

Senate appropriators approve funds to prevent Highway Trust Fund shortfall

Bill sets funding levels \$2.1 billion higher than current levels

The Senate Appropriations Committee approved a \$66.8 billion Transportation Appropriations bill that includes a provision to transfer \$8 billion from the general fund to the Highway Trust Fund in order to prevent the Trust Fund from becoming insolvent in 2009. The Committee approved the fiscal year 2009 spending measure July 10.

The action follows in the wake of previous failed attempts in the Senate to attach the funding fix provision to two Federal Aviation Administration (FAA) reauthorization bills this spring. A House Subcommittee version of the Senate bill, providing \$66.7 billion for transportation programs in fiscal year 2009, does not include the funding fix. Estimates indicate the Trust Fund will

have a shortfall in excess of \$3 billion due to declining gas tax revenues.

The Senate bill sets federal transportation funding levels \$2.1 billion higher than current levels and \$3.3 billion over the Administration's request. It would provide \$41.2 billion for highways, \$1 billion more than SAFETEA-LU's original obligation, which was reduced due to lower gas tax revenues. Amtrak would receive \$1.55 billion, \$225 million more than current funding. FAA would receive \$15.5 billion, \$590 million more than funding.

The House bill would provide \$40.1 billion for highways, \$10.3 billion for transit, \$1.5 billion for Amtrak and \$15.3 billion for FAA.



Image courtesy of the APWA Jim Martin Public Works Photo Library.

Highway travel continues to drop

The U.S. Department of Transportation reports that Americans drove 1.4 billion fewer highway miles in April 2008 than in April 2007, marking the sixth month of declining travel. April 2008 travel was 400 million miles less than the previous month.

The April decrease represents a 1.8 percent drop in vehicle miles traveled (VMT) on all public roads as compared to April 2007. This marks a decline of nearly 20 billion miles traveled this year, and nearly 30 billion miles traveled since November 2007.

To review the FHWA's Traffic Volume Trends reports, including that of April 2008, visit www.fhwa.dot.gov/ohim/tvtw/tvtpage.htm.

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House approves bill to assist transit agencies with rising fuel costs

The U.S. House of Representatives approved a bill to help transit systems cope with rising fuel costs and to promote public transportation ridership as a means to reduce fuel consumption.

The bill, Saving Energy through Public Transportation Act of 2008 (H.R. 6052), would authorize \$850 million for both fiscal year 2008 and 2009. The funds can be used by transit agencies for operating or capital costs to expand service or reduce fares, to avoid fare increases or service cuts that would otherwise result from increased costs for fuel, or to meet additional transportation-related equipment or facility maintenance expenses caused by increased ridership.

The bill's future is uncertain. The Senate is not expected to consider a similar measure, and the Administration opposes the bill.

National clearinghouse established to improve rural road safety

The U.S. Department of Transportation announced that the University of Minnesota will be home to a new national clearinghouse for information about the best way to make rural roads safer.

Built by the University's Center for Excellence in Rural Safety, the online clearinghouse will distribute

Pedestrian road safety audit guidelines and prompt lists available

The Federal Highway Administration Office of Safety has released Pedestrian Road Safety Audit Guidelines and Prompt Lists, providing transportation agencies and teams conducting a Road Safety Audit (RSA) with a tool to better understand pedestrian needs, identify concerns and address safety problems.

The Guide has two primary sections: Knowledge Base and the Field Manual. The Knowledge Base section discusses the use of the Guide and basic concepts that the RSA team should understand before conducting an RSA, such as characteristics of pedestrians, pedestrian crash data analysis tools and pedestrian components in the eight-step RSA process.

The Field Manual section includes the prompt lists and guidelines for their use. The guidelines provide detailed descriptions of potential pedestrian safety issues while the prompt lists identify potential pedestrian safety issues that should be considered during a RSA. The guidelines and prompt lists will help familiarize RSA teams with potential pedestrian issues and help them identify specific safety concerns throughout the RSA process.

An RSA is a formal safety examination of a future roadway plan or project or an in-service facility that is conducted by an independent, experienced multidisciplinary RSA team. All RSAs should include a review of pedestrian safety; however, some RSAs may be conducted to improve an identified pedestrian safety problem.

