



Top Stories

1/22/18 – The U.S. Supreme Court (SCOTUS) [ruled](#) that challenges to the 2015 “Water of the United States” (WOTUS) rule belong in federal district courts, not circuit level federal courts. EPA has proposed delaying WOTUS’ effective date until 2020 as it works to revise the rule. Depending on when EPA is able to finalize a rule, a group of 13 states may be covered by a stay by a North Dakota district court, while the other 37 would be subject to the rule. Finalized by the Obama administration in 2015, WOTUS sought to define which waters fall under federal jurisdiction. For more information on next steps for WOTUS please read [NCSL’s blog](#).

1/22/18 – A purported version of the administration’s [infrastructure plan](#) was leaked by multiple media companies, although the White House neither confirmed nor denied the document’s authenticity. The plan contains four “pots” of potential funding and the percentage of total funding that each pot would account for, although the plan did not include an overall dollar amount of funding. Additionally, the document gave no indication as to the source of funding. Later in the week, White House Infrastructure Advisor, DJ Gribbin, [indicated](#) the administration was not seeking new revenue for its forthcoming plan and would instead propose a series of spending cuts to existing domestic discretionary spending, including reductions in funding for Amtrak and other transit grant programs. Within the leaked draft plan, the largest pot of funding, infrastructure incentives, would receive 50 percent of funding and be structured as a competitive grant that would provide funding for projects that also brought in, new non-federal revenues. Federal funds from this pot would only be able to represent a maximum of 20 percent of the project’s cost, a significant reduction from existing programs. Additionally, proposed projects would receive credit for non-federal revenues

created within the past three years, but not beyond. Such funds could fund many transportation infrastructure projects but not energy- related or broadband projects. Moreover, no specific agency is named as the lead federal agency. The second pot, transformative projects, would receive 10 percent of overall funding. It would also be a competitive grant program, but run solely by the Department of Commerce and would be aimed at higher risk projects. The third pot, rural infrastructure, would receive 25 percent of funds and be given to states as grants based on the percentage of rural population and rural highway lane miles in their state. States would be free to use these funds on numerous types of projects including transportation, energy, broadband and water. The final pot, federal credit and financing, would provide a little over 12 percent to expand existing federal financing programs. Finally, the plan would remove the annual cap on private activity bonds (PABs), along with other changes to PABs that would increase their value. There are additional provisions in the document that would give new flexibilities to states to raise new transportation revenues, including authority to toll existing interstates and commercialize rest areas. It remains very unclear if this is the final version that the administration will formally submit as well as whether Congress will go along, propose their own plan, or do nothing.

1/22/18 – The president [approved](#) tariffs on imports of solar panels and cells. The tariffs are set at 30 percent in the first year, stepping down by 5 percentage points over the following three years. The new tariffs will also exclude the first 2.5 gigawatts of solar cell imports.

1/19/18 – The U.S. Department of Interior (DOI) announced its draft proposed program (DPP) for developing the National Outer Continental Shelf (OCS) Oil and Gas Leasing Program

for 2019-2024. The draft proposes to make more than 90 percent of the total OCS acreage and more than 98 percent of undiscovered, possibly recoverable, oil and gas resources in federal offshore areas available for future exploration and development. This is a significant change from the current plan in which 94 percent of the OCS is unavailable for recovery activities. It is the second step following the Bureau of Ocean Energy Management's (BOEM) July 2017 request for information on what should be included in the program and follows up on both an executive order from the president, and a secretarial order from DOI Secretary

Ryan Zinke. Zinke later [tweeted](#) that he was removing the possibility of drilling off the coast of Florida, an action that sparked demand for exemptions from other states. The action was later deemed to [not be a formal action](#), and review of resources off the coast of Florida would still be conducted. For more information on the DPP, please read [NCSL's Info Alert](#).

1/8/18 – The president signed two presidential memorandums concerning rural broadband deployment. The [first](#) is aimed at making infrastructure on DOI-managed land available to telecommunication companies who want to deploy broadband equipment. The [second](#) seeks to ensure the General Services Administration is taking steps to standardize the process for attaching communications antennas to federal buildings as previously intended.

1/8/18 – The Federal Energy Regulatory Commission (FERC) [rejected](#) Energy Secretary Rick Perry's [proposal](#) concerning grid reliability and resilience pricing that would have provided subsidies to power producers who could show on-site fuel supplies of 60 days, which are primarily coal and nuclear plants. The 5-0 decision by the commissioners noted that the proposal did not demonstrate that existing market rules are "unjust, unreasonable, unduly discriminatory or preferential," and instead ordered the nation's regional grid operators to submit information about their ability to judge "naturally occurring and man-made threats" to their systems within 60 days while also requesting comments from other interested parties.

1/4/18 – The Food and Drug Administration (FDA) [released](#) guidance announcing it is planning to "exercise enforcement

discretion" for some provisions in four of the most significant Food Safety Modernization Act regulations, including produce safety and preventive controls. The new guidance from FDA signals that the agency "intends to initiate a rulemaking that could change the way the requirements in the rules apply to facilities that conduct activities similar to those that occur on farms, as farms are currently defined." Additionally, on Jan. 24, FDA [issued](#) five updated guidance documents that aim to provide additional information for complying with food safety rules mandated by the [Food Safety Modernization Act](#). FDA noted that while the guidance does not include any legal required responsibilities, the goal was to help ensure that all standards were being met.

