



July 23, 2012

Legislation

Obama signs highway bill. President Obama signed on July 6 the “Moving Ahead for Progress in the 21st Century” (MAP-21) – a \$105 billion transportation bill that provides a welcome relief of predictability and certainty to transportation planners for the next two years.

Every six years, the U.S. Congress is obligated to reauthorize legislation that determines the volume of spending, the recipients of that spending, and the revenue sources of that spending for the nation’s surface transportation system. The prior surface transportation plan, the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA-LU), had an expiration date of September 30, 2009. However, since Congress was unable to reach consensus on a new six year authorization by the original deadline, SAFETEA-LU had been repeatedly extended. Because the most recent extension was scheduled to expire on June 30, 2012, an agreement on replacement legislation or another extension was necessary.

While Congress is obligated to reauthorize transportation legislation every six years, the recently signed legislation only extends to September 30, 2014. An agreement beyond two years could not be reached among House and Senate negotiators.

The bill signed by the President was combined with a provision to extend a 3.4 percent interest rate on student loans for one year and a flood insurance program for five years. The contentious language promoting the development of the Keystone XL Pipeline was removed from the bill during negotiations between House and Senate leaders.

Notable MAP-21 provisions impacting agriculture include:

Hours of Service:

The law provides clarity to the agricultural exemption from the trucking hours of service rules. According to the law, 1.) Farm owners or operators, 2.) Ranch owners or operators, or 3.) Employees or family members transporting agricultural commodities, livestock, machinery, or supplies either to or from a farm or ranch are exempt from the hours of service rules. The exemption applies to those vehicles 26,001 lbs or less or, if heavier, are traveling within the state or within 150 miles of the farm or ranch.

Harbor Maintenance:

Included in the legislation was a “Sense of Congress” that encourages revenue generated by the Harbor Maintenance Tax be spent on harbor maintenance and dredging. The language is based on Congressman Charles Boustany’s (R-LA) “Realize America’s Maritime Promise Act” (RAMP Act). While a “Sense of Congress” offers support for the overall concept, it does not ensure the provision will be enforced.

The Harbor Maintenance Trust Fund was established in 1986 and is funded via a 0.125 percent tax on the value of imports and domestic cargo arriving at U.S. Ports with federally maintained harbors and channels. The tax collects \$1.3 to \$1.6 billion annually.

In establishing the Harbor Maintenance Trust Fund, there was an understanding that revenue generated from the tax would be spent on dredging and channel maintenance. Instead, about half is spent on such projects. The balance is spent on other discretionary projects that are unrelated to harbor maintenance.

While there is a \$6.1 billion surplus in the account, that money has already been spent. To regain that surplus or even to get 100 percent of the trust fund revenue in future years for harbor maintenance, it would require a reduction in spending in other areas. MAP-21 does not provide these spending offsets. As a result, the “Sense of Congress” in the legislation equates to an expression of intent, not a guaranteed outcome.

Semi Weight Limits:

The legislation calls for a study on the impact of truck size and weights on U.S. highways and on safety. An effort to expand semi weight limits was defeated when the House Transportation and Infrastructure Committee marked up the bill.

In July of 2009, the soybean checkoff funded research that highlights how allowing six axle semis loaded to 97,000 lbs would enhance efficiency while not negatively impacting motorist safety or infrastructure wear and tear. The report can be accessed at www.soytransportation.org.

Rural transportation study included in Senate Farm Bill. Last month, the Senate approved by voice vote an amendment – sponsored by Senators Amy Klobuchar (D-MN) and John Hoeven (R-ND) – to the Senate Farm Bill that will require the Secretary of Agriculture and Secretary of Transportation to update every three years their comprehensive study on rural transportation issues. The 2008 Farm Bill mandated that USDA and USDOT produce the original version of the rural transportation study, which was eventually published in April of 2010. The original study can be accessed at: <http://www.ams.usda.gov/AMSV1.0/ruraltransportationstudy>.