To access the document, visit www.walkinginfo.org/library/details.cfm?id=3955.

lessons learned by researchers to transportation officials and first responders nationwide. It will also collect and distribute lessons being learned by transportation officials successfully combating rural road fatalities. For more information, visit www.dot.gov/affairs/ruralsafety/.

FHWA seeks comments on Exploratory Advanced Research Program

The Federal Highway Administration (FHWA) issued a notice announcing research under

the Exploratory Advanced Research Program (EARP). The purpose of the program is to address longer-term and higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity and safety aspects of highway and intermodal transportation systems.

In addition, FHWA issued the notice to encourage interest in research by organizations or individuals conducting related work or anticipating the results of such work, and to solicit comments about the long-term impact of such work on future research, technical innovation or transportation industry practices.

Comments are due on or before October 6 in order to consider and

plan for coordination of research. More information is available in the July 8 Federal Register under Federal Highway Administration: http://www.access.gpo.gov/su_docs/fedreg/a080708c.html.

Department of Justice issues notices to adopt new ADA standards

The U.S. Department of Justice (DOJ) issued proposals to adopt new design standards for facilities under the Americans with Disabilities Act (ADA) based on revised guidelines previously issued by the Access Board (Board). Comments on the proposals are due August 18.

Under the ADA, DOJ is responsible for maintaining standards for new construction and alterations that are consistent with the Board's guidelines. DOJ's standards apply to the construction and alteration of all facilities covered by the ADA except transportation facilities, which are subject to standards maintained by the Department of Transportation (DOT). The new standards would apply to state and local government facilities subject to title II of the ADA and to places of public accommodation and commercial facilities covered by title III of the law. DOJ issued separate notices under each title.

The notices also address issues relating to the application of the new standards, including effective dates. Through these proposals, DOJ is revisiting or supplementing other sections of its regulations, which have changed little since their original publication in 1991. New or revised provisions are proposed concerning

removal of barriers in existing facilities, accommodation of service animals, maintenance of accessible features, policies and practices governing various services, including hotel reservations, ticket sales and accessible seating, and provision of auxiliary aids, services and effective communication, including captioning, narrative description, and video interpreting services.

The notices, which highlight specific issues in these and other areas where input from the public is sought, are available through the online edition of the Federal Register at www.gpoaccess.gov/fr/index.html. Comments are due by August 18th and can be submitted through the www.regulations.gov Web site. For further information, contact DOJ at (202) 307-0663 (v/TTY) or visit www.ada.gov.

Court upholds FCC video franchise order

An appeals court recently upheld a March 2007 Federal Communications Commission (FCC) video franchising rule that restricts the ability of local governments to manage rights of way and protect citizens, community channels and public safety networks in the franchise process.

On June 27, the U.S. Court of Appeals for the Sixth Circuit issued its decision in the case *Alliance for Community Media v. the Federal Communications Commission*. The FCC rule sets a 90-day response time for local governments to grant franchise requests. The rule was challenged by local government organizations representing cities and counties.

FEMA releases disaster housing plan

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has released its 2008 Disaster Housing Plan. The plan details FEMA's role in support of local officials to meet housing needs for disaster victims this hurricane season. It also incorporates new and stringent air quality specifications and testing protocols for factory-built housing, which must fulfill state health requirements prior to their use.

The 2008 Disaster Housing Plan reinforces a commitment to support local officials with housing assistance as requested, and emphasizes the use of a broad range of interim housing solutions as well as other innovative options, including authorizing permanent construction, and the creation of a state-led Housing Solutions Task Force to evaluate housing requirements, identify potential solutions and develop a coordinated plan for delivering necessary assistance in a timely and cost-effective manner.

To read the FEMA 2008 Disaster Housing Plan, visit www.fema.gov. For additional information on disaster preparedness, visit www.ready.gov.

Target Capability List implementation announced

The Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) have announced a Target Capability List (TCL) initiative described as the next step in the nation's effort to develop, assess and strengthen prevention, protection, response and recovery capabilities.

The TCL's initial phase involves developing a series of target capability frameworks to help states and local jurisdictions determine whether they need a given capability to be prepared, and if so, at what level.

