

# WASHINGTON REPORT

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## Congress Approves Final FY 2013 Spending Bill

The federal government ran on a continuing resolution for the first six months of FY 2013 as Congress punted any spending decisions into the new year well after last year's elections. On March 21, the House of Representatives voted to adopt the Senate amended spending plan, [H.R. 933](#), to fund the federal government through the remainder of the fiscal year to Sept. 30, 2013.

Depending on how you look at the numbers, most USDA research, education and extension programs took a 7.8 percent cut compared to their FY 2012 appropriations. This includes Hatch Act, Smith Lever Act, the IR-4 program, the Sustainable Ag Research and Education program and the Regional IPM Centers. The Senate did pick a few programs to get more money than they did in FY 2012 which included the Agriculture and Food Research Initiative (AFRI) that will get \$275 million in FY 2013, compared to \$264 million it received in FY 2012. There were also some programs like the Specialty Crop Research Initiative (SCRI) and the Organic Agriculture and Extension Initiative (OREI) that did not get any funding for FY 2013 because Congress did not pass a new Farm Bill, nor did they extend funding for those programs in the FY 2013 final spending bill.

One provision in the FY 2013 Consolidated and Further Continuing Appropriations Act, 2013, ([H.R. 933](#)), that has generated some controversy is the "Farmer Assurance Provision" under Sec. 735, which stems from past litigation over procedural issues unrelated to sound science or the safety of biotech crops such as RR sugar beets. Basically, the provision says that if a farmer plants a crop that was legal to plant at planting, the Secretary of Agriculture will ensure that the farmer gets to harvest it, even if some lawsuit is upheld in a court. This provision has been supported by many different trade associations over the past couple of years, including the Biotech Industry Organization and the American Seed Trade Association. The trade groups contend that environmental activists and judges have "inappropriately" interfered with already-approved products that are being planted, and that the provision "provides certainty" to farmers, even if a court ruled against the USDA's approval of the product. This provision will expire on Sept. 30, 2013. In the meantime, Secretary Vilsack has asked USDA's Office of General Counsel to review the farmer assurance provision "as it appears to preempt judicial review of a deregulatory action which may make the provision unenforceable."

## New Ag Appropriations Committee Chairman

With the new Congress, comes new chairman of both the House and Senate Agriculture Appropriations Subcommittees. On the House side, Rep. Bob Aderholt from Alabama's 4<sup>th</sup> Congressional District will take over as chair from Jack Kingston of Georgia. Rep. Aderholt will be serving in his 9<sup>th</sup> term from northern Alabama and served as chair of Homeland Security Approps in the 112<sup>th</sup> Congress. Prior to his election to Congress,

Aderholt served as an aide to Governor Fob James and as a Municipal Judge in Haleyville, Alabama. Educated through Alabama's public school system, Aderholt went on to graduate from Birmingham Southern College and from the Cumberland School of Law at Samford University.

On the Senate side, Sen. Herb Kohl from Wisconsin has retired from Congress after 24 years in office. Senator Mark Pryor from Arkansas will take over as the new chair of the Senate Ag Approps Subcommittee, with Sen. Roy Blunt from Missouri serving as the ranking member. Pryor grew up in both Arkansas and the Washington D.C. area. He received a B.A. in History and his law degree from the University of Arkansas and worked in private legal practice for over ten years. Pryor was first elected to public office in 1990 as a member of the Arkansas State House of Representatives. In 1998 he was elected Arkansas' Attorney General. He was first elected to the U.S. Senate in 2002 and was re-elected in 2008, where he received more votes than any statewide elected official in Arkansas history.

### **Vilsack Stays, but EPA and Interior Will Get New Leaders**

USDA Secretary of Agriculture Tom Vilsack will remain Secretary of Agriculture during the second term of the Obama Administration. There was speculation that the former Iowa governor would run for the U.S. Senate seat in Iowa being vacated by the Sen. Tom Harkin in 2014.

At EPA, Administrator Lisa P. Jackson announced she was leaving about a month after it was revealed she was using an alias email account to conduct official business. Jackson used a private email under the alias "Richard Windsor" to correspond with EPA colleagues, a decision her staff defended by saying that her official email account received too many messages for her to use it efficiently. Jackson spearheaded efforts to begin regulating greenhouse gas emissions, including setting new standards to clean up mercury and other toxic emissions from coal power plants, and established new fuel economy standards for motor vehicles. Many of those initiatives occurred under Gina McCarthy, the agency's assistant administrator for air and radiation, who was nominated in February to take over the EPA reign's from Jackson.

