

FLOOD & STORMWATER MANAGEMENT UPDATE



House Sends Corps Appropriations to the Senate

The House on July 15 approved its \$30.6 billion fiscal year 2012 (FY12) spending bill for the Army Corps of Engineers, Interior Department water programs and the Department of Energy after a week of debate on various amendments. The final bill represents a cut of \$5.9 billion from the President's FY12 request and comes in \$1 billion below current year funding.

The spending bill, which provides \$4.8 billion for the Army Corps and \$934 million for Interior's Bureau of Reclamation, passed on a largely party-line vote of 219-196 and now moves to the Senate.

Blocked under the Corps appropriations bill, H.R. 2354, is funding for a new Obama administration policy aimed at expanding federal jurisdiction over wetlands and streams. The funding bill also includes a provision that would provide \$1 billion in emergency funding for this year's floods in the Mississippi and Missouri river for flood fighting activities and restoration of flood prevention and navigation systems.

Approved amendments also moved allocations of funding around within agencies, e.g., an approved amendment from Representative Scalise (R-LA) cuts \$1 million from Corps of Engineers Expenses and transfers the funding instead to Corps of Engineers Construction.



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Senate Floats NFIP Reform Package

Senate Banking Committee leaders in recent weeks have recently floated a discussion draft of their NFIP reform package, with plans to mark up the bill before the upcoming Congressional recess set to start on August 5. The five-year reauthorization proposals, released by the Chairman of the Senate Banking Committee, Sen. Tim Johnson (D-SD) and the Committee's Ranking Member, Sen. Richard Shelby (R-TN) as a discussion draft could be marked up as early as Thursday, August 4. Chairman Johnson is reportedly committed to moving the bill to markup next week, however, this schedule could slip due to the lawmakers' recent attention to other high priority matters such as the debt ceiling legislation and scheduling issues.

Included in the discussion draft are a number of provisions that would affect local flood and stormwater management agencies, which include the following:

- Five year reauthorization of the NFIP;
- Forgiveness of the debt to U.S. Treasury and reset of borrowing power for the program to pre-Katrina levels;
- Re-establishment of the Technical Mapping Advisory Committee, which played a vital in developing FEMA's map modernization program and in which NAFSMA participated in an advisory capacity and a \$400 million annual authorization for five years for mapping improvements;
- Establishment of Scientific Review Panel, which provides an independent, science based determination of community map appeals; and
- Clarification that communities may use FEMA appeals process for flood hazard are determinations as well as flood elevation determinations;
- Strengthening of FEMA's communication and outreach on mapping;

As released, the discussion draft includes some provisions that are expected to be of concern to the NAFSMA membership, such as provisions that would expand current requirements for mandatory purchase of flood insurance to areas in "residual risk" areas downstream of dams and behind levees, and for the expansion of the requirement to purchase insurance beyond those who have federally-backed mortgages to properties.

The Senate action follows the House approval of its version of NFIP reauthorization reported in the last edition of the Flood and Stormwater Management Update.



Additional Ongoing NFIP Reform Initiatives

Please note that there are also efforts on the Hill to include a one-year simple reauthorization of the current program, as was included in the House DHS funding bill, to keep the program from shutting down once again even for a short time after September 30. This approach would provide more time for in-depth consideration of the reform provisions currently under consideration by Congress, and for consideration of the anticipated release of FEMA's NFIP reform consensus document that is being developed as a result of stakeholder input on the NFIP received by the agency through a number of channels, including the successful Listening Sessions held by the agency over the last two years.

House Opens Debate on EPA/ Interior Appropriations Bill

Based on a party-line vote of 205-131, the House of Representatives on Monday, July 25, approved a rule on the FY 2012 Appropriations bill for the Department of the Interior, U.S. Environmental Protection Agency and other agencies (H.R. 2584), an action that cleared the bill for debate and consideration on the House floor. Debate on the bill, which is expected to be contentious, is currently underway in the House. As reported by the House Appropriations Committee, the bill will bring significant funding cuts and policy prohibitions for both agencies. Competing against the bill for floor time is debt ceiling legislation and debate. It is important to note that a rapid approval and consideration of the EPA appropriations bill is not expected and a number of amendments are expected to be offered.

As reported by the Committee, the Interior and EPA funding bill contains 38 policy riders – and more are expected during the debate of additional amendments to the legislation. Many of the provisions were included in the original Appropriations subcommittee draft, but others were added in committee almost exclusively by panel Republicans who say they are necessary to prevent EPA and Interior from doing irreparable harm to the economy.

The Administration has released a Statement of Administration Policy strongly opposed to many provisions of the bill. (<http://www.whitehouse.gov/omb/legislative-affairs>).

House Approves Bill Giving Greater Water Oversight to States

The GOP-controlled House, in a 239-184 vote, approved the “Clean Water Cooperative Federalism Act of 2011” (H.R. 2018), a bill sponsored by Florida Rep. John Mica and West Virginia Rep. Nick Rahall, the top Republican and Democrat on the Transportation and Infrastructure Committee.

The bill has a rough road ahead, however, given that it faces strong opposition from the Senate Majority and a veto threat from President Obama.

For more information about the bill, please see the July 18, 2011 *Flood and Stormwater Management Update*.



House Majority Concerned About Double-Permitting Bill

With the August recess closing in and the continued focus on debt ceiling negotiations, Republicans are becoming increasingly concerned that the Senate will not act on a controversial House-passed measure that would address issues concerning the spraying of pesticides over water permitting issues under the Clean Water Act.

