

# APWA Washington REPORT

March 2004

## TRANSPORTATION

### Alternative Fueled Vehicles

#### **DOE CANCELS ALTERNATIVE FUEL VEHICLE REQUIREMENT FOR LOCAL FLEETS**

The US Department of Energy (DOE) has issued a final rule announcing that it is not adopting a regulatory requirement that owners and operators of certain private and local government fleets acquire alternative fueled vehicles.

DOE's decision is based on its findings that such a requirement would not appreciably increase the percentage of alternative fuel and replacement fuel used by motor vehicles in the US and thus would make no more than a negligible contribution to the achievement of the replacement fuel goals set forth in the Energy Policy Act of 1992 (EPAct.)

As a result of these findings, DOE is precluded from promulgating a regulatory requirement for private and local government fleets because such a rule is not "necessary" within the meaning of EPAct. The findings and conclusions reached are consistent with those proposed in DOE's March 4, 2003 notice of proposed rulemaking. The rule was published January 29, 2004 in the *Federal Register* and takes effect March 1, 2004.

*For more information contact the Office of Energy Efficiency and Renewable Energy U.S. Department of Energy 202-586-9171. Copies of the final rule and supporting documentation are available on the web at:*

[http://www.ott.doe.gov/epact/private\\_fleets.shtml](http://www.ott.doe.gov/epact/private_fleets.shtml).

### Transportation Funding

#### **CONGRESS PASSES TWO-MONTH EXTENSION OF TEA-21**

Just days before funding authority for transportation programs was due to expire, Congress passed a two-month temporary extension to keep federal highway, transit and safety programs operating until April 30, 2004. The extension (HR 3850) allows Congress more time to complete work on reauthorizing TEA-21.

On February 12, 2004, the Senate approved a \$318 billion, six-year reauthorization bill by a vote of 76-21. The House of Representatives has not passed legislation yet, but is expected to bring a bill to committee by the end of March. The extension is the second Congress has passed since TEA-21 expired on September 30, 2003. The first extension ended February 29, 2004.

In mid February, the House of Representatives approved a four-month extension, but lawmakers in the Senate objected, favoring instead the two-month extension which eventually passed the House on February 26, 2004, and the Senate on February 27, 2004. The bill continues existing programs and prohibits states from transferring funding for congestion mitigation and air quality improvement programs to other program categories.

### TEA-21 Reauthorization

#### **HOUSE BILL IS EXPECTED TO BE SCALED BACK TO \$279.5 BILLION**

The House of Representatives' proposal to reauthorize federal surface transportation programs is expected to be significantly scaled back from a proposed six-year funding level of \$375 billion, as introduced in November 2003, to a likely level of \$279.5 billion. Some lawmakers, however, are saying that no number has yet been finalized.

### **INSIDE YOU'LL FIND**

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AMERICAN PUBLIC WORKS ASSOCIATION • WASHINGTON OFFICE

Peter B. King, Executive Director • 1401 K Street, NW, 11<sup>th</sup> Floor, Washington DC 20005  
(202) 408-9541 • (202) 408-9542 fax • [apwa.dc@apwa.net](mailto:apwa.dc@apwa.net) • [www.apwa.net/govtaffairs](http://www.apwa.net/govtaffairs)

The House Transportation and Infrastructure Committee's proposal, known as the Transportation Equity Act: A Legacy for Users or TEA-LU (HR 3550), has not made it out of Committee. Several scheduled mark ups in early February were postponed while House leadership met to determine an acceptable funding level for the bill and ways to finance it.

A federal motor fuels tax increase was one of the ways the legislation would achieve \$375 billion in funding, which is opposed by House leadership and the Bush Administration.

The Bush Administration favors a six-year bill totaling \$256 billion and has issued veto threats against any reauthorization bill that increases federal motor fuels taxes, is not deficit neutral or includes bonding. The veto warnings were issued as the Senate was debating its six-year \$318 billion reauthorization bill (S 1072), which passed 76-21, on February 12 (see the February issue for details).

The House leadership has been looking at a number of options for moving a House bill, including a two-year \$90 billion proposal, which is meeting resistance in the Senate and by the Administration. House leaders have also considered an approach which would include a "re-opener" provision in a six-year bill, allowing Congress to revisit funding issues after two years to make adjustments.

