

National Association of County Engineers

A. R. Giancola, P.E. Executive Director

• 440 First Street NW, Washington, DC 20001-2028 • Phone (202) 393-5041 • Fax (202) 393-2630
• Email: nace@naco.org • Web: www.countyengineers.org

NACE UPDATE

The almost bi-weekly newsletter for Board members & Committee Chairs

May 29, 2007- Volume 07 Number 11

(Note: Sources of information include the AASHTO Journal, NACo staff, Senate and House publications, the Federal Highway Administration, and other association news journals)

NACE ALERT! – Urge Congressional Members to Oppose the “Waters of the U.S.” Bills

“Waters of the U. S.” bill introduced — Action Needed! Call your members of Congress and ask them to oppose H.R. 2421.

On May 22, 2007, Congressman Jim Oberstar (MN) along with Rep. John Dingell (MI) and Vernon Ehlers (MI) introduced H.R. 2421, the Clean Water Restoration Act of 2007. NACo and NACE are opposed to the bill because it will create further unfunded mandates and preempt county authorities. Senator Feingold (D-WI) is pursuing similar legislation in the Senate.

The bill proposes to eliminate the word “navigable” from the definition of “waters of the U.S.” within the Clean Water Act (CWA). The sponsors of the bill say it is about ensuring clean water.

While the definition seems fairly clear cut, it would impact a whole host of activities under the CWA. Most notably, it would require that every county in this nation get a CWA permit for any project that would impact (or indirectly affect) “waters of the United States,” which, would be defined broadly to include a number of things including county roads and manmade ditches.

Currently, when the federal CWA permit program is triggered, it can take more time and money, because of the additional paperwork requirements. When an area is deemed jurisdictional, it is subject to a multitude of regulatory requirements required under the Clean Water Act. It triggers application of other federal laws, such as Environmental Impact Statements (EIS), National Environmental Policy Act (NEPA) and the Endangered Species Act. And often, as part of the approval process, the permit requires the permit applicant to “mitigate” the environmental impacts of the proposed project, sometimes at considerable expense.

The Army Corps of Engineers, who oversees the 404 CWA permit program, is already behind in processing permits. It is estimated that they are 15,000+ permit applications behind with an estimated time lapse of several years from submission to approval/denial.

Based on legal analysis, some of the areas that could be impacted (and thus will require the county to obtain CWA permit approval) under this bill are: roads, gutters, and ditches;

sewers and wastewater disposal, including settling ponds; water supply, transfer, and rights; solid waste disposal; county owned/operated airports; stormwater detention and facilities; stormwater channel maintenance; erosion control; pesticide application, mosquito control, and fire retardant sprays; marinas, dams and reservoirs; parks, greenways, forestlands; cleanup/rebuild after natural disasters; economic development.

- Man-made ditches, culverts and pipes
- Roads, curbs, and sidewalks (may include stormwater runoff from forest roads)
- Water and water transfer rights
- 100 and 300 year floodplains
- Routine maintenance (clean up of debris) in flood control channels
- Desert washes
- Storm water infrastructure and runoff (sheet flow)
- Waste Treatment systems
- Settling ponds
- Pesticide application, including mosquito abatement and fire retardant sprays

Counties, as the regulated, are responsible for a number of public infrastructure projects that would require wetland permits. Under the proposed change anytime a land use project is initiated - whether new or maintenance related - if it affected intrastate water including potentially groundwater, the county must apply for a CWA permit. It is on the regulated front that counties may face the biggest hurdle. There is a backlog of over 15,000 + permits currently in the Army Corp of Engineers system with an average time lapse of up to several years from submission to approval/denial of any individual permit. NACo's policy states that municipal streets and gutters and man-made ditches are excluded from the definition of "waters of the United States," and that such waters should be regulated at the local level and not be subject to federal regulation. Additionally, NACo urges the federal government to recognize that the flow volume of stormwater from development and regulation of impervious surfaces are local land use issues, not within the purview of the federal government. Additionally, in March, NACo passed a resolution opposing any federal efforts to change the definition of the Clean Water Act from navigable waters to "waters of the United States." (Contact: Julie Ufner 202/942-4269 or jufner@naco.org)

