

# APWA *Washington* REPORT

August 2006

## EMERGENCY MANAGEMENT/DISASTER MITIGATION

### Hurricane Preparedness

#### **FEMA WARNS AGAINST COMPLACENCY AFTER REVISED HURRICANE FORECAST**

In mid-August the Federal Emergency Management Agency (FEMA) reminded residents of hurricane-prone areas to be ready even though fewer storms are predicted for the 2006 hurricane season, which began June 1 and ends Nov. 1. The National Oceanographic and Atmospheric Administration (NOAA) announced Tuesday it expects seven to nine hurricanes this year, a decrease from earlier estimates. So far this year, NOAA says there have been three named storms, but no hurricanes.

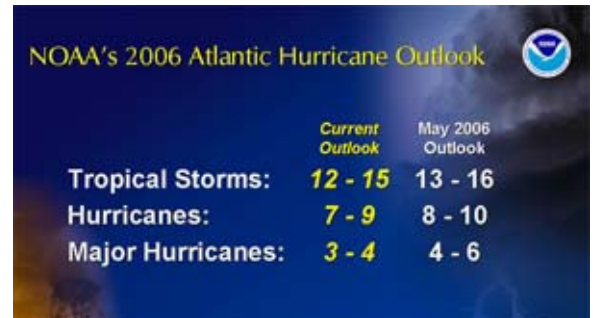


Image courtesy of [www.noaa.gov](http://www.noaa.gov)

“This is not a time to be complacent. It only takes one storm. People still need to develop family disaster plans and compile kits with necessary supplies to last three days,” said FEMA Director David Paulison. “They also should stay informed about local weather conditions and pay attention to emergency information from local and state officials.”

The complete announcement is available at: <http://www.fema.gov/news/newsrelease.fema?id=28664>.

### Disaster Preparation

#### **DHS PLANNING TO RELEASE UPDATED TARGETED CAPABILITIES LIST**

Later this fall, the Department of Homeland Security (DHS) will be releasing its updated Targeted Capabilities List (TCL) to local and state governments so that they can better prepare for disasters.

The first 169-page TCL was released last year and included 37 capabilities such as communications, incident management and training. It was initially established through the Homeland Security Presidential Directive-8 (HSPD-8) issued in 2003 and called for the development of a National Preparedness Goal defining how the country is to be prepared. The TCL was included in the goal along with 15 National Planning Scenarios.

According to the latest draft, released in early August, the final 628-page TCL should be released sometime this December. According to the current draft, “the working groups will continue to work through the summer and fall of 2006 to assist with NIMS typing and credentialing of the resources identified in the TCL.”

The TCL is intended to be a living document that will continue to be enhanced and refined over time. To see a copy of the draft in PDF format, please e-mail Dan Jensen, Manager of Government Affairs, at [djensen@apwa.net](mailto:djensen@apwa.net).

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#### **INSIDE YOU'LL FIND:**

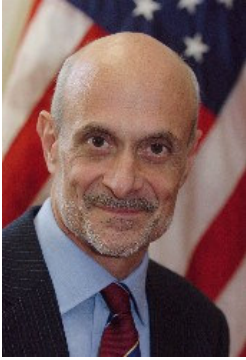
**P2--EMERGENCY MNGMT/DISASTER MITIGATION:** Disaster Recovery; Infrastructure Protection; Digital Emergency Alert Service  
**P3--ENVIRONMENT:** Water Security  
**P4--Drinking Water; Hazardous Waste**

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DHS Secretary Michael Chertoff

## **Disaster Recovery**

### **FEMA ISSUES TWO NEW RECOVERY STRATEGIES**

To improve the quality, speed and accountability of federal disaster support to state and local partners, the Federal Emergency Management Agency (FEMA) has issued "Recovery Strategies" addressing two key areas of disaster operations. The "Mass Sheltering and Housing Assistance" and "Debris Removal Operations" strategies reflect important lessons learned from Hurricane Katrina and outline a clear and manageable framework for guiding federal and state operational responses during the 2006 hurricane season and beyond.

