Pre-Decisional Discussion Draft

FIXING AMERICA'S SURFACE TRANSPORTATION (FAST) ACT

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 funded at $1.2 billion per year, and a discretionary grant program, the National Significant Highway and Freight Projects Program (NSHP), 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 creating an underlying message to all of the importance of freight movement and freight supporting infrastructure to the US 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 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. The primary focus of the NMFP is to maintain and improve the condition and performance of the National Multimodal Freight Network (Network) (70102) and to ensure that the Network provides a foundation for the US 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.

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 2 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 and in cooperation with suggestions from states. The final network is to be redesignated every 5 years. The Act (70201) encourages states to establish freight advisory committees.

Recommendation: It is important for Caltrans in the coming months to create California's own multimodal freight network in preparation for designation within the next 6 months. It is most likely that the State will have an opportunity to review and weigh-in on the designation within 30 to 60 days after the Notice of Proposed Rulemaking. In establishing California Multimodal Freight Network, Caltrans Office of Freight Planning will need to seek input from a large group of diversified stakeholders such as CalSTA, CTC, CFAC, Caltrans districts, MPOs, RTPAs, and others. As an early supporter of Freight Advisory Committees, we have found that CFAC to be invaluable in providing insight and input into the California Freight Mobility Plan (CFMP). However, 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 (NSFP) 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 NSFP will be created.

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. Each State's share will be based on the State's overall share of highway performance apportionments. Before set asides, penalties and sequestration, California estimated apportionment is:

$106,303,825 for fiscal year 2016;
$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 California State Transportation Agency (CalSTA) and Caltrans lead the discussion on how this revenue should be spent, craft criteria for project selection, establish a process that will achieve good state and regional coordination to create a 5-year freight project list that will be programmed for current and future years. The 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, but that could also serve as a national model. Discussions remain open. 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, 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.

Nationally Significant Freight and Highway Projects (NSFHP). (Sec.1105) NHSFP is a newly created discretionary grant program that will allow the 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 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 (through 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.

Recommendation: While waiting for the US Department of Transportation (USDOT) to promulgate regulations for this program, Caltrans can lead a discussion with the various stakeholders and likely grant applicants to determine what goals and strategies should be met and which projects should receive our primary support. It is suggested that the discussion begin at a future CFAC meeting. Consideration maybe given internally on whether Caltrans should apply for a grant application solely or coordinate with more than one state agency ,thereby meeting goals and strategies that provide multiple benefits while serving the best needs of the State.

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). The FAST Act allows for redesignation of the PHFS every 5 years beginning with the enactment and every 5 years thereafter. Each redesignation may increase the mileage of the PHFS by not more than 3% 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 US global and domestic supply chains. State Freight Advisory Committees will be given an opportunity to submit additional miles for consideration.

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 Primary Freight Network, 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 us to quickly respond to when FHWA identifies the network in their Notice of Proposed Rulemaking.

Critical Rural Freight Corridors. In general, a State may designate a public road within a State's borders as a critical rural freight corridor 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 primary highway freight system (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, 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 critical rural freight corridors 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 Regional Transportation Agencies, Metropolitan Transportation Organizations, 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 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.

Critical Urban Freight Corridors. 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 their borders as critical urban freight corridor. 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 critical urban freight corridor. 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 enter, or manufacturing and warehouse industrial land; or is important to the movement of freight with 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, may be designated as a critical urban freight corridor.

Recommendation: Following a similar process as the identification of Critical Rural Freight Corridors, 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 early in process, and FHWA may provide further guidance.

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 the bill 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.