

AG ISSUES UPDATE

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USApple Updates

EPA Launches Office of Agriculture and Rural Affairs

The EPA recently announced that it is establishing a new office to expand engagement opportunities with agricultural and rural communities. The office is designed to improve environmental stewardship and economic opportunity for agriculture. Rod Snyder, the EPA Administrator's Senior Advisor for Agriculture, will lead the department. Snyder spoke at the 2023 USApple Outlook conference about his connection to the apple industry and EPA's commitment to working with apple growers on environmental issues.

FDA Finds Elevated Levels of Lead in Ground Cinnamon Products in U.S. Retailers

In an FDA alert, the agency is advising consumers to throw away and not buy certain ground cinnamon products, due to elevated levels of lead.

Since the cinnamon applesauce recall began in October 2023, USApple has urged regulators and reporters to focus on the cinnamon. We're glad to see that in response to the cinnamon contamination in the applesauce, the FDA initiated this targeted survey of ground cinnamon products from discount U.S. retail stores and analyzed the samples for lead and chromium. It found six distributors whose products had elevated lead levels ranging from 2.03 to 3.4 parts per million. For context, the current FDA guideline for lead in applesauce is 10 parts per billion (or 0.01 parts per million).

While it's unnerving to learn more ground cinnamon products have been found to have elevated levels of lead, it's encouraging that FDA is conducting more testing and holding the cinnamon supply chain accountable.

Penn State Ag and Shale Law Updates

Pesticides/Herbicides: EPA Publishes Final Rule Reinstating Chlorpyrifos Food Tolerances

On February 5, 2024, the U.S. Environmental Protection Agency (EPA) published in the Federal Register a final rule (89 FR 7625) reinstating tolerances for the pesticide chlorpyrifos, consistent with the U.S. Court

of Appeals for the Eighth Circuit’s November 2021 opinion. Tolerances were reinstated for the following commodities: alfalfa, almonds, apples, bananas, beets, cattle, cherries, citrus, corn, cotton, cranberries, cucumbers, eggs, figs, goats, hazelnuts, hogs, horses, kiwifruits, milkfat, nectarines, onions, peaches, peanuts, pears, pecans, peppers, peppermint, plums, poultry, pumpkin, radishes, rutabagas, sheep, spearmint, sorghum, soybean seeds, strawberries, sunflower seeds, sweet potato roots, turnips, leafy brassica, legumes, walnuts, and wheat (40 CFR §180.342). The final rule became effective upon publication. *For background, see ALWR—Nov. 14, 2023, “Circuit Court Remands Chlorpyrifos Tolerance Revocation for Further Reconsideration.” For more on chlorpyrifos, see the Center’s Chlorpyrifos Issue Tracker.*

Pesticides/Herbicides: EPA Publishes Document Supporting 2021 Paraquat Interim Decision

On February 1, 2024, the U.S. Environmental Protection Agency (EPA) published in the Federal Register a notice (89 FR 6521) making available a document that “presents EPA’s preliminary reconsideration of the issues raised” in a case challenging the agency’s 2021 interim decision for paraquat dichloride, including EPA’s “assessment of whether paraquat poses a risk of Parkinson’s Disease, its analysis of respiratory and dermal exposures, as well as exposures to direct and indirect paraquat drift; the analysis of benefits; the consideration of health-related costs; and the required balancing of paraquat’s risks and benefits” EPA-HQ-OPP-2011-0855. *See also California Rural Legal Assistance Found’n v. USEPA*, No. 21-71287 (9th Cir.). According to the document, which EPA presents in support of its 2021 interim decision, “EPA notes that additional information has been submitted during the development of th[e] document” that “has not been incorporated . . . due to timing constraints,” including “approximately 90 submissions including scientific studies,” “testimony filed in an ongoing state lawsuit concerning paraquat,” and letters from Earthjustice and the Michael J. Fox Foundation. Additionally, EPA published in the same docket a letter to paraquat registrants reminding them of their “obligations under [the Federal Insecticide, Fungicide, and Rodenticide Act] . . . to report information concerning unreasonable adverse effects of their products.” The document and Federal Register notice are open for public comment until April 1, 2024.

