



Top Stories

4/24/18 – Environmental Protection Agency (EPA)

Administrator Scott Pruitt announced the agency would propose a [new rule](#) that would bar the agency from relying on scientific studies that do not publicly disclose all their data. It would likely lead to a drastic drop in the studies that were eligible to be cited by EPA as many of EPA's existing rules are based on studies and data that include personal health information, which are prohibited from being publicly disclosed.

4/23/18 – EPA [announced](#) the agency will, going forward, treat biomass from managed forests that is being burned for energy production at stationary sources as carbon-neutral. The action follows a [letter](#) from Pruitt to Governor Chris Sununu of New Hampshire, outlining the agency's work to advance and promote "the responsible use of forest resources."

4/20/18 – EPA [issued](#) its first-ever loan of \$134.5 million from the Water Infrastructure Finance and Innovation Act (WIFIA) program to King County, Wash., to help finance its Georgetown Wet Weather Treatment Station. Established by the Water Infrastructure Finance and Innovation Act of 2014, the WIFIA program is a federal loan and guarantee program at EPA that aims to accelerate investment in the nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects. The WIFIA program received \$63 million in funding in the Consolidated Appropriations Act, 2018 earlier this month. EPA [announced](#) a Notice of Funding Availability, soliciting letters of interest from prospective borrowers seeking credit assistance from EPA under the WIFIA program.

4/13/18 – The 4th U.S. Circuit Court of Appeals [ruled](#) that gasoline spilled from a pipeline in South Carolina that then

traveled through groundwater to reach the Savannah River, was a violation of the Clean Water Act (CWA) because the pipeline owner did not have a permit to pollute the Savannah River, a Water of the United States. The decision that a discharge of pollution into groundwater from a point source, which then travels to a body of water regulated by the CWA, without the required permit to pollute under CWA, is a significant expansion of the CWA. The ruling by the 4th Circuit follows a similar [decision](#) by the 9th U.S. Circuit Court of Appeals, which found Maui County, Hawaii, to be in violation of the CWA for injecting wastewater into underground wells that then leaked through groundwater to the Pacific Ocean without a Clean Water Act permit. These decisions come as EPA is requesting [comment](#) on the agency's previous statement regarding the CWA and whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater or other subsurface flow that has a direct hydrologic connection to the jurisdictional surface water may be subject to CWA regulation. The comment period closes May 21.

4/13/18 – President Donald Trump [told](#) reporters during a White House meeting that the administration would allow year-round sales of 15 percent ethanol blends in gasoline, more commonly known as E15. The Clean Air Act (CAA) restricts when the ethanol blends above 10 percent can be sold to exclude the summer months. A spokeswoman for EPA said the agency has been evaluating the "legal validity" of granting an E15 waiver since last summer.

4/12/18 – On April 12, Trump issued a presidential memorandum, [Promoting Domestic Manufacturing and Job Creation—Policies and Procedures Relating to Implementation of Air Quality Standards](#). The memorandum directs Pruitt to

review and make changes to CAA's National Ambient Air Quality Standards (NAAQS) and Regional Haze Programs to reduce "unnecessary barriers that are holding back manufacturing and business growth." For more information please read [NCSL's Info Alert](#).

4/10/18 – EPA announced it will [maintain](#) the existing NAAQS for nitrogen oxides. Currently, EPA has both a 1-hour standard established in 2010 at a level of 100 parts per billion (ppb) and an annual standard, originally set in 1971, at a level of 53 ppb. At present, there are no monitors with design values exceeding either the 1-hour or annual standard.

4/9/18 – The Congressional Budget Office [released](#) its latest Budget and Economic Outlook for the years 2018-2028 finding that federal deficits will top \$1 trillion by FY 2020.

4/9/18 – Twelve federal agencies—EPA, U.S. Department of the Interior (DOI), U.S. Department of Agriculture (USDA), U.S. Department of Commerce, U.S. Department of Housing and Urban Development, U.S. Department of Transportation, U.S. Department of Energy (DOE), U.S. Department of Homeland Security, U.S. Army Corps of Engineers, Federal Energy Regulatory Commission (FERC), Advisory Council on Historic Preservation, and Federal Permitting Improvement Steering Council—[signed](#) the One Federal Decision memorandum of understanding (MOU) to streamline the environmental permitting process. The MOU is intended to implement Trump's One Federal Decision policy established in [Executive Order \(E.O.\) 13807](#), and establish a process for improving the coordination and timeliness of environmental reviews of major infrastructure projects. Specifically, the memo outlines a process by which one federal agency will take the lead on permitting a specific infrastructure project, by issuing a single environmental impact statement for the entire federal government, as well as setting timetables for other agencies to act, with the goal of getting the entire process down to two years.

