AG ISSUES UPDATE

Edited by Sara Hricko

July 2024

USApple Updates

USApple Announces Staff Promotion of Christopher Gerlach

USApple announced that Christopher Gerlach has been promoted to Vice President, Insights & Analytics.

Gerlach joined USApple in July 2020 as the Director of Industry Analytics. Over the past four years, he has drawn on his strong economic and data analysis skillset to prepare proprietary reports, webinars, and presentations that offer unparalleled business intelligence to the apple industry.

“When Chris joined USApple, he immediately immersed himself in our shared vision of discovering, analyzing and reporting data that are helping apple industry participants make better decisions,” said Jim Bair, President and CEO of USApple. “Some of these data have never before been discovered or shared. From his storage reports to our proprietary Newton database to his market webinars that draw large audiences, Chris is adding value to USApple membership, especially during a time when the industry is fighting economic headwinds. His new title is intended to reflect his many valuable contributions.”

One of Gerlach's unique skills is his ability to turn complex information into clear insights. He synthesizes data quickly and effectively, revealing important trends with clarity. Instead of providing a data dump, he analyzes thousands of rows of data from multiple sources to ultimately present compelling and easy-to-understand graphics and charts. As he’s deepened his knowledge of the apple industry by visiting members across the country, building a network, and asking the right questions, this talent has been amplified.

“My goal is to provide actionable insights that empower our members to navigate challenges and opportunities within the industry,” said Chris Gerlach. “I’m excited to continue this work, uncovering new data and trends that support the success of apple growers and marketers.”

Gerlach’s data, charts, and visuals have also augmented USApple’s government affairs and media relations strategies. Showing simple yet compelling charts while meeting with White House officials or Members of Congress and their staff has proven to resonate. Likewise, communicating complicated topics with reporters using understand-at-a-glance graphics has helped USApple shape important stories.

Prior to USApple, Gerlach served as Director of Research for the International Council of Shopping Centers (ICSC) where he was responsible for generating original economic research on the $6.7 trillion retail real estate industry. He holds a Master of Regional Planning degree from the University of North Carolina and an MBA from the George Washington University School of Business.

House Bill Includes Language to Freeze H-2A Wages

The House of Representatives included an H-2A wage freeze and regulatory relief in a Bill in July. This is the first step in the process of funding the government for FY25, so there will be multiple opportunities for it to get stripped out, or it may not be included in the Senate version, but this is a positive first step. We appreciate Representatives Dan Newhouse (R-WA) and John Moolenaar (R-MI) who played key roles in securing this. And we also appreciate Rep. Bill Huizenga (R-MI) for the momentum generated by his letter, which was signed by 120 Members of the House, including virtually all of those who represent apples.

EPA Proposes to Cancel Ziram and Add Modifications on Captan Label for Apples

The Environmental Protection Agency (EPA) announced Proposed Interim Decisions to cancel all uses of Ziram on apples and modify Restricted Entry Interval (REI) application rates, and Personal protective equipment (PPE) requirements on Captan. USApple is actively engaged on this matter and will be submitting comments to EPA. Growers are highly encouraged to submit their own comments highlighting the importance of the fungicides. Comments for Ziram are due July 1st and Captan on July

30th. Please contact Mitchell Liwanag at mliwanag@usapple.org with any questions or for help submitting comments.

PSU Ag and Shale Law

Agricultural Labor: Seventeen States File Complaint Challenging New H-2A Rule

On June 10, 2024, the Attorneys General of Kansas and sixteen other states filed a complaint in the U.S. District Court for the Southern District of Georgia challenging the U.S. Department of Labor's (DOL) recent H-2A final rule (89 FR 33898) titled "Improving Protections for Workers in Temporary Agricultural Employment in the United States." *State of Kansas v. DOL*, No. 2:24-cv-00076. The complaint alleges that the final rule—which protects certain collective bargaining activities of H-2A visa-holding agriculture farmworkers—is "arbitrary and capricious" and that the rule unlawfully "give[s] certain federal rights to alien workers that are not enjoyed by Americans." The complaint argues that H-2A visa-holders are exempt from the collective-bargaining protections provided by the National Labor Relations Act and requests that the court "preliminary and permanently enjoin [DOL] from implementing or enforcing the Final Rule." The final rule became effective June 28, 2024.

