

APWA *Washington* REPORT

August 2007

TRANSPORTATION

Bridge Safety

MINNESOTA BRIDGE COLLAPSE PROMPTS BRIDGE INSPECTION ASSESSMENT

In response to the I-35W bridge collapse in Minneapolis on August 1, U.S. Transportation Secretary Mary Peters requested that the Department of Transportation's Inspector General conduct a rigorous assessment of the National Bridge Inspection Program, and if needed, to make recommendations for future changes to the program.

In addition, Peters called on all states to immediately inspect any steel deck truss bridges similar to the bridge that collapsed. According to Federal Highway Administration (FHWA) data, there are 756 of the relatively uncommon steel deck truss bridges in the United States.

FHWA issued the guidance to all state transportation agencies and bridge owners, strongly advising them to conduct an inspection or, at minimum, review inspection reports to determine if further action is needed. More information is available at www.fhwa.dot.gov.



The U.S. Department of Transportation has posted additional information about the I-35 bridge collapse in Minneapolis at <http://www.dot.gov/affairs/minnbridge.htm>.

Bridge Funding

FUNDS APPROVED TO REBUILD COLLAPSED I-35W BRIDGE

The House and Senate approved legislation (HR 3311) to provide \$250 million for emergency reconstruction of the Interstate bridge in Minneapolis which collapsed into the Mississippi river. The bill, approved during a weekend session before the start of the August recess, also authorizes \$5 million from the Federal Transit Administration for programs to reduce traffic congestion and alternative transportation around the site of the collapse. The President signed the legislation into law on August 7.

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SAFETEA-LU

HOUSE APPROVES TECHNICAL CORRECTIONS BILL

For the second time this year the U.S. House of Representatives approved a SAFETEA-LU technical corrections bill before recessing for the annual August break. Passed by a vote of 422-1 on August 1, the House bill was modified to be more consistent with the Senate version.

The non-controversial bill provides a legislative fix to address research programs whose funding fell short of supporting certain SAFETEA-LU authorized activities. It also makes a number of technical corrections to other provisions in the law, which was enacted in August 2005.

The bill extends the authorization of the National Surface Transportation Policy and Revenue Study Commission by six months so the Commission has more time to complete its report. The Commission, established under SAFETEA-LU, is studying the needs and financing options for the future of the transportation system and is required to present recommendations to Congress by July 2007. The extension gives the Commission until the end of this year to submit its report.

Appropriations

HOUSE- PASSED TRANSPORTATION SPENDING BILL FACES VETO THREAT

The U.S. House of Representatives passed a fiscal year 2008 spending bill (HR 3074) that fully funds SAFETEA-LU's highway and transit funding guarantees. The bill was approved July 24.

The \$104.4 billion bill would provide \$40.2 billion for highways, \$600 million more than the Administration requested, and \$9.7 billion for public transportation, \$300 million more than the Administration's request. The bill does not eliminate the \$631 million in Revenue Aligned Budget Authority (RABA) as recommended in the Administration's budget. RABA is a budgetary mechanism designed to maintain highway funding at actual and anticipated revenue levels.

In addition, the bill includes \$3.6 billion for the Airport Improvement Program and \$1.4 billion for Amtrak, about \$600 million more than requested by the Administration.

The legislation also contains a \$3 billion rescission of unobligated highway funding apportionments. A provision by House Transportation and Infrastructure Committee Chairman James L. Oberstar (D-MN) requires that funds be allocated proportionately across all federal-aid highway programs. Lawmakers defeated an amendment by House Transportation and Infrastructure Committee Ranking Member John Mica (R-FL), which would have allowed states to decide where to apply the rescissions.

The Administration objects to the legislation's funding levels and has issued a veto threat against the bill. The bill passed by a vote of 268-153, a margin insufficient to over-ride a veto. The Senate has not yet passed its bill.

