Below is some of the latest agriculture, energy, environment and transportation policy issues in Washington, D.C., below. Further, NCSL’s Coronavirus (COVID-19) Resources for States webpage is updated daily to reflect new information in policy areas ranging from education to health care and so much more.

If you have questions about NCSL’s COVID-19 resources or any of the stories below, please reach out to me, Ben Husch (ben.husch@ncsl.org), or my colleague Kristen Hildreth (kristen.hildreth@ncsl.org), and we will point you in the right direction.

**Senate Passes the Great American Outdoors Act, Fully Funding the LWCF**
The bill would fully fund the Land and Water Conservation Fund (LWCF) and establish the National Parks and Public Land Legacy Restoration Fund to fund deferred maintenance projects on federal lands administered by the National Park Service, Forest Service and other branches of the Department of Interior (DOI). The LWCF, funded by revenues from offshore oil and gas production, provides funds for federal acquisition of land and waters as well as grants to states for outdoor recreational facilities from revenues resulting from offshore oil and gas production. The bill makes annual LWCF funding mandatory at the authorized, $900 million, which is nearly double the amount Congress provided this year. The National Parks and Public Land Legacy Restoration Fund would receive $9.5 billion in total over five years from unallocated energy revenues that would go towards reducing the nearly $20 billion maintenance backlog in national parks and on public lands.

**Cost-Benefit Analysis Proposed Rulemaking for Clean Air Act**
The Environmental Protection Agency (EPA) proposed several new processes that the agency would be required to undertake in promulgating regulations under the Clean Air Act to ensure that information regarding the benefits and costs of regulatory decisions is provided and considered in a consistent and transparent manner. This is the first step in a broader plan by EPA to reset the terms for forecasting the costs and benefits expected from adopting significant new rules—the plan would expand the definition of significant rulemakings to those that would "disproportionately affect an industry, group or area," according to an official summary. It would also require separate reporting of the public health and welfare benefits specific to the objective of the relevant Clean Air Act provision.

**House Transportation and Infrastructure Committee Approves $500 Billion Transportation Reauthorization**
“The Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act” would reauthorize federal surface transportation programs for five years, through fiscal year 2024. The current program authorizations expire in less than four months—Sept. 30, 2020. Overall, the INVEST Act would provide:

- $319 billion for federal-aid highway programs.
- $105 billion for transit.
- $60 billion for passenger rail.
- $5.3 billion for highway safety.
- $4.6 billion for motor carrier safety.

Additionally, many of the programmatic changes would not be implemented until FY 2022 (starting Oct. 1, 2021). Although the bill does not alter the current method for distributing federal funds to states, it does create a raft of new discretionary grant programs as opposed to formula programs that provide predictability and stability for states. Approval by the House committee and the approval in July 2019 of the Senate Environment and Public Works Committee’s America’s Transportation Infrastructure Act, are important steps in the overall process for reauthorizing federal surface transportation programs. There are, however, many additional steps and unanswered questions before a reauthorization is signed into law. The most pressing question is how to pay for the bill. Existing federal transportation revenues such as gasoline and diesel taxes, and other motor vehicle fees only bring in $44 billion per year, $14 billion below the amount appropriated, with the difference made up through general fund transfers. A short-term extension of existing federal programs remains the most likely outcome with a host of potential outcomes possible between now and Sept. 30. Stay tuned to NCSL over the next few months as Congress works to reauthorize its fleet of surface transportation programs. Read NCSL’s summaries of the House and Senate bills.

**Speaker Nancy Pelosi Announces $1.5 Trillion Infrastructure Package**

The proposal includes not only $500 billion in transportation funding (see above story) but also hundreds of billions of dollars for schools, broadband, water projects and more. Bill text is expected shortly, with a vote before the July 4 recess. It remains unclear how the bill would be funded as well as what, if any, appetite exists in the Senate for such a package. President Donald Trump has, on multiple occasions, highlighted his preference for some type of package, though his 2018 proposal was widely panned for its lack of federal funding and over-reliance on state and local investments.

**USDA Releases CFAP Aid to Farmers by State**

The Coronavirus Food Assistance Program (CFAP) provides vital financial assistance to producers of agricultural commodities with financial assistance that gives them the ability to absorb sales losses and increased marketing costs associated with the COVID-19 pandemic.

