

January 5, 2009

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## PUSH CONTINUES FOR WATER FUNDING IN STIMULUS BILL

Throughout December AMWA continued to work closely with congressional staff and other water sector associations to build a strong case for a substantial federal investment in drinking water infrastructure as part of the economic stimulus package that congressional Democrats hope to have on President-elect Obama's desk soon after Inauguration Day. AMWA has focused on building support for securing at least \$10 billion in the stimulus bill for drinking water infrastructure, reducing requirements that stimulus funds be repaid as loans with interest and requiring states to set aside a portion of the dollars they receive for infrastructure upgrades at large water utilities serving metropolitan areas.

These requests have begun to gain support in the House of Representatives. On December 19, Rep. Gene Green (D-Tex.), chairman of the House subcommittee with jurisdiction over drinking water issues, sent a letter co-signed by 35 other representatives to House Appropriations Committee Chairman David Obey (D-Wis.) asking the chairman to direct at least \$10 billion in stimulus dollars to drinking water projects and require states to reserve at least 30 percent of these funds for projects at large metropolitan utilities. AMWA worked with Rep. Green's staff to draft and gain support for the letter, and along with other water groups reinforced the points in separate letters sent to Rep. Obey, House Speaker Nancy Pelosi and Senate Majority Leader Harry Reid. Copies of these letters are available on AMWA's Legislative Information webpage at [www.amwa.net/cs/leginfo](http://www.amwa.net/cs/leginfo).

AMWA also joined a letter sent by the environmental groups American Rivers, the Alliance for Water Efficiency and the Natural Resources Defense Council endorsing the \$10 billion

## THIS WEEK IN CONGRESS

The House and Senate will convene the 111th Congress this week, with Democrats and Republicans expected to work to finalize committee memberships and review initial plans for the economic stimulus package targeted for passage before Inauguration Day. Members will also formally count the states' electoral votes during a joint session of Congress on Thursday.

stimulus request for drinking water infrastructure and asking that an additional \$2 billion be allotted for community projects that will increase water efficiency. This letter is also available on AMWA's Legislative Information webpage.

Other water associations have also been promoting their own stimulus plans. The National Association of Water Companies (NAWC), which represents privately owned water systems, recently released a five-point program of tax and investment incentives that they say will spur investment in drinking water infrastructure. However, some components of the plan – which includes a three-year, 10 percent tax credit on all investments in water and wastewater infrastructure, lifting the cap on Private Activity Bonds for all water and wastewater investments and accelerated depreciation for infrastructure replaced over the next three years – are likely beyond the scope of what Congress will address in the stimulus plan.

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## IG SAYS EPA ERRED IN PERCHLORATE RISK ASSESSMENT APPROACH

EPA's Office of the Inspector General (OIG) last week reported that the agency should have followed a cumulative risk assessment approach in its perchlorate risk assessment.

OIG's December 30 release, *Scientific Analysis of Perchlorate*, available at [www.epa.gov/oigearth](http://www.epa.gov/oigearth), considered whether EPA's perchlorate reference dose (RfD) is protective of human health at "all life stages" and also evaluated EPA's risk assessment procedures.

The report stated that while the RfD is a conservative value, the reference dose alone is not enough to protect sensitive populations from iodide deficiency since there are other sources of exposure that inhibit total iodide uptake. The OIG concluded that EPA should have followed a cumulative risk assessment approach and included thiocyanate and nitrate in the risk assessment. Additional information will be available in AMWA's next *Regulatory Report*.

The OIG is seeking scientific comments on its analysis and recommendation of a cumulative risk assessment approach from the "environmental risk assessor community" by March 10, 2009. It is unclear how the release of the OIG report will affect EPA's final preliminary regulatory decision for perchlorate, which is expected before President Bush leaves office. *The New York Times* has suggested that the next EPA administrator will make the final decision.

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#### WSCC RELEASES SECURITY METRICS REPORT

The Water Sector Coordinating Council (WSCC) announced the completion of its sector-specific metrics initiative last Wednesday, officially making it the first of all 18 critical infrastructure and key resource sectors to complete this important task.

According to the report, results of the metrics process indicate a high level of attention and commitment to security by drinking water and wastewater utilities and underscore significant progress to date. A copy of the report is available at [www.amwa.net/cs/security](http://www.amwa.net/cs/security).

Outlined generally in the National Infrastructure Protection Plan and in detail within the Water Sector-Specific Plan, the metrics process provides an overall status check regarding the sector's security work and posture.

#### MISS ANY AMWA E-MAILS OVER THE HOLIDAYS?

If you did not receive the following e-mails or if they did not display accurately, please contact Eugenia Cadena at 202-331-2820 or [cadena@amwa.net](mailto:cadena@amwa.net).

**December 12**

Drinking Water Infrastructure Stimulus  
Funding – Faxes To Congress Requested

**December 16**

Special Briefing

**December 19**

AMWA's New Green Projects Blog

**December 30**

December Water Security Scan

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#### EPA ISSUES GREEN INFRASTRUCTURE HANDBOOKS

With climate change being taken more seriously and energy production challenges expected to continue or expand, Congress and the Obama Administration are going to take a closer look at how green infrastructure can be integrated in the workings of government and industry.

Recognizing this, EPA in recent months released a series of handbooks for municipal agencies to highlight benefits and options for voluntary green municipal projects.

Four handbooks are currently available: funding options, stormwater retrofit programs, green infrastructure in public spaces and transportation and rainwater harvesting. More in the series are expected in 2009.

The handbooks can be found on EPA's website, along with many other green resources, such as case studies highlighting efforts in Chicago, Portland, Philadelphia, Pittsburgh, Seattle and Milwaukee. Visit [www.epa.gov/greeninfrastructure](http://www.epa.gov/greeninfrastructure) for more information.

January 12, 2009

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## UTILITY FINANCIAL INFORMATION SURVEY LAUNCHES TODAY

AMWA members and affiliates will receive an email today from association President Brian Ramaley inviting their participation in the 2009 Utility Financial Information (UFI) survey. Survey results will be used to develop a unique database tailored to the interests of large drinking water systems.

The UFI initiative began more than a year ago to help AMWA members better understand the financial dynamics of peer utilities, particularly the magnitude and drivers of rate increases. Once the data is collected initial analyses will include: distribution of rate structures; operating and revenue per account; ratio of capital costs to budgeted costs; relationship between cost escalators and projected rate increases; and many other useful analyses. The full database will be made available only to AMWA members who participate in the survey. Information will not be identified by utility name, but aggregate data will be available for utilities to produce a wide range of useful statistics and tailored comparative data for their own use.

Full information and a link to the online survey will come with the email. The survey period runs from today until March 15. If you do not receive the email by COB today, contact Carolyn Peterson, [peterson@amwa.net](mailto:peterson@amwa.net) or 202-331-2820.

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## STIMULUS TIMETABLE PUSHED TO FEBRUARY

Lawmakers last week backed away from their pledge to have a massive economic stimulus bill sent to the White House by President-elect Obama's January 20 inauguration and are

## THIS WEEK IN CONGRESS

Citing a heavy workload, the Senate planned to get an early start on this week's work, with Majority Leader Harry Reid scheduling a Sunday session to debate a public lands bill that also includes provisions for research into the impacts of climate change on Western water resources. A final vote on the package could come later in the week, along with possible Senate votes on a pay-equity bill and expansion of the State Children's Health Insurance Program.

Senate confirmation hearings are planned this week for President-elect Obama's nominees to head the Homeland Security Department, the Department of the Interior, and the Environmental Protection Agency. All three nominees – Arizona Governor Janet Napolitano for DHS, Colorado Senator Ken Salazar for Interior and former New Jersey Department of Environmental Protection Commissioner Lisa Jackson – are expected to receive a friendly reception from their respective confirmation committees.

In the House, votes will occur on funding for the State Children's Health Insurance Program and a proposal to add accountability to spending the remaining \$350 billion in federal bailout funds that were approved last year.

now targeting early-to-mid-February as the timeframe to have the proposal through the House and Senate.

AMWA and other water associations have been working to garner support among members of Congress for at least \$10 billion in drinking water infrastructure funds as part of the stimulus. While no official spending plan has yet been released by congressional appropriators, sources on Capi-

tol Hill have indicated to AMWA that the bill may include between \$5 billion and \$10 billion for drinking water infrastructure projects, likely with directions that it be distributed to states through the existing State Revolving Fund program. Several other temporary policy changes, such as a waiver of the state matching requirement and loan interest rate reductions, may also be included in the plan, although the details are still being worked out.

In addition, reports from Capitol Hill have quoted influential representatives as strongly opposed to including individual project earmarks in the final stimulus bill. Instead, there is a growing push among some in Congress to task states with the job of doling out stimulus dollars to their communities.

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#### EPA ISSUES PERCHLORATE INTERIM HEALTH ADVISORY; REQUESTS ANOTHER NAS REVIEW

EPA announced last week that it is seeking advice from the National Academy of Sciences (NAS) before making a final regulatory determination on perchlorate. EPA will ask NAS to evaluate:

- the derivation of a 15 ppb health reference level;
- the implication of recent biomonitoring studies; and
- the conclusions of a recent EPA Inspector General (IG) report.

The IG report found that EPA should have performed a cumulative risk assessment for perchlorate that included other iodide uptake inhibiting compounds. The report also suggested that lowering nitrate exposure in drinking water or increasing the iodide levels in supplements for pregnant and nursing women were better approaches to addressing iodide uptake and thyroid health.

AMWA recommended a review by NAS of the science surrounding the perchlorate health reference level in its November comments on EPA's preliminary regulatory decision.

EPA also announced that it is revising the existing remediation goal of 24.5 ppb to the new interim health advisory level

of 15 ppb. The new value will be considered when establishing perchlorate cleanup goals at Superfund sites. The advisory level will also be used as guidance to public health officials on health effects. Additional information on EPA's health advisory is at [www.epa.gov/safewater/contaminants/unregulated/perchlorate.html](http://www.epa.gov/safewater/contaminants/unregulated/perchlorate.html).

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#### ENERGY AND COMMERCE OVERHAUL HAS BROAD IMPLICATIONS FOR WATER POLICY

Incoming Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) announced plans last week to consolidate the panel's Environment and Hazardous Materials and Energy and Air Quality subcommittees into a new Energy and Environment Subcommittee. The new panel will have jurisdiction over a wide range of issues – including drinking water quality, infrastructure and global climate change – and will be chaired by Massachusetts Democrat Ed Markey.

The reshuffling could have profound impacts on drinking water-related legislation that is on tap for this year, particularly proposals that will seek to impose “inherently safer technology” (IST) treatment chemical mandates on water systems. During 2008 AMWA worked closely with Rep. Gene Green (D-Tex.), then-chair of the Environment and Hazardous Materials Subcommittee, to explore sensible chemical security plans that would secure sensitive water treatment chemicals but maintain the ability of local drinking water experts to ultimately choose the water disinfection method that is best for their utility. Also, Rep. Green opposed a bill approved by the Homeland Security Committee (H.R. 5577) that would give the federal government the power to force local water systems to adopt IST treatment chemicals.

Rep. Markey, on the other hand, was a cosponsor of H.R. 5577 and has been a vocal proponent of IST mandates. As a result, there is a strong likelihood that he will seek to move an IST mandate bill similar to H.R. 5577 through his subcommittee early in 2009.

Rep. Markey is also expected to take a strong stand on global climate change this year. In 2008 he authored legisla-

tion that would have mandated an 85 percent reduction in greenhouse gas emissions by 2050 and also would have set aside some federal funds to help local communities adapt to the impacts of climate change. Rep. Markey's activism on the issue could provide water systems with an opportunity to push for the inclusion of water-specific adaptation provisions in the eventual bill.

Finally, the Energy and Environment Subcommittee will have jurisdiction over drinking water contaminant levels and may follow up on prior-year hearings on issues such as perchlorate regulation. However, the previous sponsor of perchlorate legislation in the House – Rep. Hilda Solis of California – will leave the chamber to serve as the new Labor Secretary, and it is unclear whether another representative will take up the cause.

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#### FORMATION OF NEW COMMITTEE ROSTERS ONGOING

Members of the House and Senate this week will continue working through the task of naming committee and subcommittee chairs and ranking members, as well as assigning freshmen members to their various panels. A comprehensive list of water policy-related committee leaders for the 111th Congress, along with notable committee membership changes, will be published in the January issue of AMWA's *Congressional Report*.

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#### SENATE SET TO APPROVE CLIMATE/WATER RESEARCH BILL

The Senate is expected to pass legislation this week that will authorize federal studies and grant programs focusing on the impacts of climate change on the nation's water supplies. Energy and Natural Resources Committee Chairman Jeff Bingaman (D-N.M.) originally introduced the bill, the SECURE Water Act, in 2007.

The SECURE Water Act is expected to be taken up as part of an omnibus package of more than 150 public lands bills that were approved by the Energy and Natural Resources

Committee during the 110th Congress. Senate Republicans blocked approval of the package at the end of 2008, but Majority Leader Harry Reid (D-Nev.) pledged to make the legislation among the Senate's first orders of business this year.

If approved, the SECURE Water Act would require the Interior Department to establish a climate change adaptation program to study the possible ramifications of climate change on watersheds within the Bureau of Reclamation's jurisdictional area and to consult with appropriate stakeholders, including water systems, to develop appropriate adaptation strategies. The Interior Department would be required to periodically report on the expected effects of climate change on each of these reclamation basins, along with mitigation and adaptation strategies.

The legislation would also authorize a new grant program open to water systems within the Bureau of Reclamation's jurisdictional area. Funds, financing as much as half of a project's total cost up to \$5 million, would be offered to help applicants increase water conservation or efficiency, develop advanced treatment technologies to boost water supplies, or expand the use of renewable energy in the water delivery process. The program is limited to areas under Bureau of Reclamation jurisdiction because Sen. Bingaman's committee has direct oversight of that agency.

The Senate is expected to approve the legislation, and reports from Capitol Hill have indicated that it should easily pass the House as well, perhaps within the next several weeks.

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#### EPA CONVENES WATER INFRASTRUCTURE/ CLIMATE CHANGE ADAPTATION WORKSHOP

EPA's Office of Water and Office of Research and Development convened the *First National Expert and Stakeholder Workshop on Water Infrastructure Sustainability and Adaptation to Climate Change* in Arlington, Virginia last week. More than 130 people attended the two-day invitation-only workshop, including about 25 utility representatives and a dozen staff members from water sector associations.

Issues such as tools for adaptive management, climate impacts on hydrology and applying climate science to water infrastructure planning were presented and discussed during the workshop. In his closing remarks, Deputy Assistant Administrator for Water Mike Shapiro said that the input received during the discussions would be used to inform EPA's next steps regarding climate change research and programs related to climate change and water infrastructure adaptation.

EPA plans to post presentations from the meeting, and AMWA will use its climate change webpage ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)) to provide this information to members.

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STEPHAN DEPARTS DHS

Last Friday, Assistant Secretary for Infrastructure Protection Robert Stephan left his post at the Department of Homeland Security (DHS) after nearly six years of service. A frequent speaker at AMWA Water Policy Conferences, Stephan was the recipient of the association's 2008 Donald R. Boyd Award. He played an integral role in fostering a close working relationship between the water sector and DHS through the public/private partnership model and leaves a legacy of significant effort in developing risk-based solutions for a wide-range of sector security issues. His successor has not been named.

January 19, 2009

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**AMWA OFFICE CLOSED FOR KING HOLIDAY AND  
INAUGURATION**

AMWA's *Monday Morning Briefing* is being published early in advance of next week's Martin Luther King Day federal holiday and Inauguration Day. The AMWA office will be closed on Monday and Tuesday.

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**HOUSE STIMULUS BILL INCLUDES \$2 BILLION  
FOR DRINKING WATER, SOME GRANT FUNDING**

The \$825 billion economic stimulus bill released by the House Appropriations Committee includes \$2 billion for upgrades to drinking water infrastructure. This is far short of the \$10 billion requested by AMWA and some members of Congress, but double the \$1 billion that would have been allotted to drinking water infrastructure through an earlier stimulus bill debated in the House last year.

The release of the House draft follows several months of intense lobbying on Capitol Hill since plans for a massive "infrastructure stimulus" bill were announced last fall. Since that time, however, plans for the legislation have evolved from a package almost totally devoted to spending to improving the nation's infrastructure to one also containing significant funding for various objectives such as tax cuts,

**THIS WEEK IN CONGRESS**

Members of Congress are looking forward to an abbreviated workweek, with the chambers closed in observance of Martin Luther King Day on Monday, and Barrack Obama's inauguration as the 44th President of the United States on Tuesday.

For the remainder of the week, House committees are expected to hold markups on the economic stimulus package and consider legislation to bring more transparency to financial bailout spending. The Senate is scheduled to debate pay discrimination and children's health insurance legislation and to vote on several of President-elect Obama's Cabinet and agency nominees.

increased spending on education and health care, worker unemployment benefits and energy efficiency efforts.

The House bill would direct EPA to distribute the \$2 billion in drinking water funds to states through the existing State Revolving Fund (SRF) program. State matching requirements would be waived, and 50 percent of each state's allotment must be used to fund "forgiveness of principal, negative interest loans, and grants" for municipalities that have drinking water projects on state priority lists. AMWA had heavily lobbied Congress to deliver stimulus funding in the form of grants rather than loans that communities would have to repay to the federal government.

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**SAVE THE DATE - AMWA's 2009 WATER POLICY CONFERENCE  
IS APRIL 19 - 22 IN WASHINGTON, D.C.  
IT'S A WHOLE NEW BALLGAME - JOIN US FOR SPRING TRAINING!**

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The bill also includes \$6 billion in funding through the Clean Water SRF, which actually represents a \$500 million reduction from the wastewater funding level included in last fall's stimulus bill (H.R. 7110). The same 50 percent grant language is applied to the current bill's wastewater funds, along with an additional requirement that 20 percent of wastewater funding be set aside for projects that "address water-efficiency goals, address energy-efficiency goals, mitigate storm-water runoff, or encourage environmentally sensitive project planning, design, and construction." No efficiency mandates were placed on the drinking water funds.

A House Appropriations Committee markup of the bill is tentatively scheduled for Wednesday, and the Senate may release its draft stimulus bill this week as well. Indications from Capitol Hill suggest that the Senate bill will bear many similarities to the House version.

AMWA is continuing to lobby members of the House and Senate in support of increasing the bill's drinking water funding level and increasing the portion of funds that may be awarded to utilities as grants. Last Thursday, AMWA circulated an e-mail to its membership with a model letter that may be used to communicate this message to congressional representatives. Members who did not receive this email should contact AMWA's Dan Hartnett at hartnett@amwa.net.

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#### EPA NOMINEE JACKSON PLEDGES TO UPHOLD SCIENTIFIC INTEGRITY

During her Senate confirmation hearing with the Committee on Environment and Public Works (EPW), EPA Administrator nominee Lisa Jackson said that science "must be the backbone of what EPA does" and pledged to uphold President-elect Obama's core values of scientific integrity and the rule of law. Jackson, former commissioner of the New Jersey Department of Environmental Protection, said that the laws governing EPA direct the agency to base decisions on the best available science. She also said that while "the laws leave room for policy-makers to make policy judgment," political appointees "will not compromise the integrity of EPA's technical experts to advance particular outcomes."

#### REMINDER – COMPLETE CHEMICAL SURVEY, START FINANCIAL SURVEY

Don't forget to complete the member-to-member survey on water treatment chemical costs by Friday, January 23. The survey asks for pricing and availability of chemicals commonly used in the water treatment process and its objectives are to determine whether chemical prices and availability are issues of national significance and to solicit ideas for cost management. AMWA members will receive an aggregated summary of the responses.

The survey was attached to a January 7 e-mail from the AMWA National Office. Please e-mail the response to Ray Yep of Santa Clara Valley Water District at ryep@valley-water.org.

AMWA's Utility Financial Information (UFI) survey was launched last week and already a number of members have completed the survey. The intent of this initiative is to develop a database with input from large public drinking water systems on such parameters as rates, revenue sources and expense categories. This comparative data will help AMWA members better understand cost drivers and identify different alternatives for funding these costs.

See AMWA President Brian Ramaley's letter in the January 12 e-mail from the AMWA National Office for more information and a link to the survey.

Members who did not receive either of these e-mails should contact Carolyn Peterson at peterson@amwa.net or 202-331-2820.

In response to Sen. Barbara Boxer's (D-Calif.) questions about perchlorate, Jackson said that she would address the contaminant and pledged to make drinking water issues a priority.



EPW also heard from Nancy Sutley, nominated to chair the White House Council on Environmental Quality, during the hearing. Sutley, deputy mayor of Los Angeles for energy and environment and a Clinton-era U.S. EPA veteran, said that she would be a voice for the environment in the White House and that "the Council on Environmental Quality will play an important role in coordinating the efforts of the federal government to build a cleaner environment and a sustainable economy and future for our nation."

The Senate is expected to vote to confirm both nominees this week.

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#### WAXMAN TARGETS MEMORIAL DAY FOR APPROVAL OF CLIMATE CHANGE BILL

New House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) pledged to move a comprehensive climate change bill through his committee before Memorial Day, even as some congressional aides indicated that such a bill will not pass the House and Senate before the end of 2009.

According to comments he made at the Energy and Commerce Committee's first hearing of the year, Rep. Waxman intends for his climate legislation to build on proposals he offered last year along with new Energy and Environment Subcommittee Chairman Ed Markey (D-Mass.). The proposals called for reducing U.S. carbon emissions to 80 percent below 1990 levels by 2050 and offered assistance to states and local communities to help them adapt to environmental impacts that result from climate change.

In spite of Waxman's goal, other staff members and representatives on Capitol Hill have said that Congress and the Energy and Commerce Committee will likely be preoccupied with righting the economy throughout 2009, a task that may use up time that could otherwise be devoted to climate change legislation. In addition, some congressional Republicans are preparing to use the stumbling economy to combat climate legislation, which they say will cost the American economy billions of dollars.

Early in 2009 AMWA plans to begin reaching out to key members and staff in Congress with its outline of legislation to increase research and adaptation assistance for water systems impacted by climate change. The association hopes that these objectives will be incorporated into a larger, comprehensive climate bill.

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#### GRUMBLES STEPS DOWN AT OFFICE OF WATER

EPA Assistant Administrator for Water Ben Grumbles will leave the agency on January 20 after five years at the helm of the office responsible for drinking water regulation. Grumbles has been a strong supporter of sustainability and promoted EPA's Four Pillars approach of better management of water and wastewater utilities, rates that reflect the full cost pricing of services, efficient water use and watershed approaches to protection. He backed the agency's Effective Utility Management program, the TCR process and numerous water security initiatives, including WaterISAC. Grumbles, the longest-serving head of the Office of Water, has also been a regular speaker at AMWA's annual Water Policy Conferences.

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#### SENATE PASSES SECURE WATER ACT, HOUSE CONSIDERATION COMING SOON

The Senate overwhelmingly passed an omnibus public lands bill (S. 22) that included the SECURE Water Act, legislation that will authorize federal studies and grant programs focusing on the impacts of climate change on the nation's water supplies. While the scope of the bill is limited, AMWA had earlier expressed support for it as an important first step toward further studies and research into the likely impacts of climate change on the nation's water systems.

The House is expected to approve the measure with few, if any, changes. House Natural Resources Committee Chairman Nick Rahall (D-W.V.) has said he intends to move the bill to the House floor quickly, without holding a committee markup or vote.

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## MEMBER INITIATIVES HIGHLIGHTED IN AMWA'S GREEN BLOG

AMWA's Green Projects Blog is now live and can be accessed under "What's New" on AMWA's website or at <http://metrowater.blogspot.com>. The blog will rely on AMWA members to submit examples of their utilities' green projects and activities. In addition to highlighting the successes of members, sharing these stories will serve as examples to help other water systems implement their own sustainability efforts and keep current with the latest green thinking at drinking water utilities. Submit your green blog post by e-mailing [greenprojectsblog@amwa.net](mailto:greenprojectsblog@amwa.net).

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## NSF ANNOUNCES REVISION OF STANDARD 61 TO MEET NEW LEAD REQUIREMENTS

NSF International announced new requirements incorporated into its revised NSF/ANSI Standard 61 aimed at limiting the lead content in plumbing products that come into contact with drinking water. In a press release ([www.nsf.org/business/newsroom/press\\_releases/O90115\\_annexg.asp](http://www.nsf.org/business/newsroom/press_releases/O90115_annexg.asp)) NSF said that the incorporation of Annex G - Weighted Average Lead Content Evaluation Procedure to a 0.25 Percent Lead Requirement "will allow manufacturers to demonstrate compliance to recently enacted legislation in California that limits the weighted average of lead content in plumbing products, which come in contact with drinking water, to 0.25 percent."

The lead reduction requirements will be effective January 1, 2010.

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## NEW REPORT DETAILS IMPACTS AND IMPLICATIONS OF SEA LEVEL RISE

EPA was the lead agency in the development of the latest U.S. Climate Change Science Program Synthesis and Assessment Product: *Coastal Sensitivity to Sea Level Rise; A Focus on the Mid-Atlantic Region*. The 784-page tome evaluates the implications to the mid-Atlantic states of three sea level rise scenarios over the next century.

The document is divided into four parts:

- Part 1 provides context by describing the effects of sea level rise on the environment.
- Part 2 describes the societal impacts and implications of sea-level rise, including effects on population and infrastructure.
- Part 3 examines strategies for adapting to sea level rise, including considerations when making decisions and possible barriers to adaptation.
- Part 4 analyzes national implications of sea level rise and a science strategy for moving forward.

The document can be accessed from AMWA's climate change page: [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange).

January 26, 2009

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## ENVIRONMENTAL APPOINTEES CONFIRMED

Nominees to lead EPA and the White House Council on Environmental Quality (CEQ) won unanimous Senate confirmations last Thursday: Lisa Jackson as EPA Administrator and Nancy Sutley as CEQ Chairwoman.

Jackson, the first African American to head EPA in its 38-year history, will be sworn in today. She is a chemical engineer who spent 16 years at EPA before becoming New Jersey's top environmental regulator in 2006 under Gov. Jon Corzine (D). In a statement issued last Friday, Jackson said: "With his election and with my appointment, President Obama has dramatically changed the face of American environmentalism. With your help, we can now change the face of the environment as well."

Sutley was most recently deputy mayor of Los Angeles for energy and environmental issues. Before that, she was energy advisor to California Gov. Gray Davis and also served as deputy secretary for policy and intergovernmental relations within the California Environmental Protection Agency. During the Clinton administration, Sutley was a senior policy adviser to the EPA regional administrator in San Francisco and a special assistant to then-EPA Administrator and new White House energy and climate change advisor Carol Browner.

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## SEN. CARDIN GATHERS SUPPORT FOR DRINKING WATER FUNDING

Maryland Senator Benjamin Cardin (D) recently wrote Senate appropriators asking that their version of the stimulus legislation, which is expected to be made public this week, include

## THIS WEEK IN CONGRESS

After being approved by several committees last week, the \$825 billion economic stimulus bill is on track for a vote on the House floor by Wednesday. The House will then be out of session on Thursday and Friday as Republicans hold their annual issues conference.

The Senate will spend the week working through amendments to a children's health insurance bill with the goal of completing work on the measure by Friday. In addition, the Senate's version of the stimulus legislation will make its debut as the Appropriations Committee is expected to mark up the bill as early as Tuesday.

at least \$10 billion for drinking water infrastructure improvements.

Sen. Cardin's office worked with the environmental advocacy group American Rivers to draft the letter, and AMWA provided input on the drinking water infrastructure needs that could be addressed through the stimulus bill. And while the letter requests additional funding for "green" projects targeted to improve water efficiency, AMWA ensured that the letter asks for those funds in addition to the \$10 billion infrastructure request, not carved out as a percentage of it.

The letter also asks that the water funds be distributed in the form of grants, not loans that would have to be repaid and therefore carry less of a stimulating impact on the economy.

Ten senators signed the letter in addition to Cardin, including New Jersey's Frank Lautenberg (D), chairman of the Senate subcommittee that oversees drinking water infrastructure and policy. A copy of the letter is available on AMWA's Legislative Information webpage.

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## APPROPRIATIONS COMMITTEE MAKES FEW CHANGES IN APPROVING STIMULUS BILL

The House Appropriations Committee held a markup on the economic stimulus bill last week and approved the measure with very few changes. No alterations were made to the funding set aside for drinking water and wastewater infrastructure.

As the bill advances to the House floor this week, it includes \$2 billion to fund “ready-to-go” drinking water infrastructure and \$6 billion for similar wastewater projects. The funding would be delivered to states through the State Revolving Fund program, subject to the existing statutory distribution ratios. Of the drinking water funds, each state would be required to commit 50 percent of their total funding to communities in the form of grants, negative interest loans or principal forgiveness.

For all infrastructure funding awarded by the bill, recipients would be directed to give preference to projects that can begin within 120 days of receiving funding. Additionally, states receiving stimulus dollars would have to enter into binding agreements to spend half of their total allotment of funds within one year of the bill's enactment and to spend their remaining stimulus funds within two years.

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## COMMITTEE EXPRESSES SUPPORT FOR MORE WATER FUNDING

Members of the House Transportation and Infrastructure (T&I) Committee criticized the \$825 billion economic stimulus measure drafted by the Appropriations Committee as severely lacking in dollars for infrastructure projects that could quickly create thousands of jobs.

T&I Chairman James Oberstar (D-Minn.) convened the Thursday hearing to highlight his objections to the draft stimulus bill, which he said underfunds infrastructure programs. Last month, Rep. Oberstar requested \$85 billion in total infrastructure funds to be distributed through programs under the

committee's jurisdiction, but the stimulus bill released by House appropriators would only provide roughly \$63 billion.

The T&I Committee has jurisdiction over the federal Clean Water State Revolving Fund (SRF) program, but not the Drinking Water SRF. However, Rep. Oberstar indicated support for an increase in drinking water funding above the \$2 billion provided in the stimulus, noting that the nation's total drinking water infrastructure needs are estimated to be as much as \$500 billion over the next 20 years and that the Congressional Budget Office calculated that the annual drinking water funding gap could be as much as \$20 billion.

NACWA President Marian Orfeo of Massachusetts Water Resources Authority testified in support of including between \$20 billion and \$40 billion for drinking water and wastewater infrastructure projects in the stimulus, as requested by AMWA, NACWA and other associations in a joint letter recently sent to Capitol Hill (and available on AMWA's Legislative Information webpage). She also asked that 100 percent of the stimulus funds delivered through the SRFs be distributed as grants, rather than the 50 percent in the current House draft.

While the hearing expressed a clear desire among states, communities and representatives on both sides of the aisle to increase infrastructure funding, it is unclear whether it will translate to changes in the final bill. The Appropriations Committee approved the bill last week, but the T&I Committee was denied an opportunity to make its own edits to the House's draft bill. It has not been determined whether amendments will be permitted when the bill goes to the House floor.

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## WATERISAC WEBINARS HIGHLIGHT NEW PORTAL UPGRADES

WaterISAC will host a series of informative webinars beginning on Thursday, January 29 at 1:00 pm EST and continuing on consecutive Thursdays at the same time throughout the month of February.

In recent months, WaterISAC has undergone a series of comprehensive upgrades with the goal of improving user friendliness while enriching the content of its online portal. The webinars are designed to provide an overview of these upgrades while outlining the numerous features, tools and social networking functions available to current and prospective WaterISAC subscribers. Attendees will participate in a live online tour of the portal.

The upcoming webinars are an integral part of WaterISAC's mission to provide subscribers with an overview of the full breadth and depth of the portal's capabilities. AMWA encourages its members to take advantage of this opportunity to learn more about the unique services WaterISAC has to offer.

To register, visit [www.waterisac.org/cs/webinars](http://www.waterisac.org/cs/webinars).

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#### NAPOLITANO CONFIRMED AS DHS SECRETARY

Last Tuesday, the Senate confirmed former Arizona Governor Janet Napolitano to be the next Secretary of the Department of Homeland Security (DHS).

Immediately upon taking office, Secretary Napolitano issued a series of directives ordering DHS staff to report back to her on the status of the department's efforts in protecting critical infrastructure, sharing intelligence with local and state officials and providing transportation security. "One of my top priorities is to unify this department and to create a common culture. These action directives are designed to begin a re-

#### **NEW BLOG POSTING ON CONTRA COSTA GREEN INITIATIVES - SEND YOUR STORY TODAY!**

AMWA's new Green Projects Blog has been updated with a new post by the Contra Costa Water District detailing its various initiatives to reduce the environmental impacts of its operations and address global climate change. View the new posting now at [www.metrowater.blogspot.com](http://www.metrowater.blogspot.com).

AMWA continues to welcome new blog submissions detailing members' efforts to become more sustainable and thoughts on how to prepare for environmental and climate changes in the years ahead.

To share your story on the blog, send it to [greenprojectsblog@amwa.net](mailto:greenprojectsblog@amwa.net).

view, evaluation and dialogue between the various functions of this department and me," Napolitano said in a statement.

In terms of critical infrastructure protection, Napolitano requested information on the current status of the critical infrastructure list, relations with the 18 sector security councils and the other departments that have critical infrastructure protection roles, plans to enhance protection and how DHS can increase private sector participation. The secretary is expected to receive an oral report on these matters by January 28 with an official written account to follow in several weeks.

February 2, 2009

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## STIMULUS PASSES HOUSE, SENATE AMENDMENTS POSSIBLE

The House \$819 billion economic stimulus bill won approval last week with no changes to sections outlining drinking water and wastewater funding levels. The bill (H.R. 1) includes \$2 billion in drinking water infrastructure money and \$6 billion in wastewater funds, all of which would be distributed to states through the State Revolving Fund programs. Half of each state's money would be distributed to communities as grants, negative interest loans or principal forgiveness.

The Senate's version of the stimulus package will be debated this week. It includes \$2 billion for drinking water and \$4 billion for wastewater. States would be directed to obligate funds to "ready-to-go" projects within six months and could devote any portion of their share of funds toward negative interest loans or principal forgiveness. However, recognizing that the water funding levels are below drinking water and wastewater infrastructure needs, several senators, including Maryland's Ben Cardin (D), are considering offering floor amendments to boost those amounts.

Senate action comes as reports emerge that EPA is taking preliminary steps to work with states to quickly disperse funding. EPA is reportedly creating a "stimulus task force" to route money to states through the SRF program far faster than is typical. This effort may partially result from a recent Congressional Budget Office report, which estimated that only about 26 percent of water infrastructure stimulus funds could be spent within two years of the bill's enactment, largely because of the slowness of EPA's funds distribution process. The study did not factor in expedited timelines expected to be mandated by the final stimulus legislation.

## THIS WEEK IN CONGRESS

The House will be in session for only two days this week, as Democrats leave on Thursday for the party's annual policy retreat. Prior to that, the chamber will take up an omnibus spending package that consists of the nine remaining FY09 appropriations bills that Congress has yet to enact. House leadership expects most programs to be funded at or near FY08 levels.

In the Senate, work will center on passing the economic stimulus bill. Various votes on the measure will likely take most of the week and may include an amendment to increase drinking water infrastructure funding.

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## 2009 ASCE REPORT CARD ISSUES ANOTHER D- FOR DRINKING WATER INFRASTRUCTURE

In the latest assessment by professional engineers of the status of the nation's infrastructure, drinking water received a grade of D-. The American Society of Civil Engineers (ASCE) noted that since its last Report Card in 2005, the grades overall have not improved, and said "all signs point to an infrastructure that is poorly maintained, unable to meet current and future demands, and in some cases, unsafe."

"America's drinking water systems face an annual shortfall of at least \$11 billion to replace aging facilities that are near the end of their useful life and to comply with existing and future federal water regulations," the report said. "This does not account for growth in the demand for drinking water over the next 20 years. Leaking pipes lose an estimated seven billion gallons of clean drinking water a day."

Drinking water's D- was the lowest grade given, although wastewater, inland waterways, levees and roads received similar marks. Solid waste recorded the best performance, with a C+ grade.

The *2009 Report Card for America's Infrastructure* was issued two months early as Congress debates infrastructure investment as part of the economic stimulus package. ASCE presented five key solutions for raising the nation's infrastructure GPA:

- Increasing federal leadership in infrastructure;
- Promoting sustainability and resilience;
- Developing federal, state and regional infrastructure plans;
- Addressing lifecycle costs and ongoing maintenance; and
- Increasing and improving infrastructure investment from all stakeholders.

#### PENDING REGULATIONS WITHDRAWN FROM OMB

Following a January 20 memorandum from White House Chief of Staff Rahm Emanuel, EPA withdrew all rulemakings and notices that were under review by the Office of Management and Budget (OMB). The memorandum requested that no proposed or final regulation be published in the *Federal Register* until it has been reviewed and approved by an agency head "appointed or designated" by President Obama. It is not uncommon for rulemakings from a previous administration to be reviewed by a new administration. Among the EPA items withdrawn from OMB was a proposed rule for effluent guidelines for airport deicing operations. The withdrawn EPA proposals must be reviewed and approved by Administrator Lisa Jackson.

#### BISHOP REINTRODUCES SEWER OVERFLOW NOTIFICATION BILL

Rep. Timothy Bishop (D-N.Y.) last week reintroduced legislation (H.R. 753) that would require wastewater systems to notify the public when a release of untreated sewage into the

environment occurs. The House approved an earlier version of the bill last year, but it was not enacted before year's end. The text of the new bill is not yet available, but it is expected to closely mirror the version that was approved by the House in 2008. That bill would have required various levels of public notification when untreated sewage discharges were thought to pose a threat to public health and would have enabled EPA to build a database of such events.

#### EPA ISSUES PROVISIONAL ADVISORIES FOR PFOA AND PFOS

Earlier this month, EPA released provisional health advisories (PHAs) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Available at [www.epa.gov/water-science/criteria/drinking/](http://www.epa.gov/water-science/criteria/drinking/), the advisories were developed to respond to a "rapidly evolving situation" surrounding agricultural sites in Alabama where wastewater sludge was applied. PFOA and PFOS are considered concerns to public health because they can cause systemic and developmental toxicity in laboratory animals.

EPA's PHA value for PFOA is 0.4 ppb; the value for PFOS is 0.2 ppb. According to EPA, these values are for short-term exposure and are protective of all populations and life stages. While these health advisory levels are intended for guidance and are not enforceable values, EPA says concentrations of these contaminants at levels above the PHA suggest the need to discontinue using the drinking water source for drinking or cooking.

#### COMMENT PERIOD EXTENDED ON PROPOSAL TO RELAX PHARMACEUTICAL WASTE DISPOSAL

Last Friday EPA announced extension of the comment period for an amendment to a Resource Conservation and Recovery Act (RCRA) waste disposal rule that would remove barriers for facilities to set up pharmaceutical take-back programs. The proposal to add pharmaceuticals to the Universal Waste Rule was published in the *Federal Register* on December 2,

2008 and reported in AMWA's November *Regulatory Report* ([www.amwa.net/cs/members\\_only/regulatory\\_report](http://www.amwa.net/cs/members_only/regulatory_report)). The comment period will now end on March 4, 2009. AMWA plans to submit a letter supporting the amendment.

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#### WATERSENSE AWARD APPLICATIONS AVAILABLE

Applications are now being accepted for EPA's WaterSense Partners of the Year awards program. The program is open to all who joined the WaterSense Partners program prior to Jan. 1, 2009. Information is online at [www.epa.gov/water-sense/awards.htm](http://www.epa.gov/water-sense/awards.htm). Awards applications are due April 10 and annual reporting forms are due March 2.

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#### NEW SCIENCE SUBCOMMITTEE CHAIR TO MAKE WARMING A PRIORITY

Rep. Brian Baird (D-Wash.), new chairman of the Science and Technology Committee's Energy and Environment Subcommittee, said last week that he intends to make research into climate change and ocean acidification top priorities of his panel.

In a statement, Rep. Baird said, "I am extremely concerned with climate change and ocean acidification. I look forward to playing a leading role in using scientific research to craft responsible policies in these areas. I look forward to working on the research and development to advance the energy technology that will allow us to reduce use through energy efficiency, to more fully embrace renewable energies and to reduce climate change."

Baird is replacing former subcommittee Chairman Nick Lampson (D-Tex.), who lost his reelection bid in November.

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#### USDA INVITES APPLICATIONS FOR CONSERVATION FUNDS

The Department of Agriculture (USDA) recently invited farmers and partnering water systems to submit applications for funding through the new Agricultural Water Enhancement Program (AWEP), which was created through last year's Farm Bill. AWEP is intended to facilitate cooperation among farmers and other entities like local water systems in completing projects that promote ground and surface water conservation and water quality improvement.

AWEP funds totaling \$58.4 million are available to be distributed to farmers and partnering entities to complete projects that meet the program's funding criteria. Projects eligible for funding include:

- Water quality or water conservation plan development;
- Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dry land farming;
- Water quality or quantity restoration or enhancement projects;
- Irrigation system improvement or irrigation efficiency enhancement;
- Activities designed to reduce drought's impacts; and
- Other related activities that will help achieve water quality or water conservation benefits on agricultural land.

AWEP funding applications must be submitted to USDA by March 2. More information about the program, as well as the Department's official request for proposals, can be viewed at [www.nrcs.usda.gov/programs/farbill/2008/index.html](http://www.nrcs.usda.gov/programs/farbill/2008/index.html).



February 9, 2009

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SUTLEY, CARDIN, BLUMENAUER AND JOHNSON JOIN  
WPC PROGRAM

Four key Washington policy leaders have been added to the agenda for AMWA's 2009 Water Policy Conference, scheduled for April 19-22 in Washington, D.C. Nancy Sutley, chair of the White House Council on Environmental Quality, Maryland Senator Ben Cardin and Reps. Earl Blumenauer of Oregon and Eddie Bernice Johnson of Texas will share their perspectives on important drinking water issues.

Nancy Sutley, former deputy mayor of Los Angeles for energy and environment, served at the U.S. Environmental Protection Agency under President Clinton and has also held positions at the Metropolitan Water District of Southern California, the California State Water Resources Control Board and the California Environmental Protection Agency.

Sen. Cardin serves on the Environment and Public Works (EPW) Committee which oversees drinking water and environmental policy. He emerged as a leader in the effort to secure more funding for water infrastructure, circulating a letter in January that requested \$10 billion for drinking water projects in the economic stimulus package. Last year, Sen. Cardin was a cosponsor of the Lieberman-Warner Climate Security Act and is expected to play an active role when climate change legislation is taken up again this year.

Rep. Blumenauer gained a reputation as a leader on environmental sustainability and infrastructure maintenance issues. A member of the House Ways and Means Committee and Budget Committee, he is in the process of drafting legislation to create a new federal program to finance drinking water and wastewater infrastructure upkeep, which he hopes

## THIS WEEK IN CONGRESS

House and Senate negotiators hope to hammer out a conference agreement between the competing versions of economic stimulus bills that have been considered in each chamber. Democratic leaders are aiming to come to an agreement on a final version of the bill by Friday, in order to meet their self-imposed deadline of sending the bill to President Obama before next week's Presidents Day recess.

Also on the House agenda is consideration of S. 22, a public lands omnibus bill that includes the text of the SECURE Water Act, which would authorize federal studies and grant programs focusing on the impacts of climate change on the nation's water supplies. Waiting until after the recess will be action on the omnibus appropriations package to fund federal programs for the rest of the year. A vote on the package is expected during the week of February 23.

to introduce this year. Rep. Blumenauer is also active in the climate change arena, serving as vice chair of the Select Committee on Energy Independence and Global Warming.

Since 2007 Texas Congresswoman Eddie Bernice Johnson has served as the Chairwoman of the Subcommittee on Water Resources and Environment – enabling her to play a leading role in congressional efforts to increase water infrastructure funding. She has pledged to advance, this year, legislation to reauthorize the Clean Water State Revolving Fund (see article on page 3), and she also plans to start drafting a new Water Resources Development Act.

Online registration for the conference is now available at [www.amwa.net/cs/2009WPC](http://www.amwa.net/cs/2009WPC).

## INFRASTRUCTURE AMENDMENTS DEBATED AS SENATE PUSHES TO COMPLETE STIMULUS BILL

Amendments that would increase federal funding for “ready-to-go” water and wastewater infrastructure projects were in flux on Friday as senators worked to reach an agreement to win passage of the stimulus legislation.

The Senate rejected an amendment offered by Sens. Dianne Feinstein (D-Calif.) and Patty Murray (D-Wash.) that would have increased the stimulus bill’s funding for infrastructure by \$25 billion – including \$1 billion extra for drinking water projects and an additional \$6 billion for wastewater. While a majority of senators supported the amendment, it failed on a 58-39 vote – two short of the 60 votes required for adoption. Nearly all Republicans opposed the amendment because it would not have offset the \$25 billion and as a result would have increased the price tag of the entire bill, which is estimated to be near \$900 billion.