Agricultural Labor: D.C. Federal Court Upholds 2022 H-2A Rule

On January 29, 2024, the U.S. District Court for the District of Columbia issued a memorandum opinion denying the National Council of Agricultural Employers’ (NCAE) motion for summary judgment and upholding the U.S. Department of Labor’s (DOL) 2022 H-2A final rule. *Nat’l Council Agric. Employers v. U.S. Dep’t Labor*, No. 1:22-cv-03569. The final rule was published in the Federal Register in November 2022 after a previous rule was published on DOL’s website and submitted for Federal Register publication by the outgoing administration in January 2021—but was never published in the Federal Register—and then immediately withdrawn by the Biden administration on January 20, 2021. The court found that the 2022 rule was properly promulgated because the January 2021 rule was never made final

through Federal Register publication. Additionally, the court held that the NCAE did not have standing to challenge DOL's withdrawal of the 2021 H-2A Rule, writing that the NCAE "failed to show 'that any of its members suffered an injury in fact from the withdrawal of the 2021 Rule.'" *For background, see ALWR—Jan. 9, 2023, "Ag Employer Group Challenges October 2022 H-2A Final Rule," and ALWR—Feb. 27, 2023, "D.C. Court Declines to Enjoin 2022 H-2A Regulation Revisions."* *For more on the H-2A program, see the Center's H-2A Program Issue Tracker.*

Agricultural Labor: DOL Publishes Notice Updating H-2A Meal Charge and Travel Reimbursement Rates

On February 13, 2024, the Department of Labor (DOL) Employment and Training Administration published in the Federal Register a notice (89 FR 10101) updating the allowable meal charges and travel-related subsistence reimbursement rates for H-2A and H-2B programs. Due to a 2.7% increase in food prices during 2023, the notice increases from \$15.46 to \$15.88 the amount that employers may charge H-2A employees for providing three meals per day, as required by law. Additionally, the notice allows H-2A and H-2B employees to claim up to a maximum of \$59 per day for lodging and meals "incurred . . . during travel to the place of employment from the place from which the worker has come to work for the employer . . . [or] departed to work for the employer, as well as any such costs . . . to obtain a visa." The notice was effective upon publication.

Morning Ag Clips

AFBF: House Ag Committee Offers Solutions to Farm Labor Crisis

WASHINGTON — The House Committee on Agriculture has laid out a roadmap to relieve labor shortages that have seriously impacted America's farmers and ranchers. The Agriculture Labor Working Group (ALWG) released its final report on how to improve the H-2A guest worker program. It includes more than 20 recommendations to streamline the program and make labor more affordable for farmers.

"We are losing farms in America at a rapid pace and there is no question that our broken workforce system is partly to blame," said American Farm Bureau Federation President Zippy Duvall. "This report makes it clear, once again, that there is bipartisan agreement on the need to improve the H-2A program to better serve America's agriculture sector. This working group of the House Agriculture Committee spent months studying and discussing this issue and now delivers important bipartisan solutions for America's struggling agricultural labor force.

The ALWG consisted of Democrats and Republicans, with 15 recommendations receiving unanimous approval. While the recommendations from the ALWG do not address all the labor challenges facing farmers, they do offer needed solutions, including:

- Streamlining the recruiting and hiring of H-2A employees;

- Expanding the H-2A program to meet year-round needs;
- Paying employees based on duties performed for the majority of their day; and
- Reforming wage calculation standards to provide stability in farmworker pay rates.

Out of control wage rate increases have taken a toll on America’s farms. A recent Market Intel shows that the mandatory base wage rates for H-2A workers increased almost 41% from 2018 to 2024. This growth in the Department of Labor-calculated agricultural wage rate is almost 60% higher than the growth in the overall U.S. Employment Cost Index.

The report includes several weather-related worker protection recommendations. Farmers and ranchers are committed to ensuring the health and safety of their employees, and Farm Bureau looks forward to working with policymakers to ensure that any heat-related labor regulations do so while also accounting for the diversity of weather conditions and labor duties. *-March 8, 2024*

FDA Takes Steps to Ensure Safety of Cinnamon Products Sold in the US

WASHINGTON — The U.S. Food and Drug Administration is taking several additional steps to address concerns about elevated lead levels in cinnamon following the recent incident associated with certain cinnamon apple sauce pouches that resulted in lead poisoning in young children. Today, the agency sent a letter to all cinnamon manufacturers, processors, distributors and facility operators in the U.S., reminding them of the requirement to implement controls to prevent contamination from potential chemical hazards in food, including ground cinnamon products. The agency is also recommending the voluntary recall of certain ground cinnamon products sold by a number of brands at six different retail chains that were found to contain elevated levels of lead.

The agency notified the distributors and manufacturers of products found to contain elevated levels of lead and recommended that the manufacturers voluntarily recall these products because prolonged exposure to them may be unsafe. The products were identified during an FDA-initiated sampling and testing effort to assess cinnamon sold across numerous retail stores. No illnesses or adverse events have been reported to date related to the ground cinnamon products listed below, but the FDA is concerned that, because of the elevated lead levels in these products, continued and prolonged use of the products may be unsafe.

