



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE McINTYRE

**SUBJECT:** SEPTEMBER MONTHLY LEGISLATIVE UPDATE

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

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  - President Signs Climate-Energy Budget Reconciliation Package Into Law
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## WASHINGTON NEWS

### **Congress Rushes to Complete Stop-Gap Spending Bill Before September 30 Deadline**

The Senate Appropriations Committee (SAC) is planning to piece together a short-term Continuing Resolution, or CR, funding the government past the end of the fiscal year on September 30. The CR is expected to extend through December 16, although the exact date has not yet been confirmed. Spending bills must typically start in the House, but with the need for 60 votes to get anything through the Senate, Senate appropriators will amend a House-passed bill to get around this requirement.

At issue will be the Biden administration’s request for \$47.1 billion in additional funding for Ukraine, COVID-19, health care issues, and natural disaster relief. SAC Ranking Member Richard Shelby (R-AL) has indicated there may not be enough Republican support for including all of the requested emergency funding on the CR, but it could be added to an omnibus spending package assembled in the lame duck session after the election in November.

Another controversial provision will be the addition of energy infrastructure permitting reform that was agreed to by Senate leadership to garner the support of Senator Joe Manchin (D-WV) for the *Inflation Reduction Act*, which was passed under the Senate’s budget reconciliation process that requires only 51 votes instead of 60. While the language of the Manchin provision has yet to be released, it is said to set

timelines for NEPA review of energy projects and reduce the statute of limitations on judicial review of permitting processes, among other things.

Meanwhile, Senate Environment and Public Works Ranking Member Shelley Moore Capito (R-WV) released the Republican [version](#) of environmental permitting reform this week, which includes the codification of Trump administration changes to NEPA and Clean Water Act (WOTUS) regulation, among other provisions. While we doubt this measure will get any traction in the Senate, it does include several pieces of what we know will also be included in the Manchin proposal.

Many environmental groups and over 70 House Democrats have written to House Speaker Nancy Pelosi (D-CA) to strike any permitting reforms from the CR or risk a government shutdown on October 1. If the Senate does pass an energy permitting reform measure on the CR, the House majority may need to deal with a split in their caucus, which will require Republican support to pass the CR.

### **Congress Announces Next Phase of Capitol Complex Reopening Plan**

On August 12, the Sergeant at Arms sent a [memorandum](#) to all Members and staff of the House of Representatives announcing Phase III of its reopening plan for the Capitol complex. The decision is another step toward normalcy following the pandemic, which shut down public access to the Capitol. Chief among the issues to fully reopening the Capitol were staffing concerns for Capitol Police.

House staff are now permitted to escort up to 30 Official Business Visitors (OBVs) within the House Office Buildings (HOBs). Staff must meet their OBVs outside of the HOBs and remain with them at all times. Staff are permitted beginning in Phase III to escort up to 15 OBVs within the Capitol Building but must remain with their guests at all times.

House staff must continue to submit their meeting information to the appropriate House Appointments Desk via an online OBV form. Staff must check in with their guests at any of the following Appointments Desk locations to receive OBV badges:

- Capitol – located at the South Door entrance (7:30 a.m. – 5:00 p.m.)
- Cannon – located in the basement rotunda (7:30 a.m. – 5:00 p.m.)
- Rayburn – located at the entrance to the Rayburn Subway (8:30 a.m. – 5:00 p.m.)

Similar instructions are provided to Senators and Senate staff. Staff must submit the names of all OBVs who are planning to attend a meeting to the appropriate Senate Appointments Desk in each building. When the OBV arrives at the appropriate building, they should tell the Capitol Police that their name(s) has been submitted to the Appointments Desk. Capitol Police will let them in and they will enter through security (just like an airport). Once inside, OBVs must proceed to the nearby Appointments Desk. They will need to show their driver's license to receive an OBV badge. Once an OBV has the badge, they can walk unescorted to their meeting.

## President Signs Climate-Energy Budget Reconciliation Package Into Law

After several attempts to pass climate and energy legislation (i.e., President Biden’s Build Back Better package), on August 7, the Senate finally passed one of the largest investments in climate and clean energy in the nation’s history. Senate Democrats pushed through the *Inflation Reduction Act of 2022* ([P.L. 117-169](#)) by a 51-50 vote, with Vice President Harris casting the tie-breaking vote. The bill contains \$369 billion in climate and energy spending, including, among other things, renewable energy tax credits, corporate tax increases and other tax provisions, emission reduction programs, health care provisions, and a last-minute \$4 billion, four-year fund for Western drought relief.

The House passed the legislation on August 12 on a party-line vote of 220-207. The President signed the bill into law on August 16.

TFG has published a [Special Report](#) on provisions in the *Inflation Reduction Act* that are of most interest to local governments.

## FEMA Removes Data Showing Drop in Flood Insurance Policies

FEMA has removed publicly available records from its website that showed hundreds of thousands of people had dropped their federal flood insurance policies in recent months. FEMA pulled the records after *E&E News* cited the data in an August 17 news article that reported more than 425,000 people had discontinued their NFIP policies since October 2021.

