

## **State Association Weekly Washington Report 4.13.18**

### **No Big Surprises as House Releases Farm Bill, Sets Markup for April 18**

House Agriculture Committee Chair Mike Conaway (R, TX), flanked by 11 of his GOP committee members and nary a Democrat, this week unveiled his panel's version of the 2018 Farm Bill, announcing he'll move to markup of the bill April 18, continuing "around the clock" until the committee completes its work.

Conaway said the bill "strengthens the farm safety net to help farmers and ranchers weather a five-year recession, depressed prices and a 52% drop in net farm income."

Full text of the House bill, as well as a section-by-section explanation and a series of fact sheets are available by going to [www.agriculture.house.gov/farmbill](http://www.agriculture.house.gov/farmbill). Meanwhile, sources at the Senate Agriculture Committee this week said it's expected that committee will release its version of the Farm Bill in early May.

Bad blood between Republicans and Democrats over the Farm Bill continues, focused mainly on work requirements and other changes to the nutrition title and eligibility for the federal food stamp program. This week House Minority Leader Nancy Pelosi (D, CA) sent a letter to her party colleagues, citing unanimous ag committee Democrat opposition to the nutrition title, telling the Democrat side of the House to oppose the "disastrous" Farm Bill because of its "cruel provisions." Pelosi is also not happy the House bill redirects billions in federal spending to help states set up work training programs. "This partisan proposal seals the Republicans betrayal of rural communities and working families across the nation," she said in a statement released after Conaway unveiled his bill.

The House bill is estimated to cost about \$865 billion over 10 years -- \$100 billion less than the current version – and holds few real surprises. It allows farmers to switch commodity program income safety net participation, tweaks those programs to make them more generous, protects federal crop insurance, streamlines conservation programs, adds controversial work requirements to federal food stamp eligibility, and imposes efficiencies on a number of USDA programs designed to result in budget savings.

The bill retains both the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) income supplement programs, and would permit farmers to shift current program participations. Under PLC, reference prices could drift higher by up to 115% as markets get better, and these higher payouts to producers lead analysts to believe a good share of ARC participants will shift to the PLC program if the option survives. Yields by farmers hit by drought for at least 20 weeks between 2008 and 2012, could be adjusted, and changes to ARC minimize the county-to-county payment differences by requiring USDA to use the Risk Management Administration's (RMA) certified yield data.

The conservation title received a major overhaul, with Conaway opting to increase the cap on acres enrolled annually in the Conservation Reserve Program (CRP) from 24 million acres to 29 million. CRP payments would be capped at 80% of county rental rates and other services to CRP players would be dropped. The biggest shift is rolling "the best features of" the Conservation Security Program (CSP) into the Environmental Quality Insurance Program (EQIP), funding the combined programs at about \$3 billion a year. Qualifications for CSP and EQIP components would be simplified. Existing CSP contracts would be allowed to expire as currently written and signed. The Regional Conservation Partnership Program (RCPP) is reauthorized at \$250 million a year; the Agricultural Conservation Easement Program

(ACEP) get \$500 million, and the Small Watershed Rehabilitation Program (SWRP) gets \$100 million. A new pilot program to control feral swine is authorized at \$100 million.

A number of agriculture-related environmental, crop protection, farm chemical and related program items are included in the bill. The Pesticide Registration Enhancement Act (PRIA-4), which reauthorizes EPA pesticide registration/maintenance fees, which has been stalled in Congress, is included; the bill eliminates the requirement that EPA consult with federal fish and wildlife agencies when reviewing and approving pesticides for use in areas where endangered species may live; the elimination for the fourth time in eight years of NPDES permitting requirements for pesticides used near water if the chemical is already FIFRA registered; a clarification of the definition of “retail facility” under OSHA rules that removes retailers from the Process Safety Management retail exemption; language clarifying that “State Lead Agencies” in charge of implementing EPA rules “are the only agencies with authority to make further requirements,” and state and local governments would be allowed to use methyl bromide during USDA-declared emergencies.

Committee ranking member Rep. Collin Peterson (D, MN) inserted in the committee bill changes to the dairy Margin Protection Program (MPP) – now renamed the Dairy Risk Management Program (DRM) – for problems not remedied in the February budget bill. Peterson’s goal is to “fix” MPP, which pays farmers the difference between milk prices and feed costs, so that the prospect of producer payments is enhanced by allowing insurance coverage on the first 5 million pounds of production to get a maximum coverage level of \$9-9.50 per hundredweight, up from the current \$8, with lower premiums of \$4.50 and \$5 restored to the program. The Congressional Budget Office (CBO) says the new and improved MPP will cost about \$1.8 billion over a decade. “Milk production not covered under DRM is made fully eligible for a comparable crop insurance policy,” the committee said. The committee sets up a feed cost study.

