

Trends to Watch in 2012

Below is an article that recently appeared in the December 2011 issue of Heavy Duty Trucking magazine. Although a little lengthy, the article does a really good job recapping the projected trends in trucking for the coming year of 2012 - a worthwhile read over the holidays!



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A recent survey by GE Capital of mid-market chief financial officers showed that transportation CFOs, while less optimistic about the U.S. economy and the global economy than their counterparts, are one of the more optimistic groups of CFOs when it comes to the state of their own industry.

These CFOs expect revenues and profit margins to rise. At the same time, they expect energy and other costs to increase. Fuel price volatility, safety, and recruiting and retaining quality drivers are their top concerns.

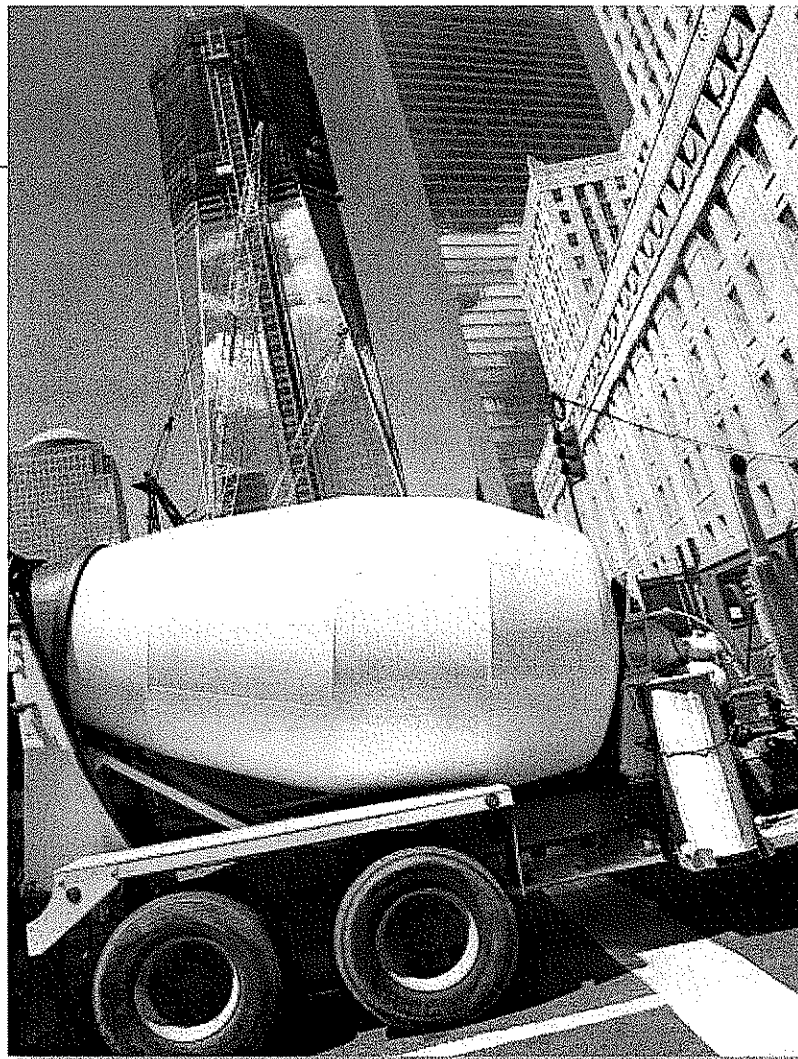
The survey reflects what we've heard talking to industry experts about what to expect in 2012: Real possibilities for trucking to outperform a sluggish economy, even in the midst of uncertainties about everything from geopolitical issues to regulatory reforms.

This year we've seen the national and global economy shaken by an earthquake and tsunami in Japan, a downgrading of the U.S. credit rating and the debt crisis in Europe. The failure of the bipartisan Joint Committee on Deficit Reduction, the so-called "super committee," to come up with the required \$1.2 trillion in budget cuts has some economists concerned as well.

Most experts, however, think that we are on track to continue with slow growth for 2012, rather than slipping back into a "double dip" recession.

The macro economy

As we went to press, third-quarter gross domestic product, or GDP, was revised downward to 2% from the previously estimated 2.5%. The numbers are still better than the second quarter's meager growth of 1.3%. There were some bright spots. Consumer spending rose 2.3% after second-quarter growth of just 0.7%.



TRENDS TO

Exports grew by 4.3%, and corporate profits increased.

Economists responding to the latest National Association for Business Economics Outlook Survey expect moderate economic growth through 2012, with little likelihood of another recession or an outbreak of inflation. The consensus is 2.4% growth in 2012, with GDP in the second half slightly stronger than the first.

