

# NCSL January Energy & Agriculture Update

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## Special Update: Priorities for a New Congress

On Jan. 6, members of the 114th session of Congress gaveled in to start a new session. With the most recent election, party control of the U.S. Senate switched from Democrat to Republican, giving Republicans control of both chambers of Congress. NCSL staff has highlighted a few areas in the energy and agriculture realm that will likely be on the agenda of the 114th Congress.

- **Keystone XL Pipeline:** On Jan. 9, the U.S. House passed a bill approving the pipeline. The U.S. Senate held a hearing on its own Keystone approval bill on Jan. 7, and many members have announced they will be debating the bill for the next few weeks. The President announced on Jan. 6 that he would veto any such bill. This has become a top priority for Republicans in both chambers and certain Democrats as well.
- **The Environmental Protection Agency (EPA) Regulations:** Rules limiting carbon dioxide emissions from new, existing and modified power plants are set to be finalized this year. Congress will likely act on legislation to either limit or halt such rules. Congress will also likely debate in some capacity other EPA regulations, including the new ozone standards and regulations to define the definition of which waters in the United States are covered under the Clean Water Act, among others.
- **Exporting Liquefied Natural Gas (LNG):** There has been wide interest on both sides of the aisle to explore lifting a ban on exporting LNG. Recently, certain companies have received approvals to export LNG on a case-by-case basis; it is likely Congress will take up the issue to facilitate a faster, less-burdensome permitting process.
- **Food Safety:** Certain regulatory actions related to finalizing parts of the Food Safety Modernization Act (FSMA) will be on the minds of a number of congressional members, particularly those with food processing or agricultural facilities in their districts.

## Top Stories

**1/7/2014**—The Environmental Protection Agency (EPA) [announced](#) it will delay finalizing the clean power plan—regulations on carbon dioxide emissions from existing power plants—until mid-summer 2015. The agency will also finalize standards for new and modified power plants at the same time, as part of a “suite of regulations.” Along with the delayed finalization notice, EPA announced it will develop a federal implementation model for the regulations that states can look to as they finalize their implementation plans. For more details see [NCSL’s Info Alert](#).

**12/19/2014**—The EPA issued its final regulations for disposing coal combustion residuals, the by-product of burning coal by

electric utilities. The regulations would designate coal ash as a non-hazardous substance, and power plants would have to meet certain requirements for landfills and disposal ponds, including monitoring leaks and inspecting impoundment sites regularly. See [NCSL’s Info Alert](#) for more details.

**12/13/2014**—Congress passed the Consolidated and Further Continuing Appropriations Act of 2015 (H.R. 83), which funds a majority of the federal government for the remainder of the fiscal year (until the end of September 2015). The last-minute agreement passed the House and Senate by bipartisan votes of 219-206 and 56-40, respectively, and the President signed it into law on Dec. 16. Overall, the bill provides \$10.2 billion for energy programs within the Department of Energy (DOE), an

increase of \$22 million above fiscal year 2014. The bill provides \$20.6 billion for the U.S. Department of Agriculture (USDA), Food and Drug Administration (FDA) and related agencies. The bill also contains \$372 million for Payments in Lieu of Taxes (PILT) that, when combined with the \$70 million included in the 2015 National Defense Authorization Act, would provide full funding for the program for FY 2015 (\$442 million). [See NCSL's budget overview for more details on funds for state-federal programs.](#)

**12/12/2014**—USDA Secretary Tom Vilsack [announced](#) that greater insurance protection for crop producers is now available from the Noninsured Crop Disaster Assistance Program. The program provides coverage for crops that traditionally have been ineligible for federal crop insurance. The new options, created by the 2014 Farm Bill, provide greater coverage for losses when natural disasters affect specialty crops such as vegetables and fruits. Producers can now choose higher levels of coverage—up to 65 percent of their expected production at 100 percent of the average market price.

## From the Administration

**1/7/2015**—The White House [issued a veto](#) threat for H.R. 3, a bill introduced in the U.S. House of Representatives that would approve the Keystone XL pipeline. The administration believes the bill would “circumvent longstanding and proven processes for determining whether cross-border pipelines serve the national interest.” The House passed the bill on Jan. 9. The U.S. Senate is working on a similar bill that was marked up by the Senate Energy and Natural Resources Committee on Jan. 8.

