FIXING AMERICA'S SURFACE TRANSPORTATION (FAST) ACT

FREIGHT FACT SHEET

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SUBJECT: FAST Act – Freight Related Impacts

STATEMENT

On December 4, 2015, President Obama signed into law a new five-year, $305 billion surface transportation bill, the "Fixing American's Surface Transportation (FAST) Act," (Public Law 114-94) which authorizes funding for core highway and transit programs that were already established in Moving Ahead for Progress in the 21st Century, but also created two new freight programs – a formula based National Highway Freight Program (NHFP) funded at $1.2 billion per year, and a discretionary grant program, the National Significant Highway and Freight Projects Program (NSHFP), funded at an average of $900 million per year. Both are funded by the Highway Trust Fund. Prior to the FAST Act, the United States (U.S.) did not have a coordinated freight strategy or a freight investment program. By establishing a dedicated, committed funding source, significant advances in public policy were made that sent a message to all of the importance of freight movement and freight supporting infrastructure to the U.S. economy.

Pros and Cons: We are pleased that the majority of California's recommendations were incorporated into the FAST Act. Much of this is due to the efforts made by the members of the California Freight Advisory Committee (CFAC), the State's Metropolitan Planning Organizations (MPOs), the State's Regional Transportation Planning Agencies (RTPAs), Tribal governments, our modal partners and our diversified stakeholders. Most of all, we are grateful to the pragmatism shown by our legislators for developing a national freight policy, a national coordinated freight strategy, and providing support through dedicated freight investment programs. Therefore, we support the programs developed in the FAST Act and, at this time, opine that "cons" are likely to be minimal.

NEW PROGRAMS

National Multimodal Freight Policy (NMFP). (Sec. 70101) The Under Secretary of Transportation for Policy is responsible for the oversight and implementation of the national multimodal freight policy (NMFP). The primary focus of the NMFP is to maintain and improve the condition and performance of the National Multimodal Freight Network (Network) (Sec. 70102) and to ensure that the Network provides a foundation for the U.S. to compete economically. Activities include assisting with the coordination of modal freight planning and identifying interagency data sharing opportunities to promote freight planning and coordination. It also requires the Under Secretary to develop a **National Freight Strategic Plan** (Sec. 70102) within two years of enactment.

Additional Resources:

FHWA FAST Act Fact Sheet – Freight Planning and Policy Provisions:
http://www.fhwa.dot.gov/fastact/factsheets/fpppfs.cfm

National Multimodal Freight Network. (Sec. 70103) This section requires the Under Secretary to establish a **National Multimodal Freight Network (NMFN)** (Sec. 70103) on an interim basis within 180 days of enactment to consist of the NHFN, Class I freight rail lines, public ports with over two million short tons per year, the inland and intracoastal waterway system, the 50 biggest cargo airports and other strategic freight assets. Within one year of enactment, the Under Secretary is to designate a final NMFN based on certain criteria with suggestions from states. The final network is to be redesignated every five years. The FAST Act (Sec. 70201) encourages states to establish freight advisory committees.

Recommendation: It is important for the California Department of Transportation (Caltrans) in the coming months to create California's own multimodal freight network in preparation for designation within the next six months. In establishing the California Multimodal Freight Network, Caltrans Office of Freight Planning will need to seek input from a large group of diversified stakeholders such as California State Transportation Agency (CalSTA), the California Transportation Commission (CTC), CFAC, Caltrans Districts, MPOs, RTPAs, and others. As an early supporter of Freight Advisory Committees, we have found the CFAC to be invaluable in providing insight and input into the California Freight Mobility Plan (CFMP). However, the CFAC serves multiple roles in California and is being utilized as a venue by other State Agencies. It has become a network that reaches beyond its members providing a forum for diverse discussions on freight-related transportation topics and issues. It supports the philosophy that the whole is greater than the sum of its parts.

At this time, it remains unclear whether the currently circulated draft National Freight Strategic Plan (NFSP) will be adopted, or if the NFSP will be updated to incorporate FAST Act language and provisions, or if it will be set aside and a new NFSP will be created.