Meanwhile, House Ways and Means Committee Chairman Bill Thomas (R-CA) and House Transportation and Infrastructure Committee Chairman Don Young (R-AK) have reached agreement on a couple revenue raisers for the House transportation bill. An ethanol tax provision will be added to a corporate tax bill to credit the Highway Trust Fund with full revenues generated from ethanol blended with gasoline.

Similar to an ethanol provision in the Senate's transportation bill, the agreement will change ethanol tax law so the Highway Trust Fund no longer bears the cost of the 5.2 cents-per-gallon exemption on the tax paid for gasoline blended with ethanol. In addition, the agreement will allow the Highway Trust Fund to retain interest on its balances, which it does not currently receive. In all, the tax provisions are expected to provide an additional \$15 billion over six years.

The tax provisions are consistent with APWA's reauthorization position, which supports a policy that users pay a proportionate amount for their use of the transportation system and that accrued interest be credited to the Highway Trust Fund.

The House is not expected to take action on TEA-LU until the end of March. The House and Senate reauthorization bills are posted on APWA's website, <http://www.apwa.net/GovtAffairs/> in its Legislative Action Center.

### **Rural and Metropolitan Transportation**

#### **HOUSE BILLS TARGET TRANSPORTATION FUNDING TO LOCAL PRIORITIES**

National organizations representing local officials are supporting two bills in the House of Representatives designed to provide increased transportation funding targeted to local governments. They are:

- The Metropolitan Congestion Relief Act (HR 3611), introduced by Representative Eddie Bernice Johnson (D-TX), directs funding to metropolitan areas for congestion mitigation and air quality improvement. The bill includes a new core program called the Metropolitan Congestion Relief program authorizing the distribution of funds to the most congested metropolitan areas for projects which directly contribute to congestion relief. The bill also grants greater flexibility and decision-making authority to local governments and includes an Incident Management Program.
- The Rural Transportation Act (HR 3743), introduced by Representative Bob Ney (R-OH) provides local governments in rural areas with additional transportation funding to address rural road safety, improve off-system bridges and strengthen the role of local officials in the statewide planning process. It creates a rural road safety program funded at \$1 billion annually, increases the minimum setaside for off-system bridges from 15 to 25 percent and increases funding for the Local Technical Assistance Program to \$20 million annually.

Member organizations of the Local Officials for Transportation (LOT), an reauthorization advocacy coalition, which includes APWA and the National League of Cities, the US Conference of Mayors, the National Association of Counties, National Association of County Engineers, National Association of Development Organizations, National Association of Regional Councils, Association of Metropolitan Planning Organizations, and other organizations  
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support adding the provisions of these two bills as enhancements to the House Transportation and Infrastructure Committee's transportation reauthorization legislation (HR 3550).

### **Hours of Service Rules**

#### **ENFORCEMENT OF NEW TRUCKING HOURS OF SERVICE RULES BEGINS**

The US Department of Transportation has announced that beginning March 4, 2004, state officials are being asked to begin enforcement of new hours-of-service rules. The new regulations put safety limits on the number of hours commercial drivers can work and operate trucks each day.

The new rules represent the first major rewrite of the hours-of-service regulations in over 60 years and attempt to synchronize the drivers' work and rest schedules with the body's circadian rhythm to reduce fatigue and save lives. For more information visit the Federal Motor Carrier Safety Administration's website: <http://www.fmcsa.dot.gov/>.

## **INTERGOVERNMENTAL**

### **Infrastructure Town Hall Meetings**

#### **PUBLIC WORKS OFFICIALS STRESS NEED TO REINVEST IN PUBLIC INFRASTRUCTURE**

APWA joined the American Society of Civil Engineers (ASCE) in co-sponsoring four infrastructure town hall meetings this year to raise awareness about infrastructure needs through public and media outreach. Meetings were held in New Orleans, Chicago, Portland, OR and New York City from late January until early March.

