

AG ISSUES UPDATE

Edited by Sara Hricko

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USApple Updates

Impact of Election on USApple Priorities

Republicans' decisive victories in the Presidential and Senate races will move the country in a different direction and many of USApple's priority issues will be swept up in that change. Trade policy, agriculture labor, the Farm Bill and tax policy will all be part of a reconfigured landscape.

USApple will be your voice, working with new Members of Congress and the Trump Administration to ensure the apple perspective is brought to those debates. USApple's long-standing relationships with returning Members of Congress and the leadership role we play in several agriculture coalitions – from ag labor to trade and the Farm Bill -- will help us to achieve this goal.

As this piece goes to print, the majority of House members representing apple districts have won reelection or are expected to do so. Control of the House is still in question, as several dozen races remain undecided. In the Senate, three-term Sen. Sherrod Brown of Ohio has lost, while races in Pennsylvania and Michigan are too close to call. Congress is expected to return to DC next week for a "lame duck" session. They will have to extend the current budget which expires on December 20. If the election results had been split, the thought had been that they might also use that time to tackle some other issues including, potentially, the Farm Bill. That is now very unlikely as Republicans will want to wait until January when they have control of the White House and the Senate.

However, if a new Farm Bill doesn't pass in the lame duck session, Congress will at least need to extend the current one, which expired on September 30. Senator John Boozman (R-Ark) will chair the Senate Agriculture Committee next year and will likely propose a Farm Bill that is more in line with the bill passed by the House back in May. However, both chambers will have to start the process from the beginning as the bills introduced and passed this year will expire at the end of this Congress. The budget "baseline" the committees are given will also be new and likely even tighter than what they had this past year, which means there will have to be additional program cuts over those included in this year's House-passed bill. Many of those cuts will likely be in the nutrition title, specifically the Supplemental Nutrition Assistance Program (a/k/a food stamps). With many hardliners in the Republican party opposing all aspects of the Farm Bill, garnering enough votes to get it across the finish line will be a challenge.

The change in power may bring some relief on new regulations. However, it was the previous Trump Administration that first proposed many of the recent changes to the H-2A program including the disaggregation of wages, so we cannot take anything for granted. It will be important for groups like USApple to get in early and meet with the Trump team to educate them regarding both the importance of the H-2A program and the spiraling costs.

Given the new makeup of Congress and the White House, broad agriculture labor reform will be an uphill challenge. We may have more traction with some incremental H-2A improvements including wage relief and undoing some of the most damaging regulatory changes imposed by the Biden Administration.

President Trump promised more tariffs if elected. Agriculture and apples specifically are often a target for retaliation in trade disputes so this is an area for caution, and one where we will need to go on offense. In addition, the United States-Mexico-Canada (USMCA) trade agreement is up for review in 2026. Maintaining current access to our two top export markets will be a priority for USApple.

Tax policy will be front and center in the next Congress. Provisions in the expansive 2017 “Tax Cuts and Jobs Act” are slated to expire at the end of 2025. It will be important to maintain key elements of the legislation including estate tax relief, bonus depreciation and provisions that help businesses organized as “pass throughs.” The House Ways and Means Committee, which has jurisdiction over tax issues, has begun meeting with stakeholders. USApple joined other specialty crop representatives to brief committee staff last week, and we will continue that dialogue.

Power shifts in DC always bring both opportunity and challenges. USApple will continue its important work, but we can't do it alone. Please consider joining us for Capitol Hill Day on Tuesday, March 25, 2025, and make your voice heard. To secure your spot, please email Diane Kurrle at dkurrle@usapple.org

USDA Releases Annual Pesticide Residue Testing Report

Each year, USDA selects a basket of commodities for pesticide residue testing under its Pesticide Data Program (PDP). Yesterday, USDA released its PDP report for calendar year 2023. This new report includes pesticide residue data from 354 samples of fresh apples and 710 samples of baby food apple sauce. EPA establishes pesticide residue tolerances, and the FDA enforces the EPA tolerances.

The testing analyzed for the presence of 168 pesticides. For both fresh apples and baby food apple sauce, most detections were at a very small fraction of the EPA tolerances.

For fresh apples, Pyrimethanil was detected in 220 of the 354 samples, making it the most frequently detected residue. The highest level of any pesticide detected was also Pyrimethanil, with one sample

testing at 9.3 parts per million (ppm) versus the EPA tolerance of 15 ppm. Pyrimethanil is a pre- and postharvest fungicide.

Two apple samples tested positive for Chlorpropham, with the highest level detected being 0.0061 ppm. There is no EPA tolerance for this compound, meaning the FDA would have considered those two samples to be violative. Chlorpropham is a plant growth regulator and herbicide.

For baby food apple sauce, the fungicide Cyprodinil was the most frequently detected pesticide, present in 100 of the 710 samples. The highest level of any pesticide detected was Pyrimethanil, with one sample testing at 3.0 parts per million (ppm) versus the EPA tolerance of 15 ppm. No pesticides were detected in baby food applesauce for which EPA has not established a tolerance.