Update: FHWA will not be developing a new NFSP. They have stated that they believe that most FAST Act requirements were met in the Draft NFSP. On June 6, 2016, the U.S. Department of Transportation (USDOT) published notice in the federal register establishing an Interim NMFN per the FAST Act statutory requirements and soliciting public comment to help inform the Final NMFN; comments must be received on or before September 6, 2016.[1]

Additional Resources:

FHWA FAST Act Fact Sheet – Freight Planning and Policy Provisions:
https://www.fhwa.dot.gov/fastact/factsheets/fpppfs.cfm

National Highway Freight Program (NHFP). (Sec. 1116) The newly created NHFP is now part of the core Federal-aid Highway Program. The primary focus of the NHFP is to improve the condition of and performance of the National Highway Freight Network.[2] Each State's share will be based on the State's overall share of highway performance apportionments. Before set-asides, penalties and sequestration, California's estimated apportionment is:

$106,303,825 for fiscal year 2016;

[1] Establishment of Interim National Multimodal Freight Network,
https://www.regulations.gov/#!documentDetail;D=DOT-OST-2016-0053-0001

[2] National Highway Freight Network (NHFN) has four components: Primary Highway Freight System (PHFS), non-PHFS Interstates, Critical Urban Freight Corridors (CUFC) and Critical Rural Freight Corridors (CRFC). These components are discussed below.

$101,681,920 for fiscal year 2017;
$110,925,731 for fiscal year 2018;
$124,791,447 for fiscal year 2019; and
$138,657,164 for fiscal year 2020
Total: $582,360,087

Recommendation: It is vital that the CalSTA, the CTC and Caltrans lead the discussion on how this revenue should be spent and craft criteria for project selection, establish a process that will achieve good state and regional coordination to create a five-year freight project list that will be programmed for current and future years. The FAST Act provides little direction on how the funds should be spent; therefore, it provides a rare opportunity to create a well-structured and participative process that could also serve as a national model, as well. A new program may present opportunities to target state and interregional strategic priorities. Additionally, some have also suggested that a similar process could be used that copies the Trade Corridor Improvement Fund (TCIF) Program, Proposition 1B (2006), for project selection and the use of already established regional coalitions and the California Freight Mobility Plan Project list. Other suggestions are sure to follow as priorities are established that meet multiple goals such as emission reduction, efficiency and economic competiveness.

Update: At the request of the regional and local participants of the California FAST Act Implementation Working Group, the NHFP was not included in the final FAST Act Programmatic Apportionment Distribution Proposal (i.e., the "60 percent state / 40 percent local" Federal-aid highway formula funding split proposal) developed by the Working Group.

Current state FAST Act NHFP implementing legislative proposals include Assembly Bill (AB 2170, Frazier), which would require that the formula revenues apportioned to California from the FAST Act for freight projects be deposited into the existing TCIF and administered under current CTC TCIF Program Guidelines.[3]

Additionally, the fiscal year 2016-17 May Revision, released by Governor Brown on May 13, 2016, also includes a proposal to continue the work of the TCIF by adding provisional language that allows the CTC to allocate FAST Act formula freight funding for corridor-based projects in accordance with CTC adopted guidelines. Additionally, the proposal also requires that fifty percent of corridor-based programming targets be selected by local agencies with the balance made available for trade corridor projects nominated by Caltrans in order to make strategic investments of statewide significance.[4]

Additional Resources:

FHWA FAST Act Fact Sheet – National Highway Freight Program:
https://www.fhwa.dot.gov/fastact/factsheets/nhfpfs.cfm

FHWA National Highway Freight Program, FAST Act Section 1116 Implementation Guidance:
http://www.ops.fhwa.dot.gov/freight/pol_plng_finance/policy/fastact/s1116nhfpguidance/

FHWA Fixing America's Surface Transportation Act (FAST Act) National Highway Freight Program Questions and Answers:
http://www.ops.fhwa.dot.gov/freight/pol_plng_finance/policy/fastact/s1116nhfpqa/

[3] http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201520160AB2170
[4] http://web1a.esd.dof.ca.gov/Documents/bcp/1617/FY1617_ORG2660_BCP847.pdf