McCarthy has worked for Democrats and Republicans alike in state governments. However, her role as the point person in developing rules limiting emissions from industrial sources like power plants and boilers is likely to make her a proxy during the confirmation process for the administration's broader efforts to address climate change.

Secretary of the Interior, Ken Salazar also announced he will be leaving the administration this spring. In his place, President Obama nominated Sally Jewell, head of the outdoor recreation equipment cooperative REI. The nomination of Jewell, a high-profile business executive with strong support among conservation groups, marks a departure from the recent tradition of naming Western political figures to lead the Department of Interior, which manages millions of acres of public land. Jewell is president and CEO of Recreational Equipment Inc., a retailer with \$2 billion in annual

sales based in Kent, Washington. She spent 19 years in the commercial banking industry before joining REI, the nation's largest consumer cooperative, with more than 100 stores.

### **EPA Excludes *Arundo* and *Pennisetum* From Biofuel Rule**

For the past year, EPA had been working to finalize a federal rule which would allow fuel made from two known noxious weeds, *Arundo donax* (giant reed) and *Pennisetum purpureum* (napier grass or elephant grass), to count toward federally-mandated renewable fuels targets. The National and Regional Weed Science Societies are opposed the rule and have been working with other stakeholder groups to prevent parts of the rule from becoming law.

Much to our relief, EPA announced on February 22 that it EXCLUDED *Arundo donax* and *Pennisetum purpureum* from its final rule. Other parts of the rule were approved, which included the use of camelina and energy cane as eligible biofuel feedstocks under the Renewable Fuel Program.

EPA said they would continue to consider determinations on biofuels produced from *Arundo donax* and *Pennisetum purpureum* and make a final decision at a later time. The final rule is at: <http://www.epa.gov/otaq/fuels/renewablefuels/documents/new-fuel-pathways-under-rfs-fr.pdf>

EPA definitely made the right decision at this time, but I have no doubt that they will continue to look at *Arundo* and *Pennisetum* going forward. In our meetings with EPA, we have stressed that if EPA approves *Arundo donax* and similarly high risk feedstocks, we believe that the a federal rule must include – at the very minimum— guidelines or a permit process that requires stringent best management practices to reduce the risk of escape. These guidelines should be written with the guidance of the National Invasive Species Council and relevant federal agencies.

### **Barney Briefs Congress on Invasive Weeds and Biofuel Crops**

On March 7 during National Invasive Species Awareness Week (NISAW), Dr. Jacob Barney from Virginia Tech presented his latest research to congressional and agency staff on Capitol Hill in a briefing titled “Invasive Weeds and Bioenergy Crops: Economic Boon or Environmental Disaster?” Barney discussed the economic benefits and environmental risks associated with using fast-growing, low-input invasive perennial grasses as biofuel feedstocks. The briefing was very well attended and sponsored by the WSSA and the National Coalition for Food and Agricultural Research (NC-FAR).

### **NPDES Bill Reintroduced in 113th Congress**

The National and Regional Weed Science Societies were among the 90 plus public and private stakeholder groups that supported the introduction of the “Reducing Regulatory Burdens Act of 2013”, [H.R. 935](#), in the 113<sup>th</sup> Congress. The legislation clarifies Congressional intent that Clean Water Act permits are NOT required for the lawful application of FIFRA-approved pesticides. In 2009, the 6<sup>th</sup> Circuit Court of Appeals screwed up and double regulated pesticide applications in, over, or near water. This legislation has had over 2/3's majority support by the House and Senate in the last

session of Congress, but unfortunately the Senate leadership would not allow to it come to floor for a vote.

### **Federal Court Says NOAA Must Use “Sound Science” for Endangered Species**

#### **Rules**

The U.S. 4th District Court of Appeals out of Richmond, Virginia threw the book at NOAA’s National Marine Fisheries Service (NMFS) for not using sound science in their decisions on endangered species protections. Quite frankly, NMFS has had a terrible activist driven track record. Basically, the court ruled that NMFS lied in its 2008 biological opinion claiming twenty-seven species of salmon were jeopardized by agricultural practices, when they were not. And that significant data and standards used in the biological opinions were not logical or even rational.

The Chair and Ranking Member of the House Ag Committee have a great summary of the court case, as well as background information, that you find here:

<http://agriculture.house.gov/press-release/hastings-lucas-peterson-praise-federal-court-ruling-noaa%E2%80%99s-salmon-opinion>

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