H.R. 872 addresses a 2009 federal appeals court ruling that U.S. EPA must begin issuing permits for such pesticide use because its current regulations do not adequately protect waterways from pesticide contamination. The House bill amends the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to prohibit EPA from issuing new permit requirements under the Clean Water Act (CWA) for pesticide use. It would also amend the CWA so EPA could not issue new pesticide permits using its authority.

EPA must begin issuing those permits by October 31 of this year and has indicated it will issue the new permitting requirements by the end of July. That means if the Senate does not take up the bill before adjourning for recess on August 5, Senate lawmakers will have a much shorter time frame to act on the measure after they return on September 6, when the legislative calendar is also expected to be quite full.

The Senate Agriculture Committee approved the legislation by voice vote last month. However, Democrats on the Environment and Public Works Committee, led by Chairwoman Barbara Boxer (D-CA) and Sen. Ben Cardin (D-MD), quickly put a hold on the bill.

Agriculture Committee Ranking Member Pat Roberts (R-KS) called on Senate Majority Leader Harry Reid (D-NV) to use procedural maneuvers to get around the hold and bring the bill to the floor.



FEMA Denies Reimbursement for Green River Valley Flood Mitigation Efforts

The Federal Emergency Management Agency has declined to reimburse more than \$30 million worth of flood preparations taken in 2009 by officials in Washington's Green River Valley. The officials from King County, the state and four cities spent the funds putting in more than 100,000 feet of sandbags, relocating offices and installing emergency equipment after the federal government said it would flood the valley to save the damaged Howard Hanson Dam.

The dam had been weakened by a series of storms in January and the summer of 2009. As a result, the U.S. Army Corps of Engineers in Seattle reportedly told local officials that future rains may cause the dam to fail. There was a 1-in-3 chance, said Col. Anthony Wright, that the Army Corps would have to flood the area that is home to 26,000 residents.

Local officials assumed that FEMA would reimburse them for preparations, but the agency has found that there was never an immediate threat in the summer and the county's third request for repayment has been rejected.

If the Green River had experienced a serious flood in 2009, the costs were expected to range from \$1 billion to \$4 billion.



FEMA Study Points to Increase in Flood-Prone Land

A three-year study undertaken by the Federal Emergency Management Agency to determine the possible impacts of climate change on federal flood insurance will warn of huge increases to the amount of land that could be inundated by rising sea levels, heavier downpours and stormier coastlines.

The size of the nation's flood plains is expected to grow by 40 or 45 percent over the next 90 years, says the FEMA study, which is scheduled to be released later this summer.

That prediction envisions waves of seawater pushing deeper inland during strengthening storms as oceans rise between 0.75 and 1.9 meters by the year 2100. In river valleys and other low-lying flow ways, more rainwater could routinely reach onto areas where current flooding is rare.

Expanding the floodplains could encircle millions of new homes and businesses and expand the National Flood Insurance Program (NFIP) beyond its current volume of 5.6 million policies that protect property valued at \$1.2 trillion from water damage. The study estimates that the program's policies could double in number by century's end.



FEMA's Guidelines for Flood Hazard Mapping Partners Revised

The Federal Emergency Management Agency (FEMA) has developed a revised version of Appendix I of FEMA's Guidelines and Specifications for Flood Hazard Mapping Partners. This Appendix will replace the April 2003 version of Appendix I that contained the Project Scoping Toolbox and the guidance for Scoping and Pre-Scoping activities.

The June 2011 version of Appendix I contains the guidance for conducting Discovery. Discovery is the process to be applied by FEMA Regions, Cooperating Technical Partners, and other Mapping Partners in performing initial activities in a watershed of interest that may lead to a Risk MAP project being initiated.

The updated appendix (and the rest of the Guidelines and Specifications) is available on FEMA's website: <http://www.fema.gov/library/viewRecord.do?id=2206>

CRS Task Force Undertakes Manual Update

The Community Rating System (CRS) Coordinator's Manual for the National Flood Insurance Program is being updated.

The CRS Task Force has published proposed changes for the manual online at www.CRS2012.org and has initiated a series of webinars on the proposal. Some webinars will be on the CRS Coordinator's Manual changes in general and others will be oriented to one or more specific activities or to a particular series. All changes covered in webinars are listed and explained in the 2012 CRS Coordinator's Manual Changes document. The webinars are available to anyone at no cost and a complete schedule and registration information is available online.

To learn more about the changes and to provide your comments or questions on them, see the Outreach and Feedback section of www.CRS2012.org. For more information on the CRS credits and criteria, please have a look at FEMA's CRS Documents website.

The Task Force will meet in September 2011 to review the proposed revisions to the manual. Tim Murphy, of the Flood Control District of Maricopa County, and NAFSMA's Floodplain Management Committee Co-Chairman, serves as the association's representative to the CRS Task Force.

Upcoming Dates

July 31

Deadline for Comment: EPA Clean Water Act Guidance regarding identification of protected waters (<http://federalregister.gov/a/2011-10565>)
Note: The public comment email address in the original Federal Register notice is incorrect. The correct email address to submit comments to the docket is ow-docket@epa.gov

Aug 1

Online Registration Opens for NAFSMA's 2011 Annual Meeting – Check out NAFSMA's website at www.nafsma.org for registration and preliminary agenda information.

Aug 2 - 3

NAFSMA will participate in U.S. Army Corps of Engineers Stakeholder Meeting in New Orleans, LA

Aug 15 -17

NAFSMA representatives will participate in USACE Flood Risk Management Community of Practice Meeting in Nashville, TN

Oct 31 - Nov 3

NAFSMA Annual Meeting, St. Petersburg, FL
Make your reservations now at the Don Cesar Hotel at 1-800-235-6397.
Register under the NAFSMA block for special conference rate.
<http://www.loewshotels.com/en/Don-CeSar-Beach-Resort>