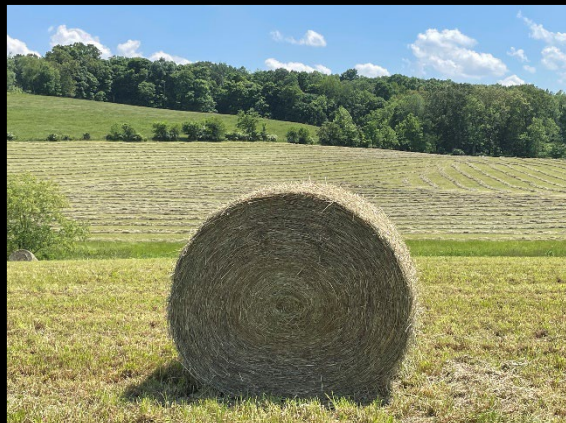


**COSHOCTON COUNTY AGRICULTURE & NATURAL RESOURCES****June 1 (Edition #149)**

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Hello Coshocton County! Welcome to the month of June. The past week has been a great one with a lot of planting completed and a real nice start to first cutting hay. We will dance with showers later today and tomorrow before a few more dry days.

Included in today's newsletter include some planting advice for soybean and corn in June as well as some discussion on forage crops. I have also included two great legal articles that are well worth the read. Planning ahead can solve a lot of problems.

Good luck as you finish up planting. Have a good and safe week!

Sincerely,

*David L. Marrison*

Coshocton County OSU Extension ANR Educator

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**THE OHIO STATE UNIVERSITY**  
COLLEGE OF FOOD, AGRICULTURAL,  
AND ENVIRONMENTAL SCIENCES

## Weather Update: Unofficial Start to Summer Cools Off By Weeks End

By: Aaron Wilson

Source: <https://agcrops.osu.edu/2022-16/weather-update-unofficial-start-summer-cools-week%E2%80%99s-end>

May 2022 was a wet month for the state of Ohio! [CoCoRaHS](#) observations show widespread 5-10" of rain fell across southern Ohio with lighter amounts across the north, east, and southeast (Figure 1). Observers west of Cincinnati, Circleville, and Washington Court House all reported more than 10". Despite a few chillier days, temperatures ran 1-4°F above average for the month. For the latest up-to-date conditions, seasonal outlooks, and monthly climate summaries, please visit the [State Climate Office of Ohio](#).

Figure 1). CoCoRaHS accumulated precipitation for May 2022. (<https://cocorahs.org>).

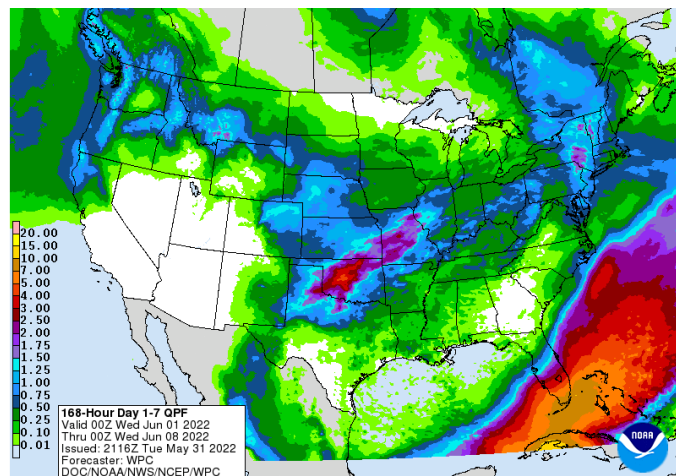
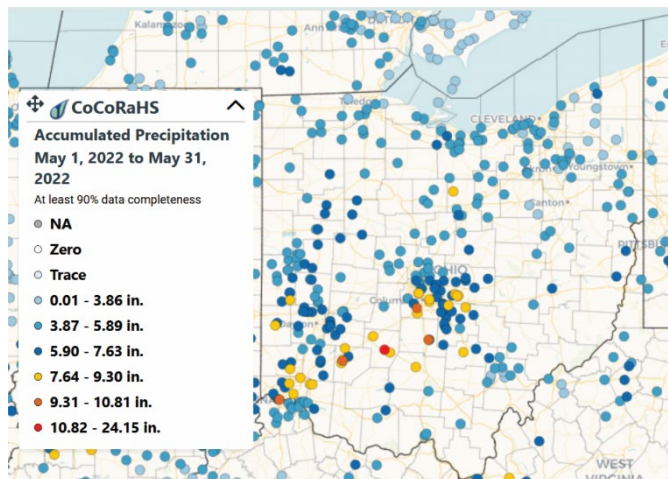


Figure 2). Precipitation forecast from the Weather Prediction Center for

8pm Monday May 31 – 8pm Monday June 7.

### Forecast

The hot, dry conditions of the past couple of days will transition to cooler and wetter conditions over the next few days. A cold front will approach the state on Wednesday, with showers and storms developing. A few storms may be severe. The cold front will continue to push through the state on Thursday with additional rain activity possible. Behind the front, high pressure will settle in for Friday through Sunday with cooler and less humid air. As high pressure weakens early next week, humidity will increase along with the chance for summertime storms. The [Weather Prediction Center](#) is forecasting 0.25-1.0" over the next 7 days, with locally higher amounts possible in stronger storms (Figure 2).

