

# APWA *Washington* REPORT

May 2005

## TRANSPORTATION

### TEA-21 Reauthorization

#### **TRANSPORTATION BILL IS ON A ROLL WITH NEW JUNE 30, 2005, DEADLINE**

With bills passed in both houses, a Conference Committee named and a 30-day extension until June 30, 2005 of the existing legislation voted, hopes are rising that the end of the road is in site for TEA-21 reauthorization. Details follow:

Disregarding veto warnings from the Administration and opposition from Senate leadership, the Senate's bill (HR 3) went to the floor adding \$11.2 billion to the funding level in the House-approved bill which authorized \$284 billion. This brought the Senate bill's total funding to \$295 billion over six years. The Senate May 17, 2005 overwhelmingly approved the \$295 billion SAFETEA bill (with guarantees for \$293.8 billion) by a vote of 89 to 11.

Statements the next day reaffirmed the Administration's veto threat for any bill which exceeds \$284 billion over six years.

Of the \$11.2 billion, \$8.9 billion is added to the highway program, boosting total six-year funding to \$233.8 billion. The remaining \$2.3 billion is added to transit, increasing its six-year total to \$53.9 billion. The new funding increases each state's minimum return of revenues paid to the Highway Trust Fund from 90.5 percent to 92 percent by 2009. Donee states, states which receive more from the Trust Fund than they pay in, are guaranteed a 15 percent increase over funding received under TEA-21. The donor-donee issue is closely tied to the funding level increases. That, coupled with the Administration's opposition to the increase, represents the biggest challenge to the conference committee.

The increased funding is derived from revenue sources included in the bill the Senate passed last year; from transfers of general fund revenues from the 'gas-guzzler' tax to the Highway Trust Fund; and from additional revenues generated by stricter fuel tax fraud enforcement.

During the more than two weeks of debate which began in the Senate on April 25, 2005, and which often was interrupted by consideration of other bills, the Senate addressed scores of amendments ranging from tolling and safety belt issues to interstate trucking. They narrowly rejected an amendment to strip a provision establishing a two percent set-aside of Surface Transportation Program funds totaling \$900 million for roadway stormwater mitigation.

Prior to the final vote, the Senate rejected 16 to 84 an amendment offered by Senator Jeff Sessions (R-AL) that would have cut funding for the overall bill by more than \$10 billion, including \$5 billion from transit formula grants and research programs, \$4 billion from the Congestion Mitigation and Air Quality Program (CMAQ), and cuts from other programs. The final Senate bill guarantees \$53.8 billion for transit over six years.

APWA issued an action alert to oppose the Session's amendment and thanks everyone who contacted their Senators to urge them to oppose the amendment. The roll-call of votes is available at <http://thomas.loc.gov/> click on "Roll Call Votes" then on "Senate, 109<sup>th</sup> (2005-06), 1<sup>st</sup> session."

Now, HR 3 must be reconciled with the House version in a House-Senate conference committee before a final reauthorization can be signed into law. With the sixth extension due to expire on May 31, 2005, the Senate, on May 27, 2005, approved a 30-day extension of highway and transit programs to expire on June 30, 2005. On May 26th, the

---

**INSIDE YOU'LL FIND: P2--TRANSPORTATION** cont'd: Highway Bridges, Highway-Rail Grade Crossings; **P3--Traffic Congestion, Transportation Conformity, Traffic Signals; P4--ENVIRONMENT:** Blending, Environment, Rural Issues; **P5--** Environmental Protection Agency Head, EPA Deputy,

Recycling, Clean Air, Public Land Webcast; **P6--Clean Water Awards; State Recycling, State Air Standards, State Auto Emissions, Tribute to Heather, INTERGOVERNMENTAL:** Public Works Week on the Hill; **P7--Public Works Week cont'd.**



**American Public Works Association • Washington Office**

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

House of Representatives had passed the same extension. This is the seventh extension since TEA-21 expired September 30, 2003.

