



January 11, 2010

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## Senate Confirms EPA Deputy Administrator, Research Nominee

As they prepared to adjourn on Christmas Eve, the Senate voted to confirm two key EPA officials: Robert Perciasepe as deputy administrator and Paul Anastas as director of the Office of Research and Development. Perciasepe was the agency's assistant administrator for water and then its assistant administrator for air in the Clinton Administration. Since that time, he has worked for the Audubon Society, where he became chief operating officer. His nomination had been held up by Sen. George V. Voinovich (R-Ohio), who wanted EPA to provide more thorough answers on questions about the agency's economic analysis of climate change legislation.

Anastas served in the White House Office of Science and Technology Policy during the Clinton administration and before that worked for the EPA in chemistry offices. After leaving the Clinton administration, he directed the Green Chemistry Institute, based at the American Chemical Society. Most recently he has been a chemistry professor at Yale University. Sen. David Vitter (R-La.) had held up the Anastas nomination to pressure EPA to allow an independent review of the agency's assessment of health risks from formaldehyde.

## Last Chance To Register For Climate Change Impacts on Water: An International Adaptation Forum

*January 27-29, 2010, Washington, D.C.*

Utility managers must plan and act today to prepare for the unavoidable consequences of climate change that are already apparent. The Forum agenda is replete with case studies, presentations and panel discussions providing practical approaches to inform water utility adaptation initiatives.

Featured speakers include European Environment Agency Executive Director **Jacqueline McGlade**, renowned Dutch climate scientist **Pavel Kabat** of the International Panel on

Climate Change and NOAA Administrator **Janet Lubchenco**, as well as water ministers, climate officials and water system executives from all corners of the globe.

**Register today:**  
[www.waterclimateforum.org](http://www.waterclimateforum.org)

## **This Week in Congress**

Members of the House of Representatives will return to Washington this week to begin the second session of the 111th Congress. The House is scheduled to hold noncontroversial “suspension” votes on Tuesday and Wednesday before Democratic members depart for their annual issues conference later in the week.

The Senate remains in recess this week and will return to Washington on January 19. In the meantime, behind-the-scenes negotiations on healthcare reform legislation will continue as House and Senate leaders aim to have a final bill in place by as early as the end of this month.

## **EPA To Host Southeast Adaptation Planning Workshop**

EPA Region IV, together with EPA’s Office of Water and Office of Air and Radiation, will host a Southeast Adaptation Planning Workshop in Atlanta, February 2-3. The goal of the workshop is to explore how stakeholders from across the Southeast can work together to adapt to climate change now and in the future. The workshop will highlight coastal and water resources affected by climate change, and workshop organizers intend to use adaptation planning for coastal and water resources as a departure point to discuss adaptation planning for a wide range of potentially impacted sectors. Water utilities are encouraged to attend the workshop and must register online by **Friday, January 15**. For additional information and to register, visit [http://epa.gov/region4/clean\\_energy/conferences.html](http://epa.gov/region4/clean_energy/conferences.html).

## **WUCA Releases Climate Modeling White Paper**

The Water Utility Climate Alliance (WUCA), a consortium of metropolitan drinking water providers dedicated to understanding and preparing for the potential impacts of climate change, recently released a white paper entitled *Options for Improving Climate Modeling to Assist Water Utility Planning for Climate Change*. The document is available on AMWA’s climate change webpage at [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange) and at [www.wucaonline.org](http://www.wucaonline.org).

WUCA’s objectives for commissioning the paper were:

1. to explain how climate models work;
2. to describe how models have been used in the water sector to assess potential impacts on our systems; and
3. to make recommendations regarding how to improve modeling and downscaling techniques so these tools can be more useful for the water sector.

## Public Listening Sessions Planned On Potential EPA Stormwater Rule

EPA has scheduled five listening sessions to provide information on a potential rule to strengthen stormwater regulations and to establish a comprehensive program to reduce stormwater from new development and redevelopment. The sessions will be held:

- January 19, 10:00 a.m. to 3:00 p.m. at EPA Region 5 Office, 77 W. Jackson Blvd., Chicago
- January 20, 10:00 a.m. to 3:00 p.m. at EPA Region 9 Office, 75 Hawthorne Street, San Francisco
- January 25, 10:00 a.m. to 3:00 p.m. at EPA Region 8 Office, 1595 Wynkoop Street, Denver
- January 26, 10:00 a.m. to 3:00 p.m. at EPA Region 6 Office, 1445 Ross Avenue, Suite 1200 Dallas
- January 28, 10 a.m. to 3:00 p.m. at EPA HQ Office, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, D.C.

Online registration is at [www.epa.gov/npdes/stormwater/rulemaking](http://www.epa.gov/npdes/stormwater/rulemaking). The site also has more information on the potential rule and instructions for submitting written comments. EPA will accept written comments until February 26, 2010.



January 25, 2010

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## Water Climate Adaptation Forum Taps International Network

More than 200 key policy and climate officials, water system executives and scientists from around the world will gather in Washington, D.C. on Wednesday for *Climate Change Impacts on Water: An International Adaptation Forum*. AMWA is hosting the meeting to provide a venue for participants to share their experiences and ideas on a range of topics, from how to adapt water management to climate change to getting results from local and national policy makers.

The forum is designed to help water utility managers identify and promote successful responses to climate-related challenges to water security and sustainability. The event is a call-to-action for greater engagement from local, regional and national government, particularly for a commitment to funding climate research to give water managers better tools for forecasting and planning.

Since the U.S. has geographic diversity unlike any place on Earth, the forum is featuring speakers from a variety of climates. They come from hot and dry climates like Australia and Jordan, mountainous snowpack dominated areas like Switzerland and Canada, and rain dominant and coastal areas like Singapore and The Netherlands. Each will bring a different experience and expertise that has an application to American adaptation issues.

The two-day meeting will include research panel discussions, case studies and the sharing of best practices for water adaptation. The forum will conclude with a declaration of adaptation principles for utilities to consider in moving forward to address climate change within their systems. In addition to AMWA, forum organizers include the Water Research Foundation, the International Water Association, the Water Utility Climate Alliance and the American Water Works Association.

## Senate Leaders Urged To Include Urban Water Funds In Jobs Package

AMWA wrote to Senate Majority Leader Harry Reid (D-Nev.) last week to request that the Senate's upcoming "Jobs Bill" set aside a portion of its infrastructure funding for projects at metropolitan drinking water systems. The letter notes that to date only about 16 percent of drinking water infrastructure funds made available through last year's economic stimulus legislation have gone to projects at urban water systems, although such systems serve 46 percent of the American population and represent 35 percent of the drinking water sector's long-term infrastructure needs.

The letter also noted that AMWA and other water utility organizations have estimated that there are more than \$10 billion worth of ready-to-go drinking water infrastructure projects across the country awaiting funding, which could lead to the creation of some 400,000 jobs.

A copy of AMWA's letter is available on the association's [Legislative Information webpage](#). Several member utilities also wrote to Sen. Reid on the issue at AMWA's request.

## This Week In Congress

All eyes will be on President Obama this Wednesday night when he delivers the annual State of the Union address to a joint session of Congress. Democratic leaders in Congress have said that they expect the President to focus on jobs and fiscal responsibility.

The House is expected to vote this week on a bill to establish the Castle Nugent National Historic Site at St. Croix, Virgin Islands, and another bill dealing with water diversions on National Forest System land in Idaho. The Senate is scheduled to continue debate on a proposal to raise the nation's debt limit.

## AMWA Provides Input On Infrastructure Bank Discussions

With members of Congress increasingly viewing infrastructure rehabilitation programs as a straightforward way to boost job creation, AMWA last week joined a group of infrastructure stakeholders in endorsing the concept of a national infrastructure bank that would target funding assistance to major projects.

At a Capitol Hill press event organized by Building America's Future, stakeholders joined elected officials in highlighting how large infrastructure projects have the capacity to create sustained economic growth and quality American jobs. In making the case for increased funding for water infrastructure, AMWA has frequently cited a study by the U.S. Conference of Mayors, which found that each million dollars invested in water infrastructure leads to the creation of 8.7 jobs.

Last week's event featured Sen. Chris Dodd (D-Conn.) and Rep. Rosa DeLauro (D-Conn.), each of whom has introduced legislation to create a national infrastructure bank. While AMWA has not endorsed specific legislation, the association said that a national infrastructure bank that targets assistance to urban water projects that are currently underserved by the Drinking Water State Revolving Fund (SRF) program should be among the options considered by Congress to spur job growth.

Senator Dodd is pushing Senate leaders to include a version of an infrastructure bank within their upcoming "Jobs Bill," but in the past congressional leaders have chosen to funnel

temporary job creation funds primarily through existing funding mechanisms, such as the SRF.

More information about the infrastructure bank concept is available on the website of Building America's Future at <http://bafuture.org>.

## **EPA Announces Nutrient Water Quality Standards For Florida**

EPA announced last week its proposal for numeric nitrogen and phosphorus water quality standards for lakes and flowing waters, including canals, in Florida. The agency has also proposed regulations to establish a framework for the state to develop "restoration standards" for impaired waters. The proposal would classify Florida's lakes into three groups (colored, clear and alkaline, clear and acidic) and assign total nitrogen, total phosphorus and chlorophyll criteria to each lake group.

Under a consent decree signed in August by EPA and five environmental groups, the agency agreed to set numeric water quality criteria for nitrogen and phosphorus in Florida's waters. The decree requires EPA to finalize nutrient criteria for Florida's lakes and streams by October 15, 2010. The agency must also propose criteria for coastal waters and estuaries by January 2011.

While the decree affects only Florida, the environmental groups believe it could set a precedent in other states with waters heavily impacted by nutrient discharges. EPA will hold public hearings about the proposal in Florida in February and will accept public comment for 60 days following publication in the *Federal Register*. A link to the pre-publication of the proposal, as well as additional information, is available on the EPA website at [www.epa.gov/waterscience/standards/rules/florida](http://www.epa.gov/waterscience/standards/rules/florida).

## **NRDC Official Rumored For EPA Post**

Nancy Stoner, currently Co-Director of the Natural Resources Defense Council's (NRDC) Water Program, is rumored to be EPA's choice to take over as chief political deputy in the agency's Water Office, according to reports from Washington trade press.

At NRDC Stoner has been a strong advocate for strict water quality rules and pressed EPA to begin rulemaking to address post-construction stormwater runoff. She is also a strong advocate of comprehensive "cap-and-trade" climate change legislation that would penalize polluters while also distributing funds for adaptation initiatives. Prior to joining NRDC, Stoner worked as an EPA enforcement official.

In her new post, which may begin on February 1, Stoner would report directly to Assistant Administrator for Water Peter Silva.



February 1, 2010

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## Water/Climate Forum Highlights Practical Lessons, Adaptation Principles

More than 200 participants at last week's *Climate Change Impacts on Water: An International Adaptation Forum* in Washington, D.C. engaged in a robust dialogue about adaptation on a practical level and the promise of climate adaptation research.

Speaking at the forum's conclusion, AMWA President Jim McDaniel, Senior Assistant General Manager of Los Angeles Water and Power, said that the event "has shown us that – regardless of whether the worst-case scenarios of water shortage and rising sea levels come to fruition – we can view climate change as an opportunity to generate local, state, federal and private investments in planning, infrastructure renewal, research, and long-term sustainability and resilience."

The forum provided insights on the power of collective leadership and the importance and benefits of global collaboration and cross-pollination among utility managers, scientists and policy makers, as well as other sectors, such as the energy sector. McDaniel expressed hope that "through our collective leadership we can shine a spotlight on the water/climate nexus and make a positive impact on climate change policy."

AMWA and the other forum organizers – the Water Research Foundation, the International Water Association, AWWA and the Water Utility Climate Alliance – took ideas and comments from the sessions to enhance their statement of climate adaption principles for water utilities. The final principles, along with PowerPoint presentations and podcasts of the sessions, will be made available on the Forum website ([www.waterclimateforum.org](http://www.waterclimateforum.org)) in coming weeks.

## WUCA Paper Outlines Climate Adaptation Approaches

The Water Utility Climate Alliance (WUCA) recently published *Decision Support Planning Methods: Incorporating Climate Change Uncertainties into Water Planning*. The report is intended to help water systems evaluate how traditional and emerging planning methods can inform their climate adaptation efforts. The whitepaper can be downloaded from AMWA's climate change website: [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange) as well as WUCA's website: [www.wucaonline.org](http://www.wucaonline.org).

## This Week In Congress

Members of the House and Senate will sharpen their focus on job creation this week. Senate leaders are expected to release detailed job creation plans that may include small business tax incentives, renewed unemployment assistance, health benefits for laid-off workers and additional infrastructure funding. Majority Leader Harry Reid (D-Nev.) reportedly hopes to bring the measure to the Senate floor before the Presidents Day recess begins later this month.

In the House, votes are possible on legislation that would raise the federal debt limit and on a bill to reauthorize National Science Foundation programs to protect computer networks from hackers and other security breaches.

## Obama State Of The Union Calls For Climate Bill, Spending Freeze

President Barack Obama used last week's State of the Union address to Congress to encourage the passage of comprehensive climate change legislation, pushing back against critics who openly questioned whether Congress will be motivated to act on such a major issue during an election year. The House of Representatives passed a comprehensive climate bill (H.R. 2454) last summer, and the Senate Environment and Public Works Committee approved its own version of the bill (S. 1733) last fall, but momentum for the bill has stalled as congressional attention has turned to job creating proposals.

While President Obama's address identified creating new jobs as his "number one priority" for 2010, climate legislation advocates were encouraged to see the White House keep climate change near the top of its agenda. However, some observers have predicted that increased Senate opposition, along with the Democrats' loss of their 60-seat majority, could lead the chamber to ultimately take up less comprehensive energy legislation that does not include a nationwide program capping greenhouse gas emissions. Senators John Kerry (D-Mass.), Joe Lieberman (I-Conn.), and Lindsay Graham (R-S.C.) are currently working to develop a compromise climate bill that they hope could gain bipartisan Senate support.

President Obama's address also included a call for a three-year freeze on federal non-defense discretionary spending to begin in fiscal year 2011. If enacted, the spending freeze could hold appropriations for EPA water programs at their current levels through 2013, but it is highly questionable whether Congress will agree to Obama's plan. Details on the proposed spending freeze will emerge today when the White House releases its fiscal year 2011 budget request.



## Senators Request \$3 billion For DWSRF, Urban Set-aside Not Included

Senate Water and Wildlife Subcommittee Chairman Ben Cardin (D-Md.) and Sen. Sheldon Whitehouse (D-R.I.) are inviting their colleagues to join them on a letter asking Senate leaders to include \$3 billion for the Drinking Water State Revolving Fund (DWSRF) in the Jobs Bill expected to be announced sometime this week. The draft letter also requests an additional \$3 billion for the Clean Water SRF.

AMWA has urged senators to provide significant funding for the DWSRF within the jobs bill and to also direct states to reserve a portion of the funds for infrastructure projects at urban water systems that serve more than 100,000 people. Large water utilities tend to be underserved by the existing SRF program and have only received roughly 16 percent of all DWSRF dollars distributed under last year's economic stimulus bill.

According to Senate staff, the Cardin/Whitehouse letter does not request a set-aside of funding for urban utilities because of concerns that imposing new rules on states could slow down the distribution of the dollars. A Senate staffer also told AMWA of rumors that the jobs bill might not include any water infrastructure dollars at all, leading senators to focus on asking for funds rather than for tweaks to the distribution rules. Nevertheless, the staffer said that senators might be willing to revisit the issue once a baseline level of drinking water infrastructure funding in the bill was assured.

AMWA urges its members to contact their senators in support of water infrastructure funding in general, and in support of targeting a portion of the funds to urban areas. For a copy of AMWA's draft letter on this issue, contact Dan Hartnett at [hartnett@amwa.net](mailto:hartnett@amwa.net).

## NRC Issues NAWQA Recommendations

The National Research Council (NRC) recently released its *Letter Report Assessing the USGS National Water Quality Assessment Program's Science Framework*, a product of the Committee on Preparing for the Third Decade of the U.S. Geological Survey (USGS) National Water Quality Assessment Program (NAWQA). The document recommends that USGS organize the next NAWQA monitoring cycle around two drivers that stress the nation's water supplies: 1) land use changes due to population growth and other demographics and 2) climate variability and change. The committee recommends that the NAWQA program more clearly describe its purpose and formulate "specific, policy relevant research questions it will address and use to guide scientific priorities." The report is available at <http://dels.nas.edu/dels/viewreport.cgi?id=6138>.

## 2009 Sector Security Metrics Report Released

WaterISAC last week released the Water Sector Coordinating Council's 2009 sector-specific security metrics report. The initiative, which built on the Council's 2008 work to measure security at water utilities, is part of a broader effort by the Department of Homeland Security to measure security among the nation's most critical infrastructure sectors. According to the report:

- 87 percent of drinking water and 85 percent of wastewater utilities have integrated security and preparedness into budgeting, training, and manpower responsibilities;

- 88 percent of drinking water and 85 percent of wastewater utilities receive screened, validated, and timely security threat information from one or more sources;
- 93 percent of drinking water and 92 percent of wastewater utilities secure and monitor the perimeter of areas containing hazardous materials; and
- 94 percent of drinking water and 94 percent of wastewater utilities secure and monitor the shipping, receipt, and storage of materials for the facility.

The water sector was the first of the 18 critical infrastructure and key resource sectors to complete its metrics initiative. A copy of the report is available in the WaterISAC Library. WaterISAC subscribers can view the report by typing "2009 Metrics Report" into the portal search bar after logging in at [www.waterisac.org](http://www.waterisac.org).

## **EPA Publishes Proposed Limits For Nutrients In Florida Waters**

A proposed EPA rule setting nutrient limits to protect aquatic life in Florida waters, reported in the January 25 *Monday Morning Briefing*, was published January 26th in the *Federal Register* (<http://edocket.access.gpo.gov/2010/2010-1220.htm>). The proposed nutrient water quality criteria would set a series of numeric limits on phosphorus and nitrogen pollution in the state's lakes, rivers, streams, springs, and canals. While the decree affects only Florida, environmental groups believe it could set a precedent in other states with waters heavily impacted by nutrient discharges. EPA will accept comments through March 29.



February 8, 2010

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## Obama Budget Trims EPA Spending, SRF Funds

The White House's proposed FY11 EPA budget recommends trimming \$300 million from the agency's current record-high funding level with most of the reductions coming out of EPA's water and wastewater infrastructure programs.

The reduction would drop EPA's overall FY11 budget by three percent to \$10 billion. Obama Administration officials defended the reduction as necessary due to the federal government's surging budget deficits and noted that the agency's budget increased by more than 33 percent from FY09 to FY10.

Obama's proposal would reduce funding for the Drinking Water State Revolving Fund (DWSRF) from \$1.387 billion this year to \$1.287 billion next year. The Clean Water SRF would see a similar decrease, from \$2.1 billion to \$2 billion. The Administration said the funding would still pay for 500 drinking water projects and 800 wastewater projects across the country and also pointed out that the reduced SRF figures are far above the programs' funding levels during the Bush Administration. The SRFs also received a total of \$6 billion in additional dollars through last year's economic stimulus legislation.

While Obama proposed trimming water infrastructure programs, several EPA initiatives aimed at global climate change would see funding increases under his plan. The budget includes \$43 million in new funding for EPA and state programs to address climate change. Funding to develop carbon capture and underground sequestration technology increased from \$4 million to \$7 million.

### This Week In Congress

Senate Majority Leader Harry Reid (D-Nev.) hopes to begin holding votes on jobs legislation next week. The bill is expected to include a tax credit to spur new hiring, an extension of surface transportation funding and "safety net" measures to extend unemployment benefits and health insurance subsidies for laid-off workers that are set to expire at the end of the month. More substantial infrastructure funding will likely be included in a future jobs package.

In the House, a vote is likely on a scaled-back healthcare

reform proposal that would eliminate the antitrust exemption held by health insurance companies.e

## **Senators Introduce CFATS Extension Bill, Maintain Water Exemption**

Led by Homeland Security Committee Ranking Member Susan Collins (R-Maine), a bipartisan quartet of Senators last week introduced legislation to extend the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards (CFATS) for five years, through October 2015. The bill (S. 2996) would make few changes to the scope of the program and would not require chemical facilities to review or adopt so-called "inherently safer technologies" (IST). The bill would also maintain the current CFATS exemption for drinking water and wastewater facilities.

In addition to Sen. Collins and Ohio Republican George Voinovich, S. 2996 is cosponsored by Democratic Senators Mark Pryor of Arkansas and Mary Landrieu of Louisiana. Their support for the proposal indicates that Senate leaders will face an uphill battle in any attempt to move a security bill with IST mandates through the chamber this year. Sen. Frank Lautenberg (D-N.J.) has indicated an interest in formulating a chemical and water security bill that includes some form of IST but has not yet detailed specific plans.

Last fall the House of Representatives approved its own legislation (H.R. 2868) that would overhaul CFATS as it applies to chemical facilities and impose new EPA-based security standards on drinking water and wastewater systems. AMWA successfully persuaded the House to not give EPA power to broadly force water utilities across the country to implement IST, but the chemical sector strongly opposed the bill because it would allow DHS to mandate IST to chemical facilities. The Senate has taken no action on the House-passed bill.

Meanwhile, President Obama's FY11 DHS budget includes a one-year CFATS extension that would continue the program through October 2011, suggesting that the White House does not believe Congress will pass a final chemical security overhaul before the end of the year. The water and wastewater exemptions from CFATS would also continue under Obama's proposal.

## **Interior Budget Shrinks Slightly Under FY11 Proposal**

The Interior Department's budget would shrink to \$12.04 billion next year under the terms of President Obama's FY11 spending proposal. Interior received \$12.15 billion in funding this year. Specific requests in the Interior Department budget include:

- \$1.11 billion for the Bureau of Reclamation, down from \$1.13 billion last year;
- \$29 million for Title XVI water reclamation and reuse funding;
- \$37.4 million for USGS climate change adaptation programs, including carbon sequestration assessments and NOAA climate research – an \$11 million increase over FY10 funding levels; and

- \$65 million for the National Water Quality Assessment Program (NAWQA), which monitors the quantity and quality of the nation's waters. The program received \$66.5 million last year.

Also included in the proposal is an extra \$14 million to establish the department's Climate Science Centers around the country. Through the Centers, the department aims to identify the areas and species in the United States that are most vulnerable to climate change and to begin implementing comprehensive adaptation strategies in those areas.

## **Budget Hits Army Corps With 10 Percent Cut**

The U.S. Army Corps of Engineers would suffer a ten percent funding cut under President Obama's FY11 budget proposal. Under the White House's request, the Army Corps would receive \$4.9 billion in 2011, down from the \$5.4 billion appropriated this year. The investigations account, which funds project studies, would be reduced to \$104 million from the \$162 awarded in fiscal 2010. The construction budget would be funded at \$1.7 billion next year, compared with \$2 billion awarded by Congress this year. Meanwhile, the operations and maintenance account would experience a small cut of \$39 million, dropping to \$2.4 billion for FY11.

The Administration responded to early criticism of the cuts by noting that the Army Corps received an infusion of \$4.6 billion in stimulus funding last year, and some funds previously appropriated to the agency have yet to be spent.

## **Infrastructure Bank Proposal Would Focus On Transportation Projects**

An infrastructure bank proposal included in President Obama's FY11 budget request would, if enacted, focus on transportation projects and likely not deliver any new funds for water infrastructure upgrades. However, the transportation bank proposal may once again die in Congress as members seek a more comprehensive infrastructure program.

Obama's proposed infrastructure bank – called the National Infrastructure Innovation and Finance Fund – would be used to expand existing federal transportation investments by providing direct federal funding for large-scale capital project grants that “provide a significant economic benefit to the nation or a region.” The budget asked for \$4 billion to launch the bank, \$2.6 billion of which would be handed out in grants or loans during fiscal 2011.

Earlier this year, AMWA joined other water and infrastructure organizations in calling for a broad-based federal infrastructure bank that could finance a broad range of nationally or regionally important infrastructure projects – including drinking water enhancements. AMWA is also continuing to provide input on proposals to create a water-specific infrastructure bank.

The fate of Obama's transportation infrastructure bank appears murky at best. The President also requested funding to develop the bank in last year's budget, but congressional leaders balked and expressed a preference to create a bank with legislation outside of the budget process. No such proposal has advanced in Congress since last year.

## CDC Lead Program Releases Notice About Partial Lead Line Replacements

The Centers for Disease Control and Prevention (CDC) is notifying lead program managers at state and local health departments that a recent study conducted by the Center suggests that children in homes that have had partial lead service line replacements are more likely to have blood lead levels (BLLs) “of greater than or equal to 10 µg/dL, when compared with BLLs of “children living in housing with either undisturbed lead service lines or service lines that are not made of lead.” The text of the letter from CDC is posted on its [website](#).

The study referenced in the letter notes that the results are undergoing peer review for future publication in a scientific journal. The CDC letter also urges lead program managers to provide health education materials for home owners about lead safe water and plumbing practices in homes with lead service lines of lead solder.

## EPA Inspector General Report Says Green Infrastructure Guidance Insufficient

An EPA Inspector General (IG) report released last week says that the agency has failed to provide adequate guidance to help states determine which water infrastructure projects qualify for American Recovery and Reinvestment Act funding for green projects. The report notes that without adequate guidance, EPA regions and states cannot determine the extent to which these projects reduce energy and water use compared with projects traditionally funded under the state revolving fund programs. It also states that EPA cannot determine whether these projects meet congressional objectives to promote energy and water efficiency. The report suggests that definitive guidance is needed, particularly if Congress appropriates future funding specifically for water projects with energy or water conservation requirements. The report and summary are [online](#).

## Stoner Named To EPA Water Post

Following speculation reported in the January 25 issue of *Monday Morning Briefing*, Nancy Stoner, former co-director of the Natural Resources Defense Council’s (NRDC) Water Program, was announced last week as the new Deputy Assistant Administrator for EPA’s Office of Water. Stoner served at EPA from 1997 to 1999 as director of the Office of Planning and Policy Analysis in the Office of Enforcement and Compliance Assurance. Prior to joining NRDC, she served as project director and attorney for the Clean Water Project.

## Workshops Planned On Resilient Water Management For Climate Change

EPA announced that it will host two regional workshops, *Resilient Water Management Strategies for a Changing Climate: Developing Decision-Support Tools For Local Communities*, which will be held concurrently on June 8 - 10, 2010 in New York City and

San Francisco. The goals of the workshops are to identify leading-edge research and management responses on how climate change affects water quality and quantity; to determine how ongoing research can better support protection and management of water resources; and to foster collaboration between local-state-national practitioners, regulators and researchers. Topics to be addressed include climate change science, water management tools and implementation case studies. Advance registration is required. For information, contact: EPA Region 2 – Marie O'Shea (212-637-3585); EPA Region 3 – Stu Kerzner (215-814-5709); EPA Region 9 – Matt Small (415-972-3366).

## **Tool Available To Produce Source Water Protection Guide For Decision Makers**

A new online tool developed by the Source Water Collaborative enables water systems and other source water protection stakeholders to develop a custom guide aimed at educating local policymakers about source water protection issues. The tool's website, [www.yourwateryourdecision.org](http://www.yourwateryourdecision.org), urges visitors to “start a local conversation about source water protection,” noting that community leaders may not know what they can or should do to protect source water. The guide can be customized to provide appropriate steps that community decision makers can take, based on localized situations. The guide can also be crafted to list websites with community and state resources and include an organization's brand or logo.



February 15, 2010

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## Congress, MMB Recess For Presidents Day

Congress has scheduled its Presidents Day recess until the week of February 22. *Monday Morning Briefing* is being published early in advance of the holiday and will resume publication after Congress returns. The AMWA office will be closed Monday, February 15.

## Back-to-Back Snowstorms Halt House Action, Delay Senate Jobs Bill

Two major snowstorms that hit Washington, D.C. over the past 10 days led to the House of Representatives cancelling votes for the week and forced a delay of Senate efforts to move job creation legislation.

The House had been scheduled to vote on a bill to eliminate the antitrust exemption held by health insurance companies, but that and other business has been postponed until at least next week.

Meanwhile, the snow did not stop Senate Democrats from circulating draft versions of jobs legislation, but a vote on any measure has been postponed until later this month. On Thursday Senate Majority Leader Harry Reid (D-Nev.) announced that the first Senate jobs bill would be a scaled-back package that would only include payroll tax relief for businesses that hire new workers, an extension of the Highway Trust Fund, added subsidies for a “Build America” bond program to help communities build schools and courthouses, and expense deductions for small businesses. Additional tax credits – and possibly infrastructure funding – will be part of a subsequent jobs bill that might be considered later in the spring.

## NOAA Announces Climate Service

The National Oceanic and Atmospheric Administration (NOAA) announced last week the reorganization of its climate capabilities from various branches of the agency into a single Climate Service. In an email to stakeholders, NOAA Administrator Jane Lubchenco noted that the establishment of the Climate Service follows recommendations from the NOAA Science Advisory Board as well as the National Academies. The announcement also said that the Climate Service will provide more accessible, relevant and user-friendly information and that a new web site – [www.climate.gov](http://www.climate.gov) – would serve as a single point of access for NOAA’s climate information. Additional information, including a proposed organizational chart for the Climate Service is at [www.noaa.gov/climate](http://www.noaa.gov/climate).

The reorganization will require formal approval from Congress, since a shifting of



appropriated funds in the budget to the new Climate Service would be required. In addition, Lubchenco noted that updated legislation for the Climate Service would be helpful for future funding and expansion.

## **Most States On Track To Meet Stimulus Water Infrastructure Deadline**

Most states appear poised to meet EPA's February 17 deadline to complete the contracting requirements tied to the receipt of drinking water and wastewater infrastructure funding under last year's economic stimulus legislation, though a handful of states may still miss the target.

The latest EPA data shows a rapid increase in state contracting activities over the past few weeks, with about 40 percent of the progress completed in the last 15 percent of the time allowed. EPA is required to reallocate stimulus-funded drinking water and wastewater infrastructure dollars that states do not have under contract by February 17. The agency says that it has reached out to all states over the past several months to offer assistance in helping them meet the deadline.

Nevertheless, some observers still expect a small minority of states to miss the deadline, partly due to strings attached to the funding – such as “Buy American” procurement rules, a green infrastructure set-aside, and Davis-Bacon prevailing wage rules – that are not typically conditions of receiving SRF funding.

## **Moran In Line To Take Over Interior Appropriations Subcommittee**

Virginia Congressman Jim Moran will likely assume the chairmanship of the House Interior and Environment Appropriations Subcommittee as the current chairman, Rep. Norm Dicks of Washington, is expected to take the Defense Appropriations Subcommittee gavel following the death of Rep. John Murtha (D-Penn.).

Rep. Moran, who is currently vice-chairman of the Interior and Environment Subcommittee, typically votes in line with House Democratic leadership and is viewed by environmental organizations as a key ally. His website explains that the congressman “is committed to ... putting increased resources and teeth behind our environmental programs.” Rep. Moran is also a cosponsor of H.R. 2969, AMWA-backed legislation that would help drinking water and wastewater utilities adapt to the impacts of global climate change.

The authority to assign subcommittee chairmanships rests with the House Democratic caucus and the Appropriations Committee, but the shuffle of positions is expected to be complete within the next few weeks.