The meetings featured panel discussions on ASCE's *2003 Progress Report for America's Infrastructure*, which was a follow-up report to its *2001 Infrastructure Report Card*. The *2001 Report Card* gave the nation's infrastructure a grade of D+. The *Progress Report*, issued two years later, found no appreciable improvement in the condition of the nation's infrastructure and determined that the nation's infrastructure investment shortfall over the next five years climbed from \$1.3 trillion to \$1.6 trillion.

Representing public works at the four meetings were: William Sewel, Deputy Director of Public Works for the City of New Orleans, at the New Orleans meeting January 23; Larry Lux, member of the APWA Board of Directors, at the Chicago meeting February 13; Ted Kyle, President APWA Oregon Chapter, at the Portland meeting February 27; and Ron Delo, Past President of the New York Metro Chapter, at the New York City meeting March 5.

The theme of the town hall meetings was America's Infrastructure: Rebuilding Our Economic Backbone. More information about the meetings is posted on the Hot Topics section of its website, <http://www.apwa.net/GovtAffairs/>.

### **APWA Training**

#### **UPCOMING EVENTS TO FEATURE CONSTRUCTION, FLEET MANAGEMENT AND MUCH MORE**

Minnesota, Maryland, Iowa, Kentucky and wherever registrants have a computer and phone wish to participate are sites for future APWA training and/or conferences over the next six weeks. The list follows:

- Introduction to Construction Inspection Works, March 22-25, 2004, in Minneapolis-St. Paul, Minnesota
- Fleet Equipment & Shop Management for Government Agencies Workshop, March 31-April 2, 2004, Montgomery County Maryland
- Self Assessment Using the Management Practices Manual, April 16, 2004, Bettendorf, Iowa
- Erosion Control Compliance with NPDES Phase II, April 22, 2004, a Click, Listen and Learn at your desktop
- North American Snow Conference (workshops and exhibits), April 25-28, 2004, Lexington, Kentucky
- Developing Effective Snow and Ice Control, April 27, 2004, a Click, Listen and Learn at your desktop
- Trenchless Technology and Directional Boring, May 19, 2004, a Click, Listen and Learn at your desktop

For more information and to register online, go the APWA website at [www.apwa.net](http://www.apwa.net) or call 1-800-877-2792.

## **ENVIRONMENT**

### **Lead Contamination**

#### **DC RESIDENTS SUE WATER AUTHORITY ON HIGH LEAD LEVELS IN DRINKING WATER**

Reacting to news that the Washington, D.C., Water and Sewer Authority (WASA) knew of the potential for lead contamination in the city's drinking water since the summer of 2001 but did not take any action or notify the public, two

D.C. families filed a lawsuit March 8, 2004, against WASA and the D.C. government.

The class action suit will represent pregnant women, guardians of young children, and property owners whose homes have been devalued.

During the summer of 2002, half of the 53 houses sampled by WASA had lead contamination exceeding federal lead limits. Rather than releasing that information to the public and beginning a remediation program-- a requirement if 10 percent of the water exceeds the Environmental Protection Agency's (EPA) lead limits--WASA reported to EPA that only 8 percent of the samples exceeded federal limits.

The goal of the lawsuit is to have D.C. Mayor Anthony Williams declare a public emergency and force WASA to begin delivering a clean alternative to the affected households.

### **Electronics Recycling**

#### **EPA AND OTHERS CONTINUE TO WORK ON E-WASTE**

The US Environmental Protection Agency (US EPA) has discontinued its funding and association with a group on recycling and disposal of electronic solid waste. The National Electronic Product Stewardship Initiative (NEPSI) was founded as a joint undertaking between the waste/recycling industry and state and local governments.

When US EPA legal counsel found that the results of NEPSI dialogue could lead to lobbying efforts which would be illegal, they advised EPA it to break away from the discussion. However, US EPA and industry leaders continue to produce solutions outside of NEPSI, given the huge volume of computers, cell phones, televisions and other electronic equipment that is thrown out on a daily basis. Waste Age magazine reports that 130 million mobile phones will be discarded in 2005 and 250 million computers will become obsolete.

EPA has separately begun to sponsor an initiative called, "Plug in to eCycling." This partners electronics manufacturers with Staples retailers to allow offices and individuals to discard their used electronic equipment and have it recycled.

