NSPS Government Affairs Update
Prepared by
John M. Palatiello & Associates, Inc.
A Miller/Wenhold Capitol Strategies Company
NSPS Government Affairs Consultants & Advisors
October 2020

This report, prepared for the Fall 2020 virtual NSPS Board of Directors meeting and Government Affairs Committee meeting, provides an update on issues and activities in the NSPS Government Affairs program, as provided by John M. Palatiello & Associates, Inc., the NSPS government affairs consultants.

NSPS Day on the Hill Issues Postponed

In January, NSPS Executive Director Curtis Sumner, Government Affairs Committee Chairman Pat Smith, Government Affairs Consultant John Palatiello, and Federal Lobbyist John "JB" Byrd met for a day-long planning session for a review and update of Federal legislative and policy issues, including a progress report on the items NSPS took to Capitol Hill in 2019 focusing on the USGS 3D Elevation Program (3DEP), NOAA’s Digital Coast Act, the Federal Land Asset Inventory Reform (FLAIR) Act, and FEMA’s National Flood Insurance Program (NFIP). The group also set the agenda for the 2020 NSPS Day on the Hill scheduled for April 1, 2020. They were: (1) surveying in the infrastructure/highway bill; (2) the impact on surveyors of limits on “geolocation data” in privacy legislation; and (3) separating surveying and other design professions that impact public health, safety, and welfare from other occupational licenses that have been the subject of de-licensing efforts. Given the logistical challenges concerning the Coronavirus pandemic, NSPS postponed the Day on the Hill.

Coronavirus and State Outreach

A template letter, drafted by NSPS Government Affairs Consultants, John M. Palatiello & Associates, Inc., was circulated by NSPS to all state societies in an effort to keep surveying operations open, and exempt from any Governor’s orders related to the Coronavirus. Several state societies sent a letter to their Governor to request the exemption. Surveying was limited or shut down in a few rare instances in some states, while operations continued in most. The Maryland Society of Surveyors (MSS) was pleased to announce that it was the first state to specifically achieve such a gubernatorial designation when its letter resulted in guidance released by its Governor, Lawrence Hogan, Jr., specifically clarifying that firms in surveying, engineering, architecture, and interior design may remain open, as they are deemed essential businesses related to federal critical infrastructure sectors. Some other states have since followed. Statements issued by NSPS in response to questions on this issue can be found on the NSPS website at [www.nsps.us.com/page/COVID-19](http://www.nsps.us.com/page/COVID-19).

In April, NSPS joined a coalition of 18 design and construction-related professional societies and trade associations in a letter to President Trump urging further guidance to clarify “essential Infrastructure” and “essential businesses and services.” The letter seeks an update to a Department of Homeland Security memo, updated in March, providing guidance on essential infrastructure designations. The letter stated, "...we want to encourage the issuance of exemptions for operations and maintenance of 'essential infrastructure' that allows individuals to provide such services that are impossible to perform from home. Such infrastructure should include essential design, construction and related services of public works, including airport operations, roads and highways, public transportation, energy, and of critical importance today, expanding, retrofitting, and rehabilitating structures to meet healthcare and other systems and facilities related COVID-19 production needs." The DHS guidance was used by several Governors to define the essential infrastructure workforce permitted to continue operations during the stay at home orders to abate the Coronavirus pandemic.

NSPS Government Affairs Issues

As a reminder, the NSPS Board previously approved Government Affairs Committee recommendations on the following issues.
- Subsidence - **Create a task force to study and develop a legislative proposal on subsidence.** There is already some legislation in Congress that begins to address subsidence (Sec. 4 of H.R. 1261, the National Landslide Preparedness Act, provides, “As the Secretary determines to be appropriate and subject to appropriations, the Secretary, through existing programs, shall advance the identification, mapping, research, monitoring, restoration, and mitigation of subsidence and groundwater resource accounting, losses from subsidence, including saltwater intrusion, particularly in areas affected by drought and sea level rise.”) As follow-up to a meeting a delegation from NSPS had with USGS officials in Reston, Virginia in December 2019 to discuss the “National Land Level Change (NLLC) Map”, which will be used to track subsidence and other land level change phenomena, USGS engaged NSPS by requesting examples and uses cases of subsidence creating problems on infrastructure projects. The discussion with USGS, NOAA/NGS and NASA is focused on how satellite data can be used to produce a small scale national map, as well stimulate the need for large scale, higher resolution, and greater accuracy that would best leverage expertise and market opportunities for the surveying profession at a local or project-specific basis. Action items for NSPS requested by USGS include identifying “use cases” for this data, and surveyors’ requirements for data as users and producers of such data. On October 15, NSPS was referenced by USGS officials during an online webinar on infrastructure investment and risk management, featuring USGS and FEMA in which the NSPS example of a highway project in Idaho was referenced.

- Occupational Licensing – **Create a task force to review and enhance the draft white paper JMP&A produced.** COFPAES drafted a "sense of the Congress" resolution on the importance of design professional licensing to protecting public health, welfare, and safety. Beginning in January, JMP&A visited several Congressional staff to pursue lead sponsors for such a resolution and hosted one conference call utilizing key NSPS members in Nevada. COFPAES member organizations are also supporting and participating in efforts to promote the resolution in Congress. Several state legislatures have recently passed various forms of occupational licensing reform, some of which can impact surveying. In Mississippi, Governor Tate Reeves (R) signed into law SB 2117, to make it easier for military members or their spouses to earn occupational licenses and another that gives the Occupational Licensing Review Commission the ability to do backward-looking examination of existing regulations. HB 1104 will provide the OLRC the ability to scrutinize an existing regulation to determine whether it increases economic opportunities for citizens by promoting competition while using the least restrictive regulation to protect consumers. Any regulation that does not meet that criteria will become invalid 60 days after it was reviewed. Iowa Governor Kim Reynolds (R) signed into law H.F. 2627, that makes it easier for plumbers, electricians and others who’ve worked in professional occupations in other states get a license to work in Iowa. The bill lets Iowa licensing agencies accept work experience as a substitute for education. In addition, Florida Governor Ron DeSantis (R) signed a bill, HB 1193, easing regulations of licensed practitioners of a wide swath of occupations ranging from body wrapping to boxing announcing. Auctioneers, barbers, electrical contractors, and geologists will have fewer education requirements, with nutritionists, interior designers, landscape architects, nutritionists, accountants, alarm system installers and boxing announcers seeing some licensing requirements eliminated completely. The National Conference on State Legislatures (NCSL) maintains an online database of occupational licensing legislation in the states. The task force is to help finalize a white paper that individual state surveying societies can use in lobbying efforts against any occupational licensing proposals that adversely affect surveying licensure.