## **EPA Invites Public's Ideas On Improving Transparency**

Following a directive from the Office of Management and Budget to improve the availability and quality of government information, EPA has launched a new webpage (<http://www.epa.gov/open>) that includes a link for the public to share ideas about how the agency can better:

- collaborate within and outside of the government;

- solicit feedback from the public;
- improve the availability and quality of information; and
- be more innovative and efficient.

Members of the public must create an account to make suggestions or comment on others' suggestions. Input will be accepted until March 19. Current suggestions from the public include adopting the precautionary polluter pays principle, providing more communication about rule development progress and more collaboration with the Food and Drug Administration.

## **New USGS Studies Highlight Vulnerabilities To Public Supply Wells**

New groundwater studies from the U.S. Geological Survey (USGS) explain what, when and how contaminants may reach public-supply wells. The reports note that all wells are not equally vulnerable to contamination because of differences in three factors: the general chemistry of the aquifer, groundwater age and the preferential pathways within aquifer systems that allow water and contaminants to reach a well. The importance of each factor differs among the various aquifer settings, depending upon natural geology and local aquifer conditions, as well as human activities related to land use and well construction and operation, the studies indicate. In addition, USGS tracked the movement of contaminants in groundwater and in public-supply wells in four aquifers in California, Connecticut, Nebraska and Florida.

The studies are the latest from the USGS National Water Quality Assessment Program and are presented in a series of factsheets and video podcasts at <http://oh.water.usgs.gov/tanc/NAWQATANC.htm>.

## **AMWA Seeks Member Input Regarding Utility Responses To Total Coliforms**

AMWA, AWWA and the Association of State Drinking Water Administrators (ASDWA) are working with EPA on the development of an assessment and corrective action guidance document for the Revised Total Coliform Rule (RTCR), which EPA is expected to propose before autumn. As the rule will have an emphasis on assessment and corrective action following total coliform positive samples, AMWA is asking its regulatory committee and other interested members with direct experience in responding to total coliform positive sample results to participate in a survey designed to help provide EPA with practical examples and information as the guidance is developed.

The survey link ([www.surveymonkey.com/s/SFYXCGN](http://www.surveymonkey.com/s/SFYXCGN)) provides additional background information. Questions may be directed to Erica Brown at 202-331-2820 or [brown@amwa.net](mailto:brown@amwa.net). Responses are requested by March 3.

## **President Calls For Comprehensive Federal Strategy On Carbon Capture and Storage**

On February 3, President Obama sent a memorandum (<http://edocket.access.gpo.gov/2010/2010-2744.htm>) to his Cabinet, as well as the heads of EPA, the Office of Management and Budget, Federal Energy Regulatory Commission, Office

of Science and Technology Policy and Council on Environmental Quality announcing the formation of an Interagency Task Force on Carbon Capture and Storage (CCS). The memorandum states that the CCS task force will be co-chaired by the Department of Energy and EPA and requests that each agency and department designate a senior official to serve on the task force.

The President directs the task force to propose, within 180 days, a plan to “overcome the barriers to the widespread, cost-effective deployment of CCS within 10 years, with a goal to bring 5 to 10 commercial demonstration projects online by 2016.” The memo also directs the task force to address coordination of existing authorities and programs including “those that build international collaboration on CCS.”



March 1, 2010

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## Cardin Praises Water Funding In EPA Budget, Calls for Increase

Maryland Senator Ben Cardin singled out EPA's water infrastructure spending proposal for praise at a committee hearing on the FY11 EPA budget, but also said that he intends to lead an effort to allocate even more funding for the State Revolving Fund (SRF) program.

Speaking during last week's Environment and Public Works Committee hearing, Sen. Cardin noted that EPA's request of \$3.3 billion for the Drinking Water and Clean Water SRFs represents a slight decrease from last year's funding levels, but is still more than double the funding the programs received in 2009 and previous years. But Sen. Cardin said he will ask congressional leaders to appropriate a total of \$5.4 billion for the SRFs next year in order to address the "tremendous backlog" of water infrastructure projects awaiting funding.

Testifying at the hearing, EPA Administrator Lisa Jackson said the Administration's SRF budget request would, if funded, enable states and tribes to initiate approximately 500 drinking water projects and 800 clean water projects across the country. Jackson also said that every state met the February 17 deadline to have all SRF funds received through last year's economic stimulus bill under contract, which she said was an indication of the substantial need for additional water infrastructure dollars.

## Just Three Weeks Until AMWA's 2010 Water Policy Conference

March 21-24 – Washington, DC  
Renaissance Dupont Circle Hotel

Some of the most influential leaders in the nation's capital will speak at the 2010 Water Policy Conference, a unique opportunity to share your views with these key officials, and learn about new programs and policy changes that will affect your operations. Confirmed speakers include:

**Sen. Ben Cardin**, Senate Water and Wildlife Subcommittee  
**Rep. Lois Capps**, House Energy and Environment Subcommittee  
**Rep. Jim Costa**, House Water and Power Subcommittee

**Anne Castle**, Assistant Secretary for Water and Science,  
Dept. of the Interior  
**Kathy Jacobs**, White House Office of Science and  
Technology Policy  
**Stephen Flynn**, Center for National Policy  
**Chet Koblinsky**, NOAA Climate Program Office  
**Nancy Stoner**, EPA Office of Water

On Wednesday, attendees are invited to a program with W-SMART, an international group of utility directors, to discuss emergency response training, emerging international challenges for utilities and sustainable water supplies.

Register at [www.amwa.net/cs/2010WPC](http://www.amwa.net/cs/2010WPC)

## This Week In Congress

The Senate Homeland Security and Government Affairs Committee will convene a hearing on Wednesday to take stock of DHS' implementation of its CFATS chemical security program and discuss options for its extension. Officials from DHS and EPA are scheduled to testify and may offer feedback on Senator Susan Collins' recent proposal to extend the current CFATS program for five years.

On the Senate floor, members will vote on a measure to extend a series of expiring tax cuts. In the House, representatives are slated to consider the Senate's scaled-back jobs bill and may also vote on health-related legislation – though not a complete healthcare overhaul.

## EPA To Test For Endocrine Disruptors In Drinking Water

EPA Deputy Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances James J. Jones testified last week before the House Subcommittee on Energy and the Environment that the agency is on target with its Endocrine Disruptor Screening Program to obtain Tier 1 screening data on several hundred chemicals within the next several years. He also said that in response to directions from Congress in the FY10 appropriations bill, EPA would soon publish a list of chemicals to be screened in drinking water. The appropriations bill directed EPA to publish by June of this year a list of “no less than 100 chemicals for screening that includes drinking water contaminants, such as halogenated organic chemicals, dioxins, flame retardants (PBDEs, PCBs, PFCs), plastics (BPA), pharmaceuticals and personal care products, and issue 25 orders per year for the testing of these chemicals.” Jones said that the drinking water list would be drawn from current drinking water regulations, the third Contaminant Candidate List and the list of pesticides on the re-registration schedule for 2007-2008. Jones' testimony is available at <http://energycommerce.house.gov> under the “Hearings” tab.

## New Arsenic Cancer Assessment Published By EPA For Peer And Public Review

The Feb. 19 *Federal Register* announced that EPA submitted its draft 2010 *Toxicological Review of Inorganic Arsenic* to the Science Advisory Board (SAB) for a focused peer review. The draft includes a cancer slope factor of 25.7 mg/kg/day – a seven-fold increase from a 3.67mg/kg/day standard that EPA’s water office used to develop the current drinking water standard for arsenic.

In 2007, the SAB reviewed the scientific basis supporting the human health cancer hazard and dose-response assessment of inorganic arsenic that will appear on the Integrated Risk Information System (IRIS) database. The *Federal Register* notice states that EPA revised the assessment and is now returning it to the SAB and releasing the document to the public for a review of EPA's responses to the SAB recommendations.

The public comment period is open through Apr. 20, although the *Federal Register* notice says that EPA can only guarantee that comments received by Mar. 26 will be submitted to the SAB prior to its next meeting. A link to the *Federal Register* notice, as well as the peer review documents, is available at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=219111>.

## EPA’s New Rulemaking Gateway Provides Insights To RTCR, LCR

EPA recently launched a new Rulemaking Gateway web portal (<http://yosemite.epa.gov/oepi/RuleGate.nsf/>) aimed at providing the public with the latest information about its “priority rules” as well as general information about agency regulations. Users can search the gateway for rules by topic (e.g., air, water, pesticides) as well as effects and impacts on institutions and communities (e.g., small business, local governments, children’s health, environmental justice). The portal provides an overview of rulemakings and as such is designed to complement regulations.gov, the federal government’s main portal for tracking rules from all federal agencies, where more in-depth information on rulemakings, including docket documents, is provided.

Three drinking water rulemakings are in the portal database: the Revised Total Coliform Rule, long-term revisions to the Lead and Copper Rule (LCR) and requirements for geologic sequestration of carbon dioxide (GS). According to the database, the final GS rule is expected by Dec. 2010. Information about the RTCR notes that EPA’s proposed rule draft (currently in review at the Office of Management and Budget) has “the same elements and effects as the recommendations” as the Federal Advisory Committee’s Agreement in Principle. For the LCR, the database indicates that lead service line replacement programs and changes to the sample site selection criteria for lead and copper are under consideration.

## April Stakeholder Meeting Announced For Next UCMR

EPA will conduct a stakeholder meeting in Arlington, Va. on Apr. 7 from 9 a.m. to 5 p.m. at the Crystal City Marriott to present information about the status of the agency’s efforts for the third Unregulated Contaminant Monitoring Rule (UCMR-3) proposal. At the meeting, EPA will provide information about analyte selection, analytical methods, sampling design

and other relevant items related to UCMR-3. The UCMR-2 proposal is expected by Nov. 2010. Additional information is available in the *Federal Register* notice announcing the meeting: <http://edocket.access.gpo.gov/2010/2010-3534.htm>.

## **Hydraulic Gas “Fracking” In The Spotlight On Capitol Hill**

The past two weeks, a flurry of activity related to the hydraulic fracturing process for extracting natural gas (also known as hydraulic fracking) has been reported in the trade press. Reps. Henry Waxman (D-Calif.) and Ed Markey (D-Mass.) sent letters on Feb. 18 to eight companies requesting detailed information about their use of hydraulic fracturing fluids. A Feb. 19 Bureau of National Affairs article reported that three of the major extracting companies reportedly used diesel fuel fluids in the fracking process, despite a 2003 voluntary agreement not to do so. These three companies, as well as the American Petroleum Institute, have since issued statements saying that there is no evidence that the fracking process has contaminated drinking water supplies.

Earlier this month, an EPA official told a conference of regulatory utility commissioners that EPA had no documentation that fracking contaminates water supplies, despite claims by environmental groups. At the same conference, Water Research Foundation Executive Director Rob Renner said that the foundation was embarking on a study of the impacts of hydraulic fracturing on water quality. And at a Feb. 24 House appropriations subcommittee hearing, EPA Administrator Lisa Jackson said that the agency was working with Congress to “reprogram” some of its FY10 funding in order to begin a study on the risks of hydraulic fracturing. The FY11 budget request includes \$4 million to study the environmental impacts of the process, but the FY10 budget has no appropriated funds.

## **Sen. Kerry Says Climate Bill “Moving Rapidly”**

Massachusetts Senator John Kerry said last week that a compromise climate change bill he is developing with Sens. Joe Lieberman (I-Conn.) and Lindsey Graham (R-S.C.) is “moving very rapidly” toward completion and that the trio “are on a short track” to unveil the measure to the full Senate.

Kerry’s comments came just before reports from Capitol Hill said that Senate Majority Leader Harry Reid (D-Nev.) is urging the group to release their bill as soon as possible – suggesting that Senate Democrats hope to make one last push to approve climate legislation this spring.

Last year the Senate Environment and Public Works Committee approved a climate change bill (S. 1733) formulated by Kerry and California Senator Barbara Boxer. While that bill includes a water utility climate adaption program that is a priority of AMWA and other water sector groups, the overall bill is not expected to receive a full Senate vote.

The Kerry-Lieberman-Graham bill is expected to be a narrower measure that might win moderate votes by scaling back or dropping controversial “cap-and-trade” provisions. At this point, it is not clear whether the proposal will include significant climate adaptation provisions, such as the water utility program.

## Representatives Criticize Army Corps Budget Cut

Both Democrats and Republicans used an Energy and Water Development Subcommittee hearing last week to criticize the Obama Administration's plan to cut the U.S. Army Corps of Engineers budget by 10 percent in 2011. Testifying at the hearing, Assistant Army Secretary for Civil Works Jo-Ellen Darcy said the Army Corps budget is "frugal," but that the Obama Administration is focused on spending the dollars efficiently. The Army Corps would receive \$4.9 billion under President Obama's FY11 budget request, down from the \$5.4 billion appropriated for the agency this year.

## Informational Webinar Scheduled On All-Hazard Consequence Management Plan

On Thursday, March 11 at 1:00 p.m. ET, WaterISAC will host a webinar on the latest breakthrough in emergency preparedness, response and recovery planning. The document, *All-Hazard Consequence Management Planning for the Water Sector (All-Hazard CMP)*, was produced by a work group made up of drinking water and wastewater utilities, water sector associations, and state and federal water programs.

The *All-Hazard CMP* includes:

- customizable lists of preparedness, response, and recovery actions that will improve resiliency across all hazards;
- consequence-specific lists of actions for potential hazards that are most relevant to drinking water and wastewater utilities;
- example incident-specific flow charts and checklists with links to downloadable and customizable versions online; and
- information on how the National Incident Management System (NIMS) and the Incident Command System (ICS) are used in preparedness and during response and recovery.

To register for this event, click "News & Events" at [www.waterisac.org](http://www.waterisac.org). Select the *All-Hazards CMP* webinar in the "Select Event" drop-down menu. Webinar attendees are encouraged to download the *All-Hazard CMP* document from the "Security Information" page on the AMWA website prior to the webinar.





March 8, 2010

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## EPA Administrator Jackson To Address Water Policy Conference

EPA Administrator Lisa Jackson will be the featured speaker on the opening day of AMWA's 2010 Water Policy Conference in Washington, D.C. Since her confirmation to the post on January 22, 2009, she has ramped up EPA's regulatory efforts to address high-priority issues such as climate change, toxic chemicals, and air and water quality using existing authorities.

Jackson's active agenda includes the agency's ruling in December that greenhouse gas emissions are a threat to public welfare, which paves the way for EPA to regulate carbon emissions linked to climate change under the Clean Air Act. In the area of water, she has promoted new approaches to enforcement, more open access to information on regulations, permits and compliance, and new initiatives on the Chesapeake Bay and Great Lakes.

The conference will be held March 21-24 at the Renaissance Washington, DC Dupont Circle Hotel. Information and online registration are available at [www.amwa.net/cs/2010WPC](http://www.amwa.net/cs/2010WPC). Today is the final day to make hotel reservations at the preferred rate for conference participants.

## This Week In Congress

The Senate is expected to vote this week on a \$149 billion bill that will extend a series of expiring tax breaks, unemployment benefits and disaster aid for farmers. After that, the chamber will consider a small-scale jobs bill approved by the House last week.

In the House, Democratic leaders will continue to solicit votes for the health care overhaul that President Obama hopes to pass before the spring recess, which begins in three weeks.

## **EPA, DHS Reiterate Administration Position On Water Sector “Security Gap”**

Testifying last week before the Senate Homeland Security and Governmental Affairs Committee, EPA Assistant Administrator for Water Peter Silva and DHS National Protection and Programs Directorate Under Secretary Rand Beers reiterated the Obama Administration’s position that current laws which exempt drinking water and wastewater facilities from federal chemical security regulations constitute a “security gap” that should be filled when Congress permanently reauthorizes the DHS Chemical Facility Anti-Terrorism Standards (CFATS) program. The Obama Administration originally announced its view of the “gap” last year.

In his testimony, Beers said the Obama Administration supports a permanent reauthorization of the CFATS program, but that it has not taken a position on the House-passed H.R. 2868, which would revamp CFATS to include a federal “inherently safer technology” (IST) mandate for chemical facilities. Instead, Beers said that the Administration would release its own draft CFATS reauthorization language within the next few months.

Beers and Silva each testified that drinking water and wastewater facilities should be part of a federal chemical security program, but that EPA – not DHS – should have the lead on regulating security at water facilities, in part because of the “unique public health and environmental requirements” of water systems. They also said that a revised chemical security program should require all high-risk chemical and water facilities to assess “IST” options and should grant the “appropriate regulatory entity” the power to require facilities to implement “IST” when it is feasible.

As passed by the House of Representatives last fall, H.R. 2868 would require chemical facilities to adopt “IST” when DHS determines the switch is feasible. High-risk water and wastewater utilities would review “IST” options and decide on their own whether to make a change, although the utility’s primacy state agency could direct a switch after certifying its feasibility. A water system would have the right to appeal this determination.

## **Committee Members Skeptical Of Proposed “IST” Mandates**

Last week’s chemical security hearing before the Senate Homeland Security and Governmental Affairs Committee provided several senators with an opportunity to question the efficacy of legislation that would allow the federal government to broadly dictate the use of “IST” to local chemical manufacturing and water treatment facilities.

Committee Ranking Member Susan Collins (R-Maine) said that the forced use of “IST” at one location could merely shift risks associated with chemicals to another place, resulting in no net security gain. Instead of moving forward with legislation to mandate “IST,” Collins recommended that the committee instead take up her legislation (S. 2996) that would extend the CFATS program in its current form for five years. The Collins proposal would have no bearing on the existing drinking water and wastewater utility exemption from CFATS.

Several committee members attending the hearing – including Sens. George Voinovich (R-Ohio), Mark Pryor (D-Ark.), Tom Carper (D-Del.) and Carl Levin (D-Mich.) – expressed

varying degrees of concern with the idea of federal “IST” mandates on chemical and water facilities. For example, Pryor said that it would be difficult to mandate “IST” without a clear definition of what it includes, Carper said that the government should work with facilities on a case-by-case basis to strengthen security, and Levin questioned what authority would ultimately decide whether a particular “IST” is feasible for an individual facility. However, none of them said how they would vote on a bill that included “IST” mandates.

Committee Chairman Joe Lieberman (I-Conn.), who has previously supported federal “IST” mandates, said that he expects a healthy debate on the issue going forward but did not announce any legislative plans of his own. He did, however, suggest that one possible compromise could include requiring “IST” reviews at high-risk facilities while stopping short of giving the government the power to force implementation. Lieberman also spoke of the importance of closing the water and wastewater “security gap,” although he did not say publicly whether he believes oversight of the water sector should rest with EPA or DHS.

## **EPA, Interior Announce Climate Research Initiatives**

Science to Achieve Results (STAR) grants amounting to nearly \$17 million in were awarded by EPA to universities across the country to study the consequences of climate change on air and water. In the area of water resources the STAR-funded research will help assess the sensitivity of aquatic systems to possible climatic changes over the next several decades. Understanding these changes will be useful for developing regional adaptive strategies to reduce the risk of harmful impacts to water quality and aquatic ecosystems. Carbon sequestration grants will investigate safe and effective ways to store and sequester carbon. This research will help determine if injecting carbon dioxide deep into the ground threatens the environment and underground water resources. Information in online at [www.epa.gov/ncer/climate](http://www.epa.gov/ncer/climate).

Secretary of the Interior Ken Salazar announced last week that the University of Alaska in Anchorage will host the first of eight regional Climate Science Centers, part of an effort aimed at using climate change data to respond most effectively to the effects of climate change. The new centers expand on the existing “regional hubs” where universities, government agencies and nongovernmental organizations collaborate under the auspices of the U.S. Geological Survey's National Climate Change and Wildlife Science Center. Salazar also said the Department will seek out grant proposals for the next four centers, including ones in the Northwest, Southeast, Southwest and North Central regions of the country.

## **Comment Periods Extended**

EPA said that it will extend the comment period for its proposed Florida nutrient standards to April 28 and announced three additional public meetings in Florida about the proposal. Additional information, including the proposal, is at [www.epa.gov/waterscience/standards/rules/florida](http://www.epa.gov/waterscience/standards/rules/florida).

CEQ announced that it would extend the comment period on its “Draft Principles and Standards Sections” of the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*. The comment deadline is now April 5, and AMWA plans to submit comments.

## **April SAB Meeting To Review Arsenic Hazard Assessment**

EPA's Science Advisory Board (SAB) will meet April 6 from 1:00 to 5:30 p.m. EDT and April 7 from 8:30 a.m. to 2:00 p.m. at the St. Regis Hotel in Washington, D.C. to discuss the agency's draft document, "Toxicological Review of Inorganic Arsenic: In Support of the Summary Information on the Integrated Risk Information System." Additional information is available by clicking on SAB's calendar for April: <http://tinyurl.com/SABmtgs>. Background information is at <http://tinyurl.com/EPAarsenic>.

## **New Name Announced For EPA Pesticides, Chemicals Office**

Effective on Earth Day, April 22, EPA's Office of Prevention, Pesticides and Toxic Substances will be renamed the Office of Chemical Safety and Pollution Prevention to better reflect the mission of the office, according to an agency announcement.



March 15, 2010

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## DHS Infrastructure Protection Point Man Added To Water Policy Conference Slate

Rand Beers, Under Secretary for the National Protection and Programs Directorate at the Department of Homeland Security, will speak at AMWA's 2010 Water Policy Conference next week in Washington, D.C. Beers heads DHS efforts to reduce risks to the nation's infrastructure from physical and cyber threats and is an authority on risk management.

Also headlining the program is EPA Administrator Lisa Jackson who has actively pursued regulatory efforts to address issues such as climate change, toxic chemicals, and air and water quality during her 14 months in office. From Capitol Hill, Sen. Ben Cardin, Reps. Lois Capps and Jim Costa, and Alex McDonough, Legislative Counsel to Senate Majority Leader Harry Reid, will speak on topics of concern to water utility executives.

Other key speakers include Anne Castle, Assistant Secretary for Water and Science at the Department of the Interior; Stephen Flynn, President of the Center for National Policy; Kathy Jacobs, White House Office of Science and Technology Policy; and Chet Koblinsky, Director of NOAA's Climate Program Office. In addition to Jackson, EPA will be represented by Nancy Stoner, Deputy Assistant Administrator of the Office of Water; Cynthia Dougherty, Director of the Office of Ground Water and Drinking Water; and Jim Hanlon, Director of the Office of Wastewater Management.

The conference will be held March 21-24 at the Renaissance Washington, DC Dupont Circle Hotel. Information and online registration are available at [www.amwa.net/cs/2010WPC](http://www.amwa.net/cs/2010WPC).

## This Week In Congress

The Senate is expected to vote this week on a \$17.5 billion jobs bill recently approved by the House and may continue work on a Federal Aviation Administration reauthorization bill.

In the House, Democratic leaders hope to finalize the details of their latest version of a healthcare reform package and could vote on the measure by the end of the week.

## **New Earmark Rules Could Limit Funding Opportunities**

House Republican leaders announced last week that their caucus would submit no earmark requests for the 2011 fiscal year, a decision that could limit opportunities for some water systems to receive targeted federal funding assistance.

As a result of the policy, any water system or other local entity that had planned to seek an FY11 earmark from a Republican House member will have to find another member of Congress to submit its request. House Democrats still plan to submit earmark requests on behalf of not-for-profit entities, and Senate Republicans and Democrats have not, as of yet, announced any plans to enact their own earmark ban – though some senators are pushing the idea.

While politically controversial, annual earmarked appropriations make up a relatively small percentage of overall federal spending. For example, of the \$1.13 trillion in the federal government's fiscal year 2010 discretionary appropriations, only \$10.2 billion in funds were earmarked. EPA's final FY10 spending plan included \$157 million in congressionally requested water and wastewater infrastructure earmarks.

## **Cities Sue Over Atrazine Cleanup Costs**

Seventeen cities in six Midwestern states filed suit in federal court last week against Syngenta AG and its U.S. counterpart to recoup costs to remove the herbicide atrazine from drinking water supplies. Atrazine is commonly used in the U.S. and other countries, but it is banned in Europe. Syngenta is the primary manufacturer of the controversial herbicide.

The lawsuit was filed in U.S. District Court for the Southern District of Illinois by 17 cities in Kansas, Illinois, Indiana, Ohio, Missouri and Iowa.

Stephen Tillery, a lawyer for the plaintiffs, alleges that the cities have spent nearly \$350 million to filter the chemical. Attorneys for Syngenta called the lawsuit frivolous and argued that it would only hurt U.S. farmers.

Scott Summy, with the firm Baron & Budd, also represents the plaintiffs. "This case is extremely important to the water industry because it will help determine whether public water providers must bear the burden of removing contaminants that are placed into society with the manufacturer knowing that it will result in public water contamination," he said.

## **House Committee May Take Up DWSRF Reauthorization Later This Year, Senate Bill Remains Stalled**

Staff for the House Energy and Commerce Committee told AMWA recently that the committee may markup legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF) this year, although the legislation would probably not change current SRF provisions that require states to give preference to water projects that address the most serious public health impacts or bring water systems into compliance with the Safe Drinking Water Act. AMWA believes these provisions tend to give funding preferences to small water systems at the expense of those serving metropolitan areas.

While the House begins to formulate its DWSRF bill, similar water infrastructure legislation

remains stalled in the Senate. Last summer, the Environment and Public Works Committee approved S. 1005, which would reauthorize both the Drinking Water and Clean Water SRFs for five years. However, while the bill won bipartisan support in committee, Senate Republicans have since blocked consideration of the measure on the floor because of plans announced by EPA to apply Davis-Bacon prevailing wage requirements to all projects funded through SRFs. The new policy will apply not only to the federal portion of the SRFs, but also to state contributions to the funds – leading Republicans to charge that the change would make water projects much more costly to states.

S. 1005 would authorize \$14.7 billion over five years for the DWSRF and \$20 billion over five years for the CWSRF. The bill would also update the CWSRF state allotment formula, create new grant programs to target assistance for combined sewer overflows, and direct states to give greater weight to applications from utilities that implement best management practices, such as asset management plans. AMWA also helped draft report language that highlights the infrastructure needs of urban water systems, though the legislation does not grant such systems any funding preferences.

## **Senators Bash Proposed Army Corps Cuts**

Like their House counterparts last month, members of the Senate Energy and Water Development Appropriations Subcommittee harshly criticized President Obama's plan to cut the Army Corps of Engineers' budget by 10 percent next year and vowed to boost the funding level in their spending bill. The Administration's FY11 budget proposed cutting the Army Corps' budget to \$4.9 billion, a drop of \$500 million from its 2010 level.

"The consensus of this committee will not be to support cutting a half a billion dollars of the corps' funding at this time," said subcommittee Chairman Byron Dorgan (D-N.D.) at a hearing last week. Sen. Robert Bennett of Utah, the subcommittee's lead Republican, said that his party would also oppose the cuts.

## **EPA Releases Revised Public Notification Guidance**

EPA recently published its *Revised Public Notification Handbook* online at [www.epa.gov/ogwdw/publicnotification/compliancehelp.html](http://www.epa.gov/ogwdw/publicnotification/compliancehelp.html). The updated document now includes templates and guidance from EPA regarding public notification under the Ground Water Rule, Long Term 2 Enhanced Surface Water Treatment Rule, Stage 2 Disinfection Byproducts Rule and short-term revisions to the Lead and Copper Rule.

## **WaterSense Announces Showerhead Specs, Facebook Page**

EPA's WaterSense program recently added showerheads to its portfolio of products. Showerheads that meet the EPA specification of using no more than 2.0 gallons per minute are expected in stores by late April. The WaterSense program also has a new Facebook page. Additional information is available on EPA's newly designed WaterSense webpage: [www.epa.gov/watersense](http://www.epa.gov/watersense).



March 22, 2010

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## Water Executives And National Policy Leaders Meet At AMWA Spring Conference

More than a hundred drinking water stakeholders are in the Nation's Capital this week for AMWA's 2010 Water Policy Conference. Over the next three days, water utility executives will hear from top Administration and Congressional policymakers and will share their ideas on critical water sector issues.

EPA Administrator Lisa Jackson and DHS Undersecretary Rand Beers headline the Monday morning program, which also includes Anne Castle, Assistant Secretary for Water and Science at the Department of the Interior, Brian Kamoie, a Senior Director on the White House National Security Staff and Stephen Flynn, President of the Center for National Policy. Tuesday morning's agenda includes Reps. Lois Capps, Jim Costa, Grace Napolitano and John Boozmen, members of Congress with strong water interests and portfolios. Alex McDonough, Legislative Counsel to Senate Majority Leader Harry Reid, Kathy Jacobs from the White House Office of Science and Technology Policy and Chet Koblinsky from NOAA's Climate Program Office are also on the Tuesday slate.

Utility executives from Europe and Israel will share their insights on topics ranging from sustainable water supply management to natural disaster resiliency in a special Tuesday afternoon session. Many attendees will also take the opportunity to visit Congressional offices while in Washington, D.C., to discuss local, regional and national water concerns with their federal representatives.

### This Week In Congress

The health care debate will dominate this week's Congressional agenda. The House of Representatives planned a Sunday vote on health reform legislation, and, assuming it garnered the votes to pass, Senate leaders planned to begin debate on the final version of the overhaul today. Senate Democrats hope to have a final vote on the bill before the end of the week.

Following the House's consideration of the health care bill, members are expected to consider another job-creation



measure on the floor before breaking for the two-week Easter recess at the end of the week.

## **AMWA And NACWA Announce Pharmaceuticals Peer Review Paper**

The newly completed peer review paper *Pharmaceuticals in the Water Environment* is available to AMWA members at: [www.amwa.net/cs/pharmapaper](http://www.amwa.net/cs/pharmapaper). Commissioned last spring by AMWA and the National Association of Clean Water Agencies, the paper provides an overview of the issue and addresses the following topics in seven chapters: ecological effects, regulatory activities (specifically mechanisms for regulation), issues for analysis, human health consequences, source and source control, treatment options and communication to the public. The paper provides several recommendations focused around data and research needed before “meaningful, human and ecological health-based federal criteria and regulations should be considered.”

## **Climate Forum Principles, Presentations Now Online**

All of the presentations and audio files from the January event *Climate Change Impacts on Water: an International Adaptation Forum* are now available on the forum website: [www.waterclimateforum.org](http://www.waterclimateforum.org). Also on the website is the “Principles of Water Utility Adaptation to Climate Change,” a document that outlines key considerations for water utility managers and policy makers to address in future water sector planning. Presentations and discussions at the forum informed the final version of the principles, which were developed by the forum host organizations: AMWA, the Water Research Foundation, the International Water Association, the Water Utility Climate Alliance and AWWA.

## **Environmental Groups To Request “Green Project” Set-Aside In DWSRF Bill**

A coalition of environmental groups is reportedly lobbying House lawmakers to include a mandate in upcoming Drinking Water State Revolving Fund (DWSRF) reauthorization legislation that would require states to set aside at least 20 percent of their annual loan funds for “water efficiency, green infrastructure, and environmentally innovative projects.”

A 20 percent “green project reserve” applied to the DWSRF was first included in last year’s economic stimulus legislation, which appropriated an extra \$2 billion for the drinking water infrastructure program. However, AMWA has opposed permanently carving out a portion of DWSRF funding for use solely on “green” projects, because of the tremendous long-term infrastructure need faced by water systems. According to EPA’s 2007 Drinking Water Needs Survey, the nation’s water systems face nearly \$335 billion in necessary upgrades over the next 20 years. Restricting a portion of funds to only “green” projects would make fewer dollars available for all other infrastructure needs.