Urge your House and Senate members to oppose any efforts to remove the word "navigable" from the definition of the Clean Water Act. Go to the following link and contact your Senators and Representatives now!
<http://capwiz.com/naco/issues/alert/?alertid=9690416>

Senate Committee Approves SAFETEA-LU Technical Corrections Bill

The Senate Banking, Housing, & Urban Affairs Committee, which oversees transit programs, approved the SAFETEA-LU technical corrections bill, which authorizes more funding for FHWA research and development. It largely resembles the version approved by the House in March, H.R. 1195. The Senate Environment and Public Works Committee will have to approve its own SAFETEA-LU technical corrections bill.

Register Now for the 9th International Low Volume Roads, Austin, TX

TRB 9th International Conference on Low-Volume Roads will be held from June 24-27, 2007 in Austin, TX.

Conference registration: Online registration is available at:
<http://www.caee.utexas.edu/9LVR/Reg.htm>

Hotel room reservations for the conference can now be made online. The conference will be held at the Sheraton Austin Hotel (formerly the Austin Marriott at the Capitol) in downtown Austin. For more details, please visit the conference host website at:
http://www.caee.utexas.edu/9LVR/Conf_Info.htm

The conference Online Conference Program is now posted online at:
<http://www.trb.org/conferences/programs/default.asp?event=104&view=date>

For questions and comments, please contact 9lvr@nas.edu

Forest County Safety Net Gets One Year Extension in Supplemental

The Secure Rural Schools and Community Self Determination Act (SRS) will be extended for one year in the supplemental appropriation bill passed by the House and Senate on Thursday. The provision, which expires September 30, appropriates \$425 million, plus up to \$100 million from forest receipts, for counties and school districts with federal forests within their boundaries. The President is expected to sign the bill, restrictions on his management of the Iraq war to which he objected having been withdrawn.

House and Senate leaders and the administration could not reach agreement on adopting a Senate proposal which would have reauthorized SRS and fully funded the Payments in Lieu of Taxes (PILT) program for five years, despite strong support from NACo, the National Forest Counties and Schools Coalition, the Western Governors' Association and others.

Allies in both chambers have indicated a willingness to renew their efforts to secure a multi-year reauthorization of the safety net this year.

The one-year moratorium on the Medicaid rules redefining public providers and the funding to cover the State Children's Health Insurance Program shortfall also survived the latest round of the supplemental.

On May 24, Congress approved a \$120 billion emergency War Supplemental bill. This bill also includes the Fair Minimum Wage Act, legislation that increases the federal hourly minimum wage from \$5.15 to \$7.25 over two years. The legislation also includes \$8.3 billion in small business tax breaks. (Contacts: Paul Beddoe 202/942-4234 or pbeddoe@naco.org; Marilina Sanz 202/942-4260 or msanz@naco.org; and Daria Daniel 202/942-4212 or ddaniel@naco.org)

AASHTO Urges Congress to End Rescissions

State transportation officials voiced their strong objections to the use of rescissions of unobligated highway contract authority as a means to offset highway-related or non highway-related budget activities. Rescissions of unobligated contract authority have become a common mechanism used by Congress to create "savings" to offset new funding authorizations. A resolution (PR-2-07) adopted by the AASHTO Board of Directors notes that:

o In Fiscal Year 2006, Congress enacted three highway rescissions totaling \$3.82 billion; and

o In Fiscal Year 2007, Congress enacted a highway rescission in the continuing resolution totaling some \$3.47 billion.

The FY 2007 supplemental appropriations bill passed by Congress but vetoed by the President proposed to rescind another \$683 million. The continuation of such rescissions will affect the states' ability to program projects, the resolution states. "While Congress may see this unused contract authority as simply money up for grabs, in fact it represents a funding commitment on which states have based their planning and programs," said AASHTO Executive Director John Horsley. "It's bad policy for transportation," he concluded.

