

## California's climate plan pits bioenergy against environmental justice goals

The Air Resources Board has launched a series of stakeholder engagement workshops to inform the next update of California's Climate Change Scoping Plan, the regulatory framework guiding the state's policy priorities. While the plan will not be finalized until the end of 2022, frustrations have already risen among dairy and bioenergy interests over an apparent shift away from dairy digesters and biomass plants for agricultural and forest waste.

**“I was really concerned with the presentation from the California Energy Commission, particularly the exclusion of any new biomass and no mention whatsoever of biogas,”** said Julia Levin, executive director of the Bioenergy Association of California, during an overview webinar for the scoping plan last week.

In its presentation, the commission did not project an increase in bioenergy in California. She called that troubling since the state is trying to develop a plan with **“critically needed but aggressive climate change goals.”**

Levin, whose group represents more than 80 public agencies, community groups, utilities and developers of organic waste-to-energy projects, said excluding bioenergy contradicts a number of goals established by California agencies, including the air board's plan to phase out the open burning of agricultural waste in the San Joaquin Valley, which calls for increasing bioenergy as an alternative. The air board may soon consider a statewide ban on ag burning since it is a significant source of both criteria air pollutants and climate pollution in California.



California is on path to have 100-120 digesters funded and operational by 2022, achieving 40-50 million metric tons of carbon dioxide equivalent (MMTCO<sub>2e</sub>) over ) over the next 20 years—an annual reduction equal to removing more than 420,000 cars from the road, according to Dairy Cares, which created this graphic to illustrate the environmental benefits of dairy biogas-to-transportation fuels.

The exclusion of bioenergy also runs counter to the board's Forest Carbon Plan, a biomass utilization plan adopted in November by the California Board of Forestry and Fire Prevention, CalRecycle's regulations to implement waste diversion requirements under Senate Bill 1383 in 2016, and a 2020 report to the board prepared by the consulting firm Energy and Environmental Economics. It also contradicts a recent report analyzing the state's investments of cap-and-trade revenues, which found dairy digesters to be the most cost-effective program. The United Nations Environment Programme has called slashing methane pollution critical for keeping global warming below the threshold agreed to by world leaders.

During a webinar on natural and working lands, Levin pointed out that “by far the biggest success” in reducing greenhouse gas emissions has come from the dairy digester program for incentives grants, which has reduced emissions three times more than the next most successful investment.



Julia Levin, executive director of the Bioenergy Association of California

**“It's just impossible to overstate how big of a benefit that dairy digesters are providing to our climate change goals and our climate,” she said. “More than a third of the 2017 Climate Change Scoping Plan relies on reducing short-lived climate pollutants, which are by far the most damaging climate pollutants, both to the climate and to public health.”**

Methane and black carbon emitted from livestock, landfills and burning have been of particular concern for regulators as well as policymakers. California has enacted at least nine laws in the past decade that require increasing in-state and delivered biogas and bioenergy production, according to Levin.

In response, Liz Gill, the energy commission research advisor who prepared the scoping plan presentation, said the issue lies with the economic modeling the commission has adopted for implementing the state's Renewable Portfolio Standard. She said the commission will be looking into the environmental and social costs that may have weighed against biomass in the modeling.

Several environmental justice advocates in the stakeholder meetings took aim at bioenergy facilities for the same reasons.

Julia Jordan, a policy coordinator for the Leadership Counsel for Justice and Accountability, said that “very, very massive dairies” take advantage of the incentives grants for digesters, leading to more water and air pollution.

**“We really see it as a false solution that doesn't do anything to support and benefit those environmental justice, low-income communities and communities of color that live near dairies,” said Jordan. “It's very important that we stop thinking about large-scale industrial confined animal feeding operations.”**

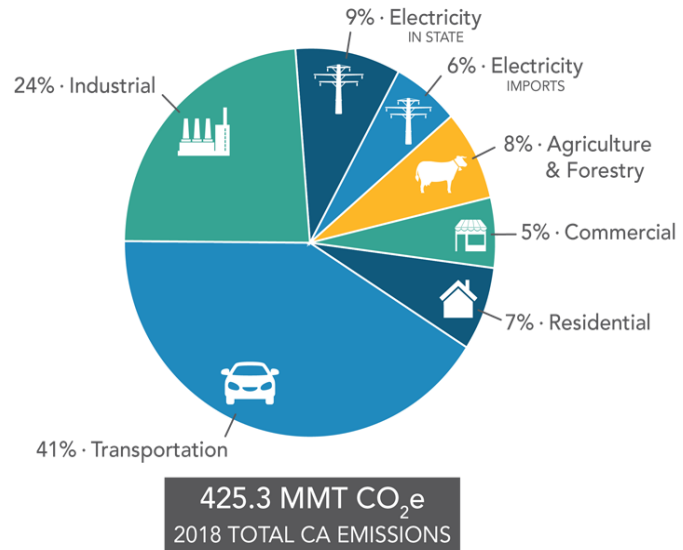
Catherine Garoupa White, executive director of the Central Valley Air Quality Coalition, called the technology unproven and said that the state is investing “tons of money in schemes that industry lobbyists tell us are going to be a really good idea.” She said San Joaquin Valley communities will be the testing grounds.

The ban on ag burning, meanwhile, has led to multiple proposals to reopen or build new biomass plants, she added, allowing new technologies to “offset business as usual.”

“When you take in the total impact that those facilities are having on our communities, they are simply unsustainable,” said White. “I’m concerned about greenwashing practices that really aren’t going to get us where we need to be.”

Michael Boccadoro, the executive director of the Agricultural Energy Consumers Association, took offense.

Boccadoro, who has pushed back on criticism from environmental groups during legislative budget hearings, argued the workshops have elevated a platform for environmental justice comments, and he called those criticisms misleading.



