

## **State Association Weekly Washington Report 4.13.17**

### **April 24 Perdue Senate Confirmation Vote Schedule Sets Off Heitkamp**

Senate Majority Leader Mitch McConnell's (R, KY) announcement that a Department of Homeland Security (DHS) nominee will get a Senate floor vote ahead of Agriculture Secretary-designate Sonny Perdue, has set off Sen. Heidi Heitkamp (D, ND) who sees the move as yet another signal rural and agriculture issues are not high on the Senate priority list.

In her podcast this week, Heitkamp took issue with the Senate vote set for Elaine Duke to be DHS deputy secretary, a vote set to precede Perdue's confirmation vote by minutes on the evening of April 24, when the Senate returns from spring recess. "I think if we sit quietly and wait our turn, we will always be last. I don't intend to sit quietly," Heitkamp said. Her fellow North Dakotan, Sen. John Hoeven (R, ND) agrees.

"It's like, wait a minute. Hello! We thought rural America was going to come to the head of the line, and we're not seeing it," she said.

In addition to the slow pace of Perdue's nomination, confirmation hearing and floor vote, Heitkamp pointed to President Trump's so-called "skinny" FY2018 budget outline calling for 21% cut in USDA discretionary spending, as well as his uncertain trade policy, as examples of the lack of priority the Trump administration places on agriculture and rural issues.

### **White House Continues Push to Downsize Government, Cut Costs**

In keeping with his campaign promise, and despite the fact his FY2018 budget "outline" is likely going to get very little attention on Capitol Hill, President Trump this week instructed the Office of Management & Budget (OMB) to direct government departments and agencies to cut personnel – through layoffs or not filling open jobs – and increase "employee performance" over the next 12 months.

Replacing so-called "skinny budget" recommended cuts and the federal hiring "ban" Trump ordered in January, the OMB 14-page directive instructs departments and agencies to "tak(e) immediate actions to achieve near-term workforce reductions." The government is also told to provide by the end of June a plan for workplace incentives, rewarding employees considered effective, helping other employees improve their performance or firing bad workers.

In the White House budget outline, USDA was targeted for a 21% cut in discretionary spending, with resulting personnel reductions, while EPA was hit with a 30%-plus reduction and the loss of nearly 3,200 or 19% of its current workforce.

The directive also tells agency heads to deliver to OMB by September a plan to reduce personnel in keeping with the White House's long-term budget cuts outlined by Trump in his spending outline. While there are no specific instructions on how agencies are to meet the White House goals, the directive gives agency heads leeway in making decisions. These reports will be part of the administration's FY2019 budget recommendations, OMB said.

For instance, EPA will be forced to reduce its workforce, OMBA said, because its budget will be cut significantly. However, The Department of Veterans Affairs and Department of Defense will increase personnel based on White House budget increase recommendations.

OMB Director Mike Mulvaney told a press briefing this week the goal is to have federal agencies operating more like private businesses, and he stressed the goal is efficiency, better constituent service and accountability, not just size reduction. “Really what we’re talking about doing is restructuring Washington, DC. That is how you drain the swamp,” Mulvaney said.

Agencies are also told to look at automation, elimination of duplicative and non-essential programs, or programs already carried out by the states. OMB also told agency heads to kill programs “not justified by the unique public benefit it provides.”

### **Obamas Re-emerge to Talk about Food**

President Obama and former First Lady Michelle Obama are preparing to reenter the policy world next month, and both will be delivering messages about food and agriculture.

Obama will appear May 9 at a “food innovation summit,” that will also tackle climate change, to be held in Milan, Italy. Appearing with the former president will be Obama’s former assistant White House chef and top advisor on food policy, Sam Kass, who now runs a New York City consulting business on food and nutrition.

The former First Lady will appear at the annual meeting that same week of her Partnership for a Healthier America, a charity created to support her “Let’s Move!” campaign on childrens’ diets and exercise. Former President Bill Clinton will also speak at the event.

### **Sessions Kicks Immigration Enforcement Action into High Gear**

Attorney General Jeff Sessions this week made it known that if an immigrant is in the U.S. illegally, the Department of Justice (DOJ) will bring the full force of federal law to bear, including “vigorous” enforcement of human smuggling and identity fraud laws.

“For those that continue to seek improper and illegal entry into this country, be forewarned: This is a new era. This is the Trump era,” Sessions said as part of his program announcement at the Nogales border crossing in Arizona. “The abdication of the duty to enforce our immigration laws and the catch-and-release practices of old are over.”

