

NEWS FROM THE DOCKS



Louisiana Ports Deliver

ASSOCIATION OF LOUISIANA January 2012
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Message from the PAL Office

Some things are just not meant to be. LSU didn't win the national championship. In fact they didn't win in convincing fashion. However, we should remember that this was one of the best years in LSU football history and there is always next year!

PAL looks forward to 2012 with an exciting roster of events and activities. First on the agenda is our annual conference scheduled for March 7-9, in Lake Charles. The Port of Lake Charles and the ports of Southwest Louisiana will be our hosts for this event. Make your reservations now! Call the L'Auberge at 1-866-580-7444 and use the room code SPAL12 to secure you room at the special rate of \$99 per night.

An exciting agenda is being developed and we anticipate having registration and the agenda on line by the end of January. In the mean time sponsorship information is available at www.portsoflouisiana.org as well as basic conference information.

Another much anticipated activity for 2012 is the economic impact study that Dr. Jim Richardson of LSU is developing. Dr. Richardson will have preliminary information to discuss at the conference.

We continue to encourage new associate memberships. You can join PAL as an associate member for only \$300 per year. For that small amount you are invited to attend all of our meetings, your company with contact information appears in our publication entitled "Profiles of Louisiana Ports" as well as on our website with a link to your site. And, we will be happy to run short articles in this newsletter

about activities and events within your organization. Go to PAL's website and look for the "Join" link.

Legislative Update

1. LEGISLATIVE:

a. On January 9th, 74 re-elected and 31 newly elected members of the House of Representatives, and 27 re-elected and 12 newly elected members of the Senate were sworn in during the Organizational Session. The Organizational Session of the Legislature adjourned on the 9th until the Regular Session which is scheduled for March 12th.

b. As reported previously, Rep. Chuck Kleckley was elected Speaker, and Senator John Alario was elected President of the Senate. The committee chair persons and members are scheduled to be named on January 9th or 10th.

c. The Regular Session of the Legislature is scheduled for 60 days within an 85 day calendar period and will commence on March 12th, and end not later than June 4th, 2012. It is a Fiscal Session and "no measure levying or authorizing a new tax, increasing an existing state tax, or legislating with regard to state tax exemptions, exclusions, deductions, or credits can be introduced or considered at the Regular Session".

2. PORT PRIORITY PROGRAM

DOTD continues to work on selecting a replacement for Dr. Jay as the economist for the PPP through the existing contract with the University of New Orleans. Currently there are four applications waiting to be reviewed by the economist.

3. HYDROKINETIC GENERATOR RULES

The Office of Mineral Resources adopted the revised rules incorporating several requested changes by Ports and DOTD. However it rejected the request that Ports be allowed to charge the applicant for reimbursement of actual expenses incurred in contracting for experienced consultants to analyze whether the proposed generator sites may hinder navigation.

It may be necessary to legislatively authorize the reimbursement of cost incurred by ports if permitted by the Fiscal session limitations.

4. DESIGN –BUILD FOR PORTS

a. -The committee Chaired by Kent Dussum of URS continues to work on a compromise bill to allow Design-Build for ports. The ACES members are scheduled to suggest possible changes to the bill PAL filed in the last Legislative session.

b. Additionally, a Design-Build Chapter in La. of the National Design-Build Association has been established and will meet at the Port of New Orleans at 11:30 on February 8th. This organization will support Design-Build authorization for Ports and possibly other public entities.

5. MARITIME FOCUS GROUP- of the Coastal Protection and Restoration Authority met for the third time on December 20th relative to the draft 2012 Coastal Master Plan which may include approximately 285 projects.

a. The purpose of the focus group is to allow the exchange of information as to how navigation and ports located within the coastal zone may be impacted by the master plan projects. At this meeting Garrett Graves as well as Kirk Reinhardt and other CPRA staff participated and answered questions of the focus group.

b. Mr. Reinhardt has asked to appear at the PAL February meeting to make a presentation and answer questions relative to the 2012 Master Plan. The CPRA is scheduled to complete the draft plan by mid-January of 2012 for consideration by the Legislature during the Regular Session.

