

THE INSIDER

A Publication for Members - November 2013



The Association of State Floodplain Managers

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ASFPM Testifies at House Hearing on Biggert-Waters Implementation

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In a nearly four-hour long hearing Nov. 19, House Financial Services Committee members had plenty of questions and opinions on the implementation of the 2012 reforms to the National Flood Insurance Program, more commonly known as Biggert-Waters, or BW-12. What emerged is recognition that there are some issues, especially with affordability. But what was less clear is how those issues should be addressed.

From the opening statements by members of Congress, two themes emerged. The first is that recent premium increases and mandatory changes as a result of Biggert-Waters was causing significant issues in some areas as individuals were receiving rate quotes, sometimes 10 times higher than the cost of the previous policy on the building. The second is that given the current \$24 billion NFIP debt and national debt, the program had to be restructured to be financially sound, and to remove the cost of living at risk from future taxpayer subsidies. Congresswoman Maxine Waters drew attention to legislation (HR 3370) she was championing that would delay the implementation of some of the Pre-FIRM subsidy reductions for four years.

The first witness, FEMA Administrator Craig Fugate, did not dispute that affordability was an issue and causing problems, but said that rate increases were necessary to ensure future big-claim events could be paid for. He further said that even with the NFIP, the nation has increased its exposure by building in dangerous places, not reduced it. He elaborated that suppressed rates helped encourage bad decisions. Fugate invited Congress to assist by providing targeted relief through means-tested process to assist property owners who cannot afford the increases. Fugate also said that the NFIP debt "would not be retired anytime soon" and highlighted the need for accurate flood maps to determine accurate flood insurance rates, which would take more dollars and many years to complete.

In addition to the ASFPM, the second panel of witnesses included the National Wildlife Federation, Greater New Orleans, Inc., National Association of Realtors, National Association of Home Builders, and the American Action Fo-

rum. Among the panelists, three supported the delay in Grimm-Waters (HR3370) and three supported a longer phase-in of rates, but that rate increases should not be delayed. The NWF and ASFPM highlighted the importance of mitigation and good flood mapping in helping to address affordability issues long-term.

ASFPM's oral testimony focused on flood insurance affordability, flood mapping and dealing with the NFIP's debt. One of ASFPM recommendation is that all of the Section 205 and 207 rate increases in Biggert-Waters be phased in over a much longer time frame , so that they would only amount to 5-10 percent increase in full risk rates per year, versus 20 percent, 25 percent or immediately. "A much longer glide path gives everyone – Congress, states, communities, and homeowners, time to consider mitigation solutions and implement them," said Chad Berginnis, ASFPM's Executive Director.

ASFPM's written testimony was much more detailed, focusing on flood insurance affordability, flood mapping, mitigation and floodplain regulations.

There did appear to be some consensus by Congress members present that steep flood insurance price shocks are a problem and that there is some willingness to do something targeted.

ASFPM's testimony points out that even if something was done with the Pre-FIRM subsidy issues, there is a larger affordability issue looming.

Watch the webcast hearing at
<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=361136>. Read the written testimony at
<http://www.floods.org/ace-files/documentlibrary/Hot%20Topics/Testimony-NFIP-2013.pdf>

I am very happy that ASFPM was able to produce 20 specific recommendations in testimony that takes a pragmatic and holistic approach to addressing affordability. It was clear that committee members were interested given the large numbers of questions the members had for the panel. I hope that translates to positive action."



ASFPM Executive Director Chad Berginnis (second from the right), testifies at a Nov. 19 congressional hearing about BW-12. Photo by Meredith Inderfurth.

"There were five major reforms dealing with shoring up the actuarial soundness of the program, and the Pre-FIRM subsidy was just one of those issues," Berginnis said. "It is imperative that Congress continue to focus on this and develop some meaningful and constructive legislation that helps ease the transition of the program from what it has been for nearly 45 years, to something that is more actuarially sound."

Operations Report from Associate Director Ingrid Danler

I suspect we could all use a mental break from the recent government shutdown and natural disasters, which kept many of us sprinting from one crisis to another. It's also easy to get discouraged in these times of crisis, especially when we hear stories about the younger generation not wanting to serve in government, or the general pervasive scarcity mentality. When these feelings start to surface, it's time to remember how we entered this field – and why we stay.

Whether you landed in floodplain management by design or accident, most in the profession would agree that it is one of the few careers that really has ripple effects. What we do goes far beyond the floodplain and into society as a whole.



Regardless of whether we are approving an EC, helping a homeowner interpret a map, constructing posts to raise a home, or consulting with a community on how to create the right ordinances and codes, we are having dramatic impacts. From the individual who is anxious about his or her new loans, to the community educating its people, to state and federal employees interpreting and balancing the individual against the greater good – these are decisions that impact our financial, societal and intellectual capacity as a nation. Our profession gives us the opportunity to affect the tiny seed AND the greater forest all at the same time.

In these anxious times, invest in yourself, your colleagues and your communities. These investments will pay dividends.

You have an incredible resource in your ASFPM membership that can help you stay motivated, engaged and relevant. Renewal time is here and your membership number unlocks your portal to our national directory of members; discounts on conferences, CFM training and our new webinar series; personalized alerts as they are happening; and information sorted for you to use immediately through our newsletters, white papers and discussion papers. For 2014, we are excited to unveil an electronic library that we are doing in coordination with the Natural Hazards Center, as well as a photo library, that's only available to members. So, in these times of doubt, create your professional resilience by using your membership and all that it has to offer.

And, if we at ASFPM can help, know that you have friends in Madison who have your back.

Keep up the good work!

A handwritten signature in black ink that reads "Ingrid Danler". The signature is fluid and cursive, with the first name above the last name.

