



International Right of Way Association Weekly Update

Monday, April 8, 2019

Trump Administration

- Department of Homeland Security (“DHS”) Secretary Kirstjen Nielsen resigned yesterday, at the President’s request. The firing, which the President was the first to announce, comes after months of frustration with the migrant situation at the southern border. <https://www.bloomberg.com/news/articles/2019-04-07/homeland-security-secretary-nielsen-to-submit-resignation-cbs-ju7grpjic>

Congress

- Both Chambers are in session this week.
- Last week Senate Republicans triggered the so-called “nuclear option”—allowing certain procedural votes to proceed by simple majority instead of the traditionally required 60 votes—to shorten the time for debate over the confirmation of Presidential nominees. <https://www.politico.com/story/2019/04/03/senate-republicans-trigger-nuclear-option-to-speed-trump-nominees-1253118>
- Bloomberg reported that Senate Environment and Public Works (“EPW”) Committee Ranking Member Tom Carper (D-DE) announced last week that, by this July, the Committee would approve the infrastructure legislation it is currently drafting.

Analysis

- The combination of Secretary Nielsen’s firing and the Senate’s invocation of the nuclear option will dominate the attention in DC this week.
- The Nielsen firing, and the President’s subsequent appointment of Customs and Border Protection Commissioner Kevin McAleenan as DHS Acting Secretary, ensures that border security and immigration issues will be front and center on the Hill and with the Administration.
- Since Harry Reid invoked the nuclear option in 2013 to expedite certain Obama Administration judicial nominees, it has served as a tool to shorten the normal period for debating a nomination and strengthen the power of the majority party in the Senate. Majority Leader McConnell and Minority Leader Schumer have struggled to come to an agreement on advancing presidential nominees more expeditiously. As a result, McConnell and Senate Republicans changed Senate rules to allow a simple majority

vote to limit debate on nominees. This is one step closer to the elimination of the filibuster, which many view as a hallmark of the Senate.

- Senator Carper's announcement took many public works insiders by surprise. While we have reported that the EPW Committee is working on infrastructure legislation, generally the Ranking Member will defer to the Chairman of the Committee to comment on likely timing and Committee scheduling plans. While the news is welcome that the Committee is planning to advance legislation this summer, the fact that EPW Chairman John Barrasso (R-WY) was not the one to make that announcement raises some questions as to its accuracy. House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) immediately questioned that timing, and he stated that he does not think it to be practical to have a bill ready this summer, with the policy changes he wants to make.