

## **State Association Weekly Washington Report 3.9.17**

### **Perdue Confirmation Hearing Looks Like Late March**

There's light at the end of the seven-week confirmation tunnel for former Georgia Gov. Sonny Perdue, President Trump's nominee for secretary of agriculture. Sources in Washington, DC, and Georgia confirm the two-time governor's paperwork has finally been bundled up and sent to the Senate Agriculture Committee, and a late March date for the formal confirmation hearing is expected.

In a related development, the Senate Finance Committee this week announced it set March 14 for U.S. Special Trade Representative (USTR) nominee Robert Lighthizer's confirmation hearing. While Perdue's delay was blamed on paperwork, committee Chair Orrin Hatch (R, UT) said Lighthizer's confirmation was delayed because of "unprecedented delays and unrealistic demands." Lighthizer, who worked at USTR during Bush Administration, may also need a formal Senate waiver from a federal ban on nominees who have lobbied for foreign governments.

Vice President Mike Pence, who met with Senate Agriculture Committee Chair Pat Roberts (R, KS) this week, was surprised at the Perdue paperwork delay, Roberts said. The paperwork completion was confirmed by Perdue's office in Georgia.

While Perdue is generally regarded in Washington, DC, as one of the most popular and least controversial of Trump's nominations, a small cloud hanging over the nomination was generated by a *New York Times* story alleging Perdue, while governor, benefitted from a capital gains tax break bill he signed, and that his Georgia farm received \$300,000 in federal farm payments before he was governor. The Environmental Working Group (EWG) raised these issues this week, alleging Perdue received \$278,000 in farm payments while running three agriculture-related businesses and serving in the state Senate. None of the issues raised in the article or echoed by the environmental activist group are illegal, said one DC insider.

American Farm Bureau Federation (AFBF) Zippy Duvall, former head of the Georgia Farm Bureau, told the *Times*, "I don't think you'll find a man any more honorable than Sonny Perdue. He's as ethical as it comes."

### **Internal Industry RFS Battle Continues; Public Citizen wants Investigation of Icahn Role**

The ethanol industry this week spent a good amount of time trying to put a happy, united face on an ugly division within the industry over the future of the Renewable Fuel Standard (RFS) and the Renewable Fuels Assn.'s (RFA) reported deal-cutting with billionaire investor Carl Icahn over the RFS point of obligation requirement.

In the wake of the internal industry flap, Public Citizen, a consumer group, sent complaint letters to the House and Senate this week alleging Icahn, whom President Trump calls a "special advisor for regulatory reform," violated federal lobbying rules in pushing the White House to shift the RFS point of obligation from oil refiners to fuel wholesalers. Public Citizen wants a formal investigation of Icahn, his company and CVR Energy, Inc., a Texas oil refiner he owns. For his part, Icahn says he's a private citizen, not a federal employee, a claim with which the White House concurs.

The RFA-Icahn flap gave fuel to supporters of legislative efforts just announced to reform the RFS. The House effort, led by Rep. John Shimkus (R, IL), chair of the Energy & Commerce Committee's

subcommittee on environment, may be taken up this year. House Agriculture Committee Chair Mike Conaway (R, TX) seems to think reform may be needed as well.

The ethanol industry was up in arms when it learned from media reports that RFA, through its president and CEO Bob Dinneen, had agreed to support the Icahn-endorsed shift in the RFS point of obligation in exchange for alleged agreement by the White House to modify the RFS program to allow 15% ethanol/gasoline blends (E15) to be sold year-around, not just during cooler months. While Dinneen says he got word of the point of obligation shift from a source at the White House, the White House denies any consideration of a quid pro quo on the Icahn-supported RFS point of obligation shift.

Some contend the Dinneen deal on E15 undercuts the RFS. Meanwhile, the ethanol industry, unhappy last week with the RFA and Dinneen, said this week it's back to ensuring the industry is united in its support and defense of the RFS. Emily Skor, CEO of Growth Energy, a major ethanol association, said to *AgriPulse*, "At the end of the day, we really do need to remain united in our comments to protect the RFS, and make sure we don't have fundamental changes like what was suggested last week."

She said the "events of last week" were due to "two individuals who seemed to believe perhaps that they could speak on behalf of much broader audiences than they really could."

