



## ABC's Weekly Federal Legislative Update August 24, 2020

### Introduction

The House of Representatives came back to Washington for a rare vote in the middle of August. Members are concerned by slowdowns in the delivery of mail and how steps taken by the new Postmaster General could negatively affect voters' ability to use the U.S. mail to receive and return their ballots for the November election. The House approved additional funding for the post office. The Senate remains in recess. Republicans are holding their national convention this week. The following is news from Washington, D.C.

### Administration

#### Renewable Fuel Standard

***The following story contains an update on the Renewable Fuel Standard including the gap year waivers that refiners are submitting to the agency.***

Timothy Cama of [E&E News PM](#) wrote on August 18, "President Trump committed today to "speak to" EPA regarding concerns from the biofuels industry and its allies over fuel refineries' petitions for exemptions from the federal ethanol blending mandate.

"At a televised briefing on the extreme storms that hit parts of Iowa last week and severely hurt crops, Senator Joni Ernst (R-Iowa) brought up the 52 "gap-year" waiver requests first reported in June.

"Our farmers would love to know that with these gap-year waivers that oil refineries are submitting to the EPA, that we just dispense of those, we not allow them to move forward," Ernst told Trump, pointing out that companies are sometimes seeking retroactive waivers for requirements going back nine years.

"Our farmers just really need some help this year, obviously, with the crop damage, and that would be a great step," Ernst said, adding that she wants EPA to "follow the intent of the law" and reject the requests.

“Trump boasted about his pro-ethanol policies, like allowing E15 sales year-round, and committed to bringing the issue to EPA's attention.

"We'll speak to them. I'll speak to them myself," he said, without committing to a specific outcome. "I'll do it myself."

“Ethanol advocates and their allies have made the 52 waivers a major point of contention with the Trump administration. Ernst's Democratic election opponent, Theresa Greenfield, is making it a major campaign issue and has challenged Ernst to call on EPA chief Andrew Wheeler to resign over the waiver applications.

“EPA said today it is still reviewing the waiver requests. "EPA has received initial feedback from the Department of Energy on certain petitions for small refinery exemptions for past compliance years under the Renewable Fuel Standards Program. Our staff is reviewing," spokesman James Hewitt told E&E News.

“The White House didn't respond to a request for comment.”

## **Congress**

### [Next COVID 19 Package – Four Issues That Could Thaw Talks](#)

On August 17, Geof Koss of [E&E Daily](#) submitted, “The House and Senate are officially on August break, but lawmakers are keeping one eye on the Capitol for answers to a most pressing question: Who blinks first on pandemic relief?

“After two months of rare bipartisan unity that poured trillions of dollars into the U.S. economy to help stem the fallout of COVID-19, the prospects for additional stimulus are on ice until Congress reconvenes in September.

“The current outlook for a deal is bleak, with the White House and Democratic leaders barely speaking even as the virus continues to spread and schools and businesses continue to grapple with how to reopen safely.

“On Capitol Hill, party leaders spent the past two weeks bashing one another for the standoff on a new package in unusually personal terms.

"Perhaps you mistook them for somebody who gave a damn — that isn't the case," Speaker Nancy Pelosi (D-CA) told reporters last week of Republicans.

“Senate Majority Leader Mitch McConnell (R-KY) didn't pull any punches either, accusing Democrats on Thursday of putting "bizarre, parochial left-wing favors ... ahead of the help that working families need now.”

"That's not negotiating — that's throwing spaghetti at the wall to see what sticks," he said of Pelosi and Senate Minority Leader Chuck Schumer's (D-NY) offer to shrink the cost of the package by \$1 trillion from more than \$3 trillion.

"Left hanging in the balance is hundreds of billions of dollars in emergency aid to states and local governments, enhanced jobless benefits, small-business assistance, as well as more funding to fight the spread of COVID-19 itself.

"But there's also growing bipartisan sentiment that the current impasse is unsustainable. Here are four issues to watch for signs of a thaw that could lead to a resumption of negotiations.

"That could help open the door for major cash infusions for key federal agencies and adjustments to clean energy tax breaks to help companies and workers weather the pandemic's fallout.

#### Limits of executive power

"President Trump roiled the already messy talks earlier this month when he signed a series of executive orders intended to provide some economic relief.

"Trump's move — which capped a threat repeatedly invoked by White House chief of staff Mark Meadows in negotiations with Pelosi and Schumer — was widely seen as providing political cover to Republicans, who blamed Democrats for being unyielding in their demands.

"But that cover may be short-lived if, as Democrats and many observers have noted, Trump's orders prove to be "so unserious in terms of meeting the large needs of America as to be pathetic," as Schumer called them last week.