AMWA has spoken with House Energy and Commerce Committee staffers about these concerns, and they have indicated that the Committee hopes to use the SRF reauthorization bill to promote green infrastructure without using a mandatory carve out of funds. Similarly, a Drinking Water and Clean Water SRF reauthorization bill (S. 1005) awaiting action in the Senate does not include a set-aside of funds for green infrastructure.

## **New Jobs Legislation Would Lift The Water/Wastewater Private Activity Bond Cap**

A \$16.8 billion package of tax incentives approved by the House Ways and Means Committee last week would eliminate the existing state volume cap on private activity bonds (PABs) that fund water and wastewater infrastructure projects.

Acting Ways and Means Chairman Sander Levin (D-Mich.) sponsored the legislation (H.R. 4849) and said that removing water and wastewater facilities from state PAB volume caps will give communities “a vital resource for state and local governments looking to advance infrastructure programs.” The provision, which mirrors legislation (H.R. 537) introduced last year by Rep. Bill Pascrell (D-N.J.), would exempt water systems from the cap if they are operated by a governmental unit or if their rates are established or approved by a local public utility commission or similar body.

PABs are issued by private entities that partner with a state or municipal government to receive tax-exempt financing for an infrastructure project that benefits the general public. Interest earned on PABs is tax exempt – making them attractive to private investors – but current law caps the total annual dollar value of PABs for certain projects that a given state can issue. Water projects funded by PABs are currently subject to these caps, which forces them to compete with other capped projects for a limited amount of interest-free PAB funding and limits the amount of potential investment in these projects.

AMWA has long held concerns about lifting the PAB cap for water projects. However, the economic downturn has led to a renewed interest in removing the cap for water projects as a source of new infrastructure funding, with the U.S. Conference of Mayors recently endorsing the idea.

H.R. 4849 could advance to the House floor as early as this week, depending on the outcome of the House health care debate.

## **Conference Of Mayors Report Anticipates Increased Water Infrastructure Costs**

A report released by the U.S. Conference of Mayors last week said that spending on public water and wastewater systems will range from \$2.5 to \$4.8 trillion through 2028, with local governments expected to pick up most of the tab. The report found that local government spending on water and sewer systems reached \$93 billion in 2008, while the federal government provided only \$2 billion worth of funding for water infrastructure through the State Revolving Fund (SRF) programs. The Mayors went on to argue that “current federal financial assistance programs are fragmented and not targeted to metro-urban areas that the nation depends on for employment, economic growth, and environmental stewardship.”

To address this imbalance, the Mayors recommended new federal policies that would give priority for funding to projects that rehabilitate aging water infrastructure, protect water infrastructure from catastrophic events and climate change-related impacts, and ensure future source water availability. The Mayors also asked the federal government to remove private activity bonds for water and wastewater infrastructure from state volume caps – an idea included in H.R. 4849, which is currently moving through the House. The report, *Trends in*

*Local Government Expenditures on Public Water and Wastewater Services and Infrastructure: Past, Present and Future*, can be found at [www.usmayors.org/water](http://www.usmayors.org/water).

## **Web Forum Seeks Input On How To Protect America's Waters**

EPA is inviting the public to provide input on how the agency can better protect and improve the health of the nation's waters by posting a comment on its water forum blog:

<http://blog.epa.gov/waterforum>. EPA's Assistant Administrator for Water Peter Silva said that the online discussion is "for anyone who wants to share their best solutions for restoring healthy waters and creating sustainable communities across the country." Through March 31, water professionals and others interested in water quality issues can comment on any or all of the three topics: watershed approach, managing pollutants from nutrients and stormwater pollution.

The feedback EPA receives will be rolled into discussions during the agency's April conference, *Coming Together For Clean Water*. The conference is an invitation-only event for 100 water professionals selected by the agency. AMWA encourages members to provide comments on the site and plans to comment as well, focusing on the importance of source water protection to help improve drinking water quality.

## **Reclamation Issues Title XVI Funding Criteria For Backlogged Projects**

The Bureau of Reclamation is seeking comment on a draft proposal, released on March 15, on criteria the bureau will use to determine which previously authorized Title XVI water recycling programs will be funded. Nearly \$630 million worth of authorized projects have awaited funding for years, and the proposal is intended to deal with this backlog. Last year's stimulus bill included \$135 million for Title XVI projects, and the House has approved \$29 million for the program for fiscal year 2011.

Reclamation provides one-fourth of the funding for such projects. In its proposed assessment, the bureau would assign points worth up to a total of 175 for seven criteria addressing: reducing water demand (50 points); how much funding will be necessary to bring a project to completion (30 points); whether the project will improve species protection and water quality (25 points); whether the project incorporates renewable energy and improves energy efficiency (20 points); economic benefits and cost effectiveness (20 points), the extent to which the project helps resolve legal issues involving Indian water right settlements, river restoration, minimum flow requirements, and court orders (20 points); and the extent to which the project promotes or applies a watershed perspective (10 points).

The comment period will be open for one month. The proposal can be found at <http://www.usbr.gov/WaterSMART/docs/draftXVIcriteria.pdf>.

## **EPA Plans Hydraulic Fracturing Study**

In response to concerns that hydraulic fracturing may impact ground water and surface water quality, EPA announced last week that it will conduct a comprehensive research study to investigate the potential adverse impact that hydraulic fracturing may have on water quality and public health. EPA is in the early stages of designing the study and will look to the

Science Advisory Board for input. The agency is allocating \$1.9 million dollars from this year's budget for the effort and requesting additional funding for FY11. EPA says it have a "robust" process for stakeholder input regarding the study. Information and materials concerning the SAB meeting, to be held April 7-8, are online at <http://tinyurl.com/SABhydrofrac>.



March 29, 2010

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## Spring Break For Congress, MMB

The House and Senate have begun a two-week spring recess and will resume business the week of April 12. The *Monday Morning Briefing* will not be published during the recess, but breaking news will be reported through *Special Briefings* as needed.

## On Heels Of New Drinking Water Strategy, EPA Announces Plans To Revise Four Regulations

At AMWA's Water Policy Conference last week, EPA Administrator Lisa Jackson announced four principles of a new EPA strategy to provide greater protection of drinking water. Jackson's speech and additional details about the four principles are online at [www.epa.gov/safewater/sdwa/dwstrategy.html](http://www.epa.gov/safewater/sdwa/dwstrategy.html). Also at the conference, Office of Ground Water and Drinking Water Director Cynthia Dougherty said that EPA's Office of Research and Development would take the lead in determining how the agency will approach addressing the regulation of groups of drinking water contaminants (one of the principles) and that the agency will also seek input from utilities and other stakeholders and the Science Advisory Board.

EPA's press release on the new strategy included an announcement of the agency's plans to revise four drinking water regulations under the second Six-Year Review: acrylamide, epichlorohydrin, tetrachloroethylene and trichloroethylene. Although Six-Year Review determinations have not yet been published in the *Federal Register*, EPA posted the supporting documents on its website: [www.epa.gov/ogwdw/review/second\\_review.html](http://www.epa.gov/ogwdw/review/second_review.html). EPA will consider the public comments and/or any new, relevant, peer-reviewed data submitted for the four candidate regulations for revision.

## House Votes To Eliminate Water/Wastewater Cap On Private Activity Bonds

Legislation passed by the House of Representatives last week would exempt water and sewer projects from state volume caps on private activity bonds, which legislators hope will prompt more investors to purchase bonds to fund water infrastructure activities.

H.R. 4849, the “Small Business and Infrastructure Jobs Tax Act,” includes numerous provisions aimed at spurring economic growth by reducing taxes on small businesses and increasing investment in infrastructure projects. One section of the bill would exempt water and wastewater projects from state volume caps that apply to private activity bonds (PABs), which are issued by private entities with the approval of state governments, to fund infrastructure projects that deliver a public benefit. PABs are attractive to investors because interest accrues tax-free, but current law limits the total amount of PABs that may be issued in a state in a given year. As a result, water projects must compete for limited PAB financing with a variety of other infrastructure projects.

By exempting water projects from PAB state volume caps, supporters argue that more financing will be made available for water infrastructure projects that create local jobs and help close the multi-billion dollar water infrastructure funding gap.

It is not clear whether the U.S. Senate will consider H.R. 4849 after it returns from its two-week recess, but Senate leaders have made the passage of job creation legislation a priority for the remainder of the year.

## Cybersecurity Legislation Would Set Framework For Collaboration

Legislation approved last week by the Senate Commerce, Science and Transportation Committee would direct critical infrastructure sectors to work with the federal government to secure cyber networks and establish procedures to respond to critical network threats. Sponsored by Sens. Jay Rockefeller (D-W.V.) and Olympia Snowe (R-Maine), the Cybersecurity Act (S. 773) is intended to modernize the government’s relationship with the private sector on cybersecurity efforts. Provisions of the bill include:

- Creating a process through which the President and sector coordinating councils collaborate to designate specific IT systems whose disruption or incapacitation would threaten strategic national interests and critical infrastructure;
- Requiring the President to provide security clearances to key private sector officials who oversee information technology systems, and to facilitate the sharing of classified threat information with these officials;
- Requiring the President to collaborate with owners and operators of critical infrastructure IT systems, through sector coordinating councils, to develop and rehearse detailed cybersecurity emergency response and restoration plans, which would take effect during a cyber emergency; and
- Creating a public-private information-sharing clearinghouse in which government and private officials would share classified or confidential cybersecurity threat and vulnerability information.

Absent from the committee-approved version of S. 773 were earlier draft provisions that would have allowed the President to order disconnection of critical infrastructure information systems or networks in response to a cyber threat or “in the interest of national security.” That power had drawn significant concerns from network operators, which led Rockefeller and Collins to drop it from the bill.

Senate observers say it is unlikely that S. 773 will receive a full Senate vote this year, due to the packed legislative calendar.

## **BuRec Accepting Grants For WaterSmart Program**

The Bureau of Reclamation is accepting grant applications for projects that conserve and use water more efficiently, increase the use of renewable energy in the management or delivery of water, protect endangered and threatened species, facilitate water markets, or carry out other activities to address climate-related impacts on water or prevent any water-related crisis or conflict. The Interior Department states: “With leveraged water sustainability grants, an important step will be taken towards increasing conservation for a more efficient use of water in the West.” Grant proposals must be submitted by May 4, 2010. Additional information is online at <http://tinyurl.com/watersmartgrants>.



April 19, 2010

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## SAB Panels Provide Comments On Arsenic, Hydraulic Fracturing

Two Science Advisory Board (SAB) panels met the first week in April to discuss the EPA's draft arsenic toxicological assessment and the agency's plans for a study of hydraulic fracturing.

The arsenic workgroup charged with reviewing the agency's draft toxicological assessment for inorganic arsenic voiced its support for EPA's assumptions and approach to the document. AMWA and several other organizations submitted comments to the SAB urging the workgroup to perform a full review of the draft assessment and raising questions about the appropriateness of the data used in the assessment. The workgroup, however, chose to focus its review solely on the charge provided by EPA. The workgroup did call on EPA to provide improved explanations and justification for many of the details in the assessment but did not question the methodology or conclusions.

The Environmental Engineering Committee's charge was to help EPA frame plans to study hydraulic fracturing and its potential effects on water supplies. The committee recommended, in light of budget and time constraints, that EPA focus its study on the nature of health risks from hydraulic fracturing chemicals and exposure pathways. The recommendations of both panels will be finalized in writing and voted on by the full SAB during its June meeting. Additional information about the SAB meetings will be published in AMWA's April *Regulatory Report*.



## **This Week In Congress**

The U.S. Senate may take up financial industry reform legislation this week, but it is unclear when a final vote will occur. Food safety legislation may also receive attention in the Senate.

House members are expected to consider a measure that would give the District of Columbia a voting representative in the chamber.

### **Committee Examines Bureau of Reclamation Budget**

Members of the House Energy and Water Appropriations Subcommittee voiced concerns about the backlog of Bureau of Reclamation projects at a hearing on the agency's 2011 budget request. The White House requested \$1.06 billion for the Bureau in 2011, a slight reduction from its 2010 funding level of \$1.09 billion. However, the Bureau's Title XVI water recycling program would see a nearly \$4 million funding boost, to \$29 million.

Several members of the subcommittee complained that the proposed level of funding will do little to address Title XVI's \$630 million backlog of unfunded projects. Other members questioned how the Bureau decides to distribute dollars to states. Reclamation Commissioner Michael Connor told the subcommittee that the Bureau prioritizes funding awards by taking into account which projects would have the greatest water impact and which are closest to completion. Draft project ranking criteria released by the Bureau last month would also consider variables such as economic impact and environmental quality.

### **Six-Year Review Notice Requests Information About Nitrification, Climate Change**

EPA published its second Six Year Review notice ([www.epa.gov/ogwdw/review/second\\_review.html](http://www.epa.gov/ogwdw/review/second_review.html)) in the *Federal Register* on March 29 (75 *FR* 15499). As reported in the March 29 *Monday Morning*

*Briefing*, the notice identifies four contaminants for revised regulation. The notice also requests input on two implementation issues related to nitrate and nitrite. EPA is considering changing the location of nitrate-nitrite monitoring to address possible nitrification within the distribution system for water systems using chloramines and is considering reducing nitrate and nitrite monitoring for ground water systems with historically low levels of the contaminants.

EPA is also requesting data on the impacts of climate change on water quality. Specifically, the notice requests information from states and water systems that illustrates the impacts of climate change on contaminant occurrence and, as a result, drinking water treatment.

AMWA is working with its Regulatory Committee to provide comments by the May 28 deadline. All members are welcome to submit comments directly to EPA and also to provide input to AMWA. Please e-mail any suggestions or copies of comments sent to EPA to Erica Brown ([brown@amwa.net](mailto:brown@amwa.net)).

## **Study Finds Increasing Extreme Precipitation Events In Northeastern U.S.**

A recent report from the University of New Hampshire and the advocacy group Clean Air Cool Planet finds that annual precipitation in the Northeastern U.S. has increased over the past half century, along with more frequent heavy precipitation events. The report also discusses the impacts of these rain events, which include flooding, erosion and damage to infrastructure. The report can be downloaded from AMWA's [climate change page](#).

## **EPA Announces May Stakeholder Meeting For Revised TCR**

EPA will have a public meeting to provide updates to stakeholders on the upcoming Revised Total Coliform Rule (RTCR) proposal and the Distribution Systems Research and Information Collection Partnership. The meeting, announced in the April 9 *Federal Register* (75 FR 18205), will be at EPA headquarters in Washington, D.C. on Tuesday, May 11, from 9:30 a.m. to 5:00 p.m., and Wednesday, May 12, from 8:30 a.m. to 12:30 p.m. Attendees and those planning to participate via teleconference should register for the meeting by contacting Kate Zimmer of RESOLVE at (202) 965-6387 or [kzimmer@resolv.org](mailto:kzimmer@resolv.org) by May 4.

## **EPA Publishes Revised Public Notification Guidance**

EPA recently published updated guidance documents for the Public Notification (PN) Rule. The *Revised PN Handbook* (EPA 816-R-09-013) and the *Revised State Implementation Guidance for the PN Rule* (EPA-816-R-09-012) amends the March 2007 documents to reflect changes in the PN rule as a result of the Ground Water Rule and other rule-related updates, such as changes to the Lead and Copper Rule. New templates are included for providing public notice after rule violations. The documents may be downloaded from <http://tinyurl.com/EPA-pnguidance>. For hard copies, call 1-800-490-9198.



April 26, 2010

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## Details Remain Unclear On Climate Bill To Debut Today

A “tripartisan” coalition of Sens. John Kerry (D-Mass.), Lindsey Graham (R-S.C.) and Joe Lieberman (I-Conn.) today will introduce their version of legislation that they hope will serve as the template for Senate action on climate change this year. The trio has spent the past several months putting together a proposal aimed at winning the support of both industry and environmentalists.

AMWA and other water organizations have met with Senate staffers to encourage the inclusion within the bill of a program to help water and wastewater systems adapt to the impacts of climate change. The program was included in earlier legislation (S. 1733) sponsored by Sen. Kerry, but few details have emerged as to whether the initial version of the new bill will include any adaptation funding or programs at all. Much of the focus has been on forging a compromise between liberals and conservatives that would reduce long-term greenhouse gas emissions while also offering incentives for new offshore oil drilling and nuclear power plants.

Kerry, Graham and Lieberman have not publicly circulated any drafts of their proposal, preferring instead to release the text all at once today. However, last week several elements of the bill began to emerge, such as:

- The bill would take effect in 2013 and would cut U.S. greenhouse gas emissions 17 percent by 2020 and 80 percent by 2050 (compared to 2005 levels);
- Trade-sensitive and energy-intensive industries would get a four-year delay before they would be subject to greenhouse gas limits;
- The bill will preempt both the states’ and EPA’s ability to regulate greenhouse gases under the Clean Air Act, as long as emitters comply with the standards outlined in the measure;



May 3, 2010

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## AMWA Presents Issue Podcast Service

AMWA is launching a new web-based communications initiative on water issues. Members will see a podcast button under What's New at [www.amwa.net](http://www.amwa.net), and the podcasts will always be available under the News tab. In addition to an introductory message from Executive Director Diane VanDe Hei, members will find brief webcasts on the latest legislative, regulatory and security initiatives of concern to water utilities. The Podcasts area will be updated periodically with new information, and members are encouraged to submit ideas for future topics via e-mail to [vandehei@amwa.net](mailto:vandehei@amwa.net).

### This Week In Congress

The House this week will take up "Home Star" legislation that would offer \$6 billion worth of rebates on energy-efficient home improvements, such as insulation, water heaters and heating systems. The program would allow up to \$3,000 in rebates per home.

In the Senate, work will continue on the financial regulatory reform bill. This week multiple votes are expected on a series of amendments, although final passage of the legislation is not expected to come until the second week of May at the earliest.

## **DWSRF Reauthorization Bill To Be Introduced in House**

Members of the House Energy and Commerce Committee are putting the finishing touches on legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF) at \$14.7 billion over five years. The bill will likely be introduced this week, and the committee may hold hearings on the legislation as early as next week. The push is part of a renewed effort by both the House and Senate to enact Drinking Water and Clean Water SRF reauthorization bills this year.

According to Committee staff, the House proposal will be similar to the drinking water title of S. 1005, legislation approved last year by the Senate Environment and Public Works Committee that would reauthorize both SRF programs. Notable provisions of the House bill would:

- Clarify that aging infrastructure rehabilitation and replacement projects and on-site utility projects to produce renewable energy are eligible for SRF funding;
- Give additional weight to applications from utilities that have undertaken measures to improve water system management and stability, such as formulating an inventory of assets, an asset replacement schedule, an audit of water losses, a lifecycle cost financing plan, and a review of restructuring options. However, the bill's report language will make clear that "restructuring" is not intended to force public water systems to consider privatization;
- Require states with a demonstrated need to provide additional assistance to disadvantaged communities. The definition of disadvantaged community will also be expanded to include portions of a water utility's service area, which will make this assistance available to more metropolitan utilities; and
- Require all laborers on a project funded in whole or in part by SRF dollars to be paid consistent with federal Davis-Bacon prevailing wage standards.

The House bill will also incorporate draft legislation from Rep. Anna Eshoo (D-Calif.) that would redefine the Safe Drinking Water Act's definition of "lead free" from 8 percent lead to .25 percent lead for wetted surfaces of pipes, fittings and plumbing fixtures. This would match California's new state lead

pipe standard, which was formulated with the help of AMWA members in that state.

Other sections that could be added to the SRF reauthorization include a requirement that EPA set a maximum contaminant level for perchlorate in drinking water and a study of pharmaceuticals in source waters. Those provisions, however, are still being hashed out by committee staff.

## **PAB Companion Bill Introduced In Senate**

Legislation was introduced in the Senate last week to lift the state volume cap on private activity bonds (PABs) used to fund water and wastewater facilities. The bill follows the passage in March of House legislation (H.R. 4849) that included similar provisions.

S. 3262, the “Sustainable Water Infrastructure Investment Act,” is sponsored by Sen. Robert Menendez (D-N.J.). The bill would exempt PABs issued to fund water and wastewater projects from each state’s PAB volume cap. Under current law, private entities issue PABs (with state government approval) to fund infrastructure projects that deliver a public benefit, but federal law limits the total amount of PABs that may be issued in a state in a single year. As a result, water projects must compete for limited PAB financing with a variety of other infrastructure projects.

By exempting water projects from PAB state volume caps, supporters argue that more financing will be made available for water infrastructure projects that create local jobs and help close the multi-billion dollar water infrastructure funding gap. PABs are attractive to investors because interest accrues tax-free, so PAB supporters believe they represent a promising funding source for water infrastructure.

While the Senate is expected to consider additional job creation legislation this year, it is uncertain when the PAB bill might go to the floor.

## Senate Climate Bill Remains On Hold As Members Squabble Over Immigration

Plans to publicly release a draft of comprehensive climate change legislation in the Senate were delayed last week after Republican Senator Lindsey Graham threatened to drop his support for the bill if Senate leaders moved forward with plans to first consider an immigration reform bill. Graham argues that immigration reform has no chance of winning approval this year, and that the Senate must therefore put climate next on its legislative agenda.

Graham had been working for months with Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) to craft a “tripartisan” energy and climate bill that might have a chance of attracting the 60 votes necessary to advance in the Senate by promoting increased offshore oil drilling as well as carbon emissions limits. The trio had planned to release their initial draft of the bill last Monday, but those plans have been indefinitely postponed. As a result, there is still a great degree of uncertainty as to what specific provisions the bill will include.

Meanwhile, the dispute did not prevent the senators from sending a summary of details of their proposal to EPA for an economic analysis. EPA’s study, which will examine the costs and benefits of the proposal, is expected to take at least six weeks to complete. Therefore, the earliest the bill could advance to the Senate floor is mid-June.

## Climate Change Indicator Report Available

Last week EPA released a comprehensive report, *Climate Change Indicators in the United States* ([www.epa.gov/climatechange/indicators.html](http://www.epa.gov/climatechange/indicators.html)), which provides analysis of 24 key indicators to illustrate how many of the “fundamental measures” of climate in the U.S. are changing. The report is easily viewable by section and provides data-rich graphs and charts to illustrate national trends. Several indicators – such as temperature, precipitation, sea level and length of growing season – have data from 1901 to the present. For other indicators – such as snowpack trends and drought – data are available for 10- to 50-year time periods. EPA plans to use these indicators to collect data and generate analyses to:

- Monitor the effects/impacts of climate change in the United States;



- Assist decision-makers on how to best use policymaking and program resources to respond to climate change; and
- Assist EPA and its constituents in evaluating the success of their climate change efforts.



May 10, 2010

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## EPA Issues Guidance On New SRF Requirements

Last year, when Congress passed the FY10 appropriations bill funding EPA, it directed EPA to set aside portions of the Clean Water and Drinking Water State Revolving Funds for financial and environmental sustainability and disadvantaged communities. It also mandated that SRF loan recipients comply with the Davis-Bacon prevailing wage law.

EPA recently released policy guidance to help states comply with these mandates. The guidance directs that “States should not encourage the expansion of centralized infrastructure to accommodate growth where there are available projects that repair, replace, and upgrade infrastructure in existing communities. As a matter of administration priority, EPA will increase its emphasis on the importance of directing SRF assistance to projects that support sustainable systems and that help build or maintain the technical, financial, and managerial capacity of the recipient.”

Also, states are required to lend at least 20 percent of their federal SRF allotments for green projects, which EPA defines as “projects that utilize green or soft-path practices to complement and augment hard or gray infrastructure, adopt practices that reduce the environmental footprint of water and wastewater treatment, collection, and distribution, help utilities adapt to climate change, enhance water and energy conservation, adopt more sustainable solutions to wet weather flows, and promote innovative approaches to water management problems.”

The policy’s Davis-Bacon provisions require loan recipients to pay prevailing wages on projects that use federal SRF funds *in whole or in part*.

Because the new policy was enacted as part of FY10 appropriations legislation, it only applies to FY10 funds. However, often such policies are continued in future years. Meanwhile, the House Energy and Commerce Committee is

drafting DWSRF reauthorization legislation to be proposed any day now that would make much of the policy permanent.

A 72-page document providing more detail about the new policy is available on AMWA's website via <http://tinyurl.com/FY10-SRF>.

## **Annual Meeting Program Ideas Welcome Survey Deadline Is May 14**

Planning is underway for AMWA's 2010 Annual Meeting, to be held in Henderson, Nevada, October 24-27. Right now is the time to let AMWA know what you would like to see on the program. Take a few minutes to complete a brief online survey on proposed topics and give us your suggestions. Be sure to respond this week:

[www.surveymonkey.com/s/AMWA2010Meeting](http://www.surveymonkey.com/s/AMWA2010Meeting)

## **This Week In Congress**

While the Senate aims to wrap up its consideration of financial regulatory reform legislation in the coming days, Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) plan to publicly release their proposed climate change legislation this week. The measure was slated to be rolled out last month, but was delayed due to concerns by Sen. Lindsey Graham (R-S.C.) that the Senate might consider an immigration reform bill first. The bill's introduction has also been complicated by the Gulf of Mexico oil spill, as the legislation was expected to include increased incentives for offshore drilling.

In the House, Democratic leaders hope to renew a series of popular tax breaks and credits. The bill is expected to include tax breaks for small businesses and will provide as much as \$80 billion for Medicaid assistance to states.

## **New Legislation Would Update Endocrine Disruptor Research Program**

A new bill introduced in the House of Representatives last week by Reps. Ed Markey (D-Mass.) and Jim Moran (D-Va.) would require EPA to test chemicals commonly found in drinking water for their hormone-disrupting potential. H.R. 5210, the “Endocrine Disruptor Screening Enhancement Act,” would require EPA to publish an initial list of at least 100 chemicals found in drinking water and test those substances within four years. The bill lays out a timeline for the testing, calling for EPA to prioritize chemicals that pose the greatest risk and issue test orders for at least 25 of the listed substances at the end of each year. The legislation also requires that once EPA completes testing of a chemical from the list and it has been found to be an endocrine disruptor, the agency must determine whether regulation of the chemical is necessary under SDWA.

In a statement announcing the bill, Rep. Markey said that the Endocrine Disruptor Screening Program was intended to test all pesticides that may come into contact with food for their ability to interfere with the body’s hormonal system. However, he said that the EPA has never exercised its authority to test non-pesticide chemicals that may be found in sources of drinking water – a loophole that his legislation would address. Last year, Rep. Moran inserted language in EPA’s FY10 appropriations bill requiring the agency to release a new list of 100 chemicals to test for possible endocrine disrupting effects by this fall. EPA officials are currently working to meet that deadline.

While introduced as a stand-alone bill, H.R. 5210 is expected to be added as a section of the Drinking Water State Revolving Fund legislation that the House Energy and Commerce Committee plan to release soon.

## **Lautenberg To Offer Chemical-Water Security Bill**

Democratic New Jersey Senator Frank Lautenberg is formulating a comprehensive chemical and water facility security bill that he plans to introduce “soon,” according to Senate staff that recently spoke with AMWA on the subject. The legislation would apply to both drinking water and wastewater facilities, as well as chemical manufacturing plants.

According to staff, Sen. Lautenberg's proposal will be largely based on H.R. 2868, legislation approved by the House of Representatives last year that would require water and wastewater systems to submit to EPA vulnerability assessments and emergency response plans, along with new site security plans. High-risk systems that use certain disinfection chemicals like gaseous chlorine would have to review the feasibility of so-called "inherently safer technologies" (IST), with state primacy agencies empowered to review the IST decisions of utilities. Meanwhile, the water and wastewater sector would remain exempt from the DHS Chemical Facility Anti-Terrorism Standards (CFATS), which would be revised to allow DHS to force chemical systems to adopt IST. Senate staff say that Lautenberg's bill will include "some enhancements" over H.R. 2868, but have not provided any details. The bill will likely be introduced by the summer.

Sen. Lautenberg is not coordinating with DHS on the bill. The Department is in the process of drafting its own version of chemical security legislation to reauthorize CFATS. The DHS proposal is expected to debut sometime over the summer as well.

## **Better Federal Coordination Urged On Climate Adaptation**

A new report from the Pew Center on Global Climate Change recommends creation of a National Adaptation Program to coordinate federal resources to minimize economic costs and protect the country from the impacts of climate change. The Center urges President Obama to issue an executive order to better coordinate existing programs across federal agencies and to ensure they incorporate climate risks in their various programs.

The report, *Adapting to Climate Change: A Call for Federal Leadership* (<http://tinyurl.com/PewClimateReport>), also recommends creation of a National Climate Service to improve the coordination of research. The proposed National Adaptation Program would work in conjunction with two existing climate programs mandated by Congress: the U.S. Global Change Research Program, which coordinates climate research among 13 federal departments and agencies, and the Climate Change Technology Program, a multi-agency effort that coordinates development of clean energy technologies that reduce greenhouse gas emissions.



May 17, 2010

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## AMWA Weighs In On DWSRF Reauthorization Proposal

AMWA last week praised draft legislation that would reauthorize the Drinking Water State Revolving Fund (DWSRF) at \$14.7 billion over five years while also implementing reforms that could make the program more hospitable to applications from large water systems.

In a letter to leaders of the House Energy and Commerce Committee, AMWA expressed support for several sections of the “Assistance, Quality, and Affordability Act” (AQUA). For example, the bill would add language to the DWSRF statute to clarify that aging infrastructure rehabilitation and replacement projects, as well as on-site utility projects to produce renewable energy, are eligible for SRF funding. The bill would create a new category of SRF assistance priority for projects that anticipate future needed upgrades before they lead to a SDWA violation. It would also allow individual portions of a water system’s service area that meet state affordability criteria to qualify as “disadvantaged communities” eligible for extra assistance. Currently, a utility’s entire service area must be disadvantaged to receive extra funding, which enables very few large urban utilities to qualify. Finally, the legislation would incorporate H.R. 5289, a bill introduced by Rep. Anna Eshoo (D-Calif.) to reduce the amount of lead allowed in newly installed pipes and plumbing fixtures.

AMWA also recommended several possible improvements. First, the association noted that the DWSRF program has traditionally underfunded urban water systems and encouraged an even greater focus on helping water systems undertake infrastructure improvements before SDWA violations occur. AMWA also recommended that the bill codify the widespread practice of making water facility security enhancements eligible for DWSRF funding. The letter is available on AMWA’s Legislative Information [webpage](#), under “water infrastructure funding.”

Several of these points were echoed last week by Stephen Estes-Smargiassi of the Massachusetts Water Resources Authority (MWRA) in testimony before the Energy and Environment Subcommittee. Estes-Smargiassi expressed MWRA's support for the legislation overall and in particular for the clarification of infrastructure rehabilitation eligibility and the revisions to allowable lead levels in plumbing fixtures. Estes-Smargiassi also noted that MWRA has realized \$700 million in debt service savings due to the DWSRF program. Written versions of all testimony delivered at the hearing, along with the full text of the AQUA bill, are available at <http://tinyurl.com/AQUAlegislation>.

A subcommittee markup of the legislation is tentatively planned for late this week, though a formal announcement had not been made as of last Friday afternoon.

## This Week In Congress

This week Democratic leaders in the Senate hope to hold final votes on financial regulatory reform legislation, which has been the subject of several weeks of debate. If a vote can be held by Thursday, the Senate may also try to quickly pass a bill to extend a number of expiring tax breaks.

House leaders hope to pass their own version of the tax extender package by the end of the week. The House may also vote on a bill to increase funding for science education, research and training programs.

## New Climate Bill Cites Water System Adaptation, But Is Short On Specifics

Comprehensive climate change legislation released last week by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) would empower EPA to implement a water system adaptation program, but the bill fails to provide any guidelines or requirements for how the program would look.

