



The State Energy &
Environmental Impact Center
NYU School of Law

Congress

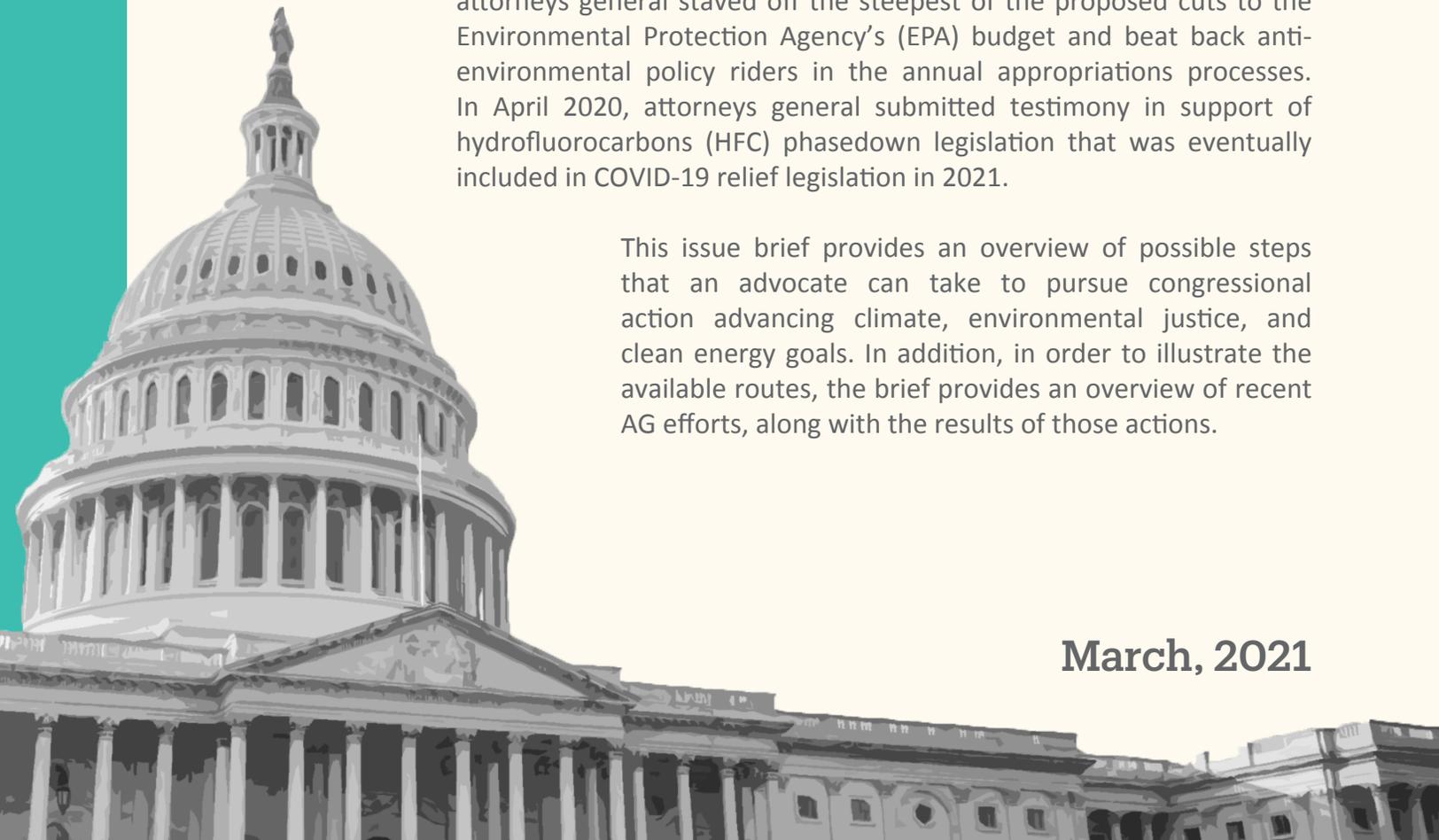
Opportunities for Attorneys General in Environmental, Energy, and Climate Policy