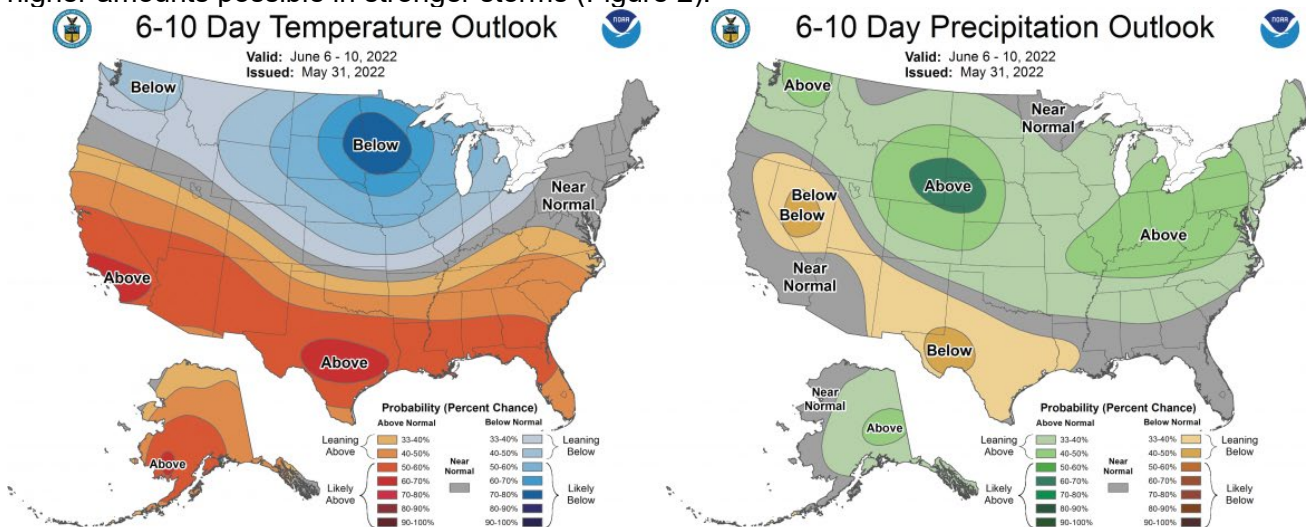


Figure 3) Climate Prediction Center 6-10 Day Outlook valid for June 6 – 10, 2022, for left) temperatures and right) precipitation. Colors



represent the probability of below, normal, or above normal conditions.

The [Climate Prediction Center's](#) 6–10-day outlook for the period of June 6 – 10, 2022 and the [16-Day Rainfall Outlook from NOAA/NWS/Ohio River Forecast Center](#) show average to below average temperatures are expected with a lean toward above average precipitation (Figure 3). Climate averages for this period include a high-temperature range of 76-81°F, a low-temperature range of 56-61°F, and average weekly total precipitation of 0.85-1.15 inches.

## **Recommendations for Soybeans Planted in June**

By: Laura Lindsey

Source: <https://agcrops.osu.edu/2022-16/recommendations-soybeans-planted-june>

According to the USDA National Agricultural Statistics Service, 36% of soybean acreage in Ohio was planted by May 22. As soybean planting continues into June, consider row spacing, seeding rate, and relative maturity adjustments.

**Row spacing.** The row spacing for June planting should be 7.5 to 15 inches, if possible. Row width should be narrow enough for the soybean canopy to completely cover the interrow space by the time the soybeans begin to flower. The later in the growing season soybeans are planted, the greater the yield increase due to narrow rows.

**Seeding rate.** Higher seeding rates are recommended for June plantings. Final (harvest) population for soybeans planted in June should be 130,000 to 150,000 plants/acre. (For May planting dates, a final stand of 100,000 to 120,000 plants/acre is generally adequate.)

**Relative maturity.** For June planting dates, select the latest maturing variety that will reach physiological maturity before the first killing frost. This is to allow the plants to grow vegetatively as long as possible to produce nodes where pods can form before vegetative growth is slowed due to flowering and pod formation.



The recommended relative maturity ranges are shown in the table below.

	Planting Date	Suitable Relative Maturity
Northern Ohio	June 1-15	3.2-3.8
	June 15-30	3.1-3.5
	July 1-10	3.0-3.3
Central Ohio	June 1-15	3.4-4.0
	June 15-30	3.3-3.7
	July 1-10	3.2-3.5
Southern Ohio	June 1-15	3.6-4.2
	June 15-30	3.5-3.9
	July 1-10	3.4-3.7

## Delayed Corn Planting and the U2U Tool

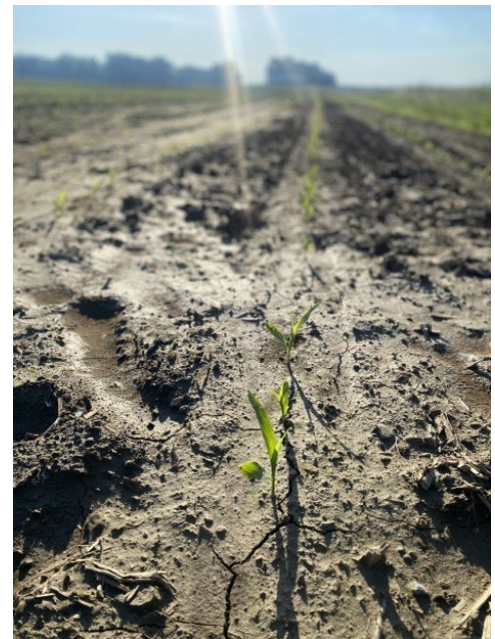
By: Osler Ortiz

Source: <https://agcrops.osu.edu/2022-16/delayed-corn-planting-and-u2u-tool>

Normally, we refer to the first half of May as a safe planting window to explore a longer growing season. Sure, weather permitting. Over May, several regions in Ohio have received enough precipitation that has not made that planting target possible, hence delayed planting. Delayed planting makes the growing season shorter in calendar days and available growing degree days (GDDs).

On May 23, the USDA National Agricultural Statistics Service reported that 52% of corn was planted in Ohio, seven points below the five-year average. Already on the last day of May (May 31), it is expected that most corn in Ohio has been planted. If still planting corn, adjusting to shorter maturities can give an advantage or mitigate the risk of fall frost or killing freeze before the crop reaches maturity.

Emerged corn at the V1 stage in Wayne County, Ohio on May 31. [Useful to Usable \(U2U\)](#) is a tool that can help as part of this decision. U2U can make county-level estimations across the US Midwest, including Ohio. Estimates are based on current and historical GDDs, planting dates, relative hybrid maturities, GDDs to black layer, and freeze temperature values. You can use U2U to test different scenarios and inform your decisions, specific to your location and conditions.



