

News from Washington: September 9-13

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WOTUS is Dead. What Happens Next?

Farm state lawmakers and agriculture industry groups did a victory dance on Thursday as the EPA formally scrapped WOTUS, a move that fulfills a pledge Trump has made repeatedly. Now, the focus turns to the courts, where environmental interests and states are sure to fight back — and to how the EPA will replace WOTUS later this year.

“Repealing the WOTUS rule is a major win for American agriculture,” said Agriculture Secretary Sonny Perdue in a statement. “The extreme overreach from the past Administration had government taking the productivity of the land people had worked for years.”

Even before Thursday’s announcement, environmental groups vowed to challenge the rollback, [arguing it jeopardizes drinking water supplies](#) for 117 million Americans.

California immediately threatened to sue the administration. “While we don’t go looking for a fight, there’s too much at stake for us to let this go,” said Xavier Becerra, the state’s attorney general.

The Trump administration, meanwhile, is crafting a [new regulation](#) it hopes to finish before the end of the year to replace WOTUS with a much narrower definition of the types of streams and wetlands that are subject to Clean Water Act permitting requirements — an effort some environmental groups see as an assault on federal water rules.

[By one early estimate from federal regulators](#), more than half the wetlands now protected would fall out of jurisdiction under the Trump administration’s approach, which would eliminate nearly all federal protections for waterways in arid states like Arizona.

Democrats Mull Throwing a Wrench in Trump’s Trade Aid Plans

House Democrats are weighing a short-term spending bill that could temporarily freeze the money available for trade aid payments.

[Similar to last year](#), White House budget officials have asked lawmakers to include a provision in the stopgap spending bill that would keep the Commodity Credit Corporation from breaching its \$30 billion borrowing limit in the coming months under the strain of the tariff relief payments. But that language isn’t in the House’s draft bill, though staff said the text could change before it’s likely voted on next week.

The trade aid money is paid out of the CCC, a Depression-era agency within USDA. This new tranche of aid paired with CCC’s regular obligations have left the agency with dwindling room to keep borrowing. That could put additional trade aid payments at risk of being cut off by the end of the year unless Congress acts.

Congress needs to pass a continuing resolution by Sept. 30 to keep the government funded into the next fiscal year, and Trump would have to sign the measure.

House Appropriations Chairman Nita Lowey (D-N.Y.) said Thursday her committee is still “putting the finishing touches” on the bill, but she hopes to keep the package “as clean as possible.” The Washington Post [first reported the Democrats’ potential plan](#).

Positive Signs Ahead of China Talks

As officials in Washington and Beijing prepare for another high-level round of trade negotiations, it's increasingly clear that both sides want to avoid the breakdown that occurred after the last meeting in July.

Back to progress? Three people close to the talks said some on the U.S. side want to get China back where it was before talks broke down in May when officials said the deal was 90 percent complete, per our Pro Trade colleagues.

Trump said over Twitter on Thursday that he expects China to buy “large amounts” of U.S. agricultural goods. The president gave Beijing a two-week extension on an Oct. 1 tariff escalation on roughly \$250 billion worth of goods. A Chinese Commerce Department spokesperson said Thursday that Chinese importers have started inquiring about prices of U.S. soybeans and pork, [according to a Xinhua report](#).

Democrats Hint at Optimism on USMCA

House Democrats have yet to fully unpack what U.S. Trade Representative Robert Lighthizer sent over in his USMCA counteroffer this week, but that he sent it at all has lit a fire under the negotiations, which had nearly ground to a halt.

Working group staffers are reading through USTR's formal responses, which lawmakers and aides are so far keeping under wraps. The expectation is for the nine members to be briefed on the materials next week, ahead of a pair of meetings: first among themselves and then with Lighthizer.

Secretary Perdue Statement on EPA WOTUS Announcement

U.S. Secretary of Agriculture Sonny Perdue praised the Environmental Protection Agency (EPA) for taking another step to fulfill President Trump's pledge to repeal and replace the Waters of the United States (WOTUS) rule.

“Repealing the WOTUS rule is a major win for American agriculture. The extreme overreach from the past Administration had government taking the productivity of the land people had worked for years,” Secretary Perdue said. “Farmers and ranchers are exceptional stewards of the land, taking great care to preserve it for generations to come. President Trump is making good on his promise to reduce burdensome regulations to free our producers to do what they do best – feed, fuel, and clothe this nation and the world.”

[Source: USDA](#)

Digging into The Disaster Aid Details

Producers who faced losses from hurricanes, wildfires, flooding and other extreme weather can apply for federal relief starting on Wednesday. Congress in June approved a disaster aid package including more than \$3 billion for agricultural losses.

Farmers who were prevented from planting a crop after major flooding across the Midwest this year will be eligible for aid. So will farmers whose stored grains were damaged by flooding following the “bomb cyclone” storm, as well as blueberry and peach growers whose crops were damaged by a cold snap in 2017.

