



Top Stories

9/20/18 – The U. S. Department of Agriculture (USDA) [announced](#) that shelled almond and sweet cherry producers will be added to the types of crops eligible for payments under President Donald Trump's administration's trade aid program set up to help farmers negatively affected by retaliatory tariffs. Almond growers will get paid 3 cents per pound and sweet cherry growers will receive 16 cents per pound with these two crops being the only specialty crops eligible for payments. Previously on Sept. 13, USDA [released](#) its economic analysis of how it calculated direct payments to farmers as part of its \$4.7 billion trade aid package crafted in response to tariffs imposed by U.S. trading partners. Specifically, the paper noted that USDA examined "gross trade damage" instead of "price methodology" when reaching its conclusions, which provides the reasoning as to why soybean farmers received the largest amount of assistance—their large export market has been hit hardest.

9/18/18 – In response to the president's decision to impose a 10 percent duty on an additional \$200 billion of Chinese imports as of Sept. 24, China [announced](#) that it would impose tariffs on \$60 billion worth of U.S. exports, which is a 5 or 10 percent tax on a list of about 5,200 U.S. products, which includes honey, liquefied natural gas and smoked salmon. China's announcement brings the total amount of American goods hit with tariffs to roughly \$113 billion. So far, the U.S. has slapped tariffs on about \$250 billion worth of Chinese goods. However, Trump also warned that the U.S. would "immediately pursue phase three, which is tariffs on approximately \$267 billion of additional imports," covering virtually all of China's exports to the U.S.

9/18/18 – USDA's Risk Management Agency, the department arm that oversees crop insurance programs, revamped the Pasture, Rangeland, Forage policy, which covers ranchers against lost forage when rainfall amounts are less than expected. The changes are aimed at making the program more actuarially sound, affect the level of insurance payments ranchers can collect during periods when rain is scarce. The new formula reduces county-based rates, which determine how much coverage per acre a rancher can purchase. In response to the changes, a bipartisan group of 20 members of Congress, led by Representatives Martha McSally (R-Ariz.) and Tom O'Halleran (D-Ariz.), [wrote to USDA Secretary Perdue](#) requesting the changes be halted.

9/18/18 – The Bureau of Land Management [finalized](#) a draft rule, "Waste Prevention, Production Subject to Royalties and Resource Conservation" that largely rescinds the previously enacted [November 2016 final rule](#) that imposed new requirements on methane and other emissions from natural gas and oil operations on federal and tribal land. Specifically, the new final rule significantly reduces requirements that operators submit waste minimization plans for their oil and/or natural gas operations, meet methane capture targets and use equipment that adheres to certain technical standards. BLM's methane standards, which cover existing oil and gas infrastructure on federal and tribal lands, are separate from the Environmental Protection Agency's (EPA) methane guidance, which applies to new sources on non-federal and tribal land. EPA is still studying how, if at all, to regulate such emissions at existing operations.

9/17/18 – Department of Energy (DOE) [renewed](#) a five-year grant with the National Conference of State Legislatures (NCSL) to continue to help states and tribal nations understand

the policies, programs and activities undertaken by the agency. The project will keep legislators, legislative staff, executive branch officials and tribal members informed about: the cleanup of the nuclear weapons complex and national laboratories, including future site use, worker retraining and the potential for economic redevelopment of the sites; the transportation, interim storage and permanent disposal of civilian and defense-generated radioactive waste; DOE policies and programs related to energy infrastructure and development on tribal lands; the development and deployment of nuclear energy technologies affecting states and tribal nations; and, the activities and processes related to long-term stewardship and institutional controls. It will also help the department understand the concerns of state, tribal, local communities, state elected officials and other related stakeholders.

9/17/18 – The administration urged the D.C. Circuit Court of Appeals to give it more time to repeal the Clean Power Plan (CPP) final rule and finalize its recently proposed replacement rule, the Affordable Clean Energy rule. The action follows a filing by many state attorney generals calling on the court to issue its ruling on the CPP. The court has held a decision for over a year as the agency had already announced its plan to repeal and replace the rule. For more information on the Clean Power Plan or the Affordable Clean Energy rule, please read [NCSL's Info Alerts](#).

9/13/18 – Congress [approved](#) the Energy and Water Development and Related Agencies Appropriations Act of 2019. Overall, the bill provides \$44.64 billion, \$1.44 billion above the FY 2018 enacted level and \$8.1 billion above the president's budget request. Some of the primary highlights for states include receiving \$55 million in funding for the State Energy Program, which is the same as FY 2018, and \$257 million for the Weatherization Assistance Program, \$6 million more than 2018. Additionally, the bill does not include any funding for the department related to activities at Yucca Mountain, a highly contentious issue among members of Congress. One "policy rider" that was included in the bill, was a provision that restricts the application of the Clean Water Act in certain agricultural areas, including farm ponds and irrigation ditches. [Read the latest NCSL news](#) on the Clean Water Rule and Waters of the United States. The bill provides DOE \$35.6

billion in funding in FY 2019, \$1.17 billion more than FY 2018. For more details, read NCSL's [Info Alert](#).