The target capability frameworks build upon the preparedness guidance found in TCL v2.0 (released in September 2007) and each consists of a user-friendly matrix of three charts defining: performance classes (for grouping jurisdictions according to shared risk factors), performance objectives (for determining the capability level for each performance class), and resource requirements (for identifying needs related to plans, personnel, training, equipment and exercises).

DHS/FEMA is working with stakeholders through a series of Technical Working Group (TWG) sessions to develop the first six target capability frameworks. These include Animal Health, Emergency Operations Center Management, Intelligence, Mass Transit Protection, On-Site Incident Management, and WMD/HazMat Rescue and Decontamination.

The TWG sessions are being held this summer in FEMA regional locations and all sessions comprise subject matter experts, practitioners and national associations in the emergency management and homeland security communities to ensure collaboration across the federal, state and local levels. Once the TWG sessions are complete, a national review will be conducted to enable the larger homeland security community to review the target capability frameworks and provide input before a proposed national release. Additional target capability frameworks will be developed in subsequent years, culminating in TCL v3.0 in 2010.

For additional information, please contact the TCL Implementation Project Team at TCL@dhs.gov

allocates \$160 million for fiscal year 2009 and the dollar amount would then increase by \$10 million for the following fiscal years 2010 through 2013, capping the funds at \$200 million in 2013. The legislation was favorably reported out of the committee on June 25.

The Pre-Disaster Mitigation (PDM) program is managed by the Federal Emergency Management Agency (FEMA) and provides funds to states, territories, Indian tribal governments, communities and universities for hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. Funding these plans and projects reduces overall risks to the population and structures, while also reducing reliance on funding from actual disaster declarations. PDM grants are to be awarded on a competitive basis and without reference to state allocations, quotas or other formula-based allocation of funds.

APWA supports full funding for the Pre-Disaster Mitigation Program. Both bills authorize appropriations for the program through fiscal years 2011 and 2013 respectively. However, with Congress in session for only four more weeks until its summer recess, and the elections fast approaching, it is uncertain as whether any further action will be taken on either the House or Senate bills this year.

Pre-disaster mitigation legislation moving slowly through Congress

On May 21, Congressman James Oberstar (D-MN), Chairman of the House Transportation and Infrastructure Committee, introduced the Pre-Disaster Mitigation Act of

2008 (H.R. 6109). H.R. 6109 allocates \$250 million annually for fiscal years 2009 through 2011. Passing by a voice vote June 23, the bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. Similar to the House bill, Senator Joseph Lieberman (I-CT), Chairman of the Homeland Security and Governmental Affairs Committee, introduced the Pre-Disaster Hazard Mitigation Act of 2008 (S. 3175) on June 20. The bill

House approves sewer overflow notification act

The House passed legislation that would require owners and operators of publicly owned treatment plants to notify the public of combined sewer overflows. The Sewage Overflow Community Right to Know Act (H.R. 2452) will provide a uniform, national standard for monitoring, reporting and public notification requirements.

Under the legislation, owners and operators of publicly owned treatment works would have to implement plans to notify the public within 24 hours of overflows that have the potential to affect public health and to notify public health officials of overflows that may imminently and substantially endanger human health. Under the bill, the Environmental Protection Agency (EPA) would establish criteria to guide publicly owned treatment works in assessing whether a sewer overflow has the potential to affect human health and develop communication measures to ensure the public is notified. EPA is also directed to conduct a rulemaking to define the terms “feasible,” “timely,” “potential to affect public health,” and “imminently and substantially endanger public health.”

States with notification requirements in place can submit the existing requirements to EPA for approval in lieu of drafting and implementing new notification rules. A companion bill, S. 2080, is awaiting consideration in the Senate Environment and Public Works Committee. To view the bills, visit www.apwa.net/advocacy and click on “legislation.”

New site provides stormwater management info

The Environmental Protection Agency (EPA) released a new Web portal containing resources for implementing and developing stormwater Total Maximum Daily Loads (TMDL). The site provides links to documents summarizing 17 TMDLs that have been developed for stormwater source pollutants in 16 states, information on TMDL stormwater practices in 10 states, specific language for TMDLs and permits, and technical and programmatic challenges. The site also highlights two case studies describing activities linking stormwater source TMDLs with stormwater permits. Finally, the site includes stormwater-related technical resources, as well as general information on stormwater discharges and green infrastructure techniques.