State attorneys general seeking to engage on environmental, clean energy, and climate issues may be interested in pursuing options in the current 117th Congress (2021-2023). There are many available levers for this. Significant weight is given to attorneys general (AGs) who reach out directly to members of Congress about their concerns. And in recent years, some state attorneys general have successfully included greater involvement in Congress' actions within the scope of their advocacy.¹

Examples of recent and successful outreach include: In February 2017, attorneys general successfully wrote to the Senate to urge it to oppose a Congressional Review Act repeal of the Bureau of Land Management's Methane Waste Prevention rule. In 2018 and 2019, coalitions of attorneys general staved off the steepest of the proposed cuts to the Environmental Protection Agency's (EPA) budget and beat back anti-environmental policy riders in the annual appropriations processes. In April 2020, attorneys general submitted testimony in support of hydrofluorocarbons (HFC) phasedown legislation that was eventually included in COVID-19 relief legislation in 2021.

This issue brief provides an overview of possible steps that an advocate can take to pursue congressional action advancing climate, environmental justice, and clean energy goals. In addition, in order to illustrate the available routes, the brief provides an overview of recent AG efforts, along with the results of those actions.

March, 2021



How Congress Implements Policy

As charming and catchy as School House Rock is, the way a bill becomes a law is no longer clean, simple, or tidy. Each legislative effort varies, with different constituencies and strategies at play.² Today, only a handful of meaningful pieces of “must pass” legislation move each year, requiring new and clever approaches to enact policy. The best options each year have come to include the annual appropriations processes, the annual National Defense Authorization Acts (NDAA), legislation responsive to immediately pressing crises and challenges, and bipartisan non-NDAA authorization legislation. For example, the COVID-19 pandemic relief bill passed in late 2020 included the HFC refrigerant phasedown, energy research and development, and a host of other non-pandemic related provisions. This section describes the major routes for implementing policy in Congress.

Authorizations

Authorization bills set policies and provide spending level permissions. The NDAA dependably passes each year. Other large authorization bills—like surface transportation, Federal Aviation Administration, and the farm bill—are on multiple-year renewal schedules. These bills provide the chance to enact durable policy.

Appropriations

Congress will always fund the federal government, even if it takes a few tries or results in temporary lapses (see the [34-day government shutdown](#) in 2019, for example). But it does happen reliably every year. Today, there are 12 appropriations bills issued through each of the 12 Appropriations Subcommittees in the [House](#) and [Senate](#), which fund the government. The 12 House and Senate subcommittees are each responsible for appropriating funding for a particular grouping of federal agencies. For example, one subcommittee is responsible for the Department of the Interior and EPA and another is responsible for the Department of Transportation and the Department of Housing and Urban Development.

The staff of the subcommittees draft the appropriations bills. In theory, the bills are supposed to go through the traditional legislative process before adoption. The traditional legislative process would include the opportunity for subcommittee members to amend the relevant bill at the subcommittee level before full committee consideration (and amendment) of the bill, followed by amendment and passage of the bill on the House and Senate floor. Any differences in the respective House and Senate versions of the bill would be ironed out in conference committee before the House and Senate enact the final bill.

In recent years, however, the traditional legislative process has been truncated. Instead, draft subcommittee appropriations bills are introduced, and the House and Senate then begin resolving the differences in their respective versions through an informal conferencing process. The bills are then combined into one bill, known as an omnibus, and passed all at once — or introduced in groupings of several smaller bills, called a “mini-bus,” and passed separately.

Policy riders attached to an appropriations bill restrict or direct funds for certain purposes and can be effective in advancing agendas. Policy riders usually take the form of a prohibition on an agency using funds to promulgate, implement, or enforce a specific rule, or take a particular action. For example, in 2017, the House-passed [Interior appropriations bill](#) included a rider that prohibited the use of funds to change the status of the greater sage-grouse under the Endangered Species Act and to prohibit the implementation, amendment, or modification of any Federal Resources Management Plans in a manner inconsistent with a state’s applicable management plan.

