

## APWA launches one-stop-shop for economic recovery updates

APWA created a new site to keep you up-to-date on public works and infrastructure-related information from the American Reinvestment and Recovery Act of 2009 and its effective implementation. The site is available at <http://apwarecoveryupdates.blogspot.com>.

Signed into law by President Obama on Feb. 17, 2009, the Act provides \$787 billion in tax cuts and investments in infrastructure, health, education and energy. Find out what it means for you

and your infrastructure projects by reviewing the new APWA site, which will connect you with state and federal agency resources, guidance, recovery reports and the latest news.

Your input and suggestions are welcome. The site is also accessible through APWA's advocacy Web page at [www.apwa.net/advocacy](http://www.apwa.net/advocacy).



## House and Senate pass FY10 budget resolutions

On April 2, the House and Senate adopted their fiscal year 2010 (FY10) budget resolutions. The Senate resolution (S. Con. Res. 13) was passed by a 55-43 vote and includes a total of \$3.53 trillion for FY10, including \$1.08 trillion for the Appropriations panel in discretionary spending. The House-adopted resolution (H. Con Res 85) was passed by a 233-196 vote with a total of \$3.6 trillion and \$1.089 trillion in discretionary spending. Both resolutions call for less discretionary funding than the \$1.096 trillion proposed by President Obama. While the resolutions differ on some issues from Obama's FY10 blueprint, they pave the way for implementing his proposals on health care, energy and education.

Both resolutions allow for an unspecified spending increase for the upcoming surface transportation reauthorization. Both chambers, however, differ on the means of this new spending. According to media reports, the House version mandates the solvency of the Highway Trust Fund over the bill's life – fiscal years 2010-15. The provision leaves open the option to transfer revenue from the General Fund, as long as the transfer of funds is fully offset. The Senate version includes a reserve fund for a broader array of infrastructure projects through two additional deficit-neutral reserve funds, including legislation to create a National Infrastructure Bank and allowance for added spending on a multimodal transportation measure. The Senate version also specifies that the surface transportation reserve fund be deficit-neutral. New spending is allowed only through

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boosting revenues of the Highway Trust Fund, and any added spending cannot increase the federal deficit through fiscal years 2009-19.

Congressional budget resolutions are non-binding agreements that will outline future spending to guide the appropriations process. During a two-week April recess, House and Senate conference negotiators have been working to resolve differences among both resolutions. APWA will continue to monitor this issue. For updates and more information, visit [www.apwa.net/Advocacy/](http://www.apwa.net/Advocacy/).

## ***FY10 budget proposal would boost clean water funding for SRF programs***

President Obama released his budget proposal for fiscal year 2010 (FY10) and included \$2.4 billion for the Clean Water State Revolving Fund (CWSRF) and \$1.5 billion for the Drinking Water State Revolving Fund (DWSRF). The President's budget also contains \$475 million for a new Environment Protection Agency (EPA)-led interagency Great Lakes restoration initiative to target the most significant problems in the region, including nonpoint source pollution. The total proposed EPA budget would increase to approximately \$10.5 billion. While Democratic leaders have indicated their support for Obama's proposal, Republican House and Senate members have called for a freeze on federal spending levels and have stated they would try to block some of Obama's proposed spending increases.

The House and Senate both

approved their respective versions of the FY10 budget resolution, setting limits for the fiscal year which begins October 1, 2009. The resolutions contained slightly less clean water spending than Obama's \$3.6 billion budget blueprint, and must now be reconciled in conference. However, the final budget resolution will defer many of the decisions on specific spending programs, such as EPA's budget, to congressional appropriations committees to deal with at a later stage.

Meanwhile Congress approved and the President signed a \$410 billion omnibus spending bill for fiscal year 2009 (FY09). The sweeping measure covers the FY09 appropriations bills that were not acted on by the 110th Congress and includes funding for all environment-related programs, including the CWSRF and DWSRF. EPA would receive \$7.6 billion, which is \$74 million above the fiscal year 2008 level. The SRF programs are funded at \$1.5 billion, including \$689 million for the CWSRF and \$829 million for the DWSRF. The bill also contains \$145 million for state and tribal assistance grants (STAG) for drinking and wastewater infrastructure systems and \$154 million for the nation's great water bodies including the Great Lakes, Puget Sound and the Chesapeake Bay.



