

TRANSPORTATION

Rural Transportation Planning

NEW OPTION TO RURAL PLANNING REGULATIONS STALLS FINALIZATION

In a supplemental notice of proposed rulemaking, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) on June 19, 2002 proposed a new version for a proposed regulation governing non-metropolitan local official consultation in the statewide transportation planning process.

The new option is in addition to, and alters, one published in the *Federal Register* in May 2000 that APWA supports.

APWA is urging members to submit comments to FHWA to withdraw the latest proposal and promulgate the May 2000 rule as it was offered over two years ago. The deadline to comment is August 19, 2002.

The Transportation Equity Act for the 21st Century (TEA-21) called for “enhanced” consultation with local officials in rural areas. The May 2000 proposal strengthened the role of rural officials in planning by requiring states to have a documented process, cooperatively developed, by both state and non-metropolitan local officials for consultation with local officials in rural areas.

APWA’s Small City/Rural Communities Forum has been following the “enhanced” planning issue and participated in related activities to assess and improve current consultation practices. APWA submitted comments in support of the initial regulation put out for comment in May 2000 and has been calling for it to be finalized through letters, news releases and personal meetings.

In late 2001, the US Congress approved language supported by the Congressional Rural Caucus Co-Chair Representative Joanne Emerson (R-MO) in the Department of Defense FY ‘02 Appropriations Act, calling on US Department of Transportation to promulgate a final rule by February 1, 2002. Now, this new proposal serves to delay it further.

The new option in the supplementary notice would rollback the May 2000 proposal by allowing states to determine who are non-metropolitan local officials and how to consult with them. In addition, it requires states to have only a documented process as opposed to one cooperatively developed.

Comments may be mailed to the US Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590, or submitted electronic ally at

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<http://dmses.dot.gov/submit>. All comments should include the docket number, FHWA-99-5933.

For more US DOT information on the supplementary notice, contact at FHWA Dee Spann, Statewide Planning Team 202-366-4086 or Reid Alsop, Office of the Chief Counsel 202-366-1371; at FTA contact Paul Verchinski, Statewide Planning Division 202-366-1626 or Scott Biehl, Office of the Chief Counsel 202-366-0952.

The notice is available on the Federal Register's homepage at <http://www.nara.gov/fedreg> and the Government Printing Office's web page at <http://www.access.gpo.gov/nara>.

For more background information on APWA's position, contact Jim Fahey or Beth Denniston at APWA's Washington Office, 202-408-95411 or jfahey@apwa.net or bdenniston@apwa.net.

Highway Funding

FIRST IN SERIES OF TEA-21 REAUTHORIZATION BILLS INTRODUCED IN SENATE

Senate Finance Committee Chair Max Baucus (D-MT) introduced his first in a series of bills aimed at the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). Bill (S 2678) would increase revenue to the Highway Trust Fund and is entitled, the Maximum Economic Growth for America through the Highway Trust Fund Act or the MEGA Trust Act.

If enacted, the MEGA Trust Act would redirect the 2.5 cent per gallon tax imposed on fuel blended with alcohol (gasohol) from the general fund to the Highway Trust Fund. In addition, the bill would reimburse the Highway Trust Fund for the 5.3 cents-per-gallon tax exemption now granted to gasohol and would allow for interest accrued on the Highway Trust Fund to be returned to the account as opposed to going into the General Fund as is currently the case.

Highway Funding Restoration

NO MOVEMENT TO ADDRESS SHORTFALL CREATED BY RABA

Due to the sluggish progress of the Supplemental Appropriations legislation, (See Federal Appropriation article on next page) there has been no further movement on highway funding restoration.

The full House passed its bill (HR 3694) in May 2002 addressing the funding shortfall of \$8.6 billion created by the decline in the Revenue Aligned Budget Authority (RABA) for the fiscal year 2003 federal-aid highway program. The House bill would restore highway spending to a level of \$27.7 billion.

The Senate version of the bill (S 1917) has passed out of committee. Both chambers in their versions of the supplemental spending bills have included their respective levels for highway funding restoration. The House version of the supplemental spending package is set at \$29.6 billion and the Senate approved version is at \$31.6 billion. Conferees were working to reconcile their differences prior to the Fourth of July Congressional recess, but failed to come to a final resolution. President Bush has threatened to veto any supplemental spending that exceeds his proposed level of \$27.1 billion.

Gas Tax Increase

DOT SECRETARY MINETA OPPOSES INCREASE; HILL LEADERS POSE ALTERNATIVES

Department of Transportation Secretary Norman Mineta stated recently that a gas tax increase would not be considered as part of the reauthorization of TEA-21 by the Bush Administration.