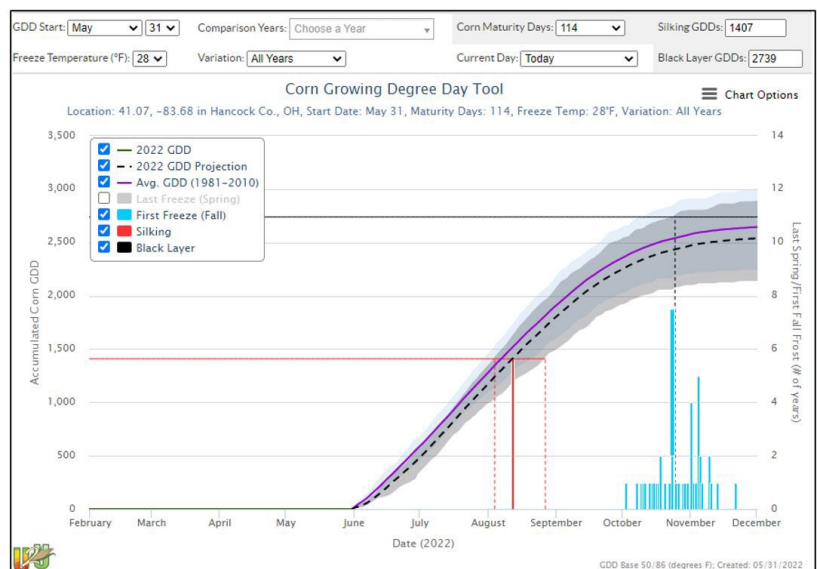
For using the U2U tool, five steps are needed:

- Step 1. Access the U2U here: [https://mygeohub.org/groups/u2u/purdue\\_gdd](https://mygeohub.org/groups/u2u/purdue_gdd).
- Step 2. Select your location, zoom in-or-out as needed in map. Search by Zip/City/County can be used.
- Step 3. Select the start date for GDD. As a proxy, the planting date can be used here.
- Step 4. Select your corn hybrid maturity. For example, 108 days, 114 days.
- Step 5. Observe the projections. Ensure all boxes are checked on the upper left-hand side of the screen.

The U2U figure will include the 2022 GDD line, average GDD from 1981 to 2010, last freeze dates in the Spring, first freeze dates in the Fall, expected silking dates, and black layer. You can see the outcomes using a predetermined location, date, and hybrid maturity. You can repeat the exercise as many times as needed to evaluate other potential scenarios.

**Figure 1.** U2U projections for Hancock County Ohio, GDD start date of May 31 and 114-day hybrid.

For example, specific to Hancock County, Ohio, May 31 GDD start, a 114-day hybrid was conducted (Figure 1). From this result,

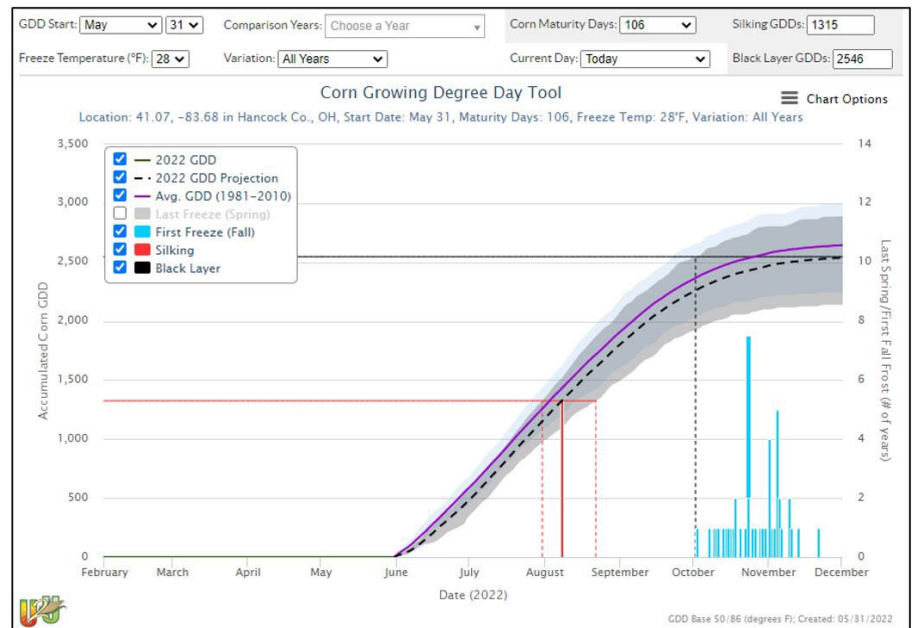


the earliest black layer date is October 25 (the actual and latest black layer date is projected for later). The risk of the crop being affected by freeze events are high.

A second example is for the same location (Hancock County Ohio), same GDD start (May 31), but adjusting to a shorter relative maturity of 106-day (Figure 2). From this result, the earliest black layer date is October 2 (the actual and latest black layer date is projected for later). The risk of the crop being affected by freeze events are lower than in the previous scenario, but the chances are still high.

**Figure 2.** U2U projections for Hancock County Ohio, GDD start date of May 31 and 106-day hybrid.

Note: U2U assumes the same GDDs to reach the black layer for the same hybrid, regardless of when it is planted. There has been some information that pointed to hybrids maturing with fewer GDDs if planted later. More information on this can be found [here](#) (from Corny News Network).



Closing: planting hybrids of varying maturity can be effective strategy for managing risk. Some shorter maturity hybrids can yield similar to longer maturities, although longer maturities should have a higher potential. Shorter maturities can benefit harvest ease and grain drydown.

## Pricing Standing Forage Crops- Your One-Stop Shop

By: [Dianne Shoemaker](#), Farm Management Specialist, Ohio State University Extension; [Dr. Mark Sulc](#), Professor and Extension Forage Specialist, Department of Horticulture and Crop Science; and Dr. William Weiss, Professor Emeritus, Department of Animal Sciences, The Ohio State University  
Source: <https://dairy.osu.edu/newsletter/buckeye-dairy-news/volume-24-issue-2/pricing-standing-forage-crops-%E2%80%93-your-one-stop-shop>

Warmer weather is just around the corner. As forage crops break dormancy, so does the perennial question of how to price standing forage crops. Whether they are vegetative small grain crops, pure grasses, grass and legume mixes, or pure legume stands, the fundamental considerations are the same:

1. Determine market price of an equivalent crop
2. Calculate and apply deductions:
  - a. Cost of harvest, including mowing, tedding, and raking
  - b. Cost of baling
  - c. Cost of hauling
  - d. Risk – nutrient variation
  - e. Risk – weather, etc.
3. Adjustments: These optional adjustments can be made if a forage analysis is done post-harvest:
  - a. Dry matter
  - b. Feed value – If this option is chosen, then there is no deduction made for risk of nutrient variation (d above).

