



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

FROM: MIKE MCINTYRE

SUBJECT: APRIL REPORT AND LEGISLATIVE UPDATE

DATE: APRIL 24, 2024

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

- Washington News
 - Congress Finalizes, President Biden Signs Second Minibus of FY 2024 Appropriations Bills, Avoiding Government Shutdown
 - Biden-Harris Administration Proposes Cuts to Army Corps' FY 2025 Budget
 - EPA Finalizes PFAS Drinking Water Rule
 - Biden Administration Discusses Water Sector Cybersecurity Concerns with State/Local Officials
- Advocacy Update

Washington News

Congress Finalizes, President Biden Signs Second Minibus of FY 2024 Appropriations Bills, Avoiding Government Shutdown

On March 23, 2024, Congress passed its Congress passed [H.R. 2882](#)—the Further Consolidated Appropriations Act, 2024. This \$1.2 trillion bill is the second “minibus” appropriations package containing the final Fiscal Year 2024 Defense, Financial Services and General Government, Homeland Security, Labor, Health and Human Services and Education, Legislative Branch, and State and Foreign Operations spending bills.

The House passed the bill by a vote of [286-134](#), and the Senate followed, passing the bill [74-24](#). President Biden signed the legislation into law shortly afterward to avoid a partial government shutdown.

The enactment of this legislation comes two weeks after passage of the other six spending bills and several hours after the March 22 funding deadline set for the included appropriations. With all 12 spending bills now enacted, the federal government is funded through the remainder of Fiscal Year 2024, ending September 30, 2024.

Congress will now pivot to the Fiscal Year 2025 appropriations process following the release of President Joe Biden’s \$7.3 trillion budget request on March 11.

Biden-Harris Administration Proposes Cuts to Army Corps’ FY 2025 Budget

The Biden Administration has proposed a 17 percent reduction in the Army Corps of Engineers' (Corps) budget for water resources work, prioritizing funding for projects focused on climate resiliency, public safety, environmental protection, and economic benefits. The \$7.2 billion budget request for FY 2025 follows a trend of past Administrations proposing cuts to the agency's budget to allocate resources to other policy priorities, expecting Congress to restore funding later.

The proposed budget allocates \$930 million for operations and maintenance of locks and dams and \$1.7 billion for coastal port maintenance—a significant reduction from previous years enacted levels. Notable investments include \$444 million for ecosystem restoration in the Everglades and \$145 million for salmon fisheries recovery in the Columbia River Basin. Additionally, the budget includes a paltry \$13 million for small wetland restoration projects negatively impacted by the Supreme Court Sackett decision limiting federal Clean Water Act regulation of streams and wetlands.

EPA Finalizes PFAS Drinking Water Rule

On April 10, the U.S. Environmental Protection Agency (EPA) [issued](#) the nation’s first-ever [rule](#) to regulate per- and poly-fluoroalkyl substances (PFAS) in drinking water. The rule establishes legally enforceable levels for several PFAS known to occur individually and as mixtures in drinking water, including PFOA, PFOS, PFNA, PFHxS, and HFPO-DA (also known as “GenX Chemicals”). The rule also sets a limit for mixtures of any two or more of four PFAS: PFNA, PFHxS, PFBS, and “GenX chemicals.”

EPA estimates that between about 6 percent and 10 percent of the 66,000 public drinking water systems subject to this rule may have to take action to reduce PFAS to meet these new standards. All public water systems have three years to complete their initial monitoring for these chemicals. They must inform the public of the level of PFAS measured in their drinking water. Where PFAS is found at levels that exceed these standards, systems must implement solutions to reduce PFAS in their drinking water within five years. EPA said that it will be “working closely with state co-regulators in supporting water systems and local officials to implement this rule.”

In the coming weeks, EPA will host a series of webinars to provide information to the public, communities, and water utilities about the final PFAS drinking water regulation. To learn more about the webinars, please visit EPA’s [PFAS drinking water regulation webpage](#). EPA has also published a [toolkit of communications resources](#) to help drinking water systems and community leaders educate the public about PFAS, where they come from, their health risks, how to reduce exposure, and about this rule.

House Passes GOP Water Permitting Act

The House passed the "Confidence in Clean Water Permitting Act," H.R. 7023, on a 213-205 vote, with only two Democrats — Henry Cuellar of Texas and Don Davis of North Carolina — voting in favor and one Republican voting against it, Representative Morgan Griffith of Virginia. The bill includes modifications to the federal Clean Water Act (CWA) and was amended on the House floor to codify Florida's wetlands permit program (after a federal judge revoked their authority under the CWA) and to bar Chinese companies from obtaining federal water permits.

