



Association of State Floodplain Managers, Inc.

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Legislative Report

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Lots on the Agenda Under Unusual Circumstances

This Legislative Report looks toward upcoming legislative activity as this second session of the 116th Congress moves along toward the November, 2020 elections. The past year has been full of policy and legislative issues of importance to ASFPM and its members. For an interesting, concise, but full-of-information report, please see the Policy Report by Larry Larson, ASFPM Director Emeritus and Senior Policy Advisor along with Meg Galloway, Senior Policy Advisor.

As we begin this ASFPM Annual Conference, the National Flood Insurance Program (NFIP) is in the midst of its 15th short-term reauthorization since September 30, 2017. Mark-up of the 12 regular appropriations bills is set to begin soon in the House and Senate. Development of the next Water Resources Development Act (WRDA) is well underway. We are hopefully nearing passage of the Digital Coast Act and we are watching development of a variety of other legislative actions. Another stimulus and relief package is under development to cope with the COVID pandemic and economic effects, but timing remains uncertain.

The Congress and all federal departments and agencies are performing most of their work from remote locations. Despite the major adjustments that entails, work is actually proceeding. There are challenges from not having face-to-face meetings and not always being able to reach staff by telephone, but surprisingly the work of government is churning ahead. ASFPM's Washington policy and education work is now entirely done by email, telephone, zoom meetings and conference calls. We have been able to stay in touch with many Congressional staffers, as well as staff at many federal agencies, and our many partner organizations.

Quite a few Members of Congress do return to Washington for voting during the limited days the Congress is in session. The House has passed a measure allowing voting by proxy and remote Committee meetings so official actions can be taken while protecting Members' health. During a House Rules Committee meeting, for example, Members entered the room one at a time to cast their votes. On the House floor, one Member can vote by proxy for up to 10 others. This is the first time such a system has been tried and was resisted during the early pandemic by tradition-bound leadership. And it remains subject to Court challenge.

In addition to frequent conversations, emails and texts during the week, the ASFPM Policy Team meets weekly by conference call to review status of work on various issues and coordinate on upcoming actions.

NFIP Reform and Extension of Authority

Reauthorization

The NFIP was last reauthorized in a Disaster Supplemental Appropriations bill enacted in December, 2019. Its 15th short-term reauthorization will expire September 30, 2020. The last full 5-year reauthorization and reform

bill expired September 30, 2017, and the program has had to operate under repeated periods of uncertainty awaiting short-term extensions since.

Reform

Progress on NFIP reform and full multi-year reauthorization has stalled.

The House Financial Services Committee was very active during the 1st Session of the 116th Congress, holding hearings on flood insurance reform and releasing draft legislation for comment before unanimously reporting out a 5-year NFIP reauthorization and reform bill (H.R. 3167) and a separate administrative claims issues bill (H.R. 3111) in late October. ASFPM participated actively in that process by meeting with staff, submitting comments on legislative drafts and testifying during hearings. Due to range of concerns, those bills have not been brought up on the House floor for a vote.

The Senate Banking Committee has taken no action on flood insurance during either the 1st or current 2nd Session. A bill introduced by Senators Menendez (D-NJ) and Cassidy (R-LA) (S. 2187) with significant bipartisan support has not been taken up by the Committee, nor has the committee drafted its own bill.

There is an emerging consensus among many organizations interested in the NFIP that there is little to no chance of substantive legislative action on flood insurance before its September 30th expiration of authority. It is generally assumed that there will be a need for an Appropriations Continuing Resolution (CR) since it is also unlikely that all 12 appropriations bills could be passed by the end of the fiscal year. Interested organizations are contacting the Appropriations Committees to make sure that NFIP reauthorization is included for at least the length of a CR.

ASFPM participates in weekly phone meetings to share thoughts with an informal group of organizations interested in promoting similar reform ideas. That group includes the Pew Charitable Trusts, The Nature Conservancy, the Natural Resources Defense Council, the Union of Concerned Scientists, American Rivers, the Consumer Mortgage Coalition, the Environment and Energy Study Institute, the Association of State Wetland Managers and occasional others. We also co-lead the Flood Map Coalition with the National Association of Realtors and meet periodically on mapping issues and to discuss flood map matters with FEMA and other federal agency representatives. That group includes a wide range of organizations – for example insurance and lender associations, NAFSMA, NACo, League of Cities, National Association of Home Builders and others.

Appropriations

So far this year, several disaster supplemental stimulus and relief bills have occupied the attention of the House and Senate Appropriations Committees.

All 50 states have Presidential Disaster Declarations due to the Corona virus pandemic (and other disasters, of course). With disasters declared in all 50 states, it will be interesting to learn how much funding will be provided for FEMA's new BRIC program (Building Resilient Infrastructure and Communities). BRIC replaces the Pre-Disaster Mitigation grants program and may provide an amount equivalent to 6% of FEMA disaster costs into a new pre-disaster mitigation fund at the US Treasury. These funds are to be available nationwide to support pre-disaster mitigation. The program was created by the Disaster Reform and Recovery Act (DRRA) passed in the fall of 2018, and is now moving toward implementation. The public comment period for FEMA's first guidance on BRIC closed May 11. ASFPM provided comments (on our web site) coordinated by the Mitigation POD. Plans call for the first Notice of [grant] Funds Opportunity (NOFO) to be announced in August.

