

AG ISSUES UPDATE

Edited by Sara Hricko

February 2025

USApple Updates

U.S. Tariffs and Retaliatory Responses

As is clear from wherever you get your news, President Trump has announced tariffs of 25 percent on products imported from Mexico and Canada, the top two export markets for U.S. apples. Canada has already announced a list of products it would hit with retaliatory tariffs, while on Monday both Mexico and Canada reached agreements with President Trump that tariffs will be put on hold for one month while jointly working on border security.

USApple has communicated with officials in the Embassy of Canada. Here is Canada's announcement of its actions and also the list of the first \$30 billion in products targeted for retaliation with tariffs of 25 percent. U.S. apples are not in this first list but could be in Canada's list of the next \$125 billion in tariffs planned on products including "fruits" although apples are not specified.

In 2023-24 the U.S. exported 17.3 million bushels of apples to Mexico and 7.4 million bushels to Canada with a combined value of \$550.7 million, or 53 percent of all U.S. exports. Exports take approximately one-third of the U.S. apple crop in many years.

The U.S.' most recent experience in trade disputes began in 2018 when then-President Trump imposed steel and aluminum tariffs on countries including India, our #2 market at the time. India retaliated and over the next four years U.S. apple exports there declined from \$157 million in 2018 to less than \$5 million in four years. This experience underscores the importance of achieving a resolution before an all-out trade war is triggered.

The USApple team will continue to engage with the governments of the U.S., Canada and Mexico on this priority issue.

Employer Guidance for ICE Visits

President Trump has begun implementing his campaign promise to increase interior enforcement with the goal of arresting and deporting those in the country illegally.

USApple has begun hearing reports of an increased presence of Immigration and Customs Enforcement (ICE) agents in some apple growing regions and in some cases those agents have visited farms. These instances are likely to increase nationwide and so we asked the attorneys that we work with to provide this guidance document :

https://usaa.memberclicks.net/assets/2025/USAppleMemo_ImmigrationEnforcement.pdf outlining employer rights and responsibilities with regard to visits from ICE and enforcement actions.

Registration is Open for Capitol Hill Day

Join other industry leaders Tuesday, March 25 on Capitol Hill to meet with legislative offices and advocate for policies that strengthen the apple industry. If you think government policies are impacting your business, here's your chance to do something about it.

Eastern Port Labor Contract Reaches Tentative Agreement

With the current labor contract between longshoremen and eastern port operators having expired on Jan. 15, a tentative agreement had been reached between the International Longshoremen's Association (ILA) and the United States Maritime Alliance, Ltd. (USMX).

ILA is the largest union of maritime workers in North America, representing upwards of 85,000 longshoremen in Atlantic, Gulf Coast and Great Lakes ports. USMX represents employers of the East and Gulf Coast longshore industry.

USApple and a coalition of more than 200 trade associations from general business and agriculture had been advocating for the parties to get back to the bargaining table and get a deal done as quickly as possible. Ocean carriers had already started to announce new congestion and labor disruption surcharges to begin on January 20.

FDA Issues Guidance to Industry on Lead in Baby Food

FDA issued guidance to industry on the action levels for lead in foods intended for babies and young children. According to FDA, its Closer to Zero initiative is a science-based, iterative approach to decreasing toxic elements, including lead, in foods over time including by setting action levels. Processed food in the guidance refers to packaged food (e.g., in jars, pouches, tubs or boxes) represented or purported to be for babies and young children less than two years old.

The new action levels are:

- 10 parts per billion (ppb) for fruits, vegetables (excluding single-ingredient root vegetables), mixtures (including grain- and meat-based mixtures), yogurts, custards/puddings, and single-ingredient meats;
- 20 ppb for single-ingredient root vegetables; and
- 20 ppb for dry infant cereals.

Further according to FDA, the action levels reflect levels of lead at which FDA may regard the food as adulterated. FDA will consider these levels, in addition to other factors, when considering whether to bring enforcement in a particular case.

PA Farm Bureau

Farm Bureau Signs Letter of Support for Brooke Rollins as Ag Secretary

Pennsylvania Farm Bureau has endorsed Brooke Rollins, a former White House aide during the Donald Trump's first administration, for the position of United States Secretary of Agriculture under President Trump.

Rollins previously served as Deputy General Counsel, Ethics Advisor, and Policy Director to Texas Governor Rick Perry and is an advocate for criminal justice reform.

Rollins' Senate nomination hearing took place on Wednesday, Jan. 23 at 10 a.m.