Speaking at a Conference in Washington, DC, Secretary Mineta also outlined six priority areas for reauthorization. They are:

- Adequate and predictable funding protected by budgetary firewalls,
- Funding flexibility now provided under TEA-21,

- Intermodal approaches,
- Security of the nation's transportation system,
- Innovative financing options, and
- Safety improvements, particularly in work zones.

Senate Environment and Public Works Committee Chair James Jeffords (I-VT) spoke at the same conference and said that simply maintaining the highway system at acceptable levels could run as high as \$55 billion per year. Current annual federal investment levels stand at \$32 billion. Jeffords expressed his hope that the Administration would consider altering the gas tax to some degree.

Also speaking on the subject, Representative Thomas Petri (R-WI), Chair of the Highways and Transit Subcommittee of the House Transportation and Infrastructure Committee, stated his support for a highway and bridge program of \$40 to \$50 billion per year. Petri said he would consider a gas tax increase or indexing and other options as a means to increase funding.

Reauthorization Website

FHWA DEDICATES WEBSITE SOLELY TO TEA-21 REAUTHORIZATION

The Federal Highway Administration has launched a website totally devoted to the reauthorization of TEA-21. Intended to serve as a source of information on surface transportation programs and the upcoming reauthorization, the site also allows the users to provide input. The site address is: <http://www.fhwa.dot.gov/reauthorization/index.htm>.

INTERGOVERNMENTAL

Federal Appropriations

HOUSE AND SENATE FY'03 BUDGETS DIFFER; SUPPLEMENTAL NUMBERS CLOSER

The House and Senate return from a week-long Independence Day Recess the week of July 10, 2002 with a long way to go in reaching agreement on next year's appropriations bills.

The Senate Appropriations Committee June 27, 2002 approved budget ceilings for the 13 appropriations bills totaling \$768.1 billion in discretionary spending for 2003, nearly \$20 billion higher than the ceiling approved by the House of Representatives.

The 13 appropriations bills fund the agencies of the federal government. The wide difference is expected to make reconciling some House and Senate spending bills especially difficult in conference.

Only two appropriations bills have been passed, both in the House of Representatives. The Defense Appropriations bill (HR 5010) and the Military Construction Appropriations bill (HR 5011) each were approved June 27, 2002. The Fourth of July recess is traditionally the marker set by House leadership for completing all appropriations bills.

Meanwhile, House and Senate conferees are expected to complete a supplemental appropriations package when they return from the short break. A procedural move to separate raising the debt ceiling from the supplemental package improved prospects for its completion when Congress returns.

Negotiators, however, will need to reconcile a House bill totaling just over \$30 billion with a Senate bill totaling \$31.6 billion. The President has issued a veto warning for any agreement exceeding the level set by the House.

The supplemental package proposes funds for defense, security and recovery efforts in New York. It also includes language calling for a funding floor of \$27.7 billion and a ceiling of \$28.9 billion for 2003 highway

spending in response to a proposed cut in highway funding next year of more than \$4 billion. (See Highway Funding Restoration article on page 2) The House bill calls for funding to be set at \$27.7 billion, the authorized level in TEA-21.

In addition, the Senate bill includes \$8.3 million for public works programs under the Economic Development Administration. The House bill includes no public works funding. The Federal Emergency Management Agency (FEMA) would receive \$745 million, including \$175 million for first responders.

New Public Works Advocacy Initiative

PRESIDENT RIDINGS ASKS MEMBERS TO JOIN ADVOCACY TASK FORCE

APWA President Richard Riding is inviting all APWA members to join a new Legislative Advocacy Task Force (LATF) created to strengthen APWA's advocacy voice at the local, state, provincial and national level.

Members of the new Task Force are part of a growing network of public works advocates interested in working together to communicate with policymakers when important public works issues are being considered.

All LATF members automatically become subscribers to APWA's InfoNOW Government Affairs Community, a source for legislative and regulatory information sent via email. Members will be notified through InfoNOW Government Affairs of opportunities to respond to public works issues by sending letters to legislators and other decision-makers. Letter can be sent easily and instantly using APWA's Legislative Action Center on APWA's website.

Current subscribers to InfoNOW Government Affairs received a message from APWA President Richard Ridings on June 28, 2002 informing them of their automatic appointment to LATF.

