



## Transportation Updates and Regulatory News (TURN)

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### USACE Awards \$139 Million for Ship Channel Improvement in Port of Corpus Christi

On September 27, the U.S. Army Corps of Engineers (USACE) [awarded a \\$139 million](#) contract for the third phase of the Port of Corpus Christi ship channel improvement project. Begun in May 2019, the four-phase, \$651 million infrastructure project will increase the channel's depth by 7 feet and width by 130 feet. These changes will allow more than one vessel to pass through the channel at the same time, as well as accommodate supertankers, or very large crude carriers (VLCCs). Extending west of the channel's La Quinta Junction through the Chemical Turning Basin in the port's Inner Harbor, Phase 3 is expected to be completed by June 2023. The project is funded by \$161.5 million from the Port of Corpus Christi and \$296.3 million from the Federal Government. According to USDA, in 2020, export shipments of bulk grain and grain products [accounted for 98 percent](#) of total U.S. waterborne agricultural exports through the Port of Corpus Christi, a key grain export port.

### FMCSA Renews Charter of Motor Carrier Safety Advisory Committee

On October 1, the Federal Motor Carrier Safety Administration (FMCSA) [announced](#) it will renew the charter of its Motor Carrier Safety Advisory Committee (MCSAC). Operating by consensus, MCSAC advises FMCSA on its motor carrier safety programs and regulations. The MCSAC charter renewal is effective September 27, 2021, and will expire after 2 years unless it is renewed.

### FMCSA Amends Regulations for SDLAs To Access DACH Information

On October 7, FMCSA [amended](#) its regulations to allow State Driver's Licensing Agencies (SDLAs) to access and use information obtained through FMCSA's Drug and Alcohol Clearinghouse (DACH or Clearinghouse)—a database containing driver-specific controlled substance (drug) and alcohol records.



DACH allows SDLAs to know which individuals FMCSA has prohibited from driving a commercial motor vehicle (CMV), due to one or more drug and alcohol program violations. For individuals whose CMV driving privileges have been revoked, SDLAs must not issue, renew, upgrade, or transfer a commercial driver's license (CDL), or commercial learner's permit (CLP). Further, for an individual subject to the CMV driving prohibition, SDLAs must remove the CLP or CDL privilege from the driver's license, thereby downgrading the license until the driver complies with return-to-duty (RTD) requirements. The new amendments also require States receiving grant funds from the Motor Carrier Safety Assistance Program (MCSAP) to conform with the revised SDLA requirements about the CMV prohibition for drug and alcohol program violations. The final rule will help keep unsafe drivers off the road by increasing compliance with the CMV driving prohibition.

### **FMC Urges Ocean Carriers To Adopt Detention and Demurrage Best Practices**

On October 15, The Federal Maritime Commission (FMC) [sent a letter](#) to all major ocean carriers calling on them to adopt three best practices related to detention and demurrage. The best practices are intended to promote clarity and certainty about how and when fees will be assessed and how charges can be disputed. Based on information collected from the top nine ocean carriers last year, FMC urged carriers to adopt the following industry standards: display charges clearly and prominently on their websites or customer portals; develop and document clear internal processes on all matters regarding detention and demurrage; and clearly define (on websites and invoices) dispute resolution procedures, contacts, and necessary documents. If adopted, these new best practices would serve as an initial step toward aligning carrier documents and policies with the goals of the FMC's Interpretive Rule on Demurrage and Detention Under the Shipping Act, enacted in May 2020.

### **Port of Savannah Offers Fixed "Earliest" Dates for Receiving Export Cargo**

In October 2021, the Port of Savannah started offering fixed earliest receiving dates (ERD) for export cargo through its terminals. The ERD is the earliest date a loaded export container can arrive at the port in advance of the ship's arrival. ERDs have been volatile, and exporters often receive little to no notice when they change. The new policy will help relieve accumulating storage fees (detention and demurrage), avoid amassing containers on dock, and prevent multiple truck trips to the terminal for the same load. The port is also working with the ocean carriers to align cutoff dates—the latest date by which a loaded export container must arrive to make the vessel sailing. This quarter, there have been an excessive number of "rolled" containers—i.e., that carriers delay (sometimes, for weeks) past their initially scheduled shipments to wait for a later vessel. The port hopes the work with ocean carriers will reduce the number of rolled containers.