6. PORTS OF LA. ECONOMIC STUDY--Dr. Jim Richardson has begun the process of collecting information from ports and other

sources. Ports are urged to cooperate. A progress report will be sent to each port.

7. PORT TAX INCENTIVES--The rules relative to the Import/Export Tax incentive have not been adopted as LED continues to review the data provided by the Port of New Orleans to support the economic conclusion that the state will not have a net loss of revenue upon implementation of the tax credit. Because of the Fiscal Session limitations, no amendment can be offered to legislatively adjust the Port Tax Incentives. The Infrastructure tax credit rules have been implemented.

8. HARBOR DREDGE FUNDS—PAL is a member of the Big River Coalition and it continues to support the efforts to secure adequate funding for dredging of navigation channels in La. and the nation. It continues to support the legislation to require the use of the Harbor Maintenance Tax for dredging of harbors and channels.

On January 10th, the Big River Coalition released its study relative to the economic effects on shipping caused by reduced dredging of the Mississippi River. A copy of the report will be sent to PAL members.

9. DOTD and Department of Natural Resources will enter into a Memorandum of Understanding relative to DNR permit requirements for “economic justification” and “beneficial use” of dredging in the Coastal Zone. Pursuant to the Draft MOU, DNR will accept the Port Priority Program “economic justification” of a PPP project for purposes DNR permits, and will accept that there is “beneficial use” of “dredge material” when a port can “justify and document the expansion and development (i. e. Post’s master plan, etc).” A copy of the draft MOU was forwarded to PAL members last week.



Joe Accardo
Executive

Corporate Member News

Port of South Louisiana

(By Matt Scallan, The Times-Picayune)

The Port of South Louisiana approved a master plan for the St. John Airport that includes a 1,100-foot extension of its 4,000-foot runway, opening the door to more traffic from small jets. The plan will cost an estimated \$2.4 million for the runway and taxiway improvements for the 21-year-old airport, with the money coming from the state, Federal Aviation Administration and the port, which has put off plans to build new storm-resistant headquarters in Reserve.



The plan also calls for future apron and terminal expansion, additional airport hangars, a fueling station for Jet A fuel, as well as additional apron space to accommodate small aircraft.

The long-range plan includes developing cargo facilities on the east side of the airport, which officially opened in 1990.

One technical hurdle that must be addressed is that the FAA wants either the parish government, which owns the airport, or the port, which now runs it, to take full responsibility for the facility.

"The lease agreement we have right now isn't good enough," said Joel Chaisson, the port's executive director. The port began managing the airport for the parish in 2009.

The runway expansion plan has been a long-sought goal of airport officials, but extending the runway to the north would have been costly because of wetland issues. The latest plan calls for extending the runway in both directions, including a 746-foot northern extension that stays inside the airport's ring levee and avoids wetlands. The plan calls for extending the runway 405 feet to the south.

"We think there is a demand for additional capacity for general aviation in this area," said Port Commissioner Paul "Joey" Murray III, a pilot who is a regular user of the airport. General aviation refers to aircraft that aren't commercial carriers.

Port of West St. Mary

Port of West St. Mary Hires Allain as new Executive Director

The Commissioners of the Port of West St. Mary welcome Mr. David J. Allain as its newly hired Executive Director, effective January 1, 2012. Mr. Allain is a native of Jeanerette, Louisiana and was in Agri-business for the past 17 years. He has served on the Board of Directors of Jeanerette Sugars, Teche Farm Supply, American Sugarcane League, and Allain-LeBreton Company. He graduated from the Agriculture Leadership Group at the Louisiana State University and has had extensive dealings with the oil and gas industry. The Port Commission looks forward to working with Mr. Allain for the continued development of the Port of West St. Mary.



