



2009 Logistics Conference & Expo



WASHINGTON UPDATE

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NOVEMBER ELECTION RESULTS

- The economy has dominated the focus of the new Obama Administration in Washington
- The implications of the November elections for Supply Chain and Transportation issues therefore remain uncertain
- However, some of the key players, issues and trends are starting to become clearer
- The course of the recession and recovery will affect SCM and Transportation issues, including Infrastructure issues



KEY PERSONNEL CHANGES RESULTING FROM NOVEMBER ELECTIONS

- Ray LaHood has replaced Mary Peters as DOT Secretary
- Janet Napolitano has replaced Michael Chertoff as DHS Secretary
- Senator Jay Rockefeller (D-WV) has replaced Senator Daniel Inouye (D-HI) as Chairman of the Senate Commerce Committee. (Jim Oberstar (D-MN) continues to chair House T&I)
- Frank Mulvey has replaced Chip Nottingham as STB Chairman and Doug Buttrey has left the STB. Another member needs to be appointed
- Many key positions are still empty or are filled by acting heads who are likely to be replaced – FMCSA, TSA, OIRA



INFRASTRUCTURE

- Infrastructure investment remains the biggest transportation issue on the horizon
- The rationale for investment a year ago was inadequate capacity
- Today there's less talk of capacity constraints and more talk of stimulating the economy
- Whatever the rationale, increased investment is needed



HARD DECISIONS REMAIN

- How much do we need to spend
- How much can we afford to spend
- How do we allocate funding as between
 - truck, rail, water and air
 - maintenance and new construction
 - transit, commuters and freight
 - rural, urban and other areas
- What about oil import issues, climate change and cost effectiveness? Should more freight move by rail?



HOW DO WE PAY FOR WHAT WE NEED?

- The U.S. is facing record deficits
- The Highway Trust Fund required an \$8 billion transfusion from general funds (i.e., taxpayers) in 2008 and will probably need another in 2009
- Fuel tax rates have not been increased since 1993
- National Surface Transportation Policy and Revenue Study Commission says raise fuel taxes 5 cents per year and transition to VMT tax
- National Surface Transportation Infrastructure Financing Commission says raise fuel taxes 10 cents and transition to VMT



HOW DO WE PAY FOR WHAT WE NEED? (continued)

- No politicians (including those in the White House) want to come out in favor of higher fuel taxes now, as DOT Secretary Ray LaHood found out
- Privatization was the Bush DOT's answer, but there's little talk about privatization these days
- New study by the Public Interest Research Group highlights negative benefit-cost ratio of many privatization deals
- No one likes new toll roads or increased tolls either



STIMULUS LEGISLATION

- On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act, better known as the Stimulus bill
- The \$796 billion total includes roughly \$30 billion for highways, of which at least 50% must be obligated, i.e., approved by the Federal Highway Administration, in 120 days
- The Stimulus bill includes additional funding for air transportation and transit



HIGHWAY BILL REAUTHORIZATION

- The main event for us is the next Highway Bill
- SAFETEA-LU, the 2005 Highway Bill that expires 9/30/09, included \$286 billion in funding for highway maintenance and construction and for transit
- That amount was not enough, even ignoring roughly \$26 billion in earmarks, including the “Bridge to Nowhere”
- Chairman Oberstar has indicated that he wants to get a bill out in May or June with \$400 billion or more in funding
- White House may be preparing its version, which may focus less on freight



HIGHWAY BILL REAUTHORIZATION (continued)

- Prospects for enactment of a successor to SAFETEA-LU by 9/30/09 are poor
- SAFETEA-LU itself was enacted 2 years late
- Delay may lead to higher funding levels
- NASSTRAC is monitoring developments and working with other industry groups to support more infrastructure funding that keeps freight moving



TRUCKING ISSUES

- Truck Sizes and Weights
- Hours of Service
- NAFTA
- LA/Long Beach Port Drayage
- Bankruptcies



TRUCKING ISSUES (continued)

- Freeze on longer/heavier trucks being challenged
- Railroads still opposed and could seek to expand freeze
- On March 30, 2009, Rep. Mike Michaud (D-ME) introduced HR 1799, the Safe and Efficient Transportation Act of 2009, to allow 97,000 lb. GVW trucks on the highways. Rep. Michaud has 7 cosponsors.
- However, on March 19, 2009, Rep. James McGovern (D-MA) introduced HR 1618, SHIPA, expanding the freeze, with 52 cosponsors



TRUCKING ISSUES (continued)

- On Hours of Service, FMCSA decided to keep the current rules
- Public Citizen and other safety groups have returned to court to attack the rules. NASSTRAC intervened in support of FMCSA
- Efforts to regulate drayage operations at Port of LA/Long Beach were recently overturned in court
- Effort to comply with NAFTA through pilot program of cross-border operations was recently shot down by Congress. Mexico is retaliating with billions of dollars in tariffs, as it is entitled to do.
- Trucking and broker bankruptcies raise concerns about failed companies, collection actions, and TRUCC Act



AIR AND OCEAN

- Montreal Convention as replacement for Warsaw Convention
- “Rotterdam Rules” as replacement for COGSA
- General tightening of liability coverage
- More shippers being asked to pay when carrier not paid by broker or brokers. Justice Department investigating scam artists.



RAIL ISSUES

- Antitrust exemption for railroads unlikely to survive
- Captive shipper legislation may pass this session
- Railroad efforts to disclaim or limit liability for or duty to carry hazardous materials
- Investment Tax Credit legislation still pursued by railroad industry
- STB awards \$345 million relief in coal rate case



SECURITY

- Too soon to know whether new Administration and Congress will go overboard on cargo and carrier security issues
- Janet Napolitano recently said at a Congressional hearing that 100% ocean cargo screening by 2012 cannot be met
- TSA's Edward Kelly testified before House Homeland Security Committee on Certified Cargo Screening Program (CCSP) in March
- Kelly said 50% screening requirement for cargo on passenger planes mandated by 9/11 Act now being met



SECURITY (continued)

- Kelly said 100% screening by August 2010 feasible for domestic cargo through CCSP
- 100% screening of air cargo inbound from foreign countries by August 2010 unlikely
- 100% screening requirement being questioned in absence of technological solutions. Could Known Shipper approach return? “Trusted Trader?”
- Don’t assume things won’t get worse for cargo security

- Lacey Act is being phased in, with enforcement to begin
- NGO wish list emphasizes
 - furniture
 - toys, games and sporting equipment
 - tools (especially tool handles)
 - musical instruments
 - rooms, pencils, buttons
 - art works
 - wooden parts of guns
- Efforts at a legislative fix continue



OTHER NEWS (continued)

- Labor – Card Check Legislation
- Climate change issues
- Recession impacts
- We need to work together to get through this recession and to educate Washington policymakers