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USDA Releases 2018 Farm Bill, Legislative Principles

Following its plan to “advise” Congress, providing any assistance needed, the Trump administration this week released its “USDA Farm Bill and Legislative Principles for 2018,” confirming USDA will be not drafting its own version of omnibus farm legislation. The document, which carries no surprises, was released by Agriculture Secretary Sonny Perdue at a town hall this week at Reinford Farms, part of a barnstorming tour of agriculture events in Pennsylvania.

“These principles will be used as a road map – they are our way of letting Congress know what we’ve heard from...American agriculture.” Perdue said. “USDA will be right there providing whatever counsel Congress may request or require.”

“Since my first day as the secretary of agriculture, I’ve traveled to 30 states, listening to the people of American agriculture about what is working and what is not,” Perdue added. “The conversation we had and the people we came across helped us craft (the document).”

Perdue said in Chicago this week federal crop insurance should reflect Trump White House budget goals, but in FY2017, Trump called for significant cuts in crop insurance spending. Also in administration sites are nutrition assistance programs, including food stamps, where waste and reorganization need to be identified and rectified.

Food stamps and to a lesser degree other federal nutrition assistance programs, will be major points of contention as the Farm Bill moves through the legislative process. It was a last-minute House floor amendment during final consideration of the 2014 Farm Bill to require food stamp recipients to be actively employed or looking for work that brought down the entire bill, forcing the House to split the nutrition title from the bill, approve it separately, then “remarry” nutrition to the broader Farm Bill in order for it to pass.

While in Pennsylvania, the secretary said the Supplemental Nutrition Assistance Program (SNAP) has to be changed to move people off the program “from dependency to an independent lifestyle.” Around 42 million received food stamp benefits in FY2017, costing the federal government about \$64 billion, fewer participants and 10% less expensive than the year before, but still obviously too rich a program for the White House. Reforms are targeted at “able-bodied adults without independents,” with work requirements and few waivers from participation restrictions, Perdue said.

The document (www.usda.gov/sites/default/files/documents/2018-farm-bill-and-legislative-principles.pdf) is a philosophical collection of what USDA wants to see in a new Farm Bill, with few details of how to achieve those goals. As an example, the first item says Congress must “provide a farm safety net that helps American farmers weather times of economic stress without distorting markets or increasing shallow loss payments.”

The treatise covers subject areas as broken out by USDA organization and Farm Bill titles, and covers farm production and conservation; trade and foreign agricultural affairs; food, nutrition and consumer services; marketing and regulatory programs; food safety and inspection services; research, education and economics; rural development; natural resources and environment, and management.

NFU Wants More Farm Bill Money; AFBF Likes USDA Approach

With both House and Senate Agriculture Committee chairs having warned Farm Bill stakeholders there's no extra money for current or prospective programs in the evolving 2018 omnibus farm program package, the National Farmers Union (NFU) nonetheless wants the Trump administration to spend more.

Reacting to the USDA Farm Bill principles document released this week, NFU said, "USDA's proposals seem to suggest they aren't in favor of putting more money in the farm bill." The NFU's 14-point Farm Bill recommendations generally call for overall higher spending than limits likely to be placed on ag lawmakers. "I don't care what farm organization or commodity group you go to. Everyone says, 'I want this program fixed,' and in every case, it takes more money," said NFU President Roger Johnson in a Politico interview. "If no one asks for more money, there is zero chance of getting (a new Farm Bill). So we need to at least raise the issue and build support it."

NFU wants to see Congress formally set spending limits well above the Congressional Budget Office's (CBO) 10-year projections on Farm Bill cost. The House draft version of the bill is currently under review by CBO. NFU wants to see a "dairy supply management system;" cotton growers eligible for Price Loss Coverage (PLC) income support – which has been deemed revenue neutral – and wants to see expanded crop insurance for livestock producers. It also wants to see new programs to aid farmers whether beginners, veterans or "socially disadvantaged," and it wants more spending on climate change mitigation, and a higher Conservation Reserve Program (CRP) cap.

The American Farm Bureau Federation (AFBF), on the other hand, likes what USDA is saying, with the nation's largest farm group commenting, that the administration principles "look to the future while securing the present" for farmers and ranchers facing income squeezes.

Trump Favors Citizenship for DACA Immigrants, but Wants a Wall

The White House this week unveiled its plans for comprehensive immigration reform – which critics say will cut legal immigration by as much as 50% -- and President Trump says he's willing to support a 10-12-year pathway to citizenship for 1.8 million Deferred Action for Childhood Arrivals (DACA) immigrants and their so-called "Dreamer" relatives if he gets money for his wall along the U.S.- Mexican border.

