

## **State Association Weekly Washington Report 9.21.17**

### **Ag Committee Chairs Talk Farm Bill, Listen to Stakeholders, Await Budget Numbers**

As environmental groups call for stricter conservation programs and enforcement, and others advise Congress take an “holistic” approach to Farm Bill drafting, traditional crop and livestock groups continue to hammer home their income support needs, and the chairs of the respective House and Senate Agriculture Committees – and their panel members – are there to listen if only because until the various spending/budget battles are decided, no one knows how much money is available for farm programs.

Senate Agriculture Committee Chair Pat Roberts (R, KS), who’s already warned agriculture not to expect major Farm Bill rewrites because of the attending price tag, told *Agri-Pulse* this week, “Now is not a time for a revolutionary Farm Bill. We’re in a pretty rough patch right now in agriculture across the board.”

Roberts said everyone wants a new Farm Bill “sooner rather than later,” and reiterated he’s hearing the number one and number two priorities across the board are preserving federal crop insurance and protecting and expanding trade. Given he doesn’t expect to see budget numbers for a couple of weeks, Roberts will hold another committee listening session, date and location to be determined, *Agri-Pulse* reported.

Meanwhile, urban interests both in and outside of Congress, as well as food companies of all stripes, are beginning to call for a 2018 Farm Bill which links food assistance and foreign policy, or rural development and conservation programs. The number of players wanting a seat at the Farm Bill table is growing rapidly, and many have never gone through the Farm Bill process.

Elise Golan, USDA sustainable development director in the Office of USDA’s Chief Economist, told a New York City forum hosted by *Politico* this week that thinking must go beyond the Farm Bill as a simple legislative vehicle. “It (the Farm Bill process) kind of silos our thinking about policy and farm policy and what that means,” adding acknowledging the interrelationship of USDA programs from nutrition assistance to trade, to conservation to research is near non-existent in traditional Farm Bill development.

“We forget that all of these things affect each other and that we will be evaluated on our success based on how all of these things fit together,” Golan told the *Politico* audience.

### **Censky, McKinney Enjoy Noncontroversial Senate Ag Confirmation Hearing**

With no fireworks and no controversy, President Trump’s nominees to be USDA deputy secretary and under secretary for trade and foreign agriculture sailed through their relatively brief Senate Agriculture Committee confirmation hearing this week, taking a giant step toward giving Agriculture Secretary Sonny Perdue two key members of his department management/program team.

With Perdue sitting in the audience to show support, Steve Censky, a former Senate staffer who’s now the popular CEO of the American Soybean Assn. (ASA), and Ted McKinney, a friend of Vice President Mike Pence, and a former agribusiness executive now serving as Indiana agriculture director, were questioned by only six of the full committee’s members, and those questions were relatively benign.

Censky’s opening statement sidelined at least one potentially controversial issue when he took head-on a commitment that climate change is one of his top three priorities. He said the issue must be addressed

because it's USDA's "inherent responsibility" to help producers adapt to weather changes and variable growing conditions. He said he'd use the department's research programs to better understand what farmers and ranchers face with climate change, and that federal crop insurance and extension programs could be used to help farmers adapt to temperature changes, emerging pests, drier or wetter conditions, etc. Committee ranking member Sen. Debbie Stabenow (D, MI) said she was "heartened" by Censky's climate change priority.

As the first nominee to hold the trade subcabinet job, McKinney said he's going to be the "happy warrior" building overseas markets for U.S. agriculture. "I'll be the happy warrior to chase these exports, grow our trust and build those relationships," he told the ag panel. Perdue said early on that whoever got the nod to be under secretary for trade and foreign agriculture – a position created in the 2014 Farm Bill, but never implemented by the Obama administration – that person would need to wake up every morning wondering which new market to chase.

The Indiana native said his priority is going to be to work with others in the administration to ensure other nation's don't use non-scientific trade barriers to block U.S. sales. "Too often we play by the rules, but many countries do not," he said. "This is one we've got to take on, this cannot be a double standard." He also wants to ensure Codex Alimentarius, an international food standard-setting organization of which the U.S. is a major member, is a science-based operation. He said it's become too politicized in recent years. McKinney's voice, said Stabenow, "will be essential in making sure agriculture is not left behind" as the administration renegotiates NAFTA and reviews various U.S. bilateral trade deals or pursues new treaties.

Senate Agriculture Committee Chair Pat Roberts (R, KS) zeroed in on crop insurance in a question to Censky, and it surprised no one the Minnesota-born nominee said his talks with farmers continually reiterate the federal crop insurance program as the most important part of the USDA income safety net. He assured Stabenow, also a crop insurance champion, he'd work on new ways to help dairy producers get more from their Margin Protection Program (MPP), and help move cotton growers into the crop support program side of the Farm Bill.