### **Farm Bill Drumbeat Continues; Conaway Says Bill will be "On Time"**

The Farm Bill headline this week is the public commitment by Senate Agriculture Committee Chair Pat Roberts (R, KS) and panel ranking member Sen. Debbie Stabenow (D, MI) that the 2018 Farm Bill will be "the full package," meaning the legislation will carry both farm program and federal nutrition/feeding programs, including food stamps.

On the House side, Agriculture Committee Chair Mike Conaway (R, TX) told the Commodity Classic in San Antonio this week he will not back off his message to budget and appropriations members that cuts in the 2018 Farm Bill are unnecessary because "we gave at the office," referencing 2014 cuts to farm bill spending of close to \$100 billion over a decade. He also said President Trump is committed to a strong Farm Bill that's delivered on time.

Roberts and Stabenow appeared at a Washington, DC, meeting of anti-hunger groups this week. Roberts told the groups they need to reach out to Congress, letting lawmakers know what works and what doesn't work in federal food stamp, nutrition and feeding programs. However, he warned there will need to be some changes in programs just to garner the votes to get the package to the president's desk. Stabenow said there's no Farm Bill without a title on the Supplemental Nutrition Assistance Program (SNAP).

### **Dairy Seeks Big Changes in Farm Bill Income Support Program**

In what's likely the first big push to rewrite an income support program in the 2014 Farm Bill, the board of directors of the National Milk Producers Federation (NMPF) last week approved nine changes they want to see in the Margin Protection Program (MPP), an NMPF-designed replacement for several former USDA programs supporting producer income and coping with overproduction.

Moving into 2018 Farm Bill development, NMPF's board approved a "comprehensive package" of recommended changes to MPP so it's more effective for producers. These fixes include restoring the original feed cost formula developed by NMPF, and urging USDA to reassess feed and milk price

sourcing. This reassessment includes shifting the corn price series calculation to the Agriculture Marketing Service (AMS), and ensuring AMS improves its data collection. A similar recommendation goes to the soybean meal price sourcing formula.

NMPF wants MPP premiums adjusted to “incentivize” producer participation, while keeping federal budget costs at “manageable levels.” The group also wants to see more flexibility in program sign-up options. The Livestock Gross Margin (LGM) program should be included in the dairy income support mechanism, with Congress “significantly expanding the cap for dairy,” while ensuring LGM complements the revised MPP, NMPF said.

The NMPF’s MPP, ultimately rewritten by Congress during the Farm Bill evolution, is an insurance-like program that pays producers based the level of coverage they buy. It’s predicated on the producer’s margin – the difference between feed cost and milk price – and was supposed to bolster a sagging dairy market. However, as oversupply overwhelmed U.S. and global prices, it turned out an unexpectedly low number of dairy farmers actually participated in MPP, or bought coverage at levels too low to cover losses.

Had Congress not “diluted” MPP from the program developed by and submitted to the respective agriculture committees by NMPF, the program likely would be a more effective producer income safety net today. However, MPP participation remains too low, particularly at higher coverage levels, and NMPF identifies congressional program changes undercutting the effectiveness of the original program as the culprit.

### **House Passes Bipartisan Food Agroterrorism Protection Bill**

A bipartisan bill to increase Department of Homeland Security (DHS) protection of the nation’s food supply from terrorist attack through more intricate coordination with USDA was approved last week by the full House, and its Senate counterpart looks for smooth sailing as well.

The House bill was introduced by Rep. David Young (R, IA), Rep. Donald Payne (D, NJ) and Rep. Dan Donovan (R, NY). The Senate bill is jointly authored by Senate Agriculture Chair Pat Roberts (R, KS) and Sen. Claire McCaskill (D, MO).

Both bills are designed to “elevate U.S. preparedness,” Young said in a statement, particularly after he found out the federal government suffered “problematic breaks in its ability to communicate with stakeholders and react quickly to large-scale animal disease outbreaks,” such as the avian influenza outbreak two years ago.

“As DHS continues to build the National Bio and Agro-Defense Facility (NBAF) in Manhattan, Kansas, now is the exact time to shore up authorities regarding coordination and mitigation should the worst occur and the nation is hit by a biological attack on our food and agriculture,” said Roberts in a statement. “As former chair of the Senate Intelligence Committee, I understand the unique threat our farmers and ranchers face.”

### **EPA’s Pruitt Takes Shots for Denying CO2 Causes Climate Change**

Putting voice to one of the biggest complaints environmental groups had when Scott Pruitt was nominated and confirmed as EPA administrator, the former Oklahoma attorney general this week took

heat from Democrats and environmentalists when he told a TV interviewer human-generated carbon dioxide is not the primary cause of climate change.

