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The Authoritative Resource on Safe WaterSM

Washington D.C. Report

January 31, 2008

EPA Committee Asserts Jurisdiction Over Chemical Security Bill

Passage of chemical security legislation that would cover water utilities took a new turn this week after House Energy and Commerce Committee Chair John Dingell, D-Mich., asserted his committee's jurisdiction over the bill. Dingell's committee oversees EPA and if he gets jurisdiction over the provisions covering drinking water, he would develop a new chemical security program for public water systems to be implemented by EPA. Other parts of the chemical sector would continue to be covered by DHS, as they are now. The EPA program for chemical security could be different from and possibly inconsistent with the DHS program.

On January 23, the House Subcommittee on Transportation Security and Infrastructure Protection approved a bill that would make permanent and expand the DHS Chemical Facility Anti-Terrorism Standards (CFATS) program. If Congress does not act to extend CFATS, it will expire in October 2009, and the adoption of permanent legislation is considered a "must" for Congress before that date.

It is the bill approved by the Subcommittee for which Rep. Dingell has asserted jurisdiction. This bill has not been assigned a number yet, a parliamentary step to avoid a jurisdiction fight between committees. AWWA has not officially taken a position on the question of jurisdiction, but we are weighing the advantages and disadvantages of having one comprehensive program under one federal agency for all chemical-using facilities versus having different programs under different agencies regulating different parts of the chemical-using world. Press reports in Washington indicate that a drinking water organization contacted Dingell's committee asking that it assert jurisdiction over the water portion of the bill. That was not AWWA.

The full Homeland Security Committee has been expected to take up the measure some time in February, but a fight for jurisdiction could slow things down. Existing chemical security law specifically exempts water utilities from chemical security regulation, but last year the Department of Homeland Security identified this exemption as a significant deficiency in the nation's homeland security program, and Subcommittee members on both sides of the aisle decided to close the exemption.

EPA Will Not Pursue Effluent Guidelines Program for Drinking Water

EPA has determined that it will not actively pursue development of an effluent guideline for drinking water treatment plants, AWWA staff has learned. The agency has confirmed that it will be preparing a technical report summarizing its research to date, including the results from a drinking water treatment plant survey. This report will be generally distributed and while agency staff indicates that the document will not be characterized as agency guidance, there is the potential that individual states or EPA regional offices will use the report to guide their permit writing and

reviews. With this concern in mind, AWWA is submitting to EPA the findings of project sponsored by the Water Industry Technical Action Fund titled, "Implementing Residuals Management: Cost Implications for Coagulation and Softening." This study illustrates the cost of implementing residuals management at drinking water treatment plants across a range of sizes and provides a more complete explanation of the economics of residuals management than the work to date by EPA staff.

EPA is going forward with a second effluent guideline process on airport deicing operations, with a proposal scheduled for release in the fall. EPA is currently soliciting input from drinking water systems that have experienced water quality impacts from airport deicing. If you or your water system has information that could demonstrate such impacts please contact Steve Via at (202) 326-6130 or svia@awwa.org.

House Members Seek GAO Study of Water Infrastructure Funding

Certain Members of Congress took another step this week towards the development of a national trust fund for water infrastructure, when they requested that the Government Accountability Office (GAO) to undertake a study of ways to finance such a trust fund. U.S. Reps. James Oberstar, D-Minn., and chair of the House Transportation and Infrastructure Committee; Eddie Bernice Johnson, D-Texas, and chair of the House Subcommittee on Water Resources and Environment; and Earl Blumenauer, D-Ore., requested that GAO study ways to provide at least \$10 billion annually to finance improvements or maintenance of wastewater systems. House members asked that the report be completed by January 15, 2009. The members said they plan to take up legislation on the trust fund in the next session of Congress, after a funding source is identified.

They also asked GAO to consult with federal, state, and local government bodies, and with representatives of publicly owned treatment works. In their letter, the House members said, "To guarantee consistent long-term funding for water infrastructure, we must identify a dedicated source of revenue that is both logical and sustainable. We know it is possible, because we already have the Highway Trust Fund and Aviation Trust Fund."

