



**NEMA Legislative Report  
2009 Mid-Year Conference  
March 6-10, 2009**

*Alexandria Hilton Mark Center – Alexandria, VA*

A new Congress arrived in Washington, D.C. in January along with the Obama Administration. Congress and the Administration immediately turned their attention to the economic recovery stimulus package. This package contains only limited emergency management funding. A detailed summary of the stimulus bill can be found at <http://www.staterecovery.org>.

The 111<sup>th</sup> Congress has begun work to address the continuing resolution set to expire on March 9, 2009 for nine of the twelve FY 2009 appropriations bills that were left incomplete by the 110<sup>th</sup> Congress. DHS Appropriations for FY 2009 were completed in September 2008 including \$315 million for the Emergency Management Performance Grants (EMPG); \$35 million for emergency operations centers improvements; a one year reauthorization of the Predisaster Mitigation Program; and more. Grants (EMPG) are funded at \$315 million in the current House bill and \$300 million in the Senate bill and Emergency Operations Centers Improvements are funded at \$35 million in the House bill and \$10 million in the Senate bill.

While the Administration is completing nominations for key positions at the Department of Homeland Security (DHS) and undertaking a review of the Department, a budget is being prepared for release on April 20, 2009. Key budget details will not likely be available until then.

At the same time Congress is busy completing interviews and scheduling hearings for the pending nominations and setting their agenda for the 111<sup>th</sup> Congress. Some of the key issues on the agenda for emergency management include the FEMA organization question and whether FEMA remains in or out of the Department of Homeland Security; how the White House addresses homeland security and national security organization; oversight over DHS; and key reauthorizations.

For emergency management the Predisaster Mitigation Program sunsets on September 30, 2009.

The National Flood Insurance Program authorization sunsets with the continuing resolution, though an extension of the program until September 30, 2009 is included in the continuing resolution. The National Earthquake Hazards Reduction Program authorization also ends on September 30, 2009.

Congress will continue to look at changes to the Stafford Act. Both the House and the Senate are continuing discussions on the issue of whether the Stafford Act needs to have a separate section to address catastrophic disasters, what would define a catastrophic disaster, and what assistance should be triggered with a catastrophic disaster declaration.

Congressional Committees have also expressed a desire to begin developing annual authorization bills for DHS, similar to those for the Department of Defense (DoD). Both the Senate Homeland Security and Governmental Affairs Committee and the House Homeland Security Committee have begun developing strategies for authorization bills. The authorization bills would be moving targets for changes to recent emergency management legislation or priorities and would have to be watched carefully.

For NEMA, the key priorities remain ensuring funding for EMPG to address the total need of \$487 million annually as found in the 2008 NEMA Biennial Report. NEMA supports maintaining EMPG's flexibility for priorities set by the state and for use for improvements to emergency operations centers. NEMA is also working to secure a specific \$4 million line item and reauthorization for the EMAC program.

Thank you for your continued commitment to educate your Congressional delegations on emergency management issues. Your assistance and persistence helps bring results. Sustained communication with your delegation and demonstrating how these programs impact your state is the best way to share information with your members of Congress on critical emergency management priorities.

## National Emergency Management Association Legislative Priorities Tally Sheet - February 2009

NEMA Legislative Priority Issue	Recent Action	Resolution ?
<p><b>1. Increases for Building Capacity with the Emergency Management Performance Grants Program</b></p>	<p>Worked with Senator Voinovich on “Dear Colleague” Letters, state directors sent action alerts to assist in efforts.</p> <p>Included as issue in NEMA Appropriations Testimony – written testimony before Senate and Dave Miller, Legislative Chair testified before the House.</p> <p>Conducted meetings with Appropriations and Authorization Staff at Mid-Year Conference and June Fly-In.</p>	<p>\$315 million included in final DHS FY 2009 Appropriations Package</p>
<p><b>2. Reauthorize and Adequately Resource the Predisaster Mitigation Grant Program</b></p>	<p>Sent letter to Congress seeking action.</p> <p>Conducted meetings with Appropriations and Authorization Staff at Mid-Year Conference and June Fly-in.</p> <p>Provided House testimony on 4/30 by Jim Mullen, Mitigation Chair.</p> <p>Coordinated Stafford Act Coalition letter supporting reauthorization signed by 15 organizations.</p> <p>Briefed Governors DC offices.</p>	<p>Legislation introduced 5/21/2008 in the House (H.R. 6109) and approved by the House. NEMA supported legislation with letter.</p> <p>Separate legislation introduced and approved by the Senate Homeland Security and Governmental Affairs Committee (S. 3175) on June 26, 2008. NEMA supports S. 3175 authorization provisions. Hold placed on legislation by Senator Tom Coburn (R-OK) due to duplicative nature of program and the high amount for authorization.</p> <p>Senate Majority Leader Harry Reid (D-NV) includes PDM reauthorization in package (S. 3297) of Coburn hold bills, but bill fails to meet procedural hurdle to gain consideration.</p> <p>FY 2009 Appropriations package contains one year reauthorization.</p>
<p><b>3. Annual Budget Line Item Funding and Reauthorization for the Emergency Management Assistance Compact (EMAC)</b></p>	<p>Sent letter to Congress seeking action.</p> <p>Conducted meetings with Appropriations and Authorization Staff at Mid-Year Conference and June Fly-in.</p> <p>Included information in House and Senate Appropriations testimony.</p> <p>Briefed Governors DC offices.</p>	<p>No action in appropriations.</p> <p>House legislation on Stafford Act includes \$4 million authorization for FY 2009, 2010 and 2011. H.R. 6658 was approved by the House Transportation and Infrastructure Committee in July 2008. Bill died at the end of the 110<sup>th</sup> Congress.</p>