**1/5/2015**—Colette Honorable officially began her stint as commissioner of the Federal Energy Regulatory Commission (FERC), having been [confirmed](#) by the Senate on Dec. 17, 2014. Commissioner Honorable was previously chairman of the Arkansas Public Utility Commission and president of the National Association of Rural Utility Commissioners.

**12/19/2015**—The President signed into law the [National Defense Authorization Act](#), which keeps the Department of

Defense operating for fiscal year 2015. Language in the bill extends a Bureau of Land Management pilot program that expedites the application process for oil and gas permits. The bill also removes the Corporate Average Fuel Economy (CAFÉ) credit cap for natural gas vehicles and allows non-federal hydroelectric development on 11 federally controlled projects in the West.

**12/19/2014**—The U.S. Department of Commerce [announced](#) that it finalized agreements with the government of Mexico and Mexican sugar exporters to suspend antidumping (AD) and countervailing duty (CVD) investigations on imports of sugar. Commerce initiated the investigations in April 2014 in response to U.S. industry petitions for relief from subsidized imports of sugar from Mexico.

**12/11/2014**—Michael M. Landa, the director of the Center for Food Safety and Applied Nutrition at FDA, [testified](#) at a House Energy and Commerce Committee hearing, noting that that foods made with genetically modified ingredients are just as safe as natural foods. “We are confident that genetically engineered foods in the U.S. marketplace today are as safe as their conventional counterparts,” he said.

## From the 113<sup>th</sup> Congress

**12/3/2014**—Members of Congress from both houses—including current Senate Majority Leader Mitch McConnell (R-Ky.) and Senate Minority Leader Harry Reid (D-Nev.)—met with a number of notable chefs to discuss the issue of GMO labeling, and specifically the chefs’ support for HR 1699 and S. 809, which would require labeling foods that contain GMOs.

**12/5/2014**—Current House Agriculture Committee Chairman Michael Conaway, (R-Texas, [announced a reorganization of the subcommittee structure](#) in the 114th Congress. There will now be six subcommittees compared with the previous five. Most notably, the issue of commodity exchanges and specialty crops was taken out of the General Farm Commodities and Risk Management Subcommittee and given its own subcommittee devoted to commodity exchanges, energy and credit. He has also established a subcommittee devoted to

nutrition issues as a single subject, while merging livestock and foreign agriculture into one subcommittee.

## From the Department of Energy (DOE)

**12/31/2014**—DOE finalized two new energy efficiency rules on [fluorescent lamps](#) and [automatic commercial ice makers](#). The new standards for the lamps are projected to save \$15 billion through 2030 and cut 90 million metric tons of carbon dioxide (CO<sub>2</sub>) pollution, while the rules for the ice makers are projected to save \$600 million through 2030 and cut 4 million metric tons of CO<sub>2</sub>.

**12/6/2014**—The state of New Mexico [fined](#) DOE \$54 million for various state hazardous-waste permit violations related to the recent leak and fire at the Waste Isolation Pilot Plant. New Mexico's Environment Department found a total of 37 violations related to DOE's facilities in the state. The state said if DOE demonstrates "future compliance" assuring safe operations, it would reduce the penalties.

**12/10/2014**—The Loan Programs Office (LPO) [announced](#) it is making \$12.5 billion in loan guarantees available for Advanced Nuclear Energy Projects programs across the country. DOE noted it is particularly interested in advanced nuclear reactors, small modular reactors, up-rates and upgrades at existing facilities, and front-end nuclear projects. Part one in the submission process is due by March 18, 2015.

**12/1/2014**—DOE released a [report](#) on Strategic Petroleum Reserve (SPR) drawdowns and how they may be affected by domestic production and increased imports of Canadian crude. DOE analyzed a test sale of 5 million barrels of crude oil from SPR sites in Texas and Louisiana to conduct its research. The final report found that there are significant issues with pipeline capacity, storage and U.S. vessels that could impede any future SPR drawdowns.

## From the United States Department of Agriculture (USDA)

**12/12/2014**—USDA [forecast](#) that net farm income will be \$97.3 billion in 2014, down nearly 25 percent from 2013's estimate of \$129 billion. The 2014 forecast would be the lowest since 2010, but would remain \$12.3 billion above the previous 10-year average (\$85 billion).