While the legislation was defended by Transportation and Infrastructure Committee GOP leaders as an improvement to the CWA, Democrats and the White House argue it weakens environmental protections. Amendments also address staffing for federal water permits, permit length for public works projects, and exemptions for certain types of pollutants. However, contentious aspects, such as provisions shielding companies from liability for unlisted pollutants and shifting EPA's system for developing water quality criteria into a formal rulemaking process, drew criticism for potentially endangering water quality. Despite passing the House, the bill faces opposition from the Democrat-controlled Senate and the Biden White House and is unlikely to become law in this Congress.

Biden Administration Discusses Water Sector Cybersecurity Concerns with State/Local Officials

As a follow-up to a letter from the Biden Administration's National Security Advisor Jake Sullivan and EPA Administrator Michael S. Regan to U.S. Governors, a meeting was held on March 21, 2024, between Anne Neuberger, Deputy National Security Advisor for Cyber and Emerging Technologies, and Janet McCabe, EPA Deputy Administrator, with state and local officials to address cybersecurity in the water sector.

The meeting emphasized the urgency of improving cybersecurity measures to safeguard the nation's water resources from potential cyber threats by foreign entities. Neuberger stressed the importance of collective state and local actions to enhance cybersecurity, highlighting the Biden Administration's collection of best practices and tools to assist critical infrastructure operators. McCabe echoed this sentiment, emphasizing the collective responsibility in cybersecurity and the EPA's role in collaboration with state and local partners to enhance cyber resilience.

State officials shared current cybersecurity efforts and challenges faced, including a shortage of technical expertise. EPA and the Cybersecurity and Infrastructure Security Agency (CISA) provided information on state coordination and available resources to address vulnerabilities. Neuberger requested each state to share a cybersecurity plan by May 20, 2024, outlining measures to protect water systems from cyber threats, encouraging utilization of EPA and CISA resources. Additionally, EPA announced the establishment of a Water Sector Cybersecurity Task Force to mitigate cyber risks in water systems nationwide. Further information on EPA's cybersecurity program can be found on the EPA [website](#).

ADVOCACY UPDATE

Washington Advocacy Meetings

We were excited to welcome TISPC to Washington on April 15–17, 2024, for the Commission’s annual advocacy visit. We conducted a series of successful meetings on Capitol Hill and with two federal agencies. The Commission met with:

- Representative David Rouzer
- Representative Greg Murphy, M.D.
- Senator Ted Budd
- The Office of Senator Thom Tillis
- House Committee on Natural Resources
- FEMA Region 4
- U.S. Army Corps of Engineers

We discussed with them the following priorities:

- Secure passage of H.R. 2437 to amend the boundaries of John H. Chafee Coastal Barrier Resources System Unit L06 in North Topsail Beach.
- Support completion of the Surf City Coastal Storm Risk Management Project General Reevaluation Report so the project can proceed to construction.
- Obtain legislative or administrative change allowing the borrowing of sand from within the Coastal Barrier Resources System for use outside the System.
- Improve Island-wide coordination in disaster recovery.
- Utilize sand from Corps AIWW Disposal Area for beach renourishment.
- Maintain navigation dredging funding for New Topsail Inlet and Connecting Channels and the New River Inlet.

Please see the attached “FY 2024 Federal Priorities” document for more information on the specific talking points used for the meetings. Below are some additional details about what was discussed during the meetings.

Since the meetings were just last week, we are still in the process of conducting and receiving necessary follow-up for each respective office/agency. We will send this information to Chairman Smith as we receive it. We are currently awaiting responses from FEMA Region 4 (regarding EHP updates, NFIP appeals, and a depth of closure presentation by Bob Glassen), Corps Headquarters (regarding the status of the Surf City project and confirmation of the December 2025 start date), the House Natural Resources Committee Subcommittee on Water, Wildlife, and Fisheries (regarding the status of the CBO score for H.R. 2437), and one of the Congressional offices regarding draft WRDA language to address issues related to non-federal use of Corps dredge disposal areas. Several of the Congressional offices requested an update on the correspondence we receive from FEMA Regional 4 on the aforementioned topics, which we will do once

we receive the information. In addition, we are working with Chris Gibson to provide additional details to Representative Murphy regarding the old data and science being used by FEMA to evaluate post-storm beach nourishment projects so his office can reach out to FEMA to inquire about the issue.

Representative Murphy and his staff have also already followed up with the U.S. Fish and Wildlife Service regarding a request Representative Murphy made in September 2023 to have the Deputy Assistant Secretary for Fish, Wildlife, and Parks visit North Topsail Beach to survey the land that H.R. 2437 would remove from the CBRS. On April 16, the Service finally responded to Representative Murphy's office regarding the request, stating "we are trying to identify the appropriate DOI representative and figure out scheduling. I am getting an update internally and will follow up with you soon."