In addition, the amendment to the Farm Bill requires the Secretary of Agriculture to participate in all proceedings and developments before the Surface Transportation Board that may impact agriculture and rural America.

The Surface Transportation Board is the regulatory agency created by the United States Congress to resolve railroad rate and service disputes and reviewing proposed railroad mergers.

Rep. Richmond introduces legislation to deepen Mississippi River. On June 25th, Congressman Cedric Richmond (D-LA) introduced the “Dredging for Restoration and Economic Development for Global

Exports Act of 2012” (DREDGE Act). The bill would authorize the Army Corps of Engineers to dredge the Mississippi River to 50 feet so that larger vessels transiting the expanded Panama Canal can access the river. In addition, the bill creates a pilot project to promote the rebuilding of wetlands using existing sediment dredged from the River.

“The Mississippi River is undoubtedly the most important river in the United States,” said Congressman Richmond. “Its proximity to the Panama Canal is vital to our nation’s economy and critical to supporting the President’s goal of doubling America’s exports. With the introduction of the DREDGE Act of 2012, we are preparing for the future while strengthening our wetland restoration efforts. By deepening the Mississippi River, we continue to remain effective and competitive in the global market while preparing the state of Louisiana to capitalize on an extremely valuable asset, our ports.”

In addition to deepening the Mississippi River, the DREDGE Act of 2012 calls for greater accountability concerning sediment disposal from dredging. This legislation directs the Corps to install a pump-out site in the Southwest Pass so that the sediment is no longer wasted and is instead used to rebuild our wetlands.

Durbin asks STB to improve Amtrak performance. After a recent report showed that a significant percentage of Amtrak train delays are the result of freight railroad operations, U.S. Senator Dick Durbin (D-IL) on July 13 asked the Surface Transportation Board (STB) to increase efforts to improve Amtrak on-time-performance. Under the Passenger Rail Investment and Improvement Act of 2008, the STB gained new authorities to investigate the causes of Amtrak delays and enforce on-time performance standards.

“In 2011, Amtrak carried a record 30 million passengers, and passenger numbers in 2012 are expected to increase. However, consistent train delays caused by freight railroads cost Amtrak millions of dollars a year and threaten to turn passengers away from Amtrak,” Durbin wrote.

The Department of Transportation’s Office of the Inspector General recently released a report – “Analysis of the Causes of Amtrak Train Delays” – which found several causes of Amtrak train delays related to freight railroad operations including speed restrictions due to poor track conditions and construction, congestion and track sharing. Other factors, such as capacity utilization and activities at Amtrak crew change locations, contributed significantly to delays system-wide, but considerably less than the effects of the freight rail operations.

Administration

Obama announces five port projects to be expedited. On July 19, as part of his “We Can’t Wait” initiative, President Obama announced that seven nationally and regionally significant infrastructure projects will be expedited to help modernize and expand five major ports in the United States, including the Port of Jacksonville, the Port of Miami, the Port of Savannah, the Port of New York and New Jersey, and the Port of Charleston. As part of a Presidential Executive Order issued in March of this year, the Office of Management and Budget is charged with overseeing a government-wide effort to make the permitting and review process for infrastructure projects more efficient and effective, saving time while driving better outcomes for local communities. These are the first 7 of the initial 43 projects that will be expedited by the Executive Order – additional expedited infrastructure projects will be announced in the coming weeks.

“One way to help American businesses grow and hire is to modernize our infrastructure,” said President Obama. “That’s why in March I asked my Administration to identify important projects across the country where Federal review could be expedited. Today’s commitment to move these port projects forward faster will help drive job growth and strengthen the economy.”