7	GREATER SAGE-GROUSE
8	SEC. 114. (a) None of the funds made available by
9	this or any other Act may be used—
10	(1) to review the status of or determine whether
11	the greater sage-grouse is an endangered species or
12	a threatened species pursuant to section 4 of the
13	Endangered Species Act of 1973 (16 U.S.C. 1533),
14	or to issue a regulation with respect thereto that ap-
15	plies to any State with a State management plan;
16	(2) to make, modify, or extend any withdrawal
17	pursuant to section 204 of the Federal Land Policy
18	and Management Act of 1976 (43 U.S.C. 1714)
19	within any Sagebrush Focal Area published in the
20	Federal Register on September 24, 2015 (80 Fed.
21	Reg. 57635 et seq.), in a manner inconsistent with
22	a State management plan; or
23	(3) to implement, amend, or otherwise modify
24	any Federal resource management plan applicable to
25	Federal land in a State with a State management

Source: <https://www.congress.gov/114/bills/hr5538/BILLS-114hr5538pcs.pdf>

Act, and other activities. This amount is sufficient to provide each of the 28 national estuaries in the program with a grant of at least \$700,000. Further, in the Administrative Provisions section, the bill directs that \$1,500,000 in competitive grants be made available for additional projects.

Water: Human Health.—The agreement provides \$108,487,000 for Water: Human Health. The Committees direct the Agency to maintain the Beach/Fish program project at the enacted level. Of the increase provided, \$1,000,000 is to further support implementation of requirements under America’s Water Infrastructure Act of 2018 (Public Law 115–270).

Within available funds, not less than \$3,000,000 is for the Agency’s work within the Underground Injection Control program related to Class VI wells for geologic sequestration to help develop expertise and capacity at the Agency. These funds should be used by the Agency to review and process Class VI primacy applications from States and Tribes and to directly implement the regulation, where States have not yet obtained primacy by working directly with permit applicants. Additionally, the Agency is directed to submit a report and provide a briefing to the Committees not later than one year after enactment of this Act on recommendations to improve Class VI permitting procedures for commercial and research carbon sequestration projects. The report should be drafted in consultation with the Department of Energy, relevant State agencies, previous permit applicants, and nongovernmental stakeholders.

The Committees note that the Agency’s published “Per- and Polyfluoroalkyl Substances (PFAS) Action Plan” calls for moving forward with the maximum contaminant level process outlined in the Safe Drinking Water Act (Public Law 93–523) for PFAS chemicals. The Committees support this action and urge the Agency to Act expeditiously on this matter. The Committees direct the Agency to brief the Committees within 60 days of enactment of this Act about its plans for this action.

Water Quality Protection.—The agreement provides \$216,350,000 for Water Quality Protection and increases funding for the Agency’s ongoing work on harmful algal blooms by \$1,000,000. The Committees reject the proposed elimination of the WaterSENSE program and the Urban Waters program

Source: <https://docs.house.gov/billsthisweek/20201221/BILLS-116RCP68-JES-DIVISION-G.pdf>

Congress also prepares **reports** to accompany appropriations bills, which give context and justification for funding decisions. While not binding, **report language** can emphasize additional priorities or wishes members have for how appropriated funds should ideally be used. For example, report language accompanied the end-of-year legislative package that included the 12 appropriations bills for fiscal year 2021 and the most-recently enacted COVID-19 relief provisions. That language stated that the Appropriations Committees support EPA expeditiously moving through the maximum contaminant level process for per- and polyfluoroalkyl substances (PFAS) as outlined in the Safe Drinking Water Act, and directed EPA to brief the committees on its plans for taking such action within 60 days of enactment.

