March 2012

Senate Approves Two-Year Transportation Bill
The Senate gave final approval March 14 to a bipartisan two-year, $109 billion federal surface transportation reauthorization bill that had stalled for weeks as Senate leaders attempted to reach agreement on what amendments would be brought to the floor. The vote was 74-22.

Moving Ahead for Progress in the 21st Century, MAP-21 (S.1813), maintains current levels of funding plus inflation for federal highway and transit programs. It contains no earmarks, consolidates many federal programs and includes new provisions to expedite project delivery. The legislation also provides for a five year exemption from the state private activity bond (PAB) volume cap for water and wastewater projects and provides for a one year AMT extension for tax exempt bonds. In addition, the legislation contains a number of budgetary offsets and transfers necessary to close a $12 billion gap to pay for the bill’s funding levels.

Prior to passage, the legislation had stalled for weeks over disagreement on whether or not to allow non-germane amendments on issues ranging from approval of the Keystone XL pipeline and air quality standards for boilers to energy-related tax provisions. An agreement to allow 12 non-germane amendments a week ago gave new life to the legislation and opened the way for a final vote to be taken March 14.

The Senate considered 30 amendments over three days before the final vote. An APWA-supported amendment restoring dedicated funding for off-system bridges was approved by voice vote. The Senate also approved an amendment removing privatized highways from consideration in apportioning highway funding among states, and also passed amendments strengthening Buy America provisions and clarifying exemptions relating to transportation of agricultural commodities and farm supplies. An amendment to modify the apportionment formula to ensure the percentage of apportioned funds received by a state equaled the percentage of gas taxes paid by a state failed.

Members of the House of Representatives return from a week-long recess the week of March 19 and are expected to consider a retooled House version soon. House leaders suspended consideration of a five-year, $260 billion bill because it did not have sufficient support to pass. A shorter, 18-month version also lacked votes for passage. House leaders are considering taking up the two-year Senate bill or something similar to it if they cannot generate support for a revised five year bill. It is unclear how or whether the House will include PAB in its bill. Last month, supporters of PAB, including APWA, were successful in generating support for a lifting of state volume caps on PAB for water and wastewater projects from House Transportation and Infrastructure leaders.

The eighth extension of federal surface transportation programs expires March 31.
California Infrastructure Earns Grade of “C”
A new infrastructure report card reveals that California’s infrastructure earned an overall grade of “C” and needs an additional annual investment of $65 billion. The American Society of Civil Engineers (ASCE) Region 9, which covers the state of California, released its 2012 California Infrastructure Report Card at the Capitol in Sacramento, CA February 29. APWA joined the University of California Irvine Civil & Environmental Engineering Affiliates and the American Council of Engineering Companies in supporting the Report Card.

The Report Card shows that California’s infrastructure investment has not kept up with the state’s growing population demands and is continuing to delay much-needed renewal and maintenance. In addition to issuing an overall grade, the Report Card provides an evaluation and letter grade for eight of California’s critical infrastructure areas: aviation, levees/flood control, ports, solid waste, transportation, urban runoff, wastewater, and water systems. The grades are:

- Aviation: C+
- Levees/Flood Control: D
- Ports: B-
- Solid Waste: B
- Transportation: C-
- Urban Runoff: D+
- Wastewater: C+
- Water: C

ASCE developed the Report Card to create a consolidated document that offers a fact-based assessment of the state’s infrastructure. Other goals of the report are to give the public and political leaders the ability to compare and contrast grades on different categories of infrastructure, to advise them on ways to improve grades and to help them make better decisions on where to commit resources. The Report Card highlights the condition of the state’s infrastructure so that the public and policy makers can make informed decisions on funding critical assets.

This is the second California Infrastructure Report Card. The first was issued in 2006. For more information visit: [http://www.ascecareportcard.org/](http://www.ascecareportcard.org/)

2010 ADA Accessible Design Standards Become Mandatory
The Department of Justice’s (DOJ) updated Americans with Disabilities Act (ADA) Accessible Design Standards (2010) become mandatory March 15 for new construction and alterations covered by ADA. Optional use of the original 1991 ADA standards will no longer be allowed beginning March 15. DOJ adopted the updated standards in September 2010, but permitted continued use of the 1991 standards for 18 months to allow time for transitioning to the 2010 edition.

The 2010 standards set minimum requirements – both scoping and technical – for newly designed and constructed or altered state and local government facilities, public accommodations and commercial facilities to be readily accessible to and usable by individuals with disabilities.

For state and local government facilities covered by title II, compliance with the 2010 standards is required where the physical start of construction or alteration occurs on or after March 15, 2012. However, public transportation facilities, including bus stops and rail stations, are subject to
ADA standards issued by the Department of Transportation (DOT), not DOJ. DOT’s updated ADA standards (2006), which are very similar to DOJ’s 2010 edition, are already mandatory for public transportation facilities.