Future of Transportation

REPORT OUTLINES NEW TRANSPORTATION VISION

A new report by the American Association of State Highway and Transportation Officials (AASHTO) and other groups representing transportation builders, providers and users finds that global economic competition, metropolitan congestion and global climate change are among the new dynamics that require new thinking in the nation's transportation system of the future.

The report was submitted on July 26 to the National Surface Transportation Policy and Revenue Study Commission, created by Congress to analyze and make recommendations on how to equip the nation's transportation system to meet future needs.

The report, *A New Vision for the 21st Century*, is available online at www.transportation1.org/tif5report/. Suggestions include: increasing core program funding for highways and transit; preserving and modernizing the transportation system; investing in public transportation; addressing global warming by cutting oil consumption; adding highway capacity and reducing congestion; and moving aggressively to address transportation system safety.

Highway Safety

DECLINING HIGHWAY FATALITIES LEAD TO LOWEST RATE ON RECORD

The U.S. Department of Transportation reported the number of people who died on the nation's roads fell last year, leading to the lowest highway fatality rate ever recorded and the largest drop in total deaths in 15 years.

In 2006, 42,642 people died in traffic crashes, a drop of 868 deaths compared to 2005. This 2 percent decline in traffic deaths contributed to the historic low fatality rate of 1.42 per 100 million vehicle miles traveled (VMT).

Injuries were also down in 2006, with passenger car injuries declining by 6.2 percent and large truck injuries falling by 15 percent.

The National Highway Traffic Safety Administration (NHTSA) collects crash statistics annually from the 50 states, the District of Columbia and Puerto Rico to produce reports on fatalities and injuries. The new report can be seen at <http://www-nrd.nhtsa.dot.gov/Pubs/810791.PDF>.



Safe Routes to Schools

STIPENDS AVAILABLE FOR FIRST SRTS NATIONAL CONFERENCE

Applications are being accepted for the first Safe Routes to School (SRTS) National Conference Stipend Program. The National Center for Safe Routes to School (NCSRTS) will be awarding up to \$10,000 in stipends to support the attendance of local program champions to the conference in Michigan from Nov. 5-7, 2007.

Qualified recipients include individuals who are active in local health, safety or walking and bicycling activities benefiting schoolchildren and who are interested in developing or further developing Safe Routes to School (SRTS) programs. The stipend is designed specifically to encourage local program champions who do not have other funding to support travel to the conference.

The deadline for application is Aug. 31, 2007. Stipend recipients will be announced in mid September 2007. To apply, visit www.saferoutesinfo.org/news_room/stipend.cfm.

Infrastructure Commission

SENATE APPROVES BILL TO STUDY PUBLIC INFRASTRUCTURE

The Senate approved legislation establishing a national commission to study the nation's infrastructure and ensure it meets current and future demand and sustains economic growth.

The National Infrastructure Improvement Act of 2007 (S. 775), passed on Aug 2, creates the National Commission on the Infrastructure of the United States and requires the Commission to complete a study of all matters relating to the infrastructure of the U.S. by Feb. 15, 2009.

The study must involve infrastructure improvements that aid in long-term economic development, the age and condition of public infrastructure, financing methods and trends and investment needs. The legislation also requires the Commission to develop recommendations for a federal plan outlining national infrastructure priorities. The bipartisan bill is sponsored by Sen. Thomas Carper (D-DE) and has eight co-sponsors. APWA supports the bill.

ENVIRONMENT

Water Resources

HOUSE COMMITTEE HOLDS HEARINGS ON CLEAN WATER ACT JURISDICTION

The U.S. House Transportation and Infrastructure Committee held two days of hearings on July 17 and 19 to discuss the *Clean Water Restoration Act of 2007* (H.R. 2421). The bill was introduced in late May by Committee Chairman James L. Oberstar (D-MN) and is intended to clarify the jurisdiction of the Clean Water Act (CWA). The bill seeks to ensure broad protection for isolated, non-navigable waters by removing all references to “navigable waters” from the CWA and replacing them with the term “waters of the United States.”