### **Public/Private Partnerships**

#### **WPC RELEASES HANDBOOK FOR DEVELOPING SUCCESSFUL PUBLIC/PRIVATE PARTNERSHIPS**

The Water Partnership Council, a Washington, DC based association of private management services companies, has released a handbook for the public sector, "Establishing Public/Private Partnerships for Water and Wastewater Systems- A Blueprint for Success."

The handbook is designed to provide public officials with a better overall understanding of the array of possible service relationships with the private sector, evolving role risk transfer and performance and financial guarantees offered, measurable benefits to be expected and an overall guideline to the "dos and don'ts" of soliciting and structuring successful partnerships that best meet the expectations both sides hope for.

The handbook contains numerous examples of service arrangements including contracts to operate, maintain and manage publicly owned water and wastewater facilities and systems to design, build and operate new or expanded publicly owned water and wastewater facilities.

*The book is available through the Water Partnership Council at: <http://www.waterpartnership.org>.*

### **Coastal Watershed Funding**

#### **TECHNICAL AND FINANCIAL AID AVAILABLE FOR COASTAL ECOSYSTEMS PROTECTION**

The U.S. Department of Interior and the U.S. Fish and Wildlife Service are offering technical and financial assistance to 16 coastal communities for 2004 through its Coastal Program. The goals of the program are to serve coastal communities by providing assessment and planning tools; conserve pristine coastal habitats; restore degraded coastal wetland, upland, and stream habitats; and focus resources through conservation alliances.

There is no overall deadline for proposals, but individual Coastal Program locations may have specific due dates. For more information, go to the following URL: <http://www.lgean.org/html/whatsnew.cfm?id=719>

### **Wetland Grants**

#### **GRANTS AVAILABLE FOR THE CONSERVATION AND RESTORATION OF WETLANDS**

EPA is now accepting applications for Wetland Program Development Grants (WPDGs). These grants provide eligible applicants an opportunity to conduct projects that promote the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of water pollution. Deadlines vary by region. *For more information, go to the following URL:* <http://www.epa.gov/owow/wetlands/grantguidelines/>.

### **Water Quality Grants**

#### **FUNDS AVAILABLE FOR WATER POLLUTION PREVENTION IN EPA REGION 2 (NY, NJ, PR AND VI)**

EPA is soliciting Proposals for Federal assistance for Water Quality Cooperative Agreements for research, investigations, experiments, training, demonstrations, surveys and studies related to the causes, effects, extent, prevention, reduction, and elimination of water pollution in Region 2 (New York, New Jersey, Puerto Rico and the U.S. Virgin Islands). Proposals are due by April 2, 2004. For more information, click on the following URL: <http://www.lgean.org/html/whatsnew.cfm?id=720>.

### **Rural Renewable Energy**

#### **APWA JOINS 50 GROUPS TO SUPPORT FULL FUNDING OF RENEWABLE ENERGY IN FARM BILL**

APWA and its Small Cities/Rural Communities Forum cosigned a letter with 49 other groups to House and Senate appropriations leadership urging them to provide full funding for the Renewable Energy System and Energy Efficiency Improvement Title of the Farm Security and Rural Investment Act of 2002 (the Farm Bill) and make the funding mandatory, not discretionary.

The past two years the program has been fully funded at \$23 million per year, though it was switched from a mandatory to a discretionary account. The President's FY 2005 budget cuts it more than half to \$10.77 million in discretionary funding, "a wholly inadequate sum for proper project implementation" the letter points out.

The title provides grants, loans and loan guarantees to farmers, ranchers and rural small businesses for the development of renewable energy projects such as wind, biomass and solar energy and energy efficiency improvements. The letter says that full funding is projected to result in \$100 million of energy improvements that save 274 million kWh of electricity (enough to supply the energy needs of over 26,000 homes), the reduction of half a million barrels of imported oil and cut green house gas emissions by 60,000 tons of carbon dioxide.

### **FROM THE STATES**

### **Toxic Waste**

#### **WASHINGTON INTRODUCES BILL REGULATING ELECTRONIC RECYCLING**

House Bill 1942, recently introduced in the Washington State House, would hold manufacturers financially responsible for the environmentally sound collection, recycling and disposal of electronic wastes including old computers, televisions and cell phones. It also forbids landfilling and discourages the export of hazardous electric components.