Sessions said he’s informed U.S. attorneys to consider prosecution of anyone harboring an undocumented immigrant, focusing on violent cases or those who move or harbor undocumented workers. DOJ will pursue felony charges for undocumented immigrants who try to enter the U.S. more than once, who use false immigration documents and who engage in fraudulent marriages to get legal status.

Sen. Dianne Feinstein (D, CA) issued a statement denouncing the Trump administration decision to prioritize illegal immigration prosecutions, saying her state’s agriculture could be “devastated” by such a program. “This is not about improving public safety. This is about furthering a false narrative that all undocumented immigrants are dangerous criminals,” Feinstein said.

### **Senate Ag Panel to Hold Second Farm Bill Hearing in Michigan May 6**

The full Senate Agriculture Committee will travel to Michigan State University May 6, for the committee’s second 2018 Farm Bill hearing. Michigan is home to committee ranking member Sen.

Debbie Stabenow (D, MI), and follows the committee's initial hearing held in Manhattan, Kansas, by chair Sen. Pat Roberts (R, KS).

The hearing will be held at the university's Saginaw Valley Research & Extension Center, in Frankmouth, Michigan, and will run from 10 a.m. to 12:30 p.m. The session is expected to focus on Stabenow's known priorities, including specialty crops, organic producers, urban farmers and other non-traditional production practices.

### **Conservation Programs Get Farm Bill Attention; Thune Wants Higher CRP Cap**

House and Senate agriculture committee members have talked plummeting commodity prices and farm income, rural tax reform, dairy policy, rural development and budgeting, but this week the spotlight turned to how to rejigger federal conservation programs. Sen. John Thune (R, SD), a member of the Agriculture Committee and chair of the Senate Commerce Committee, wants to see the Conservation Reserve Program (CRP) capped at 30 million acres, not the current 24 million, and he wants expanded haying and grazing options on CRP contract acres.

"Due to expiring contracts, South Dakota is expected to lose 57% of existing CRP acres over the years covered by the 2018 Farm Bill," Thune said in announcing his legislative proposal. He said South Dakota farmers had made it clear to him "we need to make some changes." The bill Thune introduced last week is his second Farm Bill legislation so far. He previously introduced a bill that would give producers incentives to idle their least productive acres for three to five years, collecting half the CRP county payment rate.

The higher cap and expanded use of CRP acres comes with a higher price tag for the government, say critics. However, Thune says he's figured out how to offset the higher costs.

His approach is similar to one touted by Rep. Collin Peterson (D, MN), ranking agriculture committee member, who wants the CRP cap increased. "I would like to see us get back to 35 or even 40 million acres in the next Farm Bill. This will increase water quality and address the declining wildlife population in my region of the country," Peterson said. He said his goal can be achieved by "simplifying and reforming" the program, and without those changes, he wouldn't support increasing acres arbitrarily.

The cap was reduced from 32 million acres to 24 million when the 2014 Farm Bill was being hammered together and the committees needed to find savings. Given the high commodity prices at the time, the reduction in the CRP cap saved billions over 10 years. However, the salad days that allowed the CRP cut to pay for other programs are a memory for now.

Thune says the 30-million-acre cap is justified by a 10-year average annual enrollment of 29.7 million acres, and by setting the cap at 30 million acres, it "establishes a reasonable and defensible CRP acreage cap for the duration of the next Farm Bill," which would run through 2022.

During last year's general CRP sign-up, South Dakota saw only 101 acres accepted by USDA out of the more than 42,000 acres offered by state producers. USDA was concentrating on getting new acres into the program and went after those considered most eligible, it said. Thune's proposal would set a state minimum through a targeted acreage enrollment program to be added to the program. He also suggests "adjusting" CRP payments to allow greater haying on a rotating basis, with adjustments to the grazing rules.

## **States Ask USDA to Buy More Surplus Cheese, Butter, Blame Canadian Reclassification System**

Wisconsin and New York have formally asked USDA to use allocated federal funds to buy more surplus cheese and butter, blaming economic pain and suffering caused by Canada's new dairy reclassification system that negatively impacts the ability to sell ultra-filtered U.S. milk in Canada. The International Dairy Foods Assn. (IDFA) says producers in the two states have lost a total of about \$150 million since Canada implemented and reinforced the new system.

The call for more government purchasing came this week as ag officials in both states said U.S. milk buyers told producers they'll cut back purchases starting May 1, due to the new Canadian system. In addition to the reclassification system, it's reported Canadian dairy producers have made it known they're willing to lower their farm prices so Canadian processors will buy domestic production and ignore imports.

In the past two years, USDA has spent roughly \$27 million of \$40 million it was allowed to allocate to buy surplus cheese.