<b>NEMA Legislative Priority Issue</b>	<b>Recent Action</b>	<b>Resolution?</b>
<b>4. Upgrade Emergency Operations Centers for the 21<sup>st</sup> Century</b>	<p>Conducted meetings with Appropriations and Authorization Staff at Mid-Year Conference and June Fly-in.</p> <p>Included information in House and Senate Appropriations testimony.</p>	<p>House Appropriations for DHS includes \$30 million. Senate Appropriations contains \$10 million.</p> <p>Final DHS FY 2009 Appropriations contains \$35 million.</p> <p>2009 Economic Stimulus Package included \$250 for fusion centers and emergency operations centers, but was stricken from final conference agreement in February 2009.</p>
<b>5. Coordinate Stafford Act Changes with Emergency Management</b>	<p>Continuing to work with the House and Senate Committees to educate on the need.</p> <p>Met with authorization and appropriations staff to educate on the issue.</p>	<p>House Transportation and Infrastructure Committee approves Stafford Act Omnibus bill (H.R. 6658). NEMA input provided post-mark-up because of closely held legislation. Input to be included for floor consideration. Legislative Committee to provide recommendations for the Transportation Committee following NEMA Annual Meeting.</p> <p>No action in the Senate.</p> <p>Bill died at the end of the 110<sup>th</sup> Congress.</p>
<b>6. Fix the Management Costs Allowance for States</b>	<p>Continuing to work with the House and Senate Committees to educate on the need.</p> <p>Sent letter to authorizing Committees seeking suspension of the interim final rule.</p> <p>Briefed Governors DC offices twice in calendar year on the issue.</p> <p>Briefed Congressional staff during June Fly-in.</p> <p>Assembling Work Group to address collection of data from all states on the impact of the rule. Issued new survey for updated data.</p> <p>Senate requested meeting in September to discuss impact of rule.</p>	<p>Rep. Nita Lowey (D-NY) sent language to the House Appropriations Subcommittee on Homeland Security seeking a suspension of the interim final rule. Language was not included in House version of DHS Appropriations or in the conference report.</p> <p>FEMA reopened comment period in Fall 2008 and held listening session on issue in December 2008.</p> <p>FEMA anticipates a new rule to be released.</p>
<b>7. Maintaining a Strong National Weather Service</b>	<p>Met with authorization staff to discuss issue.</p>	<p>No action to date. NWS funding under continuing resolution.</p>

**111<sup>th</sup> Congressional Issues**  
**STIMULUS PACKAGE COMPROMISE**  
**APPROVED, EOC FUNDING IS DROPPED**

The Economic Stimulus package as signed by the President contains cuts from the initial Senate version for the Department of Homeland Security. \$2.75 billion of emergency funding was included, specifically including:

- \$300 million transit and rail security grants;
- \$210 million in FIRE Grants for fire station construction; and
- \$100 million for emergency food and shelter.

The \$250 million for upgrading, modifying, or constructing emergency operations center or for upgrading, modifying, or constructing State and local fusion centers and \$500 million for critical infrastructure construction were eliminated from the package.

In addition, the language contains a provision calling for an arbitration panel for Hurricane Katrina, Rita, Gustav and Ike public assistance application denials. The language also contains a provision allowing homeowners to not be prohibited from using hazard mitigation (404) funds if the project work has commenced without the written approval of the FEMA Administrator.

**CONGRESS TO CONSIDER EXPIRING**  
**CONTINUING RESOLUTION WITH OMNIBUS**

Congress has unveiled an omnibus appropriations bill to address the continuing resolution set to expire on March 6, 2009. Action is expected before the resolution expires. The House version of the package contains the following key amounts in emergency management areas:

- \$185 million for interoperable radio systems as recommended by the 9/11 Commission – a \$111 million increase over FY 2008; and
- \$4.4 billion for the National Oceanic and Atmospheric Administration to increase ocean, weather, and climate research activities and for satellite acquisitions – a \$468 million increase over FY 2008

**ISSUE OF FEMA IN OR OUT OF DHS RESUMES**  
**ON CONGRESSIONAL AGENDA**

Senator Jim Inhofe (R-OK) introduced legislation similar to the bill he introduced last year, to remove FEMA from DHS and make it an independent agency. The legislation, S. 412, has been referred to the Senate Homeland Security and Governmental Affairs Committee. The bill is not likely to gain consideration, with both the Chair and Ranking Member of the Committee expressing concern for moving the agency, unless a formal proposal is submitted by the President.

According to a report released the DHS Inspector General, removing FEMA from DHS would cause more harm than good, as it takes long periods of time for complex organizations to evolve. Also, the report mentioned leadership as a critical element contributing towards the

success of FEMA. The report was solicited by the Senate Homeland Security and Governmental Affairs Committee, who are in agreement with the positions asserted in the report. On the House side, legislation to make FEMA an independent agency may be written by the House Transportation and Infrastructure Committee as Chairman James Oberstar (D-MN) has maintained that FEMA should have never been a part of DHS when it was created.

**HOUSE CONSIDERS HOMELAND SECURITY**  
**BILLS**

The House approved a bill (H.R. 553) to assist in sharing Homeland Security Department intelligence with state and local governments. The bill had been passed by the 110<sup>th</sup> Congress and died at the end of the session. Also, the House passed a bill (H.R. 549) to authorize the Office for Bombing Prevention within DHS and to require a strategy for that office to prevent and respond to attacks from explosives. The bill is similar to one that was introduced during the last session of Congress as well. There are no Senate companion bills at this time.