Both the House and Senate promptly named conferees to negotiate a compromise bill. The House named 63 conferees (38 Republicans and 25 Democrats) and the Senate 30 conferees (16 Republicans, 14 Democrats). The full list of conferees is being posted to APWA's advocacy webpage, [www.apwa.net/advocacy](http://www.apwa.net/advocacy)

### **Highway Bridges**

#### **FHWA WITHDRAWS PROPOSED BRIDGE RULE**

The Federal Highway Administration (FHWA) has withdrawn a proposed rule to revise the regulations governing the Highway Bridge Replacement and Rehabilitation program (HBRRP). During the comment period FHWA received numerous comments that questioned, among other things, the legal authority for the alternative programs proposed, as well as the quantitative benefits and impacts of the program.

FHWA has withdrawn the proposed rulemaking to evaluate the questions and issues raised and intends to consider establishment of a special experimental program to evaluate the benefits of the approach in the proposed alternative program. FHWA plans to initiate a separate rulemaking to include language that would eliminate ambiguities and incorporate long standing policies after the reauthorization of the surface transportation program.

FHWA published a notice of proposed rulemaking in the *Federal Register* in June 2004, in which it proposed to clarify ambiguous language and incorporate long standing FHWA policies. The rulemaking also proposed changing the name of the program from the HBRRP to the Highway Bridge Program to reflect program flexibility provided through highway legislation and increasing emphasis on preventative maintenance. It also proposed specifying eligible and ineligible activities, and providing guidance on the types of bridges to which the eligible and ineligible activities could be applied.

The proposed rule also included an alternative program through which states would have the flexibility to select projects involving eligible activities on any bridge, irrespective of the eligibility criteria under the traditional program, given that an approved bridge management system and/or systematic process was employed.

### **Highway-Rail Grade Crossings**

#### **NEW RULE ALLOWS COMMUNITIES TO SILENCE TRAIN HORNS**

Thousands of communities nationwide will have the choice to consider silencing train horns at highway-rail grade crossings based on meeting safety needs, under a Final Rule made from by the Federal Railroad Administration (FRA). In addition, the rule provides a process for localities with existing whistle bans to retain their bans.

The Final Train Horn Rule becomes effective on June 24, 2005, and is the result of a 1994 law mandating the use of the locomotive horn at all public highway-rail grade crossings with certain exceptions. This rule will pre-empt applicable state laws and related railroad operating rules requiring locomotive horns be sounded, and it also will supersede the previously issued Interim Final Rule.

The Final Rule provides for six types of quiet zones, ensures the involvement of state agencies and railroads in the quiet zone development process, gives communities credit for pre-existing safety warning devices at grade crossings and addresses other issues including pedestrian crossings within a quiet zone.

The establishment of a new quiet zone requires at minimum that each grade crossing be equipped with flashing lights and gates. Additional safety measures may be required to compensate for the absence of the horn as a warning device. New quiet zones can be in effect 24-hours a day or just during the overnight period between 10 p.m. and 7 a.m.

Communities with a whistle ban in effect on Oct. 9, 1996, the date Congress directed FRA to specifically address the *APWA Washington Report, May 2005*

issue of existing bans, and on Dec. 18, 2003, the date the Interim Final Rule was published, will be able to continue to keep the train horns silent for at least an additional five to eight years as they plan for and install any additional necessary safety measures. Communities with a whistle ban created after Oct. 9, 1996, and in effect on Dec. 18, 2003, will have one year to install any additional necessary safety measures before the train horns will start sounding again.

The rule also establishes the first-ever maximum train horn volume level and will reduce the amount of time the horn is sounded, which will be beneficial to communities that decide not to pursue quiet zones.

The Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings is available at the U.S. Department of Transportation Docket Management System web site at <http://dms.dot.gov/> docket number FRA-1999-6439-3923. Additional information is located at the FRA web site at <http://www.fra.dot.gov/>

### **Traffic Congestion**

#### **STUDY SHOWS NATION'S CONGESTION WOES CONTINUE TO WORSEN**

A new study examining congestion in the nation's urban areas finds that despite slow growth in jobs and travel, traffic congestion continues to worsen and now costs drivers \$63.1 billion annually. If today's higher fuel prices are factored in, the study notes, the cost jumps another \$1.7 billion.

The *2005 Urban Mobility Report* by the Texas Transportation Institute (TTI) study ranks areas according to several measurements, including:

- Annual delay per peak period (rush hour) traveler, which has grown from 16 hours to 47 hours since 1982,
- Number of urban areas with more than 20 hours of annual delay per peak traveler, which has grown from only five in 1982 to 51 in 2003,
- Total amount of delay, reaching 3.7 billion hours in 2003, and
- Wasted fuel, totaling 2.3 billion gallons lost to engines idling in traffic jams.