Democrats and other pro-immigration groups dismissed the Trump framework alleging it holds hostage DACA immigrant protections for other failed GOP changes to federal immigration law.

During unsuccessful spending negotiations between Trump and Senate Minority Leader Charles Schumer (D, NY) last week in the wake of a government shutdown, Schumer allowed his party would get out of the way of authorizing the border wall if Trump would support DACA protections as part of the new continuing resolution (CR) expiring February 8. When Trump refused – and Schumer took heat from Democrats on all sides of his caucus – the New York lawmaker said the DACA-for-wall deal was off the table in future talks.

Under the plan posted to the White House website, “DACA legal status” would go to about 700,000 currently registered immigrants – the children of undocumented workers illegally in the U.S. brought here as minor children – and “other DACA-eligible immigrants,” or a potential target group of 1.8 million individuals. Trump offers a 10-12-year “pathway to citizenship,” but would impose work, education and “good moral character” requirements to qualify. Eligibility requirements would be clear enough to “mitigate fraud,” and citizenship is also subject to revocation for criminal conduct, public safety and national security concerns, public charge, fraud and other illegal acts.

Border security in the Trump plan means “securing the southern and northern borders...with a combination of physical infrastructure, technology, personnel, resources, authorities and the ability to close legal loopholes used by smugglers, traffickers, cartels, criminals and terrorists.” The infrastructure priority would be paid for by a \$25-billion trust fund, with \$20 billion targeted for a southern border wall system, and \$5 billion for ports of entry/exit and “northern border enhancements.”

The president also wants to eliminate the “green card lottery” system, and wants visa allocation to be based on skills and merit. “This program is riddled with fraud and abuse,” adding the system should be replaced with one that allocates visas to reduce family-based and high-skilled employee backlogs. The White House plan would also “protect the nuclear family” by limiting in the future family sponsorships for immigration to spouses and minor children only, and ending “extended-family chain migration.”

Immigration Battles Heat Up on Capitol Hill

Conservative House Republicans are pressuring Speaker Paul Ryan (R, WI) to bring to the floor a hard-right immigration reform bill authored by Rep. Bob Goodlatte (R, VA), chair of the House Judiciary Committee, acknowledging the bill has almost no chance of gaining Democrat support, may not get unanimous GOP support in an election year, and if it does pass the House, see action in the Senate.

Meanwhile, House Democrat leadership has joined in talks with a bipartisan group of 20 Senators, including several moderate GOP lawmakers, in an attempt to shape legislation to fix several

immigration reform challenges. At the same time, House Majority Leader Kevin McCarthy (R, CA) is working to find a leadership version of a bipartisan approach to immigration, and forcing a vote now on the Goodlatte bill could derail those efforts.

The Goodlatte bill stops short of the White House immigration plan unveiled this week in that it would provide temporary “legal status” for three years to Deferred Action for Childhood Arrivals (DACA) immigrants, a status that could be renewed but would not lead to U.S. citizenship. The bill would authorize the U.S.-Mexico border wall and allow up to \$30 billion to be spent on the wall and other border security measures, eliminate the visa lottery system and “chain migration” of extended family members.

Goodlatte would mandate all companies use E-Verify to check on prospective worker legal status, a move not popular with some agricultural employers; allow the Department of Justice (DOJ) to withhold grants from so-called “sanctuary cities” and states which ignore federal immigration orders, and increase penalties for illegal immigrant criminals who’ve been deported but return illegally to the U.S.

Another Goodlatte bill, this one to reinvent the current H-2A agricultural seasonal worker program, is heading for Judiciary Committee markup, and it too is being attacked, with over 100 immigrant and labor groups led by the United Farm Workers union telling Congress the bill would hurt both immigrant and U.S. farm labor. The bill would kill the current H-2A program now run by the Department of Labor and replace it with a H-2C visa program run by USDA. The current 10-month limit on visas for temporary ag work would be waived under certain circumstances but ag employers would have to apply to hire year-around workers. Specialized skills jobs could get three-year visas, with 18-month renewals.

Key NAFTA 2.0 Round Grinds on in Montreal, Dairy at Center of Ag Talks

Canada and Mexico’s trade ministers were described as “upbeat,” U.S. dairy interests dig in on Canadian protectionism, and the White House kept reminding anyone who’ll listen that pulling out of NAFTA is always an option as the three nations continued to slug it out at this week’s round of NAFTA 2.0 negotiations. U.S. observers say this could be the make-or-break round of talks on the future of the tripartite trade treaty.

