Anticipating an active legislative fall season

Most years, the Congress is winding down its legislative activity for the session sometime in October. This year, however, many are predicting that the press of active legislation will keep the session going even into December.

A first draft of major climate and energy legislation was introduced on September 30th. Also on September 30th, a Continuing Resolution funding the government for the next 30 days at 2009 levels was passed and signed by the President, ensuring that there will be considerable activity during October to finalize action on most, if not all, of the 12 regular appropriations bills. Preparation for another round of flood insurance reform legislation may get underway. Draft legislation on sustainable watershed planning is likely to be introduced and acted on. Legislation amending the Stafford Act will probably be reported out of committee and considered on the House floor. Work will continue toward development of levee safety legislation. It is possible that legislation to restore FEMA to independent status will be considered.

Meanwhile, non-legislative, but policy development efforts will be continuing on new Principles and Guidelines for the Corps of Engineers and possibly for broader application. Development of a new, revised Executive Order on Floodplain Management, to supercede E.O. 11988 is well underway. The Department of Homeland Security is conducting its national dialogue on policy guidance for the department, including the Federal Emergency Management Agency (FEMA).

NFIP and PDM Reauthorization

On Wednesday evening, September 30th, the President signed a bill (H.R. 2918) containing a Continuing Resolution (CR) funding the federal government through the end of October. Not only did the federal fiscal year end on September 30th, but authority for the National Flood Insurance Program (NFIP) and the Pre-Disaster Mitigation Program (PDM) expired as well. Both programs were reauthorized for 30 days in the CR. The Severe Repetitive Loss Program expired as well, but in this particular case, FEMA’s Chief Counsel has indicated that the program may continue to operate as long as there is an appropriation of funds in place.

The House of Representatives had passed bills extending all three programs, but they have not been taken up in the Senate. Apparently, key Senate Republicans are opposed to reauthorizing the NFIP without associated reform legislation. Other factors delayed consideration of the PDM reauthorization. It then became necessary to keep the programs authorized via the appropriations bill. Further authority for these
programs will remain an issue to be dealt with during October to ensure that they can function after October 31st.

**Flood Insurance Reform**

Once the immediate issue of NFIP reauthorization is settled, the House Financial Services Committee expects to turn to consideration of reform issues.

Chairman Barney Frank has signaled that he would like to hold hearings to re-examine the program and explore reform ideas in addition to re-considering the flood insurance legislation passed by the House in the last Congress. ASFPM has provided the staff with thoughts on issues which might be considered. These included, for example, consideration of what the NFIP was intended to accomplish, what it has accomplished, and what it should accomplish that it hasn’t? What are recent developments and scientific knowledge that could impact the future of the NFIP? Where are there gaps and problems with the NFIP? How can the NFIP better deliver the risk message and protect the general taxpayer? If the NFIP is to be a significant tool in FEMA’s efforts to develop a better integrated flood risk management perspective, does the program need to be altered to better support this objective? What are some new ideas for refreshing and re-invigorating the program? ASFPM is collecting NFIP Reform suggestions and recommendations from members. If you have suggestions or recommendations for changes to the NFIP, please send them to the ASFPM Executive Office at memberhelp@floods.org.

Due to the extremely heavy work schedule of the Financial Services Committee; which includes a series of hearings in October on overhaul of the financial regulatory structure as well as ongoing work on credit card consumer protection legislation and mortgage foreclosure legislation; it is hard to predict when hearings might begin on flood insurance reform. It is interesting to note, however, that FEMA’s Administrator, Craig Fugate, is likely to gather flood insurance experts and practitioners later this fall to generate and explore reform ideas.