The annual study was released May 9, 2005 as the Senate returned from a brief recess to resume debate on legislation to reauthorize the expired Transportation Equity Act for 21st Century. It measures traffic congestion trends from 1982 to 2003, the last year for which data are available, and provides data on the performance of some elements of the transportation system in 85 urban areas. The TTI report and data charts are available at: <http://mobility.tamu.edu/ums/>

### **Transportation Conformity**

#### **EPA ISSUES FINAL RULE FOR NEW FINE PARTICULATE MATTER STANDARD**

The US Environmental Protection Agency has issued a final rule adding four transportation-related PM2.5 (fine particles less than 2.5 microns in diameter) precursors to the transportation conformity regulations. They are nitrogen oxides (NOX), volatile organic compounds (VOCs), sulfur oxides (SOX), and ammonia (NH3).

The final rule, published May 6, 2005 in the *Federal Register*, specifies when each of these precursors must be considered in conformity determinations in PM2.5 nonattainment and maintenance areas before and after PM2.5 state air quality implementation plans (SIPs) are submitted. The rule also makes a technical correction to a cross-reference of the U.S. Department of Transportation's planning regulations in the public consultation procedures of the conformity rule. The Clean Air Act requires federally supported highway and transit projects to be consistent with, conform to, the purpose of a SIP. The rule is effective June 6, 2005.

For more information contact Rudy Kapichak at the U.S. Environmental Protection Agency, [kapichak.rudolph@epa.gov](mailto:kapichak.rudolph@epa.gov) or by phone, 734-214-4574, or Angela Spickard, [spickard.angela@epa.gov](mailto:spickard.angela@epa.gov) or by phone, 734-214-4283.

### **Traffic Signals**

#### **SELF ASSESSMENT GIVE LIGHTS A GRADE OF "D-"**

The American Public Works Association (APWA) joined other transportation organizations to unveil the National Traffic Signal Report Card, which gave traffic signal operations a grade of "D-."

Symbolically released at a national press conference on Freedom Plaza, in the heart of Downtown Washington, DC during the morning rush hour April 20, 2005, the report card is based on a national survey of 378 public works  
*APWA Washington Report, May 2005*

departments in 49 states representing about one-third of the traffic signals in the US. The survey was conducted by the National Transportation Operations Coalition (NTOC) last fall.

Spokespersons for the Coalition pointed out that poor traffic signal operations directly affect traffic congestion, commute time and poor air quality. They stated that for as little as \$4 per vehicle, public agencies could improve their traffic signal grade to a grade of A and improvements would reduce fuel consumption while lessening the amount of time people spend idling in traffic.

Traffic signals are owned, operated and maintained by state and local governments and are paid for by taxpayers. The Coalition report points out that research shows that the benefits of investing in signal timing outweigh the costs by 40:1. They stress that by investing in updating and maintaining traffic signals, local agencies can make better use of their existing transportation networks.

Copies of the National Traffic Signal Report Card are available at <http://www.ite.org/reportcard/>

## ENVIRONMENT

### **Blending**

#### **AMENDMENT INTRODUCED TO PREVENT EPA FROM FINALIZING BLENDING GUIDANCE**

Representatives Bart Stupak (D-MI) and Clay Shaw (D-FL) are planning to introduce an amendment to the FY06 Interior and Environment Appropriations Bill, preventing the U.S. Environmental Protection Agency (EPA) from issuing a final Clean Water Act (CWA) blending policy. Banning the practice altogether would cost municipalities billions of dollars to rebuild and upgrade facilities and increase capacity to store overflows until they can be treated.

APWA has stressed to Congress that preventing EPA from concluding years of work and issuing a final guidance document on wastewater blending would only cause additional problems for municipalities and that issuing a final blending policy will increase permitting consistency and make more information publicly available. Blending is a practice that has been used by municipalities for decades to treat significantly increased wastewater volumes in wet weather, avoid serious adverse impacts on plant operations, and protect public health and water quality.

Continue to check [www.apwa.net](http://www.apwa.net) for developments on blending.