Energy Department Cancels Power/Geosequestration Project

Carbon capture and storage has been making headlines in Washington this week as the Department of Energy backed out of the FutureGen Alliance project in Illinois. This project consisted of the construction of a 275-megawatt power plant and included technology to capture the resulting carbon dioxide emissions and sequester them in deep, confined geological formations, such as saline aquifers or exhausted oil and gas fields. DOE instead decided to initiate a number of smaller-scale projects using different geosequestration technologies rather than proceeding with one big project.

For water suppliers, the process of carbon sequestration raises several concerns, including potentially significant effects to underground sources of drinking water (USDWs). These effects could include displacement of underground brines into USDWs; lowered water pH; and mobilization of metals such as iron, manganese, arsenic, and possibly other inorganics into USDWs. EPA is in the process of developing a regulation as part of the Underground Injection Control Program that would address technical issues with respect to carbon sequestration (such as well construction and CO2 plume monitoring). Congress may have to address the long-term liability and financial responsibility concerns associated with carbon sequestration.

As always, please contact your AWWA Washington Office if you have questions or comments.

9.16.08

Washington D.C. Drinking Water News
By Association of Metropolitan Water Agencies

A coalition of environmental and public interest groups hosted a briefing for congressional staff last week to push for legislation that would force some public drinking water systems to replace their chosen water treatment methods with so-called "inherently safer technology" (IST). The groups argued that virtually any water facility is able to substitute its use of gaseous chlorine with an alternative.

Speaking before about a dozen congressional staffers, P.J. Crowley of the Center for American Progress, said that water facilities should pursue "viable IST alternatives" and argued that water systems "must be part of the equation" as Congress discusses updating federal chemical facility security regulations.

Rick Hind of Greenpeace endorsed H.R. 5577, a bill approved by the House Homeland Security Committee earlier this year, as a measure "critical for the defense of the homeland." He said the bill's IST section, through which DHS could force any "high-risk" water system to change its water treatment methods and chemicals, is "extremely reasonable" because DHS may consider whether new treatments are feasible before directing a facility to change.

The Association of Metropolitan Water Agencies has strongly opposed H.R. 5577 as written because it would prevent local drinking water utilities from choosing their own best and most effective water treatment methods and instead give that power to DHS.

While the bill was approved by the Homeland Security Committee, it has run into opposition from members of the Energy and Commerce Committee, and no further action is expected on the bill this year.

The Association of Metropolitan Water Agencies has been in close contact with Energy and Commerce Committee staff to formulate a reasonable bill that will enhance system security without eliminating local choice of water treatment method.

The Senate Energy and Natural Resources Committee last week approved climate change-related legislation that would offer new opportunities for some drinking water utilities to partner in research agreements with the federal government.

The bill, the SECURE Water Act (S. 2156) goes to the Senate floor as part of a package of dozens of other public land and Interior Department bills.

The SECURE Water Act, sponsored by Sen Jeff Bingaman (D-N.M.), would establish a Climate Change Adaptation Program within the Interior Department to analyze the likely impacts of warming temperatures on water supplies in Bureau of Reclamation river basins and to consult with stakeholders to develop adaptation strategies.

The legislation also creates an intergovernmental panel to work with states, water research organizations and individual drinking water utilities to study and increase understanding of the wide-ranging impacts of climate change on the nation's water supplies.

Other sections of the bill mandate a national water availability and a use assessment program to provide an accurate reckoning of the nation's long-term water availability and make improvements to the National Streamflow Information Program.

The bill would make federal grant funds available to states and water utilities within Reclamation's jurisdictional area for use in projects to conserve water, accelerate the adoption of advanced treatment techniques that will increase available water sources, or address other climate change-related impacts on water supplies.

A total of \$200 million would be authorized for the grant program, with the maximum grant award for any one project limited to \$5 million.

Energy and Natural Resources Committee leaders are expected to push for a floor vote on their package of bills before the Senate adjourns for the year at the end of the month, but no specific date for a vote has been announced.

Both the House and Senate this week will take up their own versions of comprehensive energy legislation designed to combat rising fuel prices and promote the use of renewable energy technologies.

Under outlines of the the proposals announced last week, both versions will include incentives to encourage the development of carbon capture and storage (CCS) technology, which involves sequestering carbon emissions from coal-powered plants deep underground.

These proposals are expected only to encourage research and development of the technology and not to address important liability concerns related to potential contamination of underground sources of drinking water.

