AG ISSUES UPDATE

Edited by Sara Hricko

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USApple updates

USApple Press Statement on USTR Rejection of 301 Investigation

USApple sent out the following press statement on October 23rd:

Statement by Jim Bair

President & CEO, U.S. Apple Association

Re: USTR Rejection of 301 Investigation

October 23, 2022

"The U.S. apple industry is relieved by the U.S. Trade Representative's decision to reject the 301 Investigation on imported fruits and vegetables from Mexico. A Section 301 investigation could have been followed by tariffs on imported produce and, in turn, retaliatory tariffs from Mexico. That has happened in the past where U.S. apples were the targets of retaliation. We acknowledge that other sectors of the fresh produce industry are facing their own difficult challenges, but the U.S. Trade Representative came to the correct conclusion, and we are thankful.

"USApple joined other groups in a letter to Ambassador Katherine Tai strongly opposing any Section 301 investigation of fresh produce imports from Mexico. The inflationary impacts of fuel, fertilizer and labor costs have created strong headwinds for apple growers. An investigation and pressure for relief in the form of tariffs would have, once again, painted a big target on U.S. apple growers in a battle where we're innocent bystanders. We've been through that before and it was very painful.

"Mexico has long been the number one market for exports of U.S. apples, and that market is growing quickly. Our exports to Mexico in 2021 totaled $349 million, up 45 percent from $241 million in 2020. Many of the 150,000 jobs supported by the apple industry would be put at risk by U.S. action that invites retaliation."

Your Voice is Needed to Pass Agricultural Labor Reform

USApple is teaming up with the American Business Immigration Coalition and several other agriculture groups to make a hard push for Senate action on agriculture labor reform. A fly-in was planned for the week after the election, November 15-17, to drive home the crisis that those in the apple industry and other labor-intensive agriculture are facing.

It has been nearly two years since the House passed the Farm Workforce Modernization Act (for the second time), and if the Senate does not act before the end of this calendar year, work will have to begin all over again in the new Congress. If that happens, the challenge will be much greater as Kevin McCarthy, the presumptive House Speaker has said he will not address any immigration issues including agriculture labor when the Republicans take control, as they are widely expected to.

Farm Bureau Updates

CREP Program Opportunity Available for PA Farmers

Most Pennsylvania farmers have at least a few acres that are hard to farm: Too steep, too rocky, too shady, etc. And if that land is prone to flood, you risk losing all your work — and your profit — on those lands in any given year.

If you are working twice as hard to earn half as much on some of your land, then maybe it's time to investigate the Conservation Reserve Enhancement Program (CREP). In a nutshell, the Conservation Reserve Enhancement Program (CREP) pays farmers to retire and restore land that erodes easily or floods often. CREP is 100% voluntary for farmers. CREP is administered by the U.S. Department of Agriculture Farm Services Agency, and many Conservation Districts in Pennsylvania can help farmers get enrolled.

CREP helps landowners with projects like these in two ways. First, the CREP program reimburses much or all of landowners' costs to restore the land. Then, CREP pays a guaranteed annual rent for up to 15 years. This can allow a farmer to focus their efforts on their own best land. Many farmers use their rental payments to help lease more productive land to make up for the acres taken out of production.

If projects like these pique your interest, check out www.CREPPA.org. This website provides a user-friendly introduction to the program, with case studies, payment scenarios, and other information that can help you decide if CREP is a good fit for your farm. And you can schedule a consultation with a nearby CREP planner in just a few clicks.

DEP Restarts Agriculture Energy Efficiency Rebate Program

The Pennsylvania Department of Environmental Protection (DEP) Energy Programs Office has announced the re-opening of its Agriculture Energy Efficiency Rebate Program for Pennsylvania farmers and agricultural producers.

Rebates are being offered for the following technology categories:

1. Energy efficient lighting systems: LED lighting (both interior and exterior), including fixtures and controls.
2. Energy efficient ventilation equipment: Ventilation fans including both circulation and exhaust fans, motors and controls.
3. Energy efficient dairy equipment: Variable speed vacuum pumps, efficient motors and controls, scroll compressors, well water pre-chillers (plate coolers/heat exchangers), and refrigeration heat recovery (RHR).

The program guidelines detail applicant and equipment eligibility and can be found here: www.dep.pa.gov/agricultureenergy.

Rebates will pay up to 50% of equipment purchase costs, up to $5,000. Applicants may apply under all 3 technology categories, but the maximum rebate is $5,000 per applicant. Up to $500 in installation costs may be included in the total project costs for each technology category, to be reimbursed at up to 50% (up to $250).

The program is open on a first-come first-served basis as funding remains available or through March 31, 2023.