Applications Now Open for the 2025 NextGen Apple Fellowship

Join the 2025 class of USApple NextGen Fellows! USApple's premier professional development program, the NextGen Apple Fellowship, provides up-and-coming leaders with the tools they need to achieve success in the apple industry, including hands-on experience with legislative and regulatory issues, professional development, a mentorship program, opportunities to network with top industry leaders, team-building, and more.

Key Dates:

- December 17, 2024: Application materials are due and should be sent to NextGen@usapple.org.
- January 6-24, 2025: Virtual interviews are held.
- February 1, 2025: Notification of acceptance into the fellowship.
- The program will run from February 2025 through December 2025.

Why Become a NextGen Apple Fellow?

- To be exposed to many facets of the apple industry.
- To learn more about USApple and how the association serves its members.
- To be directly connected to key leaders in the apple industry, as well as decision-makers in the political arena.
- To have numerous opportunities for professional development.
- To establish lasting connections with your peers and gain access to the former NextGen program alumni network.

Eligibility:

- Emerging apple leaders who are at the start of their career through age 35 are eligible to participate.
- Must serve the apple industry in some capacity (i.e. growing, shipping, packing, marketing, retailing, procurement, etc.)
- Former NextGen/Young Apple Leader participants are not eligible.

Mandatory Travel Includes:

- NextGen Kickoff Meeting, in conjunction with USApple's Capitol Hill Day, in Washington, D.C., March 24-26, 2025.
- USApple's Outlook Conference in Chicago, August 13-15, 2025.
- Session 3 (Location/Date TBD - likely early December 2025).

Tuition:

USApple covers all costs of the program outside of airfare/travel. Participants are responsible for their own airfare and travel (baggage, airport parking, taxi to airport, etc). USApple covers hotels, meals, on-site travel, and all programming registration and activities, which averages about \$6,000 per participant. It is the expectation that participants' employers' cover their airfare.

What is Expected:

NextGen Fellows are expected to be prepared, on-time, and professional throughout each session. They are expected to actively participate virtually (each month) and in-person (3 times a year). Fellows each film a video for USApple's #FreshPicks series, are expected to be active on USApple's social media, and must work together on their class project, outside of monthly virtual sessions. They are expected to take time to meet with their mentors.

To Apply:

- Submit a letter of recommendation from an industry, community, or academic leader.
- Tell us about yourself and why you want to be a NextGen Apple Fellow in a short video (1-2 minutes - selfie style is fine). Please share what you're hoping to learn.
- Include your contact information (name, title, company, cell phone, address).
- Send all of the materials to NextGen@usapple.org.
- Deadline: December 17, 2024.

USApple Comments to EPA on Mancozeb

In October, USApple submitted comments to EPA regarding the fungicide mancozeb. Their comments urge EPA to reconsider its proposed action to prohibit hand-thinning when mancozeb is used.

USApple is also a member of the Minor Crop Farmer Alliance (MCFA), a coalition representing the pesticide interests of specialty crop growers. USApple's legal counsel – Ed Ruckert – is also counsel to the MCFA, ensuring comprehensive coverage for USApple members in this important area.

USApple Joins Lawsuit Challenging the Department of Labor

USApple has joined a lawsuit brought by the International Fresh Produce Association (IFPA) and other agriculture groups challenging the Department of Labor's (DOL) H-2A "worker protection" rule finalized in April. The rule gives unprecedented power and access to labor unions, adds administrative costs and burdens for employers, and gives increased authority to the DOL and state agencies to delay H-2A applications for minor unintended infractions.

The lawsuit argues that the rule illegally gives temporary agriculture workers collective bargaining rights, restricts the First Amendment rights of farmers who employ H-2A workers, and creates additional onerous burdens for employers and state governments. In August, the court in *Kansas v. U.S. Department of Labor* - a similar case brought by 17 state attorneys general, the Georgia Fruit and Vegetable Growers Association, and Miles Berry Farm - found the rule unconstitutional and enjoined DOL from enforcing it within those 17 states. That ruling bolsters our position in this case and creates the current untenable situation in which employers in the agriculture industry must abide by different regulations and meet different requirements depending solely on the states in which they are located. The judge in our case set a hearing date of November 18.

PSU Ag and Shale Law

Pesticides/Herbicides: EPA Publishes Final Rule Establishing Residue Tolerances for Glufosinate-P

On October 29, 2024, the U.S. Environmental Protection Agency (EPA) published in the Federal Register a final rule (89 FR 85859) establishing glufosinate-P residue tolerances for multiple commodities, requested by BASF Corporation (EPA-HQ-OPP-2020-0250) and MITSUI Chemicals Crop & Life Solutions, Inc. (EPA-HQ-OPP-2020-0533). Also announced by EPA, the agency states that the herbicide "has similar benefits and uses to the currently registered glufosinate herbicide products" and that "the proposed

glufosinate-P products result in less chemicals entering the environment compared to the currently registered glufosinate because they only require approximately half the application rate to be as effective.” According to the announcement, “glufosinate-P is the first new active ingredient registration where EPA has used its new Herbicide Strategy Framework, released in August 2024, to inform the level of mitigation necessary to reduce exposure to listed species and critical habitat from runoff and erosion.” According to the final rule, which became effective upon publication, “objections and requests for hearings must be received on or before December 30, 2024.” *See also ALWR—Sept. 10, 2024, “EPA Publishes Final Herbicide Strategy for Federally Listed Species.”*

