Federal Administration Policy and Regulatory News

New FCC Nominee Announced to Replace Commissioner Clyburn

President Trump nominated Geoffrey Starks, a current Federal Communications Commission (FCC) official, as a Democratic commissioner for the agency. Starks, an assistant bureau chief with the FCC’s Enforcement Bureau, will replace Mignon Clyburn, a Democrat who recently stepped down after nearly a decade.

DOT Signals New Regulatory Moves to Address Vehicle Automation and Infrastructure

In its Spring 2018 regulatory review, USDOT identified a number of areas in which it is considering establishing new - or amending existing - regulations. For automated vehicle, pre-rulemaking filings with the White House Office of Management and Budget’s (OMB) unified agenda include a number from the National Traffic Highway and Safety Administration (NHTSA) and one from the Federal Motor Carrier Safety Administration (FMCSA). NHTSA includes several, some of which address Federal Motor Vehicle Safety Standards (FMVSS):

- Amendments to Federal Motor Vehicle Safety Standards for Lighting 2127-AL95
Pilot Program for Collaborative Research on Motor Vehicles With High or Full Driving Automation 2127-AL99

Removing Regulatory Barriers for Automated Driving Systems 2127-AM00

Amending Rear Visibility Standards to Allow the Option for Camera-Monitor Systems to Replace Mirrors 2127-AM02

Assessment of FMVSS Test Procedures 2127-AM04

Removing Regulatory Barriers for Innovative Motor Vehicle Technologies 2127-AM05

For FMSCA, “Safe Integration of Automated Driving Systems--Equipped Commercial Motor Vehicles 2126-AC17” was put forth to OMB.

Only one infrastructure related pre-rule was reported to OMB. (Indefinite Delivery and Indefinite Quantity Contracts for Federal-Aid Construction 2125-AF83) In related news, The Trump Administration is proposing to move portions of the Army Corps of Engineers’ civilian work out of the Department of Defense to the Department of Transportation under its proposed streamlining plan.

National Dialogue on Automation Continues by Addressing Infrastructure Planning

On June 26-27, 2018 the National Dialogue on Automation Workshop 1: Policy and Planning, will be held in Philadelphia, Pennsylvania. Topics include issues relevant for the planning and policy community, such as how automation impacts travel demand, land use, infrastructure investment, right of way use, policy barriers, and other matters.

U.S. Departments of Homeland Security (DHS) and Commerce Release Report Action Against Botnets and Other Automated Threats in Internet of Things Technology

On May 30, 2018, DHS and the Commerce released a report which recommends agencies, the tech industry and
other stakeholders take wide-ranging steps — from public awareness campaigns about securing internet of things devices to voluntary product labeling to improved information sharing — to reduce the growing threat from botnets. In 2016, a record-breaking Distributed Denial of Service attack (DDoS) was reportedly delivered by nearly 145,000 hacked cameras.

**Legislative News**

**NHTSA Heidi King’s Nomination Rescheduled for June 27**

The Senate Committee on Commerce, Science, and Transportation has rescheduled the nomination of Heidi King to lead the National Highway Traffic Safety Administration for June 27 Executive Session. Concerned that committee Democrats would have the votes to block King’s nomination at the Executive Session, Committee Chairman John Thune, (R-SD), put the vote on hold at the May 22 Executive Session because not all Republicans were present. Committee Ranking Member Bill Nelson, (D-FL), and other Democrats were not satisfied with King’s answers about holding vehicle manufacturers accountable for safety issues, including the Takata airbag recall.

**Senate Committee Approved Appropriations Bill Excludes Vehicle-to-Infrastructure Technologies**

The Senate Appropriations Committee approved the FY19 Transportation, Housing and Urban Development (Transportation-HUD) spending bill (S. 3023) on June 7. The bill provides $26.6 billion in discretionary appropriations, which is $698 million below the FY18 enacted level. S. 3023 provides $45.2 billion for Federal-aid highways (FAST Act obligation limitation), which is $1 billion above the FY18 level. It also includes an extra $3.3 billion from the general fund, of which $2.38 billion is for road and bridge projects.
Like the House Appropriations Committee approved Transportation-HUD appropriations bill, this bill restricts how the extra funding can be spent under the Surface Transportation Block Grant program, which has the most flexible eligibility among all Federal-aid highway programs. The extra funding is available for road and bridge projects under the Surface Transportation Block Grant program (23 U.S.C. 133(b)(1)(A). Eligible projects include the construction of highways, bridges, and tunnels. The term construction means construction or reconstruction and includes improvements that directly facilitate and control traffic flow, such as traffic control systems. Areas that are not eligible for the extra funding include infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment; congestion pricing, including electronic toll collection and travel demand management strategies; and pedestrian and bicycle projects.

