



# California Association of Wheat Growers

## Newsletter

October 28, 2016

**Thank you for your commitment to  
the future of agriculture and our membership.**

### Federal Policy Update



#### **Another Hill Report Slams WOTUS Rulemaking**

A majority report by members of the House Committee on Oversight & Government Reform alleges EPA rushed its waters of the U.S. (WOTUS) rulemaking to make environmental groups and the White House happy. This accelerated timeline "caused career staff...to feel pressure to meet timelines, which cause deficiencies in the regulatory process," the report concludes.

The report compounds the agency's embarrassment after internal U.S. Army Corps of Engineers documents were released last year showing that agency didn't agree with the direction or timing of the controversial rulemaking. EPA was also chastised for violating anti-lobbying laws when it worked with environmental groups to promote supportive comments be filed on its proposed final version of WOTUS.

This new report relies heavily on internal emails released by the Office of Management & Budget's Office of Information & Regulatory Affairs (OIRA), which reviews prospective rulemakings. Also part of the mix are interviews committee investigators held with agency officials.

"WOTUS was doomed out of the gate. The Obama Administration prioritized politics over policy by rushing through a legally and scientifically deficient rule," said committee Chair Jason Chaffetz (R, UT).

States and others who have sued in federal court to stop WOTUS have successfully had the rule put in abeyance, and based on petitions filed this summer, the legitimacy of the rule will ultimately be decided the U.S. Supreme Court. The House report, however, will not make it into the court review because the administrative record is set.

#### **Push is on for Lame Duck Action on Tax Extenders**

The annual political push for an 11<sup>th</sup> hour reprieve for expiring federal tax credits is on,

and the makers of biodiesel and other "advanced biofuels" are reminding lawmakers they've got a \$1-per-gallon blenders' tax credit that needs extending, along with a "simple, common-sense reform."

The "reform" referenced by the National Biodiesel Board (NBB) would shift the tax break from a blenders' credit to a producers' credit. Sens. Chuck Grassley (R, IA) and Maria Cantwell (D, WA), both members of the Senate Finance Committee, have introduced a bill to extend and reform the biodiesel tax credit. A House companion bill is also in the hopper.

NBB is asking Congress to "extend the incentive through 2019 and change it from a blenders' credit to a domestic producers' credit, a move that would also make ineligible foreign production shipped and sold in the U.S. Eliminating foreign production from receiving the credit would save the government about \$90 million a year, NBB says. The current credit expires December 31, and NBB says without an extension the industry will cut production and jobs.

The extenders package has broad bicameral and bipartisan support, but leadership is leery of bringing a stand-alone tax bill to the floor. To remedy that problem, it's likely the extenders package will be tucked into another bill slated for lame duck action.

Biodiesel, renewable diesel and other "advanced biofuels" - so designated because of their relatively low carbon footprint - enjoy a \$1-per-gallon blenders' tax credit, an incentive paid to gasoline makers to use biofuels when blending for transport fuel purposes.

### **House Committee Chair Wants Answers on EPA's Glyphosate Delay; CropLife Goes After IARC**

Rep. Lamar Smith (R, TX), chair of the House Science, Space & Technology Committee, this week said he's demand to know why EPA has postponed an independent scientist review of glyphosate as part of its ongoing cancer risk assessment, and what part EPA had in a 2015 report by the International Agency for

Research on Cancer (IARC) on glyphosate's carcinogenicity.

In a related development, CropLife America wasted no time in slamming a new IARC report on five more chemicals, some of which were formerly used in pesticides but are no longer registered with EPA. In fact, two of the chemicals reviewed - aldrin and dieldrin - have been banned since 1987. The report was published in the British medical journal The Lancet.

Smith sent EPA Administrator Gina McCarthy a letter this week in which he asserted EPA was more involved in the 2015 IARC report that held glyphosate to be "probably carcinogenic" than she testified in June before his committee. The Texas lawmaker said the postponement of the glyphosate review, coupled with McCarthy's conflicting

statements about EPA's role in the IARC review, "cast doubt on the agency's ability to complete an objective review based on the science that has already been well documented on the carcinogenicity of glyphosate."