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

## ***Jurisdictional issues continue over House chemical security bill***

The House Homeland Security Committee is working on legislation to reauthorize the Chemical Facilities Anti-Terrorism Standards (CFATS) Program with the goal of reporting new legislation by the Memorial Day recess. The current CFATS program is set to expire this October. Under the reauthorized program, it is expected that the exemption for water and wastewater utilities will be eliminated.

Efforts to move a bill had been hindered by questions of jurisdictional oversight between the Homeland Security and the House Energy and Commerce Committees. Energy and Commerce traditionally held jurisdiction over drinking water agencies. An agreement has now been reached, however, between the two committees to negotiate in an effort to develop a single bill that both panels could mark up. Energy and Commerce will write legislation governing security at drinking water facilities with the Environmental Protection Agency (EPA) as lead oversight agency of the program, while the House Homeland Security Committee will write legislation governing security at all other chemical facilities, including wastewater treatment facilities, with the Department of Homeland Security (DHS) as lead.

The water sector is advocating that EPA be given authority over the security programs at both drinking water and wastewater facilities and has pointed out that dual jurisdiction is not workable due to the large number of joint water and wastewater facilities.

## ***EPA to rescind controversial permit fee rule***

Environmental Protection Agency (EPA) Administrator Lisa Jackson recently announced the Agency will rescind its controversial permit fee rule. The rule, first proposed in late 2006 and issued in final form in late 2008, would have provided a financial incentive to states that funded at least 75 percent of their National Pollutant Discharge Elimination System (NPDES) permitting program through permit fees charged to regulated entities. Congress inserted report language in EPA's fiscal year 2008 budget specifically blocking implementation of the proposal, but EPA officials under the Bush administration disregarded this language and signaled their intention to go ahead with the rule by publishing it in the Federal Register in September 2008.

Jackson's decision this week to repeal the rule suggests the Obama administration will take a more pragmatic approach regarding funding for the NPDES program.

## ***President announces nominees for key water policy posts***

President Obama has nominated two individuals to fill key administration posts affecting water policy. Peter Silva has been nominated to be the Assistant Administrator of U.S. Environmental Protection Agency Water Programs. Silva has worked on drinking water and wastewater issues for more than 30 years. He most recently served as the senior policy adviser for the

Southern California Metropolitan Water District, was previously vice chairman of the California Water Resources Board and has served as deputy director for San Diego's water utilities. He was appointed to the Border Environment Cooperation Commission by President Clinton and headed the San Diego International Boundary and Water Commission office. He also spent five years with the California Regional Water Quality Control Board.

In addition to the Silva nomination, President Obama nominated Jo-Ellen Darcy to lead the Army Corps of Engineers. Darcy comes from the Senate Finance Committee where she was senior environmental policy advisor. She also served as senior policy advisory and deputy staff director on the Senate Environment and Public Works Committee and was executive director of the Great Lakes Water Resources Planning Commission.

Confirmation hearings for both Silva and Darcy are expected in the coming weeks.

## ***President nominates community revitalization specialist to head EPA Office of Solid Waste***

President Obama nominated Mathy V. Stanislaus as Environmental Protection Agency (EPA) Assistant Administrator for Solid Waste and Emergency Response. A former EPA Assistant Regional Counsel in Region 2, Stanislaus has more than 20 years experience working on brownfields, superfund and

solid waste issues. Stanislaus is an environmental lawyer and chemical engineer who cofounded and co-directs New Partners for Community Revitalization Inc., an organization whose mission is to advance the revival of low and moderate income neighborhoods in New York through redeveloping brownfields sites.