The NABE Outlook Survey panel also expect in 2012 that:

- consumer spending will grow 2.1%;
- housing starts will increase 10%, spending on nonresidential structures 4.5%;
- we'll see solid 8% growth in spending on business equipment and software; and
- industrial production will rise 3.3%.

"I've been preaching cautious optimism," says Chuck Clowdis, a trade and transportation expert with fore-

Deborah Lockridge • Editor in Chief

casting firm IHS Global Insight. "Basically, until unemployment drops a point or two and people get back to work in jobs they know are going to continue, there won't be the unleashing of pent-up consumer demand that I believe is out there."

Experts also are keeping an eye on the global economy, especially the debt crisis in the European Union.

Peter Nesvold, transportation expert at investment firm Jefferies & Co., notes that "Europe is far away geographically, but economically, it really is our neighbor. I believe there's a lot of reason for hope in the next 12 to 18 months for the U.S. economy. If Europe continues to unravel, it's a much more challenging backdrop.

"If I keep my focus to what I can really measure," Nesvold says, "the U.S. economy actually feels pretty good, as odd as that might sound."

John Larkin, transportation analyst with investment firm Stifel Nicolaus, notes that in spite of concerns

painful as last time. "Back in '08, we jumped off a cliff," he says. If what he calls a worst-case scenario were to come to fruition now, "it would be more like jumping off the curb."

The micro economy

Trucking experts were a bit more pessimistic in their forecasts for GDP growth next year, calling for 1% to 2% growth. However, Costello says trucking could beat those numbers.

Freight volume trends have been mixed in 2011, with less-than-truckload and tank experiencing increasing volumes and truckload and dry van volumes declining slightly. Some markets are doing better than others. For instance, for fleets serving the energy exploration space, such as those hauling water or sand or other supplies for natural gas "fracking," business is booming.

The most recent seasonally adjusted ATA Truck Tonnage Index, for

October, was up 5.7% over the previous year and just 4.4% below the index's all-time high in January 2005.

"I think one important thing is if manufacturing can do better than the macro economy, then trucking can do better than the macro economy," Costello says. "That's one reason loads and tonnage have outpaced GDP this year. Certainly we haul a lot of retail goods, but when something's domestically produced in the U.S., that has a lot of truckloads associated with it."

He believes industrial production in 2012 could be a good half percentage point better than GDP growth, which will help trucking.

Exports have been another bright spot, with U.S. goods flowing to economies in places like Asia and South America that are doing well. In addition, businesses may not be hiring, but they are investing in capital improvements, such as equipment and technology, and a lot of that is

The economy and business **WATCH IN 2012**

around the world, from the European debt crisis to regime change in the Middle East, "the U.S. is doing OK, and OK in a world of so much uncertainty is sort of emblematic of just how resilient this economy is."

Bob Costello, chief economist with the American Trucking Associations, says the fears of a double-dip recession have gone away, "but the realization of anemic economic growth has set in."

Even if we slip back into recession, Costello says, it wouldn't be as

**Trucking could
outpace
slow-growth
economy as
uncertainties
remain**

produced here in the U.S., propping up manufacturing a little more.

Capacity

One of the key reasons trucking is doing fairly well despite the macro economic situation is capacity. During the recession, a great deal of trucking capacity went out of the industry, both through trucking bankruptcies and fleets downsizing.

"We're hearing consistently that capacity has been balanced," Nesvold says, "even this summer, when volumes got comparatively light follow-

ing the Japanese earthquakes and the U.S. credit downgrade.

"Of course you can't separate trucking from the economy, and you can't separate the U.S. economy from the global economy, but from a micro-economic standpoint, the trucking industry does seem to be faring better than we might have expected."

This business cycle is unique for trucking, says Costello. "For the first time perhaps ever, during the Great Recession, companies took remarkable steps to right size. And they are at a much better place in a business cycle than any other time we would have seen."

Let's face it: If we were looking at this type of slow growth in the economy and freight volume in previous cycles, we'd likely be looking at over-capacity and a shipper's market. That's not happening, and if anything we're seeing the opposite.

In fact, Larkin says, "if you had any kind of normal recovery, coming back from the trough with 3, 4, 5% growth, I think very quickly you would be in a position of capacity shortage."

