



NEMA Legislative Update  
2016 Annual Forum  
Chicago, Illinois

## SUMMARY

2016 has been far from politics as usual. The Presidential and Congressional election cycles have provided quite a bit of fodder for cable news but have real world impacts when it comes to policy areas that affect emergency managers and homeland security officials. Each election year draws the attention away from DC and back into contested States across the country, and the schedule space for votes and hearings is reduced significantly. In spite of this reality, however, critical emergency management priorities saw quite a bit of attention this year. While no landmark legislation has made it to the President's desk, numerous hearings examined priorities related to cybersecurity, resilience and mitigation, and flood insurance. As described below, NEMA continues to provide input to these discussions through hearing testimony and participation in various meetings with staff.

The Senate and House Appropriations bills were voted out of Committee in late May and early June, respectively. While early deliberations moved somewhat swiftly, the summer recess and increased partisanship stalled consideration and made a continuing resolution more likely. NEMA's priorities were well represented in the House and Senate bills and illustrates the work the Association has done over the years to defend and justify critical investments in the emergency management community. Before Congress adjourned for August recess, many believed the road to a continuing resolution would be fairly smooth. Mother nature, however, had other ideas and the massive flooding to hit Louisiana, followed by Hurricane Hermine put a strain on already tight budgets. This, coupled with the continued disagreements over Zika funding, created a contentious atmosphere for budget discussions in an already wild year. Funding efforts for wildland fire suppression on federal lands, FEMA reauthorization, a legislative proposal for International US&R, and ongoing flood insurance discussions before the 2017 reauthorization will continue to be critical issues for the emergency management community to tackle in the coming months.

Most of the attention of Washington will soon turn to the lame duck session following election day. The results of the 2016 election in November will determine how active the session will be and what priorities will be pursued in the remaining time. Once a President-elect is chosen, DC will move into transition mode which will put a premium on the relationships NEMA has built over the years with career staff at the various agencies who will keep pushing forward on critical issues. Congressional elections will shake up leadership in both the House and the Senate and many big name retirements will set up 2017 as a year with quite a lot of new faces. These new Members of Congress will bring many new staff into the mix and NEMA will have the opportunity to educate them on emergency management and NEMA's legislative priorities.

## CAPITOL HILL HIGHLIGHTS

Since the 2015 Annual Forum in Miami, NEMA continues to closely monitor the unpredictable atmosphere of Washington politics. As Congress carries on and legislation continues to move through both houses, we are looking forward to examining the ways NEMA can help inform Congress and assure that emergency management and homeland security remain top priorities in the months to come.

### ***FY17 Appropriations Process***

At the time of printing, the FY17 budget negotiations are ongoing. Updates regarding the Continuing Resolution (CR) will be provided on site at the Annual Forum. Of note, in early September, the Administration released a request for \$2.6B specifically for Louisiana flood aid. The funding would be marked for HUD's CDBG program to address unmet needs throughout the community. While not entirely

unexpected, the request did throw a wrench into an already complicated appropriations process. Details regarding the pending House and Senate bills are included in the last section of this document.

### ***NEMA Legislative Testimony***

On May 12, NEMA President Bryan Koon testified before the House Transportation and Infrastructure Committee Subcommittee on Economic Development, Public Buildings, and Emergency Management, in a hearing titled, “Controlling the Rising Cost of Federal Responses to Disaster”. The hearing came at a time when many in the emergency management community were focused on FEMA’s proposed “disaster deductible” concept. Congress was interested in scoping the problem for a wider audience and aimed to examine other options for reducing disaster costs that could make an impact without the timely regulation process. Koon’s testimony explained that meaningful cost reduction should impact all levels of government and the private sector and not simply shift the cost between stakeholders. The hearing participants largely agreed on a number of items, including the need for public officials and community members to invest heavily in mitigation and for the government to incentivize those actions as much as possible.