Guide for Accommodating Utilities within Right-of-Way for Counties & Small Cities in Kansas.

The Kansas LTAP recently completed the below-referenced guide. It's available for download on our website: <http://www.ksltap.kutc.ku.edu>. Click on "What's New." It's also listed in our "Resources to Download." This guide examines current issues and practices in Kansas and provides general recommendations that cities and counties can use to manage their right-of-way in the best interest of the traveling public, public agencies and the utilities. It was developed primarily for counties and small cities that do not have regulations in place, or that need to update their regulations and procedures. The guide attempts to concentrate on major issues and minimize additional paperwork for both the utilities and the local agencies. Conditions differ in each city and county, and some modification of the recommendations may be needed to fit local conditions. Review by the city or county attorney working with the public works staff and local utilities is essential to develop the optimum balance between regulations and reasonability. If you have any questions contact Pat Weaver, Program Manager Kansas LTAP at weaver@ku.edu

AASHTO Visioning Website Launched

The American Association of State Highway and Transportation Officials (AASHTO) launched a web site to chronicle and facilitate the establishment of a new multi-decade vision for U.S. transportation. AASHTO, which represents the state departments of transportation nationwide, is planning a conference May 21-23 in which an estimated 150 people from public and private-sector groups will lay a conceptual framework for that transportation vision.

The new website can be accessed at <http://www.transportationvision.org>. It contains links to research, a set of recent reports created by AASHTO, conference information, and links to associated groups.

TRAFFIC SIGNAL SYSTEMS AND REGIONAL SYSTEMS MANAGEMENT 2006

http://www.trb.org/news/blurbs_detail.asp?id=7691

TRB's Transportation Research Record: Journal of the Transportation Research Board, No. 1978 contains 24 papers that explore different aspects of traffic signal systems and regional systems management. Specific topics addressed by papers in this issue of the TRR: Journal include detecting bicycles with inductive loop detectors, noncoordinated phases in coordinated traffic signal systems, traffic detection schemes at signalized intersections, flow-based traffic signal control, detection-control system for isolated high-speed signalized intersections, simultaneous gap-out logic, weather-responsive signal timing, and saturation flow at signalized intersections. This issue of the TRR: Journal

also addresses design method for traffic control programs, an integrated arterial signal control model, traffic signal phase truncation in the event of a traffic flow restriction, robust real-time progression evaluation, system optimal signal optimization, microscopic simulation model calibration and validation, optimal detector location for transit signal priority, transition methods in traffic signal control, and more.

PEDESTRIANS AND BICYCLES 2006

http://www.trb.org/news/blurbs_detail.asp?id=7742

TRB's Transportation Research Record: Journal of the Transportation Research Board (TRR: Journal), No. 1982 contains 24 papers on the subject of pedestrians and bicycles. Specific topics addressed by the papers include yielding to pedestrians at unsignalized intersections, accessible pedestrian signals, pedestrian walking speed, pedestrian clearance intervals, neighborhood walkability, pedestrian flow modeling, driver and pedestrian comprehension of permissive left turns, pedestrian safety at intersections, pedestrian level-of-service of urban arterials with sidewalks, and pedestrian accident causes. This issue of the TRR: Journal also explores pedestrian push-button confirmation; pedestrian level-of-service in an urban resort district; midblock pedestrian-vehicle crashes; walking speed on unidirectional walkway and bidirectional stairway; pedestrian gap-acceptance behavior; pedestrian crossing locations, light conditions, and injury severity; and pedestrian safety in numbers. In addition, the issue examines pedestrian, bicyclist, and motorist behaviors at roundabouts; estimating bicycle usage; avoiding biased interpretation of bicycle surveys; estimating cycling demand for work or study trips; bicycle sidepath design; and a bicycle and pedestrian detection and classification algorithm for active-infrared overhead vehicle imaging sensors.