Through Section 6011 of the “[American Power Act](#),” the EPA Administrator “may establish ... climate change adaptation programs” for “water system mitigation and adaptation partnerships.” This is an apparent reference to a water and wastewater utility adaptation program backed by AMWA and included in earlier Senate climate legislation, but the Kerry-Lieberman bill includes no direction as to how the program would operate or what entities would be eligible to participate.

In response, AMWA and other water sector organizations plan to write Sen. Harry Reid (D-Nev.) to formally request that he add specific language to the legislation detailing the program. Sen. Reid is a strong supporter of the water utility adaptation concept and introduced his own bill (S. 1712) that would create a “Blue Bank” to help water systems fund adaptation projects. Because Sen. Reid is the Senate Majority Leader, he will have an opportunity to make his own revisions to the American Power Act before it goes to the floor, so there remains a good chance that he will strengthen the water adaptation section.

Other portions of the massive 987-page climate bill attempt to bridge the gap between environmentalists and energy producers. The bill would place emissions limits on approximately 7,500 U.S. factories and power plants that emit more than 25,000 tons of greenhouse gases each year and would aim to cut U.S. greenhouse gas emissions 17 percent from 2005 levels by 2020. The bill includes new incentives for nuclear power and offshore oil drilling and also requires the government to devise a strategy for the promotion of underground carbon capture and storage technology.

Like earlier climate proposals, the bill would create a cap-and-trade system to charge covered polluters for the right to emit high levels of greenhouse gases. In the early years of the program 0.75 percent of program revenues would be reserved for climate adaptation efforts in the U.S. This adaptation allowance would eventually rise to three percent and would seemingly be available for a variety of domestic adaptation initiatives, including a water utility adaptation program if one is incorporated into the bill.

## **Ways And Means Subcommittee Considers Infrastructure Bank Options**

The House Ways and Means Select Revenue Measures Subcommittee held a hearing last week to compare various proposals to create an infrastructure bank, which would finance large public works projects by leveraging existing funding



to attract additional money from the private sector, as well as from state and local governments. The Obama Administration has expressed support for the infrastructure bank concept but has preferred for the program to have a heavy focus on transportation infrastructure. Other organizations have pushed for a broader bank that would offer financing for a variety of nationally or regionally significant projects – including water infrastructure upgrades.

Among those testifying at the hearing was Pennsylvania Governor Ed Rendell, co-chair of Building America’s Future, a pro-infrastructure bank coalition. Rendell said, “We need a single entity in this country that can leverage dollars from state and local governments or the private sector, can focus on projects of regional and national significance, will remove politics from the process, subject all requests to a benefit-cost analysis, and do all of this in the brightest of sunlight, openness and transparency.” All testimony delivered at the hearing is available at <http://tinyurl.com/InfrastructureBankHearing>.

While the subcommittee made no firm commitment to advance infrastructure bank legislation, Chairman Richard Neal (D-Mass.) acknowledged that greater investment is necessary. “With bridges crumbling and cities boiling water, we have received the message that America’s infrastructure is desperately in need of support,” he said.

## **EPA, Stakeholders Discuss Revised TCR Guidance, Methods**

EPA held a stakeholder meeting May 11-12 to provide an update on the development of the Revised Total Coliform Rule (RTCR). A significant portion of the meeting was spent discussing two issues: 1) the development of the guidance manual for the assessments and potential corrective actions in response to total coliform or *E coli* monitoring results, and 2) issues surrounding the evaluation of analytical methods.

With an aim at providing useful input for guidance development, AMWA and AWWA provided results from their survey on examples of potential causes and actions currently taken by utilities in response to total coliform occurrence. The results complemented a presentation by the Association of State Drinking Water Administrators, which was largely based on interactions between primacy agencies and small systems. Causes for total coliform positive samples highlighted in both presentations included sampling error or contaminated sample sites, as well as failure to disinfect properly after maintenance or main

breaks. About a third of respondents to the AMWA/AWWA survey reported an inability to determine the cause of total coliform positive samples. States noted that small systems would benefit most from the guidance and therefore urged EPA to keep the guidance simple and short.

Regarding analytical methods, EPA described a draft framework for method evaluation where the steps might include defining coliforms, setting performance criteria and performing a side-by-side comparison of the performance of the methods.

EPA hopes to propose the RTCR before the end of the summer. The agency is also working to have the draft assessment guidance manual available at the time of proposal.

## **IWA Plans Leading-Edge Technologies Conference In June**

The International Water Association (IWA) will hold its first *Leading-Edge Technologies Conference* in the U.S., June 2-4 in Phoenix. The event will provide a unique opportunity for U.S. water professionals to hear from those who are leading in these fields from abroad, to network with international colleagues and to identify crossover topics where developments in treatment technologies are interchangeable between water and wastewater. For individual IWA members, registration is \$850. (An individual membership in IWA is a membership benefit for all AMWA utility representatives.)

For more information, contact Kristina Kohler, Director of the IWA North America office, ([kristina.kohler@iwahq.org](mailto:kristina.kohler@iwahq.org)) or go to the conference website ([www.LET2010.org](http://www.LET2010.org)).



May 24, 2010

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## Memorial Day Recess

With the upcoming Memorial Day holiday and Congressional recess, AMWA's *Monday Morning Briefing* will not be issued next week and will resume publication after Congress returns. Breaking news will be issued through *Special Briefings* if required.

### This Week In Congress

This is the last week of votes before Congress heads home for the Memorial Day recess. Items on the Senate's agenda include a \$60 billion supplemental spending bill to fund activities in Iraq and Afghanistan and an extension of expiring tax provisions.

In the House, members are expected to consider legislation to authorize FY11 Defense Department activities.

## House Subcommittee Advances DWSRF Reauthorization Bill

The House Energy and Environment Subcommittee last week advanced legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF)

at \$14.7 billion over five years. The bill is now expected to move on to consideration before the full Energy and Commerce Committee in the coming weeks.

H.R. 5320, the “Assistance, Quality, and Affordability (AQUA) Act,” would make several changes to the DWSRF program that could increase the competitiveness of urban systems for funding. The bill would codify in the statute that aging infrastructure rehabilitation and replacement projects and on-site utility projects to produce renewable energy are eligible for SRF funding and would allow extra funding to be awarded to portions of a utility’s service area that meet a state’s definition of disadvantaged communities. The bill would also direct states to award priority to projects that would help a utility remain in compliance with SDWA in the future. Today, priority is tied to rectifying existing public health threats and current SDWA violations.

Also included in AQUA is legislation recently introduced by Rep. Anna Eshoo (D-Calif.) that would lower SDWA’s “lead-free” standard for pipes and plumbing fixtures to meet the new California state standard that took effect this year. The bill (H.R. 5289), which would not require any water system to proactively replace existing lead pipes or service lines, recently won an endorsement from AMWA and other drinking water organizations. A copy of the groups’ letter in support of the bill is available on AMWA’s Legislative Information webpage under “Water Infrastructure Improvements.”

During last week’s markup of AQUA, subcommittee Republicans raised objections to the bill’s authorization level – arguing that the bill would allow more funding for the program over the next five years than has actually been spent on the DWSRF over its 14-year history. But an amendment to reduce the authorization level was defeated, as Democrats pointed to EPA’s \$334 billion estimate of the nation’s long-term drinking water infrastructure funding gap. Also defeated was a Republican amendment that would have removed Davis-Bacon prevailing wage requirements from the bill.

Changes to the bill made in committee included a clarification that EPA’s reformed endocrine disruptor screening program confers no new regulatory authority on the agency, as well as a requirement that EPA conduct a two-year study on the presence of pharmaceuticals and personal care product in sources of drinking water in the U.S.

## **Water Sector Asks Reid To Include Water System Adaptation In Climate Bill**

AMWA and a coalition of other water utility, environmental, and engineering organizations wrote to Senate Majority Leader Harry Reid (D-Nev.) last week asking that he add a “Blue Bank for Water System Mitigation and Adaptation” to comprehensive climate change legislation recently proposed by Sens. John Kerry (D-Mass.) and Joe Lieberman (I-Conn.). Sen. Reid is expected to have the opportunity to amend the draft bill before it goes to the Senate floor, and in the past he has expressed support for programs to help water systems adapt to climate change.

The letter, signed by AMWA and 14 other groups, said a Blue Bank would offer “competitive grants to help water utilities undertake capital projects to develop water supplies or improve water quality, water conservation and efficiency efforts, and utility-specific evaluations to estimate how climate change will impact their sustainability.” Sen. Reid himself has proposed a Blue Bank in separate legislation (S. 1712) and a member of his staff spoke positively about it during AMWA’s 2010 Water Policy Conference.

As proposed by Sens. Kerry and Lieberman, the “American Power Act” would allow the EPA to establish a water system climate adaptation partnership program, but the ultimate scope of the program is undefined. As drafted, the bill would initially allot 0.75 percent of carbon auction revenues (beginning in 2019) to domestic adaptation efforts, with that amount rising to three percent in later years.

The water sector’s letter to Sen. Reid is available on AMWA’s Legislative Information webpage under “Climate Change.”

## **USGA Study Quantifies Contaminants In Groundwater Used for Public Supply**

More than 20 percent of untreated water samples from 932 public wells across the nation contained at least one contaminant at levels of potential health concern, according to a new study by the U.S. Geological Survey (USGS). About 105 million people — or more than one-third of the nation’s population — receive their drinking water from one of the 140,000 public water systems across the U.S. that rely on groundwater pumped from public wells, USGS said.

The study focused primarily on source water collected from public wells before treatment or blending rather than finished drinking water. “By focusing primarily on source-water quality, and by testing for many contaminants that are not regulated in drinking water, this USGS study complements the extensive monitoring of public water systems that is routinely conducted for regulatory and compliance purposes by federal, state and local drinking-water programs,” USGS Associate Director for Water Matthew C. Larsen said in announcing the study results. “Findings assist water utility managers and regulators in making decisions about future monitoring needs and drinking-water issues.”

Findings showed that naturally occurring contaminants, such as radon and arsenic, accounted for about three-quarters of contaminant concentrations greater than human-health benchmarks in untreated source water. Man-made contaminants were also found in untreated water sampled from the public wells, including herbicides, insecticides, solvents, disinfection by-products, nitrate, and gasoline chemicals. Man-made contaminants accounted for about one-quarter of contaminant concentrations greater than human-health benchmarks, but were detected in 64 percent of the samples, predominantly in samples from unconfined aquifers, the report said.

Most (279) of the contaminants analyzed in the study are not federally regulated in finished drinking water under the Safe Drinking Water Act. EPA proposed a radon standard in 1999, but has not finalized it.

Wells included in the study are located in 41 states and withdraw water from parts of 30 regionally extensive aquifers, which constitute about one-half of the principal aquifers used for water supply in the U.S.

The study can be found at [http://water.usgs.gov/nawqa/studies/public\\_wells/](http://water.usgs.gov/nawqa/studies/public_wells/).

## **NAS Releases America’s Climate Choices Reports**

Last week, the National Academies of Science, National Research Council released a suite of three reports about climate change from the congressionally requested America’s Climate Choices project. The reports are entitled: Limiting the Magnitude of Climate Change, Advancing the Science of Climate Change and Adapting to the Impacts of Climate Change.

The adaptation report builds upon themes that AMWA has commented on over the past few years. Specifically, it states that climate adaptation is essentially risk management. Planning for climate change across sectors and levels of

governance should be conducted so that planning and actions are decentralized, but the federal government can be a coordinator that provides information and technical resources while continually evaluating needs for additional risk management at a national level.

Each report makes several recommendations. The science report says that the nation's climate change research should be coordinated by a single body, such as the U.S. Global Change Research Program. It should be integrative, interdisciplinary, flexible and focused on "use-inspired" research to contribute to improved decision making. The mitigation report says that setting a credible national emissions policy will require "setting a goal that can be measured" and that flexibility and experimentation on emissions reduction policies is necessary at state and local levels.

Go to [www.americasclimatechoices.org](http://www.americasclimatechoices.org) to download a summary of the report or read the reports online. A web recording of the press conference announcing the reports is also available.

## **Senators Offer Bill To Reauthorize University-Based Water Research**

A bipartisan group of Senators led by Maryland Democrat Ben Cardin and Idaho Republican Mike Crapo introduced legislation last week that would reauthorize funding for land grant universities to research methods for improving the safety and reliability of water supplies.

S. 3363, the "Water Resources Research Act," would reauthorize a nationwide, state-based network of water resources research institutes that are aimed at solving problems of water supply and water quality. The 54 institutes are located at the land grant universities in each of the 50 states, the territories and the District of Columbia. The bill would authorize grants of \$12 million per year for each institute to research improvements in water supply reliability, new ideas that address water problems or expand understanding of water and water-related phenomena, the entry of new scientists, engineers and technicians into water resources field, and the dissemination of research to water managers and the public. The bill also authorizes \$6 million in annual competitive grants that focus on regional water issues.

## **Results Of Maine Pharmaceuticals Mail-Back Program Announced**

Summary results were issued last week on a pilot study of a citizen mail-back program for pharmaceuticals conducted by the University of Maine's Center on Aging and funded by a grant from EPA. The summary reports that in the first two years of the program, approximately 17 percent (about 250 lbs.) of the drugs returned were schedules II, III, and IV "controlled drugs." These included narcotic pain relievers, tranquilizers and sedatives, as well as stimulants.

The program resulted in keeping 1,970 lbs. of drugs from entering the water supply and landfills, according to the report. In addition, the pilot shaped policy changes in Maine, i.e., enacting limits for some drugs on how much of a supply can be filled in an initial prescription. "This pilot is important because it has filled research gaps about the volumes and types of medications that can end up in our waters, and affect our ecosystems," said Peter S. Silva, assistant administrator for EPA's Office of Water.

An executive summary of the program results is available at [www.epa.gov/aging/RX-report-Exe-Sum/](http://www.epa.gov/aging/RX-report-Exe-Sum/).

## **Report Issued On Pharmaceuticals, Endocrine Disrupting Compounds**

Researchers at the Metropolitan Water District of Southern California and Orange County Water District released a study that evaluated the presence and fate of pesticides, pharmaceuticals, and components of personal care products in three major drinking water sources in Southern California. Of the 49 contaminants that were evaluated, 27 were detected at very low levels while 22 were not detected in any of the sources. The research was funded by a grant from National Water Resources Institute, and the report can be downloaded at [www.nwri-usa.org/CECs.htm](http://www.nwri-usa.org/CECs.htm).



***In Today's Special Briefing:***

**New Staff Podcasts Now Available On AMWA Website**

AMWA continues its informational podcast service to members with four new podcast updates. Visit the AMWA website ([www.amwa.net/cs/news/podcasts](http://www.amwa.net/cs/news/podcasts)) to find updates from Carolyn Peterson on the second Utility Financial Information (UFI) survey, Dan Hartnett on the latest news from Capitol Hill and Erica Brown on climate change and regulatory matters. Contact Aaron Levy at [levy@amwa.net](mailto:levy@amwa.net) if you have recommendations for future podcast topics.

**Committee Cuts Funding, Adds "Buy American" Section As DWSRF Bill Moves Forward With Bipartisan Support**

The House Energy and Commerce Committee last week approved legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF), putting the bill on what appears to be a clear path to passage by the full House. The vote was 45 to 1, but the bill only generated that level of bipartisan support after Committee Democrats agreed to cut back the level of funding authorized for water infrastructure projects.

As approved by the Committee, H.R. 5320, the "Assistance, Quality, and Affordability (AQUA) Act" would authorize spending \$4.8 billion on the DWSRF over three years.

Earlier versions of the bill would have authorized spending up to \$14.7 billion over five years, but Committee leaders agreed to reduce the amount in recognition of Republican concerns about the rising federal deficit. The reduced authorization level is not likely to have a practical effect on federal DWSRF spending, however, as actual appropriations for the program have recently hovered around \$1 billion per year.

During the markup, the Committee also adopted a "Buy American" amendment that

would bar communities from spending SRF loan funds on infrastructure projects that do not use steel, iron or manufactured goods produced in the United States. EPA would be allowed to grant case-by-case waivers from the requirement, but similar provisions included in last year's economic stimulus legislation have reportedly increased project costs in some communities.

Meanwhile, Rep. Lois Capps (D-Calif.) offered and withdrew an amendment that would have required EPA to set a preliminary drinking water standard for perchlorate within 12 months of the bill's enactment and set a final standard after another 18 months. Understanding that Rep. Capps would withdraw the amendment, Committee Chairman Henry Waxman (D-Calif.) pledged that the Committee would take up the proposal "by itself" after the Memorial Day recess and said that he believed that a stand-alone perchlorate proposal would draw broad support.

Capps' amendment mirrored a perchlorate bill introduced in 2007 by former Congresswoman Hilda Solis (D-Calif.). Importantly, the Capps amendment would not have directed EPA to take extra steps beyond what is already required by SDWA to consider the health of vulnerable populations (such as infants and pregnant women) when establishing a perchlorate standard. The water sector has previously objected to such provisions because they would have required EPA to deviate from the process it is required to use when establishing regulations for all other drinking water contaminants.

Also withdrawn was an amendment from Rep. Diana DeGette (D-Colo.) that would have required oil and gas companies to disclose chemicals used during hydraulic fracturing to state regulators or EPA. Chairman Waxman said that "the time is not right" for the amendment, and DeGette said that she hopes to continue working with industry representatives to reach a compromise.

With H.R. 5320 likely to pass the House soon after the Memorial Day recess, attention will turn to the Senate, where a similar proposal to reauthorize both the Drinking Water and Clean Water SRFs (S. 1005) has been stalled for months over the application of Davis-Bacon wage rates. Reports from the Senate, however, indicate that Republicans and Democrats are making progress toward a resolution, which could set up a Senate vote on the bill later this summer.

### **AMWA Asks Utilities To Contact Senators On Water System Climate Adaptation Program**

AMWA emailed a memorandum to its water utility members last week asking that they write their senators in support of including a "Blue Bank for Water System Mitigation and Adaption" within comprehensive climate change legislation that the U.S. Senate may consider this summer. Enacting such a program through climate legislation has been a top priority for AMWA over the past year.

Senators John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) recently circulated draft climate legislation that would allow EPA to establish a program to help water systems

adapt to climate change, but the bill currently lacks detail as to how the program would operate or receive funding. AMWA is therefore asking its members to call on their senators to express support to Senate Majority Leader Harry Reid (D-Nev.) for including a more specific Blue Bank within the final version of the bill. While Sen. Reid is a Blue Bank supporter - and will reportedly have an opportunity to edit the bill before it goes to the floor - it is important that he hear that other senators support the program as well.

If you did not receive a copy of AMWA's memo and its sample letter to senators, please contact Dan Hartnett at [hartnett@amwa.net](mailto:hartnett@amwa.net).

### **House Approves "Tax Extender" Package To Lift Cap On PABs**

The House of Representatives late last week approved a \$144 billion measure to extend a series of expiring tax breaks, social safety net spending and infrastructure provisions that includes lifting the state volume cap on private activity bonds (PABs) for water and wastewater projects.

PABs are issued by private entities that partner with a state or municipal government to receive tax-exempt financing for an infrastructure project that benefits the general public, and removing water projects from under the state cap would free them from having to compete with other infrastructure projects for PAB funding. The measure was included in a tax package approved by the House earlier this year, but not considered in the Senate.

H.R. 4213 would also extend the Build America Bonds program through January 1, 2013. Originally created by the 2009 stimulus law, Build America Bonds offer a federal tax credit to holders of state and local government municipal bonds that fund local infrastructure projects.

The Senate is expected to consider H.R. 4213 after the week-long Memorial Day recess.

### **Reclamation Announces Availability Of Two WaterSMART Grant Funding Opportunity Announcements**

Western municipal water authorities and water districts are eligible to apply for grant funding announced by the Bureau of Reclamation under the WaterSMART program.

The System Optimization Review Funding Opportunity seeks proposals for projects that assess the potential for water management improvements in a river basin, system or district and identify specific improvements to increase efficiency. Applications for this opportunity, Number R10SF80256, are due June 14.

The Pilot and Demonstration Projects for Advanced Water Treatment Funding Opportunity seeks proposals for "projects that address the technical, economic, and environmental viability of treating and using brackish groundwater, seawater, impaired

waters, or otherwise creating new water supplies within a specific locale."  
Applications for this opportunity, Number R10SF80342, are due June 29.

Visit [www.grants.gov](http://www.grants.gov) and search for the funding opportunity number for additional information.

### **Scientists, Stakeholders Discuss National Climate Adaptation**

About 150 invited users and providers of climate adaptation information convened in Washington, D.C., May 25-27, to discuss the needed knowledge, incentive, technology transfer and roles of the various public and private stakeholders to help enable communities around the U.S. to adapt to climate change. Among the participants were several AMWA utility representatives as well as AMWA staff.

The White House Office of Technology Policy (OSTP) and the University Corporation for Atmospheric Research convened the summit. Information and outputs from the summit discussions will be used by OSTP, the Council on Environmental Quality and other federal agencies in the ongoing planning of national climate research and services and in the next national climate adaptation assessment, which is required under the 1990 Global Change Research Act.

Several high profile speakers addressed the summit participants including Agriculture Secretary Tom Vilsak, Deputy Interior Secretary David Hayes, New Mexico Governor Bill Richardson, Deputy Secretary Ron Sims of the Department of Housing and Urban Development, and science reporter Andy Revkin of the *New York Times*. Gov. Richardson spoke of the need for robust regional climate models, more effective coordination between the federal government and states, a climate adaptation fund, a climate change plan for the oceans and incorporation of climate adaptation in everyday water planning.

OSTP head John Holdren noted in his address that as climate change is already happening, the harm to the earth and society is likely to grow if we "fail to take action" on both mitigation and adaptation. We must "avoid the unmanageable by managing the unavoidable," he said.

In her wrap-up of the summit, co-chair Rosina Bierbaum of the President's Council on Science and Technology highlighted the key conclusions. Her presentation is online at [www.joss.ucar.edu/events/2010/ncas/presentations.html](http://www.joss.ucar.edu/events/2010/ncas/presentations.html). Among the conclusions of the group were the need to:

- \*communicate and coordinate within and outside of the federal government;
- \*provide access to usable data and a clearinghouse of best practices;
- \*certify and standardize government data and downscaled climate models; and
- \*add incentives to encourage adaptation as well as remove incentives or policies that can inhibit adaptation now.

Participants also identified several items to be resolved by the government and others,

including metrics for measuring success as well as outcomes and impacts, "networking networks" for information sharing, and integrating adaptation planning from the bottom up as well as top-down.

Additional information about the summit, including PDF files of the various speakers and the wrap-up session, is available at: <http://www.joss.ucar.edu/events/2010/ncas>.

### **Comment Period Extended On Six-Year Review**

EPA announced in the June 1 *Federal Register* that it would extend the comment period for its second Six-Year Review Notice until July 1, 2010 ([www.epa.gov/safewater/review/second\\_review.html](http://www.epa.gov/safewater/review/second_review.html)). AMWA received several comments on its draft letter and will submit a second draft to the Regulatory Committee before the deadline.

### **Priorities Of The Distribution System Research And Information Collection Partnership Released**

The 2008 Total Coliform Rule/Distribution System Advisory Committee Agreement in Principle (AIP) recommended that a Research and Information Collection Partnership (RICP) be convened to identify priorities for research and information collection on seven distribution system issues. The RICP recently released a document that prioritizes distribution system research needs.

The research needs are described as "project area documents," i.e., groupings of projects under related categories. The RICP analyzed 180 potential needs and identified 29 project areas documents. The report "identifies 10 high priority, science-driven, mutually-agreed-upon, strategically-focused, and decision-relevant research and information collection project area documents."

The 10 high priority project area documents include a survey of large drinking water utility distribution systems as well as targeted surveys to evaluate extent to which distribution system risk management and mitigation practices are implemented by states or through manufacturing, installation or inspection programs. Other project areas include research about pressure management and health effects associated with pressure events as well as best practices to minimize risk associated with cross connections and backflow.

The document does not obligate the research partners (EPA and the Water Research Foundation) to fund any of the projects although EPA is interested in the survey work.

The priorities document can be found at <http://tinyurl.com/RICPreport>.

***In Today's Special Briefing:***

**EPA Proposes NPDES Permit For Aquatic Pesticide Application**

On June 4, EPA published a draft general permit for comment that would apply to point source discharges from the application of pesticides to waters of the U.S. EPA developed the proposed permit in response to the Sixth Circuit Court's ruling that vacated an EPA regulation that excluded discharges from the application of pesticides to or over waters of the U.S. from the NPDES permit regulations. Comments are due July 19.

Activities that would be covered by the proposed permit include pesticide application (such as copper sulfate) for aquatic weed and algae control and for aquatic nuisance animal control.

EPA will conduct a free webcast on Thursday, June 17, from 1:00 to 3:00 p.m. EDT about the draft permit. Items on the agenda include: details about the permit scope, effluent limitations, pesticide discharge management planning, corrective action and monitoring, reporting and recordkeeping requirements. Register for the webcast at <http://tinyurl.com/PGPwebcast>. EPA will also hold public meetings in Albuquerque, Boise, Boston and Washington, D.C., between June 14 and June 23. Information about the proposal and the public meetings are online at <http://tinyurl.com/PGP-proposal>.

**Sen. Reid Eyes "Clean Energy Legislation" Debate Next Month**

Senate Majority Leader Harry Reid (D-Nev.) wants the chamber to debate a "comprehensive clean energy bill" later this summer and has asked key committee

chairmen to offer proposals for responding to the Gulf of Mexico oil spill that could be incorporated into the bill.

In a letter to several Democratic committee chairmen (<http://preview.tinyurl.com/ReidLetter>), Reid referred several times to a "comprehensive clean energy bill" that he plans for the Senate to consider after the Fourth of July. However, it is unclear whether this bill would also include provisions to address climate change or place a price on greenhouse gas emissions. Senators John Kerry (D-Mass.) and Joe Lieberman (I-Conn.) recently circulated a draft climate change bill, but that proposal likely faces an uphill battle to attract the 60 votes necessary to advance.

Meanwhile, AMWA and other water and environmental organizations are continuing meetings on Capitol Hill to advocate for the inclusion of a "Blue Bank for Water System Mitigation and Adaptation" within any climate bill considered by Congress. Water systems are encouraged to write their senators in support of including this program in the larger climate bill, and AMWA members may contact Dan Hartnett at [hartnett@amwa.net](mailto:hartnett@amwa.net) for a copy of a sample letter on the Blue Bank.

### **USGS Releases Study On The Effects of Urbanization On Stream Ecosystems**

A new U.S. Geological Survey (USGS) study examines the effects of urban development on stream ecosystem health. In particular, the USGS studied the magnitude and pattern of the physical, chemical and biological response of streams to increasing urbanization in nine metropolitan areas: Salt Lake City, Birmingham, Atlanta, Raleigh, Boston, Denver, Dallas, Milwaukee and Portland, Ore.

The study developed under the National Water Quality Assessment Program considered streamflow; stream temperature; instream chemistry; instream aquatic habitat; and algal, macroinvertebrate, and fish communities. Data summaries of these variables as well as a description of the study are online at <http://water.usgs.gov/nawqa/urban/>.

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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.*

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June 14, 2010

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## **New Bill Calls For Cybersecurity Regulations For Critical Infrastructure**

The leaders of the Senate Homeland Security and Governmental Affairs Committee last week introduced cybersecurity legislation aimed at protecting computer systems that operate the nation's critical infrastructure. The bill, S. 3480 (the "Protecting Cyberspace as a National Asset Act"), calls for the Department of Homeland Security (DHS) to work with federal agencies to identify vulnerabilities and formulate regulations for industry sectors, likely including water.

S. 3480 would split cybersecurity responsibilities between the White House and DHS, creating a new White House official to advise the president on cybersecurity while also establishing a National Center for Cybersecurity and Communications within DHS. The Center would work with sector-specific agencies, such as EPA, to identify cyber vulnerabilities and formulate regulations establishing risk-based security performance requirements for computer systems that operate critical infrastructure that is essential to national or regional security. Owners and operators of critical infrastructure systems would then select and implement cybersecurity measures that satisfy the regulations. While the legislation does not list which specific sectors would be covered, it is likely that computer systems and networks that operate water systems would be included.

Another provision in the legislation would authorize the President to declare a "national cyber emergency" in the event of an identified threat against a network that operates critical infrastructure. During an emergency, the President could order cyber operators to take specific measures to preserve network security. This presidential authority would be limited to 30 days, and network operators that comply with the directives would be eligible to receive liability protections, such as limitations on some damages or immunity from lawsuits.

S. 3480 follows similar cybersecurity legislation (S. 773) that was approved by the Senate Commerce, Science, and Transportation Committee in March. But the leaders of the Commerce Committee have praised the new bill, signaling that S. 3480 may be the primary vehicle for new cyber laws this year.

The bill will be the subject of a committee hearing on Tuesday, followed by a markup next



week. More information is available on the Homeland Security and Governmental Affairs Committee website at <http://tinyurl.com/SenateBill3480>.

## **This Week In Congress**

This week the Senate will continue debate on a measure that would extend a series of expiring tax credits and job-creation programs. The bill includes an extension of the popular Build America Bonds program and would also lift the cap on private activity bonds for water and wastewater infrastructure.

In the House, votes could occur on the defense authorization bill, a proposal to spur lending to small businesses and campaign finance reform legislation.

## **Stakeholders Ideas Invited On NOAA Climate Service Via Web Dialogue**

Beginning today, the National Academy of Public Administration, a congressionally chartered, non-profit, non-partisan organization that “helps tackle government’s toughest management challenges,” is hosting a web dialogue to gather input and feedback about organizational options for establishing a Climate Service within the National Oceanic and Atmospheric Administration (NOAA).

Anyone may participate in the web dialogue, which will occur online from June 14 through the 28, by registering at [www.napaclimatedialogue.org](http://www.napaclimatedialogue.org). According to the Academy, the dialogue seeks input on one key question: “How should the NOAA Climate Service engage with users and providers of climate information and services?”

Additional background information about the dialogue is available on AMWA’s Climate Change web page ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)).

## **EPA Approves 12 New Analytical Methods For SDWA Compliance**

EPA announced in the June 8 *Federal Register* (75 FR 32295) the approval of 12 alternative methods for the analysis of drinking water contaminants. EPA used its streamlined approval

authority to make alternative methods available for dalapon, radium-226, uranium, radioactive cesium, radioactive iodine, tritium and *E. Coli* (for Ground Water Rule compliance). Additional information, including a copy of the *FR* notice and a fact sheet about the action, is available at [www.epa.gov/ogwdw/new.html](http://www.epa.gov/ogwdw/new.html).

## **EPA Identifies Clean Water Infrastructure Needs Gap Of Nearly \$300 Billion**

The *Clean Watersheds Needs Survey 2008 Report to Congress*, recently released by EPA, indicates a spending shortfall of \$298.1 billion over the next 20 years for clean water infrastructure, an increase of 17 percent from the previous survey, conducted just four years ago. Assessed as of January 1, 2008, the figure represents capital needs for publicly owned wastewater collection systems and treatment facilities, combined sewer overflow connections and stormwater management.