### **Agricultural Transportation Working Group Submits Supply Chain Comments**

On October 18, the Agricultural Transportation Working Group (ATWG) [submitted comments](#) to the Secretary of Transportation describing the challenges facing the agricultural industry. The letter also provided policy recommendations to mitigate ongoing supply chain issues. ATWG is a collection of agricultural producer, commodity, agribusiness, and food-related national organizations. The letter suggested a variety of ways to strengthen agricultural transportation policy and infrastructure, including support for better balancing agricultural exporters' and ocean carriers' needs, increasing investment in the inland waterways, enhancing rail competition and rate dispute procedures, and improving capacity



and efficiency in trucking. The comments were submitted in response to a [request from the Department of Transportation](#) seeking information on current challenges in the freight and logistics sector. Additional comments are posted at [Regulations.gov](#).

### **FMCSA Convenes Meetings in Midwest To Discuss Truck Driving and Supply-Chain Issues**

On October 22, FMCSA Deputy Administrator [met with](#) multiple transportation organizations in the Midwest to discuss strengthening commercial vehicle safety, boosting truck driver availability, and improving rail-to-truck supply chain efficiencies. Potential strategies for improving supply-chain movement and roadway safety included streamlining the transport of fuel to farm equipment; updating electronic logging devices; duplicating proven driver training and retention models; and improving maintenance and availability of rail-to-truck chassis.

### **ATRI Releases Annual Top Industry Issue Report**

On October 24, the American Transportation Research Institute ([ATRI](#)) released its 17th annual Top Industry Issues report, which summarizes the trucking industry's main concerns based on a survey of 2,500 industry stakeholders. For the fifth year in a row, the driver shortage ranked first in the top five list of industry concerns, receiving more than four times the first-place votes as the second ranked issue—driver retention. The third through fifth top industry concerns were, respectively, driver compensation, lawsuit abuse reform (rising three spots this year), and the lack of available truck parking. Ranking 10th, the diesel technician shortage made the top 10 list for the first time this year. Among the survey respondents who were professional truck drivers (almost 25 percent), driver compensation and truck parking tied for the top industry concern, followed by detention/delay at customer facilities. The full report can be found [here](#).

### **DOT Partners With State of California To Address Supply Chain Infrastructure**

On October 28, the State of California and the U.S. Department of Transportation (DOT) [announced](#) a partnership to expedite several existing and new projects to upgrade port and other supply-chain infrastructure. These projects represent long-term plans to alleviate congestion at Southern California's ports and improve the capacity and resiliency of the goods supply chain. To fund the upgrades, the partnership will help match project sponsors with "innovative financing opportunities," which partly include DOT credit assistance programs. Possible projects to be funded through this agreement include port-specific upgrades; expanded capacity for freight rail; development of inland port facilities for more warehouse storage; railyard and truck electrification; highway upgrades to improve truck travel times; and expanded land ports of entry.



## Port of LA and Long Beach Assess Emergency Fee for Long Dwell Times

Beginning November 1, the Ports of Los Angeles and Long Beach [started assessing an “emergency fee”](#) on shipping lines for excessive dwell times of containers on the terminals. Subject to the new fee are shipping lines whose local-delivery containers remain on the terminal for more than 9 days or whose rail containers remain for more than 6 days. For the first day on the terminal past the allowed time period, the cumulative emergency fee begins at \$100 per container. The second day adds \$200; the third day adds \$300; and so on—rising in \$100 increments. Thus, a container that remained 3 days past the allowed period would incur a \$600 emergency fee. This unprecedented fee demonstrates the severity of the current terminal congestion. While many container ports across the country have been affected, none have had more congestion than the Los Angeles and Long Beach port complex. The record number of container vessels at the complex—waiting at anchor to load and unload—is slowing operations. The two ports will re-invest fees collected from dwelling cargo in programs to enhance efficiency, accelerate cargo velocity, and address congestion throughout the San Pedro Bay. More than 30 percent of containerized grain exports use the Los Angeles and Long Beach port complex.