4/2/18 – The Department of Justice [filed](#) a civil action against the state of California to block a new state law that limits transfers of federal lands, believing it "violates the supremacy clause of the U.S. Constitution." Adopted by the Legislature in

October 2017, [Senate Bill 50](#), requires that the California State Lands Commission be given right of first refusal on any land transfer planned by the federal government. The bill also seeks to penalize (up to \$5,000) any person who knowingly files real estate records pertaining to a federal land transfer unless the California government certifies that the transfer complies with state law.

4/2/18 – EPA announced the completion of the Midterm Evaluation process for greenhouse gas (GHG) emissions standards for cars and light trucks for model years 2022-2025, and its final determination that current standards are not appropriate and should be revised. Accompanying the decision, Pruitt announced the agency would begin a notice and comment rulemaking to set more "appropriate GHG emissions standards and Corporate Average Fuel Economy (CAFE) standards." For more information read [NCSL's Info Alert](#).

3/30/18 –Pruitt [ordered](#) regional officials to send requests concerning CWA jurisdiction to headquarters instead of issuing their own decisions. Specifically, the change applies to dredged and fill material permitting, which studies how mines, dams, levees, highways, housing developments and other major projects discharge pollutants into federal waterways. Although such permitting is formally carried out by the Army Corps of Engineers, EPA retains veto authority.

From Congress

4/12/18 – The Senate confirmed Andrew Wheeler to be deputy EPA administrator by a [53-45 vote](#). Previously, Wheeler worked at the law firm Faegre Baker Daniels as a lobbyist, where his past lobbying clients included Murray Energy, Xcel Energy, Bear Head LNG and Energy Fuels Resources. Before that he served in the office of Senator Jim Inhofe (R-Okla.)

4/9/18 – Five Midwestern senators—Chuck Grassley (R-Iowa), John Thune (R-S.D.), Roy Blunt (R-Mo.), Deb Fischer (R-Neb.), and Joni Ernst (R-Iowa)—[signed](#) a letter to Trump to end the issuance of waivers to small refineries from EPA's Renewable Fuel Standard. The letter came following news that EPA [granted](#) a "hardship" waiver for Andeavor's three smallest refineries in Alaska, North Dakota and Utah, exempting it from

requiring to blend ethanol into its gasoline or having to buy Renewable Identification Numbers from blenders to demonstrate compliance with Renewable Fuel Standards (RFS.) Andeavor is one of the nation's largest oil refining companies in the nation. Further, EPA and the Department of Justice entered into a consent decree with bankrupt refiner Philadelphia Energy Solutions that would reduce the company's RFS compliance requirement.

4/5/18 – GAO [published](#) a report that recommends Congress eliminate self-bonding for coal mining operations, which allow mining corporations to promise to cover reclamation obligations under the [Surface Mining Control and Reclamation Act](#). According to GAO, self-bonds remain in eight states—Alaska, Colorado, Missouri, North Dakota, Texas, Virginia, West Virginia and Wyoming—and the practice is “riskier now than before” because of industry bankruptcies and lower coal demand.

From the Administration

4/24/18 – EPA [announced](#) the availability of grant funding to modernize the nation's diesel fleet by retrofitting or replacing vehicles with cleaner, more efficient diesel engines. EPA anticipates awarding approximately \$40 million in [Diesel Emission Reduction Program \(DERA\)](#) grant funding to eligible applicants, subject to the availability of funds.

4/19/18 – DOI [issued](#) a notice of intent to prepare an environmental impact statement for possible oil and gas leases in the Arctic National Wildlife Refuge. The review kicks off the official process in what could eventually lead to oil and gas drilling in a 1.6 million-acre section of Arctic National Wildlife Reserve.

4/18/18 – Interior Secretary Ryan Zinke [signed](#) a secretarial order to expand recreational opportunities on public lands and waterways. The order directs Interior bureaus—including the Bureau of Land Management and the Fish and Wildlife Service—to create plans within 90 days that focus on developing or expanding recreational opportunities.

