

APWA *Washington* REPORT

October 2005

EMERGENCY MANAGEMENT/DISASTER MITIGATION

First response

APWA PRESIDENT TESTIFIES BEFORE CONGRESS

On September 29, APWA President Bob Freudenthal represented the association in a panel hearing before the U.S. House Homeland Security Subcommittee on Emergency Preparedness, Science and Technology. At the invitation of Subcommittee Chair David Reichert (R-Wash), Bob joined other first responders to testify about “Incident Command, Control and Communication during a Catastrophic Event.”

The purpose of the hearing was to evaluate the effectiveness of the Incident Command System (ICS), a FEMA-sponsored program which facilitates improved training and coordination between local, state and federal agencies during catastrophes. During his testimony, Bob outlined the role of public works in disaster response and APWA’s efforts to encourage greater cooperation, communication and coordination among response agencies.

Panelists fielded questions from members of the Committee about ICS, its implementation and how well it worked under the two most recent disasters – Hurricanes Katrina and Rita. Overall, all panelists, including Freudenthal, agreed in principle on the following items:

- **Communication** and better tools to more effectively and reliably send information between the various first responder disciplines. Bob expressed a need for ways in which communication can be improved to ensure public works officials can communicate with other emergency responders in a disaster.
- **Preparation** as an essential element for effectively responding to crises and for saving lives. Bob shared his belief that learning from past examples is the best way to prepare for future catastrophes.
- **Training** as the most crucial element in responding to a catastrophe. Bob, together with all panelists agreed that the best steps to take in ensuring lives are saved is to be adequately prepared through tools such as ICS.

Additional panelists included Chuck Canterbury, National President, Fraternal Order of Police; Robert L. Garner, President and CEO, American Ambulance Association; Mark Edward Gebhart, M.D., EMT-P, Commander, Urban Search and Rescue Team, and Assistant Professor of Emergency Medicine, Wright State University School of Medicine; Chief William D. "Bill" Killen, President, International Association of Fire Chiefs; David E. Liebersbach, Immediate Past President, National Emergency Management Association.

The testimony is available at <http://www.apwa.net/DR/index.asp?ID=57>.

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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 • www.apwa.net/advocacy

Homeland Security Appropriations

HOUSE-SENATE CONFEREES APPROVE HOMELAND SECURITY APPROPRIATIONS BILL

The House-Senate Appropriations conferees approved the fiscal year 2006 Homeland Security Appropriations Conference Report (H. Report. 109-241). The report recommends \$30.8 billion in discretionary spending for the Department of Homeland Security, \$1.3 billion more than the President's FY 2006 request and \$1.4 billion more than the FY 2005 enacted level. The President is expected to sign the measure. A sample of the breakdown is listed below:

Office for Domestic Preparedness – A total of \$3,346,300,000 is recommended for first responder grants and assistance, including:

- \$550 million for state and local assistance grants
- \$765 million for high-threat urban areas
- \$150 million for rail and transit security grants
- \$50 million for Commercial Equipment Direct Assistance Program
- \$185 million for emergency management performance grants

Infrastructure Protection and Information Security – A total of \$625,499,000 is recommended to protect the nation's infrastructure against current vulnerabilities and take preventative action, including:

- \$68.5 million to identify critical infrastructure and vulnerabilities, to assess identified risks and to reduce vulnerabilities
- \$91.4 million for developing and implementing protective programs for critical infrastructures
- \$142.632 million for national security and emergency preparedness telecommunications activities

More details on the bill can be found at <http://appropriations.house.gov/>

Hurricanes Katrina and Rita

COSTS ASSESSMENT OF RECENT HURRICANE DEVASTATION RELEASED

According to the Congressional Budget Office (CBO), "Total losses – insured and uninsured – from both hurricanes approach \$140 billion, the bulk of which is due to Hurricane Katrina. Insured losses are estimated to range from about \$40 billion to \$67 billion, with recent estimates closer to the lower end of that range."

By late this fall, Congress will have passed close to \$100 billion in aid for the struggling regions. The varied pieces of legislation will cover everything from repairing vital ports, bridges, levees and electrical and communications networks to providing medical, job placement and school assistance for thousands of the displaced and dispossessed. The funding level could go much higher as damage assessments continue to come in.

