



Top Stories

7/7/16 – The Environmental Protection Agency (EPA) [sent](#) letters to all governors and state environmental and health commissioners thanking them for their cooperation in response to an [earlier](#) request from the EPA to address deficiencies, and improve transparency and public information regarding the implementation of the Lead and Copper Rule. In addition to thanking them, the EPA has [posted](#) all of the states’ responses on its website, encouraging states to learn from one another. Upon reviewing responses, EPA’s Deputy Assistant Administrator for Water Joel Beauvais [wrote](#) that all states are in compliance with the Lead and Copper Rule.



6/22/16 – President Barack Obama [signed](#) the Protecting our Infrastructure of Pipelines and Enhancing Security (PIPES) Act of 2016, following unanimous passage in both chambers. The bill reauthorizes the federal government’s pipeline safety program through 2019, authorizes \$720 million for Pipeline and Hazardous Materials Safety Administration (PHMSA) programs through FY19 and allows the agency to issue emergency orders that place restrictions on pipelines. It requires PHMSA to issue minimum safety standards for underground natural gas storage facilities. States, however, would be granted the ability to go above those standards for intrastate facilities. The bill gives the Department of Transportation authority to withhold payment under a state pipeline safety grant if a state is not maintaining a satisfactory effort to carry out a safety program.



6/23/16 – Officials from EPA [deemed](#) properly filtered water in Flint, Mich., safe to drink, stating that the most recent testing showed lead levels significantly below levels considered dangerous. Nearly all filtered water tested showed lead levels under 1PPB while just months earlier water samples tested above 150 PBB. However, the mayor [said](#) some homes in Flint cannot be fitted with filters and bottled water is still needed.



6/21/16 — The U.S. District Court for the District of Wyoming, in *State of Wyoming et al. v. U.S. Department of Interior et al.* [struck down](#) the Bureau of Land Management’s (BLM) [hydraulic fracking rule](#), finding that Congress did not delegate authority over fracking to BLM or The Department of Interior (DOI).



6/13/16 – The U.S. Supreme Court [rejected](#) a 20-state challenge to EPA’s 2011 Mercury and Air Toxics Standards [rule](#). The decision to refuse the case enforces the lower-court ruling that found the regulations can remain in effect while the agency revises how potential industry compliance costs were calculated. EPA updated that cost analysis earlier in 2016.

5/31/16 – The Supreme Court ruled unanimously in [United States Army Corps of Engineers v. Hawkes](#) that jurisdictional determinations issued by the U.S. Army Corps of Engineers (USACE) on whether a property contains waters of the United States are susceptible to immediate judicial review. Specifically, the court ruled that jurisdictional determinations are final agency actions that have direct and binding legal

consequences under the Clean Water Act (CWA), and thus may be reviewed per [Bennett v. Spear](#) (1997).

From the Administration

7/7/16 – DOI [released](#) new regulations for exploratory drilling in Arctic waters focused on operations in the Beaufort and Chukchi seas. The rule requires companies to have an oil spill response plan that is backed by personnel and specific equipment, and has the capability to respond to certain Arctic specific conditions.

7/7/16 – The U.S. Department of Agriculture (USDA) [announced](#) a \$49 million public-private investment for wetland enhancement projects on private and tribal agricultural lands in 12 states.

7/7/16 – EPA Office of Inspector General (IG) [released](#) a report recommending that the agency's regional offices tighten their oversight of the Clean Water State Revolving Fund to ensure that states are properly distributing funds – The IG found that states risked misusing more than \$150 million in FY13 grant awards because regional offices did not properly audit state performances.

6/30/16— EPA [found](#) just four areas in three states to be noncompliant with its primary air quality standard for sulfur dioxide. Those areas deemed out of compliance must submit a plan for remedy to the EPA within 18 months. Under court order, EPA must complete an additional two rounds of designations across the U.S. by the end of 2017 and 2020.

6/29/16 - The White House [announced](#) a joint “action plan,” with Canada and Mexico to address climate change. The three nations committed to enhancing clean energy, restricting refrigerants, limiting the aviation sector's carbon footprint and to joining an international mechanism to reduce methane emissions from the oil and gas sector. In an earlier announcement, the nations pledged to draw 50 percent of North America's power from renewable energy sources by 2025.