Also this week, the Senate will attempt to complete its work on the FY09 defense authorization bill, and the Senate Environment and Public Works Committee is scheduled to mark up legislation to reauthorize the Clean Water and Drinking Water State Revolving Funds.

Last week, the water sector initiated a sector-wide project to collect security metrics from water and wastewater systems. The project is intended to measure the progress of utilities toward improving their "all hazards" security posture, and the water sector is the first of the nation's 18 critical infrastructures to begin such an effort.

The collected information will be reported in an anonymous, aggregated form, and given the sensitive nature of the information collected, WaterISAC has been tasked to collect and safeguard the information submitted by utilities.

The metrics tool focuses on 22 measures that were developed with federal partners under the leadership of the Water Sector Coordinating Council (WSCC) -- a panel of utility managers from each of the national water and wastewater associations.

The final report from this effort will help utilities compare their security postures to one another and reiterate to federal legislators and regulators that the sector is taking a responsible approach to security, according to Billy Turner, president, Columbus Water Works and chairman of the WSCC.

To participate, go to the metrics collection website, <http://wwwwater-sector-progress.org>. For more information, contact Vance Taylor at 202.331.2820 or taylor@amwa.net.

Bottled water companies would be required to list detailed information about water sources and quality on the product's label under legislation introduced by Sen. Frank Lautenberg (D-N.J.).

The Senator announced his legislation at a subcommittee hearing last week. The hearing, which focused on the environmental impacts of the bottled water industry, featured a panel of water experts from industry and public interest groups.

Emily Lloyd, commissioner of the New York City Department of Environmental Protection, testified on the city's efforts to promote increased use of tap water -- which she noted is superior to bottled water and available to consumers "at a fraction of the cost."

Lloyd and several other members of the panel also asked Congress to increase federal investments in public water infrastructure to ensure this quality is maintained.

Sen. Lautenberg's bill, the "Bottled Water Right-to-Know Act," would require bottled water manufacturers to display the quality and source of the water and type of treatment the water has undergone on the bottles they sell.

The bill also would require manufacturers to submit to the Food and Drug Administration information about their water's origins and quality, which would then be made accessible to the public.

Given the short time remaining on the Senate calendar before the November elections, the bill is not expected to see any action in Congress this year.

With more than 25 years of ground water data to evaluate from the U.S. Geological Survey's (USGS) National Water-Quality Assessment (NAWQA) program, the agency has released trend report.

At the national level, USGS finds nitrate concentrations in ground water have generally increased from 1988 to 2004, but trends in pesticide occurrence are not clear.

Not surprisingly, the studies show high nitrate concentrations and frequent pesticide detections at the regional level are linked to agricultural use of fertilizers and pesticides.

This report is intended to be an overview and the first of many trends studies planned by NAWQA and based on the high quality data for a large number of chemical constituents in the Journal of Environmental Quality, September-October supplement.

9.29.08

Washington D.C. Drinking Water News
By Association of Metropolitan Water Agencies

While most of Washington, D.C., remains focused on the \$700 billion plan to relieve financial pressure on Wall Street, lawmakers also must finalize a continuing resolution (CR) to allow the federal government to operate after the 2009 fiscal year begins Wednesday.

A version approved by the House last week extends FY08 spending levels for most departments and agencies through March 6, 2009, after a new administration settles in.

Democrat leaders in the House and Senate hope to attach a separate \$56 billion economic stimulus plan to the CR with heavy emphasis on infrastructure spending.

The Senate version includes an extra \$600 million for the Clean Water State Revolving Fund (SRF) and \$500 million for the Army Corps of Engineers.

The stimulus plan announced by House Democrats last Friday would provide \$6.5 billion for the Clean Water SRF and \$1 billion for the Drinking Water SRF.

These funds, which would not be subject to the programs' state matching requirements, would represent a massive infusion to the SRFs.

In 2008, the Clean Water and Drinking Water programs only received \$689 million and \$842 million, respectively. The Corps of Engineers also would receive an additional \$5 billion to invest in water resource infrastructure under the House plan.

Democrat lawmakers hoped to finalize these proposals over the weekend, however it was unclear whether Republicans would approve of the stimulus spending.

In addition, the possibility remained that the legislative session could extend into this week if all necessary work was not completed, and it is still not known whether Congress will return for a post-election lame duck session or stand adjourned until new members take office in January.