"These two strategies will go a long way toward improving the quality, equity, consistency and efficiency of future disaster recovery efforts," said DHS Secretary Michael Chertoff. "We will deliver necessary assistance in a more organized and disciplined way, and in a more financially accountable manner."

These strategies are not designed to be comprehensive policy documents, but rather provide a general operational overview of how the agency plans to coordinate evacuee and debris removal support responsibilities should the nation face another challenging hurricane. However, each strategy will drive the development of far more detailed "policy" documents that will provide necessary program-level specifics. FEMA will coordinate all such supporting policies with state emergency management partners.

More information is available at <http://www.fema.gov/news/newsrelease.fema?id=28178>.

## **Infrastructure Protection**

### **DHS OFFICIALS HIGHLIGHT IMPORTANCE OF INFRASTRUCTURE PROTECTION PLAN**

On July 19, Senior Department of Homeland Security (DHS) officials emphasized the importance of working with the private sector and other partners in implementing the National Infrastructure Protection Plan (NIPP).

Under Secretary for Preparedness George Foresman and Assistant Secretary for Infrastructure Protection Bob Stephan attended the first of a series of partnership events at the Calvert Cliffs Nuclear Power Plant in Maryland to highlight the importance of the NIPP in forging an unprecedented partnership between the government and private sector to identify, prioritize and protect the nation's critical infrastructure and key resources. Speaking to 300 people at the Calvert Cliffs event, Assistant Secretary Stephan said the three keys for protecting the nation's critical infrastructure are leadership, partnerships and a plan that provides the playbook for action. Calvert Cliffs was chosen as the site for the first partnership event because the nuclear sector volunteered to pilot test a number of the concepts that are included in the NIPP.

APWA has been involved with DHS in the creation and implementation of NIPP, working with other stakeholders as consultants to DHS. The NIPP is the product of extensive collaboration between government and private sector security partners and was signed by 15 cabinet secretaries. More information on the NIPP is available at [www.dhs.gov/nipp](http://www.dhs.gov/nipp).

## **Digital Emergency Alert System**

### **FEMA PARTICIPATES IN DIGITAL EMERGENCY ALERT SYSTEM PILOT**

The Federal Emergency Management Agency (FEMA) demonstrated the Digital Emergency Alert System (DEAS) earlier this month with the Association of Public Television Stations (APTS). The pilot project is designed to improve the dissemination of public alerts and warnings during time of national crisis through the use of local public television's digital television broadcasts.

The current Emergency Alert System (EAS) has its roots in the Cold War, but the DEAS will bring the EAS into the 21st century, meeting the mobile, network and digital needs of America. Major features of the new system include:

- a digital system that will allow broadcast, cable, satellite and other services to send and receive alert information;
- capability to issue alerts in languages other than English;
- provisions for hearing and visually impaired persons; and
- a mandated protocol for sending messages.

“Digital capabilities will improve the reliability, flexibility and security of the emergency alert system,” said FEMA Director David Paulison. APWA continues to monitor this program and has requested that any new system be compatible with the role of public works during the implementation of any local emergency response efforts.

## ENVIRONMENT

### Water Security

#### **APWA ACTS TO IMPROVE CHEMICAL SECURITY ANTI-TERRORISM LEGISLATION (S 2145/ HR 5695)**

APWA joined with several associations representing water systems to express concern over the proposed Chemical Facility Anti-Terrorism Act and the potential unintended consequences of the legislation. There are currently two stand-alone versions of the legislation being considered by the House and Senate. The Senate bill, S 2145, directs the Secretary of the Department of Homeland Security (DHS) to promulgate rules for designating chemical facilities subject to regulation, assigning those high-risk facilities to various risk-based tiers and establishing performance-based security standards for each tier. Designated facilities would be required to submit vulnerability assessments, security plans and emergency response plans for terrorist incidents to DHS. The plans would have to be “sufficient to deter, to the maximum extent practicable, a terrorist incident or a substantial threat of such an incident” and “include security measures to mitigate the consequences of a terrorist incident.” Because the legislation is broadly drafted, any facility, including water systems, housing dangerous chemicals over a specified amount will be considered regulated entities and subject to the DHS program.

