Association of State Floodplain Managers
Legislative Report, December 2009

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Much Activity as Session Wrap-up Approaches

Congressional floor schedules are full, hearings are being held, and staff-level activity to develop major legislation is marching along. This is very unusual for the beginning of December, even in a non-Congressional election year. The press for action on health care, in particular, has driven the schedule so far beyond the originally planned October adjournment date. But with that as the driver, other legislation has continued to be acted on and developed and efforts have continued to pass as many regular appropriations bills as possible before defaulting to another omnibus bill.

The 1st Session of the 111th Congress now is scheduled to adjourn on December 18th, but the Senate leadership is beginning to imply that the session could last right up until the new year. The 2nd Session is currently scheduled to convene on January 12th and adjourn on October 8th.

During December, look for action to extend the authority for the National Flood Insurance Program (NFIP). It is not likely that there will be House or Senate floor action this month on other legislative issues of interest to the ASFPM, but there certainly will be a focus on legislative development. These areas are primarily climate change and related climate adaptation, sustainable watershed planning, water resources development, and revisions to the Stafford Act.

All of these areas will involve legislative action in the 2nd Session. Additionally, flood insurance reform hearings are likely to take place in the spring. The Administration probably will have some new recommendations for Congressional consideration at least somewhat derivative of the NFIP Listening Session held last month in Washington, D.C.

Listening and Stakeholder Sessions on National Policy and Programs

A number of ASFPM members were invited to participate in the NFIP Listening Session. Since the Federal Emergency Management Agency (FEMA) is still accepting comments, thoughts, and ideas for the future direction and improvement of the NFIP, ASFPM members may wish to participate in the process directly. Detailed suggestions as well as “big picture” ideas are being sought. The website is http://www.fema.gov/nfipcomments.

Other “stakeholder” listening sessions or working groups are being held as well. At the President’s request, the Secretaries of Homeland Security and Housing and Urban Development are co-chairing a
Long-Term Disaster Recovery Working Group, which includes over 20 departments, agencies, and offices. The aim is to provide operational guidance for recovery activities and to make suggestions for improvement in programs and coordination to better enable long-term recovery. A report to the President and a draft National Disaster Recovery Framework will be produced next spring. Stakeholder sessions were held around the country in October and November. On December 4th, a session was held in Washington, D.C., with representatives of national associations. Another session was held with Congressional staff, also on December 4th. Responses to 16 questions posted on the website are being sought until mid-December. White papers are being accepted as well. Some ASFPM members have already posted responses, notably pointing out the importance of better integrating mitigation into response and recovery. This is the time to engage in this process! The website is: http://www.disasterrecoveryworkinggroup.gov/questionnaire/.

The National Oceanic and Atmospheric Administration (NOAA) has been holding stakeholder sessions across the nation via an online survey and regional forums. The objective is to develop NOAA's “Next Generation Strategic Plan.” An NGSP National Stakeholder Forum was held in Washington, D.C., on December 2nd. A summary of responses received thus far is posted on the website (http://www.noaa.gov/ngsp). Receipt of comments and voting on NOAA draft statements will continue through December 9th, so act promptly if you wish to engage in this process and have not yet had the chance.

**Policy Development in the Executive Branch**

Major promising policy developments in water resources and floodplain management are underway at the White House level under the leadership of the Council on Environmental Quality (CEQ).

First, the long-awaited draft Principles and Standards (P & S), revising the U.S. Army Corps of Engineers’ Principles and Guidelines and expanding their application to all federal water resources policies and programs, was released December 3rd. The draft has been posted on the CEQ website (http://www.whitehouse.gov/CEQ, click on “Initiatives”). Public comments will be accepted for 90 days. The draft itself now goes to the National Academy of Sciences for further review and development, with the NAS’s report and recommendations due in the fall of 2010. The ASFPM has provided comments on the existing P&G and will be commenting on the draft P&S, so feel free to share any of your suggestions with ASFPM.

Second, CEQ will soon focus on developing a draft revision of the 1977 Executive Order on Floodplain Management, E.O. 11988. At least two early drafts have been leaked and circulated, but according to CEQ, the real work on draft development is yet to come. The idea seems to be primarily to reinvigorate E.O. 11988 and its implementation, and not to propose any major new requirements.

