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### **BIDEN ADMINISTRATION WANTS TO CHANGE CORPS BCR CALCULATION**

The Biden administration has published draft guidance for the Army Corps and all other federal agencies to incorporate environmental and ecosystem services in benefit-cost analyses. It's a [36-page document](#) that is intended to give agencies a clearer understanding of how to value environmental and ecosystem services as well as "natural assets." In general, the goal is to put a monetary value on the incremental change in the ecosystem resources. While the guidance doesn't impose any new requirements, it is the Office of Management and Budget's effort to recommend "best practices" for valuing these assets in the BCR analyses. We invite our readers (particularly Corps employees) to send us their views of how the draft guidance would affect the Corps, NOAA, EPA, or any other federal agency. Anonymity is guaranteed. In another BCR development, the National Association of Counties is reported to have urged the Corps to change the way it develops a BCR so that it does not leave out the water resources needs of economically disadvantaged communities, since they lack higher valued properties.

### **PAS: Little-Known Program Provides Big Help to Coastal Communities**

One of the Corps' technical services programs is called [Planning Assistant to States](#) (PAS or Section 22). Several years ago, it allocated relatively small amounts to states. In recent years, it has swelled to local governments and nonprofits, and its funding has swelled to as much as \$10 million a year! Basically, your community can get the Corps' technical expertise at half cost and see results in months, not years. Our firm (Warwick Group Consultants) recommended the PAS program to the New Jersey Coastal Coalition which wanted to get recommendations from the Corps about what some of its members could do to help them become better prepared to deal with heavy rains and major storms. With the support of the New Jersey Department of Environmental Protection, the Coalition Executive Director Tom Quirk released the Philadelphia District's report at a June press conference. According to Quirk, "The report provides precise locations where flood risks exist and will help communities apply for grant funding to improve their resiliency efforts". The Corps makes recommendations that are tailored to the risks of the 13 communities targeted by this effort. The full report done for the NJCC is available [here](#).

### **NEPA MODERNIZATION RULES PROPOSED**

The Biden administration has proposed regulatory changes in NEPA required by the Fiscal Responsibility Act of 2023 (aka the Bipartisan Debt Limit Compromise). Congress mandated the changes as part of its

effort to require permitting efficiencies. However, it's likely that not everyone will agree the Administration has succeeded in meeting what some members of Congress intended. According to a White House [press release](#), the changes are part of its strategy to ensure that "federal environmental reviews and permitting processes are effective, efficient, and transparent..." The Administration has focused its proposal on accelerating the deployment of energy projects. Among other provisions, it encourages "the use of programmatic environmental reviews that cover multiple projects..., which can expedite deployment of clean energy transmission, broadband, and other infrastructure." Hopefully, the Bureau of Ocean Energy Management will take note of this heightened importance of programmatic reviews since they have been doing NEPA on a project-by-project, rather than a programmatic basis. You can read the full proposal [here](#). Comments are due by September 29, 2023.

### **NFIP AND ITS RATES UNDER THE MAGNIFYING GLASS**

Unless Congress provides another extension by September 30<sup>th</sup>, the National Flood Insurance Program will lose its ability to renew existing policies and write new ones. Given the fact that Congress has not acted on any legislative proposal to reform the program, kicking the can down the road will happen for the 20-something time. Risk Rating 2.0 has received a load of negative media coverage. It's the new method for setting NFIP premiums which is supposed to align premiums with the actual flood risk of individual properties. A [new report](#) from the congressional General Accountability Office says that "some other aspects of NFIP still limit actuarial soundness." The GAO says that an example is that policyholders pay two charges in addition to their premiums and these "may not be actuarially justified." Although a GAO report appears to support Risk Rating 2.0, it also says that Congress lacks data on the actuarial soundness of "the risk that the new premiums are designed to cover and projections of the fiscal outlook under a variety of scenarios." In addition, "FEMA could improve understanding of Risk Rating 2.0 and facilitate congressional oversight of NFIP." Finally, GAO estimated "it would take until 2037 for 95 percent of current policies to reach full-risk premiums, resulting in a \$27 billion shortfall." Oh, by the way, NFIP currently owes Congress \$20.5 billion that we can't see it ever being able to pay back.