**NAPOLITANO CONFIRMATION HEARING HELD**  
The Senate Homeland Security and Governmental Affairs Committee held a confirmation hearing for Governor Janet Napolitano, the DHS Secretary nominee, in January. Napolitano discussed some of the challenges ahead including addressing state-wide interoperability, building state and local government relationships, streamlining Department communications, and recruiting and retaining the best employees. While border security was a key focus of the hearing, Napolitano explained her plans to revisit REAL ID by bringing together a panel of Governors to explore the implications of the regulations and requirements on the states to comply. Senator George Voinovich (R-OH) called on the Secretary nominee to address the issue of 88 Congressional Committees having oversight over DHS and also thanked Napolitano for her support and understanding of the EMPG program. It was suggested that the Secretary only testify before full Committees.

Ranking Member Susan Collins (R-ME) explained her hope that FEMA remain within DHS under the Obama Administration as the organization seems to be making marked progress and improvements. Collins is concerned about duplications of efforts and confusion for state and local officials by pulling FEMA out of DHS.

**NAPOLITANO ISSUES DIRECTIVES**

Promptly after assuming the role of Secretary of DHS, Janet Napolitano issued two action directives.

The first key directive called for a review of State, local and tribal integration. The directive calls for more fully integrating American state, local, and tribal governments in the development of policies and programs to protect our nation and help it recover from natural and manmade disasters consistent with the homeland security interests of

the United States. The DHS Office of Intergovernmental Affairs was instructed to immediately contact every relevant governmental association including NEMA, which was specifically named, and announcing that DHS intends to revitalize its relationship with State, local, and tribal governments effective immediately with the intent of creating a working partnership. The directive calls for an immediate plan for an accelerated process of soliciting and collecting input from our state, local and tribal partners on how to improve the programs and processes of DHS. Input should include, but not be limited to, the following topics: Critical infrastructure; Grant making; Interoperability; Intelligence collection and dissemination; and Emergency services. A preliminary written report was due Feb. 10, 2009.

Another key directive is on FEMA state and local integration. The directive explains that ensuring the nation's preparedness for all events and all hazards is vital to economic and homeland security and a responsibility of all levels of government. The directive calls on FEMA to work with state and local emergency management to immediately review plans and activities underway to strengthen and coordinate preparedness activities and assess any overlaps and inconsistencies in these plans and activities. An oral report was due Feb. 9, with a final report due Feb. 23.

The third key directive is on national planning. The directive explains that DHS is leading an interagency effort to develop plans at multiple levels to address eight scenario sets, which are based on the 15 National Planning Scenarios crafted by the Homeland Security Council. DHS and the federal interagency are utilizing the Integrated Planning System to develop and adjudicate interagency plans for each scenario. The Directive seeks the status of each of these plans and the anticipated timeframe and actions needed to complete the process, if there are any recommendations for restructuring or consolidation, and where state and local emergency management agencies can provide input and assistance? An oral report was due Feb. 9, with a final report due Feb. 23.

Other action directives include the following topics:

- Critical infrastructure protection;
- Risk analysis; and
- State and local intelligence sharing; and
- Transportation security.

#### **SENATORS FORM WMD CAUCUS**

Senators Robert Casey (D-PA) and Richard Burr (R-NC) have established a caucus to address the threats of chemical, biological, radiological and nuclear terrorism. The Senate Caucus on WMD Terrorism plans to hold regular meetings with "leading experts in the field on proposed policy responses to prevent, prepare for, mitigate and respond to acts of WMD terrorism," according to a statement. The Caucus members currently include Senator

Evan Bayh (D-IN), Saxby Chambliss (R-GA), Russ Feingold (D-WI), James Inhofe (R-OK), Joseph Lieberman (I-CT) and Johnny Isakson (R-GA).

#### **Introduction of other emergency management bills in the 111<sup>th</sup> Congress. Bills included below have been referred to the House Transportation and Infrastructure Committee:**

- Rep. Steve Cohen ((D-TN) has introduced H.R.706, to amend the Stafford Act to direct the Administrator of FEMA to continue to administer the National Urban Search and Rescue Response System;
- Rep. Carolyn Maloney (D-NY) introduced H.R.888 to amend the Stafford Act to reauthorize the temporary mortgage and rental payments program; and
- Rep Marion Berry (D-AR) has introduced H.R.1081 to amend the Post-Katrina Emergency Management Reform Act of 2006 to extend the public assistance pilot program through December 31, 2009.

#### **110<sup>th</sup> Congressional Issues**

*FY 2009 Appropriations*

#### **PRESIDENT SIGNS GOVERNMENT SPENDING BILL**

The President signed into law an omnibus year-end spending bill (P.L. 110-329), which provides funding for military construction and the Departments of Homeland Security, Defense, and Veterans Affairs. The legislation funded all other federal programs at fiscal 2008 levels through March 6, 2009.

The DHS FY 2009 bill includes:

- \$315 million for EMPG;
- \$35 million for emergency operations centers (though \$21 million is earmarked);
- \$35 million for regional catastrophic grants;
- \$200 million for emergency food and shelter;
- \$775 million for FIRE grants;
- \$950 million for State Homeland Security Grants;
- \$837 million for Urban Area Security Grants; and
- \$90 million for the Predisaster Mitigation Program (though over \$24 million is earmarked).