Censky also said he wants to be part of the budget-setting process at the White House, as well as engaging the administration in expanding broadband service to rural communities.

Said Perdue of the hearing, "Today we saw two nominees who are experienced, prepared, and capable of providing the steady leadership we need at USDA, and we can't wait to get them on board. We have accomplished a great deal in a short amount of time in our department, but we need Steve Censky and Ted McKinney to join the team as we face serious challenges in agriculture in the coming months and years. I trust that the Senate will confirm them both in a speedy fashion."

Given Congress is in recess for Rosh Hashanah, the earliest the committee can formally vote to approve Censky and McKinney is next week, with a floor vote scheduled thereafter. The next nominations expected are assistant secretary for congressional relations and the head of the USDA civil rights operation.

### **Clovis Nomination Opposed by Stabenow; Remains in Limbo**

The nomination of Iowan Dr. Sam Clovis to be USDA under secretary for research, education and economics (REE) – the so-called "chief scientist" slot – remains a question mark, as this week Clovis met

with Senate Agriculture Committee staff for an interview. No date for a confirmation hearing has been set.

The biggest hurdle to Clovis' confirmation is ag committee ranking member Sen. Debbie Stabenow (D, MI) who reiterated to media this week she does not support Clovis. "Since day one, I've been concerned that Sam Clovis is not qualified to lead the important science and research arm of USDA. As I've learned more about his background and divisive views, it's clear that I cannot support his nomination. I urge the president to withdraw his nomination and replace him with a qualified candidate who will look out for the best interests of our farmers and research institutions," Stabenow said in a statement.

President Trump shows no sign of withdrawing the Clovis nomination, doubling down on his support of the man who sat as a national Trump campaign co-chair and now is the White House's senior liaison to USDA. Agriculture Secretary Sonny Perdue is also strongly in Clovis' corner.

Key to the future of the Clovis nomination – controversial because he has no formal training in agriculture science or economics and because of past statements made about women, race, and various other hot button issues – is in the hands of Sen. Charles Grassley (R, IA). Grassley, as Clovis' highest ranking home state Senator, will need to rally the GOP and as many Democrat colleagues to vote in favor of the nomination. Grassley said this week it's too early to tell where the opposition may lie given the ag committee has not held its hearing or approval vote.

### **Florida Senators Want Fast USDA Help Post-Irma**

Secretary of Agriculture Sonny Perdue this week received a letter from Sens. Marco Rubio (R, FL) and Bill Nelson (D, FL) seeking "expedited consideration of any disaster declaration and assistance requests" emanating from their state in the wake of Hurricane Irma. Florida's citrus and vegetable crops took a major hit from the storm.

"Florida's farmers and ranchers are fiercely independent and self-sustaining, but after Hurricane Irma's devastation they will need the federal government's assistance to plow ahead and sow the seeds of a fruitful recovery," the two lawmakers wrote. "We urge you to continue your work with state and local partners to ensure that Florida's rural communities, farmers, ranchers and small businesses have access to all necessary assistance to rehabilitate farmland and recover from crop losses."

The letter came after Florida Agriculture Commissioner Adam Putnam, a former GOP House member who sat on the Agriculture Committee, told the Florida Citrus Commission federal relief is in the hands of USDA and may have to wait from congressional action.

Perdue, Putnam, Rubio and Rep. Thomas Rooney (R, FL) toured southwest Florida citrus groves early this week, and Perdue has conducted similar tours of Texas and Georgia, where he was a two-term governor.

### **AFIA Wants FDA to Reopen FSMA Animal Food Rule for "Renegotiation," More Industry Comment**

FDA should reopen the public comment period on the Food Safety Modernization Act (FSMA) animal food rule, and extend the compliance dates while industry and FDA "renegotiate several requirements to better match the industry's needs and abilities," and so companies can file comments and those comments can be reviewed, the American Feed Industry Assn. (AFIA) said this week in a letter to FDA's Deputy Commissioner for Food and Veterinary Medicine Stephen Ostroff.

“By sending this formal request, AFIA hopes it will result in more appropriately written regulations for the animal food industry, and will allow the agency time to issue the necessary guidance to industry and inspectors for proper compliance,” AFIA said in a statement. In the Ostroff letter, AFIA said its request follows numerous FDA meetings over the last several months, as well as meetings with members of Congress and other administration officials. The Ostroff letter was also shared with the White House and relevant lawmakers on Capitol Hill.