Nationwide, agriculture is the smallest contributor to greenhouse gas emissions by economic sector, contributing just 10% in 2019, according to EPA. In California, that number was 8% in 2018, according to this chart from CalEPA.

**“If achieving 29% of the return with just 1.3% of the investments is greenwashing, then I guess I’m not clear on the meaning of the term,”** said Boccadoro. **“I would just encourage all of us to move forward in a positive manner and stay focused on the facts and not on the rhetoric.”**

Evan Edgar, who leads the California Compost Coalition, also pushed for a stronger role for bioenergy in the scoping plan.

**“What I see in all the future reports from both [the energy commission and the air board] is that you’re crowding out bioenergy,”** said Edgar. **“There is no role for urban biomass, let alone forest and ag biomass.”**

He argued that older biomass plants have already been crowded out of the Central Valley by the forest sector, though more efficient technologies for biomass gasification are up and running and should be phased in at the community scale.

“I’m very doubtful that this process will actually do anything for biomass,” he said. “This seems like little hope. That’s why we sponsored a bill this year.”

Assembly Bill 1086 by Asm. Cecilia Aguiar-Curry of Winters would create an organic waste scoping plan through the Natural Resources Agency. Nick Lapis, the advocacy director for Californians Against Waste, testified in March that the bill would push regulatory agencies to work together in dealing with municipal and food waste as well as crop residue, manure, biosolids and forest debris. The bill has passed several committees and the Assembly with unanimous support.

Carbon offsets for food production and the use of pesticides on crops were not spared from criticism during the scoping plan workshops.

**“Offsets—at least as I've heard them discussed—are incompatible with equity,” said Dan Ress, a staff attorney for the Center on Race, Poverty and the Environment. “Pollution happens in communities of color, low-income communities. Enabling continued pollution through offsets continues and exacerbates environmental racism and injustice.”**



Catherine Garoupa White, executive director of the Central Valley Air Quality Coalition

John Larrea, who directs government affairs for the California League of Food Processors, countered that the food production industry depends on the offsets to meet compliance obligations, which would be extremely expensive otherwise. He argued the state should help to reduce emissions while preserving the industries that serve these communities.

“We supply jobs,” said Larrea. “We also do our best to be able to supply environmental benefits associated with our operations.”

Soon after Larrea spoke, Asha Sharma, a director at the Pesticide Action Network, blasted the air board for leaving pesticides out of the conversation.

“Evidence shows that synthetic pesticides can increase greenhouse gas emissions directly and indirectly by hindering soil’s ability to sequester carbon,” said Sharma. “We would like to request that pesticide reduction is explicitly included as a climate solution and incentives

that support organic and agroecological farming are considered.”

Sharma and other environmental advocates have shared the same arguments, which specifically target fumigant emissions, with lawmakers as they consider budget allocations for emissions reduction programs.

## **Water board fees add more costs to growers, as disasters and regulations mount up**

Staff at the State Water Resources Control Board are projecting water quality and water rights fees will rise again this year, following multiple years of increases for agricultural stakeholders under the board’s regulatory programs.

Water rights fees are expected to go up by 6%. The fee-based budgets for water quality programs are projected to rise by as much as 15% for some programs, according to the latest estimates:

- Section 401 water-quality certification: 15%
- Waste discharge requirements: 13%
- Storm Water Program: 13%
- Confined-animal facilities: 12%
- Irrigated Lands Regulatory Program: 10%
- National Pollutant Discharge Elimination System: 9%

Following the pandemic, the emerging drought is the next disaster to add further financial uncertainty for the growers shouldering the fees.

To counter an anticipated state budget shortfall in 2020, Gov. Gavin Newsom furloughed state workers to reduce salary costs by 10%. The reduced staffing at the state and regional water



Gov. Newsom and Water Resources Director Karla Nemeth stand in dry Lake Mendocino in May. (Source: DWR)

boards allowed slight relief in the fee increases for the current fiscal year. Now those staff have returned to work, bringing fees back to the prior rates at the same time that higher fees are proposed for the next fiscal year.

As California plunges into another drought, water board staff will likely be redirected to deal with drought-related issues as the flurry of regulatory activity at the state water board escalates with new emergency orders. This happened in the last drought, according to Erik Ekdahl, a deputy director at the state water board. Yet the water board has not received any supplemental resources so far to cover the added

duties. The May revision of the governor’s budget proposal did include \$15 million in support, but the budget process and the timeframe for hiring new employees would delay any additional staff support until October. Core staff would be doing double duty until then.

**The added work also means staff may be less available to perform the regulatory duties the fees are meant to cover. This means less stakeholder engagement for CV-SALTS (Central Valley Salinity Alternatives for Long-Term Sustainability), which is also adding new fees and costs for farmers as the water board begins to implement the program.**

Further costs to fee payers were added last year through budget trailer bills that totaled about \$6 million in new spending for the board. This included sewer service provisions for disadvantaged communities, a freshwater and estuarine harmful algal bloom program, a stormwater provision and items related to the governor’s Water Resilience Portfolio, which did offer benefits to agriculture.

During a meeting with stakeholders last week, Bob Gore, a policy advocate for the Gualco Group representing the California Association of Winegrape Growers and 4,000 family farmers in the Kings River Conservation District and the Modesto Irrigation District, said he pleaded with lawmakers last year over those programs. He urged them to source the funding instead from the state’s general taxpayer fund.

**“We were refused any input,” said Gore, in describing the response from budget subcommittee chairs in the Assembly. “They just went right over us, to be blunt.”**

While the reception was slightly better in the Senate, the Legislature overall “declined to cooperate.”