### **STATUS OF COASTAL LEGISLATION IN CONGRESS**

We're going to toot our own horn for a moment so we can say that Warwick Group is the only interest (firm, association, agency, etc.) that racks all bills directly affecting coastal communities. As of today, those bills total 91, with a list available [here](#). Eight have passed either the Senate or the House, but none has passed both and Senate. Four of those eight deal with the subject of disaster assistance. [S. 1528](#), sponsored by Senator Gary Peters (D-MI) seeks to streamline the sharing of information among federal disaster assistance agencies to see that people get the assistance they need post-disaster as soon as possible. [S. 1858](#) (also sponsored by Sen. Peters, would establish a deadline for applying for disaster unemployment assistance. [HR 259](#), sponsored by Puerto Rico Delegate Jenifer Gonzalez-Colon (R) would provide for an online repository for certain streamlining and consolidating information collection and preliminary disaster damage assessments. [HR 255](#), also sponsored by Delegate Gonzalez-Colon, would be similar to S. 1528 (above) and provide for a study to streamline and consolidate information collection and preliminary disaster damage assessments. By next month we expect to have both House and Senate appropriations bills passing one House. See our story on these bills elsewhere in this issue.

### **BREAKING APPROPRIATIONS NEWS – PART 1**

The Corps recently released another \$64.274 million in project construction funds for the current fiscal year. The money comes from the Corps' allocation from the Bipartisan Infrastructure Law. \$5 million of the total is added to the beach nourishment project from Manasquan Inlet to Barnegat Inlet, New Jersey

### **BREAKING APPROPRIATIONS NEWS – PART 2**

Both the House and Senate Appropriations Committees have each passed all 12 appropriations bills. That's the good news. The bad news is two-fold. First, they are far apart in their numbers. Second, the House was unable to pass the first bill the leadership brought to the floor because it didn't have enough Republican votes to pass, and in fact would have gone down to defeat. The House leadership decided to support appropriations bills that generally came in with agency appropriations below the top line figures allowed by the Bipartisan Debt Limit Compromise. Nevertheless, some Republican members feel at least some of the bills came out of committee with figures that are still too high. Generally speaking, the Senate appropriations committee is understandably proud that they were able to get bipartisan support for all 12 of its bills and stayed within the debt limit compromise. Assuming the House gets Republican support for floor action on its bills, the final numbers will be far apart from the 12 Senate bills. House Speaker McCarthy will have to decide if he wants to negotiate compromises with the Senate that probably would require House Democrat support in order to pass. If he does that, he may lose his Speakership which you may recall took 13 votes and as many compromises to win. It's another year when passage of government funding by October 1<sup>st</sup> looks very unlikely. Any bets on December 31<sup>st</sup>?

### **BREAKING APPROPRIATIONS NEWS – PART 3**

Tooting our horn again, Warwick Group is the only one tracking Corps coastal appropriations since Fiscal 1996. You can find the current status of House and Senate Corps funding for coastal projects and programs [here](#). While the overall funding for the Corps in both bills is higher than last year (contrary to the story in part 1, above), the coastal figures are sharply down. Focusing on just FY24, the President proposed \$51.37 million, the House upped that to \$91.76 million, and the Senate came in below that at \$88.28 million. The House committee added funding for two coastal projects not funded in the President's request (Waikiki Beach - \$500,000; Hereford Inlet to Cape May Inlet NJ - \$500,000) and also added \$2 million for Sec. 111 (mitigation for damages caused by federal channels) and \$11 million and \$6 million for the Coastal Inlet Research Program and the National Coastal Mapping Program, respectively. The House cut half of the \$9 million the President requested for the Planning Assistance to States program which got an \$8 million haircut from the Senate committee.

The Senate committee added funding for the nourishment of the Nassau County (FL) shoreline protection project, plussed up the funding for the Boston coastal erosion study and added funding for a study of the Virginia Beach (VA) study. The Senate committee added \$17 million to the President's \$1 million request for the Sec. 204 Beneficial Use of Dredged Material program (yay!); \$100,000 to the \$2 million proposed by the House for the Sec. 111 program; \$500,00 for the Sec. 103 small shore protection projects program (neither the President nor the House committee set aside anything for this program; and it cut \$1.7 million from the President's \$6.3 million request for the regional sediment management research program (boo!), and as noted above gave only \$1 million to the Planning Assistance to States program (major boo!!!).