### **Environment**

#### **28 PERCENT CUT IN CLEAN WATER REVOLVING FUNDS PART OF EPA BUDGET REDUCTION**

The House Appropriations Committee has approved the FY06 Interior, Environment, and related agencies spending bill, cutting the Environmental Protection Agency's (EPA) current \$8 billion budget by \$318 million and reducing spending for its clean water revolving fund by more than 28 percent.

The EPA Clean Water State Revolving Loan Fund is provided \$850 million, down from \$1.1 billion in FY05. The \$850 million in funding still represents a \$120 million increase, however, from the Bush administration's request for the program.

The committee's mark also provides \$850 million for EPA's Drinking Water State Revolving Fund in fiscal 2006, \$7 million below current funding.

EPA's superfund program would receive an \$11 million increase over current appropriations, for a total of \$1.3 billion in FY06. An additional \$337,000 over FY05's \$24.3 million was provided for the brownfields program.

### **Rural Issues**

#### **SENATORS DOMENICI AND BINGAMAN ADDRESS RURAL WATER NEEDS**

Senators Pete Domenici (R-NM) and Jeff Bingaman (D-NM) have introduced S 895, the Rural Water Supply Act of 2005, authorizing \$20 million annually in FY05 and FY06 to direct the Bureau of Reclamation to establish a federal loan guarantee program to help small, rural communities obtain safe and reliable water.

*APWA Washington Report, May 2004*

Reports from the Department of Agriculture have estimated that more than 1 million people in rural America have no water piped into their homes and more than 2.4 million people have unmet drinking water needs. The Environmental Protection Agency (EPA) estimates that \$75 billion needs to be spent on rural water systems over the next 20 years to bring them up to standards.

The bill would not allow funding to be used for actual construction projects but rather to investigate feasible projects and plan for their construction. The legislation would also require the Bureau of Reclamation to develop eligibility criteria within one year of the bill's passage.

Introduced April 25, 2005, S. 895 would provide a new way for the Bureau of Reclamation to study opportunities to construct rural water projects and to report back to Congress for funding through the appropriations process.

The bill text is on APWA's Legislative Action Center page: <http://capwiz.com/apwa/issues/bills/?bill=7605386>

### **Environmental Protection Agency Head** **NEW ADMINISTRATOR CONFIRMED**

The Senate has confirmed Stephen L. Johnson to be Administrator of the Environmental Protection Agency (EPA). Johnson vacates the seat left open by the departure of Mike Leavitt, who was selected to head the Department of Health and Human Services. Johnson's career with EPA spans 25 years.

### **EPA Deputy** **PRESIDENT TO NOMINATE OMB OFFICIAL**

Marcus A. Peacock, currently a natural resources official with the Office of Management and Budget (OMB) is to be nominated to the position of Deputy Administrator for EPA. Prior to his position at OMB, Peacock was staff director for the House Transportation and Infrastructure Subcommittee on Oversight and Emergency Response.

### **Recycling** **EPA CLOSE TO ISSUING RULING ON CRTS**

The Environmental Protection Agency (EPA) is reportedly close to issuing a final rule on the recycling of cathode ray tubes (CRTs). EPA will issue a final rule this fall intended to encourage the recycling of cathode ray tubes, the display components of computer monitors and televisions. The ruling has been described as a priority for the agency.

The ruling was proposed in June 2002 in an effort to remove unnecessary regulatory barriers to the recycling of CRTs. CRTs are said to contain at least four pounds of lead and can contain low concentrations of mercury, cadmium and arsenic.

The rule was sent to the Office of Management and Budget May 2, 2005, for review. OMB typically takes up to 90 days to review a pending rule, then returns it to the agency administrator for a final signature

### **Clean Air** **LOCAL GOVERNMENTS AND REGIONAL COUNCILS HONORED FOR CLEAN AIR INNOVATION**

EPA has announced the winners of the 2004 Clean Air Excellence Award Winners. The Awards Program annually recognizes and honors both individuals and organizations that have undertaken the risks of innovation, served as pioneers in their fields, and have helped to improve air quality. This year, 12 local and state governments, industries and citizens groups received national recognition for their innovative air quality improvement efforts. For more information, click on the following URL: <http://www.lgean.org/html/whatsnew.cfm?id=906>

### **Public Land Webcast** **LAND CONSERVATION FINANCING WEBCAST OFFERED; FIRST 100 REGISTRANTS FREE**

The International City/County Management Association (ICMA) and the Trust for Public Land (TPL), in cooperation with the U.S. Environmental Protection Agency (EPA), will host a 90-minute webcast, "Protecting Water Resources through Land Conservation: Funding Options for Local Governments," on June 9, 2005 at 2 pm Eastern DST.

