To each and every one of you, we hope you are staying healthy and well 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 many resources for states.

We are committed to providing our members with timely responses to state research requests and the essential knowledge needed to guide state action. The NCSL Coronavirus (COVID-19) Resources for States webpage is updated daily to reflect new information in policy areas ranging from education to health care costs and access.

We’ve included some of the latest agriculture, energy, environment and transportation policy issues in Washington, D.C., below. 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.

**Agriculture in the Spotlight During COVID-19: Coronavirus Food Assistance Program to Defense Production Act and Other Highlights**

The U.S. Department of Agriculture (USDA) released the final rule regarding the direct aid portion of the Coronavirus Food Assistance Program (CFAP). The CFAP will provide up to $16 billion in direct payments to farmers and ranchers affected by the coronavirus (COVID-19) pandemic. Aid is available to farmers who produced qualifying crops or livestock and suffered a 5% or greater price loss. Both non-specialty crops, including but not limited to malting barley, canola, corn, soybeans and wool, as well as specialty crops such as almonds, beans, strawberries, tomatoes and lemons are eligible. For ranchers, eligible livestock includes cattle, lambs, yearlings and hogs as well as dairy producers. A full list of eligible crops is available. The rule also includes a payment limit of $250,000 per person, though applicants who are corporations, limited liability companies or limited partnerships may qualify for higher payment limits. Farmers and ranchers can apply for assistance beginning on May 26, 2020, through their local Farm Service Agency (FSA) office. Applications will be accepted through Aug. 28, 2020. Due to the large expected demand for the program and to ensure the availability of funding throughout the application period, producers will receive 80% of their maximum total payment upon approval of the application. The remaining portion of the payment, not to exceed the payment limit, will be paid later as funds remain available.
Additionally, USDA announced the availability of $1 billion in loan guarantees for rural businesses and certain farmers and ranchers who don’t qualify for standard FSA loans. The funding for the program was included in the Coronavirus Aid, Relief and Economic Security Act. Loans must be used as working capital to prevent, prepare for or respond to the effects of COVID-19. The loans may be used only to support rural businesses, including agricultural producers, that were in operation on Feb. 15, 2020.

Further, as a follow-up to the president’s executive order last month invoking the Defense Production Act to keep meat and poultry plants open, USDA and FDA issued a new memorandum of understanding that spells out how the agencies, which share jurisdiction of the nation’s food supply, could ensure the operation of other food facilities, including farms that grow FDA-regulated products. In addition, the Department of Justice issued a letter providing relief from antitrust rules to pork producers, which will enable them to work together and with state and federal agriculture officials to humanely kill off excess hogs. Under normal circumstances, collaborations of this type to restrict supply might violate the criminal antitrust law and leave producers facing up to 10 years in prison or $100 million in fines.

**BLM Releases Plan to Remove Wild Horses and Burros**
The Bureau of Land Management (BLM) released a three-phase plan that would permanently remove as many as 20,000 wild horses and burros from federal rangelands annually, costing as much as $900 million in the first five years, in order to bring herd levels down to sustainable levels in 15 to 18 years. The plan does not include any consideration of euthanizing animals or selling rounded-up animals without ensuring they are not transferred to foreign slaughterhouses, which differs from a previous BLM report submitted to Congress in 2018. The report also notes that maintaining the status quo could be far worse, stating that, “If nothing were done to reduce the annual growth rate of these herds, by 2040, the BLM estimates the on-range populations of wild horses and burros could increase to over 2.8 million.” Such a density of animals would lead “to catastrophic harm to the land, to other species, and to wild horses and burros themselves.”

**EPA Requires PFAS Data Collection and Likely Will Not Set Drinking Water Limits**
EPA published a new rule requiring approximately 500 industrial and federal facilities to document the volume of 172 types of per- and polyfluoroalkyl substances (PFAS) they release, dispose of or recycle. The chemicals are the first PFAS that the facilities have had to report to the agency’s toxics release inventory. Facilities that release 100 or more pounds of the so-called forever chemicals must report the data. The first reports are due July 1, 2021. In related news, EPA Administrator Andrew Wheeler noted during a Senate Environment and Public Works Committee hearing that the agency would not be able to set drinking water limits for two PFAS chemicals in the next year as required under the Safe Drinking Water Act. The announcement follows EPA’s determination that maximum contaminant levels were necessary.