Later in the week, Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) and Ranking Member James Inhofe (R-Okla.) filed an amendment that would have directed up to an additional \$50 billion for water, wastewater and transportation projects by reallocating stimulus funds that go unspent by other programs. The amendment was written to allay Republican concerns about increasing the cost of the bill while also facilitating an increase in infrastructure spending. As filed, the amendment allows funds to be spent on infrastructure projects that could award contracts within 120 days and also includes protections to prevent states from redirecting drinking water funds to other infrastructure projects. However, the amendment had not come up for a vote as of Friday afternoon, and it was unclear whether Senate leadership would allow a vote on this and other amendments before moving on to a final vote on the bill as early as Friday evening.

Congressional Democrats have set a goal of sending a finished stimulus bill to President Obama by week’s end, before the scheduled week-long Presidents Day recess.

## ACTION ITEM CHECKLIST

Get the most from AMWA membership by participating in these current and upcoming events and initiatives:

### Utility Financial Information Survey – Deadline March 15

Add your system’s data to AMWA’s new large drinking water system financial information database for benchmarking and financial planning. Information is at [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi).

### 2009 Water Policy Conference – April 19-22, Washington, D.C.

Get an insider’s perspective on changes on the federal front from key Congressional and Administration policy leaders. Register online at [www.amwa.net/cs/2009WPC](http://www.amwa.net/cs/2009WPC).

### WaterISAC Webinars – Each Thursday in February, 1:00 p.m. EST

Informational one-hour webinars provide an overview of the features, tools and new capabilities available to current and prospective WaterISAC Pro subscribers. Register at [www.waterisac.org/cs/webinars](http://www.waterisac.org/cs/webinars).

### Gold and Platinum Awards – Deadlines June 1 (Gold) and July 1 (Platinum)

Is this the year your utility is recognized for its performance excellence? Application forms are online at [www.amwa.net/cs/ceo\\_resources/awards](http://www.amwa.net/cs/ceo_resources/awards).

### Member-to-Member Inquiries

Respond to the current request on Prestressed Concrete Pipe Repairs; check your February 4 e-mail from the AMWA National Office.

### Green Projects Blog

Share your initiatives to reduce the environmental impacts of your operations and address global climate change. Send your stories to [greenprojectsblog@amwa.net](mailto:greenprojectsblog@amwa.net); view postings at [www.metrowater.blogspot.com](http://www.metrowater.blogspot.com).

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## COMMITTEES PLAN ACTION ON SRF REAUTHORIZATIONS THIS SPRING

House Water Resources and Environment Subcommittee Chairwoman Eddie Bernice Johnson (D-Tex.) said last week that she plans to move “expeditiously” early this year to approve legislation to reauthorize the Clean Water State Revolving Fund (CWSRF). Chairwoman Johnson hopes that the bill will move through committee and to the House floor before Congress leaves for its spring recess on April 3.

The CWSRF reauthorization bill is expected to closely mirror the 2007 Water Quality Financing Act (H.R. 720). That bill would have reauthorized the CWSRF at a total of \$14 billion over four years and included provisions that would have encouraged wastewater projects that make use of sustainable technologies and efficiency measures.

The Senate Environment and Public Works (EPW) Committee is also expected to get to work on SRF reauthorization legislation early this year, but the Senate bill would reauthorize the drinking water program as well as the clean water version. The EPW Committee approved a similar bill last fall (S. 3617), which would have authorized \$15 billion for the Drinking Water SRF over five years. That proposal also would have required states to give priority to project applicants that have reviewed system restructuring options and put in place asset management and life-cycle financing plans.

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## PRESIDENTIAL DOCUMENTS CHART NEW COURSE FOR REGULATORY REVIEW

President Obama recently revoked two Bush administration executive orders that delegated additional regulatory review authority to the Office of Management and Budget (OMB). He ordered that all agencies and the Director of OMB should “promptly rescind any orders, rules, regulations, guidelines or policies implementing or enforcing” the Bush orders, which required regulatory policy officers at each federal agency to be presidential appointees and increased the level of White House regulatory review.

In a related move, the President sent a memorandum to the heads of executive department heads and agencies asking them to consult with the Director of OMB to produce recommendations for a new Executive Order on Federal Regulatory Review.

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## USGS CLIMATE CHANGE CIRCULAR HIGHLIGHTS WATER MANAGERS’ NEEDS

A joint report by the U.S. Geological Survey (USGS), the U.S. Army Corps of Engineers (USACE), the Department of the Interior and the National Oceanic and Atmospheric Administration (NOAA) describes the underlying assumptions water managers need to consider to address climate change impacts. The 65-page report, *Climate Change and Water Resources Management: A Federal Perspective*, is available via a link from AMWA’s climate change webpage ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)).

The document provides information about strategies for tracking, anticipating and responding to climate change. It also describes decision-making approaches and frameworks for incorporating uncertainty into water resources planning. The report’s figures, tables and appendices provide a wealth of information including climate trends, descriptions of NOAA and USGS monitoring networks, knowledge gaps and examples of planning applications by USACE involving the use of expanded climate information sets.

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## INSPECTOR GENERAL URGES UNIFIED EPA CLIMATE CHANGE RESEARCH PLAN

EPA’s Office of Inspector General (IG) is recommending that the agency work to create a cohesive research strategy on climate change. The IG’s latest evaluation aims at determining how well the “policies, procedures and plans” of the agency help to ensure that its research fulfills its “emerging climate change role.” The report, available on AMWA’s climate change webpage ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)), recommends that EPA develop an agency-wide climate

change research plan “so regions and program offices can proceed with confidence in establishing their own climate change strategies and plans.” The Office of Water and several EPA regions are developing their own climate change strategies in the absence of an agency-wide plan. The report notes that EPA’s Office of Research and Development budget for climate change research is only one percent of the total Climate Change Science Program budget.

The IG interviewed EPA regions about their climate change information needs and found that the majority of regions desire information about climate change impacts and mitigation of greenhouse gases. In addition, three regions identified adaptation strategies and preventive measures as needs. For example, Region 9 would like information on developing alternative surface water storing approaches during dry seasons, and Region 10 identified the need to identify appropriate water infrastructure and ensure drinking water system

integrity in light of sea level rise or episodic flooding.

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#### SEN. BOXER ANNOUNCES PRINCIPLES FOR CLIMATE CHANGE BILL

Last week Sen. Barbara Boxer (D-Calif.) announced a set of “principles” to guide climate legislation aimed at reducing greenhouse gases that she plans to move through the Environment and Public Works Committee later this year. Although the Senator deferred discussion of numbers or targets for greenhouse gas reduction, she did indicate that the legislation would be a cap-and-trade bill. She also noted that proceeds from a cap-and-trade program would go toward several uses, including providing assistance to states and localities “in addressing and adapting to global warming impacts.” Sen. Boxer also said that a future climate bill would “reinvigorate the economy.”



February 16, 2009

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## CONGRESS TAKES PRESIDENTS DAY HOLIDAY BREAK

With Presidents Day on Monday, Congress is scheduled to adjourn for the coming week and *Monday Morning Briefing* is being published early. The AMWA office is closed on February 16 in observance of the holiday.

## CONGRESS MOVES TO APPROVE STIMULUS

On Friday afternoon both the House and Senate were moving toward approval of the final version of a massive \$789 billion economic stimulus bill that includes \$2 billion to fund local drinking water infrastructure projects.

The infrastructure funding section of the stimulus conference report released late Thursday night resembled earlier versions that were approved by each chamber, but also contained several notable differences. Key components of the drinking water and wastewater funding provisions include:

- The Drinking Water State Revolving Fund will receive \$2 billion and the Clean Water SRF will receive \$4 billion – the same amounts included in the Senate-passed bill. The earlier House-approved bill had included \$2 billion for drinking water but \$6 billion for wastewater. EPA will distribute the funds to states based on the agency's existing formula for allocating SRF dollars.
- While drinking water and wastewater infrastructure stimulus dollars will be distributed through the SRF programs, the bill requires states to disperse at least 50 percent of their allotment to communities in the form of grants, negative interest loans or principal forgiveness. States are free to devote as much as 100 percent of their funds as grants. AMWA lobbied Congress heavily to make stimulus funds available to communities in a form that would not require the funds to be repaid with interest and thus reduce the economic benefit.
- If a state allocates stimulus funds to a water project that is not under construction or under contract within one year of the bill's enactment, then EPA must reclaim the funds.
- While a project must appear on a state's priority list in order to receive stimulus funding, states must give funding priority to projects that are ready to proceed to construction within one year of enactment, regardless of any other criteria. States may add new ready-to-go water projects to their priority lists in order to ensure they are eligible to receive stimulus funding.

With the House and Senate expected to approve the bill by Friday evening, President Obama will likely sign it into law within the next few days. Individual drinking water utilities are encouraged to contact their state SRF agencies with information on their own ready-to-go projects that might be considered for funding by their state.

## **NEW SENATE WATER PANEL CHAIRMAN TO ADDRESS AMWA POLICY CONFERENCE**

Sen. Ben Cardin (D-Md.), champion of water infrastructure funding and strict water quality rules who was named to head the new Waters and Wildlife Subcommittee of the Senate Environment & Public Works Committee, will address AMWA's 2009 Water Policy Conference, April 19-22 in Washington, D.C.

Cardin led efforts to increase spending on water infrastructure in the stimulus bill. In the last Congress, he pushed EPA to strengthen its effluent guideline for the construction sector to address run-off and its effects on water degradation. A strong proponent of green infrastructure, he won set asides in the stimulus bill and authored language in 2007 energy legislation requiring large federal facility projects to use green infrastructure methods.

Also a member of the Senate Judiciary Committee, Cardin will chair that committee's Terrorism and Homeland Security Subcommittee, which is charged with oversight of U.S. anti-terrorism efforts.

Cardin will be joined on the program by a host of influential Washington policy leaders. Rep. John Boozman (R-Ark.), Ranking Member of the House Transportation and Infrastructure Subcommittee on Water Resources and Environment, was most recently added to the agenda.

**For information and online registration, go to**  
[www.amwa.net/cs/2009wpc](http://www.amwa.net/cs/2009wpc).

## **SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE RESHUFFLED**

The Senate Environment and Public Works Committee this week unveiled a new subcommittee lineup for the 111th Congress, with a new senator charged with overseeing drinking water policy. Maryland's Ben Cardin will chair the new Water and Wildlife Subcommittee, whose jurisdiction will include oversight of drinking water and wastewater

policy. Idaho Republican Mike Crapo will serve as the ranking member.

California Democrat Barbara Boxer will continue to chair the full committee, and James Inhofe of Oklahoma will remain ranking Republican. The leaders of the remaining EPW subcommittees are:

- Transportation and Infrastructure, chaired by Sen. Max Baucus (Mont.) with Sen. George Voinovich (Ohio) as ranking member;
- Clean Air and Nuclear Safety, chaired by Sen. Thomas Carper (Del.) with Sen. David Vitter (La.) as ranking member;
- Superfund, Toxics, and Environmental Health, chaired by Sen. Frank Lautenberg (N.J.) with Sen. Arlen Specter (Pa.) as ranking member;
- Green Jobs and the Economy, chaired by Sen. Bernard Sanders (I-Vt.) with Sen. Christopher Bond (Mo.) as ranking member;
- Children's Health, chaired by Sen. Amy Klobuchar (Minn.) with Sen. Lamar Alexander (Tenn.) as ranking member; and
- Oversight, chaired by Sen. Sheldon Whitehouse (R.I.) with Sen. John Barrasso (Wyo.) as ranking member.

## **WATER RESEARCH AND CONSERVATION BILLS MOVE THROUGH HOUSE**

The House easily passed two proposals to increase funding for research and development for water efficiency and conservation efforts.

H.R. 631, the "Water Use Efficiency and Conservation Research Act," was sponsored by Rep. Jim Matheson (D-Utah) and directs EPA to undertake a research and development program to increase water efficiency by promoting new innovations in areas such as home and commercial appliances and rainwater collection and reuse methods.

Also approved was H.R. 469, the "Produced Water Utilization Act," sponsored by Rep. Ralph Hall (R-Tex.). This bill would direct the Energy Department to establish a research program aimed at developing technologies to allow municipalities to make use of water extracted from the ground in the course of energy projects.

## **CONSERVATION DISTRICTS MAY PROVIDE LINK TO AGRICULTURAL WATER QUALITY INITIATIVES**

As reported in the February 2 *Monday Morning Briefing*, the 2008 Farm Bill provides for the Agricultural Water Enhancement Program (AWEP), a program that offers grants and technical assistance to help farmers and ranchers develop programs to conserve water and improve water quality on agricultural lands.

While agricultural producers are the main recipients of this funding, many local conservation districts are actively involved in helping agricultural entities develop and implement these

activities, and water utilities can also enter into partnerships with these entities. The National Association of Conservation Districts has a link to local district contacts ([www.nacdnet.org/about/districts/websites/index.phtml](http://www.nacdnet.org/about/districts/websites/index.phtml)) and suggests that interested utilities contact their local districts to find out more about the conservation work in their watersheds. Applications for AWEP funding are due by March 2.

USDA will have a link to a recording of its February 13 web conference about AWEP at [www.mymeetings.com/nc/join.php?i=PW5270615&p=6240511&t=r](http://www.mymeetings.com/nc/join.php?i=PW5270615&p=6240511&t=r) from February 14 through March 14.

## **NEW LEADERS NAMED TO WATER AND POWER SUBCOMMITTEE**

The Senate Energy and Natural Resources Committee formally organized this week. Sen. Jeff Bingaman of New Mexico will remain chairman, and Alaska Republican Lisa Murkowski will serve as ranking member, replacing the retired Pete Dominici.

Sen. Debbie Stabenow of Michigan will serve as the new chair of the Water and Power Subcommittee, which oversees western water infrastructure and flood control projects. She replaces South Dakota Senator Tim Johnson. Kansas Republican Sam Brownback will replace Tennessee's Bob Corker as ranking member.

## **EPA'S IG FINDS GAPS IN RISK MANAGEMENT PROGRAM COMPLIANCE**

EPA's Office of Inspector General (IG) released a report stating that the agency can significantly improve its program management and oversight to better assure that facilities covered by the Clean Air Act's Risk Management Program submit or re-submit a risk management plan. The investigation focused on facilities in five states and found that 48 had not filed the requisite plans. Furthermore, 10 of those facilities had in excess of 100,000 pounds of ammonia on site, which is 10 times greater than the regulatory limit.

The purpose of the Risk Management Program is to reduce the likelihood of airborne chemical releases that could harm the public and mitigate the consequences of releases that do occur. The program mandates that utilities that store chemicals must submit a risk management plan that highlights the facility's hazard assessment in addition to its prevention and response protocols. The Clean Air Act requires facilities to update and submit these plans every five years or after major changes have occurred.

The report recommends that EPA "implement additional management controls to identify facilities with regulated chemicals that have not filed risk management plans." It also recommends that EPA "develop inspection requirements to target higher-priority facilities for inspection and track its progress in completing inspections of these facilities." The agency is taking steps to implement these recommendations.



February 23, 2009

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## STIMULUS BILL SIGNED INTO LAW; EPA TO BEGIN DISTRIBUTING \$2 BILLION IN DRINKING WATER FUNDS

President Obama signed the \$787 billion economic stimulus bill into law last week, officially starting the process through which EPA and other federal agencies will distribute funds to states and local communities. Under the bill, EPA is charged with using its existing State Revolving Fund (SRF) program to forward nearly \$2 billion worth of federal funds to states, which then must spend the funds within one year on ready-to-go drinking water projects that are on, or added to, their priority funding lists.

EPA announced that drinking water utilities seeking funding under the stimulus package should apply to their individual states using the same process they use for typical revolving loan funds. However, regardless of where a project would otherwise appear on a state's priority list, the stimulus legislation mandates that states give priority for funding to drinking water projects on the lists that can proceed to construction within one year. In addition, state matching fund requirements are waived for drinking water dollars awarded through the stimulus bill.

The legislation allows EPA to reserve up to one percent of the \$2 billion drinking water dollars for "management and oversight purposes," but the remaining \$1.98 billion will be distributed to states according to EPA's current Drinking Water SRF annual allotment formula. Under the formula, each state receives a minimum of one percent of the total allocation, but states that demonstrated higher needs through the 2005 Drinking Water Needs Survey receive higher percentages. To see how the drinking water stimulus funds will be allotted, go to [www.epa.gov/recovery/srfallotments0209.html](http://www.epa.gov/recovery/srfallotments0209.html).

## THIS WEEK IN CONGRESS

The House and Senate will be back in session this week following the Presidents Day recess. Possible agenda items include consideration of an omnibus spending bill to complete the remaining FY09 appropriations and a public lands bill that includes the SECURE Water Act, a climate change and water research bill. Both bills had been postponed as Congress focused on the economic stimulus bill.

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## EPA TOUTS GREEN INITIATIVES, PUBLIC HEALTH PROTECTION FROM STIMULUS FUNDS

EPA Administrator Lisa Jackson said last week that green initiatives will play a significant role in the country's economic recovery. She noted that the \$7.22 billion of the stimulus funds administered by EPA "will create good, sustainable jobs that help produce cleaner drinking water, purer air, environmentally friendly urban and rural re-development, and reduced greenhouse gases."

A portion of the \$2 billion for the Drinking Water SRF and \$4 billion for the Clean Water SRF will be directed toward green infrastructure, water and energy efficiency and environmentally innovative projects. Other stimulus funds to be administered by EPA are:

- \$100 million for grants to evaluate and clean up brown-fields sites;
- \$300 million for diesel emissions reduction;
- \$600 million for the cleanup of superfund sites; and
- \$200 million for cleanup of leaking underground storage tanks.

EPA also said that all stimulus funding would be monitored by EPA's Inspector General and that "announcements of grants will be posted on the Web (at [www.epa.gov/recovery](http://www.epa.gov/recovery)) to ensure transparency."

## MUNICIPAL BOND MARKET, CLIMATE CHANGE EXPERTS TO SPEAK AT SPRING CONFERENCE

An expert on the municipal bond market and a leading thinker on climate change and water resources will speak at AMWA's 2009 Water Policy Conference, April 19-22 in Washington, D.C. They will join speakers from Capitol Hill and the Administration.

Michael Decker, co-chief executive officer of the Regional Bond Dealers Association (RBDA), will discuss the implications of economic conditions affecting the municipal bond market, as well as regulatory and legislative changes that Congress and the Obama Administration may be considering. RBDA is an organization of regional securities firms active in the bond markets.

Dr. Chester Koblinsky, the director of the NOAA Climate Office, will address the membership on the federal government's climate change research priorities and how they relate to water resources. Koblinsky oversees the development

of NOAA's climate activities and manages its competitive research programs.

Visit [www.amwa.net/cs/2009WPC](http://www.amwa.net/cs/2009WPC) for the latest program information and to register for the conference.

## NEW INFRASTRUCTURE PROTECTION PLAN UNVEILED

The Department of Homeland Security released the long-awaited updated National Infrastructure Protection Plan (NIPP) last Thursday. Highlighted in the plan is a reinforced commitment to coordinate and collaborate with each of the critical infrastructure sectors, including water, to promote the protection and ongoing operation of our nation's most needed assets.

The 2009 NIPP ([www.dhs.gov/xlibrary/assets/NIPP\\_Plan.pdf](http://www.dhs.gov/xlibrary/assets/NIPP_Plan.pdf)) represents a move from terrorism-based efforts to a new focus on all-hazards prevention. The plan was developed

### WE'RE ALMOST HALF WAY THERE!

#### Complete AMWA's Utility Financial Information Survey By March 15

Many AMWA members have already completed the Utility Financial Information (UFI) survey and more have started the project. We already have nearly half the responses needed to make this survey a valid reflection of the rates, rate drivers and other factors involved in financing large metropolitan drinking water systems.

**We still need your input!** If you have started the survey, please make sure to finalize your responses. If you haven't started yet, go to [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi) to get full information on the survey, a list of data to gather before you start and a link to the online survey.

This survey takes a while to complete and is best assigned to finance department personnel. While basic analyses will be shared with all AMWA members, **only utilities that complete the survey will have access to the robust database** to make their own tailored analyses.

If you have questions about the survey, contact Carolyn Peterson at [peterson@amwa.net](mailto:peterson@amwa.net) or 202-331-2820.



through an open comment process in which the water sector participated. Other highlights include increased information sharing through mechanisms such as information sharing and analysis centers (ISACS) and a focus on resiliency.

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#### FIX A LEAK WEEK IS MARCH 16-20

EPA's WaterSense program declared March 16-20 its first Fix a Leak Week to remind Americans to check household plumbing fixtures and irrigation systems for leaks. WaterSense partners are encouraged to promote the week, collaborating with other partners in their region where possible.

To help consumers save water, the project promotes ways to identify and repair dripping faucets, running toilets and leaky showerheads. In most cases, recommended fixture replacement parts can be installed by do-it-yourselfers, and home owners are reminded to look for the WaterSense label when replacing plumbing fixtures.

Utilities can obtain a CD with a full range of Fix a Leak Week resources by contacting the WaterSense Helpline at 866- WTR-SENS (987-7367) or [watersense@epa.gov](mailto:watersense@epa.gov). More information is online at [www.epa.gov/watersense/fixaleak](http://www.epa.gov/watersense/fixaleak).

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#### PROCEEDINGS FROM EPA CLIMATE CHANGE WORKSHOP ARE NOW AVAILABLE

EPA posted a link to presentations from the *First National Expert and Stakeholder Workshop on Water Infrastructure Sustainability and Adaptation to Climate Change* held on January 6-7, 2009 ([www.epa.gov/nrmrl/wswrd/wqm/wrap/workshop.html](http://www.epa.gov/nrmrl/wswrd/wqm/wrap/workshop.html)). The presentations are organized based on the workshop's two tracks: "Climate Change Impacts on Hydrology and Water Resource Management" and "Adaptive Management and Engineering: Information and Tools."

In related news, the Office of Water recently published a progress report on its work to implement the National Water Program Climate Change Strategy ([www.epa.gov/water/climatechange/implementation.html](http://www.epa.gov/water/climatechange/implementation.html)). In the report, EPA said that work on 41 of 44 key actions in the strategy has begun and cited the establishment of a Federal Interagency Workgroup on climate change and water, the development of the Climate Ready Estuaries Program and the proposal of its carbon sequestration regulations as highlights of the agency's accomplishments.



March 2, 2009

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## **OBAMA BUDGET PLAN REQUESTS 38% INCREASE FOR EPA, BILLIONS FOR SRFS**

The FY10 budget request unveiled by the Obama Administration last week asks Congress to provide EPA with \$10.5 billion in funding next year, a 38 percent increase over the House-approved FY09 allotment of \$7.6 billion. President Obama's plan requests that a significant portion of the increase be devoted to boosting drinking water and wastewater programs.

According to the EPA proposal that was released with the budget request, the Administration supports providing the Drinking Water and Clean Water State Revolving Funds (SRF) with a total of \$3.9 billion next year – nearly triple this year's expected appropriation of about \$1.4 billion for the two programs. The proposal does not break down how many dollars would go to each fund but describes the funding increase as an “unprecedented federal commitment to water infrastructure investment.”

Other features of the president's FY10 EPA request include:

- \$3.9 billion for EPA's operating budget, its highest level ever, which includes “funds for research, regulation, and enforcement”;
- \$24 million “to fully fund all five Water Security Initiative (WSI) pilot cooperative agreements”;
- A reinstatement, by 2011, of Superfund taxes that expired in 1995 (the administration predicts the taxes could bring in as much as \$1 billion per year); and
- \$475 million for a new Great Lakes restoration initiative, which will focus on fighting invasive aquatic species, non-point source pollution and contaminated sediment.

Looking further ahead, the Administration predicts that EPA will begin receiving revenues from a proposed greenhouse gas cap-and-trade program beginning in 2012. The possible makeup of such a program is currently the subject of debate in Congress, but the president predicts that the eventual program could deliver \$150 billion to EPA over ten years, which could be used to “fund vital investments in a clean energy future.” Specific details of how cap-and-trade revenues may be spent, however, will be a major focus of Congress as it begins the process of crafting legislation to create the program.

## **\$7.6 BILLION FOR EPA IN FY09 OMNIBUS BILL**

Nearly six months since the beginning of the 2009 fiscal year, the House of Representatives

last week approved a \$410 billion omnibus spending bill (H.R. 1105) that will finalize this year's funding level for scores of federal programs. Included in the legislation is \$7.6 billion to fund EPA operations, a \$174 million increase over what the agency received in FY08.

Included in the EPA's appropriation is \$829 million for the Drinking Water State Revolving Fund (SRF), which will come in addition to the \$2 billion infusion the program received through the recently-enacted economic stimulus bill. However, this FY09 appropriation for the program will not be subject to the special distribution rules that will apply to the SRF's stimulus funding, such as the waiver of the state match requirement and direction to give priority for funding to "ready-to-go" projects. The FY09 omnibus bill also includes \$689 million for the Clean Water SRF.

Climate change programs run out of EPA and the Interior Department will receive a 20 percent boost in FY09 under the omnibus bill with \$232 million targeted for those efforts. This total includes \$68 million for climate change research at the U.S. Geological Survey (USGS), \$10 million in EPA grants to help communities cut greenhouse gas emissions and \$3 million for USGS carbon sequestration research.

Congressional leaders hope to pass a final version of the spending bill before the end of this week when a temporary extension of FY08 funding levels for the various programs will expire. To that end, the Senate is expected to quickly vote on a similar version of the bill early this week.

## **THIS WEEK IN CONGRESS**

This week the Senate will take up the \$410 billion House-passed FY09 omnibus spending bill with the goal of finishing work on it before the end of the week when a measure that has temporarily funded the government for the past few months expires.

## **EPA MAY HAVE THE INSIDE TRACK ON SECURITY OVERSIGHT OF DRINKING WATER FACILITIES**

Following months of negotiations, leaders of the House Energy and Commerce and Homeland Security Committees appear close to finalizing a deal that would maintain the drinking water sector's exemption from Department of Homeland Security (DHS) chemical facility regulations but would subject water systems to new EPA-run security rules. Reports from Capitol Hill indicate that the committees are aiming to mark up the compromise legislation by Memorial Day.

AMWA has lobbied Congress heavily against allowing both EPA and DHS to impose separate and possibly conflicting security regulations on drinking water systems. Legislation approved by the Homeland Security Committee last year (H.R. 5577) would have required DHS to regulate water systems, but the bill was ultimately blocked by members of the Energy and Commerce Committee who favor keeping drinking water systems under EPA control.

According to reports from Capitol Hill, this year the two committees have reached a tentative agreement to share jurisdiction on a single bill. One section of the bill would direct DHS to create a new security framework for chemical facilities, while another section would set up a similar program for drinking water systems run through EPA. The new legislation would likely require water systems to periodically update the vulnerability assessments that were completed under the 2002 Bioterrorism Act and also take steps to review the feasibility of adopting alternate water treatment technologies that may reduce the consequences of a chemical release resulting from a terrorist attack (also known as “inherently safer technologies” or IST).

While the Energy and Commerce Committee is expected to release a draft of the drinking water language soon, several major issues remain unresolved. First is whether or to what degree the EPA Administrator would have the authority to force a drinking water system to adopt an IST. Granting EPA this power is a top priority of Energy and Environment Subcommittee Chairman Ed Markey (D-Mass.) but is strongly opposed by AMWA and other drinking water associations.

Another unresolved issue is the fate of wastewater systems under the new regime. Industry sources say that the House Transportation and Infrastructure Committee, which has primary oversight of wastewater systems, is pushing to have EPA to regulate their security. However, the committee thus far has had little luck in gaining a voice in the debate, and the Homeland Security Committee is pushing hard to give regulatory control of wastewater systems to DHS. If that argument holds, it could result in confusion for dual drinking water/wastewater systems, which would see different aspects of their operations regulated by different federal entities.

## **CANNON PICKED AS EPA DEPUTY ADMINISTRATOR**

President Obama has nominated Jonathan Cannon for the position of deputy EPA administrator. Cannon served at EPA in various positions under presidents Ronald Reagan, George H.W. Bush and Bill Clinton. Beginning his career at EPA in 1987, Cannon served as general counsel for litigation and regional operations, deputy assistant administrator for civil enforcement and deputy assistant administrator for solid waste and emergency response.

## **OMB REQUESTS COMMENTS ON REGULATORY REVIEW**

The Office of Management and Budget (OMB) has requested comment on recommendations for a new Executive Order on Federal Regulatory Review. In a February 26 Federal Register notice (74 FR 8819), available on AMWA’s [Regulatory Committee page](#), OMB asks for comment on President Obama’s charge to executive agencies to provide recommendations for the new Executive Order. Specifically, the president stated that recommendations should offer suggestions for disclosure and transparency, encouraging public participation in the regulatory process and the role of cost-benefit analysis.

Executive orders are not subject to public comment but OMB is inviting comments because of “an unusually high level of public interest.” AMWA will discuss the drafting of its comments with the Regulatory Committee, but welcomes comments from any member by March 13. Comments may be sent to Erica Brown ([brown@amwa.net](mailto:brown@amwa.net)).

## **NRC RECOMMENDS RESTRUCTURING FEDERAL CLIMATE CHANGE RESEARCH PROGRAM**

A report by the National Academies National Research Council (NRC) on the federal Climate Change Science Program (CCSP) says that many of the programs being developed by states to address greenhouse gases and adapt to climate change effects lack “the science support that could help shape better outcomes.” The report, *Restructuring Federal Climate Change Research To Meet the Challenges of Climate Change*, identifies future priorities and a framework to guide the evolution of the CCSP. It can be found on AMWA’s [climate change webpage](#).

To date, the CCSP has spent \$1.7 billion through the work of 13 federal agencies. NRC recommends that CSSP:

- create new climate models that can depict climate change on a regional or local scale, instead of relying on the global climate models that now predominate;
- embark on a national climate change assessment with input from state and local governments and other stakeholders to study the effects of climate change on human well-being and social systems in order to develop sound adaptation strategies; and
- produce research that encompasses basic science for decision support, urging that a “comprehensive approach to supporting decisions on climate change includes two-way communication with users.”

The report concludes that implementing the priorities identified will require strong leaders and funding support, noting: “Not investing is a choice we cannot afford to make.”

## **PHARMACEUTICAL BILL WOULD DISCOURAGE FLUSHING**

New legislation introduced by Rep. Jay Inslee (D-Wash.) would discourage the flushing of leftover prescription drugs into sewer systems by supporting state-level drug take-back programs and banning labels that tell consumers to dispose of excess drugs through the toilet.

H.R. 1191, the “Safe Drug Disposal Act,” would direct the Drug Enforcement Administration to develop a series of model drug take-back programs from which states could choose when implementing their own programs. In addition, the legislation would prohibit pharmaceutical companies from recommending flushing as a safe means of disposal on prescription drug labels.

Following reports last year of measured amounts of pharmaceutical residues in the source

waters of drinking water systems around the country, AMWA recommended that the federal government expand its support of take-back programs and revise pharmaceutical labeling rules as a means to discourage consumers from inserting drugs directly into the wastewater system.

## **NEW BILL WOULD COORDINATE FEDERAL WATER RESEARCH**

The Chairman of the House Science and Technology Committee introduced legislation last week that would coordinate national water research and development efforts and would work to ensure adequate water supplies in the future.

Sponsored by Rep. Bart Gordon (D-Tenn.), the legislation (H.R. 1145, the “The National Water Research and Development Initiative Act”) would attempt to address concerns raised in the 2004 National Academies report on federal water research, which suggested the United States is not using research dollars efficiently due to a lack of coordination among agencies. According to the report, more than 20 federal agencies research water supply, water quality or water management.

H.R. 1145 would build on previous efforts to coordinate federal research on water resources by establishing an interagency committee – the Subcommittee on Water Availability and Quality (SWAQ) of the National Science and Technology Council. The bill codifies this subcommittee and provides it with explicit Congressional authorization.

The legislation has been referred to the Science and Technology Committee, and Chairman Gordon has announced plans to hold a hearing on the bill on Wednesday.

## **SEN. BYRD VOICES CONCERNS ABOUT WHITE HOUSE CZARS**

Sen. Robert Byrd (D-W.V.) recently wrote President Obama to express concern about the appointment of White House officials, designated as “czars,” to coordinate the new administration’s efforts on energy and climate change, urban affairs, health reform and other issues. The positions do not require Senate confirmation, and Sen. Byrd compared the move to the consolidation of power in earlier administrations that allowed White House staff to take “direction and control of programmatic areas that are the statutory responsibility of Senate-confirmed officials.”

Byrd’s letter proposed limits to the power of the czars, including that assertions of executive privilege be made only by the president or with the president’s approval, that the president be responsible for resolving any disagreement between a Senate-confirmed agency or department head and White House staff, and that the lines of authority and responsibility in the administration be “transparent and open to the American public.” Similar concerns were raised by Democratic and Republican senators about the scope of climate change czar Carol Browner’s influence on climate and energy policy and the possible impact of her position on the statutorily defined roles of EPA and the Department of Energy.





**March 9, 2009**

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## **EPA RELEASES STIMULUS SPENDING GUIDANCE**

EPA last week released a guidance explaining how the agency will distribute \$6 billion worth of funds for water and wastewater projects made available by the recent economic stimulus legislation, officially known as the “American Recovery and Reinvestment Act of 2009.” A copy of the complete guidance is available on AMWA’s Legislative Information webpage at [www.amwa.net/cs/leginfo](http://www.amwa.net/cs/leginfo).

EPA’s guidance outlines the requirements and conditions that must be met before it can award the stimulus funding, as well as additional direction on how the program will operate. The funds will be distributed through the existing Drinking Water and Clean Water State Revolving Fund programs, but the stimulus bill made several temporary modifications to the program rules. These modifications include new spending transparency requirements, dispersal of at least 50 percent of a state’s share of funds as grants, principal forgiveness or negative-interest loans, and funding preference for “green” projects that enhance water use conservation or efficiency.

EPA Administrator Lisa Jackson said that the agency hopes to begin distributing stimulus funds for water projects to states by the end of March. Communities that want stimulus assistance for a water project must contact their state SRF program to be placed on the state’s priority list for funding. States have been collecting information on projects that are ready to proceed to construction, but many have reopened their priority lists in response to final passage of the law.

More information on EPA’s implementation of the drinking water and wastewater portions of the stimulus bill, including contact information for state SRF agencies and a breakdown of the level of funding to be received by each state, can be found online at <http://www.epa.gov/water/eparecovery/>.

## **WATER CENSUS, SMART GRID DISCUSSED AT SCIENCE COMMITTEE HEARING**

Water industry experts testifying before the House Science and Technology Committee last week told members of the panel that the federal government should support development of a national “smart water grid” and applauded legislation that would require the government to conduct a national water census.

The hearing followed the introduction of the “National Water Research and Development

Initiative Act” (H.R. 1145) by Science and Technology Committee Chairman Bart Gordon (D-Tenn.). The legislation would establish an interagency committee to develop a National Water Research and Assessment Plan and coordinate all federal water research, development and demonstration activities. The bill would also require the government to conduct a water census to create a “comprehensive database” that would include “information about the quantity, availability, and quality of ground water and surface water resources.” At the hearing, industry experts highlighted other areas of research that could also help shore up the nation’s water supplies. Mark Modzelewski of the Water Innovations Alliance advocated a “water information technology initiative” that would serve as a “smart water grid” and deploy information on water availability to managers to help them adjust conservation strategies. Modzelewski said that such a technology-based system could be in place in a few years and lead to annual water savings of between 30 and 50 percent.

Copies of the testimony delivered at the hearing are available on the [Committee’s website](#).

## **THIS WEEK IN CONGRESS**

After failing to round up the necessary 60 votes to approve the FY09 omnibus spending bill on Friday, the Senate will try again this week in spite of Republican-dominated complaints that the \$410 billion measure contains millions of dollars of wasteful spending. Senate Majority Leader Harry Reid is hoping to have the votes in hand before the latest law temporarily funding government operations expires at midnight on Tuesday.

Other work on the agenda this week includes consideration of the “Water Quality Investment Act” to reauthorize the Clean Water State Revolving Fund in the House and a mortgage refinancing bill in the Senate.

## **STIMULUS AND CHEMICAL SECURITY FEATURED AT AMWA WATER POLICY CONFERENCE**

It’s just six weeks until AMWA’s 2009 Water Policy Conference, April 19-22 in Washington, D.C. Details on water infrastructure implications and opportunities of the national stimulus package, as well as insights on chemical security policy initiatives, are among many important issues on the program. Senior policy leaders from Congress and the Administration will provide their views on developments taking place on the federal front.

From Congress, speakers will include Sen. Ben Cardin (D-Md.), chairman of the Water and Wildlife Subcommittee of the Senate Environment and Public Works Committee; Rep. Earl Blumenauer (D-Ore.), member of the House Ways and Means Committee; and, from the House Transportation and Infrastructure Subcommittee on Water Resources and Environment, Chairwoman Eddie Bernice Johnson (D-Texas) and Ranking Member John

Boozman (R-Ark.).

Speaking on the new Administration's environmental objectives will be Nancy Sutley, chair of the White House Council on Environmental Quality, who is a former Los Angeles deputy mayor with a strong background in water issues. Key leaders from EPA, Department of Interior and Department of Homeland Security will also share policy perspectives from their agencies.

The program will feature Michael Decker, the co-chief executive officer of the Regional Bond Dealers Association, who will discuss the implications of economic conditions affecting the municipal bond market, and Dr. Chester Koblinsky, director of the NOAA Climate Office, who will address the federal government's climate change research priorities and how they relate to water resources. The general sessions will lead off with John Mercurio, executive editor of Washington's online political news source The Hotline, who will share his views on the first months of the Obama Administration.

In a special Wednesday morning U.S. Climate Change Science Program (CCSP) Listening Session, CCSP Director Peter Schultz and Tom Armstrong, Senior Advisor for Global Change Programs at the U.S. Geological Survey, will engage participants in the program's strategic planning process and to inform them about the federal climate science program.

Register online at [www.amwa.net/cs/2009WPC](http://www.amwa.net/cs/2009WPC).

## **WATER SECTOR COORDINATING COUNCIL MEETS, ADDRESSES SECURITY PRIORITIES**

The Water Sector Coordinating Council (WSCC) held its quarterly meeting in Washington, D.C. last week and began the process of laying out its priorities for the rest of the year. The council received updates from its strategic planning, research and development and RAMCAP (Risk Analysis and Management for Critical Asset Protection) working groups. Other discussion topics included the sector's participation in the National Infrastructure Advisory Council, the Partnership for Critical Infrastructure and joint cybersecurity efforts between the government and the WSCC. The council also reaffirmed its commitment to using WaterISAC as its official communications tool by granting the ISAC a non-voting seat on the WSCC.

In a joint session of the WSCC and its government counterpart, the Government Coordinating Council, EPA representatives delivered presentations on a consequence analysis tool for water utilities that is under development, the current status of vulnerability assessment tool revisions and the process the government currently envisions for updating the Sector Specific Plan for water. The emergency response and preparedness workgroup, which was formed at the last WSCC meeting in October 2008, also presented an overview of its goals and objectives.

The next WSCC meeting is tentatively scheduled for this summer.

## **HELP PUT AMWA'S UTILITY FINANCIAL INFORMATION SURVEY OVER THE TOP**

### **Surveys Due By March 15 – Don't Be Left Out**

This is the last week to participate in AMWA's Utility Financial Information (UFI) survey. Only water systems that participate in the survey will have access to the database of valuable comparative information the survey will produce. Make sure your utility can take advantage of this valuable member resource by completing the survey by March 15.

AMWA is very close to having the responses needed to make this survey a valid reflection of the rates, rate drivers and other factors involved in financing large metropolitan drinking water systems. Your system's survey response could put us over the top.

Also, a number of utilities have started the survey, but have not yet completed it. If your system is in this category, please make sure to finalize your responses this week.

If you haven't started yet, go to [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi) to get full information, a list of data to gather before you start and a link to the online survey. Questions should be directed to Carolyn Peterson at [peterson@amwa.net](mailto:peterson@amwa.net) or 202-331-2820.

## **AMWA SIGNS ON TO LETTERS REQUESTING MORE FUNDING FOR USGS PROGRAMS**

AMWA was one of several organizations with an interest in water quality that signed on to letters requesting additional funding for key U.S. Geological Survey (USGS) programs in the FY 2010 budget. One letter went to Interior Secretary Ken Salazar and Office of Management and Budget Director Peter Orszag requesting that the presidential budget request include at least \$70 million to bring the National Water Quality Assessment Program "back to capacity," allowing for better stream site monitoring.

Stream gauge monitoring was also the topic of the second letter, signed by 53 organizations and sent to the House Appropriations Subcommittee on Interior, Environment and Related Agencies. The letter asks for full implementation of the Cooperative Water Program and National Streamflow Information Program. The funds would restore the programs' capacity to fully match the investments currently made by non-federal partners, which include many

AMWA members. Copies of the letters are available on AMWA's website at [www.amwa.net/cs/leginfo](http://www.amwa.net/cs/leginfo).

## **INFRASTRUCTURE COMMITTEE APPROVES \$13.8 BILLION CLEAN WATER SRF REAUTHORIZATION**

The House Transportation and Infrastructure Committee last week approved legislation (H.R. 1262, the "Water Quality Investment Act") that would reauthorize the Clean Water State Revolving Fund (CWSRF) program and offer grants to communities to address aging combined sewer overflow systems. The bill would authorize spending up to \$13.8 billion on the CWSRF program over the next five years – although actual funding levels appropriated by Congress each year could come in much lower. In FY09, the program is expected to receive \$689 million.

In addition to the increased authorization levels for the CWSRF, the bill would make several policy changes to the program. These changes include allowing extended repayment periods of up to 30 years, providing additional subsidies such as principal forgiveness and negative interest loans for disadvantaged communities, promoting "green infrastructure" projects that improve water efficiency, and encouraging treatment works to develop asset management plans. Similar provisions were contained in a CWSRF reauthorization bill that passed the House during the last Congress but died in the Senate.

Also authorized by the legislation is \$1.8 billion worth of grants over five years to help communities address aging combined sewer overflows and sanitary sewer overflows, and \$250 million in grants over five years for alternative water source projects under Section 220 of the Clean Water Act.

While the legislation won unanimous approval from the committee, Republicans expressed concerns about language that would subject projects funded by the CWSRF to Davis-Bacon prevailing wage requirements. The issue is expected to be addressed when the full House debates the legislation next week. Meanwhile, the Senate Environment and Public Works Committee plans to soon begin work on its own legislation to reauthorize both the Drinking Water and Clean Water SRFs.

## **CWSRF BILL INCLUDES NEW SEWER OVERFLOW REPORTING RULES**

New monitoring, reporting and public notification requirements for treatment works to follow in the event of a discharge of untreated wastewater that could impact human health are included in the CWSRF reauthorization passed by the Transportation and Infrastructure Committee last week.

Under the section of the bill based on legislation passed by the House last year (the "Sewerage Overflow Community Right-to-Know Act"), municipalities must implement technologies that will alert treatment works operators of sewer overflows and require wastewater managers to "immediately" notify public health entities and public drinking

water systems of overflows that “may imminently and substantially endanger human health.” Treatment works operators will also be required to report to EPA on the number of overflows experienced annually and the steps the POTW takes to respond and prevent future overflows.

## **WAXMAN STICKS TO PRE-MEMORIAL DAY TARGET FOR CAP-AND-TRADE MARKUP**

House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) last week reiterated his pledge to get a cap-and-trade climate change bill through his committee before Memorial Day and said that his staff may begin circulating draft language of the bill to committee members and advocacy groups before the end of this month.

Through recent meetings with congressional staff working on the issue, AMWA has learned that portions of Waxman’s bill related to climate research and adaptation are likely to reflect proposals informally discussed last year. Those proposals would have set aside percentages of cap-and-trade auction revenues for state and community-based adaptation projects but would have largely directed EPA to develop the specific components of the program. AMWA is working to see that drinking water research and local-level adaptation efforts are explicitly eligible for this funding.

While they hope to have a floor debate on the bill this year, House Democratic leaders are still developing the overall scope of the cap-and-trade legislation. Last week, Speaker Nancy Pelosi (D-Calif.) said that she intends to combine the climate bill with an energy bill that promotes the use of renewable electricity sources. This may lead to conflict with Senate Democrats, who thus far have preferred to tackle the issue through two separate bills.



March 16, 2009

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## ENERGY CONSERVATION GRANTS FUNDED IN STIMULUS BILL

Soon cities and counties will be eligible to compete for grants to improve energy efficiency and promote conservation. The economic stimulus bill that was enacted in February included \$3.2 billion for the Energy Efficiency and Conservation Block Grant (EECBG), which provides funding primarily to states, counties, cities and tribes.

Water utilities are interested in the program because funding can support water conservation programs and perhaps even infrastructure improvements related to energy efficiency.