John Russell, a deputy director at the state water board, pointed out that with the economic uncertainty last year, lawmakers were “very, very hesitant” to add any new spending from the general fund.

**“Our first ask is always to have some of these be general fund instead of fees, because a lot of them are a statewide benefit and there is no really direct link to the programs,” said Russell. “Sometimes we're successful, usually not though.”**

The massive surplus for the state budget this year has not led to any relief for feepayers.

“We did get more from the general fund this year, but it went to things like drought, and not to these programmatic things,” said Russell.



Bob Gore, a senior advisor at the Gualco Group

California Rice Commission President and CEO Tim Johnson shared his disappointment with the staff that the fee proposal “fails to reflect the realities of drought on California agriculture.”

Parry Klassen, executive director of the Central Coast Groundwater Coalition, described the struggle of farmers as multiple regulations and crises have compounded costs in recent years.

“We’re on the precipice of almost a disaster,” said Klassen. “It’s a whole different situation now than it was in March [when staff first considered raising the fees], because of the snowfall and the water availability.”

Klassen said the changes in ag overtime pay have had “huge impacts” on growers.

“I would hope that somehow we can figure out a way to mute this increase,” he added.

Others shared frustration that the fees never reflect the millions of dollars growers already spend each year on water quality and water improvement projects—that add benefits to the environment and public drinking water, warranting taxpayer support.

Gore hoped the stakeholders could work together as a coalition to petition lawmakers to earmark a portion of the \$12 billion allocated for general water resource management funding through the Water Resilience Portfolio to instead support programmatic relief for ag lands due to the urgency of the drought.

Ekdahl acknowledged that this could elevate the voice of water board staff in what are typically complex and high-level budget negotiations between the legislative and executive branches.

**“It’s far above my paygrade,” said Ekdahl. “We don’t have that authority to go and negotiate or advocate or educate even on our end for what’s in the administration’s budget package.”**

Russell added that water board staff “have been on a particularly short leash” this year as far as direction from the governor’s office.

Gore noted that some of these issues over fee increases may be part of “a much broader and serious discussion” if the water board follows through on suggestions that it is considering a realignment of water rights.

## Forests get more attention as Biden administration pushes climate priorities

The Biden administration's climate goals are bringing attention to the role of forests in storing carbon and the need to offer incentives to private forest owners to manage their trees sustainably.

"Climate-smart forestry policies offer both tools to reduce carbon pollution and an important opportunity to develop new revenue streams for family foresters," Senate Ag Committee Chair Debbie Stabenow, D-Mich., said as she opened a hearing in May about opportunities for federal, state and privately owned forestlands to address climate change.

**Stabenow has introduced the Rural Forest Markets Act, which would call on USDA to guarantee investments in private forest carbon market programs.** The bill has been read twice and sent to the full committee which, according to spokesman Patrick Delaney, is "looking for every opportunity to move the legislation forward."

Kedren Dillard, whose family owns about 100 acres of forest land in Virginia, said the bill would help people with small forests who either can't afford or aren't eligible for carbon markets aimed at large landholders. Those markets typically calculate carbon sequestration from changed management practices that owners invest in and then sell carbon credits, sharing the resulting profit with the forest owner. The process can stretch across many years.

**"We can do much more with our forests if we empower family forest owners, including African American owners like me, with the right tools and policy support,"** she said. The Rural Forest Markets Act intends to make carbon markets accessible to family forest owners by spurring private investment in the program, which is then used to incentivize property owners to enroll. Dillard represents the Sustainable Forestry and African American Land Retention Program and sits on the board of the American Forest Foundation (AFF), which offers a carbon market for small forests (typically under 1,000 acres).

"Most families simply do not have the resources for upfront expenses and the ability to wait years for a return," Dillard said.

Sen. John Boozman, R-Ark., the agriculture committee's ranking member, said climate-smart forest management has the potential to benefit the environment, public and private forests, the wood products industry and rural economies. But, he cautioned, "as Congress and the administration consider strategies to promote voluntary participation in combating climate change, we must avoid policies that take forest land out of production or that deter sound management practices."



Harvesting high quality trees and leaving the lesser quality trees, as in this Pennsylvania forest, is a strategy the American Forest Foundation says is unsustainable. Image courtesy American Forest Foundation.

For timber companies, sustainable management means reforestation at the same rate as harvesting, which is how Jamestown LP operates, according to Troy Harris, managing director of timberland for the Atlanta-based company that owns forestland throughout the eastern United States. Harris, who also testified at the ag committee hearing, serves on the board of the National Alliance of Forest Owners.

**“Forests are the optimal land use for maximizing carbon storage,” he told the committee, encouraging members to take action to further expand sustainable building.** In his written testimony, he called for using the tax code to “incentivize increased forest carbon sequestration and storage,” adding USDA could “support voluntary carbon registries and updated protocols that maintain rigor while removing barriers to entry.”

The Growing Climate Solutions Act would establish technical assistance and third-party verification for carbon (and other ecosystem services) markets to make the markets more accessible to farmers, ranchers and private forest landowners. Technical assistance can be something forest owners really need as they consider changing their management practices to achieve climate goals. Under the Act, “USDA will be the one-stop-shop for all carbon market resources,” says Natalie Alex, policy manager at the AFF.

She adds that a loan or bond guarantee from USDA, called for in the Rural Forest Markets Act, would reduce the risk for investors who want to participate in the AFF Family Forest Carbon Program but may not see returns for decades. **“In case we can’t sell the carbon on the market, they still get their return on investment,” Alex says. But the Congressional Budget Office gave the bill a score of zero, suggesting it doesn’t expect USDA would have to pay out much, if anything, and AFF already has signed contracts from companies ready to buy carbon as soon as it’s available.**



Kedren Dillard, private forestland owner.