**12/11/2014**—USDA [published](#) an interim rule that outlines how it will improve the Environmental Quality Incentives Program (EQIP), one of USDA's largest conservation programs. The final interim rule includes program changes authorized by Congress in the 2014 Farm Bill. USDA specifically requested comment on the rule that is aimed at simplifying the EQIP regulation regarding conservation practice scheduling, payment limitations and other administrative actions.

**12/4/2014**—As required by the 2014 Farm Bill, USDA [is conducting](#) a pilot project in up to eight states to provide flexibility for using USDA Foods entitlement dollars for procuring unprocessed fruits and vegetables. USDA will permit each pilot state to both use multiple suppliers and products established and qualified by the secretary, as well as allow geographic preference in the procurement of the products.

## From the Department of Interior

**1/6/2015**—The Department of Interior (DOI) [published](#) a proposal to update rules on how the department evaluates revenue from coal, crude oil and natural gas on federal lands. The move comes after widespread criticism, and a Government Accountability Office (GAO) report that found DOI's leasing practices were costing taxpayers millions in lost revenue. Because the rules have not been updated in a decade, the updates will incorporate modern technology and will eliminate some of the burdensome administrative bureaucracy of the current rules. The proposal will be [open for public comment](#) until March 9.

**12/11/2014**—DOI launched a [data website](#) for reporting revenues from energy and mineral resource development on public lands. With this new tool, the public can view all revenues paid for developing energy and mineral resources at the company and commodity levels.

**12/2/2014**—DOI Secretary Sally Jewell [announced](#) that the agency distributed \$13.4 billion in revenue generated from energy production on federal lands in fiscal year 2014. Out of that money, \$2.2 billion was distributed to 36 states in oil, gas and mineral revenues. This is an increase from FY 2013 disbursements, which totaled close to \$2 billion.

## Additional Resources and Reports of Interest

**1/12/2014**—The U.S. Supreme Court heard oral arguments in [ONEOK Inc v. Learjet Inc](#) on whether federal law, namely the Natural Gas Act, protects energy companies from state antitrust suits. The case was decided in the 9th U.S. Circuit Court of Appeals in 2013, with the court ruling that antitrust suits filed under state law could proceed. The final decision, due by the end of June 2015, could define the scope of how the Federal Energy Regulatory Commission (FERC) regulates natural gas and other markets.

**1/7/2014**—Data [released](#) from the U.S Energy Information Administration (EIA) shows that the United States exported more crude oil in November than it had since 1920. The United States is now the 17th largest exporter of crude oil in the world.

**12/18/2014** - The Governmental Accountability Office issued a [report](#) noting that although the Department of Health and Human Services (HHS) and USDA have taken steps, more could be done to fully address crosscutting food safety efforts.

**12/16/2014**—The Bipartisan Policy Center (BPC) [issued](#) a set of 40 recommendations on how to reform the federal renewable fuel standard (RFS) while still promoting biofuels. The recommendations include urging EPA to quantify the value of biofuel through rural development benefits and greenhouse gas cutting benefits, instead of just energy density.

**12/9/2014**—The Federal Energy Regulatory Commission (FERC) [announced](#) it will hold a series of technical conferences to discuss the potential effects on the reliability of the power grid resulting from the EPA's regulations on greenhouse gas emissions from existing power plants. FERC will first hold a national overview on Feb. 19 at its headquarters in Washington, D.C., and then three regional conferences—in Washington D.C., St. Louis and Denver— on dates to be announced,

**12/9/2014**—The Congressional Budget Office (CBO) [released](#) a report on the economic effects of producing oil and natural gas from shale. The report found that the boom in production from shale will increase federal revenue faster than it will increase the country's GDP. CBO forecasts that federal tax revenue will be about .75 percent higher, or \$35 billion, in 2020 than it would have without shale development. CBO projects the revenue will be 1 percent higher by 2040.

**12/3/2014**—The Federal Energy Regulatory Commission (FERC) conditionally [approved](#) the Constitution Pipeline that would connect the Marcellus Shale in Pennsylvania to New York and parts of New England.

**12/2/2014**—A U.S. magistrate [struck down](#) a 2013 ordinance that aimed to ban most GMO crops grown in Hawaii County. The judge noted that the issue is one that must be regulated at the state level.

## NCSL Resources

[Click here](#) to find resources from past meetings, including session presentations, information, videos and more!

Ever wonder what the NCSL Natural Resources and Infrastructure Committee is up to? Check out our one-stop-shop for all NRI Committee resources on our [Committee Resources Page](#).