



Top Stories

4/28/17 - The Environmental Protection Agency (EPA) began the process of updating its position in several courts to reflect the views of the new administration. The agency requested the Courts hold pending litigation on numerous rules in ‘abeyance’, as the agency begins the process of reviewing, and potentially revising, rulemakings of the previous Administration. Over the past few weeks, several courts have responded to EPA’s filings involving the following regulations: Clean Power Plan (CPP) for [existing](#), and [new, modified, and reconstructed](#) stationary sources; [Waters of the United States](#) (WOTUS) definitional final rule; [Effluent Limitations Guidelines](#) for steam electric power; [Mercury and Air Toxics Standards](#) for power plants; [National Ambient Air Quality Standards](#) for ozone; and [greenhouse gas emissions and fuel efficiency standards](#) for medium- and heavy duty engines. The courts have granted EPA’s requests in all cases except for WOTUS, which the Supreme Court [denied](#), and GHG emissions and fuel efficiency standards, to which the court has not yet responded. For more information on EPA’s requests to stay litigation, visit [NCSL’s Blog](#).

4/24/17 – The Senate confirmed U.S. Department of Agriculture (USDA) Secretary Sonny Perdue, [87-11](#). Perdue served as the Governor of Georgia from 2003 to 2011.

4/24/17 – A White House spokesperson announced that the USDA will attempt to follow the congressionally mandated schedule to create a plan for the mandatory disclosure of genetically modified ingredients in food by July 2018, but companies will not be expected to comply with labeling requirements by that time.

4/18/17 – The Department of Energy (DOE) [released](#) the key findings, proposed actions, and recommendations from “Liberty

Eclipse,” a multi-state cyber-energy emergency exercise co-hosted by DOE and the National Association of State Energy Officials in December 2016. The report indicated that DOE “should identify opportunities to best align and communicate coordination procedures with states and industry for cyber incidents in the energy sector,” and urges the agency to help state regulators to develop new ways of determining what kind of cybersecurity expenses, utilities can pass onto their consumers.

4/14/17 – DOE Secretary Rick Perry [issued](#) a memorandum, ordering a 60-day review of the electric grid to assess whether federal policies have hurt the electric grid’s supply of baseload power, or the reliable electricity supply generated by large-scale power plants generally fueled by coal, natural gas or nuclear source

4/7/17 – The White House [issued](#) additional guidance to help federal agencies implement the [president’s January Executive Order \(EO\)](#), requiring agencies to identify two rules to eliminate for every new one promulgated, to achieve zero additional cost for 2017. The guidance applies to FY 2017 and beyond, and supplements previously issued interim guidance.

4/3/17 – The Supreme Court has denied a request to hold “in abeyance” litigation over whether a federal district court or a federal court of appeals has jurisdiction to rule whether the current 2015 Waters of the United States (WOTUS) definitional [rule](#) violates the Clean Water Act. The request came following an [EO](#) directing the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) to review, and potentially rescind, WOTUS. Additionally, EPA held a federalism consultation on April 19, which NCSL attended,

regarding WOTUS. The consultation provided an overview of potential changes under consideration for WOTUS, and indicated that the agency would first rescind the current definition, and recodify the 1986 definition and subsequent guidance, and then develop a new rule consistent with the EO. For more information on the denial, see [NCSL's Blog](#), and for information on the EO, see [NCSL's Info Alert](#).

4/5/17 – The U.S. Energy Information Administration (EIA) [found](#) that while primary energy consumption in the United States in 2016 totaled 97.4 quadrillion British thermal units (Btu), a slight increase from the 2015 level. Coal use in the U.S. dropped 9 percent last year. Coal consumption fell to 730 million short tons in 2016, marking the third consecutive year of declining coal consumption.

3/30/17 – EPA Administrator Scott Pruitt [sent](#) letters to state governors advising them that they are “not required nor expected to work towards meeting the compliance dates set in the Clean Power Plan (CPP),” and “that states have no obligation to spend resources to comply with a rule that has been stayed,” by the Supreme Court. For more information on the CPP, please visit [NCSL's website](#).

3/28/17 – The administration [presented](#) a detailed list of \$18 billion in proposed reductions for FY 2017 to House and Senate appropriations committees. Proposed FY 2017 reductions include \$51 million for the Payments In Lieu of Taxes (PILT) program, eliminates state grants for the Abandoned Mine Reclamation Fund, cuts Categorical Grants by \$115 million, and reduces the Superfund remedial program by \$30 million.