The bill maintains language prohibiting the use of funds for a Principal Federal Official (PFO) in a Stafford Act declaration and includes a one-year extension of the Predisaster Mitigation Program. The continuing resolution continues authorization for the National Flood Insurance Program (NFIP) until March 9, 2009.

For immediate disaster relief supplemental funding, the final package includes \$22.9 billion for disaster relief, with \$7.96 billion allocated for FEMA's disaster relief fund, \$8 million for the DHS Inspector General, a \$20 million rescission for Mississippi's Hazard Mitigation Grant

Program funds for Katrina and a new outlay of \$20 million for an interoperable communications system, \$100 million for DHS to pay the American Red Cross for disaster relief and recovery expenses for 2008, \$600 million for Social Services Block Grants related to disaster relief and recovery, \$6.5 billion for Community Development Block Grants, \$1.3 billion for the Army Corps of Engineers to repair damaged homes and infrastructure, \$1.5 billion for New Orleans levee repairs, and \$850 million for damaged bridges and roads. The continuing resolution also reauthorizes the National Flood Insurance Program through March 6, 2009.

#### *NEMA Priority Issues*

#### **NEMA PRESIDENT TESTIFIES BEFORE SENATE PANEL**

NEMA President Nancy Dragani (OH) testified before the Senate Homeland Security and Governmental Affairs Subcommittee on State, Local, and Private Sector Integration on FEMA's future preparedness planning in September. Dragani served on a panel with Marko Bourne of FEMA, IAEM President Larry Gispert, and Jane Bullock, former FEMA Chief of Staff. Dragani outlined NEMA's recommendations in the White Paper on an effective National Emergency Management System. Dragani explained that disasters have become more regional and multi-state events as a result of the need for evacuation assistance, sheltering, and mutual aid. Chairman Mark Pryor (D-AR) questioned witnesses on FEMA's transition efforts, interagency planning, the value of the National Response Framework, and the National Disaster Housing Strategy. Dragani explained that states are looking at their capabilities and not waiting for the completion of the Target Capabilities List. Gispert explained that state and locals have been "assessed to death by DHS". Bourne and Bullock differed on the notion of having career officials serve as FEMA regional directors.

#### **HOUSE TRANSPORTATION COMMITTEE PASSES STAFFORD ACT OMNIBUS OVERHAUL**

The House Transportation and Infrastructure Committee passed H.R. 6658, the Disaster Response, Recovery, and Mitigation Enhancement Act in July after introducing the bill less than 24 hours before consideration. The measure includes a number of previously approved provisions by the Committee, including reauthorization of the Predisaster Mitigation Program. Also, included in the bill is a 3 year reauthorization of the Emergency Management Assistance Compact at \$4 million annually; an authorization for the Urban Search and Rescue Program; reinstatement of Mortgage and Rental Insurance benefits; authorization of the Integrated Public Alert and Warning System; authorization of the Disaster Relief Fund; extension of benefits for temporary FEMA employees; expansion of mitigation assistance for adoption of building codes; excess property provisions; authorization of the Citizen Corps program; and expansion of the PETS Act for major emergencies. Language in the bill was shared with NEMA

just prior to introduction and NEMA provided comment on the legislation. The bill died at the end of the session and there was no companion bill in the Senate.

#### **PDM GETS ONE YEAR EXTENSION AFTER BEING HELD IN THE SENATE**

While the Predisaster Mitigation Program was reauthorized with a one-year extension in the DHS appropriations package, the road for consideration was bumpy and certain to shape consideration in 2009. In June, the House of Representatives approved stand-alone legislation to reauthorize the Predisaster Mitigation program (H.R. 6109) without any objections. The House bill was sponsored by House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) and Ranking Member John Mica (R-FL) and Subcommittee Chairwoman Eleanor Holmes Norton (D-DC) and Subcommittee Ranking Member Sam Graves (R-MO). The bill is a strong reauthorization for the program and contains the following key changes to the program:

- Increase of the state minimum to \$575,000 from \$500,000 and maintains the remainder of the program as competitive;
  - Elimination of the sunset;
  - Sets a maximum of no more than 15 percent of funding to any one state; and
  - Sets an authorization amount of \$250 million per year.
- NEMA sent a letter in support of the bill.

The Senate Homeland Security and Governmental Affairs Committee approved their version of the bill (S. 3175) also. During consideration of the Senate bill, two amendments offered by Senator Mark Pryor (D-AR) were added to the bill. The first amendment would allow for up to 25 percent of PDM funds to be used for flood control projects including but not limited to construction and repair of dams, levees, and dikes; erosion related to beach nourishment or renourishment, and waterway channelization. The amendment does not pertain to projects where the federal government or the US Army Corps of Engineers is responsible for the maintenance. The second amendment increases the bill's starting authorization level from \$160 million annually to \$210 million and then increases by \$10 million for the next five years of authorization. Shortly after the mark-up, Senator Tom Coburn (R-OK) placed a hold on the bill due to the authorization amount and the concern for earmarks in the program.

In an attempt to overcome the hold on the Predisaster Mitigation reauthorization and other legislation, the Senate failed to cut off debate on the Anti-Coburn bill (S. 3297) with a three year reauthorization of the Predisaster Mitigation Program attached in the Senate in July. Majority Leader Harry Reid (D-NV) tried again to move the measure in September and failed. The package contained a number of bills that Senator Tom Coburn (R-OK) has placed holds on. The package does contain a

compromise on the flood control eligibility. While NEMA has not officially weighed in on the flood control piece which could expand PDM for levee repairs and beach re-nourishment projects, the compromise limits the proposal to looking at studies on the prospects of opening up the grants and also allows FEMA to enter into five pilot programs for flood control. The House version of PDM reauthorization does not contain any similar provisions on flood control. NEMA sent a letter to the Senate leadership supporting PDM reauthorization. These issues are certain to return in the reauthorization discussions in 2009.

