

## 2019 AAPA FAST Act Reauthorization Platform

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As Congress prepares to engage on reauthorization of the Fixing America's Surface Transportation (FAST) Act, the following platform of recommendations was developed by the American Association of Port Authorities (AAPA) as a blueprint for that legislation.

U.S. seaports represent a vital economic engine of our national economy. In the *2018 National Economic Impact of the U.S. Coastal Port System: Executive Summary*, Martin Associates of Lancaster, PA, cited America's seaports as influencing nearly 31 million U.S. jobs and generating \$378 billion in federal, state and local tax revenue. Cargo activities through these deepwater ports were also cited as being responsible for \$5.4 trillion in total economic activity, representing nearly 26 percent of the nation's economy. Martin Associates unveiled its updated U.S. coastal port system economic impacts report on March 20, 2019, at the annual AAPA Spring Conference in Washington, DC.

Nations around the world have recognized the need to make significant investments in their multimodal freight networks to accommodate increasing trade volumes, larger vessels and dynamic shifts in trade to be globally competitive. For example, Canada's national gateway initiative includes a strategy to serve America's heartland. It is imperative for the United States to develop and fund a strong national freight strategy to remain competitive in the global economy. To do this, the United States must make a sustained investment in its multimodal freight network.

The following recommendations for the AAPA FAST Act Reauthorization Platform have been collected and presented by an AAPA FAST Act working group, the AAPA Freight Task Force and approved by AAPA's Legislative Policy Council (LPC). Many of these proposed recommendations are broad. AAPA looks forward to working with Congress and the Administration in providing port and supply chain expertise and guidance as these recommendations evolve to policy and legislative text.

### **Key Recommendations**

- Create a freight trust fund with a sustainable funding source that can address the growing demand for multimodal projects. The next reauthorization bill must identify sustainable multimodal funding that can directly fund the freight programs created by the FAST Act. AAPA is supportive of direct funding for freight through a waybill fee concept or vehicle miles traveled (VMT) freight pilot program.

- Include a Maritime Freight Supply Chain title in the reauthorization of the FAST Act.
- Remove multimodal caps from the Infrastructure for Rebuilding America (INFRA) grants and FAST Act formula program within the U.S. Department of Transportation (USDOT).
- Continue to fund USDOT's Better Utilizing Investments to Leverage Development (BUILD) or a similar discretionary transportation infrastructure grants program at \$1.5 billion annually, with a minimum of 25 percent dedicated to port-related infrastructure, and exempt port projects from the state cap maximum.
- Establish a high-level multimodal freight office within USDOT that coordinates policy, the national and the state freight plans, multiagency freight grant programs and complements the Build America Bureau within USDOT.
- Provide a sustainable and dedicated funding source for the freight network programs. AAPA endorses the concept of a waybill fee (based on the domestic transportation cost of goods) as an equitable approach to provide long-term multimodal funding for freight.
- Provide robust authorization levels for the Maritime Administration's (MARAD) America's Marine Highway Program and the proposed Protecting Orderly and Responsible Transit of Shipments (PORTS) Act for first- and last-mile capacity enhancements.
- Encourage truck parking and staging plans be included in every state freight plan.
- Require each state to include supply chain cargo flows by all modes of transportation and benefits within each state freight plan and include the impacts of e-commerce on freight infrastructure.
- Require states to include their state freight plans as a component of the state transportation plan.
- Continue to fully fund the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program, with an emphasis on port rail access projects.
- Ensure that all commercial ports be included in the national multimodal freight map/network.
- Integrate greater port eligibility and freight network program integration with the Intelligent Transportation Systems (ITS) programs.
- Strongly encourage maritime and supply chain expertise in each state DOT.
- Continue to advocate for a national multimodal freight strategic plan that would be administered out of a high-level multimodal freight office within the USDOT

## **I. Building Off the FAST Act**

Freight, with an emphasis on goods that move through America's seaports, took a big step forward after passage of the FAST Act. With the creation of two funding programs; Projects of Highway and Freight Significance (discretionary) and National Highway Freight Program (formula), the FAST Act provided a total of \$11 billion in dedicated freight funding over five years. However, of that total, only \$1.13 billion is multimodal eligible, far below what is needed to build out a 21<sup>st</sup> century multimodal freight network.

The immediate challenges confronting the freight programs are funding levels and project eligibility. The current freight programs are funded out of the Highway Trust Fund, which means

that eligible projects are primarily highway focused. Highways are important to our freight network, but ports are multimodal facilitators, meaning trains, trucks and ships all need access to them. One could argue that as our supply chain becomes more sophisticated and there are more inland distribution centers with the advent of e-commerce, demand for multimodal funding will increase. In 2018, AAPA identified more than \$20 billion in multimodal funding needs for public port authorities alone over the next decade. A top priority for the port industry continues to be multimodal funding.