- URISA White Paper - **Create a task force to review and draft a NSPS response to the URISA White Paper “Defining the Boundaries of Practice Between Surveyors and GIS Professionals”.** The URISA white paper includes statements that are both inaccurate and detrimental to the surveying profession, as well as the public health, safety, and welfare. It attempts to define licensed surveying and other GIS activities in a way that could create misunderstandings and confusion on licensure, QBS procurement, and other practices.

- NSRS 2022 - **Form a working group of representatives of each state affiliate to share knowledge, information, and lobbying activities on state legislation to implement NSRS 2022.** In June, NOAA’s National Geodetic Survey (NGS) announced a delay in the release of the modernized National Spatial Reference System (NSRS) originally slated for roll-out in 2022. There is still a need to help coordinate state surveying society lobbying on state legislation on the new datum, and to assist the state organizations with communicating a non-technical, laymen’s message of the rationale for enactment of new datum legislation in each state legislature.
Appropriations/CR/Shutdown

Two of the most important surveying, mapping, and geospatial programs in the Federal government were extended for a full year by the Continuing Appropriations bill enacted October 1. Authorization of the National Flood Insurance Program (NFIP) of the Federal Emergency Management Agency (FEMA), which produces Flood Insurance Rate Maps (FIRM) and the Fixing America’s Surface Transportation Act or “FAST Act”, commonly known as the Highway bill, were both slated to expire on September 30, 2020. Both programs were reauthorized in H.R. 8337, a bill making continuing appropriations for fiscal year 2021, and for other purposes. This bill, now Public Law 116-159, to prevent a government shutdown upon the end of the government’s fiscal year on September 30, extends overall government funding for the new fiscal year through December 11 and avoids any lapse in contractor tasking or services, or federal funding to Federal agencies or recipients of Federal funds at the state and local levels, such as state transportation agencies, and extends the FEMA and FHWA programs through September 30, 2021. The extension of the FAST Act was promoted to Congressional leaders by a broad coalition of organizations, including NSPS.

Department of Commerce

Digital Coast
In September, the U.S. Senate passed the Digital Coast Act, S. 1069. The accompanying Senate committee report is report No. 116-234. The House passed the Digital Coast bill as part of a larger bundled bill, H.R. 729, the "Coastal and Great Lakes Communities Enhancement Act" last December. The House of Representatives must now pass the freestanding Senate-passed bill. NSPS government affairs consultants, John M. Palatiello & Associates, Inc. manage a broadly based Digital Coast Partnership Advocacy Coalition, of which NSPS is a member, that has led efforts in support of the legislation. JMP&A recently obtained a report from key House committee staff that the Senate-passed bill will be brought up in the House before the end of the 2020 session of Congress.

EEZ
In June, The White House Office of Science and Technology Policy (OSTP) announced the release of new strategies and recommendations to help advance ocean exploration. These recommendations were created following the November 2019 Presidential Memorandum directing federal agencies to develop a national strategy to map the Exclusive Economic Zone (EEZ) of the U.S, a plan to map the Alaskan coastline, and recommendations to streamline the permitting process for exploration of the ocean. NOAA also released this Alaska Coastal Mapping plan, which is geared towards a 10-year strategy in support of the United States economy, security, and environment.

FLOODS Act
In August, Senator Roger Wicker (R-MS), chairman of the Senate Committee on Commerce, Science, and Transportation and Senator Gary Peters (D-MI) introduced S. 4462, the Flood Level Observation, Operations, and Decision Support (FLOODS) Act, a bill to establish a National Integrated Flood Information System, primarily in the National Oceanic and Atmospheric Administration (NOAA). The bill would improve NOAA's forecasting and communication of flood, tornado, and hurricane events. It would encourage NOAA to use aerial surveys of floodwaters to improve flood mapping, improve modeling of freshwater outflow into the ocean, and establish a committee to ensure coordination of Federal departments with joint or overlapping responsibilities in water management. The bill also highlights the importance of topographic data collection by the private sector (Section 3), helps advance geospatial data standards and coordination (Section 4), and authorizes $3.5 Million per year from FY2021-FY2030 (Section 12). In September, the Senate Commerce Committee approved S. 4462, after receiving a letter of support from NSPS for the bill’s markup session.

Survey Foot
In October, the National Institute of Standards and Technology (NIST) and the National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), announced a final decision and rule to deprecate use of the “U.S. survey foot” on December 31, 2022. Beginning on January 1, 2023, the U.S. survey foot should not be used and will be superseded by the “international foot” definition (i.e., 1 foot = 0.3048 meter exactly) in all applications. The international foot is currently used throughout the U.S. for a large majority of applications and is typically referred to as simply the “foot.” Over time this terminology will become more prevalent in land surveying and mapping communities. Either the term “foot” or “international foot” may be used, as required for clarity in technical applications.
Department of Defense

WRDA
In May, the Senate Committee on Environment and Public Works adopted water infrastructure legislation titled America’s Water Infrastructure Act of 2020 (AWIA 2020). AWIA 2020 includes approximately $17 billion in new federal project authorizations, primarily through the Civil Works division of the U.S. Army Corps of Engineers. It will increase water storage, provide protection from dangerous floodwaters, deepen nationally significant ports, maintain the navigability of inland waterways across the country, and repair aging wastewater and irrigation systems.