If you are not currently a subscriber to InfoNOW Government Affairs, you will need to join LATF by going to APWA's website, www.apwa.net and clicking on the icon "Join the APWA Legislative Advocacy Task Force." You will need you member ID to join, which you can look up on the website if you do not have it handy at the time you are enrolling.

The APWA Legislative Advocacy Task Force will work to ensure that the public works viewpoint is represented as issues affecting public works programs and services are considered. All new members receive a certificate of Presidential appointment.

EMERGENCY MANAGEMENT/DISASTER MITIGATION

Terrorism Preparedness

FIRST RESPONDER LEGISLATION INTRODUCED

Legislation has been introduced to provide \$3.5 billion for the first responder initiative proposed by President Bush.

Entitled the First Responder Terrorism Preparedness Act of 2002, (S 2664) was introduced by Senators James Jeffords (I-VT) and Robert Smith (R-NH), Chair and ranking member of the Senate Environment and Public Works Committee respectively. S 2664 would provide the following:

- Each state would receive a base amount of \$15 million and additional amounts would be distributed according to risk factors such as population and critical infrastructure;
- Grants would flow through the states to the local governments. At least 75 percent of the money received by a state would flow through to local governments. Eligible activities would include

planning, training, equipment exercises and constructing or upgrading emergency operation centers and training facilities.

- A new Office of National Preparedness (ONP) would be established at the Federal Emergency Management Agency (FEMA). ONP would be responsible for leading a coordinated and integrated effort to improve terrorism preparedness and response capability at all levels of government. Duties of the office will include encouraging mutual aid agreements between states, setting guidelines and standards for first responders and managing the first responder grant program.
- Additional support would be extended to the 28 FEMA-designated Urban Search and Rescue Task Forces.

The Environment and Public Works Committee marked up the legislation on June 27.

ENVIRONMENT

Stormwater Rule

COMMENTS SOUGHT ON STORMWATER RULE FOR CONSTRUCTION SITES

The US Environmental Protection Agency (US EPA) published a proposed rule in the *Federal Register* on June 24, 2002 to set standards for stormwater discharges from construction sites through the National Pollutant Discharge Elimination System (NPDES) permits issued by US EPA and the states.

Comments on the Effluent Limitation Guidelines and New Source Performance Standards for the Construction and Development Category are due by October 22, 2002. The rule may be downloaded from the US EPA website at <http://www.epa.gov/waterscience/guide/construction/>

US EPA is proposing a range of options to address stormwater discharges from construction sites. As one option, EPA is proposing technology-based effluent limitation guidelines and standards (ELGS) for stormwater discharges from construction sites required to obtain National Pollutant Discharge Elimination System permits.

As another option, US EPA is proposing not to establish ELGs for stormwater discharges from those sites, but to allow technology based permit requirements to continue to be established based upon the best professional judgment of the permit authority.

A third option would establish inspection and certification requirements that would be incorporated into the stormwater permit issued by US EPA and states, with other permit requirements based on the best professional judgment of the permit authority.

US EPA has scheduled public meetings on the proposal on five separate dates: Tuesday, July 9 – San Francisco; Tuesday July 23 – Dallas; Tuesday, July 30 – Chicago. US EPA will announce the remaining meetings in a subsequent Federal Register document and on the same website listed above. No registration is required for these meetings. Seating will be on a first-come, first-served basis.

Water Program Merger

US EPA MAY COMBINE CLEAN AND SAFE WATER PROGRAMS

US EPA is seeking approval from senior agency management for a plan to make the integration of clean water and drinking water programs a formal agency goal. The plan would put pressure on the states to likewise meld their programs, but sources say they will be able to curb state opposition by making federal dollars available for the integration effort.

It is predicted that state officials will likely balk at the idea. The programs often fall under the jurisdiction of different departments, with health departments dealing with drinking water issues. The merger would also

require states to implement new pollution control measures. It is believed that officials would end up spending more time on the most heavily polluted waters.

The idea was developed last year by Administrator for Water Tracy Mehan when he formed the "Program Integration Team," consisting of water program directors. Mehan asked the group to find ways to solve both clean and drinking water programs at the same time. It is expected that the idea will be further developed by top management.

For more information contact Jesse Pritts at 202-566-1038 or Eric Strassler at 202-566-1026 at EPA.

Drinking Water Security

NEW GUIDE HELPS SMALL DRINKING WATER SYSTEMS IMPROVE SECURITY

Security Vulnerability Self-Assessment Guide for Small Drinking Water Systems has been released by the Association of State Drinking Water Administrators (ASDWA) and the National Rural Water Association (NRWA).

