



## Top Stories

**8/27/2018** – The USDA [released key details](#) of its initial \$6.3 billion aid package for farmers affected by retaliatory measures from foreign nations in response to the president's imposition of a number of tariffs. In direct aid to producers, the USDA's Farm Service Agency (FSA) will administer the Market Facilitation Program (MFP) to provide payments to corn, cotton, dairy, hog, sorghum, soybean and wheat producers starting Sept. 4, 2018. This is the first payment period. The second payment period, if warranted, will be determined by the USDA. In total, soybean producers would receive the vast majority of direct aid, \$3.6 billion of \$4.7 billion, with pork producers receiving \$290 million and the rest split between producers of corn, cotton, milk, sorghum and wheat. Previously, the USDA announced aid would total \$12 billion, so it appears a second payment period will be established. Additionally, the USDA's Agricultural Marketing Service (AMS) will administer a Food Purchase and Distribution Program to purchase up to \$1.2 billion in commodities. The USDA's Food and Nutrition Service (FNS) will distribute these commodities through nutrition assistance programs such as The Emergency Food Assistance Program (TEFAP) and child nutrition programs. AMS will buy affected products in four phases. The materials purchased can be adjusted between phases to accommodate changes due to: growing conditions; product availability; market conditions; trade negotiation status; and program capacity. A full list of commodities can be found [here](#), with the largest purchases going towards pork, sweet cherries, apples, pistachios and dairy. Finally, the Foreign Agricultural Service's (FAS) Agricultural Trade Promotion Program (ATP) will make use of \$200 million to develop foreign markets for U.S. agricultural products. The program will help U.S. agricultural exporters identify and access new markets and help mitigate the adverse effects of other countries' restrictions.

**8/24/18** – The Department of Justice filed a request in the District Court for the Southern District of Texas for consideration of a nationwide preliminary injunction of the agency's 2015 Clean Water Rule. The action follows an Aug. 16 ruling by the U.S. District Court for South Carolina which found that the Environmental Protection Agency (EPA) violated requirements of the Administrative Procedures Act this past February when it issued a two-year delay of the applicability date of its [2015 Clean Water Rule](#). The Clean Water Rule, more commonly known as Waters of the United States (WOTUS), aims to determine the scope of federal authority to regulate "water of the United States," and when states, local governments and others must seek federal permits to develop land because it contains WOTUS. The court's finding means the rule, which sought to define which waters fall under federal jurisdiction, will now go into effect for 26 states. For more information, read [NCSL's Info Alert](#).

**8/21/18** – The EPA asked the U.S. Court of Appeals for the 9th Circuit to clarify a deadline for the agency to ban the pesticide chlorpyrifos, suggesting the deadline should not take effect until the agency exhausted any appeals. Earlier this month, the Court [ordered](#) the agency to revoke all tolerances and registrations for the pesticide within 60 days, citing evidence that the chemical's residual on food can cause neurodevelopmental damage in children. The EPA had previously revoked a March 2017 [proposed ban](#) on the pesticide. Chlorpyrifos is one of the most commonly used pesticides, although its use has declined in recent years due to concerns about health risks.

**8/16/18** – The Senate Environment and Public Works Committee (EPW Committee) held a [hearing](#) to examine the

implementation of the Clean Water Act Section 401 which requires an applicant for federal license, or permit, provide certification from the state that any discharges will comply with its established water quality standard requirements. EPW Committee Chairman John Barrasso (R-Wyo.), has argued that states are abusing their authorities under Section 401 and reaching beyond its original intent of providing certification based solely on "discharge." The hearing follows a July [hearing](#) by the Senate Energy and Natural Resources Committee on pipelines and transmission in which Chairman Lisa Murkowski (R-Alaska) and Barrasso respectively commented that states were misusing power granted to them under Clean Water Act's Section 401 to block new natural gas pipelines. "States have abused the authority to block projects for political reasons, not really having anything to do with water quality at all," Barrasso said. Murkowski agreed, saying the state hurdles were dampening energy industry growth. While the Federal Energy Regulatory Commission (FERC) has the responsibility for authorizing interstate natural gas pipelines, project developers must also get a Clean Water Act Section 401 water quality certification from individual states. Legislation to restrict a state's authorities has been championed by Barrasso in the [Senate](#), and was included by House Transportation and Infrastructure Committee Chairman Bill Shuster's [Infrastructure Proposal](#).