"For starters, Trump's decision to defer the collection of payroll taxes through the end of the year has sparked widespread uncertainty among business interests.

"The U.S. Chamber of Commerce, for instance, outlined "serious concerns" with the proposal last week, including "uncertainty as to who is ultimately liable for the repayment of the deferred taxes, and when the repayment will be due and what mechanism will be used to collect that repayment."

"Furthermore, Trump's insistence that he will ask Congress to forgive any debt associated with the deferment and "terminate" the tax opens Republicans to accusations they're cutting Social Security and Medicare — both of which are funded by payroll taxes and long a political third rail, especially in an election year.

"Additionally, Trump's efforts to extend — and cut — enhanced unemployment benefits are proving messy to implement, while his order to extend a federal eviction

moratorium merely directs several federal agencies to study whether such a move is necessary.

“Should the orders prove ineffective, that's likely to increase pressure on the White House to get back to the negotiating table.

GOP divisions

“Republicans' hands in the negotiations have been stymied by internal divisions, with McConnell estimating that there's 20 GOP senators who will not support any additional pandemic relief following the earlier spending binges.

“But with control of the Senate also on the ballot in November, there are plenty of Republicans in tough reelection fights who desperately want to see a relief deal materialize.

“And some of those lawmakers are already showing signs of splitting with the president on another area on the table in the negotiations: an infusion of billions of dollars to help the Postal Service address ongoing delivery delays.

“Democrats charge that Trump is attempting to hamstring the Postal Service in an effort to steal the election — an accusation that the president appeared to confirm last week, when he told Fox News that he opposed the \$25 billion Democrats are pushing in relief talks.

"Now they need that money in order to make the post office work so it can take all of these millions and millions of ballots," said Trump, who has railed for weeks against mail-in voting. "But if they don't get those two items, that means you can't have universal mail-in voting because they're not equipped to have it."

“Despite Trump's posturing, at least two GOP senators in tight races — Montana's Steve Daines and Susan Collins of Maine — have raised concerns about ongoing mail delays.

“Additionally, House Minority Leader Kevin McCarthy (R-CA) — a close Trump ally — said Friday that the post office "will have the funding that it needs."

"We will make sure of that," McCarthy said on CNBC. "We want to make sure we have an accurate election."

A trillion-dollar shift?

“Observers are also closely watching for any signs that the administration is willing to go beyond the \$1 trillion price tag of Senate Republicans' latest pandemic proposal, the "Health, Economic Assistance, Liability Protection and Schools (HEALS) Act".

“Democrats, who are using the \$3 trillion "Heroes Act" that passed the House in May as their own blueprint in negotiations, were rebuffed by the administration when they offered to "split the difference" and settle at \$2 trillion.

“So far neither side is showing any public signs of budging.

“Pelosi told Treasury Secretary Steven Mnuchin last week that the White House has to put more money on the table. "When they are ready to do that, we will sit down," she told reporters Thursday.

“But National Economic Council Director Larry Kudlow told reporters that same day that the White House will not accede to the \$2 trillion sought by Democrats.

"There are too many things, too many asks on their side that don't fit, don't even have anything to do with COVID-19 for that matter," he said.

“Hanging in the balance is a potential windfall for federal agencies to cope with COVID-19's fallout.

“House Democrats have loaded up this year's spending bills with hundreds of billions of dollars in emergency spending for federal agencies, including the Department of Energy, which would see a \$25 billion boost in its House-passed appropriations bill.

“While the House's bonus funding is highly unlikely to make it into law, an agreement to boost spending would open the door to negotiations on emergency funding for agencies, which would see \$305 billion in emergency appropriations — including \$307 million for DOE — under the Senate Republican plan.

“That could also be a boost for the Low Income Home Energy Assistance Program — which would see \$1.5 billion under both the Senate GOP plan and the House-passed "Heroes Act."

#### Refunding tax credits

“Republicans have been skeptical of Democratic overtures to extend and overhaul key clean energy tax credits in response to the pandemic — including the sweeping clean energy tax package that passed the House last month as part of a \$1.5 trillion infrastructure package.

“But there's bipartisan sentiment growing in both chambers for making some incentives refundable or converting them to direct payments to provide some relief from the freeze in tax equity markets that is making it difficult to finance projects.

“Its prospects are far from clear, but a bill, H.R. 7734, introduced last month by Representative Jodey Arrington (R-TX) and backed by powerful business interests, would

allow a number of general business credits — including the crucial renewable production and investment tax credits — to be monetized for tax years 2019 and 2020.

“Arrington argues that doing so would provide liquidity for companies by advancing payment for credits they are already entitled to.