6/27/16— BLM [announced](#) it will double its civil penalties for oil and gas operators who are found to be in violation, an increase that is required under the Federal Civil Penalties Inflation Adjustment Act Improvements Act. The new fine adjustments go into effect on July 28, 2016.

6/21/16 – EPA [released](#) a draft report, “Evaluating Urban Resilience to Climate Change: A Multi-Sector Approach,” which outlines a tool for cities based on quantitative and qualitative indicators to identify climate change-related risks in municipal sectors utilizing case studies of Washington, D.C. and Worcester, Mass.

6/17/16 – EPA [released](#) details on its proposed rule for the Clean Energy Incentive Plan that would give states early credit for certain actions to reduce emissions before the Clean Power Plan (CPP) formally takes effect. However, with SCOTUS having issued a stay of CPP, it remains unclear when and if that will occur.

6/14/16 – EPA [issued](#) a final rule prohibiting businesses from disposing of hydraulic fracturing wastewater in municipal sewage treatment plants. The rule sets a zero discharge standard, meaning that no level of pre-treated hydraulic fracturing wastewater can be sent to municipal plants.

6/9/16 – EPA [published](#) the Spring 2016 semiannual regulatory agenda containing regulations that are currently under development, completed or canceled since the last agenda. It also includes retrospective reviews of existing regulations, and reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act.

6/7/16 – EPA [unveiled](#) its first-ever guidelines for controlling contamination of drinking water in the event of a nuclear disaster. The proposed, Protective Action Guide, states that the water use should be restricted when it contains a radionuclide concentration of at least a 500 millirem projected dose in the year following an event, while a strict 100 millirem is the dose for children and women who are pregnant or nursing.

6/6/16 – The Fish and Wildlife Service (FWS) [announced](#) it will ban almost all ivory sales across state lines. However, the ban

will exempt items more than 100 years old and those containing fewer than 200 grams of ivory.

5/27/16 – The Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE) [announced](#) that hydraulic fracking in the Pacific Ocean will have no significant environmental impacts--only slight reductions in water quality and a low potential for earthquakes.

5/20/16 – EPA [awarded](#) \$55 million across 39 states for the redevelopment of brownfield contaminated sites. The grants will aid 131 cities and towns, with each site receiving between \$200,000 and \$820,000.

5/19/16 – EPA [announced](#) drinking water advisories for industrial chemicals, perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), commonly found in Teflon, other nonstick coatings, plastics and fabrics. The chemicals were phased out by eight companies in 2006, although their use contaminates drinking water in communities where the chemicals were produced or used to manufacture other products. EPA advised that findings of greater than 70 parts per trillion of either chemical should be reported and assessed by the state.

5/13/16 – The U.S. States and Nordic countries bilaterally [agreed](#) to join the Paris climate agreement, as well as limit methane emissions and protect the Arctic. The U.S. previously made bilateral agreements with Canada, China, Argentina, Cuba and others to build momentum for the Paris Agreement to go into effect before the administration leaves office at the end of the year.

5/11/16 – EPA [released](#) its first-ever report, the National Wetland Condition Assessment (NWCA) 2011 on the condition of the nation's wetlands, finding that 48 percent are in good health, 20 percent are in fair health and 32 percent are in poor health. The report showed that invasive species and physical disturbances such as removal of vegetation are the most widespread problems across the 1,179 sites sampled.

5/11/16 – EPA [sent](#) its findings on emissions from aviation to the Office of Management and Budget (OMB) for review before

a projected finalization of the rule this summer. Aviation accounted for 11 percent of U.S. transportation sector's greenhouse gas emissions and 3 percent of total U.S. emissions in 2013. EPA will use these findings for regulations under the Clean Air Act (CAA), but it is unlikely to propose specific regulations until post-election.

5/5/16 – The Department of Energy (DOE) [published](#) two sets of frequently asked questions on weatherizing rental units in the Weatherization Assistance Program (WAP). The documents consolidate previously issued WAP notices and answer specific questions from WAP grantees related to weatherization in both single family and multifamily rental units.

