



## Top Stories

**9/21/17** – The 10th Circuit Court of Appeals [dismissed](#) litigation over the U.S. Department of Interior’s (DOI) [hydraulic fracturing rule](#), without addressing whether the federal government has authority over the extraction process. Notably, the Court vacated a lower court’s 2016 ruling that struck down the regulation, thus allowing the regulation to take effect. The Trump administration is currently at work to rescind the rule.

**9/18/17** – A [leaked](#) memo revealed that the Fish and Wildlife Service (FWS) has asked DOI to update regulations regarding geological and geophysical exploration of the Arctic National Wildlife Refuge in Alaska. Specifically, regulations that restrict the dates when an application of an exploration plan can be submitted. The agency was asked to develop an environmental assessment and proposed rule by Sept. 30. If finalized, the rule could allow for seismic studies on the 1.5 million-acre northern plain of the refuge.

**9/18/17** – A leaked [memo](#) from DOI indicates there are recommendations to decrease the size of six national monuments, as well as plans to amend the proclamations and/or management plans of four other sites to allow for commercial fishing, protect grazing rights, or use for timber harvesting.

**9/17/17** – U.S. Secretary of Energy Rick Perry [stated](#) that massive storms that battered the Gulf Coast in recent weeks show the need for the Strategic Petroleum Reserve (SPR), in contrast to the president’s fiscal year 2018 budget proposal calling for the sale of half the SPR to raise funds. The statement came weeks after Perry [authorized](#) the release of 1 million barrels of oil from the Strategic Petroleum Reserve to ease pressure on refineries hit by Hurricane Harvey. The

release was set up as an oil exchange, so refineries receiving the oil must contribute back to the reserve with more oil than received.

**9/14/17** – The Environmental Protection Agency (EPA) [granted](#) two petitions to reconsider substantive provisions of the final [rule](#) regulating coal combustion residuals (CCR) as nonhazardous waste under the Resource Conservation and Recovery Act (RCRA). EPA cited authority provided through the Water Infrastructure for Improvements to the Nation (WINN) Act. The WINN Act, provides the authority for states to operate permit programs under the RCRA, so long as EPA determines that the requirements are as protective as the standards in the 2015 final rule, or successor regulations.

**9/8/17** – The president signed a three-month continuing resolution funding the government through Dec. 8 into law ([H.R. 601](#)). In addition, the bill included \$15 billion in aid funding for those impacted by Hurricane Harvey, and an increase in the national debt limit through Dec. 8, as well as an authorization for the National Flood Insurance Program through the same date. A provision was included in the bill to allow the U.S. Forest Service and DOI to retroactively cover the cost of wildfires in 2017. The package passed the Senate [80-17](#), and the House [316-90](#).

**9/5/17** – DOI Deputy Secretary David Bernhardt issued an internal memo, which directed that the department’s environmental impact statements “shall not be more than 150 pages or 300 pages for unusually complex projects,” and imposed a “target” of completing studies required by the National Environmental Policy Act (NEPA) within a year. The memo follows the Executive Order on “[Establishing Discipline](#)

[and Accountability in the Environmental Review and Permitting Process for Infrastructure.](#)”

## From Congress

**9/19/17** – The Senate Energy and Natural Resources Committee confirmed a series of nominations by unanimous voice vote: [Ryan Nelson](#) was confirmed to serve as DOI’s Solicitor; Federal Energy Regulatory Commission (FERC) Chairman nominee [Kevin McIntyre](#) was confirmed; and nominee [Rich Glick](#) was also confirmed to the Commission. [Joe Balash](#) was confirmed to serve as DOI’s assistant secretary for land and minerals management, opposed by one vote, he is currently the chief of staff to Senator Dan Sullivan; and [David Jonas](#) was confirmed to serve as general counsel of the Department of Energy, on a 14-9 vote. The nominations must now go before the full Senate.

## From the Administration

**9/26/17** – The Department of Transportation (DOT) [announced](#) that it will allow a rule requiring state and regional highway planners that receive federal funding to report anticipated greenhouse gas (GHG) emissions from vehicles on their roads to go into effect. The action follows a lawsuit concerning administration action indefinitely delaying the rule. However, the administration anticipates the rule will be formally repealed.

