

## DOT apportions \$27.5 billion in economic recovery highway funds

On March 3 the Federal Highway Administration distributed \$27.5 billion in highway funds under the provisions of the American Recovery and Reinvestment Act of 2009. Of the total, \$4.3 billion are available in states for use in urban areas with populations exceeding 200,000; \$3 billion are available for use in suburban areas with populations below 200,000; and \$634 million are available for use in rural areas with populations under 5,000. In addition, \$799 million are reserved for transportation enhancements, projects such as pedestrian and bicycle

infrastructure and safety programs, scenic and historic highway programs, landscaping and scenic beautification, historic preservation and environmental mitigation. The remaining \$17.9 billion is available for use in any area. The Federal Transit Administration also released \$8.4 billion in transit funding on March 5.

More information on the distribution of transportation funds is available at [www.recovery.gov](http://www.recovery.gov), including a map showing state apportionments and sub-allocated amounts.



*The American Recovery and Reinvestment Act of 2009 allocated \$27.5 billion for highway funds.*

## Federal budget blueprint includes increased funding for transit, high speed rail

Although specific fiscal year 2010 transportation funding details will not be released until April, the budgetary blueprint released by President Obama on Feb. 26 includes his Administration's transportation priorities for the next fiscal year and allocates \$72.5 billion for Department of Transportation discretionary spending.

The blueprint commits to better targeting transportation spending and exploring options to make the nation's communities more livable and less congested, through alternatives including road pricing. It increases funding for public transportation, supports development of high speed rail network through a \$5 billion, five-year state grant program, and supports Next Generation Air Transportation System to modernize the air traffic control system.

The blueprint also includes a controversial proposal to treat spending from surface transportation and aviation trust funds as discretionary, a change which the Administration says would make budgetary treatment more transparent. A bipartisan group of 14 members of Congress from key Transportation Committees, including Rep. James Oberstar (D-MN) and Sen. Barbara Boxer (D-CA), sent President Obama a letter expressing their opposition to the proposed change, arguing it would make the

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budgetary treatment less transparent by merging trust fund programs with non-trust fund programs.

The budgetary blueprint also proposes creating an infrastructure bank, funded at \$5 billion in 2010, with total federal funding reaching \$25 billion in 2019.

## **CLEAN-TEA bill would fund transportation at \$100 billion annually**

On March 5, Rep. Earl Blumenauer (D-OR) introduced a surface transportation authorization proposal which would provide \$100 billion annual investment over 10 years. The bill, called CLEAN-TEA – the Clean, Low-Emissions, Affordable New Transportation Equity Act – would increase transportation investment through dedicating 10 percent of revenues from a cap and trade or carbon tax program; a mileage-based road use fee; excise fee on oil; and a temporary increase in the gas tax. The plan recommends repealing the gas tax over the next 12 years.

Joining Rep. Blumenauer in introducing the bill were Reps. Ellen Tauscher (D-CA) and Steven LaTourette, (R-OH). Sen. Thomas Carper (D-DE) is expected to introduce the Senate companion bill mid-March. Additional authorization bills are expected to be introduced in the coming weeks.

Blumenauer is a member of the House Ways and Means Committee, which will write the tax title for a multi-year surface transportation authorization. SAFETEA-LU expires September 30, 2009.

## **Commission urges shift from gas tax to a mileage-based usage fee by 2020**

In a report to Congress released February 26, a bipartisan Congressionally-created commission urged lawmakers to fundamentally shift the way the federal government collects revenues to fund transportation infrastructure. The National Surface Transportation Infrastructure Financing Commission offered specific recommendations for addressing the widening gap between federal investment and the nation's transportation infrastructure needs, while at the same time moving the federal government away from reliance on motor fuel taxes toward more direct fees charged to transportation infrastructure users.

In the final report, *Paying Our Way: A New Framework for Transportation Finance*, the Financing Commission called for the transition to a direct mileage-based fee system as soon as possible and commitment to deploying a comprehensive system by 2020. However, in order to support the transition from the gas tax to a mileage-based charge, the Financing Commission recommended a 10-cent-per-gallon increase in the federal gas tax (15 cents for diesel) and indexing the tax to inflation going forward. The gas tax, which is not currently indexed to inflation, has lost one-third of its purchasing power since 1993, the last time the tax was increased.