Nationally Significant Freight and Highway Projects (NSFHP). (Sec.1105) NHSFP is a newly created discretionary grant program that will allow the U.S. Secretary of Transportation to award grants for large-scale, multi-modal transportation infrastructure projects, including freight rail projects of national and regional significance. Initially funded at $800 million for fiscal year 2016, with annual increases, the program will be funded to $1 billion in 2020. Applicants can be states or groups of states, MPOs, municipal governments, special purpose districts, federal land agencies, Indian tribes, or a combination thereof. Projects must be highway freight projects on the NHFN, highway or bridge projects on the National Highway System, intermodal facilities, or grade crossings (though the aggregate amount that can go for intermodal projects is limited at $500 million over the life of the bill) with a total project cost that exceeds the lesser of $100 million or 30 percent of that state's annual federal highway apportionment (for multi-state projects, a different formula is used). The minimum federal grant size is $25 million, but 10 percent of the money is reserved for smaller projects below the $100 million/30 percent threshold and the minimum grant size for those projects is $5 million. Total awards must be 25 percent for rural areas. The discretionary grant's share of total projects is not to exceed 60 percent, which can be supplemented with other federal funds to a total maximum federal share of 80 percent. Congress must be notified 60 days prior to the grant award, at which time Congress may vote to approve or disapprove the project. If disapproved, the grant cannot go forward.

Update: On February 26, 2016, the USDOT announced a Notice of Funding Availability (NOFA) for the Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) grant program (USDOT is now referring to the NSFHP grants as the FASTLANE grant program). Under the FASTLANE program, Caltrans is permitted to submit no more than three applications for projects statewide in FY 2016. Caltrans conducted a statewide outreach effort that included CalSTA, the CTC, Caltrans' District offices and local MPOs to develop a potential list of FASTLANE projects. Caltrans' three FY 2016 FASTLANE applications are:

- **Interstate (I)-80 / I-680 / SR 12 Interchange Project:** This project reflects Phase I of a collaborative effort between Caltrans and the Solano Transportation Authority to improve the 50 year old I-80, I-680, and State Route (SR) 12 interchange complex near Fairfield.

- **Rosecrans / Marquardt Avenue Grade Separation Project:** This project will provide a grade separation at the intersection of Rosecrans and Marquardt Avenues from the BNSF Railway mainline tracks located in Santa Fe Springs in Los Angeles County.

- **SR 11 Enrico Fermi to Otay Mesa East Point of Entry Improvements Project:** This project will construct the final segment of the new SR 11 freeway system to the Otay Mesa East Port of Entry at the California-Mexico border and two freeway to freeway connectors (southbound SR 125 to southbound SR 905 and southbound SR 125 to eastbound SR 11), providing critical linkages between San Diego's primary freight corridors in the border region.

A list of other California FASTLANE projects that Caltrans was made aware of can be found on the FAST Act Implementation Website:
http://www.dot.ca.gov/hq/transprog/map21/map21_implementation.htm

Additional Resources:

USDOT FASTLANE Grants Website: https://www.transportation.gov/FASTLANEgrants

Primary Highway Freight System (PHFS). The initial designation of the 41,518-mile PHFS network was identified under Moving Ahead for Progress in the 21st Century (MAP-21, 2012). The FAST Act allows for redesignation of the PHFS every five years beginning with the enactment and every five years

thereafter. Each redesignation may increase the mileage of the PHFS by not more than three percent of the total system mileage. The designation will be made by FHWA and is to be based on measurable data such as consideration of points of origin, destination and linking components of the U.S. global and domestic supply chains. State Freight Advisory Committees will be given an opportunity to submit additional miles for consideration.

California has 3117.72 centerline miles of PHFS, and 362.64 centerline miles of non-PHFS Interstates.

Recommendation: One-year prior to redesignation, the Office of Freight Planning and the Office of Multi-modal System Planning should review current freight patterns, the current PHFS, non-PHFS Interstate facilities, critical rural and urban freight corridors and coordinate with the State's MPOs, RTPAs, and a diverse group of public and private stakeholders to recommend increases and deletions to the PHFS. The process and recommendations will be coordinated with CFAC in preparation for FHWA's redesignation. Early preparation will allow Caltrans to quickly respond when FHWA identifies the network in their Notice of Proposed Rulemaking.