In July, the House passed the Water Resources Development Act of 2020 (WRDA). H.R. 7575 provides authority for the U.S. Army Corps of Engineers to carry out water resources development projects and studies, as well as reforms and provides policy direction to the Corps for implementation of its civil works mission. The bill authorizes 35 Corps feasibility studies and construction of all 34 pending proposed projects with final Chief’s Reports within the Corps Civil Works mission areas, including navigation, flood damage reduction, hurricane and storm damage reduction, shoreline protection, and ecosystem restoration. Regular consideration of locally driven, rigorously studied, and nationally significant water resources infrastructure is key to preserving our Nation’s economy, to protecting our communities and businesses, and to maintaining our quality of life. This work, typically carried out by the Corps, is made possible through enactment of WRDA.

Department of Homeland Security/FEMA

FEMA/NFIP Reform
The recent FY2021 Appropriations action extended the NFIP until September 31, 2020. In April, NSPS was part of a coalition of organizations, known as the Flood Map Coalition, that sent a letter to the House and Senate appropriations committees in Congress supporting funding for FEMA’s National Flood Insurance Program (NFIP) in fiscal year 2021. The coalition of 23 organizations signed on to the letter urging Congressional appropriators “to maintain appropriated funding of at least the FY 2020 level ($262.5 million) for FEMA’s Flood Hazard Mapping and Risk Analysis Program. Appropriations as close as possible to the full authorization level of $400 million would help move the nation to better coverage with up-to-date flood maps more quickly.”

In February, Ryan R. Branfort, PLS, GISP, Senior Vice President with Wilson & Company, Inc., Engineers & Architects of Salina, KS, a member of NSPS, the Kansas Society of Land Surveyors (KSLS), and a former NSPS Governor representing KSLS, testified before a joint hearing of the Subcommittee on Environment and Subcommittee on Investigations and Oversight of the Committee on Science, Space, and Technology of the U.S. House of Representatives. The hearing covered the science and technology behind Federal flood maps in a changing climate. Ryan presented a variety of geospatial technologies, data, services, and applications to improve flood mapping.

Department of the Interior

3DEP
NSPS has endorsed the USGS 3DEP program to provide consistent elevation data, primarily through LiDAR collection, for the United States, and has been a leader in efforts to assure the program is fully funded at $146 million per year.

In February, NSPS Government Affairs Consultant John Palatiello presented testimony before a subcommittee of the House Appropriations Committee. The hearing focused on the USGS 3DEP program and the funding request for FY 2021. In his prepared remarks, Palatiello stated “Our request and recommendation to the Subcommittee is to appropriate funds for the 3DEP program at its optimal annual level of $146 million among all participating agencies.” Speaking on behalf of the 3DEP Coalition, comprised of representatives of over 50 organizations, including NSPS, from surveying, mapping and geospatial; real estate; home building; flood management; emergency response; environmental; science; mining; insurance; telecom; agriculture; and infrastructure, Palatiello urged full funding of the national LiDAR and IFSAR program that would enable the entire United States to be mapped with consistent elevation data with a 8-year repeat cycle. Later that month, 3DEP was featured during a Congressional briefing co-hosted by the House Manufacturing Caucus and sponsored by NSPS. This panel addressed how domestic manufacturing jobs can be supported by mapping efforts used by Federal agencies to locate critical minerals and materials. Critical minerals and materials are used for cell
phones, computers, automobiles, airplanes, ships, and many other products that are critical to our economy and security. Unfortunately, the United States relies on other countries entirely for more than a dozen minerals that are vital to the national economy and security. Experts in manufacturing, geology, and mapping covered the manufacturing connection between the U.S. Geological Survey's Earth Mapping Resources Initiative (MRI), 3D Elevation Program (3DEP), and the Department of Energy's Critical Materials Institute (CMI). Curt Sumner attended, John Byrd was moderator and John Palatiello was a presenter.

In March, a House letter was delivered to the House Appropriations Committee requesting $146 million for USGS 3DEP, cosigned by 36 Members of Congress. A Senate letter with the same request, cosigned by 13 Senators, was delivered to the Senate Appropriators. NSPS was one of 50 organizations making the same request of Congressional Appropriators for FY 2021. As a consequence of this unprecedented outreach, report language was included in two separate Appropriation Subcommittees in the House: Interior, and Financial Services and General Government.

In July, the House Appropriations Committee reported the House Interior funding bill out of committee, and filed the FY2021 House Interior Appropriations Committee Report with language on USGS 3DEP: "The recommendation provides no less than $46,000,000 for the 3D Elevation Program and directs the Survey to complete 100% coverage of the Great Lakes region, begin expanding coverage to the southeastern United States region, and to include a detailed cost estimate for achieving 100% coverage of that region in the fiscal year 2022 budget justification. The Committee supports the continued collaboration with partners to leverage the resources provided for 3DEP to achieve the goal of national coverage by 2026. ... The Committee understands State and Federal agencies can use high accuracy lidar from the 3DEP program to quickly and remotely identify the location, size, and shape of sinkholes, and encourages the Survey to consider the inclusion of areas with a high risk of sinkhole development for repeat coverage."

