



NEMA Legislative Update
2017 Annual Forum
Scottsdale, Arizona

SUMMARY

Much of the focus since the 2017 NEMA Mid-Year Forum has been on President Trump's transition and the policy outlook of his Administration and there have been significant emergency management issues discussed at the highest levels of government. NEMA has been engaged on a number of critical fronts and has made great strides in educating and engaging high level officials.

Shortly after the Mid-Year Forum, the Trump administration released its full budget proposal. The proposal contained significant cuts to homeland security and emergency management programs. Lawmakers debated all summer, and emergency managers pressed to maintain similar levels of funding. The Administration also issued executive orders related to emergency management and preparedness including the Federal Flood Risk Management Standard (FFRMS). Lastly, Brock Long was confirmed as FEMA Administrator in late June and has been leading the Agency through a brutal hurricane season.

The past few months have been challenging but the debates have shown a light on critical emergency management priorities that deserve attention. There are debates left to have and the hurricanes have opened the door to discussions about reform, funding, and long-term evolution of emergency management across the federal family.

CAPITOL HILL HIGHLIGHTS

FY18 Budget Request and Appropriations Discussions: The FY18 Appropriations process has been slow to progress and, as in past years, was not completed in its entirety before the end of the current fiscal year. The House moved first and considered their legislation back in July and the Appropriations Committee swiftly approved the bill with no changes. While the FY18 President's proposal had left many concerned with proposed cuts and potential policy changes, the House mark is much more in line with the FY17 Consolidated Appropriation bill and rejected most of the cuts to critical grant programs. The House mark also failed to include the proposed match requirements which had worried many state and local officials. The Senate mark had not been released at the time of printing but was expected to follow the House mark and fund critical emergency management programs.

As a result of the significant challenges related to Harvey and Irma response and recovery, and a number of other priorities that had approaching deadlines, Congress and the White House crafted a short term Continuing Resolution (CR) to provide disaster funds, fund the government until December, temporarily extend the authorization for the National Flood Insurance Program, and raise the debt ceiling. Congress will need to revisit these challenges again in December and will likely have a much more difficult time as the priorities converge so close to the holiday.

Nominations and Confirmations: In early June, the Senate Homeland Security and Government Affairs Committee (HSGAC) considered Mr. Brock Long, the nominee to fill the FEMA Administrator position. He answered questions from the Committee on various topics related to grants, specific hazards, and his intentions as Administrator. His short opening statement described his significant background in emergency management and the diverse experience he has gained working for the state and federal government and the private sector. He outlined his qualifications in various issue areas and though fairly vague, described how he would approach the position of Administrator. Questions touched on issues of mitigation funding and incentives, non-Stafford events and the need to amend the Stafford Act to address emerging issues, remapping and flood control projects in North Dakota, and concern related to proposed FY18 budget cuts

to critical FEMA grants. Long was confirmed and sworn in quickly, and has been praised for his handling of the numerous disasters that affected the US over the last few months.

Right before the August recess, President Trump nominated two additional FEMA leaders. Mr. Dan Craig and Mr. Dan Kaneiowski to be FEMA Deputy Administrator and Deputy Administrator for National Preparedness, respectively. These two positions are the last that require Senate confirmation and other leadership positions at FEMA can be filled by appointment.

With the departure of General John Kelly from the Department to take the position of Chief of Staff at the White House, Elaine Duke rose to the position of Acting Administrator of DHS. The President has not named a nominee and does not seem in any rush to do so.

CONGRESSIONAL HEARINGS

NEMA Testifies on Water Hazards Before Senate Panel: Shortly after the Mid-Year Forum, on April 4th, Bryan Koon delivered testimony of behalf of NEMA before the Senate Appropriations Commerce, Justice, and Science Subcommittee hearing entitled: "National Water Hazards & Vulnerabilities: Improved Forecasting for Response & Mitigation." The hearing focused on water hazards and the data and technology needed to address these threats.

Bryan was asked how we prepare better for sea level rise. Bryan responded by simply stating that we need to rely on data, and specifically data that helps communities plan for future disasters--not just past events. He also emphasized the necessity of strong building codes to build resilience within communities. Koon also stated that the National Weather Center can make improvements, as the maps they often produce are lacking precision needed to drive action by communities and individuals. Bryan also called for structure specific flood maps. Bryan was able to clearly articulate many of NEMA's critical priorities related to mapping, mitigation, and the National Flood Insurance Program.

