



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION  
**FROM:** MIKE McINTYRE  
**SUBJECT:** SEPTEMBER MONTHLY REPORT AND LEGISLATIVE UPDATE  
**DATE:** SEPTEMBER 22, 2023

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

- Washington News
  - Congress Returns from Recess with Looming Debt Crisis and Potential Senate Bipartisanship
  - President Biden Requests Supplemental Funding, \$12 Billion For Disaster Relief
  - EPA Administers Its Final WOTUS Rule, While Exercising Statutory Authority Through ‘Good Cause’ Exception
  - FEMA Designates North Carolina Zone 4 for Communities to Receive Assistance for Hazard Resilience
  - The Southeast Crescent Regional Commission’s \$20 million in State Economic and Infrastructure Development (SEID) Grant Program Extended
- Advocacy Update

## Washington News

### **Congress Returns from Recess with Looming Debt Crisis and Potential Senate Bipartisanship**

The FY 2024 appropriations process has raised the stakes for both the House and Senate. Senate Majority Leader Chuck Schumer stressed the need for bipartisanship in the month of September as the September 30<sup>th</sup> deadline looms to fund the government and avoid a government shutdown. The Senate is expected to vote as early as next week on a minibus spending package. The minibus is expected to encompass three appropriations bills: Military Construction-VA, Agriculture-FDA, and Transportation and Housing and Urban Development.

On September 13, negotiations over the Agriculture-FDA appropriations and Defense appropriations bills stalled in the House. A procedural vote on defense spending was delayed indefinitely, and discussions on the Ag-FDA bill have reportedly collapsed entirely, due in large part to abortion-related provisions. These are further pressures on the likelihood of avoiding a government shutdown at the end of September. Speaker Kevin McCarthy (R-CA) has indicated his intention to push a short-term funding bill to a vote, which is likely to anger many members of his party and could potentially incite a vote to remove him from his role as Speaker.

Transportation and Housing and Urban Development is expected to replace State-Foreign Operations in the Senate minibus bill due to an onslaught of contentious amendments. However, a final decision has not been made. Senate Democrats seek to reduce State-Foreign operation spending by 25%, but Senate Republicans have asserted the \$3.25 billion included in emergency relief funding must be addressed for fiscal responsibility.

On September 21, House Republicans failed to advance a procedural vote on the Department of Defense appropriations legislation – a hurdle that is normally cleared with a substantially bipartisan vote. The procedural measure failed by a vote of 212-216. Each time votes fail to pass on these funding bills, the likelihood of a government shutdown increases.

At this point, a short-term funding bill, called a Continuing Resolution (CR), to keep government offices and agencies running seems to be the route Congress is most poised to take. A CR would likely fund the government for a period of several weeks to months, at current or near-current FY 2023 funding levels.

### **President Biden Requests Supplemental Funding, \$12 Billion For Disaster Relief**

With the debt ceiling looming, President Biden has requested an additional \$40 billion in supplemental aid to address a plethora of issues. The President’s letter to Speaker McCarthy requests more than \$24 billion in aid to Ukraine, \$12 billion to replenish FEMA’s Disaster Relief Fund (DRF), and \$4 billion to address issues at the southern border.

FEMA, reeling from a grueling summer, has long warned of the impending need to provide adequate funding for the DRF to maintain the ability to both support critical activities in communities that have dealt with or are currently dealing with disasters, and maintain sufficient preparedness to respond to future catastrophic events—preparedness that will be especially important as we enter peak hurricane season. With many House Republicans already skeptical of additional Ukraine aid, the request for more funding may lead to higher tensions on Capitol Hill.

### **EPA Administers Its Final WOTUS Rule, While Exercising Statutory Authority Through ‘Good Cause’ Exemption**

The Environmental Protection Agency (EPA) has issued its final rule on "Waters of the United States" (WOTUS) pursuant to the Supreme Court's *Sackett v. EPA* decision. The new WOTUS rule clarifies the definition of “wetlands” consistent with the Clean Water Act. Under *Sackett*, the court defined wetlands as waterways that have “continuous surface connection”.