Similarly, House bill HR 5695 includes provisions to boost security at chemical facilities. The House version also includes provisions clarifying that states could adopt more stringent security standards and allows DHS to require the use of inherently safer technology (IST). The House bill includes a specific exemption for water systems regulated under the Safe Drinking Water Act (SDWA) and is written so that the Secretary must *select* water systems on an individual basis before requiring compliance with the legislation. The provision as written is open-ended and does not provide DHS with adequate guidance as it relates to the threats posed to water system safety and security.

Additionally, APWA will host a staff briefing by APWA member Bruce Florquist, P.E., for congressional and committee staff to explain changes to HR 5695/ S 2145 needed to ensure the nation’s water systems continue to protect the public health, guard the environment and reduce community risk exposure from potential terrorist attacks. Florquist’s presentation will discuss that while APWA recognizes the need for increased security measures at vulnerable facilities, we disagree with the inclusion of water systems in this regulatory regime.

The likelihood that either the House or Senate versions will be enacted before the end of this Congress remains unclear. Procedurally, the bills must be reviewed by additional House and Senate committees with jurisdiction, including the House Energy and Commerce Committee and the Senate Environment and Public

Works Committee (EPW). Senator Inhofe (R-OK), Chairman of the EPW Committee, has placed a hold on the bill until the jurisdictional questions between his committee and the Senate Homeland Security and Governmental Affairs Committee are resolved.

In light of the uncertainties surrounding the stand-alone bills, Senator Byrd (D-WVA) offered an amendment to the fiscal year 2007 DHS appropriations bill that would require the Secretary to issue interim security regulations for the chemical sector until final regulations are issued by the Department. The Byrd Amendment does not include a specific exemption for water systems. The House fiscal year 2007 DHS appropriations bill does not include a provision similar to the Byrd amendment so it remains to be seen whether the provision will remain after the conference.

Check the APWA Advocacy webpage for updates on these bills ([www.apwa.net/advocacy](http://www.apwa.net/advocacy)) or contact Julia Anastasio, [janastasio@apwa.net](mailto:janastasio@apwa.net), for further information.

## **Drinking Water**

### **EPA PROPOSES CHANGES TO LEAD & COPPER RULE**

The Environmental Protection Agency (EPA) recently published notice in the *Federal Register* proposing to revise the National Primary Drinking Water Regulations for lead and copper to strengthen federal regulation of lead in drinking water. The existing rule requires water utilities to reduce lead contamination by controlling the corrosiveness of water and, if needed, to replace lead service lines carrying water from main lines to residences, businesses and schools.

The changes in the proposed rule are designed to enhance the implementation of the rule in the areas of monitoring, treatment, customer awareness, lead service line replacement and improve compliance with public education and information-sharing requirements to ensure drinking water customers receive meaningful, timely and useful information to help limit their exposure to lead in drinking water. The rule sets an action level of 15 ppb, meaning that a utility must begin to take corrective measures if more than 10 percent of its samples exceed the 15 ppb standard for lead. Corrective measures include partnering with local organizations, such as health agencies and schools, to better disseminate messages about lead exposure to those people at greatest risk. The proposed changes do not affect the basic requirements of the existing lead and copper rule.

EPA is accepting comments on the proposed changes. Comments must be received on or before September 18, 2006. The text of the *Federal Register* notice is available at: <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-6250.pdf>. For more information contact Julia Anastasio, [janastasio@apwa.net](mailto:janastasio@apwa.net).

## **Hazardous Waste**

### **MULTIPLE EFFORTS TO PROMOTE ELECTRONICS RECYCLING**

As electronic devices become more ubiquitous and technology continues to improve at a rapid pace, public and private efforts to encourage recycling and reuse of electronic devices and/or component parts are expanding. On the public front, the Environmental Protection Agency (EPA) recently issued several notices designed to encourage electronics recycling and to create a market for these materials.

