Top Stories

3/20/19 – The Department of Transportation (DOT) announced it was delaying a major drone rulemaking by several months. The proposed rule to mandate remote identification and tracking for drones, previously slated to publish May 1, 2019, has been delayed until July 21, 2019.

3/19/19 – The Supreme Court of the United States ruled against the state of Washington, agreeing with a previous ruling from the Washington Supreme Court that a Yakama tribe-owned fuel distributor is not subject to Washington state's gas tax under the terms of an 1855 treaty between the tribe and the U.S. The plurality opinion, led by Justices Stephen Breyer, Sonia Sotomayor and Elena Kagan, concluded that the 1855 treaty pre-empted the tax because of a provision guaranteeing the tribe free travel on public highways.

3/19/19 – President Donald Trump announced his intent to nominate Steve Dickson to be administrator of the Federal Aviation Administration. Dickson would replace acting Administrator Dan Elwell, who has held the top spot for more than a year since the departure of Michael Huerta, who was nominated by President Barack Obama. Dickson recently retired from Delta, where he was senior vice president of flight operations. Before that, he was an Air Force officer and has experience as both a military and Delta pilot.

3/11/19 – Environmental Protection Agency (EPA) Administrator Andrew Wheeler acknowledged that the administration would not be continuing conversations with California surrounding their plans to alter fuel efficiency standards and would move to "take care of the [California] waiver," in the interest of a "50-state-solution." The comments were in regards to the Safer and Affordable Fuel Efficient (SAFE) Vehicles Rule, which would amend existing and establish new fuel economy and greenhouse gas (GHG) emissions standards for passenger cars and light trucks for model years 2021-2026, in addition to withdrawing the California waiver for the GHG and Zero Emissions Vehicles components of the regulations.

3/7/19 – EPA reported that motor vehicle fuel economy hit a new record in 2017 and will likely further increase in 2018, although the increases are below the targets set by EPA and DOT in 2012. Specifically, 2017 vehicles reached 24.9 mpg with emissions of carbon dioxide decreasing by about 3 grams to 357 grams per mile. Preliminary data for 2018 vehicles indicates average fuel economy rates improved further to 25.4 mpg while CO2 emissions fell to 348 g/mi. Last year, EPA and DOT proposed revising both the emission and fuel economy targets down substantially with a final rule expected later this spring. All else being equal, more fuel-efficient vehicles require less gasoline leading to lower gasoline tax revenues.

2/27/19 – Chairman of the House Transportation and Infrastructure Committee Rep. Peter DeFazio (D-Ore.) announced that he intends to bring back earmarks. He plans to rebrand them as "Article I projects," to help build support for an increase in user fees, federal gas tax, in order to pass a surface transportation bill, be it a one-off infrastructure package or a reauthorization of 2015 FAST Act. Congress banned earmarks in 2011.

2/27/19 – Senate Environment and Public Works Chairman, Senator John Barrasso (R-Wyo.) announced that the surface transportation bill his committee will develop will maintain the current process of distributing funds by formula. Formula funds
primarily are directed to state departments of transportation thus guaranteeing states a stable and certain level of federal investment compared to competitive grants where U.S. DOT determines which state, locality or region is awarded a grant. Four major highway programs receive a share of total federal allocation.

2/27/19 – The Pipeline and Hazardous Materials Safety Administration (PHMSA) released an interim final rule, which goes into effect immediately, that bans lithium ion batteries in the cargo holds of passenger airplanes. This standard will generally match U.S. requirements with international standards. However, as most U.S. passenger airlines have already stopped transporting lithium ion the effect is likely to be minimal. Passengers and crew will still be allowed to take electronic devices powered by lithium batteries onto planes. Specifically, PHMSA will require that batteries have a 30 percent charge or less if they are being carried on cargo planes and are also not "packed with or contained in equipment or devices." From 2010 to 2016, there were 13 air cargo incidents "involving lithium batteries and smoke, fire, extreme heat, or explosion that would have been affected by this rulemaking," and "many of these incidents were identified at an air cargo sort facility either before or after a flight."

2/26/19 – The White House Office of Management and Budget and the Council on Environmental Quality issued a memo providing recommendations for state agencies that have been delegated the authority to review projects under the National Environmental Policy Act. Specifically, the guidance clarifies executive order 13807, by recommending a two-year timeline to state agencies that have been delegated federal authority. The aim of a two-year timeline is to reflect the development of a permitting timetable with other federal or state agencies based on the project’s scope as well as preparing a single environmental impact statement with the same agencies.

From Congress

3/13/19 – The Senate confirmed, 53-46, Neomi Rao, former head of the White House Office of Information and Regulatory Affairs (OIRA), to fill the seat vacated by Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit. Rao is a former professor of structural constitutional law, administrative law, and legislation and statutory interpretation at the Antonin Scalia Law School at George Mason University. Paul Ray will replace her as the acting head of OIRA. He has served as OIRA’s associate administrator for just under a year.

3/12/19 – A supermajority of members of the Senate Environment and Public Works Committee have sponsored legislation that would reauthorize the Diesel Emissions Reduction Act through fiscal 2024 at current funding levels. The program, created in 2005, provides federal grants to help fund the conversion of diesel engines to cleaner technologies in vehicles like school buses.

From the Administration

3/18/19 – The Federal Transit Administration (FTA) announced that all 31 states needing certification of the State Safety Oversight Program in advance of the statutory April 15, 2019, deadline have done so.

3/18/19 – FTA announced its FY 2019 notice of opportunity for up to $85 million in competitive grant funds through FTA’s Low or No Emission (Low-No) Bus Program. The Low-No Program provides federal funds to help purchase or lease low or no emission vehicles that use advanced technologies for transit revenue operations, including related equipment or facilities.

3/12/19 – DOT Secretary Elaine Chao announced the creation of the Non-Traditional and Emerging Transportation Technology Council at DOT, which is tasked with "identifying and resolving jurisdictional and regulatory gaps" that arise as DOT responds to changes in transportation technology like "tunneling, hyperloop, autonomous vehicles, and other innovations." DOT Deputy Secretary Jeffrey Rosen will be the chairman, Undersecretary of Transportation for Policy Derek
Kan will be the vice chair, and other seats will be occupied by DOT modal administrators and other high-ranking DOT officials.

3/12/19 – FTA announced its allocation of $366 million for the FY 2018 Bus and Bus Facilities Infrastructure Investment Program.

3/12/19 – FTA posted Apportionment Tables for its transit formula programs FY 2019 reflecting approximately $10.2 billion in funds appropriated by Congress as part of the FY 2019 omnibus spending bill.

2/27/19 – The Federal Aviation Administration (FAA) announced it has partnered with Kittyhawk to help recreational drone operators learn where they can and can’t fly by redeveloping B4UFLY. Although NCSL continues to advocate for state authority to issue time, manner, and place (TMP) restrictions on drone operations, FAA continues to assert itself as the sole regulator of all federal airspace down to ground level, including over private property.