

Policy Pennings by Daryll E. Ray & Harwood D. Schaffer

EPA's Jackson says recent allegations of regulation overreach are not justified

The issue of the impact of agriculture on the environment has long been an issue. In the early part of the 20th century, Henry A. Wallace was concerned about soil erosion and its impact on farmland as he characterized some farmers as "soil miners."

Not many years later in the 1930s, parts of the southern Great Plains became known as the dust bowl as winds and the lack of rain combined with farming practices sent clouds of dust eastward darkening skies along the Atlantic seaboard. It took a combination of federal government action in establishing "shelter belts" and encouraging changes in farming practices along with the return of rains in 1940 to bring the dirty thirties to an end.

What did not end was the realization that agricultural practices and the protection of the environment-it was called conservation when we grew up-are inextricably linked together. As a result of this link, many farming practices, from the operation of large-scale animal operations to the application of pesticides, are regulated by public policies.

As with any public policy, there are those on each side of the issue, and nowhere is that more true than with agriculture and the environment.

Recently, EPA (US Environmental Protection Agency) Administrator Lisa Jackson testified before the House Agriculture Committee and was met with challenges from both the Chair Frank Lucas and the Ranking Member Colin Peterson. Peterson expressed concern that the agency was making policy that rightfully belonged to Congress by initiating lawsuits and then settling them before the court had the opportunity to rule on the merits of the case.

Lucas challenged Jackson saying, "In many instances the agency is ignoring congressional intent and looks to be bullying Congress. Instead of simply administering the law, EPA challenges Congress to pass legislation that gives it more authority. And, if Congress doesn't act it will regulate anyway." One of his concerns was the issue of a zero tolerance for pesticide spray drift.

In her prepared remarks, Jackson addressed the spray drift issue and four other instances of what she called "mischaracterizations" of the actions of the EPA.

Jackson addressed the spray drift issue saying, "While no one supports pesticides wafting into our schools and communities, EPA does not support a "no-spray drift policy." EPA has been on the record numerous times saying this, but the incorrect belief

that EPA desires to regulate all spray drift persists. We have reached out to National Association of State Departments of Agriculture and other key stakeholders. Working with them, we have been able to identify critical issues and we will continue our efforts to resolve them."

Another "mischaracterization" she told the committee about was "the notion that EPA intends to regulate the emissions from cows-what is commonly referred to as a 'Cow Tax.' This myth was started in 2008 by a lobbyist and-quickly de-bunked by the non-partisan, independent group fact-check.org-it still lives on. The truth is - EPA is proposing to reduce greenhouse gas emissions in a responsible, careful manner and we have even exempted agricultural sources from regulation."

A third issue "is the claim that EPA is attempting to expand regulation of dust from farms. We have no plans to do so, but let me be clear, the Clean Air Act passed by Congress mandates that the Agency routinely review the science of various pollutants, including Particulate Matter, which is directly responsible for heart attacks and premature deaths. EPA's independent science panel is currently reviewing that science, and at my direction EPA staff is conducting meetings to engage with and listen to farmers and ranchers well before we even propose any rule."

"Yet another mischaracterization," Jackson told the committee, "is the false notion that EPA is planning on mandating Federal numeric nutrient limits on various States. Again, let me be clear: EPA is not working on any federal numeric nutrient limits. We will soon be releasing a framework memo to our regional offices that makes it clear that addressing nitrogen and phosphorus pollution-which is a major problem-is best addressed by the States, through numerous tools, including proven conservation practices. The case of Florida is unique-the last Administration made a determination that federal numeric nutrient standards were necessary in Florida, requiring EPA to develop such standards.

"And finally is the notion that EPA intends to treat spilled milk in the same way as spilled oil. This is simply incorrect. Rather, EPA has proposed, and is on the verge of finalizing an exemption for milk and dairy containers. This exemption needed to be final-

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ized because the law passed by Congress was written broadly enough to cover milk containers. It was our work with the dairy industry that prompted EPA to develop an exemption and make sure the standards of the law are met in a commonsense way. All of EPA's actions have been to exempt these containers. And we expect this to become final very shortly."

She ended her prepared remarks saying "Mr. Chairman, everyone in this room, has the same desire-to have safe water, air and land for our children-and to do so in a way that maintains our economic strengths. EPA will continue to work with this committee, as well as our partners in the States and the

agricultural community to achieve the goals we have set together, and to serve the values we all share."

As with many policies, the issue is as much about the priority one gives to various shared goals, as about the goals themselves. That certainly is true when it comes to agriculture and the environment.

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