**SENATOR INTRODUCES LEGISLATION TO PREVENT MATCH ON SHSGP AND UASI GRANTS**  
Senator Patty Murray (D-WA) introduced legislation that would specifically outline that no match would apply to the State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI). S. 3424 would address language in the FY 2008 grant guidance that stated a match for the programs could come in the future. No similar legislation was been introduced in the House, and the bill died at the end of the session. NEMA sent a letter calling on Congress to maintain no match for SHSGP and UASI programs.

#### *All-Hazards Issues*

#### **DEFENSE AUTHORIZATION SIGNED BY THE PRESIDENT**

The Defense Authorization bill for FY 2009 was signed into law (P.L. 110-417) on October 14, 2008. The bill would also require the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs and the Chief of the National Guard Bureau, to develop a strategic plan to enhance the role of the National Guard and Reserves, taking into account the report of the Commission on the National Guard and Reserves and the National Guard Empowerment Act and State-National Defense Integration Act of 2008 (H.R. 5603 and S. 2760), which would enhance the functions of the National Guard Bureau as well as improve federal-state military coordination.

The bill contains provisions that would require the Comptroller General to report on the use of the Army Reserve and National Guard forces as an operational reserve, taking into account equipment availability and maintenance issues, manning and force structure, training constraints, and any conflicts with requirements under Title 32 USC. The final bill also includes a provision included in the Senate legislation that would authorize all National Guard officers, not just those in command of National Guard units, to retain their state status while serving on active duty when authorized by the President and with the consent of the Governor. This provision would also allow the consent or authorization to be given in advance for the purpose of establishing the succession of command of a unit.

The FY 2009 defense spending bill, which was attached to the continuing resolution, would provide an additional \$750 million to address the National Guard and Reserve equipment shortfalls.

The bill would require the Secretary of Defense, in consultation with the Chief of the National Guard Bureau (CNGB), to prepare a strategic plan to enhance the roles of the National Guard and Reserves when in support of operations conducted under Title 10 status as well as operations conducted under title 32 status. In addition, the bill would require that the Comptroller General report on the use of the Army Reserve and National Guard forces as an operational reserve, taking into account equipment availability and maintenance issues, manning and force structure, training constraints, and any conflicts with requirements under Title 32. The bill would also provide that the Commander of NORTHCOM, the Commander U.S. Pacific Command, and the CNGB shall, with approval of the Defense Secretary, enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during domestic emergencies.

The final package removed provisions opposed by the National Governors' Association that would have modified the Insurrection Act by expanding the power of the President to order Reserve component forces other than National Guard to active duty for domestic emergencies. The concern was that authorizing the President to exercise tactical and operational control of federal forces when engaged in disaster relief or domestic emergency response within a state may confuse the unity of effort. The final bill calls for DoD, the National Guard Bureau and Governors to prepare a plan and protocols to ensure Governors and mayors remain in control of their respective jurisdictions.

#### **HOUSE COMMITTEE HOLDS HEARING ON SMALL BUSINESS DISASTER RELIEF**

The House Transportation and Infrastructure Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing in September on the role of the Federal government in small business disaster recovery. Specifically, the hearing focused on recently introduced legislation, H.R. 6641, which would amend section 406 of the Stafford Act to allow businesses with 25 or fewer employees to receive grants under section 406 to repair, restore, or replace their damaged facilities. According to the legislation, assistance would be limited to \$28,800, which is the maximum amount of assistance a family can receive under FEMA's Individual and Households program. Among those testifying during the hearing was then FEMA Director of Policy and Program Analysis Marko Bourne. According to Bourne's written testimony, "the Administration does not support expanding the [Stafford] Act to provide authority for grants to businesses, as [the Administration] believe[s] the current strategy of relying upon private

insurance and, when necessary, SBA disaster loans, is appropriate.” The legislation died at the end of the Congressional session.

#### **COMMITTEE APPROVES URBAN SEARCH AND RESCUE AUTHORIZATION BILL**

The House Transportation and Infrastructure Committee approved legislation (H.R. 6658) including a provision authorizing the National Urban Search and Rescue (US&R) Response System under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and maintains the program within FEMA. The bill contains language similar to the National Urban Search and Rescue Response System Act of 2007 (H.R. 4158), which was introduced by Representative Steve Cohen (D-TN) in November 2007. In addition to linking the National US&R System to the Stafford Act, the legislation would direct the FEMA Administrator to designate task forces to participate in the US&R System and determine criteria for participation; enter into an agreement with the sponsoring agency of each task force regarding participation; and maintain such management teams or other technical teams as are deemed necessary to administer the system. The legislation would provide FEMA with additional authority to safeguard US&R Program responders and reimburse state and local government sponsors of US&R Task Forces for costs incurred as a result of a federal mission.

Representative Loretta Sanchez (D-CA) introduced a similar bill (H.R. 4183), which has been referred to the House Committees on Homeland Security as well as Transportation and Infrastructure. Although the bill contains many of the same provisions as both H.R. 4158 and H.R. 6658, Representative Sanchez’s bill would link the US&R System to the Homeland Security Act of 2002 and place the US&R System under the Department of Homeland Security. Similar legislation authorizing the Urban Search and Rescue System has not yet been introduced in the Senate. Both bills died at the end of the Congressional session.