As for public forests, Forest Service Chief Vicki Christiansen, testifying before a House appropriations subcommittee about her agency's FY22 budget, said the country’s public forests are facing longer and more intense wildfire seasons, drought, invasive species and attacks from insects and disease. Still, she said the Forest Service “stands ready to meet these challenges and advance the Administration’s climate goals.”

**As an example, she said the Forest Service is increasing carbon sequestration through reforestation by “planting the right species, in the right place, under the right conditions, so forests will remain healthy over time.” But, she added, the current plans call for reforestation of 1.3 million acres of National Forest System land, accounting for only one-third of the need.**

Still, increased attention to trees’ carbon-sequestering prowess and searing images of wildfires whipping through public and private lands have raised the national profile of forests.

“We’re starting to see this energy around forests and climate change,” said Elizabeth Greener, AFF’s communications director, adding that it’s “wonderful to see them brought to the forefront.”



## Amid DPR, EPA reviews, Walmart calls on produce suppliers to reduce pesticide use

Walmart has announced it will phase in new guidelines for its fresh produce and flower suppliers including reducing their use of certain pesticides, even as both the Environmental Protection Agency and the California Department of Pesticide Regulation (DPR) complete re-evaluations of the same chemicals.

**“To help improve pollinator health and biodiversity in the regions in which we operate, Walmart U.S. is announcing new [pollinator commitments](#),” wrote [Martin Mundo, a Walmart senior vice president, on the company’s website.](#)**

Walmart’s suppliers will need to phase out the use of chlorpyrifos and certain neonicotinoid pesticides. California and Hawaii have already banned chlorpyrifos (and New York is phasing it out), while the [EPA released a new draft risk assessment](#) of it last year. The class of substances known as [neonicotinoids](#) includes various insecticides, of which imidacloprid, thiamethoxam, clothianidin, dinotefuran, nitenpyram, acetamiprid and thiacloprid are the most widely known, according to manufacturer Bayer CropScience.



Healthy pollinator habitat is one goal Walmart has cited in rolling out its new sustainability guidelines for produce and flower suppliers. Image courtesy of USDA Flickr.

Neonicotinoids are currently undergoing reevaluation at both the EPA and the DPR. After extensive public comments, California expects rulemaking to begin this year. Its scientists have concluded “mitigation on neonicotinoid use is necessary based on the findings during the department’s neonicotinoid reevaluation,” according to a DPR spokesperson.

**Walmart’s sustainability guidelines also state the company will source all of its produce and flowers “from suppliers that adopt integrated pest management practices, as verified by a third-party, by 2025.”**

Integrated pest management (IPM) provides “a decision-making framework for growers,” says Ariel Larson, senior project manager for the Sustainable Food Group team at the IPM Institute of North America in Madison, Wisconsin. She says it gives the growers tools “to assess their pesticide use and assess their risks associated with it.”

The IPM Institute has worked with Walmart, Sysco, Whole Foods and other companies on their sustainability goals. She says in recent years, consumers have driven the push toward more transparency and sustainability in the food supply chain, which has increased businesses’ interest in such programs.

“Our purpose, and our mission, has been to use the power of the marketplace,” she says, “and work with companies to help drive progress in sustainable agriculture through adoption of integrated pest management and other sustainability best practices.”

With IPM, she says, “growers have options to use the tools that they need, but they are only used, basically, as a last resort after nonchemical options have been used.” With organic certification at one end of the spectrum and what Larson describes as “calendar-based” pesticide spraying (applying chemicals on a schedule rather than in response to a need) on the other end, IPM offers a middle path.

Although she couldn’t speak specifically to her work with Walmart, she says “typically companies are trying to work with their suppliers to improve practices” rather than switch to suppliers who are already using IPM.

**Larson says it’s “certainly notable that there’s a 3rd party verification component” to Walmart’s policy because it means auditors can visit fields and question growers and report back to Walmart whether what a farm claims to be doing is really happening.**



Ariel Larson, IPM Institute of North America

The IPM Institute’s Sustainable Food Group is one of the certifying bodies Walmart will recognize. Some of the others include Bee Better Certified, Fair Trade International and Rainforest Alliance. And the company says “suppliers with regional or crop-specific certifications that include strong IPM criteria can reach out to Walmart and request that their certification is benchmarked against the criteria.” USDA organic and international organic labels meeting USDA’s criteria are also recognized.

Some growers likely are already meeting Walmart’s new goals, while others may have to make some adjustments. California grower Steve Brazeel of SunTerra says he’ll carefully review all of the expectations to make sure he’s meeting them, but says it likely will come down to demonstrating what they’re already doing rather than having to change things.

“Our goal as a provider to all retailers, including Walmart,” he says, “is to meet and exceed any kind of sustainability goals that are out there.”

## **Vilsack pledges 'significant' increase in meat processing**

Agriculture Secretary Tom Vilsack told senators Tuesday that his department is working on measures that will “significantly” increase U.S. meatpacking capacity, a top priority of producers who believe industry concentration is depressing livestock prices.

Testifying before the Senate Agriculture Appropriations Subcommittee, **Vilsack also endorsed the idea of creating a new office in USDA to investigate meatpacker purchasing practices and suggested that other agribusiness sectors were ripe for reform, implying that existing patent laws were discouraging competition in the seed business.**

Vilsack provided few clues as to what he would do to increase meat processing capacity, but he told Sen. Jon Tester, D-Mont., USDA was looking at offering low-interest loans for new processing facilities. Vilsack still has unspent funding available from coronavirus relief packages that Congress has passed.