The report said the increased needs “are mainly for improvements to rehabilitate aging infrastructure, to meet more protective water quality standards, and to respond to and prepare for population growth.” The categories of needs and increases since 2004 include:

- Needs for wastewater treatment, pipe repairs and new pipes are \$187.9 billion, an increase of \$28.6 billion (18 percent).
- Needs for recycled water distribution are \$4.4 billion, a decrease of \$0.7 billion (14 percent).
- Needs for correcting combined sewer overflows are \$63.6 billion, a decrease of \$1.4 billion (2 percent).
- Needs for stormwater management are estimated at \$42.3 billion, including \$7.6 billion for conveyance infrastructure, \$7.4 billion for treatment systems and \$17.4 billion for green infrastructure. These represent an increase of \$16.9 billion, or 67 percent.
- Needs for small communities are about \$22.7 billion, representing about 8 percent of the total documented needs.

The report is available at [www.epa.gov/cwns/2008reportdata.htm](http://www.epa.gov/cwns/2008reportdata.htm). The latest EPA needs survey for drinking water infrastructure can be found at [www.epa.gov/safewater/needssurvey/index.html](http://www.epa.gov/safewater/needssurvey/index.html).

## **Study Shows Pharmaceutical Facilities Are Significant Source Of Water Contamination**

A study released on June 4 by the U.S. Geological Service (USGS), in cooperation with the state of New York, showed that wastewater treatment plants that receive more than 20 percent of their wastewater from pharmaceutical manufacturing facilities show higher outflow concentrations of pharmaceuticals than plants that do not receive water from pharmaceutical manufacturers.

Specifically, USGS reported in a press release that the outflow from two wastewater facilities in New York that receive wastewater from pharmaceutical facilities had concentrations of pharmaceuticals that were “10 to 1000 times higher than outflows from 24 plants nationwide that do not receive wastewater from pharmaceutical manufacturers.”

Although the study originally tested for a wide range of emerging contaminants, USGS detected about half a dozen unidentified chemicals at higher concentrations than the chemicals originally being analyzed. As a result, USGS identified those chemicals, developed methods to measure their presence and concentration, and focused on evaluating their sources and concentrations. These chemicals were metaxalone, oxycodone, methadone, butalbital, carisoprodol and diazepam.

Additional information and links to the report published in the journal *Environmental Science and Technology* are online at <http://toxics.usgs.gov/highlights/PMFs.html>.

**June 21, 2010**

### **Revised Total Coliform Rule Proposal Released**

The EPA administrator signed the proposal for the Revised Total Coliform Rule on June 17, and EPA published the prepublication version of the notice and a fact sheet on its website:

<http://tinyurl.com/EPA-TCR>. In a press release, EPA said that the proposed rule “will better protect people from potential exposure to dangerous microbes because it requires water systems to take action when monitoring results indicate that contamination or a pathway to contamination may be present.” EPA also noted that the proposal incorporates the recommendations of the federal advisory committee.

The proposed rule establishes a MCLG and MCL for *E. coli*. It also eliminates the MCLG and MCL for total coliform, replacing it with a treatment technique for total coliform that requires assessment and corrective action.

Following publication in the *Federal Register (FR)*, the public will have 60 days to comment. AMWA will work with its regulatory committee to develop comments and will release a bulletin to members with additional information about the proposal once the *FR* notice has been published.

### **Senate Water Security Measure May Be Released Soon**

Sen. Frank Lautenberg (D-N.J.) may publicly release a draft of legislation to overhaul security requirements at water and wastewater facilities as early as this week, but the details of the bill remain unknown.

According to Senate staff, Lautenberg’s legislation will be similar to the House-passed H.R. 2868, which would require water systems to periodically update vulnerability assessments, complete site security plans and consider replacing certain hazardous treatment chemicals with so-called “inherently safer technologies” (IST). The House bill would only allow state primary enforcement agencies – not EPA – to

### **This Week In Congress**

Some of the most notable action in Congress this week may occur behind the scenes, as Senate Democrats are slated to meet again to attempt to chart a path forward for clean energy legislation. A number of proposals – ranging from increases in energy efficiency to implementation of an economy-wide cap-and-trade program to limit greenhouse gas emissions – remain on the table, but Democrats face an uphill battle in attracting votes for more comprehensive measures. In particular, speculation is growing that the chances of winning passage of legislation to combat climate change is increasingly unlikely this year.

On the floor, the Senate is expected to consider a Federal Aviation Administration reauthorization measure and a bill to expand collective bargaining rights for local public safety workers, such as firefighters and EMTs. The House may vote on a campaign finance reform bill and a supplemental spending bill to fund military activities in the Middle East.

directly review the IST decisions of local water systems and determine whether to require a utility to change disinfectants, and Lautenberg's staff previously indicated that his bill will not change this language.

However, staff said that Lautenberg's bill may include "several enhancements" to the House bill. The exact nature of these "enhancements" is unknown, but some members of the labor and environmental communities have sought to expand labor union access to sensitive utility information and reduce criminal penalties that would apply when the information is disclosed illegally.

Meanwhile, rumors circulated on Capitol Hill last week that the Senate Homeland Security and Governmental Affairs Committee may soon markup legislation (S. 2996) offered by Sen. Susan Collins (R-Maine) to reauthorize the existing DHS chemical facility security program for five years. As introduced, S. 2996 would not require chemical facilities to review IST, but an IST amendment would likely be offered. The outcome of that markup could therefore indicate how far the Senate is willing to go on IST mandates this year.

### **SAB Arsenic Review Postponed**

The EPA Science Advisory Board (SAB) was poised to finalize a subcommittee report on the EPA's *Integrated Risk Information System (IRIS) Toxicological Review of Inorganic Arsenic* on June 16, but postponed the decision following substantial public comment. Most of the public comments focused on the narrowness of the subcommittee's charge and raised questions as to why the subcommittee failed to consider the broader questions raised by previous public comments about the report. Some commentors suggested that EPA pull back the IRIS assessment in light of the implications the assessment could have for future regulations and policy. At the conclusion of the meeting, one SAB member said that it was important not only for the SAB to seriously consider the public comments about the policy impacts of the report, but also for EPA itself to heed those comments.

### **DHS Announces New Standards For Private Sector Preparedness**

On June 16, Department of Homeland Security (DHS) Secretary Janet Napolitano announced the adoption of final standards for the Voluntary Private Sector Preparedness Accreditation and Certification Program (PS-Prep). The purpose of the program is to enhance nationwide resilience in an all-hazards environment by encouraging private sector preparedness.

The program will provide a mechanism by which an accredited third party may establish that a private sector entity – such as a drinking or wastewater utility – conforms to one or more preparedness standards adopted by DHS.

Participation in the PS-Prep program is completely voluntary. Drinking and wastewater utilities will not be required by DHS to comply with any standard adopted under the program. However, DHS encourages all private sector entities to seriously consider seeking certification on one or more standards.

Further information on the PS-Prep program is available at [www.fema.gov/privatesectorpreparedness](http://www.fema.gov/privatesectorpreparedness). The upcoming May/June edition of *Water Security Scan* will contain additional information on opportunities for AMWA members to get involved in the PS-Prep program.

## **EPA Places IRIS Assessments On Hold For MTBE, ETBE, Others**

EPA announced that it is holding four IRIS assessments – for methanol, MTBE, ETBE and acrylonitrile – pending the review of some of the studies used in the assessments. EPA added that the delay was taken “out of an abundance of caution and to ensure the agency’s chemical assessment are grounded in the soundest possible science.” The action came following a report of the National Toxicology Program that raised serious differences in opinion with the diagnoses of certain cancers reported in the underlying study by the Ramazzini Institute, which was relied upon in the draft assessments.

## **Public Meetings Scheduled On Hydraulic Fracturing Research**

EPA will host four public information meetings on a proposed study of the relationship between hydraulic fracturing and its potential impacts on drinking water. At the meetings, EPA will provide details on the proposed study scope and design and will solicit public comments on the draft study plan.

The public meetings will be held:

- July 8 from 6:00 p.m. to 10:00 p.m. CDT at the Hilton Fort Worth in Fort Worth, Texas
- July 13 from 6:00 p.m. to 10:00 p.m. MDT at the Marriot Tech Center’s Rocky Mountain Events Center in Denver, Colo.
- July 22 from 6:00 p.m. to 10:00 p.m. EDT at the Hilton Garden Inn in Canonsburg, Pa.
- August 12 at the Anderson Performing Arts Center at Binghamton University in Binghamton, N.Y. for three sessions – 8:00 a.m. to 12:00 p.m., 1:00 p.m. to 5:00 p.m., and 6:00 p.m. to 10:00 p.m. EDT

To support the initial planning phase and guide the development of the study plan, EPA sought suggestions and comments from its Science Advisory Board and will use this advice along with stakeholder input to guide the design of the study.

Stakeholders are requested to pre-register for the meetings at least 72 hours before each meeting. More information on the meetings is online at [www.epa.gov/safewater/uic/wells\\_hydrofrac.html](http://www.epa.gov/safewater/uic/wells_hydrofrac.html).

**June 28, 2010**

### **New Letter Broadens Support For Water Adaptation Program**

AMWA was one of nearly 40 water and environmental organizations that joined forces on a letter to the U.S. Senate last week reiterating support for including “community water infrastructure adaptation” programs within energy and climate legislation that the chamber may consider this summer. A copy of the letter is available on AMWA’s Legislative Information webpage.

For the past year, AMWA and the water sector have asked members of Congress to include a “Blue Bank for Water System Mitigation and Adaptation” within comprehensive climate legislation. The Blue Bank would offer competitive grant funding that utilities could use to study the impacts of climate change on their operations or to fund projects aimed at responding to these impacts.

The most recent letter explains that “any comprehensive climate and energy legislation is incomplete if it fails to help states and cities adapt critical infrastructure systems to the rising tide of floods, droughts, and other challenges” that may arise from global climate change. The letter also notes that an adaptation program for water and wastewater systems should be complimented by a larger effort to help entire communities prepare for the impacts of climate change. The 38 signers of the letter represent the largest coalition to date that has called for a water utility climate adaptation program.

The road ahead for energy and climate legislation in the Senate remains unclear, but Majority Leader Harry Reid (D-Nev.) – a Blue Bank supporter – has pledged to bring a bill to the Senate floor in July.

### **Registration Closes Today For WaterISAC Threat Webinar**

An important webinar on terrorist threats to the nation’s water and wastewater infrastructure will be held Tuesday, June 29, and **registration for the program closes today (June 28) at 3:00 p.m. EDT.**

In light of recent information suggesting an evolving terrorist threat to the nation’s critical infrastructure, and to provide subscribers with an accurate assessment of the threat picture, WaterISAC is collaborating

#### **This Week In Congress**

Members of the House and Senate will aim to tie up some loose ends this week before they depart Washington for the week-long Independence Day recess.

In the House, a vote is expected on a resolution setting FY11 discretionary spending targets and on supplemental spending legislation to fund military activities in Iraq and Afghanistan.

Meanwhile, the Senate may vote on a bill to boost small business hiring, and both chambers are expected to vote on a conference report on financial regulatory reform legislation.

with the National Counterterrorism Center to conduct the webinar-based briefing on the current terrorist threat environment as it relates to the water sector. FBI analyst David Rosen will provide a sensitive but unclassified presentation on current threats to drinking water and wastewater in the United States.

The webinar will take place at 1:00 p.m. EDT on June 29. Due to the nature of the webinar, all attendees must be WaterISAC Pro U.S. subscribers. To register, go to the WaterISAC Event Sign Up page ([https://portal.waterisac.org/clearspace\\_community/pages/eventsignups.jspa](https://portal.waterisac.org/clearspace_community/pages/eventsignups.jspa)) and select "Threat Briefing Webinar."

### **GASB Issues Preliminary Recommendations On Pension Standards**

The Governmental Accounting Standards Board (GASB) – an independent, nonprofit organization that establishes financial accounting and reporting standards for state and local governments – earlier this month released its preliminary views on how government employers could improve pension accounting and financial reporting practices. The preliminary views are nonbinding, but GASB will now gather public feedback for consideration before the organization finalizes new pension standards early next year.

The approach presented in GASB's preliminary views would move governmental pension accounting and reporting away from the funding orientation that now exists and instead introduce recognition and measurement standards that would be based on GASB's conceptual framework. Detailed explanations of GASB's proposals are available at [www.gasb.org](http://www.gasb.org).

GASB is accepting written comments on the proposals until September 17. Water systems whose pension practices may be impacted by the proposal are encouraged to submit comments. Water systems are also encouraged to send feedback to AMWA so that the association may develop comments of its own.

### **NDWAC And Climate Working Group To Meet In July**

Both the National Drinking Water Advisory Council (NDWAC) and the NDWAC's Climate Ready Utility Working Group (CRUWG) will meet in July.

The CRUWG will meet July 8-9 in Boulder, Colo., at the Hotel Boulderado. According to the June 22 *Federal Register* (75 FR 35458) the group will focus its discussion on tools, training and resources needed to support water utilities, ways to integrate CRUWG efforts with existing programs and mechanisms to facilitate the adoption of climate change adaptation and mitigation strategies. The June 23 *FR* (75 FR 35801) notes that the full NDWAC will meet July 21-23 at the Hotel Palomar in Washington, D.C. The NDWAC will focus much of its discussion on EPA's Drinking Water Strategy and ways the agency can pursue regulation of groups of contaminants.

The meetings are open to the public, and both will include time for public comments. Instructions about providing public comment are available in the *FR* notices.

### **Obama Administration Urges Congress To Reinstate Superfund Tax**

EPA Administrator Lisa Jackson last week sent House and Senate leaders draft legislation to reinstate "polluter pays" taxes to support the Superfund Trust Fund. From 1980 through 1995, EPA's Superfund program financed cleanups of abandoned toxic waste sites through special taxes levied against the oil and chemical industries. But the taxes expired at the beginning of 1996, leaving the program to be funded



through general revenues. Jackson's letter said that if the taxes were reinstated at the beginning of the 2011 tax year and remained in place through 2020, they would generate nearly \$19 billion for the program.

Earlier this year Sen. Frank Lautenberg (D-N.J.) introduced the "Polluter Pays Restoration Act" (S. 3164), legislation identical to the Administration's proposal. Rep. Earl Blumenauer (D-Ore.) has introduced a similar measure in the House of Representatives to reinstate the tax (H.R. 564).

At a Senate subcommittee hearing on the Superfund program last week, Lautenberg said that reinstating the tax would raise funds that would allow EPA to clean up more contaminated sites, which presently have "soil that is poisoned by chemicals, groundwater that is contaminated or air that is toxic."

### **Senate Committee Approves Bill Aimed At Hardening Critical Infrastructure Cybersecurity**

Legislation that would create a new National Center for Cybersecurity and Communications (NCCC) at the Department of Homeland Security (DHS) won the approval of the Senate Homeland Security and Governmental Affairs Committee last week. The bill (S. 3480, the "Protecting Cyberspace as a National Asset Act") is intended to increase security of federal computer networks while empowering DHS to promulgate cybersecurity regulations for critical infrastructure assets whose failure would cause catastrophic effects at a regional or national level. The bill does not specifically cite the water sector for regulation, but water assets that rely on Internet-connected networks and which appear on DHS' prioritized critical infrastructure list would likely come under the umbrella of the new cybersecurity rules.

Under the bill, the NCCC would evaluate the vulnerabilities of critical infrastructure to cyber attacks and the implications of a successful attack. The NCCC would then issue regulations to establish risk-based performance requirements aimed at securing critical infrastructure assets against these threats. Owners and operators of covered critical infrastructure assets, such as water systems, would be free to choose any combination of cybersecurity measures that meet these minimum sector performance requirements. The regulations would also establish a process through which owners and operators would develop plans to respond to declared cyber emergencies, but the bill would not allow the government to force owners or operators to implement any specific cybersecurity measures.

In developing the regulations, the NCCC would be required to coordinate with the sector-specific agencies responsible for the various critical infrastructure sectors – EPA in the case of the water sector. However, the legislation would confer no new authority for any sector-specific agency to independently establish new cybersecurity regulations if the agency is not already authorized by law to do so.

S. 3480 would also authorize the President to declare a cyber emergency when there is an identified threat against a network that operates critical infrastructure. During such an emergency, the President could order cyber operators to take emergency measures to preserve network security. Network operators that comply with these directives would be eligible to receive liability protections, such as limitations on some damages or immunity from lawsuits.

While S. 3480 passed the Homeland Security Committee and is thought to have bipartisan support in the Senate, it is questionable whether the chamber will have sufficient time to bring it to the floor this year. Meanwhile, Reps. Jane Harman (D-Calif.) and Peter King (R-N.Y.) introduced an identical version of the bill (H.R. 5548) in the House earlier this month.



July 5, 2010

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## **Congress In Recess; *Briefing* Published In Advance Of Independence Day**

Congress is going in recess, and the *Monday Morning Briefing* is being published early due to the Independence Day holiday. The *Briefing* will resume publication after Congress returns the week of July 12. In the interim, *Special Briefings* will be issued if required for breaking news. The AMWA office will be closed July 5.

### New Issue Videos On AMWA Website

AMWA staff members provide updates on legislative, regulatory and security developments affecting the drinking water sector in new podcasts recently posted to the AMWA website. Visit [www.amwa.net](http://www.amwa.net) and click on the podcast image.

## **Recess Arrives Without Introduction Of Water Security Bill**

New legislation to update security rules at water and wastewater facilities was not introduced in the U.S. Senate before Congress departed Washington for the Independence Day recess. Sen. Frank Lautenberg (D-N.J.) had planned to introduce a water security bill before this week, but he will now have to wait at least until Congress returns to session.

Sen. Lautenberg's staff had previously told AMWA that his new bill would be similar to the House-passed H.R. 2868, which would require water systems to periodically update vulnerability assessments, complete site security plans and consider replacing certain hazardous treatment chemicals with so-called "inherently safer technologies" (IST). Draft versions of the new legislation have not been circulated to the water community.

Meanwhile, the Senate Homeland Security and Governmental Affairs Committee is rumored to be planning a markup of legislation to reauthorize the Department of Homeland Security's CFATS chemical facility security program before the end of July. Thus far, the only CFATS bill before the committee would merely extend the existing program largely unchanged for five years. It is likely that committee Democrats would offer an amendment to require some sort of IST review as part of the process, but it is not clear whether such an amendment would attract enough votes to pass the committee.

## **FY11 EPA Budget Remains Uncertain**

The failure by Congress to consider an annual budget resolution for the first time since 1974 has left EPA and other federal agencies with little idea of the funding levels they will receive when the 2011 fiscal year begins in October.

Normally, the budget resolution serves as a blueprint for total federal revenues and spending for the next five years. While non-binding, the resolution typically provides guidance that congressional appropriators follow as they allocate discretionary spending levels to various federal agencies and departments.

This year, however, the House Budget Committee is only offering a one-year budget enforcement resolution that would set an overall discretionary spending limit of \$1.121 trillion in 2011. However, the resolution does not detail how this total should be divided among the 12 House appropriations subcommittees that

are charged with drafting individual spending bills. As a result, it is unclear how many dollars the Interior and Environment Subcommittee will have to work with and how much may be available to fund EPA.

In February, the Obama Administration recommended cutting EPA's FY11 budget to \$10 billion – \$500 million less than the agency received in 2010.

## **Comments Submitted On EPA's Six-Year Review**

On June 29 AMWA submitted comments on EPA's second Six-Year Review of existing drinking water standards. The comment letter is available on AMWA's Regulatory Committee page,

[www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes). The letter urges EPA to gather additional information, such as current treatment objectives and dose ranges, to inform a potential rule revision for acrylamide and epichlorohydrin. Similarly, the letter recommends that EPA collect additional information from laboratories about the viability of lowering the method reporting level for regulatory compliance for tetrachloroethylene and trichloroethylene. The letter also recommends that the compliance "monitoring location for nitrate and nitrite remain at the entry point to the distribution system as nitrification is unlikely to lead to an MCL violation in the distribution system of utilities using chloramines." EPA could potentially announce its work on revising any of the regulations noted in the Six-Year review notice later this year.

## **EPA's Children's Health Protection Committee To Meet**

EPA's Children's Health Protection Committee will meet in Washington, D.C., July 21 and 22. Among the agenda items on July 21 are discussions of the prenatal exposures workgroup as well as the Office of Water's voluntary lead testing in drinking water initiative. The meeting is open to the public and additional information is available in the July 2 *Federal Register*:

<http://edocket.access.gpo.gov/2010/2010-16177.htm>.

July 19, 2010

### Revisions To Total Coliform Rule Proposed

In the July 14 *Federal Register* (75 FR 40926) EPA proposed revisions to the Total Coliform Rule (TCR). Comments are due on or before September 13. AMWA is working with its Regulatory Committee to provide comments on the proposal. The association also encourages members to submit their own comments, as EPA must consider and respond to all comments submitted on proposed rules. Additional information is available in AMWA Bulletin 10-03, which was sent to members on July 16.

### Senate Leaders Plan Debate On Energy/Climate Bill By End of July

The U.S. Senate will begin consideration of an energy and climate bill next week, according to Senate Majority Leader Harry Reid (D-Nev.). Speaking to reporters last week, Reid said the bill will include four major components: a response to the Gulf of Mexico oil spill, reducing energy consumption, support for clean energy production and limiting greenhouse gas emissions from power plants. The bill has yet to be drafted, however, so the details of each section are still unknown.

Reid's outline represents a significant step back from earlier visions to combat climate change through an economy-wide program to limit greenhouse gas emissions not only from power plants, but also from automobiles and manufacturers. This type of comprehensive bill (H.R. 2454) won approval in the House of Representatives a year ago but has proven unable to attract close to the 60 votes necessary to advance through the Senate. With the November elections looming, many Capitol Hill observers remain skeptical that even Reid's scaled-back plan could win approval in the Senate. But after months of work to develop energy and climate legislation, Reid's proposal will likely be the Senate's last chance to advance climate legislation before the end of the year.

Reid's comments last week did not touch on whether he plans to include a Blue Bank for Water System Mitigation and Adaptation within the latest climate bill. But Reid's staff previously told AMWA that they

### This Week In Congress

Among the bills slated for consideration in the House of Representatives this week are proposals to provide funds for military activities in Iraq and Afghanistan and to increase regulations on oil drilling. In addition, the House may vote on legislation to reauthorize the Drinking Water State Revolving Fund for the first time since the program was created in the 1990s. H.R. 5320, which was approved by the House Energy and Commerce Committee in May, would allow the government to spend up to \$4.8 billion on drinking water infrastructure projects over the next three years.

Meanwhile, the Senate this week is expected to vote on an extension of unemployment insurance benefits and will continue debate on another job creation bill.

remain supportive of including measures to help water and wastewater systems adapt to the impacts of climate change within any comprehensive climate legislation.

Meanwhile, other senators are beginning to line up their own proposals for possible inclusion in the larger bill. Last week, Sens. Jay Rockefeller (D-W.Va.) and George Voinovich (R-Ohio) introduced a bill to provide \$20 billion to fund demonstration of underground carbon capture and storage technology at large power plants. The bill would also establish a fund paid for by power utilities to cover the cost of long-term environmental damage at carbon dioxide storage sites, including damage to drinking water supplies.

### **Water Security Legislation With IST Reviews Introduced In Senate**

Certain high-risk drinking water and wastewater utilities would be required to consider the use of so-called “inherently safer technologies” (IST) under the “Secure Water Facilities Act” (S. 3598), legislation introduced in the U.S. Senate last week by Sen. Frank Lautenberg (D-N.J.). Lautenberg also offered a separate bill (S. 3599) that would require IST implementation at chemical facilities as part of an overhaul of the Department of Homeland Security’s Chemical Facility Anti-Terrorism Standards (CFATS).

S. 3598 largely mimics the water title of chemical security legislation approved by the House of Representatives last fall (H.R. 2868). Each bill would require drinking water utilities to periodically update existing vulnerability assessments and emergency response plans and to complete new site security plans detailing how the utility is addressing known risks. Utilities that employ certain hazardous chemicals (such as gaseous chlorine) would have to review possible IST alternatives and decide whether to begin using them. The utility’s IST decision would not be directly reviewable by the federal government, but SDWA primacy state enforcement agencies could review the utility’s choice. States could then either approve a drinking water system’s decision or choose to require the implementation of an IST – but only after conducting additional analysis and providing the utility an opportunity to appeal. Similar requirements would be imposed on wastewater facilities.

S. 3598 would also maintain the existing maximum criminal penalty of one year in prison and \$100,000 fine that may be levied against individuals who illegally distribute sensitive utility security information. It would not grant union officials any new statutory rights to possess their own copies of utility security assessments or plans.

Lautenberg’s bill would authorize a substantial amount of funding to implement the new security program: up to \$1.7 billion would be available over five years to implement the drinking water title, with \$150 million reserved to cover administrative costs incurred by EPA and the states and up to \$1.125 billion set aside to help offset costs at utilities that implement IST. Similarly, the bill would authorize a total of \$1 billion over five years to implement the wastewater security title.

While both S. 3598 and the House-passed bill would require EPA to rank water and wastewater systems in different tiers of risk, with utilities in higher tiers required to meet more stringent security standards, Lautenberg’s version would assign utilities to tiers based not only on the potential consequences of an attack on the water system, but also on the size of the population served by the utility and its proximity to population centers. This could lead to all metropolitan water systems being placed in a high-risk tier regardless of which disinfection chemicals they use on-site.

Lautenberg’s legislation is intended to align EPA water and wastewater facility security rules with new a CFATS program at DHS that Democratic congressional leaders hope to impose on private chemical

facilities, but there is growing skepticism on Capitol Hill as to whether a bill to overhaul CFATS will be considered this year. The Senate Homeland Security Committee may consider a CFATS bill later this month, but it is unclear whether a bill with IST language could attract enough votes to win passage. Moreover, the Senate Homeland Security Appropriations Subcommittee – which Sen. Lautenberg chairs – last week approved a Homeland Security spending bill that would extend the current CFATS through October 2011, but again without any IST provisions. If it becomes more apparent that the current CFATS will be extended as-is, then chances for passage of Lautenberg’s water security bill will likely become remote.

### **WaterSense Embarks On National Water Conservation Road Show**

EPA’s WaterSense program kicked off a national “We’re for Water” campaign to encourage Americans to make simple choices that save water. The program will travel across the country to spread the word about water conservation, stopping at national landmarks and educating consumers about WaterSense labeled products. The program message focuses on ways to save money and save water for future generations by replacing old, inefficient plumbing fixtures with WaterSense labeled products and by adopting more water-efficient behaviors. Find more about the “We’re for Water” road trip at [www.epa.gov/watersense/wereforwater](http://www.epa.gov/watersense/wereforwater).

### **Source Water Protection Cost/Benefit Tool Available Online**

A new tool available at [www.swptool.org](http://www.swptool.org) is designed to assist users in evaluating the triple bottom-line costs and benefits of different source water protection options. Cost/benefit calculations help evaluate, prioritize, justify and ultimately implement source water protection initiatives. The idea for the tool was developed by the Source Water Collaborative ([www.protectdrinkingwater.org](http://www.protectdrinkingwater.org)) and funded by the Water Research Foundation.

### **NOAA Strategic Plan Includes Goals For Climate Adaptation And Mitigation**

The National Oceanic and Atmospheric Administration (NOAA) recently released its Next Generation Strategic Plan (NGSP) for public comment. Available at [www.ppi.noaa.gov/ngsp.html](http://www.ppi.noaa.gov/ngsp.html), the draft plan has four goals: climate adaptation and mitigation, weather-ready nation, healthy oceans, and resilient coastal communities and economies. In addition to several objectives under each goal, the plan details three cross-cutting “enterprise” objectives that are requirements for helping NOAA achieve the goals: science and technology enterprise, engagement enterprise, and organization and administration enterprise. According to NOAA Administrator Jane Lubchenco’s online letter ([www.ppi.noaa.gov/NGSP2/letter.html](http://www.ppi.noaa.gov/NGSP2/letter.html)), the NGSP “sets the stage for continued excellence and advancements in NOAA’s core mission functions for weather forecasting, fisheries management, habitat restoration, and marine transportation.” AMWA submitted comments to NOAA during the development phase of the NGSP draft and plans to submit comments on the proposed plan by the August 10 deadline. Comments are being accepted via an interactive web forum (<http://noaangsp.ideascale.com/>).

### **Corps Of Engineers Launches “Responses To Climate Change” Website**

The Army Corps of Engineers has published a new website about its Responses to Climate Change Program. The program aims to develop and implement “practical, nationally consistent, and cost-effective approaches and policies to reduce potential vulnerabilities to the Nation’s water infrastructure resulting from climate change and variability.” The web address is: [www.corpsclimate.us](http://www.corpsclimate.us).

**July 26, 2010**

### **Senate To Dive Into Chemical Security Debate**

Senate action on chemical and water facility security legislation will pick up this week, as the Environment and Public Works (EPW) Committee is expected to hold a hearing on water and wastewater security issues and the Homeland Security and Governmental Affairs Committee will consider a bill to extend the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards (CFATS). Both the hearing and the markup are planned for Wednesday.

Which bill the Senate Homeland Security Committee will take up is not clear. Options include H.R. 2868 and S. 3599, each of which would reauthorize CFATS and require chemical facilities to implement "inherently safer technology" (IST) when feasible. A third option is S. 2996, which would extend the current CFATS program largely as-is for five years. All of the proposals would continue the water and wastewater exemption from CFATS.

At the EPW Committee hearing, committee members are expected to reiterate their support for regulating the security of water systems through EPA rather than DHS, and senators will also likely discuss the value of requiring water utilities to review or implement IST to reduce terrorist targets. Sen. Frank Lautenberg (D-N.J.) is expected to discuss his recently introduced legislation (S. 3598) that would require certain water utilities to consider replacing current disinfection chemicals with an IST, and allow state regulatory agencies to review the utility's decision.

### **Log On to EPA's Drinking Water Strategy This Week**

On Wednesday and Thursday, July 28 and 29, EPA will host a web dialogue - an online discussion to get stakeholder input about the potential approaches and implementation strategies for regulation of drinking water contaminants as groups. EPA is working to have a plan for how to regulate groups of contaminants by this fall.

A total of five different topics will be discussed via the online web forum each day, with registered

#### **This Week In Congress**

Throwing in the towel on controversial energy and climate legislation before August, the Senate this week will instead consider a narrower proposal that would tighten oil drilling regulations and promote clean energy development. A small business loan program could also see debate in the chamber this week.

In the House, which leaves for its August recess after this week, will hold votes on three spending bills: the FY11 Transportation/HUD and Military Construction/Veterans Affairs measures, and a supplemental appropriations bill to fund military activities in Iraq and Afghanistan. Additionally, there is once again a possibility that legislation to reauthorize the Drinking Water State Revolving Fund could be added to the voting schedule. That bill (H.R. 5320) was not considered last week despite rumors that it could come up for a vote.



participants able to make comments and respond to the comments of others. On Wednesday, three topics will be introduced for discussion: addressing drinking water contaminants as groups; contaminant groups and the Safe Drinking Water Act; and defining groups. Two additional topics will be introduced on Thursday: scientific approaches for groups and implementation approaches for groups.

For more information and to register to participate, go to <http://tinyurl.com/webdialogues>. The dialogue starts at 9am EDT (6am PDT) on Wednesday, July 28, and will end at 6pm EDT on Thursday, July 29. Participants can visit the site and participate anytime during that period.

### **EPA Announces Public Information Meetings About RTCR Proposal**

EPA will hold four public information meetings to communicate the content of the Revised Total Coliform Rule (RTCR) proposal to stakeholders. At the meetings, scheduled for August 3 in Washington, D.C., and August 6 in Chicago, EPA will discuss the development of the RTCR; the major rule provisions; the difference between the current TCR and the proposed rule; and specific areas where EPA is requesting comment. EPA will not be accepting public comments at the meetings. Visit <http://tinyurl.com/TCRmeetings> for details.

