The OSU Extension
FARM OFFICE
IS OPEN

Today’s session will include updates on the CAUV, Dicamba legislation, Prop 12, CARES Act, CFAP, renewable fuel standards, ARC/PLC and other emerging legal and economic issues.

OSU Extension’s Farm Office Team
Ben Brown
Peggy Hall
David Marrison
Dianne Shoemaker
Julie Strawser
Barry Ward

June 25, 2020
9:00 to 10:30 a.m.

Your farm’s ag law and farm management resource center: https://farmoffice.osu.edu
Farm Office Team
CAUV Update

Robert Dinterman
Post-Doctoral Researcher
Department of Agricultural, Environmental, and Development Economics The Ohio State University
Dicamba Update
1. **Denied** emergency motion by plaintiffs National Family Farm Coalition et al asking court to prevent further use of dicamba and to hold EPA in contempt.
   - Ohio’s allowance to use existing stocks until June 30 stands.

2. Granted “friend of the court” status to CropLife America and American Farm Bureau Federation.

3. Granted right to intervene to BASF and DuPont.

4. Scheduled briefs on a BASF motion to recall the court’s cancellation mandate due June 23 and 24.
Bayer Settlements
Settlements by Bayer announced June 24

- Dicamba drift litigation
  - Up to $400 million

- Roundup product liability litigation (non-Hodgkin Lymphoma cases)
  - $8.8 to $9.6 billion
  - Resolving 125,000 claims, sets parameters for remaining claims
  - $1.25 billion and process to resolve future claims

- PCB water litigation
  - $820 million
California’s Proposition 12

National Pork Producers Council and American Farm Bureau Federation v. Ross
California’s Proposition 12

• Passed by 63% of voters in 2018
• Regulates production of veal, pork, eggs per housing standards
• For hogs, beginning December 31, 2021, forbids sale of pork in California from the young of sows not housed according to confinement standards (stand up-turn around 24 sq. ft. group pens)
• Nat’l Pork Producers and AFBF challenge constitutionality
  – Argue violation of interstate commerce clause
• Federal District Court granted defendant’s motion to dismiss
  – Regulates in-state and out-of-state equally
  – No substantial burden on interstate commerce
• Plaintiffs file appeal: June 17
Coronavirus Food Assistance Program (CFAP)

farmoffice.osu.edu

farmers.gov/cfap
CFAP:

- Providing financial assistance to farmers impacted by the COVID-19 pandemic.
  - $16 billion available for assistance
  - Apply at any USDA Farm Service Agency (FSA) Service Center
- Progress reported each Monday at farmers.gov/cfap
June 22, 2020 USDA Report:
$4,006,461,973 payments processed
252,489 producers

Data Source – USDA Farm Service Agency 6/22/2020

THE OHIO STATE UNIVERSITY COLLEGE of FOOD, AGRICULTURAL, and ENVIRONMENTAL SCIENCES
June 22, 2020 Report
US: $84,273,526 payments processed
Ohio: $202,389 payments
5 approved applications
June 22, 2020 Report

US: $1,042,262,228 payments processed
Ohio: $22,763,868 payments

4,282 approved applications

Data Source – USDA Farm Service Agency 6/22/2020
June 22, 2020 Report

US: $895,310,303 payments processed
Ohio: $25,375,267 payments
590 approved applications
June 22, 2020 Report

US: $1,984,615,916 payments processed
Ohio: $24,452,429 payments
2,606 approved applications
Prepare using the FSA calculator: farmers.gov/cfap
CFAP: Reminders


- Apply at any USDA Farm Service Agency (FSA) Service Center
  - Currently not available for walk-in appointments
  - Applications can be filled out online, downloaded, signed and then submitted either by mail, fax, or other electronic means.
- Please call your local office before mailing in applications.
- Applicants have 60 days after submitting CFAP application to get all related forms completed.

- Tools and resources including applications, first time participant videos, frequently asked questions, and CFAP calculator can be found at farmers.gov/cfap
ARC/PLC Reminders
ARC/PLC: Reminders

2020 ARC/PLC Contracts need to be signed by June 30, 2020
  - You do not get to change your election between ARC/PLC
  - Even if you signed a 2019 contract you need one for 2020.

Producers have till September 30, 2020 to update Price Loss Coverage Yields
  - Many counties did not allow producers to do a yield update at enrollment. **Don’t forget to do it as there might not be another change.**
  - Those that update yields for 2020 or change the make-up of their operation will likely need to sign a new 2020 enrollment form.

OSU Yield Update Tool
Farmoffice@osu.edu
Farm Management -> Farm Bill -> Decision Tools
This is the Landowners decision. Power of Attorney is allowed At Least one owner must sign- farms owned by multiple people.

Why is it Important to Look at Your FSA Yields?

1. Yield Updates are not allowed every Farm Bill

2. You participated in ARC-CO during last Farm Bill and didn’t think it was important to update PLC Yields.
   a) Humor me and just check!

