Top Stories

6/27/19 – The U.S. Department of Agriculture’s (USDA) National Agricultural Statistics Service released its latest acreage report, based on a survey of 68,100 farm operators across the country. NASS estimates soybean growers will plant 80 million acres in 2019, a 10% drop from last year and the lowest number since 2013. USDA said, “relentless precipitation” and “incessant wetness across large sections of the mid-South, Midwest, Plains and West” has weighed heavily on corn and soybean planting this year. This was the sixth-wettest spring in 125 years, and the coolest since 2013.

6/26/19 – USDA announced that it will allow trade-aid payments to farmers who grow cover crops on acres they were otherwise prevented from planting this year due to weather. Last month the agency announced that it would provide $16 billion to farmers hurt by retaliatory tariffs under a second trade-relief program.

6/24/19 – The U.S. House of Representatives passed its second FY 2020 minibus appropriations bill that contained five of the 12 appropriations bills. They previously passed a minibus bill containing four appropriations bills. Three of the five appropriations bills including Agriculture, Interior-Environment, and the Transportation-Housing cover items under Natural Resources and Infrastructure Committee jurisdiction. The agriculture bill, which funds USDA, would provide just over $24 billion in discretionary funding, more than $5 billion above the level requested by the president. The Interior-Environment bill, which funds the Department of Interior (DOI) and the Environmental Protection Agency (EPA) would provide a 7.5% percent increase to EPA compared to current levels and a 6.4% increase to DOI. The Transportation portion would fund the Department at nearly 7% percent above the president’s request.

6/21/19 - The White House Council on Environmental Quality released new draft guidance laying out steps federal agencies should use to incorporate the impacts of greenhouse gases (GHG) into their reviews under the National Environmental Policy Act which applies to permitting new energy and infrastructure projects. While former guidance generally, but not always, required a federal agency to quantify the extent of a project’s GHG emissions, the new draft guidance would only require agencies conduct such actions when “a sufficiently close causal relationship exists between the project and carbon emissions.” It also provides agencies with reasoning for when such quantification is not required if it “would be overly speculative.” Federal courts have blocked a number of energy infrastructure projects over the past years after finding that the NEPA analysis accompanying the project’s certification did not appropriately address its carbon emissions.

6/20/19 – The House Committee on Energy & Commerce held a hearing, “Driving in Reverse: The Administration's Rollbacks of Fuel Economy and Clean Car Standards,” in response to a letter that 17 major automaker corporations wrote to President Donald Trump and to Governor Gavin Newsom (D-CA). The letter called for “one national standard that is practical, achievable, and consistent across 50 states … a final rule supported by all parties—including California.” Many committee members at the hearing agreed with the automakers that California and the federal government must come to a unified agreement for a singular standard.
6/19/19 – EPA released the Affordable Clean Energy (ACE) final rule, replacing the 2015 Clean Power Plan (CPP). The ACE final rule establishes emission guidelines for states to use when developing plans to address greenhouse gas (GHG) emissions from coal-fired electric generating units (EGUS), without setting individual state GHG emission limits, which was a primary component of CPP. For more information on the rule read NCSL’s Info Alert here.

6/19/19 – The House approved its FY 2020 Energy-Water spending bill covering Department of Energy and the Army Corps as part of a package of four FY 2020 appropriations bills. Overall, the bill would provide $46.4 billion, 4% over FY 2019. However, it remains very unclear as to what actual FY 2020 spending will resemble as the House and Senate have yet to reach an agreement on top line levels, let alone individual programs and other non-budgetary provisions. Once an agreement is reached later this year, NCSL will provide full details on funding for major programs impacting states.

6/19/19 – USDA published an updated report on the benefits of cover crops for farmers, noting that “It’s probably safe to say that often, by year three, cover crops will be paying for themselves, if not earlier,” and that while “there are times when that return on investment could take a little longer...there are even more situations in which that return can be accelerated.” Information was collected from about 500 farmers between 2012 and 2016. After the first year of planting cover crops, the report said, farmers saw their corn and soybean yields increase by 0.5% and 2.1%, respectively. After five years, corn and soybean yields increased by 4% and 5%.