Clearly, this is not a quick process, but when broken down into these steps, it is doable, easy to document, and



provides a framework for the buyer and the seller to agree on a process and price that is acceptable to both parties before the crop is harvested.

Tools are available to assist with this process, all available at <https://forages.osu.edu/forage-management/forage-economics>. These include:

**Factsheet: “Assigning Value to a Standing Forage Crop.”** This factsheet discusses each step listed above in detail, including links to helpful resources.

**Spreadsheet: “Pricing Standing Forage Worksheet.”** This spreadsheet follows the steps to calculate the ceiling price a buyer should pay based on the market price of equivalent forages and the costs of harvesting and transporting the crop, as well as considering adjustments for dry matter, quality, shrink, and risks that are transferred from seller to buyer.

**Factsheet: “Pricing a Standing Oat/Spring Triticale Haylage.”** Some farms grow these crops for cover crops while they are a dual-purpose crop for dairy farmers – winter ground cover and spring forage source. Sometimes dairy farms have the chance to purchase these crops out of the field, extending feed supplies. This factsheet walks through the process of pricing these standing crops harvested as haylage.

**Spreadsheet “Pricing a Standing Oat or Triticale Haylage Worksheet Tool.”** Save a little time with this spreadsheet as you work through pricing a standing crop, whether you are the buyer or the seller.

Setting the final, fair price for a hay or small grain forage crop rests on an understanding of the needs of both the buyer and the seller. It is critical that both parties agree on price, payment method and timing, crop yield measurement, restrictions, and similar details before the crop is harvested! Ideally, the agreement should be in writing and signed by both parties. These agreements are especially important when large quantities of crops (and money!) are involved. While this type of contracting may be uncomfortable for some producers, mainly because they are not used to conducting business on more than a handshake, it forces the parties to discuss issues up front and minimizes troubling misunderstandings after harvest.

## ***Hemp Dogbane- Rudely Early in 2022***

By: [Christine Gelley](#), Agriculture and Natural Resources Educator, Noble County OSU Extension

Source: <https://u.osu.edu/beef/2022/06/01/hemp-dogbane-rudely-early-in-2022/>

Punctuality is a favorable character trait in relationships. I had a music teacher who always said, “To be early is to be on time. To be on time is to be late. To be late is to be left.” In general, this is good advice, especially if you are catching a ride to an important event, but have you ever known someone who has a propensity to be rudely early to events?

How could being early be rude? I’m not referring to the helpful party guest who arrives early to help set up tables or make a run to get ice, but rather that person who shows up an hour before the invited time expecting to be showered with attention. Cue the weed of the week- hemp dogbane.

Not only is hemp dogbane showing up a month earlier than typical this year, but it wasn’t even invited to the agricultural landscape party. But it is here already, and it needs swift attention in the midst of all the other tasks on our to-do lists. It is an aggressive perennial weed of no-till systems.

Hemp dogbane has creeping roots; leaves that appear on opposite sides of the stem; and it produces a milky sap. It is often confused with milkweed, which is very similar in appearance before blooming and often found growing side by side. Differences include that young milkweed leaves have fine hairs and hemp dogbane leaves are nearly hairless; milkweed stems are generally thick and green, but



hemp dogbane stems are usually red to purple and thinner in comparison; hemp dogbane frequently branches in the top canopy, while milkweed will typically not branch unless mowed; and seed pod shape is distinctly different after flowering with milkweed producing an upright tear drop shaped pod and hemp dogbane producing a long bean-like pod that hangs from the plant.

While the usefulness of milkweed in the landscape is often justified for monarch butterfly populations, hemp dogbane has fewer redeeming qualities. Historically hemp dogbane has been used by Native Americans to make rope, clothing, and baskets. Now, it is typically considered a weed in managed spaces. It has the capability to spread rapidly via creeping roots and seed production. It should be controlled in agricultural settings with a combination of strategic mowing and systemic herbicide application.

Hemp dogbane, and milkweed too, are considered poisonous to livestock. Toxicities can occur from fresh or dried leaves, stems, and roots. While death from poisoning is rare, reduced production efficiency is common if consumed. Symptoms range from mild to severe and include vomiting, diarrhea, coordination loss, tremors, heart problems, respiratory distress, and death.

According to the 2022 Ohio, Indiana, and Illinois Weed Control Guide, hemp dogbane is a significant agronomic weed in no-till systems.

Various postemergence herbicides can be effective if the plants are less than eight inches tall. Judging by this year's growth, many plants are already past a foot in growth. But there is still time to treat. For the best control of the creeping root system, applications of translocated herbicides should be applied when the plants are in the bud to flower stage, which could occur in the next couple weeks.

Attaining complete control after one herbicide application is unlikely. The most appropriate time to treat and product to use depends on the situation. Commonly used herbicides for suppression or control include glyphosate, 2,4-D, dicamba, and triclopyr products. Always follow the directions printed on the herbicide label for application rates, methods, and concerns.

Learn more about hemp dogbane by studying the photos included before and during flowering.

Before implementing any weed control program, getting an identification confirmation is very important! Study the whole plant before making a judgement call on how to address it's presence.

### ***Runaway Forage? Keep Grazing!***

By: Victor Shelton, Retired NRCS Agronomist/Grazing Specialist

Source: <https://u.osu.edu/beef/2022/06/01/runaway-forage-keep-grazing/>

I remember hearing my mother say more than once, 'If you can't say something nice, don't say anything at all.' Lately, that has been easier said than done. I try to find a little good in everything, that can be challenging. Mark Twain once stated, "It's better to be an optimist who is sometimes wrong than a pessimist who is always right."

This year, so far, has been marked with some major challenges. At times, I felt like I was procrastinating on work that needed to be done, but in fact, I wasn't procrastinating. I was instead twiddling my thumbs trying to patiently wait for opportunities to do what needed to be done. The weather, for the most part, hasn't been on our side so far except for very brief intervals that only teased us.

It would be nice some year to have an average spring. The trouble is, I'm not sure what that is anymore. I would gladly share some of our excess rain with the droughty areas. On the other side of it, I'm afraid to say



too much and it just completely turn off.