**8/14/18** – U.S. Department of Agriculture (USDA) Secretary Sonny Perdue [authorized](#) the department to purchase up to \$50 million worth of fluid milk, or about 11 million to 13 million gallons, aimed at helping producers affected by low prices caused by oversupply. The milk will be distributed to food assistance programs such as food banks. This announcement is separate from the [\\$12 billion emergency aid package](#) for farmers the USDA is in the process of developing, which is aimed at blunting the impact of retaliatory tariffs trading partners like China, the European Union and Mexico imposed in response to President Donald Trump's trade policies.

**8/14/18** – The Bureau of Labor Statistics [reported](#) the price of farm good exports dropped 5.3 percent in July—the largest percentage decrease since October 2011, when prices fell by 6.5 percent. The overall decline was caused in large part by a 14.1 percent drop in soybean prices, although export prices for

corn, wheat, fruits and nuts also decreased. China has imposed retaliatory tariffs on numerous farm exports, including the nearly \$14 billion worth of soybeans U.S. farmers shipped to the country in 2017.

**8/6/18** – FERC [overruled](#) New York's Department of Environmental Conservation decision to not grant certain permits for the construction of the Northern Access natural gas pipeline. Although the Clean Water Act provides states legal authority to review and deny pipelines over their water impacts within section 401 of the Clean Water Act, it only provides states a year to conduct their own review after they receive an application for a water permit. If they exceed that year, FERC can determine the state has taken too long—"waived" its authority—and advance the project anyway. In this case, Northern Access was denied its permit by the New York State Department of Environmental Conservation (DEC) in April 2017, more than a year after the DEC received the first application in March 2016.

**7/24/18** – The USDA [announced](#) \$12 billion in aid and assistance for farmers in response to the negative impacts of the retaliatory measures other countries including China, Canada, Mexico and the EU have implemented in response to the imposition of a number of tariffs by the president. Although specific amounts of aid for each type of crop were not provided, the USDA did report that the Market Facilitation Program, which is authorized under the Commodity Credit Corporation (CCC) Charter Act and administered by the Farm Service Agency (FSA), will provide payments incrementally to producers of soybeans, sorghum, corn, wheat, cotton, dairy and hogs. The CCC is a government-owned bank used to support and stabilize farm incomes and prices. Additionally, the USDA will use the CCC Charter Act and other authorities to implement a Food Purchase and Distribution Program through the Agricultural Marketing Service to purchase unexpected surplus of affected commodities such as fruits, nuts, rice, legumes, beef, pork and milk for distribution to food banks and other nutrition programs. Finally, the CCC will use its Charter Act authority for a Trade Promotion Program administered by the Foreign Agriculture Service (FAS) in conjunction with the private sector to assist in developing new export markets for our farm products. The specifics of the aid plan will be subject

to a federal rulemaking process and a determination will be made in early September as to when the aid and assistance to producers will begin.

**7/24/18** – The EPA issued a [final notice](#) determining that biodiesel heating oil, jet fuel, naphtha and liquid petroleum gas (LPG) produced from distilled sorghum qualifies for credits under the Renewable Fuel Standard. The change is anticipated to add 21 million Renewable Identification Numbers to the program which can be used to comply with the advanced biofuel mandate.

**7/18/18** – The National Academics of Sciences, Engineering and Medicine [released](#) a major report from more than 140 scientists identifying five key areas of food and agriculture research that should be invested in throughout the next decade. Specifically, those areas include microbiomes, gene editing, data analysis, sensors and biosensors and transdisciplinary collaborations. The report notes that U.S. investments in agriculture research have fallen compared to other countries, particularly China, which outspends the U.S. by a 2 to 1 margin.

**7/17/18** – Food and Drug Administration (FDA) Commissioner Scott Gottlieb [said](#) the agency is likely to soon “crack down” on the use of the term “milk” for nondairy products such as soy and almond beverages.

**7/16/18** – The USDA [announced](#) that agricultural operations affected by hurricanes and wildfires in 2017 are eligible to apply for nearly \$2 billion disaster assistance via the 2017 Wildfires and Hurricanes Indemnity Program through Nov. 16. Both insured and uninsured producers are eligible to apply for assistance with those producers who did not insure their crops able to receive 65 percent of their expected value, while insured producers will receive between 70 percent and 95 percent of expected value. The USDA also set a \$125,000 payment cap for people earning less than 75 percent of their income from farming, and a \$900,000 cap for those earning more than 75 percent of their income from agriculture.