Driver shortage

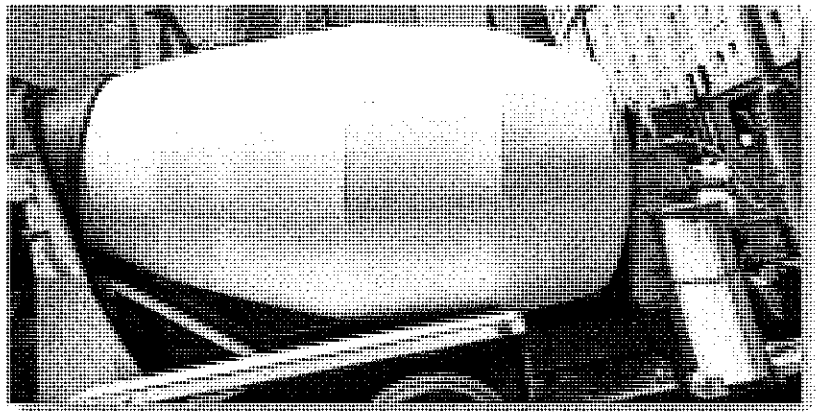
Part of the reason for that tighter capacity is the question of who's going to be behind the wheel. Fleets are having a hard time putting drivers in the seats they already have – or at least quality drivers who won't drag down a carrier's CSA rating and can hold up to all the other qualification concerns coming out of Washington. (See following story.)

"One guy told me, 'There's plenty of applicants, but can we trust them with our trucks?'" says Chris Kemmer of CK Commercial Vehicle Research, who surveys fleets quarterly on their buying plans and business outlook.

In fact, Nesvold says driver pay and driver availability is the biggest issue facing the industry. "When we talk to investors, often one of the first questions we get is, how can

there be a driver shortage when we have 9% unemployment?"

He explains that the universe of potential drivers is smaller than you intuitively might think. There are a lot of regulatory requirements, which are only getting more stringent. When you combine that with how difficult the job is, some people don't want to do it even if they're qualified.



"When you're taking pay up 2 or 3 cents a mile, you're not bringing new people into the industry. You're just accelerating the rate of people jumping from one carrier to another."

There's the ongoing problem of experienced drivers retiring, and younger drivers not seeing trucking as a career choice, especially considering they can't get a CDL until they turn 21. When the downturn came, a lot of fleets that had driver training schools shut them down. It's taking time to ramp those efforts back up.

"Most carriers are still poaching experienced drivers from one another," Larkin says. "When you're taking driver pay up 2 or 3 cents a mile,

you're not bringing new people into the industry. You're just accelerating the rate of people jumping from one carrier to another."

Nesvold predicts that driver pay is going to have to continue to increase. "In most industries, money talks," he says.

The real inflection point, he says, could be a few years out when elec-

tronic onboard recorders to track driver hours of service are likely mandated.

"With EOBRs, you could be talking a 10% to 15% productivity hit almost immediately. At that point it will come down to whether fleets can pass a step-change in pricing through to the shippers. Those who can't could see their margins effectively wiped out."

Fleets that are implementing EOBRs early and learning to adjust for it, he says, are the ones who are going to be "exceptionally well-positioned three years from now." Nesvold believes we could see a shake-out, a consolidation, in the industry at that point.

"The good news is there's plenty of time to prepare for that and potentially to prosper from that," he says.

Even before mandatory EOBRs, as Larkin points out, changes to hours of service regulations expected to be announced early in 2012 could cause a 5% to 10% loss of productivity.

ATA's Costello says while a driver shortage is "an operational nightmare," the bright spot is, "it does

keep a limit on supply. You can buy all the equipment in the world, but if you can't find a driver, it does no good. I'm expecting supply not to loosen up next year. If anything, it might get tighter."

And the basic supply-vs.-demand equation means that a tighter supply of capacity should allow fleets to charge higher rates. Larkin expects rates to rise 3% or 4% next year.

Fuel and other costs

Driver pay is hardly the only high-cost fleets are expecting in 2012.

Fuel and oil was the second highest motor carrier cost center after driver wages and benefits in the American Trucking Research Institute 2011 update to the Operational Costs of Trucking report. At press time, the average price of a gallon of diesel had again

topped the \$4 mark and oil was bouncing around \$100 per barrel. The U.S. Energy Information Administration's latest predictions call for crude oil to remain around \$100 per barrel in 2012.

"We think fuel's going to be stable – at least that it's not going to go crazy like I did in 2008," says Global Insight's Clowdis, saying his analysts don't see the same types of forces out there to promote a huge spike.

Escalating tire prices are a concern Nesvold is hearing from fleets. Early on, he says, it seemed a lot of the price increases were driven by higher oil and rubber prices. "But with prices up over 20% now, a lot of carriers wonder if tire makers are raising prices not because they have to, but because they can."

Unlike fuel costs, which can be passed along to the customer in the form of surcharges, Nesvold notes that things such as driver pay hikes, tire prices and even battery prices are difficult to pass on directly.

