



The National Beat

August 10, 2023

Federal Updates

The House and Senate have adjourned the annual August Recess, leaving uncertainties surrounding the fiscal year 2024 appropriations plan. The House's departure without passing key spending elements for FY 2024 and the tight timeline before the fiscal year starts on October 1 make a government shutdown increasingly likely. The appropriations process has been marked by contentious decisions, with House Republicans grouping the 12 annual spending bills into two categories. Five received close-to-requested funding, while the other seven were allocated spending totals deemed unattainable. The division resulted in an overall reduction of 8.2% in net discretionary budget authority for FY 2024. As the Senate prepares to return, a stopgap continuing resolution seems likely, though if a suitable agreement is not reached, a shutdown may occur. This could affect various government functions, including potentially hindering the administration of grant programs related to transportation and infrastructure ([read draft THUD bill here](#)).

On August 9th, EPA announced a final rule, giving its approval to Tennessee's State Implementation Plan (SIP) ([read here](#)). The SIP was submitted in 2019 in accordance with the "good neighbor" provision of the Clean Air Act (CAA) for managing the 2010 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). This provision obliges each state to include in its SIP measures that prevent the transportation of air pollution across state lines if it would significantly contribute to the failure to meet, or interfere with the maintenance of, a NAAQS in any other state. After a thorough evaluation, the EPA concluded that Tennessee's plan will not lead to such negative contributions or interferences regarding the 2010 1-hour SO₂ NAAQS. Consequently, the EPA has approved Tennessee's SIP revision, confirming that it complies with the good neighbor provision for this specific air quality standard.

On August 9th, the EPA announced a proposed rule that makes changes to the Air Emissions Reporting Requirements (AERR) ([read here](#)). The changes would require different reporting approaches for emissions data, and specific owners/operators may need to report additional emissions information. The revisions would phase in earlier deadlines for point source reporting and add requirements for fuel use data in certain electrical generation contexts. Changes for reporting on airports, rail yards, marine vessels, locomotives, and nonpoint sources are also included. For facilities meeting specific criteria, reporting of performance test and evaluation data to the EPA would be required for tests conducted after the final rule's effective date. Comments on this proposed rule must be submitted by October 18th, 2023.

On August 8th, the Environmental Protection Agency (EPA) announced it's preparing to submit an information collection request (ICR) titled "Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs, and Projects to the Office of Management and Budget (OMB) ([read here](#)). This is an extension of the existing ICR, approved through February 29, 2024. The ICR concerns transportation conformity, which is required under the Clean Air Act to ensure that federally supported transportation activities align with state air quality implementation



plans (SIP). The conformity relates to transportation-related criteria pollutants, such as ozone, particulate matter, carbon monoxide, and nitrogen dioxide. Comments on the proposed information collection must be submitted by October 10, 2023.

On August 3rd, the U.S. Government Accountability Office (GAO) published a report titled, "Climate Change: State and Local Efforts to Reduce Greenhouse Gas Emissions from Vehicles" ([read here](#)). The report investigates the methodologies used by states and MPOs for Green House Gas (GHG) measurements. The report explores performance information collection, how information influences investment decisions, and opportunities for the Federal Highway Administration (FHWA) to leverage this information. It reveals varying methodologies, including fuel data, vehicle miles traveled (VMT) data, modeling, and some states not estimating GHG emissions at all. AMPO highlighted challenges for smaller MPOs, such as lack of expertise and resources, and difficulties with data availability. Overall, few entities utilize GHG reduction targets, with only a handful having quantitative performance measures and reduction targets.

On July 28, 2023, the House Subcommittee on Innovation, Data, and Commerce under the House Energy and Commerce Committee met to discuss a legislative framework for automated vehicles (AVs), exploring two draft bills related to safety and regulations ([read here](#)). The hearing focused on six key elements of AV development, including safety, accessibility, federal preemption of state and local law, workforce impacts, global competitiveness, and cybersecurity. Testimony from witnesses representing various sectors highlighted the critical nature of safety and the need for incremental testing. The potential benefits of AVs for accessibility were stressed, particularly for those with disabilities. Other key considerations included federal jurisdiction over state and local laws regarding AVs, anticipated workforce changes, the urgent need to maintain global competitiveness, and the importance of robust cybersecurity measures. The hearing also tackled current exemptions to Federal Motor Vehicle Safety Standards and the importance of holding companies accountable for damages, which the draft legislation addresses.

PROWAG Rule Analysis

The U.S. Access Board has released its long-awaited guidelines for pedestrian accessibility in the public rights-of-way. These guidelines – known as PROWAG, for public right-of-way accessibility guidelines – address sidewalks, crosswalk markings, curb ramps, pedestrian signals, on-street parking, shared-use paths, and other ROW components. The final rule will take effect on Sept. 7, 2023.

The guidelines are published under the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA). They are meant to ensure that elements of the public ROW are constructed to be accessible to and usable by pedestrians with disabilities.

