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Highway Law Does Not End Battle for Sustained Highway Investments

On July 6, President Obama officially put an end to the battle for a new surface transportation law, signing Moving Ahead for Progress in the 21st Century (MAP-21) ([H.R. 4348](#)). Though the fight for a highway bill is now past, the battle continues for a robust and sustainable revenue stream for transportation infrastructure.

The new 27-month reauthorization will provide \$39 billion and \$40 billion for transportation investments in fiscal years (FY) 2013 and 2014, respectively. This continues current operating authority, with a 1.4 percent annual adjustment for inflation. Of this amount, more than \$37 billion annually is designated for core federal-aid highway programs, which is available to states through distribution under the federal funding formula. The law also continues funding for the remainder of fiscal year 2012 with Oct. 1, 2012, the start of FY2013, as the effective date for the new law's programmatic reforms and revisions. Additionally, MAP-21 extends the Highway Trust Fund (HTF) and user fee collections through FY2016 (two years past the bill's expiration), providing greater certainty.

Beyond the direct federal spending, other provisions of the new law are designed to increase investment. MAP-21 allows for more tolling and dramatically expands the Transportation Infrastructure Finance & Innovation Act (TIFIA), a program that provides credit assistance to help attract non-federal and private investment in large-scale projects. TIFIA, which is currently funded at \$122 million per year, will receive \$750 million in FY 2013 and \$1 billion in FY 2014. The new law also boosts the permissible level of credit assistance under the TIFIA program from 33

percent of eligible project costs to 49 percent. By some estimates, the \$1.750 billion in TIFIA funding will generate at least \$17 billion in additional road and bridge construction activity beyond the level supported by the traditional highway program.

In addition to maintaining important investment levels, MAP-21 contains noteworthy improvements to the project delivery process and allows for resourceful financing of new projects. The final measure also includes provisions to consolidate transportation programs, reducing the number of federal transportation programs from 90 to less than 30. It speeds up the environmental and regulatory reviews of projects, providing automatic approvals for rebuilding after an emergency, and setting a federal threshold under

What's in the new transportation law?

Maintains Current Funding – Approximately \$37 billion annually to federal aid highway projects

TIFIA Expansion – Bumps program funding to \$1.750 billion over the life of the bill

Enhanced Project Delivery – Accelerates project delivery through several reforms

Environmental Streamlining – Speeds up the environmental review process

Transportation Enhancement Reforms – Allows states greater flexibility to meet needs

DOT Reforms & Consolidation – Reduces the number of federal programs by two-thirds

which reviews will not be necessary. MAP-21 allows states more leeway in spending funds set aside for transportation enhancements, permitting states to hold 50 percent of its allocation for use at the discretion of localities, and would permit states to transfer the funds to other programs under certain circumstances.

For concrete pressure pipe manufacturers the law includes an important provision that should open new market opportunities for ACPPA members. Under MAP-21, states now have the final say in deciding what materials to use for federal-aid highway culvert and sewer projects. This removes the decision from the Federal Highway Administration (FHWA), whose prior rules seemed to indicate a preference for plastic pipe. Industry representatives will be working with the FHWA to make sure that the new rules respect state autonomy and insure that concrete pressure pipe is placed on the same footing as other materials.

Yet, in the end, several other important items for ACPPA that were included in the House and Senate packages were excluded from the conference report. The Senate's provision to remove the volume cap on private activity bonds for water infrastructure projects was left on the cutting room floor. House measures that would have granted approval to cross-border construction of the Keystone XL pipeline and prohibited the EPA from regulating fly-ash as a hazardous material were similarly abandoned.

MAP-21 also contains a handful of provisions not related to federal surface transportation programs. Lawmakers used the legislation to approve a Gulf Coast restoration trust fund, reauthorize the federal flood insurance program, and maintain a lower student loan interest rate.

Fight for robust and sustained infrastructure investment is only beginning

Though MAP-21 contains many provisions that will benefit the construction industry, as well as the broader national economy, the law fell short in several important respects.

Most notably, lawmakers failed to address a serious threat to the nation's long-term economic health by refusing to consider any means to revise funding mechanisms for transportation infrastructure investments. While the law continues to collect fuel taxes to prop up the HTF through the end of FY 2016, it ignores the basic fact that current user fees are woefully inadequate and cannot meet current obligations, let alone any program expansion.