#### **SENATE AND HOUSE APPROVE FEMA TRAILER BILL**

The Senate and the House approved a bill (S. 2382) that would require FEMA to assess, within three months of the bill’s enactment, the number of temporary housing units FEMA needs to have in stock to respond appropriately to major disasters. In addition, FEMA would be required to establish criteria for determining whether the temporary housing units stored by FEMA are in usable condition, including standards for formaldehyde testing and exposure. Within six months of enactment of the act, FEMA would be required to develop a plan for storing the units needed to remain in stock as well as for the selling, transferring or disposing of the surplus and unusable units. Finally, the bill would also require FEMA to submit a report to Congress within one year after the date of enactment on the status of the distribution, sale, transfer, or disposal of the unused temporary housing units

purchased by FEMA. The bill was not conferenced or acted on before the end of the Congress, so it died at the end of the session.

#### **HOUSE COMMITTEE CHAIR INTRODUCES SAFE EMERGENCY HOUSING BILL**

House Homeland Security Committee Chairman Bennie G. Thompson (D-MS) introduced the Safe and Healthy Emergency Housing Act of 2007 (H.R. 4079). The bill would protect disaster victims by requiring that any emergency housing units provided by FEMA meet HUD regulations limiting formaldehyde emissions. This legislation would not force the travel trailer industry to change the way they manufacture their product, but assures that FEMA will no longer provide formaldehyde-contaminated housing units to disaster victims.

#### **HOUSE PASSES HOUSING DISASTER RELIEF BILL**

The House approved the Public Housing Disaster Relief Act of 2008 (H.R. 6276) to eliminate section 9(k) of the United States Housing Act of 1937 (42 U.S.C. 1437g). Section 9(k) of the Housing Act authorizes the Department of Housing and Urban Development (HUD) to pay for the repair of disaster-damaged public housing. H.R. 6276, which was introduced by Rep. Don Cazayoux (D-LA) on June 17, 2008, developed as a result of a June 4 joint hearing before the House Financial Services and Homeland Security Committees. During a June 4, 2008 hearing, then FEMA Assistant Administrator for Disaster Assistance Carlos Castillo informed the Committees that while Section 406 of the Stafford Act authorizes FEMA to contribute funds for the “repair, restoration, and replacement of damaged public facilities...public housing authorities would qualify to receive FEMA section 406 assistance if such assistance did not fall under another agency’s purview.” Castillo went on to state that Section 9(k) of the U.S. Housing Act of 1937, as amended, “authorizes HUD to award grants to public housing in response to natural disasters.” The bill died at the end of the Congressional session.

#### **HOUSE PASSES BILL TO REQUIRE WEATHER RADIOS IN MANUFACTURED HOMES**

The House of Representatives passed legislation, H.R. 2787, which would require mobile home manufacturers to equip all new homes with a weather radio. The bill, introduced by Rep. Brad Ellsworth (D-IN) would require that the radios be equipped with a tone alarm and specific alert message encoding, and in compliance with the Consumer Electronics Association’s performance standards for public alert receivers. The bill would also provide liability protection for mobile home manufacturers and communities. Senator Evan Bayh (D-IN) introduced similar legislation (S. 2724) in the Senate. Both bills were referred to the Senate Committee on Banking, Housing, and Urban Affairs and died at the end of the Congressional session.

**NFIP REAUTHORIZATION LEGISLATION  
APPROVED BY HOUSE AND SENATE, AWAITING  
CONFERENCE BEFORE AUTHORIZATION  
EXPIRES**

With the National Flood Insurance Program (NFIP) set to expire on September 30, 2008, both the House and Senate cleared legislation aimed at reauthorizing and reforming the NFIP. The House approved the Flood Insurance Reform and Modernization Act of 2007 (H.R. 3121) in September 2007. The Senate approved its version of the Flood Insurance Reform and Modernization Act of 2007 in May 2008. In July 2008, the House of Representatives appointed Representatives to Conference Committee to work through the differences between the House and Senate versions of the legislation. Action did not occur in the final hours to complete an overhaul of the program and a short-term extension was approved by Congress keeping the program running until March 6, 2009 through the continuing resolution.

While the two versions of the legislation are substantially similar, there are several significant differences between the two bills. The most significant difference between the House and Senate legislation is that the House version includes a multi-peril provision that would allow individuals and business owners to purchase optional wind coverage insurance through the NFIP. The Senate rejected an amendment to attach a similar multi-peril provision to its version of the legislation. The Senate bill would forgive the almost \$20 billion debt the NFIP owes to the U.S. Treasury, while the House legislation would not forgive the program's debt. Both pieces of legislation would allow the FEMA to increase flood policy rates by 15 percent annually, raise the civil penalties against certain lenders who fail to enforce mandatory purchase requirements, and authorize \$400 million annually for FEMA's flood mapping program.

Legislation will likely be introduced in the 111<sup>th</sup> Congress and another extension of the authority is also likely.

**HOUSE VOTES TO PHASE OUT NFIP SUBSIDIES**

The House approved legislation (H.R. 3959) that would phase out flood insurance subsidies under the National Flood Insurance Program (NFIP) for single family properties that are used as a primary residence and that are purchased for at least \$600,000. The phase out would apply solely to those structures built before FEMA began issuing Flood Insurance Rate Maps (FIRMs), which currently receive subsidized flood insurance rates. Beginning on January 1, 2011, NFIP premiums for the aforementioned properties would be increased by 15-percent annually until actuarial rates are reached. While this bill was referred to the Senate Committee on Banking, House, and Urban Affairs, this bill died at the end of the Congressional session. The issue could return during any debate on NFIP reauthorization legislation.