No significant changes were made to the federal crop insurance program because “the farm bill honors one of the loudest and most consistent messages received from the heartland: Do no harm to crop insurance.”

While the separate energy title of the current bill was eliminated, a new “Infrastructure & Economic Development” title carries nearly all of the current biofuels programs, including the biobased markets program; biorefinery, renewable chemical and biobased product manufacturing assistance; the bioenergy for advanced biofuels program; the biodiesel fuel education program; the feedstock flexibility program; the biomass crop assistance program and the rural energy self-sufficiency initiative.

On the trade side, the bill seeks greater efficiency and cost control of overseas market promotion by combining the Market Access Program (MAP), the Foreign Market Development (FMD) program, the Emerging Markets Program (EMP) and the Technical Assistance for Specialty Crops (TASC) program under one administration, with \$255 million to be spent annually. “Not less than” \$200 million would be spent on MAP, another \$34.5 million on FMD – in line with current spending – despite a push by industry to double those amounts.

Other provisions include federal ag research spending held at current levels; Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish would no longer be capped at \$125,000 per crop, and if an operation can show that 75% of its income comes from farming, the \$900,000 annual adjusted gross income test disappears. The definition of “family farm” shifts, allowing first cousins, nieces and

nephews to be deemed “family members” when qualifying for commodity program participation. USDA farm ownership and operating loans would be capped at \$1.75 million, up from \$700,000

Democrats remain upset over Conaway’s rewritten Title IV, the nutrition title, which would make 5-7 million Supplemental Nutrition Assistance Program (SNAP) recipients meet stricter work mandates. Anyone 18-59 years old, who isn’t disabled, pregnant, taking care of a child under 6 years old, would be required to work 20 hours a week or enroll in a work training program run by the states.

### **House Speaker Paul Ryan Announces Retirement**

Giving truth to 10 day’s worth of speculation, House Speaker Paul Ryan this week announced he will not seek reelection and will surrender his speaker’s gavel and House seat at the end of congressional session in December.

The retirement announcement immediately set off speculation – and Democrat declaration – Ryan is leaving due to the likelihood the House could flip to Democrat control in the midterm elections, or that he faced likely defeat in his own re-election bid.

Ryan, the former chair of the Ways & Means Committee before being elected speaker, said his decision has little to do with the midterm elections – he wasn’t supposed to win his last reelection, according to pundits, but took the election handily – but is all about wanting to return to Wisconsin and his family.

“If I’m here for one more term, my kids (all high schoolers) will only ever have known me as a weekend dad. I just can’t let that happen,” Ryan said.

### **Trade Notes**

**Trump Doubles Down on Trade War Farm Assistance; China Makes Conciliatory Statements –**  
President Trump this week praised the Chinese government for official statements indicating its willingness to talk trade concessions in the wake of dueling potential tariff lists by the world’s two largest economies. However, he called farmers “great patriots,” reiterating “we’ll make it up to them” – as did Agriculture Secretary Sonny Perdue – restating the federal government will “protect” farmers and ranchers from economic pain should the U.S. and China go to all-out trade war. Perdue wouldn’t give details of the administration’s plans, but many speculate it could involve direct payments out of the Commodity Credit Corp.’s (CCC) emergency funds or U.S. Treasury borrowing authority. Senate Agriculture Committee Chair Pat Roberts (R, KS) is skeptical. “The CCC has been used in times of emergency...but I don’t see how they can utilize that or any other source of income,” Roberts told reporters this week. “I don’t know how you would work that.” The White House said a plan will be released “shortly,” though farm groups have stressed to the White House it isn’t just the short-term financial losses a trade war might bring, but the loss of overseas markets that have taken years to develop. Sen. Ben Sasse (R, NE) called the Trump farmer assistance, “Some in Washington instead want to pay them (farmers) to lose.” Meanwhile, after more than 100 national trade groups sent the White House a letter opposing his declared intent to slap \$150 billion in tariffs on Chinese goods sent to the U.S. – and China’s targeting of U.S. agriculture exports in retaliation – and with Senate Majority Leader Mitch McConnell (R, KY) advising his colleagues to call Trump directly with tariff concerns, the president predicted China will drop barriers after President Xi Jinping said this week his country will reduce tariffs on U.S. automobiles, bolster intellectual property/technology protections and open China to broader trade with the U.S. U.S-China talks continue, but Trump said they may take some time.