### **Report Suggests U.S. Water Supplies Will Be Strained By 2050**

A report by NRDC notes that the sustainability of U.S. water supplies may be jeopardized by climate change by 2050. The report can be accessed from NRDC's press release: <http://www.nrdc.org/media/2010/100720.asp>. Although the press release warns that "more than one out of three counties face water shortages due to climate change," the report includes several caveats. For example, the report notes that predictions for future water withdrawals were assumed under "business as usual conditions" and based on the USGS estimation of water use for 2005 (<http://water.usgs.gov/wateruse>). It also states that the withdrawal scenario is "somewhat artificial" as water use efficiency has continued to improve and national aggregate water use levels have remained flat over the past two decades.

The report should be read in the context of documented challenges of downscaling climate models to inform water resources planning. For more information, see Joel Smith's article in AMWA's September 2008 Water Utility Executive [http://amwa.net/cs/wue2008/wue\\_sept\\_08](http://amwa.net/cs/wue2008/wue_sept_08).

### **Senate Abandons Goal Of Passing Climate/Energy Bill Before Fall**

Senate Majority Leader Harry Reid (D-Nev.) last week abandoned plans to force a vote on a controversial energy and climate bill before the Senate's August recess. Instead, next week the Senate will take up more narrow legislation that may include a response to the Gulf of Mexico oil spill, "Home Star" energy efficiency upgrades, incentives to convert trucking fleets to natural gas, and additional funding for the Land and Water Conservation Fund. Reid said that the larger bill was doomed by the unwillingness of any Republicans to vote for a climate bill, but he was also unable to get all Senate Democrats to coalesce around a single proposal.

While the stripped down bill will not include a cap on carbon emissions and is unlikely to contain any measures to promote climate change adaptation, Sens. John Kerry (D-Mass) and Joe Lieberman (I-Conn.) – who have been leading efforts to develop a climate bill – continue to hold out hope that the Senate may take up a more comprehensive bill in the fall. Other observers, however, speculate that a wide-ranging

climate bill will be too politically charged to attract additional support in the run up to the November elections.

### **Forest Service Releases Roadmap For Climate Change Response**

The U.S. Forest Service released a roadmap for its response to climate change on July 20. With 20% of the nation's water sources originating in the national forests, water stewardship is an important component of the plan, noting the critical role of forests in protecting the nation's watersheds. The plan also cites partnerships and alliances with scientists and communities. The 30-page plan includes immediate, ongoing and long-term initiatives the Forest Service will take. The report is available on AMWA's Climate Change webpage ([www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)).

### **EPA, SRFs See Slight Decreases In FY11 Spending Bill**

The House Appropriations Committee last week approved an FY2011 EPA spending bill that would slightly reduce funding for EPA and the Drinking Water and Clean Water State Revolving Funds (SRFs) next year.

As approved by the Committee, EPA would receive just over \$10 billion next year, a reduction of \$271 million below its 2010 funding level. The Drinking Water SRF would receive a \$181 million reduction to \$1.2 billion, while the Clean Water fund would receive just under \$1.9 billion – a \$202 million reduction.

Other initiatives funded in the bill include \$455.5 million for climate change adaptation and science efforts – \$91 million more than the agency was given for the current year.

### **Senate Panel Approves Funding For NOAA Research, Water Projects**

The National Oceanic and Atmospheric Administration (NOAA) would receive a 17 percent funding boost next year under a spending plan approved last week by the Senate Appropriations Committee.

Included in the fiscal year 2011 Commerce-Justice-Science appropriations bill, NOAA would receive more than \$5.5 billion next year, an \$805 million increase above its current funding level. Almost all of the new NOAA money would go toward buying new satellites that will observe weather, climate variations and changes in sea levels.

Also winning Senate Appropriations Committee approval last week was the FY11 Energy and Water spending bill. That legislation includes \$5.32 billion for the U.S. Army Corps of Engineers, an increase of \$413 million over President Obama's request. The bill also includes \$939 million for the Bureau of Reclamation's Water and Related Resources account - \$25 million above Obama's request.

**August 2, 2010**

### **DWSRF Reauthorization Passes House**

The House of Representatives last week approved legislation to reauthorize the Drinking Water State Revolving Fund (DWSRF) program. Under H.R. 5320, the “Assistance, Quality, and Affordability Act” (AQUA), the DWSRF could receive up to \$4.8 billion in federal funds over the next three years.

AQUA would make several changes to the DWSRF that could increase the ability of urban systems to receive funding. The bill would codify that aging infrastructure rehabilitation and replacement projects and on-site utility projects to produce renewable energy are eligible for SRF funding and would allow extra funding to be awarded to portions of a utility’s service area that meet a state’s definition of “disadvantaged” communities. The bill would also direct states to award priority to projects that would help a utility remain in compliance with SDWA in the future – as opposed to only allowing priority for violations that already exist.

Another section of the bill would lower the federal “lead-free” standard for new pipes and plumbing fixtures to from 8.0 percent lead to 0.25 percent lead. The bill would continue SDWA’s existing 0.2 percent limitation on lead content with respect to solders and flux and would not require any water system to proactively replace existing lead pipes or service lines.

H.R. 5320 also includes a “Buy American” amendment that would bar communities from spending SRF loan funds on infrastructure projects that do not use steel, iron or manufactured goods produced in the United States. EPA would be allowed to grant case-by-case waivers from the requirement.

### **House Committee Approves WRDA Authorization Bill**

The House Transportation and Infrastructure Committee last week approved a Water Resources Development Act (WRDA) bill that would authorize spending \$6 billion on U.S. Army Corps navigation, flood control and environmental restoration projects. The legislation (H.R. 5892) is significantly smaller than the last WRDA bill, which included \$23 billion worth of projects.

Many observers question whether the new bill will have an opportunity to advance through Congress before members recess to campaign in the fall. Others note that the Army Corps already has a \$60 billion

#### **This Week In Congress**

The House has adjourned for its month-long August recess, and members of the Senate are aiming to do the same by the end of the week. But first they will have to vote on Elena Kagan’s Supreme Court nomination and possibly oil spill response legislation.

Additionally, the Senate Environment and Public Works Committee may markup water facility security legislation (S. 3598) this week, though a final decision had not been made as of last Friday.

backlog of unfunded projects and argue that newly authorized projects may have to wait years before they actually receive federal dollars.

### **Senate Panel Drops “IST” From Chemical Facility Bill . . .**

The Senate Homeland Security and Governmental Affairs Committee last week approved legislation that would extend the existing Chemical Facility Anti-Terrorism Standards (CFATS) program at DHS for three years, dealing a blow to efforts to force chemical facilities to adopt so-called “inherently safer technologies” (IST). The bill would continue the water sector’s exemption from the CFATS program. It is unclear, however, whether there will be time for the full Senate to consider the bill before the existing CFATS authorization expires in October. Therefore, appropriators have included a one-year CFATS extension in the FY11 DHS spending bill to ensure that CFATS does not lapse.

### **. . . While Environment Committee Ponders Next Steps For Water**

Just hours after the Homeland Security Committee struck IST provisions out of its CFATS bill, the Senate Environment and Public Works (EPW) Committee convened a hearing to examine the state of water and wastewater facility security and discuss the role of IST at water utilities.

Despite the hearing’s focus on water utility security, no water system representatives were invited to testify on their experiences. Instead, the committee heard from several IST proponents as well as Arizona Department of Environmental Quality Director Ben Grumbles, who spoke of the importance of allowing individual water systems to choose their disinfectant chemicals. EPA Office of Ground Water and Drinking Water Director Cynthia Dougherty testified on the Obama Administration’s support for closing the water “security gap” and requiring utilities to consider IST. All testimony is available on the EPW Committee website at <http://tinyurl.com/EPWhearing>.

Much of the discussion centered on Sen. Frank Lautenberg’s “Secure Water Facilities Act” (S. 3598), which would require water utilities to consider IST disinfectants and would allow state regulatory authorities to review those decisions. But because of the Homeland Security Committee’s action earlier in the day, the Lautenberg bill as it stands would subject water utilities to more strict chemical security regulation than would be faced by private chemical facilities. AMWA submitted a letter to the Committee prior to the hearing that argued against advancing a water security bill that is more onerous than CFATS. The letter is available on AMWA’s Legislative Information webpage at [www.amwa.net/cs/leginfo](http://www.amwa.net/cs/leginfo).

There is speculation that the EPW Committee may nevertheless move to approve S. 3598 as early as this week. If that occurs, the bill would probably attract wide opposition from water and wastewater associations and would be unlikely to garner enough votes to advance through the full Senate this year.

### **Web Dialogue Discussion And EPA Concept Paper On Regulating Contaminant Groups Available**

Last week, EPA held an online web dialogue session to gather input about how the agency could move forward toward developing a framework for addressing drinking water contaminants as groups to enhance public health protection.

During the dialogue, EPA unveiled a 16-page discussion paper that describes four potential strategies for developing drinking water standards for contaminant groups. The discussions of a standard approach, hazard index approach (for non-carcinogenic compounds), relative potency factor approach and

summation cancer risk approach – primarily a tool for determining costs and benefits – provide insights as to how EPA could potentially apply these group frameworks.

Links to both the discussion paper and the web dialogue messages are available on AMWA's Regulatory Committee webpage: [www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes).

### **New Issue Podcasts Posted**

Review the July *Regulatory Report* by watching the staff podcast. In less than two minutes you can get an overview of the month's top stories on: EPA's Revised Total Coliform Rule (RTCR) proposal, RTCR informational meetings and EPA's web dialogue on regulating drinking water contaminants as groups. The July *Congressional Report* podcast summarizes recent developments in water security and climate change legislation that have been topics of discussion in the Senate this year. The climate change podcast provides an overview of climate change reports from the Forest Service, National Academies and the Center for Climate Change Communication that may be of interest to members. Links to the podcasts are found at [www.amwa.net](http://www.amwa.net).

**August 9, 2010**

### **Senate, MMB Head To Recess**

Members of the U.S. Senate left Washington last week to begin their August recess, but not before approving long-stalled legislation to provide states with funding to extend Medicaid and prevent teacher layoffs. The House will reconvene this week to pass the bill, but will then immediately resume its August break. Congress is expected to be out of session until the week of September 13, and *Monday Morning Briefing* will resume publication when it returns.

Despite the Senate's passage of the state aid bill last week, some other proposals saw no action. The Environment and Public Works Committee did not hold a markup of water facility security legislation, but it may be revisited when the Senate returns.

### **RTCR Informational Sessions Added**

EPA has scheduled two additional public meetings to provide information about its proposed revisions to the Total Coliform Rule. A public meeting will be held on August 20 from 8:30 a.m. to 2:30 p.m. PDT in San Francisco; and a webcast will be conducted on August 26 from 11:30 a.m. to 3:30 p.m. EDT. For more information visit <http://tinyurl.com/TCRmeetings>.

### **GAO Report Studies Infrastructure Bank, Possible Funding Approaches**

Stakeholder groups broadly support the creation of a national infrastructure bank but hold varying opinions on how it should be funded and whether it should focus solely on water and wastewater projects, according to a study released last week by the U.S. Government Accountability Office (GAO). The report, *Wastewater Infrastructure Financing: Stakeholder Views on a National Infrastructure Bank and Public-Private Partnerships*, considered various methods to promote increased infrastructure spending.

### **AMWA Award Nominees, Policy Recommendations Sought**

In preparation for AMWA's 2010 Annual Meeting (October 24-27), members are invited to submit nominations for the President's Award and the Donald R. Boyd Award. The President's Award is presented to individuals who have been active in the association and have made outstanding contributions to the improvement of water management. The Donald R. Boyd Award was established to acknowledge extraordinary service in the drinking water field by individuals inside and outside the association membership.

During the annual meeting, the membership also votes on changes and additions to the association's policy statements. The policy statements reflect AMWA's positions on issues relevant to the association. Members are invited to submit new policy statements and recommendations for revisions to existing statements.

A packet was sent via mail to all members last week that details the call for awards and policy statement revisions. The information is also on the AMWA website ([www.amwa.net](http://www.amwa.net)) under "What's New." Award nominations and policy statement suggestions must be submitted to the National Office by Thursday, September 9.

GAO made no recommendation on whether an infrastructure bank should be created, but instead surveyed stakeholder groups representing construction, engineering, municipal, environmental, and water and wastewater associations on the policy issues that would need to be addressed in formulating a bank. Among its findings:

- One-third of responding stakeholder groups said an infrastructure bank should only fund water and wastewater infrastructure, while two-thirds responded that it should also fund transportation and energy projects.
- There was no stakeholder consensus on whether an infrastructure bank should be administered by an existing federal agency, structured as a government corporation or structured as a government-sponsored enterprise.
- A majority of stakeholders said the federal government should provide initial capital for an infrastructure bank and that the bank should offer a variety of mechanisms for financing projects, such as providing direct loans, loan guarantees and funding for existing water infrastructure programs.
- Most stakeholders agreed that the bank should prioritize projects that address the greatest infrastructure needs and generate the greatest environmental and public health benefits, but no consensus emerged on whether projects serving the most people or generating the most jobs should receive higher priority.

A copy of the report is available at [www.gao.gov/products/GAO-10-728](http://www.gao.gov/products/GAO-10-728).

### **Efforts Underway For National Climate Assessment**

The U.S. Global Change Research Program (USGCRP) recently updated stakeholders via e-newsletter about the latest developments of the third U.S. National Climate Assessment (NCA). The upcoming NCA will differ from previous assessments by focusing on evaluating progress in the U.S. regarding climate adaptation and mitigation and providing information to help support regional and sector-specific decisions. The NCA endeavors to establish “an ongoing, consistent and replicable approach to assessing current and projected climate impacts and climate-related risk in the context of other stressors.” Information from the NCA will be used to prioritize federal activities and support adaptation decisions within regions, states and sectors.

One of the seven key objectives of the NCA is to establish a permanent, sustainable assessment capacity within and outside of the federal government by building networks of regional and sectoral participants that can engage in the process. Another objective is to rely as much as possible on regional networks, as well as public and private partners, to ground-truth assessment elements and to evaluate adaptation options and science gaps.

AMWA plans to keep members up-to-date on opportunities for engagement in this important process. Anyone interested in receiving detailed updates from USGCRP via periodic NCA newsletters should send an email to [engagement@usgcrp.gov](mailto:engagement@usgcrp.gov).

## **Listening Sessions Set On Water Quality Standards Regulation Revisions**

EPA has scheduled two public listening sessions to describe potential changes for water quality standards regulation under the Clean Water Act. They will be held via audio teleconference on August 24 and 26, from 1:00 to 2:30 p.m. EDT. Registration and additional information about the potential regulatory changes are online at [www.epa.gov/waterscience/standards/rules/wqs/listening.html](http://www.epa.gov/waterscience/standards/rules/wqs/listening.html).

At the sessions, EPA will provide a review of the current regulation and a summary of the revisions the agency is considering. EPA will also take questions and public comment from stakeholders.



**September 13, 2010**

### **Few Pre-Election Accomplishments Expected As Congress Returns To Washington**

Members of the House and Senate return to Washington from their annual August recess this week, but few observers expect any landmark legislative accomplishments to occur in the next month before Congress adjourns for the November elections.

With congressional Republicans hoping to win control of one or both chambers in November, and Democrats looking to minimize their losses, substantive lawmaking will largely take a backseat to partisan squabbling. In fact, congressional leaders have already indicated that several issues of importance to the water sector will have to wait until next year.

Most notably, Senate Majority Leader Harry Reid (D-Nev.) recently said that the Senate will not vote on comprehensive climate change and energy legislation this year. While a major climate bill had not been expected to pass the Senate before November, Reid's announcement confirms that a program aimed at helping water and wastewater systems adapt to climate change – which could have been attached to a larger climate bill – will not advance this year either. Even next year the path forward for a climate bill will be uncertain, especially if Republicans make substantial gains in November.

Congress is expected to discuss infrastructure funding this month, but will likely focus on programs to assist in the construction of roads and railways – not water systems. In fact, President Obama's recent call for the creation of a \$50 billion National Infrastructure Bank centered solely on transportation infrastructure. Meanwhile, legislation to reauthorize the Drinking Water and Clean Water State Revolving Fund programs remains in limbo in the Senate and is not expected to advance this year.

One area that may see debate is water security, as Senate staff has told AMWA that the Environment and Public Works Committee hopes to mark up a water security bill (S. 3598) before the elections. This could amount to a largely symbolic gesture, however, as the proposal before the committee currently lacks the backing of the water sector and is not thought to have sufficient support to advance through the full Senate. So instead of approving a comprehensive overhaul of chemical and water facility security regulations this year, Congress will likely only approve a temporary extension of the current DHS Chemical Facility Anti-Terrorism Standards (CFATS) program before it expires in October. This extension is expected to maintain the water sector's exemption from the program.

### **New Series Of Issue Podcasts Available On AMWA Website**

The latest series of AMWA staff podcasts on issues of interest to members includes an announcement on the launch of AMWA's Utility Financial Information (UFI) Survey and updates on regulatory, climate change and security issues. View the new podcasts at [www.amwa.net/cs/news/podcasts](http://www.amwa.net/cs/news/podcasts).

If you have suggestions on possible topics for future podcasts, please contact Aaron Levy at [levy@amwa.net](mailto:levy@amwa.net).

## **WaterISAC To Host Business Continuity Planning Webinar September 15**

Creating a sound and usable business continuity plan (BCP) is a key step to enhancing the resilience of a water utility. To assist utilities in developing BCPs, WaterISAC is teaming up with representatives from the Densus Group – a globally recognized risk management firm with diverse international experiences and robust academic knowledge – to present a webinar on the topic on Wednesday, September 15, at 1:00 p.m. EDT.

This webinar will provide utilities with the basic tools needed to create a BCP and will:

- Delineate the differences between a BCP and an emergency response plan;
- Outline how updating a vulnerability assessment helps keep a BCP current; and
- Provide the keys to implementing and maintaining a sound plan.

AMWA members can register for the webinar at [https://portal.waterisac.org/web/event\\_signup.action](https://portal.waterisac.org/web/event_signup.action). Contact Aaron Levy at [levy@amwa.net](mailto:levy@amwa.net) for additional information.

## **Stakeholder Meeting On EPA Drinking Water Strategy Is Next Week**

EPA announced that a meeting for stakeholders to discuss the first of four principles of its new Drinking Water Strategy – addressing contaminants as a group rather than one at a time – will be held September 21 in Washington, D.C. Registrations are due September 17 and can be made by contacting Shari Bauman at EPA's Office of Ground Water and Drinking Water: 202-564-0293.

More information on the Drinking Water Strategy is online at <http://water.epa.gov/lawsregs/rulesregs/sdwa/dwstrategy>.

## **Final Meeting Of Climate Ready Water Utilities Working Group Set For September 23-24**

The fifth and final meeting of the Climate Ready Water Utilities Working Group of EPA's National Drinking Water Advisory Council is scheduled for September 23-24 in Alexandria, Va. The meeting will include review and discussion of final changes to the working group's report to the council containing findings, recommendations, an adaptive response framework, needed resources and incentives to address the adoption of climate change adaptation and mitigation strategies by water utilities. For information, contact Lauren Wisniewski at EPA's Office of Ground Water and Drinking Water: 202-564-2918.

## **Unused Pharmaceuticals Collection, Management Addressed**

On September 25, the Drug Enforcement Administration (DEA) will host the first-ever national drug take-back initiative aimed at eliminating a major source of abused prescription drugs. DEA will collaborate with state and local law enforcement agencies to collect unused or expired prescription drugs at collection sites across the country. For more information, visit [www.deadiversion.usdoj.gov/takeback](http://www.deadiversion.usdoj.gov/takeback).

In related news, EPA published a draft document for comment that provides health care facilities with information and techniques aimed at reducing the amount of unused pharmaceuticals being disposed of down the drain. The document, *Best Management Practices for Unused Pharmaceuticals at Health Care Facilities* (<http://tinyurl.com/unusedpharm-EPAguide>), is open for comment until November 8, 2010.

**September 20, 2010**

### **2010 Annual Meeting Update**

- The Honorable Andy Hafen, mayor of Henderson, Nevada, will welcome AMWA members at the 2010 Annual Meeting. The mayor's address is scheduled for 9 a.m. on October 25. Among the mayor's initiatives is the city's "Our Henderson" sustainability plan, which will set goals focusing on seven key areas including energy, water, recycling, urban design, nature, transportation and environmental health.
- The Green Valley Ranch Resort is fully booked at the special rate for AMWA members. Contact AMWA's Eugenia Cadena at 202-331-2820 or [cadena@amwa.net](mailto:cadena@amwa.net) to discuss alternatives. Also, any member who needs to change their hotel reservation is asked to contact Eugenia.
- The October 25 evening reception at Springs Preserve will begin at 6:00 p.m., instead of 5:30 p.m., and end at 7:30 p.m. Buses will leave the hotel at 5:15 p.m. and return by 8:00 p.m.

To see the full program and get registration and logistical information, visit [www.amwa.net/cs/2010AnnualMeeting](http://www.amwa.net/cs/2010AnnualMeeting).

### **AMWA Submits Comments On GASB Pension Recommendations**

AMWA last week responded to the Governmental Accounting Standards Board's (GASB) request for comments on its preliminary recommendations on how government employers could improve pension accounting and financial reporting practices. GASB is an independent, nonprofit organization that establishes financial accounting and reporting standards for state and local governments.

AMWA paired an ad-hoc group of interested water utility representatives with a financial policy consultant to formulate the comments. The group paid significant attention to GASB's proposal that government employers report changes in pension liability as expenses on a yearly basis. Because of concerns that this could force utilities to raise rates or otherwise cut expenses to balance yearly pension liability costs, AMWA recommended that GASB allow recognition of pension liability changes over a longer period of time.

### **This Week In Congress**

Senators will debate the FY11 defense authorization bill this week, and with it will vote on amendments touching on the Pentagon's "don't ask, don't tell" policy and allowing the children of illegal immigrants to gain U.S. citizenship.

In the House, a vote is expected on a small business tax bill that passed the Senate last week. The measure includes \$12 billion in tax breaks for small businesses.

GASB is expected to finalize its recommendations sometime next year. More information is available at [www.gasb.org](http://www.gasb.org), and a copy of AMWA's comments can be accessed at <http://tinyurl.com/AMWA-GASB>.

### **EPA Seeks Comment On New Infrastructure Needs Assessment**

In 2011, EPA will commence its next quadrennial water infrastructure assessment to calculate overall needs and allocate federal funds for the Drinking Water State Revolving Fund. The assessment will also be used to create models to estimate the needs of water systems that do not complete the survey.

EPA is seeking comment on its draft assessment questionnaire, which the agency will distribute to public water systems next year. The assessment will collect three types of system-specific information: (1) system inventory and characteristics data (i.e., population served, total design capacity and number of connections); (2) information on capital improvement projects; and, for the first time in such an assessment, (3) information on "green" and climate readiness infrastructure projects.

To view the *Federal Register* notice soliciting comments, the draft survey and other information, go to [www.regulations.gov](http://www.regulations.gov) and enter "EPA-HQ-OW-2010-0689" in the search box. Comments are due no later than November 9. Please send copies of comments to AMWA's Michael Arceneaux at [arceneaux@amwa.net](mailto:arceneaux@amwa.net).

### **American Water Summit To Bring Together Water Leaders, Investors**

To address the U.S. water infrastructure funding gap, Global Water Intelligence (GWI) magazine has organized American Water Summit 2010 to be held November 3-4 in Washington, D.C. Leading water authorities, federal policy makers, state government and regulatory officials and top industry executives are invited to debate how this difficult issue can be overcome.

Robert Kennedy, Jr. will speak at the opening session on "Water Policy Futures." Workshop and round-table sessions will feature AMWA members Jerry Johnson of Washington Suburban Sanitary Commission and Jim Reynolds of Florida Keys Aqueduct Authority along with former Interior Secretary Bruce Babbitt; Dick Champion, President, Clean Water America Alliance; Jonathan Pawlow, Counsel, Subcommittee on Water Resources and Environment, House of Representatives; NACWA President Jeff Theerman and incoming NACWA President Eric Thornburg; Mayor Jennifer Hosterman, Co-Chair of the U.S. Conference of Mayors Water Council; Debra Coy, Svanda & Coy Consulting; and WEF President Jeanette Brown.

Register for the Summit at [www.americanwatersummit.com](http://www.americanwatersummit.com).

### **Second Web Conference On TCR Methods Set For October 5**

On October 5, EPA will hold the second of three web conferences to discuss plans for reevaluating analytical methods in anticipation of revisions to the Total Coliform Rule. For more information or to register, contact Cesar Cordero at [cordero.cesar@epa.gov](mailto:cordero.cesar@epa.gov) or 202-564-3716 by September 29.

### **Coalition Calls For Action On Freshwater Challenges**

A coalition of government agencies, businesses, farmers and environmental NGOs convened by the Johnson Foundation met with Obama Administration officials at the White House Council on

Environmental Quality last week to present *Charting New Waters: A Call to Action to Address U.S. Freshwater Challenges*. The *Call to Action* is the culmination of what the Foundation calls an “intensive two-year collaboration exploring solutions to U.S. freshwater challenges.” The collaboration began as a series of Freshwater Forum meetings, which concluded with the Freshwater Summit, a June 2010 event with nearly 30 participants. The 50-page document identifies the many challenges to the nation’s quality and supply of freshwater, such as pollution and scarcity; competing urban, rural and ecosystem water needs; climate change; environmental and public health impacts; and a variety of economic implications.

The document also offers eight recommendations for actions to confront these threats: improving coordination across jurisdictions and sectors; updating regulatory tools to address current challenges; promoting efficient, environmentally wise water management; ensuring decision-making is based on sound science and data; employing a long-range adaptive approach to planning and management; educating the public; accounting for the full costs of water and investing in sustainable water infrastructure; and developing and validating methods for freshwater ecosystem services markets.

AMWA was a participant in the Freshwater Forum discussions and AMWA member utility Cascade Water Alliance was a participant in the Summit. For more information and to download a copy of the *Call to Action* visit: [www.johnsonfdn.org/ChartingNewWaters](http://www.johnsonfdn.org/ChartingNewWaters).

### **Study On Watershed-Friendly Land Management Underway**

With support from USDA and the U.S. Endowment for Forestry and Communities, EcoAgriculture Partners is conducting a study on payments by local governments, water providers and the private sector to landowners for watershed protection. AMWA members that have been part of watershed protection projects that include payments to landowners are invited to respond to a short survey at [www.surveymonkey.com/s/6RPLJ6X](http://www.surveymonkey.com/s/6RPLJ6X).

The survey is designed to take a snapshot of utility efforts, but the study will collect information on the geographic location, scale and features of past, current and proposed efforts. The project will lead to a publication of case studies next spring. By developing the first-ever broad compendium of U.S. experience with such payments, the study will help stakeholders use payments more widely and more effectively to foster environmental stewardship.

Members may contact Terhi Majanen at EcoAgriculture Partners ([tmajanen@ecoagriculture.org](mailto:tmajanen@ecoagriculture.org) or 202-393-5315) for more information.

### **Two New Resources Available From USGS**

The U.S. Geological Survey (USGS) recently launched a service with real-time water information and released a report on cyanotoxins in 23 Midwestern lakes.

WaterAlert (<http://water.usgs.gov/wateralert>) is a real time information system that sends e-mail or text messages when certain parameters measured by a USGS data-collection station exceed user-definable thresholds. Available data parameters include surface water, ground water, water quality and precipitation, although not all parameters are necessarily available for a given site.

The *Environmental Science and Technology* journal article, “Cyanotoxin Mixtures and Taste-and-Odor Compounds in Cyanobacterial Blooms from the Midwestern United States,” written by USGS staff,

reports that in 91 percent of algal blooms studied, cyanotoxins frequently co-occurred with taste-and-odor compounds. Additional information about the USGS study, including a link to the article, is online at [http://toxics.usgs.gov/highlights/algal\\_toxins](http://toxics.usgs.gov/highlights/algal_toxins).

September 27, 2010

### **AMWA Calls For Infrastructure Bank To Include Water Funds**

AMWA last week wrote to the leaders of the Senate Banking, Housing, and Urban Affairs Committee requesting that the water sector not be overlooked in discussions of a proposed National Infrastructure Bank, which would offer federal loans to large infrastructure projects.

In a letter submitted for the record of the Committee's hearing on "Investing in Infrastructure: Creating Jobs and Growing the Economy," AMWA noted that EPA's Drinking Water State Revolving Fund program is primarily targeted at providing assistance to small water systems, leaving many metropolitan utilities without meaningful federal infrastructure funding assistance. AMWA also said that President Obama's recent call for an Infrastructure Bank focused only on transportation infrastructure and urged the Committee to make large-scale water projects eligible for funding through any Infrastructure Bank. A copy of AMWA's letter is available on the association's Legislative Information webpage at [www.amwa.net/cs/leginfo](http://www.amwa.net/cs/leginfo).

No Infrastructure Bank legislation is expected to advance through Congress before the end of the year, but the concept remains appealing to legislators looking for ways to spur economic growth. Senate Banking Committee Chairman Chris Dodd (D-Conn.) introduced a bill (S. 1926) in 2007 that would establish an Infrastructure Bank and extend eligibility to water projects "of national or regional significance."

In a statement released prior to last week's hearing Sen. Dodd said that the Infrastructure Bank would supplement, not replace existing infrastructure funding mechanisms. But he explained that the program would "create a competitive, merit-based process to distribute money," while providing new funding opportunities to long-term projects "that require vision and patience."

Sen. Dodd's enthusiasm for the Bank was not unanimous, however. Committee Ranking Republican Richard Shelby (R-Ala.) used the hearing to air concerns that an Infrastructure Bank would reduce the ability of Congress to determine where and how federal dollars are spent. Sen. John Tester (D-Mont.) also expressed apprehension that an appointed board tasked with making decisions on Bank spending would overlook rural communities.

### **This Week In Congress**

This is likely to be the House and Senate's last week of work in Washington before members head back to their districts to campaign in advance of the November elections. The only "must-pass" issue on the agenda is a continuing resolution to temporarily extend government spending and expiring programs into the new fiscal year, which begins on October 1.

After this week, Congress is not expected to return to Washington until mid-November, when a lame duck session will begin.

## **Jump-Starting Utility Management In A Stalled Economy**

### **AMWA's 2010 Annual Meeting – Register Today!**

Economic recovery may seem stalled, but forward-looking utility executives are making the best of the current environment and building a sustainable future. AMWA's 2010 Annual Meeting will bring together top water system managers and industry experts with sound ideas and successful experiences in dealing with recession. At the session on "Surviving Recession and Emerging as Stronger Utilities," for example, a panel of top executives from Cincinnati, Louisville, Atlanta, Seattle and Southern California will discuss their recession coping strategies and opportunities they identified to respond to economic challenges.

This event is sure to deliver new thinking on many topics facing water managers today – from addressing revenue shortfalls to energy and sustainability, and from asset management to reducing insider security threats. To view the full program and register online, visit: [www.amwa.net/cs/2010AnnualMeeting](http://www.amwa.net/cs/2010AnnualMeeting).

### **Spaces Still Available For WaterISAC's Pandemic Influenza Planning Webinar**

In preparation for the 2010 flu season, WaterISAC will host its second annual pandemic influenza planning and preparedness webinar on Wednesday, September 29, at 1:00 p.m. EDT. This year's session will focus on lessons learned from the 2009 outbreak to help water and wastewater utility personnel face the challenges that a pandemic presents.