More information and copies of the 2010 standards are available on DOJ’s website at www.ada.gov.

**Requests for TIFIA Loans Top $13 Billion**
The US Department of Transportation (USDOT) reports overwhelming demand for TIFIA (Transportation Infrastructure Finance and Innovation Act) program loans. USDOT received 26 TIFIA letters of interest exceeding $13 billion last month.

The high number of applicants for TIFIA credit assistance in response to a Notice of Funding Availability (NOFA) for 2012 follows the trend in recent years of overwhelming demand for the program. Requests in 2010 were more than $12 billion and more than $14 billion in 2011.

The TIFIA program provides federal credit assistance to nationally or regionally significant surface transportation projects, including highway, transit and rail. The program is designed to fill market gaps and leverage substantial private co-investment by providing projects with supplemental or subordinate debt.

**Legislation Allocates D Block Spectrum to Public Safety**
President Obama signed into law legislation designed to strengthen emergency communications capabilities and interoperability nationwide. Provisions within the Temporary Payroll Tax Cut Continuation Act of 2012 establish a new Nationwide Public Safety Broadband Network by allocating the 700 MHz D Block spectrum to the public safety and first responder communities.

The Nationwide Public Safety Broadband Network will help improve public works emergency response and recovery operations by allowing communication on the same frequency through voice and data with other public works agencies, fire, law enforcement and emergency medical services. The Broadband Network will also ensure that build out occurs in the rural areas of the country.

The build out of the network will begin with the creation of an independent First Responders Network Authority (FirstNet) within the National Telecommunications and Information Administration. FirstNet will manage the network, providing opportunities for public safety input and leadership in the development, operation and maintenance of the network.

The law allocates $7 billion for nationwide build out. A State and Local Implementation Fund will be established to assist local jurisdictions with integrating the network infrastructure. Federal grants to states, regional, tribal and local authorities will cover up to 80 percent of the cost.

Because FirstNet still has to be established, it is unclear whether public works agencies will need to work with state or local officials, or if they will need to work directly with FirstNet on the federal level to ensure that their agencies are integrated into the broadband network. APWA will provide updates as details emerge.

The Nationwide Public Safety Broadband Network fulfills recommendations made by the 9/11 Commission and the Federal Communications Commission’s National Broadband Plan. President
Obama signed the bill into law February 22 after Congress approved the legislation with strong support by a vote of 293-132 in the House and 60-30 in the Senate.

FEMA Seeks Input on National Frameworks
The Federal Emergency Management Agency (FEMA) is seeking comment on four working drafts of the National Planning Frameworks and the Recovery Federal Interagency Operational Plan, which are part of Homeland Security Presidential Policy Directive 8 (HSPPD-8). Comments are due by April 2. Visit www.fema.gov/ppd8 to view the working drafts and submit comments.

Released March 5, the National Frameworks, focusing on prevention, protection, mitigation, response and recovery, clearly define key preparedness roles and responsibilities for the entire community. As each of these products is made final, federal interagency operational plans will be developed to provide guidance across the federal government to successfully implement the Frameworks.

The National Frameworks are the next step toward implementation of HSPPD-8. In September 2011, FEMA released the National Preparedness Goal and the National Disaster Recovery Framework. The National Preparedness Goal outlines the vision for preparedness—that it is a shared nationwide responsibility—and identifies core capabilities and capability targets necessary to achieve across five mission areas: prevention, protection, mitigation, response and recovery. The National Disaster Recovery Framework is a guide that provides recovery support to disaster-impacted States, Tribes, Territorial and local jurisdictions.

The Obama Administration released HSPPD-8 on March 30, 2011, replacing Homeland Security Presidential Directive-8 and Homeland Security Presidential Directive-8 Annex I, released under the Bush Administration. APWA was one of 24 national stakeholders that worked closely with the White House’s National Security Staff on developing the policy directive by way of providing comments on national preparedness, interagency coordination, response capabilities, and State and local resilience to natural and man-made emergencies.

There continues to be a variety of opportunities to engage in the development of the frameworks through webinars, in-person workshops and through an online collaboration tool at www.fema.ideascale.com. Information on these opportunities can also be found at www.fema.gov/ppd8.

House Committee Approves FEMA Reauthorization Bill
The House Transportation and Infrastructure Committee passed a $1 billion, three-year reauthorization of the Federal Emergency Management Agency (FEMA) by voice vote March 8.