To build off the work in the FAST Act, AAPA believes that all freight program funding should be 100 percent multimodal. A first step in accomplishing this would be to lift the multimodal cap on the INFRA grants and the formula program.

Equally important from a supply chain perspective, the FAST Act requires that states complete state freight plans to continue receiving their freight formula funding. The results have been telling. By the end of 2018, 95 percent of the states had submitted multimodal state freight plans to USDOT. This is important because it signals that states recognize the value and have the demand for multimodal projects. States and ports will need a multimodal funding source, or an eligibility fix, to build out their state freight plans. State freight plans are the blueprint for multimodal state and federal investments. These plans are set to be revised every five years, which put them roughly on the same track as the FAST Act. Ports and their stakeholders must continue to engage with their Freight Advisory Committees and with their state DOTs. Additionally, the requirements of the state freight plans should be revisited to reflect the changing demands of the supply chain.

The FAST Act has provided the programmatic framework for a 21<sup>st</sup> century multimodal freight network. However, to fully leverage the success of the legislation's freight provisions, the next reauthorization bill will need to address increasing funding levels while identifying a multimodal funding source.

### **Include a Maritime Freight Supply Chain Title in the Reauthorization of the FAST Act**

Ports are access points. Road and rail first- and last-mile projects within the supply chain efficiently connect ports to the surface transportation network. Ports need to be further integrated with the surface transportation network and maritime policy needs to be integrated within USDOT by including a maritime freight supply chain title in the FAST Act reauthorization bill.

MARAD has several freight infrastructure programs that are important tools to be included and leveraged within the national freight portfolio. Specifically, the America's Marine Highway and the Port Infrastructure Investment Programs are currently authorized initiatives that will need to be revised, updated and refocused to meet the evolving supply chain needs of the freight network.

An example of refreshing old authorizations from the last reauthorization bill would be the inclusion of Federal Railroad Administration (FRA) grant programs in the FAST Act. The FAST Act folded FRA rail programs into the CRISI Program. Multimodal and port rail access projects are eligible projects. In AAPA's *State of Freight III – Rail Access and Port Multimodal Funding Needs Report*, a third of ports identified pressing rail project needs that will cost more than \$50 million over the next decade. In fact, rail access is so important to the port industry and supply chain that within this same time frame, 77 percent of ports are planning on-dock, near-dock or rail access projects.

AAPA believes having additional maritime freight supply chain resources and updating the existing authorizations will leverage existing resources and programs, providing a more comprehensive approach to building out a 21<sup>st</sup> century freight network.

### **Recommendations**

- Include a Maritime Freight Supply Chain title in the reauthorization of the FAST Act.
- Include the proposed PORTS Act, a multimodal first- and last-mile connection program administered by MARAD that updates the Port Infrastructure Development Program, (46USC 50302), and include authorized funding levels and identify a multimodal funding source or general funds.
- Update the America's Marine Highway Program authorization and include it in the Maritime Freight Supply Chain title.

### **Multimodal Freight Office Within USDOT**

In building off the FAST Act, establishing a multimodal freight office within the DOT would best leverage across all modes planning tools and resources made available in the FAST Act and the proposed maritime freight supply chain title.

A multimodal freight office is an ideal spot to administer the soon-to-be-released multimodal freight network and the multimodal freight plan. Both these documents are templates to work from and would be best implemented in a mode-neutral office. Additionally, the multimodal freight office would have oversight over the FAST Act compliant state freight plans, which are all multimodal.

Furthermore, with multimodal funding programs in USDOT's Federal Highway Administration, MARAD and FRA, a multimodal freight office will coordinate and direct investment and policy.

Finally, AAPA believes that a multimodal freight office would complement the Build America Bureau within USDOT. In the original FAST Act, consolidating the Build America Bureau's lending and financing programs into one allowed for better leveraging of those programs to meet the Administration's goals. A freight office would be better positioned to work with these new, multimodal focused programs, and to lead the development of a multimodal network necessary to meet 21<sup>st</sup> century supply chain and transportation needs.

## **Recommendations**

- Authorize, fund and staff a high-level multimodal freight office within USDOT. The office will oversee the multimodal freight network plan, as well as the multimodal FAST Act compliant state freight plans. Multimodal discretionary grant programs should also be coordinated out of that office.
- Continue to advocate for a national multimodal freight strategic plan that would be administered out of a high-level multimodal freight office.