There are five major reasons why the rule should be reopened and compliance dates delayed, AFIA said, including a failure by FDA to finalize current good manufacturing practice (CGMP) compliance guidance; FDA’s failure to issue draft compliance guidance for the hazard analysis and risk-based preventive controls section of the rule; there is a “sense of unreadiness” within the regulated industry, mostly due to a lack of FDA guidance; the final rule remains unclear and FDA’s Technical Assistance Network (TAN) has been slow to respond to submitted questions, and AFIA believes many of the rule’s requirements are not appropriate to the animal food industry.

The rule – “Current Good Manufacturing Practice, Hazard Analysis and Risk-Based Preventive Controls for Food for Animals” – saw its compliance deadline come into effect September 18, meaning both large and small businesses need to be following the rule or at least a relevant portion of the rule, AFIA said. “Large businesses” – more than 500 employees across the entire company – must be in compliance with almost the entire animal food rule, including subpart C covering hazard analysis and risk-based preventive controls. These firms must also have completed each facility’s written food safety plan. “Small businesses” – companies with less than 500 employees – must be in compliance with the animal food rule’s subpart B covering CGMPs. It’s expected FDA inspections for CGMPs will begin in October.

FDA recently announced it won’t conduct inspections on the hazard analysis and risk-based preventive controls until the fall of 2018; however, firms must still be in compliance as of September 18, 2017. This means companies need a written food safety plan in operation. AFIA warned its members firms can still be held accountable for the rules despite the absence of any guidance from the agency to industry on compliance.

### **NAFTA 2.0 Round Three Begins September 23; White House Cools Expectations**

The third round of U.S., Canada and Mexico NAFTA renegotiations begins September 23, and the administration is doing little to buoy the spirits of agriculture traders who want a successful conclusion to the effort by the end of the year. This means they want to see the trade mavens “do no harm” to existing successful tariff-free movement of goods among the three countries.

As to the likelihood the U.S. will advance a formal proposal next week to add a five-year sunset provision to the treaty – a concept opposed by Mexico, Canada, USDA and the Department of State – U.S. Special Trade Representative (USTR) Robert Lighthizer said he wouldn’t talk about an issue that may not be part of the agreement. He and Secretary of Commerce Wilbur Ross like the idea of a sunset provision under which the treaty expires after five years unless all three nations reapprove it. The National Farmers Union (NFU) likes adding a sunset provision, but would set the time frame at 10 years.

Lighthizer reaffirmed this week the U.S. would like to see a conclusion to the NAFTA effort by year’s end, but left questions when he said in a speech, “We’re moving at warp speed, but we don’t know if

whether we're going to get to a conclusion." The September 23-27 round of talks will be held in Ottawa, to be followed by four more negotiating sessions.

Lighthizer said he's concerned about the uncertainty the talks are creating, impacts and "real-life effects on farmers and ranchers and business people who are trying to do business, particularly in the U.S. and Mexico, but also in Canada."

NFU this week sent Lighthizer a letter endorsing trade reform items put forward by the Coalition for a Prosperous America (CPA). In addition to a 10-year sunset provision, NFU wants to see reduced "trade imbalances;" wants currency manipulation addressed; wants tougher rules of origin; wants to see a return of country-of-origin labeling (COOL); elimination of investor-state dispute settlement; automatic NAFTA enforcement; elimination of domestic procurement provisions; improved labor and wage requirements; compliance with food, product and highway safety standards; remedies for perishable and cyclical products, and addressing border adjustment taxes.

### **EPA News**

**Pruitt Explains U.S. Position on Paris Accord** – Despite reports the U.S. may "revise or craft a new agreement" and remain a cosigner of the Paris climate accord was put to rest this week when President Trump explained to French President Macron that if the U.S. can renegotiate its carbon reduction obligations under a new framework, U.S. participation is possible. The president told Macron he believes the U.S. got the short end of the carbon reduction obligation stick, and that other nations, particularly China, weren't held to as tough an obligation. This talk tracks with Trump campaign rhetoric regarding the climate accord. Trump's talk with Macron was reiterated by EPA Administrator Scott Pruitt when he said there's no confusion over the U.S. position – the U.S. may stay in the deal if it can negotiate better terms. It may also mean a new accord, Pruitt said. The U.S. under President Obama agreed in March, 2015, to reduce greenhouse gas (GHG) emissions by 26-28% below 2005 levels by 2025. The U.S. can't withdraw from the accord until three years after it signed the accord, translating to a November 5, 2020 deadline.

**EPA WOTUS Deadline Slips** – While those in the know said the administration's new proposed version of the "waters of the U.S. (WOTUS)" rulemaking would be published before the end of 2017, EPA Administrator Scott Pruitt this week said it's more likely the new proposal will emerge "sometime in the first quarter of next year." A separate effort to rescind the old final rule promulgated under the Obama administration which was blocked by a federal court, continues on schedule.