Sponsored by House Economic Development, Public Buildings and Emergency Management Subcommittee Chairman Jeff Denham (R-CA), the FEMA Reauthorization Act of 2012 (H.R. 2903) would extend FEMA programs through 2014 and streamline how states and localities receive supplies and equipment from the Federal Emergency Management Agency (FEMA). It would also shorten FEMA’s appeals process for assistance and require FEMA to ensure its cycle for State Hazard Mitigation plans is consistent with local planning cycles.

The bill reauthorizes both the Dam Safety Program and Emergency Management Assistance Compact grants, makes permanent FEMA’s debris removal pilot program and establishes the Integrated Public Alert Warning System (IPAWS). IPAWS would modernize the current public alert warning systems
by adapting the distribution and content of communications to specific geographic locations and/or individuals—including those with disabilities or limited English proficiency.

The legislation is expected to be considered by the Senate at the end of March. For more information visit: http://transportation.house.gov/news/PRArticle.aspx?NewsID=1548.

House Subcommittee Holds Hearing on Water Infrastructure Financing
The House Water & Environment Subcommittee recently held a hearing to discuss innovative approaches to funding local water infrastructure projects. The hearing reviewed a draft proposal for the Water Infrastructure Finance and Innovation Act or WIFIA. WIFIA is modeled after the popular Transportation Infrastructure Finance and Innovation Act (TIFIA).

The WIFIA plan would lower the cost of borrowing funds for municipal water/wastewater agencies by leveraging funds directly from the U.S. Treasury. Witnesses from municipal water agencies, a representative from the Mayors’ Water Council and representatives from private companies offered testimony in support of the WIFIA proposal. APWA submitted testimony in support of the WIFIA plan.


Senate Committee Holds Hearing on Farm Bill Reauthorization
The Senate Committee on Agriculture, Nutrition and Forestry held a hearing to discuss the Conservation Title of the impending Farm Bill reauthorization. The hearing had two witness panels that consisted of three farmers, representatives from three national non-profit organizations and the heads of US Department of Agriculture’s (USDA) Natural Resources Conservation Service (NRCS) and Farm Service Agency (FSA) to testify to the value of the Farm Bill conservation programs.

All of the witnesses spoke favorably about the conservation programs, with particularly strong praise given to the Conservation Stewardship Program (CSP), Wetlands Reserve Program (WRP), Conservation Reserve Program (CRP), Environmental Quality Incentives Program (EQIP) and the conservation partnership programs. Additionally, witnesses expressed support for streamlining and consolidating the application of conservation programs and facilitating the transition to online applications to make it easier for farmers to apply.

To view a video of the hearing click here: http://www.ag.senate.gov/hearings/strengthening-conservation-through-the-2012-farm-bill

Healthy Waters Coalition Releases Recommendations for Farm Bill Reauthorization
The Healthy Waters Coalition announced its policy recommendations for how Congress can use the reauthorization of the Farm Bill to address water quality challenges facing the agricultural community. The coalition released its recommendations March 6.
According to the US Environmental Protection Agency (EPA), nutrient runoff from agricultural lands is the main source of nitrogen pollution in rivers, lakes and streams. The Healthy Waters Coalition recommended increasing funding for popular conservation programs such as CRP, WRP and EQUIP and tailoring the programs to prioritize reducing nitrogen pollution.

APWA is a member organization of the Healthy Waters Coalition, a diverse coalition of state drinking water and pollution control administrators, sustainable agriculture and conservation organizations.

President Obama Speaks at White House Conference on Conservation
The US Department of the Interior March 2 hosted the White House Conference on Conservation, which highlighted and celebrated many local conservation efforts across the country. Secretary of the Interior, Ken Salazar, presided over the event, which consisted of several expert panels who fielded audience questions.

US Environmental Protection Agency Administrator Lisa P. Jackson led the first panel discussion on making the great outdoors more accessible to diverse communities. Secretary Salazar led a panel discussion on restoring rivers and Secretary of Agriculture, Tom Vilsack led a panel discussion on conserving rural lands.

The conference concluded with remarks by President Obama who heralded his America’s Great Outdoors Initiative which opens up recreational access to lands and waters, supports the creation of urban parks and trails, increases youth employment in conservation jobs and makes historic investments in large landscapes such as the Everglades.

HUD Seeking Comments on PACE
The Federal Housing Finance Authority (FHFA) is currently accepting comments on the Property Assessed Clean Energy Model (PACE) which helps property owners make energy efficiency improvements by financing the upgrades with future energy savings.

PACE supporters argue that the program is a powerful financing tool that can drive energy efficiency and renewable energy projects in buildings. PACE programs provide long term financing that makes these projects cost effective sooner, and because the assessment stays with the property upon sale, property owners do not need to worry that a loan payoff on sale will ruin the cost effectiveness of the project. PACE programs also help state and local governments meet energy efficiency and sustainability goals as well as create jobs.