On May 20, NEMA Response and Recovery Committee Chair, Mark Ghilarducci, testified before the House Homeland Security Committee Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies and the Emergency Preparedness, Response, and Communications Subcommittee. In the joint hearing, Ghilarducci explained that “cybersecurity threats exploit the risks associated with the increased complexity and connectivity of our critical infrastructure, economic systems, and industries, which places our nation’s security, economy and public safety at greater risk.” The hearing was titled, “Enhancing Preparedness and Response Capabilities to Address Cyber Threats” and other witnesses included: Lt. Col. Daniel Cooney, Assistant Deputy Superintendent, Office of Counter Terrorism, New York State Police; Brig. Gen. Steven Spano, President and Chief Operating Officer, Center for Internet Security; Mr. Mark Raymond, Vice President, National Association of State Chief Information Officers; and Mr. Robert Galvin, Chief Technology Officer, Port Authority of New York and New Jersey. NEMA’s testimony was received well and we continue to engage with the Committee as they examine where Congress can play a role in supporting cyber efforts at the State and local level.

### ***Homeland Security Roundtable***

NEMA staff participated in background discussions with the House Homeland Security Committee, which has been conducting focus groups, surveys, and roundtable discussions to assess the current status of the Department and identify critical areas for improvement in the coming years. The various roundtables are engaging key Homeland Security stakeholders and provide an opportunity to weigh in on a number of issues related to the Department itself as well as the various components. Committee staff have indicated this will be an ongoing discussion that will continue into the new year and new Congress.

NEMA and the National Governors Association (NGA) participated in a roundtable on September 9 with staff from the full Homeland Security Committee and Subcommittee on Emergency Preparedness. Majority staff asked a number of questions related to the current and future status of the Department and NEMA was able to weigh in on a number of issues that have been priorities over the last eight years. NEMA staff stressed that the focus on elevating practitioners to leadership roles within FEMA has helped the agency make great strides in its professionalism and we hope the next Administration continues this trend. We also stressed that the direct communication and information sharing with stakeholders from agency leadership should continue to assure continuity and break down any barriers.

The Committee also asked both organizations for their opinion on various initiatives the Agency has undertaken over the last few years. New regulation proposals (disaster deductible) and initiatives like PA Reengineering have advanced the discussions at the Agency and have required a level of cooperation with stakeholders that must be continued. By assuring the agency works in concert with members of the emergency management community and does not simply use the community as a consumer of things developed in a vacuum at the agency. The last question asked NEMA and NGA to weigh in on the question of whether FEMA should remain a component of DHS. Neither organization was willing to answer definitively, but we stressed that regardless of where the Agency sits, it must retain its direct access to the President in times of disaster and be allowed to make critical decisions related to federal response and recovery efforts in communities around the country.

## **Major Policy Issues**

### ***Wildfire on Federal Lands***

As we've been reporting over the last year, Congress, while not united on a specific approach, continues to be extremely motivated to address concerns related to federal funding for wildfire suppression on federal lands. While there are a number of bills that would seek to address this issue, the most active at this point is the sweeping Energy Bill (S. 2012) that is ready for conference between the House and Senate. The Senate finally named conferees which signaled willingness on the part of Senate leaders to address significant concerns (shared by the Administration) for a number of last minute add-ons the House included in their report. At least one prominent member of the Natural Resources Committee indicated that the energy conference could represent one of the best chances to get something done this year on wildfire budgeting.

The proposal in the energy bill would amend Stafford to allow for a subaccount under the DRF to fund the Department of Interior's wildfire suppression efforts on federal lands. The concerns that organizations, NEMA included, have shared repeatedly stress the vulnerability of the DRF to be reduced to an untenable level. This could also be a slippery slope that results in other federal agencies finding footing within the DRF to address funding shortfalls in other federal programs. The National Governors Association weighed in through their Natural Resources Committee, but simply stressed that a solution be found, without taking a position on a specific bill. NEMA will continue to work with all stakeholder organizations to defend the principals of the DRF.