Also, that month, the Appropriations Committee of the U.S. House of Representatives House approved the Financial Services and General Government funding bill. In its accompanying committee report, support for USGS 3DEP, a NSPS-supported national elevation (LiDAR) program was articulated: "Elevation Data Coordination for Broadband Deployment.—The U.S. Geological Survey is leading the 3D Elevation Program (3DEP), a collaborative initiative to systematically collect accurate enhanced elevation data nationwide primarily through Light Detection and Ranging (LiDAR) technology. Such data can facilitate line-of-sight analyses for signal propagation studies, identification of the optimum locations for cell tower networks and other broadband deployments, models of potential impacts to wireless signals from future development and vegetation growth, mapping of existing towers, and design and permitting of new infrastructure. The Committee encourages the FCC to participate in this program to help support the deployment of 5G and other next-generation wireless services. The Committee understands that FCC participation in 3DEP will strengthen the Commission’s support for building, maintaining, and expanding U.S. wireless networks."

In July, the U.S. Senate passed S. 529, the National Landslide Preparedness Act, sponsored by Sen. Maria Cantwell (D-WA). The bill would require the DOI and USGS to map and assess landslide hazards; respond to landslide events; coordinate with non-federal entities to identify regional and local priorities; and develop and implement landslide hazard guidelines for geologists, engineers, emergency managers, and land-use decision makers. The House passed H.R. 1261 by unanimous consent in June 2019, and the Senate passed S. 529 by unanimous consent on July 30, 2020. Congress must reconcile differences in the bills, including differing authorization amounts, to help enact the legislation. Section 4 authorizes subsidence mapping and Section 5 authorizes 3DEP. NSPS continues to advocate on behalf of USGS 3DEP and strongly supports this legislation.

In August 2020, an NSPS-led delegation of organizations supportive of 3DEP participated on a conference call with the Office of Management and Budget (OMB) analyst responsible for preparing the annual USGS budget. NSPS Government Affairs Consultant John Palatiello, as well as NSPS Federal Lobbyist John "JB" Byrd joined their respective colleagues from the geospatial, real estate, energy, geology, and infrastructure advocacy organizations requesting that USGS be fully funded at $146 million in the President’s FY2022 budget request to Congress.

Critical Minerals
In June, Senator Lisa Murkowski (R-AK), chair of the Senate Committee on Energy and Natural Resources, and Representative Rob Bishop (R-UT), Ranking Republican on the House Committee on Natural Resources, led a bicameral letter of 38 lawmakers (11 Senators and 27 Congressmen) to Secretary of the Interior David Bernhardt and Secretary of Agriculture Sonny Perdue encouraging them to finalize rulemakings that will modernize and simplify
regulations governing the domestic production of locatable minerals. In 2017, President Trump issued Executive Order 13817, outlining a federal strategy for mineral security. The Department of the Interior (DOI) subsequently finalized a list of 35 critical minerals in mid-2018. In June 2019, the Department of Commerce released a strategy report with 61 recommendations to rebuild the United States’ critical minerals supply chain, including recommendations that DOI and the U.S. Department of Agriculture update and make their regulations as consistent as possible. According to the U.S. Geological Survey, the United States imported at least 50 percent of its supply of 46 different nonfuel minerals in 2019, including 100 percent of 17 of them. China has consolidated control over the supply chains of many minerals and the technologies they are used to manufacture. NSPS has been emphasizing to key Members of Congress the importance of the USGS 3DEP data to this initiative.

In October, President Donald Trump signed an executive order declaring a national emergency in the mining industry, aimed at boosting domestic production of rare earth minerals critical for military technologies while reducing the country’s dependence on China. Trump ordered his Cabinet secretaries to study the matter, with an eye toward government grants for production equipment, as well as tariffs, quotas or other import restrictions against China and other non-market foreign adversaries. Rare earth elements are a group of 17 minerals critical to the defense industry’s manufacturing of missiles andmunitions, hypersonic weapons, and radiation-hardened electronics — as well as consumer electronics like cellphones. The Trump administration previously identified 35 minerals as both essential and whose supplies are vulnerable to disruption. The U.S. imports 80 percent of these elements directly from China, with portions of the remainder indirectly sourced from China through other countries, according to the order. Mapping is highlighted in Section 2(d) of the Executive Order. In February, NSPS sponsored a Congressional Briefing hosted by the House Manufacturing Caucus on the role of surveying and mapping in locating Critical Minerals and Materials, including the application of LiDAR data through the USGS 3DEP program.

FLAIR
In September, the Senate Committee on Energy and Natural Resources held a hearing on S. 1295, the Federal Land Asset Inventory Reform (FLAIR) Act, a bipartisan bill to create a single database for lands owned by the federal government. NSPS Government Affairs Consultant John Palatiello submitted a statement in support of the FLAIR Act and was quoted in a news release regarding the hearing by the bill’s sponsor, Senator Kevin Cramer (R-ND), who applauded the Senate Energy and Natural Resources (ENR) Committee for fulfilling his request to hold a hearing. “There should be no discrepancy over how much land the federal government does or does not own,” Senator Cramer noted in a news release. “By adopting the FLAIR Act, we can improve federal land management, resource conservation, and recreational access, all while reducing land ownership conflict and saving taxpayer dollars in the maintenance of one efficient database.” Senator Cramer introduced the FLAIR Act in May 2019 with Senator Martin Heinrich (D-NM) and subsequently requested the bill be considered before the committee. NSPS was quoted in the news release, “This federal effort helps state and local agencies verify their ongoing efforts to identify what each level of government owns,” said NSPS Government Affairs Consultant John Palatiello. “This will also enable government at all levels to find missing property.”

Geospatial Governance -- COGO/FGDC/NGAC/GDA
OMB has determined that the Geospatial Data Act (GDA) guidance will be provided through a revision of Circular A-16. The proposed revisions to A-16 are currently under review at OMB with no public comment period. In March, John Palatiello represented NSPS on “Leaders Forum” - a web session, hosted by the Federal Geographic Data Committee (FGDC) that was rescheduled from an in-person meeting - to provide input on the next National Spatial Data Infrastructure (NSDI) strategic plan. Among other issues, he articulated the need for public input to the A-16 revision and GDA implementation, an emphasis on data acquisition for the NSDI. NSPS member Gary Thompson of North Carolina is the current NSPS representative on the NGAC. The next NGAC meeting is scheduled for October 28-29, 2020.