The recovery plan for Louisiana, Mississippi and Alabama has been said to resemble the Marshall Plan – the mechanism that helped rebuild Western Europe after WWII. In another comparison, the recovery could resemble the public works projects of the New Deal which helped lift the country out of the Great Depression.

First Responder Funding

MORE MONEY TO HIGH-RISK AREAS?

Senate Homeland Security Committee Chair Susan Collins (R-ME) and Ranking Member Joseph Lieberman (D-CT) have stepped up their efforts to persuade Senate conferees negotiating reauthorization of the Patriot Act to drop the House provision that would change the funding formula for first responders.

Collins and Lieberman, who are not conferees, are asking to be included in the negotiations to ensure their earlier provision for funding passed by the Senate – which was dropped from the conference report – will be included into any final version. The Collins-Lieberman proposal guarantees each state at least \$9 million out of the \$1.7 billion appropriated for next year. This would go against the House measure that employs a risk-based formula for homeland security spending with a minimum of \$4 million going to the states with the lowest risk. House Judiciary Committee Chairman James Sensenbrenner (R-WI), who will lead House negotiators during conference, has reaffirmed his strong support for a funding formula rewrite which favors high-risk states.

If no amount is agreed upon, each state will receive a minimum of \$7 million. Conferees are expected to meet during the final weeks of October.

TRANSPORTATION

SAFETEA-LU

GUIDANCE ISSUED ON PLANNING, ENVIRONMENT PROVISIONS

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have issued interim guidance for implementing key provisions on planning, environment and air quality contained in the recently enacted surface transportation law, SAFETEA-LU.

The joint FHWA-FTA interim guidance is intended for the use of FHWA and FTA field offices working with their state and local planning partners and grantees to implementing SAFETEA-LU. Short summaries of key changes to the statutory requirements for planning and environmental reviews are provided, followed by guidelines for how FHWA Division and FTA Regional Offices should administer and oversee highway and transit programs during this TEA-21/SAFETEA-LU transitional period.

The interim guidance covers planning, air quality and environmental requirements jointly administered by FHWA and FTA. Additional information and case study examples of the new or changed requirements under SAFETEA-LU will be developed, as appropriate.

FHWA and FTA will be issuing separate interim guidance on SAFETEA-LU provisions and funding programs that each agency will be administering separately.

The interim guidance is available at <http://www.fhwa.dot.gov/hep/igs/lpja.htm>.

Work Zone Safety

NEW GUIDE ASSISTS IN IMPLEMENTING UPDATED WORK ZONE RULE

The Federal Highway Administration (FHWA) published a guide to help work zone practitioners implement the recently updated work zone safety and mobility rule.

The guide, *Implementing the Rule on Work Zone Safety and Mobility*, provides a general overview of the work zone safety rule, including its goals and expected benefits. It also includes an overview of differences between the updated rule and the former rule, as well as examples, tools and resources to help agencies implement rule provisions. The information contained in the guide can be useful to agencies in all efforts to improve work zone safety and mobility, and thereby support effective operations and management of the transportation system.

As the first of four guides intended to support implementation of the rule, it contains three technical guidance documents covering specific aspects of the rule – work zone public information and outreach strategies, transportation management plans for work zones and work zone impacts assessment. The information will be

available later this fall on the FHWA Work Zone Web site, and will be available in hardcopy and on CD-ROM by the end of 2005. The guide is available at http://www.ops.fhwa.dot.gov/wz/resources/final_rule.htm.

Transportation Appropriations

DEBATING TRANSPORTATION SPENDING BILL A PRIORITY FOR SENATE

The Senate's fiscal year 2006 Transportation Appropriations Bill (HR 3058) will be the first appropriations bill considered when the Senate returns the week of October 17 from a weeklong recess. In July the Senate Appropriations Committee approved the bill which would provide about \$65 billion for transportation programs plus funding for programs within the Treasury Department and the Department of Housing and Urban Development.

For federal highway programs, the bill provides \$40.2 billion, about \$3 billion more than the funding level in the House-passed bill. In addition, it includes \$8.2 billion for federal transit programs, \$300 million less than the House approved level, and \$1.45 billion for Amtrak, \$200 million more than the House bill. The bill funds the Airport Improvement Program at \$3.5 billion, \$100 million less than the House approved.

Resolving several difficult issues, including funding for Amtrak, could prolong Senate floor debate. The House approved its bill in June.