The overall goals of EECBG are to:

- reduce fossil fuel emissions;
- decrease total energy consumption;
- improve energy efficiency in the transportation, building and other energy consuming sectors;
- spur economic growth; and
- create and/or retain jobs.

A majority of the funds will be distributed directly to cities serving more than 50,000 people and counties serving more than 200,000. Sub-grants are available to smaller units of government via states.

For more information, go to [http://apps1.eere.energy.gov/wip/block\\_grants.cfm](http://apps1.eere.energy.gov/wip/block_grants.cfm) and speak to your local or state energy conservation office.

## PHARMACEUTICAL STUDIES ADDED TO CWSRF REAUTHORIZATION

Amendments adopted during House floor debate of the CWSRF reauthorization bill (H.R. 1262) would require EPA to conduct a study of the presence of pharmaceuticals and personal care products (PPCPs) in the waters of the United States and to convene a task force to develop recommendations for consumers on the proper disposal of unused drugs.

The amendments, which were unanimously adopted by the House, can be traced to last year's Associated Press reports on the presence of PPCP traces in the source waters of some

community drinking water supplies. The first amendment would require EPA to lead a study of the presence of PPCPs in U.S. water bodies, identify sources of the PPCP contamination and suggest methods to “control, limit, treat, or prevent” their occurrence.

The second amendment would direct EPA and the Food and Drug Administration to convene a task force charged with developing recommendations on the proper disposal of unused pharmaceuticals by consumers, health care providers and others by means other than through the wastewater system. The task force would also formulate a strategy for the government to communicate these methods to the public. A report to Congress would be due in one year.

## **THIS WEEK IN CONGRESS**

The Senate this week will once again take up a massive omnibus public lands bill that contains authorizations of federal protections for millions of acres of wilderness and funding of several western water projects. The bill also includes the text of the SECURE Water Act, legislation that would increase the study of the impacts of climate change on water resources and fund some adaptation initiatives. The Senate approved the overall bill in January but is starting over on a slightly modified version after the bill failed to pass the House last week.

A quiet week of work is planned in the House. As of Friday afternoon, the most significant legislation on the agenda was a bill to encourage and increase participation in community service initiatives.

## **AMWA DEVELOPING COMMENTS FOR AMERICA’S CLIMATE CHOICES PANEL**

Working with its climate change committee and other sector associations, AMWA is developing comments to submit to the National Academies study, “America’s Climate Choices” (<http://dels.nas.edu/basc/climate-change>). Requested by Congress, the study is designed to inform and guide the nation’s response to climate change via consensus reports from four panels and an overarching committee report. The four panels are in the areas of adaptation, effective decisions, advancing science and mitigation. A preliminary draft of the comments under development is available on AMWA’s Climate Change Committee [Resources page](#).

## **LANDS BILL WITH CLIMATE-WATER RESEARCH COMPONENT FAILS HOUSE VOTE**

A proposal directing the federal government to take additional steps to assess the current and



future status of water resources in the United States hit a roadblock last week when the legislation to which it was attached failed to garner the support of the two-thirds of the House needed to pass under an expedited procedure.

The “SECURE Water Act,” aimed at promoting research into the impacts of climate change on water supplies, was included as a section within the “Omnibus Public Land Management Act” (S. 22), a collection of more than 150 public lands bills that had accumulated in the Senate. The Senate approved S. 22 in January, and House Democrats hoped to pass it last week without any changes. To do so, they brought the measure to the floor under a rule that barred amendments but also required a two-thirds vote – rather than a simple majority – for passage.

However, House Republican leaders lodged a series of objections to the measure, and in the end the vote was two votes shy of the two-thirds majority required for passage. Regardless of their opposition to some provisions, Republican leaders made it clear that they are in favor of other areas of the bill. In particular, Republicans expressed support for SECURE Water Act language within the bill that would help communities develop additional water supplies. The proposal would also evaluate the nation’s water needs, measure long-term water availability and offer grants to communities to help them boost water supplies through increased conservation, efficiency and development of new sources.

In spite of S. 22’s defeat, Senate Democrats plan to bring the bill back to life. This week they will begin efforts to approve a slightly amended version that they hope will win the extra votes needed in the House.

## **OBAMA SIGNS OMNIBUS BILL COMPLETING FY09 APPROPRIATIONS**

President Obama last week signed into law a \$410 billion omnibus appropriations bill that sets the final FY09 funding levels for scores of federal departments, agencies and programs. The bill (H.R. 1105) as approved by the Senate and signed into law by the president was unchanged from the version approved by the House in February.

Under the omnibus bill, EPA will receive \$7.6 billion this year, a \$174 million increase over the agency’s level of funding in FY08. Included within this total are \$829 million for the Drinking Water State Revolving Fund (SRF) and \$689 million for the Clean Water SRF. These appropriations are in addition to the \$6 billion the two SRF programs received through the recently enacted economic stimulus bill.

The 2009 fiscal year began last October 1, but approval of final legislation funding all departments and agencies was delayed for months as former President Bush and Democratic congressional leaders were locked in a stalemate over appropriate funding levels. In fact, the delay was so long that President Obama has already released his FY10 budget request, and Congress will soon begin hearings on next year’s funding levels.

## **FINANCIAL SURVEY DEADLINE**

## EXTENDED TO MARCH 27

AMWA heard you! Finance offices at many utilities are currently under the gun to complete required reports, so the deadline for the Utility Financial Information Survey has been reset to Friday, March 27. The project will easily reach its goal of statistical validity if all the water systems that have started their survey input or committed to participation complete their responses by the new deadline. If you haven't started – it's not too late. **Remember, only utilities that take the survey and contribute their data will be given access to the survey database.** Don't be excluded from this valuable planning and benchmarking resource. Go to [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi) for information and the survey link.

## HOUSE SETS ASIDE DAVIS-BACON CONCERNS, APPROVES CWSRF REAUTHORIZATION

The House of Representatives last week approved legislation to authorize spending up to \$13.8 billion the Clean Water State Revolving Fund (CWSRF) program and billions more on other wastewater infrastructure projects over the next five years, setting aside concerns about the bill's Davis-Bacon Act provisions that opponents claim will drive up labor and project costs for communities.

As passed by the House, H.R. 1262, the "Water Quality Investment Act," is very similar to the version that won approval from the Transportation and Infrastructure Committee earlier this month. In addition to authorizing \$13.8 billion in spending on the CWSRF over the next five years, the bill would allow states to extend loan repayment periods to up to 30 years, provide additional subsidies such as principal forgiveness and negative interest loans to disadvantaged communities, promote "green infrastructure" projects that improve water efficiency and encourage treatment works to develop asset management plans.

Other sections of the bill would authorize \$2.5 billion worth of grants over five years to help communities address aging combined sewer overflows and sanitary sewer overflows, and \$250 million in grants over five years for alternative water source projects under Section 220 of the Clean Water Act. The legislation also includes new reporting rules that would require treatment works to issue public notifications of sewer overflows that could impact human health. Special "immediate" notification of public health officials and drinking water system operators would be required when an overflow could "imminently and substantially endanger human health." The bill charges EPA with crafting the criteria and procedures under which notifications would occur.

During House debate of the measure, representatives rejected an amendment that would have removed the bill's Davis-Bacon provisions, which require communities to pay workers on SRF-funded projects at least the prevailing local wages and benefits, as determined by the Department of Labor. Republicans unsuccessfully argued that the Davis-Bacon provisions

artificially drive up the price of labor and therefore make infrastructure projects more costly for communities.

The Senate Environment and Public Works Committee is expected to begin work on its version of the legislation soon. That bill will include a reauthorization of the Drinking Water SRF program as well as the CWSRF.

## **BINGAMAN, MURKOWSKI OFFER ENERGY/WATER NEXUS RESEARCH BILL**

The National Academy of Sciences (NAS) would be directed to carry out “an in-depth analysis of the impact of energy development and production on the water resources of the United States” under new legislation introduced by Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-N.M.) and Ranking Republican Lisa Murkowski (Alaska).

S. 531, the “Energy and Water Integration Act,” would authorize studies analyzing water use in the production of transportation fuels and electricity, as well as other information gathering to improve the understanding of the nexus between energy and water. The studies called for in the bill include an examination of the best available technologies to maximize water efficiency during electricity generation, an assessment of opportunities to reduce energy use during water treatment and delivery operations, and research into energy-and-cost-effective water desalination technologies.

Following the introduction of S. 531, the Energy and Natural Resources Committee held a hearing on the proposal and heard testimony on the interdependencies of water and energy resources. Dr. Peter Gleick of the Pacific Institute told the panel that nearly 40 percent of the nation’s water withdrawals are made to cool power plants as they generate electricity, which puts additional stress on regional water resources.

Copies of all prepared testimony delivered at last week’s hearing is available on the Energy and Natural Resources Committee’s [website](#).

## **EFFECTIVE DECISION SUPPORT FOR CLIMATE CHANGE BEGINS WITH USERS’ NEEDS**

The latest climate change report from the National Academies identifies strategies and methods for federal agencies to use in developing climate-related decision support. The report states several core principles that characterize effective decision support, beginning with users’ needs. Other principles include giving priority to process over products, linking information producers and users, and building connections across disciplines and organizations. The report also calls for new efforts to identify local officials in need of decision-relevant data on climate change.

Currently many federal officials are worried that insufficient information about climactic effects and strategies for adaptation may leave them “unable to fulfill their legal and

regulatory responsibilities,” according to the report. As a result, it recommends that the government develop a research program driven by user needs for decision support to inform climate change response. This is as important as the current U.S. Global Change Research Program, which focuses on researching climate change processes.

The report, commissioned by EPA and NOAA, is available for order at [http://books.nap.edu/openbook.php?record\\_id=12626&page=R1](http://books.nap.edu/openbook.php?record_id=12626&page=R1).



March 23, 2009

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## EPA STRUGGLES TO DEFINE “BUY AMERICA” SCOPE

EPA officials are scrambling to develop a guidance outlining the conditions under which mandates for the purchase of American-made steel and iron can be waived for projects funded through the recently enacted economic stimulus bill (H.R. 1). Section 1605 of the law requires that all steel and iron used in projects – including water projects – funded with stimulus dollars must be produced in the United States. The section is commonly referred to as the “Buy America” provision.

The legislation allows “Buy America” to be waived only under certain conditions. According to a stimulus funding [guidance](#) on water projects released by EPA on March 2, the agency may waive the provision in response to a written request from a state and if the agency determines:

- The “Buy America” requirement is inconsistent with the public interest for purposes of the project for which a waiver has been requested;
- Iron, steel and necessary manufactured goods are not produced in the U.S. in sufficient quantities and of a satisfactory quality; or
- The use of iron, steel and manufactured goods produced in the U.S. will increase the overall cost of the project by more than 25 percent.

Despite this initial outline, EPA is still working on formulating additional guidance that will delineate how the agency will determine whether imposing “Buy America” requirements on certain projects are consistent with the public interest and how it will measure the availability and cost of U.S. versus imported steel. It is not clear when the guidance will be finalized, but any significant delay could slow the distribution of stimulus funds to states.

## HOTEL DEADLINE EXTENDED TO APRIL 6 FOR WATER POLICY CONFERENCE

The Renaissance M Street Hotel, site of AMWA’s 2009 Water Policy Conference, has extended the availability of a special room rate for conference participants. A block of rooms has been set

aside at the preferred rate, and **these rooms are available on a first-come, first-served basis only until April 6.** To register and receive the special rate, contact the hotel at 202-775-0800, and be sure to indicate you are a registrant for the conference (Group Code AMW or Room Code AMWA). The conference will be held April 19-22 in Washington, D.C., and registration can be completed online at [www.amwa.net/cs/2009wpc](http://www.amwa.net/cs/2009wpc).

## **SENATE AGAIN APPROVES LANDS BILL, SECURE WATER ACT**

The Senate last week approved an omnibus collection of more than 150 public lands and water resource bills – nearly identical to an earlier bill (S. 22) that the chamber approved in January but which was narrowly defeated in a House vote earlier this month.

The new version of the bill (H.R. 146) still includes the text of the SECURE Water Act, legislation first offered by Sen. Jeff Bingaman (D-N.M.) last year that would authorize research evaluating the nation's water needs, measure long-term water availability and offer grants to communities to help them boost water supplies through increased conservation, efficiency and development of new sources.

The House is scheduled to take up H.R. 146 this week. This time its approval is expected because the bill will be brought up under a rule requiring only a simple majority for passage. When the House voted on S. 22 earlier this month, the rules required it to win the support of two-thirds of the body – a mark it missed by two votes.

## **THIS WEEK IN CONGRESS**

This week the Senate will vote on a bill that would heavily tax bonuses paid to employees of American International Group (AIG) and other companies that received federal bailout money. The House approved similar legislation last week.

In the House, members are expected to pass H.R. 146, the updated version of omnibus public lands legislation approved by the Senate last week. In addition, the Budget Committee may hold hearings on its FY10 budget resolution, which outlines the chamber's funding priorities for the year ahead. A House vote on the budget proposal is also possible next week.

## **CEQ CHAIR SUTLEY OUTLINES NEPA ROLE,**

## **STIMULUS GUIDELINES**

Addressing the House Interior Appropriations Subcommittee last week, White House Council on Environmental Quality (CEQ) Chairwoman Nancy Sutley told the panel that she believes the heads of federal environmental and resource agencies should have an earlier role in National Environmental Policy Act (NEPA) implementation. She also confirmed that her office is actively working to provide guidance on NEPA requirements for projects funded by the economic stimulus.

Sutley, a featured speaker at AMWA's 2009 Water Policy Conference in April, said she wants to get higher-level policymakers involved with NEPA before problems arise "so we can flag these issues early and get them resolved before it turns into many years of litigation or uncertainty."

Congress created the CEQ to coordinate and streamline government functions and resolve jurisdictional disputes, and the Council will oversee NEPA compliance for federal projects funded in the economic stimulus package. In the stimulus bill debate, GOP senators attempted to speed up or waive NEPA reviews for funded projects, but a competing proposal to ensure that NEPA reviews for stimulus projects are completed "on an expeditious basis" was approved instead. The approved language calls for "the shortest existing applicable process" under NEPA to be used.

Sutley said she has met with each federal agency receiving stimulus funding to ensure they understand NEPA requirements, has issued guidance for agencies to use as they award project grants, and made clear CEQ is available to identify and address questions about NEPA requirements and stimulus funding.

NEPA applies to construction projects, among many other federal actions. Agencies must conduct either an environmental assessment, leading possibly to a finding of no significant impact, or a more detailed environmental impact statement. Projects can receive an exclusion from review if they meet certain criteria that an agency has determined have no significant environmental impacts.

## **INSLEE JOINS WATER POLICY CONFERENCE PROGRAM**

Washington Representative Jay Inslee is the latest member of Congress to join the program for AMWA's Water Policy Conference next month.

Rep. Inslee serves on the House Energy and Environment Subcommittee, which has primary jurisdiction over drinking water systems and this year will consider legislation on topics ranging from water facility security standards to global climate change. He has a strong reputation in Congress as an environmental advocate and also circulated a letter last year that highlighted the importance of helping communities adapt to the impacts of climate change.

Earlier this year Rep. Inslee also introduced the "Safe Drug Disposal Act," which is intended to prevent contamination of water supplies by leftover prescription drugs through a change to the current federal rules that encourage the flushing of unused drugs into the wastewater

system.

Plan to attend the conference by registering online today at [www.amwa.net/cs/2009wpc](http://www.amwa.net/cs/2009wpc).

### **LAST CALL FOR FINANCIAL SURVEY**

Deadline Is Friday, March 27

AMWA's Utility Financial Information (UFI) survey has generated a tremendous response from member water systems and promises a robust database. This Friday, March 27, is the last day to submit your utility's information.

Since only survey participants will have access to the database, you don't want to forego this valuable member benefit. Go online today at [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi) to get full information and a link to the survey.

## **PRESIDENT TO NOMINATE CONNOR TO LEAD BUREAU OF RECLAMATION**

President Obama announced he will nominate Michael L. Connor as Commissioner of the U.S. Bureau of Reclamation. Connor comes from Capitol Hill where he has more than 15 years of experience, including having served as counsel to the U.S. Senate and the Natural Resources Committee.

At the Energy and Natural Resources Committee, Connor managed legislation for both the Bureau of Reclamation and the U.S. Geological Survey, developed water resources legislation and handled Native American issues. Prior to his Hill service, he worked at the Department of the Interior as deputy director, director of the Indian Water Rights Office and in the Solicitor's Office.

## **TCR RULE REVISIONS STAKEHOLDER MEETING IS APRIL 3**

EPA will hold a stakeholder meeting in Washington, D.C. on April 3 to describe its progress to date in developing the revised Total Coliform Rule. Convening the stakeholder meeting is one of the commitments EPA agreed to in the Total Coliform Rule/Distribution System Advisory Committee Agreement in Principle signed last year. The meeting was announced in the Federal Register on March 19, 2009: <http://edocket.access.gpo.gov/2009/E9-6005.htm>.

The meeting will run from 9:00 a.m. until 4:00 p.m. at EPA headquarters. Individuals interested in participating must register by March 31 to attend in person or participate by teleconference. Contact Kate Zimmer ([kzimmer@resolv.org](mailto:kzimmer@resolv.org) or 202.965.6387) to register.



## **“WORST CASE” CLIMATE CHANGE SCENARIOS ARE BEING REALIZED, SCIENTISTS WARN**

More than 2,500 scientific delegates from more than 80 countries met in Copenhagen earlier this month at the International Scientific Congress on Climate Change. The purpose of the meeting was to synthesize the latest knowledge about the global risks and challenges brought on by climate change.

Among the messages delivered by the scientists is that recent climactic observations confirm that the worst-case scenarios predicted by the U.N. International Panel on Climate Change are being realized in many key areas. These areas include global mean surface temperature, sea-level rise and extreme climatic events. The changes will lead to social disruption and require “rapid, sustained and effective mitigation” coordinated globally and regionally, the scientists said. They also noted that society already has many of the tools and approaches necessary to address the challenges of climate change. A link to more information about the congress, including the key messages, is available from AMWA’s website:

[www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange).



March 30, 2009

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## **EPA ESTIMATES \$116 BILLION IN INFRASTRUCTURE FUNDING NEEDS FOR METROPOLITAN SYSTEMS**

EPA's latest national survey of capital investment needs for drinking water infrastructure shows a requirement over 20 years of almost \$335 billion, including \$116 billion for large community systems. The projections in the *Drinking Water Infrastructure Needs Survey and Assessment* are based on 2007 data from about 3,250 public water systems.

Conducted every four years, the survey is used to develop a formula for the allocation of grants through the Drinking Water State Revolving Fund. The results, which are online at [www.epa.gov/safewater/needsurvey](http://www.epa.gov/safewater/needsurvey), show a one percent increase in investment needs from the 2003 survey. The new report marked the first time EPA issued separate statistics on the needs of large drinking water systems (more than 100,000 customers), and the move reflected the agency's appreciation for the high-level of participation by large systems in the survey process.

In related news, the American Society of Civil Engineers issued its full report on the state of the nation's infrastructure ([www.infrastructurereportcard.org](http://www.infrastructurereportcard.org)) and gave the drinking water sector a D-. The report noted that drinking water systems face an annual shortfall of at least \$11 billion to replace aging facilities that are near the end of their useful lives and to comply with existing and future federal water regulations.

## **EPA, INTERIOR OFFICIALS, MEMBERS OF CONGRESS JOIN CONFERENCE PROGRAM**

Robert Sussman, the EPA Administrator's senior policy advisor, will speak at AMWA's Water Policy Conference on April 20. Sen. Mark Begich (D) from Alaska has also accepted AMWA's invitation. Other high level officials include Nancy Sutley, chair of the White House Council on Environmental Policy, and Sen. Ben Cardin (D-Md.), chair of the Senate water and wildlife subcommittee. Cardin will outline the Environment and Public Works Committee's agenda for the coming year. A number of House members with climate change, infrastructure and other drinking water issues in their portfolios will also speak.

The program will also feature a presentation of the key analyses from AMWA's recently completed Utility Financial Information survey, and East Bay M.U.D.'s Mike Wallis will discuss possible utility-tailored analyses members can undertake using the survey database.

There's only a week left to secure a hotel room at the Renaissance Hotel's special rate for AMWA members. Call 202-775-0800 to reserve a room. Register for the conference today at [www.amwa.net/cs/2009wpc](http://www.amwa.net/cs/2009wpc).

## **THIS WEEK IN CONGRESS**

The FY10 budget resolution will dominate floor action in both chambers this week, as leaders hope to have the resolutions approved before Congress leaves for its two-week Easter recess.

Last week, the House and Senate Budget Committees each approved their respective budget resolutions, which serve as spending blueprints upon which the year's appropriations legislation will be based. Each resolution mostly reflected the FY10 budget request that President Obama released earlier this month, although neither congressional version makes specific assumptions on costs or revenues that might result from cap-and-trade greenhouse gas legislation. The Senate version, however, specifically endorses the President's request for a total of \$3.9 billion to fund the Drinking Water and Clean Water State Revolving Funds.

## **CLIMATE-WATER GRANT/RESEARCH BILL SENT TO PRESIDENT**

The federal government will take additional steps to assess the current and future status of water resources in the United States and will make new grants available to help some communities adapt to water supply challenges posed by climate change under legislation approved by the House.

The "Science and Engineering to Comprehensively Understand and Responsibly Enhance (SECURE) Water Act" was included as a section within H.R. 146, the latest legislative vehicle for the "Omnibus Public Land Management Act." The omnibus bill is a collection of more than 150 public lands bills that had been introduced over the past few years. The Senate approved H.R. 146 earlier this month.

Sen. Jeff Bingaman (D-N.M.) introduced the SECURE Water Act as a stand-alone measure in the 110th Congress and ensured its inclusion within the lands bill this year. The legislation will authorize a new program offering grants, worth up to \$5 million each to help states and communities increase water conservation or efficiency, develop advanced treatment technologies to boost water supplies, or expand the use of renewable energy in the water delivery process in response to emerging water supply threats. The grant eligibility is limited to states under the jurisdiction of the Bureau of Reclamation.

Other sections of the bill require an expansion of the National Streamflow Information Program, the development of a systematic groundwater monitoring program and the establishment of a water use and availability assessment program consistent with recommendations made by the National Research Council. The legislation also directs the Secretary of the Interior to establish an intra-governmental panel to link the scientific community and water managers to improve water availability forecasts and to implement adaptation strategies. Similarly, the bill requires the Bureau of Reclamation to initiate a climate change adaptation program to develop strategies and conduct feasibility studies to address water shortages, conflicts and other impacts to water users and the environment.

H.R. 146 will now be sent to President Obama's desk, and he is expected to sign it into law.

## **WATER RESEARCH BILL PASSES COMMITTEE**

The House Science and Technology Committee last week approved H.R. 1145, the "National Water Research and Development Initiative Act," legislation designed to coordinate and improve federal water research programs. The measure, sponsored by Science and Technology Chairman Bart Gordon (D-Tenn.), attempts to address concerns raised in the 2004 National Academies report on federal water research, which suggested the United States is not using research dollars efficiently due to a lack of coordination among agencies.

The legislation would codify and authorize funds for an existing inter-agency Water Availability and Quality Subcommittee, run by the National Science and Technology Council. The Bush administration originally established the subcommittee in 2003. At this point, no plans have been announced to bring the proposal to the House floor for a vote.

## **EPA DEPUTY NOMINEE WITHDRAWS**

Jonathan Cannon last week withdrew his name from consideration as the administration's nominee to be EPA's deputy administrator, citing concerns over ongoing scrutiny of a non-profit water group on whose board he once served. EPA's Inspector General had found in a 2007 report that the group, America's Clean Water Foundation, did not comply with "financial and program management standards and the procurement standards" for federal grants. EPA Administrator Lisa Jackson said the agency will move quickly to find a replacement nominee.

## **SENATORS OFFER PHOSPHOROUS CONTROL BILL**

Legislation introduced by Sens. Carl Levin (D-Mich.) and George Voinovich (R-Ohio) last week would ban the sale of dishwashing detergents that contain more than 0.5 percent phosphorus beginning in 2010. A similar bill introduced in the last Congress failed to reach the floor for a vote.

Phosphorus is one of the leading sources of nutrient pollution, which causes algae blooms in water bodies and can lead to human health problems. Algae blooms also kill native aquatic wildlife and foster invasive species such as quagga mussels.

In addition to the elimination of high-phosphorus detergents, the bill (S. 675) would require EPA to report to Congress with recommendations on methods to combat nutrient pollution in the Great Lakes. Sens. Levin and Voinovich are co-chairmen of the Senate Great Lakes Task Force.

## **DEMOCRATS TO RELEASE CAP-AND-TRADE DRAFT THIS WEEK**

A long-awaited draft of legislation that would establish a market-based cap-and-trade system to regulate the release of greenhouse gases by industrial polluters will be released this week.

Rep. Ed Markey (D-Mass.), Chairman of the House Energy and Environment Subcommittee, plans to release a draft of his proposal on Tuesday, in order to give members of Congress and the public “an outline of the issues” that will be up for discussion in the bill. Rep. Markey and Energy and Commerce Chairman Henry Waxman (D-Calif.) are aiming to mark up the bill by the end of May.

The draft is widely expected to contain similarities to cap-and-trade bills discussed in Congress last year, many of which would have set binding carbon emissions caps over the next 40 to 50 years and charged large polluters for the right to release greenhouse gases. In discussions with committee staff, AMWA has also been told that the draft will likely contain an adaptation section that would use some federal revenues from the cap-and-trade system to help local communities adjust to the impacts of climate change.

## **INTERIOR DEPARTMENT CONSIDERS ENDANGERED SPECIES FAST-TRACK OPTION**

In a Senate hearing last Thursday, Tom Strickland, nominee for the position of assistant secretary for fish, wildlife and parks at the Department of Interior, said the department is looking at whether to fast-track new regulations without public notice and comment as it reworks the endangered species regulations completed in the final months of the Bush administration.

The Bush rules made it optional for agencies to consult with Fish and Wildlife Service biologists on actions that might threaten species. In a rider in the FY09 omnibus spending bill, Congress gave the Interior Department leeway to expedite a reversal of the Endangered Species Act rule by skipping the usual public notice and comment period and other regulatory requirements. It also stipulates that Interior can withdraw or reissue the rules within 60 days “without regard to any provision of statute or regulation.”

Strickland said the department may not take the expedited route and that the agency had already started work under the traditional rulemaking process to alter the rules before the spending bill was passed. President Obama had issued a memorandum earlier this month that gave the department authority to revert to its previous practice of wildlife consultations while considering the rule revisions.

## **NEW STUDY FINDS PHARMACEUTICAL RESIDUES IN FISH TISSUE**

A recent study conducted by Baylor University and EPA found that fish from five U.S. rivers contained traces of pharmaceuticals and personal care products. The Associated Press and other news outlets reported on the study, in which researchers tested fish caught in rivers near wastewater treatment plants in Chicago, Dallas, Phoenix, Philadelphia and Orlando.

The study was presented last Wednesday at the American Chemical Society annual meeting in Salt Lake City, and the results are to be published in a special online edition of *Environmental Toxicology and Chemistry*.

## **EPA'S WATER OFFICE LAUNCHES CLIMATE CHANGE E-NEWSLETTER**

EPA's Office of Water announced the creation of a new listserv newsletter that will cover news and information related to EPA's water programs and climate change. The newsletter was identified as an action item in EPA's *National Water Program Strategy: Response To Climate Change*. To subscribe, go to [www.epa.gov/ow/climatechange](http://www.epa.gov/ow/climatechange) and click "Subscribe to the Climate and Water E-Newsletter."

## **DRINKING WATER POLLUTION TOPS ENVIRONMENTAL CONCERNS IN GALLUP POLL**

The recently released 2009 Gallup Environment survey found that Americans rank drinking water pollution as their top environmental concern. Fifty-nine percent of respondents said they worry "a great deal" about pollution of drinking water, while 25 percent said they worry "a fair amount" about it and 16 percent said they worry about it "only a little or not at all."

In fact, water-related concerns were the top four issues identified in survey. Following drinking water pollution were pollution of rivers, lakes and reservoirs; contamination of soil and water by toxic waste; and maintenance of the nation's supply of fresh water for household needs. More information is online at [www.gallup.com/poll/117079/Water-Pollution-Americans-Top-Green-Concern.aspx](http://www.gallup.com/poll/117079/Water-Pollution-Americans-Top-Green-Concern.aspx).

## **CHLORAMINES Q&A UPDATED ON EPA SITE**

Since some utilities have recently changed to chloramines for a secondary disinfectant and their consumers have questions about the switch, EPA last week posted an updated list of questions and answers about chloramines on its website:

[www.epa.gov/ogwdw/disinfection/chloramine/index.html](http://www.epa.gov/ogwdw/disinfection/chloramine/index.html). EPA notes that "(t)he question and answer format takes a step-wise approach to communicate complex information to a wide variety of consumers who may have different educational backgrounds or interest in this topic." The site includes 29 of the most frequently asked questions about chloramines and includes additional resources and links to technical information.

## **STIMULUS FUNDS AVAILABLE FOR CLIMATE CHANGE ADAPTATION, WATER EFFICIENCY**

A new guidance manual written to help administer the award of nearly \$40 million in stimulus funds under the Water Quality Management Planning Grants Program is now available at [www.epa.gov/water/eparecovery](http://www.epa.gov/water/eparecovery). States have traditionally used the funds to carry out planning under Sections 205(j) and 303(e) of the CWA. The guidance encourages states to use funds to plan for green infrastructure. Specifically mentioned in the guidance are water efficiency analysis and assessment and adaptation to the impacts of climate change on water quality.



April 6, 2009

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## **CAP-AND-TRADE DRAFT BILL INCLUDES ADAPTATION FUND, CLIMATE SERVICE**

A long-awaited discussion draft of a “cap-and-trade” greenhouse gas emissions regulation bill was unveiled last week by House Energy and Commerce Chairman Henry Waxman (D-Calif.) and Energy and Environment Subcommittee Chairman Ed Markey (D-Mass.). It includes an authorization for a “climate adaptation fund” to help local communities adjust to the impacts of global warming, as well as a National Climate Service intended to provide state and local entities with access to regionally relevant climate data, forecasts and predictions.

The 648-page discussion draft, titled the “American Clean Energy and Security Act,” is expected to serve as the basis for comprehensive climate change legislation that congressional Democrats hope to move through the House of Representatives by the end of the year. Overall, the bill seeks to reduce greenhouse gas emissions from industrial polluters in the United States to three percent below 2005 levels in 2012, 20 percent below 2005 levels in 2020, 42 percent below 2005 levels in 2030, and 83 percent below 2005 levels in 2050. Covered polluters would buy or receive government allowances permitting a certain level of emissions, up to an established economy-wide “cap.” Reps. Waxman and Markey are aiming to hold a subcommittee markup of the bill during the week of April 27 and a full committee markup two weeks later.

Like previous versions of climate change legislation that have been proposed in Congress, the Waxman-Markey draft includes a “Climate Adaptation Fund” that would provide support for state and local projects that help communities adjust to the impacts of climate change. In its current form, the draft bill would direct federal regulators to fill in the details of the program, but AMWA is reaching out to congressional staff with suggestions on how to make a climate adaptation program most useful to drinking water utilities.

The draft bill also includes mandates for new climate change research to be carried out by the National Oceanic and Atmospheric Administration (NOAA). The agency would be charged with providing state and local stakeholders with “policy-relevant scientific information, research products, decision tools, and technical support related to climate change impacts and adaptation,” as well as conducting vulnerability assessments to identify the short-term, medium-term and long-term risks posed by climate change to different regions of the United States. Much of this new information would be conducted and distributed through a new National Climate Service to be established within NOAA.



Assuming the legislation moves through the Energy and Commerce Committee by Waxman and Markey's May goal, the bill would still need to be reviewed by various other committees of jurisdiction before it could proceed to a floor vote. House Speaker Nancy Pelosi (D-Calif.) reportedly hopes to move the bill through the entire House before the end of the year, but many observers predict that the massive bill could be held up before then.

A copy of the draft legislation, as well as a summary of its main components, is available on AMWA's [Climate Change webpage](#).

## **HOUSE AND SENATE APPROVE BUDGET RESOLUTIONS**

The House and Senate last week each approved FY10 budget resolutions that, while not mirroring the budget proposal put forth by President Obama last month, pave the way for financing his proposals on health care, energy and education. Following the two-week recess that began this week, congressional negotiators will begin the process of combining the House and Senate versions into a joint budget plan.

Each year's budget resolution serves as a non-binding document that sets overall funding guidelines for various federal agencies and programs. In the coming months, the FY10 appropriations bills will be crafted within the overall spending blueprint outlined by the resolution.

The House-passed resolution envisioned total federal spending of \$3.6 trillion in 2010, while the Senate planned for \$3.53 trillion. As part of these plans, each version would permit full funding of Obama's request for \$10.5 billion in EPA funding next year, including increased appropriations for the Drinking Water State Revolving Fund. However, the resolutions do not include controversial provisions that would have allowed cap-and-trade climate change legislation to advance through the Senate with fewer than 60 votes.

## **FEINGOLD REINTRODUCES CLEAN WATER ACT CHANGES**

Sen. Russ Feingold (D-Wis.) last week reintroduced legislation that would redefine the scope of federal regulatory authority under the Clean Water Act, following criticism by environmental groups that recent Supreme Court decisions have left some waters unprotected.

The "Clean Water Restoration Act" (S. 787) is similar to legislation of the same name that was sponsored by Feingold in the 110th Congress. The bill would replace the term "navigable waters" in the Clean Water Act with the term "waters of the United States" for determining what waters are protected by the law. The legislation would define waters of the United States as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing."

Supporters of the legislation argue that it is a necessary response to the Supreme Court's 2006 *Rapanos vs. United States* decision, in which a majority failed to agree on the extent of federal jurisdiction over wetlands, which under the Clean Water Act applies to "navigable waters." Opponents, however, claim that the legislation would greatly expand federal regulatory powers over isolated waters.

House Transportation and Infrastructure Committee Chairman James Oberstar (D-Minn.) also expects to introduce a version of the bill this year, although a timeframe has not yet been announced.

## **NEW BILL WOULD CREATE CYBERSECURITY CZAR TO OVERSEE CRITICAL INFRASTRUCTURE**

A new White House-based National Cybersecurity Advisor would serve as the lead federal official charged with protecting government and private computer networks from cyber attacks, under legislation introduced in the Senate last week.

Sponsored by Sen. Jay Rockefeller (D-W.V.), the bill (S. 773) would empower the National Cybersecurity Advisor to coordinate with the intelligence community and civilian agencies in assessing threats to critical computer networks. While the text of the legislation was not available as of Friday afternoon, a summary released by Sen. Rockefeller's office said that the Advisor would have the "authority to disconnect a Federal or critical infrastructure network from the Internet if they are found to be at risk of a cyber attack."

Other portions of the summary explain that the legislation would mandate the development of "measurable and auditable cybersecurity standards that would be applicable to both government and the private sector" and would require the "implementation of a professional licensing and certification program for cybersecurity professionals."

## **AQUIFER STORAGE AND RECOVERY IS TOPIC OF CHICAGO MEETING**

The EPA Underground Injection Control Program will host a meeting May 5-6 at its Region 5 offices in Chicago to discuss innovative ideas for Aquifer Storage and Recovery (ASR) operations that would prevent endangerment of underground sources of drinking water from underground injection of non-hazardous water with the intent for later recovery. An interdisciplinary group of experts is being assembled to generate ideas regarding the use of ASR technology.

To encourage productive discussion, EPA is seeking individuals with significant ASR experience to attend the meeting. Anyone interested in attending should register at [www.horsleywitten.com/EPA-ASR](http://www.horsleywitten.com/EPA-ASR) by April 30. The *Federal Register* notice of the meeting is found at [epa.gov/ogwdw/new.html](http://epa.gov/ogwdw/new.html). For further information, contact Jyl Lapachin at EPA: (202) 564-0327 or [lapachin.jyl@epa.gov](mailto:lapachin.jyl@epa.gov).

## **WATER INFRASTRUCTURE EXPERTS SOUGHT TO**

## ADVISE EPA

EPA's Science Advisory Board is soliciting nominations of scientists and engineers with expertise and direct experience in water infrastructure assessment, rehabilitation and renewal to assist its Environmental Engineering Committee in evaluating the agency's Aging Drinking Water and Wastewater Infrastructure Initiative.

The initiative is a research program conducted by EPA's Office of Research and Development to identify innovative technologies and techniques for reducing the cost and improving the effectiveness of operations, maintenance and replacement of aging and failing systems for drinking water and wastewater treatment and conveyance. The outputs from this research program are intended to assist EPA's program and regional offices to implement Clean Water Act and Safe Drinking Water Act requirements, among other things.

Any interested person or organization may nominate qualified individuals, and candidates may also nominate themselves. The nomination deadline is April 21, 2009. The *Federal Register* notice of the call for nominations can be found at <http://edocket.access.gpo.gov/2009/E9-7185.htm>.

## Full Slate Of Policy Leaders Packs Conference Agenda

Just two weeks out from AMWA's 2009 Water Policy Conference, the program list reads like a Who's Who of key water policy decision makers in the Nation's Capital. When participants gather at the Renaissance M Street Hotel in Washington, they can look forward to "inside the Beltway" perspectives on a host of critical water issues:

### Monday, April 20

Nancy Sutley, Chair of the White House Council on Environmental Quality, on Building Sound Environmental Policy

Robert Sussman, Senior Policy Advisor to EPA Administrator Lisa Jackson, on the New Administration's Water Policy Plans

Dr. Chester Koblinsky, Director of the NOAA Climate Office, on NOAA's Role In Climate Change Research And A National Climate Service

Cynthia Dougherty, Director of EPA's Office of Ground Water and Drinking Water, on OGWDW Initiatives Under A New Administration

### Tuesday, April 21



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April 13, 2009

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## Finance Experts To Speak At Next Week's Conference; Register Online At AMWA.net

Two financial experts have joined AMWA's spring Water Policy Conference program. On Monday, April 20, Debra Coy, the senior water industry analyst for the investment firm Janney Montgomery Scott, will discuss the current economy's impact on infrastructure investments, as well as the performance of investor-owned water companies. In addition, on Tuesday, April 21, Michael Decker will discuss the state of the bond market for financing water utility infrastructure. Decker is the co-chief executive of an association serving U.S. regional bond dealers.

Other additions to the program include David Barron, who sits on FEMA's National Advisory Council, and Rep. Eleanor Holmes Norton (D), who represents the District of Columbia. Barron will discuss the Federal relationship with the private sector on disaster response; Holmes Norton sits on the House Homeland Security and Transportation & Infrastructure Committees.

View the full program and register at <http://www.amwa.net/cs/2009wpc>.

## AMWA Utilities Encouraged to Visit Congressional Offices During WPC

Managers and employees of AMWA's member drinking water systems are encouraged to set up meetings in the offices of their congressional representatives and senators while they are in Washington, D.C. for AMWA's Water Policy Conference next week. While AMWA frequently communicates with congressional staff about the goals and needs of the nation's metropolitan water systems, representatives and senators often appreciate hearing directly from constituents and utilities from their home states. These meetings also give water systems an unparalleled opportunity to not only communicate the water sector's goals for the year, but to also bring attention to the particular needs of individual water utilities and to build important relationships with members of Congress.

To help water utilities deliver these important messages to Congress, the association has posted several congressional briefing papers on high-priority water sector issues on AMWA's [Legislative Information webpage](#). Utility representatives meeting with congressional staff are encouraged to leave behind a copy of these papers, so they can be used as a future resource for Capitol Hill staff. Copies of the briefing papers will also be

distributed at the Water Policy Conference.

Members needing help scheduling meetings on the Hill should contact AMWA's Dan Hartnett at [hartnett@amwa.net](mailto:hartnett@amwa.net) or 202-331-2820.

## **EPA Waives “Buy American” Requirements for Some Stimulus Projects**

EPA last week waived the “Buy American” requirements included in Section 1605 of the recently enacted economic stimulus bill for eligible water and wastewater projects that incurred debt prior to the signing of the legislation into law. But the waiver, which appeared in the April 7 edition of the *Federal Register*, does not address the implications of the provision on stimulus-funded water projects that have not yet undertaken debt obligations.

As enacted, the American Recovery and Reinvestment Act makes stimulus funds available to water projects through the Drinking Water and Clean Water State Revolving Funds if they meet several conditions, one of which being that they were funded after October 1, 2008. However, Section 1605 of the law only allows American-made steel, iron, and manufactured goods to be used on stimulus-funded projects, unless granted a waiver by EPA.

For several weeks, EPA has been struggling to set guidelines outlining the conditions under which “Buy American” waivers will be granted; EPA's drinking water office director Cynthia Dougherty will speak about this issue at AMWA's conference next week.

Under the waiver issued by EPA on April 7, the “Buy American” provisions will not apply to stimulus water projects that incurred debt between October 1, 2008 (the first day on which eligible projects could be funded) and February 17, 2009 (when President Obama signed the legislation into law). According to EPA, this blanket waiver is intended to avoid penalizing projects whose managers incurred debt last fall as anticipation for a stimulus bill was growing. Without the waiver, EPA reasoned, some of these projects could be disqualified for stimulus assistance, because the final parameters of the “Buy American” provisions were not known when the project's debt was incurred and initial plans or design decisions may have been made.

Still to be determined by EPA are the conditions under which the “Buy American” provisions may be waived for water projects funded after the signing of the stimulus legislation. There is growing concern among some water systems that the absence of waiver guidelines could hold up progress on these “shovel-ready” projects, but EPA has yet to announce a timeframe for issuing further guidance.

## **President Obama Nominates New EPA Assistant Administrator for Water**

President Obama has nominated Peter Silva, senior policy advisor at the Metropolitan Water District of Southern California, to be the next Assistant Administrator for Water at EPA. If confirmed by the Senate, he will be in charge of a wide range of security and regulatory

programs including the implementation of the Clean Water and Safe Drinking Water Acts.

Silva has worked on drinking water issues for more than 30 years, and prior to his current position he served as the vice-chairman of the California Water Resources Control Board. He also served as a deputy director at the San Diego Water Department and an assistant deputy director at the San Diego Clean Water Program.

## **Stakeholders Discuss Public Notification Language, Other Changes To TCR**

EPA held a stakeholder meeting on April 3 to discuss its progress on developing a revised Total Coliform Rule (RTCR). Prior to a 2010 proposal, EPA plans to consult with the Science Advisory Board and National Drinking Water Advisory Committee.

The revision of public notification language received a lot of attention by meeting attendees. Stakeholders encouraged EPA to take the time to “start fresh” and develop public notification language for the revised rule framework that will be meaningful for consumers, yet not unduly alarming. Stakeholders encouraged EPA to remember that a “Tier 2” violation under a RTCR would be the failure to perform an assessment or correct sanitary defects identified in an assessment, and not simply the presence of total coliform (TC).

During the meeting, EPA identified potential areas for public input and the guidance manual plan and schedule. The agency also discussed its timeline for updating SDWIS to reflect new compliance information needs and its plan to review the way analytical methods for TC and *E. Coli* are accepted.

## **EPA Hopes For Two-Year Stay Of Court Decision To Vacate Aquatic Pesticides Rule**

The Department of Justice (DOJ) filed a motion on April 9 to stay issuance of a Sixth Circuit Court of Appeals decision to vacate EPA’s 2006 Aquatic Pesticides Rule. The rule stated that pesticide applications into, over or near water bodies to control pests that were consistent with product labeling under FIFRA would not require an NPDES permit.

Earlier this year, the Court vacated the rule (*National Cotton Council of America v. EPA*, 6th Cir., No. 06-4630), stating that pesticide residues and biological pesticides are pollutants and therefore regulated under the Clean Water Act. DOJ had until April 10 to request a rehearing but instead requested the two-year stay in order for EPA to “have time to develop, propose and issue a final NPDES general permit for pesticide applications and to provide outreach and education to the regulated community.”

Additional information is on EPA’s website: [http://cfpub.epa.gov/npdes/home.cfm?program\\_id=41#pesticides](http://cfpub.epa.gov/npdes/home.cfm?program_id=41#pesticides).

## **EPA’s Jackson, PBS Focus On “Poisoned Waters”**

EPA Administrator Lisa Jackson said last week that a legislative fix is necessary to clarify the jurisdictional definition of waters of the U.S. under the Clean Water Act. Speaking at a panel discussion highlighting an upcoming PBS television documentary, Jackson said “there is anything but clarity” about which waters are regulated. A legislative fix would not only help EPA to enforce the laws that are already on the books, but also potentially help the agency expand jurisdiction to address complicated problems such as stormwater runoff and concentrated animal feeding operations (CAFOs), she said.