**COMMUNITY PREPAREDNESS BILL APPROVED  
BY HOUSE SUBCOMMITTEE**

Representative Henry Cuellar (D-TX) introduced legislation that would establish the Community Preparedness Division (Division) within the Department of Homeland Security (DHS). The Division would have the primary responsibility within the Department for assisting the efforts of State, local and tribal governments in preparing citizens for acts of terrorism and other emergencies.

The legislation, the Citizen and Community Preparedness Act of 2008 (H.R. 5890), would also formally authorize the Citizen Corps Program as well as the Fire Corps and the Community Emergency Response Team (CERT) program within the newly established Division. In addition, the legislation would establish a pilot program to enhance citizen preparedness at schools by providing training, exercises, and public awareness campaigns. The bill was approved by the House Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response. The bill was also referred to the House Committee on Transportation and Infrastructure. A similar version of this legislation was included in the Disaster Response, Recovery, and Mitigation Enhancement Act of 2008 (H.R. 6658), which was approved by the House Transportation and Infrastructure Committee in July 2008. However, unlike the legislation introduced by Rep. Cuellar, H.R. 6658 would authorize the Citizen Corps Program as well as the Community Emergency Response Team program under the Stafford Act and within the authority of FEMA. Both bills died at the end of the Congressional session.

**HOUSE PASSES WILDLAND FIRE LEGISLATION**

The House of Representatives approved the Federal Land Assistance, Management and Enhancement Act (H.R. 5541), which would establish a supplemental funding source within the Department of Treasury for catastrophic emergency wildland fire suppression activities on federal lands. The legislation, which was introduced by Representative Nick Rahall (D-WV), would also require the Secretaries of the Departments of Interior and Agriculture (USDA) to develop a cohesive wildland fire management strategy within a year of the bill becoming law. In addition, the legislation would require the USDA and Department of Interior to develop regional maps of communities most at risk of wildfires as well as to provide cost-share grants for education programs on wildland fire protection practices. The bill was referred to the Senate Committee on Energy and Natural Resources. Senator Barbara Boxer (D-CA) introduced similar legislation (S. 3256) on July 11, 2008, which was also referred to the Senate Committee on Energy and Natural Resources. Both bills died at the end of the Congressional session.

**DAM SAFETY BILL PASSES IN THE HOUSE**

The House of Representatives passed legislation, the Dam Rehabilitation and Repair Act of 2007 (H.R. 3224), to amend the National Dam Safety Program Act and to require FEMA to establish a program to provide grants to states for use in rehabilitating publicly-owned dams that fail to meet minimum safety standards and pose an unacceptable risk to the public. The bill would also require FEMA to develop a risk-based priority system for identifying deficient dams for which such grants may be made and would limit the federal share of rehabilitation costs to 65%. The bill would require that a third of annual grant funds to be allocated equally among those applying states, and the other two-thirds would be allocated based on both the total number of non-federal, publicly-owned dams within a state's boundaries and the number of non-federal, publicly-owned dams within a state's boundaries that have been determined to constitute a danger to human health. The legislation would provide \$10 million for fiscal year 2008, \$15 million for fiscal year 2009, \$25 million for fiscal year 2010, \$50 million for fiscal year 2011, and \$100 million for fiscal year 2012. This bill was approved by the Senate Committee on Environment and Public Works but died at the end of the Congressional session. Senator Daniel Akaka (D-HI) has introduced similar legislation (S. 2238) in the Senate.

#### *Katrina Recovery Issues*

### **GULF COAST RECOVERY BILLS APPROVED BY CONGRESS**

#### **House Committee Adopts Hurricane Recovery Bill**

The House approved the Hurricane Katrina and Rita Recovery Facilitation Act of 2007 (H.R. 3247), which authorizes that changes made to the public assistance programs under the Stafford Act shall apply retroactively to the recovery efforts of Hurricanes Katrina and Rita. Specifically, the bill increases the federal in-lieu contribution for alternative projects from 75-percent to 90-percent; authorizes the FEMA Administrator to include Gulf Coast recovery efforts under a public assistance pilot project authorized by the Post Katrina Emergency Management Reform Act; permits third parties to utilize alternative dispute resolution procedures; and allows FEMA to use a simplified procedure for covered hurricane damages for a project where the federal estimate is less than \$100,000, an increase from the current level of \$55,000.

In addition, the bill includes an amendment by Rep. Gene Taylor (D-MS) that waives the requirement that certain certifications in the Hazard Mitigation Grant Program (HMGP) occur prior to the actual commencement of a project. The provision essentially allows for a "global match" to be used for the state to come up with the 25 percent and allows an in-kind through projects where mitigation has begun before approval.

The Senate Homeland Security and Governmental Affairs Committee approved a modified version of H.R. 3247. A substitute amendment offered by Senator Mary Landrieu

(D-LA) would make the bill provisions retroactive, allows for aggregating policies for repair and replacement of police and fire stations, case management, rental rehabilitation pilot programs, a 25/10 match for certain programs, housing for volunteers, and alternative dispute resolution. The bill also eliminates provisions that would have allowed assistance for privately owned cemeteries and for state recovery of lost profits in the case of state facilities used for evacuees and other disaster assistance needs. The bill was cleared for action by the full Senate, but died at the end of the session.

