



## **Congressional Outlook:**

The House and Senate are in session this week.

### **Tuesday, February 14<sup>th</sup>**

#### *House Committee on Homeland Security*

- Subcommittee on Emergency Preparedness, Response and Communications hearing on "The Future of FEMA: Stakeholder Recommendations for the Next Administrator."

#### *House Committee on Science, Space and Technology*

- Subcommittee on Research and Technology hearing on "Strengthening U.S. Cybersecurity Capabilities."

#### *House Committees on Oversight and Government Reform*

- Full Committee markup of the following:
  - the "Searching for and Cutting Regulations that are Unnecessarily Burdensome Act of 2017";
  - the "Regulatory Integrity Act of 2017";
  - the "OIRA (Office of Information and Regulatory Affairs) Insight, Reform, and Accountability Act";
  - H.R.195, the "Federal Register Printing Savings Act of 2017";
  - H.R.624, the "Social Security Fraud Prevention Act of 2017";
  - the "D.C. Courts and Public Defender Service Voluntary Separation Incentive Payments Act; and
  - H.R.653, the "Federal Intern Protection Act of 2017."

#### *House Committee on Rules*

- Full Committee meeting to formulate a rule on:
  - H.J.Res.69, Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Department of the Interior relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska"; and
  - H.J.Res.43, the Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by Secretary of Health and Human Services relating to compliance with title X requirements by project recipients in selecting subrecipients.

### **Wednesday, February 15<sup>th</sup>**

#### *House Committee on Energy and Commerce*

- Subcommittee on Energy hearing on "Modernizing Energy and Electricity Delivery Systems: Challenges and Opportunities to Promote Infrastructure Improvement and Expansion."

#### *House Committee on Appropriations*

- Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies hearing on "USDA Office of Inspector General Oversight."

#### *House Committee on Agriculture*

- Full Committee hearing on "Rural Economic Outlook: Setting the State for the Next Farm Bill."

#### *House Committee on Science, Space and Technology*

- Subcommittee on Energy and Subcommittee on Oversight hearing on "Risky Business: The DOE Loan Guarantee Program."

*House Committee on Oversight and Government Reform*

- Full Committee hearing on "GAO's 2017 High Risk Report: 34 Programs in Peril."
- Subcommittee on the Interior hearing on "Examining Federal Programs that Serve Tribes and Their Members."

*House Committee on Transportation and Infrastructure*

- Subcommittee on Aviation hearing on "Building a 21<sup>st</sup> Century Infrastructure for America: State of American Aviation Manufacturing."

*Senate Committee on Commerce, Science and Transportation*

- Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security hearing on "Moving America: Stakeholder Perspectives on our Multimodal Transportation System."

*Senate Committee on Environment and Public Works*

- Full Committee hearing on "Modernization of the Endangered Species Act."

**Thursday, February 16<sup>th</sup>**

*House Committee on Energy and Commerce*

- Subcommittee on Environment hearing on "Modernizing Environmental Laws: Challenges and Opportunities for Expanding Infrastructure and Promoting Development and Manufacturing."

**News:**

**Senate to Vote on More Cabinet Nominees This Week**

The Senate will vote this week on the nominations of hedge fund manager Steve Mnuchin to be Treasury Secretary; David Shulkin as Secretary of the Department of Veterans Affairs; and Linda McMahon to lead the Small Business Administration. Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-AK) and other top lawmakers have expressed optimism about relatively quick consideration for Interior Secretary nominee Rep. Ryan Zinke (R-MT) and Energy Secretary nominee Gov. Rick Perry (TX), but the timing for their votes remains in flux.

Also uncertain is the timing and strategy for votes on EPA Administrator nominee Scott Pruitt (OK), one of the more contentious nominations for the Democrats; Wilbur Ross for Secretary of Commerce; and Mick Mulvaney as Director of the Office of Management and Budget (OMB).

If Mulvaney isn't confirmed for OMB this week, he wouldn't be able to take office until after next week's President's Day recess. Such a delay would make it unlikely President Trump would send a FY 2018 budget outline to Congress before addresses the body on February 28. The White House has stated it would send a "skinny budget" for FY 2018 to Congress within a few weeks with a focus on cutting spending and generating economic growth. We expect such a budget outline would only set broad spending priorities across the various federal agencies.

**GAO 'High Risk' List of Programs Topic of House/Senate Oversight Hearings**

This Wednesday, both the House Oversight and Government Reform and the Senate Homeland Security and Governmental Affairs Committees will hold hearings to probe the Government Accountability Office's (GAO's) "high risk list" report, which examines agency budget cutting initiatives across the federal government. The report is issued every two years, at the start of a new Congress. Their [2015 report](#) targeted several energy and environment government programs, including radioactive waste sites managed by the Department of Energy; EPA's growing backlog in assessing toxic chemicals; and an aging fleet of satellites, leading to a possible weather data gap.

This past week, the House Energy and Commerce Committee sent a letter to the federal agencies it oversees asking for any internal reports created since 2014 on budget waste and cost savings, indicating an interest in Congress in reducing federal agency budgets in the coming year.

### **Senate to Vote on CRAs/House to Markup More Regulatory Reform Bills This Week**

The Senate this week may take up a House-passed Congressional Review Act (CRA) resolution of disapproval to kill an Obama Administration's Bureau of Land Management regulation limiting oil and gas methane emissions on public and tribal lands. Another House passed CRA resolution making its way to the Senate would scrap a BLM regulation changing land use planning processes at Interior.