Also at its December meeting, Mr. Calvin Deshotel was elected as President of the Port Commission for 2012 along with Mr. Ralph Longman as Vice President and Mr. Willie

Peters, Secretary/Treasurer. Mr. Tad Blevins serves as Immediate Past President and was acknowledged for his dedication to the Port while serving as Executive Director for the past year and as President for the past two years. Mr. Blevins is a Charter Member of the Port Commission.

Terrebonne Port Commission

Port Commission Gets New President

(By Cara Bayles - Houma Courier)

The Terrebonne Port Commission has elected a new president to oversee expansion in 2012. J. Christopher Erny, 43, a Houma native who has served on the board for more than six years, was elected to replace Don Hingle.

Erny has been a practicing attorney since 1994 and serves as an assistant district attorney in Terrebonne Parish. "Chris is very knowledgeable about what we do. He's been on the board a long time," said the port's Executive Director David Rabalais. "He is very dedicated and conscientious and brings a different view of things."

In an open letter penned after his election, Erny acknowledges the work of past commission presidents, Rabalais and Parish President Michel Claudet and encourages the new Parish Council to attend the Port Commission's meetings when they can.

"I encourage everyone to come to the meetings and see what the port is doing," he said. "This is important to the economic development of Terrebonne Parish."

In 2012, the port will focus on executing its master plan, which includes expansion to the east side of the Houma Navigation Canal.

"We have a permit with the Army Corps of Engineers, and we already deposited a lot of dredge material from the La Ship project on the east side," Erny said. "We'd like to start developing that land."

The port has also officially acquired the former Weatherford building on Industrial Boulevard, and Erny said developing the 13-acre property is among the commission's priorities for the year. Weatherford gave the property to the

Terrebonne Economic Development Authority, which in turn donated it to the port.

The port's biggest challenge in the coming years could be its efforts to dredge the Houma Navigation Canal. That project falls under the Army Corps of Engineers, which has essentially put the project on hold due to budget constraints.

"We've had companies lose business because the canal wasn't deep enough for a project," said Erny, who said the port will continue to campaign for deepening the waterway this year.

"Dredging is kind of a dirty word among environmentalists, because its interference, and there's potential for saltwater intrusion," said Erny, who wrote in his letter that economic development and coastal restoration are mutually beneficial. "That's why it's important to get a lock built at the end of the canal while we maintain that dredge depth."

Port of New Orleans

U.S. Deputy Secretary of Transportation John D. Porcari officially awarded the Port of New Orleans a \$16.7 million grant to rebuild and relocate a specialized rail yard near the Napoleon Avenue Container Terminal. The funding is part of the Department's Transportation Investment Generating Economic Recovery grants program, or TIGER.

The Mississippi River Intermodal Terminal and Yard Improvements project will transform an existing 12-acre rail yard into a modern, freight rail intermodal terminal and create a four-acre cargo marshalling yard immediately adjacent. The overall cost of the project is estimated at \$26.1 million, with the remaining \$7.6 million coming from the Port of New Orleans and the Louisiana Port Construction and Development Priority Program. The new terminal is expected to create 284 construction jobs and 100 permanent marine and cargo handling jobs.



“This is the kind of nationally significant project that TIGER was designed to support,” said Deputy Secretary John Porcari. “This investment will create good jobs and improve the movement of goods nationwide. The project will create hundreds of jobs and will improve the movement of marine and rail cargo at the Port of New Orleans,” said Mayor Mitch Landrieu.

“This \$16.7 million federal grant is yet another vital investment into our transportation infrastructure provided by the Obama Administration,” said Mayor Mitch Landrieu. “Programs like TIGER that repair our infrastructure and create jobs are necessary if we are to compete globally, especially in a city like New Orleans where the Port is an economic engine.”