EPA announced a final rule intended to encourage the recycling of cathode ray tubes (CRT) used in computer monitors and televisions. Under the new rule, broken CRTs are not regulated as hazardous waste under the Resource Conservation and Recovery Act (RCRA) as long as the following conditions are met: (1) CRT containers are clearly labeled regarding contents; (2) CRTs are stored in a building or container designed to minimize releases; (3) CRTs are safely transported in containers designed to minimize releases; and (4) CRTs are stored onsite less than one year before being recycled.



Image courtesy of [www.epa.gov](http://www.epa.gov)

The rule also establishes provisions for “speculative accumulation” or stockpiling of used, intact and broken CRTs in anticipation of improved market conditions for these materials. Under the final rule, both broken and intact CRTs are considered to be stockpiled unless more than 75 percent of the materials stored are recycled within a calendar year. Household and small generator exemptions from the previous rule remain in the final rule.

EPA recently announced it anticipates issuing new rules on the definition of solid waste in the coming months. Under a proposed rule issued in 2003, the definition of solid waste would be revised to exclude 1.5 million tons of hazardous waste annually from regulation under RCRA. The proposal also includes definitions that would allow the recycling of spent materials and by-products in industries other than those that generated them.

Additionally, EPA recently announced the creation of new voluntary performance standards aiding large computer purchasers to make environmentally sound purchases of equipment. Under the standard, purchasers will be able to select from a list of computers, laptops and monitors that meet strict environmental criteria, including the reduction or elimination of environmentally harmful materials designed for product end-of-life and energy conservation. The three-tiered rating system, EPA’s Electronic Products Environmental Assessment Tool (EPEAT), includes 23 required criteria and 298 optional performance criteria designed to promote continuous improvement in the environmental design of electronic products and inform purchasers. EPA estimates that over the next five years, purchases of EPEAT-registered computers will reduce hazardous waste by more than 4 million pounds, non-hazardous waste by more than 1 million pounds and energy use by more than 200,000 megawatts.

Private industry is also promoting electronics recycling. Dell Inc. and CTL Corp., a Portland, Or.-based computer manufacturing company, have launched free recycling programs for personal computers and printers. Dell’s goal is to triple the amount of used electronic goods recovered from consumers by 2009. Both Dell and CTL products meet the new EPEAT standards. In a related move, the Institute of Scrap Recycling Industries Inc. approved new operating procedures related to the recycling of electronic equipment. The procedures are intended to ensure used and/or obsolete electronic products and wastes are recycled in compliance with all applicable environmental, health and safety regulations.

The text of the cathode ray tube final rule is available at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-6490.pdf>. More information on EPEAT is available at [www.epeat.net](http://www.epeat.net). Information on the take-back program from Dell Inc. is available at [http://www.dell.com/content/topics/global.aspx/corp/environment/en/recycling\\_main?c=us&l=en&s=corp](http://www.dell.com/content/topics/global.aspx/corp/environment/en/recycling_main?c=us&l=en&s=corp) and information on the CTL program is available at [www.ctlcorp.com](http://www.ctlcorp.com).

In the coming months, check the APWA Advocacy webpage for updates on the revised definition of solid waste ([www.apwa.net/advocacy](http://www.apwa.net/advocacy)) or contact Julia Anastasio, [janastasio@apwa.net](mailto:janastasio@apwa.net), for further information.

## **Solid Waste**

### **WASTE IMPORTS & HOMELAND SECURITY**

A provision in the Senate’s fiscal year 2007 Department of Homeland Security (DHS) appropriations bill would require DHS to improve inspections of municipal solid waste imports and to collect a fee to cover the cost of such inspections (HR 5441, SA 4617). According to Senator Stabenow (D-MI), author of the provision, hundreds of trucks are attractive means of transporting contraband or terrorism cross the border every day. The proposed inspection fee would be approximately \$420 per truck and would cover the cost of the increased and more robust inspections. The House fiscal year 2007 DHS appropriations bill does not include a similar provision. It will now be up to House and Senate conferees to work out the differences in

the two appropriations bills during conference negotiations and it remains unclear as to whether the Stabenow amendment will survive.