The Financing Commission also called for the federal government to facilitate state and local governments' ability to raise their share of needed revenues, through tolling portions of roads and charging premiums for rush-hour travel in heavily used urban corridors, so-called congestion pricing.

The Commission provided detailed recommendations for lawmakers to facilitate the effective use of private investment and to provide government credit support to assist in the financing of transportation infrastructure projects to stretch the federal government's limited resources.

More information on the Financing Commission is available at <http://financecommission.dot.gov/>.

## **Kienitz named U.S. DOT Policy Under Secretary**

President Obama nominated Roy Kienitz to be Under Secretary of Transportation for Policy. Kienitz is currently the Deputy Chief of Staff for Pennsylvania Governor Ed Rendell, where he has been a leader on the governor's staff for transportation,

alternative energy, and environment initiatives since 2003.

Prior to his time in Pennsylvania, Kienitz served as Secretary of the Maryland Department of Planning where he implemented Smart Growth policies. Kienitz also served as the Executive Director to the Surface Transportation Policy Project in Washington, D.C.

## Highway travel fell again in December; 2008 travel down 3.6 percent

The Federal Highway Administration reported there was less travel on U.S. roads in December 2008 than a year before, marking the 14th straight month that driving has fallen from the previous year. December saw 3.8 billion fewer vehicle miles traveled (VMT) in 2008 than in 2007, a decline of 1.6 percent, according to FHWA's *Traffic Volume Trends* report, released last month.

During the 14-month downturn, from November 2007 to December 2008, there have been 115 billion fewer VMT than the same time frame a year earlier. Driving figures for 2008 overall were 3.6 percent below the 2007 levels, with a drop of 107.9 billion VMT. The downturn has affected rural areas more than urban ones, the report shows. VMT on rural roads in 2008 was down 4.2 percent from 2007, while driving on urban roads fell 3.2 percent for the year.

For December 2008, the biggest drop was in 13 western states, posting a 4.8 percent decline. The biggest single-state drop was in Oregon, where VMT fell 14.7 percent from December 2007. The Northeast region, consisting of nine states, was the only area to post an increase, with a 0.5 percent gain over the previous December.



Image courtesy of the APWA  
Jim Martin Public Works Photo  
Library at [www.apwa.net](http://www.apwa.net).

## New team to coordinate DOT role in economic recovery

A team has been created at the U.S. Department of Transportation (DOT) to coordinate the Department's role in economic recovery programs under the American Recovery and Reinvestment Act of 2009. The team will ensure economic recovery funding is rapidly made available for transportation infrastructure projects and that project spending is monitored and transparent.

The team, known as the Transportation Investment Generating Economic Recovery (TIGER) team, is composed of officials from across the Department's operating administrations and offices. It will identify and prioritize key highway, bridge, transit, rail, aviation and intermodal spending. The team will also develop reporting standards to accurately track the money as it is spent and ensure all accountability requirements are met.

The Department's chief economist and Performance Management Office will coordinate with the Office of Management and Budget and other White House offices on the performance measures that will be used to track job creation and other indications of the impact of each infrastructure investment.

## Transportation funding increased under omnibus spending bill

The \$410 billion omnibus spending bill (H.R. 1105) approved by Congress would boost fiscal year 2009 federal transportation programs by \$1.5 billion. The funding is in addition to funds approved earlier this year in the economic recovery package.

The largest increase goes to transit, which is funded at \$10.1 billion, an increase of \$773 million over fiscal year 2008. The federal highway program is funded at \$40.7 billion, \$484 million more than the previous fiscal year.

The transportation appropriations bill was wrapped into the omnibus bill as one of the nine regular appropriations bills which were not enacted before last year's elections. The fiscal year ends September 30, 2009.

## U.S. Access Board advances proposed rulemaking on rights-of-way

The U.S. Access Board reports that it has approved the text of final guidelines for accessible public rights-of-ways. The Board will proceed with the remaining steps that must be completed before the guidelines can be published, including adding figures and advisory notes, drafting companion discussions of the rules and preparing cost impact assessments.