## White House Announces Immediate and Near-Term Steps to Address Supply Chain Issues

On November 9, the White House [announced](#) immediate and near-term steps to ease supply chain issues. One immediate step includes funding a Georgia Port Authority pop-up container yard project to alleviate congestion at the Port of Savannah. This project will allow the Georgia Port Authority to reallocate more than \$8 million to convert existing inland facilities into five pop-up container yards in Georgia and North Carolina. Under the plan, the Port of Savannah will transfer containers via rail and truck further inland so that they can be closer to their destination. Near-term steps included launching programs to modernize ports and marine highways with more than \$240 million in grant funding identifying projects for U.S. Army Corps of Engineers construction at coastal ports and inland waterways (including a roadmap for more than \$4 billion in funding to repair outdated infrastructure and deepen harbors for larger cargo ships); prioritizing key ports for modernization and announcing more than \$475 million in additional funding for port and marine highway infrastructure.

## New Infrastructure Bill Provides \$2.5 Billion For Inland Waterways Construction and Major Rehabilitation Projects ...

[Signed into law by the President](#) on November 15, the Infrastructure Investment and Jobs Act would invest roughly \$17 billion in port and waterways infrastructure. About two-thirds of this funding is expected to be used toward construction and major habitat restoration projects, and the rest toward operations/maintenance and other projects. This law includes a total of \$2.5 billion of 100 percent Federal funding for authorized USACE construction and major rehabilitation projects on inland waterways. Projects will receive priority based on the recommendations included in the [USACE 2020 Capital Investment Strategy](#). USACE’s Operations and Maintenance account under the Civil Works mission is expected to receive \$4 billion. Within 60 days of the bill’s enactment, USACE’s Chief of Engineers was required to submit a project-specific spending plan to House and Senate appropriations committees.



### **...And Also Funds Safety and Research and Enables Younger Truck Drivers**

The Infrastructure Investment and Jobs Act also includes \$11 billion for transportation safety (more than double the previous level) and contains various provisions affecting trucking. One such provision makes 18–21-year-olds newly eligible for interstate truck driving and creates a training and apprenticeship program for this age group. Other trucking-related provisions include automatic emergency braking performance requirements, underride/side protection, truck broker/truck dispatcher guidance, and an exemption for livestock haulers from hours-of-service requirements. Regarding research, the newly enacted funding legislation authorizes a truck-crash study and a review of data generated by electronic logging devices. The law also establishes several new government bodies (task force, advisory board, and subcommittee) dedicated to addressing issues of truck leasing, women in trucking, and the needs of small-business truckers. The U.S. Department of Transportation is tasked with restoring and maintaining the solvency of the Highway Trust Fund and establishing a vehicle-miles-traveled (VMT) pilot program.

### **New Supply Chain Initiatives Announced by FMC**

On November 17, FMC [announced](#) the convening of six Supply Chain Innovation Teams to detect and implement improvements to the process and timing of return and delivery of containers to marine terminals. The goals of the Teams are two-fold: for truckers to return an empty container to a terminal and pick-up a loaded container (known as “double move”) and to bring certainty and predictability to the “earliest return date” process, a major source of complaint and uncertainty with exporters. The Teams will consist of executives from each ocean carrier operating in an alliance and from the marine terminal operators that serve them. The Teams will focus on improving conditions at the Ports of Los Angeles, Long Beach, New York, and New Jersey.

