



TO: TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION
FROM: MIKE McINTYRE
SUBJECT: SEPTEMBER REPORT AND LEGISLATIVE UPDATE
DATE: SEPTEMBER 17, 2024

On behalf of your advocates at Ward & Smith and The Ferguson Group, please accept our deepest condolences on the passing of Mayor Steve Smith. Our thoughts and prayers are with the Commission, the Town of Topsail Beach, and Mayor Smith's family, friends, and loved ones.

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

- Washington News
 - House Of Representatives Prepares for Spending Fight as Congress Returns from Summer Recess
 - Federal Judge Rejects Challenge to North Carolina WOTUS Enforcement
 - FEMA Releases First National Resilience Guidance
 - FEMA Updates Application Procedures for Hazard Mitigation Grant Program to Provide More Flexibility for Recovering Communities
 - EPA Agrees with Water Infrastructure Concerns but Points to Existing Programs as Solution
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Washington News

House Of Representatives Prepares for Spending Fight as Congress Returns from Summer Recess

Congress is facing a deadline this month to prevent a government shutdown, with members on both sides of the aisle acknowledging that a stopgap funding measure will be needed. Lawmakers have until September 30 to pass legislation to avoid a funding lapse.

On a September 3, 2024, conference call, Speaker Mike Johnson informed House Republican leaders that he planned to promote a controversial plan to fund government agencies through March 28, 2025, while

attaching the SAVE Act to the measure, according to multiple GOP sources. The SAVE Act would require proof of citizenship before registering to vote in federal elections.

Numerous House and Senate Republicans have opposed Speaker Johnson's plan for a lengthy CR in recent days. Nonetheless, Speaker Johnson has yet to give up on the idea of a six-month CR, and released draft legislative text of such a CR in early September. In a veto threat, the White House also warned that a six-month CR will prove detrimental to the military, hurting GOP priorities like military readiness goals and efforts to deter China. Johnson's end date of March 28 is also dangerously close to an April 30 deadline that will trigger across-the-board spending cuts if Congress fails to fund the government in full and on time, a consequence of last summer's debt limit deal.

Notably, Speaker Johnson's CR includes a major supplemental appropriation of \$10 billion to replenish FEMA's Disaster Relief Fund, which fell into a deficit last month. In addition, FEMA would be provided an entire year's appropriation up front, for a total of \$30 billion in disaster relief funding made available on October 1, 2024. Though Speaker Johnson's CR proposal is unlikely to succeed, the inclusion of disaster supplemental funds in his CR strongly indicates that any final CR proposal will include funds to replenish the Disaster Relief Fund.

At this time, there is no clear timeline for the CR, though there is bipartisan support for a CR that would keep the government funded at current levels beyond the November elections, when either side could gain significant leverage in funding talks depending on the outcome. Several leading appropriators, including Republicans like House Appropriations Chair Tom Cole (R-OK), are pushing to complete the FY 2025 budget by the end of the calendar year.

The House has passed partisan versions of about half of the 12 regular funding bills. Meanwhile, the Senate has advanced most of its spending bills out of committee but has yet to pass any on the floor — and is unlikely to take up the House's version of the measures.

Federal Judge Rejects Challenge to North Carolina WOTUS Enforcement

North Carolina landowner Robert White has appealed to a higher court after a federal judge dismissed his attempt to prevent the Biden administration from enforcing federal wetlands protections on his property under the Clean Water Act (CWA). White is accused by the EPA of polluting protected wetlands without a permit and argues that adjacent wetlands should not be federally regulated under the CWA, citing the Supreme Court's *Sackett v. EPA* decision, which limited the scope of the law.

However, U.S. District Judge Terrence Boyle ruled that White is unlikely to succeed, as the EPA's current wetlands rule is consistent with the Supreme Court's decision. White has now appealed the ruling to the 4th U.S. Circuit Court of Appeals, arguing that the regulations are causing him economic hardship. Environmental advocates fear that if White's case succeeds, it could severely limit federal regulation of wetlands under the CWA.

FEMA Releases First National Resilience Guidance

On August 27, FEMA announced the release of the first National Resilience Guidance (NRG). The NRG is intended to help all individuals, communities, and organizations understand resilience needs and methods. It also outlines how to strengthen resilience by organizing and engaging people, incorporating resilience concepts into planning efforts, creating policies, prioritizing projects and programs, financing resilience efforts, and measuring and evaluating resilience. The NRG also includes a Resilience Maturity Model that illustrates stages in the evolution of a community's approach to resilience.

The NRG emphasizes key aspects for communities and governments to build and strengthen resilience:

For Communities:

- **Engagement:** Community involvement is crucial. Engaging residents, including underserved and vulnerable populations, helps identify risks and implement tailored solutions. Building social connections and trust increases overall community resilience.
- **Systems Thinking:** Recognizing the interconnectedness of social, economic, infrastructure, environmental, and governance systems enables communities to address vulnerabilities holistically.
- **Incorporating Resilience into Activities:** Communities can integrate resilience principles into existing projects, like updating building codes, planning land use, or improving public services, without the need for dedicated new initiatives.
- **Developing Dedicated Resilience Efforts:** Communities should organize local leaders, develop strategic plans, create policies, secure financing, and evaluate their progress to systematically strengthen resilience.

