



ABC's Weekly Federal Legislative Update June 22, 2020

Introduction

The House will vote this week on legislation that would expand ACA subsidies and push states to expand Medicaid programs. The Senate will be bringing the National Defense Reauthorization bill to the floor while the House will begin consideration of the bill in Committee. The Congress will be on recess following Independence Day. The following is news from Washington, D.C.

Administration

[EPA: Agency to Release Draft Recycling Strategy in September](#)

EPA will soon be announcing a national recycling strategy to strengthen the environmental and economic viability of U.S. recycling.

Tamara Ward of [Greenwire](#) wrote on June 26, "EPA this fall will release its draft approach to encourage investment in the nation's recycling system, an agency official announced yesterday.

"Speaking at the Solid Waste Association of North America's virtual conference, Kathleen Salyer, director of EPA's Office of Resource Conservation and Recovery, said the agency will release a draft national recycling strategy in September.

"When EPA began in 1970, the national recycling rate was 10%. The national recycling rate has now grown to over 35%, but we have plenty of room for improvement," Salyer said.

"She also said the agency will release its national recycling goals during the America Recycling Summit and Innovation Fair in November.

"Concerned that the United States' current system of recycling waste materials is unsustainable, the House passed legislation last year to require EPA to develop the national recycling strategy to strengthen the environmental and economic viability of U.S. recycling.

“Last fall, EPA Administrator Andrew Wheeler announced a national framework to advance the recycling system.

“Salyer said EPA's role in this effort is to provide "national leadership as a convener across sectors of industry providing a noncompetitive space for diverse perspectives to be shared to facilitate conversations that would otherwise may not happen."

“To date, 215 organizations have pledged to partner with EPA to improve the recycling system.

“Salyer participated in the Solid Waste Association's panel discussion on opportunities for improving the recycling system.

"Growing the U.S. recycling system presents immense economic opportunity, but to realize this opportunity and significant environmental benefits that go along with it, we need to come together to address the challenges it faces," she said.

“Salyer said the materials processing infrastructure is outdated and that 30-year-old facilities are "ill-equipped to managed today's diverse and evolving waste stream."

“She noted consumer confusion on how to recycle properly, differing state and local approaches to collecting and measuring waste, and the lack of domestic markets as some of the industry challenges.

“Salyer said EPA has been focused on the development of secondary recycling markets and has partnered with the National Recycling Coalition to host workshops in various regions.

"The workshops serve to connect collectors, processors and end users of recycled materials so that people across the value chain can understand the problems and develop possible solutions," Salyer said.

“She said the collaborative actions of promoting education and outreach, enhancing the material management infrastructure, and improving measurement are needed to offset challenges.

“Strategies to reduce contamination in materials to increase reuse are also paramount.

"The supply side is important in terms of having high-quality feedstock available," Salyer said.

“On the demand, Salyer said EPA maintains the Comprehensive Procurement Guideline (CPG) procurement sustainability program, which promotes reducing material use.

"EPA can designate products that can be manufactured with recycled content, and federal agencies are encouraged to purchase those products thereby supporting demand for such materials," said Salyer, explaining the CPG program.

"The agency issued a federal notice in April to solicit comments on its current list of items that can be made from recovered materials.

"The comment period ends July 6. The feedback will be used to enhance the program to improve material demand.

"Salyer said she hopes the national recycling goals will inspire industry, state and local governments and the public to work together to renew the recycling system and "allow the measurement of the progress in a meaningful way."

"It's only through collective action the needed systemic changes will occur," she said.

Congress

Last week, House Democrats released the GREEN Act which outlines the caucus tax priorities for renewable energy. The following two stories discuss the legislation.

[House Democrats Release Broad Clean Energy Tax Plan – The GREEN Act](#)

On June 22, Geof Koss of [Greenwire](#) submitted, "Key clean energy tax breaks would be extended and expanded under a sweeping infrastructure proposal unveiled by House Democrats today that is expected to pass the chamber before July Fourth.

"Last week House Speaker Nancy Pelosi (D-Calif.) and other committee chairs unveiled plans for a broad package, to include highway legislation and other long-sought proposals. More details emerged this morning.

"As expected, the text of the "Moving Forward Act," H.R. 2, includes tax provisions that mirror the "GREEN Act" released by Democrats on the Ways and Means Committee last fall.