Understanding Ag Law Series: The Basics of the H-2A Temporary Agricultural Worker Program

On Friday, August 23, 2024, from 12 noon–1:00 ET, the Penn State Center for Agricultural and Shale Law, alongside the Pennsylvania Department of Agriculture's (PDA) Agricultural Business Development Center (ABDC), will present the next webinar in the Understanding Agricultural Law educational series: "Understanding the Basics of the H-2A Temporary Agricultural Worker Program." Authorized by the Immigration and Nationality Act, the H-2A temporary agricultural program allows qualified agricultural employers who lack sufficient domestic labor to bring foreign workers to the United States "to perform agricultural labor or services . . . of a temporary or seasonal nature." According to the U.S. Department of Agriculture (USDA) Economic Research Service (ERS), "the number of H-2A positions requested and approved has increased more than sevenfold in the past 17 years, from just over 48,000 positions certified in fiscal 2005 to around 371,000 in fiscal year 2022," with the U.S. Department of State issuing

more than 310,000 H-2A visas in 2023. This webinar will provide an overview of the major provisions of the H-2A program, including a discussion of the adverse effect wage rate (AEWR), and describe the processes, requirements, and legal issues related to obtaining and employing H-2A employees. 1 hour of substantive CLE credit available for Pennsylvania-licensed attorneys at no charge. Questions? Email Audry Thompson: aet17@psu.edu. To Register:
https://psu.zoom.us/webinar/register/1417132966336/WN_zzDzw-dFQJKlemNFgLDZeA#/registration

MORNING AG CLIPS

USDA Expands Insurance Options for Specialty and Organic Growers – June 30th, 2024

WASHINGTON — The U.S. Department of Agriculture (USDA) is expanding crop insurance options for specialty and organic growers beginning with the 2025 crop year. USDA's Risk Management Agency (RMA) is expanding coverage options by allowing enterprise units by organic farming practice, adding enterprise unit eligibility for several crops, and making additional policy updates. This is the first of several announcements this summer, which will include the expansion of the shellfish policy in the Northeast and new coverage for grape growers in the West and beyond. These expansions and other improvements build on other recent RMA efforts to better serve specialty crop producers and reach a broader group of producers.

"The Risk Management Agency is excited to expand coverage options for specialty and organic growers including the availability of enterprise and optional units for many producers," said RMA Administrator Marcia Bunger. "Expanding our coverage options gives producers more opportunities to manage their risks. We will continue to build on our work through future announcements later this summer."

The following changes will be made beginning with the 2025 crop year:

- **Enterprise and Optional Units:**
    - Expand Enterprise Units (EU) to almonds, apples, avocado (California), citrus (Arizona, California, and Texas), figs, macadamia nuts, pears, prunes, and walnuts.

    - Allow non-contiguous parcels of land that qualify for Optional Units (OU) to also qualify for EU.
    - Allow EUs by organic farming practice for alfalfa seed, almonds, apples, avocado (California), cabbage, canola, citrus (Arizona, California and Texas), coarse grains, cotton, ELS cotton, dry beans, dry peas, figs, fresh market tomatoes, forage production, grass seed, macadamia nuts, millet, mint, mustard, pears, potatoes (northern, central, and southern), processing tomatoes, prunes, safflower, small grains, sunflower seed, and walnuts.
    - Expand OUs by organic practice to all remaining crops where OUs are available, and the organic practice is insurable.
- **Walnut Quality Adjustment:** Allow sunburned damaged walnuts to be eligible for indemnity payments through quality adjustment.
- **Almond Leaf Year:** Expand insurance coverage to younger trees by including trees in their fifth leaf year after being set out.
- **Processing Bean End of Insurance Period:** Extend insurance coverage in Delaware, Maryland, and New Jersey by an additional 16 days.
- **Canola:** Expand insurance for canola into South Dakota and Michigan.

These revisions come through the Expanding Options for Specialty and Organic Growers Final Rule published today by the Federal Crop Insurance Corporation (FCIC). This Final Rule will update the Common Crop Insurance Policy Basic Provisions, Area Risk Protection Insurance Basic Provisions, and includes changes to individual Crop Provisions. The enterprise unit availability will continue to be rolled out throughout the year with each crop’s contract change date and RMA will continue to evaluate expanding EUs to additional crops.

Additional changes in the June 30 Final Rule include:

- **New Breaking Acreage:**
    - Reduce administrative burdens on growers and the delivery system by removing written agreement requirements on new breaking acreage.
    - Reduce coverage penalties on perennial specialty crop producers and producers of intensively managed crops, such as alfalfa, when they move to row crop production. This allows for a seamless transition without losing crop insurance coverage.