### ***Disaster Deductible***

The ongoing discussion regarding the Advanced Notice of Proposed Rulemaking (ANPRM) that FEMA released earlier this year has extended to Capitol Hill. Staff on various House and Senate committees have expressed interest in understanding how stakeholders received the proposal. While many stakeholders are waiting to do additional outreach until a formal Notice of Proposed Rulemaking is released later this year, NEMA continues to engage FEMA and others to assure the Association is prepared for any last minute opportunities for the disaster threshold to be adjusted in must pass legislation. In the wake of the Louisiana flooding and calls for supplemental funding, NEMA continues to monitor any attempts to adjust the threshold or enact/block any provisions related to the deductible.

### ***International US&R Proposal***

In August, FEMA sent a legislative proposal to Capitol Hill to address a concern with foreign urban search and rescue teams. This proposal is aimed at assisting response efforts by streamlining the delivery of foreign assistance. In the event of a catastrophic disaster or simultaneous large-scale major disasters

impacting the United States, FEMA anticipates the need to support existing U.S. domestic search and rescue assets, and potentially other responder services, with responders from other countries. Foreign countries that may be able to assist the United States by providing services, such as urban search and rescue teams, have consistently indicated reluctance to do so in exercise scenarios and discussions with FEMA, because of uncertainty regarding liability rules and other regulations that may hinder the free flow of supplies or personnel.

This proposal would (1) immunize foreign, urban search and rescue personnel from liability for assistance provided while performing search and rescue duties under the President's direction for a major disaster or emergency; (2) allow foreign medical personnel and others to rely on their foreign licenses; and (3) authorize Federal agencies to waive certain statutes and regulations which prevent or slow importation of certain supplies when necessary to meet immediate threats to life or property, including to protect public health and safety, resulting from a major disaster or emergency. FEMA has indicated that this proposal is a priority because the ability to obtain foreign assistance is critical to addressing life, health and safety issues where the United States face a major disaster or emergency of such magnitude that domestic resources are inadequate.

### ***Evolution of the Stafford Act***

August was not kind to many areas of the country this year and significant rainfall events, coupled with a number of hurricane threats drew the attention of the nation to FEMA activities from Hawaii to Louisiana. While many in Congress (particularly the Louisiana delegation) felt strongly that a supplemental was needed, FEMA worked to assure members that the Agency could handle immediate operations within the current funding structure. While funding is always a concern after a large event, the attention following the Louisiana and West Virginia floods has turned to the Stafford Act and the ability for the law to adjust to meet the needs of all communities. In September, the House Oversight and Government Reform Subcommittee on Transportation and Public Assets held a hearing to discuss the concerns of Member of Congress related to the ability of the federal government to assist in recovery. There was significant concern with the Stafford Act overall, and FEMA Regional Administrator Tony Robinson fielded a number of critical questions that illustrated their belief that the statute is outdated and insufficient. NEMA continues to watch this issue to assure the emergency management community can play a significant role in future discussions regarding changes or amendments to the Stafford Act.

This confluence of events has once again sparked debate about disaster relief allowable adjustments, particularly about the average that determines baseline annual appropriations under the Budget Control Act (BCA). NEMA and partner organizations attended a roundtable discussion with senior FEMA leaders to discuss the concerns the Agency has for the long-term health of the DRF. FEMA made clear the current calculation will lead to a smaller yearly average for DRF dollars, and there could be a heavy reliance on emergency supplemental funding in the future which is exactly the issue that the Budget Control Act (BCA) attempted to fix back in 2012. FEMA staff describe this trend as troubling and express concern that emerging issues may put additional stress on the DRF over time. The Agency has begun outreach to the Hill, OMB, and other stakeholders to assure that if a fix is needed, all partners are fully briefed.