**NAFTA 2.0 by May? Canada, Mexico Says “Yes,” Trump Says “Getting Close”** – As the respective trade teams gather in Washington, DC, this weekend for ministerial talks, the chief Mexican NAFTA 2.0 negotiator says there’s an 80% chance a new agreement could be in hand by late May, and Canada is praising “good progress.” President Trump this week said the three nations are “getting pretty close to a deal.” The president said, “It could be two weeks, it could be three months, it could be five months, I don’t care. I told the Mexicans, we can negotiate forever.” Reports indicate the U.S. and Mexico are closer to an agreement than the U.S. and Canada, but Canada says one major sticking point – rules of origin on autos – is nearly overcome. Sen. Pat Roberts (R, KS), chair of the Agriculture Committee, said U.S. Trade Representative (USTR) Robert Lighthizer confirmed to him the U.S. and Mexico are close to an agreement in principle, a development that would allow U.S. wheat and corn sitting in this country because Mexico is sourcing out of South America, to move “immediately” to Mexico. Both Lighthizer and Mexican Economy Minister Ildefonso Guajardo agree the “80% shot” at a U.S.-Mexico agreement could be announced at the Summit of the Americas in Lima, Peru, next week, putting pressure on Canada to step up its game.

**Trump Signals Possible Reversal on TPP** – President Trump this week told farm state lawmakers at a White House meeting on China trade he might reverse himself and sign the Trans-Pacific Partnership (TPP) agreement with 11 Pacific Rim countries. One of the president’s first official acts three days after his inauguration was to withdraw the U.S. from TPP, a pact negotiated by the Obama administration and which candidate Trump once called “a continuing rape of our country.” However, he told the lawmakers he’s instructed USTR Robert Lighthizer and National Economic Council (NEC) Director Larry Kudlow to take another look at U.S. participation in TPP, as it might be easier for the U.S. to join TPP rather than try and negotiate several individual bilateral agreements with key Asian nations. However, it’s expected if the U.S. were serious about signing on, renegotiation in whole or part of the trade pact might be demanded. The farm state legislators told Trump that joining TPP would allow the U.S. to lead the Asian trading partners, countries which would rather be aligned with the U.S. than China.

**China Files Steel/Aluminum WTO Complaint; 700 Tariff Exemption Requests Received** – As expected, China has filed with the World Trade Organization (WTO) a formal complaint over the U.S.’s recent imposition of 25% tariffs on imported steel and 10% tariffs on imported aluminum, the first step in the WTO settlement process and the prelude to “consultations” to resolve the dispute. Meanwhile, the Department of Commerce is sorting through more than 700 requests for specific product exemptions for various steel products, with hundreds more requests expected. The process for exempting specific U.S.-made products using imported steel is cumbersome and time consuming critics say, and each request – once deemed “properly prepared” goes out for 30 days of public comment. On its WTO action, China says the tariffs don’t jive with WTO’s General Agreements on Tariffs & Trade (GATT), as well as the WTO Agreement on Safeguards. The U.S. reminded China and the WTO it didn’t impose the tariffs under its safeguards authority, but for national security reasons. “These actions are not safeguard measures and there, there is no basis to conduct consultations under the Agreement on Safeguards with respect to these measure,” the U.S. countered.

#### **RFS/RIN White House Meet Yields No Result; Trump to Let Issue Slide for Now, Waiver Battle Goes On**

A high-level administration meeting this week to present to President Trump policy options for dealing with possible changes to the Renewable Fuel Standard (RFS) and the Renewable Identification Number

(RIN) tug-of-war yielded no reportable progress, save Trump has turned his attention elsewhere until sometime this summer.

At the same time, the battle over EPA's use of its waiver authority to exempt refineries – some subsidiaries of oil industry multinational companies – from RFS biofuels blending obligation heated up, including a letter from five GOP senators to Trump to end EPA's authority to grant those waivers at least temporarily, a call echoed by alternative fuel groups. The National Biodiesel Board (NBB), the American Soybean Assn. (ASA) and the National Renderers Assn. (NRA) sent a letter to the White House, calling the EPA waiver action "outrageous," and that refineries receiving those waivers were neither "small" or economically disadvantaged.

Agriculture Secretary Sonny Perdue told Sen. Roy Blunt (R, MO) that he agrees EPA has abused the economic hardship criterion used to grant small refinery waivers. Blunt was one of the five Senators asking EPA to suspend issuing waivers until the system is "more transparent and impartial." "I concur with your opinion," Purdue said to Blunt during a Senate Appropriations Committee appearance this week. Purdue said he's asked EPA for more information on the waiver practice, but has not received word back from the agency. "This is demand destruction," Perdue said.

However, Sen. John Cornyn (R, TX), who has led a bipartisan effort to draft legislation to "modernize" the RFS/RIN program, is reported to be considering expanding that very same waiver authority to all small refineries, those producing 75,000 barrels per day, something that would be favorably looked on by Sen. John Barrasso (R, WY), chair of the Environment & Public Works Committee. The move would cut about 10% of refining capacity out of the RFS. The committee wouldn't comment on Cornyn's effort, but did say Barrasso believes, "The RFS is broken and needs to be fixed."