The Board's guidelines for public rights-of-way will cover access to

sidewalks and streets, including street crossings, access for pedestrians with vision impairments, on-street parking and constraints posed by terrain and space limitations, among other topics. The Board previously released drafts of the guidelines for public input but must follow up with an official proposal and comment period before the guidelines can be finalized. No date has yet been announced.

Various resources on rights-of-way accessibility are available free on the Board's Web site at [www.access-board.gov/prowac/](http://www.access-board.gov/prowac/), including a guide on improvement projects, *Accessible Public Rights-of-Way: Planning and Designing for Alterations*, a video series demonstrating access issues, and bulletins developed through research on accessible pedestrian signals, roundabouts and other topics.

## **Craig Fugate nominated as FEMA Administrator**

On March 4, President Obama nominated Craig Fugate, director of the Florida Division of Emergency Management, to be the Administrator of the Federal Emergency Management Agency (FEMA).

During his eight-year tenure directing the Florida Division of Emergency Management, Fugate presided over 23 declared state emergencies, 11 of which were Presidential Declared Disasters. With the events of September 11, 2001, the Division was tasked with managing the Federal Homeland Security funding and developing Florida's Domestic Security Strategy with the Florida Department of Law Enforcement. Florida's program is recognized as a model for other states.

In September 2003, the Florida Emergency Management Program became the first state emergency management program in the nation to receive full accreditation from the Emergency Management Accreditation Program. Hurricane Katrina also prompted the state's largest mutual-aid response, which sent more than 7,000 responders to Mississippi and Louisiana.

Previously, Fugate served as a volunteer firefighter, paramedic, and lieutenant with Alachua County Fire Rescue. Throughout his 15-year career in local government, including 10 years as the Emergency Manager for Alachua County, Fla., Fugate has overseen the coordination of disaster response, recovery, preparedness and mitigation efforts.

According to the White House Office of the Press Secretary, President Obama said, "From his experience as a first responder to his strong leadership as Florida's Emergency Manager, Craig has what it takes to help us improve our preparedness, response and recovery efforts, and I can think of no one better to lead FEMA."

## **Judy Mueller reappointed to Homeland Security Advisory Council**

On March 3, former APWA President Judy Mueller was reappointed to the Homeland Security Advisory Council (HSAC). With the HSAC charter extended, Judy will serve on the Council until 2011.

Established by the Homeland Security Act of 2002, the HSAC provides advice and recommendations to the Homeland

Security Secretary on matters related to homeland security. The Council is comprised of leaders from state and local government, first responder communities, the private sector and academia.

## **Possible merger of National Security Council and Homeland Security Council**

On Feb. 12, Senate Homeland Security and Government Affairs Committee Chairman Joe Lieberman (I-CT) and Ranking Member Susan Collins (R-ME) heard arguments for and against the idea of merging the Homeland Security Council (HSC) with the National Security Council (NSC).

During the hearing, Tom Ridge, former Secretary of the Homeland Security Department, strongly opposed the merger. Two other witnesses – Christine Wormuth, Senior Fellow of the International Security Program at the Center for Strategic and International Studies, and James Locher III, Executive Director of the Project on National Security Reform – argued for the merger as a way to streamline White House security policy. Frances Fragos Townsend, former Assistant to the President for Homeland Security and Counterterrorism, outlined both pros and cons of a merger.

Lieberman and Collins said they were open to a potential merger, but both expressed concerns that the interests of homeland security could be overshadowed by the interests of national security. They warned that any merger would have to ensure homeland security received

appropriate attention from the President.

The HSC was established after the terrorist attacks of September 11, 2001, on the model of the NSC, to advise the President on homeland security matters. Just as the NSC is designed to coordinate the efforts of government departments in their operations abroad, the HSC was formed to ensure that the government acts together at the federal, state and local levels to secure the homeland. Like the NSC, the HSC's statutory direction is general. Its membership, however, includes only the President, Vice President, Department of Homeland Security Secretary, Attorney General and Secretary of Defense.

