Top Stories

11/23/18 – The Trump 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 “climate change is expected to cause growing losses to American infrastructure and property and impede the rate of economic growth over this century.” The report went on to state that due to increased precipitation and associated consequences, “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, 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.

11/16/18 – The president announced plans to formally nominate Andrew Wheeler to be the administrator of the Environmental Protection Agency. Wheeler has been acting administrator since early July, when EPA Administrator Scott Pruitt resigned.

11/14/18 – The Environmental Protection Agency (EPA) has released draft toxicity assessments for two nonstick chemicals, GenX and PFBS, that recently have been found in drinking water supplies across the country, concluding they both pose threats to human health. Both are part of a larger class of chemicals known as per- and polyfluoroalkyl substances (PFAS). The assessments identify the exposure levels at which a chemical can cause health problems, but do not set suggested limits for their presence in drinking water or other avenues of exposure, as the agency has done for two better known PFAS chemicals, PFOA and PFOS. In a fact sheet released Nov. 19, EPA agreed that the two chemicals are less toxic than PFOA and PFOS, but found that GenX has been linked with kidney, blood, immune system and liver problems, as well as harm to developing fetuses. The toxicity assessments for GenX and PFBS will be open for public comment for 60 days.

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 Justice Clarence Thomas.

11/13/18 – EPA announced plans to reduce nitrogen oxide emissions from large- and heavy-duty vehicles. The Cleaner Truck initiative would include a rulemaking to update the existing NOx standard, last set in 2001, as well as an effort to streamline compliance and certification requirements. The current rules set a standard of 0.2 grams per brake horsepower-hour, a measure of how much work an engine does. In 2016, California and regulators from other states requested EPA reduce that standard down by 90 percent, to just 0.02 g/bhp-hr.

11/9/18 – EPA published a memo that would, if finalized, expand the areas exempt from ambient air quality monitoring for pollutants like particulate matter and carbon monoxide. Currently, EPA policy does not require outdoor areas that are owned and controlled by emitters of such pollution, including power plants, refineries and paper mills and that are not accessible to the public to abide by air quality monitoring requirements. A 1980 policy memo stated that such areas must be separated via a physical barrier such as a wall, fence or even natural barriers such as a steep cliff. The new memo proposes that areas could, in the future, be exempted from monitoring if they rely on sufficient deterrents such as "video surveillance and monitoring, clear signage, routine security patrols, drones, and other potential future technologies."

11/8/18 – Judge Brian Morris of the U.S. District Court for Montana ordered the administration and TransCanada to stop any work on the Keystone XL pipeline because the pipeline’s approval last year violated several key environmental and administrative laws by ignoring facts about climate change. The judge noted in his ruling that “The (State) Department instead simply discarded prior factual findings related to climate change to support its course reversal.” The judge also blocked the federal government and TransCanada “from engaging in any activity in furtherance of the construction or operation of Keystone and associated facilities until the Department has completed a supplement to the 2014 [Supplemental Environmental Impact Statement] that complies with the requirements of” the National Environmental Policy Act and the Administrative Procedure Act.

11/1/18 – The Department of Interior (DOI) reported that energy royalty disbursements rose to $8.9 billion in fiscal year (FY) 2018, up $1.8 billion in FY 2017. Of these funds, DOI disbursed nearly $1.8 billion to 35 states, $1.2 billion went to a Reclamation Fund; $1 billion to Indian tribes and $893 million to the Land and Water Conservation Fund. Of the $1.8 billion to states, the top states receiving revenues were New Mexico ($634.9 million), Wyoming ($563.9 million), Colorado ($112.5
An additional $3.5 billion was deposited into the U.S. Treasury.

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."

From Congress

11/27/18 — The House passed, by voice vote, an amended version of the Senate’s Frank LoBiondo Coast Guard Authorization Act of 2018. Earlier this month, the Senate passed the act 94-6, which contained a revised version of the Vessel Incidental Discharge Act (VIDA). VIDA charges EPA with setting national vessel discharge standards for ballast water and incidental discharges, and the Coast Guard with developing the associated regulations. While the legislation does require consultation with states in developing the standards, it also pre-empts states’ authority to protect water quality within their boundaries. NCSL sent a letter up to the Hill opposing such pre-emption.

11/16/18 — The House approved, 196-180, H.R. 6784 which would require the delisting of gray wolves from the Endangered Species List in the contiguous 48 states.

From the Administration

11/18/18 — DOI scheduled an auction of oil and gas leases on 2.85 million acres in the National Petroleum Reserve in Alaska. The Dec. 12, 2018, sale will be the 14th in the NPR-A since 1999. There are currently 199 leases covering 1,384,352 acres in the NPR-A.

11/7/18 — EPA revived a rule that would make changes to the New Source Review program, and how the agency defined when newly constructed projects or major modifications to existing emissions sources are considered a single project for determining the level of permitting required. Specifically, the new rule explains that EPA’s interpretation remains that physical and/or operational changes should be combined into a single project for consideration of major NSR applicability when those changes are “substantially related.” However, a source need not combine changes based on timing alone, changes are not required to be aggregated simply because they support the plant’s overall basic purpose, and EPA would apply a policy of presuming that changes separated by three or more years are not substantially related, unless the specifics of the activities rebut this presumption. See the agency’s fact sheet for more information.

11/1/18 — EPA invited 39 projects in 16 states and D.C. to apply for Water Infrastructure Finance and Innovation Act (WIFIA) loans following its review of 62 letters of interest in response to the 2018 WIFIA Notice of Funding Availability. Of the selected projects, 12 will reduce lead or other drinking water contaminants and 37 will address aging infrastructure. Established by the Water Infrastructure Finance and Innovation Act of 2014, WIFIA is a federal loan and guarantee program that aims to accelerate investment in the nation’s water infrastructure by providing long-term, low-cost supplemental credit assistance for regionally and nationally significant projects.

11/1/18 — DOI announced that it is moving ahead with its agency-wide reorganization effort, having met with the regional facilitators on Oct. 15-16. Secretary Ryan Zinke told all facilitators that he wants all the Unified Regions to be “stood up” and operational by July 2019. The 12 new regions, which will replace 49 individual Interior bureau regional boundaries, are aimed at facilitating numerous operational efficiencies and cost savings.

11/1/19 — EPA Acting Administrator Andrew Wheeler, along with U.S. Department of Agriculture Secretary Sonny Perdue and U.S. Department of Energy Secretary Rick Perry, sent a letter to the Senate and House Committees on Appropriations. The letter describes the agencies’ work to ensure consistent federal policy on forest biomass energy and promote clear policies that encourage the treatment of forest biomass as a carbon-neutral renewable energy solution.
NCSL Resources

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