Approximately $150,000 is available for the rebate program this year through State Energy Program funding from the U.S. Department of Energy. You must submit an application to obtain a rebate voucher *prior to* installing equipment. All applications must be submitted online through eGrants/Electronic Single Application.

More information can be found on the DEP website, including the program guidelines, a link to step-by-step application instructions and a link to the online application: www.dep.pa.gov/agricultureenergy. Questions on the program may be directed to Michelle Ferguson at 570.327.3783 or email RA-EPAgEnergyProgram@pa.gov.

Additional Source Updates

Ag Secretary Reminds Farmers to Apply for $13 Million Tax Credits

HARRISBURG, Pa. — Agriculture Secretary Russell Redding reminded Pennsylvania farmers today to apply by November 18, 2022 for tax credits for measures they have taken to improve soil and water quality. Up to $13 million in tax credits are available through Pennsylvania's innovative conservation financing program, Resource Enhancement and Protection (REAP).

The department is accepting applications for REAP tax credits from agricultural producers who implement management practices or purchase equipment aimed at reducing nutrient and sediment runoff, enhancing soil and improving the quality of Pennsylvania's waterways.

This is the fourth year of increased funding and expanded eligibility for the program under the PA Farm Bill. Farmers may receive up to $250,000 in any seven-year period, and spouses filling jointly can use REAP Tax Credits.

Examples of funded projects include no-till planting and precision ag equipment, waste storage facilities, conservation plans, Nutrient Management Plans. Measures that limit run-off from high animal-traffic areas like barnyards, as well as cover crops and riparian buffers that prevent erosion and keep nutrients out of streams are also common REAP-eligible management practices.

Farmers may receive REAP tax credits of 50 to 75% of the project's eligible out-of-pocket costs. Farmers whose operation is in a watershed with an EPA-mandated Total Maximum Daily Load (TMDL) can receive REAP tax credits of 90 percent of out-of-pocket costs for some projects.

Nearly 350 farms in 54 counties were approved for REAP tax credits in 2021-2022. These applicants used $4.75 million in other state conservation funding, including the Environmental Quality Incentive Program, the Chesapeake Bay Program, and Conservation Excellence Grants to pay for conservation projects on their farms.

Since 2007, Pennsylvania has awarded nearly $134 million in REAP tax credits to more than 10,000 projects. Improvements from these projects have kept more than six million pounds of nitrogen, 275,000 pounds of phosphorus, and 275,000 tons of sediment out of Pennsylvania streams and rivers and the waterways they feed.

Private investors may also provide capital in exchange for REAP tax credits. Private sponsorship of REAP projects since 2007 has brought the total value to $415 million.

More information about REAP, including the 2022-23 application packet, program guidelines and sponsorship process, is available at agriculture.pa.gov. – *Morning Ag Clips, October 31st, 2022*

USDA Provides Payments of Nearly $800M In Assistance to Help Keep Farmers Farming

WASHINGTON — The U.S. Department of Agriculture (USDA) has announced that distressed borrowers with qualifying USDA farm loans have already received nearly $800 million in assistance, as part of the $3.1 billion in assistance for distressed farm loan borrowers provided through Section 22006 of the Inflation Reduction Act (IRA). The IRA directed USDA to expedite assistance to distressed borrowers of direct or guaranteed loans administered by USDA's Farm Service Agency (FSA) whose operations face financial risk.

The announcement kicks off a process to provide assistance to distressed farm loan borrowers using several complementary approaches, with the goal of keeping them farming, removing obstacles that currently prevent many of these borrowers from returning to farming, and improving the way that USDA approaches borrowing and servicing. Through this assistance, USDA is focused on generating long-term stability and success for distressed borrowers.

“Through no fault of their own, our nation’s farmers and ranchers have faced incredibly tough circumstances over the last few years,” said Agriculture Secretary Tom Vilsack. “The funding included in today’s announcement helps keep our farmers farming and provides a fresh start for producers in challenging positions.”

Work has already started to bring some relief to distressed farmers. As of today, over 13,000 borrowers have already benefited from the resources provided under the Inflation Reduction Act as follows:

- Approximately 11,000 delinquent direct and guaranteed borrowers had their accounts brought current. USDA also paid the next scheduled annual installment for these direct loan borrowers giving them peace of mind in the near term.
- Approximately 2,100 borrowers who had their farms foreclosed on and still had remaining debt have had this debt resolved in order to cease debt collections and garnishment relieving that burden that has made getting a fresh start more difficult.