GUIDELINES FOR THE SELECTION OF SNOW AND ICE CONTROL MATERIALS TO MITIGATE ENVIRONMENTAL IMPACTS

http://www.trb.org/news/blurbs_detail.asp?id=7739

TRB's National Cooperative Highway Research Program (NCHRP) Report 577: Guidelines for the Selection of Snow and Ice Control Materials to Mitigate Environmental Impacts explores guidelines for the selection of snow and ice control materials through an evaluation of their cost, performance, and impacts on the environment and infrastructure. The report examines a decision tool for the selection of snow and ice control materials to suit the specific needs of any given highway agency, a purchase specification that can be used by an agency once agency staff have selected materials for use, and a quality assurance monitoring program that includes procedures and standard test methods to characterize snow and ice control products before their purchase or use.

2006 ESTIMATES OF MOTOR VEHICLE TRAFFIC CRASH FATALITIES AND PEOPLE INJURED

http://www.trb.org/news/blurbs_detail.asp?id=7748

The U.S. Department of Transportation has released preliminary figures for traffic deaths on roads in the United States during 2006. According to a press release, the number of road deaths is projected to have declined slightly nationwide from 43,443 in 2005 to 43,300 in 2006. Based on the preliminary 2006 fatality numbers, the 2006 fatality rate is projected at 1.44 deaths per 100 million vehicle miles traveled, down from 1.45 in 2005. During the same period, injuries dropped 6 percent from 2.7 million in 2005 to 2.54 million in 2006. The preliminary figures also show that between 2005 and 2006 overall alcohol-related fatalities increased 2.4 percent from 17,525 to 17,941; pedestrian deaths

dropped slightly, from 4,881 to 4,768; and fatalities from large truck crashes dropped from 5,212 to 5,018, a 3.7 percent decline.

DRIVER BEHAVIOR, OLDER DRIVERS, SIMULATION, USER INFORMATION SYSTEMS, AND VISUALIZATION

http://www.trb.org/news/blurbs_detail.asp?id=7696

TRB's Transportation Research Record: Journal of the Transportation Research Board (TRR), No. 1980 explores accident reconstruction, risk perception, modeling driving behavior, driver response to rainfall on expressways, rewards for safe driving behavior, highway safety flares, adaptive cruise control and alert modality, eyeglance behavior, and multitasking with visual impairment and age. This TRB also examines road safety priorities in an aging society, electronic stability control systems effectiveness, cell phone use effect on driver distraction, dynamic fog warning and speed advisory messages, closed-circuit television road images for poor-visibility information, anticipatory traveler information systems, wildlife advisories, and interactive virtual reality visualization system.

FINAL REPORT FOR NCHRP REPORT 581: DESIGN OF CONSTRUCTION WORK ZONES ON HIGH-SPEED HIGHWAYS

http://www.trb.org/news/blurbs_detail.asp?id=7362

TRB's National Cooperative Highway Research Program (NCHRP) Web-Only Document 105 is the contractor's final report on the research activities used to develop NCHRP Report 581: Design of Construction Work Zones on High-Speed Highways. NCHRP Report 581 explores an approach for the selection of an appropriate construction work zone type; offers suggested guidance for the design of geometric features, including horizontal and vertical alignment, cross-sectional features, and barrier placement; and examines a variety of ancillary features such as drainage systems, lighting, and surface type. As part of the research associated with this activity, a work zone prediction model and user's guide was created to help estimate free-flow vehicle speeds through two types of construction work zones on four lane freeways--single lane closures and median crossovers.

ROAD MAINTENANCE WITH THREATENED, ENDANGERED, OR SENSITIVE PLANTS: FINDING SOLUTIONS

http://www.trb.org/news/blurbs_detail.asp?id=7729

The U.S. Forest Service has released a report that provides an overview of the process the agency must follow to comply with all the laws and policies for road maintenance when threatened, endangered, or sensitive plants exist or are discovered. The report includes a brief overview of the process; and explores the directives, laws, misconceptions, and apparent conflicts that may arise when implementing road maintenance activities that may impact listed plant species.