"It would extend the renewable production tax credit (PTC) in most cases for facilities that begin construction by the end of 2025 — including projects that includes closed- and open-loop biomass, landfill gas, trash, qualified hydropower and marine and hydrokinetic energy, according to a summary.

"One exception is the PTC for wind energy, which would remain at the current phaseout levels for 2019 and 2020, or 60% and 40%.

"Additionally, the PTC for geothermal energy would be extended through the end of 2020, when it is then made eligible for a higher investment tax credit (ITC).

“The bill, which Pelosi said last week will be on the floor before Independence Day, would also extend the ITC, which like the PTC is phasing out of the code under a 2015 tax deal.

“The ITC, which allows a credit of up to 30% of the cost of a project, is largely extended at full value for projects that break ground by the end of 2025, when it phases down over two years. For solar projects, the value decreases to 26% in 2026, 22% in 2027 and 10% after.

“Other qualifying sources, including fiber-optic solar equipment, fuel cells, microturbines, combined heat and power, and small wind projects, begin to phase down to 26% in 2026 and 22% in 2027.

“Notably, the bill would extend ITC eligibility to energy storage projects, a top priority of the clean energy industry and like-minded lawmakers.

“The infrastructure package, which also addresses surface transportation and contains clean energy provisions from the Transportation and Infrastructure Committee and Energy and Commerce Committee, also extended the 45Q break for carbon capture and sequestration (CCS) projects that start construction by 2025.

“The bill would extend a break for offshore wind facilities, which would be allowed to elect into the ITC and be exempt from the value reductions under the PTC that onshore wind projects face.

“Additionally, it would allow renewable projects to qualify for master limited partnerships, a tax treatment currently enjoyed by fossil fuel interests that lawmakers from both parties have sought to expand to cleaner energy sources for years.

'Greening the fleet'

“The bill responds to the growing clamor by clean energy advocates and their congressional allies to extend crucial incentives for a sector that has lost more than 600,000 jobs since the start of the COVID-19 pandemic.

“It also makes good on last week's pledge by Ways and Means Chairman Richard Neal (D-MA) that the bill would be "the largest tax investment in combating climate change that Congress has ever made on the renewable front".

“It includes numerous provisions for "greening the fleet" — or transitioning to cleaner sources for the transportation sector — including an expansion of the electric vehicle tax credit that is another top priority for advocates and many Democrats.

“The measure would apply a new transition period per manufacturer of between 200,000 and 600,000 vehicles sold, under which the credit is reduced by \$500.

“According to the summary, the current phaseout that begins at 200,000 vehicles instead would begin during the second calendar quarter after the 600,000-vehicle threshold is reached. At that point, the credit would be reduced by 50% for one quarter and then terminate.

“Other tax breaks that would receive reprieves under the bill include incentives for biofuels and efficiency, which would include changes sought by energy-savings advocates to modernize the credits.

“The measure includes a new credit capped at \$1 billion annually from 2021 to 2025 to support environmental justice programs at institutions of higher learning.

“It would also require the Treasury Department to study using EPA's greenhouse gas reporting data for assessing carbon taxes on emitters.

Invoking the Green New Deal

“While the House is expected to pass the infrastructure package next month, the prospects for the clean energy incentives are unclear in the Senate, where Republicans have been cool to Democratic overtures for additional COVID-19 stimulus — especially clean energy provisions.

“The Senate has also been moving separately on highway, drinking water and water projects legislation, and has an energy bill pending.

“Transportation and Infrastructure ranking member Representative Sam Graves (R-MO) tweeted Friday about the House Democrats' effort: "Instead of trying to ram through the Green New Deal under the guise of infrastructure, the Transportation & Infrastructure Committee should be working on real solutions to fix our infrastructure — solutions that won't require doubling the gas tax & much more just to foot the bill."

“House Energy and Commerce ranking member Greg Walden (R-Ore.) penned an op-ed on Fox News yesterday, which said, "While we agree the U.S. needs to utilize clean energy, lower emissions, update infrastructure, and work with our allies for a cleaner world, we vehemently disagree that shutting down our economy is the way to do it."

“Another hurdle is the apparent lack of a pay-for for the clean energy tax provisions, which Neal last week suggested could be negotiated with the Trump administration.

“But today's release was lauded by the American Council on Renewable Energy, which has been pressing Congress to take on clean energy tax breaks before and throughout the pandemic.

