



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

FROM: MIKE McINTYRE

SUBJECT: JANUARY MONTHLY LEGISLATIVE UPDATE

DATE: JANUARY 19, 2022

The January Monthly Legislative Update provides information on the following topics:

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WASHINGTON NEWS

Congress Weighs Omnibus Options for FY 2022 Appropriations

On December 2, Congress passed the *Further Extending Government Funding Act* ([P.L. 117-70](#)) to keep the federal government open through February 18, 2022. The House passed the CR by a vote of 221-212, with Representative Adam Kinzinger (R-IL) as the only House Republican voting in favor. The Senate then passed the bill by a vote of 69-28, with 19 Republicans voting in support. President Biden signed the bill into law on December 3. This temporary CR includes \$7 billion to continue supporting Afghanistan evacuees and an extension of the National Flood Insurance Program (NFIP) authorization, among [other items](#).

There is bipartisan support for finalizing FY 2022 appropriations by the current February 18 deadline by approving a large omnibus bill (including all 12 FY 2022 appropriations bills) or multiple “minibus” pairings of bills, according to sources on Capitol Hill. However, if Congress waits much longer to put the funding bills together, it may not be possible to approve FY 2022 appropriations by the deadline. “If we

don't make some real progress on this February 18 thing, trying to wrap it up, maybe not by the 18 but somewhere in there, it's going to be problematic," said Senate Appropriations Vice Chairman Richard Shelby (R-AL). He said that if there is not a deal in April or May, there probably will not be a deal for FY 2022, meaning that Congress may need to pass a full-year Continuing Resolution (CR). Shelby said there is motivation to get a spending deal, but there has been no word of a breakthrough on key sticking points (January 11 article by Bloomberg Government/Jack Fitzpatrick).

In-Person Meetings Still Limited In Washington

Both Capitol Hill and the White House continue to limit in-person meetings due to the recent surge of the omicron variant. From our own experience contacting offices and scheduling meetings, we have been informed by numerous federal agencies that no in-person meetings will be scheduled until at least late spring, including the U.S. Army Corps of Engineers (headquarters). The large majority of Hill offices are also not scheduling in-person meetings.

House Speaker Nancy Pelosi has also extended the use of proxy voting until February 13. Some lawmakers privately expect her to prolong it for another 45 days, providing yet another indication that Capitol Hill will remain relatively closed off to in-person meetings.

Coronavirus infections in the Capitol complex have skyrocketed, with the seven-day average positivity rate rising from less than 1 percent to greater than 13 percent, according to Capitol physician Dr. Brian Monahan. According to Dr. Monahan, the daily case rates will increase even more substantially in the coming weeks. Dozens of infections are discovered daily, and the cases represent both a rising rate of "breakthrough infections" among mostly vaccinated individuals as well as cases in several unvaccinated individuals, and the rising infections correspond with the "historic" spike in cases in the D.C. Metro area over the past month. According to Dr. Monahan, the omicron strain represents approximately 61 percent of positive tests, and the delta virus variant represents 38 percent. The Capitol physician recommended offices adopt telework as much as possible to reduce in-person meetings and in-office activities and upgrade all masks to the KN95 or N95 models. Additionally, Capitol food vendors and dining facilities will emphasize carry-out, delivery, and grab-and-go-type food options for those who opt to work on Capitol Hill.

The White House is currently limiting gatherings at the complex to under 30 people. White House press secretary Jen Psaki said that the policy has been in place "over the last several weeks" and will remain "for this period of time."

U.S. Treasury Releases Final Rule for ARPA State and Local Coronavirus Fiscal Recovery Funds

On January 6, the U.S. Treasury Department (Treasury) released the [Final Rule](#) for the [State and Local Coronavirus Fiscal Recovery Funds](#) (Fiscal Recovery Funds), which was authorized in the American Rescue Plan Act (ARPA, P.L. 117-2). ARPA established the \$350 billion Fiscal Recovery Funds program to provide federal payments to all state, local, tribal, and territorial governments in the United States. The law provides a total of \$195.3 billion to the 50 states and the District of Columbia; \$65.1 billion to county

governments; \$45.57 billion to “metropolitan cities” (with populations generally above 50,000); \$19.53 billion to “non-entitlement communities” (with populations generally less than 50,000); \$20 billion to tribal governments; and \$4.5 billion to the five U.S. territories.