The House T&I Committee is holding hearings to discuss the *Clean Water Restoration Act of 2007*, which aims to clarify jurisdiction of the Clean Water Act.

The purpose of the recent hearings was to establish a record on the many issues associated with CWA jurisdiction and the implications of any changes to the law. The list of witnesses included former Environmental Protection Agency (EPA) Administrators, scholars, scientists and state and municipal officials. Most witnesses testified in support of the legislation, indicating that the proposed change would clarify congressional intent when the CWA was originally passed and deal with current confusion which has arisen due to recent Supreme Court decisions. Among the state officials who testified, Montana Governor Brian Schweitzer supported the bill but expressed concern about potential “unexpected consequences” if jurisdiction is expanded too broadly. Other witnesses expressed concern over expanded federal CWA jurisdiction and increases in permit backlogs and permitting costs.

No major action on the bill is expected until after the congressional August recess, at which time the bill’s sponsors will begin a member-to-member push for passage in the House. Efforts are also expected to pick up after the recess in the Senate, where Sen. Russ Feingold (D-WI.) introduced a similar version of the bill on July 25.

A concern to the municipal clean water community is that H.R. 2421 and its Senate counterpart do not include an exemption for man-made bodies of water that are part of waste processing systems, such as isolated wetlands or stormwater retention units. Such an exemption has been included for many years in EPA and U.S. Army Corps of Engineers regulations.

Members of the clean water community, including APWA, the Water Environment Federation (WEF) and the National Association of Clean Water Agencies (NACWA), met on July 25 to discuss the legislation and its potential impact on clean water agencies. APWA will continue to work with members of Congress and other groups in Washington to advocate on behalf of the clean water community as discussions on the bill continue.

For additional information contact Julia Anastasio at janastasio@apwa.net or (202) 218-6750.

Water Resources Development Act

WRDA NEARS THE FINISH LINE, CONTACT PRESIDENT BUSH TODAY & URGE HIM TO SIGN THE BILL!

House and Senate conferees announced late last month that they reached agreement on Water Resources Development Act (HR 1495), which would authorize funding for flood control, navigation and environmental projects managed by the U.S. Army Corps of Engineers (USACE). The bill authorizes approximately 900

projects at a cost of \$21 billion and includes new provisions providing for an independent peer review process to review USACE projects that cost more than \$45 million, controversial projects and at the request of governors. The bill addresses a six-year backlog of projects that were postponed as a result of the failure since 2000 to reauthorize the Act.

The Senate intends to consider the conference report after it returns from recess in September. The White House has threatened to veto the WRDA bill because of the bill's overall cost and because the legislation authorizes projects that some consider outside the scope of the legislation, such as abandoned mine reclamation and wastewater and drinking water infrastructure projects. Members in both the House and Senate have insisted they have the votes to override the Presidential veto.

APWA members interested in WRDA and the projects it authorizes should contact the White House and discourage the President from vetoing this long-awaited and vital bill. Call the President's general comment line at (202) 456-1111, or White House Legislative Affairs at (202) 456-6620 and tell them you support signing the Water Resources Development Act. You can also e-mail your comments to comments@whitehouse.gov.

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DRINKING WATER

EPA TO AWARD GRANTS TO RURAL SYSTEMS TO PROTECT SOURCE WATER

The Environmental Protection Agency (EPA) announced last month that it intends to award up to \$8 million to train and offer technical assistance to small or rural drinking water utilities to comply with the requirements of the Safe Drinking Water Act (SDWA). The grants are designed to assist small utilities in complying with the SDWA and will focus on two national priority areas: (1) source water and wellhead protection, and (2) rule compliance, capacity development and operation of water systems. Proposals for funding must be received by August 22, 2007. Additional information is available at <http://www.epa.gov/safewater/smallsys.html#eleven>.

