Top Stories

11/23/18 – The administration released the second volume of the Fourth National Climate Assessment, a congressionally mandated report, that was prepared by over 300 scientists from 13 federal government agencies. The report indicates that “without substantial and sustained global mitigation and regional adaptation efforts, climate change is expected to cause growing losses to American infrastructure and property and impede the rate of economic growth over this century.” Further, “because increased precipitation extremes elevate the risk of surface runoff, soil erosion, and the loss of soil carbon, additional protective measures are needed to safeguard the progress that has been made in reducing soil erosion and water quality degradation through the implementation of grassed waterways, cover crops, conservation tillage, and waterway protection strips.” The report’s findings, stand in contrast to President Donald Trump’s climate change views, most recently highlighted on Nov. 22 when the president tweeted, as record cold temperatures descended upon much of the United States, “Brutal and Extended Cold Blast could shatter ALL RECORDS — Whatever happened to Global Warming?” Additionally, at a White House press briefing on Nov. 27, press secretary Sarah Huckabee Sanders stated that the federal government’s report was “not based on facts.”

11/21/18 – The U.S. Coast Guard issued a notice to Taylor Energy to stop an oil spill that has continued unabated for more than 14 years. In an order, Taylor Energy Co. was told to “institute a...system to capture, contain, or remove oil” from the site or face a $40,000 per day fine for failing to comply. The spill, which has leaked up to 700 barrels, or nearly 30,000 gallons of oil per day, first occurred when Taylor Energy’s former platform was destroyed during Hurricane Ivan in 2004. Thus far, the amount of leaked oil is between 1.5 and 3.5 million barrels, which comes close to the BP Deepwater Horizon disaster, the largest offshore spill in the nation’s history, which released 4 million barrels of oil into gulf waters.

11/13/18 – The president announced that he will nominate Neomi Rao, head of the White House’s Office of Information and Regulatory Affairs (OIRA), to the D.C. Circuit Court of Appeals seat vacated by Brett Kavanaugh’s ascension to the Supreme Court. Rao has lead OIRA since July 2017 during which time, the office within the larger Office of Management and Budget, led the president’s deregulatory effort. OIRA is the White House office is responsible for final review of all rules and regulations by federal agencies. Due to its purview, it is possible that she may have to recuse herself from cases that cover issues OIRA dealt with while she led the office. Rao formerly was a constitutional and administrative law professor at George Mason University. She was an associate White House counsel under George W. Bush and clerked for current Supreme Court Justice Clarence Thomas.

11/7/18 – President Donald Trump indicated that he doesn’t want Republican farm bill negotiators to give in to Democrats on the House GOP proposal to add new work requirements to the food stamp program to get a farm bill passed during the lame-duck session. The difference between the way the House and Senate farm bills treat the Supplemental Nutrition Assistance Program (SNAP) remains a major roadblock to negotiators producing a conference report. The House measure, H.R. 2, proposes to strengthen work requirements for between 5 million and 7 million food-stamp recipients. It would also expand a state-run job-training program under SNAP. The Senate bill, S. 3042, doesn’t make any significant adjustments to SNAP because an overhaul of the program, which accounts
for the majority of farm bill spending, would not meet the 60-vote threshold needed for Senate passage.

**11/5/18** – The Food and Drug Administration (FDA) released final guidance outlining when and how the agency will use its mandatory recall authority. The guidance describes what evidence the FDA might consider when ordering a mandatory recall including observations made during facility inspections, epidemiological data, consumer complaints, and whether a company has "failed to initiate a voluntary recall." Passage of the Food Safety Modernization Act in 2011 gave the FDA mandatory recall authority, although the agency has used the authority just once.

**11/1/18** – U.S. crude oil production hit more than 11 million barrels per day in August, setting a record. That is an increase of close to 23 percent from last August, where production was about 9 million bbl/d. The new record came largely in part because of production levels in Texas and North Dakota, where the states hit 4.58 million bbl/d and 1.28 million bbl/d, respectively.

