

August 2010

Senator Reid Introduces Scaled Back Energy and Oil Spill Liability Bill

As expected, Senate Majority Leader Reid (D-NV) introduced a scaled back energy and oil spill liability bill, the Clean Energy Jobs and Oil Spill Accountability Act of 2010, in the wake of the BP Gulf Oil Spill and in response to the House passed American Clean Energy and Security Act (ACES). The Reid bill would revise offshore oil spill liability limits, restructure federal oversight of offshore oil drilling, provides new incentives for energy efficiency retrofits, support deployment of plug in hybrid vehicles and create incentives for use of natural gas in the transportation sector. The bill does not include an economy wide cap and trade program to control greenhouse gas emissions like the House ACES legislation, nor does it include a renewable energy standard. Facing opposition from Senate Republicans and several Democratic Senators from offshore drilling states, Senator Reid did not bring his bill up for consideration before the Senate adjourned for the August recess. There is a small possibility that the Senate will consider the Reid bill during the lame duck sessions after the November elections, but there is a lot of controversy surrounding that possibility. To view a summary of the bill, visit: http://dpc.senate.gov/files_energybill/bill_short_summary.pdf.

House Appropriations Subcommittee Approves FY11 Budget for EPA

The House Appropriations Subcommittee approved a \$32.2 billion Fiscal Year 2011 spending bill for the Department of Interior, Environment and Related Agencies late in July. The bill appropriates approximately \$10 billion for the Environmental Protection Agency (EPA), a slight decrease from Fiscal Year 2010. The spending bill provides \$1.9 billion to the Clean Water State Revolving Fund and \$1.2 billion for the Drinking Water State Revolving Fund. An additional \$1.3 billion was appropriated to the Superfund program and \$455.5 million for climate change adaptation efforts. The bill also makes significant investments to protect great American water bodies, including the Great Lakes, Puget Sound and the Mississippi River.

Revisions to Total Coliform Rule Contemplated

The Environmental Protection Agency (EPA) recently announced plans to release a revised draft guidance manual outlining new steps for assessments and corrective actions to protect drinking water from microbial contamination. The Total Coliform Rule (TCR) is the primary federal regulation for preventing contamination of public water systems with bacteria and other microbes that are threats to public health. The new revisions will, for the first time, require assessment and corrective action when E. Coli bacteria are found in drinking water systems. Current rules require only public notification, not an assessment or corrective action, when E. Coli bacteria are found in drinking water systems. The planned revisions were published in the *Federal Register* on July 14th and the EPA announced that it hopes to finalize a revised rule by summer 2012, with the new rules taking effect three years

later. The public may comment on the proposed revisions on or before September 12, 2010. Information on the TCR is available at http://www.epa.gov/ogwdw000/disinfection/tcr/regulation_revisions.html.

GAO Releases Infrastructure Bank Report

The Government Accountability Office (GAO) issued a report, *Wastewater Infrastructure Financing: Stakeholder Views on a National Infrastructure Bank and Public Private Partnerships*. The GAO was asked to explore new financing options for wastewater infrastructure financing by Republican John Mica (R-FL), ranking member of the House Transportation and Infrastructure Committee. The GAO was asked to evaluate: (1) stakeholder views on issues to be considered in the design of a national infrastructure bank and (2) the extent to which private financing has been used in wastewater public private partnerships and their reported advantages and disadvantages. The GAO surveyed stakeholders with an expertise in wastewater utilities and infrastructure needs, including The American Public Works Association (APWA), the National Association of Clean Water Agencies and the Water Environment Federation. Many respondents indicated that the federal government should provide the national infrastructure bank initial capitalization and the national infrastructure bank should be allowed to seek additional financing through tax exempt bonds, issuing commercial paper and borrowing from the US Treasury. The GAO also explored the advantages and disadvantages of relying on public private partnerships to finance wastewater infrastructure. The GAO found that public private partnerships offer the advantage of providing access to financing for municipalities that find accessing traditional financing sources difficult. Private financing does provide additional flexibility but private financing is generally more costly than tax exempt municipal bonds. The Report is available at <http://www.gao.gov/new.items/d10728.pdf>.

EPA Develops Innovative Software to Secure Nation's Water Supply

Scientists from the U.S. Environmental Protection Agency (EPA) and the Department of Energy (DOE) have collaborated in developing innovative water quality software that enhances a water system's ability to detect when there has been intentional or unintentional contamination. The Canary software can help detect a wide variety of chemical and biological contaminants, including pesticides, metals, and pathogens. Once contamination is detected quickly, a water utility can issue a "Do Not Drink" order to prevent customers from ingesting the water. Drinking water utilities use the software in conjunction with a network of water quality sensors to rapidly detect contamination and to more accurately assess when and how they need to respond. The software helps to distinguish between natural variation in water quality measurements and hazardous contamination, and sends an alarm to indicate when water utilities should take steps to investigate and respond to potential contamination. In addition to achieving homeland security goals, Canary can be used to enhance day-to-day water quality management, and ensure the safety and security of water for all consumers.