While these decisions can seem arbitrary, both committees have staff that work within limits set by House and Senate leaders and then have to make decisions based on what they hear from Representatives, Senators, and Corps Headquarters. Programs such as Planning Assistance to States have been extremely well-funded in the last two or three years but they could use more money. *Unless those local governments who could use that money as well as money for other Corps programs speak up directly to Congress, they become candidates for cutting.*

- For the first time ever, the House committee added a separate line item for Planning, Engineering, and Design. It emphasized that while PED is part of the feasibility study process, it should not be shortchanged by the budget folks at the Corps or the Administration level. The House bill proposes \$47.024 million for this, not specifying which types of projects should get specific pieces of that. The committee had this to say: “Unfortunately, the Corps’ increasing willingness to move projects into construction with minimal design contributes increased costs over the duration of construction.” *Please let us know if you have seen examples of this. Anonymity is guaranteed.*
- Permanent easements for beach nourishment projects also got the attention of the House committee which noted the “challenges facing local governments in obtaining the necessary approvals for easements when no work will be performed on the property for which the easement is being required. The Committee encourages the Corps to work with local governments to incorporate flexibility in project agreement language that allows for incremental acquisition of easements necessary for scheduled nourishments.”

#### **BREAKING APPROPRIATIONS NEWS – PART4**

Following is our report on appropriations recommendations made for several other agencies that have significant coastal missions --

- **FEMA:** For the current year, Congress appropriated \$25.673 billion for this agency. For FY24, the House Appropriations Committee proposed a total of \$26.063 billion, compared to the President’s request of \$25.883. In agency programs, the House committee zeroed out funding for Community Project Funding grants and cut funding for the Next Generation Warning System program. The House committee left the President’s \$20.406 million request for the Disaster Relief Fund untouched as it did the President’s \$239.983 million request for the National Flood Insurance Fund.

The Senate Appropriations Committee recommended a total of \$25.537 billion for the agency with \$20.261 million for the Disaster Relief Fund, \$239.983 million for the National Flood Insurance Fund, \$1 million for the Next Generation Warning System, and \$120 million for Community Project Funding Grants. The House Committee zeroed out money for the Assistance to Firefighters Grants, but the Senate committee recommended \$338 million for that popular program.

- **FWS:** This agency received \$1.556 billion in the current fiscal year. The House Appropriations Committee proposes only \$1.34 billion for FY24 while its Senate counterpart recommends \$1.804 billion. The President had requested \$2.088 billion.
- **BOEM:** For the agency that manages the nation's outer continental shelf oil, gas, sand, and wind resources, the President requested \$268.2 million but the House committee proposal is \$210 million, and the Senate's is \$164 million. The current FY23 funding level is almost \$220 million.
- **EPA:** For Environmental Programs and Management, the House committee recommends \$2.429 billion, the Senate committee approved \$3.322 billion, and the President requested \$4.511 billion. Congress appropriated \$3.286 billion for the current fiscal year.

## WRDA IMPLEMENTATION GUIDANCE

The Corps has released implementation guidance for several WRDA 2020 provisions that can be found [here](#). Among the most interesting to coastal communities is a set of three related the beneficial use of dredged material (Sec. 125 of WRDA 2020)...Guidance on conducting the Great Lakes Coastal Resiliency Study (Sec. 211 of WRDA 2020) which is a modified Sec. 729 watershed management study, the first cost-shared regional multistate study done by the Corps and sponsored by the Great Lakes members of the Coastal States Organization.

## Corps Briefs

The Corps is launching a pilot program to fully fund small water resources projects for economically disadvantaged communities and has requested proposals by August 21, 2023. For more information, go to top article on this [webpage](#)...WRDA 2020 (Sec. 128) directed the Corps to undertake a harmful algal bloom demonstration program. The Corps is soliciting [public comment](#) on an environmental assessment of its plan to implement that program. Comments are due by August 31.

*Thank you for subscribing to WaterLog.*

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