Oversight Hearings

The most significant power Congress has outside of appropriations is oversight of federal agencies. Congress may not have the bully pulpit, but oversight authority is nearly as effective. Oversight hearings have been used to advance many social justice, environmental justice, and civil rights causes, and have resulted in permanent legislation. For example, [multiple hearings](#) on the response to the PFAS crisis by the Department of Defense and EPA led to the inclusion of a provision in the [2019 NDAA](#) that requires the military to phase-out the use of firefighting foam containing PFAS chemicals by October 2024.

Congressional committees conduct oversight of federal agencies under their jurisdiction for a variety of purposes. These purposes include, but are not limited to, ensuring agency compliance with legislative intent; improving the performance of federal programs; protecting legislative authority; and investigating agency abuse, waste, and fraud. Often committees hold oversight hearings in response to a particular controversy, emerging issue, or crisis (i.e. the BP Oil Spill, PFAS contamination, or coastal restoration).

This may be an opportunity for AGs and congressional committees to work alongside each other when they are investigating similar topics or actors, such as with the [Volkswagen emissions](#) cheating scandal, opioids, or other consumer protection issues.

Congressional hearings are conducted either at the subcommittee or full committee level. Usually, agency officials testify on panels alone or with other administration officials. Hearings that do not involve agency officials ordinarily include a small number of witnesses testifying, at the request of either the committee majority or minority, on a particular issue or piece of legislation.

Most hearings begin with an opening statement from the chair and ranking member (the top member of the minority party) of the subcommittee or full committee. Witnesses will then have the opportunity to summarize their written testimony (submitted in advance) before members of the subcommittee or full committee take turns asking questions of the witnesses.

Nominations

Article II of the Constitution [provides](#) the president the authority to nominate with the advice and consent of the Senate all federal judges, more than 300 positions in 14 cabinet agencies, and more than 100 positions in independent agencies. Most nominees testify before the Senate committee of jurisdiction³ before the committee [reports](#) the nomination to the full Senate either favorably, unfavorably, or without recommendation; or takes no action on the nomination. The full Senate then can approve, reject, or send the nomination back to the committee of jurisdiction for further consideration (though the latter option is rarely used).

Senators often [use](#) the confirmation hearing on a particular nominee for an agency position to extract policy commitments from the nominee. For example, in February 2021, senators on the Environment & Public Works Committee [asked](#) Michael Regan, President Biden’s nominee for EPA administrator, whether he would make action on PFAS contamination a priority. In response, Mr. Regan [stated](#) that the issue “will be a top priority for this Administration” and that he would pursue discharge limits and other regulatory options.

Resources

For environment, energy, and climate issues, the following committees have primary jurisdiction:

- **Senate:** [Energy & Natural Resources](#); [Environment & Public Works](#); [Commerce, Science & Transportation](#)
- **House:** [Select Committee on Climate Crisis](#); [Energy & Commerce](#); [Natural Resources](#); [Transportation & Infrastructure](#)

To follow congressional action, the following resources are useful:

- **Legislation:** www.congress.gov
- **Nominations:** <https://www.congress.gov/search?q={%22source%22:%22nominations%22}&searchResultViewType=expanded>
- **News:** [E&E News](#); [Roll Call](#); [POLITICO Energy & Environment](#); [Inside EPA](#); [Utility Dive](#)

Tools for Interacting With Congress

Members of Congress and their staff tend to respond and react to public engagement from all sources, especially from other elected officials. While it may seem antiquated in today's digital world, the institution's gears turn when engagement is made in non-digital formats, such as physically signed letters, phone calls, and in-person meetings.

As attorneys general consider how to most effectively engage with Congress, attorney general offices (AGO) should be mindful of whether their states have senators and members of the House of Representatives leading or serving on relevant committees and subcommittees. Working with members of key committees and subcommittees will usually represent the best opportunity to advance AGOs' legislative and policy priorities. The membership of committees and subcommittees can be found on committee websites. Senate committee websites can be accessed [here](#); House committee websites can be accessed [here](#).