The Greater Cincinnati Water Works is the first utility to pilot the software and has been using Canary to assist in detecting and managing contamination incidents since 2007. The software is currently being evaluated in four other U.S. cities -- New York, Los Angeles, Philadelphia, and San Francisco -- and in Singapore. EPA and DOE received a 2010 "R&D 100 Award" from R&D Magazine for developing Canary. The R&D 100 awards recognize the top high-technology products of the year. As a free software tool, Canary is available worldwide to drinking water utilities striving to provide safe water to their customers. The software has been accessed by more than 600 users in 15 countries.

More information on Canary: <http://www.epa.gov/nhsrc/news/news122007.html> . More information on EPA's Water Security initiative: <http://cfpub.epa.gov/safewater/watersecurity/index.cfm>

EPA Offers Training for Brownfields Grants Applicants

The EPA is offering two seminars, "Understanding the FY 11 EPA Job Training Grant Application Guidelines" The seminars will be held August 30 and September 2. Both will take place from 2:00 to 4:00 p.m. EST and participants must pre-register on EPA's Clean Up Information Training website at <http://www.clu-in.org/training/>. There are a limited number of slots available. EPA said it expects to release a request for proposals for the grants in early October, and the deadline for submitting them will be in January 2011. There will be changes to the guidelines for fiscal year 2011; in the interim, the fiscal year 2010 request for proposals and application guidelines are available at <http://www.epa.gov/oswer/docs/grants/epa-oswer-oblr-09-07.pdf>.

FTA Study Finds \$77.7 Billion Needed to Bring Nation's Rail and Bus Systems into Repair

A Federal Transit Administration (FTA) study released in July estimates the cost of bringing the nation's rail and bus transit systems into a state of good repair at \$77.7 billion. A yearly average of \$14.4 billion would be required to maintain the systems.

FTA's *National State of Good Repair Assessment Study*, requested by U.S. Transportation Secretary Ray LaHood as a follow-up to the *2009 Rail Modernization Study* report to Congress, provides a comprehensive analysis of the costs required to bring the nation's rail and bus transit systems into good operating order.

While most of the \$77.7 billion backlog can be attributed to rail, more than 40 percent of the nation's buses are also in poor to marginal condition.

House Passes \$79 Billion Transportation Appropriations

The House of Representatives July 29th approved a \$79.4 billion Fiscal Year 2011 Transportation Appropriations bill (H.R. 5850) for programs administered by the US Department of Transportation (DOT). The legislation, approved by a vote of 251-167, includes \$45.2 billion for federal highway programs, \$3.1 billion more than current fiscal year and \$4 billion more than the Administration requested.

The panel rejected the Administration's request to provide \$4 billion for a new National Infrastructure Innovation and Finance Fund designed to provide grants and loans to support the financing and construction of large infrastructure projects. The fund has not been authorized.

The measure also provides \$11.3 billion for Federal Transit Administration programs, \$575 million more than current fiscal year, and \$507 million more than the Administration's request. It funds Federal Aviation Administration at \$16.5 billion, provides \$1.4 billion for high speed rail and \$400 million for the Transportation Investment Generating Economic Recovery (TIGER) program, a popular discretionary grant program created under the Economic Recovery Act.

The bill also directs \$200 million from the Highway Trust Fund for the Partnership for Sustainable Communities, a joint DOT, Housing and Urban Development Department and Environmental Protection Agency initiative to advance sustainable development. The bill was amended on the floor to require that Congress first authorize a livable communities program before the transfer could go into effect.

The Transportation funding is part of larger Appropriations bill that also includes the Department of Housing and Urban Development. The entire bill totals \$126 billion

The Senate Appropriations Committee approved its version (S. 3644) July 22. For DOT programs it includes \$75.7 billion, nearly \$4 billion less than the House-passed bill. Fiscal Year 2011 begins October 1, 2010.

House Votes to Rescind Transportation Funding

The House of Representatives July 20th approved legislation rescinding \$106.8 million of contract authority from the National Highway Traffic Safety Administration (NHTSA) and the Federal Transit Administration (FTA). The vote was 402-0.

For various reasons, these funds are not available for use by the two agencies in the current fiscal year. Titled the *Surface Transportation Savings Act of 2010* (H. R. 5604), the bill uses the savings to reduce the federal budget deficit.

The rescissions include \$81 million in contract authority from a NHTSA seat belt program, which the agency says it does not need because an insufficient number of states qualified for the program, and \$17.4 million in contract authority from FTA's formula and bus grant program, because an appropriations bill approved last year provided that much less funding. The bill was referred to the Senate Commerce, Science and Transportation Committee.

