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FROM: MIKE MCINTYRE
SUBJECT: MAY REPORT AND LEGISLATIVE UPDATE
DATE: MAY 17, 2024

This report and legislative update provides information on the following topics:

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 - Fiscal Year 2025 Budget Process Begins, Major Changes Threaten Housing and Urban Development's Economic Development Initiative Access
 - Congress Passes Much Anticipated Federal Aviation Administration Reauthorization Package
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Washington News

Fiscal Year Budget 2025 Process Begins, Major Changes Threaten Housing and Urban Development's Economic Development Initiative Access

Congress has begun working on the 12 appropriations bills for Fiscal Year 2025. Last month, the Senate released guidance and deadlines for [Congressionally Directed Spending \(CDS\) requests](#) for FY 2025. Senate Appropriations Committee Chair Patty Murray (D-WA) shared the guidance highlighting minimal changes and deadlines for members to submit requests to the committee, with deadlines ranging from May 8 to May 15.

On Thursday, April 25, 2024, House Appropriations Committee Chair Tom Cole (R-OK-4) released the [Community Project Funding guidance](#) for the House's FY 2025 earmark process. House Members had eight days (a deadline of Friday, May 10, 2024, at 6 p.m. ET) to file their respective CPF projects to the Appropriations Committee. One major change to the House's process, according to the Chair's guidance, is the barring of nonprofits from accessing the Department of Housing and Urban Development's Economic Development Initiative (EDI) program.

Chairman Cole has been vocal about changes to the Community Project Funding (i.e., the CDS equivalent in the House) process, avoiding “political” project requests. Chair Cole acknowledged that because Congress is quickly falling behind on the process, changes to the CPF process would be limited. Removing the EDI account for nonprofits would result in a major shift in earmarks for many organizations around the country. In FY 2024, the HUD EDI account funded nearly \$3.3 billion worth of projects (\$2.2 billion originating in the House) and was the largest source of earmarks. After the House banned all earmarks in the Labor-HHS-Education subcommittee bill for FY 2024, many lawmakers turned to the EDI account to fill the void for cities, counties, other local government agencies, and nonprofits.

Congress Passes Much Anticipated Federal Aviation Administration Reauthorization Package

On Wednesday, May 15, 2024, the House of Representatives passed [H.R. 3935, the Securing Growth and Robust Leadership in American Aviation Act](#), to reauthorize the Federal Aviation Administration (FAA) for five years, sending the legislation to President Biden’s desk ahead of the Friday, May 17, 2024 deadline. The measure cleared the chamber in a 387-26 vote, days after the Senate overwhelmingly approved the bill, 88-4.

The bill injects \$105 billion into the Federal Aviation Administration over five years and guides policy for everything from drones and air taxis to technology intended to help planes avoid runway collisions. Despite objections from D.C.-area lawmakers, it will also add five long-haul, round-trip flights a day to Ronald Reagan Washington National Airport.

The legislation orders changes to the way air traffic control facilities are staffed in an effort to halt decades-long staffing shortages that worsened during the Covid-19 pandemic. It also mandates technology at more airports intended to help pilots, air traffic controllers, and other workers keep better track of ground equipment and other planes on increasingly busy runways and taxiways.

EPA Announces \$41 million to Upgrade Stormwater and Sewer Infrastructure

On May 9, the U.S. Environmental Protection Agency (EPA) announced the availability of nearly \$41 million in funding through the Sewer Overflow and Stormwater Reuse Municipal Grant Program to help communities address stormwater and sewer infrastructure needs. The funding is made available to the states to support projects in municipalities that will strengthen their stormwater collection systems to be more resilient. Through changes made by the Bipartisan Infrastructure Law, this grant program will prioritize stormwater infrastructure projects in small and/or financially distressed and disadvantaged communities and prevent cost-share requirements from being passed on to these communities.