9/13/18 – Attorney General Jeff Sessions issued [guidelines](#) opposing the use of nationwide injunctions in federal court because "judges have been issuing an increasing number of orders that block the entire United States government from enforcing a law or policy." The guidelines direct attorneys to oppose the orders in court. The memo will help Department of Justice lawyers "present strong and consistent arguments in courts against the issuance of nationwide injunctions."

9/13/18 – A unanimous decision by 7th Circuit Court of Appeals [upheld](#) Illinois' subsidies for nuclear power plants. The three-judge panel determined that Illinois' zero-emission credits (ZEC) program was more narrowly tailored than a Maryland subsidy that was axed by the Supreme Court in the [Hughes v. Talen Energy Marketing](#) case two years ago. The court noted that, the fact that a state's energy program may affect power prices outside their borders is "an inevitable consequence of a system in which power is shared between state and national governments." The case may affect a [previously issued order](#) from the Federal Energy Regulatory Commission earlier this summer declaring that the structure of PJM's (the Regional Transmission Organization) capacity market was unjust because it didn't sufficiently mitigate the price impacts of state-level energy initiatives such as the ZEC program in Illinois and New York.

9/12/18 – The Energy Information Administration (EIA) [announced](#) that the U.S. has surpassed Russia to become the world's largest oil producer. Oil production reached 10.9 million barrels a day in August, exceeding Russian output for the first time since 1999. The milestone comes more than a decade since the start of the shale boom when companies combined hydraulic fracturing and horizontal drilling technology to tap into oil and gas from shale formations. EIA estimates that U.S. oil output will likely lead the world in oil production through 2019.

9/12/18 – USDA [expects](#) record-high corn yields in key corn-producing states like Illinois, Iowa and Nebraska, as well as a new record soybean yield. The department projects the 2018-

19 corn harvest at 14.83 billion bushels and the soybean harvest at 4.69 billion bushels.

9/12/18 – In advance of Hurricane Florence, USDA [released](#) a rundown of the recovery programs available to farmers before the storm hit the Carolinas. Those include low-interest loans for farmers facing production losses, assistance for owners of livestock that perish in the storm and financial help for rehabbing farmland. The department's [disaster-assistance recovery tool](#) shows producers the programs that best fit their needs. On Sept. 20, USDA [announced](#) that South Carolina farmers and ranchers who suffered damage to working lands and livestock deaths because of Hurricane Florence can receive help through the Natural Resources Conservation's Environmental Quality Incentives Program. USDA is holding a special signup in South Carolina through the Natural Resources Conservation Service for agricultural livestock mortality and carcass disposal.

9/12/18 – The U.S. District Court for the Southern District of Texas halted implementation of the EPA 2015 Clean Water Rule in Texas, Louisiana and Mississippi. The action follows an Aug. 16 ruling by the U.S. District Court for South Carolina, which found that the 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 decision meant that the rule, which sought to define which waters fall under federal jurisdiction, went into effect for 26 states. The staying of implementation in the 3 states referenced above means the rule is now in effect in 23 states. For more information, read [NCSL's Info Alert](#).

9/12/18 – Greg Ibach, USDA undersecretary for marketing and regulatory programs said the agency aims to publish a final rule on labeling food containing genetically engineered ingredients by Dec. 1. The final rule, formally known as the [National Bioengineered Food Disclosure Standard](#), was sent to the White

House Office of Management and Budget on Aug. 31, where it is [pending review](#).

9/6/18 – EIA [released](#) a new report showing that in the United States, carbon dioxide (CO2) emissions from energy-related sources declined by 0.9 percent last year, continuing a trend in which such CO2 emissions have declined in seven of the past 10 years. Energy-related CO2 emissions are now 14 percent lower than they were in 2005.

8/29/18 – EPA confirmed it will reconsider the [Mercury and Air Toxics Standards \(MATS\) rule](#), which sets standards to limit mercury, acid gases and other toxic pollution emissions from power plants. The existing rule, first finalized in [2012](#), faced challenges from opponents arguing that the agency did not accurately consider the costs of implementation during the promulgation of the rule. The Supreme Court [ruled](#) that the agency must consider cost in the appropriate and necessary finding supporting MATs. In 2016 EPA made several [technical corrections](#) and issued [a final finding](#) that the cost of compliance with MATs is "reasonable," and that it was appropriate and necessary to set standards for such emissions. The agency is now [considering](#) eliminating counting co-benefits of environmental regulations, which would likely lead to a different result of the rule's cost-benefit analysis, sparking further legal battles.