EPA announced last week a public meeting to discuss remaining long-term issues with the Lead and Copper Rule (LCR).

In 2006 when EPA proposed short-term changes to the LCR, the agency identified a number of issues that potentially would be addressed in more comprehensive revisions to the rule. These issues include, but are not limited to, requirements for consecutive systems and broader revisions to monitoring and lead service line replacement requirements.

The meeting will be held Tuesday, October 14, and Wednesday, October 15, at the Carnegie Institution for Science, 1530 P St., NW, Washington, D.C.

Attendees should register by contacting Junie Percy of IntelliTech Systems, 937.4274148, extension 210, or e-mail junie.percy@itsystemine.com no later than October 6.

Additional information is available at <http://edocket.access.gpo.gov/2008/E8-22554.htm>.

The Food and Drug Administration (FDA), which sets standards for bottled water, published a proposed rulemaking in the September 17 Federal Register that would amend its bottled water regulations to require that source water, which currently is subject to weekly microbiological testing, be tested specifically for total coliform as is done for finished bottled water products.

If finalized, FDA believes the proposed rule will ensure its standards for the minimum quality of bottled water in this area will be no less protective of the public health than those set by EPA for public drinking water.

FDA's proposal also requires that if any coliform organisms are detected in source water or finished bottled water products, bottled water manufacturers would be required to test for E. coli.

Bottled water containing E. coli would be considered adulterated, and source water containing E. coli would not be considered a safe, sanitary quality and would be prohibited from use in the production of bottled water.

Bottlers would be required to rectify or eliminate the source of E. coli contamination in source water and keep records of such actions. Existing regulatory provisions would require bottled water manufacturers to keep records of new testing required by the rule.

The Clean Water America Alliance, a nonprofit organization aimed at promoting a watershed approach to improving the nation's water resources, was launched last week with the goal of carrying out initiatives to change the future of water policy.

Government, environmental, industry and academic officials are involved in the group, which will address water quality and quantity challenges including climate change, aging infrastructure, pharmaceuticals in water and nonpoint source pollution.

The alliance will promote a "holistic approach" to break down barriers between clean water, drinking water and stormwater issues using grass-roots efforts rather than promotion legislation.

This will include offering information and education to citizens and policymakers on key issues, as well as activities to recognize organizations and individuals for innovation.

The Alliance website is <http://www.cleanwateramericaalliance.org>

10.06.08

Washington D.C. Drinking Water News
By Association of Metropolitan Water Agencies

President Bush signed a continuing resolution (CR) to fund the federal government through March 6, 2009.

Among the items added was a three-year extension of tax credits for manufacturers of water-efficient home appliances. The credits available to companies who produce dishwashers and clothes washers that meet strict energy and water consumption targets will be in place until 2010. Current credits expired at the end of 2007.

Failing to become law was a massive infrastructure stimulus bill that would have provided an extra \$7.5 billion for the Clean Water and Drinking Water State Revolving Funds. The House approved the measure, however the Senate failed to pass a more modest version, and President Bush threatened to veto any bill with additional stimulus spending. Democratic leaders may revisit the issue next year.

EPA released the prepublication version of its preliminary determination not to regulate perchlorate late last Friday afternoon. The prepublication of the preliminary regulatory determination includes a fact sheet and is available at http://www.epa.gov/safewater/ccl/reg_determine2.html.

The agency said that because fewer than one percent of the drinking water systems have perchlorate levels above the health reference level (HRL), there is not a meaningful opportunity for health risk reduction as required under the Safe Drinking Water Act.

EPA derived an HRL of 15 ug/L for pregnant women. Using other model analyses, EPA determined this HRL also is appropriate for other sub-populations, including the most sensitive subpopulation identified by the National Research Council in 2005, the fetuses of pregnant women.

EPA intends to issue a health advisory for perchlorate when the final regulatory determination is made. There will be a 30-day comment period once the Federal Register notice is published.

EPA announced October 2 the finalization of the National Water Program Strategy: Response to Climate Change.

The strategy describes 44 actions the Office of Water will take to respond to climate change. The strategy states these steps can be achieved without program funding changes.

The final strategy is available at <http://www.amwa.net/cs/climatechange>.

The Association of Metropolitan Water Agencies will continue dialogue with EPA to better understand the agency's plans and programs in response to climate change.