Text of the fiscal year 2007 DHS appropriations bill is available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:h5441pp.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h5441pp.txt.pdf). Text of the Stabenow amendment (SA 4617) is available at: <http://thomas.loc.gov/cgi-bin/query/C?r109:./temp/~r1096jPNII>.

In the coming months check the APWA Advocacy webpage for updates on the proposed amendment ([www.apwa.net/advocacy](http://www.apwa.net/advocacy)) or contact Julia Anastasio, [janastasio@apwa.net](mailto:janastasio@apwa.net), for further information.

## TRANSPORTATION

### **FY07 Appropriations**

#### **SENATE APPROPRIATIONS COMMITTEE APPROVES TRANSPORTATION SPENDING BILL**

On July 20 the Senate Appropriations Committee voted 28-0 to pass a fiscal year (FY) 2007 Transportation, Treasury, Housing and District of Columbia appropriations bill. For highway programs, the bill would provide \$39.1 billion, an increase of \$3.5 billion over current year funding and the same level passed by the House of Representative's version of the bill. Transit programs would receive \$8.8 billion, slightly lower than the \$8.9 billion in the House bill, which is \$428 million more than current year levels.

The Senate bill funds the Federal Aviation Administration (FAA) at \$14.3 billion and the Airport Improvement Program (AIP) at \$3.52 billion. The House bill would provide \$15.2 billion for FAA and \$3.7 billion for AIP. Amtrak would receive \$1.4 billion under the Senate bill, which is above the House level of \$1.1 billion.

The Senate appropriations bill is expected to be considered by the full Senate when Congress returns in early September from the August recess. The House approved its version of the bill on June 14.

### **Section 5311 Program**

#### **GUIDANCE FOR NON-URBANIZED AREAS TRANSIT PROGRAM ISSUED**

The Federal Transit Administration (FTA) has issued a notice of program guidance in the form of a revised program circular for the Formula Grants for Other Than Urbanized Areas Program (Section 5311) and is seeking comments on the proposed circular.

The notice also addresses comments FTA received with regard to its Section 5311 program in response to a *Federal Register* notice titled, *FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (70 FR 71950, November 30, 2005), in addition to comments received during several public listening sessions. The proposed circular will be available in Docket Number FTA-2006-25365 at <http://dms.dot.gov>.

Comments should be submitted by September 29, 2006. For more information contact Lorna Wilson, Office of Program Management, FTA, at (202) 366-2053 or e-mail [lorna.wilson@dot.gov](mailto:lorna.wilson@dot.gov). The notice appeared in the July 31<sup>st</sup> *Federal Register* under Federal Transit Administration, [http://www.access.gpo.gov/su\\_docs/fedreg/a060731c.html](http://www.access.gpo.gov/su_docs/fedreg/a060731c.html).

## **Environmental Protection**

### **FHWA PROPOSES CHANGES TO HISTORIC RESOURCES RULE**

The Federal Highway Administration (FHWA) has issued a notice of proposed rulemaking which would amend regulations implementing Section 4(f) of the Department of Transportation Act as required under Section 6009 of SAFETEA-LU. The proposal would also reorganize and recodify the Section 4(f) provisions in the Code of Federal Regulations.

Section 4(f) prohibits federal transportation agencies from using historic properties, parkland, wildlife refuges or recreation areas unless there was no "feasible and prudent alternative" to the use of land and the action included all possible planning to minimize harm to the property resulting from use.

This proposal would modify the procedures for granting approvals under 23 U.S.C. 138 and 49 U.S.C. 303, hereafter referred to as Section 4(f), in several ways. First, the proposal clarifies the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of Section 4(f) property is feasible and prudent. Second, it proposes to clarify the factors to be considered when selecting a project alternative in situations where all alternatives use Section 4(f) property and no feasible and prudent avoidance alternative exists.