NEMA Participation in the DSOC: On Wednesday, April 5, Jimmy Gianato represented NEMA at a meeting of the Democratic Steering and Outreach Committee (DSOC) held at the US Capitol. The meeting was a closed-door session held to examine the potential impacts of the Trump Administration's budget proposal on non-defense public safety/national security related spending. This was NEMA's first invitation to a DSOC event which are held as intimate, off the record conversations to spur discussion and provide members in attendance with critical data and talking points.

The discussion was diverse, with representatives from numerous advocacy organizations focused on a number of non-defense public safety issues. Jimmy's statement focused on three points: Preparedness grant funding is already at its lowest point and grantees are already in sustainment mode; additional cuts would hinder our ability to achieve the National Preparedness Goal; and cuts are incongruous with the current evolving threat environment. Jimmy's statement illustrated how cuts reverberate across the United States and that preparedness is a national priority, not just a state and local imperative.

EXECUTIVE ORDERS AND SIGNIFICANT POLICY ISSUES

Executive Orders: Since taking office, President Trump has used Executive Orders to communicate priorities and take quick action on a number of issues with implications on emergency management and homeland security. Executive Orders are often broad policy statements and Departments and Agencies

must go through rulemaking to implement these orders. They can be to announce but take months or years to come to fruition.

- **Sanctuary Cities:** The White House announced that the Administration would restrict federal grant funds from sanctuary cities. The Executive Order gives the Secretary authority to “ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary.” It is unclear at this time how liberally this restriction would be applied and whether it would extend to Homeland Security grants critical to domestic security and disaster response. No new news has been released since the EO was signed but conversations are ongoing.
- **Federal Workforce:** President Trump signed an EO back in April that instructed all federal agencies to submit a plan by June 30 to shrink their civilian workforces, offering the first details on how the Trump administration aims to reduce the size and scope of the government. A governmentwide hiring freeze the president imposed on Jan. 23 will be lifted immediately. This plan would then be followed by a long-term blueprint to cut the number of federal workers starting in October 2018.
- **Cybersecurity:** In May, President Trump issued an executive order directing the OMB Director and DHS Secretary to jointly assess each agency’s risk management in regards to cybersecurity. The order also directs DOE and DHS to coordinate with State and local governments to jointly assess capabilities in mitigating significant cyber events.
- **Infrastructure and FFRMS:** Another notable executive order issued by President Trump was focused on Infrastructure but included a rollback of President Obama’s Federal Flood Risk Management Standard which set stricter building standards to mitigate flood damage. President Trump issued this executive order in mid-August, shortly before Hurricane Harvey struck Houston. Swift outcry came from those with stake in flood mitigation, as questions were raised around how Houston and Florida would rebuild after the disaster. As concern mounted, the White House signaled its intent to craft a new standard and utilize this during the rebuilding phase from the hurricanes.
- **Military Equipment:** President Trump signed an executive order in late August reversing the 2015 ban on the transfer of surplus military equipment to state and local police. The Obama rule banned the transfer of equipment like armored vehicles, grenade launchers, armed aircraft, bayonets and guns and ammunition of .50 caliber or higher. This transfer was known as the 1033 program and was coordinated with the Pentagon. President Obama enacted the rule to amend relations between community and law enforcement, after the police-related deaths in Ferguson, Baltimore, and Charleston.

Wildfire Issues Threaten DRF: A bill moving in the House (HR 2936), and companion Senate language titled the Resilient Federal Forests Act of 2017 has the potential to permanently change the way disaster relief funding is appropriated. Here are the basics: Title X of the bill would amend the Stafford Act to broaden the scope of Major Disaster declarations to include wildfire suppression on federal lands. The bill would also create a Wildfire Suppression Operations Account and allow the President to transfer funds from this account to Departments of Agriculture or Interior to support these events. The funding would be

appropriated under the Disaster Relief Allowable Adjustment or 'Disaster Cap' created by the Budget Control Act in 2011, which reduces the amount of Disaster Cap space available for the nation's disaster relief requirements. This means FEMA would be back in the cycle of needing supplementals more often, at a time when Congress is divided and unable to pass major legislation. If a supplemental was needed, especially during a year where there are no catastrophic disasters and simply a large number of events, and Congress is not able to pass one, FEMA would be required to restrict recovery funds to communities in the middle of rebuilding.