Mike Cooper (D-Edmonds), sponsor of the legislation, believes that the bill will "diffuse a growing toxic waste problem by finally giving customers a convenient way to recycle their computers and TVs." The financing component of the bill would be determined by the manufacturers.

### **Solid Waste Recycling**

#### **SEATTLE GETS TOUGH ON RECYCLING**

A new mandate in the Emerald City is aimed at enforcing recycling programs. In 2005, the city will begin to inspect residents' garbage for materials that are designated recyclable.

If such objects are found, residents and businesses will be issued warnings. By 2006, if recyclable items are found in residential trash cans more than three times, the waste will not be taken until the recyclables have been extracted from the regular trash. Since businesses are recycling at a rate of 14%, they are the main thrust of this effort and will be fined \$50 for any recyclable materials found in the trash. Seattle hopes to have both residents and businesses recycling at a rate of 60% by 2008.

### **Clean Water Services**

#### **OREGON ISSUES FIRST MULTI SOURCE WATERSHED-BASED DISCHARGE PERMIT**

The nation's first integrated National Pollutant Discharge Elimination System (NPDES) permit covering four wastewater facilities in the Tualatin River watershed has been issued. Instead of each facility and its stormwater system having its own permit, the permits now are combined into one.

Distinctive features of the single permit are: it combines four separate point sources and urban runoff into a single permit; it allows trading pollutant credits among point sources, it uses market incentives to encourage nonpoint sources to participate and it considers the entire watershed's goals for water quality and total maximum daily load (TMDL) allocations.

### **EMERGENCY MANAGEMENT/DISASTER MITIGATION**

#### **Disaster Forms**

##### **REVIEW UNDERWAY OF DISASTER AND NON-DISASTER GRANT APPLICATION FORMS**

Forms which are submitted by state, local and tribal governments for disaster and non-disaster grant applications are being reviewed by the Federal Emergency Management Agency and comments are due by April 23.

For copies of the proposed information collection and to submit comments regarding information request OMB-1660-0025 to Muriel Anderson, chief, Records Management Branch, FEMS, 500 C Street SW, Room 316, Washington, DC 20472, fax: 202-646-3347 or email: [informationcollections@fema.gov](mailto:informationcollections@fema.gov).

Questions should be directed to Arlene Ramsey, grants management specialist, Grants Management Branch, 202-646-4531. The information request appeared in the February 23, 2004, *Federal Register*, page 8213.

#### **Security Network**

##### **SECRETARY RIDGE UNVEILS NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)**

A system to function as a centralized computer network to share information between homeland security officials and other incident managers at the federal, state, and local levels was made public March 1, 2004, by Secretary of Homeland Security Tom Ridge.

Called the National Incident Management System (NIMS) it gives all the nation's responders the same framework for incident management, and fully puts into practice the concept of one mission, one team, one fight," said Ridge. He stated that it provides the same foundation for incident management, in terrorist attacks, natural disasters, and other emergencies."

Ridge also pledged to improve and simplify the process to receive grants through the Department of Homeland Security (DHS).

APWA submitted comments on NIMS and is working closely with the department to find funding for training public works departments for terrorist response preparedness and the incident management system.

#### **DHS Priorities**

##### **GOALS FOR COMING YEAR ANNOUNCED**

Coinciding with the one-year anniversary of DHS, February 26, 2004, Secretary Ridge announced a "to-do list" of new priorities for the department in the coming year. Included in the goals were: the US-VISIT program, border and port monitoring efforts, a Container Security Initiative, an Integrated Deepwater System, aviation security, bio-surveillance, intelligence gathering and sharing, and first responder funding program.

#### **Emergency Response Information**

##### **DHS STRESSES NEED FOR VOLUNTARY PUBLIC-PRIVATE COOPERATION**

The formation of the Protected Critical Infrastructure Information (PCII) program that will work with the private sector to improve and enhance emergency response by asking groups and individuals to voluntarily come forward with information that could help emergency response in the case of a disaster was announced February 19, 2004 by DHS.