Transportation Funding

HOUSE BILL WOULD IMPOSE TEMPORARY SUSPENSION OF GAS TAX

A bill to suspend the federal motor fuel tax was introduced in the House of Representatives last month. Sponsored by Rep. Phil English (R-PA) and 27 other members of the House, the Gas Tax Relief Act of 2005 (HR 3683) would suspend highway motor fuel taxes paid into the Federal Highway Trust Fund for 30 days upon enactment of the bill. The legislation calls for replacing lost Trust Fund revenues with dollars from the General Fund. The federal gasoline tax is 18.4 cents per gallon.

Gasoline prices spiked dramatically following the devastation caused by Hurricanes Katrina and Rita. The bill was referred to the House Ways and Means Committee.

ENVIRONMENT

Clean Water Trust Fund

COALITION OF STAKEHOLDERS DEVELOP PROPOSAL FOR CLEAN WATER TRUST FUND

In an effort to address the dramatic funding gap between the nation's water pollution needs and the amount of money invested in infrastructure each year, representatives from wastewater utilities, national and regional resource management groups and conservation and environmental interests prepared a proposal establishing a Clean Water Trust Fund (CWTF).

The CWTF proposal would make several important changes to the nation's water infrastructure program including:

- Creation of a new federal trust fund to provide a dedicated source of funding to meet the nation's water infrastructure needs. The CWTF is funded at \$36.75 billion over five years.
- Establishment of a dedicated revenue source for the CWTF, consisting of an excise tax on 'flushable' products (i.e. soap, toiletries, and cooking oils) and a reinstatement of the Corporate Environmental Income Tax.
- Establishment of a new program providing grants to local wastewater systems.
- Increased funding for research and establishment of programs for developing new technology and improving utility management.

- Establishment of a program to enhance fisheries habitat and improve public access to fisheries resources.

The coalition is currently seeking Congressional support for the proposal. For more information on the coalition of stakeholders and the nation's water infrastructure funding needs visit www.win-water.org.

EPA Reporting

FINAL RULE ESTABLISHES POLICY FOR ELECTRONIC DOCUMENT SUBMISSION

The Environmental Protection Agency (EPA) published a final rule establishing a new policy for electronic reporting of documents under a broad range of environmental programs. While the rule does not require electronic submission of documents, it does establish procedures for regulated entities that use an electronic format, as well as requirements to ensure electronic submissions are as dependable and legally binding as paper documents.

The rule does not impose specific requirements on reporting entities and is neutral with respect to technology. Additionally, the rule does not apply to records required to be maintained by regulated entities. The new rule replaces the *1996 General policy for Accepting Filing of Environmental Reports via Electronic Data Interchange*.

For additional details, visit http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=59748&dbname=2005_register.

Wastewater

FINAL PRETREATMENT STREAMLINING RULE RELEASED

The EPA released a final rule on Sept. 28, 2005, to streamline regulations governing the agency's pretreatment program for wastewater. The new rule is designed to reduce the regulatory burden to industrial plants, state and local governments and treatment facilities as well as achieve better environmental results at a lower cost by allowing regulated facilities to better focus oversight resources where they will do the most good.

The new rule streamlines and clarifies various provisions of the General Pretreatment Regulation for Existing and New Sources of Pollution codified at 40 C.F.R. 403. The Clean Water Act (CWA) directs EPA to develop regulations to control pollutants which may pass through or interfere with POTW treatment processes or contaminate sewage sludge. The new rule makes the following changes:

- Provides POTWs with authority to grant monitoring waivers to industrial facilities where pollutants are not documented as present at the facility or anywhere in the wastestream.
- Authorizes POTWs to use general control mechanisms (i.e. permits) to regulate multiple industrial dischargers that share common characteristics.
- Clarifies that POTWs can use Best Management Practices as an alternative to numeric limits that are developed to protect the POTW, water quality and sewage sludge.
- Clarifies certain requirements regarding the frequency of on-site industrial facility inspections to evaluate the adequacy of controls for "Slug Dischargers".
- Provides greater flexibility in the use of certain sampling techniques, and establishes greater consistency with the sampling protocols in other parts of EPA's regulations.
- Provides the Control Authority with the discretion to authorize use of equivalent concentration limits in lieu of mass limits for certain industrial categories, and allows the conditional use of equivalent mass limits in lieu of concentration-based limits where appropriate to facilitate adoption of new water-conserving technologies.
- Authorizes POTWs to establish alternative sampling, reporting, and inspection requirements for certain classes of Categorical Industrial Users.

