



Legislation

April 30, 2009

Rail Reform Letter Sent - A number of agricultural organizations sent a letter to Senate Commerce, Science, and Transportation Committee Chairman Rockefeller on April 29th that identified an array of priorities that the groups believe are needed to improve the efficiency and competitiveness of railroads that would result in more effective service to the agricultural sector. The letter emphasized the need for the Surface Transportation Board (STB) to be reformed so that the “National Rail Transportation Policy” was refocused “to provide a better balance between shipper and railroad interests.” Other items identified included the need for the STB to expedite handling of unreasonable practice challenges, address the increasing efforts by the railroads to shift their lawful liabilities to shippers, provide reasonable access to reciprocal switching, the creation of a Final Offer Arbitration process for rate relief, and establishing a process to challenge perpetual “paper barriers.” The following signed the letter:

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| Agricultural Retailers Association | National Corn Growers Association | National Oilseed Processors Assoc. |
| American Farm Bureau Federation | National Council of Farmer Cooperatives | National Sorghum Producers |
| American Soybean Association | National Cotton Council | North American Millers’ Association |
| American Sugarbeet Growers Assoc. | National Farmers Union | U.S. Beet Sugar Association |
| National Assoc. of Wheat Growers | National Grain and Feed Association | USA Dry Pea and Lentil Council |
| National Barley Growers Association | | USA Rice Federation |

Committee staff members are holding meetings with representatives to discuss draft legislation intended to address these priorities. The staff is working to complete language with the intent to couple this language with S 146, the rail antitrust legislation. While S 146 has been promised time on the Senate floor prior to Memorial Day, consideration will likely be delayed until June.

RRIF Hearing Held – On April 22nd, the House Subcommittee on Railroads, Pipelines, and Hazardous Materials heard testimony from interested stakeholders served by the Railroad Rehabilitation & Improvement Financing (RRIF) Program to highlight its importance in helping states, railroads, and shippers finance development of railroad infrastructure; hear about applicant experiences under existing implementation of RRIF; and to determine ways to improve RRIF in the upcoming surface transportation authorization bill.

The capital cost through 2050 of re-establishing the national intercity passenger rail network has been estimated to be \$357.2 billion; and the capital improvement needs of the freight rail infrastructure to meet DOT projected capacity demands through 2035 is \$148 billion. A successful RRIF program is a critical tool for railroad stakeholders as they seek financing of these long-term capital improvement needs. Since 2002, 23 agreements with 19 railroads have been completed for a total of \$778.62 million in loans; and three of these loans – totaling \$381 million - have been repaid in full. Direct loans under RRIF can fund up to 100% of an eligible project with the first payment date delayed for six years. The term was extended from 25 years to 35 in the Amtrak reauthorization bill last year.

There is concern that the RRIF program has not been fully implemented as Congress intended due to the Office of Management and Budget attempts to impose burdensome restrictions, such as making the application process too long and creating too many obstacles in an effort to make the program less attractive to stakeholders. Also, the previous administration proposed new restrictions last year that would have seriously undercut the RRIF program further. The proposed changes were not implemented. To view the written statements of the stakeholders or to view the video of the hearing, go to: <http://transportation.house.gov/hearings/hearingDetail.aspx?NewsID=875>

Surface Transportation Bill – House Transportation & Infrastructure Chairman Oberstar and Ranking Member Mica along with Highways & Transit Subcommittee Chairman DeFazio and Ranking Member Duncan have signed onto an outline of a six-year surface transportation bill authorization, and are now contacting other Committee members and the White House for their input.

Included in the outline is agreement to reduce the number of "categories" from 108 to four. The surface transportation policy commission had recommended replacing 108 transportation programs with 10 programs focused on national interests. More emphasis will be placed on intermodal traveling including the creation of a Transportation Department Undersecretary. Livability ideas have been added to the bill as well as language speeding up approval processes. However, one lack of consensus is how to raise the funds to pay for the estimated \$450-\$500 billion cost, as current revenues will not cover it.

The outline is being put in legislative form. Chairman Oberstar was not sure if a mark-up would occur before Memorial Day, but has stated that they are still committed to finishing the bill in the House by the end of June. The current surface transportation bill expires at the end of September.