**9/22/17** – The Environmental Protection Agency (EPA) [released](#) new labeling and education standards for herbicide producers and users. In two guidance documents, the agency stated that pesticide product labels should include a section on recommendations for resistance management, and requested that herbicide producers provide growers with detailed information on how to slow the spread of resistant weeds.

**9/19/17** – EPA’s Office of Inspector General (OIG) [found](#) that the agency’s distribution of Superfund human resources is failing to support current regional workload causing some to “slow down, or discontinue their efforts to protect human health and the environment.” The OIG recommend that resource allocation obstacles be addressed, a national prioritization of all

sites should be addressed, and disperse employees based on that prioritization.

**9/19/17** – EPA’s OIG [determined](#) that the agency failed to develop reliable emission estimation methods to determine whether animal feeding operations comply with Clean Air Act and environmental emergency response statutes. In April, a federal court vacated a rule that exempted large animal farms from emissions reporting requirements.

**9/18/17** – EPA’s OIG [urged](#) the agency to better manage Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Pesticide Registration Improvement Extension Act (PRIA) user fee funds more effectively. The OIG found that excess funds of approximately \$29.9 million were available. Better management of funds may allow for maximum use and will reduce reliance on appropriated funding.

**9/15/17** – DOI Secretary Ryan Zinke [signed](#) a secretarial order (SO) to expand “hunting and fishing, enhance conservation stewardship, improve wildlife management, and increase outdoor recreation opportunities for all Americans.”

**9/14/17** – The White House Council on Environmental Quality published a [notice](#) in the Federal Register announcing a list of actions it will take to enhance and modernize the federal environmental review and authorization process for infrastructure projects. The notice includes: developing a framework for implementing “one federal decision;” coordinating with various agencies in regard to high priority projects; issuing guidance to simplify and accelerate the national environmental policy act (NEPA) process; and lead an interagency working group to identify impediments to the processing of environmental review and permitting decisions. This list was developed by the Council pursuant to Executive Order 13807, [“Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.”](#)

**9/9/17** – The Mine Safety and Health Administration (MSHA) proposed delaying a [rule](#) amending the agency’s standards for the examination of working places in metal and nonmetal mines. The proposal would delay the rule until March 2, 2018.

**9/8/17** – DOI [released](#) a preliminary report showing that 40 percent of the U.S. population partook in at least one wildlife recreation activity in 2016.

**9/6/17** – FWS [listed](#) the Guadalupe fescue as endangered – the perennial grass grows in northern Mexico and in the Chisos Mountains within Big Bend National Park.

**8/30/17** – EPA issued a [waiver](#) to 12 states and the District of Columbia allowing the sale of gasoline with 15 percent ethanol due to Hurricane Harvey's impact on refinery closures and the disruption of the Colonial Pipeline.

## From the Courts

**9/8/17** – The U.S. Court of Appeals for the 9<sup>th</sup> Circuit will hear challenges [filed](#) by environmentalists surrounding the prioritization rule for implementing the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act (LCSEA). Additionally, the U.S. Court of Appeals for the 4<sup>th</sup> Circuit will hear [challenges](#) to the risk evaluation rule.

**8/31/17** – The U.S. District Court for Northern California [rejected](#) a request by EPA to delay a deadline acting on 2008 National Air Ambient Quality Standards (NAAQS) for ozone in Delaware and state implementation plans. As part of a previous consent decree, the agency was required to make a decision about a state plan to curb emissions of nitrogen oxides and volatile organic compounds by Sept. 29, but sought an extension. The Court required EPA to comply within 90 days of the order.

**8/31/17** – The U.S. District Court for the District of Columbia [denied](#) the administration's request to delay action on Texas' "haze plan" as required by the Clean Air Act by 15 months. The state failed to submit a state implementation plan in 2007, and in 2009 EPA found that by failing to submit a plan, the agency had the authority to create a plan for the state. In 2012 a consent decree was signed, requiring the agency to issue a plan for the state by Sept. 9, 2017.

**8/30/17** – The U.S. District Court for the Northern District of California [ruled](#) that DOI violated the Administrative Procedures Act (APA) by delaying the effective dates for a [rule](#) that set new requirements for reporting production and royalty payments for coal, oil and natural gas extraction on federal land. The Court ruled that Section 705 of the APA cannot be used to postpone a rule after it has already taken effect. Prior to the Court's decision, DOI repealed the valuation rule.