** Appropriations Status**

Only one of the 12 regular appropriations bills has been signed into law – the bill that funds Congressional operations. The House has passed all of the remaining 11 bills; the Senate has passed 6. The Energy and Water Appropriations bill has emerged from the House-Senate Conference to resolve differences and the Conference Report was passed on October 1st. That bill has been sent to the President for his signature. The Agriculture bill has been through Conference, but the Conference Report has not yet been passed. Several other bills are undergoing pre-Conference negotiations and are expected to go to Conference in the coming week. The Conference on the DHS Appropriations bill, which includes FEMA, was scheduled for October 1st, but it has been postponed. The Interior & Environment bill is awaiting Conference. To review contents of these bills, the bill numbers are:

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<th>House</th>
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<td><strong>Energy &amp; Water</strong></td>
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The House and Senate leadership are pushing to get all 12 bills passed as separate bills. In recent years only a few bills were passed individually, with many being bundled into an omnibus appropriations bill. It is uncertain whether or not action can be taken on all of the bills before the end of October, so another short-term Continuing Resolution could become necessary.

**Stafford Act Revisions**
A bill to revise aspects of the Stafford Act (H.R. 3377) was introduced just before the August Congressional Recess by the Chairman and Ranking Minority Member of the House Transportation and Infrastructure Committee. Much of the bill is an updated version of legislation from the previous Congress (110th Congress H.R. 6658). ASFPM provided informal comments on the bill, developed with the assistance of the Mitigation Policy Committee Co-Chairs, Mitigation POD Leader and ASFPM Legislative Officer. Although action on the bill had been expected in late September, it has not yet occurred. Action this fall is considered very likely.

Elements of the bill include reauthorization of the Pre-Disaster Mitigation Program (PDM) as a competitive grant program for 3 years at an authorized level of $250 million per year. It also would strengthen building code enforcement by providing a 4% increase in Hazard Mitigation Grant Program (HMGP) funds for states enforcing the codes state-wide. Additionally, it would restore the Mortgage and Rental Assistance program which was eliminated in 2000. It also directs the President to modernize the integrated public alerts and warning system and makes FEMA’s Disaster Assistance Employees eligible for the Federal Health Benefits Program.

**FEMA Independent Status**
A bill to re-establish FEMA as an independent Cabinet-level agency was introduced last February by House Transportation and Infrastructure Chairman Oberstar (D-MN) along with Ranking Minority Member Mica (R-FL) as well as the Chair and Ranking Minority Member of the subcommittee of jurisdiction. Although the Administration feels it is ok for FEMA to stay in DHS for the time being, there is a possibility that this bill (H.R. 1174) could be taken up this fall.

**Sustainable Watershed Planning Act**
The object of this draft legislation is to encourage and support coordination, collaboration and planning at all levels of government. It includes a federal framework to promote improved coordination among federal agencies and also regional and sub-regional planning boards. Grants would be provided to state offices of watershed planning and non-structural measures would be encouraged.

ASFPM representatives have met with committee staff and, at their request, ASFPM has provided suggestions on incentives to support the bills objectives. There have already been several drafts and the bill is still in development. Nothing has been introduced at present so there is no bill number, but it is likely that a bill will be introduced and possibly considered this fall.

**Energy and Climate Change Legislation – Adaptation Provisions**
The long awaited Senate version of energy and climate legislation was introduced September 30th by Senator John Kerry (D-MA) and Senator Barbara Boxer (D-CA), Chair of the Senate Committee on Environment and Public Works (EPW). The Clean Energy, Jobs and American Power Act (S. 1733) was referred to the EPW Committee.

The House had passed its American Clean Energy and Security Act (H.R. 2454) in June. The Senate bill requires a 20% reduction in carbon emissions by 2020 as opposed to the 17% required in the House bill. The Senate bill notably does not address key issues such as establishment of a cap and trade mechanism and its authors indicated that this piece would be developed by the Senate Finance Committee. Several
other Senate committees have elements to add so the process is far from complete and actions by the other committees can be expected before the EPW Committee can weave these provisions together. Chairman Boxer is hopeful that her committee can accomplish this before the United Nations climate summit in Copenhagen in December.