Equipment questions

And, of course, trucks are more expensive than ever. While truck sales have been solid this year, it is typically for replacement of older vehicles, not to add new capacity.

"Some fleets are so far behind the curve right now in terms of the average age of their fleet, you have to ask yourself whether some of these smaller firms are going to go into runoff mode, where they just stop reinvesting in the business and just manage the business for cash flow," Nesvold says.

In fact, Ahern & Associates, a firm that consults on transportation mergers and acquisitions, says because banks are still very reluctant to loan to small trucking companies, we will see "substantial consolidation of trucking and logistics companies" in 2012.

Credit markets are getting a little better, "but you still have to prove you really don't need the money before you can borrow," Clowdis

Survey reveals top trucking concerns

A survey of more than 4,000 trucking industry executives by the American Transportation Research Institute revealed the top 10 critical issues facing the North American trucking industry:

1. The economy: For the third year in a row, the state of the nation's economy was the top concern. However, the number ranking it as their number one issue has dropped each year since reaching 51.6% in 2009, to about 31% this year.

2. Hours of Service: Federal rules governing driver hours of service climbed two positions after taking the fourth spot in 2010. Nearly half of respondents (46.5%) ranked this as the first, second or third most important issue.

3. Driver shortage: This issue is up from number five in 2010, but has a larger concentration of "high priority" and "low priority" rankings compared to other issues. Some carriers are having serious problems finding drivers, but others seem to be meeting the demand through financial and work culture strategies.

4. CSA: After debuting in the No. 2 spot in 2010, the government's new enforcement regime retreated two spots from second to fourth this year. Nearly 30% of respondents ranked this issue first or second.

5. Fuel issues: Fuel issues ranked first in 2005 and again in 2008, but dropped to sixth in 2010. This year the issue, along with the price of fuel, has risen again.

6. Congestion: While standard peak-hour congestion is costly in terms of freight delays and fuel consumption, unexpected delays are considerably worse. While congestion did not make the top 10 list in 2009 and 2010 due to the recession, it has reemerged as a standalone issue in 2011.

7. Transportation funding: This reemerged as a standalone issue this year with continued delays in passing a highway bill.

8. Tort reform: This and related legal issues returned to the top 10 list in 2011 for the first time since 2008. The trucking industry seeks tort liability reform to ensure that punitive damage awards are reasonable and directly related to negligence.

9. Onboard truck technologies: First surfacing in 2007 as a top 10 issue, this has fluctuated among the last three positions. This includes electronic logs, speed limiters, onboard safety systems, and using technology to enhance or replace roadside safety enforcement practices.

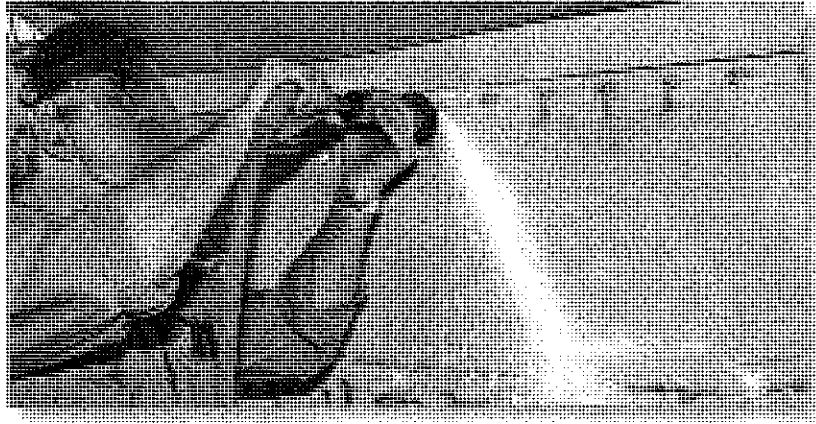
10. Truck size and weight: This first emerged as a top issue in the 2009 survey. Increased flexibility in truck size and weight could reduce congestion and fuel consumption and help with the driver shortage.

says. This is especially true for smaller carriers.

Kenny Vieth with ACT Research points out that as fleets have been showing better profits, those last 12 quarters of revenues lenders typically want to see should now be showing a pretty solid rise in revenue, profits

to meet EPA 2010 emissions, Kemmer says. "Sometime in 2012, I expect the majority of fleets are going to have to make a decision."

In addition, some fleets are trying to decide whether a 13-liter engine, rather than a 15-liter, will meet their needs.



and margins for many fleets, "so I do think it's easier for lenders to lend into the industry."

Class 8 orders rose to a six-month high in October, according to ACT, but there's still a lot of pent-up demand delayed by uncertainty.