The site is available at www.epa.gov/owow/tmdl/storwater.

EPA, DHS testify on chemical security at water facilities

The House Energy and Commerce Subcommittee on Environment and Hazardous Materials held a hearing on two pending House bills related to chemical facility security, which may impact water and wastewater utilities. H.R. 5577, the Chemical Facility Anti-Terrorism Act of 2008, would require chemical facilities to consider the use of “inherently safer technology” and would cover water treatment facilities regulated under the Safe Drinking Water Act, which are exempt under the current interim chemical security

regulations.

The second bill, H.R. 5533, the Chemical Facilities Act of 2008, does not require “inherently safer technology” and maintains the current exemption for water sector facilities. Both the Environmental Protection Agency (EPA) and Department of Homeland Security (DHS) recognized current gaps in the existing regulatory framework and that drinking and wastewater treatment facilities determined to be high risk can be regulated consistent with the existing risk and performance-based framework.

Testimony from the hearing is available at http://energycommerce.house.gov/cmte_mtgs/110-ehm-hrg.061208.leghearing.shtml.

Final water transfer rule issued

The Environmental Protection Agency (EPA) recently announced a final rule stating that Clean Water Act (CWA) permits are not required for transfers of water from one body of water to another because such transfers do not add pollutants to navigable waters. To be considered a water transfer under the new rule, the water must be conveyed without being subjected to intervening industrial, municipal or commercial use.

Water transfers include routing water through tunnels, channels or natural stream courses for public water supplies, irrigation, power generation, flood control and environmental restoration.

In crafting the rule, EPA determined Congress did not intend to subject water transfers to regulations under the National Pollution Discharge Elimination

Systems program and typically there is no “addition” of a pollutant that would trigger CWA compliance.

The final rule will take effect 60 days after publication in the Federal Register. Visit www.apwa.net/advocacy for a copy of the new rule.

Corps of Engineers outlines jurisdictional determinations

The U.S. Army Corps of Engineers (Corps) recently issued a Regulatory Guidance Letter (RGL) on jurisdictional determinations. The RGL outlines the process the Corps will use when designating whether a particular site contains U.S. waters subject to Section 404 of the Clean Water Act (CWA) and Sections 9 and 10 of the Rivers and Harbors Act of 1899.

The Corps uses an “approved” jurisdictional determination to officially designate whether a particular site contains water subject to regulation by the Corps. By contrast, the RGL said a “preliminary” judicial determination can be used only to determine that water at a particular site may be subject to the CWA or the Rivers and Harbors Act. The letter states that an approved judicial determination is an official corps determination that jurisdictional “waters of the United States” or “navigable waters of the United States,” or both, are either present or absent on a particular site.

An approved jurisdictional determination “precisely identifies” the limits of those waters determined to be jurisdictional under the CWA or the Rivers and Harbors Act. The Corps will provide an approved jurisdictional determination to any landowner, permit applicant or other

New effective utility management primer available for download

Water and wastewater utilities across the country are facing many common challenges, including rising costs, aging infrastructure, increasingly stringent regulatory requirements, population changes and a rapidly changing workforce. Effective utility management is critical to enable utilities to tackle challenges, increase performance and achieve success in the long run.

The Effective Utility Management Collaboration has developed a series of tools designed to help water and wastewater utilities advance effective utility management practices. The new tools are designed to simplify the Environmental Protection Agency’s (EPA) Findings and Recommendations for a Water Utility Sector Management Strategy (Findings and Recommendations) and make the recommendations easier for utility managers to understand and implement at their facilities.

Each of the tools is organized around the 10 Attributes of Effectively Managed Utilities and the Five Keys to Management Success identified in the Findings and Recommendations document released in May 2007. The Collaborating Organizations – APWA, American Water Works Association, the Water Environment Federation, the National Association of Clean Water Agencies, the National Association of Water Companies, Association of Metropolitan Water Agencies, and EPA – recently released a primer designed to help water and wastewater utility managers make practical systematic changes in management and operations to achieve excellence and sustainable utility performance. The primer provides a framework through a customized, incremental approach to help utility managers identify which of the 10 attributes they should focus on first. It also features a series of suggested utility performance measures, allowing utilities to establish a performance baseline and begin to measure their progress. The primer is available for free download at www.apwa.net/Documents/Effective-Utility-Management-4color.pdf.