Ag Secretary Tom Vilsack (Photo by Adam Schultz / Biden for President)

**“We are going to come up with a very creative way to significantly expand processing capacity in this country,” Vilsack said.**

After the hearing, *Agri-Pulse* asked Vilsack for more details about USDA’s plans, but he declined to elaborate. “More to come later,” he said.

In Vilsack’s view, increasing processing capacity would both help address producers’ pricing concerns as well as enable the industry to better shocks such as the COVID-19 pandemic or the recent ransomware attack on sector giant JBS USA.

**“If you have too much concentration you may have a very efficient system but you may have ... one that's not particularly resilient. I think we saw that during the pandemic,” Vilsack said.**

He said the department would be making announcements in the next few weeks about funding for two small programs authorized to help small-scale processors. One would help processors qualify for federal inspection, which would, in turn, enable them to sell across state lines and into export markets. Another would reduce the overtime fees that small processors must pay for federal inspection services.

**Vilsack also told the senators that in wake of the JBS hacking, USDA would be working with the food industry to ensure that companies are implementing protections against hacking.**

“We’re going to convene food groups to essentially make sure they understand and appreciate precisely ... what is required,” he said.

Vilsack's comments came as meat processor Wholestone Farms announced a new \$500 million pork processing facility in South Dakota.

Concerns about meat industry consolidation and concentration have become bipartisan and taken on new urgency in the wake of the pandemic, and more recently, the JBS case. Sen. Mike Braun, R-Ind., suggested during Tuesday’s hearing that the concerns extended to farm inputs.

“Are you concerned that within the ag community and the farming side of it that we've got issues of too much concentration within the supply side that farmers have to deal with?” Braun asked.

Vilsack responded that he thinks input costs are one reason many farmers can't support themselves on farm income, but patent protection was also contributing to the problem.



Sen. Mike Braun, R-Ind., (Photo: Joy Philippi)

**“The question is whether or not it is discouraging additional competition by virtue of how much time we give (for patent protection) in this day and age of enormous, rapid change,” Vilsack said. “We ought to be taking a look at those issues, I think, to figure out ways in which we can moderate those (input cost) increases so that farmers have a chance of making more from their farm.”**

Staffing issues also surfaced as a concern during the hearing.

Vilsack insisted that the Farm Service Agency and Natural Resources Conservation Service were keeping pace with handling program demands despite some local staff continuing to work remotely. He said that 75% of FSA staff were back in agency offices and almost the same percentage of NRCS staff.

He said that USDA was working on a return-to-work plan, but field offices were limited in how many people they could bring into their facilities in part because of social distancing requirements involving workers who aren't vaccinated against COVID-19.

**“If you have to social distance, that creates an issue with reference to the size of the office (staff) itself. But I want to assure you that the work is getting done,” Vilsack told Sen. Jerry Moran, R-Kan.**

Vilsack also used the hearing to press the appropriators to fund staffing increases in the department, particularly within Rural Development and NRCS.

The White House's fiscal 2022 budget calls for 99,365 full-time equivalent staff at USDA, up from the estimated 96,072 on the payroll in FY21, which ends Sept. 30, and the 86,434 employed in FY20.

**NRCS would have a staff of 11,011 in FY22, the same as in FY21 but up from 8,597 in FY20. The Rural Development staff would grow from 4,766 this year to 5,156 in FY22 under the proposed budget.**

NRCS is viewed as critical to helping farmers implement climate-smart practices, a priority for the administration.

“There's a lot of work we can and should, and ought to be doing on the ground, and there are no better problem solvers I don't believe in all of government than the good folks that work at NRCS. There just aren't enough of them,” Vilsack said.

## **US and EU declare new era of trade cooperation**

The U.S. and European Union remain at odds over major trade issues, but leaders announced a new age of cooperation Tuesday, and U.S. farmers stand to benefit if leaders can follow through on the goodwill expressed in Brussels this week.

U.S. Trade Representative Katherine Tai and European Commission Executive Vice President Valdis Dombrovskis announced a deal aimed at ending tariffs tied to aircraft subsidies, but they

and others stressed that the agreement is just the beginning of more cooperation on trade and other issues.

**“This shows the new spirit of cooperation between the EU and the U.S. and that we can solve the other issues to our mutual benefit,” said Dombrovskis. “Together we can deliver for our citizens and businesses.”**

A key dispute that the U.S. agriculture sector would like to see resolved is over U.S. tariffs on steel and aluminum imports from Europe, which resulted in EU tariffs on U.S. corn, rice and other commodities.

The U.S. and EU hope to have a resolution by the end of the year, both parties said in a joint statement Tuesday.

“We will engage in discussions to allow the resolution of existing differences on measures regarding steel and aluminum before the end of the year,” the statement said. “In this regard, we are determined to work together to resolve tensions arising from the U.S. application of tariffs on imports from the EU under U.S. Section 232, and will work towards allowing trade to recover from its 2020 lows and ending the WTO disputes.”

Another vexing problem for U.S. ag is the EU plan to impose new restrictions on U.S. dairy and meat.

Tai expressed optimism that the resolution to the dispute over aircraft subsidies would lead to more cooperation on other trade disputes and barriers.

**The resolution on aircraft subsidies — including an agreement by the EU for a five-year suspension on U.S. wheat, orange juice, grapefruit, almonds, livestock feed and other commodities — represents an opportunity to rebuild U.S.-EU ties and “commit to working together on common challenges,” she said.**

European Commission President Ursula von der Leyen said Tuesday that she expects the U.S. and EU to end the dispute over steel and aluminum trade by December amid the new wave of cooperation.

“With that spirit, we’ve said. ‘Let’s sit down. Let’s sort this out together ... and get rid of this nuisance issue,’” she said.