ASFPM Becomes FLASH National Partner

ASFPM was recognized as a Federal Alliance for Safe Homes national partner Nov. 21 at the FLASH Annual Conference in Orlando, Fla. FLASH is a national non-profit organization with a mission to promote life safety, property protection and resiliency by empowering the community with knowledge and resources for strengthening homes and safeguarding families from natural and man-made disasters. In implementing this mission, FLASH's three core values stand out and are consistent with ASFPM's own mission and values:

1. **Innovation.** Designing and developing effective and easy-to-use tools and techniques to foster mitigation behavior change.
2. **Integrity.** Delivering consistently reliable, useful and technically accurate information and services.
3. **Collaboration.** Forging strategic partnerships with like-minded individuals and organizations that share a commitment to the disaster safety movement.

The FLASH partnership includes an innovative and diverse collaboration of leaders and organizations with the mission to make America a more disaster-resistant nation by strengthening homes and safeguarding families from disasters of all kinds. FLASH partners are the cornerstone of the disaster safety movement and share a vision that includes safe, strong and sustainable structures for every community.



A Guide to October 2013 Changes to NFIP

The Flood Insurance Reform Act of 2012 created unprecedented, sweeping changes to the Flood Insurance Manual, and FEMA created a website that addresses those changes with case studies, videos, an interactive decision tool and more.

The manual, updated each May and October, can be downloaded at www.fema.gov/media-library/assets/documents/34745. The October 2013 manual is also available in hard copy, but in the future, only an electronic version will be available.

There are four sections in the updated manual addressing rule changes, rating case studies, revised forms and resources. The manual also includes a BW-12 Decision Guide, which assists agents in determining how the new provisions will affect new and existing policies.

Need more information? NFIP Training covers these recent changes and more in course offerings for Agents, Lenders, and Adjusters. Visit NFIP Training for information about our webinars, seminars, and on-demand video.

CRS Task Force Update

By Gregory Main CFM, ASFPM CRS Task Force Representative

The Community Rating System Task Force, an inter-agency, multidisciplinary advisory body that has provided guidance to FEMA since the inception of the program, met Nov. 5-7 in Chicago. Some highlights from the meeting include:



- An update to CRSTF members of the annual progress on the CRS strategic plan.
- FEMA provided an update on the status of the new CRS coordinators manual, including the approval process from Office of Management and Budget. The approval is anticipated to be for a three year period. View the CRS coordinators manual at <http://crsresources.org/>.
- There are some Special Hazards Supplements that have been developed to reconsider CRS credit for coastal erosion open space.
- A summary was given on Hurricane Sandy and CRS engagement efforts in the post-recovery efforts.
- A CRS marketing plan update was provided, including discussion on coordination with FloodSmart and RiskMAP activities to help increase CRS awareness.
- A summary on the Biggert-Waters legislation was provided, along with discussion on how interest in CRS participation may increase in response to the legislation.
- A report was given to the Task Force on the status of a pilot project for the development of an automated elevation certificate process. The 2013 CRS coordinators manual calls for a review of 100 percent of a community's elevation certificates as part of CRS. This pilot project would look into the possibility of an automated centralized review process and is still in the development stage at this time.
- ASFPM's Executive Director Chad Berginnis made a presentation to the Task Force on the association's activities, and potential linkages between No Adverse Impact activities and the CRS program.
- An update was made on the CRS standing committees and the coastal committee was expanded to include erosion hazard. Two new committees were added to the standing committees: activity 540 for municipal systems and crediting federal programs.

The CRSTF is made up of professionals from diverse backgrounds—representatives of FEMA, the insurance industry, professional organizations, local governments and other governmental entities. It serves to monitor the program, discuss needed changes and make recommendations to FEMA. The next meeting is tentatively set for spring.

CHAPTER CORNER

2014 Chapter Renewals

2014 is nearly here, so don't let your Chapter Membership benefits lapse! 2014 Chapter Renewals went out Nov. 8 to each Chapter's Contact one and two. Please let Kait know if you have questions about your chapter membership benefits or renewal. To avoid a lapse in chapter services, submit your renewal and payment no later than Dec. 31 to [Kait Laufenberg](mailto:kait@floods.org), ASFPM, 575 D'Onofrio Dr., Ste. 200, Madison, WI 53719, kait@floods.org.

Award Nominations Sought for ASFPM 2014 Conference

ASFPM is currently accepting award nominations from Chapters and their members for consideration and recognition at the 2014 Conference in Seattle, WA, June 1-6, 2014. A full listing of the ASFPM Awards with description of qualifying criteria can be found on the [Awards Page](#) of the ASFPM website. We're always looking for nominees from local government for the James Lee Witt Local Award (awarded to exemplary local programs or projects) and the Larry R. Johnston Local Floodplain Manager of the Year Award (recognizing exceptional local professionals). To nominate a floodplain manager for consideration, please submit the [Nomination Form](#) online per instructions on the form page. **Award nominations are due via the online form no later than March 1, 2014.** If you have questions about an award or the process, please contact Outreach and Events Manager Diane Brown at diane@floods.org.

CFM® Corner

The email for certification questions is cfm@floods.org. This section will appear in each issue of the Insider. For suggestions on specific topics or questions to be covered, please send an email to Anita Larson at the above address.



CFM Renewal 1/31/2014

ASFPM CFMs who are up for their biennial CFM renewal Jan. 31, 2014 will receive a letter and renewal form via "snail" mail this month. If you do not receive your information in the mail by Dec. 1, 2013, please contact Anita Larson at cfm@floods.org to ensure your CFM does not lapse.

Don't forget that if you need a few fast CECs to complete your certification renewal CEC requirement, check our website for online FEMA and RedVector courses. See list of pre-approved training courses at <http://www.floods.org/index.asp?menuID=360&firstlevelmenuID=180&siteID=1>.