U.S. Sen. Mary Landrieu says that it is an honor to receive the highly competitive grant. “The Port of New Orleans is an irreplaceable economic engine for our state; it plays such a major role in our global economy, and this grant affirms that,” she said. “Over \$150 million worth of proposals were submitted for Louisiana alone. I am so pleased that this Louisiana port was selected; we must continually support and improve our state’s infrastructure so that our ports remain competitive forces both nationally and internationally.”

U.S. Rep. Cedric Richmond says the grants will allow American businesses to better utilize the transportation nexus that exists in New Orleans. “This funding allows the Port of New Orleans to capitalize on advantages that don’t exist anywhere else in the country,” said Congressman Richmond. “As the only deepwater port in the United States with six Class One railroads, this new rail terminal will allow the Port to be even more competitive nationally and internationally. I’m happy that this investment will not only create jobs in Louisiana now, but it will provide long-term economic benefits to the nation by reducing road congestion and promoting environmentally sustainable shipping.”

On Dec. 15, U.S. Transportation Secretary Ray LaHood announced 46 winning projects would share \$511 million from the third round of the TIGER program. The Port’s grant was the ninth largest of the 46 projects and was one of four successful port-related infrastructure projects. In

all, DOT received 848 project applications requesting a total of \$14.29 billion.

“The Port of New Orleans is the only U.S. seaport with six Class One railroads, which includes 132,000 miles of connecting rail tracks,” said Port President and CEO Gary LaGrange. “This critical project will facilitate the movement of marine and rail cargo, stimulate international commerce and enhance safety all while reducing the carbon footprint of regional and national transportation systems within our market – which constitutes 62 percent of the consumers of the United States. The entire maritime community is thrilled to see this project come to fruition and I want to thank the entire Louisiana delegation for their unwavering support.”

All seven of Louisiana’s members of Congress and both U.S. Senators wrote letters of support for the project.

About the Mississippi River Intermodal Terminal and Yard Improvements Project

The 12-acre project will reconfigure and relocate rail tracks and construct a marshalling yard to support modern containerized cargo operations. The terminal will consist of two working rail tracks about 2,000 feet long and the addition of two side loaders. The existing rail tracks pose a physical barrier to container operations at the Port, while the new terminal will enhance and facilitate – rather than hinder – the movement of cargo. The terminal will have an annual capacity of moving 94,360 TEUs, or twenty-foot-equivalent units. The additional yard improvements adjacent to the terminal will provide a rigid paving surface with high-loading capacity to accommodate increasingly heavier cargos at the Port. The improvements will be designed for a uniform live load of 1,000 pounds per square foot to accommodate the handling and storage of heavy loads, such as steel, project cargo and containers. Construction is expected to begin in 2012.

Funding:

TIGER: \$16,738,246

LA Port Priority: \$1,700,000

Port of New Orleans: \$7,694,191

Legal News



INLAND RULES OF THE ROAD RULE 14 - HEAD ON SITUATION

In my July 2011 column I discussed the Lookout Rule, Rule 5 of the Inland Rules, found at 33 USC #2001-2038. There I emphasized that following a maritime collision or casualty, one of the first areas of inquiry by the United States Coast Guard will be whether the vessel or vessels involved conformed with the mandate of Rule 5, which required that "every vessel shall at all times maintain a proper look out." In the wake of a casualty involving two vessels approaching one another head on, an inquiry whether the operators of each vessel complied with Rule 14 is sure to ensue.

Rule 14, Part (a) states;

(a) Unless otherwise agreed, when two power driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

For example, two vessels are approaching each other rapidly head on, and there is no way to distinguish one from the other for the purpose of assigning right of way. To ensure quick and predictable action, Rule 14 requires *both* vessels to do the same thing: to turn right. This procedure reduces uncertainty (and delay) and also sets Rule 14 apart from the rules around it. Rules 12, 13, 15 and 18 all assign primary responsibility for taking avoiding action to one vessel, the give way vessel; Rule 14 assigns responsibility to both.

