

## State Association Weekly Washington Report 5.18.18

### House Farm Bill Near Finish Line, but Conservatives Threaten Block if No Immigration Vote

House Agriculture Committee Chair Mike Conaway (R, TX) may see light at the end of the Farm Bill tunnel this week, but getting a final vote on the House's controversial 2018 Farm Bill remains elusive as the Texas lawmaker continues to count votes and awaits word of whether his own GOP caucus will derail his efforts over immigration reform.

The White House weighed in with President Trump's endorsement of the ag bill, but as one senior ag committee staffer put it, "What the administration does or doesn't like carried virtually no weight in this process." At the same time, Rep. Collin Peterson (D, MN), ag committee ranking member and former committee chair, said the bill is no good for farmers, consumers, the nation's hungry or the nation's energy independence goals. Despite the "closed and one-sided nature of this process," Peterson said, ag committee Democrats are "willing to come back to the table, but only when the majority has the ability to sit down and figure this out together."

It's Conaway's goal, having blocked or defeated all "poison pill" amendments and protected both crop income support programs and crop insurance premium and company subsidies, to get final Farm Bill approval on at least a straight party-line vote. However, to do that he needs support of all GOP members – he can only afford to lose 20 GOP votes – and as of late Thursday, Rep. Mike Meadows (R, NC), chair of the House Freedom Caucus, said he couldn't say how many of his 35-40 conservative and ultra conservative caucus members would change their votes from "no" to "yes" on the final Farm Bill vote.

Meadows and his followers demand the House vote on a controversial, and expected-to-fail immigration bill by Rep. Bob Goodlatte (R, VA), chair of the Judiciary Committee and, ironically, former chair of the ag panel. Meadows wants that vote taken before the final Farm Bill vote. House Speaker Paul Ryan (R, WI) told Meadows he wouldn't change the vote schedule, and Conaway has not been part of the leadership-caucus negotiations.

If Meadows makes good on his threat to block the Farm Bill final vote, the bill will likely be pulled until an immigration deal is cut. A broader group of moderate Republicans is also pushing Ryan for action on immigration reform, including a legislative fix to the Deferred Access for Children Act (DACA) and legal protections for so-called "dreamers." Their goal is a compromise bill that will appeal to moderate GOP and Democrat members, as well as garner support from some conservatives, but hammering out that legislation is tough.

The Farm Bill must be reauthorized by September 30 when current law expires. If Congress misses that deadline, a one-year extension of the 2014 version must be approved, and several programs which lack mandatory funding will be suspended until a new bill is signed by the president. The schedule is tight; Congress recesses for a week for the Memorial Day recess, then another week is lost to the July 4 recess. Congress is set to recess for the entire month of August, as well, though some Senators are talking about working through their traditional recess, reflecting mid-term election pressures.

The immigration issue is an 11<sup>th</sup>-hour roadblock to what's been an astutely played floor strategy by Conaway, who pegged his messaging to protecting farmers after a five-year recession in the rural economy. With a single goal of protecting income support programs and crop insurance – and keeping

the House off the record supporting radical changes to either program – Conaway, with no support from his committee’s Democrat members, convinced the House Rules Committee earlier this week to make in order for floor votes only about 32 of the 106 amendments filed for consideration. He successfully blocked a number of amendments, allowing only two that sought to radically challenge commodity programs or crop insurance, and grudgingly allowing debate and a vote on what he called the primary “poison pill” amendment to the bill, one offered by Rep. Virginia Foxx (R, NC) to make major changes to the federal sugar support program, including killing off all domestic marketing authorities, but leaving in place foreign sugar import barriers.

When the dust settled later in the process, an amendment offered by Rep. Tom McClintock (R, CA) to phase out commodity income support programs and crop insurance premium subsidies over 10 years failed, garnering only 34 “aye” votes.

Foxx’s sugar amendment, backed by food processors and candy makers, went down in flames on a surprisingly lopsided 137-278 vote. Foxx supporters conjured images on the floor of a “Soviet-style” government supply management program that “taxes” consumers with higher food costs. Opponents, like Rep. Ted Yoho (R, FL), said the amendment “goes after American farmers for the benefit of multinational soda and candy companies.”

Conaway and ag panel ranking member Rep. Collin Peterson (D, MN), who leads his party’s opposition to the overall committee bill, backed by House GOP leaders who fear jeopardizing the entire bill, argued the sugar program is a zero-cost program to USDA, and as Peterson, who claims the largest sugar-producing district in the House, put it several times, “This is a program that works.” Conaway said he saw Foxx’s amendment as an “existential threat” to overall farm policy, fearing if successful, the sugar amendment would have emboldened other attacks on farm programs.