6/14/19 – The president issued an executive order requiring federal agencies to reduce the number of advisory committees. According to General Services Administration (GSA,) the federal government has more than 1,000 active advisory committees, 601 of which are required by various statutes. The order limits the number of committees not required by law to 350. GSA previously reported that the federal government spent $384 million on advisory committees in fiscal 2018.

6/13/19 – USDA announced it will relocate the Economic Research Service (ERS) and National Institute of Food and Agriculture (NIFA) to the Kansas City Region. The House USDA-FDA appropriations bill for FY 2020 would prohibit USDA from moving forward with the relocation, but the measure is unlikely to become law before the move is carried out; 90% of USDA employees are located outside of the D.C. area. ERS and NIFA are the only USDA agencies that don’t have representation outside of the national Capital Region (NCR).

6/11/19 – Department of Energy Secretary Rick Perry said that the department does not have “either regulatory or statutory ability” to provide incentives to troubled coal and nuclear power plants and that FERC “would be where I would direct you to.” It was noted that some states including Illinois, New Jersey and New York have enacted financial support to which Perry noted that he was a “pretty big fan of states making their own decisions,” and that “each state has its economic right to either put tax credits, tax breaks, incentives in place.”

6/11/19 – President Trump signed an executive order directing a number of federal agencies including USDA, EPA, and FDA to “streamline” the agricultural biotechnology regulatory process. The order follows the publication of a proposed rule from USDA earlier this month that aims to define the required regulatory steps for genetically engineered agricultural goods.

6/7/19 – EPA issued revised guidance on implementing Section 401 of the Clean Water Act as directed by the president via an executive order. Historically, Section 401 has provided states and tribes with the authority to review and approve, condition, or deny any federal permits or licenses that may be required if the project seeking a permit would result in a discharge of pollutants into Waters of the United States. The newly issued guidance alters the 2010 guidance significantly, with revisions focusing on: statutory and regulatory timelines for review and action on a CWA 401 certification, the scope of CWA Section 401 certification conditions, and information within the scope of a state or authorized tribes CWA Section 401 review. For more information on the guidance read NCSL’s Info Alert here.

5/30/19 – EPA finalized regulatory changes to allow gasoline blended with up to 15% ethanol (E15) that would allow it to be sold year-round. Previously, E15 sales faced restrictions during summer months. The agency’s decision was based on a
reinterpretation of the Clean Air Act which gives the agency a waiver authority it can apply to all fuels that contain at least 10% ethanol, rather than only blends between 9% and 10% that it had previously said could receive waivers from air pollution limits. EPA had declined to use its authority in 2010 and again in 2011 to issue a waiver under the Clean Air Act to allow summertime sales of E15 blends. The oil industry is expected to challenge this interpretation in court. EPA also finalized provisions that would increase the agency’s monitoring of the trade in compliance credits under the Renewable Fuel Standard. Specifically, entities and their subsidiaries that hold the Renewable Identification Numbers would be forced to disclose their positions once they reach a threshold of 3% of the annual total number of RINs for conventional ethanol. EPA could act if it found evidence of manipulation.

5/29/19 – The Bureau of Land Management released a draft environmental impact statement concerning the potential impacts of hydraulic fracturing on more than one than 1 million acres in California. The action, if finalized, would end a five-year moratorium on leasing federal land in California to oil and gas developers. In 2013 a federal judge ruled that the government had violated the National Environmental Policy Act when it issued oil leases in Monterey County without analyzing the environmental dangers of fracturing.

5/28/19 – USDA published an updated opinion from USDA’s Office of General Counsel concerning hemp production and transportation following the enactment of the 2018 Farm Bill which authorized the production of hemp and removed help and its seeds from the Drug Enforcement Administration’s schedule of controlled substances. For more information see NCSL’s Info Alert here.

From Congress

6/20/19 – The Senate confirmed, 86-5, Rita Baranwal to be assistant secretary of nuclear energy at DOE. Baranwal previously directed the department’s Gateway for Accelerated Innovation in Nuclear program and previously served as director of technology development and application at Westinghouse.

6/19/19 – The House Natural Resources Committee approved two bills that would put large parts of the U.S. off limits to offshore oil and gas drilling. H.R. 205, from Rep. Francis Rooney (R-Fla.), would place the Eastern Gulf of Mexico under permanent drilling moratorium and H.R. 1941, from Rep. Joe Cunningham (D-S.C.), would bar offshore drilling in federal waters along the Atlantic and Pacific coasts. The bills are likely to be considered on the House floor, but highly unlikely in the Senate.