To meet the September 1<sup>st</sup> deadline for the revised final rule, the EPA exercised its statutory authority to bypass typical notice-and-comment procedures by citing "good cause." The EPA's “good cause” rulemaking process has already led to litigation stays in two of the three legal challenges against the previous WOTUS rule. The EPA, however, believes there is good cause to expeditiously finalize the rule without notice-and-comment period because it would be unnecessary.

The EPA does intend to engage in discussions with stakeholders to address questions about the

scope of WOTUS under the Clean Water Act, influenced by the *Sackett* decision. However, this decision is expected to spark further litigation.

### **FEMA Designates North Carolina Zone 4 for Communities to Receive Assistance for Hazard Resilience**

Consistent with the Community Disaster Resilience Zones Act of 2022, FEMA is designating resilience zones aimed at focusing assistance and support to areas that need it most. These zones are disadvantaged communities that have high natural hazard risks based on combined risks of annualized estimated losses to buildings, people, and agriculture from natural hazards; social vulnerability; and community resilience. The designations will also enable jurisdictions to strengthen their community resilience by working with a range of federal agencies, private sector, nonprofit and philanthropic organizations, and private equity partners.

North Carolina will be incorporated within FEMA region 4, with Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, and Tennessee. A total of 110 Designated Community Disaster Resilience Zones will be stationed in Zone 4. The Community Disaster Resilience Zones Act of 2022 requires: 1) The inclusion of the 50 census tracts assigned the highest individual hazard risk rating; 2) Within each state, include at least 1% of the census tracts with the highest individual risk rating; 3) Achieve geographic balance and consider designations in coastal, inland, urban, suburban, rural areas; and 4) Include census tracts in territories and on tribal lands.

FEMA will make a second announcement in the fall of 2023 for tribal lands. Additionally, a third designation of zones will occur in 12-18 months based on updates to the National Risk Index, adjustments needed after the initial experience, and stakeholder input. Examples of planned updates to the National Risk Index include additional data on tsunami and riverine flood risk.

FEMA will continue to engage the public as it refines the natural hazard risk assessment methodology to designate the zones, consults with local jurisdictions, and implements post-designation support from a range of public and private resources.

### **The Southeast Crescent Regional Commission's \$20 million in State Economic and Infrastructure Development (SEID) Grant Program Extended**

The Southeast Crescent Regional Commission has recently announced the availability of \$20 million in grant funding, available to communities across the Southeastern United States, including North Carolina. Eligible uses for the funding include a wide variety of economic development and infrastructure projects, such as telecommunications, drinking water, wastewater, beach access, tourism, and environmental conservation. The range for funding is from \$50,000 to \$500,000.

The Southeast Crescent Regional Commission (SCRC) has extended the deadlines for the State Economic and Infrastructure Development (SEID) grants program. The Commission received \$20 million of Federal funding to further its mission of realizing economic growth and stability for local communities. The pre-application deadline has been extended to Sept. 15, 2023, at 5 p.m. with full applications now due by

December 15, 2023, at 5 p.m. This extension is to ensure that eligible parties have ample time to submit requests for review.

The Southeast Crescent Regional Commission was authored and introduced by Congressman McIntyre while serving in Congress. It has now become fully operational, becoming an additional source of funding for North Carolina and the other southeastern states.

## ADVOCACY UPDATE

Congress has returned from its annual August recess facing a mounting backlog of priorities to address to avoid a government shutdown at the end of September. At this point, it is highly likely that a short-term, stopgap funding measure (a “Continuing Resolution” or CR) to continue funding the government at current levels will be the next step taken by Congress. If a CR or other government spending legislation is not passed, the federal government will shut down, lasting until Congress can pass funding legislation. Many legislative activities will be on hold until the issue of funding the government is resolved.

