Lawmakers Reach Compromise on Defense Authorization Bill
Congress agreed to a fiscal year 2020 National Defense Authorization Act. Key military-related provisions include authorization of a new branch of the military, the Space Force, which the president has publicly supported. Further, while the previous House-passed version had included provisions establishing several regulations on per- and polyfluoroalkyl substances (PFAS), the conference report agreement does not include language requiring the Environmental Protection Agency (EPA) to formally regulate any specific PFAS. The bill does require the Department of Defense to stop using firefighting foam with PFAS after October 2024, and would direct the National Guard to address contaminated National Guard bases. While PFAS used in military firefighting foam can quickly extinguish flames, studies have linked the chemicals to multiple health issues such as thyroid problems and some cancers.

The bill would also direct the secretary of Defense to assess climate vulnerabilities and risks associated with "extreme weather events" at military installations, as well as conduct blackout exercises at three major installations in the event of power outages. Finally, a transportation-related provision likely to impact states bars federal funds from being used to purchase passenger rail cars or buses from state-owned or state-controlled enterprises, such as those from China.

Hemp Cultivators Get the All Clear From Suspicious Activity Reports and Additional Comment Time
The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Conference of State Bank Supervisors and other federal and state bank regulators issued guidance clarifying that banks no longer have to file suspicious activity reports just because a customer grows or cultivates hemp. The guidance is in accordance with the Agriculture Improvement Act of 2018 and the U.S. Department of Agriculture’s (USDA) October 2019 interim final rule establishing the domestic hemp production regulatory program to facilitate the legal production of hemp. For more information on the rule, please read NCSL’s Info Alert. USDA extended the comment period for the interim final rule until Jan. 29, 2020.

SCOTUS Won’t Review States’ Authority Under the CWA
The Supreme Court declined to take up a petition challenging the U.S. Court of Appeals for the District of Columbia Circuit’s decision in Hoopa Valley Tribe v. FERC. That decision ruled against the practice of having project sponsors withdraw applications and then resubmit them to extend the Clean Water
Act's (CWA) one-year deadline for states to decide whether a project would violate its water quality standards. Separate from this case, but directly focused on state authorities within the CWA, President Donald Trump has ordered EPA to rein in states' rights under the law, and the agency issued a proposed rule in August. The agency used the D.C. circuit ruling to support that proposal. NCSL and other groups have been vocal about the actions to restrict state authority under the CWA—for more information read NCSL’s letters and Info Alerts.

**EPA’s Proposed Glider Truck Repeal Violated Executive Orders**
EPA’s inspector general issued a report stating that the agency violated two executive orders, its own rulemaking guidance and federal recordkeeping requirements when it proposed, under Administrator Scott Pruitt, its Glider Repeal Rule, to repeal greenhouse gas limits for refurbished truck engines. The rule has not yet been finalized.

**House Passes Farm Workforce Modernization Act**
The House passed, with bipartisan support by a vote of 260-165, the “Farm Workforce Modernization Act of 2019.” The bill would provide a path to legalization for agricultural laborers and would expand the H-2A foreign guest-worker program. Specifically, it would also establish a mandatory E-Verify system nationwide for farm employers; would simplify the H-2A application process; cap wages for farmworkers; and increase funding for USDA programs that support housing for laborers. The bill is supported by many agriculture organizations including the National Farmers Union, California Farm Bureau, Western Growers Association, United Farm Workers, Farm Credit and National Milk Producers Federation. It is unclear if the bill has enough support in the Senate to pass.