The new publication is designed to help small drinking water systems (serving a population of 3,300 or less) assess potentially vulnerable components and identify security measures that should be considered. It also contains an emergency contact list that will help develop communication and outreach procedures, the first step toward forming an Emergency Response Plan. The guide includes:

- A list of general information;
- An inventory of small water system components;
- A general questionnaire on water sources, distribution, treatment plant and suppliers, personnel, etc.;
- A prioritization of needed actions;
- An emergency contact list, including a local service/repair, state and media notification list; and
- Threat identification check lists.

All of these forms are to be filled out by the water system personnel. Once completed, a Certificate of Completion should be sent to the state drinking water primary agency. To view the printable guide in Adobe Acrobat format, go to http://www.asdwa.org/mem_info/committees/cipinfo/6-02/5-31%20draft%20latestv3.pdf.

Clean Air Excellence Awards Program

AWARD APPLICATIONS AVAILABLE FOR FIVE CATEGORIES

Local governments are eligible to apply for awards through the US EPA's Clean Air Excellence Awards Program. The program annually recognizes and honors outstanding, innovative efforts that make progress toward achieving cleaner air.

Interested local governments must submit entries by September 18, 2002. The Program offers awards in the following five categories:

1. Clean Air Technology;
2. Community Development/Re-Development;
3. Education/Outreach;
4. Regulatory/Policy Innovations; and
5. Transportation Efficiency Innovations.

An award for outstanding individual achievement will also be given. Award entries will be judged using both general criteria and criteria specific to each category. The four general criteria are:

- Directly or indirectly reduced emissions of criteria pollutants or hazardous/toxic air pollutants;
- Demonstrates innovation and uniqueness;
- Provides a model for others to follow (i.e. is replicable); and

- Produced outcomes that are continuing/sustainable.

Entry forms will be available on the Clean Air Act Advisory Committee Web site, http://www.epa.gov/oar/caaac/clean_award.html. For questions concerning the Clean Air Excellence Awards Program or to receive an entry form, contact Paul Rasmussen of US EPA's Office of Air and Radiation at 202-564-1306 or rasmussen.paul@epa.gov.

Army Corps of Engineers Reform

SENATOR THREATENS TO KILL CORPS FUNDING IF REFORMS NOT PASSED

Senator Bob Smith (R-NH) has told the Environment and Public Works Committee at a hearing on the Water Resources Development Act (WRDA) that he would block WRDA from moving through the Senate if measures to reform the Army Corps of Engineers were not included in the bill.

WRDA is a biennial bill that authorizes and appropriates federal funds for Corps projects including river dredging and dam building. The bill often is used by lawmakers to fund personal projects that bring jobs and improvements back to the district, thereby improving their chances at re-election.

Smith, along with Senators Russ Feingold (D-WI) and John McCain (R-AZ) have introduced S 1987, a bill that would reform Corps practices, including requiring independent review of major or controversial Corps construction and development projects. S1987 has the support of Senate Majority Leader Thomas A. Daschle (D-SD).

Opponents of the bill are likely to object if the reforms make it harder for communities to get funding for flood control, irrigation and river navigation.

Energy Policy

PRESIDENT BUSH OPPOSES MANDATORY GREENHOUSE GAS REPORTING

The official White House position opposing mandatory reporting by US industry on greenhouse gas emissions has been conveyed in a letter to the Chair and members of the House-Senate Conference Committee on the Comprehensive Energy Bill (HR 4).

Signed by Secretary of Energy Spencer Abraham, the letter points out that the President would only sign legislation that is consistent with his voluntary limit to, and reporting of, emissions by companies. The Senate version calls for a greenhouse gas registry that is voluntary at first and could at any time after five years of enactment become mandatory if 60% of industry had not yet done so voluntarily.

Drinking Water Grants

AWARD RECIPIENTS ANNOUNCED BY ADMINISTRATOR WHITMAN

US EPA Administrator Christie Whitman has announced the first round of water security grants, part of \$53 million allocated to help large drinking water utilities across the nation assess their vulnerabilities. Four hundred grants to assist utilities with security planning are expected to be provided.

The Washington Suburban Sanitary Commission was the first recipient of the water security grant in the amount of \$115,000. Administrator Whitman also announced in the June 7, 2002 statement that checks were being sent to the San Juan Water District in CA (\$115,000); Rend Lake Conservancy District in Benton, IL (\$96,000); City of Elgin, IL (\$115,000) City of Naperville, IL (\$115,000); City of Wilmette, IL (\$115,000); and the Orlando Utilities Commission in Orlando, FL (\$115,000).