### **Trump Says E15 Coming**

President Trump told reporters this week after meeting with USDA and EPA officials to talk about alternative fuels that he's ordered EPA to begin laying the groundwork for allowing ethanol refiners to sell E15, a 15% ethanol/gasoline blend, 12 months a year. Allowing year-around E15 sales is seen as one way to dampen ethanol industry opposition to any changes which may be coming in the Renewable Fuels Standard (RFS) program.

"We're going to raise it up to 15% and raise it to a 12-month period," the president said just before meeting with farm state legislators to talk China trade and tariffs. He added the move will "make a lot of farmers happy." Trump said he was offering "no guarantee" the year-around E15 sale would happen soon, but referenced a "two-year period of time" during which alternative fuel program changes are anticipated.

EPA has begun the legal research into whether it needs new legislative authority under the Clean Air Act (CAA) to grant the year-around sales permission, and USDA has been leaning on the agency to grant the change quickly. The Renewable Fuels Assn. (RFS) says for the E15 decision to have positive impact, the EPA has to cease issuing hardship waivers to refiners.

### **Pruitt OK for Now, Wheeler Approved by Senate**

EPA Administrator Scott Pruitt's job appears to be safe for now – despite half a dozen internal investigations into alleged ethics violations – with President Trump this week again publicly endorsing

the former Oklahoma attorney general. Trump, following a one-on-one meeting with Pruitt, said the agency head is doing “great job,” and he knocked down reports he’s looking to replacing Pruitt or move him to a new job in the cabinet.

Supporting the president’s decision is a group of 10 leaders of major conservative groups around the country, who sent a letter to the White House last week thanking Trump for supporting Pruitt. “The days of a rogue, agenda-driven EPA are over. Scott Pruitt is a bold, capable manager and is right for this job,” the groups wrote.

Meanwhile, the full Senate approved the nomination of Andrew Wheeler to be deputy administrator of EPA, the number two job. On a 53-45 vote – Sen. Heidi Heitkamp (D, ND) and Sen. Joe Manchin (D, WV) joined the GOP – Wheeler’s nomination finally escaped the controversy of his former tenure as an energy lobbyist with coal industry clients. He’s also a former counsel on the Senate Environment & Public Works Committee. However, during his confirmation hearing, Wheeler said, “I will be recusing myself on any matters where is a conflict going forward.”

The president made fun of one rumor that he was getting ready to replace Attorney General Jeff Sessions with Pruitt. “Do you believe the fake new media is pushing hard on a story I’m going to replace AG Jeff Sessions with EPA Chief Scott Pruitt, who is doing a great job, but is TOTALLY under siege?,” the president tweeted.

#### **EPA to Issue Yet Another WOTUS Rule**

Yet another proposed rule on how to rewrite the controversial Obama administration “waters of the U.S. (WOTUS)” final rule was sent by EPA to the White House for interagency review this week, and is expected to be sent to the Office of Management & Budget (OMB) within the next 30-60 days for formal approval.

The administration is trying to return the regulatory landscape to what it was in 2015, but it’s unclear whose perception is being used. The hang-up remains the definition of “navigable waters,” but the agency is looking to follow Supreme Court decision definitions, but admits it needs guidance.

“After reviewing this input, EPA and the Army (Corps of Engineers) have decided to issue a supplemental proposal to provide the public with additional clarity on the scope of the agencies’ efforts,” said an agency spokesperson, adding public comment will be solicited.

#### **Administration Goal of Cutting FY2018 Spending Law Unlikely: McConnell**

President Trump’s recent move to identify portions of FY2018 omnibus spending bill he reluctantly signed two weeks ago and to invoke his authority to impose “rescissions,” congressional jargon for cutting specific spending, is unlikely to pass the Senate, Sen. Mitch McConnell (R, KY), majority leader, said this week.

McConnell said the \$1.3-trillion omnibus spending package was a bipartisan deal and to bring it back up to cut specific domestic-only spending would be difficult, if not politically impossible. He said the notion is “worth a discussion,” but added “whether that’s achievable is another matter,” and even though the bill’s price tag was higher than most Republicans wanted, “it was a bipartisan agreement.”

“Presidential rescission” is a little-known authority that would allow the chief executive to cut program spending, but it hasn’t been used in 25 years, sources said. Trump has, over time, talked about across-the-board spending cuts, but it’s unclear where the spending axe would fall. Targets would have to be identified by mid-June at the latest, and they would have to be program and amount-specific.

The White House has been talking to the House leadership, but trying to cut domestic spending programs just before midterm elections would likely fall on deaf ears when it comes to the rank and file GOP membership.

In a perfect world, Trump would like to have a line-item veto, but the Supreme Court ruled such authority unconstitutional during the Clinton administration, and Congress and the nation are unlikely to be receptive to a constitutional amendment process that would, in any event, take years to achieve.