For Governments:

- **Leadership and Policy Development:** Governments at all levels play a central role in promoting resilience through laws, policies, regulations, and building codes. They must collaborate with various sectors to implement resilience priorities, like zoning regulations, environmental protections, and emergency management practices.
- **Planning and Coordination:** Governments should include resilience as a core component in community plans (e.g., hazard mitigation, climate adaptation) and align goals across different policies and agencies. Engaging with the whole community ensures plans meet diverse needs.
- **Funding and Resources:** Governments can allocate resources, provide technical assistance, and develop funding mechanisms to support community resilience projects, including grants for infrastructure and disaster preparedness.
- **Resilience Maturity Model:** Governments can use the Resilience Maturity Model to evaluate their progress and adapt their strategies, ensuring that resilience-building efforts evolve to meet changing conditions.

FEMA included some examples of resilience projects in the NRG:

- **Nature-Based Solutions:** Projects like habitat restoration and floodplain management protect infrastructure and reduce flooding risks. This can include creating parks and community spaces, living shorelines, enhancing dunes, and other similar activities that can have multiple benefits for the community (e.g. recreational areas, educational opportunities, water purification, habitat creation, etc.).
- **Microgrids:** Establishing small energy networks powered by local sources such as solar panels, wind turbines, or battery storage can offer reduced greenhouse gas emissions, lower energy costs, and reliable power during larger grid disruptions.
- **Building Codes and Standards:** Updating building codes to address risks from natural hazards (e.g., floods, wildfires) and adopting energy efficiency standards can enhance the resilience of the built environment.
- **Resilience Hubs:** Communities can create neighborhood resilience hubs that serve as centers for disaster planning and provide immediate physical and social support during emergencies.
- **Community Engagement:** Engaging in public meetings, town halls, and surveys to gather input on community vulnerabilities and priorities, ensuring that projects align with local needs and build social capital.

Additional resources, including case studies, toolkits, and guidance documents, are available at www.fema.gov/emergency-managers/national-preparedness/plan/resilience-guidance. These resources provide more in-depth information and examples on building resilience.

FEMA Updates Application Procedures for Hazard Mitigation Grant Program to Provide More Flexibility for Recovering Communities

On August 15, FEMA released a final rule that updates application procedures for the Hazard Mitigation Grant Program (HMGP). The final rule makes four changes to application procedures that were effective immediately upon publication of the rule in the [Federal Register](#) on August 15, 2024. The key elements of the rule are:

1. **Extended Application Period:** The initial application period has been extended from 12 months to 15 months from the date of a disaster declaration. This change allows communities additional time to develop quality applications.
2. **Increased Flexibility for Extensions:** The rule increases the extension request period from the current 180 days to 240 days. This extension can now be granted in increments of 30 to 120 days by FEMA's Regional Administrators. Beyond 240 days, further extensions are considered on a case-by-case basis.
3. **Reopening Closed Application Periods:** The new rule allows FEMA to reopen closed application periods for up to 180 days under specific circumstances, such as when additional funding becomes available after a recalculation of assistance or if an appeal is granted for an extension denial.

4. **Public Input:** The extension was made in response to public feedback, which highlighted challenges in meeting the previous deadlines due to limited resources, back-to-back disaster events, and other extenuating circumstances.

Overall, these changes aim to provide a more equitable and accessible process for communities seeking HMGP funding, enhancing their ability to implement mitigation measures effectively.

As a reminder, HMGP funds are made available *after* a major disaster declaration to help communities rebuild in ways that lessen the impact of future disasters. FEMA typically contributes 75 percent of total project costs with the non-federal sponsor contributing the remaining 25 percent. A wide range of projects are eligible for funding under HMGP. Examples of eligible projects include property acquisition and relocation from hazard-prone areas, flood risk reduction through improved stormwater systems, retrofitting buildings to withstand natural hazards, and protecting critical infrastructure like utilities and roads. Nature-based solutions, such as wetland restoration and living shorelines, are also eligible.

EPA Agrees with Water Infrastructure Concerns but Points to Existing Programs as Solution

The EPA has acknowledged the concerns raised by a coalition of water groups in their July 8, 2024, letter, which highlighted challenges in addressing aging infrastructure and emerging issues in stormwater and wastewater management. However, the agency did not endorse the policy changes advocated by the coalition, such as increased funding and easier access to the Clean Water State Revolving Fund (CWSRF) for stormwater and green infrastructure projects. Instead, Bruno Pigott, the acting Assistant Administrator for the EPA's Office of Water, highlighted existing grant programs and community initiatives as potential solutions.