Join WaterISAC and U.S. EPA as well as presenters from the Centers for Disease Control and Prevention (CDC), San Jose Water Company, California Department of Public Health and the Texas Commission on Environmental Quality. Attendees will have the chance to ask questions of the experts, and WaterISAC staff will provide further information on the latest pandemic planning tools and resources.

To register, go to: [https://portal.waterisac.org/web/event\\_signup.action](https://portal.waterisac.org/web/event_signup.action).

### **EPA Outlines Potential Groups And Approaches For Contaminant Regulation**

EPA held a stakeholder meeting September 21 to outline its perspective on an approach to regulating contaminants by groups and to hear the views of other stakeholders. The agency unveiled several possible approaches and identified three groups for potential near-term regulatory development: carcinogenic VOCs, nitrosamines and chlorinated and brominated DBPs. Some of the characteristics that EPA identified as key for identifying the near-term groups were similar analytical methods, common health effect(s) and an opportunity of exposure reduction through treatment processes.



Stakeholders at the meeting continually stressed the importance of trying to address contaminants in drinking water through source water protection and leveraging other legal statutes, such as the Clean Water Act and Toxic Substances Control Act. They also urged EPA to continue to allow flexibility for state implementation of new rules and discussed other potential challenges with regulations of contaminants by groups, such as simultaneous compliance. Meeting attendees also encouraged EPA to focus on groups that, if regulated, would achieve a meaningful health risk reduction.

EPA's presentation, *Potential Approaches for Addressing Groups of Contaminants Under the Safe Drinking Water Act*, and an updated EPA whitepaper about approaches to groups, are available on the Regulatory Committee webpage: [http://amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://amwa.net/cs/members_only/regulatory_committee_notes).

### **House Approves Watered-Down Drug Disposal Bill**

The House of Representatives last week approved legislation aimed at reducing the unsafe disposal of unused pharmaceuticals, but the bill is significantly weaker than the version originally introduced last year. As approved by the House, H.R. 5809, the "Safe Drug Disposal Act," would make it easier for communities to establish pharmaceutical take-back programs, which could reduce the amount of unused drugs disposed of by toilet flushing. The water sector has long held concerns that encouraging people to dispose of drugs through wastewater systems contributes to elevated levels of pharmaceutical residues found in the nation's water bodies.

Other sections of H.R. 5809, sponsored by Rep. Jay Inslee (D-Wash.), would direct EPA and the Director of National Drug Control Policy to develop a consumer education campaign on drug take-back options and would require EPA to study the environmental impacts of disposing of pharmaceuticals through existing waste systems. Slightly more narrow legislation (S. 3397) passed the Senate in August.

The original bill introduced to address the issue (H.R. 1191) – introduced by Rep. Inslee in 2009 – would have prohibited drug labels from recommending that any unused medications be disposed of by flushing them into wastewater systems. Unfortunately, that provision was dropped in order to ensure speedy passage through the House and did not appear in the Senate-approved version.

### **USGS Releases New Nutrient Data At Capitol Hill Briefing**

Concentrations of nutrients in U.S. streams and groundwater supplies have remained the same or increased since the early 1990s, according to research released by the United States Geological Survey (USGS) at a Capitol Hill briefing last week.

USGS analyzed data collected between 1992 and 2004 through the National Water-Quality Assessment (NAWQA) program. From the data, USGS concluded that excessive nutrient enrichment is a widespread cause of ecological degradation in the nation's streams and that nitrate contamination of groundwater used for drinking water, especially in shallow domestic wells in agricultural areas, is a continuing human-health concern. USGS also found that significant federal, state and local nonpoint-source nutrient control efforts have led to only limited progress to reduce the impacts of nonpoint sources of nutrients. In fact, concentrations of nutrients have remained the same or increased in many streams and aquifers across the country and continue to pose risks to aquatic life and human health.

Detailed findings and analysis have been published in USGS Circular 1350, which is available at <http://water.usgs.gov/nawqa/nutrients/pubs/circ1350>.

## **OSTP Seeks Comment On National Climate Assessment Objectives**

In the September 7 *Federal Register* (75 FR 54403), the Office of Science and Technology Policy (OSTP) invited comment on its proposed objectives and outline for the third National Climate Assessment (NCA). Comments are due by October 8, 2010. AMWA plans to submit comments and welcomes comments from AMWA members to be considered for the comment letter. The third NCA is required to be submitted to Congress by June 2013.

The notice specifies that a primary goal for the NCA is to establish a process for a permanent assessment capacity by establishing regional networks. These networks can serve for information transfer to and from the federal government throughout this and subsequent NCA processes, rather than ramping up every four years to develop a new assessment. AMWA has been involved in NCA planning discussions and will continue to provide input to the process with support from the association's climate change committee. Water resources is one of the key sectors that will be covered in the NCA report.

## **Commerce Department Releases Vision And Framework For Climate Services Within NOAA**

Following up on its February 9 announcement about establishing a National Climate Service (NCS) within the National Oceanic and Atmospheric Administration (NOAA), the Department of Commerce released for public comment its draft vision and framework for NCS in the September 21 *Federal Register*. The 86-page document is open for comment through October 18.

According to the draft document: "By providing science and services, the NCS envisions an informed society capable of anticipating and responding to climate and its impacts." The document indicates that the initial focus of the NCS will be in five areas: climate impacts on water resources; coasts and climate resilience; sustainability of marine ecosystems; changes in the extremes of weather and climate; and, informing climate policy options.

The document recommends that most of the information be provided free to the public, as resources allow. It also outlines an evaluation process that will assess the quality of information and services provided by NCS. The document only briefly discusses cooperation with federal agencies and provides little detail about how the service would be organized and staffed. Additional information and a copy of the document are online at [www.noaa.gov/climate.html](http://www.noaa.gov/climate.html) under "NCS Vision and Strategic Framework."

## **Revitalized White House Working Group Orders Agency Environmental Justice Reviews**

The Interagency Working Group on Environmental Justice reconvened last week after a ten-year hiatus. Organized by the White House Council on Environmental Quality, the role of the workgroup is to support and enhance federal environmental justice and community-based activities. The group includes members from several agencies including EPA and the Departments of Interior, Commerce and Agriculture. The workgroup ordered 11 federal agencies to review and update their environmental justice plans, which were implemented in 1996 in response to Executive Order 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*. The working group plans to meet monthly to discuss how to address environmental justice issues via an interagency approach.

**October 4, 2010**

**Congress Heads Home To Campaign, MMB Will Return After Elections**

Members of the House and Senate departed Washington last week, to return on November 15 after the mid-term elections. *Monday Morning Briefing* will resume publication when Congress reconvenes, and in the interim *Special Briefings* will be issued for breaking news.

**Boxer Introduces Senate Version Of “Lead-Free” Legislation**

Sen. Barbara Boxer (D-Calif.) last week introduced Senate legislation that would lower the federal “lead-free” standard for new pipes and plumbing fixtures to 0.25 percent lead with respect to their wetted surface. The Safe Drinking Water Act (SDWA) currently allows pipes and plumbing fixtures to contain up to 8.0 percent lead, but the lower permitted level would match the new California state standard that took effect this year.

Boxer’s bill (S. 3874) matches “lead-free” language approved by the House this summer as part of the Drinking Water State Revolving Fund (DWSRF) reauthorization bill – which was based on a bill introduced by Rep. Anna Eshoo (D-Calif.). The DWSRF bill is stalled in the Senate, however, prompting Sen. Boxer to introduce the lead section as a stand-alone bill.

S. 3874 would continue the SDWA’s existing 0.2 percent limitation on lead content with respect to solders and flux and would not require any water system to replace existing lead pipes or service lines that exceed the new standard. AMWA and other drinking water organizations support the proposal.

**Latest On AMWA’s 2010 Annual Meeting  
October 24-27 – Henderson, Nev.**

**MONDAY**

**Surviving Recession and Emerging as Stronger Utilities** – ideas from Cincinnati, Louisville, Atlanta, Seattle and Southern California

**When the Pipes Break** – lessons learned from Washington Suburban Sanitary Commission

**Corporate Water Risk and Municipal Bonds** — preview of a new study from Ceres

**The Ever-Evolving Bond Market** – Morgan Keegan & Co. insights on the bond market climate

**TUESDAY**

**Energy-Water Nexus from a Power Perspective** - Jeffrey Fulgham, GE Chief Sustainability Officer

**Balancing Financial Sufficiency w/ Community Sustainability and Conservation** – news from Nashville, Denver, Henderson and St. Johns Co.

**What We’ve Learned from a Decade of Asset Management** – from Santa Rosa Utility Dept.

**Insider Threats in a Recessionary Environment** – Santa Clara Valley & Alameda Water Districts

**WEDNESDAY**

**VIP Two-Part Tour: New Lake Mead Intake and Hoover Dam**

**Hotel Update:** The conference hotel - Green Valley Ranch Resort - is fully booked. Nearby Homewood Suites (702-450-1045) and Hampton Inn (702-385-2200) have shuttles to the hotel.

**Visit [www.amwa.net/cs/2010AnnualMeeting](http://www.amwa.net/cs/2010AnnualMeeting)**

It is not known whether the Senate will vote on Boxer's bill when it returns to Washington after the November elections. If the measure does pass the Senate, the House would likely move to approve it before the end of the year to avoid having to start over on it in the next Congress.

### **Congress Funds Federal Government Through December, Extends CFATS**

The 111<sup>th</sup> Congress completed its pre-election session last week with a vote to pass a continuing resolution (CR) to fund federal programs and activities through the beginning of December. The CR was necessary because the 2011 fiscal year began on October 1, but Congress had not passed any of the 12 individual FY11 spending bills. The CR will extend funding for most federal programs at their 2010 levels through December 3. By that time, congressional leaders hope to have approved an omnibus spending bill to fund the federal government for the remainder of the fiscal year.

The CR also extended several expiring federal programs through early December, including the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards (CFATS) program. CFATS had been scheduled to expire this month, but Congress has not yet agreed on a permanent reauthorization of the program. The CFATS extension will not impact drinking water or wastewater facilities, which remain exempt from the program.

### **EPA Decision To Regulate Perchlorate Submitted To OMB**

EPA has decided to regulate perchlorate under the Safe Drinking Water Act (SDWA). The regulatory decision was submitted to the Office of Management and Budget for review on September 29, and it is expected to be published in the *Federal Register* before the end of the year. Under the SDWA, EPA has up to 24 months to propose an MCL after the decision to regulate has been made.

### **Florida Nutrient Rule Delayed**

EPA announced that it will delay for 30 days the signing of a final rule setting new nutrient limits in Florida. In a press release (<http://tinyurl.com/EPA-FLdelay>), EPA said the decision to move the final signature date to November 14, 2010 will allow the agency to "review and confirm" that all 22,000 comments received on the rule proposal have been fully considered. Florida Sens. George LeMieux (R) and Bill Nelson (D) reportedly oppose the standards, citing billions of dollars in costs to the state.

### **Water District May Not Oppose Supreme Court Review Of Water Transfers Rule**

The South Florida Water Management District (SFWMD) is reportedly planning to not oppose an appeal recently filed by the environmental group Friends of the Everglades (FOE) asking the Supreme Court to overturn the 11<sup>th</sup> Circuit Court of Appeals' ruling in *Miccosukee Tribe of Indians v. SFWMD*. The 2009 decision found that basin-to-basin water transfers do not require NPDES permits, siding with the Bush Administration's contention that moving water from one basin to another does not constitute a discharge of pollutants into a water of the United States.

According to the reports, SFWMD may not oppose FOE's filing, but instead may ask the Supreme Court to affirm that NPDES permits are not required for water transfers, based on the Circuit Court's interpretation. If the Supreme Court were to affirm this ruling, it would provide more permanent protection against future federal rulemaking that might otherwise attempt to require permits for water transfers.

## **NDWAC Submits Recommendations To EPA Administrator**

Following its July meeting, the National Drinking Water Advisory Council (NDWAC) submitted two letters to EPA Administrator Lisa Jackson on the issues of regulation of contaminant groups under the SDWA and controlling nutrients. The letter on drinking water strategy urges the Administrator to focus on “cost effective health risk reduction” and notes the significant advances that have been made in preventing waterborne diseases since the passage of the SDWA. “As we move forward, we need to recognize and protect our past successes while at the same time addressing new and emerging issues,” the letter says. In the letter, the NDWAC strongly supports the pillar of the drinking water strategy aimed at leveraging multiple statutes beyond the SDWA to protect drinking water. It also expresses concern about the insufficiency of the agency’s health effects research and the ability of the drinking water research program to keep up with the challenges faced by utilities, states and the public.

Focusing on nutrient control, the second letter urges EPA to consider multiple-barrier, cross-jurisdictional, watershed-based approaches that evaluate all contributions of nutrient pollution. The NDWAC believes the suggestions in its letter will help EPA develop “cost-effective optimized solutions that can avoid what have historically been costly end-of-pipe solutions.”

Both letters were dated September 8 and are online at <http://water.epa.gov/aboutow/ogwdw/ndwac/>.

## **Congress Sends Drug Disposal Bill To President, Minus EPA Study**

A week after approving legislation to tackle the issue of pharmaceutical disposal on several fronts, the House last week sent to the President a narrower bill that would only give the Attorney General authority to issue regulations allowing patients to deliver unused controlled substance medications to an appropriate disposal entity without dealing with law enforcement officers. The bill (S. 3397, the “Secure and Responsible Drug Disposal Act”) had won Senate approval in August.

The drug disposal bill approved by the House just a week earlier would have also created a campaign to educate the public on safe drug disposal and would have required EPA to study the environmental impacts of disposing of pharmaceuticals through existing methods, such as by flushing them into the wastewater system. Congressional leaders normally would convene a conference committee to work out the differences between the House and Senate-passed versions, but the short timeframe before adjournment made that impossible.

October 12, 2010

### **New Sustainable Infrastructure Policy Released By EPA**

EPA has released a “Clean Water and Drinking Water Infrastructure Sustainability Policy” (<http://tinyurl.com/EPASustainabilityPolicy>) for use in its state revolving fund (SRF) programs to pursue “the goal of increasing the sustainability of water and wastewater infrastructure in the U.S.”

The policy emphasizes EPA’s desire to work with states and water systems to employ comprehensive planning processes that:

- result in projects that are cost effective over their life cycle;
- are resource efficient; and
- are consistent with community sustainability goals.

The policy also encourages effective utility management practices to ensure long-term sustainability. It makes suggestions about how SRF funding could be prioritized but acknowledges that states are primary implementers of the SRF programs and that “SRF programs should retain the primary goals of public health and water quality protection.”

### **Nominations Open For NDWAC**

EPA is seeking nominations for the National Drinking Water Advisory Council (NDWAC). According to the October 6 *Federal Register* notice, the nominees for the 2011 NDWAC should represent: state and local officials concerned with public water supply and public health protection (two vacancies); the general public (one vacancy); and organizations or groups demonstrating an active interest in the field of public water supply and public health protection (two vacancies). Nominations are due October 31. A link to the *Federal Register* notice with specific details for submitting nominations is available on the EPA website at: <http://tinyurl.com/NDWAC>.

### **Cascade Water Alliance Honored As WaterSense Promotional Partner Of The Year**

EPA awarded AMWA member Cascade Water Alliance its WaterSense Promotional Partner of the Year honor, citing the utility’s ability to “stretch limited resources” to promote water efficiency and WaterSense in its community. EPA noted Cascade’s public education program, work with plumbers and retailers, product rebates and WaterSense Road Show as representing the best in the Promotional Partner Category toward increasing water efficiency and awareness of the WaterSense label. The agency also expanded its awards program to include “Excellence Awards” and honored Albuquerque-Bernalillo County Water Utility for Excellence in Strategic Collaboration. EPA’s WaterSense Awards announcement is online at [www.epa.gov/watersense/partners/watersense\\_awards.html](http://www.epa.gov/watersense/partners/watersense_awards.html).

## **EPA Releases Five-Year Strategic Plan**

EPA recently released its 2011-2015 Strategic Plan ([www.epa.gov/cfo/plan/plan.htm](http://www.epa.gov/cfo/plan/plan.htm)). The plan is comprised of five strategic goals to guide EPA's work:

1. Taking Action on Climate Change and Improving Air Quality;
2. Protecting America's Waters;
3. Cleaning Up Communities and Advancing Sustainable Development;
4. Ensuring the Safety of Chemicals and Preventing Pollution; and
5. Enforcing Environmental Laws.

The plan also includes five cross-cutting strategies aimed at helping EPA achieve its results (expanding the conversation on environmentalism; working for environmental justice and children's health; advancing science, research, and technological innovation; strengthening state, tribal, and international partnerships; and strengthening EPA's workforce and capabilities).

There are two objectives under the Protecting America's Waters goal: protecting human health and protecting and restoring watersheds and aquatic ecosystems. To protect human health, the strategy aims to have 90 percent of community water systems provide drinking water that meets health-based standards by 2015. The climate change goal is predominately focused on EPA's air programs. One of the measures toward addressing sustainable development is to use smart growth and sustainable development strategies in 600 communities across the country.

October 18, 2010

### **CEQ Recommends Actions For A National Climate Change Adaptation Strategy**

The White House Council on Environmental Quality (CEQ) released a report outlining federal policy goals to advance climate change adaptation on a national scale. The *Progress Report of the Interagency Adaptation Task Force: Recommended Actions in Support of a National Climate Change Adaptation Strategy* (online at [www.amwa.net/cs/climatechange](http://www.amwa.net/cs/climatechange)) says that the government must work with stakeholders to build resilience and reduce vulnerabilities to the inevitable impacts of climate change.

### **Annual Meeting Hotel Cancellation Policy**

A reminder: the Green Valley Ranch resort has a 48-hour advance cancellation policy. If you have a room at Green Valley Ranch and find that you need to cancel your reservation, please first contact AMWA's Eugenia Cadena at 202-331-2820 or [cadena@amwa.net](mailto:cadena@amwa.net). We have a waiting list of meeting participants who would like your room and will work with the hotel to transfer your reservation.

The report discusses the importance of climate adaptation and also current federal efforts that support national adaptation. The report identifies five policy goals and recommends actions for each goal. The goals and some of the supporting actions are:

1. encourage and mainstream adaptation planning across the federal government using a phased and coordinated approach;
2. improve integration of science into decision making, including building science translation capacity to meet the needs of decision makers;
3. address key cross-cutting issues, including improving water resource management in a changing climate and building resilience to climate change in communities;
4. enhance efforts to lead and support international adaptation; and
5. coordinate capabilities of the federal government to support adaptation, including building partnerships to increase the government's responsiveness to support local, state and tribal needs and developing performance metrics for federal efforts.

In the coming months, CEQ will release instructions to individual federal agencies about how to implement the report's recommendations. Individual agencies will be initiating a formal adaptation process with the support of the Office of the Federal Environmental Executive.

### **EPA Announces Public Meeting To Discuss Long-Term LCR Revisions**

EPA will hold a stakeholder meeting on November 4 from 9 a.m. to 4 p.m. at the Philadelphia Convention Center to provide information to the public and to hear public input on its plans to evaluate long-term revisions to the Lead and Copper Rule (LCR). In the October 14 *Federal Register* (75 FR 63177), EPA



notes that discussion topics will include lead service line replacement, monitoring procedures, sample site selection and actions that can be taken at schools.

A teleconference line will be available for individuals unable to attend the meeting in person. To register for the meeting or for teleconference information, contact Junie Percy of IntelliTech (937-427-4148 or [junie.percy@itsysteminc.com](mailto:junie.percy@itsysteminc.com)). For information about meeting content, contact Jerry Ellis at EPA's Office of Ground Water and Drinking Water at 202-564-2766 or [ellis.jerry@epa.gov](mailto:ellis.jerry@epa.gov).

### **AMWA Submits Comments On Proposed RTCR**

AMWA submitted comments on EPA's proposed revisions to the Total Coliform Rule (RTCR) on October 13. In addition to responding to 41 of EPA's 57 requests for comment, the 31-page letter (online at [www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes) under "Comments Recently Submitted") includes several recommendations. One paramount item is a rationale for the association's support of the Total Coliform Rule/Distribution System Advisory Committee Agreement in Principle (AIP) as the preferred option for the final rule and strong encouragement of EPA to finalize the rule based on the AIP.

The letter also includes recommendations for developing compliance metrics, improved public notice and research priorities. AMWA urges EPA to make clear in the final rule and in guidance that "sanitary defects" is a separate issue from significant deficiencies in the Ground Water Rule and that an acceptable outcome of an assessment under the RTCR can be that no sanitary defects have been found. Several AMWA member utilities submitted comments on the rule proposal. EPA is expected to finalize the RTCR in 2012.

### **AMWA Letter Supports EPA's Proposed Changes To TSCA Rule**

Last week AMWA submitted a two-page letter supporting EPA's plans to tighten reporting requirements for companies that manufacture and import chemicals under the Toxic Substance Control Act Inventory Update Reporting rule. The letter, online at [www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes), supports the proposed changes as a pathway toward meeting EPA's goals outlined in both its FY 2011-2015 Strategic Plan and its Drinking Water Strategy. AMWA's letter says that the increased data that will be generated by the changes to the reporting rule will work "toward ensuring that decisions made for new and existing chemicals are protective of drinking water."

### **EPA And DOE Release New Contaminant Detection Software**

New water quality software from EPA and DOE is designed to enhance a water system's ability to detect intentional or unintentional contamination by a wide variety of chemical and biological contaminants, including pesticides, metals and pathogens. CANARY software helps to distinguish between natural variation in water quality measurements and hazardous contamination, and sends an alarm to indicate when water utilities should investigate and respond to potential contamination.

EPA and DOE's intentions are that utilities will use CANARY to enhance day-to-day water quality management and ensure the safety and security of water for all consumers. More on CANARY can be found at: [www.epa.gov/nhsrc/news/news122007.html](http://www.epa.gov/nhsrc/news/news122007.html).

**November 8, 2010**

### **Midterm Election Results Will Have Implications For Water Industry**

The much-anticipated “wave” election came to fruition last week as voters swept Republicans into control of the House of Representatives and handed the party substantial gains in the Senate. With just a few races left to be formally decided, Republicans gained a net of at least 60 House seats – far more than the 39 they needed to take the majority of the chamber. In the Senate the GOP gained 6 seats – short of the 10 needed to take the majority but a showing in line with most pre-election predictions.

Notable casualties among House incumbents included Democratic Minnesota Congressman James Oberstar, Chairman of the Transportation and Infrastructure Committee and author of legislation to reauthorize the Clean Water State Revolving Fund. Oberstar had also authored a controversial bill to extend jurisdiction of the federal Clean Water Act to the “waters of the United States” – as opposed to its current application to the nation’s “navigable waters.”

In the Senate, Agriculture Committee Chairwoman Blanche Lincoln of Arkansas – who would have played a leading role in writing the next Farm Bill – overwhelmingly lost her seat to Rep. John Boozman, who is currently the leading Republican on the House Water Resources and Environment Subcommittee. But Senate Majority Leader Harry Reid held onto his seat after fending off a strong challenge. Reid has been an ally of the water sector on climate-related issues and is a leading supporter of the proposed “Blue Bank for Water System Mitigation and Adaptation.”

The one remaining undecided Senate race is in Alaska, where Energy and Natural Resources Committee Ranking Republican Lisa Murkowski appears to be leading through a write-in campaign. Verifying write-in votes is a slow process, however, and final the results will probably not be known for weeks.

### **Members Position Themselves For Leadership Positions, Committee Chairmanships**

Now that voters across the country have had their say, a new round of elections will take place on Capitol Hill as members of Congress must choose their party leaders for the 112<sup>th</sup> Congress.

#### **This Week In Congress**

Representatives and Senators return to Washington next week to convene a post-election lame duck session to wrap up the outstanding business of the 111<sup>th</sup> Congress. Leaders expect Congress to be in session for one week, then break for the week of Thanksgiving and return to Washington again on November 29.

Both sides generally agree that two major issues must be resolved before the end of the year: an omnibus spending bill to fund government operations throughout the 2011 fiscal year, and an extension of the Bush-era tax cuts. Of those issues, the omnibus may be resolved first, as reports from Capitol Hill indicate the parties may be close to agreeing on a \$1.1 trillion package.

Current House Minority Leader John Boehner (R-Ohio) is in line to become Speaker next year, with Virginia Rep. Eric Cantor expected to serve as his Majority Leader. Outgoing Speaker Nancy Pelosi (D-Calif.) will make a run for House Minority Leader, but may face a challenge from a Democratic moderate such as North Carolina's Heath Shuler.

Leadership will stay fairly constant in the Senate, where Democrats will maintain control and current Majority Leader Harry Reid of Nevada won his reelection bid. Republican Mitch McConnell of Kentucky will continue as Minority Leader. In the Environment and Public Works Committee, Sen. Barbara Boxer of California will keep her chairmanship while Oklahoma's James Inhofe will return as Ranking Republican.

One of the more interesting committee chairmanship battles will play out in the House Energy and Commerce Committee, which holds jurisdiction over EPA and federal drinking water policy. Current Ranking Republican Joe Barton of Texas would like to reclaim the gavel he held during the 109<sup>th</sup> Congress, but he drew criticism this summer after his much-publicized "apology" to BP following the Gulf of Mexico oil spill. Therefore, Michigan Republican Fred Upton – who is currently the lead Republican on the Energy and Environment Subcommittee – may end up as full-committee chairman. On the Democratic side, current full-committee chairman Henry Waxman (D-Calif.) will likely assume the role of Ranking Democrat.

### **New Legislative Agenda To Be Shaped By Last Tuesday's Outcome**

Once the dust of the election settles and new committee assignments and chairmanships are finalized, many of the biggest legislative issues that have confronted the water sector in recent years face an uncertain future. Most notably, House Republicans will have no appetite for water facility security legislation that would force local water systems to consider or implement "inherently safer technology" (IST). Instead, Republicans may seek to make permanent the temporary CFATS security program that applies to private chemical facilities, but are unlikely to eliminate the water sector's CFATS exemption, which itself was created by a Republican-controlled Congress in 2006. The water sector could, however, face pressure to conform to new EPA-based security rules, such as required updates of vulnerability assessments.

Comprehensive climate change legislation is dead for the foreseeable future, as last year's vote in favor of cap-and-trade legislation came back to haunt many moderate House Democrats. But President Obama and some congressional leaders have signaled a desire to address climate issues through a series of smaller measures, which could leave room for future discussion of a climate adaptation program for water utilities.

Federal spending will be a hot item of discussion next year. Some Republicans have already made calls to reduce non-defense discretionary appropriations to fiscal year 2008 levels and to eliminate congressional earmarks, at least for next year. Additionally, House Republicans will probably look to tighten EPA's budget and restrict its ability to implement new carbon emissions rules.

Finally, the new Congress may push reauthorization of the Drinking Water and Clean Water SRFs back to square one, as House Republicans may want to put their own stamp on the SRF bills that passed the House (but died in the Senate) during this Congress. It is unclear how Republicans will react to other

infrastructure funding proposals that could serve as attractive job creators, but might also be hampered by spending levels that draw opposition in a budget-conscious environment.

### **Deadline Is November 24 To Participate In Comprehensive Financial Indicator Study**

Many AMWA member utilities have already submitted their completed 2010 survey forms, but there is still time to participate and become part of the most comprehensive financial indicator study in the industry. As the UFI database develops and expands, it becomes an increasingly valuable management tool for AMWA members. AMWA needs the participation of as many members as possible to create the most robust utility financial information repository.

The survey period will close on **November 24**. The survey form in Excel format is available online at [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi) or by contacting Carolyn Peterson at [peterson@amwa.net](mailto:peterson@amwa.net) or 202-331-2820.

### **Stakeholder Comments At EPA Lead And Copper Rule Meeting Highlight Challenges Ahead**

At the opening of EPA's stakeholder meeting on possible long-term regulatory revisions for the Lead and Copper Rule (LCR) on November 4, the agency noted that the LCR is one of the most significant but also one of the most complicated of EPA's drinking water regulations. Stakeholder comments throughout the day illustrated the many challenges associated with the rule, including public communication. A copy of the meeting agenda and presentations are available on AMWA's Regulatory Committee page ([www.amwa.net/cs/members\\_only/regulatory\\_committee\\_notes](http://www.amwa.net/cs/members_only/regulatory_committee_notes)).

During the meeting, EPA asked for feedback on several rule changes it is considering, although agency staff noted that it is still "very early in the rulemaking process." For example, EPA is considering modifying:

- the definition of the tiering classifications for monitoring sites;
- the sampling requirements for copper to include sampling for new copper installations; and
- the sampling protocol for non-residential buildings (i.e., schools), possibly requiring sampling in school buildings.

EPA also discussed selected research results from partial lead service line (LSL) replacements. Several stakeholders at the meeting voiced concern about the practice of partial LSL replacements instead of full LSL replacements. Many stakeholders also asked whether EPA is considering lead in drinking water as an environmental justice issue. Some stakeholders suggested that EPA should be concerned with particulate lead exposure in residential homes. One stakeholder suggested that EPA consider having two monitoring standards: one to address the efficacy of corrosion control treatment and the other to address lead exposure at the tap.

AMWA will provide additional information in the upcoming November *Regulatory Report*. EPA will release a summary of the meeting in the coming months.

### **Environmental Working Group Plans Report On Chromium VI**

The Environmental Working Group (EWG) has informed AMWA of its plans to release a report on hexavalent chromium [Cr(VI)] in tap water. EWG obtained total chromium (Cr) and Cr(VI) monitoring

data from the state of California and then reportedly performed its own investigation of Cr concentrations in tap water in 35 cities around the country. A total of 31 samples had detectable levels of Cr and of those samples, 25 had Cr(VI) concentrations above California's public health goal of 0.2 ppb. EWG plans to use its report to encourage EPA to promulgate a national rule for Cr(VI).

In contrast, EPA's April 2010 draft IRIS toxicological review of Cr(VI) specifies a reference dose of 0.0009 mg/kg-day, which leads to a drinking water equivalent level of 31.5 ppb. The draft is currently undergoing peer review (see <http://tinyurl.com/396ftad>).

**New On The AMWA Website: Annual Meeting Presentations; Roundtable "Surviving Recession" Ideas/Contacts; New Podcasts**

There's a lot of valuable new content on AMWA's website. Just posted are the PowerPoint presentations from speakers at the 2010 Annual Meeting. The link is on the front page at [www.amwa.net](http://www.amwa.net).

Also available are the lists compiled from the Annual Meeting roundtable discussions on Surviving Recession. Ideas that emerged from the discussions, along with contact information, are found on the Member-to-Member page at [www.amwa.net/cs/member\\_inquiry](http://www.amwa.net/cs/member_inquiry).

Finally, you'll find the latest podcasts from AMWA staff describing the top news from the current *Congressional Report*, *Regulatory Report* and *Water Security Scan*. These resources also link from the front page at [www.amwa.net](http://www.amwa.net).

**November 22, 2010**

### **Congress In Thanksgiving Recess**

The House and Senate are in recess this week for the Thanksgiving holiday and will return the week of November 29. There will be no *Monday Morning Briefing* next week, and the AMWA office will be closed for the holiday on Thursday and Friday, November 25-26.

### **Lieberman Declares Cybersecurity Bill Dead For The Year**

Senate Homeland Security and Governmental Affairs Committee Chairman Joe Lieberman (I-Conn.) said last week that the Senate will not act on cybersecurity legislation during the lame-duck session, effectively punting the issue to the next Congress.