**EPA will Allow Dicamba Use with New Rules** – Media reports indicate EPA is getting ready to allow farmers to spray dicamba, but with new rules to prevent spray drift that damages conventional crops not genetically modified to resist the herbicide. *Reuters* reports the Office of Pesticide Programs (OPP) told state regulators this week the agency is looking at the 2018 season, "ensuring that the technology is available" but that it's used responsibly. The agency is working with dicamba makers Monsanto and BASF SE, and the states on how to best regulate the world's most popular herbicide. Dicamba is controversial because farmers allege damage to their crops from spray drift after the herbicide was reformulated in 2016 and okayed by EPA for post-emergence application. Previously, the chemical could only be applied before plants sprouted. One option open to the agency and discussed among the states is to create a "set date" after which the chemical couldn't be used on plants already emerged.

**Pesticide User Fee Account Can Be Used to Stretch EPA Appropriation** – The \$29.9-million pesticide user fee account at EPA is probably holding too much money, and the account could be used to stretch cuts in federal appropriations, according to an EPA Inspector General (IG) report released this week. The money could be used to facilitate pesticide registrations, allowing budget money to be used elsewhere its needed. The fees are collected to expedite pesticide approvals and for registrations under various environmental laws.

### **Bipartisan Senate Group Call for USTR to Push Back on Brazil Ethanol Tariff**

Insiders say when Brazil slapped a 20% tariff on U.S. ethanol imports over 158 million gallons a year, it walked away from a long-term, successful “working agreement” no such actions would be taken by either side. Now, 10 Senators from both sides of the aisle are urging U.S. Special Trade Representative (USTR) Robert Lighthizer to take formal action opposing the Brazilian move.

The nearly 160-million-gallon trigger level is immaterial, observers say, because Brazil has already purchased over 300 million gallons of corn-based ethanol, most of it from Iowa and Nebraska. The tariff was announced by Brazil’s Ministry of Foreign Trade and supported by that nation’s sugar cane growers. Brazilian growers make ethanol from cane waste, but in years of bad crops or market/price demand for sugar cane to move to sweetener processing, the country must import ethanol to meet its needs.

The Senate lawmakers said the U.S.-Brazil ethanol trade experience so far “signals the maturing and global nature of the biofuels industry. This new action...indicates a potential turning point in how ethanol moves between our respective countries.” Citing U.S. investment in ethanol production and infrastructure, along with investments in Brazil, and pledging to work with the USTR, the Senators said, “Unfortunately, seemingly arbitrary or protectionist tariffs are threatening to disrupt the growing global market...for ethanol.”

### **Doubling MAP, FMD Goal of New Legislation**

A Senate bill to double USDA’s funding for its successful export-building Market Access Program (MAP) and Foreign Market Development program (FMD) over five years was introduced this week, with MAP’s funding jumping to about \$400 million, and FMD spending being hiked to \$69 million by 2023.

Sen. Joni Ernst (R, IA), Sen. Joe Donnelly (D, IN) and Sen. Susan Collins (R, ME) said they introduced the bill because a 2016 industry study done in concert with USDA’s Foreign Agricultural Service (FAS) demonstrated every federal dollar invested in MAP and FMD between 1997 and 2014, returned a net \$28 return, while adding 240,000 full-time jobs between 2002 and 2014. Rep. Dan Newhouse (R, WA) introduced a House companion bill earlier this year.

The bill was praised by the National Corn Growers Assn (NCGA) and the National Association of Wheat Growers (NAWG). NCGA pointed out the programs have not seen a spending increase since 2002, and their funding hasn’t kept pace with inflation, increased administrative costs, world market growth or the investment other nations, including the European Union (EU), are making in export development. There is also concern the FMD program could lose its baseline funding when the current Farm Bill expires.

### **New Farmer-Run Pro-GMO Group Formed, Launches Public Information Campaign**

Individual farmers and farm cooperatives have created a new group – “A Fresh Look” – to provide “trustworthy, research-based information to consumers about the benefits of genetically modified

organism (GMO) farming methods,” and launched an ambitious public information campaign carrying the same name.

The new group’s aim is to equalize the messaging on biotechnologies that “allow farmers to grow nutritious, affordable food in smarter, more sustainable ways.” The group says while there’s a lot of information out there about GMO foods and ingredients, “much of it is confusing and lacks balance.” A Fresh Look wants to provide “accurate, usable information to consumers.”

“In a time when we’re surrounded by loud opinions on virtually everything, our goal is to arm consumers with accurate information to empower their grocery shopping choices and remove judgement around these choices,” said John McCreedy, the group’s chair.

Board members include John Enright, vice chair; Rodney Perry, treasurer and secretary, and Heather Luther, assistant secretary. For more information, go to [www.afreshlook.org](http://www.afreshlook.org).