



## Top Stories

**5/23/17**—President Donald Trump [released](#) his FY 2018 budget proposal which recommends reducing nondefense discretionary funding by \$54 billion, while providing a similar increase to the Department of Defense (DoD). The Environmental Protection Agency's (EPA) discretionary budget saw a significant reduction from \$8.2 billion in FY 2017 to \$5.7 billion in FY 2018. The Department of Energy (DOE) also saw a reduction from \$31.18 billion in FY 2017 to \$28 billion in FY 2018. The U.S. Department of Agriculture (USDA) was proposed to be reduced to \$137 billion in FY 2018, from \$153.4 billion in FY 2017, and the Department of Interior (DOI) is also proposed to be reduced to \$11.7 billion for FY 2018, 11 percent less than FY 2017. The budget proposes to reduce discretionary funding for the Department of Transportation (DOT) from \$19.3 billion in FY 2017 to \$16.2 billion for FY 2018. The U.S. Army Corps of Engineers' (USACE) discretionary funding is proposed to be reduced to \$5 billion in FY 2018, from \$6 billion in FY 2017. For more information on the president's budget, see NCSL's [Info Alert](#).

**5/23/17**—The Department of Justice and EPA [sued](#) Fiat Chrysler, contending the automaker sold almost 104,000 diesel vehicles equipped with software designed to cheat on emissions testing. If convicted, Fiat Chrysler faces fines of \$37,500 to \$45,268 per vehicle sold, along with further penalties for each undisclosed software device and for reporting violations, which could add up to billions of dollars. The Fiat allegations come after Volkswagen settled its own emissions cheating scandal for a record \$4.3 billion. For more information on the Volkswagen settlement, see NCSL's [Info Alert](#).

**5/17/17**—Representative Mike Simpson (R-Idaho), Chairman of the House Appropriations Subcommittee on Energy and Water, [commented](#) on the FY 2018 budget, noting that the “best thing [Congress] might be able to do for the agencies and their funding is actually to do a CR for the full year.”

**5/11/17**—DOI [announced](#) that it is conducting a review of certain national monuments designated or expanded since 1996 under the Antiquities Act of 1996 in order to implement [Executive Order \(EO\) 13792](#), Review of Designations Under the Antiquities Act. The department will use the review to determine whether each designation or expansion conforms to the policy in the EO, and to formulate recommendations for presidential actions, legislative proposals, or other appropriate actions to carry out that policy. The notice identifies twenty-seven national monuments under review, and invites comments to inform the review by July 10, 2017. For more information on presidential actions, see NCSL's [Info Alert](#).

**5/10/17**— The Senate failed to pass [H.J.Res 36](#), disapproving of the Bureau of Land Management's (BLM) methane venting and flaring [rule](#). The rule was aimed at limiting emissions of methane from the oil and gas sector, requiring producers operating on public or tribal lands, to reduce the amount of natural gas vented or flared from wells by capture. DOI is likely to use the Administrative Procedures Act to promulgate a revised or new rule.

**5/9/17**—EPA [signed](#) a proposed federal rule to approve North Dakota's application for regulatory primacy over Class VI injection wells, which are used for geological sequestration and long-term storage of CO<sub>2</sub>.

**5/8/17**—EPA Administrator Scott Pruitt [recused](#) himself from a dozen cases he was involved in against the agency when he previously served as Oklahoma Attorney General, including litigation surrounding the Clean Power Plan, the Clean Water Rule (WOTUS), EPA’s methane regulations for new oil and gas sources, the 2015 ozone standard, the agency’s cost analysis of mercury standards for power plants, and standards governing emissions released during industrial equipment breakdowns.

**5/5/17**—DOI [announced](#) that it is formally reviewing the “charter and charge” of more than 200 advisory panels that assist federal agencies managing public lands. Notably, BLM told members of its resource advisory councils to postpone scheduled meetings through at least September. Additionally, EPA [decided](#) to replace half of the members on one of its key scientific review boards, the Board of Scientific Counselors (BOSC).

**5/2/17**—In remarks at the U.S. Chamber of Commerce, Chairman and CEO Andrew Liveris of Dow Chemical, who heads the president’s [Manufacturing Jobs Initiative council](#) [announced](#) that the council is looking at “over 130 regulations,” from across the federal government for possible reform or elimination.