WATER SECURITY

SENATE COMMITTEE APPROVES BILL AUTHORIZING GRANTS FOR SECURITY UPGRADES AT WASTEWATER SYSTEMS

The Senate Environment and Public Works Committee approved legislation (S. 2781) introduced by Senator James Inhofe (R-OK) authorizing \$220 million in grants for security improvements to wastewater treatment plants, ranging from installation of cameras and fencing to implementation of alternate technologies based on a system's vulnerability assessments.

The proposed Water Security Act would authorize the Environmental Protection Agency (EPA) to award grants to help water systems assess their vulnerability to attacks or natural disasters and make improvements to vulnerabilities identified by these assessments, including costs associated with the adoption of alternative treatment technologies. The legislation also includes language requiring the development of state water and wastewater area response networks to help with assistance after a catastrophic event. The bill would authorize \$245 million over four years and limits grants to a utility to 50 percent of a project's costs.

For additional information contact Julia Anastasio at janastasio@apwa.net or (202)218-6750.

WASTE-TO-ENERGY

SENATE EXTENDS RENEWABLE ENERGY PRODUCTION TAX CREDIT AND BOND PROGRAM

A bill was recently introduced in the Senate to extend existing incentives for the production and usage of renewable energy. The Clean Renewable Energy and Economic Development Incentives Act of 2007 (S. 1531) extends the placed-in-service date for the Section 45 renewable energy production tax credit by 10 years, allowing facilities such as landfill gas and waste-to-energy systems to be placed in service until Jan. 1,

2019. The bill also changes the definition of placed-in-service to allow facilities to be considered placed-in-service if they are under construction before the expiration date and are producing and selling electricity within two years of the expiration date. For facilities that are placed in service and do not begin producing power until after the 2019 expiration date, the 10-year credit period begins on Jan. 1, 2019.

Additionally, the bill extends the Section 54 Clean Renewable Energy Bonds Program (CREBs) through the end of 2018. Landfill gas and waste-to-energy facilities are eligible for CREBs. For bonds issued between the enactment of the CREBs program in 2005 and Jan. 1, 2009, the bill sets the national limitation at \$1.2 billion. For bonds issued between Jan. 1, 2009, and Jan. 1, 2019 the national limitation is \$1 billion per year.

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FARM BILL

HOUSE APPROVES 2007 FARM BILL & 2008 AGRICULTURE APPROPRIATIONS

On July 27 the full U.S. House of Representatives approved a five-year, \$280 billion Farm Bill (H.R. 2419) that would increase conservation funding, including money aimed at improving water quality. Organizations in the water sector have worked hard on behalf of the municipal clean water community to ensure water quality protections were part of the massive Farm Bill.

The bill includes creation of the Regional Water Enhancement Program (RWEP), which authorizes \$60 million per year from 2008-2012 for cooperative agreements between the U.S. Department of Agriculture (USDA) and agriculture producers and other entities (including local government units) to improve regional water quality or quantity in priority areas, including but not limited to the Chesapeake Bay, Klamath, Everglades and Upper Mississippi River Basins.

The bill would also provide \$150 million for river restoration projects in the Chesapeake Bay watershed and \$200 million to create a baseline for the Small Watershed Rehabilitation Program. Water sector groups will seek to expand the scope of the program to other watersheds.

The House also approved a \$90.7 billion agricultural spending bill for the upcoming fiscal year. The bill reinvests in rural America, protects public health, improves nutrition, nearly doubles funding for renewable energy loans and grants, supports conservation programs, invests in research and strengthens oversight of key USDA programs. Of specific interest to APWA members, the House spending bill provides \$55.7 million for grants and loans to rural areas for critical community facilities such as public safety facilities and public buildings, and \$573.1 million for loans and grants for water and waste disposal systems. Additionally, the bill provides \$979.4 million for conservation efforts, including watershed programs, and resource conservation and development programs. The Senate is expected to take up agricultural appropriations after the August recess.