**It’s of particular importance to U.S. corn farmers because the EU levies a 25% tariff on the grain in retaliation for the U.S. steel and aluminum duties.**

Neither Tai nor her European counterpart mentioned publicly the looming dispute over the EU’s plan to begin requiring new health certificates for U.S. dairy and meat products this summer, but the National Milk Producers Federation, U.S. Dairy Export Council and U.S. lawmakers are hoping this is one more problem the two sides can resolve.



USTR Katherine Tai and European Commission official Valdis Dombrovskis discuss the U.S.-EU trade relationship. Photo: Twitter.

The NMPF and USDEC are lauding a new letter by Democratic and Republican lawmakers that asks the European Commission reconsider “these burdensome requirements and in the meantime delaying their effective date, so that U.S. exporters can assure their buyers that affected products will be available.”

Reps. Ron Kind, D-Wis., Jim Costa, D-Calif., John Katko, R-N.Y., and Jackie Walorski, R-Ind., signed on to the letter this week to EU Ambassador Stavros Lambrinidis.

**The EU is still on track to impose a host of new rules covering the importation of dairy, meat, eggs, seafood and composite food products on Aug. 21. Composite foods are a wide variety of products such as pizza, cheesecake and biscuits.**



Krysta Harden, USDEC

The U.S. dairy industry says the rules would cripple trade, and there is evidence that U.S. exporters are already being impacted.

The new regulations require farms to receive frequent inspections for signs of foot and mouth disease and rinderpest as well as implement new record-keeping systems that would store years’ worth of data on cows’ health records and movements. The requirements are far too intrusive and force farmers to hand over too much information to foreign governments, say U.S. groups like the NMPF, USDEC and the International Dairy Foods Association.

"On behalf of America's dairy farmers, processors, and exporters, we thank Representatives Kind, Walorski, Costa and Katko for emphasizing to European leadership the need to prevent significant trade disruptions to U.S. dairy exports," said USDEC President and CEO Krysta Harden about the letter from lawmakers. "The U.S. government and American dairy industry have been making a reasonable request to delay implementation of the EU’s new certification requirements, which fail to recognize the safety of U.S. dairy products and the high level of animal health protections in our industry.”

The U.S. ships about \$100 million worth of dairy products each year to the EU, according to USDEC data.

U.S. government and European government officials tell *Agri-Pulse* that there are ongoing talks between Washington and Brussels to resolve the U.S. industry concerns or at least postpone the new health certificates.

## **States moving to require farms to pay overtime, despite federal exemption**

Colorado lawmakers just passed a bill that will make the state the fifth in the nation to require farms to pay overtime to their workers, and farm groups expect more state legislatures to follow suit.

The Colorado bill, named the Agricultural Workers’ Rights Bill and awaiting Democratic Gov. Jared Polis' expected signature, would require the Colorado Department of Labor and Employment to promulgate rules “providing meaningful overtime and maximum hours protections to agricultural employees.”



Bruce Goldstein, Farmworker Justice

The bill is similar to laws enacted in California, New York, Maryland, Minnesota, and more recently, Washington to impose overtime requirements for farmworkers. Oregon lawmakers have been debating a similar measure.

**California and Washington have the most comprehensive overtime laws, effectively removing the exemption that excluded farmworkers from the 40-hour overtime threshold mandated by the 1938 Fair Labor Standards Act.**

Michael Marsh, president and CEO of the National Council of Agricultural Employers, said a bill to end the federal exemption is unlikely to pass this Congress despite President Joe Biden's support, but Marsh predicted there would be an ongoing push "for the elimination of the exemption from overtime for agricultural workers ... on a state-by-state basis."

In February, Democrats introduced a Biden-backed immigration bill in the House and Senate that would require farms to start paying overtime and provide an expedited path to citizenship for undocumented farmworkers. The 353-page measure, which is built on Biden's immigration reform plan and called the U.S. Citizenship Act, effectively eliminates the exemption for farmworkers from federal overtime and minimum wage requirements that is in current law.

**Bruce Goldstein, president of the advocacy group Farmworker Justice, endorsed the bill. "Employers in the agricultural sector should modernize their labor relations and build profitability based on treating farmworkers with the dignity and respect they deserve," said Goldstein. "Farming's business models should not depend on exploitation and exclusions from labor protections."**

Farmworker Justice has advocated that states take action on overtime laws.

In Colorado, a local advocacy group, Project Protect Food System Workers, was one of the groups pushing for the state legislation. The group's website lists the Colorado bill as one of its three projects, saying it worked with state Sen. Jessie Danielson and Rep. Yadira Caraveo to get the Colorado Agricultural Workers' Rights Bill passed.

Project Protect Food System Workers also closely collaborates with Colorado Legal Services Migrant Farm Worker Division.

The final version of the Colorado bill states two representatives from Colorado Legal Services MFWD will sit on an agricultural work advisory committee made up of nine members, along with two current or former agricultural workers, two advocates of workers' rights, and three members representing agricultural employers.

The final bill was the result of negotiations and compromise between legislators, agricultural groups, and advocacy groups.

The bill originally would have required that farms pay overtime after 40 hours a week. Under the final bill, that threshold will instead be determined by the Colorado Department of Labor and Employment. That rulemaking process could allow more input from the ag industry, although the nine-person advisory committee will have only three members representing ag employers.

**Zach Riley, senior director of public policy at the Colorado Farm Bureau, told *Agri-Pulse*, “The original text of the bill was rigid and punitive, now we believe that compromise can continue to bear fruit in the coming implementation of statute through rulemaking negotiations.”**

The Colorado Fruit and Vegetable Growers Association was also closely involved in negotiating amendments to make the bill more workable for farmers. For example, **the group obtained some exemptions from hand-weeding restrictions that were included in the bill. The exemptions would apply to transitional organic farmers and farmers using mulch or plastic coverings. An agricultural worker grievance process was also modified in the final bill.**

In Washington, the new overtime requirements were signed into law in May and welcomed by Biden.