PSU Ag and Shale Law

Opportunities for Farmers and Agricultural Businesses to Receive Free Legal Services from the Penn State Law Rural Economic Development Clinic

The Rural Economic Development Clinic is now accepting applications for its Spring 2025 semester.

The Penn State Law Rural Economic Development Clinic provides law students with practical legal experience in the food and agricultural sectors. Working under the close supervision of law

faculty and staff attorneys who are licensed Pennsylvania attorneys, student attorneys can provide assistance to farmers and agricultural businesses in a variety of legal matters.

This semester, the clinic is looking to assist farmers and agricultural businesses with legal issues, including the following:

- Compliance with legal requirements in hiring agricultural employees;
- The provision of worker housing for agricultural workers including H2A employees;
- Agricultural workforce issues involving hourly employees, volunteers, and interns;
- Liability protection for agritourism operations;
- Compliance with the American with Disabilities Act in agritourism operations and farmers' markets;
- Contracts / liability waivers for farm stays, wedding venues, camping, and other recreational activities on farm properties;
- Contracts for the sale of agricultural products and services;
- Farmers' market rules or vendor agreements;
- Leases for farmland; and
- Solar leasing issues.

MORNING AG CLIPS

USDA Announces Key Slate of Presidential Appointments

WASHINGTON — The U.S. Department of Agriculture announced on January 1st, the names of the following individuals who will hold senior staff positions in Washington, D.C. These appointees have been selected to implement President Trump's America First agenda, ensuring that the needs of America's farmers, ranchers, and producers remain a top priority.

Kailee Tkacz Buller Appointed as Chief of Staff of the U.S. Department of Agriculture

Kailee Tkacz Buller will serve as Chief of Staff of the U.S. Department of Agriculture. Most recently, Kailee served as the President & CEO of the National Oilseed Processors Association and the Edible Oil Producers Association. Previously, Kailee served as Chief of Staff to the Deputy Secretary of Agriculture and held numerous leadership roles across the Department in the first Trump Administration. Governor Youngkin appointed Kailee as the 8th Congressional District Representative of the Virginia Board of Agriculture and Consumer Services, and she holds a Bachelor of Arts in Political Science from the University at Buffalo.

Preston Parry Appointed as Deputy Chief of Staff of the U.S. Department of Agriculture

Preston Parry will serve as Deputy Chief of Staff of the U.S. Department of Agriculture. Preston most recently served as Strategic Assistant to the President & CEO at the America First Policy Institute. During the first Trump Administration, he was the Executive Assistant to the Director of the Domestic Policy Council, where he supported operations and served as Policy Coordinator and primary liaison to the Office of the Staff Secretary. Previously, Preston was an Associate Director in the White House Visitors Office. A native of Tucson, Arizona, Preston holds a degree in Political Science from Utah Valley University.

Jennifer Tiller Appointed as Chief of Staff to the Deputy Secretary and Senior Advisor to the Secretary for Food, Nutrition and Consumer Services

Jennifer Tiller will serve as Chief of Staff to the Deputy Secretary and Senior Advisor to the Secretary for Food, Nutrition and Consumer Services. Most recently, Jennifer served as the Deputy Staff Director for the House Committee on Agriculture and holds graduate degrees from Marist College and Syracuse University.

Ralph Linden Appointed as Principal Deputy General Counsel of the U.S. Department of Agriculture

Ralph Linden will serve as the Principal Deputy General Counsel of the U.S. Department of Agriculture. Ralph served in various capacities in the Office of the General Counsel from 1982 until 2021, including serving as an Acting Deputy General Counsel during the first Trump Administration. He is a graduate of the University of Notre Dame School of Law.

Audra Weeks Appointed as Deputy Director of Communications of the U.S. Department of Agriculture

Audra Weeks will serve as Deputy Director of Communications of the U.S. Department of Agriculture. She previously served in the first Trump Administration as Deputy Press Secretary of the U.S. Department of Agriculture before joining the national press team for President Trump's 2020 re-election campaign. Audra later served as Press Secretary to U.S. Senator Roger Marshall and most recently specialized in crisis and issues management for food and agricultural clients in the private sector. She holds a Bachelor of Science in Agricultural Education and Communication from the University of Florida, a Master of Science in Agricultural Economics from Purdue University, and a Master of Business Administration from Indiana University.

