



ABC's Weekly Federal Legislative Update August 17, 2020

Introduction

After a contentious negotiations of the latest COVID 19 package stalled, Congress departed Washington for the August recess. During this time period, both national conventions are taking place to formally nominate the party's nominees for President and Vice President. Speaker Pelosi, however, is recalling the House in order to address significant problems in the Postal Service in order to shore up its ability to properly function during the pandemic and election. The following is news from Washington, D.C.

Administration

[Suit Filed to Enforce Landfill Methane Limits](#)

Last week, a coalition of environmental groups filed a lawsuit against the EPA which calls on the to enforce previously promulgated landfill methane standards.

Pamela King of [Greenwire](#) wrote on August 13, "A coalition of environmental groups and states yesterday called on a federal appeals court to force the Trump administration to act on methane emissions from landfills.

"The challengers, led by the Environmental Defense Fund and the state of California, told the U.S. Court of Appeals for the District of Columbia Circuit to hold EPA to Obama-era standards designed to curb releases of methane, volatile organic compounds and hazardous air pollutants from municipal solid waste disposal sites.

"Since May 2017, however, and under the Trump administration, EPA has deployed a series of tactics to delay implementing the standards, without ever providing a valid reason for doing so," the coalition wrote in a brief filed yesterday.

"The U.S. District Court for the Northern District of California said last year that the agency needed to act on the 2016 standards and rejected EPA's request for more time to put together an emissions plan.

"The lawsuit filed by greens and states in the D.C. Circuit targets an August 2019 rule that formally delayed implementation of the 2016 standards.

"EPA has ignored the purpose of the Clean Air Act, provided no valid justification for delaying these crucial protections, and put forward rationales that run directly contrary to the facts," the challengers wrote. "The agency has also brushed aside evidence undermining its rationales and completely ignored the Delay Rule's substantial adverse impacts, including environmental and public health impacts.

"This Court should vacate the Delay Rule and require EPA to implement these long-overdue protections," they continued.

"EPA does not comment on pending litigation."

[GAO to Probe Federal Response to Algal Blooms](#)

The Government Accountability Office recently launched an investigation into the federal government's response to harmful algal blooms.

On August 11, Hannah Northey of [E&E News PM](#) submitted, "The Government Accountability Office is probing just how effective the federal government has been in tackling harmful algal blooms.

"Alfredo Gomez, director of GAO's natural resources and environment team, confirmed to E&E News today that the federal watchdog received a request from bipartisan leaders on the House Science, Space and Technology Committee representing states plagued by the toxic, murky sludge.

"Science Chairwoman Eddie Bernice Johnson (D-TX) and ranking member Frank Lucas (R-OK) made the request, as well as Reps. Suzanne Bonamici (D-OR), Francis Rooney (R-FL), Charlie Crist (D-FL) and Marcy Kaptur (D-OH). Kaptur is the chairwoman of the House Energy and Water Development Appropriations Subcommittee.

"The study, which will look at how federal agencies are leveraging resources to address the blooms and working together, could take up to a year to complete, Gomez said.

"GAO's work will update a study the agency released in 2016 that found the harmful overgrowth of algae — called algal blooms — affects all states and can hurt aquatic plants and animals by producing toxins, consuming oxygen and limiting light penetration in the water.

"The blooms are also a threat to humans who eat affected seafood, drink the contaminated water or breathe airborne droplets, which can lead to sickness and even death, GAO found. That study analyzed the response of a dozen agencies and the \$101 million spent on research, monitoring and other activities to address harmful algal blooms in fiscal 2013-2015.

“Separately, EPA's Office of Inspector General announced earlier this week it's evaluating the agency's efforts under the Clean Water and Safe Drinking Water acts to address harmful algal blooms.

“Gomez said that the efforts would not overlap and that GAO's work is broader and looks at all agencies involved.”

Congress

The following story provides an update on efforts to pass the next COVID 19 relief package.

Pandemic Relief

E&E Daily reporter Geof Koss published on August 10, “Top Democrats and some Republicans are calling for the White House to resume negotiations on COVID-19 relief, after President Trump roiled talks over the weekend with a series of executive orders intended to address some of the pandemic's economic fallout.

“In appearances yesterday on Sunday news shows, House Speaker Nancy Pelosi (D-CA) said the orders, signed Saturday at the Trump National Golf Club in Bedminster, N.J., are legally dubious and will do little to help the millions of unemployed Americans who face the loss of enhanced unemployment benefits as well as evictions after a federal moratorium on the practice expired last month.

"These are illusions," Pelosi said on "Fox News Sunday" of Trump's executive actions, which aim to extend the eviction moratorium and enhanced unemployment benefits, and to suspend the payroll tax and collection of student loan debt.

“For instance, Pelosi noted that Trump's eviction order calls on the Department of Health and Human Services and the Centers for Disease Control and Prevention to weigh whether evictions should be temporarily halted.

"While it has the illusion of saying, 'We're going to have a moratorium on evictions,' it says, 'I'm going to ask the folks in charge to study if that's feasible,'" Pelosi said on Fox News.