### ***National Flood Insurance Program***

In advance of the 2017 NFIP Reauthorization, Capitol Hill and numerous stakeholder groups have begun to discuss critical aspects of future legislation. While most of the heavy legislative work will be introduced at the beginning of the 115<sup>th</sup> Congress, a few proposals have already begun to emerge. Most recently introduced is the Flood Insurance Market Parity and Modernization Act (HR 2901 and S 1679), which has

come about to address shortfalls in the National Flood Insurance Program (NFIP). The legislation essentially opens up flood insurance to the private sector to allow policies to be written outside the National Flood Insurance Program. Proponents say this will soften the debt hit the NFIP is currently feeling but opposition is strong from many who believe the private companies would take the good risk from the pool and leave the NFIP with a significant liability. NEMA has met with the Association of State Flood Plain Managers to discuss their thoughts on the issue, and we will continue to monitor the legislation.

### **Cybersecurity**

#### **Cyber Legislation Advances to the Senate**

Thursday, the House Homeland Security Committee met to consider a number of bills aimed at addressing critical security needs. H.R. 5459, Cyber Preparedness Act of 2016 was ordered reported to the Full Committee with a favorable recommendation, without amendment, by voice vote. The bill was introduced by Rep. Dan Donovan (R-NY) to enhance preparedness and response capabilities for cyberattacks and bolster the dissemination of homeland security information related to cyber threats. The full text of the bill as passed can be found [here](#).

#### **[PPD-41](#): United States Cyber Incident Coordination Released by the White House**

The Presidential Policy Directive (PPD) released in July sets forth principles governing the Federal Government's response to any cyber incident, whether involving government or private sector entities. For significant cyber incidents, this PPD also establishes lead Federal agencies and an architecture for coordinating the broader Federal Government response. This PPD also requires the Departments of Justice and Homeland Security to maintain updated contact information for public use to assist entities affected by cyber incidents in reporting those incidents to the proper authorities. NEMA was briefed by Departmental representatives regarding the impacts on State and local governments.

## **LEGISLATION OF THE 114TH CONGRESS**

New legislation that affects the emergency management community has been limited, but the bills below represent the key pieces of legislation NEMA continued to monitor for progress over the last 6 months.

*HR 5634* – The House FY17 appropriations bill for DHS was voted out of Committee in June 2016. In total, the legislation directs \$41.1 billion in discretionary funding for DHS, an increase of \$100 million (0.25 percent) above the fiscal year 2016 enacted level and \$432 million above the President's budget request. In addition, the bill includes \$7.3 billion – the same as the President's request – for disaster relief and emergency response activities through the DRF. The legislation denies the President's proposed cuts to first responder grants, providing \$507.2 million for these critical investments. The bill funds FEMA's preparedness grants at \$2.6 billion, sustaining fiscal year 2016 levels, including \$1.3 billion for State and Local grants, \$690 million for firefighter assistance grants, and \$350 million for EMPG.

Only one amendment pertaining to FEMA was adopted and was included in the larger "Manager's Amendment." This is a tool traditionally used to make technical changes since the introduction of the bill. This year's amendment, however, included an additional \$49 million for the FEMA "Countering Violent Extremism/Complex Coordinated Terrorist Attacks" state and local grant program, and requires the Secretary to submit a report on the assessment used by DHS to determine grant allocations to high-risk urban areas.

S. 3001 – The Senate FY17 appropriations bill for DHS was voted out of Committee in May 2016. The bill provides \$48.07 billion for discretionary programs with the U.S. Department of Homeland Security (DHS), including those in the Federal Emergency Management Agency (FEMA) and the U.S. Coast Guard. This funding includes \$6.7 billion for the FEMA Disaster Relief Fund pursuant to the Budget Control Act and \$163 million in Overseas Contingency Funding for the Coast Guard. The bill includes strong support for state and local first responders and emergency management personnel, providing \$2.57 billion for these grant and training programs:

- \$467 million for State Homeland Security Grants, including \$55 million for Operation Stonegarden
- \$600 million for Urban Area Security Initiative grants, including \$20 million for the non-profit set-aside
- \$100 million each for Port and Transit Security grants
- \$50 million for Countering Violent Extremism
- \$680 million for Fire and SAFER grants
- \$350 million for Emergency Management Performance Grants
- \$68 million for the Center for Domestic Preparedness
- \$18 million for the Center for Homeland Defense and Security
- \$21 million for the Emergency Management Institute
- \$101 million for the National Domestic Preparedness Consortium

The bill also provides \$178 million for Flood Hazard Mapping and Risk Assessment Program and \$100 million for the Pre-Disaster Mitigation Grant Program.

*HR 1471* – The FEMA Disaster Assistance Reform Act of 2015 was introduced by Rep. Lou Barletta and assigned to the Transportation and Infrastructure Committee. This is a large, encompassing bill that addresses a number of items related to the agency. This bill reauthorizes the Federal Emergency Management Agency (FEMA) through FY2018 and initiates a comprehensive study related to disaster costs and losses. It also makes a number of amendments to the Stafford Act. NEMA sent a letter in 2015 to express our support for and concern regarding various portions of the bill. Since the letter, staff has engaged with Committee staff in the House and Senate to assure our policy proposals are reflected and any changes are made to allow us to support the efforts.

S. 2969 - The Disaster Management Act was introduced by Senator Ron Johnson in May. The bill is very similar to the House FEMA Disaster Assistance Reform Act of 2015 and reauthorizes numerous programs. NEMA has supported the legislation but did support efforts to add two additional provisions related to FMAGs and the prohibition of recoupment. When amendments were planned during the May markup, leadership pulled the bill. NEMA has engaged with staff and will continue to do so.

S. 2972 - NEMA wrote a letter to the Chair and Ranking Member of the Senate Homeland Security and Governmental Affairs Committee (HSGAC) to express concern for various provisions of the Grant Reform and New Transparency Act of 2016 or the GRANT Act. The bill's goal provide transparency and require certain standards in the award of Federal grants but NEMA's comments focused on areas of uncertainty that could impact FEMA state and local grant programs adversely. The Committee made significant changes to the legislation to reflect NEMA's concerns.

S. 3172 - NEMA signed a letter of support in July with a number of organizations to urge passage of the Wildfire Mitigation Assistance Act. The bill would allow HMGP funding to be provided to states affected by

catastrophic wildfires that have received a FMAG. NEMA supports the bill and was included in the original introduction material provided by the Senate. The bill is also supported by the National Association of Counties, the International Association of Emergency Managers, US Council, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, the Association of State Floodplain Managers, and the National Volunteer Fire Council.

H.R. 3583 – Representative McSally introduced the Promoting Resilience and Efficiency in Preparing for Attacks and Responding to Emergencies Act or the PREPARE Act. The legislation, which would improve the efficiency and coordination of disaster preparedness programs, also included language from Rep. Daniel Donovan (R-NY) to prevent future fraud in the National Flood Insurance Program.

Rep. Donovan sponsored the Flood Insurance Mitigation and Policyholder Protection Act after a "60 Minutes" report that engineers working for flood insurance companies under the National Flood Insurance Program had altered damage reports after inspecting Superstorm Sandy-ravaged homes.

Provisions in the PREPARE Act to improve disaster preparedness include:

- Authorizing Operation Stonegarden, a program that provides grants to law enforcement agencies along the border to enhance border security;
- Improving accountability and effectiveness of Federal Emergency Management Agency (FEMA) grants;
- Enhancing efficiency at FEMA by requiring designated staff to implement Government Accountability Office recommendations;
- Addressing interoperability gaps affecting Department of Homeland Security agents;
- And, establishing a pilot program to provide anthrax vaccines to first responders on a voluntary basis to address chemical and biological threats.