To each and everyone of you, we hope you are staying healthy and safe during this pandemic, which has affected every facet of our lives. We want you to know NCSL is here for you during this time and has put together several resources for states. The spread of Coronavirus (COVID-19) continues to be a top concern, and while the federal government leads the national response to the outbreak state lawmakers, like yourself, are taking extra steps to respond to and anticipate impacts of the virus.

We are committed to providing our members with timely responses to state research request, and the essential knowledge needed to guide state action. The resources here are updated daily to reflect new information in policy areas ranging from education to health care costs and access. If you have any questions that aren’t answered there, please reach out to myself, Ben Husch (ben.husch@ncsl.org) or my colleague, Kristen Hildreth (kristen.hildreth@ncsl.org) and we will get you pointed in the right direction.

Below we’ve included some of the latest agriculture, energy, environment and transportation policy issues in Washington, D.C. If you have any questions about any of the stories below, please do not hesitate to reach out to Kristen or myself.

**EPA and NHTSA Issue New Fuel Economy Regulations**

The Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) issued new greenhouse gas (GHG) emission and Corporate Average Fuel Economy (CAFE) standards for light-duty motor vehicles. Specifically, the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years (MY) 2021-2026 Passenger Cars and Light Trucks,” will require automakers to increase the fuel efficiency of vehicles by 1.5% a year through 2026, a reduction from the 5% annual increases that had been required under the previous 2012 rule. NHTSA is tasked with promulgating CAFE standards, while EPA is tasked with regulating tailpipe GHG emissions from vehicles. For more information, read NCSL’s Info Alert. After the release of the rule, the U.S. Court of Appeals for the Second Circuit ruled that EPA must release the model used in the development of the rule, providing access to the Optimization Model for Reducing Emissions of Greenhouse Gases from Automobiles model.

**United States Reaches Global Agreement to Reduce Oil Production**

The United States, Russia, members of the Organization of Petroleum Exporting Countries (OPEC), Canada, Mexico, and other counties formally agreed to reduce global crude oil production by 9.7 million barrels in response to the significant decline in oil prices over the past months. Market forces
are likely to result in even greater production cuts though the effect on prices remain unclear due to the drastic drop in demand and the high levels of existing supply.

**Passenger Airlines Continue to Wait for Federal Relief Funds**

The U.S. Department of Treasury announced an agreement with major passenger airlines on terms for federal aid that was included in the “Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to cover airline employee wages and benefits.” Specifically, 10 airlines, including Alaska Airlines, Allegiant Air, American Airlines, Delta Air Lines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, United Airlines, SkyWest Airlines and Southwest Airlines had all agreed to participate. The department also announced that airlines requesting less than $100 million will not have to compensate the federal government with “financial instruments,” such as an equity stake in the airline. Thus far, the department has received more than 230 applications for aid from passenger airlines. The Department of Transportation (DOT) also announced it had provided $10 billion in grants to airports, both commercial and general aviation, in response to funding included in the CARES Act. The funds are available to cover capital expenditures, operating expenses like payroll and utilities, and debt payments amid the coronavirus pandemic.

Related, DOT finalized its requirement for passenger airlines to provide minimum service requirements to receive aid from the CARES Act. For carriers that served points as of March 1, they would have to continue serving those points, though with the option of less frequently. Specifically, an airline that served a city less than five times weekly would need to provide only one weekly flight. For carriers with more than 25 weekly flights, they could trim their flying to five per week. For airlines that serve certain airports seasonally, the airline can choose to service with either its winter 2020 schedules or summer 2019 schedules. The rule does not mandate service on international routes and will allow airlines to consolidate flights at one airport in cities that have multiple airports, such as Washington, D.C. metro area.

**EPA Announces Ease of Enforcement During Pandemic**

EPA issued a memo stating it would allow delays in some regulatory compliance while the nation addresses COVID-19. The EPA administrator stated that “if there is an acute risk or imminent threat, [the agency] will still enforce.” The memo also stated the discretion EPA is allowing is directed more toward “recordkeeping, monitoring requirements, [and] things of that sort,” as the agency is hearing that facilities “simply don’t have the necessary personnel.” To date, the EPA only eased specific enforcement requirements related to COVID-19 for 11 pharmaceutical facilities in Puerto Rico still powered by generators due to electrical grid damage. The policy will not apply to criminal violations and does not eliminate the responsibility of companies from responding to oil and chemical spills and pollution violations.

**EPA Retains National Ambient Air Quality Standard for Particulate Matter**

EPA announced no changes to the National Ambient Air Quality Standard (NAAQS) for particulate matter, or soot. The Clean Air Act (CAA) requires EPA to set national air quality standards for particulate matter and five other pollutants considered harmful to public health and the environment. The 2013 standard will remain in place setting an annual average exposure limit of 12 micrograms per cubic meter for fine particulate matter, specks of soot smaller than 2.5 microns. The decision to retain the existing standard is diverged from EPA career staff who issued a recommendation earlier this year
to lower the standard. Per EPA, average PM2.5 concentrations in the U.S. fell by 39% between 2000 and 2018 while average PM10 concentrations fell by 31% during the same period.