Here are the best tools for interacting with Congress:

- **Calls and meetings with staff or the member directly:** Capitol Hill puts a premium on live interaction, whether by phone, conference meeting, or one-on-one meetings (in-person, pre- and post-COVID-19). Information is power. Meeting in person to outline a request, raise concerns about an issue, or to build greater support for a cause usually yields a good return on the time invested. While it is great to meet with the member directly, AGs and their staff should also consider organizing meetings with congressional staffers.

AG outreach is particularly powerful in Congress in part because of the strong relationships that members of Congress already have with many AGs. Where AGs have close relationships with a member of Congress, they should not hesitate to directly meet with or call that member. This should not, however, be a substitute for staff-to-staff engagement.

Meetings with staff of committees with jurisdiction can also be an effective and efficient use of time. While authorization bills do not move frequently, committees are constantly looking for ideas and provisions to include in such bills.

The target of a call or a meeting should be determined by the type of legislation under consideration:

- Appropriations: Target the staff of home state senators and representatives (in particular those on the Appropriations Committees and the staff of the relevant Appropriations Subcommittees).
- Authorizations: For legislation establishing policy or setting authorized spending levels (i.e. authorizing legislation), target the staff of the committees of jurisdiction and the staff of home state senators and representatives (in particular, those on the committees of jurisdiction).

- **Letters:** Writing letters to members of Congress is one of the most effective ways to raise awareness of an issue. If appropriate, publicly releasing the letter usually results in press coverage and a formal response from the office. In addition, the letter could be placed into the record during a congressional hearing.

The intended recipient of a letter should be driven by the type of legislation under consideration and where the bill is in the legislative process:

- **Appropriations:** If the relevant spending bill (out of 12) has not yet passed out of committee, the letter should be addressed to the chair and ranking member of the House and Senate Appropriations Committees and relevant Appropriations Subcommittees. If the relevant fiscal year spending bill is out of committee and is being considered on the House or Senate floor, the letter should be addressed to House and Senate leadership (i.e. the Speaker and Minority Leader in the House and the Majority and Minority Leaders in the Senate).
- **Authorizations:** If the letter deals with legislation establishing policy or setting authorized spending levels (i.e. authorizing legislation) and the legislation has not yet reached the House or Senate floor, the letter should be directed to the chair and ranking member of the House and Senate committees and subcommittees with jurisdiction. If the relevant legislation is being considered on the House or Senate floor, then the letter should be addressed to House and Senate leadership.
- **Hot Topic:** Oftentimes issues emerge quickly and can consume Congress's attention, such as the U.S. response to the COVID-19 crisis or widespread PFAS contamination. In these cases, writing to a state's entire delegation (the state's Senators and House members) is a good starting point. Adding the [leadership](#) for the House and the [leadership](#) for the Senate should be considered as well.

Keeping your letter direct and succinct is key when writing to members of Congress. Here are five tips for writing an effective letter: 1) keep it short, preferably one or two pages 2) include an "ask" in the letter, the action you want taken; 3) if at all possible, discuss the "ask" in the context of economics or its jobs impact at a state and local level; 4) avoid the use of legal or technical terms, speak in clear and simple language; 5) send copies to the relevant staffer for those offices or committees. See examples of effective letters to Congress from attorneys general in the section below.

- **Op-eds:** While there are fewer outlets publishing op-eds today than in the past, driven in part by an over-reliance on the tactic, well-placed op-eds will likely be read on Capitol Hill by staff following the issue. A 2018 [study](#) in the Quarterly Journal of Political Science found that op-eds are an effective method for moving public opinion. Good venues for placing op-eds include: *New York Times*, *Washington Post*, *Wall Street Journal*, *The Hill*, and *Utility Dive*.

- **Testimony:** Hearings are a go-to method for members of Congress to collect information, raise awareness of issues, and drive press attention. Testifying before a committee does the same for an attorney general. If testifying is not an option, letters from attorneys general can be included in the record of the hearing.

If a member from the AG's home state is a member of the committee, this along with conversations with committee staff can result in an invitation to testify. If an attorney general has a strategic or long-term interest in testifying before a Senate or House committee, building a relationship with the committee staff should start early. In addition to in-person briefings, establishing a cadence of updates through calls and emails (i.e., biweekly or monthly) will keep your issue and name on staff radars.