**11/1/18** – PJM Interconnection, the largest regional transmission organization (electric grid) in the country that covers 12 states the Mid-Atlantic and Ohio River Valley, released a study concerning the ability of the electrical grid to withstand future stress events. The study found that the portions of electrical grid under its control would be able to withstand such stressors even with the anticipated retirement of a significant amount of coal and nuclear power generation. Specifically, the report noted that "the analysis showed no issues on the system in a prolonged period of cold weather with typical winter load, accounting for announced retirements and new generation slated to be in operation by 2023," and that "even in a scenario such as extreme winter load combined with a pipeline disruption at a critical location on the pipeline system from which a significant number of generators are served, PJM's system would still be reliable." The study requests that the Federal Energy Regulatory Commission continue its work on grid resiliency but pushed back on having the federal government directly intervene in power markets. However, PJM still plans to develop new market methods for paying generators for characteristics seen as improving fuel security.

**10/31/18** – Environmental Protection Agency (EPA) Acting Administrator Andrew Wheeler issued a proposed rule to amend the emergency release notification regulations under the Emergency Planning and Community Right-to-Know Act (EPCRA) to make clear that reporting of air emissions from animal waste at farms is not required under EPCRA. Under both EPCRA and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), EPA requires entities to report releases of hazardous substances that meet or exceed reportable quantities within a 24-hour period. The purpose of the notification is for federal, state, and local officials to evaluate the need for an emergency response to mitigate the effects of a release to the community. Last year, a U.S. appeals court overruled EPA’s ability to exempt industrial farms from reporting animal waste emissions to federal authorities, but then as part of the 2018 Omnibus Appropriations Act Congress included a provision known as the Fair Agricultural Reporting Method Act, which amended CERCLA section 103(e) to exempt air emissions from animal waste at a farm from reporting under CERCLA.

**10/31/18** – EPA re-approved use of the herbicide dicamba for two years. Dicamba is an herbicide aimed at killing broad-leaf weeds, particularly ones that threaten soybeans, cotton and corn. Recently, there have been widely reported issues with “drift” that damaged nearby crops not able to withstand dicamba. As part of its re-approval, EPA will now limit the area and times Dicamba may be sprayed on crops. Specifically, in counties where endangered species may exist, EPA is requiring a new 57-foot buffer around all sides of dicamba-sprayed fields in addition to a 110-foot downwind buffer as well as that application may only be undertaken from one hour after sunrise to two hours before sunset, and not more than 60 days after planting. However, before Dicamba can be used, states must also approve its application that could include further restrictions.

**10/30/18** – FDA announced its Plant and Animal Biotechnology Innovation Action Plan to outline the key priorities the agency will pursue to support innovation in plant and animal biotechnology while advancing the agency’s public health mission. The goal of the action plan is to ensure the safety of
plant and animal products of biotechnology while avoiding unnecessary barriers to future innovation. The plan notes that the agency "intend[s] to clarify and appropriately tailor our regulatory oversight considering the unique factors relevant to animals developed with biotechnology, including food-producing and biopharm (i.e. that produce medical products) animals. And that these documents will "more clearly describe how the FDA is applying its regulatory oversight based on the risk profile of different types of products." With respect to plans, the plan notes "the agency will take lessons learned from this longstanding experience to clarify our policy approach to evaluation of the safety of food from genome edited crops."

10/29/18 – Carbon emissions tied to U.S. electricity generation have dropped 28 percent since 2005 to a total of 1,744 million metric tons last year—the lowest since 1987—according to data from the U.S. Energy Information Administration (EIA). EIA found slower demand for electricity and changes in the U.S. power generation mix have played "nearly equal roles in reducing U.S. power sector CO2 emissions."

10/26/18 – EIA found that the United States electricity generation reached the highest level since before the economic recession. Electricity generation in the U.S. has been largely stagnant for a decade, fueled by a slow-growing economy after the 2008 financial crash and the resulting lackluster electricity demand.