## ***\$3.2 billion authorized for energy efficiency & conservation block grants***

The White House announced \$3.2 billion in funding for state and local governments to pursue energy efficiency and conservation projects. The Block grants were included in the American Recovery and Reinvestment Act, and can be used by state and local governments to fund energy audits and retrofits of residential and commercial buildings, development of advanced building codes and inspection procedures, and creation of incentive programs to spur energy efficiency investments.

Under the Block grant program, cities and counties will receive \$1.9 billion, states will receive \$770 million and \$54 million is slated for tribal authorities. A final \$456 million will be set aside to fund other local energy efficiency projects through a future competitive solicitation process.

All funds will be administered by the Department of Energy and will be allocated through a formula based on population and energy usage. For more information about the program, visit [www.eecbg.energy.gov](http://www.eecbg.energy.gov).

## ***APWA, municipal organizations meet with EPA to discuss stimulus funding***

APWA joined municipal organizations including the National League of Cities, the U.S. Conference of Mayors, the National Association of Clean Water Agencies and the Water Environment Federation in a meeting with the Environmental Protection Agency's (EPA) Office of Wastewater Management to assess implementation of the American Recovery and Reinvestment Act. The group discussed delays in allocation of funds, state use of funds (loans v. additional subsidization or grants) and the "Buy American" provision of the bill.

The group spent a considerable amount of time discussing confusion over certain requirements in the Recovery legislation and implications of the "Buy American" provisions. EPA stated that it was waiting for guidance from the Office of Management and Budget (OMB) to put together a process for reviewing "Buy American" waiver requests from recipients of stimulus package funds. EPA said projects that were bid before passage of the Recovery bill and which had to be refinanced would be exempt through a waiver from the "Buy American" provisions. In addition, EPA indicated it would likely develop a national waiver process for classifications of products known to only be manufactured in foreign countries and a second waiver process for project-specific requests. The assistant administrator for water will review the specific waiver requests about the unavailability of certain product lines, while specific project waiver requests will be reviewed at the regional administrator level. EPA did not provide significant information about how flexible an approach it planned to take regarding waiver application reviews. The Agency did add, however, that the municipal coalition organizations would likely be given an opportunity to review its draft guidelines regarding waiver applications and provide input and recommendations.

APWA will continue to report on the distribution and use of federal stimulus dollars on the APWA Recovery Update Web site: <http://apwarecoveryupdates.blogspot.com>.

promoting renewable sources of energy, save consumers billions of dollars in energy costs through new energy efficiency programs, combat global warming pollution by linking emissions of heat-trapping pollutants to allowances for pollution, and create millions of new clean energy jobs during the transition to cleaner energy sources. House Energy and Commerce Committee Chairman Harry Waxman (D-CA) has pledged to get a proposal through his committee by Memorial Day.

In related climate change news, the Environmental Protection Agency National Water Program has created a new climate change and water electronic newsletter covering news and information related to the water program and climate change. The newsletter will provide short articles and links to other related Internet sites weekly. To subscribe, visit [www.epa.gov/ow/climatechange](http://www.epa.gov/ow/climatechange) and click on "Subscribe to the Climate & Water E-Newsletter."

## ***Recovery Act funding available for greenhouse gas and energy reduction***

The U.S. Department of Transportation announced the availability of \$100 million in federal funding for the Transit Investments for the Greenhouse Gas and Energy Reduction (TIGGER) grant program, authorized by the American Recovery and Reinvestment Act of 2009. Projects will compete for a portion of the funds based on how much their proposed capital investment is expected to reduce either energy consumption or greenhouse gases, or both.

and trade program curbing emissions to 20 percent below 2005 levels by 2020, and 83 percent by 2050. The proposal also creates a national renewable electricity standard, new energy efficiency programs, limits on the carbon content of motor fuels, and requires greenhouse gas standards for new heavy duty vehicles and engines.