"They're placing some orders, but I think before they buy too many, they're waiting to see what the economy's really going to do," says Chris Kemmer. To prompt fleets to really invest in new capacity, she says, it's going to take "committed freight, either for them specifically or the economy in general."

Many truckers are still reluctant to go whole-hog with the new 2010 engine technology, as well, with uncertainties about fuel mileage, questions about diesel exhaust fluid fill-up schedules and costs, engine life and maintenance costs. Some fleets are looking at natural gas and other alternative fuel options. Others are buying used trucks or glider kits to put off the decision, or leasing or renting trucks instead of buying.

"In this particular group we surveyed in the fall, something like 35% to 40% still haven't made up their minds" on which engines to go with

"If you're working in a 99% on-time environment, at some point a 95% on-time truck is going to lose you business. At some point you're going to have to pay the higher price if you want to be a trucker."

Kemmer also says increasing demands on maintenance departments is a serious issue on the minds of fleets. "Fleets either have old equipment, or they have this new equipment that's really complex. They have CSA to deal with, which is probably going to increase maintenance. And in the last quarter, guys without prompting told me they're seeing a real diminishing in the quality of parts they're getting overall.

And they have a human resources issue with technicians, the same as with drivers."

The aging fleet and the increased maintenance costs for those trucks, Kemmer believes, will drive 80% to 90% of the demand next year for new trucks.

ACT's Vieth says the supply/demand equilibrium between trucks and freight is favoring truckers right now, leading to healthy trucker profitability. "We know from history that when truckers make money, they buy trucks."

Vieth says the recent healthy run-up in used truck prices will continue to rise through 2012, making it more attractive for fleets to trade in their trucks on newer models. Fleets not ready to buy new trucks may buy the ones the big guys are trading in, and many older models being exported to Africa and other countries.

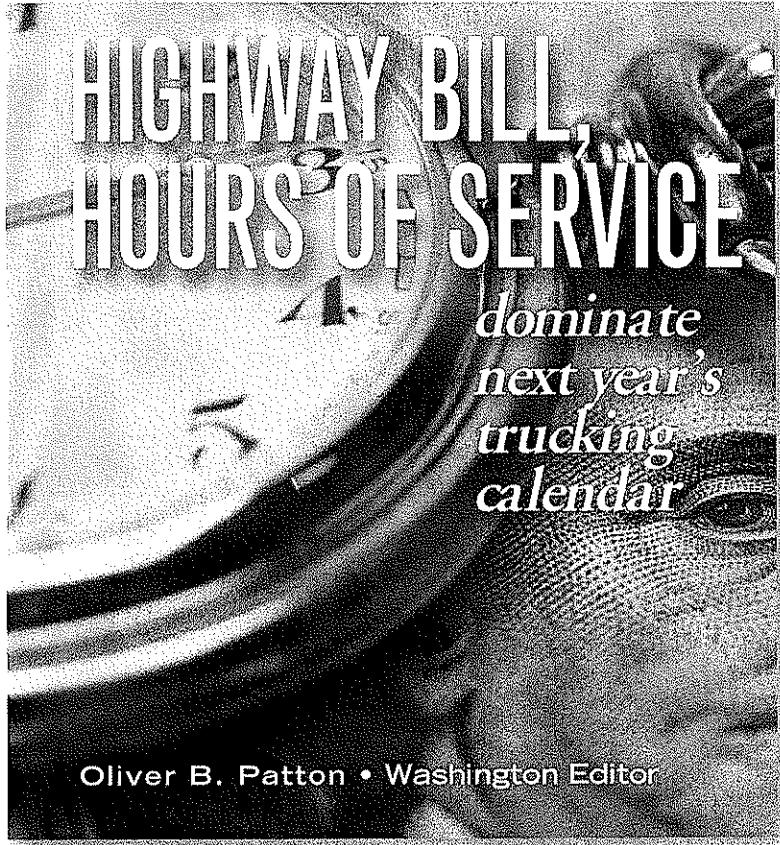
ACT is predicting 295,000 Class 8 North American production for next year, plus or minus 25,000.

"Older trucks cost more to operate, they're less reliable, they get worse fuel economy," Vieth says. "If you're working in a 99% on-time environment, at some point a 95% on-time truck is going to lose you business. At some point you're going to have to pay the higher price if you want to be a trucker."

The good news is that trucking overall is, as Larkin says, "doing pretty well in a pretty mediocre environment," despite the uncertainties of a sluggish economy, geopolitical unrest, rising costs, equipment issues, and a changing regulatory environment (which Washington Editor Oliver Patton goes into on the following pages).