#### *Homeland Security Issues*

### **HOUSE APPROVES FUSION CENTER LEGISLATION**

Congress approved the Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act (H.R. 6098), which would require that the Department of Homeland Security permit state and local governments to use State Homeland Security Grant Program (SHSGP) and Urban Area Security Initiative (UASI) funds to pay homeland security intelligence analysts without limitations placed on the period of time those analysts can serve under the awarded grants. The bill, which was introduced by Representative Dave Reichert (R-WA), would also clarify that state and local governments, not DHS, will decide on what percentage of grant money will go towards paying the analysts. The bill was signed into law on October 14, 2009 (P.L. 110- 412).

### **FIRST SENATE DHS AUTHORIZATION BILL INTRODUCED**

Senate Homeland Security and Governmental Affairs Committee (HSGAC) Chairman Joseph Lieberman (I-CT) introduced the first Senate DHS authorization bill (S. 3623) at the very end of the Congressional session. The bill, according to Lieberman, will serve "as a guide for the next Administration and the 111<sup>th</sup> Congress" for creating a more effective and efficient Department of Homeland Security. The legislation, S. 3623, includes provisions that would establish a National Cyber Security Center; authorize the Task Force for Emergency Readiness (TFER); and authorize EMAC through 2009. The legislation also includes identical language to S. 3175, which would reauthorize the Pre-Disaster Mitigation program for three years as well as allow for up to 25 percent of the program to be used for flood control projects. Although the bill died at the end of the session, Congress could take up similar legislation during the 111<sup>th</sup> Congress.

### **INFORMATION SHARING BILLS APPROVED BY HOUSE**

The House approved several bills that would attempt to improve information sharing across federal, state, and local governments by changing the Department of Homeland Security's information classification protocols. The following bills have been approved by the House and

were referred to the Senate Homeland Security and Governmental Affairs Committee:

- The Improving Public Access to Documents Act of 2008 (H.R. 6193) would create a new framework for determining what types of unclassified homeland security information should remain public and what types of information should not;
- The Reducing Over-Classification Act of 2008 (H.R. 4806) would require DHS to develop a strategy to prevent the over-classification of homeland security information as well as to promote the sharing of unclassified homeland security information; and
- The Homeland Security Open Source Information Enhancement Act of 2008 (H.R. 3815) would require DHS to utilize open source information, such as journal articles or news reports, to help analyze counterterrorism and critical infrastructure protection information. This bill was approved by the Senate Homeland Security and Governmental Affairs Committee.

All of the bills died at the end of the Congressional session.

The House Committee on Oversight and Government Reform also approved a bill that would seek to increase government information sharing. The legislation, the Over-Classification Reduction Act (H.R. 6575), would direct the Archivist of the United States to promulgate regulations to prevent the over-classification of information by federal agencies. The bill was approved by the House and referred to the Senate for action, but died at the end of the Congressional session.

#### **HOUSE PASSES HOMEGROWN TERRORISM BILL**

The House of Representatives passed the Homegrown Terrorism Prevention Act of 2007 (H.R. 1955). The bill, introduced by Rep. Jane Harman (D-CA) would establish the National Commission on the Prevention of Violent Radicalization and Homegrown Terrorism, which would examine and report upon the facts and causes of violent radicalization, homegrown terrorism, and ideologically based violence in the United States. The bill also establishes a Center of Excellence for the Study of Violent Radicalization and Homegrown Terrorism in the United States. The Center would be tasked to assist Federal, State, local and tribal homeland security officials through training, education, and research. This bill was referred to the Senate Homeland Security and Governmental Affairs Committee, though a similar bill had already been introduced in the Senate (S. 1959) by Senator Susan Collins (R-ME). Both bills died at the end of the Congressional session.

#### **HOUSE APPROVES BILL TO CREATE BOMBING PREVENTION OFFICE**

The House of Representatives approved the National Bombing Prevention Act of 2007 (H.R. 4749), which would create a new Office for Bombing Prevention in the Department of Homeland Security's Protective Security Coordination Division of the Office of Infrastructure Protection. The Office for Bombing Prevention would have the primary responsibility within DHS for enhancing the ability and coordinating the efforts of the nation to deter, detect, prevent, protect against, and respond to terrorist explosive attacks. The bill would assist state and local governments in developing multi-jurisdictional improvised explosive devices security plans for high-risk jurisdictions, and would authorize \$10 million for fiscal 2009 and \$25 million for each of fiscal years 2010 through 2012. The bill would also require the President to release a national strategy to prevent and prepare for terrorist explosive attacks. The Senate Homeland Security and Governmental Affairs Committee approved similar legislation (S. 2292) in November 2007, but both bills died at the end of the Congressional session.

#### **CONGRESSIONAL COMMITTEES EXAMINE CHEMICAL SECURITY BILLS**

The House Committee on Homeland Security and the House Committee on Energy and Commerce considered legislation that would provide the Department of Homeland Security with permanent regulatory authority over the security of chemical facilities. The Chemical Facilities Security Act of 2008 (H.R. 5533) as well as the Chemical Facility Anti-Terrorism Act (CFATA) of 2008 (H.R. 5577) would make permanent, provisions requiring the Secretary of Homeland Security to establish risk-based performance standards, require vulnerability assessments, and implement site plans for the security of chemical facilities. DHS authority under CFATA is set to expire in October 2009. Although the House Homeland Security Committee has approved H.R. 5577, the bill died awaiting action by the House Energy and Commerce Committee

*A comprehensive list and status report of all introduced legislation on emergency management and homeland security issues in the 110<sup>th</sup> and 111<sup>th</sup> Congress may be found on the NEMA website at [www.nemaweb.org](http://www.nemaweb.org).*

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