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UTILITIES AND PUBLIC RIGHTS-OF-WAY

Video Franchising

LOCAL GROUPS ASK COURT TO OVERTURN FCC ORDER

Six groups including the National League of Cities, the National Association of Counties and the U.S. Conference of Mayors have filed a brief asking the United States Court of Appeals for the Sixth Circuit to overturn a video franchising Order issued by the Federal Communications Commission (FCC) in March 2007. The groups argue that FCC had no statutory authority, acted in an arbitrary and capricious manner and violated public notice requirements when it issued the order. The groups filed the brief July 18.

The groups also argue that FCC has no statutory authority to act as a franchise authority, limit the ability of local governments to protect their residents' interests and allow providers to discriminate within the community. Additionally, they argue FCC has no evidence in the record supporting its actions, infringes on states' rights and preempts laws that ensure fair competition, and violated federal laws requiring public notice of its actions.

Lastly, the groups argue that FCC has no authority to force communities to act by an arbitrary deadline or be forced to accept a unilaterally imposed franchising agreement which serves only the interests of the industry and ignores the rights of the community. The groups are concerned about the potential for new video providers, under the terms of the order, to limit their services only to higher-income consumers.

In March, the FCC issued a Report and Order concluding that the "local franchising process in many jurisdictions constitutes an unreasonable barrier to entry," and therefore issued rules pre-empting local franchising authority. The FCC's order sets fixed deadlines on local franchising authorities to rule on video franchise applications – 90 days for entities with pre-existing access to the rights of way, 180 days for those without. In addition, it limits build-out requirements and restricts compensation in the franchise agreement and sets other requirements.

In a March notice of proposed rulemaking, the FCC also proposed applying the findings in the Report and Order to cable operators that have existing franchise agreements (the Report and Order changes the franchising process with respect to new applicants) as they negotiate renewal of those agreements with local franchising authorities.

In June the groups filed a Motion to Stay, asking the court to block implementation of the order.

EMERGENCY MANAGEMENT/DISASTER MITIGATION

9/11 Commission

PRESIDENT SIGNS BILL IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION

On Aug. 3, President Bush signed legislation implementing the recommendations of the 9/11 Commission. During the signing ceremony, the President said that the legislation "builds upon the considerable progress that has been made in strengthening the country's defenses and protecting Americans since the attacks of Sept. 11, 2001."

"I am pleased that the legislation I signed today protects Americans from being unduly prosecuted for reporting activity that could lead to acts of terrorism," said the President in his signing statement. "I will continue to work with Congress to advance our security and foreign policy objectives by allowing greater flexibility to bring some of our closest allies into the program. I will also continue to work with Congress to ensure the workability of the cargo screening provisions in a way that increases our vigilance on homeland security while ensuring the continuance of vital commerce."

In his statement the President also noted that Congress needs to do more on other outstanding recommendations of the 9/11 Commission, including reforming the legislative branch's oversight of intelligence and counter-terrorism activities.

"Congress should also continue to strive to better target grant dollars to cities and states based on risk," he said. "This legislation makes some progress, but it also authorizes billions of dollars for grants and other programs that are unnecessary or should not be funded at such excessive levels. I will not request this excessive funding in my 2009 budget request." The president's complete statement is available at <http://www.whitehouse.gov/news/releases/2007/08/20070803-1.html>.

Disaster Response

COAST GUARD, FEMA AND TSA RESPOND TO MINNESOTA BRIDGE COLLAPSE

The U.S. Coast Guard and Federal Emergency Management Agency (FEMA) continue to assist state and local authorities involved in the rescue and recovery operation at the site of the I-35W Bridge in Minneapolis, Minn., which collapsed into the Mississippi River on Wednesday killing several people and injuring many others. President Bush visited the site on Saturday.

The Coast Guard has established a seven-mile closure of the Mississippi River to support local responder's efforts to search for victims and remove debris from the waterway. A 25-foot smallboat crew from the Marine Safety Detachment from St. Paul, Minn., was on scene after the collapse, and HH-65C Rescue Helicopter crews from Coast Guard Air Station Traverse City, Mich., along with the Coast Guard Auxiliary in St. Paul, Minn., were deployed to assist in search and rescue operations.