I've seen a little hay cut and put up in the extremely short windows that have been available. Excess soil moisture is still a problem even if the sun is shining for a couple days. Avoid mowing hay when the soil in the top two inches is wet. That excess moisture slows drying and can make putting up dry hay more difficult. Mow higher to allow for more air flow. Ideally, at least 2-3 inches high.

Dry hay, in order to store and keep well and maintain quality, must be baled with no more than 18% moisture. For small square bales, 16% should be the limit. Higher amounts of moisture content usually mean soured or moldy hay.

Baleage might be the most ideal way to go under present conditions if you have or can get the equipment needed to do so. Baleage is simply hay that is too moist to store safely as dry hay, so it is wrapped or otherwise sealed in plastic at about 50% moisture. Baleage can be fermented as individual bales or in a tube. You must make sure the wrap is tight enough and sufficient to be airtight in order to exclude oxygen and mold formation. Baleage is usually baled and wrapped with at least six layers of thin plastic. Baleage can create high quality forage if done properly.

I think every producer stresses over making hay, at least part of the time. I'd absolutely rather leave the forage standing than have poor quality hay. If it is put up wet, quality is quickly reduced and that can be a very costly decision this year. Not only will the livestock not appreciate or do well on the poor-quality hay, but you also removed and relocated some very expensive nutrients that will eventually have to be replaced.

I'm surprised that I talked this much about hay already. Hay usually is cheap insurance, but not this year. Some may still think it is not costing them that much, but one must consider fuel and value of nutrients removed even if you want to consider your time being free. I think everyone, no matter how efficient their type of grazing system, should have some hay on hand. It is your insurance plan and one of your contingency plans. Feeding less hay is a good thing though, at least it should be – meaning you are hopefully grazing more.

Smaller operations, especially ones with less than 15 cows or equivalents, would have difficult time justifying owning hay equipment. That depreciating investment would probably be best spent on improving the grazing efficiency of the farm or on fertility.

If you are in what I will refer to as a "building" stage of soil fertility — in other words it still needs some — then you would be better off bringing in fertility, in the form of hay than to remove it. If fields are in that building stage, it is counterproductive to cut hay off it — no question. You are just removing and moving needed nutrients, especially phosphorus. Certainly, spend a few dollars on some soil fertility tests so you have a better understanding of nutrient levels. Focus forage harvesting, dry hay or baleage, on fields with the most nutrient availability and only cut what you know you will need and protect that investment by harvesting it correctly and storing it properly.

Most years there is usually hay around to be bought. Plan ahead if you are going to be buying and if possible, visit the hayfield from which your hay will come ahead of time, so you have a better idea of the quality. If you are purchasing hay that is already baled or sight unseen, request a hay analysis to make sure it is the quality needed to meet your livestock's nutritional needs and to make sure it really will beat "snowballs."

I've been asked the question of what to do with runaway forage. Keep grazing. Allocate in smaller allotments and keep moving. This will return more nutrients back to the same area and keep forage under more control. The, allow sufficient time for the forage to recover before grazing it again. Normally that will be a while unless you are over stocked. It is the first of June. You should not be short on forages.

Clipping can be beneficial in helping to maintain quality but will be a more costly endeavor this time around. If you do clip, only remove seed heads and stay above the leaves. If you can't do that, then go back to plan A,



graze.

I have to ask the question though, what is the reason for your mowing? If it is to improve or maintain quality — have at it — just don't mow any shorter than necessary. If it is purely for aesthetics, you might be better off leaving it alone. Taller forages produce more live roots providing some drought insurance, can help to shade out some weeds, can provide for slightly cooler soils and maintain moisture which can promote more growth from cool season forages instead of less desirable plants and then the added benefit of some wildlife habitat. Remember, it's not about maximizing a grazing event, but maximizing a grazing season! Don't get carried away with the hay, just manage advantageous grazing avenues — yep, keep on grazing!

## ***The Great Pasture-Clipping Debate***

By: Amber Friedrichsen, Hay and Forage Grower 2021 editorial intern

(Previously published in [Hay & Forage Grower: June 15, 2021](#))

Source: <https://u.osu.edu/sheep/2022/05/24/the-great-pasture-clipping-debate/>

As the saying goes, the grass is always greener on the other side. But is the grass always mowed on the other side? Deciding whether or not to mow or clip pastures can leave farmers stuck on the fence.

Possible reasons for mowing are site-specific. Producers sometimes wish to eliminate seedheads, promote even grazing, and provide weed control. However, the costs of mowing can outweigh these benefits, wasting farmers' time and money.

### **Vegetation restoration**

As forages mature, their palatability and nutrient availability decline. Mowing pastures is one way to remove stems and seedheads from plants and set them back to a vegetative state. Amanda Grev with University of Maryland Extension says promoting new leaf material is advantageous for the plant, as well as the grazing animals.

"New leaf material will be higher in quality for livestock and will continue to capture sunlight and provide energy for the plant," the forage and pasture management specialist says. "Keeping plants in a vegetative state not only maximizes forage quality, but also maintains a higher growth rate and stimulates tillering and regrowth." It is not cost effective to mow pastures if there aren't enough seedheads present. Grev encourages farmers to get out of the tractor and evaluate their crop from the ground to justify their mowing decision.

"Looking at a field from a windshield view often gives off the appearance that there are a lot more seedheads present than there really are," she says. "Be sure to go through the field and look at seedhead density from above. You may find that there are fewer present than you initially thought."

### **Even the playing field**

Another reason to mow is to even out forage that has been selectively grazed by livestock. Plants that animals eat around will continue growing and become too mature. This creates an unequal distribution of forage growth and quality throughout the pasture.

Uneven grazing is more common in continuously grazed pastures than rotationally grazed systems. Grev says one way to promote pasture uniformity without the use of a mower is to establish a system with small paddocks and to frequently rotate livestock.

"Although this requires additional management, the return on this is less clipping, fuel, and time spent mowing," Grev says. "In the long run, improving your management with rotation will likely be more viable than clipping underutilized areas."



## Weeding out competition

If heavy weed pressure is a problem, mowing can be a mechanical form of control. Different weeds have different responses to being mowed, though, and the type of weed can impact results.

Mowing perennial weeds won't kill them right away, but it will demand more energy from the plant for regrowth. As its energy reserves are depleted, the weed will be weakened over time with frequent mowing.

