

Transportation Update

FEBRUARY 2011

— Compiled by Illinois Farm Bureau®



Lower Mississippi River Dredging Concerns Now Reality

For months we've been hearing that the Corps of Engineers' had revised its policy against reprogramming funds from other parts of the Corps budget to address the short-fall for dredging on the Lower Mississippi River.

The Corps is responsible for maintaining a 47-foot deep channel 750 feet wide in the area where ocean-going vessels access inland ports in the New Orleans area. But with budget shortfalls in years past (this year expected to be \$22 million) the Corps had been forced to draw funds away from other projects to complete that dredging.

Late last year the Corps said, no more. Now shortfalls in dredging funds will result

in the job going undone. That can have significant negative economic impacts.

In the first week of February, river pilots operating in that stretch of the river imposed draft restrictions of 44 feet (normally 45 feet) at Southwest Pass and one way, daytime only traffic for larger vessels in certain parts of the river between New Orleans and Baton Rouge area.

Shallower drafts mean lighter loading and higher transportation costs for grain and other products destined for international markets. That translates to lower prices for farmers and US grains being less com-

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Appellate Court Ruling Puts 80,000 Pound Truck Weights in Limbo

The Third Division of the Illinois Appellate Court in late January ruled that Public Act 96-0034 (and the related Public Acts 96-35, 96-37, and 96-38) that put in place the \$31 billion capital construction program in 2009 were unconstitutional.

Public ACT 96-0034 contains the provisions of law that allow 80,000 pound trucks on local roads. Based on the Third Appellate ruling the entire provisions of the capital construction program are void.

Illinois Farm Bureau® had actively sought and worked to secure the passage of this provision in PA 96-0034 on truck access.

The court made its ruling because Public Act 96-0034 violates the single subject matter provisions of the Illinois Constitution (Ill. Const. 1970, Article IV, Section 8) in *W. Rockwell Wirtz and Wirtz Beverage Illinois, LLC. Vs. Patrick Quinn, et al.* The opinion reverses the circuit

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Constitutionality

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court ruling.

By one estimate, the Appellate Court action would eliminate 40% or more of the funding sources for the capital construction plan.

The potential loss of funding, alone, would have dramatic impacts on transportation. But the loss of the 80,000-pound federal bridge formula limits would be a real step backwards.

The immediate panic of how weight limits would be impacted was put on-hold when four days later, on February 1, the Illinois Supreme Court issued a stay of the lower court ruling.

For now, at least, the capital bill—along with the 80,000-pound provision—will remain in effect.

We'll have to await action by the Illinois Supreme Court to know for sure how this will come out.

In the meantime, some legislators are considering introduction of separate, smaller bills to address the same package of programs and funding. Problem is, circumstances surrounding passage of the original bill have changed. The votes might not be there to piece the whole thing together once again.

The situation could also put into doubt truck size and weight legislation being introduced this year based on the 2010 version of statutory language. Should the high Court uphold the lower court ruling, some language would revert to its 2009 status. That could raise real questions about amendatory legislation passed this year.



Cell Phone Use Targeted

USDOT Proposes Rule to Ban Hand-Helds for Commercial Truck and Bus Drivers

Source: STC Washington Report

As part of its campaign to put an end to the practice of distracted driving, the U.S. Department of Transportation on December 17th proposed a new safety regulation that would specifically prohibit interstate commercial truck and bus drivers from using hand-held cell phones while operating a commercial motor vehicle (CMV).

The proposed Federal Motor Carrier Safety Administration (FMCSA) rule would prohibit commercial drivers from reaching for, holding or dialing a cell phone while operating a CMV. Drivers who violate these restrictions would face federal civil penalties of up to \$2,750 for each offense and disqualification of their commercial driver's license (CDL) for multiple offenses. Additionally, states would suspend a driver's CDL after two or more violations of any state law on hand-held cell phone use.

Motor carriers that allow their drivers to use hand-held cell phones while driving would face a maximum penalty of \$11,000. Approximately four million interstate commercial drivers would be affected by this proposal.

"We are committed to using every resource at our disposal to ensure commercial drivers and vehicles are operating safely at all times," said FMCSA Administrator Anne S. Ferro. "Implementation of this proposal would help make our roads safer and target a leading cause of distracted driving."

FMCSA research shows that using a hand-held cell phone while driving requires a commercial driver to take several risky steps. In particular, commercial drivers reaching for an object, such as a cell phone, while driving are three times more likely to be involved in a crash or other safety-critical event. Drivers dialing a hand-held cell phone while driving increase their risk by six times. Many of the largest carriers, such as UPS, Covenant Transport, and Wal-Mart, already have company policies in place banning their drivers from using hand-held phones. In September 2010, FMCSA issued a regulation banning text messaging while operating a commercial motor vehicle.

Nearly 5,500 people died and half a million were injured in crashes involving a distracted driver in 2009. Distraction-related fatalities represented 16 percent of overall traffic fatalities in 2009, according to National Highway Traffic Safety Administration (NHTSA) research.



UCR

Enforcement of 2011 registrations began February 1. Late last year, many participants in the program were sent renewal notices via email. Whether you received it or not, you're obligated to have needed renewals completed by now.

For questions, call the Illinois Commerce Commission at:

217-782-6910.

Rail Growth

Chemicals, coal & intermodal driving it

Source: *Progressive Railroad*

Although rail volumes so far in 2011 have been mixed, there is underlying stability evident and the traffic outlook remains favorable, according to the February edition of Robert W. Baird & Co. Inc.'s "Domestic Truck, Intermodal and Rail Trends" report.

