



GOVERNMENT AFFAIRS AND POLICY MONTHLY UPDATE

June 2017

LEGISLATIVE

Nominations: For the U.S. Department of Transportation (USDOT), five of the 16 presidentially appointed positions have received nominations: Elaine Chao (Secretary) – confirmed January 31; Jeffrey Rosen (Deputy Secretary) – confirmed May 16; Derek Kan (Under Secretary of Transportation for Policy) – nominated on April 6; Steven Gill Bradbury (General Counsel) – nominated June 5; and Adam Sullivan (Assistant Secretary for Governmental Affairs) – nominated May 8. There are no nominees for the USDOT operating administrations, as yet. Also, the Administrator for the Federal Emergency Management Administration, Brock Long, was confirmed on June 20; and David Pekoske was nominated to be Administrator of the Transportation Security Administration (TSA), June 5.

FY 2018 Appropriations: Hearings in both House and Senate are proceeding; however, no bill markups are yet scheduled. The President released his FY 2018 budget proposal on May 23, proposing boosts to defense funding and cuts to domestic programs. The House Budget committee also agreed on a budget proposal, and plans to vote on it next week, setting overall budget levels, with cuts to domestic (\$511 billion) programs and a boost to defense (\$621 billion) programs. With the remaining legislative calendar waning and “must do” legislation piling up, a continuing resolution and eventual omnibus bill will be the most likely outcome for the FY 2018 appropriations process.

Tax Reform: In Washington, discussions continue between the House and Senate Republican leadership and Administration officials on what to propose for tax reform, although we are unlikely to see any proposals until the fall. The only definitive news to share is that there is consensus for having Congressional Republicans and the White House on the “same page” prior to releasing any tax reform proposal.

Infrastructure: The President’s FY 2018 budget proposal, released May 23, proposes to cut DOT funding by 13%, to \$16.2 billion, as part of the overall proposed cuts to domestic spending, but includes a budget item that lays out spending plan for \$200 billion of direct spending to support \$1 trillion in public/private infrastructure investment over 10 years. The President outlined his proposal in a [“statement of principles,”](#) with the promise of more details to follow later in the year.

H.R. 2120: The Buses United for Safety, Regulatory Reform, and Enhanced Growth for the 21st Century, was introduced by Congressman Perry of the T&I Committee. The bill addresses number of interesting ideas, but it also raises some questions, in terms of safety.

FAA Reauthorization: The current FAA program is due to expire on September 30, 2017. Both House Transportation & Infrastructure and Senate Commerce committees introduced FAA reauthorization bills (HR 2997 and S. 1405, respectively) last week, and are marking the bills up this week.

SAFER TRANSIT Act: On June 26, Congressman Lipinski reintroduced the [SAFER TRANSIT Act](#), a bill which would reauthorize the Intercity Bus Security Grant Program (IBSGP).

H.R. 2715 - On May 26, 2017, Representative Grace Meng (D-NY) introduced a bill titled the No Fees for Lost Baggage Act, which would provide luggage protections for passengers traveling in the rail, ship and bus mode of transportation.

REGULATORY/ADMINISTRATIVE

The USDOT website continues reflect the Department's ongoing efforts to review regulatory actions in compliance with the Executive Orders calling for regulatory reform.

FMCSA:

- **Lease and Interchange:** On 6/16/17, FMCSA published two notices in the Federal Register: the first extended the compliance date of the rule to January 1, 2019; and the second notice proposed a response to petitions for reconsideration, outlining revisions FMCSA is contemplating to revise the rule, including excluding "chartering" from the leasing requirements and extending the 48-hour emergency delay in preparing a lease, and requested comments. The revision notice did not include proposed regulatory text, although the FMCSA staff are considering this document to be an NPRM. **GAP will hold an open conference call on Wednesday, June 28, to discuss the notices.** For further background, [click here](#) to view the docket. **Comments are due on the second notice by July 31, 2017.**
- **Entry Level Driver Training Rule:** With the Presidential transition, the effective date for this rule was initially postponed. However, the rule is now effective, and the compliance date remains February 8, 2020.
- **Electronic Logging Devices:** ABA continues to monitor the list of FMCSA-registered ELD vendors; [Click here](#) to view the list. On 6/12/17, the Supreme Court dismissed the OOIDA lawsuit challenging the constitutionality of the ELD mandate. The mandate will be effective 12/18/17. FMCSA also held two sessions related to compliance with HOS and ELDs, at the summer BISC meeting on June 13. As well, FMCSA will be holding additional live question and answer events on ELDs around the country, over the next 4 months.
- **Motor Carrier Safety Advisory Committee (MCSAC):** MCSAC met June 12-13, 2017. The first day of the 2-day session focused on developing FMCSA's strategic plan; and FMCSA's proposed list of regulations for repeal, in response to the E.O. on regulatory reform. The second day focused on the development, regulatory and safety implications of automated commercial motor vehicles. Materials from the meetings outlining the matters discussed, including the list of proposed regulations to be repealed, can be found by [clicking here](#).
- **Financial Responsibility:** On 6/5/17, FMCSA withdrew their 2014 ANPRM considering raising the financial responsibility (insurance) requirements for motor carriers, freight forwarders and brokers.
- **Military Licensing and State CDL Reciprocity:** On 6/12/17, FMCSA issued an NPRM to allow State Driver License Agencies to waive the CDL knowledge test for qualified veterans and active duty personnel, including National Guard and Reserves, seeking to obtain a civilian CDL. **Comments are due August 11, 2017.**
- **Commercial Learner's Permit Validity.** On 6/12/17, FMCSA issued an NPRM to allow States to issue a CDL learner's permit with an expiration date of up to one year, replacing the current 6-month limitation. It would also eliminate unnecessary re-testing and additional fees for those who seek an additional 180-day renewal of their CDL learner's permit. **Comments are due August 11, 2017.**
- **Automated Commercial Vehicles Listening Session.** On 4/24/17 FMCSA held listening session in Atlanta, GA, on regulating autonomous vehicles (AVs). The Agency is seeking input on AV operations as they relate to the following regulations: part 383 (Commercial Driver's Licenses); part 391 (Qualification of Drivers); sections 392.80 and 392.82 (use of electronic devices); part 395 (Hours of Service of Drivers); and part 396 (Inspection, Repair, and Maintenance). The agency also requests comments on how enforcement officials could identify commercial motor vehicles capable of various levels of automated operation, and the types of HACV equipment that can be effectively inspected at roadside. **Comments may be submitted until July 17, 2017.**

OTHER AGENCY ACTIVITIES:

FHWA: Performance Management Measures and CMAQ – On 5/19/17, FHWA issued a notice indefinitely delaying portions of its National Performance Measure #3 final rule concerning the greenhouse gas emissions measure), for additional notice and comment. The effective date of those portions of the rule is delayed until additional notice/comment; but the effective date for the remainder of the final rule was May 20, 2017.

FHWA: Notice Granting Tolling Parity to OTRBs - On April 28, 2017, the FHWA published a notice asking for comments on its implementation of the tolling provisions of the FAST Act, providing equitable treatment of over-the-road buses when compared to transit vehicles. Comments needed to be filed by May 30, 2017, and may now be viewed in the docket.

FEMA/TSA: On 6/2/17, FEMA promptly issued its notice of opportunity to apply for grants from the \$2 million provided in 2017 to the Intercity Bus Security Grant Program, but applications need to be filed by June 22, 2017, and the application period is now closed.

NAS: FAST Act Study of FMCSA's SMS – Per the FAST Act passed in 2015, the National Academies of Sciences (NAS) were tasked with reviewing the efficacy of FMCSA's Safety Management System. The NAS issued its report on June 27, 2017. This action now triggers deadlines for both FMCSA to develop a compliance plan to address NAS recommendations, and the DOT Inspector General to certify FMCSA's actions.