The purposes of the American Clean Energy and Security Act of 2009 are to help end the nation's dependence on foreign oil by

## ***Draft energy & climate change bill released in the House***

Democratic leaders on the House Energy and Commerce Committee unveiled a draft bill to start the dialogue on addressing the nation's energy policy and commitment to dealing with climate change. The discussion draft would establish a cap

Transit agencies may apply under the grant program. Additionally, other public organizations such as State Departments of Transportation can submit consolidated project proposals on behalf of transit agencies. Grants will be made for particular projects directly to public transportation agencies. Complete proposals for the Grant Program must be submitted by May 22, 2009.

In addition to the anticipated reduction in energy or greenhouse gases, the projects will be rated on their return on investment, readiness to implement, capacity of the applicant, degree of innovation and national applicability.

The Federal Transit Administration has posted application instructions, answers to common questions and a calculator to assist in developing information on energy consumption or greenhouse gas emission reduction at [www.fta.dot.gov](http://www.fta.dot.gov). Potential applicants may also register for updates to program information at the site.

## **Rulemaking amends NEPA for transportation projects**

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) issued a final rule to bring certain National Environmental Policy Act (NEPA) procedures in line with SAFETEA-LU.

SAFETEA-LU prescribes additional requirements for environmental review and project decision-making not appropriately reflected in the existing FHWA-FTA joint NEPA procedures. Additionally, the final rule creates certain new categorical

exclusions allowing proposed actions to proceed without an environmental assessment or environmental impact statement, and makes other minor changes to the joint procedures in order to improve the description of the procedures or to provide clarification with respect to the interpretation of certain provisions.

The rule is effective April 23, 2009. More information is available in the March 24 *Federal Register*, [http://www.access.gpo.gov/su\\_docs/fedreg/a090324c.html](http://www.access.gpo.gov/su_docs/fedreg/a090324c.html), under Federal Highway Administration.

## **HUD, DOT announce partnership**

The U.S. Department of Housing and Urban Development (HUD) and U.S. Department of Transportation (DOT) have launched a new partnership to help create affordable, sustainable communities through better access to affordable housing, more transportation options and lower transportation costs.

The two agencies created a high-level interagency task force to better coordinate federal transportation and housing investments and to identify strategies for more choices for affordable housing near employment opportunities and more transportation options to lower transportation costs, shorten travel times and improve the environment. Strategies also aim to provide the ability to combine several errands into one trip through better coordination of transportation and land uses and to provide safe, livable, healthy communities.

More information is available by visiting [www.dot.gov](http://www.dot.gov) or [www.hud.gov](http://www.hud.gov).

## **'Complete Streets' legislation introduced in the House and Senate**

Representative Doris Matsui (D-CA) and Senator Tom Harkin (D-IA) have introduced legislation in the House of Representatives and Senate aimed at promoting the design of streets that are safe for all users, including motorists, bus riders, pedestrians, bicyclists and people with disabilities.

Introduced March 12, the Complete Streets Act of 2009 (H.R. 1443 and S. 584) would require states and metropolitan planning organizations to have polices in effect requiring all transportation projects to accommodate the safety and convenience of users in all phases of project development and planning. The bill was referred to House Transportation and Infrastructure Committee and to the Senate Environment and Public Works Committee.

## **House bill encourages clean transportation options to curb greenhouse gas emissions**

Rep. Doris Matsui (D-CA) has introduced legislation to align infrastructure and land use planning with greenhouse gas reduction goals. The Smart Planning for Smart Growth Act of 2009 (H.R. 1780) would encourage states and metropolitan areas to expand clean, low-cost transportation options in order to meet their greenhouse gas

reduction targets, including new and increased transit service; land-use practices that promote walkable, transit-served neighborhoods; bicycle- and pedestrian-friendly complete street networks; and expanded smart commuting options for drivers. The bill also ensures the public is involved throughout the process to set targets and develop the plans to meet the targets.

## **GAO report reveals nation's highway infrastructure is far from secure**

At the request of House Homeland Security Committee Chairman Bennie Thompson (D-MS), the Government Accountability Office (GAO) released a report titled *Federal Efforts to Strengthen Security Should Be Better Coordinated and Targeted on the Nation's Most Critical Highway Infrastructure*. The report analyzed and evaluated progress of the Department of Homeland Security (DHS) in securing the nation's highway infrastructure from terrorist attacks or threats.