Third, the proposal would establish procedures for determining that the use of a Section 4(f) property has de minimis impacts. Fourth, the proposal updates the regulation to recognize statutory and common-sense exceptions for uses that advance Section 4(f)'s preservationist goals; as well as the option of conducting certain Section 4(f) evaluations on a programmatic basis. Finally, this proposal would move the Section 4(f) regulations out of the agencies' National Environmental Policy Act regulations (23 CFR part 771, Environmental Impact and Related Procedures) into a separate part of 23 CFR, with a reorganized structure that is easier to use.

Comments must be received on or before September 25, 2006. For more information contact Diane Mobley, Office of the Chief Counsel, (202) 366-1372, or Lamar Smith, Office of Project Development and Environmental Review, (202) 366-8994. The notice was published in the July 27<sup>th</sup> *Federal Register*, under Federal Highway Administration, [http://www.access.gpo.gov/su\\_docs/fedreg/a060727c.html](http://www.access.gpo.gov/su_docs/fedreg/a060727c.html).

## **Mega Projects**

### **RULE TO SET RATINGS FOR PROJECTS OF NATIONAL SIGNIFICANCE**

The Federal Highway Administration (FHWA) has issued a proposed rule which would establish required evaluation and rating guidelines for proposed Projects of National and Regional Significance.

Section 1301 of SAFETEA-LU established a program to provide grants to states for projects of national and regional significance to improve the safe, secure and efficient movement of people and goods throughout the United States and to improve the health and welfare of the national economy.

Section 1301 requires the Secretary of Transportation (Secretary) to establish regulations on the manner in which the proposed projects will be evaluated and rated, in order to determine which projects shall receive grant funding.

If the rule were adopted, a proposed project would become eligible to be funded under this program only if the Secretary finds that the project meets the requirements of the rule. In making such findings, the Secretary will evaluate and rate each project as "highly recommended," "recommended" or "not recommended" based on the results of preliminary engineering, the project justification criteria and the degree of non-federal financial commitment.

Comments must be received on or before September 22, 2006. For more information, contact Edward Strocko, Office of Freight Operations, (202) 366-2997. This notice was published in the July 24<sup>th</sup> *Federal Register* under Federal Highway Administration, [http://www.access.gpo.gov/su\\_docs/fedreg/a060724c.html](http://www.access.gpo.gov/su_docs/fedreg/a060724c.html).

### **Value Pricing**

#### **DEADLINE TO APPLY FOR VALUE PRICING PROGRAM SUSPENDED**

The Federal Highway Administration (FHWA) has issued a notice revising a previous notice, published in the *Federal Register* on January 6, 2006, (71 FR 970) which invited state and local governments and other public authorities to apply to participate in the Value Pricing Pilot (VPP) program and presented guidelines for program applications.

The notice described the statutory basis for the VPP program and updated a previous notice published in the *Federal Register* on May 7, 2001 (66 FR 23077), by providing revised procedures, process timelines and guidance for program participation. The purpose of FHWA's latest notice is to announce a delay in the consideration of applications for fiscal year (FY) 2007 funds and to temporarily suspend the deadlines to apply for such funds.

The delay is intended to allow FHWA to revise the VPP program guidance to solicit certain types of projects that further the goals of the Secretary of Transportation's new National Strategy to Reduce Congestion on America's Transportation Network, announced on May 16, 2006. The National Strategy includes a number of initiatives designed to reduce transportation congestion.

FHWA's notice temporarily suspends the due dates for Expressions of Interest and formal grant applications for FY 2007 VPP program funds that were published in the January 6 notice. A subsequent notice will be issued providing new deadlines along with revised guidelines for applications.

For more information, contact Wayne Berman, Office of Operations, (202) 366-4069, or [wayne.berman@fhwa.dot.gov](mailto:wayne.berman@fhwa.dot.gov). This notice was published in the July 17<sup>th</sup> *Federal Register* under Federal Highway Administration, [http://www.access.gpo.gov/su\\_docs/fedreg/a060717c.html](http://www.access.gpo.gov/su_docs/fedreg/a060717c.html).

***APWA Washington Report contributors include Julia Anastasio, Jim Fahey and Dan Jensen. Becky Wickstrom is editor of the Report.***