- Clarifies the definition of significant noncompliance (SNC) as it applies to violations of instantaneous and narrative requirements and late reports, and provides additional options for publishing lists of industrial facilities in the SNC annually in the newspaper. The rule also retains existing rules and policies regarding the application of Technical Review Criteria and the use of the “rolling quarter” approach in determining SNC status.
- Provides updates references relating to requirements POTWs must meet to adjust removal credits for combine sewer overflows.
- Makes other miscellaneous changes designed to maintain consistency with the NPDES regulations or to correct typographical errors.

More detailed information on the pretreatment streamlining rule is available at www.epa.gov/npdes/pretreatment. Information may also be obtained from Jan Pickerel of EPA at (202) 564-7904 or pickerl.jan@epa.gov, or Greg Shaner at (202) 564-0721 or schaner.greg@epa.gov.

Intergovernmental

APWA Advocacy

BOARD OF DIRECTORS ADOPTS 2006 LEGISLATIVE PRIORITIES

The Board of Directors approved APWA’s national advocacy priorities for 2006 and the remainder of 2005 during the APWA International Public Works Congress & Exposition in Minneapolis, Minn., on September 14.

Recommended by the Government Affairs Committee, the new priorities maintain a continued focus on national issues of greatest concern to public works, including transportation, water infrastructure investment, homeland security and emergency preparedness, and local control of public rights of way.

The priorities build upon the successful member advocacy efforts of the past year and will guide member advocacy efforts for the next year.

The adopted priorities are:

Full Funding for Transportation

Objective: Increase federal investment in transportation infrastructure and programs; protect the integrity of transportation trust funds and the framework of SAFETEA-LU.

Wastewater and Drinking Water Infrastructure Funding

Objective: Increase the federal investment in clean water and drinking water infrastructure.

Water Resources Development Act

Objective: Support full funding and programming of the Water Resources Development Act.

Comprehensive Stormwater Management and Funding

Objectives: Support solutions that promote a comprehensive approach to stormwater management that recognizes the quality of life benefits associated with such actions. Support funding for the research pilot projects that support the development of best management practices.

Homeland Security Priorities:

1. Federal Emergency Relief Funding

Objective: Achieve increased funding for local agencies, encourage initiatives at the federal level that support an efficient and effective all hazards approach to disaster management and mitigation, more rapid disbursement of funding and quicker response in pre- and post disaster events.

2. Security of Public Facilities and Utility Systems

Objective: Support implementation and funding of reasonable security measures necessary to protect public facilities and utility systems.

3. Public Works as an Integral Responder

Objective: As first responders, assure that public works is fully integrated in a comprehensive, interdisciplinary, emergency response and recovery, and secure the necessary funding and resources to meet that demand.

Local Control of Public Rights-of-Way

Objective: Protect local control over public rights-of-way.

Air Quality Standards

Objective: Support solutions that protect air quality and promote the efficient and cost-effective delivery of public works services.

The priorities are posted on APWA's Web site, www.apwa.net/advocacy. To find out more about APWA advocacy, visit the Web site or contact the APWA Washington Office at (202) 408-9541.

Telecommunications

HOUSE COMMITTEE RELEASES DRAFT BROADBAND BILL

Leaders of the House Energy and Commerce Committee have released bipartisan discussion-draft legislation which is designed to accelerate the deployment of new Internet services. The yet-unnamed bill was drafted by Committee Chairman Joe L. Barton (R-TX) and Reps. Fred Upton (R-MI), Charles W. Pickering (R-MS), Ranking Member John D. Dingell (D-MI) and Edward J. Markey (D-MI).

The bill would create a streamlined franchising process for broadband video providers by allowing companies to automatically obtain a franchise 15 days after submitting a statement to local franchise authorities that agrees to any public, educational and governmental use of the provider's system, as provided by the local franchise authority. The measure would allow a local franchise authority to assess a franchise fee not to exceed five percent of a broadband video service provider's gross revenues.

The measure is intended to update telecommunications laws to accommodate the emergence of new technologies. Senate Commerce, Science and Transportation Committee Chairman Ted Stevens (R-AK) is working on his own bill. Congress is not expected to complete a comprehensive telecommunications bill until next year.

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