## ***EPA plans electronic system for filing Discharge Monitoring Reports***

The Environmental Protection Agency (EPA) Office of Water plans to release a nationwide, Web-based system that will enable National Pollution Discharge Elimination System (NPDES) Permits to submit Discharge Monitoring Reports (DMR) electronically. The tool, NetDMR, should improve data quality and enforcement and reduce overall reporting costs.

Regulated entities will be able to submit DMR data directly to EPA. The new tool will enable permittees to electronically sign and submit their discharge monitoring reports to EPA's Integrated Compliance Information System through the Environmental Information Exchange Network. NetDMR will be phased in for states who volunteer to use it.

## ***Will FEMA remain a part of DHS, or regain its independent agency status?***

On Feb. 26, Homeland Security Secretary Janet Napolitano testified before the House Homeland Security Committee and expressed the importance of building "one Department of Homeland Security (DHS) culture among the different components of the Department," and developing an "identity for DHS that is centered on the Department's mission."

The International Association of Emergency Managers (IAEM-USA) asserted that "mixing the DHS mission of preventing future terrorism events and the Federal Emergency Management Agency (FEMA) mission of disaster consequence management . . . has significantly detracted from both missions." The American Federation of Government Employees (AFGE) Local 4060, which represents about 400 FEMA employees, released a report titled *Shattering the Illusion of FEMA's Progress: 10 Recommendations for Rebuilding a Broken Agency*. According to AFGE's report, included on their list of recommendations is pursuing the removal of FEMA from DHS.

Former FEMA Director James Lee Witt, Senator James Inhofe (R-OK), member of the Senate Homeland Security Committee and Representative James Oberstar (D-MN), Chairman of the House Transportation and Infrastructure Committee, have also echoed these sentiments. On Feb. 11 and Feb. 25 respectively, Inhofe introduced the *FEMA Act* (S. 412) and Oberstar introduced the *FEMA Independence Act of 2009* (H.R. 1174). Both bills establish FEMA as an independent agency, stipulating that the FEMA Administrator report directly to the President and hold a cabinet-level position.

However, according to DHS Inspector General Richard Skinner, pulling the agency out would be a mistake. In a recent interview with Congressional Quarterly, Skinner said that "such a transition would be traumatic for both the department and the agency. Since DHS' creation, its components have interwoven their capabilities."

Recently, eight first responder organizations representing the firefighter and law enforcement communities – which are comprised of more than 1.7 million members – have come forward insisting that FEMA stay within DHS.

On Feb. 17, Senate Homeland Security Committee Chairman, Joe Lieberman (I-CT) and Ranking Member Susan Collins (R-ME) released a joint statement insisting that "the Post-Katrina Emergency Management Reform Act in 2006 . . . built a new, stronger FEMA . . . which has significantly contributed to FEMA's success in responding to recent disasters."

With the Executive Branch, Members of Congress and stakeholders making a point to candidly share their opinions in the hope of swaying decision makers' final verdict, this will continue to be a hot button issue in 2009.

## Water Quality Investment Act clears the House

The House of Representatives passed the Water Quality Investment Act of 2009 (H.R. 1262) on March 12 by a 317-101 vote, authorizing \$18.5 billion over five years to improve water quality.

The bill provides \$13.8 billion for the Clean Water State Revolving Fund (CWSRF) to finance water infrastructure improvement projects and includes several conditions on the use of funds:

- requirements on providing forgiveness of principle and negative interest loans;
- stipulations for states to set aside 25 percent of funds allocated through the CWSRF over \$1 billion for disadvantaged communities and so-called green infrastructure projects that are water and energy efficient.

In addition to financing state revolving funds, the bill would authorize \$2.5 billion over five years to control combined and sanitary sewer overflows, and it would provide a uniform, national standard for notifying the public of the overflows. The bill also authorizes \$100 million for each of fiscal years 2010 through 2014 to fund research demonstrations and studies related to the causes, effects, reduction and prevention of pollution, including an authorization of \$20 million annually to a new program to provide financial and technical assistance to small and rural communities.

The House passed bill will now move to the Senate for consideration by the Environment and Public Works Committee.