MAPLand Act
In March, Representatives Russ Fulcher (R-ID) and Derek Kilmer (D-WA) introduced H.R. 6169, the Modernizing Access to our Public Land (MAPLand) Act of 2020. Senators Martha McSally (R-AZ) and Angus King (I-ME) introduced the Senate version, S. 3427. The bill will standardize the digitization and dissemination of information regarding recreational access and allowable activities on millions of acres of federal public lands throughout Idaho and the United States. Doing so will make millions of Americans, including hunters, anglers, and outdoor recreationists, increasingly aware of opportunities to access and use their public lands in a manner beneficial to innumerable local and regional economies. In September, the Senate Committee on Energy and Natural Resources held a hearing on the MAPLand Act, S. 3427.
Sinkhole Mapping

In March, H.R. 496, the Sinkhole Mapping Act of 2019, introduced by Rep. Darren Soto (D-FL), passed the House Committee on Natural Resources. In July, it was added as an amendment to H.R. 2, the House Highway Bill (Section 84701). The bill directs USGS to establish a program to: 1) study the short-term and long-term mechanisms that cause sinkholes, including extreme storm events, prolonged droughts causing shifts in water management practices, aquifer depletion, and other major changes in water use; and 2) develop maps depicting the zones that are at greater risk of forming sinkholes. The USGS must establish a public website that displays such maps and other relevant information critical for use by community planners and emergency managers.

Stream Gages

In March, NSPS joined a coalition of organizations on letters supporting USGS stream gage programs to the House and Senate Appropriations committees for FY21 budgeting. A broad coalition of 57 water related organizations signed letters which urged support to enable USGS to fully support its stream-gaging networks. These vital networks, managed in the USGS Groundwater and Streamflow Information Program, provide critical and life-saving information, and serve the national interest with continuous streamflow information at over 8,400 locations. Additions to these networks are needed to adequately manage the Nation’s critical water supplies and infrastructure, including for surveying and mapping services related to hydrologic and hydraulic (H&H) studies for the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP).

UAS

News about the Department of the Interior (DOI) grounding its fleet of drones made headlines in late 2019, but the language used by the DOI positioned it as more of a review than a suspension. That leeway has been removed now that Secretary of the Interior David Bernhardt has signed Secretary's Order 3379. The directive orders the cessation of non-emergency unmanned aircraft systems fleet operations. The statement confirms that drones will be able to be used in emergency situations, although that will require the department to go through its own waiver process. Those situations are defined as fighting wildfires, search, and rescue, and dealing with natural disasters that may threaten life or property. How long this review will take and what exactly it will look like has not been defined, but it is clear that getting the DOI’s drone fleet back into the air for routine operations is going to take some time.

Department of Justice

FPI Reform

In April, NSPS joined a coalition of organizations recommending in a coalition letter to the Department of Justice to "temporarily suspend operations" by Federal Prison Industries (FPI), a Federal government corporation operating under the trade name UNICOR, that uses inmate labor to produce goods and services. The organizations pointed out that with our economy in a spiral and law abiding, tax-paying Americans wanting and needing to work to support their families, it makes no sense for federal agencies to be buying products and services from inmates in FPI. With membership in the Business Coalition for Fair Competition (BCFC), NSPS has been involved on FPI Reform due to markets being negatively impacted as prisoners have performed scanning, digitizing, and GIS/CAD conversion instead of being contracted to the private sector. In July, a Government Accountability Office (GAO) audit report found that Federal Prison Industries (FPI) has not reviewed its impact on recidivism in over two decades. The First Step Act of 2018 authorized FPI to sell its products to new markets. NSPS was among several organizations that opposed FPI expansion and supported a provision asking GAO to review various aspects of FPI.

PLANT Act

In July, H.R. 7540, the bipartisan “Protecting Lands Against Narcotics Trafficking (PLANT) Act” was re-introduced by Rep. LaMalfa (R-CA) and others. The bill would impose enhanced penalties for conduct relating to unlawful production of a controlled substance on Federal property or while intentionally trespassing on the property of another that causes environmental damage. Section 3 of the bill would coordinate activities among States, political subdivisions of States, and Federal agencies, contracting to use commercially available aerial imagery, remote sensing, and geospatial data acquisition services using manned aircraft operations, unmanned aircraft systems, satellites, and other technologies to observe, monitor, and identify illegal marijuana cultivation.
Department of Labor

Davis Bacon
In response to an inquiry of the business community in identifying job killing regulations to roll back, NSPS urged in September the ranking member of the House Committee on Oversight and Reform, Rep. James Comer (R-KY), to conduct oversight and an investigation into the expansion and applicability of the Davis-Bacon Act to members of surveying crews working on federal financed construction projects. This expansion was initiated by All Agency Memorandum (AAM-212), issued by the Department of Labor's (DOL) Wage and Hour Division during the Obama Administration on March 22, 2013. NSPS Executive Director Curtis Sumner wrote, “We believe the classification of members of survey crews as “laborers and mechanics” is detrimental to our profession and an inappropriate demotion of valued and skilled employees … We respectfully recommend the immediate rescission/repeal of AAM 212 as you conduct oversight of this 2013 policy.”