In fact, Larkin says, trucking "can look forward to the day, in a year or two, when the economy improves, then set ourselves up to a three- to five-year run that may be better than we've seen, ever."





HIGHWAY BILL, HOURS OF SERVICE

*dominate
next year's
trucking
calendar*

Oliver B. Patton • Washington Editor

High stakes and a lot of uncertainty – that's the outlook for the trucking industry in Washington in 2012.

It is possible that Congress will reauthorize the national transportation program, now two years overdue and counting, but the odds are daunting.

The new hours of service rule probably will be published early in the year. But unless the Federal Motor Carrier Safety Administration performs a miracle, the rule will lead to yet another round of litigation and continued uncertainty.

In addition, there are a host of regulatory initiatives pending, from electronic onboard recorders to a new safety fitness rule under the CSA program, which will affect carrier planning and operations.

Much of the uncertainty in Washington arises from the ongoing



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fight over spending and taxes.

As its Thanksgiving deadline neared, the bipartisan Joint Committee on Deficit Reduction, the so-called "super committee," announced that it was not going to complete its mission of identifying \$1.5 trillion in deficit reduction measures. Under the terms of the deal that created the committee, the next step will be \$1.2 trillion in automatic cuts split evenly between domestic and defense spending over the next decade.

That's what is on paper, anyway. It is not clear how Congress will actually proceed. Republican leaders in the Senate, for instance, were signaling that they will not stick to the commitment to cut defense that much. But there will have to be cuts and, in the absence of any new funding sources, transportation investment over the long term may be affected.

Then there's the presidential elec-

tion. No matter who the candidates are, elections motivate legislators to "wait and see" before they make big decisions.

Highway bill

The Senate broke the ice on highway reauthorization in mid-November when the Environment and Public Works Committee unanimously reported out a bill that would reauthorize the federal highway program for two years.

It was just the first move among the half-dozen Senate and House committees that must act on the overall package, but it was a welcome development for those in the transportation community who have been waiting since the current program expired in October 2009.

The measure faces daunting obstacles to passage by the full Senate.

Most significantly, it still is missing a key funding provision. The bill

calls for \$109 billion over the two years, which would keep spending at current levels plus inflation, but the funding that will be available from the Highway Trust Fund falls about \$12 billion below that.

The EPW Committee is counting on one of its key members, Sen. Max Baucus, D-Mont., who also chairs the Senate Finance Committee, to find the \$12 billion.

"We will, one way or another, by hook or crook, find the resources on a bipartisan basis to pay for this bill," Baucus said.

Sen. James Inhofe, R-Okla., the ranking Republican on the committee, made it clear that if the money cannot be found, the bill will not move forward.

Another hurdle is achieving consensus on how highway funds are distributed among the states. Under population-based distribution formula, some states get more money



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than they collect through the Highway Trust Fund, while others get less. This leads to a political tug-of-war that still must be fought.

In addition, there is much more work to be done by other Senate committees on the highway package. This bill, called Moving Ahead for Progress in the 21st Century (MAP-21), is just one of several measures the Senate must pass.

The Senate Finance Committee must clear the funding portion. The Senate Banking Committee has jurisdiction over transit issues and has been working on an infrastructure bank initiative. And the Senate Commerce Committee has been working on a safety bill that was slated to go to markup this month.

MAP-21 details

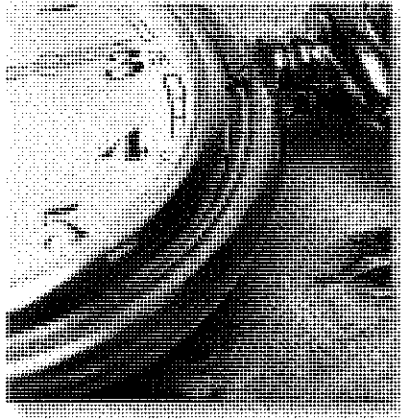
MAP-21 highlights many of the reform themes that will emerge from the legislative process. It aims to de-clutter the federal transportation program, to speed up the process of approving new projects, and to give states more say over how transportation dollars are spent.

The bill consolidates some 90 federal transportation programs down to fewer than 30. It also eliminates earmarks, and proposes reforms to expedite project delivery. It boosts funding for the Transportation Infrastructure Finance and Innovation program, which leverages federal money by providing loans, loan guarantees and lines of credit to pay for highway projects of national and regional significance.

Of great significance to trucking, it would create a new National Freight Network Program, which would provide funds to states to improve cargo movement and intermodal connectors.

"The pie is not getting any bigger, and giving freight \$2 billion, that's pretty significant," said Mary Phillips, senior vice president for legislative affairs at American Trucking Associations.