8/29/18 – EPA received a [letter](#) from the Association of American Pesticide Control Officials requesting that the agency take additional steps to help states manage a number of issues relating to dicamba drift. Drift from [dicamba](#), a widely used herbicide, has caused unintended damage to millions of acres of crops following EPA's approval of its full use in 2016. The association recommended that the agency stipulate that registrations of the herbicide be conditional year to year as well as mandate an early-season cutoff date in addition to federal funding to help manage the significant increase in workload. North Dakota and Arkansas have already banned use of dicamba during certain times of the year.

8/29/18 – The Department of Interior (DOI) [issued](#) a new reorganization plan which would divide the agency into 12 "unified regions" based on watersheds and ecosystems to

increase "clarity and simplicity" in its activities. The department currently has 49 regions and moves to reorganize are in keeping with the president's [March 2017 executive order](#) directing the secretary to improve the efficiency, effectiveness, and accountability of the department by reorganizing certain agency functions and bureaus. The Senate Appropriations Committee recently approved \$14.1 million for DOI's proposed reorganization, while the House approved \$17.5 million.

From Congress

9/13/18 – The House Natural Resources Committee advanced bipartisan legislation [H.R. 6510](#) that would create a dedicated fund to help provide funds for use in addressing the infrastructure maintenance backlog on the nation's public lands, which is likely more than \$10 billion. Specifically, the fund would provide 50 percent of unallocated revenue from energy production on federal lands, including renewable energy, to address the backlog on National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management and Bureau of Indian Education lands. It would be capped at \$1.3 billion annually.

9/13/18 – The House Natural Resources Committee advanced, [H.R. 6771](#), which modifies the Gulf of Mexico Energy Security Act to expand state shares of offshore oil and gas revenues from 37.5 to 50 percent. It would expand the authorized uses of those funds to include ecosystem restoration, hurricane protection and flood damage prevention.

9/13/18 – The House Energy and Commerce Committee approved [H.R. 6511](#), which directs DOE to lease excess storage capacity in the Strategic Petroleum Reserve to the private sector. Sponsored by Representative Joe Barton (R-Texas), the bill is designed as a response to the fact that the SPR will have about 300 million barrels of unused storage space by the end of FY 2027 due to congressionally mandated crude oil sales.

9/12/18 – The House Homeland Security Committee approved [H.R. 6620](#) that lays out steps for DHS to address errant drone flights over certain kinds of critical infrastructure. Specifically,

the bill would require the Department of Homeland Security to assess security risks from drone flights over critical infrastructure and lays out a process for infrastructure operators to voluntarily report any suspicious drone activity.

9/7/18 – Senate Agriculture Committee Chairman Pat Roberts (R-Kan.), and ranking member Debbie Stabenow, (D-Mich.) [wrote](#) USDA Secretary Sonny Perdue expressing concern about the [administration's plans](#) to place the department's economics functions under the Office of the Secretary and to move most of the employees of the Economic Research Service and the National Institute of Food and Agriculture out of Washington, D.C. In the letter, Roberts and Stabenow noted that stakeholders have expressed concern that relocating positions outside of Washington will lead many employees to leave USDA and cause a loss of expertise and make it difficult for USDA researchers to work with other federal agencies on issues such as infectious diseases.

9/6/18 – The House approved, by a vote of [260-146](#), [H.R. 4606, the Ensuring Small Scale LNG Certainty and Access Act](#), which aims to increase the rate of approvals of small quantities of liquefied natural gas for export that qualify for categorical exclusions under the [National Environmental Policy Act](#).

8/28/18 – The Senate confirmed [Karen Evans](#) by voice vote to lead the newly-created DOE Office of Cybersecurity, Energy Security and Emergency Response. She is currently the national director of the U.S. Cyber Challenge and previously a top cybersecurity official in the George W. Bush administration. They also confirmed [James Hubbard](#) to be USDA undersecretary for natural resources and environment by voice vote. He previously served in the Colorado Forest Service and has also held prior positions at the U.S. Forest Service and DOI. He will supervise the U.S. Forest Service and oversee the management, conservation and protection of the nation's forests and lands.

From the Administration

9/20/18 – EPA [launched](#) a new website that will track exemptions it provides to small refiners to the Renewable Fuel

Standard. The website also will publish monthly data on biofuels credit trading volumes and renewable fuel production, as well as weekly average prices for Renewable Identification Numbers.