The Senate legislation differed slightly but achieves a similar end as the House bills. It was attached to the larger flood insurance bill introduced by Senators Crapo and Brown. Instead of creating a subaccount under the DRF, the language allows the Departments of the Interior and Agriculture to access the disaster cap space created by the Budget Control Act of 2011. This cap space is traditionally reserved for catastrophic disasters that exceed allotted funds and has been needed to address significant response and recovery efforts out of the DRF. The risk remains the same as the House legislation and would put a strain on the current DRF and cap space without accurately accounting for the new burden of wildfire suppression costs. NEMA has been very vocal in opposition to both bills and has joined a number of stakeholder organizations to send letters and educate members.

Flood Insurance Reauthorization: While Harvey will be remembered as a Hurricane, the unprecedented and historic flooding will continue to affect the region for years to come. The water will also make a lasting mark on the National Flood Insurance Program which is currently about \$25 billion in debt and structurally challenged to meet the needs of homeowners around the country. Hurricane Irma will likely also spur conversation about the health of the program, as the State of Florida has one of the largest concentrations of NFIP policies. Quite a bit of "armchair quarterbacking" is happening in relation to a highly complex and nuanced federal insurance program but NFIP will likely see a much brighter spotlight over the next few months.

Both the House and Senate made strides over the last few months, introducing and considering legislation that would make slight changes and reforms to the complex system. Normal consideration was overtaken, however, by significant flood events over the Summer and an extension was needed in order to provide Congress more time to reconcile differences and identify a compromise that can extend authorization and improve upon the current challenges.

KEY LEGISLATION

NEMA tracks all legislation that impacts emergency management and homeland security and the Association often weighs in to oppose or support. The bills below are the most significant pieces of legislation NEMA is tracking and represent the most critical issues for Directors to be aware of.

- [H.R. 2874](#) -The 21st Century Flood Reform Act: This is the official National Flood Insurance Program Reauthorization bill for the House. Main reforms include updating mapping technology to account for future risk, true estimates of flood risk, increased role of private market, and providing mitigation assistance to repetitive loss properties.
- [S. 1571](#) – The National Flood Insurance Program Reauthorization Act: This bill reauthorizes the NFIP but has a provision that would add "wildfires on federal lands" in the definition of "major disasters" in the case of a Stafford Declaration. Funding to fight said fires would come from a DRF

subaccount that is available for transfer to the Department of Interior and the Department of Agriculture.

- [H.R. 2936](#) – The Resilient Federal Forests Act of 2017: This bill would amend Stafford Act and create a major disaster declaration for wildfires on federal lands. It would create a subaccount under the Disaster Relief Fund that would be used to transfer funds to the Departments of Interior and Agriculture.
- [H.R. 2548](#) – The FEMA Reauthorization Act of 2017: This bill would reauthorize a number of FEMA programs and activities and make changes to reflect current needs.
- [H.R. 2825](#) – The Department of Homeland Security Reauthorization Act: This bill would be the first reauthorization of the Department since it was created in 2003 and would provide authorization and reforms to various programs.
- [H.R. 3176](#) – The Disaster Assistance Fairness and Accountability Act of 2017: Prohibits FEMA from recouping assistance from disaster victims three years after funding is provided.
- [H.R. 3355](#) – The Department of Homeland Security Appropriations Act, 2018: This bill appropriates funds to DHS for all programs and purposes. A \$1.6 billion provision has been put in for a border wall as well. Funding levels for grant programs stayed mostly similar to FY17 levels.
- [H.R. 3359](#) – The Cybersecurity and Infrastructure Security Agency Act of 2017: This bill authorizes a Cybersecurity and Infrastructure Security Agency to be housed under DHS. This would change the name of the NPPD and focus it more on cyber activities.
- [H.R. 601](#) – The Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017. The measure is the vehicle for supplemental appropriations for disaster relief, increasing the debt limit, and funding the government through a continuing resolution. This measure also included an extension of the NFIP.
- [S. 1768](#) – Reauthorization of the National Earthquake Hazards Reduction Program: This bill would permanently reauthorize NEHRP and modernize earthquake detection technology, and planning.