Annual weeds, on the other hand, may not be as threatened by a mower. The presence of these weeds can indicate poor ground cover. While clipping annual weeds offers short-term control, establishing a better cover will be more beneficial in the long term.

Grev points out that mowing as a form of weed control comes with many hidden costs. Consider the time it takes to mow along with fuel, maintenance, depreciation, and storage of equipment. In addition to cost, Grev also says mowing weeds can remove desired forage and reduce the amount of grazable dry matter per acre.

## Pinkeye and other problems

Forages do not cause pinkeye, but excessive seedheads can aggravate the infection. Mowing pastures can help control pinkeye in cattle but is not necessary unless an outbreak has occurred.

As far as human eyes go, mowing pastures simply to improve aesthetics is not a valid reason. According to Grev, trying to maintain a lawn-like appearance can be expensive, and cutting forages too short can take away from their environmental potential.

"Taller forages produce more live roots, which can provide some drought resilience," Grev says. "They can also help keep the canopy closed, shading out some weeds and keeping soil surface temperatures cooler and wetter."

Grev summarizes that mowing can be useful when benefits outweigh costs. However, some farmers may be better off focusing on other things to improve conditions in their pasture rather than spending time and money on a mower.

## ***The Perils of Partition- The Forced Sale of Land (Part 1)***

By: Robert Moore, Attorney and Research Specialist, OSU Agricultural & Resource Law Program

Source: <https://farmoffice.osu.edu/blog/tue-05312022-1213pm/perils-partition-%E2%80%93-forced-sale-land-part-1>

One of the more common ways that farm families involuntarily lose farmland is through partition. Under Ohio law, any person that is a co-tenant (co-owner) of real estate has partition rights. Essentially, partition rights allow a co-tenant to force the other owners to buy them out or force the land to be sold. Partition is a harsh, but arguably necessary, right of every co-tenant of real estate. With proper planning, partition can be avoided.

Partition law is codified in Section 5307 of the Ohio Revised Code. A partition is initiated by a co-tenant filing a petition for partition with the common pleas court. A partition must be filed in the county in which the real estate is located. Any co-tenant, even one owning a small percentage of the real estate, may file the partition. The petition is very similar to filing a lawsuit and all co-tenants are served notice the petition. All defendant co-tenants are provided an opportunity



to respond to the petition.

After all co-tenants have been served and had an opportunity to respond to the petition, the court will appoint a commissioner. The role of the commissioner is to essentially oversee the petition process on behalf of the court. The partition commissioner is permitted to physically divide the real estate if the property can be divided without the loss of value. Due to the unique nature of farmland and the variation within each parcel, administrators rarely will physically divide the land. Instead, the commissioner will usually decide to sell the land at auction and divide the sale proceeds among the owners. The first step in selling the land is to obtain the value of the land by appraisal.

After the value of the property is established, each party will be given an opportunity to buy the land at the appraised value. If no party wishes to purchase, the land will be ordered sold by the court. The land may be sold at sheriff's sale but the parties usually agree to sell the land at public auction. The one issue that the feuding co-tenants can usually agree upon is that they are likely to get a better price at an advertised auction rather than a sheriff's sale. The land must bring at least 2/3 of the appraisal price at auction. After the land is sold, the proceeds are divided among the co-tenants in proportion to ownership.

The reason that partition law is a necessity is that Ohio law provides very little guidance to co-tenants as to how to manage their co-owned real estate. For example, Ohio law implies that unanimous consent must be obtained in the management of real estate. Therefore, one co-tenant holding a minority ownership percentage can prevent the land from being leased or sold. Ohio law solves this issue by providing partition rights. Basically, the law says that if the co-tenants cannot resolve their differences, then any one of them can force sale the land and divide the proceeds. Partition is necessary because the law seeks to allow individuals to divest themselves of any asset they may own. Without partition, a person could be forced to own real estate that they may not want to own and/or do not receive financial benefit.

Consider the following example. Amy, Bob and Charlie inherit a farm from their parents. Amy and Bob want to lease the land to a neighbor farmer but Charlie insists he is going to farm it. Charlie has no experience farming and Amy and Bob know it will end up in a disaster if Charlie gets his wish. Any potential tenant that Amy and Bob consider is contacted by Charlie and told the farm is not for lease. Amy and Bob get frustrated and decide to file a partition because they are tired of dealing with Charlie and do not think they will get a fair, financial benefit from the farm if Charlie is the operator. The court orders the farm sold and Amy, Bob and Charlie share the proceeds.

The risk of partition is not limited to just the initial family members who may own the land. Any future owner also has the same partition rights. Spouses, children and anyone else who may become a co-tenant can force a partition.

Using the same scenario as above, assume Amy dies. Her parents assumed that Amy's share of the farm would go to her children (their grandchildren) but Amy never got around to doing an estate plan. So, under Ohio law, everything goes to her husband, Dale. Dale has no attachment to the farm and just sees dollar signs now that he is a 1/3 owner of the farm. Dale quickly files for partition and forces the sale of the land so that he can have money to buy the boat he has always wanted.

This example illustrates how easy it is for someone to become a co-tenant and gain partition rights. Deaths, divorces, and poor business and estate planning can allow someone to become an unexpected and unwanted co-tenant. Partition law does not care how long farmland has been in the family or how vital it is for a farming operation. Partition law treats a city lot that has been owned for a few months the same as a 1,000-acre farm that has been in the family five generations. Partition can lead to harsh results that should be avoided if possible.

With proper planning, partition can be averted. In the next installment, the various strategies to prevent partition will be discussed. See the prior blog post "[Ohio Case Illustrates the Risk of Leaving Farmland to Co-Owners](#)" by Peggy Hall for a discussion of a Madison County case and the perils of partition.



## ***Case Highlights the Risk of Misclassifying Employees as Independent Contractors***

By: Peggy Kirk Hall, Associate Professor, Agricultural & Resource Law

Source: <https://farmoffice.osu.edu/blog/wed-05252022-918am/case-highlights-risk-misclassifying-employees-independent-contractors>

Farms and other businesses can benefit by using independent contractors to fill labor needs while not having the same financial and legal responsibilities the business has for its employees. But state and federal laws allow those advantages only if the worker is truly an independent contractor. When a worker classified as “independent contractor” functions as an employee in the eyes of the law, a business can be liable for failing to meet its employer obligations for the worker. That’s exactly what happened in a recent case before the Ohio Supreme Court.