The Inland version of this Rule has been modified to accommodate the special needs of vessels navigating on meandering rivers, where the downbound vessel may have less ability to maneuver than the vessel it meets head on

traveling upriver. The courts have recognized that down bound vessels are restricted in their ability to maneuver per Rule 18 (a) (ii), and that the descending vessel is the "privileged" vessel and has the right of way. The ascending vessel is the "burdened" vessel. *Harcon Barge Company v. M/V J.B. CHAUVIN*, 487 F. Supp. 187 (NDMS, 1979), the ascending vessel, as the burdened vessel, is required to navigate in such a way as not to interfere with the course to be followed by the descending vessel.

Rule 14 applies only to power driven vessels meeting head on with other *power driven vessels*. It does not apply if one of the power driven vessels is not an "ordinary" power driven vessel but rather is one that is made a stand on vessel with respect to an ordinary power driven vessel by Rule 18(a). These other special vessels include vessels not under command, restricted in ability to maneuver, or engaged in fishing that are not required to take action (initially) when meeting an ordinary power driven vessel head on. Two sailing vessels meeting head on are governed by Rule 12.

Rule 14 is easy to follow. Each power driven vessel approaching another head on is required *to alter its course to starboard* for a port-to-port passing – you must turn right, never left. An Inland Rule exception permits alterations to port for a starboard-to-starboard passing if both vessels agree in advance. Once a passing agreement is reached between an ascending and a descending vessel, both vessels are bound to abide by the agreement and navigate their vessels accordingly.

Part (b) of Rule 14 states:

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

Risk of collision must exist for Rule 14 to apply. In theory, two distant vessels approaching nearly head on may by the time they near each other be so far apart (to one side or the other) that no action is required. In practice, if you are close enough to another vessel to determine that you

are meeting nearly head on, you most likely will also be in risk of collision.

Paragraph (c) states:

(c) When a vessel is in any doubt as to whether such a situation exists, she shall assume it does exist and act accordingly.

Paragraph (c) poses a warning. If it is not plain to you that a *crossing* situation exists, then take the action for a *head on* situation.

Paragraph (d) provides:

(d) Notwithstanding paragraph (a) of this Rule, a power driven vessel operating on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right of way over an upbound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a) (i), as appropriate.

While giving the downbound vessel the right of way, Rule 14(d) imposes on it the affirmative duty on the descending vessel to initiate contact with the ascending vessel to arrange for safe passage. The downbound vessel cannot assume that the ascending vessel will give way. Contact must be made and the course of each affirmed. Rule 14 should also be read in conjunction with Rule 9 which prescribes the duties of vessels navigating in defined narrow channels. Rule 9 imposes on the descending vessel the extra duty to propose the manner and place of passage and on the ascending vessel the obligation to hold against the current as necessary to permit safe passing. Don't forget, violation of one of the rules of the road can raise the presumption of negligence as to the offending vessel, a presumption that shifts the burden of proof to the offender to prove that its violation could not have been a cause of the casualty. This can be an uphill battle should litigation ensue.

Handbook of the Nautical Rules of the Road, Llana & Winesky, Third Ed.



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World Trade Center News



WORLD TRADE CENTER
OF NEW ORLEANS

Louisiana Global Exports Continue Growth in Third Quarter

Following the overall growth of U.S. exports, Louisiana's year-to-date 2011 worldwide merchandise exports increased by 45 percent in value over the same period in 2010, according to a report issued by the World Trade Center of New Orleans. Through Q3 2011, Louisiana exports totaled \$39.8 billion compared to \$27.4 billion the previous year. Louisiana's principal export markets through the third quarter were China (\$4.01 billion), Mexico (\$3.99 billion), and Japan (\$2.75 billion), followed by the Netherlands, Canada, Singapore, and Korea.