Dominic Restuccia Appointed as White House Liaison for the U.S. Department of Agriculture

Dominic Restuccia will serve as the White House Liaison for the U.S. Department of Agriculture. He previously served as a legislative assistant for U.S. Representative Mike Bishop and U.S. Senator Mike Lee. Dominic is from Michigan and is a graduate of Hillsdale College. – January 21st, 2025

SCOTUS to Decide Fate of Nationwide Injunction Against Corporate Transparency Act

COLUMBUS, Ohio — The Corporate Transparency Act has reached the Supreme Court of the United States ("SCOTUS"). On New Year's Eve, the U.S. Department of Justice submitted an application to

SCOTUS, seeking either a stay of the nationwide injunction or, at a minimum, a limitation of the injunction's scope to the plaintiffs specifically named in the Texas Top Cop Shop case.

How Did We Get Here?

Although there have been multiple lawsuits filed to stop the implementation of the CTA, the nationwide injunction at issue stems from the Texas Top Cop Shop v. Garland case arising out of the Eastern District of Texas. Below is a timeline of events:

- **May 5, 2024** – Six plaintiffs, including Texas Top Cop Shop, Inc., filed a federal complaint alleging that the CTA's reporting rule is unconstitutional and asked the court to invalidate the CTA and its reporting requirements.
- **June 3, 2024** – Plaintiffs filed a motion for a preliminary injunction seeking to halt the implementation of the CTA's reporting requirements and deadlines.
- **December 3, 2024** – The U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction against the CTA, concluding that the CTA "appears likely unconstitutional." The court did not rule on the constitutionality of the CTA but instead focused on whether the Plaintiffs satisfied the proof necessary for being awarded an injunction. See our post regarding the court's decision to issue an injunction.
- **December 9, 2024** – The Government appealed the issuance of the injunction to the U.S. Court of Appeals for the Fifth Circuit.
- **December 13, 2024** – The Government filed a motion to stay the injunction issued by the lower court. A stay of an injunction essentially "lifts" or cancels out the injunction.
- **December 23, 2024** – A motions panel for the Fifth Circuit granted the Government's motion and issued a stay on the injunction against the CTA, essentially reinstating the CTA's reporting requirements. See our post on the motion panel's decision.
- **December 26, 2024** – A merits panel for the Fifth Circuit reversed course and vacated the stay issued by the motions panel, effectively reinstating the injunction against the CTA. See our post on the merit panel's decision.
- **December 31, 2024** – The Government submitted its application to SCOTUS to review the nationwide injunction.

What Happens Next?

SCOTUS may choose to disregard the application and decline to address the challenges to the CTA, leaving the injunction intact. Alternatively, SCOTUS could opt to overturn or narrow the injunction, reinstating the CTA's reporting requirements for numerous businesses across the country. As a result, reporting companies should be prepared to promptly submit the required beneficial ownership information ("BOI") reports.

Filing BOI Reports

Although there is no current mandate for reporting companies to file BOI reports to the Financial Crimes Enforcement Network (“FinCEN”), voluntary submissions are still being accepted. There is no charge to file a BOI report with FinCEN. Reporting companies can simply visit <https://boiefiling.fincen.gov> to begin the process of filing their BOI report.

Reporting companies will need the following information: (1) the reporting company’s legal name, (2) tax identification number, (3) jurisdiction of formation, and (4) current U.S. address. For their beneficial owners, reporting companies will need the following information: (1) full legal name, (2) residential address, (3) a form of identification, which must be either a state issued driver’s license, a state/local/tribe-issued ID, a U.S. passport, or a foreign passport, and (4) an image of the identification used in number (3). **Note: companies formed after January 1, 2024, will also need their company applicant information.** See our law bulletin for more details on reporting requirements.

As previously noted, filing a BOI report is free of charge, and a straightforward LLC with only a few beneficial owners can typically complete and submit the report with ease. However, a reporting company may opt to engage a professional, such as an attorney, accountant, or other third-party, to assist with the process for a fee.

Conclusion

While there have been no significant updates to the CTA, it is essential to stay informed about potential changes on the horizon. The Government’s application to SCOTUS could lead to a shift in direction in the near future. – January 9th 2025

Boozman to Serve as Chairman of Senate Agriculture Committee in 119th Congress

WASHINGTON — U.S. Senator John Boozman (R-AR), the top Republican on the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, was formally named Chairman of the committee upon the Senate’s approval of its organizing resolution.

As Chairman, Boozman will establish the agenda of the Senate Agriculture Committee next Congress.

Boozman served as Ranking Member of the committee in both the 117th and 118th Congress where he worked across the aisle to enhance food assistance programs and modernize USDA’s summer meals program to permanently allow states flexibilities to reach more food-insecure children. He successfully fought for economic assistance to help producers minimize market losses, helped elevate the importance of securing new export markets for U.S. agriculture commodities and met with farmers, ranchers and agriculture stakeholders in more than 20 states to get their input as the committee crafts the next farm bill. -January 8th , 2025