Certification Board of Regents Bi-annual Meeting

The Certification Board of Regents directs and enhances the CFM program, promoting professional development, with the program as the foundation for ensuring highly qualified individuals are available to meet the challenge of breaking the damage cycle and stopping its negative drain on the nation's human, financial and natural resources. With BW-12, climate change and increased flooding, CBOR has an especially important challenge to meet the needs of the CFM community.

CBOR met Nov. 11-14 on FEMA's Emergency Management Institute campus to plan for the future, as well as to pass some important new items. The Code of Professional Conduct was modified to be a Code of

Ethics to reflect the guiding principles of practicing in the profession. CBOR will also be working with the EO to refresh the certification pages on the website, improving navigation to key areas such as training and maintaining your CFM. The reappointment period for our current regents will also be expiring, so if you have an interest in serving on this board, consider applying to become a regent. Email your interest to Ingrid@floods.org.

Job Corner

Visit [ASFPM Job Corner](#) for more information and the most up-to-date job listings.

Floodplain Management Training Calendar

For a full nationwide listing of Chapter, State and Partner training opportunities, visit the [ASFPM Online Calendar](#).

Are you looking for training opportunities to earn CECs for your CFM? If so, be sure to check out our web calendar, which already has LOTS of training opportunities listed for 2014! Search the calendar by state using the directions below, or use the category drop down menu to search by category.

Go to the calendar and click on the search feature icon at the top of the calendar. Type your state's initials in parenthesis (for example "(WI)") into the search field and it will pull all the events (training, conferences, etc.) that are currently listed on the calendar for your state. What a great way to find upcoming training for CECs! The only events without a state listed in the event title are EMI courses which are all held in Emmitsburg, MD.

Upcoming ASFPM Events – Mark your Calendar!

- 2014 June 1-6 – ASFPM 38th Annual National Conference – Seattle, WA
- 2015 May 31-June 5 – ASFPM 39th Annual National Conference – Atlanta, GA
- 2016 May 15-20 – ASFPM 40th Annual Conference – Grand Rapids, MI

Conference Website is now Online!

2014 ASFPM National Conference

June 1-6, 2014

Seattle, Washington



Making Room for Floods & Fish!

ASFPM's 2014 conference website is now live.

Visit <http://asfpmconference.org/> on your computer, mobile device or tablet for the latest information about the "Making Room for Floods & Fish" conference, which will be held June 1-6 in Seattle.

Right now attendees can use the website to check out things to do and see in Seattle; take a peek at Washington State Convention Center layout and information; and book a room at the Sheraton Seattle.

Please remember that staying at the conference hotel helps ASFPM meet its obligations, avoid penalties, and keep registration prices lower – and besides, there's more networking opportunities!

Although registering for the conference isn't available for individuals and exhibitors until February, participants can start budgeting for the event by checking out cost information under the registration tab.

Check back often to see new information as it develops, including the conference program, exhibits and our sponsors list.



By Rebecca Quinn, CFM

I'm usually pretty good at knowing my limits, but in this column I'm going to stretch just a bit outside my comfort zone on two topics

Coastal Communities with Zone V. While I've got the concepts of watershed hydrology and riverine hydraulics down pat, my understanding of wave mechanics isn't on par (despite struggling through and ultimately passing a very math-heavy course on the subject as an undergrad).

So let's talk about waves, wave height and special flood hazard areas identified on Flood Insurance Rate Maps as Zone VE (or V1-V30 on older FIRMs). FEMA has a number of excellent resources that describe how coastal flooding is determined and how those zones are delineated. The really technical stuff is in the guidelines for the experts who conduct the studies that are the basis for FIRMs. The best resource for everyone else is the Coastal Construction Manual (FEMA P-55, 4th ed.). I know several factors come into play when determining wave height at any given locations. But for the purpose of this column, I'm going to simplify things a bit.

Floodplain managers should already know that, generally speaking, FEMA draws the landward boundary of Zone V where, during base flood conditions, wave heights will drop below three feet. But that's not the whole story. Maybe there will be three-foot waves right at the Zone V boundary, but as you move from the Zone V boundary toward the shore, the wave heights will likely increase.

Here's why you can't assume that every location within Zone V will have wave heights of just three feet. The CCM tells us, "The maximum wave crest elevation (used to establish the BFE) is determined by maximum wave height, which depends largely on the 100-year stillwater depth (d_{100})."
The graphic shows the relationship and indicates that wave height (distance from wave trough to wave crest), is equal to 0.78 times the 100-year stillwater depth. Thus, at any given

location, knowing the 100-year stillwater depth is key to understanding base flood wave conditions.

The closer a location is to the shore, the more likely it is to have lower ground elevation (I'm speaking generally, not accounting for dunes and other "high spots"). And the lower the ground elevation, the greater the stillwater depth – and, consequently, the higher the waves. (Oh, and we've not even taking into consideration that erosion can lower the ground, causing even greater stillwater depths, with commensurately higher wave heights!).

So, why should we understand that relationship? Because buildings are required to be designed to resist flood loads, including loads associating with moving water and waves. Higher waves result in more significant wave loads that must be taken into consideration when designing foundations. Assuming that all Zone V waves are only three feet will result in underestimating wave loads. And the unfortunate consequence would very likely be more damage the next time coastal flooding occurs.

Several times during training classes I've mentioned that floodplain managers and designers working in coastal communities need to look in the Flood Insurance Study and use the transect data to determine

stillwater depth and wave height at specification locations where buildings will be built. I can't say students had a good understanding that wave heights vary through the Zone V area and how one would go about determine them. The answer? Turn again to the Coastal Construction Manual, Section 8.5. As a reminder, building codes based on the International Code Series refer to ASCE 7 for all loads, including flood loads. Flood loads are covered in Chapter 5 and the commentary for this chapter has good guidance.