“The tax provisions "would provide a stable and effective policy platform for clean energy deployment over the next five years," ACORE President and CEO Gregory Wetstone said in a statement.

"The energy storage and offshore wind incentives would be especially helpful in realizing the full potential of these critical emerging markets. At the same time, the renewable sector continues to be in need of commonsense emergency relief to mitigate ongoing pandemic-related impacts in forthcoming COVID legislation."

Reporter Jeremy Dillon contributed.

[House Democrats Release Broad Clean Energy Tax Plan – The GREEN Act](#)

E&E Daily reporter, Geof Koss, published on June 26, "Dozens of House Democrats yesterday signed on to a sweeping clean energy tax package that is headed to the floor as part of a \$1.5 trillion infrastructure bill.

"Representative Mike Thompson (D-CA), a senior member on the Ways and Means Committee and the lead author of the "Growing Renewable Energy and Efficiency Now (GREEN) Act," was joined by 47 Democrats in formally introducing the bill, which he called "a down payment on our work to tackle climate change and pass on a better world to our children and grandchildren."

"The bill would extend the renewable and investment tax credits beyond the current phaseout dates, expand incentives for electric vehicles, create a new energy storage credit, and revive crucial lapsed energy efficiency credits. First floated by Thompson last fall, the bill is included in the \$1.5 trillion infrastructure package Democrats unveiled earlier this week, H.R. 2, which will be voted on before the July Fourth recess.

"Multiple Democrats on Ways and Means, including Chairman Richard Neal (D-MA), joined Thompson in introducing the measure. Multiple industry trade groups and clean energy advocates also hailed the bill in statements yesterday.

"The fate of clean energy taxes is unclear in the Senate, where Republicans have shown little appetite for what they deride as Green New Deal-type proposals.

"But debate over energy taxes will eventually resurface, as existing credits face expiration before the end of the year."

Other

Campaign 2020: Iowa Senate Race Heats Up Over Biofuel Mandates

Timothy Cama of [E&E Daily](#) wrote on June 26, "Senator Joni Ernst's (R-IA) election opponent is calling on EPA head Andrew Wheeler to resign over his biofuels policies and is challenging Ernst to join her call.

"In a statement this week, Democrat Theresa Greenfield said Wheeler "must step down immediately" over news that EPA is considering 52 new waiver requests from small fuel refineries to renewable fuel standard (RFS) requirements dating back to 2011, and that the Senate should provide immediate help to corn farmers. Iowa is the epicenter of the nation's corn farming, which feeds ethanol production.

"Senator Ernst said she'd be a friend to Iowa farmers — like Jerry — and that she'd make Washington squeal," Greenfield, a real estate executive, says in a radio advertisement that started running this week, referring to a corn producer featured in the ad.

"Well, it turns out that's just hogwash," she said. "Ernst took millions from corporate [political action committees] and Big Oil, and let the special interests feast away, putting one of their own — a fossil fuel lobbyist — in charge of the EPA. And he's devastated our ethanol industry."

"Biofuels are likely to be a major focus of the Iowa Senate race, where Democrats see a possibility of flipping a seat this year. Both candidates are already trying to be seen as the most effective advocate for ethanol and other fuels, amid headwinds including the Trump administration's refinery waivers and trade uncertainty.

"And while Ernst has never made an unqualified call for Wheeler's resignation, she said in October 2019 that she would make that request if EPA didn't require 15 billion gallons of biofuel blending in 2020 — a level the agency did match months later.

"Following Greenfield's statement, Ernst's campaign shot back, arguing that the Democrat has only recently started trying to defend biofuels.

"Looks like [Senate Minority Leader] Chuck Schumer's handpicked candidate, Theresa Greenfield, is just now paying attention to Iowa's biofuel industry," Ernst spokesman Brendan Conley said in a statement.

"Meanwhile, Iowans know Joni Ernst has long been fighting relentlessly to protect and promote Iowa's ethanol and biodiesel producers and called eight months ago for Wheeler's resignation if he doesn't uphold the 15 billion gallon agreement," he continued.

"While Greenfield is following, Joni is leading and Joni has never taken her foot off the gas in holding EPA's feet to the fire to uphold the RFS."

Clarification: *This story was updated to clarify Theresa Greenfield's profession. She is a real estate developer.*