From Congress

6/28/16 - The Senate unanimously approved [S. 1479](#) to extend the brownfields program—EPA's cleanup program for sites where the presence of hazardous contamination prevents redevelopment or expansion—through FY 2018, maintaining flat funding of \$250 million per year. The bill would expand eligibility for grants to both nonprofits and other businesses. The legislation was sent to the House where a separate reauthorization measure, [H.R. 4463](#), is awaiting committee action.

6/24/16— In a bipartisan letter, 39 Senators [urged](#) the EPA to boost biofuel levels to the 15 billion-gallon level Congress dictated in the renewable fuel standard law. The EPA [proposed](#) a level of 14.8 billion gallons for 2017, below the RFS statute set by Congress.

6/24/16— In a letter to EPA Administrator Gina McCarthy, 112 lawmakers [said](#) the EPA should push back compliance deadlines of CPP if the carbon program for power plants is upheld by the courts. CPP requires states to develop plans to reduce carbon dioxide emissions. In February, however, the U.S. Supreme Court [granted](#) a stay of the program in a 5-4 decision until litigation surrounding it is resolved.

6/16/16 – The Senate Appropriations Committee [approved](#) 16-14 a \$32.7 billion FY 2017 spending bill for the DOI, EPA and

the Forest Service. The measure is \$125 million less than FY16 levels, and \$1.1 billion under the president's request.

6/9/16 – The House passed two resolutions opposing any tax proposal on carbon or fossil fuel emissions. [H.R. 89](#) expresses that a carbon tax would be detrimental to the U.S. economy, while [H.R. 112](#) expresses opposition to the \$10 per barrel tax on oil proposed in the administration's FY 2017 budget. The Senate [introduced](#) a similar resolution in late May.

6/8/16 – The House [passed](#) a measure to delay implementation of ozone standards in the CAA until 2025. The bill also extends the review of standards to a 10-year cycle, compared to the current five-year cycle. The administration [threatened](#) to veto the bill.

5/13/16 – The House Energy and Commerce Committee [issued](#) a letter accusing the EPA of circumventing the Supreme Court's stay on the CPP by helping states implement the program and moving forward with the Clean Energy Incentive Program. The letter asked the EPA to respond by May 27 to questions regarding the legality of their proceedings with cutting carbon pollution in states.

From the Courts

6/15/16 – The U.S. District Court for the District of Columbia, in *Sierra Club v. United States Environmental Protection Agency and Gina McCarthy*, [ruled](#) that the EPA must impose a federal air pollution implementation plan (FIP) on Texas to meet a "good neighbor" requirement to limit releases of fine particulates that cross state lines in compliance with the 1997 ambient air quality standard

5/4/16 – The Congressional Research Service [released](#) a report summarizing litigation of the *West Virginia v. U.S. EPA* case against CPP. The rule is on hold until the U.S. Court of Appeals hears arguments in September.

5/11/16 – The Department of Justice (DOJ) [dropped](#) its appeal of a ruling that vacated the lesser prairie chicken from the list of threatened species. The ruling removed the bird from the

threatened list due to the failure of FWS to follow its own rules in making the designation.

Additional News

7/1/16 – EPA and Volkswagen announced a [settlement](#) to resolve allegations that it used 'defeat devices' to cheat emissions test for more than half a million diesel cars sold in the U.S. The settlement requires the company to place \$2.7 billion into a mitigation trust to finance emission-reduction programs, and to invest an additional \$2 billion over 10 years towards improving infrastructure, access and education to support and advance zero-emission vehicles. Additionally, states are eligible to receive compensation in excess of \$600 million, while compensation for VW customers could be in excess of \$10 billion.

6/1/16 – The National Association of Clean Air Agencies (NACAA) [released](#) a guide for complying with EPA's CPP. The guide summarizes plan requirements, analyzes plan types and provides a complete model state plan for State Energy Offices and other key stakeholders in developing greenhouse gas compliance strategies.

5/9/16 - USACE halted permitting for [Gateway Pacific Terminal](#) in Washington because of the effects on the Lummi Nation tribe's treaty rights. The deep-water marine terminal would have handled up to 54 million dry metric tons per year of bulk commodities, mostly coal. However, USACE made the decision based on the effect on the Lummi Nation's fishing rights.

NCSL Resources

Registration is open for [NCSL's 2016 Legislative Summit](#) taking place in Chicago, Aug. 8-11.