Flood Insurance Manual is NOT the Same as Construction and Design Requirements. I consider myself well-versed in NFIP land management and construction rules (although every day I consult the copy of 44 CFR Part 60, which I keep close at hand). But I approach the NFIP Flood Insurance Manual with great care.

I'm writing about this now because recently I was contacted by a building official who pointed to the fact that flood insurance policies can be written for buildings with basements and concluded that, therefore, basements are permitted. Obviously, that's not the case for new construction, nor for buildings proposed to be substantially improved or repaired after substantial damage.

We should all be aware that just because the NFIP will write a flood policy does not mean that the rules for rating those policies are the same as the rules for construction of buildings in flood hazard areas. Indeed, owners can get insurance for any building,* regardless of whether the building is or isn't "compliant" with the construction rules set forth in 44 CFR 60.3. [*The caveat is that buildings specifically identified under the federal statute provision called Section 1316 are declared by FEMA to be ineligible for federal flood insurance. Without getting into all the details, if a community cites a violation and is unable to get the owner to correct the violation, there is a procedure that allows a community to ask FEMA to issue a Section 1316 declaration].

FEMA, NFIP state coordinators and lots of other folks encourage local floodplain managers, building officials, architects and engineers to have some understanding that decisions made when buildings are designed and constructed can affect how those buildings are rated when owners obtain NFIP flood insurance policies. There are several differences between NFIP rules for the construction of buildings and NFIP insurance rating rules that we should know about, but I can't get into too much detail today.

Perhaps the most common difference has to do with enclosures. We all know NFIP rules (and building codes) allow areas below elevated buildings to be enclosed with walls, provided the enclosed areas meet certain rules. A notable limitation is that enclosures are permitted only for parking of vehicles, storage and building access. Beyond that, the rules vary somewhat depending on flood zone, but for this discussion, those differences aren't important.

What's important is that for elevated buildings, the best insurance rating is used if there is no enclosed area: no garage, no storage room, and no enclosed building access (stairwell, foyer). Whether in Zone A or Zone V, enclosures with solid walls, regardless of the size of the enclosure, will increase the premium compared to the premium for buildings that do not have any enclosures. Said another way, elevated buildings that have enclosures, even enclosures that comply with every detail of the rules, will still have higher insurance premiums than buildings without any enclosed area. The most significant premium increase is due to the simple presence of enclosures below elevated buildings in Zone V, where there's also an additional surcharge if enclosures are larger than 300 square feet. I've heard homeowners can be

quite surprised to realize that they pay considerably more if their homes have enclosures, even enclosures that fully comply with the minimum requirements.

Some coastal communities adopt rules that exceed NFIP minimums and either prohibit enclosures or limit the size of enclosures, usually to discourage owners from modifying the enclosed areas. Community Rating System credits are available for both options: up to 240 points for prohibiting enclosures; up to 100 points for limiting the size of enclosures; and additional 30-90 points for requiring nonconversion agreements to be recorded on deeds. As always, actual points for individual communities will be determined by FEMA/Insurance Services Office.

CORRECTION! In my last column about buildings over water, I had a typo that was caught by a couple of folks who know the insurance side of the NFIP inside and out. Please note the following correction. Luckily, while I erred in the text shown, the text I copied out of the Flood Insurance Manual correctly cited 1982.

- The NFIP will not insure new buildings over water or buildings over water that are substantially improved after October 1, 1982 ~~1987~~.

Submit your own items or suggestions for future topics to column editor Rebecca Quinn, CFM, at rcquinn@earthlink.net. Comments welcomed!

States Turn to Courts on Flood Insurance Rates

Louisiana officials confirmed this month that the state plans to piggyback on a lawsuit its Gulf Coast neighbor Mississippi filed against the Federal Emergency Management Agency in late September, the National Emergency Management Association reported in its Oct. 28-Nov. 1 "State Director Update."

The states hope to stall the onset of premium increases that legislators agreed to last year to stabilize the chronically indebted National Flood Insurance Program. Florida has given an official nod of support to the suit, which South Carolina and Massachusetts are also expected to back.

The legal action comes after a growing contingent of lawmakers has tried for months to add provisions to various bills on the move in the House and Senate to delay the premium increases and pleaded to no avail with FEMA officials to skirt the requirements of a law the lawmakers say has had unintended consequences.

Mississippi's lawsuit asserts that same argument, calling for injunctive relief from the rate hikes and claiming FEMA "plainly lacked and continues to lack the necessary information to avoid arbitrary and capricious decision-making" since the agency has not finished its mandated studies. Federal courts can force the agency to complete the unfinished work, the lawsuit states, because they are able to "compel agency action unlawfully withheld or unreasonably delayed."

If Mississippi's lawsuit remains solely focused on the complaint that FEMA should not raise rates before the study is done, Louisiana will file a lawsuit of its own, says Louisiana Insurance Commissioner James Donelon.

Louisiana officials believe there may be more validity in the argument that the government is effectively taking property by devaluing homes and businesses with exorbitant premiums, Donelon said.

One of the weaknesses in Mississippi's argument is that last year's flood insurance law did not require FEMA to finish studies before carrying out its other mandates, said Steve Ellis, vice president of Taxpayers for Common Sense. And because the legislation forced the agency to ensure that policyholders are paying rates that reflect the actual risk to their properties, he said, the study will only reinforce the fact that it is not affordable to insure homes and businesses that are frequently and severely flooded.

Article from National Emergency Management Association's Oct. 28-Nov. 1 "State Director Update."