Meanwhile, a Reuters poll of economists in the three NAFTA countries revealed the numbers gurus believe NAFTA 2.0 will most likely be successfully reinvented, with only “marginal changes.” Of the 45 economists polled, only four said they believed NAFTA is dead. A “flash” survey of attendees at the World Economic Forum in Davos, Switzerland, showed that only about 20% of those attending a NAFTA session believe the treaty will lapse.

The latest round being held in Montreal – the sixth of seven rounds formally scheduled – was extended mainly because there is apparently some optimism major parts of the treaty can be approved, specifically the sanitary/phytosanitary guidelines chapter.

U.S. Special Trade Representative (USTR) Robert Lighthizer, Mexican Economy Minister Ildefonso Guajardo and Canadian Foreign Minister Chrysta Freeland got a jump start on their NAFTA back

and forth, meeting on the sidelines of the World Economic Forum this week. The three will be in Montreal on January 29, to close out the negotiating round.

Dairy remains the lynchpin in a successful agricultural outcome, observers say. The U.S. wants Canada to scuttle its price protection program given to Canadian dairy producers, contending it stimulates overproduction and a milk and dairy product glut on world markets. Also under attack is a Canadian supply management system, deemed protectionist by the U.S. and Mexico, because it caps production domestically while restricting imports. Canadian producers this week told the media they've made as many concessions as they intend, mainly because of concessions agreed to in the recently reworked and approved Trans-Pacific Partnership (TPP). U.S. producers brushed off the Canadian statement.

A group of bipartisan Senators kept the pressure on the White House this week to stay the course and get a new NAFTA deal done. The Senators said the administration needs to keep NAFTA "in place, but modernize it better to reflect our 21st century economy." These Senators also echoed the impatience of the White House over the slow pace of the talks. Meanwhile, Lighthizer got a letter signed by 82 House Democrats demanding Mexico improve its labor and wage standards as part of a new NAFTA treaty, and that the current administration position be considered just a "starting point" on labor reform, particularly in Mexico.

On non-ag issues, Canada says Mexico has offered "some creative new ideas," particularly on the rules of origin for automobiles, a highly contentious and complicated issue among all three nations. On the U.S. proposal that NAFTA automatically sunset after five years unless all three nations formally reapprove it, Canadian negotiators said a recommendation to the U.S. that the sunset provision be replaced by a commitment to a "vigorous and routine" review process was met with some interest.

Trade Notes

TPP Approved by Remaining 11 Nations – A "refined" version of the original Trans-Pacific Partnership (TPP) trade treaty the U.S. helped negotiate before President Trump withdrew from the deal was signed this week by the 11 remaining TPP nations, who promptly renamed the Pacific Rim trade pact the Comprehensive & Progressive Agreement for Trans-Pacific Partnership (CPTPP). Most U.S. agriculture groups remain convinced pulling out of TPP was a bade move. "Withdrawing from TPP was a missed opportunity for the U.S to gain greater access to some of the world's most vibrant and growing markets," said the National Cattlemen's Beef Assn. (NCBA), a major TPP supporter. If the U.S. were to seek reentry in the trade deal, it would have to be "substantially" rewritten, said one trade expert. President Trump said this week when asked about the new CPTPP and potential U.S. participation at a later date, "I always say this: I would do TPP if we were able to make it a substantially better deal...the deal was terrible. The way it was structured was terrible. If we did a substantially better deal, I would be open to TPP." Signers of the deal are Canada, Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

U.S.-Japan Trade Talks to Begin – Japan and the U.S. will begin next week talks designed to come up with a framework for a bilateral trade treaty while addressing "trade imbalances." The

administration said the economic partnership is necessary given the deepening interdependence of the national security and military partnership, and the White House wants to see bigger sales of ag products, liquefied natural gas and pharmaceuticals. A delegation from the Office of the U.S. Special Trade Representative (USTR) will be in Tokyo next week.

U.S. Exports to Cuba Up – The U.S. shipped more than \$250 in agricultural goods to Cuba in 2017, about \$50 million more than the year before, despite President Trump’s negative reaction of U.S.-Cuba normalization. More than half of ag sales to the island nation were chicken, said the U.S.-Cuba Trade Economic Council. However, Cuba is a \$2-billion annual market for agricultural products, and the council wants U.S. producers to “fully tap in” to that opportunity even though the federal government does not allow private financing of exports to Cuba.

