, and the critical food and nutritional assistance programs for those who need it most.

Food Safety

State departments of agriculture are the frontline in protecting consumers against foodborne illness and food contamination. NASDA will continue to advocate for funding state Food Safety Modernization Act programs to protect our food supply and ensure farmers across the country are equipped with the information needed to apply Food Safety Modernization Act requirements on their farms.

Labor Reform

Farmers and ranchers need a legal, reliable guest worker program that provides a workforce that supports farms and ranches and treats workers respectfully. Reforming the H-2A program would provide farmers and ranchers with a legal and reliable workforce while curbing rising food prices and maintaining our global competitiveness.

Pesticide Regulation

In 43 states and Puerto Rico, the state department of agriculture is a co-regulatory partner with EPA and is responsible for administering, implementing and enforcing the production, labeling, distribution, sale, use and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act which establishes a rigorous, scientific evaluation and review process for these tools. EPA has stated that the agency faces several challenges in developing timely and effective strategies that protect listed endangered species in a way that is both practical for pesticide users to implement and timely to protect species. NASDA, as always, stands ready to work with EPA on developing an Endangered Species Act compliance strategy that growers can support and comply with while safeguarding endangered species.

PFAS

Per-and-poly-fluoroalkyl substances (PFAS) are steadily emerging as a major issue to society at large,

including farmers and ranchers in the United States. NASDA supports urgently funding additional federal research to answer questions and concerns regarding the presence of PFAS in our society and the degree to which it presents risk. NASDA also supports developing strategies to address the presence of PFAS should it be found on or around farms. Our country must ensure farmers and ranchers keep their agricultural land and animals healthy and productive.

Read more about each of the 2024 policy priorities and all NASDA's policy work at [NASDA.org/policy](https://www.nasda.org/policy).

Ag Secretary Tom Vilsack Meets with China's Minister of Agriculture and Rural Affairs – *January 21st, 2024*

WASHINGTON — Agriculture Secretary Vilsack offered the following statement following his meeting today [Jan. 18, 2024] with People's Republic of China Minister of Agriculture and Rural Affairs Tang Renjian:

"Today I hosted a meeting with my counterpart from the People's Republic of China, Minister of Agriculture and Rural Affairs Tang Renjian. In addition to addressing outstanding market access issues and other U.S. agricultural stakeholder concerns, we discussed approaches to tackling climate and food security challenges. I emphasized the importance of an enabling environment for innovative technologies and practices to ensure productive and sustainable agriculture systems and to facilitate trade.

"I look forward to further exchanges and cooperation as we continue to forge a relationship that expands and improves market access opportunities for U.S. farmers and ranchers in China, an important agricultural export market."

Today marked the first meeting since 2015 of the Joint Committee on Cooperation in Agriculture, which was established in 2003 as a forum for coordinating bilateral exchanges and cooperation in agriculture between the United States and China.

PA Awards Nearly \$500,000 in PA Farm Bill Grants – *January 9th, 2024*

HARRISBURG, Pa. — Agriculture Secretary Russell Redding today announced \$498,161 in PA Farm Bill Agriculture & Youth Grants awarded to 47 organizations in 24 counties, funding projects that prepare youth to succeed in Pennsylvania's \$132.5 billion agriculture industry. Students and educators from Fox Chase Farm, the School District of Philadelphia's 112-acre demonstration farm, and Variety – the Children's Charity of the Delaware Valley joined Secretary Redding to make the announcement in the 2024 PA Farm Show's *So You Want to Be a Farmer* area, where anyone can learn how to raise food or flowers for fun, for profit, or for a new career.

The Shapiro Administration's commonsense, bi-partisan budget for 2023-24 funds a fifth year of Ag & Youth Grants through the PA Farm Bill. Since 2019, Ag & Youth Grants have invested just under \$2 million in 194 projects statewide. Overall, more than \$150 million in projects and initiatives to grow Pennsylvania's agriculture industry have been funded through the PA Farm Bill.

Grants awarded today support projects in Allegheny, Berks, Blair, Bucks, Butler, Chester, Columbia, Cumberland, Dauphin, Delaware, Erie, Forest, Greene, Huntingdon, Lancaster, Lawrence, Lebanon, Lehigh, Montgomery, Perry, Philadelphia, Union, Washington, and Westmoreland counties.

Fox Chase Farm received a \$25,000 matching grant to fund an automated, mobile chicken house.

The 2023-24 budget invests another \$13.8 million in the PA Farm Bill, continuing support for Pennsylvania's Commission for Agriculture Education Excellence, and supporting youth education and workforce development initiatives including the largest increase ever in basic K-12 education funding, expanded apprenticeships and career and technology training, and continued work to expand broadband internet access to allow students and employers in rural communities to compete.

PA Farm Bill Ag and Youth Grants provide direct funding of up to \$7,500 and matching grants of up to \$25,000 to support projects, programs, and equipment purchases by youth-run organizations, and those with programs that benefit youth or promote agriculture, community leadership, vocational training, and peer networking. Past funded projects include agriculture career seminars and field trips, agricultural safety training, capital projects, and equipment purchases aimed at leading students to opportunities in agriculture and building the future workforce Pennsylvania's agriculture industry needs.