Lots going on, but Nothing Final

Despite a flurry of legislative activity in the week before Congress’s Memorial Day Recess, there was no final action taken to extend authorization for the National Flood Insurance Program (NFIP) or to replenish the Disaster Relief Fund (DRF). Authorization for the NFIP lapsed on June 1st. Both of these matters were on the front burner when Congress returned the week of June 7th.

During June, House action and, eventually, final action can be expected on the War/Disaster Relief Supplemental Appropriations bill, and action on some form of NFIP extension can be expected as well. Further, the House is likely to take up the Flood Insurance Reform Priorities Act, the Homeowners’ Defense Act, and possibly the Multi-peril Insurance Act, as well as Stafford Act revisions. On the Senate side, a more extensive Stafford Act reform bill will probably be introduced. Committee-level work in both the House and Senate will continue on developing their separate versions of a Water Resources Development Act of 2010.

It is possible that House and Senate Appropriations Subcommittees will begin mark-ups of their Fiscal Year 2011 bills this month. Generally, both House and Senate would have adopted their versions of a Budget Resolution first to guide appropriations bills. The Budget Resolution makes budget assumptions that lead to budget ceilings given to each Appropriations subcommittee. This year, the Senate Budget Committee has reported out its Budget Resolution, but it has not been adopted by the full Senate. The House Budget Committee has not acted on a Budget Resolution at all. It may become necessary to begin mark-ups without such guidance.

The Congressional agenda is very full, given action on financial institutions regulation, work on climate and energy bills, and other issues. Numerous Congressional committees are holding hearings on multiple aspects of the oil spill in the Gulf of Mexico. For the week of June 7-11, six hearings were scheduled in various committees of the House and Senate on that subject.

NFIP Reauthorization

A number of legislative vehicles are in play, each of which could reauthorize the NFIP for different periods of time. At the moment, the most likely seems to be H.R. 4213, a bill extending a number of tax provisions, which also includes extensions of unemployment insurance, rates of physician reimbursement under Medicare, as well as the flood insurance program. The base bill passed the House once, was
amended in the Senate to include the program authority extensions, and last week, was further amended and passed by the House. The bill includes a provision extending authorization for the NFIP to December 31, 2010. The Senate took up the bill last week and will return to it June 14th with votes on amendments scheduled for June 15th. Two amendments have already been adopted so the bill, if passed in the Senate, will have to go back to the House for consideration of the Senate amendments. Another bill, H.R. 5255, would extend the NFIP to September 30, 2010, but would also delay mandatory purchase of flood insurance in areas newly mapped as floodplain for three years. David Vitter (R-LA) introduced a bill, S. 3347, which would extend the NFIP until December 31, 2010. That measure is on the calendar for Senate floor consideration. A similar bill, introduced in the House by Earl Pomeroy (D-ND), H.R. 4778, was referred to the Financial Services Committee. That committee reported out H.R. 5114, the Flood Insurance Reform Priorities Act, which would extend the program for five years. That bill could come to the House floor in June.

Clearly, NFIP extension has become enmeshed in larger political issues, notably concerns about the need to reduce other programs in order to pay for programs in the tax extender legislation.

**War/Disaster Relief Supplemental Appropriations**

Just before adjourning for the Memorial Day Recess, the Senate passed a War and Disaster Supplemental Appropriations bill, H.R. 4899, which includes $5.1 billion to replenish the Disaster Relief Fund. The Senate added funds to assist with impacts of the oil spill in the Gulf of Mexico. A mark-up in the House Appropriations Committee scheduled just before the recess, was postponed and has not yet been rescheduled.

House leadership is indicating the bill could simply be taken up on the House floor, but Chairman David Obey (D-WI) has not announced how he intends to proceed.

This replenishment is to cover outstanding costs from disasters that have already occurred. Because the Disaster Relief Fund (DRF) is so low, spending for mitigation programs has been curtailed pending replenishment. The bill first passed the House this spring. Since the Senate has made significant changes and the House is likely to amend the bill further to add funds to avoid teacher lay-offs, the bill may go back and forth without an actual House-Senate Conference taking place.

In addition to replenishment of the DRF, the bill also provides a 90% federal cost share for Sections 403, 406, and 407 of the Stafford Act for the spring flooding disasters in Tennessee, Rhode Island, and Mississippi.

Other disaster related funds provided include

- $100 million for the Department of Housing and Urban Development, Community Development for “necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, housing, and economic revitalization” for areas declared major disaster areas from March 2010 through May 2010. Specific language is included on use of the funds.

- $49 million for the Department of Commerce, Economic Development Administration for expenses associated with the major disasters declared March 2010 through May 2010.