Jackson noted that EPA staff have spent a significant amount of time determining answers to jurisdictional questions before addressing problems. She also cited the sheer volume of CAFOs as an example of water quality problems without “end of the pipe” solutions.

Jackson was one of four speakers at a symposium highlighting an upcoming PBS *Frontline* special, *Poisoned Waters*. The program, which airs Tuesday, April 21 from 9 to 11 p.m. ET, will focus on the nation’s polluted waterways. Among the issues examined in the program will be emerging contaminants, nonpoint source runoff and the plights of the Puget Sound and Chesapeake Bay.

More information about *Frontline* special is online at <http://www.pbs.org>. A link to the April 8 symposium webcast is available at <http://www.visualwebcaster.com/event.asp?id=56406>.



April 20, 2009

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## **WATER EXECS GATHER FOR POLICY CONFERENCE**

Senior water system executives gather in Washington, D.C. this week at AMWA's Water Policy Conference to hear from members of Congress, Administration officials and federal regulators. The Monday morning program features White House Council on Environmental Quality Chair Nancy Sutley, along with top administrators from EPA and the Department of Homeland Security and a member of the FEMA National Advisory Council. At lunch the group will hear from water industry analyst Debra Coy. Following briefings on NOAA climate change research and EPA water initiatives under the Obama administration, there will be a joint meeting of legislative and security committees featuring a discussion with key Congressional staffers on chemical security legislation.

The Tuesday program features Capitol Hill lawmakers actively involved in water issues, including Sens. Ben Cardin (D-Md.), Earl Blumenauer (D-Ore.) and Mark Begich (D-Alaska), and Reps. John Boozman (R-Ark.) and Eddie Bernice Johnson (D-Tex.). At lunch, Rep. Eleanor Holmes Norton (D-D.C.) will speak. The afternoon will begin with a bond market overview and a first look at the results of AMWA's recent Utility Financial Information survey, followed by meetings of AMWA's regulatory and climate change committees.

A Climate Change Science Program (CCSP) Listening Session on Wednesday morning – with officials from CCSP, U.S. Geological Survey and NASA – rounds out the program.

## **EPA PLANS STUDY OF EMERGING CONTAMINANTS IN DRINKING WATER TREATMENT PLANTS**

EPA is soliciting comments on a proposed information collection request (ICR) for a study of the occurrence of 200 different compounds at drinking water treatment plants (DWTPs). According to the *Federal Register* notice (<http://edocket.access.gpo.gov/2009/E9-7960.htm>), EPA's Office of Research and Development, in collaboration with the U.S. Geological Survey, is planning to conduct the sampling program at up to 50 DWTPs. The results will be published, but utilities will not be identified, EPA said. EPA's Office of Water will also use the information to inform future regulations, such as the Unregulated Contaminant Monitoring Rule.



AMWA plans to comment by June 8 on the proposed ICR with the assistance of the regulatory committee.

EPA plans to focus sampling at DWTPs with known wastewater inputs into the source water, from either municipal or on-site wastewater treatment. The agency is also seeking utility volunteers for the project. Utilities in the study will receive all of the data collected.

## **THIS WEEK IN CONGRESS**

Congress returns to Washington this week for a busy five-week sprint leading up to its next scheduled recess in observance of Memorial Day at the end of May. Up for a vote on the floor of the House this week is H.R. 1145, the “National Water Research and Development Initiative Act,” a Science and Technology Committee bill that is intended to coordinate federal water research and development. The full House may also consider the conference report of the FY10 budget resolution, and the Energy and Commerce Committee is scheduled to begin a series of hearings on climate change before holding a subcommittee markup of the Waxman-Markey cap-and-trade bill next week.

The Senate may also vote on the FY10 budget resolution this week, as well as legislation to give bankruptcy judges greater power to modify home mortgages.

## **EPA NOW ACCEPTING RISK MANAGEMENT PLANS ONLINE**

EPA announced in the April 15 *Federal Register* (<http://edocket.access.gpo.gov/2009/E9-8653.htm>) that it will now have an online system to accept risk management plans (RMPs) required under Section 112(r) of the Clean Air Act. The secure online site, RMP\*eSubmit, uses EPA’s Central Data Exchange network, and regulated facilities must set up an account to use the system. Additional information is available at [www.epa.gov/emergencies/content/rmp/](http://www.epa.gov/emergencies/content/rmp/), including a guidance manual to assist regulated facilities in working with the new reporting system.

## **NEW STUDY URGES BIOFUEL POLICY BASED ON WATER USE EFFICIENCY**

Citing a state-by-state comparison of the volume of water used to produce ethanol, researchers at the University of Minnesota said government policies should discourage biofuel production in areas where irrigation is required to protect valuable water resources. According to the study, published in the April 15 issue of *Environmental Science and*

*Technology*, there is a wide variation in water use – from five liters to 2,138 liters of water to produce a single liter of ethanol.

Midwestern states such as Ohio, Iowa and Kentucky require little irrigation to grow corn, and their water use of five to seven liters primarily occurs during the refining stage of production, according to the report entitled, “Water Embodied in Bioethanol in the United States” (<http://pubs.acs.org/doi/full/10.1021/es8031067>). However, due to differences in precipitation, temperature and climate, California, New Mexico and Colorado require more than 1,000 liters of water to produce one liter of ethanol – most of that for irrigation.

All of the states with high water usage are classed by the government as areas likely to suffer future water shortages, the researchers said. The study urges that water usage be an important factor in policy decisions about where ethanol plants are built and highlights the need to strategically promote ethanol development in states with lower irrigation rates and less groundwater use.

## **N.M. WATER OFFICIAL NAMED TO INTERIOR POST**

Deanna Archuleta, board chairwoman of the Bernalillo County (Albuquerque) Water Utility, was named last week by Department of Interior Secretary Ken Salazar to be the agency’s deputy assistant secretary for water and science. She will advise and assist the assistant secretary in overseeing the Bureau of Reclamation and the U.S. Geological Survey.

Archuleta won two terms as a county commissioner in Bernalillo County and was elected its chairwoman earlier this year. On the water board since 2008, she has been overseeing one of the largest water treatment facility projects in the nation, the San Juan-Chama Drinking Water Project. Archuleta was also the Southwest regional director for the Wilderness Society, where she led efforts to establish wild land protections.

## **DEADLINE LOOMS FOR FTC’S RED FLAGS RULE**

May 1 is the long-delayed deadline for the Red Flags Rule, a Federal Trade Commission requirement that creditors – including water utilities – have identity-theft programs in place. The rule resulted from a 2006 amendment to the Fair and Accurate Credit Transactions Act of 2003, which originally set a deadline of November 1, 2008.

Specifically, the rule requires creditors to have a written, board-approved program to identify, detect and respond to patterns, practices or specific activities that could indicate identity theft. Water systems are covered by the rule because it defines credit as “deferring payment for goods or services,” and billing for water after it is provided meets the criteria. Additional information is available at <http://ftc.gov/redflagsrule>.



April 27, 2009

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## **TRUST FUND, SRF, CHEMICAL SECURITY AND CLIMATE CHANGE ARE TOP ISSUES AT POLICY CONFERENCE**

Active dialogues on key water policy issues marked the three days of AMWA's 2009 Water Policy Conference, held in Washington, D.C. last week. Lawmakers and regulators shared their perspectives and plans, while water system executives drew on their on-the-ground experience to provide feedback and ideas on ways to make federal programs and rules more effective.

### **WATER TRUST FUND**

Rep. Earl Blumenauer (D-Ore.) told the conference that he may release within "a matter of weeks" a draft of legislation to create a trust fund to finance infrastructure improvements at the nation's drinking water and wastewater systems. According to Blumenauer, he envisions distributing most of the funds through the existing Drinking Water and Clean Water State Revolving Fund (SRF) programs, but he also intends to propose special carve-outs of funding for security improvements, energy efficiency and green infrastructure. His proposal will also direct EPA to focus on the infrastructure needs of metropolitan water systems when conducting future drinking water needs surveys. Rep. Blumenauer said that numerous options are being considered as funding mechanisms, including a surcharge on the sale of bottled beverages and a "corporate water tax" on commercial water users. Blumenauer has previously avoided proposing a water tax or user fee on residential users to finance the trust fund, but Reps. John Boozman (R-Ark.) and Eddie Bernice Johnson (D-Tex.) – who also spoke at the conference – each said that some type of user fee would likely be considered if the bill advances in Congress.

### **SRF REAUTHORIZATION**

Senate Water and Wildlife Subcommittee Chairman Ben Cardin (D-Md.) told conference attendees of his panel's intention to begin work soon on legislation to reauthorize funding for the Drinking Water and Clean Water SRFs. Cardin cited the critical importance of shoring up the nation's water infrastructure and building on progress that he said will result from the \$6 billion in water funds added to the economic stimulus bill. But Cardin also heard from AMWA members who have found the SRF program to be ineffective for large water systems, both because of statutory requirements that priority go to projects aimed at public health improvements and state-level regulators who prefer to distribute SRF dollars to rural communities rather than metropolitan centers.

### **CHEMICAL SECURITY LEGISLATION**

A joint meeting of AMWA's Legislative and Security Committees focused on the issue of water facility security legislation that is expected to come before the House Energy and Commerce Committee this summer. Leading staffers from the Energy and Commerce and Homeland Security Committees briefed attendees on the status of the proposal, which is still in draft form and has not been distributed for comment. Utility representatives were told that the bill will include requirements that utilities periodically update their vulnerability assessments and draw up site security plans that detail strategies to mitigate threats. Democratic staffers also made clear their intention to include "inherently safer technologies" (IST) in the legislation through a possible combination of mandatory IST assessments by utilities and EPA-issued orders to implement IST in the disinfection process. Attendees told the committee staff that IST mandates would unacceptably take away control of disinfection choices from utility experts and also criticized plans that would regulate wastewater utilities separately through DHS – potentially imposing conflicting mandates on joint utilities.

### **CCSP LISTENING SESSION**

On Wednesday, more than 30 conference attendees provided feedback to Peter Schultz of the Climate Change Science Program (CCSP) about the climate-related challenges and questions faced by water managers and the science and information needed to support decision making in light of climate change. Utility managers stressed that the information needed to make decisions includes better understanding the extremes of climate change impacts, such as precipitation levels or temperatures, rather than the mean or median values. Participants also noted that water managers were already experiencing the impacts of climate change and that the federal government could help in conveying the seriousness of the issue to state and local officials and regulators. A summary of the discussion will be prepared by the CCSP.

### **UTILITY FINANCIAL INFORMATION SURVEY**

The much-anticipated report on results of AMWA's Utility Financial Information survey provided numerous interesting insights into utility rate structure, operating costs and revenues, budget transfers, rate increases, capital improvement costs, debt, reserves and other financial factors. Eighty-four utilities responded to the survey, including 10 from the Northeast, 14 from the Midwest, 36 from the South and 24 from the West, according to Peiffer Brandt of Raftelis Financial Consultants, who directed the survey for AMWA. The report will be featured in a special issue of AMWA's *Water Utility Executive* to be published later this week.

## **THIS WEEK IN CONGRESS**

Global climate change will remain at the center of attention in the House this week, as the Energy and Environment Subcommittee is planning to hold its first markup of the cap-and-trade draft legislation released last month by Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.). An updated version of the draft bill is expected to be released prior to the markup, although the subcommittee's schedule has not yet been announced.

The Senate may vote this week on housing legislation, including a

contentious provision that would allow bankruptcy judges to alter the remaining balance on home mortgages. Additionally, both the House and Senate may consider a conference version of the FY10 budget resolution, pending its approval by a conference committee.

## **MULROY TESTIFIES IN FAVOR OF WATER RESEARCH AND ADAPTATION FUNDS FROM CLIMATE BILL**

Comprehensive cap-and-trade greenhouse gas emissions legislation should include a source of funds to help drinking water utilities research and adapt to the impacts of climate change, Southern Nevada Water Authority General Manager Patricia Mulroy testified before the House Energy and Commerce Committee last week.

Speaking at the conclusion of a full week of hearings on the draft “American Clean Energy and Security Act” proposed by Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.), Mulroy – who serves on AMWA’s Board of Directors – used Southern Nevada to exemplify the challenges that water systems across the country are likely to face as a result of global climate change and water availability shifts. For example, the utility is spending nearly \$1 billion on a new Lake Mead intake, which is necessary because of declining water levels.

“Water utilities are on the front line of climate change,” she said. “Water utilities must learn to adapt to this reality if we are going to provide a safe, reliable water supply for our nation.”

To help water systems face this threat, Mulroy recommended that the Waxman-Markey bill devote a portion of federal cap-and-trade auction revenues to programs that carry out research projects focused on identifying the impacts of climate change on local utilities, downscaled to a watershed-specific scale. She also encouraged using auction proceeds to create a “Blue Bank” for water infrastructure adaptation projects, which would operate as a loan program to distribute funds to utilities.

A copy of Mulroy’s testimony is available on AMWA’s Climate Change webpage ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)), and statements delivered by more than 60 other individuals who testified during last week’s hearings – including EPA Administrator Lisa Jackson and former Vice President Al Gore – are available on the committee’s website at [www.house.gov/commerce](http://www.house.gov/commerce).

## **HOUSE APPROVES WATER RESEARCH BILL**

The House of Representatives last week approved legislation that would establish a National Water Research and Development Initiative to coordinate federal water supply research, after accepting several AMWA-supported additions to help local water resource managers prepare for future water supply challenges.

H.R. 1145, the “National Water Research and Development Initiative Act,” would create an

interagency committee charged with developing the National Water Availability Research and Assessment Plan, which would coordinate federal, state, local and tribal government water research and development projects. The plan would be required to work to achieve several specified outcomes, such as the implementation of a national water census and the development of new water monitoring techniques and technologies. The President would report annually to Congress on the initiative's progress at reaching its specified goals.

During floor consideration of the bill, the House accepted several amendments supported by AMWA. First, language inserted into the bill by Rep. Jay Inslee (D-Wash.) would make clear that water resource managers will have an opportunity to exchange information on water research needs with federal officials overseeing the research program. Rep. Inslee also inserted a provision specifying that one objective of the research plan is to develop tools to assist local water resource managers in anticipating changing water sustainability and use patterns. This information would help local water managers identify and take appropriate steps to prepare for future, region-specific water supply and demand fluctuations that could result from global climate change.

Rep. Earl Blumenauer (D-Ore.) offered an amendment that was accepted on the House floor. His proposal would create an EPA-based wastewater and stormwater reuse pilot program, which could provide communities with another option to consider when planning how to best address future water supply reductions.

H.R. 1145 will now move to the Senate for consideration, although no timeframe for a vote in that chamber has been announced.

## **AP STORY HIGHLIGHTS PHARMACEUTICALS**

Last week the Associated Press released another story about pharmaceuticals in the water environment ([http://news.yahoo.com/s/ap/20090419/ap\\_on\\_re\\_us/pharmawater\\_factories\\_research](http://news.yahoo.com/s/ap/20090419/ap_on_re_us/pharmawater_factories_research)). The report focused on the results of two studies by EPA and the U.S. Geological Survey showing that pharmaceutical residues in wastewater discharges affiliated with pharmaceutical manufacturing plants are much higher than in other wastewaters.

Recognizing the growing importance of the issue of pharmaceuticals in the water environment, AMWA and the National Association of Clean Water Agencies (NACWA) have convened a peer review panel of subject-matter experts to develop a set of strategic recommendations on the issue of pharmaceuticals in water to inform and guide the national response to this issue. The panel's report is expected by the end of the year.



May 4, 2009

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## H1N1 Flu Resources Available To Water Utilities

A host of valuable resources to help water utilities deal with the emerging Influenza A (H1N1) flu outbreak are available on WaterISAC ([www.waterisac.org](http://www.waterisac.org)). As it continues to monitor the developing situation, WaterISAC is posting all relevant information to its online portal as soon as it is made available. AMWA members that are WaterISAC subscribers are encouraged to log in to the portal at least daily. Member utilities that are not subscribers are urged to sign up for WaterISAC Basic, which is free, in order to receive the latest information regarding the flu strain.

At this time, it is important for utilities to examine their pandemic planning and business continuity procedures. Utility managers should be considering issues such as the maintenance of vital operations in the event of a decreased workforce. According to the Department of Labor, up to 40 percent of the nation's workforce could be affected by an influenza pandemic. Shipments of vital supplies may be delayed or cancelled altogether should domestic and international commerce could be affected.

To view any pandemic-related documents on WaterISAC, simply type "flu" into the portal search bar. Documents that specifically address the 2009 H1N1 outbreak can be viewed by typing "swine flu" into the search bar.

Flu and pandemic planning resources currently available on WaterISAC include, but are not limited to:

- *Guidance on Preparing Workplaces for an Influenza Pandemic*: Document published by OSHA that provides guidance for preparing a workplace and employees for a potential influenza pandemic.
- *Business Continuity Planning in the Event of an Influenza Pandemic*: Reference guide produced by AMWA that utilities can use to develop plans and policies and to prepare for an influenza outbreak.
- *Water Sector Pandemic Guidelines and Webinar*: How the sector can plan for an large-scale influenza outbreak. The webinar is archived online at <https://www2.gotomeeting.com/register/976210655>.
- *DHS Influenza Updates*: Daily feeds regarding the H1N1 outbreak worldwide.

## EPA Issues Buy American Policy

On April 28, EPA issued its Buy American implementation policy for utilities receiving

stimulus funds. The mandate to Buy American was included in the American Recovery and Reinvestment Act of 2009 (the stimulus bill).

Under the policy, utilities must apply for waivers to purchase foreign iron, steel and manufactured goods for inclusion in their stimulus-funded projects. EPA regional offices will process waiver requests.

The policy is available in the Bulletins section of AMWA's website (under News) at [www.amwa.net/cs/bulletins](http://www.amwa.net/cs/bulletins).

## This Week in Congress

After last week's planned subcommittee markup of cap-and-trade climate change legislation was delayed, the leaders of the House Energy and Commerce Committee are hoping to begin work on the bill this week, although no definitive plans have been announced. Democratic leaders on the panel still hope to move the entire bill though the committee before Congress' Memorial Day recess begins on May 22.

Members of the House are expected to consider legislation this week that would make it easier for the government to prosecute financial crimes and a bill designed to crack down on predatory lending practices. Meanwhile, the Senate is scheduled to take up a bill to curb excessive rate increases and other practices by credit card companies

## AMWA Calls For SRF Improvements As Committee Plans Reauthorization

With the Senate Environment and Public Works Committee planning to mark up legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF) on Thursday, AMWA wrote to the committee last week detailing problems that many urban water systems have experienced in attempting to access program dollars for infrastructure improvements.

AMWA's letter, which is available to download [here](#), noted that EPA's 2007 Drinking Water Needs Survey found that 35 percent of the sector's infrastructure improvement need comes from utilities serving more than 100,000 people, but such utilities have only received 23 percent of DWSRF dollars since the program began in 1996. Moreover, 13 states have never awarded any DWSRF funds to a utility serving more than 100,000 people.

The reauthorization bill to be considered this week is unlikely to address these issues, however, as the Environment and Public Works Committee plans to approve legislation nearly identical to earlier DWSRF reauthorizations that passed the panel in 2005 and again



last year. While the bill would make modifications to the DWSRF program, such as encouraging utilities to develop asset management plans, it would not change existing rules directing states to give priority to projects that would help utilities advance public health goals or achieve compliance with SDWA. Because the infrastructure challenges faced by urban water systems do not typically relate to these issues, states instead direct the majority of SRF dollars to small, rural water systems. The bill is expected to authorize \$15 billion for the program over the next five years.

To further detail the DWSRF program's deficiencies in assisting urban water systems with infrastructure projects, AMWA plans to undertake a study of the issue and suggest possible solutions in the coming months.

## **Senator Reintroduces Sewer Overflow Grant, Notification Bills**

Senator Frank Lautenberg (D-N.J.) last week reintroduced legislation that would establish a grant program to help communities upgrade aging combined sewer overflow (CSO) systems and a separate bill that would require wastewater treatment plants to monitor for and report discharges of raw sewage.

The "Water Quality Investment Act" (S. 936) would authorize \$1.8 billion over five years for use as grants to communities to upgrade CSO waste systems, which can discharge untreated wastewater during periods of heavy rains. Similarly, the "Sewer Overflow Right to Know Act" (S. 937) would require wastewater systems to monitor for unplanned sewage releases and issue timely notifications to the public when they occur.

Versions of each of these proposals were incorporated into the Clean Water State Revolving Fund legislation passed by the House earlier this year (H.R. 1262) and are also expected to be included in the SRF reauthorization bill that will be marked up by the Senate Environment and Public Works Committee this week.

## **Appropriators Signal Support For Water Infrastructure Grants**

The leaders of the House subcommittee that oversees water infrastructure funding used a hearing last week to argue that more federal grants, rather than loans, should be available to help communities repair drinking water and wastewater systems.

At a hearing in advance of the Interior, Environment, and Related Agencies Subcommittee's consideration of the FY10 spending plan, Chairman Norm Dicks (D-Wash.) and Ranking Member Mike Simpson (R-Id.) agreed that the existing Drinking Water and Clean Water State Revolving Fund programs may not be sufficient to address water infrastructure repair needs. However, Dicks suggested that grants should be targeted at rural communities that may not have the ability to repay SRF loans to EPA.

Both Dicks and Simpson expressed interest in the idea of a water infrastructure trust fund,

which is being promoted by Rep. Earl Blumenauer (D-Ore.). The details of such a plan haven't been finalized, however, as Rep. Blumenauer awaits the results of a GAO study on the concept, which could be released as early as this month.

## **Science Committee To Hear Testimony On Climate Research Needs**

The House Science and Technology Committee's Energy and Environment panel will hold a hearing tomorrow on the role of the National Oceanic and Atmospheric Administration (NOAA) in conducting climate change research and the potential framework of a new National Climate Service to coordinate the efforts.

The hearing comes as the Energy and Commerce Committee continues its efforts to craft a comprehensive climate change cap-and-trade bill. A draft version of the bill released in March contained placeholder language calling for the creation of a National Climate Service, but the Science and Technology Committee is expected to begin work soon to produce specific legislation detailing the scope and responsibilities of the program.

Tuesday's hearing will include testimony from David Behar, Deputy to the Assistant General Manager at the San Francisco Public Utilities Commission, and Paul Fleming, Manager of Climate and Sustainability at Seattle Public Utilities. Each is expected to highlight the climate research needs of the water sector.

The hearing is scheduled for 10:00 a.m. EDT on Tuesday, May 5, and will be webcast on the committee's website at [www.house.gov/science](http://www.house.gov/science).

## **WaterRF Reports On Treatment Chemicals Market**

In a new report, *Supply of Drinking Water and Wastewater Treatment Chemicals — A White Paper for Understanding Recent Chemical Price Increases and Shortages (#4225)*, the Water Research Foundation (WaterRF) weaves the results of AMWA's January 2009 member-to-member chemical cost survey into an updated picture of the treatment chemicals market over the last few years. The report suggests reasons for the price fluctuations during the period and recommends measures to minimize the impact of future shortages and price hikes.

The dramatic increase in production of corn for biofuels, which competes with the water sector for several commodities, was one contributing factor. In addition, the worldwide economic and construction boom forced water chemicals buyers to compete for chemicals such as phosphorus with a wide range of industries. However, when markets collapsed, the supply of chemicals produced as by-products of other manufacturing processes, such as fluoride and caustic soda, dried up, the report said.

The WaterRF study sees a brighter outlook for water treatment chemical supplies this year, but warns that with economic recovery after the recession, commodity and energy prices that contribute to higher treatment chemical costs are likely to head up once more.

To see the results of AMWA's survey, go to [www.amwa.net/cs/member\\_inquiry](http://www.amwa.net/cs/member_inquiry).

## Science Advisory Board To Discuss TCR

EPA's Science Advisory Board (SAB) Drinking Water Committee will meet via conference call and in person during the coming weeks to review the agency's draft supporting analysis for the revised Total Coliform Rule proposal.

On May 20, the committee will meet via conference call from 1:00 to 4:00 p.m. EDT.

The committee will meet in person in Washington, D.C., on June 9 and 10 from 9:00 a.m. to 5:00 p.m. at the Ritz-Carlton Hotel, 1150 22nd St., NW.

Persons wishing to attend either meeting or make a public statement should contact Dr. Sue Shallal via telephone at (202) 343-9977 or via e-mail at [shallal.suhair@epa.gov](mailto:shallal.suhair@epa.gov). Meeting agendas and additional information will be posted to EPA's SAB website in advance of the meeting at [www.epa.gov/sab](http://www.epa.gov/sab).

## Conference PowerPoint On AMWA Website

PowerPoint presentations from AMWA's 2009 Water Policy Conference are now available on the members only portion of the association's website at [www.amwa.net/cs/2009WPC\\_presentations](http://www.amwa.net/cs/2009WPC_presentations).



May 11, 2009

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## Senate Bill To Reauthorize DWSRF At \$15 Billion, Give Priority To “Sustainability” Projects

Legislation introduced in the Senate last week would reauthorize the Drinking Water State Revolving Fund (DWSRF) program at \$15 billion over five years and make several modifications to the program outlining how loan funds may be spent. The Senate Environment and Public Works (EPW) Committee will consider the bill (S. 1005, the “Water Infrastructure Financing Act”) later this week.

Highlights of the DWSRF reauthorization bill include:

- Clearly specifying that projects to repair or replace aging infrastructure or to improve water system security are eligible for DWSRF funds;
- Directing states to give priority for funding to projects that “improve the sustainability” of water systems;
- Giving greater weight to applications from utilities that have completed asset management or financial planning exercises, and have reviewed restructuring options;
- Requiring consideration of “portion(s) of a service area” in determining whether a disadvantaged community is eligible for additional loan subsidies under the DWSRF affordability criteria. Committee staffers say this change will benefit large urban systems that may not meet existing service area-wide affordability criteria;
- Calling for a study to examine how states can streamline the SRF loan application process;
- Creating a new competitive grant program to provide funding to states and local communities to reduce the amount of lead in drinking water; and
- Authorizing a new EPA program to provide training and technical assistance to utilities on effective utility management.

Several of these changes could benefit large water systems, particularly the clarification that infrastructure rehabilitation is an eligible expense and the inclusion of “sustainability” projects in state priority-setting criteria.

But despite these changes, there remain shortcomings in the DWSRF program that prevent, in some cases, urban water systems from taking full advantage of SRF loans. To address these issues, AMWA is working with the EPW committee to request a Government Accountability Office (GAO) study that would investigate state policies that inhibit urban participation in the DWSRF and identify potential solutions. AMWA has also asked the committee staff to develop report language clarifying that the legislation is not intended to require large public water systems to contemplate privatization or consolidation in order to increase their chances of obtaining an SRF loan. This is an issue because the bill’s definition of “restructuring” could be read to encourage consideration of these options, but committee

staffers say that their intent is not to push large public systems to privatize.

S. 1005 also includes a reauthorization of the Clean Water SRF, similar to the bill that passed the House earlier this year (H.R. 1262). The Clean Water program would be authorized at \$20 billion over five years. The bill does not include Davis-Bacon wage requirements or Buy American specifications, but attempts will likely be made to attach those provisions to the bill either in committee or on the Senate floor.

## **This Week In Congress**

The House this week will vote on the \$94.2 billion FY09 supplemental spending package for the wars in Iraq and Afghanistan and also a bill offering grants to assist public schools in modernizing their facilities.

In the Senate, members will focus on credit card reform legislation that supporters say will cut down on excessive interest rates and fees imposed on consumers. In addition, the Environment and Public Works Committee is scheduled to meet tomorrow to consider the nomination of Peter Silva as EPA's new Assistant Administrator for Water.

## **Obama Budget Requests \$1.5 Billion For DWSRF, Proposes Cutting Water Earmarks**

The Obama Administration last week released its detailed FY10 budget plan, specifying how the president proposes spending the \$3.4 trillion budget outline approved by Congress earlier this year.

At EPA, Obama requested \$1.5 billion for the Drinking Water State Revolving Fund, \$671 million more than the program will receive this year. In addition, he requested \$2.4 billion for the Clean Water SRF, more than triple its FY09 funding level. Overall, EPA would receive \$10.5 billion in funding next year if Congress fulfills Obama's request.

The agency's budget also includes a \$475 million Great Lakes Initiative to protect and clean up the lakes through restoration efforts, invasive species control, non-point source pollution mitigation and critical habitats protection. In addition, there is funding for efforts to protect, maintain and restore the Chesapeake Bay, Anacostia River, Puget Sound, San Francisco Bay, Lake Champlain and other large water bodies.

However, several cuts were included in the president's request, including the elimination of congressional earmarks for individual water and wastewater infrastructure projects. Last year's EPA spending bill included 301 water and wastewater infrastructure earmarks totaling \$145 million, and Obama has recommended the elimination of similar earmarks from this year's spending bill. He also requested eliminating \$180 million worth of earmarks for water and wastewater projects added to the Army Corps of Engineers budget last year, arguing that such projects are funded without scrutiny and are outside of the Corps' primary mission

area. Both categories of earmarks are popular with lawmakers, however, so it will likely be a challenge for Obama to convince Congress to accede to the request.

## **Interior, NOAA Water Programs Hold Steady Under Obama Plan**

President Obama's FY10 budget plan included significant funding increases for federal water programs carried out at various federal agencies. Some of the highlights of his proposal include:

- \$1.1 billion for the U.S. Geological Survey, an increase of \$54 million above the 2009 level. Included within this total is a \$5 million increase for the National Streamflow Information Program and full funding of the National Water Quality Assessment program;
- \$1 billion for the Bureau of Reclamation, a slight decrease below this year's funding. The total includes \$46 million for a water conservation program, comprised of the Water Conservation Challenge Grant program, the Basin Study program and the Title XVI Water Reclamation and Reuse program.
- \$4.48 billion for NOAA, about \$40 million above the 2009 level. Funding requested within the program includes \$1.43 billion for the Environmental Satellite Data and Information Service and \$487 million for the Office of Atmospheric Research, which includes increases for efforts to monitor ocean acidification and to develop a drought early warning system.

The House Appropriations subcommittees are expected to begin hearings on FY10 appropriations soon, though the process of writing the spending bills will likely last throughout the summer and into the fall.

## **DHS Budget Includes Millions In Funding For Infrastructure Protection Grants**

The Obama Administration's detailed outline of its \$42.7 billion FY10 budget for the Department of Homeland Security includes nearly \$3.9 billion in grant funding for state and local governments, an 18 percent decrease from the total amount appropriated in FY09.

Despite the reduction in the overall allocation, the Buffer Zone Protection Program (BZPP) received a slight increase in funding from \$48.5 to \$50 million. The BZPP provides grants for improvements in security and risk-management capabilities at state and local levels for critical infrastructure sites including those related to water. Funding is designed to bolster pre-designated Urban Area Security Initiative sites such as chemical facilities, financial institutions, nuclear and electric power plants, dams, stadiums and other high-risk/high-consequence facilities. DHS has provided nearly \$300 million in BZPP funding since 2005.

The administration's budget request could see significant changes in coming months in the congressional appropriations process. In the meantime, AMWA encourages members who are interested in receiving federal grant funding to begin the process of reaching out to state and local homeland security officials in their respective areas.

## WaterISAC Offers Webinar On Lessons Learned From Hurricane Katrina

WaterISAC is offering a free webinar for WaterISAC Pro subscribers on the Incident Command System for managing disasters. *Incident Management: Lessons Learned from Katrina* is scheduled for Tuesday, May 26, from 1:00 to 2:00 p.m. (EDT).

Presenter Jason Higginbotham, Director of Emergency Management for the Sewerage and Water Board of New Orleans, will draw upon the utility's experiences and describe how water systems can utilize the Incident Command System (ICS) for disaster management. ICS is a standardized, scalable set of procedures for managing personnel, facilities, equipment and communications when disaster strikes.

The webinar is for WaterISAC Pro subscribers only. To sign up for a free trial to WaterISAC Pro, e-mail [info@waterisac.org](mailto:info@waterisac.org). To register for the webinar, go to: [https://portal.waterisac.org/clearspace\\_community/pages/newsevents.jspa](https://portal.waterisac.org/clearspace_community/pages/newsevents.jspa).

## Case Studies Highlight Effective Utility Management Practices

A new management resource for water utilities, *Effective Water and Wastewater Utility Management Case Studies* ([http://www.amwa.net/cs/ceo\\_resources/eum](http://www.amwa.net/cs/ceo_resources/eum)), was made available this week by EPA, AMWA and five other water and wastewater associations. The new publication is a companion document to last year's *Effective Utility Management: A Primer for Water and Wastewater Utilities*. It provides concrete examples and "how to" assistance for utility managers through profiles of four utilities that successfully applied the primer concepts and tools to advance effective management practices and achieve long-term sustainability.

The new case study document illustrates how four utilities used the Effective Utility Management attributes, along with example measures and a self-assessment tool found in the primer, to improve management operations, bring a direct and cost effective focus to their initiatives and supplement both their internal and external communications. Columbus Water Works (Ga.), Green Bay Metropolitan Sewerage District (Wis.), Gwinnett County Department of Water Resources (Ga.) and Massachusetts Water Resources Authority all faced a range of challenges in their management improvement efforts and used the primer concepts and tools to aid their efforts.

Overall, the experiences of the profiled utilities indicate that the primer provides a highly cost effective and easy-to-implement set of tools and concepts for undertaking and improving upon existing utility management improvement efforts.

In addition to the case studies, there is a new [interactive tool](#) for using the primer. It is found on the online Resource Toolbox (<http://watereum.org>), a website that also contains links to key resources and tools.

## Utilities Testify On Climate Service, Research Needs

Representatives of two AMWA member utilities told Congress last week that a proposed National Climate Service (NCS) would help water systems and other regional stakeholders access research and projections on climate change impacts that may carry implications for drinking water systems. The comments came during testimony at a House Science and Technology subcommittee hearing on developing an NCS.

In his testimony before the subcommittee, David Behar of the San Francisco Public Utilities Commission noted the need of water systems to access downscaled research that forecasts – on a regional scale – the impacts of climate change on water resources. Behar said that access to this “actionable science” would enable utilities to make local-level adaptation decisions before the impacts of climate change begin to affect customers.

Similarly, Paul Fleming of Seattle Public Utilities explained that while many utilities continuously monitor data and conduct research to prepare for future contingencies, they would “welcome additional federal collaboration that builds off of and expands existing monitoring and forecasting services and collaborative partnerships.” He said that the NCS could fill this role by working with water systems and stakeholders to produce both national and regionally tailored climate research and adaptation strategies.

Copies of the written testimony delivered at last week’s hearing is available on the Science and Technology Committee’s website at [http://science.house.gov/publications/hearings\\_markups\\_details.aspx?NewsID=2449](http://science.house.gov/publications/hearings_markups_details.aspx?NewsID=2449).

## Cap-and-Trade Bill Remains On Hold As Waxman Searches For Votes

A subcommittee markup of cap-and-trade climate change legislation was delayed for the second time in as many weeks as House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) struggled to win pledges of support from skeptical moderate Democrats on the Energy and Environment Subcommittee. While Waxman is still holding to his longstanding goal of reporting the legislation out of committee by Memorial Day, rumors are circulating that he may dispense with consideration of the bill by the Energy and Environment Subcommittee in order to meet his self-imposed deadline.

While the committee’s Republicans remain nearly universally opposed to the cap-and-trade approach, Rep. Waxman has been focusing his attention on winning over the panel’s moderate Democrats – many of whom represent manufacturing-heavy or coal-rich regions that could suffer under a plan to increase the costs of greenhouse gas emissions. Waxman’s draft cap-and-trade bill would set an overall cap on the nation’s greenhouse gas emissions and charge large-scale polluters for the right to release gasses. An updated draft of the bill is expected to be circulated this week.

While much of the committee’s attention remains on how to construct the carbon cap, AMWA has been reaching out to committee members to argue in favor of using a portion of cap-and-trade revenues to fund water utility-based climate research and adaptation projects. Thus far the concept, which involves establishing a competitive grant and loan program through which utilities would apply assistance to fund climate adaptation projects, has drawn interest from several members of Congress and other water and wastewater associations.



AMWA is continuing to push for the program's inclusion in the cap-and-trade bill and may also work to see the proposal introduced in Congress as a stand-alone measure.

## **EPA Presents Green Infrastructure Webcast**

As part of a series of webcasts on green infrastructure, EPA has scheduled a program for this Tuesday, May 12, from 1:00 to 2:00 p.m. EDT. This webcast will feature site planning and design considerations and a presentation on the Water Environment Research Federation's (WERF) cost tools. Registration is online at <http://www.epa.gov/npdes/training>.

The design and construction portion of the agenda will discuss important green infrastructure considerations including engineering to mimic natural functions, as well as how standard storm water engineering approaches are applied differently with green infrastructure approaches. The WERF cost tools address vegetative roofs, rainwater catchment systems and bioretention facilities, and speakers will discuss how the tools provide a detailed framework to facilitate cost estimation for capital costs, operation and maintenance costs and life-cycle net present value.



May 18, 2009

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## **Energy and Commerce to Release Draft Security Bill; Federal IST Mandates Replaced With Primacy State Authority**

Draft legislation to be released soon by the House Energy and Commerce Committee would drop Democrats' long-standing demand to enable EPA to force water systems to impose "inherently safer technologies" (IST), but would instead allow primacy state agencies to direct water systems to adopt alternate disinfection technologies. AMWA will circulate the draft bill to its membership for comment as soon as it is available. Energy and Commerce Committee leaders are aiming to markup the proposal during the month of June.

Under the draft legislation, all drinking water systems currently subject to Section 1433 of the Safe Drinking Water Act (which required the one-time completion of facility vulnerability assessments and emergency response plans) would have to update those documents at least every five years. Water systems would also have to complete site security plans that explain their facility's protection measures, and evaluate the feasibility of IST disinfection options if an EPA-defined "substance of concern" (such as gaseous chlorine) is currently used at the facility.

However, following months of negotiations with AMWA, Democratic committee staff have dropped language from the bill that would allow EPA to mandate the use of IST at utilities across the country. Instead, the draft bill would give primacy state agencies the ability to direct a utility to adopt IST if the state finds it to meet certain criteria, such as feasibility at the utility in question.

The draft bill will also make changes to Sec. 1433's current information protection provisions. Sensitive utility information such as vulnerability assessments and site security plans would not be subject to disclosure through the Freedom of Information Act or any other state or local law. However, EPA would develop standards for the sharing of protected information with federal, state, and local officials including first responders and law enforcement officials, water facility employees with security responsibilities, and designated employee representatives. AMWA continues to negotiate with committee staff to ensure that utilities' sensitive information remains protected.

A copy of the discussion draft of the "Drinking Water System Security Act," as well as an AMWA-produced summary of its major provisions, will be posted on the Association's Legislative Information webpage when it becomes available.

## **House Committee to Begin Markup of Cap-and-Trade Bill**

Late last week, Democratic leaders of the House Energy and Commerce Committee released an updated discussion draft of cap-and-trade legislation to reduce greenhouse gas emissions in the United States. Following weeks of negotiations among the committee members, Chairman Henry Waxman (D-Calif.) plans to begin marking up the bill today – although nearly all committee Republicans remain strongly opposed.

Among the details of the compromise bill released last week, 2% of carbon emissions allowances from 2012 through 2021 would be reserved for domestic adaptation efforts. By 2027, this amount would rise to 8%, with half of these reserved for public health efforts and the other half for “wildlife and natural resource protection.” In the early years of the program, a significant percentage of overall allowances would be provided to regulated entities (such as electric utilities and manufacturers) to ease the transition to low-emissions technologies. The bill would not directly regulate drinking water or wastewater systems, although water systems would likely feel the impact of any change in electricity prices that result from emissions caps.

The bill’s Adaptation Title is significantly different from the previous discussion draft of the bill. The new version would distribute a portion of allowances among states, depending on their population and per-capita income. States would use the proceeds from the sale of these allowances to fund projects and programs to build resilience to the impacts of climate change, including those associated with extreme weather events, drought, increased precipitation, water scarcity and negative water quality impacts, and sea level rise. However, there would be no dedicated pool of funds specifically devoted to water utility-level projects.

To remedy this, AMWA and other water and wastewater associations have been working with congressional offices to formulate an amendment focused on helping water and wastewater systems prepare for and adjust to the environmental and economic impacts of climate change. AMWA’s proposal would create a competitive program through which water and wastewater systems could compete for funding to undertake adaptation projects and research to help utilities sustain their operations despite increased water stresses projected for the years ahead.

Summaries of different portions of the draft cap-and-trade bill, as well as the latest bill text, is available on the committee’s website at <http://energycommerce.house.gov/>.

## **This Week in Congress**

In the last week of congressional business before the Memorial Day recess, the House of Representatives will consider bills to promote small business investment and to reauthorize the Transportation Security Administration.

In the Senate, work will focus on legislation to provide supplemental funding for military operations in Iraq and Afghanistan.

## **EPW Committee Approves SRF Reauthorization; AMWA Works to Highlight Urban Needs**

As expected, last week the Senate Environment and Public Works Committee approved the “Water Infrastructure Financing Act” (S. 1005), to reauthorize the Drinking Water and Clean Water State Revolving Fund programs. Under the bill, the drinking water program would be eligible to receive up to \$14.7 billion over the next five years, while the Clean Water SRF could get up to \$20 billion.

The bill maintains statutory language that directs states to give priority for funding to drinking water projects that address serious public health concerns or enable compliance with SDWA while several additions to the bill could help urban areas better compete for funds. These include the addition of “sustainability” projects to the list of program priorities thereby making supplementary benefits available to cities in which only certain areas meet the definition of “disadvantaged communities” and giving greater weight to applications from utilities that have completed asset management or financial planning exercises.

AMWA continues to work with committee staff on report language that could bring further benefits to large public water systems. For example, committee staff is open to including language to clarify that publicly owned systems are not required to consider privatizing their operations during examinations of “restructuring.” AMWA has also suggested report language to better describe the needs of the nation’s drinking water infrastructure, based on the results of EPA’s 2007 Needs Survey, and to specifically highlight the needs of urban water systems. Finally, the committee is considering asking the Government Accountability Office to examine the SRF program to identify areas in which it could better serve large, urban water systems.

## **Senators Praise Proposed FY10 Water Infrastructure Funding**

Republicans and Democrats on the Senate Environment and Public Works Committee came together last week in praise of President Obama’s record request for water and wastewater infrastructure funding in his FY10 budget request.

At a committee hearing reviewing Obama’s proposal, committee members from both sides of the aisle said that water and wastewater infrastructure has been underfunded for too long and expressed hope that the increased dollars would make their way to communities in their states. Under Obama’s proposed budget, the Clean Water State Revolving Fund would receive \$2.4 billion, up from \$689 million in fiscal 2009. The Drinking Water State Revolving Fund would get \$1.5 billion, up from \$829 million this year.

Testifying at the hearing, EPA Administrator Lisa Jackson said the increased SRF funds would finance 1,000 clean water projects and 700 drinking water projects across the United States.

## **Office Of Water Nominee Cites Challenges Ahead**

The Senate Committee on Environment and Public Works held a confirmation hearing last week for Peter Silva, the President’s nominee for Assistant Administrator for Water at EPA. During the hearing, Silva noted the challenges ahead for the agency including non-point source pollution, new emerging pollutants and jurisdictional confusion with regard to which waters in the United States should be regulated by the Clean Water Act.

Committee Chairwoman Barbara Boxer (D-Calif.) raised concerns about perchlorate and pharmaceuticals in the nation's drinking water. Boxer asked Silva, if confirmed, to issue a report assessing whether EPA would regulate perchlorate within the first three months of his tenure. Sen. Boxer also asked Silva to increase EPA's monitoring practices for pharmaceuticals.

Although a confirmation vote has not yet been scheduled, Sen. Boxer said she hoped to move Silva's nomination quickly.

## **WaterISAC Offers Webinar On Lessons Learned From Hurricane Katrina**

WaterISAC is offering a free webinar for WaterISAC Pro subscribers on the Incident Command System for managing disasters. *Incident Management: Lessons Learned from Katrina* is scheduled for Tuesday, May 26, from 1:00 to 2:00 p.m. Eastern Time.

Presenter Jason Higginbotham, Director of Emergency Management for the Sewerage and Water Board of New Orleans, will draw upon the utility's experiences and describe how water systems can utilize the Incident Command System (ICS) for disaster management. ICS is a standardized, scalable set of procedures for managing personnel, facilities, equipment and communications when disaster strikes.

The webinar is for WaterISAC Pro subscribers only. To sign up for a free trial to WaterISAC Pro, e-mail [info@waterisac.org](mailto:info@waterisac.org). To register for the webinar, go to: [https://portal.waterisac.org/clearspace\\_community/pages/newsevents.jspa](https://portal.waterisac.org/clearspace_community/pages/newsevents.jspa).