Senate Approves Bill Rescinding \$2.2 Billion in Highway Funding

Before departing for the summer recess, the Senate August 5th passed legislation that includes a rescission of \$2.2 billion of highway program apportionment balances. The rescission is part of a larger \$26 billion bill extending Medicaid and funding support for teacher salaries. The measure, H.R. 1586, is paid for by a mix of tax increases and cuts in spending, including the rescission in highway contract authority. The bill grants states flexibility on which highway formula programs to cut. The House of Representatives returns from its recess the week of August 9th to consider the bill.

Supplemental Appropriations Allocated to Disaster Relief Fund

On July 29, President Obama signed into law the Supplemental Appropriations Act of 2010 (P.L. 111-212). The law allocates an additional \$5.1 billion to the Disaster Relief Fund (DRF) which provides a portion of the total federal response to victims in declared major disasters and emergencies. The supplemental funds is intended to cover all known claims from Hurricane Katrina and the anticipated expenses of Fiscal Year 2010, if there are no large scale disasters.

By June, the DRF was so low that if a catastrophic disaster had occurred before supplemental funds were allocated, the federal response to disasters would have been seriously compromised, putting citizens and the nation at greater risk for loss of life and property.

Congress Introduces Interoperable Communications Legislation for Public Safety

Over the past four months, Congress and the public safety community have been reacting to the Federal Communications Commission's (FCC) National Broadband Plan which was submitted to Congress on March 16.

Mandated by the American Recovery and Reinvestment Act (P.L. 111-5) in February 2009, the National Broadband Plan promotes the creation of a public safety wireless broadband communications network enabling first responders to connect with each other on the same frequency during emergencies. Importantly, the Plan specifies that the 700 MHz D Block spectrum be auctioned off to the highest commercial bidder. In turn, the public safety community would be able to gain priority access on the commercial network for a fee. The FCC anticipated putting the D Block up for auction by early next year.

Numerous Members of Congress and the public safety community—including APWA—believe that first responders should not be charged a fee to gain priority access to an interoperable communications network that would help save lives, property and communities when disaster strikes. Accordingly, on April 20, Representative Peter King (R, NY-3) introduced the “Broadband for First Responders Act” (HR 5081); on July 21, Senators Joseph Lieberman (I-CT) and John McCain (R-AZ) introduced the “First Responders Protection Act” (S 3625); and on August 4, Senator John Rockefeller (D-WV) introduced the “Public Safety Spectrum and Wireless Innovation Act” (S. 3756). All three bills are similar in that they allocate the 700 MHz D Block spectrum, free of charge, to the public safety community. APWA has sent letters to the bills’ sponsors and their colleagues, informing them of our support of the legislation and emphasizing how important it is that public works be recognized alongside the other first responders, such as fire, police and emergency medical professionals, mentioned in the legislation.

Due to Congress’ proactive approach coupled with the outcry from the public safety community, current indications is that the introduction of these three bills will delay the FCC’s auction of the D Block as this issue is further investigated by the Obama Administration, Congress and stakeholders. To read the National Broadband Plan, visit the FCC’s website at <http://www.broadband.gov>.

To view the interoperable communications legislation, visit APWA’s website at <http://www.apwa.net/Advocacy/legislation.asp>.

DHS Secretary Announces FY 2010 Preparedness Grants

On July 15, Department of Homeland Security Secretary (DHS), Janet Napolitano, announced that over \$1.8 billion in Federal Emergency Management Agency (FEMA) preparedness grants were allocated in FY 2010. According to Secretary Napolitano, “the grants . . . will help our partners in state, local and tribal governments and non-profit organizations across the country better prepare for, respond to and recover from all threats and hazards . . . These investments have a direct impact on

communities across the country as we work together to build, sustain and improve the resilience of our families, businesses and neighborhoods.”

In total, the Homeland Security Grant Program received \$1.78 billion. Specific allocations that impact public works are as follows:

The Urban Area Security Initiative (UASI) received \$832.5 million. UASI works to enhance regional preparedness capabilities in 64 high-threat, high-density areas. Ten of the highest risk areas were eligible for more than \$524.4 million, whereas the remaining 54 urban areas that posed a lower threat risk were eligible for \$308 million.

The Regional Catastrophic Preparedness Grant Program (RCPGP) was allocated \$33.6 million. RCPGP enhances catastrophic incident preparedness in selected high-risk urban areas and their surrounding regions. This program supports coordination of regional all hazards planning, including the development of protocols and procedures to manage regional planning for catastrophic events.

The Tribal Homeland Security Grant Program was provided with \$10 million which was allocated directly to select eligible tribal applicants to implement preparedness initiatives that will guard against terrorist attacks and other hazards.

The Citizen Corps Program received \$12.4 million. This program helps engage citizens in community preparedness, response and recovery activities.

For additional grant information, visit FEMA’s website at www.fema.gov/grants.