



National Conference of State Legislatures

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NCSL Standing Committee on Environment

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From the Administration

8/14/2012: The U.S. Geological Survey (USGS) released [new estimates](#) for growth in domestic oil and natural gas reserves from known onshore fields that are considered technically recoverable using conventional production techniques.

8/14/2012: The Energy Information Administration (EIA) [reported](#) that carbon emissions declined by 2.4 percent in 2011 and were 526 million metric tons (9 percent) below the 2005 level.

8/15/2012: The U.S. Interior Department's Bureau of Safety and Environmental Enforcement (BSEE) issued a [final rule](#) implementing offshore drilling safety reforms that are intended to avoid a repeat of the Deepwater Horizon oil spill.

8/20/2012: The U.S. Environmental Protection Agency (EPA) has issued a [request for comment](#) on requests it has received to waive the federal mandate for ethanol production or to reduce it in light of the current drought conditions. To date the Agency has received a bipartisan [letter](#) from twenty-six senators, a [letter](#) sent by 156 members of the House and letters from the governors of [Arkansas](#), [North Carolina](#), [Georgia](#), [New Mexico](#), [Texas](#), [Virginia](#) and a joint letter from the governors of [Delaware and Maryland](#). The comment period opened when [EPA published the notice in the Federal Register](#) and closes on September 26.

8/24/2012: [USDA Secretary Tom Vilsack announced](#) \$26 million in [conservation innovation grants](#) awarded by USDA's Natural Resources Conservation Service (NRCS). Twelve of the fifty-nine grants awarded will provide \$7.3 million for developing [water quality trading markets](#) nationwide to demonstrate how farmers and ranchers can help municipalities, utilities, and others overcome high pollution control costs. More information on the conservation innovation grants and water quality trading grants is available at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/cig>

08/24/2012: EPA Administrator Lisa Jackson signed a proposed rule intended to exempt logging roads from Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) permitting. The proposal from EPA is designed to address issues raised by a 2010 ruling by the U.S. Court of Appeals for the Ninth Circuit that required a new layer of permitting for forest roads. The court ruled in 2010 that runoff from logging roads when channeled requires an NPDES permit. An appeal of that is pending before the U.S. Supreme Court (*Decker v. Northwest Environmental Defense Center*, U.S., No. 11-338, cert. granted 6/25/12). NCSL has signed on to a State and Local Legal Center (SLLC) [amicus brief](#) on the case, for more information see related article under "Resources from NCSL".

The agency is proposing to specify, under authority of CWA Section 402(p), that stormwater runoff from logging roads is not a discharge "associated with industrial activity" and does not need a discharge permit. A thirty day comment period will open on the proposed rule once it has been formally published in the *Federal Register*.

8/28/2012: The [White House](#) announced that it had finalized new standards that will increase fuel economy to the equivalent of 54.5 mpg for cars and light-duty trucks by

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the 2025 model year. This rule follows on earlier action by the administration that covered model years 2011-2016 which raised average fuel efficiency by 2016 to the equivalent of 35.5mpg. The [final rule](#) will become effective sixty days after it is published in the *Federal Register* by the issuing agencies, the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA).

8/30/2012: President Obama signed an [Executive Order](#) calling for greater use of combined heat and power by setting a goal of adding 40 gigawatts of new capacity by 2020, a 50 percent increase from today. Combined heat and power is a process that takes the heat from a boiler or an industrial process and uses it to keep buildings warm or generate electricity.

8/31/2012: The Department of Agriculture (USDA) announced that it has now designated 1,820 counties, 38 states, as natural disaster areas due to drought. For a complete list of USDA actions to help offset the drought and for a listing of all affected counties visit click [here](#).

9/4/2012: EPA announced that it has agreed to finalize new limits on particle air pollution that comes from power plants, boilers and car tailpipes by December 14. Earlier this year, a federal court judge ruled that EPA's proposed schedule to issue the standards in August 2013 was too slow.

9/6/2012: The Nuclear Regulatory Commission (NRC) [directed](#) the staff to develop an environmental impact statement (EIS) and a revised waste confidence decision and rule on the temporary storage of spent nuclear fuel. The [memorandum](#) was issued in response to a June 8 ruling of the U.S. Court of Appeals for the District of Columbia Circuit that found deficiencies in the NRC's 2010 waste confidence revision. The EIS and a revised rule are to be completed within 24 months.

112th Congress – On the Horizon

Prior to adjourning for their August recess, congressional leaders announced that they had reached an agreement on a FY 2013 continuing resolution (CR). The CR will set discretionary spending for the first six months of FY 2013, which begins on October 1, 2012, at \$1.047 trillion, which was the cap agreed to as part of last year's debt limit agreement (Budget Control Act of 2011). Congress is expected to approve the bill in early September. Additionally, on August 7, the President signed the *Sequestration Transparency Act of 2012* ([H.R. 5872](#)) into law. The bill requires that OMB, within 30 days, issue specifics regarding how the coming "sequester," or automatic round of \$109 billion in budget cuts, scheduled to take effect on January 2, 2013, will affect federal spending levels.

From the Courts

8/21/2012: The [U.S. Court of Appeals for the District of Columbia Circuit ruled](#) 2-1 to vacate the EPA's Cross-State Air Pollution Rule, also known as the Transport rule. The three-judge panel ruled that the EPA exceeded its statutory authority under the Clean Air Act in two different ways and the cross-state air pollution rule was remanded back to the agency for rewriting. While EPA works to fix the rule the Clean Air Interstate Rule (CAIR) enacted by the George W. Bush administration will remain in effect. That rule was remanded by the Court without vacatur, leaving CAIR in place "until it is replaced by a rule consistent with our opinion." *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008)

Resources from NCSL

Material from the NCSL 2012 Legislative Summit is now available including a compilation of [online resources](#) as well as all adopted policy directives and resolutions including those under the jurisdiction of the [Environment Committee](#).

NCSL has signed on to two State and Local Legal Center (SLLC) amicus briefs addressing a pair of cases concerning stormwater runoff that will be argued during the U.S. Supreme Court's next term. [One case](#) (*Decker v. Northwest Environmental Defense Center*) will determine whether or not stormwater runoff flowing from logging roads into ditches, culverts, and channels requires a National Pollutant Discharge Elimination System (NPDES) permit. [A second case](#) (*Los Angeles County Flood Control District v. Natural Resources Defense Council*) will resolve whether storm-sewer systems are parts of single bodies of water, who the regulators are, and whether states and localities violate discharge permits when pollutants from storm sewers flow into rivers and streams. Both cases are classic federalism issues involving the Clean Water Act. For more information contact [Lisa Soronen](#), Executive Director, State & Local Legal Center.