### **North Carolina Inland Port Facility May Help Ease Congestion at Port of Savannah**

On November 18, the new Carolina Connector (CCX) intermodal transportation facility [opened](#) near Rocky Mount, NC. The 330-acre site allows trucks to bring cargo containers to a rail yard, where they are transferred to trains for transport. The facility is designed to move about 10,000 containers per month and provide regional industries with efficient access to rail. CCX is expected to help ease current congestion at the Port of Savannah—one of the Nation’s busiest container ports. In 2019, the Port of Savannah was the top port in the Nation for containerized waterborne agricultural exports (when forestry products are included). Animal feed—mostly, distillers’ dried grains with solubles (DDGS)—was also one of the Port’s top agricultural exports. Contributing \$40 million to the project, CSX Transportation built the facility and will operate it. The North Carolina Department of Transportation invested \$118 million for site development and road construction.

### **STB Sets Procedural Schedule for CP-KCS Merger**

On November 23, [STB](#) accepted Canadian Pacific Railway (CP) and Kansas City Southern Railway’s (KCS) merger application for consideration and set the procedural schedule. If approved, the new railroad would be called Canadian Pacific Kansas City (CPKC) and would offer the only single-line service connecting Canada to Mexico. It is the first potential Class I railroad merger in over 20 years.



## ***ATRI Releases 2021 Operational Costs of Trucking Report***

On November 23, the American Transportation Research Institute (ATRI) [released](#) its 2021 update to *An Analysis of the Operational Costs of Trucking*. The report uses 2020 financial data from motor carriers of all sectors and fleet sizes to highlight the impacts of the COVID-19 pandemic on trucking. Faster speeds due to less traffic during the pandemic affected several cost categories. Other impacts included a 21-percent increase in dead-head miles (i.e., trucks traveling empty after dropping off their loads); an average 89,358-mile decrease in annual operating miles; and a 20-percent decline in fuel costs. Other trends unrelated to COVID-19 included a more than 18-percent increase in insurance costs—the highest in the history of ATRI’s operation costs report history. Although 2019-20 truck driver wages rose—with overall truck driver compensation at 73.7 cents/mile—fringe benefits decreased. Safety and retention bonuses rose by 10.5 percent and 14.2 percent, respectively, while starting bonuses fell by 10 percent. ATRI speculates carriers may have prioritized safety and retention bonuses over starting bonuses because of the high turnover of drivers in 2020 and 2021. The average marginal cost per mile for motor carriers in 2020 fell by 5 cents/mile to \$1.64, while the total hourly per-mile costs dropped slightly to \$66.87.

## **Governors From 15 States Pledge To Assist the Trucking Industry With Regulatory Relief ...**

On November 22, the Tennessee Governor, along with governors from 14 other States, pledged to act at the State level to assist the trucking industry in an initiative called [“Operation Open Road.”](#) Addressing regulatory burdens, the governors will modify weight, size, or load restrictions to allow more cargo to move more efficiently. The governors will also adjust hours-of-service constraints to give truck drivers more flexibility, as well as increase the number of commercial truck drivers by deregulating education and occupational barriers to licensure. Further, the governors asked the Federal Government to lower the age of commercial driver’s license holders from 21 to 18 years and suspend the Federal mandate for COVID-19 vaccines for the trucking and transportation industry. They intend such measures to reduce additional barriers to employment. Additionally, the governors asked the Federal Government to revise any Federal policies that prevent use or domestic manufacturing of essential transportation equipment, including intermodal containers, chassis, and automobiles, trucks, and tractor trailers.

## **... And Public/Private ...And Public/Private Coordination To Address Supply-Chain Issues**

As part of [“Operation Open Road,”](#) the 15 governors have agreed to convene State agencies in transportation, commerce, workforce, and related fields to coordinate with private industry, local governments, and neighboring States. The governors intend this public/private coordination to ensure greater efficiency and data sharing among shippers and receivers at ports, distribution points, storage facilities, and other intrastate corridors. Governors of States with coastal ports have agreed to help their ports operate at full capacity, increase tonnage capacity, and accept more Panamax ships waiting off the west coast.