Biodiesel Gets High Praise in USDA Report

A new study released this week says the lifecycle energy and the greenhouse gas (GHG) emissions of biodiesel “reaffirms” the well-known benefits of using the fuel. A collaborative effort of USDA’s Office of Chief Economist, Purdue University and Argonne National Laboratory, the report is considered to be the most contemporary and comprehensive lifecycle analysis of biodiesel ever done.

“It’s encouraging to see the commitment to data and quality analysis brought together in this study. It’s not news that biodiesel is good for the environment. It serves us well to look at transparent, reliable science,” said the National Biodiesel Board (NBB).

Roughly 50% of biodiesel is refined from oilseeds, mainly soy, with the other 50% refined from used cooking oil, animal fats and other oils.

The study includes for the first time Argonne’s use of indirect land use change in its look at the lifecycle of biodiesel. Indirect land use modeling tries to quantify the future impact of land use changes based on feedstock production and other factors. EPA and the California Air Resources Board (CARB) conclude biodiesel’s GHG advantage exceeds a 50% reduction over conventional diesel fuels.

“Biodiesel’s emission-reduction benefits are so great that you can overapply penalties aligned with the most conservative models and biodiesel is still the cleanest alternative for today’s diesel engines and the heavy duty transportation of tomorrow,” said NBB.

High Court: District, Not Circuit Court Proper Venue for WOTUS Challenges; EPA Says ‘No Worries’

Federal court challenges to the controversial Obama administration “waters of the U.S. (WOTUS)” rulemaking should be heard in federal district court, not in federal Circuit court, the U.S. Supreme Court unanimously ruled this week, making life a bit more difficult for President Trump’s EPA.

While the ruling clarifies the proper route for such court challenges to take – a position supported by ag, business, environmental groups and several states – the ruling also means the 6th Circuit Court of Appeals must vacate a nationwide stay of the Obama final rule, which could affect a handful of states unless the administration acts quickly.

EPA immediately announced the final WOTUS rule will not go into effect, despite the high court ruling. The agency said it will complete a final rule delaying the original rule for two years in about 30 days, about the same time frame as it takes the Supreme Court to meet its legal obligations on decisions made.

FDA Releases More Guidance on FSMA Hazard Analysis, Risk-Based Preventive Controls

FDA this week released its draft guidance document on part of the Food Safety Modernization Act (FSMA) dealing with hazard analysis requirements and so-called “risk-based” preventive controls for animal foods. The guidance goes to the requirements covered facilities need to meet when writing an animal food safety plan.

The American Feed Industry Assn. (AFIA) is reviewing the guidance and intends to file comments with the agency before July 23, the published FDA deadline for public comment. The current guidance only covers the first five chapters, but AFIA expects additional publications.

The current FDA efforts covers food safety plan requirements; recommendations for conducting a hazard analysis; hazards associated with the manufacturing, processing, packing and hold of animal food; examples of preventive controls that may be used to significantly minimize or prevent animal food hazards, and preventive control management components.

The guidance is found at www.fda.gov/AnimalVeterinary/Products/AnimalFoodFeeds/ucm347941.htm.

Senate Approves Azar to Head HHS

The full Senate this week approved Alex Azar to be the new secretary of Health & Human Services (HHS). Azar is the former president of Eli Lilly & Co., and served as HHS general counsel under President George W. Bush.

Said Finance Committee Chair Orrin Hatch (R, UT) of Azar's nomination during the formal confirmation hearing: "Clearly, Mr. Azar has seen both the good and bad at HHS, and knows how to manage them. I don't think there's anyone here, even on the other side of the aisle, who would contest that."

HSUS' Pacelle Under Board Investigation for Workplace "Misconduct;"

Humane Society of the U.S. (HSUS) chief executive Wayne Pacelle is under investigation for allegations of "workplace misconduct," HSUS Board Chair Eric Bernthal confirmed this week. The among the issues being investigated is "misconduct," based on an allegation Pacelle engaged in a sexual relationship with a female employee, according to an article this week in the Chronicle of Philanthropy.

"The board of directors of the Humane Society of the U.S. retained Morgan Lewis in December to conduct an investigation of allegations of workplace misconduct against our CEO, Wayne Pacelle. A special committee of the board is overseeing the investigation and reviewing its findings," Bernthal said in a statement posted to the HSUS website. "We do not have information that can be shared regarding the investigation, its findings or board actions at this time. We believe it is important to deal in substance, not rumors, and our process is designed to ensure confidentiality and fair consideration of these issues."

Pacelle, who continues to work at the organization, did not respond to the Chronicle article when given the opportunity, the magazine reported.

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