October 19-25 is Lead Poisoning Prevention Week.

EPA has partnered with the National Head Start Association to reach out to Head Start in five cities -- Cleveland, Chicago, Detroit, Los Angeles and Philadelphia -- about sources of lead exposure to children.

EPA encourages the Head Start Centers to test the drinking water in their buildings for potential lead. Go to <http://www.epa.gov/safewater/schools> for more information.

EPA and the U.S. Geological Survey (USGS) have put water quality data into a a new IT system called STORET.

It contains biological, chemical and physical data on surface and groundwater collected by federal, state and local agencies, Indian tribes, volunteer groups, academics and others.

The data can be downloaded to Microsoft Excel spreadsheets.

You may access the data at:

<http://water.usgs.gov/data> or

http://www.epa.gov/storet/web_services.html

EPA has scheduled a public scientific forum on groundwater-borne infectious diseases, etiological agents and indicators December 2-4, at the Carnegie Institute, Washington, D.C. For more information, go to <http://es.epa.gov/ncer/events/#dec0208>.

Last week the Agency for Toxic Substances and Diseases Registry (ATSDR) released an updated toxicological profile on perchlorate. The profile can be downloaded at <http://www.atsdr.cdc.gov/toxprofiles/tp162.pdf>.

Between the release of a new Environmental Working Group (EWG) report on bottled water quality and a PepsiCo financial report citing a significant decline in domestic bottled water sales, it was not a good week for the bottled water industry.

EWG called for bottled water standards to be brought up to tap water standards after finding "a surprising array of chemical contaminants in every bottled water brand analyzed...."

EWG wants full disclosure of all test results of bottled water for all contaminants, disclosure of treatment techniques used to purify the water and clear and specific disclosure of the name and location of the source water.

In a related development, Nestle Waters North America, a major bottler, threatened to sue the Miami-Dade Water and Sewer Department over a radio ad claiming that the utility's tap water was superior to bottled water. Nestle sells more than 575 million gallons of water in Florida each year, and declining sales in the industry was thought to be behind the move.

PepsiCo announced last Tuesday that its quarterly earnings were down 10 percent in part because of declines in sales of soda and bottled water in the U.S. The company is planning to eliminate 3,300 jobs and close as many as six plants.

An industry analyst said that 34 percent of consumers say they are reusing plastic bottles more often and 23 percent say they are cutting back on bottled beverages in favor of tap water or beverages in containers that create less waste, according to a New York Times report.

The Department of Homeland Security (DHS) Office of Infrastructure Protection hosted the first of a two-part webinar last week on Improvised Explosive Devices (IEDs). The two-part series is designed to offer essential information on the deterrence, prevention, detection and response to attacks that use IEDs.

Part one focused on how to recognize and react to IEDs -- describing the reasons behind their popularity among rogue actors while outlining the various types of devices.

Part two, scheduled for Wednesday, October 22, from 1-2 p.m., eastern standard time, is slated to teach techniques for responding to bomb threats and IEDs.

For more information on the Wednesday session, visit <http://www2.gotomeeting.com/register/227714089>

When issued by DHS, a recording of the webinars will be available at <http://www.amwa.net/cs/security>

Washington News from the Association of Metropolitan Water Agencies, 11.17.08

Senate leaders hope to use this week to approve an omnibus public lands bill comprises of 150 different land, water and preservation measures previously cleared by the Senate Energy and Natural Resources Committee.

Included in the package is the SECURE Water Act, legislation authored by Energy and Natural Resources Committee Chairman Jeff Bingaman (D-N.M.), that would authorize the Interior Department to undertake studies, adaptation programs and grant agreements targeting the impacts of global climate change on water resources within the Bureau of Reclamation's jurisdictional area. Should the bill win Senate approval, the House will likely attempt to pass it as well.

David Hayes, former Interior Deputy Secretary in the Clinton Administration, was tapped to lead President-elect Obama's transition planning for all of the key energy and environment agencies, including EPA and the Interior, Energy and Agriculture departments.

Specifically for EPA, Obama picked Robert Sussman and Lisa Jackson to run what will be a 10-12 person transition team, developing key policy recommendations and also monitoring the status of final Bush Administration actions.