“The scope of this year's prevented planting alone is devastating, and although these disaster program benefits will not make producers whole, we hope the assistance will ease some of the

financial strain farmers, ranchers and their families are experiencing,” [Secretary Sonny Perdue said in an announcement on Monday.](#)

Farmers will be paid between 70 percent and 95 percent of the expected value of their crops, depending on whether they had insurance. Producers who derive at least 75 percent of their income from agriculture will be eligible for up to \$500,000 in aid over two years, if they live in a county where a disaster was formally declared.

Smooth Sailing for Japan Deal?

Trump’s trade officials are confident that an agreement with Tokyo will be ready in time for the annual U.N. gathering in New York, which begins Sept. 17. Treasury Secretary Steven Mnuchin said the deal is “pretty much worked out.”

“I don’t see any problems on the horizon,” Mnuchin told reporters on Monday. Trump and Abe reached a deal “in principle” at the G-7 meeting last month, but final details needed to be hammered out and the agreement put down on paper. The two countries are still finalizing the list of products that will face lower (or no) tariffs under the pact.

Secretary of State Mike Pompeo offered a similarly upbeat opinion, tweeting that he’s [“looking forward for a completed deal at UNGA.”](#)

A Warning Shot Over RFS Talks

The Renewable Fuels Association isn’t being quiet as Trump seeks to strike a compromise between the oil industry and corn growers that eases the burden of refineries required to blend ethanol with gasoline, but that doesn’t worsen the plight of farmers and biofuel makers who are suffering from low prices.

Despite a flurry of meetings, the White House has shown little sign it will curb the EPA’s use of waivers allowing some refiners to ignore RFS requirements to blend ethanol or offset the volumes expected to be lost to those exemptions in the annual rule, according to sources in the oil and biofuel industries.

So far, the White House isn’t talking about limiting exemptions to refiners or accounting for gallons lost to such waivers in the annual rule, according to oil and biofuel sources and one Republican aide. The White House declined to comment for Eric’s story.

Trump has pushed a plan to add 500 million gallons of ethanol and 500 million gallons of advanced biofuels to the 2020 blending mandate to mollify farmers, though that has done little to quell their anger over the 31 small refinery exemptions the EPA granted this year.

Fed Doesn’t Expect Recession, But Rate Cuts Still Likely

The Federal Reserve is widely expected to lower interest rates after its next meeting on Sept. 18, amid warning signs of an economic slowdown. Chairman Jerome Powell, during a Q&A session in Switzerland last week, didn’t dispel those market expectations, despite his upbeat take on economic conditions.

Powell said the U.S. economy has “continued to perform well,” with strong consumer sentiment and rising wages, and the central bank isn’t projecting a recession for the U.S. or global economy. Still, he acknowledged significant risks on the horizon and said the Fed would “act as appropriate to sustain the expansion.”

Trump's trade war has increasingly weighed on the economy, and the Labor Department on Friday reported modest jobs growth in August. U.S. manufacturing contracted for the first time in three years, according to a widely tracked gauge of the sector.

USDA Resources Available for Farmers Hurt by 2018, 2019 Disasters

U.S. Secretary of Agriculture Sonny Perdue announced that agricultural producers affected by natural disasters in 2018 and 2019, including Hurricane Dorian, can apply for assistance through the Wildfire and Hurricane Indemnity Program Plus (WHIP+). Signup for this U.S. Department of Agriculture (USDA) program will begin Sept. 11, 2019.

"U.S. agriculture has been dealt a hefty blow by extreme weather over the last several years, and 2019 is no exception," Perdue said. "The scope of this year's prevented planting alone is devastating, and although these disaster program benefits will not make producers whole, we hope the assistance will ease some of the financial strain farmers, ranchers and their families are experiencing. President Trump has the backs of our farmers, and we are working to support America's great patriot farmers."

More than \$3 billion is available through the disaster relief package passed by Congress and signed by President Trump in early June. WHIP+ builds on the successes of its predecessor program the 2017 Wildfire and Hurricane Indemnity Program (2017 WHIP) that was authorized by the Bipartisan Budget Act of 2018. In addition, the relief package included new programs to cover losses for milk dumped or removed from the commercial market and losses of eligible farm stored commodities due to eligible disaster events in 2018 and 2019. Also, prevented planting supplemental disaster payments will provide support to producers who were prevented from planting eligible crops for the 2019 crop year.

[More information available from USDA.](#)

State Ag Officials Call for Climate Resilience

The National Association of State Departments of Agriculture adopted [new policies on climate resiliency](#) at the group's annual meeting in New Mexico, citing the need to safeguard the food and ag supply chain. The policy framework calls for more climate research and incentive programs that help the industry adapt to increasingly severe weather.

"We must accelerate our work on supporting environmental stewardship within the agricultural and food industry," said Barb Glenn, the group's CEO, in a statement.