“The push could get a boost by a Joint Committee on Taxation estimate from earlier this month, which told Senator John Cornyn (R-TX) that Arrington's bill would add \$3.3 billion to the deficit over 10 years — a relatively minor cost in a multitrillion-dollar negotiation and one that dwarfs the deficit impacts of past broader tax proposals, which have been estimated to cost tens of billions of dollars.

## **Other**

### [Campaign 2020: Biden on Climate](#)

E&E News PM reporter Maxine Joselow published on August 18, “Former Vice President Joe Biden would prioritize climate change and clean energy in his first four years as president, a top adviser said today.

“The presumptive Democratic presidential nominee would make a massive investment in combating climate change as part of his "Build Back Better" plan, which calls for spending \$2 trillion over four years, policy adviser Stef Feldman said during a virtual panel tied to the Democratic National Convention.

"There are big infrastructure investments that a President Biden will make at the beginning of his administration so we will be on an irreversible path toward a clean energy economy by the end of his first term," Feldman said.

"He will be taking over during a moment where there are three crises that are worsened by President Trump: a public health crisis worsened by his failure to act, an economic crisis worsened by his failure to get the virus under control and a racial justice crisis that is fanned by his words of hate," she said.

"That is quite a challenge that a President Biden will have to take on. And that's on top of the ongoing crises that President Trump has ignored and flat-out denied, including the climate crisis," Feldman added.

“The longtime Biden adviser, who previously worked in the Obama White House and at the University of Delaware's Biden Institute, said the former vice president's plan would create millions of jobs and help the economy recover from the virus.

“Feldman also stressed that it would be difficult for a subsequent administration to undo Biden's reforms, noting that Trump has rolled back a host of environmental regulations established by former President Obama.

"The vice president's plan is designed to lock in progress during the first four years of his administration so we are set on a path to have a strong economy and build an economy that will achieve net-zero greenhouse gas emissions by 2050," she said.

"Why does this matter? Let's think a little bit about the transition from the Obama administration to the Trump administration. President Trump was able to undo a lot of the regulations and environmental standards that President Obama put in place. Those were standards that were supposed to keep our air clean, our water clean," she added.

#### Environmental justice

"A central goal of the Build Back Better plan is transitioning to 100% clean electricity by 2035 — earlier than the 2050 target for reaching economywide net-zero emissions.

"Another central component is environmental justice, which has emerged as a hot-button issue in the wake of national protests over systemic racism and police brutality.

"The plan contains a handful of environmental justice pledges, including the creation of an "Environmental and Climate Justice Division" at the Justice Department to prosecute companies for pollution that harms people of color.

"In addition, 40% of the plan's benefits would be earmarked for low-income communities and communities of color.

"Biden would pursue "structural reforms in the government to make sure that environmental justice leaders — not just people from Washington, but people who actually live in environmental justice communities — have a seat at the table and a direct line to talk to the White House," Feldman said.

"Too often we find that communities of color are left out of recoveries, and Vice President Biden is committed to make sure that isn't the case under his administration," she added.

"Senator Kamala Harris of California, the Democratic vice presidential contender, has also promised to prosecute polluters and elevate environmental justice in the federal government.

#### Infrastructure, EVs

"Another speaker on the panel was Representative Haley Stevens (D-MI), who previously served as chief of staff for the White House's auto industry task force during the Great Recession.

"Stevens said the Obama administration "didn't go far enough" on infrastructure investment, and a future Biden administration should "set the table" for further spending.

“On Capitol Hill, progress on infrastructure has stalled since the House passed a massive \$2 trillion package, H.R. 2, last month.

"You can look at the dollars that we have put forward right now for an infrastructure package. Obviously the House passed theirs. The Senate doesn't look like it's in too much of a hurry to pick it up and pass anything," Stevens said.

“With regard to electric vehicles, Biden has pledged to make the United States a global leader in EV manufacturing, including in an 80-second campaign spot that teased an electric Corvette.

"We recognize that we're absolutely at an inflection point, that there are global markets driving the production of electric vehicles faster than our own markets," Stevens said.

### [Campaign 2020: Four Takeaways from the Democratic National Convention](#)

Timothy Cama and Nick Sobczyk of [Greenwire](#) wrote on August 21, “Climate change got unprecedented airtime at the Democratic National Convention this week, sending the party onto the campaign trail this fall with a historically ambitious environmental agenda.

“The convention — which went off without any major problems this week, despite its unusual, almost entirely virtual format — kicks off the final stretch of the presidential campaign season, with former Vice President Joe Biden as the Democrats' official candidate and California Senator Kamala Harris his vice presidential running mate. The Republican convention is next week, and will also be mostly virtual.