6/17/19 – House Energy and Commerce Committee leaders released a discussion draft of a bill that would reauthorize the Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) through the end of fiscal year 2023 (Sept. 30, 2023). PHMSA regulates more than 2.5 million miles of gas and liquid pipelines in the U.S. The draft would fund the administration at $237 million in 2020, rising to $255 million by 2023, significantly above its FY 2019 level of $188 million. While the draft includes a number of new mandates to issue regulations in response to recent pipeline disasters, many of the required regulations included in the last reauthorization in 2016 have not yet been finalized. Earlier in the month, the administration released its discussion draft which focused on criminalizing certain actions that interfere with operation and construction of pipelines.

6/6/19 – A bipartisan group of senators from Illinois, Iowa, Nebraska, South Dakota and North Dakota, and Ohio wrote a letter to USDA Undersecretary Bill Northey requesting his agency quickly publish new rules required in the 2018 farm bill that would “provide important flexibility and greater certainty for farmers to harvest, graze and terminate cover crops” and remain eligible for crop insurance on their primary cash crop.

6/3/19 – PHMSA proposed legislation that would reauthorize the Department’s pipeline safety programs for FY 2020-2023. The proposal would double, to $100,000, the threshold for how much damage a pipeline accident has to cause before an operator has to report the accident to DOT. The bill would also establish minimum qualification standards for construction firms building pipelines. Another notable set of provisions would expand the scope of activities punishable by federal law in an
apparent attempt to crack down on pipeline protests, which is similar to legislation some states have enacted recently.

**From the Administration**

6/26/19 – USDA announced $192 million in federal funding for 71 projects located across 29 states to improve rural water infrastructure through the Water and Waste Disposal Loan and Grant program. Rural communities, water districts and other eligible entities can use the funds for drinking water, stormwater drainage and waste disposal systems in rural communities with 10,000 or fewer residents.

6/20/19 – FERC approved a new requirement that electric utilities must report cyberattacks on the electric grid even if those attacks don’t result in any reliability problems. Previously, utilities were only required to report cyber intrusions if the attacks interrupted reliability operations in some way. The new rule also sets baseline requirements for what utilities must report.

6/20/19 – USDA announced it is offering $75 million in funding for the eradication and control of feral swine through the Feral Swine Eradication and Control Pilot Program. Funding was included in the 2018 Farm Bill for the pilot program in order to address the threat that feral swine pose to agriculture, ecosystems and human and animal health.

6/17/19 – The Internal Revenue Service issued a proposed regulation on the legislative fix to the so-called “grain glitch” included in the Tax Cuts and Jobs Act. Text in the 2017 tax law provided an overly generous deduction to farmers who sold their products to cooperatives—the mistake was corrected in subsequent budget legislation last year.

6/13/19 – USDA announced that signup for the new Dairy Margin Coverage (DMC) program will open June 17. DMC is a new insurance program for dairy producers that was included in the 2018 Farm Bill and is Congress’s attempt to update the former Margin Protection program that was enacted as part of the 2014 Farm Bill.

6/11/19 – USDA awarded 58 grants for projects in 17 states and the Commonwealth of Puerto Rico to reduce energy costs for farmers, ag producers and rural-based businesses and institutions. The grants are part of the Rural Energy for America Program (REAP). Congress appropriated $50 million for REAP grants and loan guarantees in fiscal year 2019.

6/7/19 – USDA confirmed the discovery of genetically engineered (GE) wheat plants growing in an unplanted agricultural field in Washington State. The GE wheat in question is resistant to glyphosate, commonly referred to as Round Up. There are no GE wheat varieties for sale or in commercial production in the United States at this time, as USDA has not deregulated any GE wheat varieties. There is no evidence that this GE wheat has entered the food supply.

5/30/19 – USDA released its quarterly trade outlook, predicting that U.S. agricultural exports will drop by nearly 4.5 percent in fiscal 2019 compared with the prior year, hitting $137 billion.

5/30/19 – USDA is providing $858 million in loans to upgrade rural electric systems in 17 states. The funding includes $64 million to finance smart grid technologies that improve system operations and monitor grid security.