**Pipeline Gets SCOTUS Approval, and FERC Alters Permitting Procedures**

The Supreme Court of the United States (SCOTUS) ruled 7-2 to overturn the 4th U.S. Circuit Court of Appeals' finding that the U.S. Forest Service could not authorize the natural gas pipeline to pass hundreds of feet below the Appalachian Trail, which is run by the National Park service and subject to different environmental rules. SCOTUS found that the DOI held a limited easement for establishing and administering the trail but that the land itself remained "federal lands" under the jurisdiction of the Forest Service. The ruling from the court of Appeals, had it been upheld, could have had a significant impact on natural gas production given the geography of the trail.
Relatedly, the Federal Energy Regulatory Commission (FERC) issued a new rule altering its permitting procedures for natural gas pipelines that will prevent projects from starting construction until the commission has rejected all appeals to its approval. The rule comes in response to an ongoing lawsuit before the U.S. Circuit Court of Appeals for the District of Columbia. That case concerns FERC's practice in place prior to this rule, which allowed pipeline projects to seize land via eminent domain and begin construction before a landowner could sue in federal court if FERC had not yet ruled on the landowner's appeal. Although the new rule prevents construction from starting, pipeline developers would still be able to seize land using the eminent domain process. A ruling from the court is expected later this year.

Supreme Court Declines to Hear Clean Water Act Case, Reaffirms State Authority
SCOTUS declined to hear a case that would have forced it to consider whether moving—but not adding—rocks, sand and other debris within a regulated waterway is subject to Clean Water Act restrictions. As such, the court left in place a ruling by the 9th Circuit Court of Appeals which ruled in favor of Oregon when the state denied a permit to mining operation for its impact on water quality. The court already set a new water quality standard earlier this term, in determining whether pollution that passes through groundwater on its way to jurisdictional waters should be subject to federal permitting in its Maui decision.

EPA Declines to Regulate Perchlorate, a Rocket Fuel Toxin
EPA issued a final determination finding that perchlorate does not meet the criteria for regulation as a drinking water contaminant under the Safe Drinking Water Act, citing "best available science and the proactive steps that EPA, states and public water systems have taken to reduce perchlorate levels." Perchlorate is commonly used in solid rocket propellants, munitions, fireworks, airbag initiators for vehicles, matches and signal flares. Environmental groups are likely to challenge the finding, as the EPA in 2019 and the Natural Resources Defense Council entered into a consent decree to set a maximum level for the substance, as well as alternatives that included no regulation.

EPA Issues Rule Reducing Allowable Lead Dust
EPA announced a new proposed rule aimed at reducing the amount of lead allowed in dust on floors and windowsills following lead abatement work by lowering the allowable level from 40 micrograms to 10. This rulemaking follows a separate 2019 regulation that lowered the hazard limit for lead dust due to lead-based paint in older homes and buildings, though legal challenges to the 2019 rule are pending in the U.S. Court of Appeals for the 9th Circuit.

Northeast Coast Wind Plants Could be Subject to Stricter Restrictions
The Bureau of Ocean Energy Management (BOEM) released an updated environmental assessment for offshore wind power projects that could require stricter conditions for developers seeking to construct new plants off the Northeast coast. The new assessment updates the 2018 draft following an agency decision to review the large anticipated growth in offshore wind power in the Northeast. Specifically, the report highlighted the potential major impacts to sea life and the commercial fishing industry, which has opposed the project in its current form. Though a final report and permitting decision for the project is expected later this year, the current draft increases the uncertainty of the project moving forward.

EPA Grants First-Ever Petition to Add to Hazardous Air Pollutants List
EPA granted petitions to add 1-bromopropane (1-BP) to the list of hazardous air pollutants regulated under the Clean Air Act (CAA). This is the first time since 1990 that EPA has granted a petition to add a hazardous air pollutant to the CAA. The 1-BP compound is used in a range of products and processes, including dry cleaning, electronics and metal cleaning, pharmaceutical and agricultural products, and spray adhesive applications. This action was a result of petitions submitted in 2010 and 2011 from the Halogenated Solvents Industry Alliance and New York State Department of Environmental Conservation asking the agency to add 1-BP to the list of hazardous air pollutants in the CAA.

NHTSA Unveils AV Testing Initiative with States and Private Sector
The Automated Vehicle Transparency and Engagement for Safe Testing, or AV TEST Initiative will provide "an online, public-facing platform for sharing automated driving system on-road testing activities." The announcement follows a few reports and studies, including from the American Automobile Association (AAA) that the general public does still not trust automated vehicles. However, the information submitted to the initiative is voluntary as is the current requirement to submit any safety information to the National Highway Traffic Safety Administration (NHTSA) regarding automated vehicles being tested on public roadways. Nine companies—Beep, Cruise, Fiat Chrysler, Local Motors, Navya, Nuro, Toyota, Uber and Waymo— and eight states—California, Florida, Maryland, Michigan, Ohio, Pennsylvania, Texas, and Utah—have signed on as the first participants.

DOE Announces Funds for Advanced Nuclear Technology Projects
Energy Secretary Dan Brouillete announced more than $65 million for 93 advanced nuclear technology projects across 28 states through the department’s Nuclear Energy University Program, the Nuclear Energy Enabling Technologies and the Nuclear Science User Facilities. He stated, "If we are serious about making substantial progress in reducing greenhouse gas emissions, then emissions-free nuclear energy must be a part of that conversation."

Thanks for reading. We will be back in July to fill you in on other federal happenings—stay healthy and stay safe.

Best,
Ben and Kristen