Important elements of Committee Report language include:

- Language directing FEMA to create an inter-agency task force involving the U.S. Army Corps of Engineers (USACE) and the Office of Management and Budget “to track, address, and where
possible, resolve concerns stemming from FEMA mapping efforts in communities with issues related to flood control infrastructure protection, such as levees, drainage or dams.” The language calls for quarterly reports to the Congress starting 45 days after enactment documenting contacts made by community officials to FEMA or the USACE including a determination of which governmental entity is responsible for the infrastructure involved and a joint response that includes all federal options for resolution of concerns. Within six months of enactment, the Government Accountability Office is to begin examination of the number, status and timeliness of responses, the effect on flood insurance maps, and estimated costs to the community involved.

- Language directing FEMA to issue guidance to states, within 60 days of enactment, outlining updated and efficient methods for documentation of Hazard Mitigation Grant Program matching funds in disasters exceeding $20 million in DRF allocations.

**Flood Insurance Reform**

The House Financial Services Committee’s Flood Insurance Reform Priorities Act, H.R. 5114, could come up on the House floor this month. The key word in the title is “priorities,” as the bill is not a full reform bill, but includes some elements of the bill passed by the House, but never enacted, in 2008. It adds some elements designed to address the increasingly loud expressions of concern about the levee accreditation, flood map, and flood insurance affordability issues. It would provide a five-year delay in the mandatory purchase requirement for flood insurance in areas newly mapped as floodplain to be followed by a five-year period during which actuarial rates are phased in. Issuance of the maps would not be delayed. The bill does include the increases in maximum amounts of coverage and optional additional coverages provided in the earlier House-passed bill and the authorization of “demolish and rebuild” as an eligible activity under the Flood Mitigation Program, a provision the ASFPM has supported.

Another bill, H.R. 5255, is a short-term extension of authority for the NFIP until September 30, 2010. That bill includes a provision for delay in mandatory purchase, but for three years.

It is possible that the Senate Banking Committee will develop a new reform bill. Until recently, Chairman Christopher J. Dodd (D-CT) had indicated such a bill would not be likely this year. In the Senate as well as the House, the levee, map, and flood insurance affordability issues are leading to calls for some legislative action. A Senate bill would probably (again) look quite different from the House bill.

**Catastrophic Loss Re-insurance**

H.R. 2555, introduced by Ron Klein (D-FL), would create a federal re-insurance back-stop to state disaster re-insurance funds. The measure has been reported favorably out of the House Financial Services Committee and is likely to be taken up on the House floor this month.

The bill establishes a National Catastrophe Risk Consortium, a non-profit, non-federal entity to act as a repository for state risk information, to establish a database for research and analysis on standardization of the risk-linked securities market, maintain an inventory of catastrophe risk obligations held by state reinsurance funds and others, as well as other duties. Importantly, the measure provides for federally backed catastrophe reinsurance for eligible state reinsurance funds and establishes a Federal Natural Catastrophe Reinsurance Fund in the Treasury. It also sets up a $15 million per year grant program at the Department of Housing and Urban Development to support mitigation of losses from natural catastrophes. Further, it requires a study of the need for and impact of expanding the programs in the Act to include coverage of losses from commercial insurance policies providing coverage for residential rental units.
The ASFPM has expressed concern that a federal catastrophe reinsurance backstop could have the unfortunate effect of encouraging unwise development. Although the criteria for state reinsurance fund eligibility do include some provisions requiring mitigation efforts, ASFPM has also expressed concern that these are not sufficiently rigorous. Further, ASFPM has pointed out that the mitigation grant program to be operated by HUD establishes no connections to FEMA’s mitigation program eligibility requirements, nor does it establish any connection with the state and local hazard mitigation plans required under the Disaster Mitigation Act of 2000. The ASFPM made these points in a letter to the Chairmen and Ranking Minority Members of the subcommittees of jurisdiction and, more recently, in a letter to all Representatives. Both letters are posted on the ASFPM website.

A coalition of re-insurance and environmental groups, the SmarterSafer Coalition, has strongly opposed the bill but it has support from many Members of Congress with coastal districts. The Congressional Budget Office has recently projected that the measure would add $1.7 billion to the budget deficit over the next five years.

**Multi-peril Insurance Act**

This bill, H.R. 1264, would add an optional flood and wind policy to the NFIP. It, too, was favorably reported out of the House Financial Services Committee and could come to the floor for a vote this month.

Gene Taylor (D-MS) had introduced this bill in the last Congress as well. It was then included in the flood insurance reform bill (HR 3121) that passed the House. A similar provision was defeated in the Senate.

