



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



October 15, 2018

At the end of last week, the Senate recessed until after the November 6 elections. The House recessed over two weeks ago. Congress will return to DC after the election for a so-called “Lame Duck” session. It is unclear at this time how long the Lame Duck will last and what, if any, legislation will get passed. The outcome of the November elections will have a big impact on the duration and productivity of the Lame Duck session, particularly if the Democrats take over the House. Any pending legislation that is not passed and signed into law when Congress adjourns for the year – likely in mid-December – is officially dead and must be reintroduced again in the new, 116th Congress which begins in mid-January 2019.

Despite the failure of the Trump Administration’s infrastructure plan to get any traction on Capitol Hill, Congress did end up completing two major pieces of infrastructure legislation – a five-year FAA bill and a comprehensive water bill. The FAA bill has been signed into law by the President. The President is expected to sign the water bill shortly.

Congress was able to pass a few of the FY’19 federal agency appropriations bills, including the infrastructure-related Energy & Water funding bill, before the October 1 start of the new fiscal year. However, Congress did not pass the THUD (US DOT) bill before leaving town. In order to avoid a partial government shutdown, Congress passed a Continuing Resolution (CR) to fund all remaining federal agencies, including US DOT, through December 7 – after the November elections. The CR funds federal programs at the FY’18 funding levels.

For most US DOT programs that does not present a serious problem, at least in the short-term, because FY’18 funding levels were at historically high levels. However, the pending House and Senate FY’19 bills include several critical provisions instructing US DOT and FTA to expedite approval of pending Full Funding Grant Agreements (FFGAs) and FY’18 and FY’19 Capital Improvement Grants (CIG), as well as language on BUILD/TIGER grant criteria, which will not go into effect until the FY’19 funding bill is officially passed. Also, under a CR, US DOT typically does not award any competitive grants, such as BUILD and INFRA.

FAA Authorization Bill

The final, multiyear FAA Authorization bill is part of a package of 11 different bills which include the FAA Authorization (Division B – beginning on page 22), the National Transportation Safety Board (NTSB) Reauthorization Act (Division C), the TSA Modernization Act (Division K), the Maritime Security Act (Division J), the Disaster Recovery Reform Act (Division D), and an FY’18 Supplemental Appropriations for Disaster Relief (Division I) which provides funding to repair recent hurricane damage. Here is a link to the [text](#) of the final



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



bill, a [link](#) to a five-page summary of the FAA and Disaster Recovery sections of the bill, and a [link](#) to a joint House/Senate press release.

As expected, the final FAA bill does not include an increase in the Passenger Facility Charge (PFC) nor any provisions to privatize the Air Traffic Control (ATC) system as had been proposed by House T&I Committee Chairman Bill Shuster (R-PA) and the major airlines. The funding for the Airport Improvement Program (AIP), which supports airport construction, was reauthorized for five years, but at the same level as the current program - \$3.35B per year – which it has been funded at for the past 12 years.

The bill includes an ACEC-backed amendment to expand the application of Qualification-Based Selection (QBS) when procuring engineering services on federally funded airport projects. The provision requires that airports comply with Brooks Act procedures if any portion of a project utilizes Airport Improvement Program (AIP) funds. This is designed to prevent segmentation of funding for A/E services - for example, if federal funds are only applied to the construction portion of a project, QBS rules must still be followed on the preliminary engineering and design.

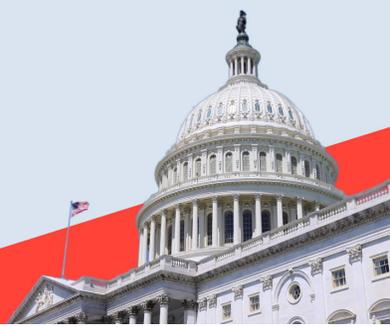
Water Authorization Bill

Just days after Congress passed a five-year FAA authorization bill, Congress passed a major water bill (S. 3021), “America’s Water Infrastructure Act of 2018”. The Senate passed the final bill on October 10 by a vote of 99 to 1 – hopefully reinforcing the idea that infrastructure funding is a bi-partisan issue. The House had previously passed the bill by a voice vote.

The bill combines the biennial Water Resources Development Act (WRDA) which funds the Corps of Engineers, along with the Safe Drinking Water Act, authorization of hydropower projects, and reauthorization and expansion of WIFIA financing for stormwater and wastewater infrastructure improvements.