While the extension of current funding is great, without finding a way to pay for our surface transportation infrastructure, lawmakers merely kicked the can down the road, leaving the issue for a future Congress to resolve.

ACPPA will remain active in the battle for sustainable, long-term infrastructure financing, but the support of the construction industry will remain critical to achieve this objective. Your support for the association's political program and congressional outreach through www.ACPPA-Action.org will help keep the pressure on policymakers.

Thoughts on PABs with SWIC

Though the push to lift the volume cap on private activity bonds (PABs) for water infrastructure projects failed to win passage in the new surface transportation law, ACPPA remains among the leading organizations working with lawmakers to ensure the enactment of this important provision.

ACPPA is a steering committee member of the Sustainable Water Infrastructure Coalition (SWIC), an alliance of companies and associations focused on PABs for water infrastructure projects. Recently, ACPPA caught up with Edmund DeVeaux, SWIC chairman and vice president of external affairs at United Water, to ask about the coalition's efforts on PABs.

ACPPA: *How would you describe SWIC's mission and Membership?*

Edmund DeVeaux (ED): SWIC's membership is comprised of professional organizations and companies representing all facets of the water and wastewater industry. SWIC's members bring their professional expertise to bear in advocating before policymakers for regulatory and fiscal policies that will ensure the maintenance, renewal, and replacement of aging infrastructure.

ACPPA: *Given that the PAB provision was not included in the final highway bill, what is the legislative strategy for the rest of the year?*

ED: The coalition continues its strategy of educating lawmakers and aggressively advocating our position to draw positive attention to this critical initiative. We are encouraged by the wide range of bipartisan support for PAB legislation in the House [[H.R. 1802](#)] and Senate [[S. 939](#)]. SWIC will continue to gather member support for the legislation.

ACPPA: *How do you envision the removal of the PAB cap for water infrastructure projects benefiting the concrete pressure pipe industry?*

ED: By removing the volume cap on the issuance of PABs, the likelihood of water and wastewater purveyors engaging in pipe replacement through distribution and collection systems increases significantly. Supporters of a PAB provision proudly acknowledge the potential boost in private investment nationally, and the benefits to customers, purveyors, suppliers, and the environment.

ACPPA: *What can ACPPA members do to get involved and build support for the legislation?*

ED: Reaching out to your elected officials is critical. ACPPA members can call or write their lawmakers and encourage support for the legislation. Additionally, members can schedule meetings with lawmakers and their staffs, either in the district or in Washington, to highlight the many benefits of lifting the volume cap.

ACPPA: *How important has ACPPA's involvement on SWIC's steering committee been to accomplishing the coalition's goals?*

ED: ACPPA's involvement with SWIC, and certainly its participation with the steering committee, has created the opportunity for several of us to join in on local and Capitol Hill visits. One of the greatest compliments we have received as a coalition has been how effective our visits and



SWIC Chairman Edmund DeVeaux, vice president of external affairs, United Water

meetings are in garnering support for the PAB initiative. ACPPA has demonstrated its leadership in several ways, and has furthered its reputation as a strong and reliable advocate on the Hill.

ACPPA: *Are there any other issues on which SWIC is focused?*

ED: Given the great support and momentum surrounding PABs, the coalition's focus is on getting the measure signed into law. Beyond the PAB provision, SWIC will likely continue to work with other industry organizations on the development of other infrastructure funding alternatives, as the water and wastewater infrastructure need in this country continues to grow beyond a single fix.

ACPPA would like to thank Edmund DeVeaux for taking the time to share his thoughts on PABs. To encourage your lawmakers to make investments in water infrastructure a top priority, be sure to visit www.ACPPA-Action.org.

EPA Proposes Amendment to Cement Manufacturing Emission Rules

On July 18, the Environmental Protection Agency (EPA) proposed a [new rule](#) governing air emissions for Portland cement manufacturing aimed at promoting flexibility, reducing costs, and easing compliance burdens with emission limitations. The EPA's suggested changes are in response to a federal court decision and the amendments are part of a settlement agreement between the cement industry and the agency.