ASFPM staff have been analyzing the “adaptation” aspects of the House bill and will do the same for the Senate bill. Activities that floodplain managers consider “mitigation” would fall under the adaptation parts of the energy and climate bills.

New Bills
A number of newly introduced bills were listed in the July issue of “News & Views”. These were several bills dealing with mitigation and response introduced in the House by Chairman Bennie Thompson (D-MS) of the House Homeland Security Committee. These were H.R. 3026, H.R. 3027 and H.R. 3028. There were also a number of bills introduced by Senator Bill Nelson (D-FL) and then Senator Mel Martinez (R-FL) dealing with catastrophic losses and hurricane research. Those bills are S. 1484, S. 1485, S. 1486 and S. 1487. Of those, the one most likely to be acted on this fall is S. 1485, the National Hurricane Research Initiative Act. For descriptions of each of the bills, please see July, 2009 “News & Views”.

On October 1st, Chairman Paul Kanjorski (D-PA) of the House Financial Services Committee’s Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, released discussion drafts of several new bills, two of which deal with financial regulatory reform and consumer protection. A third, however, would establish a Federal Insurance Office to better coordinate insurance issues and to better inform the federal government on insurance matters.

Hearings of Interest

Sept. 29: A subcommittee of the House Transportation and Infrastructure Committee held a hearing: “Final Breakthrough on the Billion Dollar Katrina Infrastructure Logjam: How Is It Working?”

October 1: A subcommittee of the House Homeland Security Committee held a hearing on the state of the nation’s citizen and community preparedness in light of a recent FEMA report.

October 15: The full House Transportation and Infrastructure Committee will hold a hearing on the Clean Water Act after 37 years.

Coalitions and Briefings

Congressional Hazards Caucus Alliance
The Alliance, with the National Emergency Management Association (NEMA) and FEMA, sponsored a briefing for Congressional staff September 10th on the Mitigation White Paper. The White Paper had been developed by NEMA under contract with FEMA and reflected the participation of many interested parties. ASFPM’s Mitigation Policy Co-Chairs participated in the process. FEMA Administrator Craig Fugate spoke along with representatives of NEMA, IBHS and ICC.

The Alliance is planning a briefing on coastal erosion for sometime in October.
Water Crisis Briefing
American Rivers in cooperation with Representatives Earl Blumenauer (D-OR) and Lois Capps (D-CA) sponsored a briefing on September 23rd in the Capitol Visitors Center for staff “to discuss the innovative water management strategies communities are using to prepare for increasing floods, droughts and water pollution as the climate shifts”.

Sam Riley Medlock of the ASFPM staff participated as one of four speakers. The others were Andrew Fahlund, Sr. VP of American Rivers for Conservation; Michael Thomas, General Manager of the Clayton County Water Authority, Georgia; and Glen Abrams, Sustainable Stormwater Program Manager, Philadelphia Water Department. The briefing was well attended by over 50 people, an excellent turnout for a busy day on Capitol Hill.

Stafford Coalition
The coalition met on September 11th with several guests. Alison Schwartz is the new head of Intergovernmental Affairs at FEMA so this was the first meeting with her for most of the groups in the Coalition. ASFPM’s Larry Larson and George Riedel had met with her along with FEMA’s new head of Legislative Affairs, Pat Hart, in August.

Other guests were the Majority and Minority staff of the House Transportation and Infrastructure’s subcommittee with jurisdiction over the Stafford Act. They provided a briefing on their Stafford Act revision legislation (H.R. 3377) and their expectations for legislative action.

USGS Coalition
The coalition sponsored its annual Congressional reception on September 14th highlighting the many contributions of the U.S. Geological Survey. The coalition honored Senators Dianne Feinstein (D-CA) and Lisa Murkowski (R-AK) for their support of USGS and its important programs. Because several ASFPM representatives were in town for meetings, there was a good ASFPM presence at the reception.