**7/5/18** – Mexico [imposed](#) its second stage of retaliatory tariffs on dozens of U.S. goods in response to the president’s duties on Mexican steel and aluminum exports to the United States. Most of Mexico’s retaliatory tariffs will be imposed on U.S. agricultural exports, such as apples, cranberries and various cheeses. China also [formalized](#) its next round of retaliatory trade actions, instituting tariffs on \$34 billion worth of American products including soybeans, cotton, rice, sorghum, beef, pork, dairy, nuts and produce. The Chinese penalties are in response to the administration’s decision to levy tariffs on more than 800 Chinese products. This would mark the second wave of pork and fruit retaliatory tariffs by China with the combined duties on U.S. pork cumulatively adding up to 71 percent in tariffs.

**6/29/18** – FERC, in a 3-2 vote, [responded](#) to PJM Interconnection’s plan to mitigate distortions in its electricity capacity markets by stating that PJM’s current rules “were unjust, unreasonable and unduly discriminatory” and ordered a rewrite. The vote indicates that the Republican majority may have concerns with certain steps a few states have taken to provide incentives to their preferred method of electricity production

**6/29/18** – The EPA and the Department of the Army [issued](#) a supplemental proposal to the July 2017 proposed action to repeal the 2015 definition of “Waters of the United States” (WOTUS). The new proposal specifically requests comment on the legal basis of the 2015 WOTUS rule. Additionally, the supplemental notice of proposed rulemaking clarifies that the agencies are proposing to permanently repeal the 2015 rule in its entirety by including further details compared with the initial proposal issued last year.

## From Congress

**8/25/18** – Washington state Senators Maria Cantwell and Patty Murray and Representatives Dave Reichert and Dan Newhouse [sent](#) a letter to the USDA requesting that sweet cherry growers receive equal access to the assistance provided to producers of other agricultural commodities as part of the USDA’s aid package.

**8/24/18** – A bipartisan group of senators introduced two bills aimed at addressing water contamination by PFAS. The first bill, [S. 3381](#), would encourage the Department of Defense (DoD) to speed up its process of entering into cooperative agreements with states to both investigate and remediate contamination at bases where firefighting foam containing the chemicals was used. The measure would require the DoD to comply with standards set by states when they have been finalized. Several states have set standards lower than the EPA's health advisory level. The second measure, [S. 3382](#), would authorize \$45 million for the U.S. Geological Survey to develop new technologies to detect PFAS and conduct nationwide sampling.

**7/24/18** – The Senate Energy and Natural Resources Committee approved four Energy Department nominees. [Teri Donaldson](#) was nominated to be DOE inspector general—Donaldson was previously general counsel for the EPW Committee; [Karen Evans](#), DOE's chief information officer, was nominated to head a new cybersecurity office; [Christopher Fall](#) was nominated to serve as DOE's science office director—Fall previously served as acting director for ARPA-E; and [Daniel Simmons](#) as the head of DOE's Office of Energy Efficiency & Renewable Energy—Simmons was formerly the vice president of policy at the Institute for Energy Research and the American Energy Alliance.

**7/19/18** – The House approved, by voice vote, a motion to go to conference with the Senate to reconcile the differing versions of the 2018 Farm Bill. Significant differences remain between the chambers involving nutritional assistance requirements and funding for farm conservation programs. For more information on each chamber's bill, read NCSL's Info Alerts [here](#) and NCSL's letter to conferees [here](#).

**7/19/18** – The House passed, [229-180](#), a [resolution](#) declaring that a carbon tax (i.e. fee imposed on the burning of carbon-based fuels) would be detrimental to the U.S. economy.

## From the Administration

**8/15/18** – The DOI [generated](#) \$178.6 million in lease sales as a result of its recent Gulf of Mexico oil and gas lease sale. The nearly \$180 million, the highest amount since March 2017, likely reflects an increased interest in offshore oil and gas development compared to the previous two auctions, which each generated about \$120 million, although the sale total is still well below sales that took place before August 2017, when they consistently generated totals above \$250 million. Additionally, the DOI received bids on only 144 tracts, less than 1 percent of the total offered.