### **Coordinate Maritime Infrastructure Needs with Private Sector Investment and Other Federal Resources**

For the first time, the 2015 FAST Act brought ports into the surface transportation network. Ports are now in the planning process and ports are eligible for the formula and discretionary funding programs, but port-related infrastructure has some catching up to do.

To put our national *state of freight* into perspective, it's been more than 60 years since President Eisenhower proposed and began building out the Interstate Highway System in 1956. Meanwhile, freight has always been a significant component of our national infrastructure needs. But until the FAST Act, freight had not been fully considered or realized as a national policy priority.

However, during the same 60-year period, starting in 1956, there have been eight evolutions of the containership, starting with vessel capacities of 500 twenty-foot equivalent units (TEUs), and evolving to ships with capacities of 18,000 TEUs and beyond, which are as high as a skyscraper and as wide as a 10-lane freeway.

Ports are facilitators of the supply chain. Mega shipping alliances, operating mega-large vessels, have a cascading effect when their ships arrive at U.S. ports. This includes the need for larger cranes to load and off-load containers, additional labor, more chassis to move the containers in, out and around the terminals, and adjusting gate times to address the changing work load.

Volumes of other cargoes, such as automobiles, have also seen marked increases over the past six decades and have continuously impacted our freight infrastructure. For example, total U.S. waterborne tonnage roughly doubled between 1956 and 2017, but this is due almost entirely to U.S. foreign trade growth which has seen nearly a 500 percent increase during that time frame, based on U.S. Army Corps of Engineers data.

Today, our multimodal freight system and national supply chain are in a constant state of flux, constantly reacting to the changes of a global marketplace. If we are going to have a sustained, coordinated and planned freight network, the shipping industry will need to be a part of the process and the solution.

Now that freight transportation is recognized as a national priority, the federal government can play a greater role investing and coordinating the freight network to efficiently and safely handle surging freight volumes by coordinating with states on their state freight plans and with freight advisory committees.

The USDOT should utilize the Commerce Department and other federal resources for anticipating trade that feeds our supply chain to assist in “rightsizing” federal infrastructure investments in line with pending trade agreements and trade projections.

Additionally, for U.S. ports to operate efficiently, U.S. Customs and Border Protection (CBP) must be adequately funded and staffed. In 2015, the last time CBP was funded to hire additional staff, only 20 out of 2,000 staff were assigned to seaports. In recent testimony, CBP stated that it needs 500 more offices in the seaport environment. This number may even be higher, as CBP relies heavily on existing staff working overtime. This may seem like an appropriations or homeland security issue, but it is a supply chain problem.

### **Recommendations**

- Align federal transportation and trade policy to properly plan for increase cargo flows that result from U.S. trade agreements and trade policy.
- Ensure that CBP coordinates with USDOT and ports on staffing models and needs so that freight flows and maritime business development opportunities are not disrupted.

## **Taxes and Public/Private Partnerships**

In many ways the modern port authority is the embodiment of a public/private partnership. Ports and their stakeholders are often in a unique position to leverage private sector resources to build needed infrastructure projects.

Using the Railroad Rehabilitation & Improvement Financing (RRIF) Program as an example, in AAPA’s *State of Freight III – Rail Access and Port Multimodal Funding Needs Report*, U.S. ports identified 75 potential BUILD projects that could be financed by RRIF if access to the program and 100 percent financing were available.

Broadly, AAPA continues to be supportive of the FAST Act-mandated Build America Transportation Investment Center (BATIC) in the USDOT. U.S. ports have seen some increased success with the Transportation Infrastructure Finance Innovation Act (TIFIA) and RRIF programs but believe these programs can provide greater resources to port infrastructure investments.

### **Recommendations**

- Provide 100 percent financing RRIF loans.
- Increase consideration of port projects within the TIFIA program.
- Make the Short Line Tax Credit (45G) permanent.

- Continue the tax exemption for private activity bonds.
- Increase the gas tax and index it to meet the infrastructure funding level needs of the United States and dedicate any increase in the diesel tax to freight programs.
- Conduct an audit to ensure all maritime and freight fees/taxes are being collected and fully utilized for their intended purposes. This includes CBP fees for freight supported services and facilities.

## **Technology and Workforce Development**

Placeholder for Professional Development Board recommendations related to the FAST Act.

## **II. Broader Maritime Infrastructure Investment**

### **Energy and Air Quality**

At the end of 2015, Congress lifted the nation’s 40-year-old ban on petroleum exports. The action has prompted a surge in natural gas and crude oil export shipments, which will help the United States achieve the status of “net energy exporter” for the first time since 1953, according to the U.S. Department of Energy (DOE).