Sussman previously served during the first two years of the Clinton Administration as deputy EPA administrator. Jackson currently serves as administrator of the New Jersey Department of Environmental Protection and also worked at the U.S. EPA from 1987 to 2002. Both Sussman and Jackson are considered to be on the short list for top positions at EPA in the Obama Administration.

Clinton-era EPA Administrator Carol Browner sits on an advisory board to the Obama transition co-chairs: former Clinton chief of staff John Podesta, Chicago lawyer Valerie Jarrett and Peter Rouse, the chief of staff in Obama's Senate office.

In a book released last week by the Center for American Progress, entitled "Change for America: A Progressive Blueprint for the 44th President," Browner proposed an aggressive environmental agenda that includes support for congressional passage of the Clean Water Restoration Act; withdrawal of EPA's rule exempting water transfers from permit requirements, and review of compliance and enforcement of EPA rules for concentrated animal feeding operations.

She also recommended the new administration, in its first year, increase funding for climate change mitigation and adaptation for drinking water and wastewater infrastructure among other

priorities. Specifically mentioned among initiatives to promote environmental quality, Browner called for EPA to plan, with the Army Corps of Engineers, for the impact of climate change on water resources.

Last week, the Transportation Security Administration (TSA) issued a final rule that establishes security requirements for freight railroad carriers and rail operations at certain fixed-site facilities that ship or receive specific hazardous materials by rail. The new rule has the capacity to increase costs associated with the shipping and receiving of gaseous chlorine.

The rule seeks to create a "secure chain of custody" for sensitive materials that are transported via freight rail. It entails having shippers inspect railcars where hazardous material will be stored prior to shipment while at the same time codifying the processes by which rail carriers "handoff" content once transportation is complete.

"The chain of custody requirement applies to the transportation of any (poisonous by inhalation) material shipment, certain explosive materials and certain high-level radioactive material shipments," TSA said.

TSA addressed the cost issue by stating that it "hopes freight railroad carriers, rail hazardous materials shippers, and rail hazardous materials receivers will work together to minimize the costs of this regulation by working to speed the covered materials through the supply chain and better schedule deliveries to receivers."

A copy of the final rule is available at <http://www.tsa.gov/press/releases/2008/1113b.shtm>.

The Department of Homeland Security (DHS) has released a draft version of the Risk-Based Performance Standards (RBPS) Guidance Document for a 30-day public review and comment period. The draft is part of the department's effort to assist high-risk chemical facilities in selecting and implementing "appropriate" protective measures and practices to meet the 18 RBPS outlined under its Chemical Facility Anti-Terrorism Standards (CFATS) regulation.

Drinking water and wastewater systems presently are excluded from the CFATS regulation, however Congress could change that. The draft RBPS Guidance Document provides facilities with insight on the general level of performance DHS would expect to see under each of RBPS by a compliant facility in each of the CFATS risk-based tiers.

It describes in detail the RBPS enumerated in CFATS and provides examples of protective measures and practices that a facility can consider when deciding what measures and practices to implement to meet the RBPS.

A copy of the guidance document is available at <http://www.amawa.net/cs/security>

The Office of Management and Budget recently cleared an EPA proposal to amend the universal waste rule to include pharmaceuticals currently designated as P-listed wastes under RCRA.

Universal wastes are specific hazardous waste streams that a waste generator can manage in an alternative manner in place of the more complex hazardous waste requirements. These wastes typically are generated in small quantities and EPA's future proposal is expected to provide regulatory relief for health care facilities by removing the "hazardous waste" requirement for these pharmaceuticals.

EPA hopes this future rulemaking will encourage more pharmaceutical take-back programs. The rule is likely to be proposed in December.

EPA proposed two minor corrections to the Stage 2 Disinfection and Disinfection Byproducts Rule in the November 14, 2008 Federal Register.

The notice states that some monitoring requirements for ground water systems serving 500 to 9,999 people were unintentionally excluded from the final rule, which allowed for less routine compliance monitoring than intended.

The second change would add references in the rule to the list of analytical methods under the Expedited Approval Process and would remove references to outdated methods.

EPA is accepting comments on the notice until January 13, 2009. To see the notice, go to <http://www.edocket.access.gpo.gov/2008/E8-26959.htm>

November 24, 2008

**LAME DUCK CONGRESS BREAKS FOR THANKSGIVING,
MMB IN RECESS**

With Congress leaving their lame duck session this week for the Thanksgiving holiday, Monday Morning Briefing will not be published next week and will resume on December 8. The AMWA offices will be closed on Thursday and Friday.