Congress appropriated almost \$90 million to help reduce the vulnerability of water utilities to terrorist attacks and to help enhance their security and ability to respond to emergency situations. US EPA has allocated \$53 million of the supplemental appropriation for security planning at large drinking water utilities. To date, a

total of 384 grant applications have been received. Each award is up to \$115,000. Any remaining funds will be directed to other security planning needs.

Development of a vulnerability assessment is the highest priority activity under this grant program. Funds may also be used for development of an emergency operations plan and to design security enhancements or a combination of these efforts.

Additional information about Water Infrastructure Security and EPA is available at <http://www.epa.gov/safewater/security>.

US EPA's Role in Security Analysis

HOMELAND SECURITY SEEKS DRINKING WATER AND INDUSTRIAL OVERSIGHT

Homeland Security officials are suggesting that US EPA lose its authority to conduct vulnerability assessments on the nation's industrial infrastructure to the new agency proposed by President Bush.

Previous information from the White House had stated that there would be very little in the way of changes for EPA. However, Homeland Security Head Tom Ridge has since said that he hoped US EPA's current oversight of drinking water security, which includes evaluating the vulnerability of a treatment system to an act of terrorism, "could be pulled into the new department."

The comments by former Pennsylvania Governor Ridge left some surprised at US EPA. The Agency has previously stated that it would not lose staff, funding or authority under the President's proposed changes. The legislation crafted by the White House made minimal mention of US EPA. Given the broad role of the new department, it is likely that overlapping will occur in the drinking water treatment and the chemical industry.

AROUND THE US

Recycling Program

NEW YORK CITY SUSPENDS GLASS AND PLASTIC CURBSIDE COLLECTION

Mayor Michael Bloomberg (R) announced June 27, 2002 that all glass and plastic collection in New York City's curbside recycling program would be suspended July 1, 2002.

The decision resulted from a budget agreement reached between the mayor and the City Council to reduce a \$5 billion gap in the city budget by suspending recycling collections of glass, plastic and metal to save an estimated \$57 million in the fiscal year that begins in July.

The Democratic controlled Council and environmentalists met the Mayor's plan with serious resistance and pushed for stronger enforcement of the mandatory program since it was first enacted in 1989. The final budget deal has the city retaining the metal portion of the program.

Under the new plan, if a recycling bag or receptacle left for collection contains plastics or glass, it will be left at the curb. However, the changes apply to residential collections only, leaving the commercial component of the program unchanged.

California Public Facilities Investment

FIVE-YEAR PLAN FOR CALIFORNIA INFRASTRUCTURE TO COST \$56 BILLION

California Governor Gray Davis has released a five-year, \$56 billion infrastructure plan that identifies the need for new or improved public facilities and the sources of money to pay for them.

The plan is required by a law passed three years ago. The \$56 billion in recommended spending is 61% more than the amount spent by the state on infrastructure during the past 10 years.

Under the plan, \$1.6 billion would be spent during the next five years from the state's general fund, beginning with \$44 million next year. The general fund is expected to total more than \$78 billion next year. Most of the infrastructure funding, \$21.1 billion, would come from the state's share of \$40 billion in future bonds paid off by the general fund over decades. Nearly half the bond money would be spent after the five-year period or used for non-state projects such as housing and local parks.

Transportation projects would receive \$27.7 billion, kindergarten through high school \$14.9 billion, higher education \$5.4 billion, water projects \$2.4 billion, natural resources and environmental protection \$1.5 billion and public safety \$1.1 billion.

The plan was authorized by a law written by former Assembly Speaker Robert Hertzberg, D-Van Nuys. The plan must reflect a 1998 California Business Roundtable report that has also called for more infrastructure spending.

Disability Decision

FEDERAL APPEALS COURT SAYS SIDEWALKS MUST BE ACCESSIBLE

Sidewalks must be accessible to persons with disabilities, the US Circuit Court of Appeals for the Ninth Circuit has ruled concerning a case from Sacramento, CA. The ruling is binding on California and eight other western states covered by the circuit.

A sidewalk is a government "service, program or activity," said the Court and must be accessible to persons with disabilities without discrimination. Barriers to access could include wide cracks, benches, poles and other obstructions that could make the sidewalk too narrow or too rough and dangerous for wheelchairs or other mobility devices.

Contributors to this Washington Report were Jim Fahey, Andrea Fisher, Heather McTavish and Beth Denniston

The Washington Report is edited by Beth Denniston