From Congress

1/25/18 – The Senate confirmed [R.D. James, 89-1](#), to be the Assistant Secretary of the Army for Civil Works, leading the U.S. Army Corps of Engineers. James most recently served as a civilian member and engineer on the Mississippi River Commission, and is a self-employed farmer and manager of cotton gins and grain elevators in Missouri.

1/17/18 – The House Rules Committee held a [hearing](#) examining the possibility of reinstituting the earmark process in congressional legislation. Many members of Congress and the administration have been supportive of such actions, however a bipartisan group of 10 senators released [legislation](#) supporting a permanent ban.

1/10/18 – A bipartisan group of 21 Florida lawmakers [wrote](#) to the administration opposing the Bureau of Safety and Environmental Enforcement's (BSEE) [proposal](#) to revise or eliminate regulations on offshore drilling safety equipment put in place following the Deep Water Horizon oil spill in the Gulf of Mexico in 2010. The proposed rule would lessen requirements concerning real-time data on oil-production operations to facilities onshore, and strike a provision requiring third-party inspectors of critical equipment, such as blowout preventers, which failed in the Deepwater Horizon case, be certified by BSEE.

From the Administration

1/23/18 – The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) partnered with conservation groups to [launch](#) the National Agricultural Water Quality Practice Assessment, which is aimed at helping farmers and ranchers identify which conservation practices will have the most environmental benefits while ensuring that their operations remain profitable. The assessment will last one year and will cumulate in a comprehensive report.

1/23/18 – USDA's Food Safety Inspection Service (FSIS) [announced](#) it would resume disclosing [salmonella performance standards](#) for individual institutions that handle poultry carcasses. FSIS has been posting this data since 2008, but on Nov. 18, 2016, FSIS said it was removing the data from its website "to allow time for establishments to update their food safety systems."

1/19/18 – USDA's FSIS [proposed](#) amending the federal meat inspection regulations to establish a voluntary inspection system for market hog slaughter plants monikered "the New Swine Slaughter Inspection System," while also requiring additional pathogen sampling for all swine slaughter establishments. The changes are aimed at improving efficiency within the industry.

1/19/18 – EPA filed a [motion](#) with the D.C. Circuit Court of Appeals to delay the effective date of chemical release reporting requirements from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA). The move follows recently released [guidance, contact information and reporting forms](#) concerning such hazardous substance air releases from animal waste. The acts require facilities to report releases of hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The new reporting requirement follows a court order late last year to begin tracking some emissions.

1/18/18 – USDA [announced](#) four grants totaling \$13.6 million for research to combat citrus greening disease, which has devastated citrus crops across the nation. In the same week, USDA [announced](#) an additional \$17 million to fight the disease through the emergency Citrus Disease Research and Extension Program (CDRE), authorized under the 2015 Farm Bill. Since 2009, USDA has invested more than \$400 million to address the disease.

1/18/18 – EPA, [revoked](#) its prior approval of Ohio's decision not to include its portion of Lake Erie on its list of polluted waters as required by [Section 303\(d\)\(1\)\(A\)](#) of the Clean Water Act. The agency requested the state revise its decision as the lake has been significantly impacted by seasonal large algal blooms, harming its quality.

1/11/18 – USDA's Farm Service Agency started a [pilot program](#) aimed at addressing disparities in commodity subsidies from different counties, following reports of wide differences in [Agricultural Risk Coverage](#) payments between counties in the same state.

1/10/18 – The Energy Information Administration's (EIA) latest [short-term outlook](#), forecasts that U.S. coal production is expected to drop for the next two years, while oil production is expected to set new records. Specifically, while domestic coal production increased six percent in 2017 in response to high demand for exports, EIA anticipates a reversal in 2018 and 2019 with U.S. production to fall two percent for both years. Crude oil production is on the opposite track, forecast to hit an all-time high this year of an average 10.3 million barrels per day, surpassing a record set in 1970. Additionally, natural gas production could also see its biggest year-over-year increase, with exports rising to 3 billion cubic feet per day, up from 1.9 billion cubic feet per day in 2017.

1/10/18 – The Department of Energy (DOE) finalized [procedures](#) on how it handles grid security emergencies, authorizing its secretary to issue emergency orders deemed necessary to "protect or restore the reliability of critical electric infrastructure or of defense critical electric infrastructure," following a presidential declaration of a grid security emergency. Such a declaration would last up to 15 days and

could be renewed in 15-day increments. The authority is rooted in the 2015 FAST Act, in which Congress expanded DOE's powers to respond to cyberattacks, electromagnetic pulse attacks and specific physical damage.

1/8/18 – The White House's Agriculture and Rural Prosperity Task Force [issued](#) a set of recommendations for revitalizing rural America. The report focuses on the following areas of improvement in rural agriculture: e-connectivity, improving the quality of life in rural areas, improving the quality of the rural workforce, and using technology to empower rural areas, and developing the rural economy.

12/26/17 – EPA [denied](#) a petition filed in 2009 by the Humane Society of the United States and other advocacy groups to list concentrated animal feeding operations as a "category of sources" under the Clean Air Act. The law directs EPA to regulate emissions of toxic air pollutants from specified industrial "sources."

12/21/17 – FERC [proposed](#) a rule that would require power plants and transmission operators to report additional cyber threats to the electric grid, including incidents that might facilitate future attempts to harm. The Department of Homeland Security responded to 59 cybersecurity incidents in the energy sector last year.