10/26/18 – The Department of Health and Human Services has released $3.65 billion in fiscal year (FY) 2019 Low Income Home Energy Assistance Program (LIHEAP) block grant funds. LIHEAP provides funds to states to help low-income families pay their home energy bills. There are two types of funding: block grant and emergency contingency. No emergency contingency funds have been appropriated since FY 2011.

From Congress

11/27/18 – The Senate voted 53-46 to confirm Stephen Vaden as USDA chief counsel. He has been serving as deputy chief counsel at USDA since March 2017.

11/7/18 – The Government Accountability Office (GAO) issued a report stating that lack of a definition of “deferred maintenance” by the U.S. Army Corps of Engineers relative to the 12,000 mile inland waterways system, is a main reason why funding upgrades to the system have been so challenging. Specifically, the report notes that the Corps "does not know how much deferred maintenance exists." GAO’s report said its researchers were told by Army Corps officials and other interested parties that the incremental approach is more expensive than giving a project full funding from the outset and can produce delays.

From the Administration

11/26/18 – The U.S. Department of Agriculture’s (USDA) Food Safety Inspection Service (FSIS) released data on whether individual chicken slaughterhouses are meeting performance standards for salmonella. The data looks at performance standards from October 2017 to October 2018 by testing whether there is a higher percentage of salmonella than the threshold set by FSIS. Results were a mixed bag with Perdue Farms seeing three-quarters of its slaughterhouses fail to meet performance standards while Tyson Foods had no slaughterhouses fail.

11/26/18 – A new report from the Federal Reserve Bank of Kansas City, which covers Colorado, Kansas, Nebraska, Oklahoma, Wyoming and portions of Missouri and New Mexico, showed that more than half of bankers in the district reported lower farm income than a year ago. The report also expects farm income to weaken in coming months.

11/16/18 – USDA reported that foreign retaliatory tariffs are starting to impact two of the largest markets for U.S. pork exports. American pork exports to Mexico dropped 10 percent in September when compared with September 2017 and exports to China declined by 33 percent.

11/16/18 – The Federal Energy Regulatory Commission unanimously issued Order 851, which gives U.S. grid companies until Jan. 1, 2028 to shield certain essential and
hard-to-replace high-voltage transformers from overheating and possible irreparable damage triggered by a solar eruption.

11/15/18 — The Bureau of Ocean Energy Management initiated the first part of the environmental review process ahead of a lease sale planned for 2019 of 65 million acres in the Beaufort Sea off Alaska's north shore. Public comments are due Dec. 16.

11/14/18 — The U.S. Department of Energy (DOE) is funding research to develop "coal plants of the future." The department plans to issue three competitively funded research and development efforts in fiscal 2019 to ultimately result in the design, construction and operation of a coal-based pilot-scale power plant.

11/18/18 — The Department of Labor announced that it and the Department of Homeland Security will propose that employers seeking certifications for temporary foreign laborers, including in the agricultural H-2A visa programs, be required to advertise the jobs online to American citizens for at least 14 days. The online advertising will "modernize recruitment" and "make it easier for Americans to find and fill open jobs."

11/5/18 — The U.S. Trade Representative's Advisory Committee for Trade Policy and Negotiations, the highest-ranking private sector advisory committee, unanimously endorsed the new U.S.-Mexico-Canada trade agreement (USMCA) and called on Congress to swiftly approve the deal. The panel includes representatives from the farm and business communities, as well as other experts.

11/5/18 — Corn will exceed soybeans as the number one planted crop beginning in 2019, according to an analysis of USDA data. Specifically, corn plantings are projected to be 92 to 93 million acres with soybeans at 82.5 to 84 million acres.

10/29/18 — DOE proposed a new system on Monday for labeling sensitive information about the electric grid and other energy systems in hopes of easing communication between the government and private sector, which operates most of the grid. The rule would allow it to "pre-designate" security-sensitive information. This would immediately shield the material from public view, exempting it from disclosure under federal freedom-of-information laws.

NCSL Resources

Registration is still open for NCSL's 2018 Capitol Forum, taking place in Washington, D.C., Dec. 5-7.