- **Asking members to support AG actions:** AGs should not hesitate to ask members of Congress to support their work at the state level. This could take the form of amicus briefs in lawsuits brought against or in support of a federal rule or law, or in other ongoing litigation.

Recent AG Engagement With Congress

State attorneys general have often engaged with Congress on matters of interest to their constituents. Attorneys general have interacted with Congress through letters to House and Senate leadership, or to the chair and ranking members of congressional committees. They have also provided testimony to congressional committees and have written op-eds on issues before Congress. States have engaged Congress on air, water, greenhouse gas (GHG) emissions, PFAS contamination, and federal regulatory processes, among other issues.

1) Attorneys general have written **letters** to Congress, urging the House and Senate to **reject specific legislation** or to **reject anti-environmental spending cuts and policy riders** or to **reject specific nominees**:

- In February 2017, seven attorneys general successfully [urged](#) the Senate to oppose a Congressional Review Act resolution of disapproval ([S.J.Res. 11](#)) to repeal the Bureau of Land Management’s Methane Waste Prevention rule. The Senate rejected the resolution in May 2017.
- In February 2017, 10 attorneys general [asked](#) that the Senate decline to advance the Commercial Vessel Incidental Discharge Act ([S. 168](#)). Congress initially declined to advance the Commercial Vessel Incidental Discharge Act, but at the end of 2018 [compromise legislation](#) on the issue was enacted, which preserved the EPA’s role in defending against aquatic invasive species by requiring the establishment of a uniform national standard on incidental discharges from commercial vessels.
- In April 2017, 16 attorneys general [requested](#) that the chair and ranking member of the House Energy & Commerce Committee reject the Ozone Standards Implementation Act ([H.R. 806](#)). The legislation was not enacted in the 115th Congress (2017-2019) and not introduced in the 116th Congress (2019-2021).
- In June 2017, 12 attorneys general [wrote](#) to Senate leadership in opposition to the Regulatory Accountability Act ([S. 951](#)), which was not enacted.
- In December 2017, five attorneys general sent individual letters to [House leadership](#) and the [chair and ranking member](#) of the Senate Environment & Public Works (EPW) Committee in opposition to House ([H.R. 453](#)) and Senate ([S. 1857](#)) legislation to extend the deadline for residential wood heaters to comply with Clean Air Act emissions limits. Neither piece of legislation was enacted.
- In December 2018, five attorneys general [wrote](#) to the Senate in opposition to the nomination of Bernard McNamee to be a FERC Commissioner. McNamee was confirmed as a FERC Commissioner and served until September 2020.
- Coalitions of attorneys general in 2017 ([here](#) and [here](#)), [2018](#), and [2019](#) asked Congress to forgo cuts proposed by the White House to EPA’s budget, and to reject anti-environmental policy riders, such as delaying implementation of ozone air quality standards, that were under consideration for inclusion in annual appropriations bills. The steepest of the proposed cuts and most radical anti-environmental riders were rejected by Congress.

2) Attorneys general have also written **letters in support of specific legislation or proposed legislation** or **in support of particular provisions** in appropriations or authorization legislation:

- In October 2017, six attorneys general [requested](#) that Congress enact an updated federal flood standard to require additional risk-reduction and resiliency measures for any proposed federal project in flood prone areas. No such legislation was enacted.
- In July 2019, 18 attorneys general [wrote](#) to the leadership of the House Energy & Commerce Committee to support the Alan Reinstein Ban Asbestos Now Act ([H.R. 1603](#)), which did not become law in the 116th Congress.
- In 2019 and 2020, multiple attorneys general ([here](#), [here](#), and [here](#)) sent letters to Congress expressing support for providing EPA the authority under the Superfund program to clean up PFAS chemicals or for particular PFAS-related provisions in the NDAs or funding for PFAS programs in the annual appropriations bills. While many of the requests were not adopted (including Superfund cleanup authority), some of the smaller requests (such as a U.S. Geological Survey PFAS sampling effort and banning military use of firefighting foam containing PFAS chemicals) were [enacted](#).