Flood Insurance Committee Corner

The Continuing BW-12 Saga

As we pen this article to paper (okay, hunt and peck on the laptop), there is a bill approaching House and Senate floors that could alter the implementation of parts of Section 205 (subsidized premiums) and 207 (grandfathering). So, by the time you are reading this, there may be new news that supersedes some of this article.

With that said, we wanted to update you on upcoming proposed changes for May 1, 2014 that will be coming out in early November as discussed at the recent Flood Insurance Producers National Committee and Institute of Business and Home Safety Flood Executive Committee meetings. FEMA's Risk Insurance Division presented other Biggert-Waters 2012 provisions that they can implement without rulemaking. Here are four that might interest you:

- Section 204: The maximum limit on Other Residential will change to \$500,000 for building only. They will allow mid-term endorsements to increase building coverage after May. Note that when lenders learn about this change, they may force borrowers to now get the higher amount.
- Section 205: FEMA will be lowering the definition of "primary residence" from at least 80 percent occupied during the policy year to at least 50 percent. FEMA will be requiring evidence of residency, but that has gotten push back by the Write Your Owns as to the type of evidence (if any!).
- Section 210: Changes in standard deductibles will be implemented for the following coverage limits:

- Post-Flood Insurance Rate Maps: \$1,000 if <=\$100,000 or less on the building (or if contents only)
- Post-FIRM: \$1,250 if > \$100,000
- So, on renewals, those with >\$100K will get a 2 percent credit
- Pre-FIRM: \$1,500 if <=\$100,000
- Pre-FIRM: \$2,000 if >\$100,000
- So, on renewals no change unless they request \$1,500; then surcharge of 5 percent will be applied
- Section 234: Congress wanted larger letters, so FEMA doubled the font size to 18! Now the policy is close to 50 pages, rather than the previous 30. Due to some minor policy wording changes also made, all new and renewal policyholders will receive this book policy (the Committee Co-Chairs and Liaison will not share their thoughts on the environmental nor financial soundness of Congress passing this section).

If differences appear in the November release of the May 2014 changes, we will make sure to update you. Regarding 207, FEMA did not provide any update other than it was still targeting October 2014, at the earliest, for implementing the elimination of grandfathering.

Also, don't forget...as indicated in the October 2013 Flood Insurance Manual, the rates for pre-FIRM secondary homes will go up another 25 percent beginning Jan. 1, 2014. So those renewal notices are going out now.

Happy New Year!

--Your Humble [Insurance Committee Co-Chairs](#)

Bruce Bender and John Gerber

Liaison Gary Heinrichs

This column is produced by the ASFPM Insurance Committee. Send questions about flood insurance issues to InsuranceCorner@floods.org and they will be addressed in future "Insider" issues.

Washington Legislative Report

Meredith R. Inderfurth, ASFPM Washington Liaison

As Congressional Session end approaches, a flurry of activity

The first session of the 113th Congress will come to a close sometime in December, but action on many issues remains “up in the air,” ranging from the overall budget and appropriations for the rest of the fiscal year, to the Farm Bill, Water Resources Development Act and flood insurance.

Most of these issues are in the final stages of legislative action, but there is no guarantee that they will be finalized before the session ends. Fortunately, any legislation pending as the session concludes will carry over into the second session, unlike when a newly elected Congress convenes.

The Budget House-Senate Conference is intended to produce overall budget ceilings to guide appropriations bills. The current continuing resolution provides funding for federal departments and agencies until Jan. 15. So some form of further appropriations action must be taken by then to avoid another government shutdown. Agreement on a Farm Bill is being worked on in a House-Senate Conference Committee. Another House-Senate Conference Committee officially convened on Nov. 20 to develop final agreement on the Water Resources Development Act. Legislation has been introduced in the House and Senate to delay for four years implementation of the premium rate increases called for in the Biggert-Waters Flood Insurance Reform Act. The Senate version has been filed as an amendment to the Defense Authorization bill now on the Senate floor, so action on this proposal could possibly occur before this session ends.



A hearing on Biggert-Waters implementation was held Nov. 19 by the House Financial Services Committee. ASFPM Executive Director Chad Berginnis presented testimony at the hearing. During the four-hour hearing, there was considerable discussion of the proposed delay legislation and the overall issues associated with affordability of flood insurance. ASFPM recommended a significantly longer phase-in of rate increases rather than a delay in implementation. It is possible that the committee may formulate its own draft legislation to address implementation issues.

Biggert-Waters Implementation and Response

Particularly after the first round of subsidy phase-outs took effect Jan. 1, the need for much more clarity about the changes and FEMA’s interpretation of them became increasingly apparent. Write Your Own companies, insurance agents, real estate agents, lenders, flood determination companies and even floodplain managers recognized the importance of more information about the changes themselves, exactly how they would be implemented, the range of properties to be impacted under different scenarios and the scope of premium increases to anticipate. Additionally, it became apparent that there is a serious lack of information among many of those who interact with the public about hazard mitigation actions that can reduce premiums.

Education and Outreach Needs and Response

FEMA has worked to provide information and interpretive materials, but has been hampered by restrictions on the ability of FEMA personnel to get out in the field to participate in briefings, workshops and community meetings due to budget cuts, sequestration and the October government shutdown. Many stakeholders have been trying to fill the information gaps, but this has resulted in differing interpretations of the new law and has, unfortunately, contributed to uncertainty in the housing market.

An impressive group of stakeholder and partner organizations wrote to FEMA Administrator Craig Fugate Nov. 15 requesting a National Flood Insurance Summit “to bring greater certainty to many of the provisions currently being implemented....” The letter goes on to say,

“The impacted stakeholders are on the front lines working directly with borrowers, homeowners and businesses. Our roles in real estate transactions require us to explain the law and respond to any questions or misconceptions that may arise. It is vital we better understand FEMA’s intentions and approach to the law so we can educate the public and convey critical information about the law’s implementation. We have many questions about FEMA’s plans, timelines and challenges and we need up-to-date and accurate data.”