"Agricultural workers in Washington and across the country have helped carry our nation through this pandemic — working long hours, often at great personal risk, to meet the needs of their communities and keep America healthy and well-nourished," Biden said in a statement issued by the White House. "These overtime protections will ensure that agricultural workers in Washington are paid for all of the vital work they do."

Under the Washington law, the overtime threshold will lower each year until it reaches 40 hours in 2024. The law stemmed from a lawsuit brought against a dairy that could have resulted in Washington dairy farmers having to pay overtime retroactively.

**In Oregon, an ag worker overtime bill that would have kicked in at 40 hours stalled in the legislature, largely because "it would have been the most aggressive overtime policy in the country," Samantha Bayer, the policy counsel at Oregon Farm Bureau, told *Agri-Pulse*.**



Samantha Bayer, Oregon Farm Bureau

But she expects farmworker advocates to continue pressing for a state law. “I think it’s almost guaranteed that the conversation is going to keep happening and the work group is going to keep working on it.”

Bayer said Farm Bureaus in other states that have adopted these types of laws report that they are not resulting in more wages for farmworkers. “It’s actually resulting in hours capped. So, the proposal that came forth wasn’t actually going to meet the very good-natured policy objective which was to improve the lives of agricultural workers," she said

In New York, Gov. Andrew Cuomo signed into law a farmworkers bill in 2019, which, among other labor protections, created a 60-hour overtime threshold. The bill said the threshold would be revisited by a wage panel in a year, where the panel could lower the threshold or keep it the same. The board ultimately decided to postpone the decision due to the pandemic.

In California, farmers have been operating under a state overtime requirement since 2019. California’s law gradually implemented overtime pay, so that large farms will have a 40 hour overtime threshold by 2022 and small farms will follow by 2025.

Josh Roberts, a farmer in California's Salinas Valley, told *Agri-Pulse* that it is turning out to be less expensive to pay overtime to existing workers rather than hiring additional employees.



**“The margins on farming are getting pushed out,” Roberts said in an interview with *Agri-Pulse*. “So, it’s incumbent upon us to use the most productive, stable labor force that we can find.”**

Roberts said farmers in other states facing new overtime requirements are likely to discover it's also hard to hire additional workers or find housing for them. Now, he's trying to focus on keeping his current workers happy.

“We’d rather invest in our crews and see a declination of attrition and a higher year-over-year return rate than having to retrain and carry the overhead of too many people,” he said.

## **News Briefs:**

**Researchers discover 'antidote' for bees exposed to pesticides.** By thinking small, a team of researchers might have just made a big step forward in the fight to protect bees from insecticides. Using a pollen-sized microparticle that contained a certain enzyme, a group of scientists was able to create an “antidote” to organophosphate-based insecticides, according to a Cornell University [release](#). The [resulting study](#) — funded by the USDA's National Institute for Food and Agriculture, the National Institutes of Health and the National Science Foundation — found that the bees that ingested high doses of these microparticles had a 100% survival rate when exposed to malathion, while bees that had no contact with the microparticles died.

"We have a solution whereby beekeepers can feed their bees our microparticle products in pollen patties or in a sugar syrup, and it allows them to detoxify the hive of any pesticides that they might find," James Webb, a co-author of the paper and CEO of Beemunity, said in the release. Once the microparticles are ingested by bees, the enzymes they contain enter the bee’s midgut, where they break down and detoxify pesticides. According to the release, Beemunity has expanded upon the research by putting an insect-protein shell around the particles and filling them with a “special absorptive oil.” “Many insecticides, including widely-used neonicotinoids, are designed to target insect proteins, so the microparticle shell draws in the insecticide where it is sequestered inert within the casing,” the release states. Over the summer, Beemunity will test the product on 240 hives in New Jersey. The goal is to launch products in February 2022.

## **National, local groups receive California NRCS conservation innovation grants.**

California’s statewide office of USDA’s Natural Resources Conservation Service has awarded \$319,000 in conservation innovation grants that will address soil health and carbon storage on pasture lands, tillage management for rice, and the economics of soil health and water management. “Congratulations to [American Farmland Trust](#), [Forward Family Farming](#), and [Scott River Watershed Council](#),” said [Carlos Suarez, NRCS State Conservationist in California, in a statement](#). The [Scott River Watershed Council](#) plans to use its \$114,900 award, along with \$140,000 it raised in matching funds, to conduct a three year comparison of pasture and hayfields fertilized with compost, biochar enhanced with compost and plain biochar. Alexis Robertson, project manager at the Council, said biochar is created by thinning forests in the region and then heating the biomass at very hot temperatures using a process called pyrolysis, which keeps most of the carbon intact versus standard burning that releases most of the carbon. The carbon-rich biochar can then be applied to ag land and Robertson said the project hopes to determine whether biochar helps with “water holding capacity and plant fertility.” If successful, she says the project could be scaled to other areas where forests are near agricultural land, “connecting those two often disparate ecosystems.” [Conservation innovation grants](#) can be awarded through national and state-level competitions and this year California prioritized “proposals that improve the ‘technical toolbox’” for addressing concerns ranging from soil, water, forest and air quality to animal habitat.