Ag Exemption for Hours-of-Service Challenged – The Commercial Vehicle Safety Alliance (CVSA) issued a press release on April 22nd calling for a repeal of hours-of-service exemptions for agricultural (as well as utility service) motor carriers. The CVSA cited as a basis for this position a study conducted from 2005-2007 by the USDOT that found agricultural carriers operating exclusively within a 100-mile radius had a 19 percent higher crash rate than those operating outside a 100-mile radius, with utility service motor carrier crash rates increasing 40 percent. The CVSA is proposing that all motor carrier exemptions should have sunset dates with the requirement that exemptions be reapplied for after review. The CVSA – a trade association for state transportation law enforcement officials – plans to lobby for this change to be included in the reauthorization of the transportation bill.

The Agriculture and Food Transporters Conference (AFTC) disputes the premise of the study and plans to aggressively oppose efforts to repeal the exemption. The AFTC has also released a “Manager’s Guide to Safe Trucking During Agricultural Planting and Harvest Season” to re-emphasize the need to manage fatigue during the busy seasons as well as provide active management strategies that can be used. The safety guide can be found at: <http://www.truckline.com/Federation/Conferences/AFTC/Documents/Safe%20Trucking%202009.pdf>

Mexican Trucking Issue - A small group from the coalition affected by the tariffs imposed by Mexico due to the elimination of the Mexican truck pilot program met on April 30th with the Department of Transportation to discuss current strategies regarding the situation. DOT has been inspecting Mexican trucks and buses at the U.S. border since 1995. According to their research, today’s Mexican trucks crossing the border have an equivalent safety rating when compared to U.S. trucks. In some areas (like drug testing) they have stricter requirements. If NAFTA was fully implemented, the DOT does not believe a large increase in truck crossings would occur. When Congress eliminated the funding from the pilot program in the FY09 omnibus appropriations bill, it eliminated the salaries for those doing inspections on the border as well as the funds being used to put GPS devices on the trucks. The GPS devices were used to track destinations, which also by default could be used to track travel time. The U.S. currently requires that drivers for property-carrying trucks only drive a maximum of 11 hours after 10 consecutive hours off duty.

The DOT is writing principles on the issue for Congress, the Mexican government and other stakeholders to review. Currently the draft outreach plan is at the White House.

For more information on the NAFTA truck rules, go to: <http://www.fmcsa.dot.gov/rules-regulations/topics/nafta/nafta.htm>

Surface Transportation Board

Uniform Railroad Costing System Hearing - The Surface Transportation Board (STB) heard testimony from three panels consisting of Shippers, Freight Railroads, and Other Interested Persons at a public hearing on April 30th in Washington DC regarding possible modifications to the Uniform Railroad Costing System (URCS) used to calculate variable costs for railroads. Shippers testifying included representatives for the power, chemical, coal, industrial, and agricultural companies. Railroads were represented by the Association of American Railroads, BNSF, and Union Pacific. Others testifying were C. Gregory Breskin, Robert H. Leilich, George Avery Grimes and Highroad Consulting, Ltd.

There seemed to be general agreement by both shippers and freight railroads that it was time to update and review the URCS, last updated in 1997. However there were varying views as to how the complex system should be reviewed and updated. Tom O'Connor, representing numerous groups including the National Grain and Feed Association testified that (1) significant resources would be required to do a proper review, which would necessitate the STB obtaining additional funding from Congress, (2) the STB must commit to a revision of all aspects of URCS, and most importantly, (3) the process must be transparent.

Written testimony submitted for the hearing can be found at: [http://www.stb.dot.gov/filings/all.nsf/\(search-68.167.51.66-92228\)?OpenView&Count=5000](http://www.stb.dot.gov/filings/all.nsf/(search-68.167.51.66-92228)?OpenView&Count=5000)

The Surface Transportation Board is the federal government agency charged with overseeing railroad rate and service disputes and reviewing railroad mergers. The organization is governed by a three member board – appointed by the President and confirmed by the Senate – each with a five-year term of office.



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