### North Topsail Beach CBRA Mapping Issue

The House Natural Resources Committee is expected to hold a hearing on September 28<sup>th</sup> to examine Coastal Barrier Resources Act (CBRA) issues. This will be an opportunity to highlight the Commission’s concerns over the CBRA mapping issues facing North Topsail Beach. We are pleased that Alderman Tom Leonard from the Town of North Topsail Beach has been invited to testify before the Committee. This will allow the Committee to receive a first-hand accounting of the unique issues that face the Topsail Island community, and proposed solutions to address these challenges. This hearing comes close on the heels of Ms. Annick Miller’s visit to North Topsail Beach. Ms. Miller is the lead Republican staff member on the House Natural Resources Subcommittee on Water, Wildlife, and Fisheries. We remain grateful to Ms. Miller for her support of the Commission’s priorities and providing her guidance and expertise to the members of the House Natural Resources Committee.

Both The Ferguson Group and Ward and Smith have been involved in the preparation of Mr. Leonard’s testimony before the Committee, and we will continue to work with him as he goes through this exciting opportunity.

This hearing is a positive development and will hopefully precipitate the introduction of the *Strengthening Coastal Communities Act* (SCCA) by Senator Tom Carper (D-DE), though it is likely there will be no movement on the legislation prior to a resolution of the impending government shut. The SCCA implements 11 new and 184 updated Coastal Barrier Resources System (CBRS) maps across the United States, including North Carolina. Your representatives at Ward and Smith and TFG have advocated diligently for the reintroduction of this legislation, as well as modifications to the bill to address TISPC’s priorities in the legislation, namely the removal of 2.5 acres of Barton Bay from Topsail Unit L06, including two structures along Barton Bay Drive and New River Inlet Road, as well as a portion of one lot to the south of New River Inlet Road. Your Congressional delegation remains supportive of this legislation and these modifications, and we expect they will support its passage upon reintroduction.

### Sand Borrowing

The recent [announcement](#) by the Biden administration regarding the U.S. Army Corps of Engineers’ Wrightsville Beach renourishment under an emergency exemption from the CBRA is welcome news. We are hopeful that this renourishment will be carried out with all due expediency.

As with many other legislative action-items on Congress' docket, Congressman Rouzer's [legislation](#) to exempt federal funds from restrictions on use in shoreline borrow sites within the Coastal Barrier Resources System has not yet advanced. The last action Congress has taken on the legislation was a hearing in the House Natural Resources Subcommittee on Water, Wildlife, and Fisheries on May 10, 2023. The bill will likely not receive further consideration until Congress has resolved the ongoing challenges with passing government spending legislation. Though TISPC would not currently qualify for the exemptions in the bill, it would qualify upon reaching the 15-year threshold set forth in the bill. Ultimately, the bill would enable TISPC to use sand from the New Topsail Inlet and New River Inlet CBRS zones for non-CBRS beach renourishments when federal funds are involved.

### **FEMA Issues**

President Biden's Spring Regulatory Agenda made notice of the anticipated publication of an Interim Final Rule (IFR) to improve access to and efficiency in FEMA's Individual Assistance Program (IAP). The IFR was anticipated to be published in October 2023, though a government shutdown would delay the publication indefinitely – certainly until the government funding crisis is resolved. We are hopeful that this rulemaking would enable individuals impacted by natural disaster to access relief funds more expediently than under current procedures.

In general, the increased scrutiny placed on FEMA's bureaucratic processes in the wake of the wildfire in Lahaina, Hawaii, which took the lives of more than 100 people and destroyed thousands of homes and businesses, may result in a greater appetite among lawmakers to reform the agency.

### **Surf City General Reevaluation Report (GRR)**

Your advocates at W&S and TFG stand ready to assist the Commission on the Surf City General Reevaluation Report (GRR) at the Commission's discretion and should the need arise.