Department of Transportation

Highway Bill
The recent FY2021 Appropriations action extended the Highway Bill until September 31, 2021. In September, groups representing nearly every aspect of the country’s infrastructure community recently called on Congressional leaders to approve a yearlong extension of a soon-to-expire highway law. NSPS was among dozens of stakeholders pressing for an authorizing extension of the five-year 2015 FAST Act, which was on track to expire September 30. In addition to the extension, the groups asked the leadership on Capitol Hill to approve more than $30 billion in emergency funding for both state departments of transportation and public transit agencies, as well as guarantee the solvency of a federal highway funding account during the extension. The account, known as the Highway Trust Fund, relies on dwindling revenue from fuel taxes.

In May, NSPS joined a coalition of organizations on a letter to President Trump supporting the inclusion of the Highway Bill and other associated infrastructure as part of Phase 4 of the Covid 19 recovery legislative options. A broad coalition of 71 organizations signed on to the letter noting, "Increased highway, bridge, public transportation and safety program funding will support direct job creation and retention. This will put in place capital assets that enhance supply chain efficiency and access to jobs, services, materials and markets for decades. ...We stand by your side ready to rebuild the highways, bridges and public transportation systems that are so critical to the nation’s post-coronavirus rebound."

PIVES Act/PHMSA
In August, the U.S. Senate passed S. 2299, the Protecting Our Infrastructure of Pipelines Enhancing Safety (PIVES) Act of 2019, by unanimous consent. The legislation would reauthorize the Pipeline and Hazardous Materials Safety Administration (PHMSA) pipeline safety program for four years and provide important advances in new safety technology and regulatory reform. The bill also allows PHMSA to conduct pilot programs to evaluate innovative pipeline safety technologies to enhance pipeline safety, and establish a liquefied natural gas (LNG) Center of Excellence to promote and facilitate safety, education, training, and technological advancements for LNG operations. PHMSA manages the National Pipeline Mapping System. The House version of the PIVES Act could be acted on later this year.

Department of Treasury

In August, the Internal Revenue Service issued proposed tax accounting regulations for small businesses under the Tax Cuts and Jobs Act (TCJA). For tax years beginning in 2019 and 2020, these simplified tax accounting rules, permitting cash based accounting, apply for taxpayers having inflation-adjusted average annual gross receipts of $26 million or less (known as the gross receipts test), up from $5 million. ACSM was a leader in preserving cash accounting for surveying and mapping firms in the 1986 tax law and NSPS government affairs consultants, John M. Palatiello & Associates, Inc., led by registered lobbyist John "JB" Byrd, worked to add the cash accounting provision in the Tax Cuts and Jobs Act (TCJA) of 2017.
Federal Communications Commission (FCC)

Broadband Mapping
In March, the President signed into law, S. 1822 (P.L. 116-130), a broadband bill that merged multiple bills into one package to allow for improved mapping for the availability of broadband internet service is essential to promoting the deployment of high-speed service to all Americans, especially those in unserved and underserved areas. The law requires the Federal Communications Commission (FCC) to issue rules relating to the collection of data with respect to the availability of broadband services. The NSPS-secured provision in S. 1822 calls for the FCC to begin the mapping only after consulting first with the Federal Geographic Data Committee (FGDC). Many of the broadband inventory maps previously produced following an initiative in the Obama-era stimulus bill, known as the American Recovery and Reinvestment Act of 2009, were found to be inaccurate. Complaints have been raised that many states expending ARRA funds failed to require supervision of the mapping by a licensed surveyor, were awarded to the low bidder rather than following qualifications based selection (QBS) laws, and/or were carried out by universities that did not have experience or expertise in such commercial map production services.

In March, as a result of a lobbying campaign by JMP&A on behalf of NSPS, member Brent Birth, PLS, of Pennsylvania was appointed by Federal Communications Commission (FCC) Chairman Ajit Pai to the FCC Task Force Working Group for "Mapping and Analyzing Connectivity on Agricultural Lands". This working group is reporting to the Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Precision Ag Connectivity Task Force) authorized in the 2018 Farm Bill which included a provision NSPS sought for a professional with geospatial expertise be added to the Task Force. Brent's appointment to the working group came as a direct result from the NSPS campaign, including a letter to the FCC, as well as from a Congressional multi-member letter led by Rep. Dan Meuser (R-PA) to the FCC. Brent's first meeting with the Task Force occurred March 25 by electronic format and will next meet on October 28.

Ligado/LightSquared
LightSquared has rebranded with a new name, Ligado Networks LLC. In April, the Federal Communications Commission (FCC) announced that it has unanimously approved with conditions Ligado’s application to deploy a low-power terrestrial nationwide network in the L-Band that will primarily support 5G and Internet of Things services. The order includes conditions to ensure that adjacent band operations, including the Global Positioning System (GPS), are protected from harmful interference. The GPS Innovation Alliance, of which NSPS is a member, issued a statement on the FCC action.

NSPS has been active in another new coalition of organizations opposing the Federal Communications Commission (FCC) approval of the Ligado Application. In June, this coalition of nearly 60 organizations wrote to the FCC supporting the NTIA Stay Petition on Ligado. The letter states, 'The Petition satisfies the four-part test established by the Court of Appeals and applied by the Commission. As the Commission has put it, under this test, a stay is warranted 'when a serious legal question is presented, if little harm will befall others if the stay is granted and denial of the stay would inflict serious harm.' The Petition (as well as the numerous petitions for reconsideration filed against the Ligado Order) demonstrates conclusively that the Order presents serious and unresolved legal and factual questions, that grant of the stay will not harm others, and that a stay is necessary to prevent serious harm arising from harmful interference into mission-critical GPS devices and satellite communications. In short, the public interest strongly favors maintaining the status quo during the pendency of NTIA’s petition for reconsideration, and the Commission should grant the Petition."