3) Attorneys general have also **testified** or submitted **written testimony** to congressional committees on their **views on particular legislation** and **on agency actions**:

- In February 2015, a Bureau Chief in the New York Office of the Attorney General [testified](#) before a joint House Transportation & Infrastructure Committee and Senate EPW Committee hearing in support of the EPA and Army Corps' then-proposed Waters of the United States rule. The rule was finalized in 2015, though it was later rolled back by the Trump administration.⁴
- In March 2015, an Assistant Attorney General in the New York Office of the Attorney General [testified](#) before the Senate EPW Committee in support of the lawfulness of the EPA's then-proposed Clean Power Plan to regulate carbon emissions from power plants. The Clean Power Plan was finalized in August 2015, but was later repealed by the Trump administration's EPA. That repeal has since been struck down.
- In November 2019, a Senior Assistant Attorney General in the Washington State Office of the Attorney General [testified](#) before the Senate EPW Committee on Clean Water Act (CWA) Section 401 and other CWA issues. The testimony raised concerns about EPA's then-proposed (now finalized) CWA Section 401 rule, and expressed opposition to the Water Quality Certification Improvement Act ([S. 1087](#)), which was not enacted in the 116th Congress.
- In April 2020, 11 attorneys general submitted [testimony](#) to the Senate EPW Committee in support of the American Innovation and Manufacturing Act ([H.R. 5544](#) and [S. 2754](#)) as it would facilitate the phasedown of HFCs. The [COVID-19 relief package](#) enacted at the beginning of 2021 will phasedown HFC production and use by 85 percent over 15 years.

4) Attorneys general have also used **op-eds** to express opposition to **policy provisions** being considered by Congress:

- In November 2017, the attorneys general of Maryland, Virginia, and Washington, D.C., placed an [op-ed](#) in the *Washington Post* in opposition to an [amendment](#) to the 2018 House appropriations bill that would have prohibited EPA from enforcing the Chesapeake Total Maximum Daily Load under the Clean Water Act. While the House adopted the amendment in 2017 and 2018, the amendment was not included in either of the final 2018 and 2019 appropriations bills.

In summary, attorneys general who have engaged with Congress have seen a good return on their effort invested. Establishing relationships with the legislative body can strengthen coalitions and build support for many of the issues that AGs engage on, especially clean energy, climate, and environmental justice. In just the last four years, five of the pieces of legislation attorneys general opposed were defeated, and some of the PFAS provisions that attorneys general supported were adopted. Similarly, Congress declined to move legislation that would have weakened water quality after AGO staff testified in opposition to the bill, and Congress enacted an HFC phasedown regime following testimony from 11 attorneys general in support of the legislation. And a policy rider that would have attacked CWA protections for the Chesapeake Bay was not enacted in the wake of an op-ed from the Chesapeake Bay attorneys general opposed to the policy rider.

Reference Guide for Further Reading

Filibuster: The filibuster is a Senate parliamentary tool that is used to prevent a measure from advancing. In recent years, proposals to completely eliminate the filibuster have gained greater attention. During the last decade, the filibuster has been eliminated for all executive and judicial nominations but remains in place for certain legislative proposals. Further reading: [Congressional Research Service: Filibusters and Cloture in the Senate](#).

Reconciliation: Reconciliation is used when Congress goes through the annual budgeting process and needs to adjust mandatory revenue and spending provisions to match a given year's budget priorities. It can allow some measures to pass in the Senate with only 51 votes instead of a filibuster-proof 60. Reconciliation has been part of the process in several recent high-profile bills. For example, Congress used it as part of the process to pass the Affordable Care Act. Congress used the same process to pass the 2017 Tax Cuts and Jobs Act, as well as tax cuts under President George W. Bush. Further reading: [Congressional Research Service: The Budget Reconciliation Process: Stages of Consideration](#).⁵

Budget: The power of the purse is Congress's greatest power. The size and scope of the federal government's budget makes the budget process powerful and critical for implementing policy. Further reading: [Congressional Research Service: Introduction to the Federal Budget Process](#).

