



# January Legislative and Regulatory Report

## LEGISLATIVE

### **NDAAs Passes Congress, Including \$750 Million Authorization for PIDP Grants**

In late December, Congress passed the National Defense Authorization Act of 2022. Among many other provisions, the NDAA contained authorizations for Maritime Administration programs and operations, subject to annual appropriations.

The legislation authorized \$750 million for the discretionary Port Infrastructure Development Program in FY22. If appropriated, this funding would be additional to the \$450 million provided for FY22 PIDP grants under the IIJA.

The NDAA expanded PIDP project eligibility to encompass operational improvements – including port resiliency projects – and several “environmental and emission mitigation measures,” such as idling reduction infrastructure, the purchase of cargo handling equipment, and electric vehicle charging or hydrogen refueling infrastructure for drayage and medium or heavy duty trucks and locomotives that service ports. Funding authorized by the NDAA may not be used for the purchase of fully automated cargo handling equipment if that equipment would result in the net loss of jobs within ports or terminals.

While PIDP funding is typically limited to port improvement projects that benefit goods movement, for FY22, funding authorized by the NDAA may also go toward emission mitigation measures that “provide for the use of shore power” for cruise ships.

## REGULATORY

### **FMCSA Establishes Safe Driver Apprenticeship Pilot Program**

The Infrastructure Investment and Jobs Act, signed into law in November 2021, required the U.S. Department of Transportation to establish an apprenticeship program allowing commercial driver’s license holders under the age of 21 to operate commercial motor vehicles in interstate commerce. Currently, CDL holders between 18-20 years old may only operate CMVs within state lines. On January 14, the Federal Motor Carrier Safety Administration issued a notice formally establishing the Safe Driver Apprenticeship Pilot Program under the criteria specified within the IIJA.

Under the program, participating drivers must complete two probationary periods during which they will be accompanied by an “experienced driver” – defined as a driver who is at least 26 years old, has held a CDL and has been employed for at least the past two years,



and has at least five years of interstate CMV experience. Each of the probationary periods include minimum hours of driving time and performance benchmarks. Additionally, CMVs operated during the pilot program must be equipped with certain vehicle safety technologies, including an active braking collision mitigation system and a forward-facing video event capture system. Upon successful completion of the second probationary period, apprentices may begin operating CMVs in interstate commerce unaccompanied.

Participating carriers must submit driver activity and safety data to FMCSA monthly. FMCSA will use existing data to compare the safety outcomes and performance of current interstate and intrastate CMV operators to those of apprentices participating in the pilot program. FMCSA will also analyze the performance of apprentices before, during, and after their probationary periods.

### **USDOT Solicits RAISE Grant Applications**

On January 28, USDOT issued its fiscal year 2022 notice of funding opportunity for the Rebuilding American Infrastructure with Sustainability and Equity – formerly TIGER/BUILD – grant program. The IIJA codified the RAISE grant program within authorization law for the first time and made several changes to project eligibility requirements as well as the program’s selection criteria.

The IIJA provided \$1.5 billion in direct appropriations for FY22 RAISE grants, of which \$75 million is set aside for planning projects and \$15 million must go toward projects located in areas of persistent poverty or historically disadvantaged communities. The IIJA also authorized an additional \$1.5 billion annually for FY22-26, subject to annual appropriations. The NOFO stated that any additional funding, if provided by the FY22 Appropriations Act, would be incorporated into this round of awards. Additionally, USDOT will amend the NOFO if the appropriations bill contains significant changes to program requirements.

As mandated by the IIJA, the NOFO expanded project eligibility to include surface transportation components of certain airport projects as well as culvert rehabilitation and replacement projects. All projects, including planning projects, will now have minimum award amounts of \$5 million for urban projects and \$1 million for rural projects.

Consistent with Biden-Harris Administration priorities, the NOFO places a greater emphasis on selection criteria related to environmental improvements, racial equity, and workforce development. A new criterion was added to evaluate mobility and community connectivity improvements, including increased mobility for freight movement and supply chain efficiency. As in previous years, the program is fully multimodal and awards must be distributed evenly between urban and rural projects. Applications are due April 14, 2022 and award selections will be made by August 12, 2022.



## FMC Provides Briefing on Maritime Transportation Data Initiative

On January 27, the Federal Maritime Commission held a public meeting to provide updates and briefings on the Commission's recent activities. Commissioner Bentzel presented on the Maritime Transportation Data Initiative, which was established in December 2021. Under the initiative, the FMC will seek to standardize terms used in maritime shipping and establish a comprehensive and well-documented data dictionary. FMC intends to determine which terms are currently used by federal agencies and the private sector, identify any potential discrepancies, and develop recommendations for common data standards. Commissioner Bentzel emphasized that the FMC is not seeking to "reinvent the wheel." Instead, it will utilize existing definitions to ensure the forthcoming standards support industry efficiency, transparency, and accessibility.

Through April 2022, the FMC will hold initial meetings with key supply chain participants to catalog data. These meetings are announced on the FMC's website and open to the public. Upcoming stakeholder meetings will assess data needs and availability pertaining to ocean transportation intermediaries, the maritime labor industry, marine terminal operators, and carriers. In June, the FMC will hold a Maritime Data Summit to publicly submit its observations and recommendations on data standards.

Chairman Maffei noted that this initiative builds on earlier Fact Finding investigations conducted by Commissioner Dye and is particularly relevant now due to the ongoing demand surge exacerbated by COVID-19. He added that the FMC's goal is to avoid burdensome requirements and instead work with various stakeholders to develop industry-wide solutions. He encouraged Commissioner Bentzel to issue interim recommendations when appropriate.