The agency said it removed the records to correct inaccuracies and it did not know when the data would be restored. A note on FEMA’s website says the reports “should be available within the coming weeks.” FEMA did not dispute E&E News’ analysis in August of the decline in NFIP customers and acknowledged there had been a “drop in policyholders.” ([Climatewire](#), Thomas Frank, 9/12/2022)

## FEMA Establishes Pre-Disaster Mitigation Revolving Loan Fund

FEMA is expected to announce the launch of the new Safeguarding Tomorrow through Ongoing Risk Mitigation Revolving Loan Fund Program (STRLF) in November. Through the STRLF Program, FEMA will make capitalization grants available to states, the District of Columbia, Puerto Rico, and eligible Indian Tribal Governments to establish a hazard mitigation revolving loan fund. These entities can use the funds to provide low-interest loans to local governments for projects that increase resilience and mitigate the impacts of events such as hurricanes, drought, extreme heat, severe storms, wildfires, floods, and earthquakes. Loans may also be used to satisfy a local government’s non-federal cost share requirement for other FEMA Hazard Mitigation Assistance grant programs.

FEMA expects to publish a Notice of Funding Opportunity (NOFO) later this calendar year with an expected application deadline in the spring of 2023. Over the next five years, FEMA will issue additional NOFOs to award at least \$472.5 million for hazard mitigation capitalization grants to establish revolving loan funds. The funding for the program was provided by the Bipartisan Infrastructure Law (BIL).

## OMB Reviews 'Interim' WOTUS Definition Ahead of High Court Ruling

The EPA and Army Corps of Engineers have sent to the White House Office of Management and Budget (OMB) for pre-publication review their final interim definition of waters of the United States (WOTUS), a controversial rulemaking that could be finalized before the Supreme Court rules in the *Sackett v. EPA* case challenging one of the traditional WOTUS tests. A Supreme Court decision could essentially define WOTUS once and for all, making any previous rulemakings moot. OMB received the interim rule on September 12 and will take about 90 days to review the rule.

The proposed rule interprets WOTUS to mean the waters defined by a collection of Corps and EPA regulations referred to as the “1986 regulations,” with amendments to reflect the agencies’ interpretation of the statutory limits on the scope of WOTUS as informed by Supreme Court decisions, including the 2006 *Rapanos v. United States* case, which essentially reestablished the 1986 regulations.

## ADVOCACY UPDATE

### Surf City Federal Coastal Storm Risk Management Project

We are thrilled by the recent news that the Validation Report for the Surf City Coastal Storm Risk Management Project (CSRMP) has been accepted by the U.S. Army Corps of Engineers. The Wilmington District of the Corps can now work to rescope the original authorized project so the Surf City portion of the project can proceed with construction.

We know that Topsail Island has been waiting to receive federal beach renourishment funding for many years. The communities on the island, through the vision and leadership of TISPC and its members, came together to achieve this monumental goal. We are honored to have had the opportunity to assist TISPC in pursuit of this transformative project.

### North Topsail Beach CBRA Mapping Issue

We have great news to report regarding the [proposed technical correction](#) to Topsail Unit L06 (the correction that would remove approximately 2.5 acres from the CBRS in the Barton Bay Yacht Club area). We have been informed by staff on Capitol Hill that Senate committee staff are in the process of drafting a CBRA technical corrections package with the intention of having the bill approved by the end of the year. We are pleased to report that the technical correction for Topsail Unit L06 is included in the draft legislation.

We will continue to monitor the progress of this package and advocate for its passage in the next few months.

### Greater Island-Wide Coordination in Disaster Recovery

We recently learned that FEMA has the ability to assign a single FEMA representative to multiple jurisdictions to enhance post-disaster coordination. For example, FEMA has done this with several coastal jurisdictions in Carteret County. Town Managers may consider reaching out to Carteret County as an example of this coordination to discuss how they facilitate such a relationship with FEMA.

As a reminder, during our Virtual Washington Meetings in June, members of your Congressional delegation agreed to follow up with FEMA regarding the specific coordination issues that are affecting the island post-disaster, including but not limited to Topsail Island's request to have a single FEMA representative/contact for the whole island. Feedback from Carteret County may help the Congressional delegation facilitate action on your behalf.

### Sand Borrowing Issue

As we have previously reported, the Senate passed its [version](#) of the 2022 *Water Resources Development Act* (WRDA) by a vote of 93-1. The House passed its own bill earlier in the year. As a reminder, the Senate version of WRDA includes a provision that aims to address issues that have arisen due to the

Biden administration's decision last year to restrict the borrowing of sand from within a CBRA unit for use outside a CBRA unit. The language requires the federal government to cover the excess cost of using sand from borrow sites that are not considered to be the least cost method of disposal. The provision only applies to Corps projects at this time. It is our understanding, however, that this language continues to be discussed at the committee level and may change during conference negotiations.

It is our understanding that negotiations between House and Senate staff on the 2022 WRDA have been going well and will continue throughout the month. The Senate Environment and Public Works Committee and House Transportation and Infrastructure Committee will likely convene a conference committee this fall to negotiate the final details. We will continue to keep TISPC updated as these discussions progress, particularly as they relate to the CBRA issue.

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

We expect the forthcoming CR to include another short-term extension of the NFIP. The extension may run through December, like the CR. However, Congress may also choose to extend the program for a longer period of time, possibly for another full year.