Other provisions target perfor-



"The pie is not getting any bigger, and giving freight \$2 billion, that's pretty significant."

mance management issues. For example, the bill would hold states and metropolitan planning organizations accountable for improving the condition and performance of their assets.

The bill contains an important compromise over funding for transportation enhancements, such as bicycle and pedestrian paths, and beautification. It keeps dedicated funding for enhancements but gives states more flexibility in how to spend the money.

The bill also contains a "Jason's Law" provision, providing funding for truck parking facilities. This commemorates truck driver Jason Rivenburg, who was murdered in 2009 while parked at an abandoned gas station in South Carolina, a place drivers frequented because they could not find space at established rest areas.

The bill does not address truck weight issues. The leaders of the EPW Committee decided not to accept any weight amendments in order to move the bill quickly, according to a spokesperson for the Coalition for Transportation Productivity.

CTP, which aims to get weight reform into the final reauthorization bill, is focusing its efforts on the House version of the bill. The coalition's measure would allow states to raise the truck weight limit from 80,000 to 97,000 pounds on Interstate highways, provided the truck is equipped with at least six axles. It includes a provision to increase the heavy vehicle use tax from \$550 to \$800 a year, to cover the additional expense these trucks would cause for bridge maintenance.

ATA's Phillips was pleased that the bill does not expand tolling on the Interstate System. She did note one concern: The bill increases the eligibility of rail, maritime and transit projects for National Highway System funds.

The reauthorization bill also will set safety policy, an issue that is being taken up by the Senate Commerce Committee.

That panel is considering a bill that will buttress a number of regulatory reforms under way at DOT, such as an electronic onboard recorder mandate, 65-mph speed limiters in all trucks built after 1990 and creation of a national registry of medical examiners. It also would require studies of how detention time affects hours of service violations and driver fatigue, and of the need for a heavy truck crashworthiness standard.

Passage of the Senate bills will get the highway program only halfway home.

The House still is working on its version, a five-year bill that also is not yet fully funded. House leaders want to assess fees on new oil drilling and tap that revenue stream for the Highway Trust Fund, but the details are not set and expansion of drilling will face opposition in the Senate.

The highway community prefers the longer term that the House is considering, over the shorter term of the Senate bill, provided the longer bill is fully funded. Sen. Boxer believes the two-year approach

makes it easier to raise the money for full funding, and creates some breathing room for coming to agreement on how to raise more money for a long-term bill.

Hours of Service

The revised hours of service rule is now being reviewed by the White House Office of Management and Budget, the last step before publication. OMB could complete its review at any time, but the likely date will be as late as February.

The details of the proposed changes will remain sealed until publication, but trucking interests are on high alert based on what the FMCSA proposed in earlier stages of the rulemaking process.

Among other changes, the agency said it is leaning toward cutting driving time from 11 to 10 hours a day. It also proposed giving drivers a one-hour break during the day by limiting actual duty time within the 14-hour driving window to 13 hours. Another significant change would modify the 34-hour restart to include two periods between midnight and 6 a.m., to be used only once a week.

The trucking and shipping community believe these changes would not improve safety and would add significant costs to doing business. ATA is prepared to sue if the agency goes ahead as it has proposed, and has been gathering support on Capitol Hill. Republicans in Congress have been highlighting the revision as an example of excessive government regulation.

House Speaker John Boehner, Ohio, and Majority Leader Eric Cantor, Va., asked President Obama to withdraw the pending rewrite and stick with the current rule, saying that by doing so he can avoid adding a \$1 billion regulatory burden.

Rep. John Mica, R-Fla., chairman of the House Transportation and Infrastructure Committee, and three of his Republican colleagues on the committee, told Obama in a letter

that they will "aggressively oversee" new regulatory burdens. Mica has since declined to say what specific steps he would take.

It may be FMCSA has found a sweet spot that all sides might grudgingly accept, but it seems more likely that the fight will continue.

EOBRs

Regulations concerning electronic onboard recorders to track driver hours are proceeding on two separate tracks, although recent legal action and technical complications will affect the timing and content of these rules.

The first track is a rule that is scheduled to take effect June 1, 2012.

ATA is prepared to sue if the FMCSA goes ahead with HOS as proposed, and has been gathering support on Capitol Hill.

It says carriers that violate hours of service rules 10% of the time, based on a single compliance review, must use electronic onboard recorders to track driver hours. This will affect about 5,700 interstate carriers.

The second track is a proposal that would expand the 2012 rule to cover all of the approximately 500,000 carriers now required to maintain driver logs. This proposal also covers requirements for documentation to prove compliance with the hours of service rule, and it would require carriers to monitor driver compliance with the rule.