The webcast will describe the role of conservation finance in land conservation, highlight critical components for creating a successful funding effort, and showcase local government success stories. Attendees will leave with an understanding of current conservation finance trends; revenue sources being used by local governments; voter opinions on water protection; and the importance of good measure design in funding campaigns. For more information, click on the following URL: <https://www.lgean.org/html/training/>

### **Clean Water Awards**

#### **EPA SEEKS NOMINATIONS FOR 2005 CLEAN WATER ACT RECOGNITION AWARDS**

EPA's Office of Water is now accepting nominations for the 2005 Clean Water Act Recognition Awards. The awards recognize municipalities and industries for outstanding and innovative technological achievements in wastewater treatment and pollution abatement programs. For more information, click on the following URL: <https://www.lgean.org/html/whatsnew.cfm?id=904>

### **State Recycling**

#### **MARYLAND GOVERNOR SIGNS COMPUTER RECYCLING BILL**

Governor Robert Ehrlich, Jr.(R-MD) has signed legislation (HB 575) to create a five-year statewide computer recycling pilot program which bars major computer manufacturers from selling new computers in the state after January 1, 2006, unless they have registered with the state and filed an initial fee of \$5000. Subsequent annual fees would be \$5000 for manufacturers that do not offer computer take-back programs, or \$500 for those that do.

Money collected from these manufacturers will go into the state's existing recycling trust fund to provide grants to counties and municipalities for computer recycling efforts. The law, signed May 10, 2005, will take effect July 1, 2005 and is slated to sunset December 31, 2010.

### **State Air Standards**

#### **CALIFORNIA GOVERNOR SETS GOALS FOR GREENHOUSE GAS REDUCTION**

Governor Arnold Schwarzenegger, (R-CA) has issued an executive order that establishes statewide goals for reducing greenhouse gas emissions by 11 percent by 2010 and 80 percent below 1990 levels by 2050. Several state agencies will be involved in developing the strategies to meet the goals.

### **State Auto Emissions**

#### **MAINE ADOPTS ZERO-EMISSION VEHICLE STANDARDS**

Governor John Baldacci (D-ME) has signed into law a modified version of the 2003-adopted California zero-emission vehicle (ZEV) standards program. Maine's law calls for zero-emission vehicles to constitute 10 percent of sales in the state by model year 2009, beginning on January 1, 2008; hybrids to be four percent of sales; and cleaner, conventional vehicles six percent. Maine is the seventh state in the Northeast to adopt a ZEV. Others are Vermont, Massachusetts, New York, Connecticut, Rhode Island and New Jersey.

### **Tribute to Heather**

*The Environment and State Advocacy section of the APWA Washington Report has represented the dedicated efforts of Heather McTavish Doucet for nearly a half a dozen years. We now say "goodbye" to Heather as she leaves APWA to take on a new challenge in the Washington lobbying scene. We wish her the very best and we'll miss her professional, efficient, good-humored approach to build APWA's influence on Capitol Hill and beyond.*

## **INTERGOVERNMENTAL**

### **Public Works Week on the Hill**

#### **A WHIRLWIND OF EVENTS IN BOTH CHAMBERS AND THE CAPITOL CELEBRATE APWA**

Starting with a luncheon featuring presentations on the "state of the nation's cities" and attended by Congressional leaders, APWA's Washington Office reached out to personally tell the Public Works Story to more than 800 people for three days during Public Works Week on the Hill.

A midweek luncheon raised awareness of stormwater issues. Business representatives provided a showcase of their product and services. The MD/VA/DC chapter participated in the activities.

Events took place in House and Senate meeting rooms and concluded in the Capitol with an ice cream social attended by Senators, Representatives, their staffs, several public works leaders and industry-related business representatives. PW Paws was present and many had their photograph taken with the friendly APWA “pet.”

**Contributors to this APWA Washington Report were: Beth Denniston, Heather Doucet, Jim Fahey and Kristina Tanasichuk**

**The APWA Washington Report is edited by Beth Denniston.**