McCarthy was given until November 1 to set up interviews with committee staff for two EPA scientists who work in the agency's Office of Research & Development, and a third scientist, Dr. Jim Jones, is the associate administrator of the EPA Office of Chemical Safety & Pollution Prevention. Smith says Jones is too close to IARC member Dr. Kenneth Portier, who strongly supports the committee's glyphosate findings and whose brother sits on EPA's glyphosate review committee.

On IARC's most recent publication, CropLife said the studies and their conclusions lack perspective, at least the proper perspective. "When communicating with the general public about any potential health concern...it is important that organizations characterize hazard with perspective regarding actual exposure and real human health risk, which IARC's communication in Lancet fails to do," said CropLife Senior Vice President of Science & Regulatory Affairs Janet Collins. "It begs the question: Why is IARC wasting time and resources and writing a press release. Our question continues to be: Why are we doing this?"

### **"Straight Talk" Demanded of Food Companies by Ag Groups**

After last week's reported letter from major U.S. agriculture groups to the Dannon Company over what farmers and ranchers perceive as marketing "flimflam," the U.S. Farmers & Ranchers Alliance (USFRA) said the effort will continue with the French-owned yogurt maker, but will expand to target about a dozen food companies to ensure marketing claims about sustainability, biotechnology and other issues do not mislead or confuse consumers.

The effort is part of what's being called USFRA's "Straight Talk" campaign, and was triggered by the Dannon announcement it would start sourcing dairy ingredients for some of its yogurt products from cows not fed feeds containing genetically engineered (GE) ingredients.

"There comes a time where we as farmers and ranchers...have to step up and challenge when food companies perhaps directly misinform consumers about practices going on on the farm," said Randy Krotz, USFRA CEO.

Krotz wouldn't identify which food companies have been targeted in the effort, but acknowledged farmers will be talking directly to food company executives. The goal is to "engage the food industry in a dialogue on sustainable agriculture production, the marketing practices used to reach consumers and the intersection of both trends," the groups say.

USFRA led last week's assault on Dannon, joined by the American Farm Bureau Federation (AFBF), the National Milk Producers Federation (NMPF), the American Soybean Assn. (ASA), the National Corn Growers Assn. (NCGA) and the American Sugarbeet Growers Assn. The group's called the Dannon marketing blitz "fear-based marketing."

"In our view your pledge amounts to marketing flimflam, pure and simple. It appears to be an attempt to gain lost sales from your competitors by using fear-based marketing and trendy buzzwords, not through any actual improvement in your products," said the ag groups' letter. "Such disingenuous tactics and marketing puffery are certainly not becoming a company as well-known and respected as Dannon. Neither farmers nor consumers should be used as pawns in food marketing wars."

### **Mega-merger Progress Continues; Syngenta-Chem China on Track, but Will Take Longer**

Despite concerns over financing and snarky comments by European regulators, Swiss seed company Syngenta this week assured the marketplace its acquisition by ChemChina is on track, but may take longer than expected. Meanwhile, Dow Chemical and DuPont said they expect their \$59-billion merger to close by the end of March, 2017.

Syngenta and ChemChina, owned by the Chinese government, missed an October 21 deadline to provide to European regulators planned "concessions" they would offer to appease anti-trust concerns raised by the \$43-billion proposed takeover. The failure to hit that deadline signals the European Commission's (EC) review of the deal will likely broaden, a process that could take an additional five months, according to reports.

"In a context of industry consolidation, regulators in the EU and elsewhere have recently requested a large amount of additional information and we now expect the regulatory process to extend into the first quarter of 2017," Syngenta CEO Paul Fyrwald told shareholders, adding the two companies remain "full committed to the transaction and are confident of its closure."

Syngenta told reporters attending its annual Media Summit in North Carolina this week that it has collected almost a dozen regulatory approvals from around the globe. It quashed rumors that ChemChina was having a tough time putting together the financing guarantees it needs, reporting the bridge financing to complete the deal is in place. The company also used the summit to tamp down rumors that the Chinese government is looking to merge ChemChina with Sinochem, another state-owned agriculture inputs company, a move that seriously complicate the Syngenta purchase.

Dow and DuPont had projected their deal would close by the end of 2016, telling Bloomberg that the "greatest concern is agriculture" when the deal is reviewed. The EC has also asked the two chemical giants for more information and pushed its review deadline to February 6. "Concessions" - assets to be sold to satisfy regulators - are unknown.