ITS America is urging appropriators and authorizing committees to pursue an amendment strategy that would strike (1)(A) so that the extra funding is eligible to be used for all projects in the Surface Transportation Block Grant program.

**Senate FY19 Transportation-HUD Committee Report Policy Statements**

The Senate Appropriations Committee approved on 2018, the FY19 Transportation, Housing and Urban Development (Transportation-HUD) spending bill (S. 3023) on June 7. Below are key takeaways from the Committee Report (S. Rept. 115-268).

**Infrastructure**

The President's budget request once again includes $2 billion in direct federal funding to leverage $1.5 trillion in investment for our nation's infrastructure, "but the administration has publicly acknowledged that its proposal is unlikely to be enacted this year. The Committee fully supports the goal to improve our Nation's infrastructure, but remains concerned with the
administration's policy objective to increase the financial burden on State and local governments by raising their own revenue as a means of meeting the goal."

**Highway Trust Fund**

"The Committee expects the Administration to work with relevant authorizing committees to provide long-term sustainable funding for infrastructure before the FAST Act expires at the end of fiscal year 2020 to ensure a reauthorization bill is enacted on time. Unfortunately, the administration's budget request simply ignores the Highway Trust Fund and reflects a reduction of $122,000,000,000 in highway and transit programs over the 10-year budget window. The budget request offers no solutions to sustaining the Highway Trust Fund and simply ignores the impact of less investment on our transportation network."

**Automated Vehicles**

"Advanced Transportation Congestion Mitigation Technology Deployment.—For several years, various elements of Connected, Automated, Vehicles and Infrastructure Systems [CAVIS] have been developed on a limited basis in controlled environments to test systems for collision avoidance or signal preemption for emergency vehicles such as Mcity in Ann Arbor, MI and the Aberdeen Test Center. While such efforts in proving grounds and test facilities are valuable, the full benefits of this technology will be realized when integrated CAVIS are broadly deployed into real-world environments."

"The Committee supports the planned transition of this technology into real world settings in partnership with Federal, State, and local agencies, academic institutions, and the private sector."

**Highly Automated Vehicle Research and Development Program**

"The Committee provided substantial, multi-year investment for automated vehicle [AV] research and demonstration in fiscal year 2018. The Committee expects
regular updates on implementation of the programs, research, and projects, including coordinated activities between the Department and the Department of Labor.

“The Committee continues to recognize the rapid pace at which AV technology is developing, and is interested in validating the safety of new technology that would operate on our Nation's roads at federally designated proving grounds. The Committee encourages the Secretary to solicit applications and designate additional proving grounds for testing, especially at locations that can demonstrate the capacity to test on existing facilities with an existing trained workforce. These new proving grounds should have the ability to conduct research independently or in conjunction with NHTSA’s Vehicle Research and Testing Center on passenger and commercial vehicles.”

Automated Vehicles - Manual on Uniform Traffic Control Devices [MUTCD]

“The safe deployment of autonomous vehicles will require modifications to various regulations and standards throughout the Department to account for new functionalities and types of interactions between humans and vehicles. As a result, the Committee directs FHWA to publish a schedule for periodic updates to the MUTCD for the safe use of our roadways by both human drivers and automated vehicles.”

Dynamic Highway Message Signs

“In fiscal year 2017, the Committee directed FHWA to survey States on their use of dynamic highway message signs to improve traffic safety behaviors and compliance with State safety laws. FHWA found that more than 7,000 of these signs are installed on major roads around the Nation, with as many as 116 million vehicles passing them each day. These findings support the Committee's belief that dynamic highway message signs can play a significant role in cost-effective expansion of national traffic safety initiatives such as “Drive Sober or Get Pulled Over” and “Click It or Ticket.” The Committee reiterates its directive to FHWA to coordinate with NHTSA, State DOTs and State highway safety offices to increase the use of...
such signs to help save lives and prevent injuries, with a focus on maximizing message exposure during the major national safety emphasis periods."

"The Committee also directs FHWA to coordinate with State DOTs on options for flexibility in highway sign messaging to address and combat local emergency priorities, such as the epidemic of opioid abuse, which can lead to impaired driving."

**National Infrastructure Investments (BUILD)**

"The National Infrastructure Investments program has become integral to the economic success of communities throughout the country for 10 years. The Committee is concerned with the Department's use of this flexible and popular program to insert controversial policies from the administration's infrastructure proposal, which the administration has acknowledged will not be enacted this year. These policies have not been agreed to or voted on by Congress, and there is clear bipartisan opposition to some of them."