The letter was signed by ASFPM, American Bankers Association, American Bankers Insurance Association, Mortgage Bankers Association, Independent Community Bankers of America, Credit Union National Association, Independent Insurance Agents & Brokers of America, National Flood Determination Association, National Association of Federal Credit Unions, National Association of Home Builders, National Association of Counties, National Association of Realtors, Manufactured Housing Institute, National Apartment Association, National Association of Local Housing Finance Agencies and National Multi-Housing Council.

Congressional Response

Implementation of the Biggert-Waters Flood Insurance Reform Act has led to considerable consternation and backlash on Capitol Hill. This has focused on the projected sometimes huge premium rate increases, on actual affordability for many homeowners and on complaints about accuracy of flood maps. Many bills have been introduced to delay implementation of elements of Biggert-Waters for various periods of time and for various reasons – until the affordability study is completed or until all maps are declared to be accurate.

Four year delay proposals

The bills receiving the most attention at present are identical bills introduced recently in the House (HR 3370) and Senate (S 1610). Both would delay implementation of Biggert-Waters for up to four years until

the affordability study is complete. FEMA has proposed a framework for addressing affordability and Congress has developed legislation to implement the framework, which would be brought to the House and Senate without going through committee hearings and consideration. The bills do provide that policy holders be advised of their true risk premiums and that a flood insurance advocate role be established within FEMA. Ironically, one of the Biggert-Waters authors, Rep. Maxine Waters (D-CA) has been particularly vocal about her distress over the unanticipated tremendous increases in premiums and is now a primary cosponsor of the House bill, known as the Grimm-Waters-Richmond bill.

Senate response

The identical Senate bill, known as Menendez-Isakson, was filed last week as a proposed amendment to the Defense Authorization bill (S 1197), currently on the Senate floor. Some 500 amendments have been filed; however, and the Senate has recessed for two weeks. It will return for only eight legislative days in December, so there will be a leadership effort to limit the number of amendments actually permitted to be offered. Due to the loud complaints heard by many Senators about the flood insurance rate increases, it is quite possible this amendment could pass, if offered.

The Senate Banking Committee held a hearing on implementation of Biggert-Waters in September.

House response

The House Financial Services Committee held a hearing on Biggert-Waters implementation Nov. 19. Chad Berginnis, ASFPM Executive Director, testified.

The hearing lasted for four hours and about 20 members attended at least some portion of the hearing. FEMA Administrator Craig Fugate was questioned for two hours, largely about map accuracy, impacts of premium increases, scope and amount, affordability, mitigation objectives as related to mapped risk and mapping processes. Most members spoke about the need to improve the fiscal soundness of the program and the related need to remove subsidies, but many also insisted that something has to be done about projected dramatic rate increases.

Fugate pointed out that the increased premiums will help to cover the increased risks covered by the NFIP, but that they will not be sufficient to eliminate the debt the program has incurred due to the storms of 2004-5, Hurricane Irene and Hurricane Sandy. He expressed continued support for the Biggert-Waters reforms, although in acknowledging the affordability concerns, he urged that "if we're going to give any preference to reductions or affordability, that it be means-tested."



Berginnis testified on the second panel along with the National Wildlife Federation, Taxpayers for Common Sense, Greater New Orleans, Inc., National Association of Home Builders, National Association of

Realtors and the former director of the Congressional Budget Office. ASFPM, NWF and the former CBO director expressed strong concern about the legislation to delay implementation, noting that this does not address the underlying challenges and continues uncertainty for the housing market while losing the impetus for mitigation resulting from knowledge of the true risk. The others supported the delay, saying that the impacts could be sufficiently negative on individuals, businesses and the housing market as to require a long pause to develop solutions.

Berginnis pointed to successes of Biggert-Waters, while acknowledging the challenges and difficulties associated with clarity of risk messaging and charging full risk premiums. He said Hurricane Sandy has shown that the basic principles of Biggert-Waters reforms work: that once people are aware of accurate risk pricing, they will take mitigation action; They can compare the true risk premium costs to the cost of mitigation to determine their next steps; There is more interest in mitigation activities up and down the Sandy-affected coastline, not necessarily due to the storm itself, but rather, due to the potential for future flood insurance rate increases; Nationally, there is more interest in the Community Rating System; The Scientific Resolution panel to solve difficult mapping problems has successfully remedied several issues; And lenders are being more careful to review their portfolios.

A number of groups have weighed in to express opposition to delaying Biggert-Waters implementation. Some of those are the SmarterSafer Coalition (a diverse group of environmental, re-insurance, insurance and fiscal responsibility groups), the American Consumer Institute, Americans for Prosperity, Americans for Tax Reform, Club for Growth, Competitive Enterprise Institute, ConservAmerica, Cost of Government Center, FreedomWorks, Heritage Action for America, Less Government, Let Freedom Ring, National Taxpayers Union, R Street Institute, Taxpayers for Common Sense and the Taxpayers Protection Alliance. The NWF and ASFPM also oppose delay and recommend a longer phase-in. The Write Your Own Coalition has again expressed its support for the reforms in Biggert-Waters and cautioned about the confusion and difficulties that could result from delays in implementation.

Although the four year delay legislation does have 141 co-sponsors and appears to have momentum, it does not yet have a sufficient number to bypass consideration by the Financial Services Committee and move directly to the House floor. There is some possibility that could occur, however. The Committee has indicated it may formulate its own bill to address some of the implementation and affordability issues that have arisen.