## **ATRI Study Examines Truck Driver Motivations and Satisfaction Levels**

On December 1, ATRI [released](#) a study examining truck drivers’ differing motivations for becoming a company driver or an owner-operator/independent contractor (OO/IC). The study sought to better



understand the role of OO/IC in the trucking industry, and the impacts of legislative attempts to reclassify OO/IC as company drivers. The study analyzed data from over 2,000 professional truck drivers, with two-thirds comprising OO/IC. From a list of possible motivations to be a company driver, job security/stability, income, and healthcare/retirement savings ranked as the top three among company-driver respondents. Among OO/IC respondents, the top three motivations for their choice to be OO/IC were independence/ability to set hours, schedule/flexibility, and choice of routes/length of haul. The study also examined various compensation models used with company drivers and OO/IC and company-driver satisfaction levels with each. Both company drivers and OO/IC ranked income as an important motivator. In terms of satisfaction, 68.9 percent of company drivers and 80.1 percent of OO/IC indicated being very satisfied/satisfied with their income. A majority of OO/IC expected they would experience a significant decrease in their job satisfaction (73.0 percent) and annual income (68.3 percent) if they were reclassified as a company driver. A copy of the full report is available [here](#).

### **U.S. Maritime Administration Awards Nine Marine Highway Grants**

On December 10, the U.S. Maritime Administration (MARAD) [announced](#) the award of nine grants, worth \$12.6 million. Funded by MARAD's America's Marine Highway program (AMHP), these grants will address supply chain disruptions and enhance the movement of goods along the Nation's navigable waterways. The grants will also expand existing waterborne freight services in Delaware, Hawaii, Indiana, Kentucky, Louisiana, North Carolina, New York, New Jersey, Tennessee, Texas, and Virginia. Of the nine new grant recipients, three projects will directly enhance vessel traffic and container movements: First, in Indiana and Kentucky, a \$1,408,000 project at Nucor Steel Gallatin will support the purchase of a Buy American-compliant bridge crane at the new marine terminal in Ghent, KY. Second, in Louisiana and Tennessee, a \$847,500 project will support the continued growth of a container shuttle service from Memphis, TN, to Port Allen, LA. Third, in Texas, a \$3 million project will support the purchase of two purpose-built barges. Since 2016, MARAD has received \$44.6 million in funding under AMHP, given to a total 24 eligible marine highway projects.

### **White House Outlines Plan To Recruit Truck Drivers**

On December 16, the White House unveiled its [Trucking Action Plan](#). The plan aims to reverse the decline of the trucking workforce with coordinated efforts among the Departments of Labor and Transportation (DOT), including DOT's Federal Motor Carrier Safety Administration. Several initiatives aim to foster more registered apprenticeship programs, ensuring the industry has a "steady pipeline of skilled, safe, and experienced drivers." Other efforts focus on helping U.S. military veterans (especially those with previous truck driving experience) transition into commercial driver positions. Yet more actions focus on training commercial drivers aged 18-21; recruiting and advancing women in trucking; investigating predatory truck-leasing agreements; conducting a study on driver compensation and time; and streamlining commercial driver's license processing and testing. Since the announcement DOT reported that, the trucking industry now employs roughly 30,000 more drivers than at the start of the pandemic. DOT hopes to bolster these gains with [recent accomplishments](#) in its efforts to advance trucking. These achievements include more than 90 employers launching registered apprenticeship programs in 90 days and—between 2021 and 2022—a 112-percent increase in commercial driver's licenses issued in January and February. DOT also recently launched a new Women of Trucking Advisory Board to recruit women and a new Veterans Trucking Task Force to bring more veterans into the industry.