Until these programs were halted by regulators, over 20 states allowed property owners to finance energy efficiency upgrades on their property tax bills. FHFA, which regulates Fannie Mae and Freddie Mac, raised concerns about PACE programs because private lenders, rather than the government backed mortgage lenders, are given the first lien on a property and would get paid before the government backed mortgage lenders. Since 2012, Fannie Mae and Freddie Mac have not underwritten any new mortgages for properties with outstanding loans. FHFA was forced to initiate a rulemaking as the result of a lawsuit filed by PACE supporters in California.

Guidance Clarifying “Waters of the United States” Under Review by OMB
The Environmental Protection Agency (EPA) and the US Army Corps of Engineers (Corps) have finalized guidance on the definition of “waters of the United States” under the Clean Water Act (CWA) and sent it to the Office of Management and Budget (OMB) for final review and approval.

The joint guidance, which was proposed earlier this year, set out to clarify which waters are subject to CWA jurisdiction by modifying the definition of “waters of the United States” in the Act. According to the agencies the guidance will provide a more predictable and consistent framework for identifying which waters are subject to protection under the CWA. The guidance will also impact other CWA programs, including the National Pollution Discharge Elimination System (NPDES), total daily maximum load (TMDL) and other water quality standards programs or the Spill Prevention Control and Countermeasure programs.

Opponents of the guidance, including APWA, have argued that federal jurisdiction and permitting requirements would be expanded and many more waters would be subject to regulation under the CWA. APWA also argued that it was improper for the agencies to pursue a guidance document rather than going through a formal rulemaking process.

It is uncertain when OMB will release the guidance, but it has a minimum of 30 days for its review. While OMB is reviewing the new guidance, the agencies are continuing to pursue a formal rulemaking process to clarify jurisdiction under the CWA, and several Congressional leaders have vowed to introduce legislation prohibiting EPA and the Corps from moving forward with a new rule expanding the scope of federal jurisdiction. To review the guidance and to keep updated on the agencies’ progress lease visit: http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm.

New Funding Opportunity to Accelerate job Creation in Rural Communities
The Obama Administration this month announced a $15 million multi-agency Rural Jobs and Innovation Accelerator challenge to spur job creation and economic growth in distressed rural communities. This competition, which is being funded by the U.S. Department of Commerce's Economic Development Administration (EDA), the U.S. Department of Agriculture (USDA), the Delta Regional Authority (DRA), and the Appalachian Regional Commission (ARC), was designed by the Taskforce for the Advancement of Regional Innovation Clusters and the White House Rural Council.

President Obama recently announced the challenge as part of the Administration’s "We Can't Wait" efforts to strengthen the economy, create jobs and support business growth, particularly expanding opportunity for rural Americans and supporting new and innovative businesses nationwide.

The national effort will support rural partnerships by identifying and leveraging local assets and strengthening linkages to industry clusters. Strong industry clusters promote robust economic ecosystems and the development of a skilled workforce, both of which are critical to long-term regional success in rural areas. Last year’s 20 challenge winners, both rural and urban public-private partnerships, generated millions in matching funds and their projects are expected to help create

**EV-Everywhere Challenge Announced**
President Obama on March 7 launched the Department of Energy’s (DOE) EV-Everywhere Challenge, allowing scientists, engineers and businesses to collaborate to make electric vehicles (EV) more affordable than gasoline-powered vehicles in 10 years. The challenge is part of a strategy to help reduce dependence on foreign oil.

The DOE initiative, which will bring together DOE’s Office of Energy Efficiency and Renewable Energy’s Vehicle Technologies Program, its Office of Science, and its Advanced Research Projects Agency—Energy (ARPA-E), will aim to make electric vehicles affordable. The team will target dramatic technological and cost improvements in batteries, electric motors, power electronics, lightweight structures, and fast-charging technology. The goal is to enable U.S. companies to be the first to produce a 5-passenger affordable EV with a payback time of fewer than 5 years.

The challenge will involve working with industry, universities, national laboratories and government partners to set technical goals for cutting costs for the batteries and electric drivetrain systems, reducing the vehicle weights while maintaining safety, and increasing fast-charge rates. As part of the initiative, DOE will organize a series of EV-Everywhere Challenge workshops across the country over the next few months. DOE will announce over the next few months a series of additional “Grand Challenges,” each focused on technical innovations and reductions in cost that will enable clean energy technologies to compete directly, without subsidies, with the energy technologies currently in wide use.

To see the President’s remarks visit: http://www.whitehouse.gov/the-press-office/2012/03/07/remarks-president-energy-mount-holly-nc.