The proposed rule would amend the existing regulations by requiring cement kilns to continuously monitor particulate matter (PM) emissions and adjust certain emissions limits. It would also extend the compliance deadline for existing kilns from the standard by two years to Sept. 2015 in order to allow the cement manufacturing industry time to reassess emission control strategies, ease particulate emissions monitoring requirements, and allow an alternative emission standard to the standing limitations on hydrocarbons. Additionally, the EPA would mandate air toxic emission limits, including restrictions for mercury, hydrochloric acid, and total carbons.

[Comments](#) on the proposed rule are due by Aug. 18. A summary of the proposed regulation from the EPA may be found [here](#).

Canadian Parliament Approves Budgetary Reforms

On June 29, the Canadian Senate passed the 2012 omnibus budget act (C-38), approximately two weeks after the House of Commons sent the measure to the upper chamber. Immediately after passage the measure received royal assent, giving it the force of law and making several controversial changes to Canadian policy.

The budget pursues major overhauls of tax, retirement, and regulatory policies. C-38 also rewrites the Canadian Environmental Protection Act and creates the Canadian Environmental Assessment Act to judge whether projects are likely to have adverse environmental effects. The new process would allow for the recognition of assessments by other jurisdictions and mandates opportunities for public participation.

On the energy and infrastructure front, the budget establishes that pipelines may not necessarily be deemed to be obstructions to navigation routes of endangered species. Under the change, Cabinet officials will now have direct roles in environmental reviews.

The omnibus budget bill was both contentious and controversial with members of parliament due to the lack of specifics regarding its sweeping changes to a number of long-standing programs. Prime Minister Stephen Harper's Conservative government has said the cuts are necessary to restore the nation's fiscal health, but has refused repeated requests to reveal details about the measure's impact. Other controversial provisions lay out the process for raising the retirement age from 60 to 65 and for increasing the portion of pension funds due from employees to 50 percent.

C-38 was the first of two budget measures that Parliament must approve. Canada's second implementing budget resolution will be introduced by Conservative Party leaders this fall, with significant reforms to labor and tax laws promised. Word around Ottawa is that the federal government is currently in consultations to help develop the next generation of infrastructure spending. This effort, dubbed the National Long-Term Infrastructure Plan, is being designed to replace the Building Canada Fund (which expires in 2014).

Canada to Enter Trans-Pacific Trade Talks

On June 19, Canada and Mexico received invitations to join the Trans-Pacific Partnership (TPP), an agreement to liberalize trade among Pacific nations.

In addition to improving Canada's access to global markets, Canada's participation in the TPP will benefit both the U.S. and Canadian economies by improving efficiencies for companies doing business on both sides of the border.

TPP members currently include Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States. The expanded TPP will now constitute the United States' largest export market.

Get Political

The November elections are quickly approaching and campaign season is in full swing. Now is the perfect opportunity to engage candidates for office at the federal, state, and local level. New candidates are looking to familiarize themselves to voters and incumbents want to reconnect with constituents. There has never been a better time to introduce your company and the concrete pressure pipe industry to aspiring officeholders.

No race is too small. All levels of government impact your cost of doing business. Besides, the next member of your town's board of supervisors could be your state's future U.S. Senator. Here are a few ways you can get involved:

1. **Invite candidates to visit your facility.** Facility visits are the best way to introduce candidates to your company, your employees, and your industry. ACPPA will help facilitate these visits. Please contact us if you would like us to help you identify candidates. [If you have a lawmaker or candidate visiting your](#)

facility, please let ACPPA know ahead of time so we can provide you with an update on hot legislative issues and feature your company in *Actionline*.

2. **Attend a fundraiser.** Many political fundraisers are low dollar events. For a modest contribution, you have the opportunity to spend quality time with a candidate to introduce yourself and your company.
3. **Volunteer to help a campaign.** Campaigns are always looking for volunteers. Even donating a couple of hours of your time a week to help a candidate goes a long way. Officeholders never forget those who gave their time to help them reach their goals.
4. **Vote.** Be sure to vote in local, state, and federal elections, including primaries. You can't complain about the process unless you participate.

ACPPA is standing by to assist you engage policymakers at all levels of government. Email [Daniel Fisher](#), senior legislative associate, Obadal, Filler, MacLeod, & Klein, to get involved.