In the past, states and communities shared a fixed portion of the costs associated with all projects funded through the Sewer Overflow and Stormwater Reuse Municipal Grant Program. The Bipartisan Infrastructure Law changed the program so that 25 percent of Sewer Overflow and Stormwater Reuse Municipal Grant funds go to projects in small and/or financially distressed communities. It also limited states’ abilities to pass on the burden of cost-sharing to these communities. To encourage investment in these projects, EPA modified the program so that state grantees are not required to contribute cost-share

money for projects in small or financially distressed communities. However, grant portions that go to communities other than small or financially distressed communities will include a cost-share requirement.

The State of North Carolina will receive an allotment of \$543,000 from EPA to subgrant to municipalities in the state. *(Congress significantly underfunds this program. The program was reauthorized in 2018 and has only been appropriated \$202 million over the last five years. Each state receives a nominal formula allocation from EPA every year, but several advocacy organizations and individual communities have been advocating for Congress to appropriate significantly more funding to the program so it can have a more substantial impact.)*

Additional funding for stormwater and wastewater upgrades is available through EPA's Water Infrastructure Finance and Innovation Act (WIFIA) program. Through the Bipartisan Infrastructure Law, EPA is providing \$11.7 billion to states to upgrade wastewater infrastructure through the Clean Water State Revolving Fund. Additionally, the seventh round of EPA's WIFIA financing is available—with \$6.5 billion available through WIFIA and \$1 billion through SWIFIA. EPA is currently accepting letters of interest for WIFIA and SWIFIA (a loan program exclusively for State infrastructure financing authority borrowers).

EPA Lists Two PFAS As Superfund 'Substances', Limits Enforcement

The EPA has finalized a groundbreaking rule under the Superfund law, designating perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as hazardous substances. This significant step enhances EPA's ability to mandate cleanups and recover costs associated with PFAS contamination. The designation, which marks the first time the EPA has used Section 102 of the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) to list substances as hazardous via regulation, is expected to face strong opposition from industry groups concerned about the potential for increased costs and delays in cleanup processes. To address concerns from passive receiver entities like water utilities and landfills, the EPA also issued a CERCLA enforcement discretion policy, indicating that its enforcement efforts would primarily target parties responsible for significant PFAS releases.

Meanwhile, bipartisan legislation was introduced in the House by Rep. John Curtis (R-UT-3rd) and Rep. Marie Gluesenkamp Perez (D-WA-3rd), which would seek to shield water and wastewater systems from liability under the EPA rule that designates certain per- and polyfluoroalkyl substances (PFAS), specifically PFOA and PFOS, as hazardous substances under the Superfund law. The bill, a companion to broader legislation by Sen. Cynthia Lummis (R-WY), aims to exempt not only water systems but also agriculture, airports, fire suppression users, and waste managers from this liability, and intends to prevent unintended financial impacts on water utilities and their customers, particularly in smaller and rural communities. In the Senate, members of the Environment and Public Works (EPW) Committee are exploring a compromise to balance the interests of passive receivers and advocates concerned about potential loopholes in enforcement.

EPA to Give Public Coordination Updates on WOTUS Decisions

The EPA has updated its approach to enhance transparency in its coordination with the Army Corps of Engineers on jurisdictional determinations (JD) concerning "waters of the United States" (WOTUS). This move follows the Supreme Court's *Sackett v. EPA* ruling and aims to address industry concerns by posting public updates on the agencies' joint procedures. The new outreach strategy also includes handling differing regulatory regimes across states due to court stays on the Biden Administration's final WOTUS definition.

The [EPA's updated coordination memo](#), intended to clarify and guide these processes, is a response to a Freedom of Information Act (FOIA) request from industry groups worried about the EPA's implementation of the WOTUS rule following the *Sackett* decision. The EPA and the Corps have also committed to posting any guidance memoranda online, ensuring public accessibility and ongoing transparency. This coordination memo will remain in effect until June 27, 2024, with provisions for potential extensions or modifications through a joint agency agreement.

Advocacy Update

Washington Advocacy Meetings

- We are awaiting responses and feedback from the Army Corps of Engineers and FEMA regarding our discussions and outstanding questions during the Commission's advocacy trip to Washington in April. We are following up with both agencies to request again follow-up information about the the Surf City CSRM GRR/Project (Army Corps of Engineers) and FEMA Environmental Planning and Historic Preservation (EHP) process updates and NFIP policy appeals (FEMA). In addition, we are in the process of providing additional details to Representative Murphy's office regarding the outdated data and science being used by FEMA to evaluate post-storm beach nourishment projects so his office can reach out to FEMA to inquire about the issue.