McClintock also offered an amendment to further screw down eligibility requirements for food stamp recipients, but it failed on an 83-330 vote. An amendment requiring USDA to undo former First Lady Michelle Obama’s controversial school lunch nutrition standards was part of Conaway’s overall managers’ amendment, and the House adopted on a voice vote an amendment by Rep. Darin LaHood (R, IL) that would change the ARC/PLC signup process from annually to once for the life of the Farm Bill.

### **Senate to Unveil Its Farm Bill, Markup Schedule Next Week**

As the House struggles to get its version of a 2018 Farm Bill over the finish line, Senate Agriculture Committee Chair Pat Roberts (R, KS) this week said he’ll unveil as early as next week his committee’s “bipartisan” bill, as well as reveal the committee’s schedule for action.

He and ag panel ranking member Sen. Debbie Stabenow (D, MI) are dotting i’s and crossing t’s on the draft bill and nailing down the committee’s schedule. “Deborah and I have been meeting this week, and we’ll continue through next week. I think we’ll have a date to announce by next week when we’ll start markup, and leadership on both sides of the aisle have indicated they will make floor time,” Roberts said.

Ag committee member Sen. Amy Klobuchar (D, MN) told a news conference this week the committee expects to wrap-up its work on the Farm Bill “sometime in June.” Of the ongoing battles in the House, Klobuchar said, “I know that the House Farm Bill has become very partisan, but we don’t see that in the Senate.”

It's known the draft Senate bill is circulating among other committee members. Roberts is wrestling with proposals introduced as bills or talked about that cover conventional regional competitions and disputes. One such proposal, authored by Sens. John Thune (R, SD) and Sherrod Brown (D, OH), would pay for changes to the Agricultural Risk Coverage (ARC) program by capping the reference prices used in the Price Loss Coverage (PLC) program. Roberts said, "We're trying to deflate that balloon. We don't want one region improving something in the Farm Bill at the expense of another region." While acknowledging improvements to ARC are needed, "but we also need to keep the PLC program," he said.

As far as the schedule goes, despite reports Roberts will give a specific markup date, he told reporters this week, "We're not quite there, but we hope to be." While the Senate is in session next week, Congress is out the following week for Memorial Day recess.

### **NAFTA 2.0 Misses U.S. Action Deadline; Talks Continue**

U.S. trade negotiators missed the May 17 statutory deadline to send the treaty paperwork to Capitol Hill on a new NAFTA agreement, but talks continued this week, and depending on which delegation you listened to things are either "very close," or "nowhere near close to a deal."

That latter sentiment was uttered by U.S. Special Trade Representative (USTR) Robert Lighthizer, who referred to "gaping differences" in a number of treaty issues. Lighthizer said major differences remain on agricultural product market access, primarily U.S.-Canada dairy disputes; energy issues; geographic indicators, labor, automobile trade and a U.S.-proposed five-year sunset provision for reviewing any agreed-to treaty.

"The NAFTA countries are nowhere near close to a deal. We, of course, will continue to engage in negotiations, and I look forward to working with my counterparts to secure the best possible deal for American farmers, ranchers, workers and businesses."

Congress could still vote on NAFTA 2.0 by the end of the year if a deal is cut within the next few weeks. House Speaker Paul Ryan (R, WI) said this week if the International Trade Commission (ITC) can shorten the time it takes for a required economic analysis of any deal submitted, there may be "wiggle room" to get congressional action by December 31. Ryan could also try and extend the deadline, or simply accept the new treaty may fall to the new Congress in January, 2019.

Further complicating the outlook for a new tripartite treaty is President Trump's recent demands that Mexico take action to stem the flow of illegal immigrants across the U.S. border. National elections in Mexico and the U.S. weigh heavily on getting a deal done, as are provincial elections set in Canada. However, in a call this week with Canadian Prime Minister Justin Trudeau, Trump "underscored the importance of quickly concluding an agreement," the White House said.

Ag groups in the U.S. are getting more concerned over moves by Canada and Mexico to find alternative sources of various ag commodities/products should the negotiations fail to bring about NAFTA 2.0. Farmers for Free Trade, a coalition of groups which are pushing for NAFTA 2.0, said, "Growers' existing relationship with Mexico has been put in flux and filled with uncertainty..." the group said at a press conference this week.

