

AG ISSUES UPDATE

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November 2025

USApple Updates

Government Reopens, USDA Funded Through 2026

Congress has officially passed a deal to reopen the federal government. For the apple industry, this means greater short-term stability of USDA programs, research activities, and labor oversight functions.

A key component of the agreement is that USDA is funded through September 30, 2026. This full-year funding helps ensure continuity in areas such as inspections, loan and grant administration, research, and market reporting. Farm Service Agency offices have been directed to begin processing new loan requests that were submitted during the government shutdown

Most other agencies, however, are funded only through January 30, 2026, meaning Congress will need to negotiate broader government funding early next year. While the immediate crisis has passed, there is still a longer-term funding horizon to be aware of.

Agricultural Law Updates

Brooke Duer

Regulatory Policy: Forty-Seven Pennsylvania Localities with Active ICE Agreements

As of November 6, 2025, forty-seven Pennsylvania localities have active agreements in place with U.S. Immigration and Customs Enforcement (ICE) pursuant to Section 287(g) of the Immigration and Nationality Act (INA), which authorizes ICE “to delegate to state and local law enforcement officers the authority to perform specified immigration officer functions under the agency’s direction and oversight.” According to ICE data, most Pennsylvania localities operate the Task Force Model, which “serves as a force multiplier for law enforcement agencies to enforce limited immigration authority with ICE oversight during their routine police duties.” However, three localities operate the Warrant Service Officer program, which “allows ICE to train, certify and authorize state and local law enforcement officers to serve and execute administrative warrants on aliens in their agency’s jail,” and the Westmoreland County Sheriff’s Office is operating the Jail Enforcement Model, which ICE states “is

designed to identify and process removable aliens—with criminal or pending criminal charges—who are arrested by state or local law enforcement agencies.”

Agricultural Labor: Federal Court Dismisses 2023 H-2A Adverse Effect Wage Calculation Challenge

On September 29, 2025, the U.S. District Court for the Western District of North Carolina entered an order dismissing without prejudice a complaint challenging the U.S. Department of Labor’s (DOL) 2023 final rule, which amended the Adverse Effect Wage Rate (AEWR) calculation for H-2A workers to draw upon data from DOL’s Occupational Employment and Wage Statistics (OEWS) program instead of the U.S. Department of Agriculture’s (USDA) Farm Labor Survey. *USA Farm Labor, Inc. v. Julie Su*, No. 1:23-cv-00096. In light of a separate August 2025 order permanently enjoining the rule nationwide, the government filed a motion to dismiss the challenge as moot, stating, “Plaintiffs have thus received all the relief they seek and there is no further relief this Court can award.” On October 2, 2025, the U.S. Department of Labor published in the Federal Register an interim final rule (90 FR 47914), effective upon publication, revising the H-2A AEWR calculation method (see below). *See also* ALWR—Sept. 16, 2025, “*Federal Court Permanently Enjoins 2023 H-2A Adverse Effect Wage Calculation Rule, DOL to Publish New Rule.*”

Agricultural Labor: Department of Labor Publishes New Adverse Effect Wage Rate Calculations

On October 2, 2025, the U.S. Department of Labor (DOL) Employment and Training Administration (ETA) published in the Federal Register an interim final rule (90 FR 47914), effective upon publication, revising the H-2A Adverse Effect Wage Rate (AEWR) calculation method to “use [Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS)] survey data to establish AEWRs applicable to five Standard Occupational Classification (SOC) codes combining the most common field and livestock worker occupations previously measured by the U.S. Department of Agriculture’s (USDA) Farm Labor Survey (FLS), which covered six SOC codes.” Under the rule, “these AEWRs will be divided into two skill-based categories” and will include “statewide downward compensation adjustments” for “H-2A workers who are provided with housing at no cost.” In Pennsylvania, the Skill Level I (entry-level) AEWR will be \$13.88, the Skill Level II (experience-level) AEWR will be \$17.99, and a -\$1.52 adjustment will be allowed for each rate for H-2A workers provided with no-cost housing. The interim final rule is available for public comment until December 1, 2025.

Agricultural Labor: DHS Publishes Rule Allowing H-2A Petitions Before DOL Approval

On October 2, 2025, the U.S. Department of Homeland Security (DHS) published in the Federal Register a final rule (90 FR 47507), effective upon publication, amending H-2A filing regulations to allow an

“exception to the existing requirement that a valid temporary agricultural labor certification [TLC] must be provided at the time of filing for [electronically-filed] H-2A petitions requesting unnamed beneficiaries.” Also announced by DHS, the new rule allows such petitioners to electronically file a new Form I-129H2A, Petition for a Nonimmigrant Worker: H-2A Classification after receiving notification that the Department of Labor (DOL) has accepted their TLC application, even if DOL has not approved the TLC. According to the announcement, “[i]n the coming weeks, [USCIS] will expand availability of Form I-129H2A to H-2A petitioners seeking named beneficiaries or filing with Form G-28.”

National Agricultural Policy: USDA Publishes Lapse of Funding Plan

As of September 30, 2025, the U.S. Department of Agriculture (USDA) has published its Lapse in Funding Plan on a single webpage dedicated to resources addressing USDA’s “contingency plan for use in the event of a lapse in appropriations.” According to the plan, USDA operations that will cease include “operations related to payment processing, disaster assistance processing, technical assistance, contracts and agreements not related to exempted programs, financial management beyond funds management, regulatory work, travel, trainings, trade negotiations, timber sales, hazardous fuels treatments, special use permits, surveys for high-risk plant pests and diseases for certain swine, cattle, and aquatic animal diseases, long-term studies and research on animal diseases, research and report publications, website updates, data products, and the majority of Risk Management Agency, Natural Resources Conservation Service, Foreign Agricultural Service, Food and Nutrition Service, National Institute of Food and Agriculture, Economic Research Service, National Agricultural Statistical Service, Rural Development, and Staff Office activities.”