**The company.** The case involved Ugicom (the company), paid by Time Warner Cable under a subcontract to provide workers to install underground cable. Workers used the company’s website to select and document installation jobs and the company paid the workers at rates it determined. The installers were required to wear badges and vests identifying the company and to pass drug tests and background checks, all coordinated by Time Warner. The company required installers to sign a one-year independent contractor agreement containing a “non-compete clause” that prohibited them from providing installation services for competitors. The contract also required installers to respond to service requests within two hours. Installers had to provide their own hand tools, transportation, cell phones, and laptops, but used cable obtained from Time Warner. They could work any day or time consented to by customers. The company paid the installers by the job and did not withhold taxes or provide any benefits.

**The Bureau of Workers Compensation (BWC) audit.** The BWC audited the company to decide whether it had paid the correct amount of workers’ compensation premiums for all of its employees. The BWC examined the company’s treatment of workers it had hired to install cable as independent contractors. Concluding that the company exercised “too much control” over the installers, the BWC determined that the installers were actually employees for workers’ compensation purposes and the company owed \$346,817 in unpaid premiums for the employees. The company unsuccessfully appealed the decision to the agency and the Tenth District Court of Appeals and the case ended up before the Ohio Supreme Court.

**The Ohio Supreme Court review.** For purposes of the workers’ compensation program, Ohio law provides that the controlling determination in whether a worker is an independent contractor or an employee is “who had the right to control the manner or means of doing the work.” There is not a bright-line test for making such a determination, however. Instead, the Ohio Supreme Court explained, the BWC must consider a set of factors related to who controls the manner or means of the work. Those factors include:

1. Whether the work is part of the regular business of the employer
2. Whether the workers are engaged in an independent business
3. The method of payment
4. The length of employment
5. Agreements or contracts in place
6. Whether the parties believed they were creating an employment relationship
7. Who provides tools for the job
8. The skill required for the job
9. The details and quality of the work

The Ohio Supreme Court’s role was to determine whether the BWC relied upon “some evidence” when reviewing each of the factors to reach its conclusion that the company controlled the manner or means of the installers’ work. The Court concluded that most, although not all, of the BWC’s conclusions were supported by

at least some evidence and upheld the BWC's decision. The factors and evidence that received the most attention from the Court included:

- Independence from the company. The installers' public image when working identified them as being with the
- company; they all wore the same badges and vests, and some had signs on their vehicles with the company's name.
- Method of payment. The company controlled the rate of payment, which was nonnegotiable and did not include a bid process as is typical for independent contractors. The "take-it-or-leave-it" approach indicated control over the installers.
- Length of employment. The installers had an ongoing relationship with the company and did not advertise their services to the community at large.
- Agreements and contracts. The company's non-compete clause restricted the installers' freedom to work and indicated a measure of control over the workers.
- Skill requirements. The BWC concluded that the minimal skill required to install the cable was not high or unique, and the company offered no facts to show that the installers required specialized skills.

**Disagreement on the court.** Two of the Supreme Court Justices, Kennedy and DeWine, dissented from the majority opinion. Their primary point of disagreement was that there was no evidence supporting the BWC decision. The evidence instead suggested that the company controlled only how the installers were paid, and the installers controlled the manner and means of doing their work. The dissent criticized the BWC for jumping to a quick conclusion that the company's true motives were "to evade the obligations associated with having employees."

**What does this mean for farm employers?** Farms often rely on independent contractors for seasonal and intermittent help with work like baling hay, running equipment, and doing books. Are these workers true independent contractors or are they employees? That is a fact dependent question, but we can imagine many scenarios where the farm has a majority of the control over the mode and manner of such work. Farms are subject to Ohio's workers' compensation law, so a farm could be audited by the BWC just as the company in this case was and could see similar results for misclassifying employees as independent contractors.

**Implications for all businesses.** The case carries several implications that raise needs for businesses that use independent contractors:

1. Recognize that state and federal tests can differ. Many are familiar with the [IRS test](#) for independent contractors but note that the Ohio Supreme Court applied its unique Ohio test for determining independent contractors in regard to BWC premiums. State and federal laws differ. It's important to apply the appropriate test for the situation.
2. Review the manner and means factors for each independent contractor. For each worker claimed as an independent contractor, review the nine factors listed above to ensure that the business isn't exerting the most control over the manner and means of the work. Where possible, adjust practices that give the business unnecessary control over how and when the work is performed. Consider these:
  - a. Use employees to do the regular work of the business and independent contractors for high-skill or unique tasks.
  - b. Ensure that the business isn't controlling the public image of the workers. The workers should not be branded or identifiable with the business through clothing, name badges, hats, vehicles, etc.
  - c. Require independent contractors to submit bids or proposals on the amount and method of payment for their work.
  - d. Avoid using the same independent contractor for an extended period of time and ensure that the worker's services are available to other businesses.
  - e. Don't restrict the worker's freedom to work for others, especially via a contract or agreement.
3. Maintain records and evidence of the work situation. The BWC need only have "some evidence" that the nine factors indicate a high level of control over the mode or manner of work, but the business may offer facts and evidence to the contrary. Good recordkeeping is imperative. A business that can't

provide stronger facts and evidence in favor of the business, like the company in this case, might be at risk of an employee classification by the BWC.

While there are benefits of using independent contractors to meet labor needs, farms must recognize the associated risk of misclassification. For workers' compensation purposes, farms can avoid those risks by ensuring that it is the independent contractor, not the farm, who controls the "manner or means" of doing the work. Read the Ohio Supreme Court's opinion in [State ex rel. Uigicom Enterprises v. Morrison here](#).

### **Victory Garden Seeds Distribution**

OSU Extension in Coshocton County and the Coshocton County Master Gardener Volunteers are once again participating in the state of Ohio's Victory Garden seed distribution. Coshocton County is one of 42 counties across Ohio selected to be part of this distribution. Coshocton County was allocated 500 packets of seeds to distribute to our community. Each of these packets contains lettuce, carrots, cucumber, and sunflower.