**5/2/17**—EPA [sent](#) a proposal to repeal the Clean Water Act’s definition ‘Waters of the U.S.’ (WOTUS) rule to the Office of Management and Budget’s Office of Information and Regulatory Affairs—the first step in a two-step process to repeal and replace WOTUS. The proposed rule would rescind the 2015 rule and formally put back in place the 1986 guidance. EPA has indicated it plans to move swiftly to repeal and replace the Obama administration rule, with comments from state and local officials on the issue due to EPA June 19.

**4/28/17**—President Donald Trump [nominated](#) David Bernhardt to be Deputy Secretary of the interior. Bernhardt served as the Department’s Solicitor for eight years under former President George W. Bush, and recently he served on Virginia’s Board of Game and Inland Fisheries.

## From Congress

**5/24/17**—The House passed the [Reducing Regulatory Burdens Act of 2017, 256-165](#), to exempt pesticide applicators from Clean Water Act (CWA) permitting requirements. Proponents say CWA permitting requirements are duplicative and burdensome as pesticides must also be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which opponents say the requirements are not duplicative since FIFRA does not limit the use of pesticides in waterways that are already polluted with pesticides.

**5/17/17**—The Senate Homeland Security and Governmental Affairs Committee approved five bills that would alter how agencies issue regulations—the ["Regulatory Accountability Act,"](#) ["Regulations from the Executive in Need of Scrutiny \(REINS\) Act,"](#) the ["Midnight Rules Relief Act,"](#) the ["Small Business Regulatory Flexibility Improvements Act"](#) and the ["Early Participation in Regulations Act."](#)

**5/17/17**—A bipartisan group of 48 Senators sent a letter to Chairman Lisa Murkowski and Ranking Member Tom Udall of the Senate Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies, urging strong funding for the Land and Water Conservation Fund as negotiations begin for Fiscal Year 2018.

**5/15/17**—More than 100 House members, led by Rep. Don Beyer (D-Va.), [sent](#) a letter to DOI Secretary Ryan Zinke urging him not to reopen the Atlantic and Pacific oceans to new oil and gas drilling leases, stating they “do not believe that new oil and gas exploration or production activity in the Atlantic and Pacific Outer Continental Shelf is compatible with the sustainable coastal economies on which so many of [their] constituents and communities depend.”

**4/28/17**—Representative Kevin Cramer (R-N.D.) and eight of his fellow Republican colleagues sent a [letter](#) to the president setting conditions for remaining in the Paris Agreement. The letter called for adjusting the U.S. climate pledge to declare that the country will not pursue emissions-cutting policies that damage the economy and for cutting off payments to the green

climate fund in exchange for remaining in the Agreement. For more information on the Paris Agreement, please see [NCSL's Blog](#).

**4/27/17**—Twenty-one members of the Climate Solutions Caucus [sent](#) a bipartisan letter to the White House, urging the president to “maintain [the United States’] commitment to the Paris Agreement,” in order to keep the seat at the table “in global discussions of how to address the threats posed by climate change.”

**4/26/17**—The [Regulatory Accountability Act](#) was introduced in the Senate with bipartisan support. It would amend the 1946 Administrative Procedure Act by requiring federal agencies to conduct cost-benefit analyses. The bill would also trigger an automatic review process for major regulations, allow hearings on significant federal actions, and require agencies to inform the public in advance before they start work on a new rule. Its companion, [H.R.5](#), was previously passed 238-183, although the language differs substantially from the Senate version.

## From the Administration

**5/26/17**—EPA [proposed](#) to suspend compliance dates for limiting toxic discharges from coal-fired power plants. Under the final 2015 rule, compliance requirements for those aspects would begin Nov. 1, 2018. The proposal would postpone those requirements “until EPA promulgates a final rule specifying compliance dates.”

**5/23/17**—EPA [announced](#) a 90-day stay for the August 2016 [New Source Performance Standards and Emissions Guidelines](#) for municipal solid waste landfills. This stay will allow EPA to reconsider certain aspects of the new source standards and emission guidelines for existing landfills.

**5/23/17**—Administrator Scott Pruitt [announced](#) the formation of a task force for the agency’s Superfund program, tasking it with delivering recommendations within 30 days on how to improve the program’s operation and efficiency. The formation follows the administrator’s announcement [prioritizing](#) Superfund cleanup and streamlining the approval process for sites with remedies estimated to cost \$50 million or more. The revision to

EPA’s delegation of authority will also ensure decision-making comes straight from the administrator.

**5/18/17**—The D.C. Circuit Court of Appeals granted an indefinite pause in lawsuits challenging EPA’s methane emissions rule for future oil and gas sources. Last month the agency asked for the case to be paused while it reviews the regulation. The Court instructed EPA to file status updates regarding its regulatory review every 60 days.