“In a separate appearance on ABC's "This Week with George Stephanopoulos," Senate Minority Leader Chuck Schumer (D-NY) said Trump's orders ignore the twin economic and public health crises caused by COVID-19.

"Unfortunately, the president's executive orders, described in one word, could be paltry," Schumer said. "In three words, unworkable, weak and far too narrow."

“He slammed Trump's order to extend the expired enhanced unemployment benefits at a reduced rate. The expired payments of \$600 a week approved by Congress would drop to \$400. States would have to contribute one-quarter of the benefit.

"This is an unworkable plan," Schumer said. "Most states will take months to implement it, because it's brand-new, it's sort of put together with spit and paste. And many states, because they have to chip in \$100 and they don't have money, won't do it."

“Schumer also slammed Trump for tapping \$44 billion in Federal Emergency Management Agency disaster relief funds to pay for the unemployment extension, which he noted comes "when we're at the height of hurricane season."

“Trump's move to raid FEMA disaster funds also came the same week that the National Weather Service projected an especially active season.

“Top Senate Democratic appropriator Patrick Leahy of Vermont called the president's action "nothing but shortsighted and irresponsible."

What's on the table

“In announcing the orders Saturday, Trump slammed Pelosi and Schumer for holding "vital assistance hostage on behalf of very extreme partisan demands and the radical-left Democrats, and we just can't do that."

“He left the door open for future talks but said in the meantime that he would take executive action that "will take care of, pretty much, this entire situation."

“Schumer and Pelosi hotly disputed the president's assertion, noting that the orders do not address COVID-19 testing, funds to help schools reopen safely or any additional money for struggling states and local governments.

“Although the House passed a \$1.5 trillion green infrastructure package that includes a sweeping clean energy tax title, those provisions have not been in the mix of current talks.

“Also left out is another round of direct payments for individuals and additional funds for the popular small-business lending program known as the Paycheck Protection Program — both of which were included in Senate Republicans' \$1 trillion relief offering.

"We said come back when you want to put up some more money," Pelosi said on CNN's "State of the Union" yesterday.

“Schumer said he and Pelosi had offered to come down from the \$3.4 trillion they have been seeking in ongoing talks with the administration, but Treasury Secretary Steven Mnuchin and White House chief of staff Mark Meadows on Friday flatly refused their offer to "meet in the middle" by reducing their ask by more than \$1 trillion.

"They said absolutely not," Schumer recounted yesterday. "I said to them, 'This means it's your way or the highway?' And they basically said, 'Yes.' That is not the way to create a deal."

"Speaking after Pelosi on "Fox News Sunday," Mnuchin disputed Democrats' descriptions of the talks, blaming Pelosi and Schumer for not yielding on their demand for \$1 trillion for state and local governments, as well as continuing the \$600-a-week enhanced jobless benefits.

"Those two issues, they've refused any compromise. On mostly every single other issue we've reached an agreement," Mnuchin said.

"He also said he was willing to resume talks. "I've told the speaker and Senator Schumer, anytime they have a new proposal, I'm willing to listen."

"On CNN, Pelosi indicated that "we have to" go back to the table to resume negotiations, adding, "There is room for compromise, but you have to see the entire package."

"She also said she is determined not to let COVID-19 relief and spending talks merge ahead of the Sept. 30 expiration of the current fiscal year.

"These are two separate issues," she said.

Mixed reactions

"Trump's executive steps were praised by House and Senate GOP leaders, who have not been part of the negotiations between Democrats and the administration.

"Struggling Americans need action now," Senate Majority Leader Mitch McConnell (R-KY) said in a Saturday statement.

"Since Democrats have sabotaged backroom talks with absurd demands that would not help working people, I support President Trump exploring his options to get unemployment benefits and other relief to the people who need them the most."

"In an appearance on Fox News' "Sunday Morning Futures," House Minority Leader Kevin McCarthy (R-CA) praised Trump for standing up to Democrats' demands.

"What President Trump did, he really showed he was the one person in the room that put people before politics," McCarthy said.

"But there were GOP gripes also, including from Susan Collins of Maine, who is facing a tough reelection fight to hold on to her Senate seat in November.

"In a statement, Collins said she hoped Trump's actions would prompt Democrats to "negotiate seriously" on more pandemic aid, including the expiration of the Paycheck Protection Program over the weekend, which "cannot be extended by executive order."

"Congress must act quickly," Collins said. "There are constitutional limits on what the president can do to help through executive orders."

"In an unusually blunt statement, Senator Ben Sasse (R-NE) on Saturday derided Trump's moves to defer payment of the payroll tax.

"The pen-and-phone theory of executive lawmaking is unconstitutional slop," Sasse said. "President Obama did not have the power to unilaterally rewrite immigration law with [Deferred Action for Childhood Arrivals], and President Trump does not have the power to unilaterally rewrite the payroll tax law. Under the Constitution, that power belongs to the American people acting through their members of Congress."

