June Legislative and Regulatory Report

LEGISLATIVE

House Passes THUD Funding Bill

The House of Representatives passed several spending bills for fiscal year 2020 in June, including a minibus containing appropriations for the U.S. Department of Transportation. The bill provides $86.6 billion in total budgetary resources for USDOT, an increase from both fiscal year 2019 enacted levels and President Trump’s budget request.

The bill also includes several policy provisions, known as policy riders. It prohibits the Federal Motor Carrier Safety Administration from using funds to review or make decisions on petitions requesting state meal and rest break laws be preempted by federal laws. Such a decision was issued in December 2018 when FMCSA granted a petition by the American Trucking Associations to allow federal laws to preempt California’s stricter meal and rest break laws. Additionally, the bill prohibits FMCSA from using funds to enforce or issue a rule that eliminates the 30-minute rest break required for drivers under current hours of service regulations. FMCSA has been reviewing its hours of service requirements, including the 30-minute break, and is expected to publish a proposal very soon. Also included in the bill is a provision that requires annual underride guard inspections.

The Senate has not yet introduced any appropriations bills for the upcoming fiscal year, but their proposal is expected to be quite different from the House version. Both chambers need to pass a final appropriations package by September 30, 2019.

Legislation Introduced to Require Speed Limiting Devices on Trucks

Senator Isakson (R-GA) and Senator Coons (D-DE) introduced legislation on June 27, 2019 that would require heavy duty trucks to be equipped with speed-limiting devices. The bill would mandate that all new commercial trucks weighing over 26,000 pounds install speed-limiting technology set to a maximum speed of 65 miles per hour, and extend this requirement to trucks currently in use that are already equipped with these devices. The proposed legislation would not require trucks without speed-limiters to retroactively install the technology.

The Cullum Owings Large Truck Safe Operating Speed Act of 2019 has no cosponsors and has been referred to the Senate Committee on Commerce, Science, and Transportation.
USTR Accepts Exclusion Requests on $200 Billion List; Holds Hearings on Proposed $300 Billion List

The Office of the United States Trade Representative began accepting requests from stakeholders to exclude certain products from a list of $200 billion product lines from ad valorem duties of up to 25 percent. The list of goods subject to these Section 301 tariffs was published in October 2018 and includes chassis and truck tires. Initially, USTR set the tariff at 10 percent, with an increase to 25 percent planned for January 1, 2019. Due to ongoing trade negotiations between China and the U.S., the increase was postponed twice before ultimately going into effect on May 10, 2019. USTR already had exclusion processes in place for two earlier tariff lists, but not for the $200 billion list. Stakeholders can submit exclusion requests until September 30, 2019.

USTR also held seven days of public hearings in late-June to hear testimony on proposed tariffs on a list of additional goods valued at $300 billion. This list covers nearly every product not included on previous Section 301 tariff lists. Several industry stakeholders, including the American Association of Port Authorities and the Institute of International Container Lessors, used this opportunity to urge USTR to remove shipping containers and cranes from the proposed list. IANA submitted written comments in which they stated that tariffs on containers would undermine intermodal productivity and result in economic harm to U.S. interests.

FMCSA Seeks Information on Driver Detention Times

On June 10, 2019 FMCSA published a request for information for existing or potential data sources to better understand driver detention times during the loading and unloading of commercial motor vehicles. A 2018 report by the Government Accountability Office found that more complete data was needed to fully understand the issues around driver detention, and recommended FMCSA collaborate with industry stakeholders to implement a plan to collect and analyze data on the frequency and impacts of driver detention. FMCSA noted that while the report estimated overall wait times, it was not able to separate normal loading and unloading times from detention time which FMCSA called a “critical data gap.” Therefore, FMCSA is now seeking input on currently available data to accurately record loading, unloading, and delay times; estimates of reasonable loading and unloading times; and how shippers and carriers address acceptable wait times as well as penalties. Comments are due by September 9, 2019.
USDOT Solicits Applications for Port Improvement Grants

USDOT published the first ever notice of funding opportunity for the Port Infrastructure Development Program. This program, administered by the Maritime Administration, aims to provide grants for improvements of port facilities at coastal seaports. The fiscal year 2019 appropriations bill provided $292,730,000 in total funding for the program, $92,730,000 of which is reserved for the 15 coastal seaports that handled the greatest number of loaded twenty-foot equivalent units of containerized cargo in 2016. The minimum award size for a project is $10 million and there is no maximum award size. Projects eligible for consideration are located either within or outside the boundary of a coastal seaport and directly related to port operations or to an intermodal connection to a port and should improve the safety, efficiency, or reliability of the movement of goods. Applications for Port Infrastructure Development Program grants are due September 16, 2019.