The House Oversight and Government Reform Committee is expected tomorrow to mark up a number of regulatory reform bills, including the "Searching for and Cutting Regulations that are Unnecessarily Burdensome (SCRUB) Act of 2017," the "Regulatory Integrity Act of 2017," and the "OIRA (Office of Information and Regulatory Affairs) Insight, Reform and Accountability Act." The "[SCRUB Act](#)," which passed the House last year, would establish a nine-member body and authorize an appropriation of up to \$30 million to independently assess which regulations are outdated or unnecessarily burdensome. The "[Regulatory Integrity Act](#)," which also passed the House last year, would require agencies to disclose actions about their pending rules along with their public communications about those rules. It would also prohibit agencies from using those communications to lobby the public for support of their rules.

Meanwhile, more regulatory reform bills continue to be introduced in the House. Rep. Jason Smith (R-MO) introduced [H.R. 998](#), which would establish a process for the review of regulations and sets of rules; and Rep. Kyrsten Sinema (D-AZ) introduced [H.R. 978](#), which would establish an independent advisory committee to review rules.

### **Senate Committee to Review Possible ESA Reforms**

The Senate Environment and Public Works Committee this week will hold an oversight hearing looking at the possibility of reforming the Endangered Species Act (ESA). With Congress and the White House now under Republican control, ESA reform is being raised again, but any legislative efforts will need to garner some bipartisan support to pass the Senate's 60-vote filibuster threshold. In a significant move, the majority of the planned hearing witnesses have Democratic ties.

Witnesses will include Fish and Wildlife Service (FWS) Directors Jamie Rappaport Clark and Dan Ashe, who led the agency during the Clinton and Obama Administrations respectively; former Democratic

Governor David Freudenthal of Wyoming; James Holte, President of the Wisconsin Farm Bureau Federation; and Gordon Myers, Executive Director of the North Carolina Wildlife Resources Commission and President of the Southeastern Association of Fish and Wildlife Agencies.

Another bipartisan group, the Western Governors Association (WGA), has called for changes to the ESA in a 2016 policy paper and continues to flesh out reform details to be sent to Congress.

### **White House Exempts Nationwide Water Permits from Rule Freeze**

The Trump Administration has exempted from a freeze on new federal regulations a Jan. 6 expansion and update of the Army Corps of Engineers' nationwide permitting program under the Clean Water Act (CWA) that expedites reviews of projects affecting certain waterways and wetlands. The [new nationwide permits](#) are scheduled to take effect March 19, just one day after 50 nationwide permits were set to expire.

### **Senate Committee Shows Bipartisan Support for Rural Infrastructure Funding**

Last week at a Senate Environment and Public Works (EPW) Committee hearing, Senators on both sides of the aisle stressed that rural states need more than private financing to upgrade their roads, bridges and sewer systems, but stopped short of endorsing a specific federal infrastructure funding plan. Republicans seemed cautious about a federal funding source for the infrastructure push and have largely been waiting for direction from the Trump Administration. President Trump has called for \$1 trillion in new public infrastructure investments but has not provided many details other than to enact tax incentives to entice more private financing into such investments. Democrats have put forward their own \$1 trillion, mostly federally-funded proposal as a challenge to the President on public infrastructure funding.

Hearing witnesses from Wyoming, West Virginia, Colorado, Oklahoma and Delaware warned that Trump's plan to use private funding sources for upgrades would disregard rural regions without enough traffic to generate revenue on their own. Instead, they pressed for more federal funding and more efficient partnerships.

### **Pesticide Permitting Bills Reintroduced**

Last week, Rep. Bob Gibbs (R-OH) reintroduced his bill to lift a requirement that pesticide applicators obtain permits under the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act (CWA) to apply chemicals already approved by EPA near navigable waters through the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Gibbs' legislation, [H.R. 953](#), is the fourth version he has introduced in recent sessions of Congress, and it came close to enactment in the last Congress. Agriculture interests and mosquito control officials supported the measure, which has also garnered support from House Agriculture Chairman Mike Conaway (R-TX) and ranking member Rep. Collin Peterson (D-MN).

Also, Sen. Mike Crapo (R-ID) has introduced a Senate bill, [S. 340](#) to "clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes."

Proponents say the measure would allow faster response to the threat of mosquito-borne illnesses, by allowing quick application of pesticides that have already undergone thorough federal EPA reviews. Opponents say the FIFRA already contains an exemption for human health emergencies, in which the government says to spray first, and then obtain the permit. But the FIFRA law doesn't address specific bodies of water, so a permitting program allows a review of potential risks in specific places.

### **Court Stays Critical Habitat Litigation**

A federal judge has granted a 60-day stay in the litigation over the Obama Administration's critical habitat rules, allowing the Trump Administration to get up to speed on the issue. A critical habitat designation mandates that federal agencies consult with the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) before approving or funding any projects in the area. More than a dozen states filed the lawsuit last November, challenging a series of controversial updates to rules under the Endangered Species Act (ESA). The states assert that the changes allow federal agencies to designate "entire states" as habitat for imperiled species, even if the species does not currently reside in the designated areas. The FWS and NMFS filed the motion asking for the 60-day stay in the proceedings.

Eighteen states filed the original lawsuit: Alabama, Arkansas, Alaska, Arizona, Colorado, Kansas, Louisiana, Michigan, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Carolina, Texas, West Virginia, Wisconsin and Wyoming. Missouri and Idaho later joined as plaintiffs. The states argue that the rule change, among others, unlawfully expands the government's control over state lands and waters.



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