The GAO report highlighted the following findings:

- The U.S. highway system is particularly vulnerable to terrorist attacks or threats because highway infrastructure is inherently open and vast, making it substantially more difficult to secure.
- DHS, the Transportation Security Administration (TSA), the Office of Infrastructure Protection and the Coast Guard have several programs that assess the vulnerability of highway infrastructure, however,

these programs and their results differ from each other to such an extent suggesting that findings are not shared or coordinated.

- The Highway Model Annex, developed by DHS and TSA, is a strategy designed to guide highway infrastructure security initiatives, but the strategy does not fully incorporate existing risk assessment results which aid in prioritizing security efforts.

- TSA also lacks a mechanism to monitor the extent of which highway infrastructure owners have implemented voluntary protective security measures. Accordingly, TSA has no way of determining the level of overall preparedness for critical highway infrastructure components.

The GAO report recommended that DHS find a means to enhance coordination of risk assessments. Similarly, TSA should address limitations in its security strategy and work to develop a method to monitor security measures for critical highway infrastructure.

Following the release of the report, Thompson stated, "This GAO report illuminates serious gaps in the Department's efforts to secure critical highway infrastructure. Lack of coordination..seriously limited the Department's ability to evaluate the level of overall security preparedness for the Nation's critical highway infrastructure. I am committed to working with Secretary Napolitano and highway stakeholders to secure these vital arteries of our economy."

## **Secretary Napolitano evaluates Gulf Coast recovery**

In early March, Homeland Security Secretary Janet Napolitano and Housing and Urban Development Secretary Shaun Donovan toured New Orleans and the Gulf Coast to re-evaluate recovery efforts after last year's hurricane season and Hurricanes Katrina and Rita. In a joint press conference, both secretaries said hundreds of millions of dollars will be disbursed throughout the area to continue long-term recovery initiatives.

Beginning with Public Assistance Funding, Napolitano announced that the Federal Emergency Management Agency (FEMA) will provide funds for several facilities in New Orleans in need of repair or replacement. According to the Department of Homeland Security (DHS), FEMA approved \$12 million in additional funding to help repair the St. Bernard Parish Water Treatment Plant. Additionally, the Relocation Assistance Program was extended to May 1, 2009, for families displaced by Hurricanes Katrina and Rita, and at the request of the state of Mississippi, the Hazard Mitigation Grant Program project application deadline was also extended until June 30, 2009.

Importantly, on March 11, Napolitano established the Unified Public Assistance Project Decision Team in the Louisiana Transitional Recovery Office. According to DHS, the Decision Team, created jointly by DHS and the State of Louisiana, will expedite final decisions to approve project scopes and eligible work costs for disputed projects between FEMA and the state. Continuing her efforts to hasten and streamline the recovery

process, Napolitano announced that she will “transition management oversight of the Mississippi Long Term Recovery Office from Biloxi, Miss., to the FEMA regional office in Atlanta, Ga.” According to Napolitano, “Office consolidation will lead to faster decision making and smoother and more efficient operations as we move forward.”

## ***DHS secretary announces proposed loan forgiveness rule for special community disaster loans***

On March 30, the Federal Emergency Management Agency (FEMA) proposed a regulation that amends Special Community Disaster Loans (CDL) to include loan forgiveness procedures and requirements for communities damaged by Hurricanes Katrina and Rita.

Initially, Congress provided additional loan authority to FEMA to assist communities that were severely impacted by the hurricanes. According to the Department of Homeland Security (DHS), FEMA provided over \$1.276 billion in Special CDLs to communities in Mississippi and Louisiana. However, Congress prohibited FEMA from forgiving the loans.

In a press release issued by DHS, the proposed rule was initiated by Secretary Napolitano which came as result of her trip to the Gulf Coast earlier in March. Napolitano observed that while “tremendous progress has been made to help the Gulf Coast region recover...it is abundantly clear

that communities are struggling to meet the challenges faced by the economy and the remaining challenges posed by Hurricanes Rita and Katrina. With this effort, we are close to helping our Gulf Coast communities rebuild, recover and get back on their feet.”