The Final Rule will go into effect on April 1, 2022. However, recipients can choose to take advantage of the Final Rule’s new flexibilities and simplifications now, ahead of the effective date.

Treasury provided a 44-page [Overview of the Final Rule](#), which summarizes the changes made in the Final Rule, and a [press release](#) with a concise explanation of the Final Rule. Treasury states that the Final Rule “provides state and local governments with increased flexibility to pursue a wider range of uses, as well as greater simplicity so governments can focus on responding to the crisis in their communities and maximizing the impact of their funds.”

In addition, Treasury explains that “The State and Local Fiscal Recovery Funds Program Final Rule provides additional clarity and flexibility for recipient governments, including:

- First, Treasury has expanded the non-exhaustive list of uses that recipients can use to respond to COVID-19 and its economic impacts – ensuring states and localities can adapt quickly and nimbly to changing public health and economic needs. This includes clarifying that recipients can use funds for certain capital expenditures to respond to public health and economic impacts and making services like childcare, early education, addressing learning loss, and affordable housing development available to all communities impacted by the pandemic.
- Second, Treasury has expanded support for public sector hiring and capacity, which is critical for the economic recovery and in maintaining vital public services for communities.
- Third, Treasury has streamlined options to provide premium pay for essential workers, who bear the greatest health risks because of their service in critical sectors.
- Fourth, Treasury has broadened eligible water, sewer, and broadband infrastructure projects – understanding the unique challenges facing each state and locality in delivering clean water and high-speed broadband to their communities.
- In addition to these expansions, Treasury has greatly simplified the program for small localities – many of whom have received a historic federal investment in their communities through this program – including through the option to elect a standard allowance for revenue loss rather than calculating revenue loss through the full formula.”

[Coronavirus State and Local Fiscal Recovery Funds NEU Reporting Portal Now Open](#)

On December 14, the Treasury Department released the Treasury Portal that Non-Entitlement Units of Local Government (NEUs, including the Towns on Topsail Island) who have requested funding from their state will use for reporting and compliance related to the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) program. Treasury encourages all NEU recipients to access the Treasury Portal as soon as possible to confirm their accounts, designate reporting roles, and submit the required agreements and supporting documentation to Treasury for reporting and compliance.

The first reporting deadline for NEUs to submit the Project and Expenditure Report is April 30, 2022, and will cover the period between March 3, 2021, and March 31, 2022. Future reports will be due annually by the end of April.

To access Treasury's Portal for the first time and be designated for any reporting roles, new users must first register with Login.gov. New users should use the following link:

<https://portal.treasury.gov/compliance>. Users who have previously registered through ID.me may continue to access Treasury's Portal through that method. The following link should be used if you have already registered through ID.me

<https://portal.treasury.gov/cares/s/slt>.

Court Rejects Revival of Trump EPA Permitting Rule

A federal judge for the U.S. District Court for the Northern District of California has rejected a request by industry groups to bring back a Trump-era rule that limited the role of states and tribes in permitting federally approved projects under the *Clean Water Act* (CWA) Section 401 to certify that federal projects meet state requirements. The EPA is now using its 1971 rule that gave states and tribes greater latitude to deny water quality certifications for pipelines, highways, water projects, and other infrastructure. The Biden administration has said it plans to redo the regulation.

FEMA BRIC Direct Technical Assistance Application Period Now Open

FEMA seeks to provide non-financial Direct Technical Assistance to a maximum of 20 communities to support mitigation outcomes of the Building Resilient Infrastructure and Communities (BRIC) program. This announcement was first made in the Fiscal Year 2021 BRIC [funding opportunity](#). FEMA will provide support for both project or application-specific needs and community-wide resilience needs.