**Plant-based protein shipments up 60% from April 2020.** Shipments of plant-based proteins from distributors to commercial restaurants in April showed a 60% increase over 2020 figures, according to the NPD Group. The large increase is partly due to the decline in shipments brought on by the pandemic in 2020, but even compared to pre-pandemic shipments in 2019, plant-based protein shipments were up 16% this year. Plant-based beef alternatives, which make up the largest portion of plant-based protein shipments, increased by 45% compared to April of last year and increased by 82% compared to April 2019. Chicken substitute shipments grew by 82% in April 2021 compared to last year and grew by 25% compared to two years ago. Fish plant-based analogue shipments increased by 181% this month in comparison to 2020 and by 78% compared to 2019, although it is only a small portion of the plant-based protein market. Classic plant-based proteins, like tempeh, tofu, nuts, grains, and vegetables, also showed strong growth in April according to the NPD Group’s data. “There has been a lot of public discussion about plant-based beef and meat substitutes, and whether or not plant-based is a fad or a trend,” Tim Fires, president of NPD’s SupplyTrack, said in a statement. “But the fact of the matter is, chefs and operators see the plant-based protein category as a flexible option for developing recipes and menu offerings that taste good, and their guests enjoy. Plant-based is now a staple in their repertoire.”

**Tractor sales down in May, total sales rebound from 2020.** The Association of Equipment Manufacturer’s Ag Tractor and Combine Report indicates that total farm tractor sales in May were down 3.9% compared to 2020 figures, but sales of larger tractors were on the upswing. Sales of two-wheel drive tractors were down 4.2%, with less than 40 horsepower tractors down 8.7% and more than 100 horsepower tractors up 28.6%. Sales of four-wheel-drive tractors shot up by 62.2%, from 156 in 2020 to 253 in 2021. However, year-to-date total sales for 2021 increased by 25.8% compared to May 2020 figures, which were lowered by the halt in sales that occurred in February and March. Other than the first two months of the pandemic, monthly tractor sales in 2020 were higher than the preceding 5-year average in almost every case, according to AEM. The YTD figures are in line with the AEM survey that was released in March, in which 88% of equipment manufacturers reported a positive outlook for 2021. The AEM Ag Tractor and Combine Report is released monthly and is compiled via AEM member companies through proprietary statistical reporting programs.

## **Farm Hands West: Dolcini resigns from CalEPA Department of Pesticide Regulation**



Val Dolcini

**Val Dolcini** has submitted his resignation at the California Department of Pesticide Regulation and will return to Washington, D.C. California Gov. **Gavin Newsom** created the CalEPA deputy secretary for agriculture position for Dolcini in 2019, and after six months Dolcini later become head of DPR. Chief deputy director **Jesse Cuevas** left his role last month to lead the Assembly’s Accountability and Administrative Review Committee, and **Abbott Dutton** has left where she was the director of communications. She has gone to the Delta Stewardship Council as its new communications and outreach director. **Leia**

**Bailey** will take over as the acting communications director at CDPR. [To read more on the leadership changes, click here.](#)

Ocean Mist Farms' president and CEO, **Joe Pezzini** has announced he is stepping down from the helm, effective June 30. Pezzini has served the company for the past 21 years. Ocean Mist has begun the process of searching for Pezzini's successor.

The Senate confirmed **Lina Khan** to the Federal Trade Commission with a final vote of 69-28 and shortly after, President Biden tapped her to serve as the new chair of the FTC, replacing **Rebecca Kelly Slaughter**. Slaughter has served as the acting FTC chair since January. Khan is an associate professor at Columbia Law School.

The Senate also confirmed **Michal Freedhoff** to be the next assistant administrator overseeing EPA's office of chemical safety and pollution prevention. Freedhoff has worked on Capitol Hill for over two decades, most recently as the minority director of oversight for the Senate Environment and Public Works Committee.

Finsbury Glover Hering has hired **Jenny Hopkinson** as a director in the firm's food and agriculture practice. Hopkinson most recently worked at the National Farmers Union.

**Marvin Kokes** has accepted a new job offer as the vice president of agribusiness lending for Farm Credit Services of America. Kokes previously worked at the National Cattlemen's Beef Association in industry and member services.

**Mary Coppola Heslep** has joined Ten Acre Marketing as senior vice president of creative. Coppola Heslep previously led the communication and marketing department at the United Fresh Produce Association over the past seven years.

The National Association of State Departments of Agriculture has brought on **Tandy Kidd** as manager of events and member engagement and **Maria Martinez** as coordinator of programs and grants for the NASDA Foundation. Kidd most recently served as special project manager for the Oklahoma Department of Agriculture and Martinez previously served as a graduate teaching assistant for the University of Georgia and has prior experience with Kansas Corn, Yum Brands Co. and the National FFA Organization.



Tandy Kidd

**Safa Syed** now serves as a legislative aide covering the animal welfare, appropriations, public lands and natural resources, and Native American portfolio for Sen. **Jeff Merkley**, D-Ore. Syed previously was a legislative correspondent.



Vicki Christiansen

**Abigail Hemenway** has been elevated to legislative correspondent from staff assistant for Sen. **Lisa Murkowski**, R-Alaska. Hemenway previously worked on the Senate Energy and Natural Resources Committee as a staff assistant.

**Chavonda Jacobs-Young**, acting undersecretary for the Research, Education and Economics mission area and acting chief scientist of the Department of Agriculture, has joined the World Food Prize Foundation's council of advisers.

**Sally Flis** has been tapped to be the 2021-2022 president-elect for the Council for Agricultural Science and Technology (CAST). Flis works at Nutrien Ag Solutions as the sustainable ag field manager. She is a member of and has chaired the Plant Ag and Environment workgroup (PWG) at CAST. She has also served on the board of directors since 2018 as the PWG liaison.

USDA Forest Service Chief **Vicki Christiansen** has announced her retirement after a 40-year career in the forestry industry. During her career, she has served as a professional forester, wildland firefighter, and land manager with 11 years of service at the Forest Service. She has served the last three years as the chief of the Forest Service. Christiansen will retire from federal service in August.

**Best regards,**

**Sara Wyant**  
**Editor**

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