The rule applies to local, state, and federal governments as they construct or alter public roadways and shared-use paths. It's vital that MPOs understand the guidelines as they work with all levels of government to fund and implement transportation projects.

The text of the final rule acknowledges that "pedestrians with disabilities throughout the United States continue to face major challenges in public rights-of-way because many sidewalks, crosswalks, and other pedestrian facilities are inaccessible." It also notes that "equal access to



pedestrian facilities is of particular importance because pedestrian travel is the principal means of independent transportation for many persons with disabilities.”

The guidelines primarily address six key elements of the pedestrian realm:

- Pedestrian access routes: these are the portions of the sidewalk, shared-use path, or other pedestrian circulation path that must be “accessible to and traversable by individuals with disabilities.” The guidelines specify the width, cross slope, running slope, and surface conditions of these routes, and require that they be free from protruding objects.
- Alternate pedestrian access routes: these are the routes that must be created when a pedestrian access route is closed for construction, to ensure that pedestrians with disabilities continue to have access.
- Accessible pedestrian signals: these audible and vibrotactile features must be included in all installations of new and altered pedestrian signal heads, so that pedestrians who are blind or have low vision know when to cross. The guidelines also address the location of pedestrian push buttons and the timing of pedestrian crossings.
- Crosswalks: these are required to include curb ramps and detectable warnings where the pedestrian route interacts with a vehicular way. The rule also states that crosswalks at multilane roundabouts and channelized turn lanes include treatments that make drivers aware of pedestrians and either slow or stop traffic.
- Transit stops: these must have adequate space so that people with disabilities can enter and exit buses and trains, and must connect with pedestrian routes.
- On-street parking: when located on non-residential streets, this must include spaces large enough so that a person with a disability can exit the parked vehicle and get to the sidewalk without entering a vehicular way, and the accessible spaces must be near crosswalks with curb ramps.

AMPO encourages MPO staff to work with their state DOTs and local governments to provide trainings on the new PROWAG standards to public- and private-sector design professionals so that transportation projects maintain and create accessible places in our communities.

USDOT

On August 8th, FMCSA announced a notice and request for public comments regarding its plan to renew an Information Collection Request (ICR) related to “Accident Recordkeeping Requirements” ([read here](#)). The ICR concerns the statutory requirements for motor carriers to maintain records of crashes involving their commercial motor vehicles (CMVs). This recordkeeping effort aims to strengthen FMCSA's capacity to gauge the safety performance of motor carriers, contributing to its goal to prevent and mitigate the severity of CMV crashes. Comments remain open for 60 days.

On August 4th, USDOT proposed a fuel economy rule requiring automakers to significantly enhance the efficiency of SUVs and pickup trucks compared to passenger vehicles through 2032 ([read here](#)). The rule emphasizes that there's more room for improvement in these larger vehicles, aiming to bring the fleetwide average to around 46 miles per gallon in real-world terms by 2032. NHTSA's proposal would require a 2% annual improvement in fuel efficiency for passenger cars starting with model year 2027 and a 4% increase for light trucks. The proposal aligns with the EPA's emissions



goals but faces criticism from Republicans who view it as an attack on affordable gas-powered vehicles. While the rule would mean higher upfront costs for new vehicles, projected lifetime fuel savings for light-duty vehicles would lead to a net benefit of roughly \$100. The proposal also includes potential reductions in gasoline demand and carbon dioxide emissions, along with less stringent alternative options. NHTSA will accept comments on the rule for 60 days.

On July 26th, the USDOT unveiled the Project Delivery Center of Excellence, aimed at facilitating on-time and on-budget transportation infrastructure project delivery ([access here](#)). This initiative aligns with the implementation of the \$1.2 trillion Bipartisan Infrastructure Law, and the Center will be housed in USDOT's Volpe Center with a grand opening in September. A Thought Leadership Series is also being hosted by the Volpe Center from June to November, featuring discussions on best practices in project delivery.

On July 25th, President Biden nominated J. Todd Inman, former Chief of Staff to Transportation Secretary Elaine Chao, to be a member of the National Transportation Safety Board (NTSB), filling the seat for the term expiring on December 31, 2027 ([read here](#)). Inman, a Republican, will replace Bruce Landsberg, maintaining the balance within the NTSB. Inman's background includes 25 years in insurance, specializing in property damage claims and arson investigation, followed by various roles at the USDOT.

On June 28th, the Biden Administration announced the recipients of the fiscal 2023 RAISE grants, previously known as BUILD and TIGER grants ([read here](#)). An analysis of all 15 rounds of funding, from the fiscal 2009 ARRA stimulus law to the present, shows a capital-grants-only total of \$13.925 billion. A notable observation from the data is a pro-Senate bias, with smaller-population states receiving a significantly higher per capita share of total grant funding compared to larger-population states. High-population states like California, Texas, and Florida have underperformed in grants relative to their population size, while smaller states like Alaska, South Dakota, and Maine have overperformed. The data also reveals fluctuations in mean and median grant sizes over the years and a shift in funding preferences between administrations, with the Trump administration favoring road and bridge projects more heavily than the Obama and Biden administrations.