"In fiscal year 2018, the Committee explicitly prohibited the Department from using Federal share as a selection criteria in awarding projects and the Committee continues that prohibition. Despite this prohibition, the Department chose to use an applicant's ability to generate non-Federal revenue as selection criteria in the most recent notice of funding opportunity [NOFO], in defiance of the intent of Congress."

"The Committee continues to require the Secretary to award grants and credit assistance in a manner that ensures an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities."

**Bike/Ped Infrastructure**

"The Committee recognizes the importance of bicycle and pedestrian infrastructure to the mobility and livability of communities. The TIFIA program allows for innovative finance partnerships between public, private and
nonprofit partners to improve bicycle and pedestrian safety and access. The Committee directs the Department to compile, analyze, and issue best practices for innovative finance strategies to better inform state agencies of available financing options through the Department’s existing programs.

Senate Appropriations Transportation-HUD FY19 Funding Table

Federal-aid Highways Obligation Limitation: $45.2 billion

$45.2 billion in FY19 House Appropriations Committee bill

$44.2 billion in FY18

Federal-aid Highways General Fund (extra funding): $3.3 billion

$4.25 billion in FY19 House Appropriations Committee bill

$2.5 billion in FY18

National Highway Traffic Safety Administration: $914.7 million

$981.5 million in FY19 House Appropriations Committee bill

$947.2 million in FY18

Federal Motor Carrier Safety Administration: $666.8 million

$666 million in FY19 House Appropriations Committee bill

$844.8 million in FY18 (includes $100 million for the Highly Automated Vehicle Research and Development Program)

National Infrastructure Investments (BUILD): $1 billion
$750 million in FY19 House Appropriations Committee bill

$1.5 billion in FY18

**Federal Transit Administration Formula Grants: $9.93 billion**

$9.93 billion in FY19 House Appropriations Committee bill

$9.73 billion in FY18

**Federal Transit Capital Investment Grants: $2.55 billion**

$2.61 billion in FY19 House Appropriations Committee bill

$2.64 billion in FY18

There is $67.5 million for the Technology and Innovation Deployment Program, $60 million for the Advanced Transportation and Congestion Management Technologies Deployment Program, and $100 million for the Intelligent Transportation Systems Program. All these programs are funded at FY19 FAST Act authorized levels in the Senate Appropriations Committee bill and House Appropriations Committee bill.

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**State and Local Policy Updates**

**MassDOT and Local Officials Sign Regional Agreement for AV Testing**

On June 21, 2018, the Massachusetts Department of Transportation (MassDOT) entered into a Memorandum of Understanding (MOU) with several mayors of cities and towns in order to further facilitate and expand the testing of autonomous vehicles on roadways in the Commonwealth. According to a MassDOT blog post, the "MOU streamlines and standardizes the process for
companies seeking to test Autonomous Vehicles on Massachusetts roadways. Following the signing of this MOU, MassDOT and the participating communities will finalize a universal application for companies to use when seeking to test Autonomous Vehicles and the participating municipalities will identify locations and roadways suitable for Autonomous Vehicle testing.”

NY Gov. Cuomo Sends Letter Congratulating ITS-NY on its 25th Anniversary

In conjunction with the ITS-NY annual meeting last week, New York Gov. Andrew Cuomo (D) sent a June 14, 2018, letter to ITS-NY congratulating the Chapter on its 25th anniversary.

CA Legislation Would Establish Pilot Program Allowing Caltrans to Show Commercial Ads on State-Operated Electronic Message Signs

On June 13, 2018, an amended version of AB 1405, “the Digital Sign Demonstration Pilot Program”—originally introduced by California Assemblymen Kevin Mullin (D) and Rob Bonta (D)—was referred to the California Senate Transportation and Housing Committee. The legislation would establish a digital sign demonstration program that directs Caltrans, subject to federal approval, to enter into agreements with public or private entities or consortia to install and operate a network of up to 25 new digital signs within the rights-of-way of the state highway system that would display commercial advertising and public service messages. Reportedly, “if successful, the pilot program could lead to ads for commercial products on many of the 904 state-operated message signs that currently are limited to flashing traffic information, road hazard warnings and Amber Alerts on abducted children.” In March 2018, Caltrans issued “Outdoor Advertising Report: Changeable Message Signs.” The report found that it would be “feasible” to permit commercial ads on state-operated electronic message signs along freeways in a pilot program estimated to provide projected average net revenue to Caltrans of $8.5 million to $10.2 million over a four-year period.
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