"Despite the [severe] weather disrupting volumes and train speeds, encouraging signs still exist with seasonal trends from chemicals (a leading indicator), accelerating coal exports, intermodal growth opportunities and industrial volumes that are still 15 percent off peak levels (thus expecting catch-up demand in 2011)," Baird analysts said in the report. "The demand outlook remains solid given expectations for continued economic recovery, secular intermodal growth and solid industrial end-market demand."

In the chemical sector, average weekly U.S. rail volumes were at record levels in January, following a strong December. Solid basic chemical and petroleum demand support a chemical volume trend in line with average seasonal expectations, despite recent severe winter weather, the report states.

Although winter storms also have impacted coal traffic of late, the near-term outlook is promising "given robust prospects for international coal exports, U.S. utility coal stockpiles nearing normalized levels, the increase in industrial activity and potential for increased

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Rail Reform Bill

Introduced a Second Time by Rockefeller

Source: *STC Washington Report*

Senator John D. Rockefeller (D-WV), Chairman of the Senate Commerce, Science, and Transportation Committee, announced on January 26 that he is reintroducing his bill to reform the rail industry in order to improve rail service, create new jobs and make the industry and U.S. goods more competitive both here and abroad.

Rockefeller said his bill, known as the "Surface Transportation Board Reauthorization Act of 2011" will be a priority for the Commerce Committee this year.

Bills that are not passed by the conclusion of each Congress automatically expire and thus must be reintroduced during the new Congress. In December of 2009, the Senate Commerce Committee passed an earlier version of the legislation. However, the bill was never brought to the full Senate for consideration.

A press release from Rockefeller's office highlights the provisions of the legislation:

Increase rail competition by requiring major railroads to quote "bottleneck rates," set standards for "reciprocal switching" and "terminal access" rates, create a process for parties to challenge "paper barriers," and increase STB scrutiny of future railroad mergers for competitive, service, and environmental effects.

Strengthen STB oversight of the railroad industry by updating the rail transportation policy, giving the

board independent investigative authority, and creating a strong rail customer advocate to help resolve shippers' concerns.

Improve shippers' access to regulatory relief by improving the processes by which rate complaints are resolved, requiring railroads to provide service standards to shippers, requiring the STB to review current class exemptions for unregulated railroad traffic, and by setting lower fees for filing complaints at the STB.

A Soy Transportation Coalition summary of the proposed legisla-

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STB Reschedules Rail Hearings

The Surface Transportation Board (STB) announced on February 4 that it has rescheduled to June 22, 2011 the public hearing on the current state of competition in the railroad industry. The hearing earlier was announced to take place on May 3.

The hearing will begin at 9:30 a.m., in the Surface Transportation Board Hearing Room in Washington, D.C. Written comments will now be due by April 12, 2011, and replies will be due on May 27, 2011. Notices of intent to participate in the hearing will be due by June 10, 2011.



Mississippi

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petitive in foreign markets.

Attendees at the US Grains Council annual meeting in New Orleans early this month also discussed the negative image this neglect gives our international customers. It could raise concerns about the reliability of the US as a commodity supplier, impacting our negotiating position.

The Louisiana Congressional delegation has sent a letter to President Obama urging this problem be addressed, and they will meet with the Corps of Engineers leadership.

There has been a second letter to the President circulated from other members of Congress interested in this issue.

On behalf of Waterways Council, Inc. (WCI), Jones Walker is working with others to urge that the funding short-fall be addressed through the Continuing Resolution (C.R.) which is on the House floor. WCI will continue to push for a solution to this problem.



Traffic

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weather-related electrical demand," Baird analysts said.

The prospects for intermodal traffic growth are encouraging, too, as demand remains solid, though moderating slightly, the report states. Year-to-date intermodal volumes are up 5 percent, with U.S. volumes up 6 percent, and most intermodal carriers are anticipating double-digit domestic volume growth in 2011, Baird analysts said.

"Tight capacity in the truckload market will support intermodal pricing and demand in 2011, but expect pricing growth rates in intermodal to lag truckload given market share growth aspirations from both larger intermodal marketing companies ... and from expanded intermodal offerings among truckload carriers," they said.



Reform

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tion can be accessed at:
<http://www.soytransportation.org/newsroom/STBReauthorizationSummary.pdf>.

In a January 24th letter to the U.S. Surface Transportation Board, House Transportation and Infrastructure Chairman John Mica (R-FL), Ranking Member Nick Rahall (D-WV), and committee members Bill Schuster (R-PA) and Corrine Brown (D-FL) encouraged the agency to refrain from enacting new regulations that could threaten the health of the nation's rail industry.

The Surface Transportation Board has scheduled a hearing for May 3rd to examine competition in the rail industry and whether steps need to be taken to provide greater balance between railroads and rail customers.



LaHood predicts STA bill by August

Source: STC Washington Report

At a recent speech at the SMCS trucking industry winter meeting in Atlanta, Secretary of Transportation Ray LaHood expressed optimism that the surface transportation reauthorization could occur by this summer.

Congress is obligated to reauthorize a surface transportation bill every six years. The legislation not only serves to direct federal spending on our nation's surface transportation infrastructure, it also establishes the funding mechanism for generated the necessary revenues for transportation investment. The current surface transportation law (the "Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users") expired on September 30, 2009, Congress has enacted a series of extensions of the law until a replacement piece of legislation has been passed.



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