"House Ways and Means Chairman Richard Neal (D-Mass.) also seized on Trump's deferral of the payroll tax. The president said he would forgive payroll taxes and make the cuts permanent if he wins reelection on Nov. 3.

"President Trump is brazenly circumventing Congress to institute tax policy that destabilizes Social Security," Neal said Saturday in a statement noting that the payroll tax funds Social Security and Medicare.

"This decree is a poorly disguised first step in an effort to fully dismantle these vital programs by executive fiat," Neal said.

"Schumer sidestepped questions yesterday about the legality of Trump's actions, which are expected to generate legal challenges.

"But Pelosi said she agreed with Sasse's assessment yesterday. "My constitutional advisers tell me they're absurdly unconstitutional," she said on CNN."

Other

[Campaign 2020 – Where Biden and Harris Differ on the Environment, Climate](#)

On August 12, Timothy Cama and Nick Sobczyk of [Greenwire](#) published, "Presumptive Democratic presidential nominee Joe Biden is running on the most aggressive environment and climate change platform ever, but his running mate has backed even bolder ideas.

"Senator Kamala Harris (D-CA) ran for president last year and carved out a set of environmental positions that she saw as part of a progressive justice-focused platform, including zealously pursuing prosecutions against polluters and elevating environmental justice in the federal government.

“But some of her positions conflict with Biden's. And so far, it's unclear if the Democratic ticket as a whole will move as a result.

“The two are scheduled to make appearances together this afternoon. Here are some of the areas where Biden and Harris have different positions.

Green New Deal

“Perhaps the starkest contrast between Biden and Harris on the primary campaign trail was Harris' embrace of the Green New Deal, the wide-ranging climate platform supported by progressives like Representative Alexandria Ocasio-Cortez (D-NY).

“It helped Harris sell herself as to the left of Biden during debates. She was also quick to team up with Ocasio-Cortez on progressive climate legislation on Capitol Hill.

“Biden, meanwhile, has backed away from the Green New Deal as a rhetorical device as he attempts to avoid the GOP's "socialist" label in swing states.

“Particularly early in the campaign, Biden's climate talking points were moderate in comparison with the likes of Harris and Senator Bernie Sanders (I-VT).

“But in the end, the climate plan he expanded on last month embraces many of its principles.

“The Green New Deal is a fluid concept that's often defined by whoever is talking about it, but generally it focuses on government spending to address climate change, with a heavy focus on jobs and environmental justice.

“Biden's \$2 trillion plan would do just that, and it now includes many ideas pushed by Ocasio-Cortez and progressive activists.

Fracking

“Biden has been under significant pressure from progressives to come out in opposition to hydraulic fracturing for oil and natural gas.

“But other than seemingly endorsing the idea in a debate and walking it back later, Biden hasn't backed getting rid of fracking.

“Harris, on the other hand, wants to ban fracking nationwide, which would likely require congressional action.

“There's no question, I'm in favor of banning fracking," she said last year at CNN's town hall on climate change, agreeing to move to ban it on her first day in office.

“The oil industry and its allies say that threatens millions of jobs. President Trump and the GOP have locked onto Harris' fracking position to paint her as an environmental extremist who would threaten the economies of major swing states like Pennsylvania and Ohio.

Filibuster

“Harris has come out in support of abolishing the Senate's filibuster in order to pass major environmental legislation like the Green New Deal. The filibuster effectively prevents the upper chamber from passing most legislation without 60 votes — a three-fifths majority.

“If Congress failed to act on meaningful climate legislation because of the 60-vote threshold, “as president of the United States, I am prepared to get rid of the filibuster to pass a Green New Deal,” Harris said at the CNN event.

“The president doesn't have direct power over the filibuster, but his or her support does have symbolic weight.

“Biden, on the other hand, has been more resistant than many of his primary opponents to backing getting rid of the filibuster. A veteran of the Senate himself, he's instead expressed hope about compromise.

“But he's recently opened the door slightly to the idea of stopping the filibuster, telling reporters that it would depend on how difficult Senate Republicans would be if they were in the minority. “I think you're going to just have to take a look at it,” Biden said.

International negotiations

“Biden and Harris have both been relentlessly critical of the fossil fuel industry, and both have pledged to prosecute polluters and end subsidies for the industry.

“Harris, however, proposed to take it a step further on the international stage during her primary bid.

“Her climate plan proposed to convene major emitters in 2021 to negotiate an international phaseout of fossil fuel subsidies and a managed decline of production around the world.

“The novel idea would go beyond Biden's commitments, which include a pledge to quickly rejoin the Paris Agreement.

“Biden wants to convene world leaders to come to various international agreements like increasing countries' pledges under Paris, cracking down on emissions China is causing by backing fossil fuel use around the world and creating incentives for Brazil to preserve the Amazon rainforest.

“The former vice president, however, hasn't mentioned international efforts to crack down on fossil fuels.

“Still, it's clear that Harris and Biden share the goal of phasing down the burning of fossil fuels around the world.”