The Canadian action pours fuel on two burning issues. First, President Trump has notified Congress he's about to start talks with Canada to "tweak" NAFTA. U.S. dairy access to Canadian markets is a long-time bone of contention in that treaty. Second, reinventing the Milk Margin Protection (MPP) income support program in the 2018 Farm Bill is already widely discussed.

## **Conaway Inherits Russia Election Probe Reins**

As if laying the foundation for the 2018 Farm Bill isn't tough enough for the chair of the House Agriculture Committee, Rep. Mike Conaway (R, TX) this week inherited the reins of the politically sensitive and highly volatile House Intelligence Committee investigation of alleged Russian meddling in the 2016 presidential election.

Conaway, as the second ranking Republican on the intelligence panel, will oversee the committee's investigation because committee chair Rep. Devin Nunes (R, CA) recused himself temporarily from the Russian work because of a possible Ethics Committee investigation into allegations he mishandled classified intelligence related to information he shared with the White House before he shared it with his committee.

Conaway's been holding frequent full committee Farm Bill hearings over the last month, and has told his subcommittees to hold at least two hearings during March and April in their areas of jurisdiction as he seeks to build a strong basis for the 2018 Farm Bill. So far, no one's voiced any concern over Conaway's increased workload.

## **Trump Looks to Fill White House CEQ Chair**

In a move that will add insult to injury for environmental groups, President Trump is looking to fill the chair of the White House Council on Environmental Quality (CEQ), and a top contender for the job is a climate change skeptic.

Media reports indicate Kathleen Hartnett White has been interviewed by the White House to take the CEQ chair. White, the former chair of the Texas Commission on Environmental Quality and who worked for the National Cattlemen's Beef Assn. (NCBA) in the 1990s, was also interviewed as a possible

candidate to head EPA. That job went to Oklahoma Attorney General Scott Pruitt, who has frustrated some climate change naysayers by not challenging the Obama administration's 2009 endangerment finding that greenhouse gases pose a direct risk to human health or welfare.

CEQ helps EPA and other federal agencies shape their policy approaches on environmental protection, and would likely be a strong voice for revisiting the endangerment finding. The White House would not confirm White's candidacy and it's known there are other candidates in the mix. "We'll let you know when we have an announcement," the White House told reporters.

White, who currently works for a Texas think tank, has written extensively of her doubts related to climate change as a result of human actions. She challenges CO2 as a pollutant and contends "carbon is not a poison." She's lobbied heavily to get Congress to reverse the Obama rules on emissions from old and new coal-fired power plants, and has urged the House to pass a bill that would stop EPA from regulating methane, carbon dioxide, hydrofluorocarbons or other greenhouse gases.

### **Pruitt Says Dump Paris Climate Agreement; NFU Tells White House to Honor Paris Accord**

In the same week EPA Administrator Scott Pruitt called for the U.S. to abandon the Paris climate change agreement engineered by the Obama administration, the National Farmers Union (NFU) asked President Trump to keep the U.S. as a cosigner of the Paris accord, calling the pact "vital to enhancing the climate resiliency of family farm operations and rural communities...that stimulate economic growth in rural America."

Pruitt unveiled his feelings during a TV appearance this week. "Paris something we really need to look closely at because it's something we need to exit, in my opinion. It's a bad deal for America. It's an 'American-second, third-, fourth- kind of approach,'" Pruitt said. He said the U.S. "front-loaded all our costs at the expense of jobs," adding China and India have lesser immediate obligations as part of the pact.

A long-time champion of the Paris accord, NFU contends farmers have been experiencing "costly disruption" from shifting climate patterns for years. The Paris deal obligates the U.S. to cut greenhouse gas emissions 26-28% by 2025, and actions to achieve that goal are job creators, NFU contends.

"In particular, incentives to encourage farmers, ranchers and forest owners to sequester more carbon would benefit rural communities. Those new revenue streams create new jobs and give young people another reason to stay on the farm and in small towns," NFU said in a letter to Trump and in an interview with Agri-Pulse last week.

NFU also contends the Paris Agreement raises important issues that must be discussed. These include decarbonizing the power grid, and reducing methane admissions. The farm group said the White House should provide incentives for methane recapture by farmers through use of anaerobic digestors.

So far, there is no official Trump administration position on the Paris accord, and that lack of direction was blamed for blocking G7 nation energy ministers from signing a joint statement at the ministers' recent meeting. The U.S., represented by Energy Secretary Rick Perry, said the U.S. is reanalyzing its position, but stressed while alternative fuels will be needed, so will traditional sources of energy including coal, natural gas and nuclear. It's hoped the Trump White House will be able to signal a formal position by the May 26 G7 heads of state meeting in Sicily.