From Congress

3/30/17 – The Senate Energy and Natural Resources Committee [passed](#) the “Energy Savings and Industrial Competitiveness Act.” The bill, sponsored by Senators Rob Portman (R-Ohio), and Jeanne Shaheen (D-N.H.), would overhaul energy efficiency policy across federal agencies, direct DOE to support national model building codes, and would establish worker training programs. The bill is similar to legislation that failed to gain congressional approval in 2016.

From the Administration

4/19/17 – The Food and Drug Administration (FDA) [signed](#) an agreement with the Australian Department of Agriculture and Water Resources recognizing each other's food safety systems as comparable to each other. This is the third time the FDA has recognized a foreign food safety system as comparable, the first being New Zealand in 2012, and Canada in 2016. The arrangement allows inspections to be streamlined and establishes a framework for regulatory cooperation between the two countries, to avoid duplicative food safety efforts.

4/18/17 – The Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) [announced](#) that it is increasing penalties for improperly transporting hazardous materials to account for inflation. PHMSA can now seek a maximum of \$182,877 for violations that result in death, serious illness or injury, or severe destruction of property, and can charge a maximum of \$78,376 for knowing of less serious violations. Last year 18,240 incidents of hazmat accidents were reported, the highest number since 2007.

4/11/17 – USDA pushed back the effective date of its Grain Inspection, Packers and Stockyards Administration [interim final rule](#) on competitive injury for the second time for 180 days to October 19. The previous administration rule is aimed at increasing legal protections for farmers who raise livestock under contract for meat packers. The regulation was initially scheduled to take effect on Feb. 7, but the USDA earlier this year pushed the effective date back until April 22.

4/6/17 – USDA [forecasts](#) farmers will sow 89.482 million acres of soybeans this year, up 7.2 percent from the record 83.433 million acres in 2016, while corn acreage is projected to fall to 89.996 million acres from 94.004 million acres last year.

4/4/17 – USDA [cleared](#) the Farm Service Agency to allow for the movement of cattle to Conservation Reserve Program Lands, where grazing is normally prohibited, in order to help ranchers in Kansas, Oklahoma, and Texas maintain their herds after losing significant grazing acreage to wildfires. Prior to

being allowed to use those lands, though, farmers will need to update conservation plans, and instill extra precautions to avoid habitat of the Lesser Prairie Chicken.

4/3/17 – The president [announced](#) his intent to nominate Dan Brouillette to serve as the Deputy Secretary of DOE. Brouillette is a former state energy regulator, having served as a member of the Louisiana State Mineral and Energy Board from 2013 to 2016.

4/3/17 – DOI [announced](#) a proposal to repeal the [2017 valuation rule](#) for coal, oil, and natural gas on federal lands in its entirety, keeping with the administration's goals of reducing regulation and controlling regulatory costs. The rule was aimed at putting an end to "self-dealing." Additionally, the department [issued](#) an Advanced Notice of Proposed Rulemaking (ANPRM) seeking comment on whether revisions are needed to pre-existing valuation regulations, which will now be maintained.

3/31/17 – The Office of the U.S. Trade Representative [released](#) its 32nd annual National Trade Estimate Report for 2017. The report notes that tariffs, import bans, and approval processes restricting access for U.S. agricultural products to foreign market are among the most notable trade barriers. The report also details significant foreign barriers to U.S. exports among dozens of major trading partners.

3/29/17 – EPA [denied](#) a petition to ban agricultural use of chlorpyrifos. The agency announced its intent to address the questions raised in the petition during a review of the pesticide by 2022, a reversal from a 2016 proposal from EPA which called for revoking the pesticide's permitted tolerances, the amount of residue that can be found on crops of produce, which would have banned the pesticide's agricultural usage. The review will consider the potential neurodevelopmental toxicity in children.

3/24/17 – EPA and the American Farm Bureau Federation, and the National Pork Producers Council [reached an agreement](#) to release the city, county and zip codes, of farms in 37 states referenced in 2012 FOIA requests, regarding animal feeding operations, along with information on the status of Clean Water Act permitting for waste discharges.

Courts

4/18/17 – The U.S. Court of Appeals for the D.C. Circuit [upheld](#) the Federal Energy Regulatory Commission's (FERC) decision to force local New England utilities to compete with developers for major grid projects, and to block states from taking more than an advisory role over transmission planning. The court also rejected claims by transmission-owning utilities in the region that FERC had failed to provide enough evidence to back its order requiring local utilities to create a competitive bidding process for new regional grid projects.

4/11/17 – The U.S. Court of Appeals for the D.C. Circuit [found](#) that EPA can't exempt large livestock farms from reporting emissions from animal waste, vacating a rule that was finalized by the most recent Bush administration. The decision was based on comments from local air pollution officials who argued that emissions reports from concentrated animal feeding operations (CAFO) could be used to better respond to odor and nuisance complaints, along with other potential public health protections.