In June, the Senate Commerce Committee held a nominations hearing on numerous appointees to Federal agencies. These included Joel Zabat (USDOT), Mike O'Reilly (FCC), and Michael Walsh (NTIA), among others. The FCC approval of the Ligado Application was centerstage towards the latter part of the hearing managed by Senator Roger Wicker (R-MS), Chairman of the full committee with references to "high precision surveying" and "surveying equipment." Chairman Wicker was looking for a way to bring consensus or compromise to the issue, but there was a clear division between the FCC which approved of the Ligado Application, and the NTIA and U.S. Department of Transportation (USDOT) which both believe that Ligado causing harmful interference with GPS inevitable. Media coverage from Multichannel.com highlights that Mr. Zabat provided the example "of a surveyor siting a road or pipeline in the wrong place due to bad data."
Congress has begun taking steps to over-ride or mitigate the Federal Communications Commission’s (FCC) recent approval of a long-standing request by Ligado Networks (formerly LightSquared) for a controversial satellite based broadband system that critics say will use spectrum near that used by the Global Positioning System (GPS).

In July, 27 members of the U.S. House Agriculture Committee sent a letter to Federal Communications Commission Chairman (FCC) Ajit Pai, urging him to reconsider the FCC’s decision to allow Ligado Networks to operate a terrestrial nationwide network that opponents say will cause harmful interference to GPS signals for many users. This concern and opposition from a sector not traditionally engaged in GPS or positioning, navigation and timing (PNT) issues is just one example of how the FCC’s decision — rather than putting the issue to rest — has instead recruited a whole new set of actors from across multiple sectors for the opposition. Previously it was easy for many to assume the FCC would reject Ligado’s proposal. The entire executive branch had been vehemently opposed for years. So had aviation groups, the weather community, geospatial, and some satellite communications concerns. With such opposition from so many important quarters, it was reasonable for many to assume they need not become involved. Now that the FCC has acted to the contrary, these interests have become well energized. The FCC decision also empowered opponents to educate and recruit others who do not normally think or worry about GPS and PNT issues, folks like farmers and agricultural interests. Department of Transportation studies have shown that high-precision GPS receivers, such as those used in agriculture, could be impacted within 3,000 meters of a Ligado transmitters. With tens of thousands of transmitters deployed in a nationwide network, this could pose a real problem for American farming. According to some involved with protesting the FCC’s decision, there are nearly a hundred organizations and companies that are working in some way to have it overturned. These include multiple aviation, delivery service, agriculture, surface transportation, geospatial, weather, maritime, space and technology interests. NSPS plays a vital part in these coalitions and helped to secure numerous offices of the 27 cosigners.

According to analyses by the departments of Defense and Transportation, and others, the Ligado system will interfere with GPS reception for many users. Congress is moving beyond talk and initiating legislative provisions. These would require an independent technical review of the FCC’s decision and place limits on the ability of Ligado Networks to use the license it was granted. A primary vehicle for congressional action looks to be the National Defense Authorization Act (NDAA) for 2021.

In May, NSPS joined a coalition of organizations on a statement supporting the Senate Armed Services Committee oversight hearing that month on the impact on national security of the recent Federal Communications Commission (FCC) decision on Ligado. A broad coalition of 68 organizations, including NSPS, signed the statement explaining to the committee’s leadership, "Risks Public Safety – Use of GPS is fundamental to the continued safe and effective operation of our industries and professions, where false or missing GPS data can easily result in a tragic accident." Also that month, the House Armed Services Committee issued a letter cosigned by 22 committee members to the FCC regarding the Commission’s approval of Ligado’s proposal to use portions of spectrum in a way that poses an unacceptable risk to the Global Positioning System (GPS) in the United States.

In June, the Senate Armed Services Committee marked up the annual National Defense Authorization Act (NDAA) in a closed session. While the bill language is not yet available, the Committee released a summary for the legislation. Following up on a coalition statement that NSPS cosigned in May opposing the Ligado decision by the Federal Communications Commission (FCC), the Committee bill summary states, "The bill protects critical national security equities and outlines a path forward following the Federal Communications Commission’s (FCC) misguided decision to approve Ligado Networks’ request for bandwidth for a terrestrial-based cellular network, that put critical GPS signals at risk. As our warfighters rely on these signals, the bill prohibits the use of DOD funds to comply with the FCC Order on Ligado until the Secretary of Defense submits an estimate of the costs associated with the resulting GPS interference, and directs the Secretary of Defense to contract with the National Academies of Science and Engineering for an independent technical review of the order to provide additional technical evaluation to review Ligado’s and DOD’s approaches to testing."

The member of Congress that has been the most outspoken critic of the FCC’s decision is Senator Jim Inhofe (R-OK), chairman of the Senate Armed Services Committee that has direct responsibility for writing the NDAA. The Senate version of the NDAA for fiscal year 2021 has several provisions that directly address the FCC’s decision. Senator Inhofe has also announced he will introduce stand-alone legislation when Congress returns from summer recess. His “Recognizing and Ensuring Taxpayer Access to Infrastructure Necessary for GPS and Satellite Communications Act,” or
“RETAIN GPS and Satellite Communications Act,” a NSPS-supported bill that would require Ligado to modify or replace any receiver, including those used by private citizens, that would be impacted by Ligado’s operations. This modification would be required before the FCC’s order allowing them to transmit could come into force. Most observers opine that the number of impacted civil receivers in the U.S. is so great that this would effectively deny Ligado use of the frequency. Introduction of the RETAIN GPS and Satellite Communications Act may occur later this year.

PNT
In January, President Trump signed an Executive Order on Strengthening National Resilience through Responsible Use of Positioning, Navigation, and Timing (PNT) Services, which directs the Federal government to develop guidance that mitigates the risks of disruption to critical infrastructure that rely on PNT services. As the first nation to take this action, the Administration is advancing America’s leadership in emerging technologies and securing infrastructure vital to national security, commercial industry, and our everyday lives. PNT service, such as the Global Positioning System (GPS), is among the most used utilities in the world. Americans rely on it every day for a variety of purposes ranging from electricity to smartphone applications. This action by the President will help to ensure that the United States maintains uninterrupted access to essential services that rely on PNT. In February, NSPS government affairs consultant John Palatiello and lobbyist John “JB” Byrd participated in a White House conference call and meeting with discussions from the National Security Council, Department of Transportation, and Department of Homeland Security.

