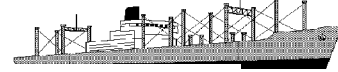




# Rollin' On



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## WASHINGTON UPDATE: NITL's View of the World

**T**he northwest transportation community received a legislative update at the NITL meeting held in Seattle earlier last week. Ed Emmet, NITL's president and former ICC commissioner, provided an insightful and entertaining overview of the goings-on in our nation's capitol. The following are some of his comments and observations.

**Ocean.** The bottom line is, come hell or high water, there will be an ocean shipping reform act passed this year. To be sure, the major players —carriers, shippers, intermediaries, labor, ports, FMC— will never agree. So the NITL solution is, as Phil Knight would say, "Just do it." There is a consensus that tariff filing will end, replaced by tariff publication. The FMC will be combined with the STB to be known as the Intermodal Transportation Board (I always liked Surf 'n Turf myself). Individual contracts will be confidential except for disclosure of the commodity, minimum volume, duration and US port.

Meetings are continuing, with changes occurring hourly by Emmet's account. An alternative is to zero fund the FMC; the havoc created would demand legislative action.

**Railroads.** Although some individual members may oppose the transaction, NITL supports the CSX/NS "cannibalization" of Conrail as many shippers and ports would be served by two railroads instead of one. That is indeed a remarkable accomplishment in today's world of consolidations. Emmet also spoke of

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ATA's "food fight" with the railroads, due to the rail industry's views on the size and weight issues now before Congress. In response, the ATA has requested the STB to use the whole 365 days provided by law to rule on the transaction, as opposed to the CSX/NS suggestion of 255 days and NITL's 280 days, expecting Conrail's service to diminish in the meantime. Emmet also believes there is a greater likelihood for a north/south merger or consolidation, especially in the Midwest, before any transcontinental merger or alliance.

### Tax Freedom Day . . .

in Oregon is May 13, yet another record for its lateness. Until that date we work for the various governments that we (we the people not we the taxpayers) have voted for ourselves. Meanwhile, completely unrelated (?) a Portland police officer is returning to duty from a paid 10 month administrative leave due to an investigation.

**Motor.** NITL is pushing to retain Carmack, while ATA wants a legislatively imposed limit of liability, such as \$2/lb. On an unrelated matter, NITL opposes what it believes is a bizarre ATA proposal that would allow carriers to blame shippers for forcing carriers to violate hours of service regulations, a position he says only criminal defense attorneys would think of.

NITL also wants to get rid of the classification system.

**Intermodal.** No negative feedback on the overweight container law.

**Railroad executives** from CSX and NS stated that they have their sights on the truckers' \$300 billion market share vs. the railroads' \$30 billion share. They also cited the large eastern imbalance, with trucks maintaining an 86% market share, railroads 11% and water 3%. Truck traffic on I-95 is especially targeted, with NITL's endorsement. The execs also claim that splitting Conrail will foster increased competition and improve traffic flow to the west.

Finally, the railroads are promising no price increases to finance

**-If you want to complete a job in a hurry, give it to a busy person.**

their purchase. Instead, they expect to grow their business through increased market share, building on service improvements, assist existing customers increase their market share, and generally focusing on industrial development. Sounds good for shippers, not so for truckers.

### Recyclables/Garbage: Update

The federal judge recently clarified his order by stating that the county ordinance is preempted as applied to recyclables and unconstitutional as applied to the transportation of solid waste in interstate commerce. No word yet on whether the county will appeal. The ruling is of national interest due to its impact on local governments and franchised haulers.

That's all for now. To shippers, carriers, agents and other third parties, keep the cargo rollin'!!

#### The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship.

#### Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 20 years and emphasizing transportation law, business law and related litigation.