



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION  
**FROM:** MIKE McINTYRE  
**SUBJECT:** JANUARY MONTHLY LEGISLATIVE UPDATE  
**DATE:** JANUARY 18, 2022

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

- Washington News
  - Rep. Kevin McCarthy (R-Calif.) Elected Speaker of the House
  - House Passes Rules Package
  - State of the Union Set for February 7
  - Capitol Eases COVID Restrictions
  - FEMA Releases National Preparedness Report
  - EPA and Corps Issue WOTUS Definition Rule
- Advocacy Update

## WASHINGTON NEWS

### Rep. Kevin McCarthy (R-Calif.) Elected Speaker of the House

After 15 rounds of voting, the House of Representatives elected Rep. Kevin McCarthy (R-Calif.) as Speaker of the House. Speaker McCarthy won by a vote of 216-212-6, becoming the longest vote in 164 years.

Speaker McCarthy offered various concessions to win the votes of many of the House Freedom Caucus members. The concessions came in the form of the “rules package,” which decides how the House of Representatives will operate and outlines the priorities of the GOP. Negotiations by Speaker McCarthy, GOP leadership, and top aides have been ongoing since Republicans won a majority last November. Those negotiations continued until the last round of voting to secure votes from the most conservative members of the Republican Conference.

Congress is faced with the likelihood of significant legislative gridlock during the 118th Congress. With Republicans controlling the House and Democrats controlling the Senate, there will be substantial roadblocks and negotiations as to what legislative items will ultimately receive action. Senate Democrats, according to Sen. Brian Schatz (D-Hawaii), will focus on “implementation (i.e., the Inflation Reduction Act and the Bipartisan Infrastructure Law), foreign relations, and permitting reform.” Majority Leader-elect Steve Scalise (D-La.) shared a “Dear Colleague” letter outlining the first two weeks of the 118th

Congress. He included 11 legislative items he plans to bring to the House Floor in the first two weeks of the session. The 11 “ready-to-go” pieces of legislation include several immigration, abortion, and oil and gas measures.

Congress is currently in recess. The Senate returns to Washington on January 23, and the House returns on January 24. Leadership and staff will continue to finalize committee assignments for the 118<sup>th</sup> through the end of this month.

### **House Passes Rules Package**

Following the speaker elections, the House passed a rules package with changes to the rules that will govern the House for the next two years. These changes include:

- An agreement to allow any single House member to offer a resolution that would force a vote on removing the Speaker from office. In 2018 after winning the majority, Democrats modified the rule to allow for such a motion only if offered at the direction of the Democratic Caucus or Republican Conference. Upon winning the majority in November, the GOP plan was to require that at least five Republicans offer such a resolution, and now it is just one.
- Removal of the Gephardt rule, which in the past allowed the House to automatically increase the federal debt limit.
- Separate votes on each of the 12 appropriations bills rather than one omnibus spending bill.
- Lawmakers will have 72 hours to review bills before they appear on the House floor.

### **State of the Union Set for February 7**

President Biden will deliver the State of the Union address on February 7, 2023. He is expected to speak on a wide range of pressing issues, from the war in Ukraine to the looming US debt-ceiling fight.

Additionally, it is anticipated that the President’s FY 2024 budget request, usually released the first Monday in February, will be delayed until mid-March at the earliest. The delay is mostly due to the late passage of the FY 2023 omnibus spending package in December.

Regarding the debt-ceiling, Treasury Secretary Janet Yellen announced last week that the U.S. is close to hitting the debt ceiling on January 19 and will take extraordinary measures to ensure the debt ceiling is not breached. This move could accelerate the debate over raising the debt ceiling in the 118<sup>th</sup> Congress where the GOP controls the House and Democrats control the Senate. House GOP members want to attach spending cuts to any agreed-to increase in the ceiling, while Democrats want to raise the ceiling without affecting the current funding for programs.

### **Capitol Eases COVID Restrictions**

Earlier this month, Capitol officials announced that members of the public are now able to visit congressional offices without an official appointment or escort.

Visitors to the Capitol are still required to undergo security screening before they enter the buildings.

### **FEMA Releases National Preparedness Report**

FEMA recently released the [National Preparedness Report](#), which details the impact that climate change and natural disasters continue to have on communities across the country.

The report outlines the various challenges that emergency managers face in addressing these risks and provides guidance on how best to meet these challenges. Specifically, it includes helpful information on prioritizing programs, resource allocations, and community actions.