Federal Trade Commission (FTC)

Privacy
Major privacy legislation, S. 3456, was introduced in April by Senator Jerry Moran (R-KS). The bill pre-empts state laws to establish a single, national standard on data and individual citizen privacy. Prior to the bill’s introduction, NSPS expressed concern to the Senator on the use of the term "precise geolocation data" in legislation and the potential impact of such language on surveyors and other geospatial professionals. As introduced, the bill language would NOT affect ordinary surveying and geospatial data collection, storage, dissemination, and application activities involving data such as a person’s name, address, or parcel identification. In a victory of NSPS, Senator Moran’s staff provided assurances the Consumer Data Privacy and Security Act, will NOT apply any conceivable activity of a surveyor. In addition, NSPS Federal Lobbyist John “JB” Byrd participated on a conference call in April with key professional staff of the House Committee on Energy and Commerce to communicate concerns language found in the discussion draft circulated by the Committee staff. JB was assured by the bipartisan staff members that the surveying profession was not included in the bill. NSPS is still seeking exemption language to help clarify and communicate to the broader community.

In September, leadership of the Senate Commerce Committee introduced the SAFE DATA Act, S. 4626. The legislation would provide Americans with more choice and control over their data and direct businesses to be more transparent and accountable for their data practices. The bill would also enhance the Federal Trade Commission’s (FTC) authority and provide additional resources to enforce the Act. Page 24 of S. 4626 includes the following definition:
(D) PRECISE GEOLOCATION INFORMATION.—For purposes of subparagraph (A), the term ‘‘precise geolocation information’’ means technologically derived information capable of determining the past or present actual physical location of an individual or an individual’s device at a specific point in time to within 1,750 feet. At first glance, this language is similar to the House bill that we were assured by House Committee staff does NOT include us. It will be helpful to receive the same assurances from Senate Committee staff. Sen. Moran is not a cosponsor, but his staff might still be able to help us out once again on this.

Office of Management and Budget (OMB)/General Services Administration (GSA)/Small Business Administration (SBA)

Brooks Act/COFPAES/CIPC
In January, Representatives Ro Khanna (D-CA) and Mark Meadows (R-NC) introduced the “Construction Consensus Procurement Improvement Act” (H.R. 5644). As introduced, the NSPS-supported bipartisan legislation would improve the procurement process for federally funded construction-related projects. If passed, it would ban federal agencies from using reverse auctions to award design and construction contracts. The Senate passed its version of the bill (S. 1434), in late December 2019. Through the Construction Industry Procurement Coalition (CIPC) and COFPAES, NSPS has been
working on this legislation to prohibit reverse auctions for A/E services, including for surveying and mapping. Rep. Meadows has since been named Chief of Staff to President Trump at the White House and will resign from Congress.

The Council on Federal Procurement of Architectural and Engineering Services (COFPAES), a coalition of design societies is being strengthened with NSPS and ASCE as the longstanding members. AIA has agreed to rejoin, and IIBEC joined for the first time. COFPAES is also working with the Office of Federal Procurement Policy on reforms to address the fact that it now takes federal agencies as long as 2 years to complete a QBS award on a multiple award, ID/IQ contract. John Palatiello participated in a distance learning forum hosted by GSA that included more than 100 Federal acquisition officials to discuss the length of time it is taking to award QBS contracts, including causes and potential reforms and remedies. COFPAES has been invited to provide members from private practice to serve as guest lecturers/presenters on the government’s web-based training courses in A&E contracting. Interested and qualified individuals are asked to send a Curriculum Vitae (C.V.) or resume to John Palatiello at john@jmpa.us.

In July, the House Appropriations Subcommittee on Financial Services and General Government adopted its FY2021 funding bill (H.R. 7668) with a requirement prohibiting the General Services Administration from procuring A/E services inconsistent with the Brooks Act and part 36 of the Federal Acquisition Regulation (FAR), thereby ensuring GSA fully utilizes qualifications based selection (QBS). The Council on Federal Procurement of Architectural & Engineering Services (COFPAES), of which NSPS is a member, has long advocated for better compliance and enforcement of QBS by GSA, citing a strong legal case against use of GSA Schedule contracts for A/E (including surveying and mapping) services. The bill language includes:

SEC. 529. None of the funds made available in this Act may be used by the General Services Administration to award or facilitate the award of any contract for the provision of architectural, engineering, and related services in a manner inconsistent with the procedures in the Brooks Act (40 U.S.C. 1101 et. seq.) and part 36.6 of the Federal Acquisition Regulation.

National Surveyors Week
In March, John M. Palatiello & Associates, Inc., was successful in obtaining a letter from President Trump in observance of National Surveyors Week in which the President included the following quote:

"Today, we depend on surveying to develop economic plans that effectively use resources and land throughout the United States. This week, I extend appreciation to those who are currently in this field. Through your dedicated work, you are helping to make our country stronger and more prosperous. I send my best wishes for a memorable celebration and continued success."

OMB Circular A-76
Last December, Rep. Greg Steube (R-FL) and Sen. John Thune (R-SD) introduced the "Freedom From Government Competition Act" (H.R. 5329/ S. 2990), a bill long supported by NSPS. The bills establish a process by which Federal agencies analyze their commercial activities (those for which private sector providers can be found in the Yellow Pages of the phone book) to determine whether government employees or private companies are the most efficient and economical provider of such services, thereby lifting the moratorium on OMB Circular A-76.