North Topsail Beach CBRA Mapping Issue

The Congressional Budget Office (CBO) has yet to issue an assessment (or "score") of the budget impacts of H.R. 2437. As you know, [H.R. 2437](#), introduced by Representative Murphy, would correct challenges caused by improper mapping of Coastal Barrier Resources System (CBRS) Unit L06.

CBO must issue a score for the legislation to continue advancing through Congress. We will continue to monitor the status of the bill closely and keep TISPC apprised of any developments. Generally, it takes several months for CBO to issue a score for any given piece of legislation. We remain hopeful that CBO will issue the score soon.

As with most pieces of legislation being considered this Congress, H.R. 2437 has been subjected to the legislative logjam created by disagreements over the federal budget, as well as tense negotiations over foreign aid packages. Because both of these large obstacles have been resolved in recent weeks, it may be possible for Congress to return to its regular order of business in considering and passing legislation.

To become law, H.R. 2437 must still be voted on and passed by the House, be considered and voted on by the Senate, and signed into law by the President. Though the prospects and potential timeline for the legislation becoming law are uncertain, the lame-duck period in the latter part of 2024 may present an opportunity to make progress on passing the bill.

Sand Borrowing

On April 11, 2024, the House of Representatives passed H.R. 524, legislation introduced by Representative David Rouzer that would allow certain federally authorized Army Corps of Engineers beach nourishment projects to borrow sand from within the CBRS for use outside the CBRS. H.R. 524 provides long-term certainty for some federal beach projects that have used the same sand borrow sites for decades, including but not limited to Wrightsville Beach, Carolina Beach, and Kure Beach.

The House passed the legislation under "suspension of the rules," a procedure used to pass non-controversial bills. The bill's non-controversial nature, in addition to its unanimous support from the House Natural Resources Committee, is a good indication of its prospects for becoming law.

The Senate must still consider and pass, and the President must sign, the bill to become law.

H.R. 524 has already been scored by CBO, which issued its assessment in late February 2024. (Note that it took CBO over three months to produce the score.) Ultimately, CBO determined that the bill would have a negligible impact on federal spending and therefore did not issue a score. This is another positive sign for the bill's prospects of becoming law, as legislation that does not score tends to be less controversial and subject to fewer procedural hurdles than bills that score.

As a reminder, H.R. 524 only applies to Corps coastal storm risk management (beach nourishment) projects that have used an inlet borrow source for at least the last 15 years. Due to the limited nature of H.R. 524, it is not necessarily surprising that CBO found the bill not to have a significant cost to the federal government. Regardless, this score is positive and potentially helpful in advocating for a policy that allows more projects to borrow sand from within the CBRS for use outside the CBRS.

FEMA Issues

As you know, TISPC met (by video conference) with FEMA Region 4 on April 15 to discuss several critical issues related to disaster recovery coordination and the NFIP. Of particular note, FEMA Region 4 was receptive to TISPC's request to have a single post-disaster FEMA representative (PDMG) who works collaboratively with all three Topsail Island Towns instead of separate representatives for each Town. FEMA Region 4 advised the Towns to make this request with the Infrastructure Branch Director at the time of the disaster, who is in charge of setting up PDMG assignments. The Towns may contact Andrew Romer with FEMA Region 4 if they have any issues with their request to the Infrastructure Branch Director.

FEMA Region 4 also acknowledged that they are aware of the hardships communities face when PDMG assignments change. They said PDMGs are supposed to take time to properly transition their work to the new PDMGs before leaving. However, if the Towns observe that this is not occurring, they said to contact the Infrastructure Branch Director first and, if necessary, FEMA Region 4.

Surf City General Reevaluation Report (GRR)

We have been in contact with TISPC and Surf City as recently as April 18 regarding the GRR and action that will be necessary to move the project forward. We will continue to be available to both TISPC and the Town on this matter.

Our meeting with Corps Headquarters on April 17 was very productive and we received critical information from the Corps on the how the agency expects to proceed with the approvals needed to advance the project to construction status. We also clarified with the Corps that no additional authorization is needed by Congress at this time for the project to move to construction. However, additional Congressional authorization will be required in the future (we anticipate in the WRDA 2026 process) to authorize the project to receive federal monies for regular renourishment after the project is constructed. The additional Congressional authorization is needed because the scope of the project changed significantly after North Topsail Beach withdrew from the project. Authorization is not required before construction because the

funding Congress appropriated to construct the project was provided in a disaster supplemental, not regular appropriations, which provides the Corps with some level of additional discretion that is not typical under regular appropriations.

As mentioned above, we are still waiting for follow-up from Corps Headquarters. Surf City may receive this follow-up directly, but we will forward any follow-up we may receive from the Corps to Chairman Smith, Mayor Batts, and Mr. Breuer.

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