House and Senate leaders made plans to call their members back to Washington after Thanksgiving to make one more attempt at crafting an auto industry assistance package. The session is planned for the week of December 8, after which point Congress will adjourn until the 111th Congress begins on January 6.

**NDWAC CONSIDERS INFRASTRUCTURE,
PERCHLORATE, CARBON SEQUESTRATION**

The National Drinking Water Advisory Council (NDWAC) met in Washington, D.C. last week. Management and infrastructure initiatives comprised of half of the agenda, and NDWAC members volunteered to participate in future subgroup efforts – one to explore full cost pricing and the other to work to encourage support from local officials for drinking water utilities' moves toward greater sustainability.

The NDWAC will submit several letters to EPA in coming weeks. The Council could not come to a consensus about EPA's preliminary perchlorate regulatory decision, so the letter will communicate the NDWAC's support of the CCL process and recommend a clear focus on research priorities and research funding to support the CCL process. The Council's letter on carbon sequestration will urge the agency to protect drinking water systems and will likely suggest that EPA

consider saline aquifers with more than 10,000 mg/L total dissolved solids as underground sources of drinking water.

Finally, the NDWAC will submit a letter to outgoing Administrator Johnson commending him on EPA's sustainable infrastructure initiatives, stressing the value of having economic stimulus funding go toward water infrastructure and encouraging him to share the Council's views on the stimulus with the incoming administration.

EPA advised the NDWAC members that it has contacted CWSRF and DWSRF administrators in all 50 states to ask their help in preparing to quickly and efficiently use stimulus funds should they become available. The SRFs were asked to make sure that any loans already approved would be ready to start construction within 120 days, to identify any projects on their waiting lists that could begin within 120 days, and to reach out to utilities in their states that had not requested SRF monies but that might be facing difficulties in the current credit market and also have projects ready to start in 120 days.

**AMWA SUBMITS DRINKING WATER ISSUE BRIEFING TO
OBAMA TRANSITION TEAM**

AMWA and several other drinking water organizations last week submitted a booklet providing an overview of the major issues facing the nation's drinking water utilities to President-elect Barack Obama's transition staff. The document, A National Agenda For Drinking Water, touches on issues such as climate change, infrastructure financing, chemical facility security and others that will be on the government's to-do list in 2009.

AMWA produced the Agenda in cooperation with the American Water Works Association, the National Association of Water Companies and the National Rural Water Association. The booklet also provides policy recommendations on pressing drinking water issues and offers the assistance

of drinking water organizations as the new administration begins to make policy choices impacting the water sector in the months ahead.

A similar document is planned for distribution to members of the incoming 111th Congress in January. AMWA mailed a hard copy of the Agenda to each of its member utilities last week, and an electronic version is available on AMWA's website at www.amwa.net/cs/leginfo.

BOXER PLANS JANUARY INTRODUCTION OF "STREAM-LINED" CLIMATE CHANGE BILL

Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) said last week that she will introduce a relatively concise greenhouse gas cap-and-trade proposal early next year, setting the stage for the climate change debate in the 111th Congress.

Last summer, Boxer ushered a complex cap-and-trade bill (S. 3036) through her committee, but it died on the Senate floor partly because of complaints about its multiple titles and high cost. Next year, Boxer said she will introduce a bill that will direct EPA and the Obama administration to establish a cap-and-trade system through rulemaking. This approach would enable congressional Democrats to take credit for passing climate change legislation, but would also allow them to avoid making delicate decisions that could hold up the proposal, such as how to allocate what could be hundreds of billions of dollars in emission auction revenues.

This strategy may also be the product of the present economic climate, which has led many congressional observers to question whether it is politically feasible for Congress to pass a costly climate bill while the economy is suffering.

WAXMAN VICTORY COULD LEAD TO STRICTER CLIMATE CHANGE, CHEMICAL SECURITY BILLS

California's Henry Waxman will serve as the new chairman of the powerful Energy and Commerce Committee in the 111th

Congress, putting him in a position to shape the House's consideration of numerous drinking water-related proposals next year, ranging from climate change to chemical facility security standards.