Image courtesy of the APWA Jim Martin Public Works Photo Library at [www.apwa.net](http://www.apwa.net).

## APWA submits comments on proposed effluent limitation guidelines

Late last year, the Environmental Protection Agency (EPA) issued a proposed regulation that would require erosion and sediment control best management practices on construction sites. Construction sites disturbing 10 or more acres would be required to install sediment basins to treat stormwater discharges from the site. One category of sites, those over 30 acres in areas with highly clay soils or high rainfall intensity, would be required to treat and filter stormwater discharges in order to meet numeric standards limiting sediment runoff.

According to EPA, the proposed rule is expected to reduce the amount of sediment discharged from construction sites by up to 27 billion pounds each year, at an annual cost of \$1.9 billion. The agency said the proposal would provide better protection for drinking water supplies, improve aquatic environments and reduce the need for dredging navigation channels and reservoirs.

As a result of a lawsuit, EPA is required by court order to issue a final construction site rule by Dec. 1, 2009. The APWA Water

Resources Management Committee (WRMC), submitted comments in February objecting to the proposal. The WRMC's comments strongly encouraged EPA to craft an appropriate and sensible standard with sufficient flexibility to allow for proper BMP selection based on local and site conditions. Most importantly for the WRMC, any proposed standard must not include a numeric ELG for turbidity for the C&D category.

It remains to be seen how EPA will address the comments submitted by APWA and other affected stakeholders.

## President signs FY09 budget; boosts EPA's budget

On March 11, President Obama signed into law a \$410 billion omnibus spending bill that includes \$34 billion for environment and energy agency programs. The signing of the omnibus ends a long delayed close to the Fiscal Year 2009 (FY09) appropriations process that began more than a year ago.

The bill provides funding for most domestic agencies and programs. For the Environmental Protection Agency (EPA) the bill provides an increase of \$174 million to the EPA's budget, brining the agency's funding to an estimate \$7.6 billion. Funding for the State Revolving Fund programs remained constant with \$689 million to the Clean Water State Revolving Fund and \$829 million to the Drinking Water State Revolving Fund. Climate change and clean air programs also benefited in the new budget with a \$39 million boost. EPA also received funding for Superfund programs and Brownfield sites.

## **OMB invites comments on improving regulatory review process**

The Obama Administration recently announced in the *Federal Register* that it will collect public comments on a plan to revamp the White House regulatory review process. The notice follows a directive from President Obama directing the Office of Management and Budget (OMB) to submit a set of recommendations within 100 days for a new executive order on federal regulatory review. The memorandum instructs OMB to offer suggestions “for the relationship between [Office of Information and Regulatory Affairs] and the agencies; provide guidance on disclosure and transparency; encourage public participation in agency regulatory processes; offer suggestions on the role of cost-benefit analysis; address the role of distributional considerations, fairness, and concerns for the interests of future generations; identify methods of ensuring that regulatory review does not produce undue delay; clarify the role of the behavioral sciences in formulating regulatory policy; and identify the best tools for achieving public goals through the regulatory process.”

A copy of the *Federal Register* notices is available at <http://edocket.access.gpo.gov/2009/pdf/E9-4080.pdf>.

## **EPA unveiled proposed greenhouse gas reporting rule**

The Environmental Protection Agency (EPA) proposed the first comprehensive national system for reporting emissions of carbon dioxide and other greenhouse gas (GHG) emissions produced by major sources in the United States. In developing the new reporting requirements, EPA considered the amount of work already completed and/or underway in many states and regions.

Approximately 13,000 facilities, accounting for about 85 to 90 percent of the GHG emissions emitted in the U.S. will be required to report under the proposed rule. The new reporting requirements would apply to suppliers of fossil fuels and industrial chemicals, manufactures of motor vehicles, as well as large direct emitters of GHG with emissions equal to or greater than a threshold of 25,000 metric tons per year.

The first annual report will be submitted to EPA in 2011 for calendar year 2010. EPA is developing the rule under the authority provided to the agency by the Clean Air act. The proposed rule will be open for comment for 60 days and is available at <http://epa.gov/climatechange/emissions/ghgrulemaking.html>.

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