Other Flood Insurance Legislation

Other bills have been introduced that deal with flood insurance. In addition to the various bills to delay BW implementation, notable others are:

-H.R. 3315, introduced by Reps. John Garamendi (C-CA) and Doug LaMalfa (R-CA),

Would exempt agricultural structures from FEMA requirements affecting construction and rehabilitation of structures in floodplains.

-H.R. 3034, introduced by Rep. David Loebssack (D-IA), is titled “National Flood Research and Education Center Act”.

- H.R. 1268, introduced by Rep. Steven Palazzo (R-MS), would provide a tax credit of up to \$5,000 in any given year for flood mitigation expenses.

Water Resources Development Act

The House-Senate Conference Committee to resolve differences between the House and Senate passed bills, (S 601) and (HR 3080), has convened. Technically, the Senate amended HR 3080 to substitute the language of S 601, so take note of that if looking up text of the legislation.

The Senate had appointed conferees several weeks ago and the House finally passed a motion to go to Conference with the Senate and appointed conferees. The House also approved a motion to instruct conferees to accept Senate language re-authorizing the dam safety program. Informal staff-level negotiations have been underway. The full House-Senate Conference Committee formally convened Nov. 20. The House has recessed for one week for Thanksgiving and the Senate has recessed for two weeks, but staff-level negotiations will continue during the recess period.

There is considerable interest in actually finalizing WRDA before the end of this session on the part of the relevant committee chairs and ranking minority members, as well as by House and Senate leadership. While there are commonalities between the two bills, there are also significant differences.

Probably the major difference is the project approval mechanism. Previous WRDA bills have included long lists of authorized projects, but in the current legislative environment, these have been deemed “earmarks,” which the congressional leadership have pledged to avoid. The Senate bill solves that problem by authorizing projects approved by chief’s reports, while the House bill retains some measure of congressional control by providing for Congressional approval or rejection of approved Chief’s Reports.

Another problematic issue for the House-Senate Conference Committee involves funding of \$10.3 billion for Louisiana’s Morganza to the Gulf levee project. The Senate bill includes this funding while the House bill does not. There are other areas of difference, but those of particular interest to ASFPM are:

1. Levee Safety Provisions

The Senate bill provides for a federal framework of safety guidelines to be developed by a National Levee Safety Board, development of State Levee Safety Programs, expansion of the National Levee Inventory to include non-federal levees, establishment of a fund for technical assistance and assistance with limited costs of repair and improvement and inclusion of levee safety considerations in state and local hazard mitigation plans. The House bill does not establish any federal framework, but does provide that planning assistance to states funds may be used to support voluntary state levee safety programs. ASFPM has expressed support for the Senate provisions.

2. Technical Assistance Programs

The Senate bill increases the authorized funding levels for the Corps’ technical assistance significantly. Flood Plain Management Services and Planning Assistance to States are currently authorized at about \$15 million. Appropriations have averaged much lower amounts – approximately \$7 million-\$8 million for FPMS and \$4 million-\$5 million for PAS. The Senate bill would increase authorizations (not to be confused with actual appropriations) to \$50 million for FPMS and \$45 million for PAS, sending a signal that the Sen-

ate considers these to be important programs, which should be enhanced. FPMS has provided about half of the funding for the Silver Jackets program. The House provides no increase in authorizations.

ASFPM endorses the Senate provision in keeping with its long strong support of these technical assistance programs.

3. Streamlining of Environmental Reviews

Both bills provide for streamlining of environmental review processes. The Senate bill provides for coordinated review with other federal agencies, state agencies and tribes for speedy resolution of disputes and the avoidance of delays. The House bill provides for the assistant secretary of the Army to assume a leadership role, allows for a greater role for non-federal sponsors and creates deadlines for agency submission of data and comments. ASFPM has some concerns about both, but has expressed preference for the Senate version.

4. PL 84-99

In PL 84-99, Congress authorized the Corps to rehabilitate damaged flood control works (e.g., levees) and federally constructed hurricane or shore protection projects (e.g., federal beach nourishment projects) and to conduct related inspections. This authority is referred to as the Rehabilitation and Inspection Program. A common issue under RIP is that nonfederal sponsors often are interested in not only repairing, but also making modifications and improvements to provide more protection, which is prohibited under RIP. The Corps' authority is expressly restricted to repair or restoration to the pre-disaster level of protection – no betterments or levee setbacks are allowed under this authority.



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The Senate bill allows the Corps in restoring flood damage reduction projects after storm events to include modifications to the structure or projects under PL 84-99. The House bill requires the

Corps to evaluate the existing post-storm restoration authority of PL 84-99 and to report on the inclusion of public safety, resiliency, the long-term effectiveness of coastal storm damage reduction projects in general, and the post-storm and extreme weather goals and objectives of the President. Scope of review is to include historical actions to repair or restore projects and to increase Levels of Protection of damaged projects to address future conditions, and to evaluate the difference between repairing to pre-storm LOP or to design LOP. Scope also to include science on expected rates of sea-level rise, and incorporate work completed by Sandy Rebuilding Task Force.

ASFPM has sent a letter to the Majority and Minority leadership of the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee, and the relevant Subcommittees expressing support for the increased authorizations for technical assistance and for the more fully developed Levee Safety Program in the Senate bill. ASFPM has also joined with the American Society of Civil Engineers, National Association of Flood and Stormwater Management Agencies, Association of State Dam Safety Officials, Interstate Council on Water Policy and the United States Society of Dams in sending a letter urging inclusion of a comprehensive levee safety program in the final WRDA. The National

Committee on Levee Safety also sent a letter urging inclusion of a national levee safety program. All three letters are posted on ASFPM's website.