At the same time, 11 national food and agriculture groups sent Lighthizer a letter this week – followed by a similar letter from 26 Senators – warning him U.S. producers risk losing market share in Mexico

after the announcement by that nation and the European Union (EU) that they've finalized a trade deal that "protects" 340 "geographic indicator" food and beverage product names.

The May 17 deadline for U.S. action before the end of the year is part of the provisions of Trade Promotion Authority (TPA) granted to President Trump, authority allowing the White House to negotiate treaties under specific conditions in return for the Congress getting only a straight up-or-down vote on the finished product. The White House has to give Congress a minimum of 90 days to review the details of any agreed-to update of NAFTA.

### **China, U.S. Continue Brinksmanship on Tariff, Trade Talks**

If it comes to an all-out trade war with between China and the U.S., China has more to lose, or so says Secretary of Commerce Wilbur Ross as he readied this week to continue bilateral talks, this time with China's Vice Premier Liu He who travelled to Washington, DC.

Ross is hopeful the U.S. can cut "a fair deal," but told a National Press Club audience this week a trade war would not be "economically life-threatening to the U.S." China wants the U.S. to stop its saber-rattling over imposing up to \$150 billion in tariffs on Chinese products sold to the U.S. The U.S. wants China to drop about \$3 billion in tariffs slapped on U.S. agricultural and other goods in the wake of President Trump's action to impose a 25% tariff on steel imports to the U.S.

Prior to He's arrival in the U.S., the Chinese government announced it was dropping an anti-dumping investigation into U.S. sorghum sales to China, reopening a \$1.1-billion market for U.S. farmers. Reports called the action a conciliatory gesture ahead of the continuing talks between the world's two largest economies, but the U.S. is also China's biggest sorghum supplier for use in animal feed and Chinese liquors.

Ross' optimism belies struggles within the White House, even as President Trump appears more and more publicly eager to reach a deal with China. Reports indicate that China hard-liner Peter Navarro, after a heated argument in China last week with Treasury Secretary Steve Mnuchin, has been dropped off Treasury Department lists of those with whom China' He will meet. Mnuchin is leading the talks this week.

Meanwhile, China denied media reports it's offered the U.S. a \$200-billion deal to cut the U.S.-China trade deficit, a combination of "concessions" on tariffs and increased Chinese purchases of U.S. products. The Chinese government said, "This rumor is not true...the relevant consultations are ongoing and they are constructive."

### **USDA-FDA, EPA Spending Bills Approved by House Committee; WOTUS Repeal Included**

The full House Appropriations Committee this week approved an \$145.1-billion FY2019 USDA-FDA spending bill. The measure includes both mandatory and discretionary spending, but is \$922 million less than enacted for FY2018. The committee rejected just about all of the White House's agriculture budget cuts.

In related action, the committee also approved EPA's FY2019 spending package, slashing available discretionary spending by \$228 million from FY2018. The bill also includes an amendment repealing the final rule government "waters of the U.S. (WOTUS)" promulgated during the Obama Administration. The bill also upholds language in the Clean Water Act (CWA) that exempts "normal farming practices"

from several permitting requirements, and specifically prohibits EPA from spending tax dollars to require mandatory reporting of greenhouse gas (GHG) from on-farm manure systems. Also prohibited would be EPA action to issue any rules under the Solid Waste Disposal Act applying to animal feeding operations.

While discretionary spending at \$23.27 billion is \$14 million more than last year, the USDA-FDA legislation includes language to add another \$550 million to the \$600 million in the bank and slated for rural broadband expansion; language to ensure genetically modified (GM) Atlantic salmon is subject to USDA's new GM labeling rules as authorized by 2016 congressional action; ending USDA's effort to "disallow" potatoes in school lunches, and report language to enhance H-2A visa program use by employers. For the first time in several spending cycles, the committee rejected on a voice vote an amendment to withhold USDA meat inspection spending for horse slaughter.

The Senate Appropriations Committee is expected to take up its USDA-FDA spending bill next week, with many of the same amendments in play.

The USDA-FDA bill increases to \$3.01 billion the annual budget for ag research, and includes \$1.45 billion for rural drinking water and waste grants. While no money was specifically tied to FDA's enforcement of the Food Safety Modernization Act (FSMA), the bill acknowledges nearly \$9.1 billion in food safety spending by the agency since 2011. However, report language was strict in what the House expects from FDA.

"With this level of funding on the federal side and billions more invested by the private sector, Congress...need to see results in terms of reduced illnesses, hospitalizations and deaths. The committee directs FDA to provide information to the public via reports and on its website as it relates to the link between FSMA activities and performance measures, especially as outcome measures support reductions in foodborne illnesses, hospitalizations and death," the committee wrote.