**EPA Updates Definition of “Major” Source Facility**
EPA released finalized guidance updating its definition of “major” facility to now only include physical proximity for sources of related industrial operations. Previously, the agency had stated that facilities with similar functions, but several miles apart could qualify as a major source. By statute, EPA is required to classify any facilities or plants emitting 100 tons or more of pollution annually, located on adjacent or contiguous properties, and under common ownership as major sources that must install the best available pollution controls to obtain a permit for operations, or a new source review permit for expansion or new construction. In another memo, EPA expanded the outdoor areas owned by power plants or other sources that are exempt from air quality monitoring stations. Previously, such lands were exempt from monitoring only if a physical barrier like a fence or cliff kept out the public. In EPA’s memo monitoring expands to include non-physical barriers such as video surveillance, "clear signage" or regular security patrols.

**Sale of Antibiotics for Livestock and Food-Producing Animals Increased in 2018**
The Food and Drug Administration (FDA) reported that U.S. sales of medically important antibiotics for livestock and other food-producing animals increased by 9% in 2018 compared with the previous year. This increase is the first since 2015 with sales in 2018 down 38% since 2015. Overall, sales of medically important antibiotics for swine jumped by 17% between 2017 and 2018, and for cattle by 8% though sales dropped by more than 16% for poultry.

**Senate Confirms New Administrators and Secretaries**
The Senate confirmed, Dan Brouillette to serve as the new secretary of the Department of Energy (DOE). Brouillette previously served as the DOE’s deputy secretary. The Senate also confirmed
Stephen Hahn as the next administrator of the Food and Drug Administration. FDA has jurisdiction over implementation of the Food Safety Modernization Act and its impact on agriculture.

**Senate Approves Bills for Anticipated Energy and Natural Resources Package**
The Senate Energy and Natural Resources Committee approved 19 bills, which are expected to be joined as a single bipartisan energy policy and natural resources legislative package for next year. For a full listing of all 19 bills, read the committee’s business meeting agenda [here](#).

**USDA Announces Second Round Funds for Reconnect Pilot Program**
The U.S. Department of Agriculture (USDA) announced the availability of a second round of funding—$550 million—in the [USDA Reconnect Pilot Program](#). The application window is set to open Jan. 31, 2020. The first round of grants, which are expected to total $600 million, are currently being rolled out by the USDA and a full list of all winning states can be found [here](#). NCSL’s Natural Resources and Infrastructure Committee along with the Communications, Financial Services and Interstate Commerce Committee held a joint session last week at the 2019 NCSL Capitol Forum further exploring the issues facing the deployment of broadband internet in rural areas. Along that vein, the Federal Communications Commission (FCC) Chairman Ajit Pai announced that he intends to establish a 5G fund that would make up to $9 billion available to carriers over 10 years to boost wireless services and connections in rural America. Funding will be allocated through a reverse auction and would target hard-to-serve areas.

**EPA Announces Funding to Reduce Emissions from Diesel Engines**
EPA announced the availability of $44 million in Diesel Emission Reduction Program grant funding to implement projects aimed at reducing emissions from the nation’s existing fleet of older diesel engines. Applicants may request funding to upgrade or replace diesel-powered buses, trucks, marine engines, locomotives and nonroad equipment with newer, cleaner technologies. Priority for funding will also be given to projects that engage and benefit local communities and applicants that demonstrate their ability to promote and continue efforts to reduce emissions after the project has ended.

**FCC Proposes to Remove Transportation Industry Access to Portions of 5.9 Gigahertz Band**
FCC approved a proposal to remove a portion of 5.9 gigahertz band from the transportation industry for other uses. Specifically, 45 megahertz out of the 75 megahertz worth of spectrum in the band will be auctioned if the proposal is approved. The proposal clashes with the U.S. Department of Transportation’s (DOT) position, which has insisted that the entire band be preserved for automotive safety. "DOT has significant concerns with the commission’s proposal. It is important that spectrum is preserved for transportation safety, particularly as technology develops and vehicles are better-connected. The department would support proposed revisions to the existing band plan in order to promote a technology-neutral approach that lets the market decide what communications technologies will best further the cause of safety."

That’s it for this week! Thanks for reading and we’ll be back in the New Year to fill you in on other federal happenings.

Best,
Ben and Kristen