## **Carbon Sequestration Bill Would Have Feds Assume Liability**

Legislation directing the Energy Department to establish up to ten carbon capture and storage demonstration projects across the country would allow the federal government to assume legal liability for any environmental damage caused by the projects, including the "destruction or loss" of drinking water supplies.

Introduced by Sen. Jeff Bingaman (D-N.M.), the bill (S. 1013) would spur the development of carbon sequestration technology, which captures carbon emissions from energy plants and stores it underground, preventing the introduction of greenhouse gas pollution into the atmosphere. However, water systems have cautioned that strong protections must be taken to prevent carbon stored underground from contaminating water supplies.

Bingaman's legislation – which he hopes to incorporate into a larger energy policy bill in the Senate – would permit the government to assume liability for environmental or public health damage caused by carbon storage projects. In addition, the Energy Department would take over maintenance of closed carbon storage sites, after their operational lives are finished.

## **Science Committee Plans Rapid Advancement of Climate Service Bill**

The House Science and Technology Committee plans to move quickly on draft legislation to create a National Climate Service (NCS) within the National Oceanic and Atmospheric Administration (NOAA). As outlined in a draft bill approved by the panel's Energy and Environment Subcommittee last week, NCS would act as a single point of contact for federal agencies, state and local governments, and other users of climate information and forecasts.

Under the draft legislation, NCS would "conduct analyses of and studies relating to the effects of weather and climate on communities, including effects on agricultural production, natural resources, energy supply and demand, recreation, and other sectors of the economy." However, in discussions with AMWA, Science and Technology Committee staff said that the report language accompanying the final bill will clearly specify that water resources is considered a component of "natural resources" and research and interaction with water sector stakeholders will be a major objective of the legislation. Committee leaders are aiming to win full committee approval of the bill within a matter of weeks.

The bill would fold several existing NOAA offices and programs into the NCS, including local and regional offices of the National Weather Service, NOAA's drought forecasting and monitoring program, and regional climate centers supported by NOAA. The draft would also create an advisory panel to help ensure that the climate service's work meets the needs of its users. Committee staff also reacted positively to AMWA recommendations that the bill clearly articulate that NCS data must be downscaled to the maximum extent possible so as to be beneficial to local stakeholders, and also indicated support for a suggestion that NCS develop tools and guidance that will help end users make sense and act upon data delivered by the service.

A draft copy of the NCS bill is available on the Science and Technology Committee's website at <http://science.house.gov/press/PRArticle.aspx?NewsID=2471>.



**May 25, 2008**

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The *Monday Morning Briefing* is being published early in advance of Memorial Day. AMWA's offices will be closed on Monday, May 25.

## **Draft Water Facility Security Bill Released; June Markup Eyed**

The House Energy and Commerce Committee has provided AMWA with a discussion draft of legislation that would impose new security requirements on drinking water utilities. The new proposal would require EPA to assign drinking water facilities to one of at least four risk-based tiers, require water facilities to update vulnerability assessments and emergency response plans every five years, and complete site security plans.

Additionally, the bill would require water facilities that use a chemical "substance of concern" that could be an attractive terrorist target (such as gaseous chlorine) to complete feasibility assessments of alternate chemicals or processes. Unlike earlier proposals, the bill would not invest EPA with the power to force utilities to adopt these alternates, which are often referred to "inherently safer technologies" (IST). Instead, the draft bill gives state drinking water primacy agencies such authority, but a state must first consider whether the change would be feasible for the utility or could negatively impact water quality. EPA would only have the power to require inherently safer technology in non-primacy states or in cases where the primacy state has failed to review a utility's IST decision.

The legislation would also protect sensitive utility information, such as vulnerability assessments, by prohibiting the disclosure of such information through the Freedom of Information Act or any state or local law. It would require EPA to develop standards for the appropriate sharing of protected information with federal, state, and local officials such as first responders and law enforcement officials, water facility employees with security responsibilities, and designated employee representatives.

The draft bill shared with AMWA would not apply to wastewater facilities. Instead, the House Homeland Security Committee intends to direct DHS to regulate chemical security by wastewater systems.

Congressional staffers have told AMWA that the Energy and Commerce Committee is aiming to mark up the water security legislation in June, so AMWA is currently reviewing the draft bill and preparing comments for the committee. In addition, AMWA's Legislative and Security Committees will hold a conference call in the near future to discuss the proposal. A copy of the draft bill and a summary of its major points are available to members at <http://www.amwa.net/cs/leginfo>.

## This Week in Congress

Both the House and Senate will be in recess the week of May 25 in observance of Memorial Day. Members will return to Washington on June 1 and each chamber will be in session through the month, until the Fourth of July recess begins on June 29.

## AMWA's Fall 2009 Annual Meeting: The Business of Water Utilities

Mark your calendars for AMWA's Annual Meeting in Naples, Fla., on October 25-28, 2009.

AMWA's fall meetings concentrate on helping water utility executives solve their business challenges – particularly important in these uncertain economic times. Learn from case studies presented by other utility managers who are addressing the same problems confronting you.

Water utility GMs and senior managers should plan to attend. Anticipated topics include capital financing in a tough market, utility climate change adaptation, improving utility resiliency, green solutions, options for developing new projects, developing future utility executives, preparing for security challenges, and other timely subjects.

Look for meeting registration information in early June.

## EPA Announces New Web Series On Simultaneous Compliance

In the coming months, EPA's Office of Ground Water and Drinking Water will conduct four different webinars focusing on simultaneous compliance issues. The webinars are free but registration in advance is required. Two events are scheduled for June:

1. Source/Treatment Changes: What Primacy Agencies Should Consider When Reviewing Significant Water Utility Source Or Treatment Changes, Thursday, June 11, 2009 from 1:00 - 3.00 p.m. Eastern Time. Register at <https://www2.gotomeeting.com/register/848162506>
2. Simultaneous Compliance Issues for Groundwater Systems, Wednesday June 24, 2009 from 1:00 - 3.00 p.m. Eastern Time. Register at <https://www2.gotomeeting.com/register/366323331>

There will also be two webinars in August on the topics of simultaneous compliance for surface water systems and managing unintended consequences of simultaneous compliance. Details will be provided in a future Monday Morning Briefing.

## Committee Approves Climate Change Bill With State Adaptation Funds; Water Utility Adaptation Grant



## Amendment Is Blocked

On May 21, the House Energy and Commerce Committee approved H.R. 2454 (the “American Clean Energy and Security Act”), a massive bill designed to cap the nation’s greenhouse gas emissions and charge polluters for allowances that permit the release of gasses that contribute to global climate change. The bill seeks to cut global warming pollution to 17 percent below 2005 levels in 2020, by 42 percent below in 2030, and by 83 percent below in 2050. In addition, the proposal would use revenues from the sale of emissions allowances to fund various clean energy and environmental priorities.

While climate change adaptation efforts are not a major focus of the bill, H.R. 2454 would dedicate a portion of allowance revenues to states, to be used in the implementation of state climate change adaptation plans. When formulating the plans, states would have to detail expected risks due to climate change, and adaptation measures that the state and communities plan to undertake in response. Importantly, the legislation lists several examples of climate change impacts that could be addressed through the adaptation programs, such as increased precipitation and flooding, water scarcity and water quality impacts, and sea level rise. The focus on water-related impacts could help drinking water systems better compete for portions of their state’s funding.

However, an anticipated amendment creating an EPA-run competitive grant program to help local water systems fund climate change adaptation projects was not attached to the bill, after committee staffers raised concerns that the language could allow other congressional committees to weigh in on the bill’s adaptation provisions. AMWA worked with Rep. Lois Capps (D-Calif.) and other water and wastewater associations to develop the amendment. Under the proposal, each year EPA would solicit climate change adaptation projects from water systems and award matching funds to proposals that will help utilities address the most significant climate-related risks and benefit the largest numbers of water users. Projects that would be eligible for funding would include those that increase water conservation and efficiency, increase utilities’ use of green infrastructure or renewable energy, or use advanced technologies (such as water reuse, recycling, or desalination) to increase available water supplies. Funds would also be available to help utilities conduct their own assessments of how climate change may impact their operations.

Despite the support of Rep. Capps and other members of the committee, staffers on the committee were concerned that adding the language would allow the House Transportation and Infrastructure Committee to assert jurisdiction over additional portions of the legislation. Energy and Commerce Committee leaders have worked for months to keep the 900-page bill as narrowly written as possible to minimize potential input from other committees.

Rep. Capps has pledged to work with AMWA to continue to push for the water utility adaptation program. Future possibilities include introducing the legislation as a stand-alone bill and offering it as an amendment when the H.R. 2454 is considered on the House floor, possibly later this year.

The amendment on water utility adaptation grants and information on H.R. 2454 are available to members at <http://www.amwa.net/cs/leginfo>.

## New Development Process For IRIS Announced

EPA Administrator Lisa Jackson has announced a new process for the development of Integrated Risk Information System (IRIS) health effect assessments. In a memo to the agency's top management, Jackson said that the new process will be more transparent and timely and ensure scientific integrity. The process will be managed by EPA but include a "rigorous and open" external peer review as well as opportunity for public comment. EPA will have the final say in IRIS assessment content after considering the input of outside experts, agencies and White House offices. EPA will make public all comments provided. The seven-step process for assessment development will take no more than 23 months.

A link to the new process outline, flow chart and EPA's press release is available at: <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=190045>.

## **Obama Nominates Bob Perciasepe For EPA Deputy Administrator**

President Obama announced on May 19 his nomination of Bob Perciasepe for EPA Deputy Administrator. Perciasepe worked closely with AMWA when he was President Clinton's Assistant Administrator for Water. Percisepe is the COO of the National Audubon Society. Previously, he was the State of Maryland's Secretary of the Environment and had been with the City of Baltimore, where he managed capital planning.



June 1, 2009

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## Republicans Offer Bill To Extend CFATS As Committees Prepare To Tackle Reforms

A Republican on the House Homeland Security Committee introduced legislation last month to extend the Department of Homeland Security's chemical security standards (commonly known as "CFATS") until 2012. The current law authorizing CFATS is set to expire in October, and Homeland Security Committee Democrats are currently working to draft a bill to permanently extend and overhaul the program.

The extension bill (H.R. 2477) introduced by Rep. Charlie Dent (R-Pa.) would simply extend the current sunset date of the CFATS program until October of 2012, responding to chemical industry requests to allow the program to operate for several years before Congress enacts major changes. H.R. 2477 would also extend the existing drinking water and wastewater sector exemption from CFATS.

H.R. 2477 has little chance of advancing in Congress, as leading Democrats have pledged to overhaul and toughen the CFATS program. To that end, the Homeland Security and Energy and Commerce Committees each plan to markup legislation this month, although specific proposals have only been circulated in draft form thus far. These new proposals will continue the drinking water sector's exemption from CFATS, but will also direct EPA to impose new security requirements on water systems. Current plans in the House of Representatives call for wastewater systems to be regulated under CFATS, but Homeland Security Committee Democrats no longer plan to give DHS the power to shut down wastewater systems for noncompliance with the regulations.

Despite plans to mark up legislation in June, Congress is not expected to enact the new security legislation before the current CFATS program expires in October. Therefore, Congress will likely have to approve a short-term extension of the current program – perhaps six months or one year – before the fall.

## WaterSense Legislation Introduced, Added To Cap-and-Trade Bill

Legislation recently introduced in the House of Representatives to formally authorize EPA's WaterSense program and to increase the federal government's water efficiency was added as an amendment to the comprehensive climate change legislation approved by the House

Energy and Commerce Committee last month.

Rep. Rush Holt (D-N.J.) introduced the “Water Advanced Technologies for Efficient Resource Use (WATER) Act” as H.R. 2368. The proposal would authorize \$50 million to support state and local rebate and incentive programs that encourage the early adoption of water efficient products and services. In addition, the bill would authorize WaterSense as a permanent EPA program, expand the scope of products covered under the program and direct the federal government to purchase water efficient products and services – thereby reducing water and energy costs borne by taxpayers.

During the House Energy and Commerce Committee’s consideration of climate change legislation (the “American Clean Energy and Security Act,” H.R. 2454), Rep. Jerry McNerney (D-Calif.) – a cosponsor of the WATER Act – successfully added it to the climate change bill as an amendment. Importantly, the addition will further tie the issue of water efficiency to climate change and potentially build support for efforts to add other water-specific provisions to the climate bill.

## **Obama Administration Supports Legislation To Clarify Clean Water Act Jurisdiction**

House and Senate committee leaders announced May 21 that the Obama Administration supports enactment of legislation to clarify the meaning of “waters of the United States” under the Clean Water Act (CWA).

Top officials from the Council on Environmental Quality, EPA and the Departments of Agriculture and Interior, as well as the Secretary of the Army for Civil Works, wrote to Rep. James Oberstar (D-Minn.), chairman of the House Transportation and Infrastructure Committee, and Sen. Barbara Boxer (D-Calif.), chairman of the Senate and Environment and Public Works Committee, in response to the senators’ requests about the administration’s views on the issue. According to news sources, the letters outline principles for Congress to consider in developing legislation including broadly protecting the nation’s waters, making the definition predictable and manageable, recognizing long-standing practices and promoting consistency between CWA and agricultural wetlands programs.

In a press release, Senator Boxer welcomed the administration’s letters and pledged to work with colleagues to move forward legislation introduced by Sen. Russ Feingold (D-Wis.). Sen. Feingold introduced the Clean Water Restoration Act in April, although to date no hearings on the legislation have been scheduled.

## **EPA To Seek Comment On Reevaluation Of Perchlorate Determination**

EPA has submitted a supplemental request for comment to the Office of Management and Budget (OMB) regarding its preliminary perchlorate regulatory decision. According to OMB’s federal regulatory information website, EPA has reevaluated the scientific data related to perchlorate and has reviewed over 32,000 comments submitted in response to its preliminary determination, published in October 2008. EPA will request comment on the reevaluation of scientific data later this summer and will make a final regulatory decision following the review of comments received on its supplemental notice.

The Obama administration apparently will not pursue the Bush administration's intention, announced in January 2009, to further consult with the National Academy of Sciences (NAS) regarding a reevaluation of the scientific data before making a final regulatory decision on perchlorate. However, information about the NAS reevaluation remains on EPA's website.

## **International Conference On Emerging Contaminants Set For San Francisco**

The International Water Association, Groundwater Resources Association of California and National Water Research Institute will hold the MICROPOL & ECOHAZARD 2009 Conference June 8-10 in San Francisco. The event will profile the latest developments in the detection, risk assessment, treatment and regulation of micropollutants – including pharmaceuticals, ingredients of personal care products, biocides, fluorinated compounds, disinfection byproducts, nanomaterials and industrial additives – in all environmental media.

Conference topics include environmental chemistry; drinking water treatment; wastewater treatment and water reuse; fate, transport and removal in soil and groundwater; toxicity and risk assessment; and regulations and management. More information, including the program agenda, can be found at [www.grac.org/micropol.asp](http://www.grac.org/micropol.asp).

## **This Week In Congress**

Congress returns to Washington this week to begin a four-week stretch of legislative activity that will continue until the Fourth of July holiday. In the House, members will consider legislation to reauthorize the Transportation Security Administration, while the Senate will take up bills authorizing the FDA to regulate tobacco products and eliminate antitrust exemptions for freight railroad firms. In addition, a House-Senate conference committee will convene to develop a compromise agreement on the FY09 supplemental spending bill funding activities in Iraq and Afghanistan.



June 8, 2009

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## EPA Announces Buy American Requirement Waivers For Stimulus Projects

EPA on June 2 published in the *Federal Register* two new nationwide Buy American waivers under the American Recovery and Reinvestment Act of 2009 (ARRA) for stimulus projects. The first waiver is for projects for which bids were solicited on or after October 1, 2008 and prior to the enactment of the ARRA on February 17, 2009 if the bids were solicited in a reasonable anticipation of obtaining funding. The basis for the waiver is to give priority to those projects that are ready to proceed to construction.

The second waiver is for non-domestic *de minimis*, incidental components of stimulus projects consisting of imported iron, steel and manufactured goods.

Visit <http://www.epa.gov/fedrgstr/EPA-WATER/2009/June/Day-02/index.html> to read the Federal Register notices for more information.

## Court Rules Water Transfers Do Not Need NPDES Permits

The 11th Circuit Court of Appeals last week ruled in the latest of the *Miccosukee* cases, *Friends of the Everglades v. South Florida Water Management District et al.* The case involved another water transfer dispute and was the first ruling to address whether transfers constitute “discharges” requiring NPDES permits under the Clean Water Act since EPA’s issuance of its Water Transfer Rule in 2008. The Appeals Court held that the Clean Water Act’s statutory definition of “discharge” is sufficiently ambiguous that EPA’s 2008 regulation clarifying that water transfers are not subject to NPDES regulation is entitled to deference. With that determination, the Court held that NPDES permits were not required. For now, the ruling is binding on lower courts only within the 11th Circuit Court’s jurisdiction (Alabama, Florida and Georgia), but may be relevant in deliberations by other courts, including the Supreme Court. It may also hasten a review of the Water Transfer Rule by the new Administration at EPA. The rule itself remains under attack in other cases now consolidated in the 11th Circuit.

Download the opinion at <http://www.ca11.uscourts.gov/opinions/ops/200810799.pdf>.

## **Committee Advances Climate Service Bill, Adopts AMWA Recommendation**

The House Science and Technology Committee last week approved legislation (H.R. 2407) that would create a new National Climate Service at the National Oceanic and Atmospheric Administration (NOAA). The legislation envisions the climate service providing data and information to regional stakeholders in a manner similar to the existing National Weather Service.

While NOAA would be the lead agency operating the new service, the legislation would require the participation and cooperation of other federal agencies and consultation with local, regional and state stakeholders who would utilize climate information. As passed by the committee, the bill also included language suggested by AMWA that would clarify the need to downscale data to levels usable at a local scale and would direct the climate service to “develop tools to facilitate the use of climate information by local and regional stakeholders” such as water systems.

Science Committee leaders expect to attach the climate service bill to the larger cap-and-trade climate bill (H.R. 2454) that could move through the House as early as this month. That bill currently includes placeholder language allowing for the implementation of a climate service, but it is likely to be replaced by the framework approved by the Science Committee.

## **House Leaders Seek Climate Vote This Month; AMWA Pushes For Adaptation Grants**

House Speaker Nancy Pelosi (D-Calif.) and other leading House Democrats are aiming to pass a comprehensive climate change cap-and-trade bill through the chamber within the next three weeks – an aggressive timeline that seeks to capitalize on the bill’s approval by the Energy and Commerce Committee last month.

Reports from Capitol Hill say that Speaker Pelosi has given other House committees with jurisdiction over portions of the 900-page bill a June 19 deadline to complete their markups of the proposal. That would set the stage for floor consideration the following week – just before Congress leaves Washington for the week-long Fourth-of-July recess.

Approved by the Energy and Commerce Committee last month, the “American Clean Energy and Security Act” (H.R. 2454) would impose a cap-and-trade system on the U.S. economy, requiring large-scale industrial polluters to purchase emissions allowances in exchange for the right to emit greenhouse gas pollutants. Government revenues from the sale of the allowances would be used to fund a variety of objectives – including a portion that would be reserved for states to use in financing climate change adaptation and mitigation projects.

Additionally, AMWA is working with Rep. Lois Capps (D-Calif.) and other water and wastewater organizations to add a water utility-focused climate adaptation grant program to the climate bill. The proposed Water System Adaptation Partnership program would make the nation’s drinking water and wastewater utilities eligible for matching grants from EPA for use in planning, constructing or implementing utility projects aimed at addressing water supply and quality risks related to global climate change. The Energy and Commerce Committee failed to add the proposal to the bill during its markup last month, but Rep. Capps

plans to introduce the measure as a stand-alone bill in the next few weeks to lay the groundwork for its addition to the larger bill during floor consideration.

## **Stakeholder Webinar Scheduled On New SRF Sustainability Policy**

Under President Obama's FY 2010 budget, the Office of Management and Budget has asked EPA to develop a new sustainability policy to be used in assessing loan applications under the Clean Water and Drinking Water State Revolving Funds (SRFs). EPA will conduct a stakeholder session via webinar to provide background information on the process it is using to develop the policy, to outline preliminary ideas for elements and options for the policy and to take input from webinar participants. EPA will use this input, as well as its own internal deliberations, as part of its process to develop the national policy.

The two-hour webinar will be Tuesday, June 30, from noon to 2:00 p.m. (EDT). In announcing the program, EPA said it "is committed to work with state and local partners to develop a sustainability policy including management and pricing for future infrastructure funded through SRFs to encourage conservation and to provide adequate long-term funding for future capital needs."

There is no fee for the webinar, but registration is required by June 22 at <https://www1.gotomeeting.com/register/264502488>. Participants will be able to submit questions and comments during the webinar.

## **Hearing Possible Next Week On Chemical Security Law Reforms**

Rumors circulating on Capitol Hill say that the House Homeland Security Committee may hold a hearing next week on legislation that would overhaul the DHS CFATS chemical security program, in advance of marking up legislation to extend the program that expires this October. As it currently stands, the CFATS bill would apply new security standards to the nation's chemical and wastewater facilities, but continue the exemption for drinking water systems.

Meanwhile, the House Energy and Commerce Committee is continuing work on its own security legislation that would apply specifically to drinking water systems through EPA. Committee staff have indicated that they are aiming to mark up their proposal by July, but no specific timeline has been announced. A hearing on the bill in advance of the markup is also likely but has not yet been scheduled.

## **Ideas Sought For Annual Meeting Program**

AMWA members have the opportunity to give voice to their management interests and concerns as the association plans the program for its 2009 Annual Meeting to be held October 25-29 in Naples, Fla. A survey e-mailed to members on June 3 seeks input from water utility executives on the timely and relevant presentations that can help them address their business challenges, as well as speakers they would like to hear.

Presentations at the Annual Meeting are often case studies delivered by fellow utility executives and/or experts in the field. This fall's meeting will cover GM-focused topics such



as capital financing in a tough market, utility climate change adaptation, improving utility resiliency, green solutions and business strategy, among a variety of others.

Members who did not receive the e-mail and survey are asked to contact Carolyn Peterson at [peterston@amwa.net](mailto:peterston@amwa.net) or 202-331-2820.

## **This Week in Congress**

Bills slated for votes in the House of Representatives this week include proposals to help consumers recycle, provide foreign aid to Pakistan and reauthorize foreign relations activities. In addition, the House will likely consider the conference report of the supplemental spending bill to support activities in Iraq and Afghanistan.

In the Senate, much of the week will be spent on the Iraq and Afghanistan supplemental bill, although a final vote is expected on legislation to allow the Food and Drug Administration to regulate tobacco products.



**JUNE 15, 2009**

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## **House Subcommittee Approves FY10 Water Funds**

The House Interior and Environment Appropriations Subcommittee voted last week to increase EPA's FY10 funding level by nearly \$3 billion to a record \$10.6 billion. Included in this total would be \$3.9 billion for the Drinking Water and Clean Water State Revolving Fund programs, equal to President Obama's budget request.

Under the proposal approved by the subcommittee, the drinking water SRF program would receive \$1.5 billion, while the wastewater program would receive \$2.4 billion. The total of \$3.9 billion is a dramatic increase over the combined \$1.5 billion appropriation the two programs received in 2009. In addition, the bill would allow states to distribute 30 percent of the clean water and drinking water funds – after the first \$1 billion is disbursed – as subsidies rather than conventional loans, a five percent boost in such grants from the levels in the authorizing legislation.

Also seeing an increase through the EPA funding bill are climate change adaptation and scientific research efforts at the agency. The bill includes \$419 million for these programs, \$189 million above their fiscal 2009 level.

### **This Week in Congress**

This is expected to be a busy week in congressional committees, as the House Homeland Security Committee has scheduled both a hearing and markup on legislation to revamp the Department of Homeland Security's CFATS chemical security program. The Committee proposal would continue the drinking water exemption from the program, but would include wastewater systems in the program for the first time.

Additionally, on Thursday the House Appropriations Committee is slated to mark up the FY10 Interior-Environment spending legislation. The bill would increase EPA's funding by 38 percent next year, to nearly \$10.6 billion.

## **Senate Committee Advances Silva Nomination**

The Senate Environment and Public Works Committee last week approved President Obama's nomination of Peter Silva of the Metropolitan Water District of Southern California as EPA's next Assistant Administrator for Water. The Committee held a hearing on Silva's nomination last month. The full Senate will likely vote on his nomination within the next several weeks, and it is expected that he will be easily confirmed.

## **AMWA Utility Financial Information Database Available**

The database developed from AMWA's Utility Financial Information (UFI) survey can now be accessed by member utilities that completed the survey earlier this year. Available in Excel and Access formats, the database can be downloaded by going to the UFI database page on AMWA's website: [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi).

The passcodes required to download the information were sent to participating utilities in a June 11 email from the AMWA National Office. If you did not receive the email, contact Carolyn Peterson at 202-331-2820 or [peterson@amwa.net](mailto:peterson@amwa.net). AMWA is planning to provide training on ways to use the database to develop tailored financial analyses.

## **House And Senate Bills Would Repeal SDWA Hydraulic Fracturing Exemption**

Companion legislation introduced in both the House and Senate last week would repeal a provision made law through the 2005 Energy Policy Act exempting hydraulic fracturing from compliance with the Safe Drinking Water Act (SDWA).

Hydraulic fracturing is a method of natural gas extraction that typically involves injecting tens of thousands of gallons of water mixed with sand and chemical additives deep underground, but which also has the potential to contaminate nearby underground sources of drinking water. The 2005 law exempted oil and gas companies from liability under SDWA for any contamination of drinking water sources that occurs during hydraulic fracturing operations.

Sen. Robert Casey (D-Pa.) introduced the Senate legislation to repeal the exemption (S. 1215, the "Fracturing Responsibility and Awareness of Chemicals Act"), while Rep. Dianna DeGette (D-Colo.) introduced the House version (H.R. 2766). The legislation would also require oil and gas companies to publicly disclose the chemicals used in hydraulic fracturing.

## **Associations Ask House Speaker To Intervene On Potential Security Oversight Split**

AMWA last week joined other leading drinking water and wastewater organizations in asking House Speaker Nancy Pelosi to intervene in a committee jurisdictional dispute that, if not resolved, could place drinking water and wastewater systems under two different federal

security programs.

This week, the House Homeland Security Committee is expected to mark up legislation to overhaul the Department of Homeland Security's CFATS program, which regulates security protections at the nation's chemical facilities. Drinking water and wastewater facilities are each currently exempt from the program, but the committee's bill would end the exemption for wastewater systems – thus subjecting them to DHS regulations.

Meanwhile, the House Energy and Commerce Committee is at work drafting legislation to create new security standards for drinking water facilities that would be overseen by EPA. This setup would pose problems, however, for the operators of joint drinking water and wastewater utilities, which would be forced to comply with DHS security regulations at the wastewater facility and EPA security regulations at the drinking water facility.

Earlier this year, after months of negotiations, the Homeland Security Committee agreed to exempt drinking water systems from its bill, thus opening the door for the Energy and Commerce panel to write its drinking water security proposal. However, thus far the Transportation and Infrastructure Committee (which would have to write a wastewater-specific security bill) has yet to reach a similar agreement with the Homeland Security panel.

In the letter to Speaker Pelosi, AMWA and the other associations asked that she intervene and provide the House Transportation and Infrastructure Committee with a referral on the chemical security bill, so that it could add a title specifically targeted at regulating wastewater systems at EPA under a program similar that proposed for drinking water systems.

A copy of the water sector letter to Speaker Pelosi is available [here](#).

## **RFP Issued For Wetland Program Development Grants**

EPA has released a Request for Proposals for its FY09 National Wetland Program Development Grants program. An estimated \$550,000 will be awarded through the Clean Water Act to support development and implementation of effective, comprehensive programs for wetland protection and management. This year the RFP lists five national priority areas: state/tribal technical and meeting support; regulation; monitoring and assessment; voluntary restoration/protection; and water quality standards for wetlands. Proposals are due by July 15 with decisions expected by the end of the fiscal year. The RFP can be viewed at [www.epa.gov/owow/wetlands/pdf/HQrfp09.pdf](http://www.epa.gov/owow/wetlands/pdf/HQrfp09.pdf).



June 22 ,2009

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## Lawmaker Introduces Water Utility Climate Adaptation Bill

Rep. Lois Capps (D-Calif.) last week introduced the “Water System Adaptation Partnerships Act,” legislation that would offer federal matching grants to drinking water and wastewater utilities that undertake projects to adapt to the impacts of climate change. AMWA worked closely with Rep. Capps and other drinking water, wastewater and environmental groups to develop the bill.

Under the legislation, which has yet to be assigned a formal bill number, water systems could apply for new EPA grants to help cover the cost of adaptation projects that respond to climate change-induced water quality or quantity challenges. Eligible projects would include water conservation or efficiency efforts, source water protection and green infrastructure projects, and the adoption of advanced technologies (such as water reuse and recycling) that maintain or increase available water supplies. Funds could also be spent to reduce indirect greenhouse gas emissions and analyses of future water resource challenges.

### This Week In Congress

This week House leaders hope to pass two more FY10 appropriations bills – those funding the Departments of Homeland Security and Interior. The Interior bill also will include FY10 funding for EPA. However, still undecided as of Friday afternoon was whether the House would consider H.R. 2454 – comprehensive climate change cap-and-trade legislation drafted by Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.). As of late last week the Democrats were still trying to gather enough votes to ensure that the proposal would pass if brought to the floor.

## **AMWA's 2009 Annual Meeting Targets Members' Management Issues**

As in years past, AMWA's utility executive members are guiding development of an exceptional program for the 2009 Annual Meeting, to be held October 25-28 in Naples, Fla. Strong response to a recent survey of management interests and concerns provided clear direction for development of an agenda that will include topics such as energy and climate change adaptation, utility leadership development programs, regionalization, long range financial planning, bond market developments and innovative ways to address revenue impacts in a poor economy.

These are just a sample of the program ideas AMWA is pursuing. The meeting will also recognize utility excellence and service in ceremonies for the 2009 Gold Awards for Exceptional Utility Performance, Platinum Awards for Utility Excellence, President's Award and Donald R. Boyd Award. Receptions, luncheons and other special events will offer unparalleled networking opportunities with water industry colleagues in the beautiful setting of the Ritz-Carlton, Naples on Florida's Paradise Coast.

Mark your calendar and plan to attend AMWA's 2009 Annual Meeting. Online registration will be available soon.

## **Homeland Security Committee Moves Toward Approval Of CFATS Overhaul**

Democratic leaders of the House Homeland Security Committee last week introduced legislation to revise and make permanent the Department of Homeland Security's CFATS chemical security program. The committee began to markup the bill on Thursday, and hopes to complete their consideration of the proposal this week.

As introduced, the "Chemical Facility Antiterrorism Act" (H.R. 2868) would direct DHS to assign any facility in the United States that holds a threshold quantity of certain chemicals to a risk-based tier and require those facilities to complete and periodically update vulnerability assessments and site security plans. Chemical facilities would have to review possible "inherently safer technologies" (IST) measures, and DHS would have the power to force a facility in either of the top two risk tiers to implement IST. H.R. 2868 would include wastewater treatment facilities within the CFATS program, although drinking water utilities would continue to be exempt from CFATS but subject to a new EPA-based chemical security program under legislation that is currently being drafted by the Energy and Commerce Committee. Information on the Energy Committee's proposal is available in [AMWA Bulletin 09-05](#).

Meanwhile, committee Republicans attacked the legislation as an unnecessary interference with the still-evolving CFATS program and pointed out that the Obama Administration supports extending the current rules for one year past their scheduled October 2009 expiration to allow Congress ample time to craft new permanent standards. The one-year extension will likely be granted, as it is included in the FY10 DHS spending bill.

## **T&I Bill Would Exempt Wastewater From CFATS, Require VA and SSP Submission**

Leading Democrats on the House Transportation and Infrastructure Committee (T&I) last week introduced legislation that would continue the wastewater facility exemption from the DHS CFATS program – matching the exemption that is expected to continue for drinking water systems. Additionally, like security legislation being drafted for drinking water plants, the T&I bill would require wastewater facilities to submit to EPA and periodically update vulnerability assessments and site security plans.

As introduced by Rep. Eddie Bernice Johnson (D-Tex.), the “Wastewater Treatment Works Security Act” (H.R. 2883) would address water sector concerns that current legislation in the other committees would subject wastewater systems to DHS security rules while placing drinking water facilities under different EPA security regulations. The bill is silent on mandates for the consideration and use of “inherently safer technologies,” but should it move forward, some observers expect that it will be amended to impose similar IST review rules as would be placed on drinking water facilities under the Energy and Commerce Committee’s draft bill.

## **DHS Announces FY09 Preparedness Grants**

Last Tuesday, DHS announced nearly \$1.8 billion in FY09 FEMA preparedness grants, which provide communities direct support for regional preparedness, urban security and medical response efforts. Two specific programs of particular interest to AMWA members are the Urban Areas Security Initiative (UASI) and the Regional Catastrophic Preparedness Grant Program (RCPGP).

The UASI is designed to enhance urban preparedness capabilities in 62 high-threat, high-density areas. The seven highest risk areas (Tier 1) were allocated approximately \$439 million, or 55 percent of available funds, while the remaining areas (Tier 2) will receive the remaining \$359 million. The RCPGP received \$34 million in FY09 funding to enhance catastrophic incident preparedness in selected high-risk urban areas and support technical assistance. In addition, RCPGP funds coordination of regional planning for catastrophic events.

Further information on FY09 preparedness grants can be found at [www.fema.gov/grants](http://www.fema.gov/grants).

## **Sewer Overflow Reporting Bill Wins Committee Passage**

The Senate Environment and Public Works Committee last week approved S. 937 (the “Sewer Overflow Community Right-to-Know Act”), which would require treatment works to more effectively monitor sewage overflows and provide warnings to people whose water may be contaminated as a result. In particular, the bill would require POTWs to “immediately” notify nearby public water systems when an overflow occurs that could “imminently and substantially endanger human health.” POTWs would also be required to annually report to EPA data on the overflows that their utility has experienced. Similar legislation has already passed the House this year as part of that chamber’s Clean Water State Revolving Fund reauthorization bill.

## Senate Committee Approves Bill Redefining CWA Scope

A sharply divided Senate Environment and Public Works Committee last week approved legislation that would redefine the scope of federal power under the Clean Water Act, in response to Supreme Court decisions that the bill's supporters say weakened the law's ability to protect wetlands. The "Clean Water Restoration Act" (S. 787) passed the committee on a 12-7 vote split along partisan lines.

The version approved by the committee included an amendment by Sen. Max Baucus (D-Mont.) that he said would restore the 2001 scope of the Clean Water Act, before the Supreme Court's SWANCC decision began to narrow its scope. However, committee Republicans strongly objected because the proposal would grant federal CWA protections to the "waters of the United States," which they argue is a much broader term than the current "navigable waters" to which the act applies. Much of the Republican opposition at the markup was fueled by fears that the broader definition would subject farmers and rural communities to increased federal oversight. Sen. Mike Crapo (R-Idaho) has pledged to place a "hold" on the bill, which will halt further progress, at least temporarily.

## New Report Projects Climate Change Impacts

A new report by the U.S. Global Change Research Program (USGCRP) outlines the projected impacts of climate change in different regions of the United States and on various sectors of society – including a detailed discussion of the expected impacts on water resources. The report, *Global Climate Change Impacts in the United States*, is a synthesis of scientific studies about climate change impacts on the U.S. through 2088, including USGCRP's 21 Synthesis and Assessment Products (SAPs). The report is available on the updated USGCRP website accessible from a link at AMWA's Climate Change webpage: <http://www.amwa.net/cs/climatechange>.

## Climate Research Included In House-Passed FY10 Science Spending Bill

The House of Representatives last week approved H.R. 2847, the FY10 Commerce, Justice, Science, and Related Agencies Appropriations Act, which includes funding for NOAA and other federal scientific research agencies. The bill contained \$2 billion (\$120 million above 2009 levels) to study global climate change. Included in this funding is nearly \$400 million for NOAA to enhance climate change research and regional assessments; climate data records, data access and archiving requirements; and climate change educational programs. It would also fund \$310 million in climate change research, modeling and education at the National Science Foundation, as well as \$25 million for green building initiatives at the Economic Development Administration.

## Register By June 22 For Stakeholder Webinar On SRF Sustainability Policy

Today is the last day to register for EPA's June 30 webinar on the new SRF Sustainability Policy that the agency is developing for the Office of Management and Budget, as required under the Administration's FY 2010 budget. The two-hour session, scheduled from noon to 2:00 p.m. (EDT), will offer stakeholders the opportunity to learn about and comment on



EPA's efforts to develop a new sustainability policy to be used in assessing loan applications under the Clean Water and Drinking Water State Revolving Funds. There is no fee for the webinar, but registration is required: <https://www1.gotomeeting.com/register/264502488>.

## **Webinars On June 24 And July 1 Highlight Simultaneous Compliance, Clean Water Act**

EPA's Office of Ground Water and Drinking Water is hosting a free webinar entitled *Simultaneous Compliance Issues for Groundwater Systems* this Wednesday, June 24, from 1:00 to 3:00 p.m. Eastern time. Register at <https://www2.gotomeeting.com/register/366323331>.

EPA's Watershed Academy is sponsoring a free webcast about the Clean Water Act on Wednesday, July 1, 2009 from 1:00 to 3:00 p.m. Eastern time. The webcast is the first in a series and will provide an introduction to the CWA, including a brief history of the Act, an explanation of technology vs. water quality-based approaches and a brief overview of key components of the Act and related EPA regulations. To register, go to <http://epa.gov/watershedwebcasts>.



June 29, 2009

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## House Approves One-Year CFATS Extension, Rebuffs IST Amendment

The FY10 Department of Homeland Security Appropriations bill (H.R. 2892) approved by the House last week includes a one-year extension of the Chemical Facility Anti-Terrorism Standards (CFATS) program and the exemption of drinking water and wastewater systems from the regulations.

Although the House Homeland Security Committee approved separate legislation (H.R. 2868) earlier last week that would make significant changes to CFATS, President Obama has asked Congress to temporarily extend the current program to ensure it does not expire as scheduled in October. The one-year extension in the DHS funding bill, therefore, is intended to buy more time for Congress to consider H.R. 2868, as well as a separate EPA-based program that will oversee security at drinking water systems.

Meanwhile, prior to consideration of the DHS spending bill, the House Rules Committee rejected an amendment proposed by Rep. Charlie Dent (R-Penn.) that would have barred the use of DHS funds to mandate the implementation of “inherently safer technology” (IST) at chemical facilities covered under the program. H.R. 2868 as approved by the Homeland Security Committee would allow DHS to force chemical facilities to adopt IST, so the Rules Committee’s rejection of the Dent amendment suggests that House leaders will continue to firmly oppose efforts to strike the IST language from any chemical facility security legislation that reaches the floor.

## Water System Adaptation Amendment Blocked By Rules Committee

An amendment that would have created a grant program to help drinking water and wastewater systems fund projects to adapt to the impacts of climate change was not attached to the comprehensive climate change legislation (H.R. 2454, the “American Clean Energy and Security Act”) considered by the House last week after the Rules Committee failed to allow for its consideration on the House floor.

The amendment, offered by Rep. Lois Capps (D-Calif.) and based on her recently introduced “Water System Adaptation Partnerships Act” (H.R. 2969), was backed by AMWA and other drinking water, wastewater and environmental organizations. Under the proposal, drinking water, wastewater and stormwater agencies would compete for EPA funding to implement projects to adapt their operations to the impacts of climate change. Eligible uses of funds would range from water conservation and efficiency improvements to the adoption of new

treatment methods that respond to water quality denigration.

The Capps amendment was one of more than 200 proposed changes to the comprehensive House bill. However, the Rules Committee allowed just one of these amendments to be debated individually on the House floor. Energy and Commerce Committee staff indicated to AMWA that they wanted to more closely examine the Capps proposal before endorsing its inclusion in the bill.

Despite this setback, AMWA and other water sector groups intend to present the amendment language to members of the U.S. Senate for inclusion in their climate change legislation when it is written later this summer.

## This Week in Congress

The House and Senate are out of session this week as members observe the Independence Day recess. Congress will be back in session on July 6.

## Waxman Pushes House To Approve Cap-and-Trade Legislation

Democratic leaders in the House late last week were pushing to pass H.R. 2454, legislation that would create a greenhouse gas emissions cap-and-trade program. A final vote on the measure was expected to occur late Friday afternoon.

While drinking water and wastewater utility plants would not be directly subject to emissions limits, the bill could impact the water sector in a number of ways. For example, the bill would promote the adoption of carbon capture and storage technology, and amend the Safe Drinking Water Act (SDWA) to direct the EPA Administrator to promulgate regulations for the development, operation and closure of carbon sequestration wells. Regulations to protect human health and water quality from the impacts of carbon stored underground would be left to EPA rulemaking. Additionally, a study would be mandated to determine what entities would be liable to damage caused by underground carbon reservoirs.

Other sections of the bill would formally authorize EPA's WaterSense program and direct the agency to promote WaterSense-labeled products. The bill also incorporates National Climate Service (NCS) legislation approved by the House Science and Technology Committee earlier this year (H.R. 2407). The NCS would coordinate the nation's climate change research and interact with local stakeholders on their research needs. The section also includes language suggested by AMWA that would direct NCS to develop tools to make its raw climate data usable to local end-users.

Finally, at the outset of the cap-and-trade program, the bill would set aside about one percent of carbon allowance revenues to be divided among states to support climate change adaptation projects. States would be free to choose what types of projects receive funds, although the distribution of funding would have to be consistent with climate adaptation plans completed by each state.

A detailed Congressional Research Service report summarizing the provisions of the entire “American Clean Energy and Security Act” is available on AMWA’s [Legislative Information](#) webpage.

## **House Passes FY10 EPA Spending Bill; Senate Committee Approves Trimmed Version**

The FY10 Interior-Environment appropriations bill advanced on two fronts in Congress last week, winning passage in the House of Representatives and approval of the Senate Appropriations Committee.

As approved by the House, the bill (H.R. 2996) would include \$1.5 billion for the Drinking Water State Revolving Fund, while the wastewater SRF would receive \$2.4 billion. The total of \$3.9 billion is a dramatic increase over the combined \$1.5 billion appropriation the two programs received in 2009. Additionally, the bill includes \$160 million for water and sewer earmarks, ignoring President Obama’s request to eliminate targeted water infrastructure assistance.

The non-binding committee report accompanying the House legislation also directs EPA to expand the agency’s endocrine disruptor screening program and to publish a list of at least 100 chemicals that will be screened, including those found in pharmaceuticals and personal care products. The committee directed EPA to reserve at least \$11,422,000 for the endocrine disruptor research.

Meanwhile, the Senate Appropriations Committee last week approved a version of the FY10 EPA spending bill that would be slightly less generous to the SRF programs, though still representing a significant increase in spending. Under the Senate proposal, the Drinking Water SRF would receive \$1.39 billion (\$558 above the regular 2009 appropriation level) and the Clean Water SRF would be allotted \$2.1 billion (a \$1.4 billion increase over 2009). The bill also includes \$150 million worth of water and sewer earmarks.

Overall, the Senate proposal would fund EPA at \$10.19 billion, which represents a 33 percent increase over the agency’s pre-stimulus 2009 funding level.

## **Sign Up For Water Sector Cyber Security Workshops**

In response to ever-evolving cyber threats to industrial control systems, the Water Sector Coordinating Council (WSCC) is hosting a series of workshops designed specifically to improve the knowledge, skills and abilities of U.S. based utility employees who are responsible for control system security. The Department of Homeland Security’s Control Systems Security Program will present the workshop training and discuss security products that are available for use by water sector asset owners and operators.

Workshops are currently scheduled for Chicago (October 15), San Antonio (October 26) and Holliston/Boston (November 3). AMWA encourages members to take advantage of this unique opportunity. For further information, [click here](#).



July 6, 2009

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## Senate Homeland Security Committee Eyes Water Inclusion In CFAT

Reports from Capitol Hill last week said that the Senate Homeland Security and Government Affairs Committee is unlikely to approve its own version of legislation to reauthorize the Department of Homeland Security's CFATS chemical security program before the end of the year, but that committee chairman Joseph Lieberman (ID-Conn.) believes that drinking water and wastewater facilities should be regulated by the program.

The House Homeland Security Committee recently reported a CFATS reauthorization bill (H.R. 2868) that would cover all chemical facilities, except drinking water systems, which would be covered by legislation that the Energy and Commerce Committee intends to introduce this month.

According to the reports, Sen. Lieberman supports including drinking water and wastewater facilities within the CFATS framework in order to ensure that the same DHS standards are applied to all facilities that hold dangerous chemicals. Additionally, he supports the inclusion of "inherently safer technology" mandates within the CFATS legislation, but also supports extending the current CFATS program (and the existing exemption for drinking water and wastewater facilities) for one year to give Congress more time to formulate permanent legislation.