9/19/18 –The Food Safety and Inspection Service (FSIS) [announced](#) China, Vietnam and Thailand as eligible countries to export catfish and catfish products to the U.S. FSIS said it determined that the inspection system in each country was "equivalent to the system that the United States has established under the Federal Meat Inspection Act (FMIA) and its implementing regulations." The proposed rule is the latest chapter in an ongoing saga. Congress included provisions in both the 2004 and 2008 farm bills transferring catfish inspection to the USDA, from the Food and Drug Administration (FDA). FSIS published a final rule in December 2015 that created a transitional mechanism for trade to continue while it determined whether China, Vietnam and Thailand's inspection systems are equivalent to the U.S. system.

9/19/18 – USDA is investing \$398.5 million to improve rural electric service in 13 states through its Electric Infrastructure Loan Program. Read the full [list of projects receiving loans](#).

9/18/18 – The administration exempted certain types of solar panels from its import tariffs, including copper-backed panels, according to a pre-publication [notice](#) in the Federal Register. Under the notice, those panels will be exempt from the 30 percent Section 201 tariffs on crystalline silicon panels.

9/18/18 – DOE reached an [agreement](#) with Washington state to put the state's lawsuit regarding the Hanford Nuclear Waste Site on hold. As part of the agreement, DOE will test and potentially implement a new system for capturing and destroying toxic vapors. It will also maintain interim measures that have been taken to protect workers, including supplied air and respirators, and install a vapor monitoring alarm system, as well as paying \$925,000 to the state for legal fees. The nuclear site at Hanford manufactured plutonium for nuclear weapons but is now the site of a massive cleanup effort that includes waste material stored in hundreds of underground tanks.

9/18/18 – USDA's Agriculture Marketing Service [announced](#) the awarding of \$102.7 million in grant funds across five USDA program aimed at increasing opportunities for farmers, ranchers and other growers across the country. The largest award included \$72.15 million for state departments of agriculture in 50 states through the Specialty Crop Block Grant Program (SCBGP). States use the SCBGP to fund research, agricultural extension activities and programs to increase demand for agricultural goods of value to farmers in the state or territory. Additionally, \$13.35 million is directed to 49 projects supporting direct producer-to-consumer marketing projects through the Farmers Market Promotion Program and \$13.45 million is directed to 44 projects to support the development and expansion of local and regional food businesses through the Local Food Promotion Program.

9/17/18 – USDA [announced](#) \$392 million to help rebuild and improve rural water and wastewater infrastructure via 120 projects in 42 states. Funds for the projects comes through the Water and Waste Disposal Loan and Grant program. It can be used to finance drinking water, storm water drainage and waste disposal systems for rural communities with 10,000 or fewer residents.

9/14/18 – FDA Commissioner Scott Gottlieb [introduced](#) a new plan for combating antimicrobial resistance in settings like hospitals and farms. Gottlieb said FDA has determined about 40 percent of antimicrobial drugs used in the feed and water of food-producing animals do not have a defined time for use. The agency is planning to address the issue by laying out a draft strategy, likely through guidance. The agency hopes to issue that policy by the end of 2020.

9/7/18 – The Government Accountability Office, Congress's investigative branch, [reported](#) that the Federal Communications Commission (FCC) overstated tribal lands' access to high-speed internet service, limiting the amount of federal subsidies going to those areas for broadband deployment. Specifically, the report notes that according to FCC data, about 35 percent of Americans living on tribal lands lack access to broadband service, making it the least connected area of the country, but the General Accountability Office said that number underplays

the deficit. By comparison, 7.7 percent of all Americans lack access to broadband.

9/6/18 – An oil and gas lease sale in New Mexico broke records by bringing in nearly \$1 billion in bonus bids for 142 parcels, the Bureau of Land Management (BLM) [announced](#). The two-day sale grossed more revenue than all of BLM's oil and gas sales in 2017 combined.

8/31/18 – FERC announced that it had a [memorandum of understanding](#) with Department of Transportation's Pipeline and Hazardous Materials Safety Administration to help improve project siting and safety reviews of the more than a dozen applications for liquefied natural gas export terminals that have recently been submitted.

8/20/18 – FDA said it [supports](#) a California regulation that would exempt coffee from being listed as a carcinogen. The regulation, proposed by California's Office of Environmental Health Hazard Assessment, comes in response to a March ruling by a judge who ordered coffee to be served up with a cancer warning due to the presence of the chemical acrylamide, which forms during the roasting of coffee beans. Under Proposition 65, California keeps a list of chemicals it considers pose a cancer risk or developmental harm, such as asbestos and anabolic steroids.

NCSL Resources

Registration is open for NCSL's [2018 Capitol Forum](#) taking place in Washington, D.C., Dec. 4-7.