“In contrast to the massive, arena-sized gatherings of past presidential election years — with thousands of people, lobbyists, media and more — the Democrats' convention more closely resembled a produced television event.

“Participants gave speeches around the country, interspersed with pre-made videos and musical performances. It was a visible reminder of the COVID-19 pandemic and social distancing efforts to reduce transmission.

“And while the virtual nature of the convention was its most unusual aspect, the content was also novel, with climate change and the environment playing a starring role as an area of stark contrast between Biden and President Trump. Below are some of the major takeaways.

#### Climate takes center stage

“Climate change and other environment and energy policy issues were front and center in a way never seen before.



“The issues had top billing, popping up in most major speeches throughout the convention, as well as getting a segment of their own.

"We can, and we will, deal with climate change," Biden said in his speech formally accepting the party's nomination. "It's not only a crisis, it's an enormous opportunity: an opportunity for America to lead the world in clean energy and create millions of new, good-paying jobs in the process."

“The segment dedicated to climate change on Wednesday featured figures like New Mexico Gov. Michelle Lujan Grisham (D) and youth activist Alexandria Villaseñor.

“Singer Billie Eilish urged young people to vote for Biden, declaring, "Donald Trump is destroying our country and everything we care about," including the climate.

“Climate got far less play in the Democrats' 2016 convention, and Hillary Clinton, the party's candidate that year, gave the issue only a brief mention in her main speech.

Jobs, jobs, jobs

“In a time of economic crisis, the Democratic climate and environmental message was focused heavily on creating jobs and rebuilding after the COVID-19 pandemic.

"Build back better" was a slogan repeated throughout the week, a reference to Biden's plan for jobs and the economy.

"Together we can, and we will, rebuild our economy, and when we do, we'll not only build it back, we'll build it back better," Biden said last night.

"With modern roads, bridges, highways, broadband, ports and airports as a new foundation for economic growth. With pipes that transport clean water to every community."

“On climate change, especially, it's an easy selling point for Democrats looking to deter Republican attacks that they're running on a "socialist" agenda.

“To that end, unions had a heavy influence on the convention. Biden pledged last night that his presidency would see "newly empowered unions," and a video segment about his climate plan Wednesday evening was narrated by an International Brotherhood of Electrical Workers member from Pennsylvania.

Trump counterprogramming

“In an additional unprecedented move, Trump and the GOP worked intently to counterprogram the Democratic convention.

“Trump, Vice President Mike Pence and others made numerous swing-state visits throughout the week, culminating in a speech yesterday by the president miles from Biden's hometown of Scranton, Pa.

“Trump used the appearances to paint Biden as a puppet of far-left progressives who want to end all fossil fuels, including hydraulic fracturing — a potential lightning rod in Pennsylvania, despite Biden's statements that he doesn't want a nationwide fracking ban.

"You're not going to be allowed to frack anymore," Trump said in Old Forge, Pa. "You're not going to be allowed. No oil, no nothing. No oil, no gas, no nothing. Just think of that. What would happen is, well, first of all, many of you, I guess 600,000, 670,000 lose their jobs."

“In an appearance earlier in the week in Minnesota, an additional potential swing state, Trump said Biden wants to "take our energy away. If you can you believe it. No fossil fuels."

“Trump spokesman Tim Murtaugh wrapped up the counter-convention argument thusly: "By accepting his party's nomination tonight, Joe Biden has formally become a pawn of the radical leftists. His name is on the campaign logo, but the ideas come from the socialist extremists."

“Murtaugh said in a statement after Biden's speech: "He would kill 10 million energy jobs with the Green New Deal."

#### Clash over platform

“Progressives were generally pleased by the attention Democrats paid to climate change this week, but a flap over the platform highlighted ongoing tensions with the party's establishment.

“When DNC officials met to tweak their draft party platform late last month, they approved a laundry list of additions, including a pledge to "support eliminating tax breaks and subsidies for fossil fuels."

“But that language was nixed from the final platform, which the DNC said came after officials representing Biden and Senator Bernie Sanders (I-VT) — his progressive rival in the primary — agreed that it had been added by mistake. First reported by *HuffPost* earlier this week, the move enraged progressive activists who have long pushed to eliminate fossil fuel subsidies. Indeed, a similar passage was included in the 2016 platform.

“And contrary to the DNC's statement, John Laesch, who sponsored the language in the drafting process, said on Twitter that officials had "deleted the amendment without my consent.”

“It exposed an ongoing rift after climate activists had spent much of the last year fighting with the DNC to hold a climate-focused primary debate and accusing the party of caving to corporate interests.

“Still, both Biden and Harris support tossing out federal subsidies for fossil fuels, a point the campaign reiterated this week.”