Authorizations and Appropriations: Congress uses authorizing legislation to establish federal agencies and to set federal policy and programs that affect federal spending, such as the Clean Air Act or the Fixing America's Surface Transportation (FAST) Act. Most authorizing legislation does not provide funding for policies and programs, so Congress must include funding—at its discretion—for the approved policies and programs in the annual appropriations processes. Further reading: [Congressional Research Service: Authorizations and the Appropriations Process](#).

Congressional Review Act: The Congressional Review Act (CRA) is the result of an effort in the 1990s to provide Congress with a check on the executive branch. Congress can use the CRA during a limited period of time to repeal agency actions it disapproves of; an agency cannot afterwards promulgate a rule that is "substantially the same" as the repealed rule. The CRA is not subject to the Senate's filibuster and therefore facilitates more partisan disapprovals than would otherwise be possible. Further reading: [Congressional Research Service: Unanimous Consent: The Congressional Review Act \(CRA\): Frequently Asked Questions](#); Richard L. Revesz, *Censured Science, the CRA, and the end of Meta-Deregulation*, Bloomberg Law.

Unanimous Consent: The Senate has standing rules but can also operate on the principle of complete agreement, i.e. unanimous consent. When there is unanimous consent, the Senate can bypass normal rules and procedures. Thus, with it, anything is possible. Without it, the Senate slows to a crawl. Further reading: [Congressional Research Service: The Legislative Process on the Senate Floor: An Introduction](#).

Suspension of the Rules: This is a default set of parameters used by the House in place of its normal rules and procedures to consider non-controversial proposals, e.g. renaming a post office. Under “suspension of the rules,” a two-thirds majority of the House is needed for passage, floor debate is limited, and all floor amendments are prohibited. Further reading: [Congressional Research Service: Suspension of the Rules in the House: Principal Features](#).

Lobbying Restrictions: Three federal statutes, the Foreign Agent Registration Act, the Lobbying Disclosure Act, and the Honest Leadership and Open Government Act,⁶ govern lobbying in the United States. They define “lobbying,” “lobbying contact,” and “lobbying activities,” and require lobbyists to register and disclose their activities. The Lobbying Acts do not apply to contacts “made by a public official acting in the public official’s official capacity.”⁷ All states also have their own lobbying laws. Many of those laws also make clear that the term “lobbying” does not include communications from a public official. See [here](#) for more information. Further general reading: [Congressional Research Service: The Lobbying Disclosure Act at 20: Analysis and Issues for Congress](#).

Endnotes

- 1 Relevant lobbying rules are addressed in the Reference Guide section.
- 2 For in-depth discussions of how two major pieces of legislation were enacted, see Robert G Kaiser, *Act of Congress: How America’s Essential Institution Works, and How It Doesn’t* (2014) (detailing the process that led to the adoption of Dodd-Frank, financial services reform legislation); Costas Panagopoulos and Joshua Schank, *All Roads Lead to Congress: The \$300 Billion Fight Over Highway Funding* (2007) (examining how the 2005 surface transportation bill became law).
- 3 For example, judicial nominees will testify before the U.S. Senate Committee on the Judiciary and nominees for the Federal Energy Regulatory Commission will testify before the U.S. Senate Committee on Energy & Natural Resources. The website of most Senate committees maintain a webpage that tracks all of the nominations under its purview.
- 4 The rollback was challenged in multiple courts and the Biden administration has now announced it is reviewing the rollback in accordance with the “Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” 86 Fed. Reg. 7037 (Jan. 25, 2021).
- 5 See also Bethany Davis Noll & Richard Revesz, [Regulation in Transition](#), 104 Minn. L. Rev. 1, 51-52 (2019).
- 6 2 U.S.C. §§1601-1614.
- 7 2 U.S.C. § 1602(8)(B).

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