The Senate Environment and Public Works Committee, which has oversight over drinking water and wastewater systems, is expected to push for the security of those facilities to be regulated through an EPA program rather than one at DHS, though the committee has not yet started to draft legislation.

### This Week in Congress

Returning from the Independence Day break, members of the House and Senate this week are preparing for a busy month of legislating that will lead up to the next recess in August.

This week the Senate Environment and Public Works Committee will begin the process of developing comprehensive climate change legislation with a Tuesday hearing featuring EPA Administrator Lisa Jackson. In the coming weeks, Congress will focus its attention on healthcare

reform, the Supreme Court nomination of Sonia Sotomayor and passing the 12 fiscal year 2010 appropriations bills. Additionally, the House Energy and Commerce Committee is expected to markup its legislation to revise chemical security standards at the nation's drinking water utilities.

title

## Register Today For AMWA's Fall 2009 Annual Meeting

AMWA's fall meeting – October 25-28 in Naples, Fla. – will be packed with case studies, presentations, workshops and panel discussions on topical utility management subjects recommended by our members.

Planning for a Sustainable Future is the theme of this year's meeting, and it will take into account the economic realities of the times. The meeting also will be the ideal venue for utility managers to network, share knowledge and, of course, catch up with each other without the crowds found at other conferences.

Here are a handful of presentations in the works for the meeting:

- Effective Utility Management: From Principles to Practice
- Building Your Long-Range Financial Plan
- Turmoil in the Capital Markets: An Update
- What's Your Business Continuity Plan?
- Crisis as Opportunity: Using Climate Change to Reach Other Goals (and Vice-Versa)
- Diversifying Your Supply Portfolio: A Panel Discussion
- Twitter, Facebook and YouTube: Reaching Your Customers through Social Media

Make plans now to attend AMWA's Annual Meeting and take advantage of the opportunity to learn from colleagues about their experiences in planning in unpredictable times. A spouse/guest program is also being arranged.

Go to [www.amwa.net/cs/2009AM](http://www.amwa.net/cs/2009AM) for more information and to register.

## GAO Report Shows Opposition To Water Tax for Infrastructure Improvements

A long-awaited Government Accountability Office (GAO) report on potential funding mechanisms for a clean water trust fund highlighted significant opposition to the use of a "water tax" among several dozen water, wastewater and environmental organizations that provided input to the report. A copy of the report is available [here](#).

The GAO report, which was formulated in response to a request by several members of Congress for information on possible trust fund funding mechanisms, took no formal position on the implementation of a water trust fund and made no endorsement of particular funding options. Instead, the report found a combination of excise taxes on bottled beverages, fertilizers and pesticides, flushable products, pharmaceuticals and water appliances could generate about \$10 billion annually to provide a dedicated source of money for a trust fund.

In addition to these options, the report estimated that a water tax of 0.01 cent per gallon could generate \$1.3 billion annually, but noted that the implementation of such a federal tax would be difficult, as it would require coordination with thousands of local water and wastewater utilities across the country that follow many different billing patterns. Several respondents to GAO's request for comments also noted that a water tax would infringe on the ability of local utilities to set appropriate local rates and could shift infrastructure funds from well-managed utilities to others that are less so. Overall, 11 of the 21 stakeholder associations that responded to the water tax question opposed the implementation of a tax.

Rep. Earl Blumenauer (D-Ore.), one of the members of Congress who requested the GAO study, plans to circulate a draft of a drinking water and wastewater infrastructure trust fund bill as early as this week. Rep. Blumenauer has previously stated that a water tax will not be among the funding options his proposal utilizes to fund the program. He is expected to testify at a July 15 Transportation and Infrastructure Committee hearing on the trust fund concept.

## **USGS Releases Study On Water Quality In Carbonate Aquifers**

A study recently released by the U.S. Geological Survey (USGS) National Water Quality Assessment Program examined water quality in 12 carbonate aquifers across the country. According to USGS, carbonate aquifers provide about 22 percent of the groundwater used for drinking water supply nationally. More than 1,000 wells and springs were sampled for contaminants including nutrients, radon, pesticides and volatile organic compounds. With the exception of nitrate, these contaminants were generally detected at concentrations below human health benchmarks (MCLs and USGS health-based screening levels for unregulated compounds). Additional information about the study, including the report, is online at <http://water.usgs.gov/nawqa/pubs/carbonate/>.

## **Final Ground Water Rule Guidance Manuals Posted**

EPA recently posted its final two guidance manuals on the Ground Water Rule: GWR Triggered and Representative Source Water Monitoring Guidance and Ground Water Rule Implementation Guidance. The documents are available at [www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html](http://www.epa.gov/ogwdw/disinfection/gwr/compliancehelp.html).

## **CEQ Plans Government-Wide Update Of Guidelines For Water Resources Development**

A July 1 *Federal Register* notice (74 FR 31415) announced that the White House Council on Environmental Quality (CEQ) is considering developing “uniform planning standards for the development of water resources” that would apply across all government agencies. Currently the 1983 document entitled “*Economic and Environmental Principles and Guidelines for Water and related Land Resources Implementation Studies*” should be revised per Section 2031 of the Water Resources and Development Act of 2007. CEQ is soliciting suggestions for revising the *Principles and Guidelines* until July 17, 2009. CEQ will also accept comment during a July 13 webcast, from 1:00 to 3:30 p.m. EDT. For additional information, consult the *Federal Register* notice at <http://edocket.access.gpo.gov/2009/E9-15517.htm>.





July 13, 2009

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## EPA's Reanalysis Of Perchlorate Data To Show New Methodology, New Numbers

EPA is expected to publish its reevaluation of the scientific data on perchlorate in the coming weeks, as the Office of Management and Budget is reported to have completed its review of the agency's reanalysis of the science on the drinking water contaminant. The reanalysis is said to include newly calculated drinking water ingestion rates and health reference levels in the lower single digits (as low as one ppb) using an alternative methodology. AMWA is poised to develop comments on the notice with the assistance of AMWA's Regulatory Committee when the reevaluation is published in the *Federal Register*.

## Nominations Sought For NDWAC Working Group On Climate Change

EPA is seeking nominations for the newly formed Climate Ready Water Utilities Working Group of the National Drinking Water Advisory Council (NDWAC). The workgroup will be charged with evaluating the concept of "climate ready utilities" and providing recommendations to the NDWAC about how utilities can develop climate change mitigation and adaptation strategies. Nominations are being received by EPA through August 7. Any AMWA member or Climate Change Committee member interested in being considered for nomination by AMWA to the group should contact Erica Brown ([brown@amwa.net](mailto:brown@amwa.net)) by July 31. Please provide the relevant information required for nomination per the *Federal Register* notice: [www.epa.gov/fedrgstr/EPA-WATER/2009/July/Day-08/w16006.htm](http://www.epa.gov/fedrgstr/EPA-WATER/2009/July/Day-08/w16006.htm).

## This Week In Congress

The House this week will continue to work through a series of FY10 spending bills, with the Energy and Water bill (which includes funding for the U.S. Army Corps of Engineers and the Bureau of Reclamation) and Financial Services appropriations bill due for votes. In the upper chamber, senators hope to complete work on the Defense Authorization bill this week

## **Blumenauer To Introduce Water Trust Fund Bill This Week**

Rep. Earl Blumenauer (D-Ore.) plans this week to introduce the “Water Protection and Reinvestment Act,” legislation to establish a trust fund to help finance future water infrastructure improvements. A draft and summary of the legislation is available on AMWA’s [Legislative Information](#) webpage.

Rep. Blumenauer’s water trust fund would be financed by a combination of new corporate-level fees and taxes on bottled beverages, items disposed of in wastewater, fertilizers, pharmaceuticals and corporate income, which he estimates could generate \$10 billion per year. He has pledged to not seek the imposition of a water tax or use fee to finance the fund. Each year’s trust fund proceeds would be distributed to the Drinking Water and Clean Water State Revolving Funds and to new federal programs promoting green infrastructure, water system security, and climate change adaptation and mitigation.

While the proposal would route trust fund dollars through the existing SRF programs for distribution to individual utilities, the legislation would give priority for at least one-third of the drinking water portion of trust fund dollars to infrastructure projects at metropolitan utilities serving more than 100,000 people. This provision is intended to respond to concerns among many large utilities that state SRF programs fail to make sufficient funding available to urban water systems.

## **Draft Security Bill Maintains Criminal Penalties, Narrows Union Role**

The House Energy and Commerce Committee last week released a revised discussion draft of the “Drinking Water System Security Act,” legislation that would revise the EPA-run security standards that apply to the nation’s drinking water systems. Committee leaders hope to formally introduce the bill and report it out of the committee before the end of the month.

This latest version reflects the input of AMWA and its member utilities in several areas. For example:

- Consistent with previous drafts, the bill would not allow EPA or any other federal agency to broadly direct the nation’s drinking water systems to change their disinfectant chemicals. Instead, only SDWA primacy state agencies would have an opportunity to review a utility’s decision on the implementation of alternate treatment chemicals;
- The federal government would not be able to shut down a drinking water system for noncompliance with federal security rules;
- Criminal penalties that currently may be imposed against individuals who unlawfully release a utility’s vulnerability assessment would be maintained;
- The ability of union officials to access portions of sensitive utility information, such as vulnerability assessments, was significantly weakened, compared to previous drafts and legislation applying to chemical facilities that was approved last month by the Homeland Security Committee; and
- Utility vulnerability assessments and site security plans would be exempt from the Freedom of Information Act and similar state or local disclosure laws.

One remaining question is how the security of wastewater utilities would be regulated. Wastewater organizations are working with the House Transportation and Infrastructure Committee to promote legislation that would place those utilities under an EPA-based security program similar to what AMWA has negotiated for drinking water systems. The latest draft of the drinking water security bill, and a summary distributed by the Energy and Commerce Committee, is available on AMWA's [Legislative Information](#) webpage.

## **House And Senate Committees Approve Energy And Water Spending Bills**

The House and Senate Appropriations Committees last week each approved their own versions of the FY10 Energy and Water Appropriations bill, which includes funding for the Bureau of Reclamation and the U.S. Army Corps of Engineers. The House bill includes a total of \$5.5 billion for the Army Corps, \$139 million above its 2009 funding level. Additionally, the Bureau of Reclamation would receive \$1 billion for its dam, canal and rural water projects.

The Senate Appropriations Committee approved similar allocations, with the Army Corps getting \$5.4 billion and the Bureau of Reclamation receiving \$1.131 billion. The full House is scheduled to vote on the spending bill this week, but no timetable has been set for Senate consideration of its version.

## **EPA Administrator Admonishes Staff To Better Inform The Public, Increase CWA Enforcement**

EPA Administrator Jackson last week announced an initiative to improve public access to Clean Water Act (CWA) compliance data and to make a stronger effort to enforce clean water regulations. "Despite the successes we have achieved over the years, water in the United States is not meeting public health and environmental goals," Jackson noted. "Too many of our streams, lakes and rivers do not meet our water quality standards."

Jackson directed EPA to present CWA compliance records to the public in a user-friendly format and to include not only raw data, but also analysis to help the public understand the data. She also wrote that the agency needs to raise the bar for clean water enforcement performance and "ensure enforcement is taken against serious violations that threaten water quality." The memo is available at

[www.epa.gov/compliance/data/results/performance/cwa/jackson-ltr-cwa-enf.html](http://www.epa.gov/compliance/data/results/performance/cwa/jackson-ltr-cwa-enf.html).

## **Boxer Slows Schedule For Cap-and-Trade Markup**

Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) last week revised her committee's schedule for considering cap-and-trade climate change legislation, announcing that the panel would not mark up such a bill until September. Sen. Boxer told reporters that the new timetable was appropriate because the Senate will spend this month focusing on health care reform legislation, but the delay may also indicate the challenge Senate leaders will face in drafting a comprehensive climate bill that is able to garner the necessary 60 votes in the chamber.

Meanwhile, AMWA wrote to Sen. Boxer and asked that she include an adaptation program for drinking water and wastewater utilities within her climate bill draft. AMWA suggested

that she incorporate the “Water System Adaptation Partnerships Act” that was introduced in the House by Rep. Lois Capps last month, but left off of the final House climate change bill. A copy of the letter is available on AMWA’s [Legislative Information](#) webpage.

## **Preliminary UCMR 2 Data Published On EPA Website**

EPA has published on its website a summary of occurrence data obtained during monitoring under the second Unregulated Contaminant Monitoring Rule (UCMR2). The website, [www.epa.gov/safewater/ucmr/data.html](http://www.epa.gov/safewater/ucmr/data.html), includes a data summary as well as text files with the results from individual utilities. According to the summary, nitrosamines were the contaminants most frequently detected, with NDMA, NDEA, NDBA, NMEA and NPYR detected at utilities above method reporting levels. NDMA was detected most frequently – 142 utilities detected NDMA at levels ranging from 0.002 ug/L to 0.630 ug/L. Other contaminants detected were RDX, Alachlor ESA and Metolachlor OA. EPA notes in the summary that the data set is not complete because UCMR2 data monitoring will continue through December 2010, and the data reported may be subject to additional corrections following further review.



July 20, 2009

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## Water Facility Security Bill To Be Introduced; Hearing This Week

House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) this week plans to formally introduce his “Drinking Water System Security Act,” which would update the facility security requirements placed on drinking water utilities under Section 1433 of the Safe Drinking Water Act. The legislation is expected to be the subject of a Thursday hearing in the committee, but at this point it is unclear whether lawmakers will attempt to mark up the proposal before the August recess.

AMWA has spent the past several months working with Rep. Waxman’s staff to remove provisions in previous drafts of the bill that would have allowed the federal government to broadly impose “inherently safer technology” mandates and would have weakened current criminal penalties for the unlawful sharing of sensitive water utility security information. More information about the content of the bill can be found in last week’s *Monday Morning Briefing* and on AMWA’s Legislative Information webpage.

## Lawmaker Reintroduces Bill Directing EPA To Regulate Perchlorate

Rep. Jackie Speier (D-Calif.) last week introduced the “Safe Drinking Water for Healthy Communities Act” (H.R. 3206), legislation that would require EPA to set a national drinking water regulation for perchlorate. The bill is nearly identical to perchlorate legislation introduced in the House in 2007, sponsored by Rep. Hilda Solis, who has since left Congress to become the Secretary of Labor.

H.R. 3206 would require EPA to publish a proposed perchlorate Maximum Contaminant Level (MCL) within 12 months of the bill’s enactment. Then, EPA would be required to set a final MCL for perchlorate after another 18 months and after providing notice and opportunity for public comment.

The bill has been referred to the Energy and Commerce Committee, but Rep. Speier does not sit on that panel. At this point it is unclear whether the committee intends to act on the bill or wait to see if EPA acts on its own to establish perchlorate regulations.

## This Week in Congress

Two FY10 appropriations bills are scheduled for floor action in the House this week: the Labor-HHS and Transportation-HUD funding bills. In addition, the House will consider legislation to give the Food and Drug Administration greater power to recall unsafe food.

Meanwhile, the Senate will continue work on the FY10 defense authorization bill, and Senate leaders are aiming to have a healthcare reform bill on the floor as early as next week

## Silva Confirmed To Head EPA Water Office

The Senate confirmed Peter Silva as EPA assistant administrator for water on July 10. A civil engineer and most recently senior policy adviser for the Metropolitan Water District of Southern California, Silva will be responsible for EPA programs and regulations under the Clean Water Act and Safe Drinking Water Act. The vote on Silva's nomination was held up briefly by Sen. Robert Byrd (D-W.Va.), who raised questions about EPA's permitting for the disposal of debris from mountain-top mining, which can contaminate streams. Byrd's office said the senator was satisfied with Silva's answers on the issue.

## Committee Hears Testimony On Water Infrastructure Bill

Rep. Earl Blumenauer (D-Ore.) last week introduced the "Water Protection and Reinvestment Act" (H.R. 3202), legislation to establish a trust fund to help finance future water infrastructure improvements and to provide priority for funding to metropolitan drinking water systems.

At a Transportation and Infrastructure subcommittee hearing on the bill last week, Rep. Blumenauer testified that local communities across the country are doing all they can to maintain aging water infrastructure but need additional federal assistance to close the \$300-\$500 billion funding gap that is expected over the next several decades. The National Association of Clean Water Agencies also testified in support of the bill, noting that the legislation would help communities avoid double-digit rate increases that are sometimes necessary to cover infrastructure improvement costs.

Also testifying was Chips Barry of Denver Water, on behalf of the American Water Works Association (AWWA). He expressed neither support nor opposition to the legislation, but argued that maintenance of aging water infrastructure is a local responsibility that should be addressed primarily through local funding decisions rather than reliance on the federal government. Barry also noted AWWA's skepticism on the trust fund approach and instead said that increased federal water infrastructure assistance could be generated through an infrastructure bank.

AMWA sent a letter to Rep. Blumenauer (available on the association's [Legislative Information webpage](#)) applauding portions of the legislation that provide priority for

infrastructure funding for metropolitan utilities that serve more than 100,000 people and for new grant programs offering assistance for security upgrades, climate change adaptation and pharmaceutical take-back efforts. However, AMWA took no position on the efficacy of a trust fund versus other methods of raising revenue to fund infrastructure improvements.

## **NIAC Report Examines Impact Of Loss Of Infrastructure Services**

The latest report of the National Infrastructure Advisory Council (NIAC), *Frameworks for Dealing with Disasters and Related Interdependencies*, looks at the federal response to a disaster resulting in a loss of infrastructure services over a region for weeks or months. The NIAC, a Department of Homeland Security advisory panel of private- and public-sector leaders, said that laws governing the federal response should be clearer about aid to private-sector companies, which own an estimated 85 percent of the nation's critical infrastructure.

The council recommended that the government make a list of laws and regulations that might have to be suspended or modified in an emergency, develop and distribute recommendations for certifying private critical-infrastructure employees for work in disasters areas, prioritize water services during recovery efforts and include private critical infrastructure owners and operators in disaster-response exercises.

More information on the report will be included in the July-August issue of AMWA's *Water Security Scan*.

## **NOAA Website Provides Resources, Forum For Coastal Climate Change Adaptation**

A new NOAA [website](#) provides a forum for the exchange of information about coastal climate adaptation as well as resources for state and local officials to use to make plans to adapt to climate change impacts. Resources available include handbooks and guides from international governments and organizations as well as a link to NOAA's Risk and Vulnerability Assessment Tool. The forum webpage requires users to register in order to post information to share online.

## **USGS Releases Reports On Nutrients In Streams, Water Quality In High Plains Aquifer**

The U.S. Geological Survey (USGS) released two reports last week focusing on water quality. The first, *Nutrient Trends in Streams and Rivers of the United States, 1993-2003*, describes a study conducted under the National Water Quality Assessment Program. The report examines flow-adjusted and non-flow-adjusted trends and trends in load of total phosphorus, total nitrogen and nitrate. In addition, the USGS [website](#) provides maps depicting these trends nationally as well as assessments of these trends in four major river basins.

In a press release about the second report, [Water Quality in the High Plains Aquifer, Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming, 1999-2004](#), USGS said that the water quality in the High Plains (or Ogallala) aquifer is generally acceptable for current uses. However, the study notes that because the aquifer is used heavily for irrigation and public supply, this use is resulting in long-term gradual

increases in contaminants such as nitrate and dissolved solids as the water table is drawn down.





July 27, 2009

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## Waxman Introduces Water Security Bill; Health Care Debate Delays Hearing

After several months of work, House Energy and Commerce Committee Chairman Henry Waxman (D-Calif.) last week introduced the “Drinking Water System Security Act” (H.R. 3258), which would update the EPA-based facility security program that currently applies to drinking water systems.

Under H.R. 3258, drinking water systems would be required to update vulnerability assessments and emergency response plans at least every five years. Systems that use certain hazardous chemicals such as gaseous chlorine would have to look at possible alternatives, but the federal government would not have the power to broadly force local water systems to change disinfection processes. Instead, only SDWA primacy state enforcement agencies could directly review utility decisions. Other sections of the bill would direct EPA to establish standards for how sensitive information such as vulnerability assessments may be shared but would maintain the current criminal penalties that apply to individuals who unlawfully distribute sensitive information.

However, progress on the measure slowed last week when a planned subcommittee hearing was delayed due to the ongoing health care reform negotiations in the House. Energy and Commerce staffers told AMWA that there is an outside chance that the water security hearing could take place this week, but a more likely scenario is that it will not occur until September after Congress returns from its August recess.

H.R. 3258 and additional background information are available on AMWA’s [Legislative Information webpage](#).

## This Week In Congress

In this last week of House activity before the month-long August recess, leaders hope to pass the FY10 Defense Appropriations bill – the last of the 12 FY10 spending bills that need to clear the chamber. House leaders may also attempt to bring health care reform legislation to the floor.

The Senate is also expected to consider at least one FY10 spending bill this week and may also take up legislation to promote travel and tourism in the United States. Some action

may be punted to next week, however, as the Senate's recess does not begin until August 7.

## **New Bill Would Establish CCS Liability Protections**

Legislation introduced in the Senate last week would seek to protect against risks posed by underground carbon capture and sequestration (CCS) projects by requiring owners and operators of CCS storage facilities to obtain insurance to cover liability claims during the carbon dioxide injection phase of the project and for an extended period of time after injection has stopped.

S. 1502, the "Carbon Storage Stewardship Trust Fund Act," was introduced by Sen. Robert Casey (D-Penn.), who says that the bill will "encourage the safe and responsible operation of (CCS) facilities while ensuring the prompt and orderly compensation for damages or harm to humans, to the environment, and to natural resources, should they occur, from the injection and storage of CO<sub>2</sub> in geological formations."

In addition to requiring owners of CCS storage facilities to have insurance, the bill would direct the Secretary of Energy to assume liability for any damage caused by leaking CO<sub>2</sub> after a storage well has been formally closed. To pay for damages incurred during the period of federal liability, S. 1502 would establish a trust fund financed by fees paid by storage facility operators based on the tons of CO<sub>2</sub> that are injected at a particular site.

The legislation has been referred to the Senate Committee on Energy and Natural Resources, but no timeframe for action has been announced.

## **SRF Report Highlights Urban Infrastructure Needs, Clarifies 'Restructuring' Intent**

The Senate Environment and Public Works (EPW) Committee recently released a report to accompany the SRF reauthorization legislation that it approved in May (S. 1005, the "Water Infrastructure Financing Act"). The report contains several important explanations and clarifications highlighting the infrastructure needs of metropolitan drinking water systems.

As the EPW Committee considered S. 1005 earlier this year, AMWA made several suggestions for clarifying areas of the bill that failed to recognize the needs of urban water systems. As a result of these efforts the committee's report, which provides a detailed explanation of the intent of the legislation, includes several important points, such as:

- specifically noting that EPA's 2007 Drinking Water Needs Survey found that \$116.3 billion of the country's total \$334.8 billion worth of drinking infrastructure needs over the next 20 years are at drinking water systems serving more than 100,000 people;
- encouraging states "to provide assistance (to individual water systems) in a manner consistent with the State's reported needs in the Drinking Water Needs Survey," which responds to DWSRF data showing that urban water systems do not receive a share of SRF funds in proportion to their needs;
- stating that Section 203 of the bill is intended to clarify that "replacement and rehabilitation of aging infrastructure is an eligible use of Drinking Water SRF funds"

and that replacing old infrastructure is a significant expense for metropolitan systems;  
and

- explaining that Section 204 of the bill, which gives additional “priority” for funding to utilities that have considered “restructuring” options, is “not intended to require public water systems to consider privatizing their operations, or to require large public water systems to consider consolidation or partnering with smaller systems, for the purpose of accessing an SRF loan.” The report also states that the restructuring requirement does not imply a preference for privatization of public water systems.

There is a chance that S. 1005 will be considered by the full Senate before the August recess, but it is more likely that action on the measure will slip to the fall.

## **Mutual Aid Webinar Set For August 4**

WaterISAC is hosting a webinar about mutual aid and assistance in the water sector featuring representatives from U.S. EPA and the California Water and Wastewater Response Network (CalWARN). The webinar will include: the history of the WARN program; examples of WARN success stories; tools, training and technical assistance available to develop robust WARNs; and the future of WARNs in an all-hazards security environment.

The webinar will be held Tuesday, August 4, at 2:30 p.m. (EDT). Register at the WaterISAC *News and Events* page at [www.waterisac.org](http://www.waterisac.org).

## **Don't Miss These Great Presentations at AMWA's 2009 Annual Meeting!**

**October 25-28 \* Naples, Fla.**

- **Effective Utility Management: From Principles to Practice**
- **Crisis as Opportunity: Using Climate Change to Reach Other Goals**
- **Diversifying Your Supply Portfolio: A Panel Discussion**
- **Using Corporate Transformation to Reaching Strategic Goals**
- **Building Your Long-Range Financial Plan**
- **Turmoil in the Capital Markets: An Expert Outlook**
- **The Water/Energy Nexus**
- **What's Your Business Continuity Plan?**
- **How To Supply Drinking Water to 600,000 People Without a Water Plant: Gloucester UK's Response During the 2007 Flood**
- **After the Wildfires: Water System Resiliency in Australia**
- **Everglades Recovery and Tour of Corkscrew Swamp**



August 3, 2009

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## AMWA Financial Database Webinar Now On Line

The training webinar on use of AMWA's new Utility Financial Information database, held earlier this month, is now available for viewing. The 40-minute recorded session was conducted by survey consultants Peiffer Brandt and Rocky Craley of Raftelis Financial Consultants, Inc. The program includes a review of the database in both Excel and Access formats and a demonstration of how several key analyses can be executed. Find the link on the UFI webpage at [http://www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi).

## Sector Working To Determine Priority of Key Water Utility Personnel In H1N1 Vaccine Allocation

The U.S. Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) issued recommendations this week regarding the distribution of a vaccine to protect against novel influenza A (H1N1). Yet to be resolved by the CDC is where essential water utility personnel will be ranked in this structure.

AMWA is coordinating with sector partners and working with the CDC to determine the appropriate placement of essential water utility personnel within the new ACIP prioritization scheme.

WaterISAC will provide information on this and other relevant pandemic influenza-related information as it becomes available.

## This Week in Congress

This week the Senate will spend several days debating and voting on Sonia Sotomayor's nomination to the U.S. Supreme Court. In addition, Senate Majority Leader Harry Reid hopes to hold a vote on a measure to promote foreign travel to the U.S., but it is unclear whether there will be enough time on the schedule to move the bill before the Senate begins its August recess on Friday.

The House of Representatives is in recess this week and will return to Washington with the Senate after Labor Day.

## Senate Approves Funding Bill for Army Corps, Bureau of Reclamation

The Senate last week approved the FY10 Energy and Water Appropriations bill, which includes funding for Department of the Interior water programs and the U.S. Army Corps of Engineers. The House approved similar legislation earlier in July, and congressional leaders anticipate that negotiators will be able to easily iron out the differences between the two bills soon after the August recess.

As approved by the Senate, the spending legislation includes \$5.4 billion for the Army Corps and just over \$1.1 billion for the Bureau of Reclamation. The Senate bill includes no funding for several new Army Corps construction and maintenance projects that were requested by President Obama.

In comparison, the House-approved Energy and Water bill would provide the Army Corps with \$5.5 billion, including funds for Obama's project requests. The House bill would provide the Bureau of Reclamation with \$93 million less than the amount included in the Senate version.

## USDA Announces Water Conservation Funding Agreements

The Department of Agriculture last week announced \$57.9 million in funding for 63 projects in 21 states that will conserve water and reduce contaminated run-off from farmland.

The funding will be awarded through the Agricultural Water Enhancement Program (AWEP), a new program that was created through the 2008 Farm Bill. AWEP allows farmers and ranchers to partner with the Natural Resource Conservation Service (NRCS) and local entities such as water systems, states, and Indian tribes to plan and implement agricultural water enhancement activities. These activities often involve increasing the efficiency of irrigation systems and reducing agricultural runoff that could threaten water quality.

Additional information about the AWEP program, as well as complete list of projects that have received funding this year, is available at <http://www.nrcs.usda.gov/programs/awep>.

## Mutual Aid Webinar Set For August 4

WaterISAC is hosting a webinar about mutual aid and assistance in the water sector featuring representatives from U.S. EPA and the California Water and Wastewater Response Network (CalWARN). The webinar will include: the history of the WARN program; examples of WARN success stories; tools, training and technical assistance available to develop robust WARNs; and the future of WARNs in an all-hazards security environment.

The webinar will be held Tuesday, August 4, at 2:30 p.m. (EDT). Register at the WaterISAC *News and Events* page at [www.waterisac.org](http://www.waterisac.org).



August 10, 2009

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## Register For AMWA's October Annual Meeting

Summer is flying by and October will be here soon. Register now to attend AMWA's Annual Meeting, October 25-27, 2009 in Naples, Fla. AMWA's fall meeting has an unrivaled program, based on AMWA member recommendations, of utility management topics most pertinent to your business. In addition, you'll have abundant opportunities to discuss these issues with colleagues as you network, share experiences and renew acquaintances.

Check out the program to see the breadth and depth of planned speakers. Topics include:

- Building Your Long-Range Financial Plan
- Bay Area Regional Collaboration Case Study
- LADWP's Water-Energy Nexus
- Turmoil in the Capital Markets
- Diversifying Your Supply Portfolio: A Panel Discussion
- After the Bushfires: Water System Resiliency in Australia
- What's Your Business Continuity Plan?

Read about these presentations and other, and register for the meeting [online](#).

## New Guidelines Set For Influenza Vaccine Distribution

The U.S. Centers for Disease Control and Prevention (CDC) published new guidance for prioritizing the distribution of H1N1 flu vaccine, stating that the following groups of people should receive priority if there is a shortage because of the risk of serious consequences from infection: pregnant women; people who live with or care for children younger than six months; health care and emergency services personnel; children and young adults from 6 months to 24 years old; and adults from 25 through 64 years old (if they have chronic medical conditions that increase their risk of complications from influenza infection). The pre-existing guidance for vaccine distribution, in which water utility employees are considered Tier II recipients, is expected to remain in use after vaccinating these five groups.

Although the CDC has provided this new guidance, individual state emergency management and health agencies will ultimately allocate vaccine doses. Water utilities should discuss with their state health and emergency management counterparts the importance of inoculating utility employees to ensure that water quality and supply are not diminished during an influenza outbreak. Utilities should also review and update continuity-of-operations or business continuity plans to reflect the new guidance.

## Congress In Recess Until September

The Senate last week adjourned to join the House in the annual August congressional recess. Both houses will reconvene after Labor Day. This is the last issue of Monday Morning Briefing until Congress returns. In the interim, important news will be conveyed to members in Special Briefings as needed.

## What's On The Regulatory Horizon For August?

Congress may be on summer break, but the comment period for EPA's alternative perchlorate analyses is open. In addition, EPA is requesting comments on revised guidance manuals for public notification, and the final Contaminant Candidate List (CCL3) is expected soon.

Last week EPA announced its request for comment on alternative analyses for health reference levels for sensitive subpopulations and on potential populations' exposure to perchlorate. Once the *Federal Register* notice is published this week, there will be a 30-day comment period. AMWA will be working with its Regulatory Committee to develop comments, but any interested member can provide comments by contacting Erica Brown (brown@amwa.net). Additional information is available on [AMWA's Bulletin page](#).

EPA recently provided revised guidance manuals on "Public Notification and Preparing Consumer Confidence Reports." Comments are due to EPA by August 20. The guidances are posted on [AMWA's Regulatory Committee site](#). The Office of Management and Budget finished its review of the final CCL3 in June. The list could be published in the *Federal Register* this month.

## Security, Climate Change Debates To Reignite In September

With both the House and Senate on recess for the remainder of August, the water sector will have to wait until after Labor Day to see additional congressional action on legislation addressing issues such as water facility security legislation and global climate change.

In September, the House Energy and Commerce Committee is expected to hold a hearing on H.R. 3258, the "Drinking Water System Security Act," which was introduced by Energy and Commerce Chairman Henry Waxman (D-Calif.) on July 20. The bill, which is the product of months of negotiations with AMWA and other drinking water sector associations, would not allow EPA to broadly direct water systems to implement "inherently safer technologies" (IST), but would require utilities to update their vulnerability assessments every five years and would allow SDWA primacy state enforcement agencies to review a utility's decision on whether to implement IST. AMWA also won the inclusion of language in the bill that maintains the current criminal penalties that may be imposed against individuals who unlawfully distribute sensitive utility information such as vulnerability assessments.

The Energy and Commerce Committee originally planned to hold a hearing on H.R. 3258 in July, but it was postponed as the committee struggled to complete work on a health care overhaul bill before the beginning of August. Committee staffers have told AMWA that the hearing will now probably take place in September, although no firm date has been set.

On the climate change front, Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) has announced plans to introduce her version of a greenhouse gas “cap-and-trade” bill on September 8, the day the Senate returns from its recess. The House approved its own cap-and-trade bill (H.R. 2454) in June, and Senate leaders hope to have their chamber pass similar legislation this fall.

AMWA and other water sector associations have been meeting with staff of key senators to solicit support for the inclusion of a drinking water and wastewater utility climate adaptation program within the larger cap-and-trade bill. The proposal would establish a competitive EPA grant program to distribute matching funds for climate adaptation projects to drinking water and wastewater utilities at the greatest risk of climate-related impacts, similar to what was proposed in legislation (H.R. 2969) sponsored by Rep. Lois Capps (D-Calif.) in the House earlier this year. Whether the water utility adaptation program will be successfully inserted into the Senate bill, however, will probably not be known until next month.

## **Register For Free EPA Webinars On Simultaneous Compliance Issues**

The last two webinars in EPA’s “Best Practices for Drinking Water Compliance” series will be held in August. "Simultaneous Compliance Issues for Surface Water Systems" is scheduled for August 13 from 1 p.m. to 3 p.m. (EDT), and "Water Quality Management in Distribution Systems: Simultaneous Compliance and Unintended Consequences" is scheduled for August 27, 1 p.m. to 3 p.m. (EDT). For additional information and to register, visit [EPA's website](#).

## **EPA Publishes Final Rule Approving New Analytical Methods**

EPA announced the approval of six additional testing methods for samples collected under the Safe Drinking Water Act in the [August 3 Federal Register](#). These methods include one EPA method for 24 purgeable organic contaminants, three vendor-developed methods for turbidity, one vendor-developed method for nitrate and nitrite, and one vendor-developed method for free cyanide. The rule is effective immediately.

## **EPA Releases NIMS Guidance For Water Sector**

EPA has developed a new guidance document entitled Water Sector National Incident Management System (NIMS) Implementation Objectives, which describes the NIMS program and its benefits, along with examples from the water sector of how it can be implemented.

NIMS was established by the Department of Homeland Security as a "uniform national system for integrating emergency/incident preparedness and response efforts" across multiple levels of jurisdiction. The Federal Emergency Management Agency developed NIMS guidelines for state and local governments, but the [new EPA document now offers such guidance for water utilities](#).



## **National Association Of Counties Urges Pharmaceutical Take-Back Programs**

At its annual meeting in July, the National Association of Counties approved a resolution encouraging pharmaceutical manufacturers to develop programs to collect unwanted prescription and over-the-counter medicines. Pharmaceuticals are “an emerging environmental contaminant that are detected in surface waters around the United States and in the drinking water of 24 major metropolitan areas affecting 41 million Americans,” the resolution says. While noting that some pharmaceuticals enter the environment by passing through human bodies, the resolution added that disposal of medicines “by flushing into wastewater or disposal in the solid waste stream contributes to contamination.” The resolution can be viewed on [NACo's website](#).

**In Today's *Special Briefing*:**

**EPA Seeks Comment On Additional Information Pertaining To Carbon Sequestration**

EPA announced its intent to publish a Notice of Data Availability (NODA) and request additional comment related to its rule development for permitting the underground sequestration of carbon dioxide (CO<sub>2</sub>) under the Underground Injection Control Program. EPA also announced a public hearing on September 17 in Chicago to solicit comment. The prepublication version of the NODA as well as a link to register for the public hearing are online at [www.epa.gov/safewater/uic/wells\\_sequestration.html#regdevelopment](http://www.epa.gov/safewater/uic/wells_sequestration.html#regdevelopment).

The NODA proposes an additional alternative that would create a waiver for permitting carbon sequestration wells above and between underground sources of drinking water under specific conditions. The proposed alternative would allow underground injection of CO<sub>2</sub> in these areas as well as into coal seams or basalt formations if the operator of the injection operation can demonstrate that the project would not contaminate drinking water aquifers.

The NODA also provides data about the Department of Energy's seven regional partnership pilot projects that are testing carbon sequestration technology.

AMWA will work with its regulatory and climate change committees to develop comments on the notice. Once the NODA is published in the *Federal Register* there will be a 45-day public comment period.

**Atrazine In The News**

In the past two weeks, the U.S. Geological Survey (USGS) released an online mapping tool showing predictions for stream concentrations of atrazine and the Natural Resources Defense Council (NRDC) issued a report charging EPA with not doing enough to protect surface waters and drinking waters from the pollutant.

The USGS tool uses regression models to show atrazine concentrations including annual means, maximums and key concentration statistics for streams nationwide "including the probability that atrazine may exceed a water-quality benchmark of potential concern, and a level of confidence and uncertainty associated with each estimate." Links to the mapping tool as well as a USGS report are available at [water.usgs.gov/nawqa](http://water.usgs.gov/nawqa) under "Featured Highlights."

NRDC's report, *Poisoning the Well: How the EPA Is Ignoring the Contamination in Surface and Drinking Water in the Central United States* ([www.nrdc.org/health/atrazine/default.asp](http://www.nrdc.org/health/atrazine/default.asp)), documents the watersheds in the Midwest with the highest atrazine concentrations as reported under two EPA programs: the Ecological Watershed Monitoring Program and the Pesticide Programs' Monitoring in Community Water Systems. The report includes recommendations that EPA broaden its atrazine monitoring program and that the U.S. phase out the use of atrazine.

In addition, EPA recently updated the data for its water system monitoring program: [www.epa.gov/oppsrrd1/reregistration/atrazine/atrazine\\_update.htm#cws](http://www.epa.gov/oppsrrd1/reregistration/atrazine/atrazine_update.htm#cws).

### **Effluent Guidelines For Airport Deicing Operations Announced**

In today's *Federal Register* (74 FR 44676; [edocket.access.gpo.gov/2009/E9-20291.htm](http://edocket.access.gpo.gov/2009/E9-20291.htm)), EPA proposes a rule that would require technology-based effluent guidelines and new source performance standards for airport deicing operations. The rule would cover airports with more than 1,000 incoming and outgoing flights per year and would require those facilities to collect spent aircraft deicing fluid and treat the wastewater. In addition, airports that perform deicing of airfield pavement would be required to use non-urea-based deicers. As deicing operations affect the source water quality at many member utilities, AMWA is planning to work with its regulatory committee to develop comments on the proposal. Comments are due December 28, 2009. Additional information is at: [www.epa.gov/guide/airport/](http://www.epa.gov/guide/airport/).

### **WaterSense Program Seeks Comment On Water Efficiency White Paper**

EPA's WaterSense program released a white paper, "*Water Efficiency in the Commercial and Institutional Sector: Considerations for a WaterSense Program*," which discusses resources the agency can use to expand the program to include the commercial and institutional sectors. EPA is requesting comment on the white paper and seeking broad input regarding the development of a WaterSense program for these sectors, which include businesses, universities and hospitals. The white paper and other information are online at [www.epa.gov/watersense/partners/cipaper.htm](http://www.epa.gov/watersense/partners/cipaper.htm). Comments are due September 20, 2009.

### **Security Events Scheduled**

An insider threat webinar and cyber security workshops are on the fall agenda for water utilities:

WaterISAC will conduct an **Insider Threat Webinar** for its Pro subscribers on September 15 at 1:30 p.m. (EDT). The webinar, featuring a briefing by Dr. Michael Gelles of Deloitte Consulting LLP, will define the risks associated with asset loss and

an approach to mitigate an insider threat through the development and management of a secure workforce.

The Water Sector Coordinating Council - an advisory group of water and wastewater utility managers - is hosting free one-day **Water Sector Cyber Security Workshops** in Los Angeles (September 28), Chicago (October 15), San Antonio (October 26) and near Boston (November 3). The workshops are designed to improve the knowledge, skills and abilities of utility employees who are responsible for control system security. The Department of Homeland Security's Control Systems Security Program will present the workshop training and discuss security products that are available for use by water sector asset owners and operators.

For further information on these events, go to the WaterISAC News and Events webpage: <https://waterisac.org>.

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*AMWA is the definitive voice for the largest publicly owned drinking water systems in the United States on regulatory, legislative and security issues, as well as a leadership resource for senior water executives. Member-utilities collectively serve more than 127 million people with safe drinking water.*

Click [here](#) to forward this e-mail to a colleague!

**AMWA National Office - 1620 I Street, NW - Suite 500 - Washington, DC 20006 - Tel: (202) 331-2820**

? 2008 AMWA



September 28, 2009

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## Ramaley To Testify On Water Security Legislation

AMWA President and Newport News Waterworks Director Brian Ramaley will testify before the House Energy and Commerce Committee this week as it considers legislation that would update and revise the federal security rules that apply to drinking water systems.

In July, Energy and Commerce Chairman Henry Waxman (D-Calif.) introduced the “Drinking Water System Security Act” (H.R. 3258). The bill would update the facility security requirements placed on drinking water utilities under Section 1433 of the Safe Drinking Water Act and would require water systems to periodically update their vulnerability assessments and emergency response plans. However, AMWA staff worked closely with the committee to remove sections of earlier drafts that would have allowed EPA to broadly force water systems to change disinfection chemicals. AMWA also successfully lobbied the committee to preserve the federal criminal penalties that currently apply to individuals who unlawfully distribute sensitive utility security information.

Importantly, H.R. 3258 would maintain EPA’s position as the only federal agency charged with overseeing drinking water plant security. Other legislation (such as last year’s H.R. 5577, which was approved by the House Homeland Security Committee) would have brought drinking water systems into DHS’ CFATS chemical security program and would have allowed DHS officials to overrule local water disinfection choices.

The Energy and Commerce Committee’s hearing on H.R. 3258 is scheduled for 10:00 a.m. on Thursday, October 1.

## DHS Schedules Sept. 30 Webinars On Bombing Prevention And Awareness

In light of recent terrorist arrests, and in the interest of the preparedness and protection of America's infrastructure, the Department of Homeland Security's Office for Bombing Prevention and Partnership and Outreach Division announced awareness-level webcast training for private sector partners to be held this Wednesday, September 30. The all-sector training, "Infrastructure Protection: Awareness & Detection" will address topics relevant to current events and will cover improvised explosive device (IED) awareness, homemade explosives, surveillance detection and protective measures.

The intent of the webcast is to improve “front line” personnel awareness in the detection of pre-attack behavior and the characteristics of the terrorist attack cycle as it relates to the targeting of infrastructure – from the surveillance of facilities and operations, to the recognition of individual IED components and explosives.

This webcast will be delivered at 10:00 a.m. and again at 2:00 p.m. (EDT). Register online for the 10:00 a.m. webinar: <https://connect.hsin.gov/obp10am/event/registration.html>. To register for the 2:00 p.m. webinar: <https://connect.hsin.gov/obp2pm/event/registration.html>.

## **This Week In Congress**

The Senate this week is expected to easily approve a one-month continuing resolution to allow for the federal government to operate through October as Congress works to complete the outstanding FY10 appropriations bills. The Senate is also aiming to approve its FY10 Defense spending bill and begin work on the Commerce-Justice-Science funding measure.

In the House, members will vote on several appropriations conference reports, as congressional leaders continue background negotiations on healthcare reform legislation.

## **Reid's Blue Bank Legislation Targets Water Utility Climate Adaptation**

Sen. Harry Reid (D-Nev.) last week introduced legislation that includes an AMWA-supported program to help drinking water and wastewater utilities adapt to the impacts of climate change. Sources close to his office expect the language to be part of a comprehensive climate change bill that Sen. Barbara Boxer (D-Calif.) plans to release on Wednesday.

Sen. Reid's "Water Efficiency, Conservation and Adaptation Act" (S. 1712) is intended to encourage individuals to make their homes and yards more water efficient, while also helping water utilities adapt to the serious impacts of climate change on water resources. The bill's Section 6 ("Blue Bank for Water System Mitigation and Adaptation") would create an EPA-based competitive grant program through which drinking water and wastewater utilities could compete for funding to implement climate change adaptation projects or to study the potential impacts of climate change on their operations.

The text of the "Blue Bank" section closely resembles H.R. 2969 (the "Water System Adaptation Partnerships Act"), legislation originally conceived by AMWA and introduced by Rep. Lois Capps (D-Calif.) earlier this year. That bill has drawn the support of 21 members of the House of Representatives, and AMWA spent much of the summer lobbying senators to support the inclusion of the utility adaptation program as part of the chamber's comprehensive climate bill.