The FDA is advising consumers to throw away and not to buy the ground cinnamon products with the lot codes listed below because samples of these products were found to contain elevated levels of lead. Consumers can find lot codes listed on the product’s label. The FDA is working with the firms listed below to voluntarily recall the products, with the exception of the MTCI cinnamon. The FDA has been unable to reach MTCI to share its findings and request that the company initiate a recall. The FDA will update its Safety Alert with new information as it becomes available.

Ground Cinnamon Distributor	Ground Cinnamon Retailer(s)	Ground Cinnamon Lot Code(s)

La Fiesta Food Products La Miranda, CA	La Superior SuperMercados	25033
Marcum, Moran Foods, LLC Saint Ann, MO	Save A Lot	Best By: 10/16/25 10 D8; 04/06/25 0400B1
MTCI Santa Fe Springs, CA	SF Supermarket	No codes
SWAD, Raja Foods LLC Skokie, IL	Patel Brothers	KX21223 Best Before: July 2026
Supreme Tradition, Greenbriar International, Inc. Chesapeake, VA	Dollar Tree Family Dollar	Best By: 09/29/25 09E8; 04/17/25 04E11; 12/19/25 12C2; 04/12/25 04ECB12; 08/24/25 08A_ _; 04/21/25 04E5; and 2025-09-22 09E20
El Chilar Apopka, FL	La Joya Morelense, Baltimore, MD	F275EX1026; D300EX1024

It is important to note that the lead levels found in the ground cinnamon products listed above are significantly lower than lead levels in cinnamon in the recalled apple sauce pouches removed from the market this past fall. The products currently recommended for recall contain lead levels ranging from 2.03 to 3.4 parts per million (ppm) lead. The levels of lead in the ground cinnamon recommended for recall is approximately 2,000 ppm to nearly 5,000 ppm lower than the levels of lead associated with the cinnamon in recalled apple puree and apple sauce products. Therefore, these ground cinnamon products do not pose the same level of risk to human health as the apple sauce pouches but could be unsafe for prolonged use.

In the letter sent to the cinnamon industry today, the FDA reminds manufacturers, processors, distributors and facility operators to follow the requirements of the rule *Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food*, including the requirement to consider chemical hazards that may be present in foods when conducting hazard analyses required by this rule. While the agency continues to emphasize the importance of the cinnamon industry’s responsibility to take measures to prevent potential chemical hazards in its products, the letter to industry and recent recalls highlight how the FDA will request the removal of unsafe cinnamon products from the market.

In the meantime, the FDA has continued to make notable progress in reducing exposure to environmental contaminants from foods through its Closer to Zero initiative. For example, the FDA’s

work establishing action levels to reduce levels of inorganic arsenic in infant rice cereals has resulted in close to a 30% reduction since 2020. The agency is continuing the cycle of improvement for arsenic, lead, cadmium and mercury by evaluating the science and other relevant data; proposing draft action levels, as appropriate; consulting with stakeholders on feasibility, achievability and other issues; and adjusting, as needed, and finalizing action levels. While working towards issuing final guidance for lead action levels in food intended for infants and young children remains a priority, today's recalls and letter to industry underscore that the FDA does not need action levels or guidance to take action when the level of a contaminant, such as lead, is unsafe.

As part of Closer to Zero, the FDA continues to pursue additional authorities from Congress to require manufacturers to test ingredients or final products marketed for consumption by infants and young children for contaminants before products enter the U.S. market. Under current federal law, there is no explicit requirement for manufacturers to conduct such testing. The President's FY2024 Budget contains legislative proposals to explicitly require industry to conduct this testing, maintain testing results for FDA inspection and provide the FDA remote access to test results. Having such requirements would help the FDA understand levels of contaminants in foods, allow the FDA to monitor industry progress in reducing levels over time and identify where the FDA should devote more time and resources. In addition, such requirements may prevent products with elevated lead levels from entering the U.S. market in the first instance.

The agency is also working with Centers for Disease Control and Prevention as well as state and local partners to investigate elevated lead and chromium levels in individuals with reported exposure to apple cinnamon fruit puree pouches manufactured in Ecuador and sold in the U.S. under WanaBana, Weis and Schnucks brands. This work led to a voluntary recall of these products in October 2023.

The FDA and industry share a common goal of ensuring the safety of food, but more can and must be done. Until these additional authorities are granted, the FDA will continue using all currently available tools to conduct additional sampling and testing of foods with known hazards, including cinnamon and cinnamon-containing foods consumed by babies and young children, and looking at samples collected both domestically and at import. -*March 4, 2024*

Record Drop in Farm Income Expected in 2024

CAMP HJILL, Pa. — Farmers can expect the largest recorded year-to-year dollar drop in net farm income in 2024. Income is estimated to be nearly \$40 billion lower this year compared to 2023, down more than 25%. American Farm Bureau Federation economists analyzed the latest USDA data in a Market Intel.