Given that 85 percent of critical facilities are in private hands of business and individuals, DHS believes that a voluntary approach will be more effective than attempting to gather the information on its own from each source. Initially data on private physical and cyber infrastructure will only be available to PCII staff, but the long-term plan is to integrate the information into NIMS.

### **Hazard Mitigation**

#### **SENATOR BYRD TAKES UP CAUSE TO HELP SMALLER JURISDICTIONS RESPOND**

At a Senate Appropriations Subcommittee on Homeland Security hearing on the President's FY 2005 Budget request for the Emergency Preparedness and Response Directorate (formerly FEMA), Ranking Minority Member Robert Byrd (D-WV) took up the cause of the Hazard Mitigation Grant Program (HMGP).

The Senator asked Undersecretary Michael Brown how states and small town fire departments for instance, in budgetary crises such as West Virginia is, could act on federal mandates without the money being sent to the states to back it up. Byrd brought to the attention of the Undersecretary that APWA, and other members of the Stafford Act Coalition wanted funding for HMGP restored to its original 15 percent.

He shared with Undersecretary Brown a letter from the Stafford Act Coalition, signed by APWA among others, and sent to both Byrd and Chairman Thad Cochran (R-MS). Senators Patty Murray (D-WA) and Arlen Specter (R-PA) also were in attendance.

Brown told the panel that if federal monies do not cover Pre-Disaster Mitigation, states will need to take up the slack. On homeland security issues, the Undersecretary said that FEMA wants to have a standardized system of training for biological, chemical or other terrorist emergencies for ALL first responders whether they are state, federal, or local; police, fire, EMS, etc. DHS also plans to implement a National Flood Insurance Program (\$85 million) and the recently released National Incident Management System.

### **DHS Report**

#### **DEMOCRATS RESPOND TO PRESIDENT'S HOMELAND SECURITY BUDGET AND OBJECTIVES**

Democrats in the House Select Committee on Homeland Security released a report entitled *America at Risk: Closing the Security Gap* that acknowledges the United States is safer than it was before September 11, but point out remaining security gaps.

The 135-page report, released on the first anniversary of the DHS, identifies weaknesses in aviation, seaports, and bioterrorism preparedness, among others. The report offers specific actions to address and rectify each issue. The report is available online: [http://www.house.gov/hsc/democrats/pdf/press/040116\\_Initial\\_Findings\\_FINAL.pdf](http://www.house.gov/hsc/democrats/pdf/press/040116_Initial_Findings_FINAL.pdf)

### **Cell Phone Problems**

#### **PHONES INTERFERE WITH EMERGENCY RESPONDERS**

Exponential growth of cellular phone usage over the last 20 years has caused major problems for first responders. The 800 MHz frequency bandwidth on which they are designated to operate, has been increasingly used by wireless phone companies causing communications disruptions that can be a matter of life and death for emergency workers and the people they try to save.

A coalition of responders along with corporate giant Nextel Communications is lobbying the FCC to implement harsher restrictions on the 800 MHz frequency. Their plan, entitled the "Consensus Plan," calls for two distinct blocks within the 800 MHz frequency to be created – one for emergency responders and one for cellular users.

Opponents of the Consensus Plan suggest public safety communications be moved to the 700 MHz band. This latter course of action would necessitate Congress to officially designate the 700 MHz band as the bandwidth for public safety officials and would require the broadcasters currently operating in this bandwidth to move elsewhere.

APWA has not, and will not be taking a formal position on the spectrum issue because of the different needs of members across the country. APWA's position supports solving problems with interoperability, and for any interoperability plan to assure that the public works department is appropriately interoperable with other departments and emergency responders.

Contributors to this month's APWA Washington Report are: Beth Denniston, Jim Fahey, Kristina Tanasichuk and Heather McTavish Doucet

The APWA Washington Report is edited by Beth Denniston

Get ready to **CELEBRATE...EDUCATE... and COMMUNICATE...**the role of public works in your community during National Public Works Week, May 16-22, 2004. You don't need to reinvent the wheel--a handy "HOW TO GUIDE" is available from headquarters or go to [www.apwa.net/about/npww](http://www.apwa.net/about/npww) to see what others are doing