Congressional Hearings & Markups

**Members of Congress adjourned for August Recess on July 27th (i.e., one day earlier than expected). The Senate will be in recess until September 5, and the House will be in recess until September 12.*

On [July 26th at 2:30 PM](#), the Senate Environment and Public Works Subcommittee on Clean Air, Climate, and Nuclear Safety held a hearing on reducing emissions from America's rail network.

On [July 26th at 10:30 AM](#), the House Energy and Commerce Subcommittee on Innovation, Data, and Commerce held a hearing on a legislative framework for self-driving vehicles.

On [July 26th at 9:40 AM](#), the Senate Budget Committee held a hearing on the fiscal consequences of climate change on infrastructure.



National Transportation News

Eno recently published an analysis on IIJA funding and Donor States ([read here](#)). Since the 1980s, a group of states, mainly from the Sun Belt and known as "donor states," regularly voiced dissatisfaction that they paid more into the Highway Trust Fund than they received. However, the insolvency of the Trust Fund beginning in 2008 led to a reduction in donor states. Under the FAST Act, Texas and Colorado were the only states to reach the 95% donor state minimum rate-of-return guarantee. With the 2021 IIJA, spending from the Trust Fund increased without a corresponding rise in taxes, rendering donor states obsolete. A two-year lag exists between tax estimates and the corresponding highway funding, with the fiscal 2023 informed by the Trust Fund tax receipts in fiscal 2021.

For 2023, the Highway Account of the Trust Fund took in \$38.0 billion, but states received \$53.5 billion, a difference of \$15.5 billion. The rates of return ranged from 990% for the District of Columbia to 114% for North Carolina. When considering transit in the calculation, no more donor states exist, with total FY 2021 Trust Fund tax payments totaling \$43.5 billion and FY 2023 apportionments totaling \$66.9 billion. The inclusion of transit funds significantly affected the rates of return for states like New York and California, and the overall situation indicates that the concept of donor states in the context of the Highway Trust Fund has become a thing of the past.

Pragati Srivastava, AMPO's Board Vice President, has been recognized in the Memphis Business Journal for her accomplishments at the Memphis Urban Area Metropolitan Planning Organization ([read here](#)). With 16 years at the MPO, Srivastava notes that her proudest professional moments were team efforts, including two national awards in 2017.

Frontier MPO, in Fort Smith Arkansas, received a NADO 2023 Excellence in Regional Transportation Award for their SMILIES Rideshare program ([learn about the SMILIES program here](#)).

NOFOs

On August 8th, USDOT announced the second year of the **"Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program"** ([read here](#)). The program allocates up to \$500 million over five years for demonstration projects enhancing transportation efficiency and safety through advanced smart technologies. This funding opportunity will focus on Stage 1 Planning and Prototyping grants, targeting innovations that help governments leverage new technologies. Projects may include areas such as coordinated automation, connected vehicles, innovative aviation, smart grids, and traffic signals. Applications close on October 10th, 2023 and must be submitted on Valid Eval ([access NOFO here](#)).

On August 7th, USDOT announced the availability of approximately \$13.4 million in competitive grant funds through the FTA's **"Pilot Program for Transit-Oriented Development (TOD) Planning"** ([read here](#)). This funding aims to support local initiatives near transit hubs to foster sustainable, connected, and equitable communities. Emphasizing mixed-use development projects near transit stations that promote affordable housing, TOD links public transportation with land use and housing to reduce transportation costs and carbon footprints. Applications emphasizing affordable housing may receive up to 100% federal cost share support. The application period will close on October 10, 2023 ([Federal Register notification here](#)) ([grants.gov link here](#)).



On August 1st, FTA announced an extension of the **“FY 2023 Emergency Relief Grants for Public Transportation Systems Affected by Major Declared Disasters in Calendar Years 2017, 2020, 2021, and 2022”** program ([Federal Register notice here](#)). FTA is accepting proposals from States, Territories, local government authorities, Indian Tribes, and other FTA recipients affected by major declared disasters for 90 days. Proposals must be submitted by October 31st; applications received within the first 30 days will be given priority ([grants.gov link here](#)).

USDOT has also announced that the **“Rural and Tribal Assistance Pilot Program”** will begin accepting submissions on August 14th, 2023 ([read NOFO here](#)). The application will remain open until September 28th, 2023, and grants are awarded on a rolling basis. Applicants must submit a simple, four-page funding application for consideration ([access here](#)).

Learn about federal grants available to MPOs and key NOFO information in AMPO's NOFO Tracker ([access here](#)). The Tracker is available on [ampo.org](#) under the "Resources" drop down.