Victory Gardens originated during World War I as an answer to a severe food shortage at the time. The idea was wildly successful, growing an army of amateur gardeners and serving to boost morale and patriotism across our Country. Although there's no food shortage now, ODA and OSU Extension are reviving the effort to once again encourage people to plant seeds, realize the fruits of their labor, and share with others if inspired.

The victory garden seed packets are now available at the Extension Office located in Room 110 at 724 South 7<sup>th</sup> Street in Coshocton. These packets are being distributed on a first come, first served basis. The Extension office is open Monday through Friday from 8:00 a.m. to 12 noon and from 1:00 to 5:00 p.m. Along with the seed packets, you will also receive a packet of Extension factsheets which will assist you as you grow your lettuce, cucumbers, carrots, and sunflowers.

### **"Name that Tree" Workshop Slated for June 29**

Have a tree that you pass on a regular basis that you always wonder 'what is that? Or do you own a woodland and want to know exactly what trees you have? If so, OSU Extension and Clary Gardens will be hosting a **"Name that Tree Program"** on Wednesday, June 29 from 10:00 to 3:00 p.m. at Clary Gardens located at 588 West Chestnut Street in Coshocton, Ohio. This one-day workshop is designed to give participants in-depth training and practice on identifying trees using leaves and other common characteristics. The class begins in a new outdoor event pavilion with some introductory identification clues and samples that we use to work through a dichotomous key. The afternoon is spent out in the woods practicing (expect moderate walking). The registration fee for this program is \$40 per person. This registration fee includes the program, light refreshments, lunch, and handouts. There is limited seating so pre-registration is due by June 21. For more information about this program, contact the Coshocton County Extension office at 740-622-2265.







OSU EXTENSION - WAYNE COUNTY PRESENTS

# Small Grains Field Day

Attention all Small Grain Producers. Are you interested in learning more about wheat cultivars, updates on grain variety trials, disease and insect management, barley for brewing and how to identify wheat quality? Please join us!

This event is free to attend thanks to the generosity of the Ohio Corn and Wheat Board. Lunch will be provided.

RSVP is required for lunch orders by June 7.

**REGISTER:** [go.osu.edu/small-grains-field-day](https://go.osu.edu/small-grains-field-day) or call 330-264-8722

**DATE:** June 14, 2022

**TIME:** 8:30AM-2:30PM

**LOCATION:** OSU Schaffter and Snyder Farms

3230 Oil City Rd.

Wooster, OH 44691



THE OHIO STATE UNIVERSITY  
EXTENSION

CFAES

## Topics Include:

Wheat Cultivars

Small Grain Variety Trial  
Updates

Seeding Rates

Small Grain Disease and  
Insect Management

Barley for Brewing

Wheat Quality

## EVENT SPONSOR:

Ohio Corn and Wheat



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# 2022 Ohio Beef Day and Tour



**Saturday July 16 9:00 a.m. – 2:30 p.m.**

## Muskingum County Self Driving Tour

### Agenda

- 8:00 a.m. Registration Opens - Donuts**  
Muskingum Livestock  
944 Malinda St. Zanesville, OH 43701
- 8:50 a.m. Welcome and Tour Instructions**  
Garth Ruff, OSU Extension Beef Cattle Field Specialist
- 9:00 a.m. Depart for Tour in Own Vehicles – Stops in Order**
- **Michel Livestock**  
Starting and Receiving Feedlot Cattle
  - **Shirer Bros Meats**  
Local Meats Q&A  
Peggy Hall, OSU Extension Ag Law Specialist
  - **Hatfield Farms**  
Fencing, Fall Calving, and Farm Succession
- 12:30 p.m. Lunch at Roger's Auction Barn**  
Prepared by Muskingum Co. Cattlemen's Association
- Lunch Beef Industry Update**  
Ohio Cattlemen's Association/Ohio Beef Council
- 1:15 Herd Health – Vaccinations and Anaplasmosis**  
Dr. Justin Kieffer, DVM OSU Clinical Veterinarian
- 2:00 Beef Quality Assurance Wrap up**  
Clifton Martin, OSU Extension Muskingum County
- 2:30 Adjourn**  
Please complete program survey and have a safe trip home!

### PROGRAM DETAILS

\$10 per person

**Register by July 7, 2022 at:**  
[go.osu.edu/2022beefday](https://go.osu.edu/2022beefday)

#### **Registration fee includes:**

- Refreshments
- Lunch
- Resources

#### **Education Credits Offered**

Beef Quality Assurance  
Certification (BQA)

#### **Contacts:**

Garth Ruff, OSU Extension  
[ruff.72@osu.edu](mailto:ruff.72@osu.edu)  
740-305-3201

Clifton Martin, OSU Extension  
[martin.2422@osu.edu](mailto:martin.2422@osu.edu)  
740-454-0144

**[beef.osu.edu](https://beef.osu.edu)**



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# "Name That Tree" Workshop

**Wednesday, June 29, 2022**

**10:00 a.m. to 3:00 p.m.**

**Clary Gardens**

**588 West Chestnut Street**

**Coshocton, Ohio 43812**



Have a tree that you pass on a regular basis that you always wonder 'what is that? Own a woodland and want to know exactly what trees you have? Then this **Name That Tree Workshop** is for you! This one-day workshop is designed to give participants in-depth training and practice on identifying trees using leaves and other common characteristics. The class begins in a new outdoor event pavilion with some introductory identification clues and samples that we use to work through a dichotomous key. The afternoon is spent out in the woods practicing (expect moderate walking). This workshop is being co-hosted by OSU Extension and Clary Gardens

## Class Agenda

9:30 a.m.	Registration
10:00 a.m.	Introduction to Tree ID
11:15 a.m.	Using a Key to ID
12:00 noon	Lunch (provided)
1:00 p.m.	Hands-On ID in the Woods
3:00 p.m.	Wrap-Up & Adjourn

**REGISTRATION INFORMATION:** The registration fee of \$40 includes the program, light refreshments, lunch, and handouts. **There is limited seating so pre-registration is due by June 21.**

Name(s) \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

**\$40 per person registration**    **\_\_\_\_\_ # of attendees @ \$40 each**

Please make checks payable to OSU Extension and mail to OSU Extension, 724 South 7<sup>th</sup> Street, Room 110, Coshocton, Ohio 43812. For more information, call 740-622-2265.