After the President's Fiscal Year 2021 Budget Request was released in February, Appropriations subcommittees began holding hearings, during which department and agency leaders explained their budget requests and

answered questions of subcommittee members. All of the subcommittees accept written Outside Witness Testimony (OWT) for publication in the hearing records, if submitted by certain dates. ASFPM has submitted OWT to the Homeland Security subcommittees supporting increased funding for flood risk mapping and the Science and Technology flood research program in the Department of Homeland Security. ASFPM and the National Association of Realtors drafted a letter supporting increased funding for flood risk maps which was signed by 23 members of the Flood Map Coalition. The President's budget again requested only \$100 million for mapping, as it did in the past two years. Fortunately, both the House and Senate Appropriations Committees have recognized the importance of FEMA's flood maps and have provided \$262.5 million for the past several years. ASFPM expressed support for funding at the full authorized level of \$400 million, but urged at least level funding at \$262.5 million in 2021.

ASFPM also submitted OWT supporting the technical assistance programs of the US Army Corps of Engineers. We sent letters supporting USGS funding for stream gages and other water monitoring works, as well as the 3DEP program collecting elevation data for the nation. We joined the USGS Coalition in its letter of support for various USGS programs and joined the Stream Gage Coalition in its strong letter of support for stream gage funding. ASFPM has also testified and written to authorizers and appropriators calling attention to the need for federal funding to update NOAA's Atlas 14 precipitation data, which is largely outdated. Currently, funding relies only on a failing patchwork quilt of non-federal sources.

Overall, numbers in the FY '21 budget requests are down from FY '20 enacted levels for agency budgets of importance to floodplain managers, but there is some hope Congress will increase final totals.

America's Water Infrastructure Act (AWIA) Corps of Engineers authorization

After a number of hearings and meetings with stakeholders, the Senate Environment and Public Works Committee on May 6th reported out the 2020 version of a water resources development act which it calls America's Water Infrastructure Act (S. 3591). Both House and Senate say they are committed to continue producing water resources legislation every two years. In 2014, WRDA legislation was enacted after a long gap since the 2007 WRDA. But since 2014, the Congress has succeeded in enacting a WRDA bill every two years. These bills authorize Army Corps of Engineers water projects and usually include many policy elements. The Senate bill this year includes provisions promoting consideration of nature-based alternatives to gray infrastructure and includes language pertaining to FEMA's High Hazard Dam program agreed upon by the American Society of Civil Engineers (ASCE), the Association of State Dam Safety Officials (ASDSO) and ASFPM. ASFPM also provided extensive comments to the Committee regarding the bill's policy provisions on May 1.

The House Committee on Transportation and Infrastructure's Water Resources Subcommittee has been holding hearings and meetings towards development of its version of a WRDA 2020. Indications are that a draft bill could be available soon.

ASFPM Executive Director Chad Berginnis testified before the Subcommittee on July 10, 2019 and ASFPM Chair Ricardo Pineda testified before that Subcommittee on November 19, 2019, and ASFPM has continued to provide further information to the Committee on a number of key issues.

Digital Coast Act

This legislation would codify the Digital Coast initiative at NOAA. ASFPM is an active participant in the Digital Coast Partnership. The initiative has been underway for over 10 years and has proven extremely effective in providing integrated data and tools to coastal decision makers, as well as leveraging federal funds and building local capabilities for wise decision making and climate adaptation.

Earlier in this Congress, the House passed its Digital Coast Act, H.R. 2189. Similar legislation passed the Senate twice under Unanimous Consent provisions in the previous Congress. The measure (now S. 1069) was re-introduced by Senators Baldwin (D-WI) and Murkowski (R-AK) and others in this Congress. It has been reported out of Committee and is awaiting Senate floor consideration. Prospects for full passage of the bill seem promising, if Senate floor time is scheduled.

Testimony on Climate Issues and Data Resources

Chad Berginnis, ASFPM Executive Director, testified on November 20, 2019 before the House Select Committee on the Climate Crisis at a hearing entitled, “Creating a Climate Resilient America: Reducing Risks and Costs”.

Chad also testified on February 27, 2020 before two subcommittees of the House Committee on Science, Space and Technology at a hearing entitled “An Examination of Federal Flood Maps in a Changing Climate.” The subcommittees were interested in adequacy of data resources. The hearing highlighted the nation’s needs for expanded flood mapping, and updating and improving NOAA’s Atlas 14 and other tools and analyses for anticipating and estimating large precipitation events and their likely return frequencies.

Other Matters for the Upcoming Year

FEMA

- Monitor implementation of the 6% set-aside (BRIC) authorized in the Disaster Recovery Reform Act (DRRA)
- Follow development of Risk Rating 2.0 that will impact NFIP mapping and insurance rates
- Encourage early implementation of adding damage assessment and permitting officials to EMAC mutual aid as authorized in DRRA
- Continue collaboration with FEMA and NAFSMA in periodic Mapping Operating Partners meetings
- Work to reinstate floodplain managers’ access to claims and repetitive loss data under FEMA’s new PIVOT system

USACE

- Promote consideration of non-structural and natural infrastructure and nature-based alternatives
- Promote use and expansion of Silver Jackets and other technical assistance programs: FPMS, PAS, NFRMP

NOAA

- Work to develop and enhance the Digital Coast Partnership
- Promote federal funding to update Atlas 14 precipitation data

USGS

- Support 3DEP elevation data collection
- Support stream gages and water monitoring programs

Agriculture – NRCS

- Promote funding for and use of conservation programs for floodplain management

The text of all four of the above mentioned ASFPM testimonies can be found on the ASFPM website: www.floods.org. All legislation mentioned can be found by going to: www.Congress.gov and typing in the bill number or title.