

May 25, 2009

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

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

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

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

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

Look for meeting registration information in early June.

Draft Water Facility Security Bill Released; June Markup Eyed

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

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

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

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

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

EPA Announces New Web Series On Simultaneous Compliance

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

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

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

Committee Approves Climate Change Bill With State Adaptation Funds; Water Utility Adaptation Grant Amendment Is Blocked

On May 21, the House Energy and Commerce Committee approved H.R. 2454 (the “American Clean Energy and Security Act”), a massive bill designed to cap the nation’s greenhouse gas emissions and

charge polluters for allowances that permit the release of gasses that contribute to global climate change. The bill seeks to cut global warming pollution to 17 percent below 2005 levels in 2020, by 42 percent below in 2030, and by 83 percent below in 2050. In addition, the proposal would use revenues from the sale of emissions allowances to fund various clean energy and environmental priorities.

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

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

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

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

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

This Week in Congress

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

New Development Process For IRIS Announced

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

A link to the new process outline, flow chart and EPA's press release is available at:

<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=190045>.

Obama Nominates Bob Perciasepe For EPA Deputy Administrator

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