4/18/18 – FERC [announced](#) it is seeking public comment regarding a potential update to its formal procedures for reviewing new natural gas pipelines applications. Specifically, the request focuses on gathering public input concerning the criteria it uses to determine whether there's a need for a project, the use of eminent domain in siting pipeline projects, evaluation of environmental impacts, and improving FERC's efficiency in its certification process.

4/12/18 – DOI [announced](#) that after reviewing more than 100,000 public comments, national parks will raise their vehicle entry fees by \$5, a significant reduction from the secretary's original proposal that would have nearly tripled peak-season fees to \$70 at some of the nation's most popular parks. Overall, more than two-thirds of the 417 park sites will remain free to enter. Revenue raised will be used to address the \$11.6 billion in deferred maintenance across the system of parks, historic and cultural sites, and monuments.

4/12/18 – EPA sent a supplemental proposal to clarify its repeal of the [Waters of the United States 2015](#) definitional rule to the White House. The agency said in a statement that the move is meant to provide additional clarity on the scope of the repeal rule.

4/11/18 – EPA [announced](#) \$25.4 million to provide small public drinking water and wastewater systems with training and technical assistance to achieve and maintain compliance with the [Safe Drinking Water Act](#), improve operational performance, and help inform private drinking water well owners about protecting their drinking water supply and improving water quality.

4/10/18 – EPA [approved](#) North Dakota's application for primary enforcement responsibility for Class VI wells located within the state. EPA will continue to directly implement the Class VI program within Indian lands. North Dakota is the first state to receive primacy for Class VI UIC wells. The Class VI Underground Injection Control program enables EPA, or primacy states, to approve wells that are used for long-term storage of carbon dioxide from coal plants and other industrial sources.

4/10/18 – The president signed an [EO](#) directing federal agencies to review agency rules and guidance on work requirements for the assistance programs they administer and submit a report to the president within 90 days on "what they can do to get Americans back to work."

4/6/18 – EPA [issued](#) a "findings of failure" for three states—Pennsylvania, California and Idaho—for failing to submit complete cleanup plans for areas out of compliance with the [2012 National Ambient Air Quality Standards for Particulate Matter](#). The states now have another two years to update their state implementation plans. If they are still falling short after that point, EPA must step in and put forward a federal implementation plan.

4/4/18 – DOI [requested](#) public comment regarding federal waters off the Atlantic Coast for potential wind power lease locations. If the agency chooses to move forward with an offshore lease, it would be the first renewable energy offshore lease for this administration.

3/30/18 – EPA released its sixth [Drinking Water Needs Survey and Assessment](#) identifying a need of \$472.6 billion in needs to maintain and improve drinking water infrastructure over the next 20 years. As directed by the Safe Drinking Water Act, EPA conducts and provides to Congress a needs survey and assessment every four years and uses the results of the survey to allocate [Drinking Water State Revolving Fund \(DWSRF\)](#) grants to the states. The DWSRF funds help states to provide low-cost financing to public and tribal water systems for infrastructure improvements necessary to protect public health and comply with drinking water regulations.

3/28/18 – The U.S. Forest Service [released](#) a draft environmental assessment weighing a potential 20-year mineral withdrawal on 30,370 acres in Montana, north of Yellowstone National Park that aims to bolster the case for a mining ban. The ban, initially [proposed](#) by the previous administration, is also supported by Zinke, a former Montana congressman.

4/6/18 – The U.S. District Court for the District of Wyoming [ruled](#) that it "makes little sense" to require the oil and gas industry to comply with the [BLM's methane venting and flaring rule](#) while the agency is simultaneously working to undo the rule, effectively staying the implementation of rule provisions and staying any action pending finalization of the revision rule. Finalized in late 2016, the [regulation](#) aims to cut flaring, venting and leakage of the potent greenhouse gas on public and tribal lands, however, the rule is currently under review by the administration.

4/2/18 – The 9th U.S. Circuit Court of Appeals [ruled](#) that dam operations on the Columbia and Snake rivers must forego hydropower production during certain times of the year in order to protect endangered salmon when they migrate to the ocean as the hydropower turbines pose a threat to the fish. While the ultimate impacts are unclear, the federal government had argued that shutting down the turbines could cause electricity prices to spike and threaten the reliability of the grid. Subsequently on April 25, the House passed [H.R. 3144](#), 225-189, which would override a recent decision by the 9th Circuit. If fully implemented, the court decision would require changes in the operation of hydroelectric dams in the Pacific Northwest to protect endangered salmon. The bill is unlikely to advance in the Senate.

From the Courts