## **DOT Publishes 50th edition of National Transportation Statistics Report**

On December 16, DOT's Bureau of Transportation Statistics and Volpe National Transportation Systems Center [released](#) its 50th anniversary edition of National Transportation Statistics (NTS). First published in 1971, NTS has grown to more than 200 data tables. The wide-ranging data span the U.S. transportation system's infrastructure for multiple modes, safety record, energy use, environmental impacts, and economic performance. One notable finding on economic performance: from 1999 to 2018, inflation-adjusted rates of revenue per ton-mile increased 27 percent for truck, rose 25 percent for Class I railroad, and rose 16 percent for domestic water transportation. Over the past three decades (from 1990 to 2019), the average length of haul has remained relatively constant for inland waterway shipments, but has increased over 40 percent for Class I railroads. The [commemorative publication](#) includes links to digitized versions of the entire NTS collection, and data are also [available online](#).

## **STB Publishes Updated Rail Rate Study**

On December 17, STB released an updated [Rail Rate Index Study](#), showing real (adjusted for inflation) and nominal rail rates (measured as revenue per ton-mile) from 1985 to 2019. The study uses STB's confidential Carload Waybill Sample data to show how rates have changed over time, across the entire rail industry, and within specific commodity groups. From 1985 through the mid-2000s, for most commodities, real rail rates fell, then increased through the early 2010s, and since then, have remained relatively flat. Notably, from 2004 to 2019, STB's intermodal and commodity-level rail rate indices show rates for shipping grain increased 35 percentage points (pp)—as compared to increases of 9 pp for chemicals, 14 pp for coal, and 20 pp for intermodal traffic (containers and trailers of any commodity). In 2019, rail rates for shipping grain were 6 pp above their 1985 levels—in stark contrast with rates for all other commodities, which were down.

## **DOT Funds Major Upgrades of Supply Chain Infrastructure at Ports**

On December 23, the DOT's MARAD [awarded](#) \$241 million in grants for port infrastructure. The grants are expected to nearly double annually for 5 years starting next year (to \$450 million). Disbursed through MARAD's Port Infrastructure Development Program, the grants will be allocated immediately to 25 projects in 19 states. The allotments include \$52.3 million to the Port of Long Beach, CA, which will boost rail capacity with several new features: a new locomotive facility, 10,000-foot support track, and extensions of five existing tracks. The new Long Beach construction will expedite freight movements, while reducing the number of required truck trips. Other awards include \$18.3 million to Houston, TX, for a 39-acre greenspace at the Bayport Container Terminal; \$15.7 million to Tacoma, WA, for construction of an off-dock container support facility; and \$14.6 million to Brunswick, GA, to build a fourth berth for cargo ships at Colonel's Island Terminal. The full list of recipients can be found [here](#).

## **FMCSA Extends Emergency HOS Waiver for Feed and Fuel and Emergency Waiver on CDL and CLP Requirements**

On February 26, FMCSA, [extended](#), through May 31, 2022, its waiver on hours-of-service (HOS) requirements for trucks transporting feed and ethanol. FMCSA cautions the waiver may end sooner if conditions warrant. Originally issued in 2020 to help address the national COVID-19 emergency, the current waiver still exempts property-carrying vehicles from FMCSA-mandated maximum driving times.





Like previous iterations, the waiver forbids motor carriers from asking truckers to haul loads when they say they are tired. The waiver does not cover routine commercial deliveries—including mixed loads—with nominal amounts of waiver-qualifying materials.

On February 26, FMCSA also extended, through May 31, 2022, its waiver on requirements for commercial drivers' licenses (CDLs) and commercial learners' permits (CLPs) for truck drivers. The waiver permits States to allow CLP holders to take the CDL skills test without waiting 14 days after the CLP is granted. Originally issued to address the national COVID-19 emergency, the waiver for CDLs and CLPs allows States to extend CDLs due for renewal on or after March 1, 2020.

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