**5/18/17**—EPA’s Inspector General [released](#) a report on management challenges, which stated the agency’s need to increase oversight of states’ environmental work, better analyze workload tasks and prepare for cyber threats.

**5/15/17**—The administration [asked](#) the U.S. Court of Appeals for the District of Columbia Circuit to indefinitely suspend lawsuits over the Clean Power Plan rather than send litigation back to the EPA. Suspending litigation would maintain the status quo, including the Supreme Court’s February 2016 stay of the rule.

**5/12/17**—EPA [entered](#) into a settlement agreement with the Pebble Limited Partnership relating to EPA’s prior work in the Bristol Bay watershed in Alaska, providing the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers. The previous administration proposed restrictions that would have denied the developer a permit before they applied as opponents to the mine feared its pollution would devastate the world’s largest salmon fishery.

**5/10/17**—The 9th Circuit Court of Appeals granted EPA’s request to postpone arguments in a case over EPA’s 2013 approval of a Clean Air Act waiver allowing California to set stricter emissions limits for diesel engines. The order directs EPA to file updates on its review of the waiver every 90 days, and says arguments will be rescheduled “if and when appropriate.” Arguments had been slated for May 18.

**5/10/17**—In accordance with [Secretarial Order 3350](#), which implements Trump’s America-First Offshore Energy Strategy, DOI [announced](#) its plans to move forward to resume its

evaluation of applications from six companies seeking permits to conduct geological and geophysical (G&G) activities in the Atlantic Ocean in order to resume their evaluation, upon the grant of the remand by the Interior Board of Land Appeals (IBLA).

**5/9/17**—EPA Administrator Pruitt, and acting Assistant Secretary for the Army Douglas Lamont, [sent](#) letters to Governors asking for their “input and wisdom” as the agencies begin the process of rescinding and rewriting the definitional “Waters of the United States” [rule](#). Comments are due on June 19.

**5/2/17** - The National Interagency Fire Center [released](#) its 2017 fire season prediction report.

**5/1/17**—EPA Administrator Pruitt [sent](#) a letter informing states that EPA is working on guidance for implementing state permitting programs that allow flexibility in individual permits to manage the safe disposal of coal combustion residuals, known as CCR or “coal ash.” EPA expects that its new guidance will allow for the safe disposal and continued beneficial use of coal ash, while enabling states to decide what works best for their environment. Through the Water Infrastructure Improvements for the Nation Act (WIIN Act), Congress provided authority for states to operate permit programs, as long as the EPA determines that the state’s requirements are at least as protective as the federal standards. For more information on the WIIN Act, see NCSL’s [Info Alert](#).

**5/1/17**— U.S. District Judge Vince Chhabria for the Northern District of California signed a consent decree approving a settlement that sets firm deadlines for EPA to complete its latest reviews of air quality standards for nitrogen dioxide and sulfur dioxide. Under the settlement, EPA officials must proceed with proposed rulemaking for the primary nitrogen dioxide standards by this July, followed by a final rule in April 2018.

**5/1/17**—DOI Secretary Zinke [signed](#) a secretarial order directing the Bureau of Ocean Energy Management to start a review of the agency’s five-year plan for offering oil and gas leases in federally controlled waters. The order aims to expand offshore oil and gas exploration and production in the Outer

Continental Shelf (OCS) through a review of the five-year leasing program and reconsideration of certain regulations pertaining to offshore energy potential.

**4/28/17**—EPA [announced](#) its plans to revamp the agency’s website to match new direction under the president and Pruitt. Changes will ensure that the public can use the website to understand the agency’s current efforts, and comply with agency ethics and legal guidance.

**4/27/17**—DOI Secretary Zinke, in coordination with the National Park Service, [announced](#) \$26.9 million in historic preservation grants to every U.S. state, the District of Columbia, the U.S. territories, and partnering nations, in addition to \$5.7 million in grants to more than 160 tribes for cultural and heritage preservation projects on their tribal lands.

## Other

**4/25/17**—The 10<sup>th</sup> Circuit Court of Appeals [vacated](#) a decision by the U.S. District Court for the District of New Mexico to issue a preliminary injunction against the federal government, barring the Fish and Wildlife service from releasing Mexican gray wolves onto federal lands in New Mexico without a state permit - wolves are now allowed to be released. Eighteen states had filed an amicus brief in support of New Mexico.

## NCSL Resources

Registration is open for [NCSL’s 2017 Legislative Summit](#) taking place in Boston, Aug. 8-9.