Pesticides: EPA Announces Intent to Issue Proposed Rule, Revoke All But 11 Chlorpyrifos Food Uses

On October 1, 2024, the U.S. Environmental Protection Agency (EPA) announced “additional measures to protect federally threatened or endangered (listed) species and their designated critical habitats from the effects of chlorpyrifos.” According to the announcement, the agency “will soon issue a proposed rule to revoke the tolerances associated with all food uses, except the 11 food and feed crop uses identified in the 2020 Proposed Interim Decision,” which “represent about 55% of the total chlorpyrifos usage on agricultural commodities between 2014–2018”: “alfalfa, apple, asparagus, cherry (tart), citrus, cotton, peach, soybean, strawberry, sugar beet, wheat (spring), and wheat (winter).” EPA states that limiting chlorpyrifos to these uses, in addition to “geographic limitations and additional mitigation measures . . . could decrease average annual pounds of chlorpyrifos applied in the U.S. by 70% as compared to historical usage.”

Agricultural Labor: Employer Groups Challenge H-2A ‘Improving Protections for Temporary Ag Workers’ Rule

On October 8, 2024, several agricultural employer groups filed a complaint in the U.S. District Court for the Southern District of Mississippi seeking injunction and vacatur of the Department of Labor’s (DOL) April 2024 rule, “Improving Protections for Workers in Temporary Agricultural Employment in the United States” (89 FR 33898), which grants certain collective bargaining rights to agricultural workers. *International Fresh Produce Association v. DOL*, No. 1:24-cv-00309. The complaint alleges that the final rule violates the National Labor Relations Act (NLRA) because of the NLRA’s express carveout for agricultural workers and claims that the rule “irreparably harms the State of Mississippi” because it “imposes additional duties and requirements on the [the state’s] compliance reviews,” which will force the [state] to incur additional costs that “are unrecoverable and uncompensated by . . . DOL.” The

complaint also argues that the final rule violates the First Amendment because it “restrains employer speech.” *For background, see* ALWR—Sept. 10, 2024, “*Federal Court Grants Preliminary Injunction Against New H-2A Protections Rule,*” and ALWR—May 10, 2024, “*Department of Labor Publishes H-2A Final Rule.*”

MORNING AG CLIPS

Research Team Gets Grant to Study Precision Chemical Thinning of Apple Blossoms

UNIVERSITY PARK, Pa. — Apple production contributes billions to the U.S. economy; however, the apple industry faces challenges related to a labor shortage and application of excess fertilizer and chemicals, according to the U.S. Department of Agriculture (USDA). One of the most traditionally time-consuming, labor-intensive processes of apple production is blossom thinning, which involves manually pruning flowers so that remaining blooms can reclaim the plant’s resources to grow better fruit. More recently, the process has shifted to broad chemical spraying, which can have harmful environmental impacts. To assist producers and mitigate environmental harm, the USDA has awarded a three-year, \$601,125 grant to a team of Penn State researchers for the development of a robotic, precision spraying system.

“During the blossom period, apple trees generally produce a large number of flowers, which later can be pollinated to set fruit,” said team leader Long He, associate professor of agricultural and biological engineering in the College of Agricultural Sciences. “Each flower requires resource allocation from the tree to grow properly and turn into an apple fruit. However, when the number of flowers is too high, an abundance of small, low-quality apples can result that may be unworthy for sale. Therefore, it is very important to adjust the number of flowers to set fruits.”

Traditionally, blossoms were selectively thinned or removed manually to adjust flower numbers in each flower cluster, but that process is not practical for large orchards. Chemical blossom thinning has proven to be one of the most effective methods to improve apple quality, size and color, He noted. It can achieve large-scale blossom thinning at a fast speed.

“However, using conventional orchard sprayers that apply a noticeable amount of chemicals without precision control results in huge chemical wastes and environmental impact,” He said. “It is critical to find a more effective method for chemical blossom thinning.”

The researchers plan to develop an autonomous system capable of traversing orchards to precisely manage crops at the flower stage. It will consist of a novel, advanced machine vision component to estimate crop yield, as well as artificial intelligence decision support to precisely manage the crop load at the flower stage. It will also include a precision sprayer system that can apply chemical thinner targeted at the flower clusters in tree canopies.

“The expected outcome of this project will be a precision crop load management strategy with an integrated spraying system that can conduct chemical blossom thinning with high precision and significant chemical-usage reduction,” He said. “Attainment and adoption of such a system will have a significant positive impact on crop management and improving the long-term economic and environmental sustainability of the U.S. tree fruit industry.”

Other research team members at Penn State include Shirin Ghatrehsamani, assistant professor of agricultural and biological engineering; Paul Heinemann, professor of agricultural and biological engineering; and James Schupp, professor of pomology. *-October 29th, 2024*