- **Assignment of Indemnity:** Provide flexibility for an indemnity payment to be issued via automated clearing house (ACH) or other electronic means when these methods do not allow for multiple payees.
- **Good Farming Practices (GFP):** Streamline and shorten the FCIC GFP reconsideration process by closing the administrative file following FCIC's initial GFP determination.
- **Double Cropping and Annual Forage:** Clarify a producer must prove insurance history for the annual forage crop and meet the current double cropping requirements to receive a full prevented planting payment.

RMA continues to explore ways to improve risk management tools for specialty crop producers and will be announcing additional program enhancements later this summer. Some of those improvements include:

- Expanding the **Shellfish Program** to an additional 18 counties in seven states. Additional modifications include allowing insurance on seeds initially purchased smaller than 4 mm, allowing producers to use existing records for coverage in adjacent program counties, and allowing alternative yield procedures.
- Piloting the **Fire Insurance Protection – Smoke Index (FIP-SI)** crop insurance program for grapes in California for the 2025 crop year. The pilot program is an index-based endorsement to the Actual Production History (APH) Grape policy that provides additional protection against smoke damage and covers the liability between the APH policy's coverage level and 95%.
- Expanding the **Enhanced Coverage Option (ECO)** to walnuts and citrus crops and increasing premium support to be consistent with the Supplemental Coverage Option.
- Expanding the **Grapevine** insurance program to an additional 29 counties in California. Grapevine insurance offers protection against vine losses in the event of several named perils.
- Releasing new **Organic Practice Guidelines** to producers for the 2025 crop year. These guidelines are to help producers report planted or perennial acreage insured under a certified organic or transitional practice.

More Information

This announcement further advances USDA's recently announced Specialty Crops Competitiveness Initiative, a Department-wide effort to increase the competitiveness of specialty crops products in foreign markets, enhance domestic marketing, and improve production and processing practices.

Crop insurance is sold and delivered solely through private crop insurance agents. A list of crop insurance agents is available at all USDA Service Centers and online at the RMA Agent Locator. Learn more about crop insurance and the modern farm safety net at rma.usda.gov or by contacting your RMA Regional Office.

U.S. Headed for Record Ag Trade Deficit – June 20th, 2024

WASHINGTON — After decades of substantial U.S. agricultural trade surpluses, the U.S. is forecast to experience a record trade deficit for the second year in a row. American Farm Bureau Federation economists analyzed the factors contributing to the deficit in their latest Market Intel report.

According to the analysis, the forecast $32 billion deficit is caused by a multitude of factors, one of which is rising imports of fresh fruits and vegetables. American produce farmers face significant challenges in competing with less expensive foreign-grown produce, most notably a lack of affordable and available farm labor.

"Production of many fresh fruits and vegetables is extremely labor intensive," AFBF economist Betty Resnick writes in the Market Intel. "For U.S. agricultural production broadly, labor accounts for about 10% of expenses. For fruit and vegetable production – labor costs account for 38.5% and 28.8% of input costs, respectively."

Factors contributing to decreased agricultural export values include falling commodity prices for American crops and a strong U.S. dollar.

"The strong U.S. dollar is making U.S. products less competitive on currency exchange alone," Resnick explains. "For instance, Japan is consistently a top-5 market for U.S. agricultural products. The Japanese yen is the lowest it has been against the U.S. dollar since 1990 and half of its value from only 12 years ago, in 2012. While this exchange rate is great for U.S. tourists visiting Japan, it is very difficult for Japanese consumers seeking to purchase quality U.S. products."

Further complicating matters, the U.S. has not entered into trade agreements with new countries since 2012 while other countries have signed agreements of their own.

"This is a difficult time to be a farmer, and looking ahead at another year with a record ag trade deficit proves that," said AFBF President Zippy Duvall. "Our farmers are facing high labor costs — if they can hire help at all, competition from growers in other countries and stagnant, outdated trade agreements. I hope Congress and the administration see this historic deficit as a wake-up call and work to implement policy changes to address these challenges."

This is the fourth time in six years the U.S. has faced an agricultural trade deficit. Prior to fiscal year 2019, the U.S. had not experienced an agricultural trade deficit since at least 1967, and possibly not in its entire history.