WTC CEO Dominik Knoll noted that "These numbers reflect Louisiana's importance as one of the leading export centers in the world. This year we've seen not only strong growth in our agricultural and energy exports, but in manufacturing sectors as well." Mr. Knoll added "Louisiana stands to be one of the nation's biggest beneficiaries of the recently signed free trade agreements with Colombia, Korea, and Panama, and the World Trade Center is ready to assist our members to expand their business in those markets. Korea, already our state's seventh-largest export destination, offers tremendous opportunities for growth as tariffs on over one-third of Louisiana products are completely eliminated."

Total U.S. exports were up almost 18 percent through the third quarter, with Louisiana ranking 7th among all states, compared to 9th for the same period in 2010. Among the top ten exporting states, Louisiana had the highest rate

of growth, far outpacing Illinois' 32 percent increase.

"2011 has been a very strong year in almost every sector for Louisiana," said Larry Collins, Louisiana Economic Development Director of International Services. "Economic uncertainty in the Eurozone has had little impact so far—growth in exports to countries like the Netherlands, Spain and Belgium reflect the continued demand for our state's products around the world."

Don van de Werken, Director of the New Orleans U.S. Export Assistance Center, said "Recent approval by Congress for Free Trade Agreements with South Korea, Panama and Colombia are a positive step forward in creating additional export opportunities for Louisiana companies. Louisiana exports to these three nations should double in the coming years and this will help create additional income and job opportunities for local businesses."

Energy, Agriculture Sectors Rise

Exports of petroleum and coal products saw a year-over-year increase of almost 78 percent to \$13.5 billion, reflecting increased world-wide demand and higher prices. Oil and gas related exports soared in value through Q3, jumping 559 percent from \$45.8 million in 2010 to \$301.9 million in 2011. Louisiana's other leading categories included agricultural products (\$11.9 billion, up 37.25 percent), chemicals (\$6.1 billion, up 31.5 percent), food products (\$3.23 billion, up 15.4 percent), and minerals and ores (\$1.3 billion, up 142 percent).

Louisiana Agriculture and Forestry Commissioner Mike Strain remarked that "The numbers prove once again that America's agriculture and food sector, and Louisiana's in particular, is highly competitive on a global scale—And with worldwide demand growing strongly over the coming decades, we will increasingly be called on to supply global markets with the food and fiber that they need."

"We continue to see strong growth in demand for grain in China and Japan," said Jerry Hingle, Executive Director of the New Orleans-based export development non-profit Southern U.S. Trade Association, noting that 66 percent of the state's exports to China and 84 percent of its exports to Japan were in the agricultural sector. "There's also significant interest in Louisiana

food and cuisine around the world, and more Louisiana companies are realizing this and going international to grow their sales."

Louisiana Ports See Gains in Vessel Weight, Dollar Values

The increase in total vessel weight for Louisiana's ports through the third quarter was 11 percent compared to 2010, while total U.S. exports registered a 12.3 percent gain, according to the WTC report.

"Vessel traffic across all sectors is strong, driven by increased demand for U.S. exports," said Gary LaGrange, President & CEO of the Port of New Orleans. "Both volumes and dollar values of those exports continue to rise and attract ancillary cargo, which shows the industrial strength of the Lower Mississippi River and the Port of New Orleans."

The WTC report covers the exports of both Louisiana-originating products and some major commingled bulk commodities (especially grain and coal) that are produced in other states, shipped abroad from Louisiana's ports, and recorded as Louisiana exports because of Department of the Census standards used to calculate exports.

MARK YOUR CALENDARS

January 12, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

February 2, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

March 9, 2012 – PAL Monthly Meeting, 10AM, L'Auberge, Lake Charles, LA

April 5, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

May 3, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

June 7, 2012 – PAL Monthly Meeting, 10AM, location TBA

July 12, 2012 – PAL Monthly Meeting, 10AM, Location TBA

August 2, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

September 6, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