The Collaborating Organizations have also been working on an online Resource Toolbox that will contain information and links to key resources and tools currently available for utility manager’s use. There is also an electronic resource toolbox that utilities will be able to access online at <http://watereum.org/>.

affected party when: (1) the party requests an approved jurisdictional determination by name or otherwise requests an official jurisdictional determination; (2) the party contests jurisdiction over a particular water body and the Corps is allowed access to the property and is otherwise able to produce an approved jurisdictional determination; or (3) the Corps

determines that jurisdiction does not exist over a particular water body. A recipient of an approved jurisdictional determination can rely on the document for five years.

Preliminary jurisdictional determinations are nonbinding, advisory written indications that a site may contain waters of the United States. The RGL takes to regulations

under the National Pollution Discharge Elimination Systems (NPDES) program and typically there is no "addition" of a pollutant that would trigger CWA compliance.

The final rule will take effect 60 days after publication in the Federal Register. Visit APWA's Advocacy page for a copy of the new rule: www.apwa.net/advocacy.

First nationwide program to recycle CFLs established

Home Depot recently announced that it will now accept CFL bulbs for recycling in each of its stores nationwide.

According to the Environmental Protection Agency (EPA), the number of people using CFLs has risen dramatically in the last two years from approximately 5 percent in the early part of the decade to about 11 percent in 2006. As use of CFLs has increased, concerns over the proper disposal has increased because of small amounts of mercury contained in the bulbs. Each CFL bulb contains approximately 4 milligrams of mercury that complicates disposal.

Home Depot customers can bring expired, unbroken CFLs bulbs, including CFLs purchased elsewhere, to any Home Depot store for recycling. Home Depot will then hand the bulbs off to an environmental management company, which will coordinate the packaging, transportation and recycling of the bulbs. Several other retailers have CFL recycling programs as well, including IKEA and some True Value Hardware stores.

EPA announces pilot program to tackle non-asbestos waste left by Katrina

The Environmental Protection Agency (EPA) Office of Research and Development, in conjunction with Region 6, is scheduled to begin a pilot project to grind and incinerate vegetation and construction and demolition debris from Hurricane Katrina that does not contain asbestos materials. The project will use a thermal treatment process known as an air curtain burner as an option to expedite debris removal in a cost-effective and environmentally sound manner. Katrina debris will be ground up and incinerated in the air curtain structure as an alternative to disposal in a landfill.

EPA hopes to prove that the process is safe and will be effective in reducing the amount of debris volume leftover from Hurricane Katrina. Air monitors will surround the perimeter of the pilot project to determine if any hazardous emissions come off the incinerator site.



APWA leadership have made several trips to New Orleans to survey damage resulting from Hurricane Katrina.

Legislation introduced to promote development & commercialization of hybrid utility vehicles

The House Science Committee began consideration of legislation to promote the development and commercialization of hybrid electric utility vehicles. H.R. 6323 establishes a research, development, distribution and commercial application program to promote research of appropriate technologies for heavy-duty plug-in hybrid vehicles.

While great headway has been made in the hybrid passenger vehicle market, hybrid trucks or utility vehicles lag behind. The new legislation would create a grant program for manufacturers to build, test and sell plug-in hybrid utility vehicles. Proponents of the legislation estimate that a plug-in hybrid engine in a utility truck could use up to 60 percent less fuel than a standard utility truck today.

The bill also includes provisions to encourage the Department of Energy to expand research into battery technology to enable the use of plug-in hybrid technology in heavy duty trucks.

To view HR 6323 visit: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6323ih.txt.pdf.

Invasive species revolving loan fund included in Farm Bill

The newly enacted Farm Bill includes provisions establishing an Invasive Species Revolving Loan Fund to help municipalities defray the costs of invasive species management. The bill creates a low interest revolving loan fund for communities to purchase capital equipment and fund necessary management activities. Communities would have a 20 year window to repay any loans received from the fund, which would allow states to contract with local units of government to perform invasive species management duties. The current federal program on invasive species management does not reimburse municipalities for expenses related to invasive species prevention.

Additional information on the new revolving loan fund is available at www.durbin.senate.gov/issues/pri_env.cfm#invasive.

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