## **EPA to Meet with States over How to Repropose WOTUS**

EPA has invited state and local government officials to a Washington, DC, meeting next week to find out what they think of its “waters of the U.S.” (WOTUS) rulemaking, and what it will take to repropose a workable version of the rule.

Invited are the National Governors Association (NGA), the National Association of Counties (NAC), the U.S. Conference of Mayors and the Environmental Council, along with several other groups.

EPA Administrator Scott Pruitt said the agency will take a two-step approach to rescinding and reproposing the WOTUS rule. It will use an initial rulemaking to rescind the Obama administration version of WOTUS, a rule blocked by the federal courts since it went final almost 18 months ago. The second rulemaking will define which waters will fall under a new rulemaking based on court cases compelling EPA to address its authority under the Clean Water Act (CWA).

The action keeps EPA closer to a Supreme Court interpretation that is more restrictive than the approach taken by Obama’s EPA, and should a current high court appeal over whether district or appeals courts have jurisdiction over litigation goes against the states and removes the federal stay, it allows the agency greater leeway in writing a replacement rule, legal experts said.

## **Federal Court Tosses EPA CAFO Air Emission Exemption**

A 2008 EPA rule exempting all but the largest concentrated animal feeding operations (CAFOs) from federal air emissions reporting for such gases as ammonia and hydrogen sulfide from animal manure, was tossed out this week by the U.S. Court of Appeals for the DC Circuit.

The case was brought against EPA by Waterkeeper Alliance, the Center for Food Safety, Sierra Club and the Environmental Integrity Fund. The groups argued EPA is not authorized by Congress to grant reporting requirement exemptions.

The rule created a blanket exemption from CERCLA reporting requirements for EPA and from the requirements of the agency’s Emergency Planning & Community Right-to-Know Act (EPCRA) reporting to states and local governments.

The court in reinstating the reporting requirements objected to EPA’s rationale that a federal response to such reporting would be “impractical and unlikely.” Congress didn’t “give the agency carte blanche to ignore the statute whenever it decides the reporting requirements aren’t worth the trouble. We find those reports aren’t nearly as useless as the EPA makes them out to be,” the court said.

## **Beef Makes the Cut on U.S.-China 100-day Agreement Deal**

U.S. beef exports to China will be part of a newly minted U.S.-China agreement on how to best handle trade disputes between the two nations, after President Trump met with Chinese President Xi Jinping last week at Mar-A-Lago in Florida.

The White House confirmed both leaders agreed to finding a way to “hammer out” a fix to the Chinese hurdle to U.S. beef exports, put in place originally in the wake of the U.S.’s 2003 BSE case, an animal sent to the U.S. from Canada. While the Chinese formally lifted restrictions in 2016, talks between the Chinese government and meat groups have hit technical snags precluding U.S. beef sales.

Beef is one of several products caught up in trade disputes between the U.S. and China. Trump and Xi agreed to take 100 days to tackle each of these issues, which include intellectual property.

### **U.S. Corn Ethanol Use Up; Global Coarse Grain Production Higher**

The 2016-2017 corn outlook is for increased use of corn to produce ethanol, lower feed and residual use and unchanged ending stocks, USDA predicted in its April 11 World Supply & Demand Report. The department increased its projection of corn for ethanol use by 50 million bushels to 5.45 billion, adding corn used for ethanol refining in December-February hit record levels. March ethanol production is also above expectations, USDA said.

Feed and residual use is seen declining by an offsetting 50 million bushels, and this usage change indicates ending stocks will be unchanged from the projection a month ago.

Global coarse grain production is forecast to be 4.4 million tons higher than last month's projection, hitting 1.345 billion bushels, and the April report foresees increased production, consumption, trade and ending stocks over last month's expectation.

The U.S. soybean supply and use changes from last month include higher seed used, reduced residual disappearance and higher ending stocks. With exports and crush unchanged, ending stocks are predicted to hit 445 million bushels, up 10 million from the month before. Soybean meal is expected to see increased exports and lower domestic use. For soybean oil, the department foresees reduced food, feed and other industrial uses, with increased ending stocks.

Wheat stocks for 2016-2017 are increased 30 million bushels on lower feed and residual use, more than offsetting a slight import drop. At 1.159 billion bushels, ending stock are seen hitting a 30-year high. Feed and residual use are reduced by 35 million bushels to 190 million on lower-than-expected disappearance during the previous two quarters. Global wheat supplies are seen increasing to 1.7 million tons.

Global stocks of corn, soybeans, wheat and rice combined will reach a record 671.1 million tons approaching the next harvest, the third year of historically high surpluses, the department reported. The department said near-record high production worldwide is causing storage problems, with "stockpiles" of corn and wheat at record levels.