**8/14/18** – USDA [announced](#) its investment of more than \$124 million to help rebuild and improve rural water infrastructure in [23 states](#) through the Water and Waste Disposal Loan and Grant program. Communities in 23 states will benefit from funds, which were appropriated at a historic level in the 2018 Omnibus.

**8/9/18** – New loans to young, beginning and small producers dropped by 9.8 percent between 2016 and 2017, according to the [2017 Farm Credit System report](#). The FCA defines young farmers as those who are 35 years old or younger, beginning farmers as those who have been farming for 10 years or less and small farmers as those with gross annual sales of less than \$250,000.

**8/6/18** – The USDA [released](#) a three-year action plan outlining its priorities and goals for using current and future Farm Bill conservation programs to help agricultural producers improve the water quality and overall health of the Chesapeake Bay watershed. The release follows the EPA's [release](#) of its midpoint assessment of the bay's total maximum daily load, finding that six bay states fell short of project goals to reduce nitrogen pollution, although most have made progress in limiting phosphorus and sediment pollution.

**7/24/18** – The DOE [issued](#) a final rule that would allow the department to expedite applications to export liquified natural gas in quantities up to 140 million cubic feet per day, as long as the applications do not require an environmental impact

statement or an environmental assessment under the National Environmental Policy Act. The DOE noted that it chose that volume limit because it was "consistent with industry practice for the emerging small-scale export market." The DOE has previously stated that such exports would be aimed at areas where demand is not for significant volumes such as the Caribbean and Central America.

**7/24/18** – The DOE [announced](#) plans to study efforts to modernize the Strategic Petroleum Reserve, its 40-year-old system of oil storage sites across the gulf coast, first developed in response to the oil embargo. Currently, more than 290 million barrels of oil are scheduled to sold from the reserve by 2027, according to the Government Accountability Office. Those sales were primarily aimed at offsetting the costs of non-energy related legislation—such as 21st Century Cures Act of 2016 and a major budget package earlier this year. In response, the DOE is considering having private companies lease SPR storage space.

**7/19/18** – FERC [announced](#) a memorandum of understanding with the Pipeline and Hazardous Materials Safety Administration to help process a growing number of permit requests for liquefied natural gas (LNG) export terminals. The MOU will clarify each agency's respective role in the permitting process for potential LNG projects, and implement procedures into the FERC's authorization process that will leverage PHMSA's safety expertise to evaluate potential impact to public safety.

**7/16/18** – The USDA [announced](#) its plans to invest \$267 million in 103 infrastructure projects to upgrade water and wastewater systems in rural communities within 35 states. Funds are made possible via the Water and Waste Disposal Loan and Grant program which can be used to finance drinking water, storm water damage and waste disposal systems for rural communities with 10,000 or fewer residents.

**7/12/18** – The FDA [announced](#) new cooperative agreements with Hawaii, Kentucky, Mississippi and American Samoa, as well as renewed agreements with 43 other states, in support of efforts to implement the FDA Food Safety Modernization Act (FSMA) Produce Safety Rule. FDA's cooperative agreement

program provides states with \$32.5 million in funding to develop and implement produce safety systems, among other objectives.

**7/2/18** – The USDA [announced](#) fiscal year 2019 tariff-rate quotas for raw cane and refined sugars which regulate how much of the products the U.S. can import from foreign countries. Specifically, the United States will import the minimum amount of raw cane sugar it is committed to under the World Trade Organization, at approximately 1.1 million metric tons, while a total of 192,000 metric tons of refined sugar will be allowed to enter the country.

**6/27/18** – The GAO [released](#) a report that offers several ways for the DOE to modernize the Strategic Petroleum Reserve (SPR). The report found the DOE had not identified the optimal size of the reserve, and said the last review conducted by the department "was limited in several ways." The GAO made several recommendations, including a suggestion that Congress "may wish to consider setting a long-range target for the size and configuration of the SPR," taking into account issues like future oil production projections and U.S. International Energy Agency obligations.

**6/27/18** – The USDA [announced](#) its investment of \$237 million in 119 rural community service facilities in [29 states](#), made possible through the Community Facilities Direct Loan Program. The 2018 Omnibus bill increased the Fiscal Year (FY) 2018 budget for the Community Facilities Direct Loan program to \$2.8 billion, up \$200 million from FY 2017. Projects include funds to eliminate a dangerous intersection in South Dakota, a medical facility building purchase in Utah, and a downtown street improvement in Michigan.