The ASFPM has opposed the measure because it would add an unknown, significant new exposure to the NFIP. It stipulates that premium rates be actuarially sound, but there is no clarification as to whether or not that would include catastrophic losses. Further, it is designed to assist those properties exposed to both storm surge and wind, but could have much broader application and exposure to coverage of costs due to wind damage alone.

**Pre-disaster Mitigation Authorization**

A measure that could come up on the Senate floor before July 4th is one to reauthorize the Pre-Disaster Mitigation (PDM) grant program, S. 3249. The bill was reported favorably out of the Senate Committee on Homeland Security and Governmental Affairs at the end of April. It codifies the program as a competitive grant program, reauthorizes it for five years and authorizes $180 million in FY 2011, $190 million in FY 2012, and $200 million annually for the remaining three years.

During committee consideration, an amendment, offered by Tom Coburn (R-OK), was accepted. That amendment prohibits use of PDM funds for earmarked projects. It includes a requirement that if any funds are provided outside of the competitive process, the FEMA Administrator must report the reason to Congress.

The program will expire if not reauthorized before September 30, 2010. It has been reauthorized for the past two years as a part of appropriations bills. The House did pass a bill last year which is similar to this one, but it was not taken up in the Senate.

At present, HR 3377, a bill revising the Stafford Act and including a reauthorization of PDM, has been reported out of committee in the House and is awaiting consideration on the House floor.
Another amendment, which was not accepted, was offered by Mark Pryor (D-AR). That amendment would have included flood control projects as eligible for PDM funds. He withdrew his amendment but made clear his concern that the cost of levee certification, repair, and improvement associated with updated flood maps is a serious, unresolved problem.

**Stafford Act Revisions and Reform**

The House could take up a bill making revisions to the Stafford Act, H.R. 3377, including re-authorization of the PDM grant program. When the bill comes to the floor, it is likely that a manager’s amendment making some further revisions will be offered.

In the Senate, it is anticipated that Mary Landrieu (D-LA) will introduce more comprehensive Stafford Act reform legislation. Landrieu chairs the Disaster Recovery Subcommittee of the Senate Homeland Security and Governmental Affairs Committee. The Stafford Act Coalition, in which the ASFPM participates, has been briefed on expected contents of the bill and has been asked for comments and recommendations.

**Water Resources Development Act of 2010**

Although progress is being made in both the House and Senate towards developing separate versions of a WRDA 2010, it has been slow and somewhat fitful. On the House side, Democratic staff have been making their way through many, many projects proposed for authorization. The House Republican leadership has requested that Republicans make no requests for earmarks this year, so many have submitted letters withdrawing their project requests for inclusion in WRDA. The path forward is unclear.

There had been consideration given to including a levee safety component, but that may require further work. The ASFPM did submit written testimony for the record to the House Committee on Transportation and Infrastructure and that is available on the ASFPM website.

The Senate Environment and Public Works Committee has held one hearing in preparation for a WRDA. Another was scheduled, but postponed, just before the Memorial Day recess. No re-scheduled date has been announced.

**Coalitions**

The ASFPM continues to participate in several coalitions focusing on issues of interest.

**Stafford Act Coalition**—This group has recently held two three-hour meetings with Mary Landrieu’s (D-LA) staff for briefing and discussion on her planned Stafford Act reform legislation.

**Flood Map Coalition**—The group met most recently in April for a briefing and update by FEMA’s risk identification and assessment staff. Such meetings take place approximately quarterly.

**USGS Coalition**—The group recently met with new U.S. Geological Survey Director, Marcia McNutt. It is planning a series of meetings with Congressional offices to explain the importance of the science and data collection of USGS programs for the diverse membership of the coalition. It is also planning its annual reception on Capitol Hill highlighting the USGS and its programs and honoring Members of Congress who have shown their interest in and support of the USGS.
Streamgage Coalition—A representative group of coalition members will meet with USGS Deputy Director Suzette Kimball on June 16th to discuss the importance of maintaining a viable streamgage network through both the fully federally funded gages (National Streamflow information Program) and the cooperatively funded streamgage program.

Congressional Hazards Caucus Alliance—The alliance is a large group of organizations and interests that support the Congressional Hazards Caucus (Members of Congress only), largely through conducting briefings on hazard-related subjects for Members and their staffs. A hurricane briefing is being planned for this summer. Interestingly, the Alliance held an already-planned and scheduled briefing on volcano eruptions just at the time of the Icelandic volcano eruption. That was a particularly well-attended briefing.

All legislation referenced (except drafts) can be found by going to: http://thomas.loc.gov.