The legal action is an appellate court ruling that threw out the rule scheduled for next June on grounds that it does not do enough to prevent harassment of drivers.

The agency will not appeal the court's decision. It will issue a rule

sometime after the June deadline, and in that rule it will address the harassment concerns raised by the court.

Meanwhile, the agency is awaiting a long list of recommendations concerning details of the rule that is being prepared by the Motor Carrier Safety Advisory Committee.

The committee, a panel of 19 officials from the industry, enforcement community and labor and safety advocacy groups, has been working at the agency's request on recommendations for EOBR standards and expects to finish by the end of this year. It is considering, for example, how to handle data security, the transfer of data from the recorder to the inspecting officer, and certification of recording devices.

Other rules pending

There are a host of important rules pending at FMCSA and other agencies.

- **CSA Safety Fitness:** This rule is the critical next step in implementation of FMCSA's new safety enforcement mechanism. It will complete the transition away from using Compliance Reviews to determine fitness, to using CSA data on crashes, inspections and violation history. The initial proposed rule, now more than four years in the making, is scheduled to be published in April. It's not likely to be finished until 2013.

- **Cell Phone Restrictions:** This rule, announced right before Thanksgiving, says truck and bus drivers may use only a hands-free phone while driving. It prohibits drivers from reaching for, dialing or holding a mobile phone while the truck is moving. The rule does not restrict the use of a mobile phone when not driving. Penalties for violations range from fines and suspensions for drivers to fines for companies that require or allow drivers to use handheld phones while driving.

- **Drug and Alcohol Clearinghouse:** This proposal would create a national database containing the results of drug and



alcohol tests of drivers, a safety management tool that trucking companies have been seeking for years.

Under the rule, employers would have to report positive test results and refusals, and prospective employers would, with the applicant's permission, query the database. The idea is to give carriers a way to make sure the applicant has completed the return-to-duty process, and to ensure that carriers are doing the required testing.

The proposal is scheduled to be published next May. It probably will take until early 2013 to complete the final rule.

• **National Registry of Certified Medical Examiners:** This final rule probably will be published before the end of the year. The registry will identify examiners who have been certified, understand the truck driver's working environment and are up to date on current medical standards.

This is part of an ongoing effort by FMCSA to improve its regulation of driver health issues. It is in the process of drafting a proposal to update rules on conditions ranging from cardiovascular disease to sleep disorders.

• **Minimum Driver Training:** The agency is working on a final rule, scheduled to be published next July, that will require behind-the-

Discussion on a proposal that would require speed limiters in heavy trucks has centered on a 68-mph limit that would apply to virtually all highway trucks.

wheel and classroom training for CDL applicants. It is the agency's response to a 2005 court order that said the lack of a requirement for road training is a fatal flaw in the current rules.

• **Unified Registration System:** This final rule, poised to go into effect early in 2012, will combine the systems that track carrier identification, registration financial responsibility into a single, new online system. All registrants will have to update their information every two years.

• **Speed Limiters:** The National Highway Traffic Safety Administration plans to propose a rule requiring limiters in heavy trucks. The proposal is scheduled for end of

2012, so a final rule is not likely before late 2013. The details are not yet available, but discussion so far has centered on a 68-mph limit that would apply to all trucks built after 1992, which means virtually all highway trucks.

In a related development, the truck safety bill now in the Senate includes a provision that would mandate the limiters.

• **Electronic Stability Control:** NHTSA is well along on a proposal to require ESC on heavy trucks. The proposal, on track to be published by the end of February, would specify the details of a technology standard that a growing number of fleets already have adopted voluntarily because they see safety benefits.

The agency has not said how it intends to handle the distinction between the two types of stability systems on the market, Roll Stability Control and Electronic Stability Control. But it has made clear that the proposal will cover only tractors, which indicates there is not likely to be a retrofit requirement.

• **Wetlines:** Tank carriers are alarmed about a pending regulation that would require them to make sure there is no gasoline in the loading lines of their tanks, the so-called "wetlines" rule. Under the rule, any trailer built two years after the rule goes into effect could carry no more than 0.26 gallons in its wetlines, or have structural protection. Existing tanks would have to be equipped with purging systems. Carriers would have 12 years to complete that work.

Tank carriers say the rule is not necessary because the risk of a fatal lines incident is low, and the process of welding purging equipment onto tanks can be hazardous. The rule by the Pipeline and Hazardous Materials Safety Administration is scheduled to be published next May, but the National Tank Truck Carriers has asked the Department of Transportation to reconsider. ■