Here is a [link](#) to the text of the final bill, a [link](#) to a summary of the bill, and a [link](#) to a section by section description of the bill. The bill:

- Authorizes the Corps of Engineers to undertake 15 major new projects that will cost a total of \$8.3B. In addition to the new construction, the bill authorizes feasibility studies for 65 new projects.
- Provides for a two-year, \$100M reauthorization of the popular WIFIA financing program. WIFIA provides large-scale water infrastructure projects loans at the Treasury Department's long-term interest rate.
- Includes a title dedicated to water energy. This will open up the potential of sending more hydropower onto the grid through a streamlined federal approval



process. The title would give operators credits for actions already taken before their re-licensing process as well as those required by the new license.

- Nearly Doubles Grants to States for Drinking Water Revolving Loan Funds. This is the first reauthorization of the Drinking Water State Revolving Fund in more than two decades. It authorizes \$1.17B for FY'19; \$1.3B for FY'20; and \$1.95B for FY'21 for the Drinking Water State Revolving Loan funds. This nearly doubles the current annual authorization.
- Includes S. 1137, the Clean, Safe, Reliable Water Infrastructure Act. This bill addresses the need to invest in the nation's drinking water, sewer and stormwater systems. It also provides for increased water efficiency, specifically by including \$450M to protect the sources of drinking water and funding to repair and eliminate combined sewer overflows (CSOs). And it formally authorizes the voluntary WaterSense program, which identifies and promotes water-efficient products through voluntary labeling.
- Creates Multiagency Federal Task Force on Stormwater Infrastructure. The task force will, with feedback from permittees, state and local governments and other stakeholders, provide in a report to Congress suggestions for improving the funding and financing of stormwater systems.
- Expands Onsite Wastewater Treatment. The bill addresses the need for information about onsite waste water recycling as one alternative for communities who cannot afford the upfront costs or ongoing maintenance costs of traditional wastewater infrastructure.
- Includes S. 451, the Water Resources Research Amendments Act. This bill addresses the need for additional research into increasing the effectiveness and efficiency of new and existing water treatment works.
- Enhances Drinking Water Infrastructure Resiliency and Sustainability. This provision directs the EPA to establish a "Water Infrastructure Resiliency and Sustainability Program" to award grants in each of FY'19 and FY'20 to increase the resiliency or adaptability of drinking water systems to regional changes in hydrologic conditions like droughts, floods and sea level rise. This section authorizes \$4M to carry out this section for each of the two fiscal years.

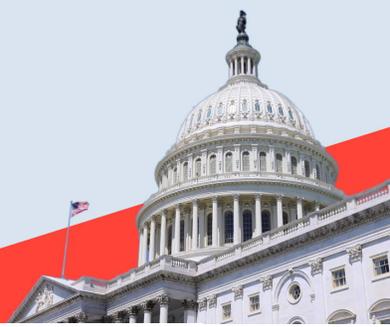
Administration Autonomous Vehicle Policy Guidance

US DOT has released [Version 3.0](#) of its automated vehicle (AV) guidance, building off of the previous version by broadening it to directly address commercial vehicles and transit. The guidance eliminates the designations of 10 technical proving grounds that were announced on the last day of the Obama Administration and proposes a new national pilot program to help the agency learn from ongoing automated vehicle testing and development. As with previous iterations, the focus is still on self-certification, and DOT is encouraging, but not requiring, auto companies to produce and publicize their voluntary safety self-assessments.



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



The document affirms DOT's commitment to deploying connected car technology using the 5.9 GHz spectrum. While Version 2.0 included best practices for state legislatures and highway officials, 3.0 addresses infrastructure owners and operators, state commercial vehicle enforcement agencies, public transit and local governments. Here are links to various AV documents:

US DOT newly released automated vehicle guidance Version 3.0 – [link](#)

NHTSA press release on Version 3.0 - [link](#)

US DOT Federal Register notice requesting comments on the new Version 3.0 guidelines – [link](#)

US DOT AV Policy Website – [link](#)

Administration Nominations

Although the Senate stayed in session for two weeks after the House during which they approved numerous judicial nominations, they adjourned without acting on a number of pending nominations for senior positions at US DOT (including several critical modal administrators), the Amtrak Board, and the Surface Transportation Board (STB).

Additional information and materials, including archived Washington Updates, are located on the WSP Federal Briefing website at www.federalbriefing.com