Critical Rural Freight Corridors (CRFC). In general, a State may designate a public road within a State's borders as a CRFC if the public road is not in an urbanized area and is a principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks and provides access to energy exploration, development, installation, or production areas; connects the PHFS to the Interstate system to facilities that handle more than 50,000 20-foot equivalents per year or 500,000 tons per year of bulk commodities; and provides access to a grain elevator, international port of entry; or provides access to significant air, rail, water, or other freight facilities in the State; or the following facilities - agricultural, mining, forestry or intermodal facility. In addition, a state may designate a public road a CRFC if the State determines it is vital to improving the efficient movement of freight of importance to the economy of the state. A State may designate as CRFCs a maximum of 150 miles of highway or 20 percent of the PHFS mileage in the State, whichever is greater.

Recommendation: Caltrans should work with impacted RTPAs, MPOs, Caltrans Districts, CFAC and impacted stakeholders on the designation. CFAC, after a participative process, should finalize the State's designation and that recommendation should be sent to the U.S. Secretary of Transportation for approval. CFAC should be part of the decision making process with Caltrans providing assistance and staff support. However, this is early in the process and FHWA is likely to provide additional guidance.

Update: FHWA has determined California's CRFC maximum mileage to be 623.54 miles (see Table of National Highway Freight Network Mileages by State): http://ops.fhwa.dot.gov/freight/infrastructure/nfn/maps/nhfn_mileage_states.htm)

Additional Resources:

FAST Act, Section 1116 National Highway Freight Program Guidance: Designating and Certifying Critical Rural Freight Corridors and Critical Urban Freight Corridors: http://www.ops.fhwa.dot.gov/fastact/crfc/sec_1116_gdnce.htm

Critical Urban Freight Corridors (CUFC). In an urbanized area with a population of 500,000 individuals or more, the representative MPO, in consultation with the State, may designate a public road within its borders as a CUFC. In an urbanized area with a population of less than 500,000 individuals, the State, in

consultation with the representative MPO, may designate a public road within that area of the State as a CUFC. Designation may be made if the above requirements are met or if the public road is an urbanized area, regardless of population; connects to an intermodal facility to the primary highway freight system; the Interstate System; or an intermodal freight facility; is located within a corridor of a route on the PHFS and provides an alternative highway option important to goods movement; serves a major freight generator, logistic center, or manufacturing and warehouse industrial land; or is important to the movement of freight within the region as determined by the MPO or the State. However, States are limited to a maxim of 75 miles of highway or 10 percent of the PHFS mileage in the State, whichever is greater, that may be designated as a CUFC.

Recommendation: Following a similar process as the identification of CUFC, Caltrans should adapt the process, as needed, to coordinate with the State's MPOs and ensure urban freight needs are best met. Where an MPO does not exist, coordination should take place with RTPAs and impacted Caltrans districts. It is imperative that impacted stakeholders have a voice in this process. CFAC should be informed at important junctures and be part of the decision making process. Again, this remains early in process, and FHWA is highley likely to provide further guidance.

Update: FHWA determined California's maximum mileage to be 331.77 miles (see Table of National Highway Freight Network Mileages by State):
http://ops.fhwa.dot.gov/freight/infrastructure/nfn/maps/nhfn_mileage_states.htm

Additional Resources:

FAST Act, Section 1116 National Highway Freight Program Guidance: Designating and Certifying Critical Rural Freight Corridors and Critical Urban Freight Corridors:
http://www.ops.fhwa.dot.gov/fastact/crfc/sec_1116_gdnce.htm

PORT PERFORMANCE FREIGHT STATISTICS PROGRAM (PPFST). A Port performance statistics program is to be established by the Director of USDOT, on behalf of the Secretary, to provide nationally consistent measures of performance of, at a minimum for the Nation's top 25 ports by tonnage, by 20-foot equivalent unit, and by dry bulk. For a port to be included, the port must have either received Federal assistance or is subject to Federal regulation. A working group must be established within 60 days of FAST Act enactment and its members must submit their recommendations to the Bureau of Transportation Statistics within one year of enactment.

Recommendation: Although Caltrans is not directly involved in reporting, we should offer our assistance, when needed, and participate in the working group to develop a clearer understanding of maritime infrastructure needs and trends for California that may impact current and future needs of the State's multi-modal freight network.