The announcement comes days after the Agriculture Department rolled out more than \$3 billion in aid for farmers affected by wildfires, hurricanes, flooding and other natural disasters since 2018. As the price tag of such aid keeps rising, lawmakers are also looking to boost mandatory funding for ag research programs that could help brace farmers and ranchers for future disasters.

Senate Agriculture Committee member Dick Durbin filed legislation that would require a 5 percent annual budget increase for research at four USDA agencies. House Ag member Cheri Bustos, another Illinois Democrat, [plans to file a companion bill.](#)

A warming climate and less precipitation could also affect farmers and ranchers in the next few decades. The Economic Research Service compared agricultural output between 2000 to 2010 with potential farm productivity in 2030 to 2040 if temperatures rise 3.6 degrees and annual

precipitation drops 1 inch on average. [Under that scenario](#), Louisiana could see the biggest potential drop, with other Mississippi Delta states also seeing a significant impact.

Hemp Farming Reaches Half the States

Montana and Colorado were by far the biggest hemp growing states in 2018, each with more than 20,000 acres cultivated, [according to new analysis of the burgeoning industry from Forbes Tate Partners](#). No other state had more than 10,000 acres cultivated last year.

Industrial hemp production was legalized nationwide in the 2018 farm bill, but states have had the option to create pilot projects since 2014. Roughly half of all states had some hemp farming last year. Nebraska had the smallest program — just half an acre was cultivated. But that will change soon: The state's expanded hemp program has received 176 applications.

The Agriculture Department is expected to release long-awaited hemp production rules as soon as this month. It's already issued guidance on importing hemp seeds, transporting the plant across state lines, and other areas where the lack of national rules is creating legal headaches for growers and processors.

Perdue, Trump Tout Administration's Ties to HBCUs

At the annual HBCU gathering on Tuesday, the secretary focused on USDA loan and grant programs that bring high-speed internet to rural America and support higher-value crops. He also discussed ones that help fund vertical farms in urban centers. Small family farms, including black-owned operations, are under duress across the country, in part because it takes economies of scale to make a living in agriculture these days, Perdue said.

What he left out, however, was any mention of heirs' property — land that has been passed down without a clear title or will. The practice is prevalent among black families, who for generations were excluded from the legal system.

The lack of formal documents makes it difficult for descendants to get a farm serial number from USDA — precluding them from loan, grant and subsidy programs. It has also left farms more vulnerable to developers.

The 2018 farm bill set aside a \$50 million program over five years that allows intermediary groups to take out loans and re-lend to heirs' property owners to help offset the costs of getting a clear title to the land and drafting succession plans. However, funding is being held up by appropriations gridlock on Capitol Hill. The law also directed USDA to develop alternative documents that heirs' property owners can use to obtain a farm serial number.

The department plans to publish a draft heirs' property rule at the beginning of 2020, according to a spokesperson. USDA recently held two listening sessions on the issue in Jackson, Miss., and Washington. A department official on Tuesday also suggested USDA could use its partnerships with HBCUs to make communities aware of the new resources.

How are USDA and HBCUs intertwined? There are 19 historically black universities in the land-grant system, known as 1890s institutions, which have cooperative agreements with USDA to conduct research and recruit and train students for careers in agriculture, natural resource sciences and other degrees.

Trump also spoke at the HBCU conference. The president promised early in his administration that he would make the schools a “top priority,” moving a federal HBCU initiative from the Education Department into the White House.

EPA to Phase Out Animal Testing

Animal rights groups aren’t often on stage with the Trump administration, but they were on hand for the EPA’s announcement Tuesday that the agency will end the use of animal research by 2035.

“PETA is celebrating the EPA’s decision to protect animals certainly — but also humans and the environment — by switching from cruel and scientifically flawed animal tests in favor of modern, non-animal testing methods,” Amy Clippinger, director of PETA’s regulatory testing department, said in a statement.

EPA Administrator Andrew Wheeler also announced \$4.25 million will go to five universities to research alternative strategies to reduce and replace animal testing.

The move is seen as a victory for the chemicals industry, and some environmental advocates warn that eliminating animal testing will prompt the agency to ignore data that could show that chemicals can harm people and animals.

Organic Acres Growing in 2019

Organic farmers are expected to harvest a record 3.1 million acres of field crops this year, a 7 percent increase over 2018, according to a report Monday from the firm Mercaris. That’s despite difficult weather conditions across the country during this year’s spring planting season, as well as trade headwinds that have weighed on the agriculture sector for more than a year.

The increase was driven partly by the growing number of certified organic operations, with the largest jump in acres concentrated in the West. More than 500 additional producers were certified compliant with USDA’s National Organic Program in 2019, bringing the total to 18,155 organic farm operations, Mercaris said in its annual report.

Overall organic production including pasture and rangeland will reach 8.3 million acres this year.