FEMA is seeking comments from state and local officials and the public. Comments should be submitted under docket ID FEMA-2005-0051 at [www.regulations.gov](http://www.regulations.gov) or [FEMA-RULES@dhs.gov](mailto:FEMA-RULES@dhs.gov). Comments are due by June 2. The proposed rule is available in the Federal Register at <http://edocket.access.gpo.gov/2009/pdf/E9-7286.pdf>.

## ***FEMA national preparedness nomination announced***

President Obama nominated Timothy W. Manning as the Federal Emergency Management Agency's (FEMA) Deputy Administrator for National Preparedness. Manning is director of the New Mexico Department of Homeland Security and homeland security advisor to Governor Bill Richardson. Named the Department's first director in 2007, Manning previously served as director of the Governor's Office of Homeland Security. Manning also served as a deputy cabinet secretary of the New Mexico Department of Public Safety.

Throughout his career, Manning filled a variety of emergency management positions such as chief of an Emergency Operations Bureau, firefighter, EMT, rescue mountaineer, hazardous materials specialist and hydrologist. While overseeing the daily administration of New

Mexico's disaster and emergency preparedness, response and recovery efforts, Manning also chairs the Response and Recovery Committee and is regional vice president of the National Emergency Management Association, incoming chair of the Association's Homeland Security Committee, co-chair of the National Homeland Security Consortium, chair of the Governor's Homeland Security Advisory Committee and a commissioner on the Emergency Management Accreditation Program.

The nomination awaits Senate confirmation.

## ***DHS announces FY09 grant guidance***

On April 8, the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) released final allocations for preparedness grants for fiscal year 2009. The grant programs total \$970 million to assist state, local and tribal governments and private industry to further strengthen community preparedness.

According to DHS, the following preparedness grants impact public works:

- **Transit Security Grant Program (TSGP) – \$388.6 million** to protect critical transit infrastructure from terrorism, including:
  - **Freight Rail Security Grant Program (FRSGP) – \$15 million**
  - **Intercity Passenger Rail (Amtrak) – \$25 million**
  
- **Intercity Bus Security Grant Program (IBSGP) – \$11.7 million** to assist operators of fixed-route intercity and charter bus services to support security plans, facility

security upgrades and vehicle and driver protection

renovation of a state, local or tribal government's principal EOC

- **Trucking Security Program (TSP) – \$2.2 million** to implement security improvement measures that focus on the purchase, installation or enhancement of equipment and systems related to tractor and trailer tracking systems; to help develop a system for DHS to monitor, collect and analyze tracking information; and to develop plans to improve the transport and distribution of supplies and commodities during catastrophic events

- **Interoperable Emergency Communications Grant Program (IECGP) – \$48.6 million** for planning, training, exercises and equipment to states, territories, local and tribal governments to carry out initiatives identified in Statewide Communication Interoperability Plans, and improve interoperable emergency communications for responding to natural disasters and acts of terrorism

Further information on preparedness grant programs is available at [www.dhs.gov](http://www.dhs.gov) and [www.fema.gov/grants](http://www.fema.gov/grants).

- **Port Security Grant Program (PSGP) – \$388.6 million** to protect critical port infrastructure from terrorism, enhance maritime domain awareness and risk management capabilities to protect against improvised explosive devices and other non-conventional weapons; and to conduct training and exercises and support implementation of the Transportation Worker Identification Credential

- **Buffer Zone Protection Program (BZPP) – \$48.6 million** to increase preparedness capabilities of jurisdictions responsible for safeguarding critical infrastructure sites and key resource assets, such as chemical facilities and nuclear power plants, through planning and equipment acquisition

- **Emergency Operations Center (EOC) Grant Program – \$33 million** to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure and interoperable EOCs to address identified deficiencies and needs. The grant provides funding for construction or

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