Update: On February 23, 2016, a Notice by USDOT was made announcing the Establishment of Port Performance Freight Statistics Working Group and Solicitation of Nominations for Membership. The deadline for nominations for Working Group representatives is "on or before March 24, 2016." All nomination material should be emailed to the BTS Director Patricia Hu at: *portstatistics@dot.gov* or mailed to Office of the Assistant Secretary for Research and Technology, Bureau of Transportation Statistics, Attn: Port Performance Freight Statistics Working Group, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room # E34-429, Washington, DC 20590.

Freight Investment Plan

Purpose: The NHFP created under the FAST Act requires any state that receives NHFP funding to develop a "comprehensive freight plan that provides for the immediate and long-range planning activities and investments of the State with respect to freight."[5] An investment plan component must be included within the freight plan describing how NHFP funds would be used and the source of matching funds (23 U.S.C. section 167). Additionally, the investment plan must include a list of priority projects and how "funding for [the] completion of the project or an identified phase of a project in the investment plan can reasonably be anticipated to be available for the project within the time period identified."

Recommendation: Caltrans created the California Freight Mobility Plan (CFMP) in 2014 as encouraged by the Moving Ahead for Progress in the 21st Century Act (MAP-21). The next update of the CFMP should include a Freight Investment Plan that maximizes our resources to rehabilitate and help the State's freight network operate in an efficient, effective and sustainable manner.

NATIONAL ELECTRIC VEHICLES CHARGING AND HYDROGEN, PROPANE, AND NATURAL GAS FUELING CORRIDORS (Clean Corridors).

FAST Act section 1413 requires that no later than one year after date of enactment of the FAST Act, the Secretary of USDOT "shall designate national electric vehicles charging and hydrogen, propane, and natural gas fueling corridors that identify the near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure and natural gas fueling infrastructure at strategic locations along major national highways to improve the mobility of passenger and commercial vehicles that employ electric, hydrogen, fuel cell, propane, and natural gas fueling technologies across the United States." Criteria will be based on perceived demand for such infrastructure and the importance of the highway and pre-existing charging infrastructure. These corridors may expand truck stop electrification, propane fueling stations, natural gas dispensers and electric vehicle supply equipment. In addition, the Secretary "shall involve, on a voluntary basis, stakeholders that include heads of other Federal agencies; State and local officials, representatives of energy utilities; the electric, fuel cell electric, propane, and natural gas industries; the freight and shipping industry; clean technology firms; the hospitality industry; the restaurant industry; highway rest stop vendors; and industrial gas and hydrogen manufacturers; and such other stakeholders as the Secretary determines is necessary." After the date of establishment of these corridors and every five years thereafter, the Secretary shall update and redesignate the corridors. A report by USDOT will include the initial designation of the described corridors and is to be updated every five years thereafter. In addition, an aspirational goal of "achieving strategic deployment" of such infrastructure in those corridors is to be achieved "by the end of fiscal year 2020."

Recommendation: Based on a FAST Act webinar from May 12, 2016, nominations for stakeholders will be solicited from state and local officials. No funding has been set-aside to implement or designate clean corridors. However, based on information provided through the webinar, FHWA may provide additional support to designate corridors, if needed, such as to conduct workshops; do peer exchanges; provide technical assistance; marketing and branding; and analytical support. It is important when

[5] National Highway Freight Program (NHFP), FAST Act Section 1116 Implementation Guidance; http://www.ops.fhwa.dot.gov/freight/pol_plng_finance/policy/fastact/s1116nhfpguidance/

considering these corridors that we also consider rural areas, particularly for interregional travel. In addition to making recommendations of stakeholders that will represent the interests of our State, we should also propose locations of Clean Corridors prior to USDOT designation and as preparation for the announcement of a Notice of Proposed Rulemaking due at the end of 2016. The California Energy Commission (CEC), the Air Resources Board and Caltrans should coordinate and lead the discussion on implementation of Clean Corridors. The CEC is actively pursuing the completion of the West Coast Electric Highway which stretches from British Columbia to Baja California. In February 2016, the CEC awarded 8 grants for a total of $8.9 million to address gaps in primary and secondary segments. Caltrans has also established a Task Force to explore the need to expand electric vehicle (EV) and solar-powered vehicle (SV) at Park and Ride Facilities. Prior to these activities, California led the nation with Governor Brown's Executive Order, B-16-2012 which strongly encouraged the successful development of zero emission vehicles and related infrastructure to "protect the environment, stimulate economic growth, and improve quality of life in the State."