To that end, there appears to be a strong chance that the utility adaptation program will be a part of Sen. Boxer's climate change bill. Sources close to Sen. Reid's office report that he has been told that the language will appear in the larger bill, and Sen. Boxer is a cosponsor of S. 1712.

Once Sen. Boxer's climate bill is introduced, however, the path forward is unclear. While Boxer will likely mark up the bill in the Environment and Public Works Committee this fall, Senate leaders have backed away from earlier promises to hold a vote on the measure this year.

## **Senate Approves FY10 EPA Funding Bill With Billions For SRFs**

The Senate last week approved a \$32.1 billion spending bill to fund EPA, the Interior Department and other environmental agencies for the 2010 fiscal year. The measure includes \$10.19 billion for EPA – a 33 percent increase over its pre-stimulus FY09 funding level.

The EPA funds include \$1.39 billion for drinking water system improvements through the Drinking Water State Revolving Fund (SRF) and \$2.1 billion for sewer system projects through the Clean Water SRF. As approved by the Senate, states would have to reserve 20 percent of their awards under each fund for “green” infrastructure projects – as long as the state had received sufficient project applications.

The House of Representatives approved its version of the Interior and Environment spending bill in June. The House version would increase EPA funding to a record \$10.46 billion – including \$1.4 billion for the Drinking Water SRF and \$2.3 billion for the Clean Water SRF. House and Senate conferees are expected to formulate a final EPA spending bill in the coming weeks.

## **EPA Releases CCL 3**

Last week EPA announced the finalization of the third contaminant candidate list (CCL 3). Among the list of 104 chemical contaminants and 12 microbes are one antibiotic and nine hormones that were not on the proposed CCL 3. These ten contaminants were added following comments by the Science Advisory Board and others, which prompted additional information gathering by the agency. AMWA's bulletin 09-10 provides additional information as well as a link to the list: <http://www.amwa.net/cs/bulletins>. The official notice has not yet been published in the *Federal Register*.

## **EPA Soliciting Comments On Crisis Management Research Study**

EPA is collecting public comments on a proposed study to “identify critical information the public will need from water utilities and other decision-makers during a crisis event impacting drinking water.” The agency's National Homeland Security Research Center is leading the research efforts.

The study is meant to examine the effectiveness of risk communication tactics developed by EPA during several workshops on the matter in 2005 and 2006. According to the notice published in the *Federal Register*, the study will investigate both consumers and water sector professionals' knowledge and opinions about “water security risks to assist public officials in planning effective crisis communication strategies for emergencies.” Participation in this one-time study will be solicited on a voluntary basis and responses to survey questions and interviews will be confidential.

AMWA staff is seeking member input on the study's overall strategic objectives as well as EPA's tactical path forward for conducting research. Additional information, including a copy of the *Federal Register* notice, is available at [www.regulations.gov](http://www.regulations.gov) by searching key words: EPA-HQ-ORD-2009-0313. To submit comments or questions, please contact Aaron Levy at [levy@amwa.net](mailto:levy@amwa.net).

## Leadership Center Applications Available

The Water and Wastewater Leadership Center is celebrating its 10th anniversary in this coming year. Applications are now being accepted for the 12-day residential program, which will be held March 7-19, 2010, at the Kenan-Flagler Business School, University of North Carolina-Chapel Hill. Sponsored by AMWA and other water sector organizations, the Leadership center is designed to prepare and develop leaders and management executives of water and wastewater utilities so that these organizations can meet customers' current and future demands for the highest level of service, quality and efficiency.

Information is available and application forms can be downloaded from the AMWA website: [www.amwa.net/cs/leadership\\_center](http://www.amwa.net/cs/leadership_center). The deadline for applications is December 11, 2009, and early application is encouraged due to the high level of interest in the program.

## Fish And Wildlife Service Releases Climate Change Plan

In response to Interior Secretary Ken Salazar's order on climate change (reported in last week's *Monday Morning Briefing*), the U.S. Fish and Wildlife Service released for comments its strategic plan for addressing climate change. The plan, available at [www.fws.gov/home/climatechange](http://www.fws.gov/home/climatechange), has six goals organized under three key areas: adaptation of fish, wildlife and ecosystems; mitigation of greenhouse gases; and engagement with partners. The website also highlights areas where comments are being sought. Comments will be accepted through November 23.

## USGS Releases Two Reports

USGS has recently released two reports under the National Water Quality Assessment program. Both reports describe water quality in the glacial aquifer system in the northern U.S. The first provides information about chloride concentrations in ground water and surface water in these areas and the second provides information about iron, manganese and other trace elements in the glacial system. Both reports are available online at <http://water.usgs.gov/nawqa/studies/praq/glacaq/index.html>.





October 5, 2009

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## AMWA President Testifies On Water Security Bill

AMWA President Brian Ramaley of Newport News Waterworks last week testified on legislation that would implement a new drinking water facility security program at EPA but also prevent the federal government from broadly imposing “inherently safer technology” mandates on local drinking water utilities.

Rep. Henry Waxman (D-Calif.) introduced H.R. 3258, the “Drinking Water System Security Act,” in July. The bill would require drinking water systems to update the vulnerability assessments and emergency response plans they completed under Section 1433 of the Safe Drinking Water Act (SDWA) and would also direct water systems to complete site security plans. As part of the process, utilities holding certain amounts of “substances of concern” (such as gaseous chlorine) would be required to consider the use of alternate chemicals.

However, unlike similar legislation proposed for chemical facilities (H.R. 2868), the drinking water security bill would not allow the federal government to have the final say on whether local water systems must actually begin to use alternate chemicals. Instead, under a compromise forged by AMWA and committee staff, utilities would decide on their own whether or not to implement alternate chemicals, and only their state primacy enforcement agencies would have the authority to review a utility’s decision. Furthermore, H.R. 3258 would maintain the existing criminal penalties of a \$100,000 fine and up to one year in prison for individuals who illegally release sensitive utility information (like vulnerability assessments). The bill does not include provisions that would allow the federal government to shut down a water system for non-compliance with any portion of the security rules.

Because of these improvements to the bill, Ramaley expressed AMWA’s support for the proposal. However, he stressed that AMWA would strongly oppose any changes to the bill that would allow EPA to dictate disinfection chemicals to individual water systems and urged Congress to ensure that wastewater facilities are subject to the same security rules as drinking water utilities. Otherwise, he warned, joint drinking water/wastewater systems would be forced to comply with competing regulations overseen by different federal entities.

## International Water-Climate Adaptation Forum Welcomes U.S. Utility Execs

AMWA members are among a select group of water utility managers, climate scientists and environmental leaders from around the world invited to Washington, D.C., in January to participate in *Climate Change Impacts on Water: An International Adaptation Forum*. AMWA and the Water Research Foundation are sponsoring the forum as a venue for concerned professionals to share experiences and discuss initiatives for addressing the unavoidable consequences of climate change on global drinking water supplies.

Last week, an e-invitation was sent to all AMWA members for the event, the first of its kind to be held in the U.S. The forum will take place January 28-29, 2010 at the historic Renaissance Mayflower Hotel.

Designed to encourage U.S. water utility managers to network with and learn from their international colleagues, the forum also aims to raise the profile of climate change related water adaptation challenges. Speakers from Australia, the Netherlands, Spain, United Kingdom, Switzerland, Canada and Singapore will join colleagues from major U.S. water systems. The honorary committee for the forum includes key climate-policy leaders such as Rep. Henry Waxman and Sen. Ben Cardin.

To find out more and to register, visit:  
[www.waterclimateforum.org](http://www.waterclimateforum.org)

## Obama Administration Endorses EPA Oversight Of Drinking Water, Wastewater Security

Officials from EPA and the Department of Homeland Security (DHS) each announced in testimony before the House Energy and Commerce Committee that the Obama Administration supports regulating the security of drinking water and wastewater plants under the same federal program, and that EPA – not DHS – should be the lead agency charged with water sector security oversight.

AMWA has expressed concerns that chemical and water security bills as introduced (H.R. 2868 and H.R. 3258) would charge DHS with overseeing wastewater utility security, while EPA would regulate security at drinking water plants. This, AMWA believes, could lead to the imposition of contradictory and duplicative security regulations on local water systems.

While endorsing unified regulation of drinking water and wastewater plants at EPA,

Assistant Administrator for Water Peter Silva indicated that the Obama Administration would not push for federal “inherently safer technology” (IST) implementation authority over drinking water plants. He testified that the Administration believes that “the appropriate regulatory entity” should have the power to review the IST decisions of the highest-risk water systems. H.R. 3258 would place SDWA primacy state agencies in this role and would force states to consider public health and environmental considerations before forcing utilities to change disinfectants. In contrast, H.R. 2868 (which would apply to chemical facilities) would allow DHS officials to make these decisions for chemical plants.

Several members of Congress have also expressed concerns with splitting the security oversight of drinking water and wastewater plants among different federal agencies, and the House Transportation and Infrastructure Committee in June introduced legislation (H.R. 2883) that would ensure that wastewater plants are regulated with drinking water systems at EPA.

## **This Week in Congress**

Both the House and Senate this week are expected to continue work on FY10 appropriations bills. The Senate plans to hold a final vote on the Defense appropriations bill on Tuesday, and is then scheduled to begin work on the Commerce-Justice-Science spending bill. Meanwhile, the House may vote on the conference reports of the Homeland Security, Agriculture, and Interior-Environment appropriations legislation this week.

## **Senate Climate Bill Would Authorize Utility Climate Adaptation Program**

Long-awaited climate change legislation introduced last week by Sens. Barbara Boxer (D-Calif.) and John Kerry (D-Mass.) includes a “Water System Mitigation and Adaptation Partnerships” program, a water and wastewater utility climate adaptation program that is a top priority of AMWA. This program is very similar to legislation conceived by AMWA and introduced by Rep. Lois Capps (D-Calif.) earlier this year as H.R. 2969. Sen. Harry Reid (D-Nev.) also included a version of the program in S. 1712, which he introduced last month.

The Boxer-Kerry “Clean Energy Jobs and American Power Act” (S. 1733) would create a nationwide “cap-and-trade” system aimed at reducing U.S. greenhouse gas emissions by 20 percent by 2020 and more in the future. However, other sections of the bill focus on helping communities adapt to climate change, including the proposed “Water System Mitigation and Adaptation Partnerships” program. Under the program, drinking water and wastewater utilities would be eligible to apply for matching grant funds to help finance water utility projects that will help the utilities adapt to expected impacts of climate change on their operations. Funds could also be used by utilities to study likely climate change impacts or efforts to reduce their own greenhouse gas emissions through increased energy efficiency or renewable energy usage.

Specific types of projects eligible for funding through the program include those that protect

water quality or quantity through conservation or metering, modifying or relocating existing water infrastructure put at risk by climate change, constructing water reuse or desalination facilities, or adopting advanced water management techniques.

To apply for funding, a water system would have to explain the climate change-related risk it faces and detail how the proposed project or program would enhance the utility's resilience to negative impacts of climate change. States would choose programs to fund on a competitive basis but would solicit a "substantial" number of projects that employ environmentally friendly techniques.

According to the Boxer-Kerry legislation, funding for the utility adaptation program would come from a pot of carbon allowances targeted for state-level climate adaptation programs. More details on funding are expected to emerge when the Environment and Public Works Committee marks up the bill – possibly by the last week of October.

## **Climate Bill Directs NOAA To Establish A National Climate Service**

The "Clean Energy Jobs and American Power Act" introduced by Sen. Barbara Boxer last week would direct the National Oceanic and Atmospheric Administration to establish a National Climate Service (NCS) "to develop climate information, data, forecasts, and warnings at national and regional scales." The NCS would also be directed to distribute this information to state and local governments to facilitate and inform their own climate adaptation planning.

As introduced, Sen. Boxer's bill does not go into detail as to the makeup of the program. In contrast, comprehensive climate change legislation passed by the House of Representatives earlier this year (H.R. 2454) included specific requirements for the framework and responsibilities of the NCS – such as required consultation with local and regional stakeholders when developing climate forecasts. However, more comprehensive NCS guidelines will likely be added to Sen. Boxer's bill as it advances through the Senate.

## **Report Touts Green Infrastructure As Key To Water Management, Climate Change Adaptation**

A report by American Rivers, *Natural Security: How Sustainable Water Strategies Prepare Communities for a Changing Climate* ([www.americanrivers.org/our-work/global-warming-and-rivers/infrastructure/natural-security.html](http://www.americanrivers.org/our-work/global-warming-and-rivers/infrastructure/natural-security.html)), highlights eight diverse community green infrastructure solutions that address public health, storm and flood damage, water quality and livability. The report states that investing in several types of green infrastructure approaches is the most cost-effective way for communities to address climate change impacts. The document makes the case that in the 21st century, a fundamental change in water management must occur and green infrastructure must be at its core.

## **Draft WaterSense Showerhead Spec Open For Comment**

EPA recently released for comment a draft WaterSense specification for showerheads ([www.epa.gov/watersense/specs/showerhead\\_spec.htm](http://www.epa.gov/watersense/specs/showerhead_spec.htm)). The draft sets a maximum flow rate of 2.0 gpm and a pressure of 80 psi. The agency says that showering accounts for

approximately 17 percent of residential indoor water consumption. Comments are due November 9.



October 12, 2009

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## Columbus Day Holiday Observed

*Monday Morning Briefing* is being published early in advance of the October 12 Columbus Day federal holiday. The AMWA offices will be closed on Monday.

## Commerce Committee Aims To Mark Up Security Bills

Leaders of the House Energy and Commerce Committee are hoping to mark up separate bills this week to overhaul federal security requirements at water and chemical facilities, following a hearing on two proposals earlier this month.

On August 1, AMWA testified on H.R. 3258, the “Drinking Water System Security Act,” which would require drinking water systems to update vulnerability assessments and review alternate disinfection options if they currently use certain hazardous chemicals. The bill would direct state SDWA enforcement agencies to review utility disinfection processes but would not allow the federal government to broadly force local water systems to change their current disinfection chemicals.

In its testimony, AMWA expressed support for this framework, but requested that the bill be modified to require states to provide utilities with an avenue for an appeal if the state determines that the utility should change disinfection chemicals. Since the hearing, AMWA staff has discussed this proposal with several members of the committee and as a result expects to see appeal language offered during the markup.

Meanwhile, the House Transportation and Infrastructure Committee, which has oversight of wastewater facilities, is reportedly close to finishing legislation that would direct EPA to regulate the security of those systems in a manner consistent with the way drinking water systems would be regulated under H.R. 3258. Under current proposals, wastewater systems would be subject to DHS oversight under H.R. 2868, but the water sector and the Obama Administration have both expressed strong concerns about splitting water facility security oversight among different federal agencies.

## This Week In Congress

FY10 spending bills will continue to dominate the legislative agenda this week, as the House of Representatives is scheduled to vote on a final version of the DHS

appropriations bill and possibly the Interior-Environment spending bill.

In the Senate, work will continue on the FY10 Defense appropriations bill and possibly a proposal to extend expiring unemployment benefits.

## **EPA To Launch New Atrazine Evaluation**

EPA announced October 7 that it is initiating a new comprehensive evaluation of atrazine. The agency will consult with the Federal Insecticide, Fungicide and Rodenticide Act Science Advisory Panel to evaluate the cancer and non-cancer effects of atrazine based on animal studies as well as epidemiology studies. EPA also announced that it would meet with stakeholders to explore ways to inform the public more expediently about atrazine drinking water monitoring results.

The evaluation results are expected in approximately one year. Additional information is online at [www.epa.gov/pesticides/reregistration/atrazine/atrazine\\_update.htm#atrazine](http://www.epa.gov/pesticides/reregistration/atrazine/atrazine_update.htm#atrazine).

## **DeGette Reintroduces Drinking Water Research Bill**

Rep. Diana DeGette (D-Colo.) last week reintroduced legislation that would authorize spending \$275 million over the next 11 years on a research program aimed at helping drinking water utilities identify climate change adaptation strategies.

Specifically, the “Drinking Water Adaptation, Technology, Education, and Research (WATER) Act” (H.R. 3727) would direct EPA to work with the Departments of Energy, Interior and Commerce to establish the research program. The Water Research Foundation would operate the program, which would support research into a range of drinking water and climate adaptation issues, such as the development of desalination technology, water utility energy efficiency and improved water management techniques. The program would also investigate the anticipated impacts of climate change on water quality and quantity in different regions of the U.S., as well as impacts on drinking water infrastructure.

Rep. DeGette sponsored similar legislation in the 110th Congress, and Sen. Harry Reid (D-Nev.) has also introduced similar proposals in the Senate. In addition, the program is included in the comprehensive climate change legislation (S. 1733) recently introduced by Sens. John Kerry (D-Mass.) and Barbara Boxer (D-Calif.). AMWA has previously written to Congress in support of this drinking water research proposal and will likely do so again this year.

## **H1N1 Flu Is Focus Of October 21 Town-Hall Webinar**

WaterISAC will host a town-hall style webinar on the H1N1 influenza (swine flu) outbreak in collaboration with a panel of experts from across the federal government including DHS, EPA, and CDC on Wednesday, October 21 at 2:00 p.m. (EDT). The panel will briefly outline the status of the outbreak and mitigation and protection options. The remaining time will be devoted to a question-and-answer session that allows WaterISAC subscribers to ask the experts questions relating to inoculations, absenteeism, business continuity and any other

flu-related issues.

To register for this webinar, go to the WaterISAC Event Sign Up page at [www.waterisac.org](http://www.waterisac.org) and select the H1N1 Influenza Webinar option.

## **NIAC Releases Study On Resilience**

The National Infrastructure Advisory Council (NIAC) released a study on critical infrastructure resilience last week. The report examines how critical infrastructure resilience, as opposed to community resilience, is currently practiced by businesses and the challenges in achieving resilience on multiple fronts. It also examines current government policies and programs for resilience in critical infrastructure and key resource sectors. Finally, the study focuses on identifying measures to achieve sector- and national-level resilience, cross-sector and supply chain related issues as they relate to resilience and measures implemented by individual enterprises.

The NIAC provides the President and Secretary of Homeland Security with advice on the physical and cyber security of the nation's 18 critical infrastructure sectors. The water sector is represented on the council by AMWA board member Ed Archuleta, President and CEO of El Paso Water Utilities.

A copy of the study is available for download from the Security Information section of the AMWA website, [www.amwa.net/cs/security](http://www.amwa.net/cs/security).

## **Utilities Urged To Report Water Security Progress**

The national drinking water and wastewater associations, together with EPA and DHS, are urging utilities to complete a water sector survey designed to measure progress in the areas of security, preparedness and resilience. The 2009 Water Security Metrics project will provide a high-level overview of the water sector's security posture that can be used to demonstrate the achievements of the sector and provide utilities with national benchmarks. Responding to the survey is voluntary and completely anonymous.

The effort is being overseen by the Water Sector Coordinating Council, which is comprised of utility managers and serves as a policy, strategy and coordination mechanism on homeland security matters. The information is being collected and aggregated securely by WaterISAC. A final report on the data collected should be available in January 2010.

Go to [www.waterisac.org](http://www.waterisac.org) for more information and to participate in this important project.

## **CCL Published In Federal Register**

The official notice of EPA's third Contaminant Candidate List was published in the October 8 *Federal Register*. To download the notice, go to [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr) and search for CCL 3.



## **Watershed Academy Plans October 27 Climate Change Webcast**

On October 27, EPA's Watershed Academy will present a webcast entitled, "Working Together to Address the Effects of Climate Change on Water Resources." EPA's Deputy Assistant Administrator for Water, Michael Shapiro, will describe what EPA is doing to address the effects of climate change on water; Karen Metchis, Senior Climate Advisor, will discuss how climate is changing and the water-related effects; and Lisa Beever, Director of the Charlotte Harbor National Estuary Program in Florida, will discuss the program's work on developing climate change vulnerability assessments, adaptation plans and indicators under EPA's Climate Ready Estuary program. The two-hour webcast will begin at 1:00 p.m. (EDT). To register, visit [www.epa.gov/watershedwebcasts](http://www.epa.gov/watershedwebcasts).

## **Aircraft Drinking Water Rule Signed**

EPA issued the prepublication version of its final rule governing domestic aircraft's onboard water systems. The rule employs a multiple barrier approach, including coliform sampling, operations and maintenance plans and self-inspections. Corrective action and public notification in response to total coliform or *E coli* positive samples are also required. More information is available at [www.epa.gov/safewater/airlinewater](http://www.epa.gov/safewater/airlinewater).



October 19, 2009

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## Senate Approves Energy And Water Spending Bill

The Senate last week gave final approval to a \$33.5 billion spending bill to fund energy and water programs in 2010. The House had previously approved the legislation, and President Obama is expected to quickly sign it.

Included in the legislation is \$5.4 billion for the U.S. Army Corps of Engineers, which is \$320 million above the amount requested by President Obama. The total includes \$2 billion for construction activities and \$2.4 billion for operations and maintenance. The bill also provides \$1.1 billion for the Bureau of Reclamation, a slight increase over its FY09 funding level.

## AMWA Comments On CO2 Sequestration Rulemaking

On October 15, AMWA submitted two comment letters on EPA's Notice of Data Availability for its carbon dioxide geosequestration (GS) rulemaking. The first letter urged the agency not to proceed with a waiver process to allow for GS above or between underground sources of drinking water. The letter notes that without additional research and the availability of modeling and monitoring data from pilot projects a waiver provision is premature. However, the letter also recognizes that EPA may decide to finalize the waiver process regardless of utilities' grave concerns and therefore recommends several provisions including an open public process for waiver applicants, emergency plans and long-term financial liability. Citing the far-reaching consequences that have arisen from the wide-scale use of MTBE to address clean air concerns, the letter urges that "careful research, data gathering and modeling and a commitment of long-term financial responsibility" be accomplished in advance of deployment of GS or the allowance for waivers.

The second letter was submitted in response to reports of potential plans by the agency to finalize a rule that would allow for Class II oil and gas extraction wells to be used to simultaneously sequester carbon. The letter was jointly signed with AWWA and urges EPA not to finalize the rule allowing for this provision. The two letters are available on AMWA's website: [www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes).

## This Week In Congress

This week the Senate will vote on legislation to increase Medicare payments to doctors and may also vote on the

FY10 Homeland Security conference report and the Defense authorization legislation.

The House is expected to act on a solar technology bill and a Coast Guard reauthorization measure. Additionally, a vote may come on the FY10 Interior-Environment conference report if House and Senate conferees are able to reach agreement on a final version.

## **EPA Announces Overhaul Of Clean Water Act Enforcement Program**

EPA Administrator Lisa Jackson announced last week at a House Transportation and Infrastructure Committee hearing that a new Clean Water Act (CWA) enforcement plan will strengthen the agency's ability to address 21st century water pollution challenges. Plan goals include targeting enforcement of the most important water pollution problems and strengthening oversight of the states. A third goal – improving transparency and accountability – aims to update the enforcement system to require electronic reporting and also provide complete and accurate information to regulators and the public. EPA has already taken steps toward this third goal by posting CWA compliance information online.

Jackson testified that the regulated universe has expanded from 100,000 point sources to include a million more-dispersed, nonpoint source pollutants – such as animal feeding operations and storm water runoff. She said EPA is working to develop strategies for identifying nonpoint source facilities that are violating requirements. She also said EPA has to improve its oversight of state permitting and enforcement programs as there is “great variability” in enforcement performance across the states.

More information about EPA's CWA enforcement action plan is at [www.epa.gov/compliance/civil/cwa/cwaenfplan.html](http://www.epa.gov/compliance/civil/cwa/cwaenfplan.html).

## **Subcommittee Adds Appeal Process To Water Security Bill**

An Energy and Commerce Subcommittee approved drinking water system security legislation last week after adding an AMWA-backed amendment that would guarantee utilities the right to contest “inherently safer technology” (IST) reviews conducted by state SDWA enforcement agencies. Full committee passage of the bill could occur this week.

The Energy and Environment Subcommittee approved H.R. 3258, the “Drinking Water System Security Act,” by voice vote after turning down several amendments offered by Republican members on party-line votes. One such amendment, which would have removed all sections of the bill relating to the review and implementation of IST, failed by a vote of 21 to 12, with no Democrats voting in favor.

However, included in a manager's amendment added to the bill by Subcommittee Chairman Ed Markey (D-Mass.) was language that would require states to allow individual water systems the opportunity to appeal the outcome of state reviews of utility disinfection chemicals and processes. AMWA worked with the committee to develop this appeal

language after the Association testified earlier this month that water systems need an avenue to contest state IST requirements with which the utilities disagree.

The Energy and Environment Subcommittee also approved H.R. 2868, which would direct DHS to establish new security regulations for chemical facilities, but which would not cover drinking water systems. The subcommittee incorporated several provisions of the drinking water security bill into this legislation, including the possible imposition of criminal penalties against individuals who unlawfully distribute sensitive facility security information, and the removal of language that would have given employee unions possession of copies of entire facility vulnerability assessments. Earlier in the year, AMWA successfully worked with the committee staff to insert these provisions into the water security bill.

## **AMWA Expresses Support For Drinking Water Research Bill**

AMWA last week praised Rep. Diana DeGette (D-Colo.) for reintroducing legislation that would authorize \$275 million over 11 years for a new research program aimed at helping drinking water utilities identify climate change adaptation strategies.

H.R. 3727, the “Drinking Water Adaptation, Technology, Education, and Research (WATER) Act,” would establish the research program, which would likely be operated by the nonprofit Water Research Foundation. Research would investigate a range of drinking water and climate adaptation issues, such as the development of desalination technology, water utility energy efficiency and improved water management techniques. It would also investigate the anticipated impacts of climate change on water quality and quantity in different regions of the U.S., as well as impacts on drinking water infrastructure. Sen. Harry Reid (D-Nev.) previously introduced a similar bill in the Senate, and the program is also part of comprehensive climate change legislation (S. 1733) authored by Sens. John Kerry (D-Mass.) and Barbara Boxer (D-Calif.).

AMWA’s letter to Rep. DeGette, which is available on the Association’s [Legislative Information webpage](#), expressed strong support for the bill and said the bill would help utilities “make informed decisions on climate adaptation strategies.”

## **RECENT E-MAIL BROADCASTS TO MEMBERS**

If you did not receive the following e-mails or if they did not display accurately, please contact Tim Devenney at 202-331-2820 or [devenney@amwa.net](mailto:devenney@amwa.net).

### **October 6**

Member-to-Member Inquiry from Beaver Water District:  
DBP Reporting/Public Inquiries

### **October 13**

Member-to-Member Inquiry From Providence Water:  
Governance, Reserves, and Revenue



October 26, 2009

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## AMWA Annual Meeting Kicks Off In Naples

One of the largest groups of water executives in AMWA history gathers in Naples, Fla., today for the association's 2009 Annual Meeting. The program theme is "Sustainability in High Gear," and presenters over the next two days will address topics at the heart of successful initiatives to operate sustainable water utilities.

Starting this morning with a session on applying the attributes of Effective Utility Management, the agenda will include the water/energy nexus, diversifying the supply portfolio, capital markets and financial planning, regional collaboration, rapid transformation, social media and design-build project delivery. Speakers from the United Kingdom and Australia will present case studies on emergency response and resiliency.

### AMWA Announces Utility Awards, Honors Individuals For Water Sector Service

At award ceremonies today, AMWA will honor two individuals for contributions to the water industry and nine drinking water systems for exceptional management performance. Hamlet "Chips" Barry, Manager and CEO of the Denver Water Department and AMWA's current Treasurer, will receive the 2009 President's Award, which recognizes an individual who has made outstanding contributions to the association and to the improvement of water supply management. Tom Schaeffer, long-time industry regulatory expert and senior advisor to AMWA, will receive the 2009 Donald R. Boyd Award to recognize his outstanding contributions to the water sector.

Winners of the Platinum Awards for Utility Excellence are:

Atlanta Dept. of Watershed Management  
Charleston Water System  
Metro. Water Dist. of Southern California  
Miami-Dade Water and Sewer Dept.  
Orlando Utilities Commission  
City of Santa Rosa Utilities Dept.

Gold Awards for Exceptional Utility Performance will be presented to:

Glendale Water and Power  
City of Riverside Public Utilities Dept.  
City of San Diego Public Utilities Dept.

## **Climate Adaptation Forum Gives Global Platform To Water Sector Challenges**

January 27-29, 2010 are important dates on the U.S. water sector calendar as they mark an event geared specifically at enabling water utility managers to learn first hand about climate change adaptation strategies and tools from other utility managers and researchers from around the world. All metropolitan utilities are invited and encouraged to participate in *Climate Change Impacts on Water: An International Adaptation Forum*.

The event will also raise awareness on Capitol Hill of water utility adaptation issues. Key members of Congress have already signed on to the Forum's honorary committee to express their support, including Sens. Jeff Bingaman (N.M.) and Ben Cardin (Md.) and Reps. Lois Capps (Calif.), Ed Markey (Mass.) and Henry Waxman (Calif.), among others.

The program aims to advance the discussion about climate change beyond impact assessments and toward action by focusing on the planning and tools being used and refined by those in the forefront of this arena. The agenda boasts speakers from the government of the European Union, as well as utility managers from Australia, Canada, the Netherlands, Singapore, Spain, the U.K. and the U.S.

The forum is being hosted by AMWA and the Water Research Foundation in concert with AWWA, the International Water Association and the Water Utility Climate Alliance. Additional details, the agenda and registration information are [online](#).

## **This Week In Congress**

Both the House and Senate this week will vote on another continuing resolution to fund the federal government through mid-December at 2009 levels, as only four of the twelve FY10 spending bills have made it to President Obama's desk for his signature.

The House is also expected to vote on legislation encouraging banks to make loans to small businesses, while the Senate will likely pass a bill that would extend the eligibility period for unemployment benefits. The Senate Environment and Public Works Committee is slated to begin a series of hearings on "cap-and-trade" climate change legislation.

## **With Few Changes, Energy And Commerce Committee Approves Water Security Bill**

One week after receiving subcommittee approval, legislation to impose new security requirements on the nation's drinking water utilities was easily passed by the House Energy and Commerce Committee last week. The bill (H.R. 3258, the "Drinking Water System Security Act") is now ready for floor consideration, although House leaders are still working to finalize similar security legislation that would apply to wastewater utilities.

H.R. 3258 would maintain EPA's oversight of the security of the nation's drinking water systems, and would require utilities to periodically update their vulnerability assessments and emergency response plans, as well as complete site security plans detailing how security issues are being addressed. However, due to AMWA's work with the Energy and Commerce Committee, the bill does not include a broad national mandate that would allow the federal government to impose so-called "inherently safer technologies" (IST) on water systems across the country. Instead, certain utilities would have to evaluate the feasibility of IST, but only state primacy agencies could directly review a utility's decision on whether or not to implement the alternate technology.

Other improvements gained by AMWA during discussions with the Committee include an appeals process following a state IST review, the maintenance of existing criminal penalties (up to one year in prison and a \$100,000 fine) that apply to individuals who unlawfully distribute sensitive utility security information, and a narrower scope of required labor union involvement in the formulation and review of security plans.

While H.R. 3258 was approved by voice vote, committee Republicans offered several amendments to strike out certain sections of the bill, such as the IST review requirements. However, each Republican amendment was defeated on a voice vote.

The Energy and Commerce Committee also approved H.R. 2868, which would allow the Department of Homeland Security to mandate IST adoption at chemical facilities across the country. As it currently stands, wastewater utilities would be subject to these DHS mandates, but the wastewater sector is working with the House Transportation and Infrastructure Committee to develop wastewater security legislation that would closely resemble the EPA-based drinking water program proposed under H.R. 3258.

## **H1N1 Flu Webinar Now Available Online**

On October 21, WaterISAC hosted a town-hall style webinar on the H1N1 influenza (swine flu) outbreak. Nearly 200 drinking and wastewater utility personnel joined a panel of experts from across the federal government including DHS, EPA and CDC.

The panel briefly outlined the status of the outbreak along with mitigation and protection options. WaterISAC subscribers then participated in a group discussion with the guest experts and asked questions relating to inoculations, absenteeism, business continuity and other flu-related issues.

An archived copy of the webinar is available in the Security Information section of the

AMWA [website](#).

## **2009 Water Security Reporting Process Reaching Conclusion**

Voluntary reporting for the second round of water sector-specific security metrics will come to a close on October 30. This critical reporting tool helps track and communicate progress toward increased security and resilience in the water sector. Utilities that have not done so already are encouraged to complete the measures process. The success of the initiative will, in large measure, be a function of the number of utilities that take part.

To participate, visit the WaterISAC public [website](#) and follow the instructions for providing information on the measures. The process should take approximately 20-30 minutes to complete. All responses are confidential and participation is completely anonymous. For questions or additional information, contact [Vance Taylor](#).

## **ExxonMobil Liable For \$104.7 Million MTBE Damages In New York City**

On October 19, a federal jury found ExxonMobil Corp. liable for contaminating groundwater in New York City and said the company must pay \$104.7 million in compensatory damages for pollution of drinking water wells with the gasoline additive methyl tertiary butyl ether (MTBE). The jury in the U.S. District Court for the Southern District of New York found ExxonMobil liable for spilling the contaminant at six gasoline stations located in the Queens borough. The company was also liable because it was a supplier to the New York City area of gasoline containing MTBE and failed to provide warnings of the hazard posed by the product.

ExxonMobil was the only company among 23 that refused to settle with the city over the pollution. The city's 2003 lawsuit was consolidated with many others from around the country in the federal court. Court observers say the ExxonMobil verdict could influence pending cases and potential plaintiffs in other areas with MTBE contamination, encouraging companies to settle rather than fight.

City officials said the money would go toward installing and upgrading water treatment stations to remove MTBE and to supply water to Queens residents when city water supplies are out of service during repairs, droughts and other emergencies.

AMWA Executive Director Diane VanDe Hei said the verdict was good news for ratepayers who would not have to bear the cost of cleaning the water. Between 2003 and 2006, AMWA and many other water associations, the U.S. Conference of Mayors and other organizations twice fought off House and Senate legislation that would have granted the MTBE producers and distributors a liability waiver from suits by cities and utilities.



## AMWA Writes Senate In Support Of Water Utility Climate Adaptation Program

AMWA and a coalition of ten other drinking water, wastewater, and stormwater organizations sent a letter to senators last week expressing the water sector's support for including a water utility adaptation grant program as part of comprehensive climate change legislation.

The letter, addressed to Senators John Kerry (D-Mass.) and Barbara Boxer (D-Calif.), praised their inclusion of the "Water System Mitigation and Adaptation Partnerships" program as a section of S. 1733, the "Clean Energy Jobs and American Power Act." The program, which is based on legislation developed by the water sector and Rep. Lois Capps (D-Calif.) earlier this year, would enable water utilities to compete for matching grant funding to help finance projects and research that will help them adapt to the impacts of global climate change.

As introduced by Sens. Kerry and Boxer, S. 1733 would make the water utility partnerships program eligible for a portion of "cap-and-trade" allowance revenues that will be used by states to implement necessary adaptation projects. Individual utilities would apply to their states to receive a portion of the adaptation funds after documenting how their proposed project would help their utility prepare for the impacts of climate change. At this point, the amount of "cap-and-trade" revenues that will be available for states to spend on adaptation efforts is unknown, but Sen. Boxer is expected to release details on proposed allocations this week when the Environment and Public Works Committee begins hearings on the comprehensive legislation.

A copy of the water sector letter in support of the "Water System Mitigation and Adaptation Partnerships" program is available on AMWA's Legislative Information [webpage](#).

## November 5 Webinar Focuses On Consecutive Systems

EPA is hosting a free webinar on November 5 entitled Consecutive Systems - Stage 2, LT2 and GWR from 1:00 to 3:00 p.m. Eastern Standard Time. The event aims to help consecutive systems understand simultaneous compliance requirements for the latest rules. Space is limited, so [register](#) early.



November 2, 2009

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## AMWA Elects New Officers, Board Members

At the 2009 Annual Meeting in Naples, Florida, last week, AMWA members elected officers for the coming year and voted to fill three seats on the Board of Directors. James McDaniel, Senior Assistant General Manager-Water at the Los Angeles Department of Water and Power, will serve as the association's president and Robert Hunter, Commissioner of the Atlanta Department of Watershed Management, will be vice president. The new treasurer is Pat Mulroy, General Manager of the Las Vegas Valley Water District, and Jerry Johnson, General Manager of the Washington Suburban Sanitary Commission, was reelected to the office of secretary.

New board members are Steven Lawitts, Acting Commissioner, New York City Department of Environmental Protection (Region II); Randy Beavers, CEO and General Manager of Des Moines Water Works (Region VII); and Carrie Lewis, Superintendent, Milwaukee Water Works (At Large).

## House To Vote On Bill Maintaining Drinking Water/Wastewater CFATS Exemption

The House of Representatives is scheduled to vote this week on an updated version of chemical facility security legislation that maintains the drinking water and wastewater sector exemptions from the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards (CFATS) program while directing EPA to develop new security regulations for water facilities.

The updated bill, which will be known as the "Chemical and Water Security Act," will be offered on the House floor as an amendment to H.R. 2868, legislation that would reauthorize the DHS CFATS program. The new bill will incorporate the text of H.R. 3258, the "Drinking Water System Security Act" as approved by the House Energy and Commerce Committee, as well as a near-identical bill from the Transportation and Infrastructure Committee that would direct EPA to impose security regulations on wastewater facilities. Under the updated bill, both drinking water and wastewater facilities will remain exempt from CFATS – as they have been since 2007.

The final bill also maintains numerous improvements that AMWA was able to secure during intensive discussions with House Energy and Commerce Committee staff throughout the year. For example, EPA will not have the power to broadly impose "inherently safer technology" mandates on drinking water and wastewater utilities, existing fines and jail terms for the illegal disclosure of sensitive utility information will be maintained, and access to sensitive information for union officials is narrower than it was in earlier drafts.

Under the bill, drinking water and wastewater facilities will be required to develop and update vulnerability assessments, emergency response plans and site security plans every five years. Utilities that hold certain hazardous chemicals (such as gaseous chlorine) will be required to evaluate potential alternatives and decide on their own whether to adopt an alternate. State agencies will be able to review these decisions, but the utility will be guaranteed the right to appeal a state determination with which it disagrees.

Following the House vote this week, the next steps for the bill are unclear. The U.S. Senate has not begun significant work on similar security legislation and is not expected to do so until next year.

## This Week In Congress

The House of Representatives is in store for a busy week, with a possible Wednesday vote on drinking water and wastewater security legislation attracting the attention of the water sector. Also on tap for this week are scheduled votes on healthcare reform and credit card regulation bills.

In the Senate, work will begin on a bill to extend unemployment insurance benefits, and senators may also vote on the FY10 Commerce-Justice-Science appropriations bill.

## AMWA And NACWA Release Climate Adaptation Cost Estimate

AMWA and the National Association of Clean Water Agencies (NACWA) this week released the results of a report sponsored by the two associations estimating the climate change adaptation costs that the nation's drinking water and wastewater utilities are expected to face in the decades ahead. According to the analysis, the cost of climate change adaptation for U.S. water and wastewater systems could total between \$448 billion and \$944 billion through 2050.

AMWA and NACWA contracted with CH2M Hill to develop the report, *Confronting Climate Change: An Early Analysis of Water and Wastewater Adaptation Costs*. The study categorized climate change-related water quality and quantity impacts that water utilities in different regions of the U.S. are expected to face over the next 40 years, identified the most likely adaptation strategies, and developed cost estimates based on typical present-day price tags associated with these methods. The report also factored in increased operation and maintenance costs that utilities could face as they work to implement these adaptation measures.

On the drinking water side, the report found that climate change impacts such as rising sea levels, changing runoff timing, and reduced water availability could lead to an overall drinking water adaptation price tag of between \$326 billion and \$692 billion through 2050.

However, the report stressed that these figures are only preliminary estimates and could dramatically shift as the actual impacts of climate change on water resources become more apparent in the years ahead.

A copy of the full report is available for download on AMWA's Climate Change webpage at [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange).

## House Boosts SRF Funding, Imposes New Program Rules

The House of Representatives last week gave final approval to legislation providing Interior Department and EPA appropriations for the 2010 fiscal year. Under the final compromise bill developed by House and Senate negotiators, EPA will receive \$10.3 billion this fiscal year, a 36 percent increase above its 2009 funding level.

EPA's water infrastructure funding programs will also see significant funding increases under the bill. The Drinking Water State Revolving Fund (DWSRF) will receive \$1.38 billion, while the Clean Water SRF is in line for \$2.1 billion. The bill also includes \$157 million worth of water and wastewater infrastructure earmarks, which President Obama unsuccessfully asked Congress to eliminate when he released his budget request earlier this year. In total, the SRFs will receive funding nearly \$2 billion above FY09 levels.

However, the bill will also place some new conditions on how states may spend SRF dollars. At least 30 percent of SRF funds received by states must be used to provide forgiveness of principal, negative interest loans or grants, with preference given to communities that could otherwise not afford to pay for the projects. States must also reserve at least 20 percent of their SRF dollars for "green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities," to the extent that the states receive sufficient applications for the funding of such projects. In anticipation of this requirement, EPA is currently formulating new "green" project guidance for 2010. Finally, the bill requires all SRF-funded projects to comply with local prevailing wage rates under federal Davis-Bacon rules.

The Senate is also expected to pass the EPA funding bill in the coming weeks.

## USGS Reports Stable Water Use

Despite a 30 percent population increase between 1980 and 2005, water use in the U.S. remained fairly stable, according to a new report from the U.S. Geological Survey (USGS). Americans also used about one percent less water in 2005 than they did in 2000, due primarily to efficiencies in farm irrigation.

*Estimated Use of Water in the United States in 2005* is the latest in a series of reports USGS publishes every five years. It documents withdrawals from water sources rather than consumptive use or in-stream use. A spokeswoman for the USGS said the report highlights the importance of working with industry on water issues and evaluating the water use of emerging energy technologies. She noted that climate change and the resulting hydrologic variability must now be included in the equation used to manage water for the future.

Overall, irrigation dominated water use in Western states, while thermoelectric power accounted for most of the water use in the East. Of the total amount of water withdrawn nationwide in 2005, 49 percent was for thermoelectric power, 31 percent for irrigation and 11 percent for public water supply. Industrial uses, mining, aquaculture, livestock and domestic

wells accounted for the remainder of the water withdrawals.

Although the report summarizes data across the nation, information on individual states and even some counties can be downloaded at <http://water.usgs.gov/watuse>.

The full report is available online at <http://pubs.usgs.gov/circ/1344/pdf/c1344.pdf>.

## **Senate Committee To Begin Markup Of Updated Climate Bill**

An updated version of S. 1733 (the “Clean Energy Jobs and American Power Act”), released by Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) last week, maintains an AMWA-backed water utility adaptation program (also known as the “Blue Bank”) and makes the program eligible to receive a portion of cap-and-trade emissions revenues reserved for states. Sen. Boxer hopes to begin the Committee’s markup of the bill this week.

Throughout the year, AMWA has advocated for a “Water System Mitigation and Adaptation Partnerships” program, which would distribute competitive matching funds to water utilities to complete climate change adaptation projects. Individual water utilities would apply to their states for funding after documenting how their proposed project would help their utility prepare for or reduce the impacts of climate change. The program as it appears in S. 1733 is similar to versions included in bills introduced earlier this year by Rep. Lois Capps (D-Calif.) (H.R. 2969) and Sen. Harry Reid (D-Nev.) (S. 1712).

Under the latest version of Sen. Boxer’s comprehensive climate change bill, 1.34 percent of all cap-and-trade allocations in the first two years of the program would be divided by states and spent on climate adaptation efforts. States could only spend these adaptation funds through certain specified programs, and the Blue Bank is included in this group. As proposed by the bill, in later years the state adaptation funding would fall to 0.5 percent of all emissions allocations, before rebounding to 1.06 percent in 2022 and 2.18 percent after 2027.

While it will ultimately be up to each state to determine how much of its adaptation allocations will go to fund water utility adaptation projects through the Blue Bank, AMWA believes this bill puts the utility adaptation program in a strong position to receive a share of cap-and-trade revenues. This is also a significant improvement over the climate bill (H.R. 2454) that passed the House earlier this year without a water utility climate adaptation program included.

## **November NDWAC Meeting Set In Philadelphia**

The National Drinking Water Advisory Council (NDWAC) will meet November 11-13 at the Marriott Philadelphia Downtown. The NDWAC agenda includes presentations from members of the American Public Health Association as well as updates from EPA staff about the Climate Ready Utilities Working Group, regulatory initiatives, security and energy and water. The meeting is open to the public and there is also opportunity for public comment. For more information, call Veronica Blette at EPA at 202-564-4094.