The port enhancement projects include:

- The Port of Jacksonville. The administration said the U.S. Army Corps of Engineers feasibility study of the economic impact of deepening the St. John’s River to the port would be completed by April 2013.
- The Port of Miami. The administration said it would complete all federal reviews for the deepening of the port channel to 50 feet by August 2012. The port expects to put it up for bid by year-end and complete the project by late 2014.
- The Port of Savannah’s plan to deepen the Savannah River to 47 feet will complete all federal reviews by November 2012, with construction scheduled to begin next year.
- At the Port of New York and New Jersey, where work to deepen the harbor to 50 feet has been going on for years, the administration set a target date of May 2013 for completing all federal permit and review decisions for the final stages of the project.
- At the Port of Charleston, the administration committed to completing all federal reviews for the project to deepen the harbor to 50 feet from its current 45 feet by September 2015, much earlier than the usual average of more than 10 years.

USDA releases new container availability report. USDA recently unveiled its Ocean Shipping Container Availability Report (OSCAR) – a weekly snapshot of available containers for westbound transpacific trade lanes at 18 intermodal locations around the country. Five different container types are examined in the report. The report will provide estimates of availability for the current week and the upcoming two weeks. The report – first published on July 12 – can be accessed at www.ams.usda.gov/oscar.

Corps of Engineers releases report on preparing for larger ocean vessels. Last month, the U.S. Army Corps of Engineers (USACE) submitted to Congress the “U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels” report, an examination of options for future modernization of U.S. ports and inland waterways.

Congress required USACE to submit to the Senate and House committees on appropriations a “report on how the Congress should address the critical need for additional port and inland waterways modernization to accommodate post-Panamax vessels.”

“Post-Panamax vessels today make up 16 percent of the world’s container fleet, but account for 45 percent of the fleet’s capacity,” said Maj. Gen. Michael J. Walsh, USACE deputy commanding general for Civil Works and Emergency Operations. “Those numbers are projected to grow significantly over the next 20 years.”

“The United States is a maritime nation,” continued Walsh. “This report provides to Congress and the public an analysis of the challenges and opportunities presented by the post-Panamax vessels, and outlines options on how the nation might address the port and inland waterway infrastructure needs required to accommodate these new vessels.”

“U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels” identifies capacity maintenance and expansion issues associated with the deployment of post-Panamax vessels to trade routes serving U.S. ports.

The report makes the following observations and findings:

- World trade and U.S. trade are expected to continue to grow, with imports growing more than fourfold, and exports expected to grow more than sevenfold over the next 30 years.
- The U.S. population is expected to grow by almost 100 million over the next 30 years, with most of the growth in the southern and western regions of the nation.
- Post-Panamax size vessels currently call at U.S. ports and will dominate the world fleet in the future. By 2030, post-Panamax vessels will account for 62% of the capacity of the world's container fleet.
- These vessels will call in increasing numbers at U.S. ports that can accommodate them.
- Along the Southeast and Gulf coasts there may be opportunities for economically justified port expansion projects to accommodate post-Panamax vessels.
 - This is indicated by an evaluation of population growth trends, trade forecasts and an examination of the current port capacities.
 - Investment opportunities at specific ports will need to be individually studied.
- The potential transportation cost saving of using post-Panamax size vessels to ship agricultural products to Asia, through the Panama Canal may lead to an increase in grain traffic on the Mississippi River for export at Gulf ports.
 - An analysis indicated the current Mississippi River capacity is adequate to meet potential demand if the waterways serving the agricultural export market are maintained.
 - A need for lock capacity expansion is not indicated.
 - Despite the uncertainty in market responses to the deployment of post-Panamax vessels and the expansion of the Panama Canal, individual investment opportunities for port expansion can be identified using established decision making under uncertainty techniques. Adaptive management techniques can also be used to address uncertainty issues. Preliminary estimates indicate the total investment opportunities may be in the \$3-\$5 billion range.
 - Environmental mitigation costs associated with port expansion can be significant and will play an important role in investment decisions.
 - The primary challenge with the current process to deliver navigation improvements is to ensure adequate and timely funding to take advantage of potential opportunities.
 - A notional list of financing options is presented to initiate discussion of possible paths to meet this challenge.
 - It is anticipated that a variety of options may be desirable, and in all cases individual project characteristics, including its economic merits, would need to be considered in selecting the optimal financing mechanisms.