Region V FEMA Administrator Edward Buikema traveled to Minneapolis from Chicago following the collapse and went to the State's Emergency Operations Center (SEOC) just after the incident. According to Buikema, FEMA and local Department of Homeland Security (DHS) representatives from the Transportation Security Administration (TSA) and the Coast Guard were part of the SEOC, along with representatives from other federal agencies. "All worked closely with their state counterparts to ensure a coordinated response," said Buikema.

Grants

DHS ANNOUNCES GRANTS FOR FIRST RESPONDER COMMUNICATIONS AND URBAN AREAS TO IMPROVE HOMELAND SECURITY

Department of Homeland Security Secretary Michael Chertoff and Department of Commerce Secretary Gutierrez on Wednesday announced \$968 million in grants to help state and local first responders improve public safety communications and coordination during disasters. On the same day, Chertoff announced the final fiscal year 2007 (FY07) Homeland Security Grant Program awards totaling \$1.7 billion, including approximately \$411 million to the nation's six urban areas at highest risk of a terrorist attack.

At a press conference with Secretary Gutierrez, Chertoff stood with first responders from different jurisdictions and said, "Whether it is an event like September 11, a hurricane, earthquake or other natural disaster, the nation's firefighters, police officers and other first responders need to communicate effectively with one another regardless of the nature of the disaster or where it occurs. Interoperable communications among first responders is critical and achieving it is a major nationwide challenge."

Under the Public Safety Interoperable Communications (PSIC) program, \$968 million is being made available to the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Marianas and U.S. Virgin Islands. The governor of each state and territory has designated a state administrative agency that can apply for and administer the funds under the program, Chertoff explained.

Later in the day, Chertoff once again stood before the news media and announced that the department was releasing the final grant amounts for FY07 under the Homeland Security Grant Program, which includes the Urban Areas Security Initiative (\$746 million); State Homeland Security Program (\$509 million); Law Enforcement Terrorism Prevention Program (\$363 million); Metropolitan Medical Response System (\$32 million); and Citizen Corps (\$14.5 million).

"This year the analysis we pursued is a very straightforward logical one that I think is going to be easily understandable to the American public," said Chertoff, explaining further that the grant decisions were based on weighted criteria such as population (40 percent), threat (20 percent) and gross metropolitan product or economic data (20 percent).

More information about the announcements and transcripts of the secretary's press conferences are available at <http://www.dhs.gov/xnews/index.shtm>. An interactive map displaying the grant amounts by state can be accessed at <http://www.dhs.gov/xgovt/grants/index.shtm>.

Preparedness

DHS, APWA RECOGNIZE NATIONAL PREPAREDNESS MONTH

This September the Department of Homeland Security (DHS) will sponsor its fourth annual National Preparedness Month (NPM). NPM is a national initiative run by the department's Ready Campaign, which is a national public awareness effort designed to educate and engage Americans in preparing for any kind of emergency.

The goal of NPM is to encourage Americans nationwide to take simple steps to prepare for emergencies in their homes, businesses and communities. Currently, there are more than 1,000 national and local organizations, including APWA, registered to join DHS as coalition members during NPM. These groups will host events and activities across the nation to motivate individuals to get an emergency supply kit, make a family emergency plan and be informed about different types of emergencies that could occur in their communities and the appropriate responses.

In addition, the Department's Office of Citizen Corps is helping coordinate the effort by calling on the support of local Citizen Corps Councils to encourage citizens to prepare not only in their homes, but to reach out to others in their neighborhoods in helping to build a community that is involved and prepared.

This year NPM will be divided into four themed weeks: Back-to-School, Business Preparedness, Multicultural Preparedness, and Home and Family Preparedness.

Please visit www.ready.gov to learn more about NPM and how you and your community can get involved. To learn more about Citizen Corps or find a Council near you, visit www.citizencorps.gov.

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