November 9, 2009

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## House Approves Water-Wastewater Security Legislation

Late Friday afternoon the House of Representatives passed legislation directing EPA to formulate new security regulations for drinking water and wastewater facilities. The bill (H.R. 2868, the “Chemical and Water Security Act”) included numerous improvements for which AMWA successfully lobbied over the course of the year. The final vote was 230 - 193.

Under the legislation, drinking water and wastewater utilities will remain exempt from the Department of Homeland Security’s CFATS chemical facility security regulations. However, drinking water systems will be required to update their existing vulnerability assessments (VAs) and emergency response plans (ERPs) at least every five years and complete site security plans (SSPs) detailing how security vulnerabilities are being addressed. Wastewater utilities will also have to complete and keep updated VAs, ERPs, and SSPs.

The most controversial portion of the water security legislation will require water and wastewater systems that use certain hazardous substances (such as gaseous chlorine) to evaluate potential alternative chemicals and processes (sometimes referred to as “inherently safer technologies” or “IST”) and decide on their own whether to implement these alternatives to reduce risk to the surrounding community. However, because of AMWA’s work with the Energy and Commerce Committee, the bill will not allow EPA or any other federal agency to broadly force water systems across the country to adopt an “IST.” Instead, only state primacy agencies will be able to directly review utility “IST” decisions, and the utility will be guaranteed the right to appeal the outcome of a state review with which it disagrees.

Other improvements in the bill gained by AMWA include:

- Maintaining the existing criminal penalties (one year in jail and a \$100,000 fine) that may apply to individuals who illegally disclose sensitive information such as vulnerability assessments;
- Removing requirements that utilities provide entire copies of vulnerability assessments and site security plans to union officials; and
- Not allowing the federal government to shut down a drinking water or wastewater facility for non-compliance with a security regulation.

In addition to AMWA, the Association of California Water Agencies, the National Association of Clean Water Agencies, the California Association of Sanitation Agencies and the American Public Works Association supported the final version of H.R. 2868.

The U.S. Senate has yet to begin work on its own water and wastewater security bill, but may begin to formulate legislation soon. AMWA plans to work with other water sector associations to ensure that a federal “IST” mandate is also absent from the Senate’s eventual version of the bill.

## This Week In Congress

Wednesday’s Veterans Day holiday means a shortened workweek for the U.S. Senate, which will only be in session today and tomorrow. The chamber is scheduled to vote on two FY10 appropriations bills – Commerce-Justice-Science and Military Construction-VA – and several judicial nominations before recessing on Tuesday night.

The House of Representatives will only be in session this week if Democratic leaders need more time to round up votes for their healthcare reform legislation. A vote on the healthcare bill was scheduled for Saturday, but House leaders warned that the vote could slip into the beginning of this week if final negotiations took longer than expected.

## AMWA Meeting Generates Interest In Climate Forum

The focus of the upcoming international conference *Climate Impacts on Water: An International Adaptation Forum* is an extremely practical one – finding the best ways to plan for and initiate programs to address climate change consequences that are already being felt throughout the world. Among the water sector executives attending AMWA’s Annual Meeting in Naples, Fla., last month there was a strong sense that the Forum will be an important event, not only for front-line water utility operators, but also for elected officials who need a better understanding of the growing threat of climate change to the sustainability of municipal water systems and resources.

Presentations at the Annual Meeting by International Water Association (IWA) Executive Director Paul Reiter and Water Research Foundation (Water RF) Executive Director Rob Renner, as well as the meeting of AMWA’s Climate Change Committee, highlighted the practical nature of the agenda. The program will bring together key policy officials, such as European Environment Agency Executive Director Jacqueline McGlade and Dutch climate scientist Pavel Kabat of the International Panel on Climate Change, as well as water ministers, climate officials and water executives from all corners of the globe.

AMWA members will receive regular e-mail updates about the Forum, which will be held in Washington, D.C., January 27-29, 2010. **Members are encouraged to sign up for the conference and to forward information on the Forum to others, including elected officials, who would benefit from attending.**

AMWA, Water RF and IWA are hosting the event, along with the Water Utility Climate Alliance and AWWA. Information is online at [www.waterclimateforum.org](http://www.waterclimateforum.org).

## **EWG Extends Deadline For Tap Water Database**

Late last week, AMWA notified members via Bulletin 09-12 ([www.amwa.net/cs/bulletins](http://www.amwa.net/cs/bulletins)) that the Environmental Working Group (EWG) has extended its deadline for utilities to inform them of corrections to the group's Tap Water Database. The new deadline is this Friday, November 13. EWG plans to publish its database before the end of the year and says it will notify large media outlets of the availability of the report.

EWG's last report was published in 2005 with the headline: "More than 140 contaminants with no enforceable safety limits found in the nation's drinking water." It is available at [www.ewg.org/tapwater/findings.php](http://www.ewg.org/tapwater/findings.php).

## **EPA Intends To Reconsider Water Transfers Ruling**

In a statement issued last week, EPA said it would reconsider a final rule, published in June 2008, which excluded water transfers from regulation under the NPDES permitting program. According to an industry trade publication, the agency expressed "concerns about the water quality impacts of some water transfers" and said it has formed an interagency workgroup to explore options. Representatives from EPA, the Corps of Engineers and the Departments of Interior and Agriculture serve on the workgroup.

In last year's final rule, EPA said Clean Water Act permits are not required for water transfers because the transfers do not add pollutants to navigable waters. The agency said the pollutants are already in the waters being transferred and are not being added from the outside by a point source.

An earlier indication of EPA's plans to reconsider the rule surfaced in October in a court document submitted by the Justice Department to the U.S. Court of Appeals for the 11th Circuit concerning the 2002 lawsuit brought against the South Florida Water Management District by Friends of the Everglades and Fishermen Against the Destruction of the Environment. DOJ said: "EPA in fact intends to reconsider the rule; however, as the court correctly concluded, unless and until EPA rescinds or changes the rule through notice and comment rulemaking (or Congress amends the act), the current rule must be given effect."

## **Senate Committee Approves Climate Bill Over GOP Boycott**

The Senate Environment and Public Works (EPW) Committee last week approved comprehensive climate change legislation after a boycott by Republican members of the committee prevented the consideration of any amendments. Republican members had asked to delay the markup until EPA completed an economic analysis of the proposal, which would regulate U.S. greenhouse gas emissions through a "cap-and-trade" program.

The bill (S. 1733, the "Clean Energy Jobs and American Power Act") includes an AMWA-backed section that would establish a grant program through which drinking water and wastewater utilities would compete for funding to implement climate change research and adaptation projects. This "Water System Mitigation and Adaptation Partnerships" program would be eligible to receive funding through carbon emission allowance revenues set aside for state-level adaptation programs.



Despite the EPW Committee's approval, S. 1733 still faces a long road ahead in the Senate. Several other committees will have an opportunity to mark up portions of the measure before it moves to the floor, and as a result most observers expect that significant changes will be made. However, the water utility adaptation program appears to be well positioned to remain intact as the overall legislation develops. Importantly, Senate Majority Leader Harry Reid (D-Nev.), who will be charged with putting together the final bill that is eventually brought to the Senate floor, is a strong supporter of the program.

## **Hearing Probes Challenges In Spending Stimulus Water Funds**

An EPA official told a House Transportation and Infrastructure subcommittee last week that "Buy American" and "green infrastructure" requirements included in the economic stimulus bill enacted earlier this year are threatening the ability of some states to fund water infrastructure projects by the February 2010 deadline.

Nanci Gelb, deputy director of EPA's Office of Ground Water and Drinking Water, testified that of the \$4 billion in funding for the Clean Water State Revolving Fund (CWSRF) provided by the stimulus bill, about \$800 million is under contract thus far. However, EPA has found that new requirements directing states to only use U.S.-made iron, steel and manufactured goods on SRF projects has posed a significant obstacle to some states seeking to get projects off the ground. Gelb reported that EPA has issued 23 project specific waivers to these "Buy American" rules.

States are also being slowed by the stimulus law's requirement that 20 percent of SRF funds be spent on "green infrastructure" projects. So far, only 14 states have met this threshold, though Gelb said that EPA expects this number to rise as the February deadline for spending SRF stimulus dollars approaches.

At the hearing, the Transportation and Infrastructure Committee also released the results of its own study on CWSRF stimulus spending. According to the committee's data, 873 CWSRF projects in 43 states have been put out to bid, totaling \$1.8 billion – 48 percent of the total available stimulus funds for wastewater infrastructure. In addition, the committee said that work has begun on 394 wastewater projects in 36 states, totaling \$872 million. The Transportation and Infrastructure Committee did not report on the spending of Drinking Water SRF funds, because that program is outside of its jurisdiction.

## **Administrators Announced For Five EPA Regional Offices**

On Thursday, EPA Administrator Lisa Jackson announced the selection of administrators to head five of the agency's regional offices:

- Region 1: H. Curtis Spalding, the director for nearly 20 years of Save the Bay, Rhode Island's largest environmental advocacy group;
- Region 2: Judith Enck, a veteran New York state official and environmental advocate who served since 2007 as deputy secretary to the governor of New York for the environment;
- Region 3: Shawn Garvin, a 10-year Region 3 staff member who currently serves as senior state and congressional liaison;

- Region 6: Alfredo Armendariz, a professor at Southern Methodist University who teaches environmental and civil engineering and has been active in research; and
- Region 9: Jared Blumenfeld, director of San Francisco's Department of Environment for the past eight years.

## **Water Sector Coordinating Council Addresses Security Issues**

The Water Sector Coordinating Council (WSCC) held its quarterly meeting in Washington, D.C. last week to discuss a path forward on several security-related projects and priorities. The council received updates from its strategic planning, priorities and emergency management and response working groups. Other discussion topics included the water sector's participation in the National Infrastructure Advisory Council, the Partnership for Critical Infrastructure Security and the status of an initial set of cybersecurity workshops co-planned by the WSCC and its government partners.

In a joint session of the WSCC and its government counterpart, the Government Coordinating Council, EPA and DHS representatives delivered presentations on the Enhanced Critical Infrastructure Protection Initiative, National Level Exercises 2010 and the current status of vulnerability assessment tool revisions. AMWA staff provided updates on a program to measure the water sector's progress in security along with an overview of WaterISAC's current activities and operations.



November 23, 2009

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## NOAA Administrator To Keynote Climate Adaptation Forum

Jane Lubchenco, Administrator of the National Oceanic and Atmospheric Administration (NOAA), will give the keynote address at *Climate Change Impacts on Water: An International Adaptation Forum*, to be hosted by AMWA January 28-29, 2010 in Washington, D.C. NOAA is a key partner of water utility managers facing critical near-term climate-related challenges and choices, and Dr. Lubchenco is a champion of establishing a National Climate Service, a single authoritative source of policy-relevant climate information.

Other speakers on the program include Jacqueline McGlade, Executive Director of the European Environment Agency; Pavel Kabat, Science Director of the Dutch National Climate Research Program; His Excellency the Minister of Water and Irrigation Eng. Raed Abu-Soud of the Water Authority of Jordan; and Trevor Bishop, Director of Water Resources Policy at the UK Environment Agency. The honorary committee includes Sen. Ben Cardin and Reps. Henry Waxman and Ed Markey, among others.

Other Forum hosts are the Water Research Foundation, the International Water Association, AWWA and the Water Utility Climate Alliance. Additional information and online registration are available at [www.waterclimateforum.org](http://www.waterclimateforum.org).

## Senate Leader Pushes Climate Legislation To Spring

Senate Majority Leader Harry Reid (D-Nev.) said last week that the chamber will not begin debate on comprehensive climate change legislation until the spring, ending speculation that a final Senate bill would be ready for a vote before next month's international talks in Copenhagen.

While the Senate Environment and Public Works Committee approved its version of a climate change bill (S. 1733) earlier this month, several other committees must mark up their portions of the legislation before it can advance. Meanwhile, Sens. John Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Lindsay Graham (R-S.C.) are working to develop their own framework for a climate bill that could win bipartisan support in the Senate.

All of this means that the specific provisions of the final Senate bill won't be known until next year, when Sen. Reid prepares a final version for floor consideration. However, Sen. Reid supports an AMWA-backed water utility climate adaptation program, so there is a strong chance that the program will appear in the final bill.

The House of Representatives narrowly approved its version of comprehensive climate change legislation (H.R. 2454) in June.

## Thanksgiving Recess On Schedule For Congress, MMB

The Senate's Saturday vote on healthcare reform was the last scheduled business for either chamber before the Thanksgiving recess.

Monday Morning Briefing will not be published on November 30, and the AMWA office will be closed November 26-27 for the holiday.

## Water Sector Competency Model Available

To help the water sector address the anticipated retirement of more than 30 percent of water and wastewater professionals in the next five to seven years, EPA's Office of Water has collaborated with the Water Environment Federation, AWWA and the Department of Labor to develop the Water Sector Competency Model. A competency model is one of the tools used by the Department of Labor to provide a clear description of what a person needs to know and be able to do (such as knowledge, skills and abilities) to perform well in a specific job, occupation or industry.

In announcing the availability of the model, EPA said that having it in place "will help promote the water sector and ensure its recognition as a high growth/high demand green job sector among other federal agencies, job seekers and academic institutions." For more information, visit [www.careeronestop.org/competencymodel/default.aspx](http://www.careeronestop.org/competencymodel/default.aspx).

## EPA Climate Ready Working Group To Meet December 3-4 in Washington, D.C.

EPA announced in the November 20 *Federal Register* that the first in-person meeting of the Climate Ready Utilities Working Group of the National Drinking Water Advisory Council will meet in Washington, D.C., on December 3 and 4. The meeting will be at the Marriott Washington, 1221 22nd St., N.W. The meeting is open to the public, although interested attendees are asked to contact Lauren Wisniewski at [wisniewski.lauren@epa.gov](mailto:wisniewski.lauren@epa.gov) or 202-564-2918.

## WaterISAC Webinar Looks At The Power Of Social Media For Security-Related Communication

A WaterISAC webinar for Pro subscribers on December 15 will feature Joe Carney of the Prince William County Service Authority (PWCSA) discussing the use of social media as a tool for security-related communications and for informing customers of emergencies. He will explain the tactics, techniques and procedures for setting up a social media program,

security protocols to monitor and control the flow of information and lessons learned by the PWCSA. Attendees will have the chance to ask questions following the presentation.

This webinar will be held at 3:00 p.m. EST and registration is online at the WaterISAC Event Sign Up page at [www.waterisac.org](http://www.waterisac.org).

## **Federal Agencies Commit To Restoring California Bay-Delta Ecosystem, Seek Public Input**

A September 30 Memorandum of Understanding (MOU) between the Departments of Interior, Agriculture, Commerce and the Army, as well as EPA, committed the parties to develop a plan by December 15 to set performance based goals and prioritize actions for ensuring a sustainable water supply by “restoring the environmental integrity of the California Bay-Delta ecosystem.” The federal agencies involved in this endeavor are seeking input from the public and stakeholders through December 1. Comments can be submitted online at [www.doi.gov/CAWaterComments](http://www.doi.gov/CAWaterComments).

## **Oberstar Admonishes States For Slow CWSRF Stimulus Spending**

House Transportation and Infrastructure Committee Chairman James Oberstar (D-Minn.) last week sent letters to the governors of five states (Arkansas, Georgia, Mississippi, Rhode Island and Utah) and the mayor of the District of Columbia criticizing their slow pace of spending federal stimulus funds on wastewater infrastructure projects through the Clean Water State Revolving Fund (CWSRF). According to Chairman Oberstar, these five states and D.C. have thus far “put out to bid, signed contracts for, and begun construction on zero” stimulus-funded CWSRF projects.

Under the stimulus law, states must have all funding for stimulus-funded drinking water and wastewater infrastructure projects under contract by February 17, 2010. States that miss this deadline could have their remaining funds reclaimed by EPA and redistributed to other states.

In a hearing on stimulus spending earlier this month, an EPA official told Oberstar’s committee that the stimulus law’s “Buy American” provisions – which allow states to only use U.S.-made iron, steel and manufactured goods on stimulus-funded SRF projects – have posed a significant obstacle to some states’ efforts to spend the dollars quickly.

Because the Transportation and Infrastructure Committee does not have jurisdiction over the Drinking Water SRF program, Chairman Oberstar has not analyzed how successful states have been at spending stimulus funds on drinking water projects.

## **Nutrient Innovations Task Group Sets Dec. 1 Webcast**

Findings from a new report of the State-EPA Nutrient Innovations Task Group will be highlighted in a December 1 webcast presented by EPA’s Watershed Academy. The report characterizes the scope and major sources of nutrients, and includes recommendations to address the issue. Also on the agenda are discussion of effective ways to deal with nutrient pollution from agriculture and successful approaches to reduce nutrient pollution from agricultural livestock and municipal sewage treatment plants. To register for the webcast, visit: [www.epa.gov/watershedwebcasts](http://www.epa.gov/watershedwebcasts).



December 7, 2009

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## **NOAA Administrator Testifies On Climate Change Impacts On Water Resources, Encourages Comprehensive Adaptation**

National Oceanic and Atmospheric Administration Administrator Dr. Jane Lubchenco told a House committee last week that the latest scientific data shows that global climate change is already having an impact on water resources in the U.S. and that communities must begin planning comprehensive adaptation strategies now to prepare for increasing impacts in the years and decades ahead.

Testifying before the Select Committee on Energy Independence and Global Warming, Dr. Lubchenco pointed to several recent findings demonstrating the impacts of climate change on water resources:

- Runoff in snowmelt-dominated areas is occurring up to 20 days earlier in the West and up to 14 days earlier in the Northeast;
- In the U.S., rain falling in the heaviest downpours has increased approximately 20 percent on average in the last century, and this is expected to continue with the largest increases in the wettest places; and
- During the past 50 years, sea level has risen eight inches or more in some locations along the U.S. coast.

In addition to these impacts, Dr. Lubchenco said that melting permafrost could damage water and sewer systems and increased drought will further stress water resources in some regions, particularly the West. She went on to say that it is “critically important” for decision makers at all levels of government to begin planning now to adapt to the unavoidable impacts of climate change on their communities. Dr. Lubchenco also encouraged federal researchers to communicate with local stakeholders to ensure that the latest information is accessible and usable. A copy of her full testimony is available on AMWA’s Climate Change webpage at [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange).

**Next month, Dr. Lubchenco will be the keynote speaker at *Climate Change Impacts on Water: An International Adaptation Forum* hosted by AMWA in Washington, D.C. For program and registration information, visit [www.waterclimateforum.org](http://www.waterclimateforum.org).**

## This Week In Congress

This week the House of Representatives is expected to consider legislation to overhaul the nation's financial regulatory system and impose new restrictions on Wall Street activities. The House will also vote on a measure to extend a variety of tax credits that are scheduled to expire at the end of the year.

In the Senate, work will continue throughout the week on healthcare reform legislation as the chamber considers a series of amendments to the proposal.

### House Approves Energy-Water Research Bill

The House of Representatives last week passed the "Energy and Water Research Integration Act" (H.R. 3598), which would require the Department of Energy (DOE) to promote water and energy efficiency technologies and practices and the use of nontraditional water sources as part of its research, development and demonstration programs. Under the legislation, DOE would work with other federal agencies to establish an Energy-Water Architectural Council to provide improved data collection and reporting related to energy and water resources. Funding for the council would be authorized at \$5 million annually for the years 2011 through 2015.

H.R. 3598 would also require DOE to conduct research and development activities to advance energy and energy efficiency technology and practices. The department would have to consider the effects of climate change on water supplies and water quality for energy generation and fuel production. The next steps for the proposal are unclear, as no companion measure has yet been introduced in the U.S. Senate.

### CEQ Proposes National Objectives, Principles And Standards For Federal Water Projects

The White House on Thursday announced the availability of a draft document detailing "new standards for federal water projects that for the first time put environmental goals on the same plane as economic development concerns." Developed by the Council on Environmental Quality (CEQ), the principles and standards, if finalized, would supercede the 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, developed under the Water Resources Development Act. Unlike the 1983 Principles and Guidelines, the proposed National Objectives, Principles and Standards would apply not just to the U.S. Army Corps of Engineers but to all federal agencies involved in water planning, including EPA and the Bureau of Reclamation.

CEQ's announcement and a link to the draft document are available online at [www.whitehouse.gov/administration/eop/ceq/Press\\_Releases/December\\_3\\_2009](http://www.whitehouse.gov/administration/eop/ceq/Press_Releases/December_3_2009). CEQ is taking public comment on the draft document for 90 days and will also send the document to the National Academy of Sciences for review. The new draft states that the objective for water resources planning is to develop water resource projects based on sound science to maximize net national economic, environmental and social benefits. As a result, the U.S.

will modernize the way it plans water resources projects by “protecting and restoring ecosystems and the environment while encouraging sustainable economic development,” avoiding adverse impacts to ecosystems and avoiding the “unwise use of flood plains, flood-prone areas and other ecologically valuable areas.”

## Friday Is Deadline For Leadership Center Applications

December 11 is the deadline for applications to the 2010 *The Water & Wastewater Leadership Center*. The 2010 session will be held March 7-19 at the Kenan-Flagler Executive Education Center on the campus of the University of North Carolina at Chapel Hill. Information and an application form are online at [www.amwa.net/cs/leadership\\_center](http://www.amwa.net/cs/leadership_center).

## Guidance Issued On Implementing Davis-Bacon Provisions For Water Projects

Last Monday, EPA issued guidance for its regional offices on how to implement required prevailing wage provisions for clean water and drinking water projects in the law appropriating funding for EPA in FY10. While the spending measure provides a substantial funding increase for wastewater and drinking water programs, it also requires builders and contractors to pay prevailing wages on infrastructure projects that use federal revolving loan funds.

The memo says that the law requires states to include in all assistance agreements a provision requiring the application of the Davis-Bacon Act for the entirety of the construction activities financed by the assistance through completion of construction, no matter when construction begins. Application of the requirements extends not only to assistance agreements funded with fiscal year 2010 appropriations, but also to all assistance agreements executed on or after Oct. 30, 2009, and prior to Oct. 1, 2010, according to the memo, which is online at [www.epa.gov/owm/cwfinance/cwsrf/law.htm](http://www.epa.gov/owm/cwfinance/cwsrf/law.htm).

## GAO Assesses Biofuel Impacts On Water Resources

A new report from the Government Accountability Office, *Energy-Water Nexus: Many Uncertainties Remain about National and Regional Effects of Increased Biofuel Production on Water Resources* ([www.gao.gov/new.items/d10116.pdf](http://www.gao.gov/new.items/d10116.pdf)) indicates that potential impacts depend on the feedstocks used, technologies to convert plants to fuel and innovations in the process. Due to this uncertainty, more research is needed to determine the potential effects of increased biofuel production on water resources, GAO said.

The report considered corn, the most common conventional feedstock, as well as “next generation” feedstocks. It noted, however, that the new feedstocks “have not yet been grown on a commercial scale and therefore their actual effects on water resources are not fully known at this time.” Questions also surround new conversion technologies both because of their water impacts and because of their economics, the report said. While innovations such



as dry cooling systems and thermochemical processes could reduce the amount of water used by biorefineries, they “are currently not economically feasible or remain untested at the commercial scale,” GAO said.

## Public Forums Scheduled On Draft Chesapeake Bay Restoration Strategy

A series of public forums will be held in December on the recently released draft strategy for restoring the Chesapeake Bay. The forums will be held in Washington, D.C., Baltimore and Salisbury, Md., Martinsburg, W.V., Binghamton, N.Y., Harrisburg, Pa., and Norfolk, Va., and will feature officials from EPA, U.S. Departments of Agriculture and Interior and the National Oceanic and Atmospheric Administration. The draft strategy and information on the forums are online at <http://executiveorder.chesapeakebay.net>. Comments on the plan can also be submitted on the site during the public comment period, which runs through January 8, 2010.

The draft strategy will evolve through public comments, state consultations and agency revisions before the final strategy is published in May 2010. It will include federal initiatives to restore clean water, protect fish and wildlife and adapt to the impacts of climate change. To accomplish these objectives, the strategy proposes empowering local efforts, making decisions based on science, increasing federal leadership and accountability, and encouraging close collaboration of efforts with the six states in the Chesapeake Bay watershed and the District of Columbia.

## Alliance Calls For Integrated Water Policy

To address the challenges of climate change, energy supply and water sustainability, a new report from the Clean Water America Alliance, an affiliate of NACWA, calls for a greater focus on holistic approaches applied on a watershed basis. The report, *A Call to Action: The Need for an Integrated National Water Policy*, says that establishing a national water policy that integrates efforts by federal, state and local governments; focuses resources; and better coordinates water, climate change, and energy issues is critical to meeting these challenges. The report is available at [www.cleanwateramericaalliance.org/pdfs/2009-11-16report.pdf](http://www.cleanwateramericaalliance.org/pdfs/2009-11-16report.pdf).

## Regulatory Updates

- EPA published several corrections in the December 2 *Federal Register* (74 FR 63069) to the alternative test methods under the Safe Drinking Water Act announced in a November 10 final rule.
- December 1 marked the effective date for triggered monitoring (and associated corrective actions) and compliance monitoring under the Ground Water Rule.

## Lautenberg Announces Plan To Offer Chemical Security Bill

Senator Frank Lautenberg (D-N.J.) said last week that he plans to introduce legislation that would impose strict new regulations on the nation’s chemical facilities. He did not detail any specific provisions of his forthcoming proposal, although he said that the government has “a responsibility to reduce the use of dangerous chemicals and keep our families and

communities safe from potential attacks.”

In the past, Sen. Lautenberg has supported mandates that would force chemical facilities to adopt so-called “inherently safer technologies” (IST). In 2006 he sponsored an amendment to a bill before the Senate Homeland Security and Governmental Affairs Committee that would have forced chemical facilities to adopt IST unless the Department of Homeland Security agreed that it was infeasible or not cost-effective. The amendment failed, with several committee Democrats joining most Republicans in opposition, but it may offer a preview of the type of proposal Sen. Lautenberg will offer this year.

At this point, it is uncertain to what extent Sen. Lautenberg will influence the Senate’s chemical security legislation. While he is a leading proponent of strict chemical security regulations, he no longer serves on the Homeland Security and Governmental Affairs Committee, which will be tasked with producing a bill. However, he is a member of the Senate Environment and Public Works Committee, which is expected to take the lead in drafting Senate security legislation that would apply to drinking water and wastewater systems.

In November, the House of Representatives approved H.R. 2868, the “Chemical and Water Security Act” which would reauthorize the Department of Homeland Security’s CFATS program and allow DHS to force chemical facilities to implement IST. The bill would maintain the exemption of drinking water and wastewater facilities from CFATS, but water utilities that use certain hazardous chemicals would have to consider IST alternatives. The federal government would not have the authority to broadly force water systems to adopt IST, but state primacy agencies would be able to review individual utility decisions on alternate chemicals.



December 14, 2009

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## AMWA Offers Communication Tools In Advance Of New York Times Article

### ARTICLE UPDATE:

Although the EWG story received some press in several local markets, the New York Times article was not published. It is unclear when and whether the Times article will be published.

AMWA notified members by bulletin last Friday of an article published in yesterday's *New York Times* as part of the paper's continuing "Toxic Waters" series. The story, focusing on drinking water utility managers and the water quality at the tap, was based in part on the Environmental Working Group's Tap Water Database, which was released over the weekend. In the bulletin ([www.amwa.net/cs/bulletins](http://www.amwa.net/cs/bulletins)), AMWA recommended that utilities use their monitoring data to engage local press to tell their own story.

AMWA also offered resources from risk communication expert Dr. Vincent Covello, Director of the Center for Risk Communication, to help utilities address media questions and consumers' concerns.

As a prelude to yesterday's story, the *Times* published another article in its series on December 7, which focused on violations of the Safe Drinking Water Act and EPA's lack of enforcement.

## EPA Announces New SDWA Enforcement Policy; Expands Focus On Small Systems

Appearing last week at a Senate Environment and Public Works Committee (EPW) hearing on Safe Drinking Water Act (SDWA) enforcement, EPA Assistant Administrator for Water Peter Silva and Assistant Administrator for Enforcement and Compliance Assurance Cynthia Giles announced a new policy that will focus enforcement activities on water systems with the most serious or repeated violations in all contaminant categories.

The hearing, which was scheduled in conjunction with the publication of the December 7 *New York Times* story summarizing SDWA violations committed predominantly by small systems over the past five years, served as an opportunity for committee members to criticize EPA for not doing more to penalize noncompliant utilities. "I am concerned that the federal government has not done enough in recent years to maintain and improve drinking water safeguards," said EPW Committee Chairman Barbara Boxer (D-Calif.). "I want to ensure the federal government fully and effectively utilizes its authority under the law, and to ensure that EPA has the tools it needs to protect our children and communities across the country

from dangerous water contamination,” she added.

In response, the EPA officials’ testimony laid out a new enforcement policy that will enable EPA to identify the most significant threats to public health at water systems with the most widespread violations and prioritize those systems for enforcement action. Silva and Giles said that this new approach will allow the agency to address underlying compliance problems at entire water systems, rather than separately addressing non-compliance with each drinking water rule. The new policy will go into effect on January 1, 2010.

Silva and Giles also announced a new “small systems approach” to help small communities comply with SDWA, noting that 96 percent of all health-based violations occur at systems serving fewer than 10,000 people. The three-pronged approach will aim to increase the percentage of State Revolving Fund monies that go to the smallest water systems, strengthen State Capacity Development Programs and help small systems choose appropriate restructuring options. Their testimony did not suggest any effort to increase assistance for urban water utilities, likely because these systems rarely face widespread SDWA compliance challenges.

## **This Week In Congress**

This week the House is expected to vote on its FY10 Defense Appropriations bill, which will include riders to increase the statutory debt ceiling, extend unemployment benefits and provide tax breaks for small businesses. It is possible that an infrastructure funding component could be added as well, but a final decision had not been made by House leaders as of late last week.

In the Senate, votes are expected to continue on amendments to the chamber’s health care reform legislation.

## **EPA Says Perchlorate Decision, Revision To LCR Are Coming**

Also at last week’s EPW Committee oversight hearing, Silva said that EPA would make a decision within six months on whether to set a standard for perchlorate. Silva also said that by 2012 the agency would make changes to the Lead and Copper Rule. A video of the hearing and a copy of Silva’s testimony are available at <http://epw.senate.gov/public>.

## **Omnibus Spending Bill Orders Climate Service Study**

An omnibus appropriations conference report (H.R. 3288) approved by the House of Representatives last week includes language directing the National Oceanic and Atmospheric Administration (NOAA) and the National Academy of Public Administration to complete a study of how a proposed federal National Climate Service would be organized and implemented.

The concept of a National Climate Service charged with providing regional climate change impact forecasts has earned broad support over the past several years, but Congress and the executive branch have not been able to agree on which agency should have oversight of the new service. NOAA officials have strongly lobbied for control of the agency, but President Obama's White House has also sought to oversee the program.

The study mandated in the conference agreement calls for the federal government to consider "maximum effectiveness and efficiency" for the service and how it could coordinate and align existing climate programs within NOAA and outside the agency. It also directs the report to assess how the climate service could provide information for regional, state and global leaders to help with decision making on how to best prepare for climate change. The report would be due about six months after enactment of the spending legislation.

H.R. 3288 would provide NOAA with \$4.7 billion in 2010, a nearly nine percent increase over its current funding level. Included within this total is \$375 million to enhance climate change research and regional assessments, improve climate data records and support climate change educational programs.

## **Key Democrats Call For Water Infrastructure Funding In Jobs Bill**

With Congress formulating plans to pass a job-creation bill as early as this week, several influential Democrats have gone on record to say that such a measure should include additional funding for water and wastewater infrastructure projects.

At a briefing with infrastructure stakeholders at the Library of Congress last week, Rep. Earl Blumenauer (D-Ore.) said that while the components of jobs legislation are "fuzzy," investment in water and other infrastructure should be a prominent part of the legislation. Blumenauer noted the significant job-creating ability of infrastructure projects, which he said comprised only four percent of spending in the economic stimulus legislation enacted earlier this year, but have created 25 percent of the jobs that have resulted from the bill.

House Majority Leader Steny Hoyer (D-Md.) also endorsed increased infrastructure spending and said that a jobs bill worth up to \$150 billion might be attached to an omnibus appropriations bill that must be enacted by the end of the year. Separately, Rhode Island Sen. Sheldon Whitehouse called for robust water infrastructure spending within the jobs bill at a Senate hearing last week and along with 23 other senators wrote to President Obama in support of including significant water funds within the package.

But despite these statements, it remains unclear to what degree additional water infrastructure funding will reach urban utilities. An AMWA analysis of stimulus funds distributed by states through the DWSRF has found that systems serving more than 100,000 people have received only 16 percent of the funding thus far, and the majority of those funds have gone to only a handful of utilities. Additionally, Rep. Peter DeFazio (D-Ore.) told stakeholders at the Library of Congress that he would push to strengthen "Buy American" provisions in a new jobs bill in order to encourage American manufacturing. "Buy American" language in the stimulus bill has been an obstacle to some water projects that require components that are primarily manufactured abroad.

## Senator Introduces Bottled Water Disclosure Bill

Bottled water manufacturers would be required to disclose on their labels the source of their water and how it was treated under legislation introduced last week by Sen. Frank Lautenberg (D-N.J.). The “Bottled Water Safety and Right-to-Know Act” (S. 2848) would also require manufacturers to submit information about their water’s origins and quality to the Food and Drug Administration and to make that information available to the public. Sen. Lautenberg said that he introduced the measure because many consumers are not aware that bottled water is not subject to the same EPA water quality standards that apply to tap water.

## CEQ Requests Comments On Proposed New Directions For Federal Water Projects

As reported in the December 7 issue of *Monday Morning Briefing*, the Council on Environmental Quality (CEQ) announced availability of a draft document detailing “new standards for federal water projects that for the first time put environmental goals on the same plane as economic development concerns.” The document was published in the *Federal Register* on December 9 (available at [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html) by searching the date for CEQ and principles for federal water projects). CEQ is inviting written comments and they will be accepted through March 5, 2010.

## Nominations Open For Clarke Prize

The National Water Research Institute announced its call for nominations for the 17th annual Clarke Prize for Excellence in Water Research. The prize awards scholarly and practical achievements in water research. Nominations for the 2010 Clarke Prize are due by March 1, 2010. Additional information, including nomination procedures, can be found at [www.nwri-usa.org/nominations.htm](http://www.nwri-usa.org/nominations.htm).

## Guidance Issued On Implementing Davis-Bacon Provisions For Water Projects

EPA’s recently issued guidance for its regional offices on how to implement required prevailing wage provisions for clean water and drinking water projects in the law appropriating funding for EPA in FY10 (*Monday Morning Briefing* - December 7, 2009) has been published as a notice in the *Federal Register*. The memo says that the law requires states to include in all assistance agreements a provision requiring the application of the Davis-Bacon Act for the entirety of the construction activities financed by the assistance through completion of construction, no matter when construction begins. The notice is found online at [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html) by searching on December 8 for EPA and Davis Bacon.



December 21, 2009

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## Happy Holidays!

Best wishes for the holidays from the AMWA staff. With Congress on hiatus, the *Monday Morning Briefing* will not be published again until January 11; any breaking news will be delivered by *Special Briefing*. The AMWA offices will be closed on December 25 and January 1.

## Save The Date

AMWA's 2010 Water Policy Conference

March 21 - 24  
Renaissance M Street Hotel  
Washington, D.C.

Meet national policy makers and make your opinions known.

[www.amwa.net/cs/2010WPC](http://www.amwa.net/cs/2010WPC)

## This Week In Congress

The House of Representatives has already completed its work for the year, but the Senate will be in session this week as Democratic leaders are hoping to pass a healthcare reform package by Christmas Eve. Senators are also expected to vote on an increase to the U.S. debt limit either this week or next.

## Jobs Bill Includes \$1 Billion For Drinking Water Infrastructure

The House last week narrowly approved job creation legislation that included \$1 billion each for the Drinking Water and Clean Water State Revolving Funds (SRF). The Senate is expected to take up a version of the legislation in January.

The “Jobs for Main Street Act” (H.R. 2847) would charge states with distributing the Act’s water infrastructure dollars to communities through their SRF programs, while waiving state matching requirements and directing states to use at least 50 percent of their funding share for loan forgiveness and 20 percent for “green infrastructure” projects. States would also be required to give priority to projects that can begin construction within 12 months, and EPA would have to reclaim funds targeted for projects that are not under contract or construction within eight months after the bill’s enactment.

While AMWA is pleased that the legislation funds drinking water infrastructure equally with that of wastewater, distributing the money through the SRF could hamper the ability of urban utilities to receive a portion of their state’s funds. An AMWA analysis of drinking water infrastructure funding distributed through the DWSRF under last February’s economic stimulus legislation shows that utilities serving more than 100,000 people have received only 16 percent of the funds, though they serve 46 percent of the American population and represent 35 percent of the long-term drinking water infrastructure need.

H.R. 2847 would also force all water projects receiving funds under the bill to comply with federal Davis-Bacon prevailing wage standards and to meet “Buy American” requirements that limit the use of foreign-made materials and components. Similar requirements were included in the economic stimulus bill, and numerous utilities have complained that the standards significantly increase the cost of projects.

Aside from the SRF dollars, H.R. 2847 would provide the Bureau of Reclamation with \$100 million for rural water supply projects and the U.S. Army Corps of Engineers with \$715 million for environmental restoration, flood protection, hydropower and navigation infrastructure projects.

## **EPA OIG Reports On Use Of Stimulus Funds**

EPA’s Office of Inspector General (OIG) issued a report last week ([www.epa.gov/oig/reports/2010/20091217-10-R-0049.pdf](http://www.epa.gov/oig/reports/2010/20091217-10-R-0049.pdf)) on its audit of the agency’s progress in ensuring compliance with the American Recovery and Reinvestment Act of 2009 (ARRA) requirements. The OIG looked at impediments to having projects under contract or construction by February 17, 2010 and steps EPA has taken to ensure projects meet the deadline.

The audit found that 257 projects totaling \$323 million were under contract, which is only 17 percent of the \$1.9 billion in ARRA funds awarded for drinking water state revolving funds projects. The report cited the challenges facing states, including: delays in contracting at the local level; state and local budget cuts; difficulties in understanding and implementing ARRA requirements; and the waiver process for ARRA’s Buy American provisions. The OIG observed the need for better monitoring of projects nationwide, an action plan and milestone dates to help states with projects not under contract, and identification of actions EPA will take to implement its ARRA Risk Mitigation (Stewardship) Plan to identify states at risk of not meeting the deadline.

## **Lieberman To Defer To EPW On Water Security Legislation**

Staff for the Senate Homeland Security and Governmental Affairs Committee recently told AMWA that Committee Chairman Joe Lieberman (I-Conn.) does not plan to seek the inclusion of drinking water and wastewater facilities under the DHS CFATS chemical



security program, perhaps seeking to avoid a jurisdictional standoff similar to what delayed action on chemical security legislation for months in the House. This appears to clear the way for the Senate Environment and Public Works (EPW) Committee to develop its own water security proposal, though substantive work on the issue has yet to begin.

In November, the House of Representatives passed H.R. 2868 (the “Chemical and Water Security Act”), which would maintain the current CFATS exemption for water and wastewater facilities but subject them to new security regulations overseen by EPA. House leaders reached this compromise after months of stalemate, as House Homeland Security Committee Chairman Bennie Thompson (D-Miss.) had hoped to bring water utilities into the CFATS program. Thompson’s plan was met with strong opposition from the Energy and Commerce and Transportation and Infrastructure panels, which respectively regulate drinking water and wastewater policy.

There had been speculation that Sen. Lieberman might make a similar push for water utility oversight, given that in 2006 his committee (while under Republican control) reported a measure that would place water systems under CFATS. But according to current committee staff, the Obama Administration’s support for maintaining the CFATS exemption – as long as it is accompanied by a similar EPA security program for water systems – heavily influenced Lieberman’s position to cede water utility authority to EPW.

While Lieberman will not attempt to include water systems under CFATS, new water security rules could be included as a title within the Homeland Security Committee’s legislation – though EPW would largely shape this water title. The Homeland Security Committee is aiming to hold a hearing on the CFATS reauthorization by late January or early February, but as of yet the EPW Committee has announced no timeframe for beginning its work on the water security issue.

## **WaterISAC Webinar On Harnessing Social Media Now Archived Online**

A recording of the December 15 webinar on how water utilities can incorporate social media into their security communications plans is now archived on the WaterISAC portal. The presentation, co-hosted by WaterISAC and the Prince William County Service Authority (PWCSA), provides tactical-level insight on PWCSA's social media operations. Topics discussed during the webinar included internal security protocols for setting up a successful social media program and numerous examples of how Web 2.0 technology can be used to better communicate with a utility's customers during an emergency.

WaterISAC Pro subscribers can stream or download the webinar by typing "Social Media Webinar" into the portal search bar at [www.waterisac.org](http://www.waterisac.org). Non-subscribers should contact Aaron Levy at [levy@amwa.net](mailto:levy@amwa.net) for information on obtaining free access for one year to WaterISAC Pro.

## **EPA Issues National Water Program Research Strategy**

On Friday, EPA released its National Water Research Strategy to engage a broader range of researchers in meeting the challenges of protecting and improving the nation’s water resources. The strategy identifies and promotes the research needs of EPA’s national water program to potential partners. The strategy is online at [www.epa.gov/waterscience/strategy](http://www.epa.gov/waterscience/strategy), and there will be more information in AMWA’s upcoming December-January *Regulatory Report*.

## Office Of Water Launches “Water Is Worth It” Facebook Page

A new Facebook page – “Water Is Worth It” – was launched by EPA’s Office of Water to provide a public forum to share information, encourage discussion and raise awareness about the value of water and water-related resources. EPA said it will regularly post information and discussion topics and will encourage “fans” of the page to post and interact in discussions of the nation’s water and water infrastructure. The page is found by searching for “Water Is Worth It” at [www.facebook.com](http://www.facebook.com).

## Draft Study Of U.S. Lakes Released By EPA

Calling it the most comprehensive study of the nation’s lakes to date, EPA last week issued a draft study that rated the condition of 56 percent of the lakes in the U.S. as good and the remainder as fair or poor. EPA said this marked the first time the agency and its partners used a nationally consistent approach to survey the ecological and water quality of lakes. The National Lakes Assessment includes a total of 1,028 lakes that were randomly sampled during 2007 by states, tribes and EPA. The draft study is online at [www.epa.gov/lakessurvey](http://www.epa.gov/lakessurvey).

In related news, last week EPA Administrator Lisa Jackson committed \$13 million toward measures to prevent Asian carp from migrating into the Great Lakes and Lake Michigan specifically.

## White House Releases Interim Oceans Management Framework For Comment

The federal Ocean Policy Task Force recently released its *Interim Framework for Effective Coastal and Marine Spatial Planning*, a process for deciding what activities are suitable for specific areas along the nation’s oceans, coasts and Great Lakes. The interim framework ([www.whitehouse.gov/oceans](http://www.whitehouse.gov/oceans)) outlines a process for a regional planning process developed cooperatively with states, localities, public and stakeholder input.

Council for Environmental Quality (CEQ) Chairwoman Nancy Sutley said that without this improved approach, “we risk an increase in user conflicts and the potential loss of critical economic, ecosystem, social, and cultural benefits for present and future generations.”

CEQ is accepting comment on the framework until February 10, 2010.

## Comment Deadline Extended For Airport Effluent Guidelines Proposal

EPA announced an extension for the comment deadline on its airport effluent guidelines proposal ([www.epa.gov/guide/airport](http://www.epa.gov/guide/airport)) until February 26, 2010. Working with the regulatory committee, AMWA plans to comment on the proposal as the source water quality of many AMWA utilities may be degraded by glycol during airport deicing events.

## **Draft EPA Document On Water Loss Control Open For Comment**

EPA has drafted a document for public comment that provides guidance on water loss control programs, water metering, water audits, leak detection and O&M measures to prevent water loss. The document, entitled “Control and Mitigation of Drinking Water Losses In Distribution Systems” is online at [www.epa.gov/ogwdw/new.html](http://www.epa.gov/ogwdw/new.html) under December 9. Although the document is aimed at smaller systems, AMWA will seek input from its regulatory and management committees after the New Year on whether to provide comments. Comments are due February 1.

## **CDC’s National Report On Environmental Chemical Exposure Report Available**

CDC’s Fourth National Report on Human Exposure to Environmental Chemicals ([www.cdc.gov/exposurereport](http://www.cdc.gov/exposurereport)) was released last week. The report is based on blood and urine samples collected from 2,400 people every two years as part of the ongoing National Health and Nutrition Examination Survey. The report includes findings for 212 chemicals — 75 of which have never before been measured in the U.S. population, including arsenic, environmental phenols, triclosan and perchlorate.