Net farm income is the profit farmers see after paying for operating expenses. Two major factors are impacting income forecasts – lower prices paid to farmers for crops and livestock, and increased costs for supplies. While these are early estimates and they could change throughout the year, USDA anticipates a decrease in net farm income, moving from \$156 billion in 2023 to \$116 billion in 2024.

The Market Intel explains, "Cash receipts for crop and livestock sales are expected to move from \$507 billion in 2023 to \$486 billion in 2024 for a loss of \$21 billion (4%). The forecast decline in crop receipts explains nearly 80% of this difference, signaling a weaker incoming year for row crop prices."

Production expenses remain stubbornly high as well. Transportation, labor, pesticide and fertilizer costs are all hitting farmers' bottom line. Production expenses are estimated to increase 4%, or \$16.7 billion, in 2024, totaling \$455 billion in 2024-March 2, 2024

Farmers from 10 EU Countries Join Forces – And Tractors – to Protest Agricultural Policies

PRAGUE (AP) — Czech farmers were driving their tractors and other vehicles to several border crossings on Thursday to meet their colleagues from neighboring countries and join forces in their protests against European Union agriculture policies, bureaucracy and overall conditions for their business.

Farmers complain that the 27-nation EU's environmental policies, such as the Green Deal, which calls for limits on the use of chemicals and on greenhouse gas emissions, limit their business and make their products more expensive than non-EU imports.

The farmers also complain about low prices for their products and say grain and other agriculture products coming from Ukraine and Latin America negatively affect the market.

The farmers met their colleagues from neighboring Germany, Poland and Slovakia at a number of border crossings. Farmers from 10 EU countries, ranging from Central Europe to the Baltics and the Balkans, were participating in the protest, organizers said.

The farmers invited Czech Agriculture Minister Marek Vyborny, his Slovak counterpart Richard Takac, and the representatives of farmers from Poland and Hungary to rally at a Czech-Slovak border crossing known as Hodonin-Holic, which was blocked by hundreds of tractors.

"We don't protest against the EU, we protest against the wrong decisions by the European Commission," said Andrej Gajdos from the Slovak Chamber of Agriculture and Food. -February 22, 2024

Note: All over Europe, farmers have driven their tractors to their country's capitols in protest of these regulations; France, Greece, Spain, Italy, to name a few.

\$500,000 In PA Farm Bill Grants

HARRISBURG, Pa. — Agriculture Secretary Russell Redding announced that the PA Agricultural Business Development Center is taking applications for \$500,000 in PA Farm Bill Farm Vitality Planning Grants, funded in the 2023-24 budget. The grants fund strategic business planning to expand or diversify farms or transition of ownership.

Governor Josh Shapiro proposed continued funding for Farm Vitality Grants and other PA Farm Bill initiatives in a 2024-25 budget that grows Pennsylvania agriculture through smart investments in economic development, job creation, and innovation.

The Agricultural Business Development Center's Farm Vitality Grants, created under the historic PA Farm Bill in 2019, have supported more than \$2.2 million in project planning, and financial and technical expertise to support growth opportunities for 316 Pennsylvania farms. This includes planning to help 115 owners of preserved farms remain productive and protect the investment the farm family and the public have made to protect their land from development.

Farmers and prospective farmers are eligible for up to \$7,500 to reimburse up to 75% of project planning costs. Applications will be accepted until funds are expended.

Apply online through the Department of Community and Economic Development's single electronic application. Full program guidelines are published in the February 17 edition of the PA Bulletin [Opens In A New Window](#).

Farm Vitality Planning Grants can be combined with other PA Farm Bill funding, including these programs and others, to help plan and finance farm transitions:

- Beginning Farmer Tax Credit Program, which provides tax credits as an incentive to those who sell or rent agricultural assets to beginning farmers. Thirty-eight farm owners have received Beginning Farmer Tax Credits, saving them collectively \$760,829 on their taxes and helping them pass the torch to the next generation to take up farming.
- Beginning Farmer Realty Transfer Tax Exemptions through which the department has certified 54 beginning farmers purchasing preserved farms and generating \$612,541 in tax savings on the sale of those farms.
- Next Generation Farmer Loan Program, which uses federal tax-exempt financing to reduce a farmer's interest rate for capital purchases, to help young families fund farm expansions and purchases. Seventeen farmers qualified for \$9.26 million in low-interest, tax-exempt loans in 2023.

For planning resources, financing and other information to support your farm business' future, visit the Agricultural Business Development Center at agriculture.pa.gov.

Supporting the future of Pennsylvania agriculture on the family farm and in communities throughout the state, Governor Shapiro's budget recognizes the agriculture sector as a critical economic driver. 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. *-February 25, 2024*