The groups signing the coalition letter included American Rivers, the National Association of Clean Water Agencies (NACWA), the National Municipal Stormwater Alliance, and the Water Environment Federation.

While the coalition emphasized the need for more federal investment and flexibility to address infrastructure gaps and climate-related challenges, Pigott pointed to current EPA programs and state-level discretion in funding allocations as sufficient. The coalition's recommendations included improving interagency coordination and leveraging private-sector investment, but the EPA responded by citing its ongoing initiatives and efforts to support water infrastructure through existing frameworks.

Advocacy Update

As you may know, Congress takes an annual multi-week recess in August, a tradition that has been in place since the 1960s. The House of Representatives returned from the annual August recess on Tuesday, September 3, 2024, and the Senate returned on Monday, September 9.

Progress on appropriations legislation and a full FY 2025 Federal budget slowed significantly after Congress departed Washington for the August recess. In lieu of Congress passing all 12 appropriations bills and sending them to the President for his signature by September 30 (the end of the fiscal year), parties in both chambers have engaged in negotiations to pass a short-term Continuing Resolution (CR) to fund the government temporarily at FY 2024 levels.

House Republicans, led by Speaker Mike Johnson (R-LA), introduced a draft CR on Friday, September 6, 2024, which would fund the government at FY 2024 levels through March 31, 2025. Complicating matters, the CR includes the text of the SAVE Act—a Republican-led voter I.D. bill that requires proof of citizenship to vote in Federal elections—which is opposed by nearly all Democrats in the House and Senate and the White House. President Biden has vowed to veto the CR if it includes the SAVE Act.

We expect that Congress will pass a CR before the House and Senate depart at the end of the month to go on the campaign trail in October. However, the specific content and length of the CR remain uncertain. It is a strong possibility that Congress will pass a much shorter CR than the one introduced by Speaker Johnson since many members, including Democrat and Republican appropriators, would prefer to pass the FY 2025 budget by the end of the calendar year.

Importantly, Congress is considering including a disaster supplemental as part of the CR. The Biden administration has been pushing for additional funding to replenish the Disaster Relief Fund (DRF) and provide recovery support through programs like the Community Development Block Grant Disaster Recovery (CDBG-DR). The administration's supplemental request includes significant funds for FEMA to address ongoing disaster recovery efforts and prepare for future emergencies, particularly given the depletion of DRF funds. Congress is expected to negotiate the inclusion of these provisions in the CR to ensure disaster recovery efforts are not interrupted. Even Speaker Johnson's controversial six-month CR proposal includes \$30 billion in funding to support the DRF. (See the first news item in the "Washington News" section below for additional details.)

North Topsail Beach CBRA Mapping Issue

H.R. 2437, introduced by Representative Murphy, aims to modify the boundaries of CBRS Unit L06 in North Topsail Beach. The bill is currently awaiting consideration in the House of Representatives after being approved by the House Natural Resources Committee on November 11, 2023. Before it can advance to a House vote, the Congressional Budget Office (CBO) must evaluate its budgetary impact. The assessment is anticipated to show minimal or no effect on the federal budget, potentially easing its passage. H.R. 2437 still requires approval from both the House and Senate before it can be signed into law, which we remain optimistic could occur by the end of the year.

Two related bills, H.R. 5490 (the *Bolstering Ecosystems Against Coastal Harm Act*) and S. 2958 (the *Strengthening Coastal Communities Act*), also propose changes to the CBRs, including the removal of 2.5 acres from CBRs Unit L06. H.R. 5490 has yet to pass the House but has bipartisan support, while S. 2958 has already passed the Senate. The House Natural Resources Committee and the Senate Environment and Public Works Committee will work to reconcile these bills for final approval by the end of the year.

On August 29, we sent a draft letter to TISPC for its consideration, and recently have resent the letter to Vice Chairman Benson. The letter expresses TISPC's support for H.R. 2437, H.R. 5490, and S. 2958. If TISPC decides to send the letter, please let us know if we can help in distributing it to your Congressional delegation.

Sand Borrowing

We are closely tracking H.R. 524, introduced by Representative Rouzer, which would permit certain federally authorized U.S. Army Corps of Engineers beach nourishment projects to source sand from within the CBRs for use outside the system. On April 11, 2024, the bill passed the House under "suspension of the rules," a process that fast-tracks non-controversial legislation. H.R. 524 is now with the Senate Environment and Public Works Committee, though it has not yet been considered.

Similar to the aforementioned unanimous consent procedure, passing a bill under suspension of the rules is a positive indicator of support. Given its non-controversial nature, we remain optimistic that H.R. 524 will be signed into law soon.

Surf City General Reevaluation Report (GRR)

As previously reported, Section 202(a)(11) of the House *Water Resources Development Act* (WRDA) directs the Secretary of the Army to accelerate the completion of the feasibility study for the Surf City Coastal Storm Risk Management Project. Due to the high priority of this study, we are confident that this provision will remain in the final version of the WRDA, which Congress is expected to pass by the end of the year.