Eligible applicants to submit a letter of interest include:

- Cities.
- Townships.
- Counties.
- Special district governments.
- Tribal governments.
- Federally recognized tribal nations.
- Non-federally recognized tribal nations.

Applicants must email one letter of interest not exceeding two pages by 3:00 p.m. EST on January 28 to FEMA-BRICDirectTechnicalAssistance@fema.dhs.gov.

Direct Technical Assistance can provide holistic planning at the earliest stages to communities that may not have the capacity to start their own. Technical assistance may include working with communities to ensure stakeholders are capable of building and sustaining successful mitigation programs, helping communities develop high-quality applications, developing local partnership networks, and assistance

with implementing new and innovative projects that reduce risk from a wide range of natural hazards. Additional information with examples can be reviewed in the [Program Support Material on FEMA.gov](#)

President's Budget Request Delayed Until March

According to CQ Roll Call (January 7 article by Paul Krawzak), the White House appears to be aiming for release of President Biden's FY 2023 Budget Proposal in March, according to multiple sources familiar with the matter, a month after the statutory deadline, which is the first Monday in February. Congressional staff has also been told to expect release sometime in March at the earliest, following the President's State of the Union address, which has been scheduled for March 1.

It is possible that release of the budget could be further delayed either by an inability to reach a deal on FY 2022 appropriations or action on the Build Back Better Act, which is still under consideration in the Senate. Holding off on the budget release until a final FY 2022 appropriations bill(s) is enacted provides the advantage of being able to build the proposed budget off a final spending agreement for the prior year. It also would allow for more updated comparisons rather than measuring proposed changes for the budget year beginning October 1, 2022, to the final budget enacted (P.L. 116-260) during President Trump's administration.

White House Asks States to Appoint Infrastructure Coordinators

PoliticoPro reports (January 4 article by Tanya Synder) that White House infrastructure coordinator Mitch Landrieu has asked governors to appoint state-level point people to drive the implementation of the Infrastructure Investment and Jobs Act (IIJA) and promised to give them more guidance later this month.

PoliticoPro states, "Harkening to 'lessons learned and best practices' from the 2009 stimulus program and last year's Covid rescue package, Landrieu noted that the National Governors Association in 2009 'helped develop a network of state representatives to serve as recovery coordinators' and proposed replicating that structure to help deploy the federal spending. 'Given the success of this model and the highly integrated nature of the Bipartisan Infrastructure Law, I humbly request that you consider appointing a high-level person to serve as your state's own Infrastructure Implementation Coordinator,' he wrote in a letter to governors, obtained by POLITICO. 'This individual would work with your budget team and across departments responsible for transportation, water, broadband, and energy investments to coordinate implementation of the various infrastructure programs.'

Some states have already started doing this. In New Mexico, Democratic [Governor] Michelle Lujan Grisham appointed three new state advisers focusing on broadband, infrastructure, and water just days after the infrastructure law was enacted. And in Arkansas, GOP [Governor] Asa Hutchinson appointed 17 members to a new 'governor's infrastructure planning advisory committee.'

Guidance to come: Landrieu also said that the White House — his team, together with OMB — would be releasing policy guidance this month to set parameters for the infrastructure bill's funding programs, both discretionary and formula. He said guidance would be forthcoming on 'financial oversight and reporting,

labor, Made in America/Buy America, equity, climate and resilience, and environmental justice.’ He said his team was also working on a guidebook for state and local governments ‘to better understand key dates and things you can be doing now to prepare for these programs coming in 2022.’”

ADVOCACY UPDATE

Updates on TISPC's federal priorities (updated for 2022) are outlined below. Please note that the first two updates are not official federal priorities, but given our past work on these issues with TISPC, we are providing these updates under "Advocacy" as opposed to "Washington News."