He said measuring with any “precision” the impact of human actions on climate is extremely tough, and he allowed “there’s tremendous disagreement about the degree of impact.” He called for continuing study while allowing “I would not agree that it’s (human activity) the primary contributor to the global warming we see.”

“This is just nuts. EPA Chief Scott Pruitt just claimed carbon not causing climate change,” tweeted Sen. Brian Schatz (D, HI), and quoted by *Politico*. “We Senate Dems will be a check on his crazy views.” Sierra Club Executive Director Michael Brune tweeted Pruitt’s view “contradicting science + law should mean removal from office,” the paper also reported.

### **WOTUS Recission Part II – “Pause” the States’ Federal Case**

The second step in rescinding the controversial “waters of the U.S.” (WOTUS) rule was taken by the Department of Justice (DOJ) this week when it filed a motion to “pause” Supreme Court action – in this case the briefing schedule – citing President Trump’s executive order mandating the rule be pulled back and rewritten or killed.

The suit in front of the high court seeks interpretation of whether federal district court or federal appeals court is the appropriate venue to hear challenges to the WOTUS rule. Industry brought the case to the Supreme Court when the U.S. Circuit Court of Appeals decided it had jurisdiction over the actions. Briefs are currently scheduled to be heard April 13 unless the court grants the DOJ motion.

### **EPA Needs to Overhaul CAFO Rules: Enviro, Consumer Groups**

A long list of environmental and consumer groups this week sent a petition to EPA urging the agency to reinvent how it regulates confined animal feeding operations (CAFOs). The nearly 36 groups which signed the petition say EPA has done little to protect communities from CAFO run-off under the Clean Water Act (CWA).

A key point of concern by the petitioners is that the permitting process lacks teeth. A CAFO, to be permitted, must first be a “point source discharger” and must get a permit after creating a plan to control its waste, mainly manure. The groups contend current rules don’t force water monitoring, ignore “numerous pollutants of concern,” leave too much discretion to the states and ignore or exempt chronic discharges because the agency’s interpretation of the ag stormwater runoff program exemption is too broad.

### **Future Trade Policy Debate Continues**

As agriculture broadly strives to make sense of the Trump administration’s policy evolution when it comes to trade, a group of Pacific Rim trade officials says the Trans-Pacific Partnership (TPP) should go ahead without the U.S. if President Trump refuses to reconsider his action withdrawing the U.S. from the treaty.

The president will attempt to calm agriculture by holding a face-to-face meeting with key farm and ranch groups, as well as with major agribusiness organizations. A White House source said the meeting

will be a “small group thing in a small room because that’s what the president likes.” No list of participants or dates have been released.

Some are urging the Trump administration to rethink pulling out of TPP. “The recent U.S. withdrawal from TPP shook the Asia-Pacific,” the Institute report said. “It has prompted governments and stakeholders across the region to question why the U.S. walked away from an agreement offering substantial economic and strategic benefits.” The report is the work of seven trade officials in the Pacific region, and the group was chaired by Wendy Cutler, former chief U.S. trade representative.

The next shoe to drop in the TPP saga is a meeting in Chile next week where all 12 TPP nations – including the U.S. – will be in attendance. China and South Korea, non-TPP nations, also plan to attend.

In a related development on the trade front, the administration said renegotiation of the North American Free Trade Agreement (NAFTA) with Canada and Mexico will likely not begin in earnest until the end of 2017. Secretary of Commerce Wilbur Ross, who will lead the NAFTA talks, said he doesn’t think the rework of the 22-year-old trade pact will take more than a year. He said consultations with affected industries will be conducted throughout the process.

### **Bayer, Monsanto Begin Sale of \$2.5 billion in Assets**

Moving to smooth the path to government approval of their \$66-billion merger, Bayer and Monsanto this week said they’ll individually begin the sale of up to \$2.5 billion in assets. Bayer information packets are expected to be mailed next week to prospective companies and groups interested in buying the businesses.

There is no official word on what Bayer or Monsanto businesses will be sold, but speculation over time has focused on Bayer letting go of its soybean, cotton and canola seed business, along with LibertyLink crops.

Bayer said it’s on track to overcome all regulatory challenges by the end of the year, including the ongoing study of competitiveness issues by the European Union (EU).