3. They do not change after the enrollment period and stay with you for the rest of the Farm Bill and any future Farm Bills.
   a) PLC Yield Update Deadline- September 30, 2020
Update of the CARES ACT Paycheck Protection Program
CARES Act Paycheck Protection Program

1. Paycheck Protection Program (PPP) Flexibility Act - June 5, 2020
2. Interim Final Rule - Revisions to the Third and Sixth Interim Final Rules – June 16
3. Revised Loan Forgiveness Applications (Shorter EZ Application Added) – June 16
Paycheck Protection Program Flexibility Act

More guidance on **amount eligible for forgiveness** since our last Farm Office Live

- **Payroll costs** for 24-week covered period set at maximum of $46,154 per employee; 8-week remains at $15,385
  - Plus health care costs, state payroll taxes by employer, retirement
  - Limits on these contributions for self-employed, general partners, S-corp

- **Owner compensation replacement** limit for 8-week period is 8/52 of 2019 net profit (up to $15,385) and is restricted to 2.5 months (2.5/12) for 24-week period (up to $20,833)

- Mortgage interest, rent payments on lease agreements and utility payment costs are eligible to the extent that they would be deductible as business mortgage, rent and utility payments on Form 1040 Schedule F.
  - But such costs are not **actually** deductible if forgiven.

- See yesterday’s blog post on Ohio Ag Law Blog
Applying for Loan Forgiveness

1. Borrower may submit a loan forgiveness application any time on or before the maturity of the loan – including before the end of the covered period.

2. Two new forgiveness applications released that comply with the PPP Flexibility Act:
   a. PPP Loan Forgiveness Application (Revised June 16) – “Full Application”
   b. PPP Loan Forgiveness Application Form 3508EZ

3. The PPP Loan Forgiveness Application Form 3508EZ can be used if:
   a. You are self-employed and have no employees or
   b. You didn’t reduce salaries or wages for employees by more than 25% and didn’t reduce numbers or hours of employees or
   c. You didn’t reduce salaries or wages for employees by more than 25% and you experienced reductions in business activity as the result of health directives related to COVID-19
Paycheck Protection Program (PPP) Questions & Uncertainties

1. There is still uncertainty as to whether a self-employed person needs to write a check to themselves to qualify for forgiveness based on the owner compensation replacement portion of the PPP Loan. The safe alternative would be to write this check even if the check is deposited back into the same account.

2. According to some sources there is ongoing discussion regarding legislation that would grant forgiveness to all PPP loans under $150,000. This discussion of a safe harbor based on the size of the PPP loan is apparently being advanced by certain banks.

3. Expenses included in PPP Loan Forgiveness are not tax deductible.
Renewable Fuel Standards
Renewable Fuel Standard: *Waivers*

**Important Reminders:**
- Percent Standard = \( \frac{\text{EPA volume requirement}}{\text{total estimated motor fuel and diesel demand} - \text{small refiner exemptions}} \)
- Obligation = \( \text{Parties total gasoline and diesel sales} \times \text{percent standard} \)

**Timeline:**
- The Clean Air Act waived **all** small refiner exemptions up to 2011.
- EPA could extend waivers two years to 2013 compliance year.
- Starting in 2013, small refineries could file for an extension to their waiver annually if they could show economic hardship as result of the RFS mandate.
- *Approved* small refiner waivers grew from 7 in 2015 to 35 in 2017 and 31 in 2018.
- In January 2020, US Corn Growers Association and others sued EPA for “overstepped authority by granting waivers that were not continuous exemptions” in 10th Circuit Court.
- June 18, 2020, EPA announced that they were considering 52 “gap” waivers from 2011-2018 on top of the 27 currently submitted for 2019.
SREs: Impact

Million Gallons waved by the Small Refiner Exemptions

- 2013: 190
- 2014: 210
- 2015: 290
- 2016: 790
- 2017: 1,820
- 2018: 1,430
- 2019: 1,200

Data Source: Official ruling made by EPA and then projections calculated from EIA and standard ruling.

Blend Rate= Share of Refinery and Blender Net Input of Total Consumption of U.S. Finished Motor Gasoline (Jan. 2007- Nov. 2019)

Data Source: US EIA
Three Steps to Renewable Identification Number Lifecycle:

1. A RIN is attached to a gallon of qualifying renewable fuel once it is produced,

2. the RIN is then separated once the renewable fuel is blended with gasoline or diesel fuel, and

3. the separated RIN may be submitted for compliance, traded or banked for future use.
RINS are the signal for investment: **What is the signal?**

Renewable Identification Number (D6) Prices

- **1/27/2020** - 10th Circuit Court SRE Ruling
- **3/5/2020** - Trump announces EPA will appeal ruling
- **3/25/2020** - EPA does not appeal ruling
- **6/18/2020** - EPA announces 52 “gap” waivers

Data Source: DTN ProphetX

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OSU Income Tax Schools
Questions?
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The OSU Extension FARM OFFICE WILL BE OPEN AGAIN

Wednesday, July 15, 2020
9:00 to 10:30 a.m.
Register at:
https://go.osu.edu/farmofficelive

CFAES