While the increase in energy cargoes moving through our nation’s ports is notable, it is only half the energy story confronting ports.

Energy continues to be a key port operational issue. Increasingly, U.S. ports are moving toward the electrification of their terminal equipment, harbor vessel and truck fleets, and staging stations transitioning from a petroleum-based network to electric-based. Better coordination with DOE on infrastructure would be an asset for ports, their communities and the nation. In many ways, ports have the capacity to be incubators for energy policy.

In addition, smarter, more efficient energy policies and resources can have a positive impact on regional air quality by reducing emissions. From a USDOT jurisdiction standpoint, the Congestion Mitigation and Air Quality Improvement (CMAQ) program has been a useful tool for port and regional air quality management.

The U.S. Environmental Protection Agency’s (EPA) Diesel Emissions Reduction Act (DERA) grants have been a tool for ports to address air quality and emissions issues, in many cases in cooperation with their communities.

### **Recommendations**

- Direct and codify more CMAQ funding toward port rail and other port projects.
- Encourage federal programs to allow grants to be used for energy sustainability at ports.
- Increase annual DERA funding.

- Increase DOE funding for port-related projects. Encourage greater federal focus on the ability of ports to play a role in the nation's energy efficiency program.
- Begin preparations for integrating freight transportation into an intelligent transportation network, powered by electricity through two studies:
  - Preparing to power electrical freight infrastructure
  - Safely integrating freight into a smart vehicle world

## Resiliency

Resiliency is a key objective of the National Multimodal Freight Policy (49 USC 70101) and the draft National Freight Strategic Plan. In addition to adequate funding for a modern, well-maintained 21<sup>st</sup> century freight infrastructure system, it is in the federal interest to ensure this system can continue to function to the benefit of our national and regional economies in the face of extreme weather events, earthquakes, major accidents, and equipment or infrastructure failures.

Resiliency issues are impacting all regions of our nation and all transportation sectors. Ports are typically at the forefront of extreme weather. Some regions, such as the Gulf Coast, anticipate extreme weather events and coordinate resiliency plans prior to the hurricane season. However, the more unpredictable the weather, the more difficult it is to plan effectively. It is becoming increasingly important to build infrastructure to withstand extreme weather events. Considering the number of recent recovery packages that Congress has had to pass in response to natural disasters, it is fast becoming a federal imperative. Given the traditional local, state and federal transportation partnerships, resiliency needs to become a key part of the planning and building lexicon.

Examples of natural and man-made disruptions impacting the supply chain are numerous:

- Hurricanes Michael, Florence, Maria, Irma, Harvey, and Sandy highlight the increasing force, frequency and unpredictability with which severe weather can impact whole regions and the functioning of the national maritime system. In addition, other challenges such as sea-level rise can threaten maritime infrastructure.
- A *Cascadia Rising* scenario in the Pacific Northwest would be the worst natural disaster in the history of the United States. Cascadia Rising is the region's largest disaster-scenario exercise testing how local, state and federal agencies would respond if a 9.0 magnitude earthquake hit along the Washington and Oregon coast. The Puget Sound area, and other West Coast gateways, must ensure resiliency that will enable them to operate as they would serve as the lifelines for the region, as well as strategic capability of the military.
- Critical infrastructure failures, such as a failure of the electrical grid or compromised information technology systems (such as recent cyber-attacks on major shipping lines), or a terrorist attack involving a dirty bomb can shut down an entire port complex and disrupt the flow of cargo to the entire nation.



AAPA sees value in the establishment of a federal critical transportation infrastructure resiliency program. Such a program should take an all-hazards approach, so that it can apply to both man-made events, such as criminal or terrorist events, or an economic crisis, as well as natural events such as severe weather, fires, earthquakes, tsunamis, pandemics, etc. The resiliency program would complement, not replace, the Port Security Grant Program (PSGP) and would be funded and administered separately from the PSGP.

The nation should build on existing resiliency policy and planning efforts. Resiliency is both prevention and recovery. This means modernizing our aging infrastructure and designing the system to withstand and endure disruptions. It also means ensuring affected system components are prepared to respond and rapidly restore operations and access following an event. Freight resiliency needs to become part of the policy and planning discussion between the private and public sectors (including federal, state, local governments).

### **Recommendations**

- Call for and create a national freight resilience strategy.
- Establish a dedicated program, with funding, for freight system resiliency. The program should take an all-hazards approach so that it can apply to both man-made and natural events.
- Ensure the national freight planning effort, including state freight plans, reflects a national freight resilience strategy.
- Prioritize and encourage projects that support the national freight resilience strategy, including projects that enhance reliability, redundancy and incorporate the ability to rapidly restore access and reliability.