Speaking at a hearing on the Stuxnet computer worm that has targeted the control systems of critical infrastructure facilities, Lieberman said that cybersecurity remains an urgent concern, but that “the clock is going to run out” on the current Congress before a cyber bill can be finalized.

Lieberman and Homeland Security Committee Ranking Republican Susan Collins (R-Maine) introduced the “Protecting Cyberspace as a National Asset Act” (S. 3480) earlier this year. The proposal would require the owners and operators of certain critical infrastructure assets to meet minimum cybersecurity performance requirements developed by DHS and sector specific agencies, such as EPA for the water sector. Lieberman and Collins have been working to merge the bill with a similar proposal (S. 773) that was approved by the Commerce, Science and Transportation Committee in March.

Meanwhile, House Homeland Security Committee Chairman Bennie Thompson (D-Miss.) introduced similar legislation in the House of Representatives last week. However, the bill (H.R. 6423, the “Homeland Security Cyber and Physical Infrastructure Protection Act”) is not expected to receive a vote before the end of the year.

### **UFI Survey Deadline Extended To December 10**

To allow more utilities to complete their Utility Financial Information surveys, the survey deadline will be extended until Friday, December 10. While many AMWA members have already completed the survey process, greater participation is needed to provide a robust database.

Utilities that participated in the first UFI survey can use a survey form that is pre-populated with their earlier answers. With just a click, you can copy any answers that remain the same, significantly reducing the time required to complete the survey. To obtain your pre-populated survey form, contact Carolyn Peterson ([peterston@amwa.net](mailto:peterston@amwa.net) or 202-331-2820).

If this is your first time participating in the UFI survey, the deadline extension allows plenty of time to complete the survey form. A copy of the survey (in Excel format) can be downloaded from the AMWA website at [www.amwa.net/cs/ceo\\_resources/ufi](http://www.amwa.net/cs/ceo_resources/ufi).

## **Senators Aim To Pass WRDA Authorization In 2011**

The leaders of the Senate Environment and Public Works Committee last week voiced bipartisan approval for passing a Water Resources Development Act (WRDA) next year, despite growing concerns about federal spending and earmarking practices.

At a committee hearing, Chairman Barbara Boxer (D-Calif.) and Ranking Republican James Inhofe (R-Okla.) each praised WRDA as vital legislation that facilitates commerce and supports thousands of jobs across the country. WRDA authorizes federal funding for a variety of U.S. Army Corps navigation, flood control and environmental restoration projects. Congress generally tries to pass a WRDA bill every two years, although the most recent one was enacted in 2007.

While Sens. Boxer and Inhofe hope to advance WRDA through their committee next year, the new atmosphere of fiscal discipline on Capitol Hill may complicate the ultimate prospects of the bill. Some critics complain that the hundreds of individual project authorizations in WRDA bills constitute earmarks, which Republican leaders in the House and Senate plan to ban next year. Additionally, critics argue that the \$60 billion backlog of authorized U.S. Army Corps projects should be funded before additional projects are added to the list.

In the House, the Transportation and Infrastructure Committee approved a \$6 billion WRDA bill in July, but it has not seen action on the House floor. It is not clear whether the Committee's new Republican leadership will reintroduce that bill again next year.

## **Boehner, Pelosi Come Out On Top In House Leadership Elections**

Republicans in the House of Representatives voted last week to formally nominate Ohio Rep. John Boehner as their choice for the next Speaker of the House. Boehner will officially become Speaker in January, following a vote by all members of the House. Republicans also chose Virginia's Eric Cantor to serve as their majority leader next year and Kevin McCarthy of California to serve as majority whip.

On the Democratic side, current Speaker Nancy Pelosi of California survived a symbolic challenge from North Carolina's Heath Shuler to win the post of minority leader in the 112<sup>th</sup> Congress. Maryland's Steny Hoyer will serve as minority whip, and James Clyburn of South Carolina will take the newly created position of assistant leader.

## **NDWAC To Discuss Climate Change And Future Regulations**

The National Drinking Water Advisory Council (NDWAC) will meet December 8-9 in Washington, D.C., to discuss the Climate Ready Water Utility Work Group report, as well as EPA's drinking water strategy, the underground injection control program and proposed revisions to the Total Coliform Rule. The meeting is open to the public. For additional information, consult the November 19 *Federal Register* notice: <http://tinyurl.com/12-8-9NDWAC>.

## **EPA Expands List Of Chemicals For Testing Under Endocrine Disruptor Screening Program**

Last week EPA published a second list of chemicals for Tier 1 screening under the Endocrine Disruptor Screening Program. The 134 contaminants on the list include pesticides, industrial chemicals,

components of personal care products and pharmaceuticals. In developing the list, EPA considered contaminants that are regulated under the SDWA or that are on the agency's Contaminant Candidate List.

EPA also published for comment Draft Policies and Procedures for Screening Safe Drinking Water Act Chemicals. The policies explain required procedures for manufacturers or importers of chemicals that could be found in drinking water sources. Section 1457 of the SDWA authorizes EPA to require – per Section 408(p) of the Federal Food, Drug, and Cosmetic Act (FFDCA) – the testing of “any substance that may be found in sources of drinking water, based on a determination that a substantial population may be exposed to such a substance.” The FFDCA also requires EPA to develop a screening program to determine whether certain chemicals have “an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other effects as [EPA] may designate.”

EPA is accepting comments on the expanded list of chemicals and the draft policies and procedures until January 18, 2011. Additional information is online at [www.epa.gov/endo](http://www.epa.gov/endo).

### **Final Water Quality Standards For Florida Announced**

In a November 15 press release, EPA announced that it had finalized “common sense standards” to protect Florida's waters from harmful algal blooms caused by nitrogen and phosphorus pollution. The press release, fact sheets and a prepublication version of the rule are online at <http://tinyurl.com/FlaRegs>.

EPA said that it listened carefully to the comments it received on the proposal and crafted a final rule that responded to stakeholder concerns in several ways including:

- adding a 15-month effective date (following publication in the *Federal Register*);
- providing more flexibility in the development and implementation of lake downstream protection values; and
- establishing a procedure for deriving a federal site-specific alternative criteria (SSAC) provision, where site-specific technical and science data support the need for refinements to the federal criteria.

Following EPA's announcement, three environmental groups filed a complaint with the U.S. District Court for the Northern District of Florida, calling on the court to invalidate the portion of the agency's final rule that allows any public or private entity to petition for an SSAC for a given water body.



**December 6, 2010**

### **“Lead-Free” Legislation Inches Forward**

The Senate Environment and Public Works Committee last week approved legislation that would lower the federal “lead-free” standard for newly installed pipes and plumbing fixtures to a weighted average of no more than 0.25 percent lead. The “Reduction of Lead in Drinking Water Act” (S. 3874) will now advance to the full Senate for consideration.

The bill has bipartisan support and has been endorsed by AMWA and other water sector organizations, but the largest obstacle to its passage may be the limited time remaining on the year’s legislative calendar. If the full Senate acts on the bill in the coming weeks, the legislation will have to pass the House before the President signs it.

The Safe Drinking Water Act allows pipes and plumbing fixtures to contain up to 8.0 percent lead, but the 0.25 percent standard proposed in S. 3874 would match the new California standard.

### **December 10 Is Deadline For UFI Survey, Leadership Center Registration**

AMWA’s 2010 Utility Financial Information survey will close this Friday, December 10. The participation level is high, but additional input is sought to provide a more robust database. Any utility needing additional time to complete the survey is asked to contact Carolyn Peterson, [peterson@amwa.net](mailto:peterson@amwa.net) or 202-331-2820.

Applications for the 2011 Water & Wastewater Leadership Center are also due December 10. Space is still available for this executive education program, scheduled for March 6–18, 2011 at the Kenan-Flagler Business School, University of North Carolina-Chapel Hill. Visit [www.amwa.net/cs/leadership\\_center](http://www.amwa.net/cs/leadership_center) to download the 2011 Leadership Center brochure and application.

### **Congress Funds Federal Government Through December 18**

With Democrats and Republicans still working on a federal spending plan for the 2011 fiscal year, Congress last week voted to temporarily extend funding through December 18. The previous continuing resolution (CR) to fund the government was set to expire Friday, December 3.

#### **This Week In Congress**

Congress is in lame duck session, as Democrats and Republicans negotiate 2011 federal funding and the Bush-era tax cuts. Other issues planned for debate include an extension of unemployment benefits and a bill to grant legal status to children of illegal immigrants.

The new CR also extends the Department of Homeland Security's CFATS chemical facility security program through December 18, but does not impact the water sector's exemption from the program. It is widely expected that CFATS will be extended in its current form for the entire 2011 fiscal year when Congress agrees on a final 2011 spending plan.

### **Aspen Institute Highlights Top Ten EPA Accomplishments**

In celebration of EPA's 40th anniversary, the Aspen Institute released a report, *10 Ways EPA Has Strengthened America*, online at [www.aspeninstitute.org](http://www.aspeninstitute.org). According to EPA's press release about the report (<http://tinyurl.com/EPAonAspen40>), the Institute convened more than "20 environmental thought leaders," including several former EPA officials, to compile the list.

The top ten EPA accomplishments are:

1. Banning widespread use of DDT
2. Removing the acid from rain
3. Rethinking waste as materials
4. Removing lead from gasoline and from the air
5. Clearing secondhand smoke
6. Vehicle efficiency and emissions control
7. A clean environment for all (environmental justice)
8. Controlling toxic substances (Toxic Substances Control Act)
9. Cleaner water (Clean Water Act)
10. Public information and community right to know (Emergency Planning and Community Right-to-Know Act and Toxics Release Inventory).

### **Study Questions Effectiveness Of Partial Lead Service Line Replacement**

A study by scientists at the Centers for Disease Control (CDC) concludes that partial lead service line (LSL) replacements may not decrease the risk of elevated blood lead levels (BLLs) in children associated with LSL exposure. The article in press [Brown, M.J. et al. *Association between children's blood lead levels, lead service lines, and water disinfection*, Washington, DC 1998-2006. *Environ. Res.* (2010), doi: 10.1016/j.envres.2010.10.003] can be accessed at <http://tinyurl.com/cdc-LSLstudy>.

### **House GOP To Disband Global Warming Committee**

The House Select Committee on Energy Independence and Global Warming will disband at the end of the year, four years after the panel was created to spotlight the issue of climate change. Ranking Republican James Sensenbrenner of Wisconsin – who was in line to become the committee's chairman next year – made the announcement at a committee hearing last week.

The demise of the Select Committee had been widely expected following last month's Republican victories. Democratic leaders created the committee in 2006, but it was never given authority to mark up pending legislation. The panel instead focused on holding hearings and issuing reports, but its lack of legislative authority ensured that it would only play a minor role in the climate change debate.

Last month Rep. Sensenbrenner argued that the committee should be refashioned to focus on oversight of EPA's climate change regulations and the Obama Administration's negotiation of international climate

change agreements, but the argument was ultimately rejected by GOP leaders seeking to streamline House operations.

### **EPA Enlists National Academies In Its Sustainability Mission**

EPA commissioned the National Academies National Research Council (NRC) in "a groundbreaking effort to incorporate sustainability into the way the agency approaches environmental protection." The effort asks the NRC to develop a "Green Book" to assist EPA in linking and coordinating its various functions, including air, water and land protection. In a press release, the agency likened the effort to the 1983 Red Book, published by the NRC to help EPA to systematize risk assessment and risk management. Information about the NRC study, including a preliminary list of committee members, is online at [www8.nationalacademies.org/cp/projectview.aspx?key=49280](http://www8.nationalacademies.org/cp/projectview.aspx?key=49280). The National Academies will take comments on the makeup of the NRC committee until December 21.

### **Partnership For Safe Water Launches Distribution System Optimization Program**

Beginning January 1, 2011 the Partnership for Safe Water will accept applications for its new Distribution System (DS) Optimization Program. Patterned after the Partnership's Water Treatment Program, the DS Optimization Program includes four phases: commitment, baseline and annual data collection, self-assessment and optimized performance. Utilities that join by March 31 gain benefits as charter members. Additional information about the new program is online at [www.partnershipforsafewater.org](http://www.partnershipforsafewater.org).

### **New Podcasts On AMWA Website**

The latest podcasts from AMWA staff describing the top news from the current *Regulatory Report* and *Water Utility Executive*, as well as a climate change update, are now online at [www.amwa.net/cs/news/podcasts](http://www.amwa.net/cs/news/podcasts).

### **Water For People Urges Holiday Contributions To Save Lives**

Water For People is making a special holiday appeal to raise needed funds in its mission to address the lack of access by hundreds of millions of people to safe water and sanitation. More than 4,000 children die every day from preventable waterborne diseases. Your donation will be a humanitarian investment to transform hundreds of thousands of lives. If you already support Water For People, please consider making an additional gift in this season of giving. If you're not currently supporting Water For People, now is the time to help combat this worldwide crisis. Make a difference today by visiting [www.waterforpeople.org](http://www.waterforpeople.org). Donations postmarked before December 31, 2010, are eligible for a 2010 tax deduction.

December 13, 2010

### **One Senator Holding Up “Lead-Free” Legislation**

Republican Senator Tom Coburn of Oklahoma late last week continued to impose a hold on bipartisan legislation that would lower the Safe Drinking Water Act’s standard for “lead-free” pipes and plumbing fixtures. The legislation (S. 3874) enjoys wide support among Democrats, Republicans and water sector associations.

If Sen. Coburn removes his hold, the bill could quickly pass the Senate under a procedure known as unanimous consent. The measure would then go to the House of Representatives for final approval. But if the hold remains, the Senate will not have time to consider the measure before it adjourns for the year, and supporters will have to begin work on the bill from scratch in the new congress.

### **Supreme Court Refuses To Hear Water Transfers Case Appeal**

The Supreme Court on November 29 rejected an appeal by Friends of the Everglades (FOE) in the water transfers case *Miccosukee Tribe of Indians v. South Florida Water Management District* (SFWMD). FOE, a co-plaintiff with the Miccosukee, asked the Supreme Court to overturn the 2009 11th Circuit Court of Appeals’ ruling rejecting the need for NPDES discharge permits in basin-to-basin transfers. The Circuit Court found that SFWMD’s discharges from three pumping stations that move water from canals into Lake Okeechobee do not require NPDES permits. The plaintiffs argued that the discharges contained high levels of nutrients and other contaminants. Water systems such as New York City DEP have been watching the case closely, given the potential, costly impact on moving raw water to treatment plants.

The suit became a test case for a 2007 Bush Administration policy directing that moving water from one basin to another does not constitute a discharge of pollutants into a water of the United States. Some observers suspected the Obama Administration would rescind the policy, but with the Supreme Court decision, that is now in doubt.

### **NDWAC Approves Climate Ready Utility Report**

During its December 8-9 meeting, the National Drinking Water Advisory Council (NDWAC) discussed the report produced by the Council’s Climate Ready Utilities Working Group (CRUWG) and commended the working group in producing a high-caliber report.

#### **This Week In Congress**

House and Senate leaders plan to adjourn the 111<sup>th</sup> Congress at the end of this week but significant business remains to be done. Aside from finalizing an appropriations bill to fund the federal government in 2011, the House and Senate must agree on a plan to address the expiring Bush-era tax cuts and may also consider another version of legislation to end the military’s “Don’t Ask, Don’t Tell” policy.

AMWA provided public comments on the document, stating that the CRUWG recommendations should be adopted by EPA “in a holistic, integrated and sustainable way, just as climate change must be considered holistically in the context of the daily management of water resources by the nation’s water, wastewater and stormwater utilities.” AMWA’s comments urged the NDWAC to emphasize to the EPA Administrator that the agency should see the report as a framework to help it consider how to strategically and systematically address climate change and water, not only within the Office of Water but also across EPA’s other program offices, as well as in partnership with other federal agencies.

The Council voted to transmit the report to Administrator Jackson with a letter that reflects AMWA’s recommendations.

### **EPA Updates NDWAC On Several Initiatives**

During the NDWAC meeting, EPA also provided the Council with updates on its drinking water strategy, research program and hydraulic fracturing.

With regard to the drinking water strategy, EPA said if it does not decide to regulate carcinogenic VOCs as a group, then it will move forward with revising the drinking water standards for PCE and TCE in the spring of 2011.

The NDWAC also learned that the research arm of EPA is embarking upon a systems approach to research to consider environmental problems in a more holistic, integrated and “transdisciplinary” way. The new approach will include looking to other partners, including universities and federal agencies, to help EPA meet its research goals.

Finally, the NDWAC was updated on EPA’s efforts related to hydraulic fracturing. EPA reported that its Region VI office issued an order under SDWA Section 1431(a) to a natural gas drilling company after tests confirmed two private drinking water wells were found to be contaminated with methane, benzene and other constituents.

### **Upton Wins Energy And Commerce Gavel As House Committee Leaders Are Confirmed**

House Republicans last week selected Rep. Fred Upton of Michigan to chair the powerful Energy and Commerce Committee in the 112<sup>th</sup> Congress. Upton currently serves as the lead Republican on the panel’s Energy and Environment Subcommittee. In a memo sent to House Republicans last week, Upton pledged to implement a conservative committee agenda focused on “cutting spending, removing the regulatory burden, restoring freedom, keeping government accountable through rigorous oversight, and jobs.” Upton did not mention any drinking water policy issues in his memo, but like most other Republicans, he firmly opposes security proposals that would allow the government to impose so-called “inherently safer technology” mandates on water utilities.

Other Republicans chosen to chair committees in the 112<sup>th</sup> Congress include Florida’s John Mica (Transportation and Infrastructure), New York’s Peter King (Homeland Security), Hal Rogers of Kentucky (Appropriations), Washington’s Doc Hastings (Natural Resources) and Ralph Hall of Texas (Science and Technology).

## **Water Trust Fund Supporter May Chair Energy And Environment Subcommittee**

Following Rep. Fred Upton's victory in the race to chair the House Energy and Commerce Committee, reports from Capitol Hill said that Upton would select Kentucky Republican Ed Whitfield to lead the panel's Energy and Environment Subcommittee, which has direct jurisdiction over drinking water issues. Notably, Whitfield is one of only four Republican cosponsors of H.R. 3202, legislation introduced last year by Rep. Earl Blumenauer (D-Ore.) to create a water trust fund to finance drinking water and wastewater infrastructure improvements. As chairman of the Energy and Environment Subcommittee, Whitfield would have an opportunity to hold hearings on the proposal, as well as other infrastructure funding options.

## **House 2011 Federal Spending Plan Cuts Earmarks, Extends CFATS**

The House of Representatives sought to finalize the federal government's 2011 budget in one massive bill last week, approving a nearly \$1.1 trillion continuing resolution (CR) that roughly continues FY10 funding levels for most federal programs for the remainder of the 2011 fiscal year. The CR funds EPA at about \$300 million below its 2010 appropriation of \$10.3 billion, charges the agency with setting a funding level for the Drinking Water and Clean Water State Revolving Fund (SRF) programs and eliminates SRF earmarks in 2011. Elsewhere in the CR, the Department of Homeland Security's CFATS chemical facility security program would be extended through October 4, 2011. The extension does not impose any "inherently safer technology" requirements on chemical facilities and maintains the water and wastewater sector's exemption from CFATS.

The CR must now pass the Senate to become law, but Senate Appropriations Committee Chairman Daniel Inouye (D-Hawaii) plans to attempt to swap the House-passed bill with an omnibus spending plan that includes similar funding levels, but also millions of dollars in earmarks. Meanwhile, Senate Republicans are expected to push for a short-term CR that would only fund the government through February – thus giving the new Republican House majority an opportunity to pass their own federal spending plan early next year.

## **Final Carbon Sequestration Rule Published**

The final rule that establishes permitting and other requirements under the Underground Injection Control (UIC) program for carbon dioxide geosequestration (GS) wells was published in the *Federal Register* on December 10 (75 FR 77230). The regulation is effective January 10, 2011. Additional information is in the November *Regulatory Report* ([www.amwa.net/cs/members\\_only/regulatory\\_report](http://www.amwa.net/cs/members_only/regulatory_report)).

## **Leadership Center Adds "Leading Organizational Change" Simulation To Curriculum, Application Deadline Extended**

For the first time, the Water & Wastewater Leadership Center will include a computer simulation called *Leading Organizational Change*. This curriculum enhancement offers a rigorous exercise for executives to get real-time practice planning and implementing change that introduces and promotes the effective use of change theory, tools and techniques.

Space is still available for the 12-day executive leadership program, and **the application deadline has been extended to December 31**. The session will take place March 6–18, 2011, at the Kenan-Flagler Business School at the University of North Carolina - Chapel Hill. Information and an application form

can be downloaded from AMWA's website: [www.amwa.net/cs/leadership\\_center](http://www.amwa.net/cs/leadership_center).

### **Florida Sues EPA Over Water Quality Standards**

Last week, the state of Florida filed a lawsuit seeking to block EPA's rule: *Water Quality Standards for the State of Florida's Lakes and Flowing Waters*. The rule was published in the December 6 *Federal Register* (75 FR 75761). The lawsuit, by the Florida Department of Agriculture and Consumer Services, states EPA's actions in promulgating the rule are not based on a scientifically sound methodology. Studies by the state estimate that the cost of the rules will be nearly \$1 billion, while EPA estimates the cost will be approximately \$200 million.

### **WaterISAC Pro Webinar: Nashville's Response To Severe Flooding**

On January 12 at 2:00 p.m. (ET), WaterISAC will host a webinar featuring Scott Potter, Director of Nashville's Metro Water Services, who will discuss his utility's response to the devastating floods of May 2010. During that month, record-breaking levels of rainfall caused severe flooding and damage. Before the rainfall even stopped, Metro Water Services employees helped lead the response and recovery efforts. Potter will offer insights into his utility's experiences and provide a balanced assessment of the tactical and strategic challenges faced in dealing with flood levels unseen since the 1930s. To register for the webinar, go to: [https://portal.waterisac.org/web/event\\_signup.action](https://portal.waterisac.org/web/event_signup.action). The webinar is open to all WaterISAC Pro subscribers.

### **AMWA Urges EPA To Better Align CWA, SDWA Efforts**

In a December 9 letter to Assistant Administrator for Water Peter Silva, AMWA urged EPA to use the authorities it has under the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) to further protect the nation's drinking water sources. The letter reiterates AMWA's longstanding positions on pollution prevention and source water protection, noting the benefits of controlling pollutants at the source go beyond reducing the cost of end-of-pipe treatment to include ecosystem protection, economic revitalization and improved quality of life. The letter cites four specific examples of how the agency can align its clean water and safe drinking water programs and adds that promoting information sharing and collaborative policy development are important steps toward establishing a more comprehensive, systematic approach to watershed management. AMWA intends the letter to serve as the first step in a fresh dialogue with the Office of Water.

### **EPA Recognizes Nation's First WaterSense Labeled Homes**

EPA recently announced the first WaterSense labeled homes in the country. Four WaterSense labeled new homes, built by KB Home in Roseville, California, are expected to use about 20 percent less water than a typical new home. Each house includes WaterSense labeled plumbing fixtures, an efficient hot water delivery system, water-efficient landscape design, and other water and energy-efficient features. More information is available at [www.epa.gov/watersense](http://www.epa.gov/watersense).

December 20, 2010

### Happy Holidays From The AMWA Staff

With the 111<sup>th</sup> Congress winding down, *Monday Morning Briefing* will take a holiday until the 112<sup>th</sup> Congress convenes in January. Breaking news will be reported in *Special Briefings*. The AMWA office will be closed December 24 and 31. The staff sends holiday greetings and good wishes for the New Year to all our members and subscribers.

### “Lead-Free” Bill Clears Congress, Sent To President

After months of delays, legislation that would lower the federal “lead-free” standard for newly installed pipes and plumbing fixtures quickly passed the House and Senate last week. The bill (S. 3874, the “Reduction of Lead in Drinking Water Act”) now goes to President Obama, who is expected to sign it into law.

Originally introduced by Rep. Anna Eshoo, a version of the legislation was passed by the House as part of its Drinking Water State Revolving Fund reauthorization bill in May. But when the SRF bill stalled in the Senate, Sen. Barbara Boxer (D-Calif.) introduced S. 3874 and eventually attracted bipartisan support. The Senate passed the bill on Thursday, and the House of Representatives approved it on Friday.

S. 3874 will revise the Safe Drinking Water Act’s “lead-free” standard for pipes and plumbing fixtures, which currently allows such items to contain up to eight percent lead. The new standard will set the limit at a weighted average of no more than 0.25 percent lead. This matches the California state standard that took effect earlier this year.

As approved by Congress, S. 3874 will take effect in three years, and only applies to newly installed or repaired pipes and fixtures. The bill will not require utilities or consumers to prematurely replace any existing pipes.

### Environmental Working Group Report On Chromium VI Expected Today

The Environmental Working Group (EWG) notified AMWA last week that the group’s planned report on hexavalent chromium [Cr(VI)] in tap water is slated for publication this week. As previously reported in AMWA’s November *Regulatory Report*, EWG obtained total chromium (Cr) and Cr(VI) monitoring data from the state of California and then reportedly performed its own investigation of Cr and Cr(VI)

### This Week In Congress

Members of the Senate are expected to continue debate on the START treaty this week, with the goal of holding a final vote and adjourning for the year by Wednesday.

Meanwhile, the House plans to return this week to approve a continuing resolution that would fund federal government operations into the new year. This latest “CR” became necessary last week after Senate Democratic leaders failed to attract enough votes to pass an omnibus spending bill that would fund all federal agencies throughout 2011.



concentrations in tap water in 35 metropolitan areas around the country. A total of 31 samples had detectable levels of Cr and of those samples, 25 had Cr(VI) concentrations above California's proposed public health goal of 0.06 ppb. EWG's report could receive local press coverage in the 35 cities. EWG plans to use its report to encourage EPA to promulgate a national rule for Cr(VI).

### **Upton Shuffles E&C Subcommittees, Hands Shimkus SDWA Oversight**

Incoming House Energy and Commerce Committee Chairman Fred Upton (R-Mich.) last week reorganized the panel's subcommittee lineup and announced his choices for subcommittee chairmen.

The most notable shakeup impacts the current Energy and Environment Subcommittee, which Upton will split in two. The new Environment and Economy Subcommittee will be chaired by Illinois Republican John Shimkus and will focus on the Safe Drinking Water Act (SDWA), superfund, toxic substances and environmental regulations. Meanwhile, Rep. Ed Whitfield (R-Ky.) will chair the new Energy and Power Subcommittee.

Rep. Shimkus represents rural Illinois, has a reputation as a conservative and has experience with oversight of EPA and SDWA. In the 110<sup>th</sup> Congress he was the lead Republican on the Subcommittee on Environment and Hazardous Materials, and more recently he was a strong opponent of proposals to allow the government to require water systems to implement so-called "inherently safer technologies" related to chemical security.

Outgoing Energy and Commerce Chairman Henry Waxman (D-Calif.) will serve as the panel's ranking Democrat next year. He has not yet announced his choice of lead Democrats for each subcommittee.

### **Billing & Collection Member Inquiry Extended To January 14**

The Member-to-Member Inquiry from Minneapolis Water Works, seeking information on the cost of billing and collecting receivables, has been extended from December 17 to January 14 to allow more utilities to respond. Minneapolis developed the survey to help set benchmarks and measure efficiency. The survey link is [www.surveymonkey.com/s/MinneapolisWaterWorksBillingandCollection](http://www.surveymonkey.com/s/MinneapolisWaterWorksBillingandCollection). Questions about the survey should be directed to Ray Morales, Treasury Operations Manager, at [Ramon.Morales@ci.minneapolis.mn.us](mailto:Ramon.Morales@ci.minneapolis.mn.us) or 612-673-2404. Inquiry responses will be compiled by Minneapolis and made available on the AWWA website under CEO Resources.

### **Leadership Center Application Deadline Extended**

Space is still available for 2011 Water and Wastewater Leadership Center, and the application deadline has been extended to December 31. The 12-day executive leadership program will take place March 6–18, 2011, at the Kenan-Flagler Business School at the University of North Carolina - Chapel Hill. Information and an application form can be downloaded from AWWA's website: [www.amwa.net/cs/leadership\\_center](http://www.amwa.net/cs/leadership_center).

December 23, 2010

## **EPA Responds To Cr-VI Report; Plans to Issue Guidance for Utilities**

In response to the Environmental Working Group (EWG) report on chromium-6 (Cr VI), EPA Administrator Lisa Jackson announced a sequence of actions the agency will take to address the contaminant in drinking water.

Citing the EWG study as only a “snapshot in time,” Jackson said that EPA would:

1. Work with local and state officials to better “understand the prevalence of the problem”;
2. Issue guidance to all water systems in the U.S. to help them to develop a monitoring and sampling program tailored specifically for Cr VI.
3. Offer “significant technical assistance” to the communities cited in the EWG report as having high levels of Cr VI to help them quickly develop and effective monitoring program.
4. Work quickly to determine if new standards need to be set once the draft risk assessment for the chemical has been through peer review.

Jackson’s statement came after a meeting called by several senators in the wake of press coverage of the EWG report. In a separate action, Senators Barbara Boxer (D-Calif.) and Dianne Feinstein (D-Calif.) asked Jackson to decide whether to issue a health advisory for Cr VI.

Jackson also noted that with the draft risk assessment out for peer review, EPA is already on a path toward identifying and addressing any potential health threats from excessive, long-term exposure of the chemical. “Strong science and the law will continue to be the backbone of our decision-making at EPA,” Jackson said.

AMWA will continue to communicate with EPA about this issue and provide additional information to members about EPA’s planned actions as it becomes available.

Additional information about chromium, including recent statements from Administrator Jackson and a link to the ongoing Cr VI risk assessment, is at [EPA's website](#).

## **Sen. Boxer Plans Cr-VI Legislation, Hearings**

Reaction to the Environmental Working Group chromium-6 report stretched to Capitol Hill this week, as Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) announced plans to introduce legislation that would set a deadline for EPA to set an enforceable drinking water standard for the chemical.

In a [letter](#) to EPA Administrator Jackson, Sen. Boxer and Sen. Dianne Feinstein (D-Calif.) said that their forthcoming legislation would call for EPA's chromium-6 standard to be set at "a level that protects the most vulnerable in our communities – including pregnant women and children." Boxer and Feinstein took a similar approach in 2007 when they introduced legislation that would have required EPA to establish a drinking water standard for perchlorate that was "fully protective" of "vulnerable persons" such as pregnant women and infants.

Sen. Boxer also announced that the Environment and Public Works Committee would hold a hearing in February to more closely examine the presence of the chromium-VI in drinking water supplies.

A copy of the letter by Sens. Boxer and Feinstein to Administrator Jackson is available [here](#).

### **111<sup>th</sup> Congress Adjourns, 112<sup>th</sup> Begins January 5**

The 111<sup>th</sup> Congress came to an end last night, following the Senate's approval of the START treaty with Russia and passage by both chambers of a bill to provide healthcare benefits to 9/11 first responders.

Earlier this week Congress approved a continuing resolution (CR) that will extend funding for federal government operations at fiscal year 2010 levels through March 4. At that time, Congress and the Obama Administration will have to devise a final plan to fund the government through the remainder of the 2011 fiscal year.

As expected, the latest CR also extended the Department of Homeland Security's CFATS chemical facility security program through March 4. The extension does not impact water and wastewater facilities, which remain exempt from the program.

The new 112<sup>th</sup> Congress will begin on January 5, when new members are sworn in and Republicans take control of the House of Representatives.