Waxman won the Energy and Commerce gavel after beating out current chairman John Dingell (D-Mich.), the longest-serving member of the House but also one who has a reputation as a centrist hesitant to impose tough restrictions on American industries. Waxman, considered by many to be one of the most liberal members of the House, challenged Dingell for the chairmanship by appealing to the Democrats' progressive base and promising to act quickly on strict legislation to regulate greenhouse gas emissions.

Waxman will also oversee the committee's consideration of legislation to revise and update chemical facility security standards – and potentially apply new regulations to drinking water facilities. Over the past year, interest groups have lobbied Congress to force water systems to adopt so-called "inherently safer" water disinfection technologies, and this approach may gain traction under Waxman. It is not yet known whether Waxman will attempt to shuffle the panel's subcommittee chairmen. If he does, one potential target is Texas Rep. Gene Green, a moderate who chairs the Environment and Hazardous Materials Subcommittee. The subcommittee has oversight of drinking water policy and is expected to begin work on a new chemical security bill early next year.

PUBLIC LANDS BILL, SECURE WATER ACT POSTPONED

Senate Majority Leader Harry Reid (D-Nev.) last week postponed consideration of an omnibus public lands bill until January, explaining that time had run out to take up the bill this year. The bill included text identical to the SECURE Water Act, legislation that would have increased federal research into the impacts of climate change on drinking water sources and offered assistance to western states and communities to adapt to forecasted changes to water quality and quantity. Sen. Reid pledged that the package will be reintroduced in January as the "first or second" action taken by the new Senate.

EPA ANNOUNCES POLICY TO BROADEN LOCAL INPUT IN RULE DEVELOPMENT

Last week EPA announced a new policy designed to broaden its consultation with elected state and local officials before proposing new regulations or policies that would cost more than \$25 million or supercede state or local authority. The new policy would update the Clinton Administration Executive Order 13132 on federalism.

A number of organizations representing state and local officials hailed the announcement, and several – including the National Governor’s Association and the U.S. Conference of Mayors – issued a joint statement asking President-elect Barack Obama to promote federal cooperation and consultation with local leaders. These two groups and eight others are identified in the new federalism policy as the organizations with whom EPA will consult.

REPORT INCLUDES WATER UTILITIES ON “MOST VULNERABLE CHEMICAL FACILITIES” LIST

The Center for American Progress released a report outlining its assessment of the nation’s “101 most vulnerable chemical facilities.” The group, which has lobbied Congress for years to ban the use of gaseous chlorine by water utilities, cited what they deem to be inadequate physical security measures to claim that “the only certain way to protect our communities is to remove the possibility of a toxic gas release by converting facilities to safer, more secure alternative technologies.”

The report urges Congress to bring water and wastewater utilities into a comprehensive regulatory framework such as the Chemical Facilities Anti-Terrorism Standards (CFATS). It cites 15 drinking water utilities, each of which serve population areas between one and two million people. In

an attempt to make broad policy prescriptions, the report claims that water and wastewater utilities that are listed “can instead use alternate disinfectants to chlorine gas, including liquid bleach, ozone without storage, or ultraviolet light.”

The report is available at www.amwa.net/cs/security.

EPA PROPOSES USE OF BEST PRACTICES TO CONTROL SEDIMENT AT CONSTRUCTION SITES

EPA announced November 19 that it is proposing effluent guidelines to control the discharge of pollutants from construction sites. The proposal would mandate construction sites to implement a range of erosion and sediment control measures to control pollutants in stormwater discharges. In addition, the rule would mandate a numeric limit on the allowable level of turbidity for sites with a size of 30 acres or larger that are located in areas of the country with high rainfall intensity and soils with a high clay content. Additional information and a prepublication version of the proposal are online: www.epa.gov/waterscience/guide/construction. The official proposal will be published in coming weeks.

NOTABLE FEDERAL REGISTER ITEMS

- EPA announced in the November 21 Federal Register that the comment period for its proposed rule that would govern the geosequestration of carbon dioxide is extended until December 24, 2008. Additional information is available online: www.epa.gov/ogwdw/uic/wells_sequestration.html.
- On November 20, EPA published the CAFO rule. The agency had announced the signing of the rule on November 3. The rule is available at <http://cfpub.epa.gov/np-des/afo/cafofinalrule.cfm>.