**National Flood Insurance Program Reauthorization and Reform**

At present, the NFIP’s authorization will expire on December 18th. Since there is virtually no likelihood that the Senate will act before then on a reauthorization passed by the House early last summer, it will be necessary to extend the authorization in an appropriations bill. There are still seven regular appropriations bills uncompleted; only five are finished. The House completed work on all 12, and Senate Majority Leader Harry Reid (D-NV) has indicated he hopes for final action on another three in the next two weeks. An omnibus appropriations bill will be needed to sweep up those unfinished bills and expiring programs, such as the NFIP. Appropriations staff expect the NFIP to be included in this “must pass” measure, but are not certain about the length of the anticipated extension. It seems likely that the program will be extended to June 30, 2010, rather than to September 30th, the end of the fiscal year.
If the extension is only to June 30th, there will be pressure to hold hearings in the spring to consider reform legislation. In the Senate, the Ranking Minority Member of the Banking Committee, Richard Shelby (R-AL), has indicated he will not support further NFIP extensions without reform legislation.

Stafford Act Revisions

The House Transportation and Infrastructure Committee has reported out a bill making some revisions to the Stafford Act, H.R. 3377. The ASFPM has provided comments and suggestions at the request of the staff. It is quite possible that there will be an amendment by the committee chairman making further revisions when the measure is considered on the House floor. At this point, it does not appear likely that this will occur before the beginning of the 2nd Session in January due to the press of other business.

FEMA Independence

The House Transportation and Infrastructure Committee has also reported out a bill to restore FEMA to independent-agency and cabinet-level status. The measure, H.R. 1174, was introduced and supported by both the Chairman and the Ranking Minority Member. The Committee Report has not yet been filed, although it is expected soon. The timing for consideration of the bill on the House floor is uncertain but not likely this month.

Sustainable Watershed Planning

A Subcommittee of the Transportation and Infrastructure Committee is developing legislation to create a federal framework for better coordination of water resource programs and policies and a regional planning system to help states and localities evaluate their water resources issues. This is a work-in-progress and the ASFPM has been asked for comments, suggestions, and ideas. Development of the draft legislation is proceeding in December with a view toward introduction of a bill in the 2nd Session.

Water Resources Development Act

The Transportation and Infrastructure Committee has begun work on a WRDA 2010. A subcommittee held a hearing to obtain input from Members of Congress about projects they consider important to authorize. WRDA bills typically authorize a long list of specific projects, but also often contain policy elements. For example, the last WRDA (2007) included a directive to establish a Levee Safety Committee to make recommendations for a levee safety program. That committee issued a draft report to Congress last January, but its work is continuing and some results of that work could be included in a WRDA 2010. The ASFPM has participated in the work of the committee as a non-voting member and has also provided comments during the peer review process (see the ASFPM website).

Climate Change and Adaptation

Since the House has passed its version of energy and climate change legislation (H.R. 2454), the play has shifted to the Senate. Development of a Senate bill is a confusing process, since so many committees have some jurisdiction over the issues. The Environment and Public Works Committee has reported out its version (S. 1733) and it is assumed that other bills will be meshed with it as they are reported out of committees. The Natural Resources, Finance, and Commerce committees are expected to add elements pertaining to climate adaptation. One adaptation bill (S. 1933) has been introduced by Chairman Jeff Bingaman (D-NM) of the Energy and Natural Resources Committee, Chairman Max Baucus (D-MT) of the Finance Committee, and Sheldon Whitehouse (D-RI). Chairman John D. Rockefeller IV (D-WVA) of the Commerce Committee has indicated that his committee is also developing an adaptation bill. The ASFPM has noted the importance of including hazard mitigation in climate adaptation provisions.
Coalitions

Several coalitions in which ASFPM participates have been active and will continue work in December.

- The Flood Map Coalition will meet December 10th to receive a briefing from FEMA on the status of RiskMAP and issues associated with FEMA’s floodplain mapping.

- The Stafford Coalition will meet in December with Beth Zimmerman, head of FEMA’s disaster recovery office. In November, the group met with Jason McNamara, FEMA’s Chief of Staff.

- The Congressional Hazards Caucus Alliance met on December 4th to discuss briefing topics for Congressional staff in the next session. Among those discussed were a briefing on levees and levee safety as well as a briefing on FEMA’s study of the incidence of flooding in 100-year floodplains, a study that could be released at a Caucus briefing.

- The Streamgage Coalition has written a letter to pertinent Members of Congress discussing the importance of a substantial funding commitment to support both the federally funded gages (National Streamflow Information Program) and the partially federally funded cooperative streamgage program. The letter will probably be signed by about 60 organizations, including the ASFPM.