REAL ID Extended by 1 Year
Department of Homeland Security (DHS) Acting Secretary Chad Wolf announced that “Due to circumstances resulting from the COVID-19 pandemic and the national emergency declaration, the Department of Homeland Security, as directed by President Donald J. Trump, is extending the REAL ID enforcement deadline beyond the current Oct. 1, 2020 deadline. I have determined that states require a 12-month delay and that the new deadline for REAL ID enforcement is Oct. 1, 2021.” The extension was required by passage of the CARES Act, which required DHS to set the deadline no earlier than Sept. 30, 2021. For more information on REAL ID, read NCSL’s Countdown to REAL ID.

Department of Energy Will Lease Out SPR Storage
The Department of Energy (DOE) formally announced it would be leasing storage space in the Strategic Petroleum Reserve (SPR) that could hold up to 30 million barrels. DOE Secretary Dan Brouillette noted that “filling the SPR with crude oil, produced by American companies that are facing catastrophic losses and increased financial hardship, is a logical action for the federal government to take as we work to overcome the economic disruptions caused by COVID-19 and intentional, global oil market disruptions.” The DOE also noted that it was planning to make 47 million more barrels of storage available following this initial move, filling the SPR's remaining capacity.

Motor Carrier Exemptions Extended
The Federal Motor Carrier Safety Administration, which oversees the commercial motor vehicle operators, extended through May 15 a waiver for existing rules that limit how long operators can drive for without rest, but only if they are moving goods “in support of emergency relief efforts related to the COVID-19 outbreaks.” The agency also relaxed drug and alcohol testing requirements for truckers because employers may not be able to conduct the tests during the pandemic. The Federal Highway Administration issued a letter requesting state departments of transportation avoid “placing undue restrictions on the National Network or closing rest areas where professional drivers can rest may risk the safe and timely delivery of medical supplies, food, and other essential goods.”

Agreement to Restore Monarch Butterfly Habitat Announced
The Fish and Wildlife Service (FWS) announced a multistate plan aimed at protecting the monarch butterfly without adding it to the Endangered Species Act (ESA) list. Previously, FWS concluded in December 2014 that the monarch butterfly may warrant ESA protections. The agreement encourages transportation and energy partners to participate in monarch conservation by providing and maintaining habitat on potentially millions of acres of rights-of-way and associated lands. The agreement allows the landowners to voluntarily conserve habitat without ever having to undertake any additional conservation measures that would be required if the butterfly is listed as an endangered or threatened species.

Amtrak to Receive Bailout via CARES Act
DOT’s Federal Railroad Administration (FRA) has provided $1 billion to Amtrak to support the railroad’s activities to prevent, prepare for, and respond to the spread of COVID-19. The additional funding was included in the recently enacted CARES Act. Under the CARES Act, FRA will make or amend existing grants to Amtrak to provide a total of approximately $1.02 billion; $492 million for the Northeast Corridor and $526 million for the National Network Grants.
EPA Delays Transition to Summertime Fuel, Citing Low Demand Due to COVID-19
EPA announced it will delay from May 1 to May 20, the deadline for fuel terminals to stop selling winter-grade gasoline and begin selling summer-grade gasoline. Summer-grade gasoline is formulated to reduce emissions that form smog in the summer months. Currently, the nation’s fuel distribution system is using winter-grade gasoline that normally sells during springtime, but instead remains in terminals and pipelines because of demand reduction caused by the COVID-19 pandemic.

LWCF Funds Disbursed to States
The Department of the Interior (DOI) disbursed $227 million from the Land and Water Conservation Fund (LWCF) to all 50 states, five territories and the District of Columbia for outdoor recreation and conservation projects. FY 2020 payments represent an increase of $57 million compared to FY 2019. Last month the president announced his support for full and permanent funding for LWCF, which would equate to more than $900 million per year without annual congressional approval. The announcement came less than a month after his FY 2021 budget proposed the LWCF funding at a reduced $14 million. With the change in the president’s support, it is widely expected the Senate will soon consider a LWCF bill alongside a separate measure to provide $6.5 billion to fund a backlog in national park maintenance projects. Both bills have previously been approved by the Senate Energy and Natural Resources Committee with bipartisan support.

EPA Oversteps its Authority with its Rescission of HFC Rule
The Court of Appeals for the D.C. Circuit determined that EPA overstepped its authority in 2018 when it set aside a rule prohibiting the use of hydrofluorocarbons (HFCs) as replacements for ozone-depleting substances. In a previous case, Mexichem Fluor Inc. v. EPA, it was ruled that EPA could not apply that requirement to regulated entities that had already made the switch to HFCs. The ruling today indicated EPA could not amend the 2015 rule without notice and comment requirements. The decision comes as HFCs are currently being debated in Congress with House and Senate bills to phasedown the use of HFCs—the House bill was approved by the Environment and Climate Change Subcommittee in the House after voting down an amendment that would have added language instituting a preemption on states. The House is likely to move forward while the path for the bill in the Senate is highly unclear.

Thanks for reading, and we’ll be back in a few weeks to fill you in on other federal happenings—stay healthy and stay safe.

Best,
Ben and Kristen