Farm Bill

The House-Senate Conference Committee has been meeting amid high hopes of achieving consensus on a final Farm bill before the end of this congressional session. The optimism diminished late last week as talks stumbled over differences in how much to reduce the food stamp program, also called the Supplemental Nutrition Assistance Program. The Senate bill calls for \$40 billion in savings in the coming 10 years, while the House bill provides for \$4 billion. A long scheduled cut in food stamp benefits went into effect this month and Senate negotiators want this project's \$11 billion in savings to count in addition to the \$4 billion already in the Senate bill.

Budget Conference and Appropriations

The House-Senate Conference Committee has been meeting in an effort to establish overall budget levels for this and subsequent fiscal years, including some reduction of the sequester and its draconian impacts. Apparently, in an effort to provide budget guidance for at least FY 2014 and 2015, conferees have narrowed the scope of their discussions. The tentative intent is to issue a report on negotiations by Dec. 13. This is important to facilitate action before Jan. 15 on appropriations for the remainder of FY 2014. The current continuing resolution providing funding will expire Jan. 15. Senate Appropriations Chairman Barbara Mikulski (D-MD) has stated that she will not take action on appropriations bills until budget guidance has been developed.

Other Items of Interest

Science of Floodplain Mapping Briefing

The Chair of the Congressional Hazards Caucus, Senator Mary Landrieu (D-LA) requested a briefing on the science underlying floodplain mapping. The Congressional Hazards Caucus Alliance, of which ASFPM is an active member, organized a briefing for Congressional staff and representatives of other organizations (for example, the Conference of Mayors, National Association of Counties, National Association of Home Builders). The briefing was held Oct. 22 in a Senate Hearing Room and was standing room only with more than 90 in attendance.

Dr. Gerry Galloway (University of Maryland Engineering) provided context and moderated the panel. Panel presenters were Mike Buckley (formerly FEMA, currently Dewberry and representing ASFPM), David Maune (Dewberry) and John Dorman (State of North Carolina). Mike Buckley addressed hydrology, hydraulics and the difference between accuracy and uncertainty. David Maune explained LIDAR technology and possibilities and John Dorman spoke about the real world example of mapping and tools in North Carolina, noting the importance of cooperating technical partnerships.

Digital Coast Partnership

ASFPM is an active partner in NOAA's Digital Coast Partnership, which not only collects data for coastal planning and management, but develops tools for local officials. The program was developed within NOAA, but has not been codified.

Legislation has been introduced in the House to codify a program that has proven its usefulness over a number of years. There is no comparable bill in the Senate.

Representatives of partner organizations have been visiting Senate offices to explain the value of the Digital Coast Partnership and to recommend Senate legislation to codify the program in statute. ASFPM representatives have participated in this effort.

Executive Order on Climate Preparedness and Resilience

The President issued a new Executive Order Nov. 1 on Climate Preparedness and Resilience. In the wake of Hurricane Sandy, the Administration, working through the Sandy Rebuilding Task Force, provided resources to rebuild the affected area to be more resilient than before, including support for more climate-resilient roads and infrastructure, and projects that protect drinking water and buffer communities from flooding. Three key outcomes of that effort to date include:

- NOAA, FEMA and USACE released a Sea Level Rise Tool,
- NOAA and USACE Infrastructure Systems Rebuilding Principles, and
- The Task Force issued the first ever Federal Freeboard, requiring Sandy supplemental appropriations be invested utilizing best-available-data for elevation plus one foot of freeboard.

To build on this progress, the EO, “Preparing the United States for the Impacts of Climate Change,” directs federal agencies to:

- Modernize federal programs to support climate-resilient investments,
- Manage lands and waters for climate preparedness and resilience,
- Provide information, data and tools for climate change preparedness and resilience, and
- Plan for climate change related risk.

To implement these actions, the EO establishes an interagency Council on Climate Preparedness and Resilience, chaired by the White House and composed of more than 25 agencies. To assist in achieving the EO goals, these agencies are directed to consider the recommendations of the state, local, and tribal leaders’ task force on climate preparedness and resilience.

Coastal Resilience Briefing

The Coastal States Organization and the Natural Estuarine Research Reserve Association sponsored a briefing for congressional staff Nov. 18 on coastal resilience. Representatives from Mississippi, Rhode Island, New Jersey, Florida, Alaska, New Hampshire, Maryland and Hawaii spoke. This was a well-attended briefing as well.

Hearings on Hurricane Sandy – One Year Later

Hearings to examine progress and issues that have emerged were held on both sides of Capitol Hill. The Senate Homeland Security and Governmental Affairs Committee held its hearing Nov. 6 and the House Transportation and Infrastructure Committee held a hearing Nov. 14. Both hearings covered a wide range of issues and federal agency programs. They can be viewed at www.hsgac.senate.gov and www.transportation.house.gov.

FEMA Reauthorization

HR 3300, a bill providing reauthorization of FEMA and several of its programs was reported out of the House Committee on Transportation and Infrastructure. In addition to the overall authorization, the bill specifically reauthorizes the Integrated Public Alert and Warning System Modernization, the Urban Search and Rescue Response System and Emergency Management Assistance Compact Grants. ASFPM sent a letter to the committee chairman and ranking minority member supporting the bill. ASFPM Senior Policy Advisor Larry Larson met with committee staff recently and urged inclusion of language in the committee report supporting the importance of mitigation programs of the Stafford Act.

Legislation referenced can be read by going to <http://thomas.loc.gov> and typing in the bill number or title.

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This report appears regularly as a Member benefit in the INSIDER, ASFPM's member newsletter produced in the odd months. Please see [ASFPM 2013 Legislative and Policy Priorities](#) on ASFPM's website. This and other documents are also available at [National Policy and Programs > Working with Congress](#).