**DOT Updates Hours of Service Rules for Commercial Drivers**
The U.S. Department of Transportation issued a new final hours of service rule for commercial truck drivers. The rule will, in certain circumstances, allow drivers to operate additional hours of service. Drivers who drive short distances will be allowed to drive up to 14 hours instead of 12, while time spent loading and unloading a truck will be counted as breaks from driving. One of the primary changes to the existing rule concerns the requirement that drivers take a 30-minute rest break. The new rules require a 30-minute break after eight hours of consecutive driving, rather than on-duty time.
USDA Finalizes the First Revision of Biotechnology Regulations Since 1987
USDA’s Animal and Plant Health Inspection Service (APHIS) announced the SECURE Rule, the first comprehensive revision of APHIS’ biotechnology regulations since they were established in 1987. The revision allows APHIS to regulate organisms developed using genetic engineering for plant pest risk and is intended to “reduce regulatory burden” for those developing organisms that are unlikely to pose plant pest risks.

DOE Plans to Purchase 1 Million Barrels of Oil for Strategic Petroleum Reserve
The Department of Energy (DOE) is planning to buy 1 million barrels of oil from U.S. companies as “a test” for the Strategic Petroleum Reserve. The purchase would be a tiny percentage of the 77 million barrels of space currently available within the reserve, but purchasing that much crude would require a congressional appropriation of $3 billion. Previously, DOE also noted it will rent out storage space within the Strategic Petroleum Reserve.

Royalty Rates for Oil and Gas Produced on Federal Lands Reduced
BLM has significantly reduced the royalty rates for oil and gas produced on federal lands. Oil and gas producers typically pay the federal government 12.5% of the revenues from onshore wells, but the BLM has approved cuts for more than 70 leases in Utah to between 2.5% and 5%. In guidance earlier this month, the bureau said it would consider reducing the royalty rates to as low as 0.5%. In related news, 60 House Republicans asked Interior Secretary David Bernhardt to take additional steps to “streamline and expedite” the process of getting temporary royalty reductions for ravaged onshore and offshore oil and gas producers.

Air Quality Standards for Offshore Oil and Gas Drilling Updated for First Time in 40 Years
The Bureau of Ocean Management has updated a 40-year-old rule on air quality standards for offshore oil and gas drilling, requiring the platforms to meet national air quality standards. The update, which was first proposed in 2016, allows the Department of the Interior to regulate emissions from activities in the Outer Continental Shelf, the Central and Western Gulf of Mexico and the area offshore of the North Slope Borough in Alaska.

EPA Updates Nation’s Ambient Water Quality Criteria for Nutrients in Lakes and Reservoirs
EPA issued draft recommendations to update the nation’s ambient water quality criteria for nutrients in lakes and reservoirs, the agency’s first revision in almost 20 years. The recommendations provide models of total nitrogen and phosphorus concentrations in lakes and reservoirs to protect aquatic life, recreation and drinking water. Excess nitrogen and phosphorus in water deplete oxygen levels, harming aquatic life. In extreme cases, the depletion of dissolved oxygen causes fish kills. Nutrient pollution can also stimulate the excess growth of nuisance algae, such as cyanobacteria that are toxic to animals and humans.

DOE Unveils Aid to Nuclear Industry for Advanced Nuclear Reactors
The Department of Energy unveiled a $230 million program to aid the country’s nuclear industry in demonstrating advanced nuclear reactors. The agency will contribute a portion of the total—$160 million—to fund two reactors that can be operational in the next five to seven years. The agency hopes the reactor demonstrations could open investment “floodgates” on advanced nuclear technology, Assistant Secretary for Nuclear Energy Rita Baranwal said.
Thanks for reading. We’ll be back next month to fill you in on other federal happenings—stay healthy and stay safe.

Best,
Ben and Kristen