### **EPA and Corps Issue WOTUS Definition Rule**

On December 30, 2022, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) announced a final rule establishing their version of a more “durable” definition of “waters of the United States” (WOTUS) to reduce regulatory uncertainty regarding the agencies’ jurisdiction over waterbodies protected under the Clean Water Act (CWA).

The final rule outlines the agencies’ intentions to apply both the “relatively permanent” or “significant nexus” tests derived from the Supreme Court’s 4-1-4 decision in *Rapanos v. United States* to be used in determining the agencies’ jurisdiction over waterbodies and codifies eight exclusions from the definition of WOTUS. The “**relatively permanent standard**” refers to the test to identify relatively permanent, standing, or continuously flowing waters connected to traditional navigable waters, the territorial seas, or interstate waters. It also includes waters with a continuous surface connection to such relatively permanent waters or to traditional navigable waters, the territorial seas, or interstate waters. The “**significant nexus standard**” refers to the test to identify waters that, either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of traditional navigable waters, territorial seas, or interstate waters.

The final rule will likely face legal challenges, and a pending Supreme Court opinion in *Sackett v. EPA* is expected to impact the jurisdictional reach of the CWA on the country’s waters and wetlands.

Many in Congress and industry called for the agencies to wait until the *Sackett* case is settled before issuing a final rule, arguing that any rule promulgated in advance of a decision in that case would be impacted by the outcome. But others in the environmental community and some states wanted the Administration to finalize the rule to show the Supreme Court how an administrative rule could offer a more nuanced and “durable” solution to WOTUS determinations under the Clean Water Act.

## ADVOCACY UPDATE

### DC Advocacy Trip

3/20 (Mon)	3/21 (Tue)	3/22 (Wed)	3/23 (Thu)	3/24 (Fri)
Recess	In Session (Senate)	In Session (House/Senate)	In Session (House/Senate)	In Session (House/Senate)
	ASBPA Conference	ASBPA Conference	ASBPA Conference	

Ward and Smith and The Ferguson Group are in the process of scheduling TISPC’s DC trip for the week of March 20, 2023.

We got in touch with key Congressional staff to let them know of your upcoming visit. We will continue to liaise with Congressional offices (Rep. David Rouzer, Rep. Greg Murphy, Sen. Ted Budd, Sen. Thom Tillis) and federal agencies, as appropriate, to schedule meetings between Tuesday and Friday of that week.

Please reference the calendar above and note that Congress will be in recess on March 20. The Senate will be returning to Congress on Tuesday (3/21) afternoon, and the House will not return until Wednesday (3/22) evening. We look forward to your visit and will be providing you with all the necessary documentation needed for these meetings ahead of time.

We will also organize a preparatory phone conference for either March 9 or March 13, which we will confirm as we get closer to the time of the trip.

### Federal Flood Insurance Program and the Community Rating System (CRS)

On December 29, 2022, President Biden signed legislation passed by Congress that extends the National Flood Insurance Program’s (NFIP) authorization to September 30, 2023. As we have done so in previous years, we will continue to inform you of any NFIP policy changes and advocate for policies that are equitable and affordable to coastal residents.

We will also continue to promote the CRS and work to ensure that FEMA better aligns CRS credits with successful beach management practices and outcomes.

### North Topsail Beach CBRA Mapping Issue

With the beginning of the new Congress, as we have in the past, we will strongly advocate for legislation to amend the NTB CBRA Map Unit L06.

During your upcoming DC advocacy trip, we will continue to raise this issue with your Congressional delegation—including the newly-elected Senator Ted Budd.

## **Sand Borrowing**

Last month, President Biden signed the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 into law. The NDAA includes the Water Resources Development Act (WRDA), which authorizes the U.S. Army Corps of Engineers (Corps) to carry out a two-year roadmap of water infrastructure projects.

As we had previously reported, the NDAA includes language that mandates the federal government to cover the excess cost of using sand from certain borrow sites that are not considered to be the least cost method of disposal. Specifically, Section 8308 of the bill states that the federal government should “fund at Federal expense, any incremental increase in cost to the project that results from a legal requirement to use a borrow source determined by the Secretary to be other than the least-cost option.”

This provision, however, applies only to certain Army Corps of Engineers projects at this time. We will continue to advocate to your Congressional delegation to ensure that FEMA-funded projects are added to this language, including for post-disaster renourishment projects. We will also continue to advocate more broadly for legislation to remove the prohibition of borrowing of sand from within a CBRA zone for use outside a CBRA zone.