Corps Releases IJA Work Plan for FY 2022, O&M Funds to Benefit Topsail Island

On January 19, the U.S. Army Corps of Engineers [released](#) its [Infrastructure Investment and Jobs Act \(IIJA\) Work Plan for FY 2022](#). This Work Plan provides information on the Civil Works studies, projects, and programs that the Corps will implement in Fiscal Year 2022 with the \$17.099 billion in supplemental funding provided to the Corps in the IIJA. Future announcements will provide information on funds to be executed in FY 2023 and FY 2024.

The [Operations and Maintenance \(O&M\) component of the Work Plan](#) provides \$3,000,000 for New River Inlet dredging and surveys and \$520,000 for New Topsail Inlet and Connecting Channels for dredging, surveys, and turbidity monitoring. The New River Inlet usually receives some level of funding in the Work Plan. However, funding for New Topsail Inlet is not typically included in the Work Plan. As you will recall, we have previously discussed with your Congressional delegation the need for additional funding for the New Topsail Inlet, so we are thrilled funding has been provided in the FY 2022 IIJA Work Plan for this purpose.

The Corps also allocated \$4.552 million for Atlantic Intracoastal Waterway O&M in North Carolina.

Rufa Red Knot Comment Period to Reopen

On January 18, Representative Rouzer received a letter from the U.S. Fish and Wildlife Service stating that the comment period for the proposed designation of critical habitat for the rufa red knot, which closed on September 13, 2021, will officially be reopened. The comment period will be open for an additional 45 days and will be reopened "as soon as possible." It is possible that the proposed designation of critical habitat will be different from the proposal last year, as the Service may incorporate "new information" received last year into the proposed designation. We appreciate Representative Rouzer and his staff submitting an official request to the Service for the comment period extension on our behalf.

We will let TISPC know as soon as we learn more about when the comment period will reopen.

North Topsail Beach CBRA Mapping Issue

As we reported to you in the last Monthly Legislative Update, the House Natural Resources Committee has not yet produced a bill related to the [proposed changes](#) to seven CBRS maps in North Carolina, South Carolina, and Florida, including Topsail Unit L06. The revised map for Topsail Unit L06 will only take effect when adopted by Congress through legislation. The committee is planning to draft legislative language, which we expect to be ready for consideration early this year. We plan to check in with the

Congressional delegation soon to discuss consideration of these mapping changes, and we will continue to discuss with the delegation the possibility of moving the larger CBRA mapping legislation for North Topsail Beach.

Sand Borrowing Issue

As previously discussed, both the House and Senate are gearing up for the WRDA process in 2022. We have been in contact with Congressional offices regarding potential options to resolve the sand borrowing issue, but it is still not clear this early in the process what legislative solutions may be possible. We will continue these discussions and keep you updated as appropriate.

Greater Island-Wide Coordination in Disaster Recovery

At this point in time, developing legislative language or directive report language may be the most effective way to address Topsail Island's issue regarding coordination of FEMA disaster recovery activities. Ward and Smith and TFG would like to discuss this possibility further with TISPC. Please advise as to which staff and/or officials from Topsail Beach, Surf City, and/or North Topsail Beach would be best to speak with us about the specific coordination issues being experienced by the Towns. We will set up a phone conference with these individuals once we receive a list of the participants from TISPC.

Support and Promote the Community Rating System and the Federal Flood Insurance Program

Congress must again approve a short-term extension of the NFIP by February 19. This will mark the 20th short-term extension of the program in the past three years. Congress will continue to work on NFIP reauthorization legislation, but the committees of jurisdiction are still far from coming to an agreement on compromise legislation. Once the committee begins to seriously work on a compromise NFIP reauthorization bill, we can begin discussions about how TISPC can best support and benefit from changes to the CRS and NFIP.

IJA Water and Sewer Project Funding

As per the new advocacy goals for 2022 and the updated advocacy agreement set to begin on February 1, we will provide more information to TISPC in the February Monthly Legislative Update on the funding included in the IJA for water and sewer projects. This information will be provided as an attachment to the February Monthly Legislative Update.