USACE Fiscal Year 2024 Workplan

On May 10, the Army Corps of Engineers published its [FY 2024 Work Plan](#). The Corps typically publishes its annual Work Plan within two months of Congressional passage of the federal budget. As you will recall, Congress approved the FY 2024 federal budget in April this year.

The Work Plan is a summary of all the projects the Corps plans to carry out with its Civil Works budget. In FY 2024, Congress appropriated \$8.681 billion to the Corps to support its Civil Works missions.

The Operations and Maintenance (O&M) section of the Work Plan includes \$535,000 for dredging and related activities in the New Topsail Inlet and Connecting Channels and \$565,000 for commonly performed O&M and specific work activities, including dredging, for the New River Inlet. It also includes \$6,373,000 to maintain the Atlantic Intracoastal Waterway in North Carolina.

North Topsail Beach CBRA Mapping Issue

[H.R. 2437](#), which would correct challenges originating from improper mapping of Coastal Barrier Resources System (CBRS) Unit L06, is still pending floor action in the U.S. House of Representatives. We are awaiting the issuance of a Congressional Budget Office (CBO) "score" of the bill. This score assesses the likely budgetary impacts of the bill and is required before a piece of legislation can clear certain procedural hurdles and possibly become law. Because the bill would likely result in limited expense of federal funds or resources, we do not anticipate CBO issuing a high score, if at all. Still, it can take several months for CBO to issue this assessment once a bill has passed through Committee. As H.R. 2437 passed the House Natural Resources Committee in November, we are hopeful that the score will be issued very soon.

In order to pass into law, H.R. 2437 must still pass out of the House, pass the Senate, and be signed into law by the President. Although we do not know if there is a concrete time frame for the bill to become law,

we are optimistic about its chances to pass Congress before the end of the year. In particular, the lame-duck period preceding the upcoming election may offer an opportunity for the bill to make progress.

Sand Borrowing

As noted in our previous report, [H.R. 524](#), Representative Rouzer's legislation to allow certain federally authorized Army Corps of Engineers beach nourishment projects to borrow sand from within the CBRS for use outside the CBRS, recently passed out of the House of Representatives. The bill was considered non-controversial and consequently was able to bypass several procedural hurdles via a process called "suspension of the rules." This is a strong indication that the legislation will become law before the end of the year. It will need to be considered and passed by the Senate and signed into law by the President in order to do so.

In contrast to H.R. 2437, H.R. 524 has already received a score. CBO determined that the bill would not have a significant impact on the federal budget and therefore did not score. This is a further positive indicator for the bill, as it is easier both procedurally and politically to pass legislation that does not score.

FEMA Issues

As you are aware, the recent meetings with FEMA staff will likely help resolve several issues all three Topsail Island Towns have experienced during the disaster recovery process. The Commission's April 15 virtual meeting with FEMA Region 4 leadership provided a venue to discuss post-disaster mitigation work, recovery coordination, and the National Flood Insurance Program (NFIP). Specifically, the Commission discussed the desire for one single FEMA representative, a Program Delivery Manager (PDMG), to administer programs on the ground and coordinate with multiple communities, as opposed to separate PDMGs for each community on Topsail Island, among other issues. FEMA was amenable to the Commission's requests, and we will continue to engage with them as needed to ensure your requests are ultimately carried out.

Surf City General Reevaluation Report (GRR)

TISPC's meeting with Corps headquarters during its advocacy trip to Washington clarified several questions we had regarding the Corps process and progress on the GRR. The Corps explained that no further Congressional authorization was immediately necessary, though it will expect to require authorization (likely in WRDA 2026) for renourishment funds after the initial construction phase. This further authorization is caused by the change in scope of the project in the wake of North Topsail Beach withdrawing from the project.

We continue to be available to TISPC and the Town on this matter.