Congress Passes FY20 Appropriations Package

Following months of negotiations and two short-term continuing resolutions, Congress passed a year-long appropriations package providing funding to federal agencies for fiscal year 2020. Funding for USDOT was included in an omnibus containing eight of the twelve appropriations bills. The legislation passed the House by a vote of 297-120 and the Senate by 71-23.

The bill provides $1 billion for the BUILD grant program, $100 million more than last year’s enacted levels. The CRISI grant program was funded at $325 million for FY20, a $70 million increase over FY19 funding. The bill provides that $45 million of CRISI funds will be awarded to projects that “require the acquisition of rights-of-way, track, or track structure to support the development of new intercity passenger rail service routes.” The Port Infrastructure Development Program, funded for the first time last year, will receive $225 million (a $67.7 million decrease compared 2019). Last year, roughly 30 percent of this program’s funds were set aside for grants to the “15 coastal seaports that handled the greatest number of loaded foreign and domestic twenty-foot equivalent units of containerized cargo in 2016.” For FY20, MARAD is directed to award at least $200 million to coastal seaports or Great Lakes ports, and prioritize ports that “handled less than 10,000,000 short tons in 2017” for grant awards under $10 million.

The bill provides MARAD $20 million for its small shipyard grant program and $3 million for the Title XI loan program. Additionally, the 45G tax credit for short-line railroad maintenance was retroactively extended from its previous expiration date of January 1, 2018 through January 1, 2023.

Earlier this year, the House passed a THUD appropriations bill that included several policy provisions placing stipulations on certain appropriations, these additions are known as policy riders. The House bill contained multiple trucking-related policy riders, specifically pertaining to meal and rest break policy changes as well as the 30-minute break. These riders were not included in the final version of the appropriations package. However, the legislation does incorporate a provision requiring that FMCSA revise its inspection standards for rear underride guards.

President Trump signed the bill into law on December 20, 2019 and it will provide funding through the current fiscal year, which ends on September 30, 2020.
USDOT Seeks Stakeholder Input to Develop National Freight Strategic Plan

The Moving Ahead for Progress in the 21st Century Act, passed in 2012, mandated USDOT develop a National Freight Strategic Plan to evaluate and establish an inventory of freight transportation needs. A draft plan was released by the Obama Administration in the spring of 2015, months prior to passage of the Fixing America’s Surface Transportation Act. The FAST Act built on MAP-21’s call for the NFSP by establishing eleven statutory components USDOT should address, including current assessments and future needs forecasts of the nation’s freight network. A final NFSP was due in 2017, but has not yet been published.

On December 27, 2019, USDOT issued a request for information, seeking comments on the eleven FAST Act-mandated portions of the plan as well as ten additional questions. Specifically, these questions pertain to freight system challenges, freight performance measurement, barriers to freight efficiency, and approaches to multimodal freight investments. Comments are due by February 10, 2020.

EPA OIG Finds Glider Repeal Rule Violated Rulemaking Procedures

In 2016, the Environmental Protection Agency finalized its Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2 which have been effective since early 2018. This rule included emission standards for glider vehicles. In 2017, EPA issued a proposal known as the Glider Repeal Rule, which would exempt glider trucks from complying with the Phase 2 emission standards. The proposal was tabled shortly thereafter due to concerns from outside stakeholders.

The EPA Office of the Inspector General published a report in December 2019, examining the rulemaking procedures followed by the agency during its Glider Repeal Rule proposal. The report found that EPA violated certain regulations in its effort to fast-track the rulemaking. According to OIG’s report, EPA did not perform required analyses on costs and benefits, as well as potential health implications before issuing the proposal. These requirements, among others, are in place for rulemakings deemed “economically significant” due to having an annual effect on the economy of $100 million or more. The proposed Glider Repeal Rule is currently still listed on the EPA’s Fall 2019 regulatory agenda as an economically significant “long-term action,” meaning the EPA does not expect action on this item within 12 months of publication of the agenda.