## **EPA Notes**

**WOTUS Repeal/Rewrite on Track for End of 2018 Pruitt Tells Appropriators** – Despite reports last week that EPA won't publish its proposed rewrite of its "waters of the U.S. (WOTUS)" rulemaking until August, with a final rule not expected until September, 2019, agency Administrator Scott Pruitt this week told Senate appropriators all is good and the agency is on track to complete the replacement rulemaking by the end of this year. Pruitt told the lawmakers he will finalize repeal of the Obama administrator final rule by "late this month or early next month," with a final rule coming during the third quarter of 2018, and the entire WOTUS reinvention completed for good by the "end of the year." Pruitt also told lawmakers he's setting up a legal defense fund to deal with the laundry list of spending and ethical missteps of which he's accused. He said donations to the fund will be handled by "attorneys and others." "I don't accept donations. I don't solicit donations," he assured committee members.

**Pruitt Tasked with White House RFS/RIN "Compromise" Memo** – EPA Administrator Scott Pruitt has been tasked by President Trump with putting into a formal memo as a step towards rulemaking the outcome of last week's White House meeting on how to solve the ongoing Renewable Fuel Standard (RFS)/Renewable Identification Number (RIN)/E15 dust-ups. He'll be assisted by Agriculture Secretary Sonny Perdue. The forthcoming memo will lay out the administration's agreement to include permanent expansion of E15 sales year-round, but will likely be less forthcoming on just how RIN credits will be applied legally to ethanol for export, how the agency will reallocate volumes lost through small refinery

waivers granted by EPA, as well as which refineries will qualify for the waivers in the future. The biggest challenge is how to define “hardship” when granting the waivers, essentially exemptions from RFS biofuels-gasoline blending mandates.

**Grassley Threatens to Call for Pruitt’s Resignation over Waivers** – It’s not good to push Sen. Chuck Grassley (R, IA) to the limits of his patience. This week, the senior Iowa lawmaker and the champion of all things biofuels, said he’s getting ready to call for EPA Administrator Scott Pruitt to resign – he would join a number of Democrat Senators in that call – if Pruitt doesn’t act to curb the number of small refinery waivers his agency issues to refineries owned by major petroleum companies. Grassley wants EPA to “act fairly” on the issue. “They better or I’m going to be calling for Pruitt to resign because I’m done playing around with this,” Grassley told reporters on his weekly media call. Grassley contends the dozens of small refinery waivers EPA has granted under Pruitt has cut the statutory ethanol mandate – which President Trump has publicly and repeatedly endorsed – from 15 billion gallons to 13.8 billion or less. However, complicating Grassley’s frustration is a statement this week by Sen. John Barrasso (R, WY), chair of the Senate Environment & Public Works Committee, whose state is home to several small refineries, that he’ll “oppose any agreement that would make it more difficult for small refineries to obtain hardship relief in the future.”

**2019-2020 RFS Sent to OMB for Review** – EPA confirmed this week it has sent its proposed 2019-2020 Renewable Fuel Standard (RFS) biofuels-gasoline blending mandates to the Office of Management & Budget (OMB) for review and approval. EPA Administrator Scott Pruitt, as expected, promised the final RFS will be delivered by the statutory November 30 deadline.

#### **USDA Chief of Staff Heidi Green Heading Home to Georgia; White House Loses Ray Starling to Perdue**

Heidi Green, long-time friend, colleague, business partner and chief of staff to Agriculture Secretary Sonny Perdue has decided it’s time to head home to Georgia. Taking Green’s job will be Ray Starling, currently special assistant to the president for food, agriculture and trade, staff at the National Economic Council (NEC) and former chief of staff to Sen. Thom Tillis (R, NC).

Green, who is the former director of the Georgia Department of Economic Development, was instrumental in helping Perdue get USDA up and running with the election of President Trump. “Heidi Green’s roots have called her home and she will be rejoining her family in Georgia,” the former state governor said in a statement thanking Green. “Her leadership during the transition of administrations and direction of the department through the first year of our tenure have been key to setting the course toward achieving our goals at USDA.”

Starling is very well thought of by USDA constituents, and has become during the first year of the Trump administration the “go-to guy” on agriculture policy and interagency overlaps of programs and impacts. Starling is an attorney, born and raised on a North Carolina family farm. Said newly appointed NEC director Larry Kudlow, “I have come to know Ray as a trusted adviser on issues near and dear to the hearts of the American farmer. Secretary Perdue has gained a fierce advocate for agriculture.”