In addition to the automatic assistance already provided, USDA has also outlined steps to administer up to an additional $500 million in payments to benefit the following distressed borrowers:

- USDA will administer $66 million in separate automatic payments, using COVID-19 pandemic relief funds, to support up to 7,000 direct loan borrowers who used FSA’s disaster-set-aside option during the pandemic to move their scheduled payments to the end of their loans.
- USDA is also initiating two case-by-case processes to provide additional assistance to farm loan borrowers. Under the first new process, FSA will review and assist with delinquencies from 1,600 complex cases, including cases in which borrowers are facing bankruptcy or foreclosure. The second new process will add a new option using existing direct loan servicing criteria to intervene more quickly and help an estimated 14,000 financially distressed borrowers who request assistance to avoid even becoming delinquent.

More details on each of the categories of assistance, including a downloadable fact sheet, are available on the Inflation Reduction Act webpage on farmers.gov.

Similar to other USDA assistance, all of these payments will be reported as income and borrowers are encouraged to consult their tax advisors. USDA also has resources and partnerships with cooperators who can provide additional assistance and help borrowers navigate the process.

The announcement today is only the first step in USDA's efforts to provide assistance to distressed farm loan borrowers and respond to farmers and to improve the loan servicing efforts at USDA by adding more tools and relaxing unnecessary restrictions. Additional announcements and investments in assistance will be made as USDA institutes these additional changes and improvements.

This effort will ultimately also include adding more tools and relaxing unnecessary restrictions through assistance made possible by Congress through the IRA. Further assistance and changes to the approach will be made in subsequent phases.

Background

USDA provides access to credit to approximately 115,000 producers who cannot obtain sufficient commercial credit through direct and guaranteed farm loans, which do not include farm storage facility loans or marketing assistance loans. With the funds and direction Congress provided in Section 22006 of IRA, USDA is taking action to immediately provide relief to qualifying distressed borrowers whose operations are at financial risk while working on making transformational changes to how USDA goes about loan servicing in the long run so that borrowers are provided the flexibility and opportunities needed to address the inherent risks and unpredictability associated with agricultural operations and remain in good financial standing.

In January 2021, USDA suspended foreclosures and other adverse actions on direct farm loans due to the pandemic and encouraged guaranteed lenders to follow suit. Last week, USDA reiterated this request to guaranteed lenders to provide time for the full set of IRA distressed borrower assistance to be made available before lenders take irreparable actions.

Producers can explore available loan options using the Farm Loan Discovery Tool on farmers.gov (also available in Spanish) or by contacting their local USDA Service Center. Producers can also call the FSA call center at 877-508-8364 between 8 a.m. and 7 p.m. Eastern. USDA has tax-related resources available at farmers.gov/taxes.

USDA touches the lives of all Americans each day in so many positive ways. In the Biden-Harris Administration, USDA is transforming America's food system with a greater focus on more resilient local and regional food production, fairer markets for all producers, ensuring access to safe, healthy and nutritious food in all communities, building new markets and streams of income for farmers and producers using climate smart food and forestry practices, making historic investments in infrastructure and clean energy capabilities in rural America, and committing to equity across the Department by removing systemic barriers and building a workforce more representative of America. To learn more, visit www.usda.gov. – *Morning Ag Clips, October 18th, 2022*

Agricultural Labor: New York Labor Commissioner Issues Order Reducing Farm Worker Overtime Threshold from 60 to 40 Hours

On September 30, 2022, the Commissioner of the New York State Department of Labor issued an order adopting the findings and analysis of the 2022 Farm Laborers Wage Board. Also announced by the Commissioner, the order reduces the overtime threshold for farm laborers from 60 hours to 40 hours per week, phased in over ten years with four-hour reductions every other year. Agricultural employers will be required to pay overtime wages for hours worked over the threshold. According to the Commissioner's order, the first reduction will begin on January 1, 2024, with a threshold of 56 hours and continue as follows: January 1, 2026—52 hours; January 1, 2028—48 hours; January 1, 2030—44 hours; and January 1, 2032—40 hours. -*Agricultural Law Weekly Review, October 7th, 2022*

Crop Insurance: Enrollment Begins for 2023 Agriculture Risk Coverage and Price Loss Coverage

On October 19, 2022, the U.S. Department of Agriculture (USDA) Farm Service Agency (FSA) announced that farmers can now change their elected coverage or enroll in the 2023 Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs. Farmers can choose between the County ARC-CO or PLC programs, which offer crop-by-crop coverage, or the Individual ARC-IC program, which covers entire farms. Elected coverage changes or enrollment must be submitted by March 15, 2023, or coverage options will remain the same as 2022's choices. To determine the type and amount of coverage needed, USDA has partnered with the University of Illinois and Texas A&M University to offer the Gardner-farmdoc Payment Calculator and the ARC and PLC Decision Tool. Eligible farmers can apply for these programs at their local USDA Service Center. -*Agricultural Law Weekly Review, October 26th, 2022*