



## ABC's Weekly Federal Legislative Update December 7, 2020

### Introduction

Both the House and Senate are in Washington this week. The Lame Duck Congress has a number of items on their agenda including passing the FY 2021 Appropriations bills and another COVID Relief Package. The current continuing resolution funding the government expires December 11. The following is news from Washington, D.C.

### Administration

#### [Renewable Fuel Standard: Trump Administration Punts to Biden](#)

***The Trump Administration missed the November 30 deadline to release the Final 2021 RVOs for the Renewable Fuel Standard. As this article discusses, the Trump administration will be passing that obligation on to the incoming Biden Administration.***

Marc Heller of [E&E News PM](#) reported on November 30, "EPA missed its Nov. 30 deadline to set next year's biofuel volumes under the federal renewable fuel standard and is all but certain to leave that job to the incoming Biden administration.

"The renewable fuel standard law requires EPA to set final regulations for the coming year by Nov. 30, but the agency has yet to even release a proposal, a delay some industry representatives attribute in part to market uncertainties tied to the COVID-19 pandemic.

"It shouldn't come as a surprise to anyone that EPA is missing its statutory deadline for publishing the final rule for 2021 RVOs, given that we still haven't even seen a proposed rule," said Geoff Cooper, president and CEO of the Renewable Fuels Association, referring to renewable volume obligations under the law.

"Even if a proposed rule was released today, it would be next to impossible to have a final rule done by the end of the calendar year, or even by inauguration day," he added.

"The law requires refiners to blend a minimum of 15 billion gallons of conventional ethanol a year into the nation's fuel supply, so that amount isn't in much doubt, Cooper

said. And biodiesel levels are set two years in advance, so that number — 2.43 billion gallons — is already determined for 2021.

“But levels of advanced biofuel and cellulosic ethanol, for instances, remain to be seen, as is the overall volume requirement for renewable fuel.

"At this point, it likely makes more sense to let the new administration handle the 2021 RVO rulemaking process entirely," Cooper said in a statement today, adding that President-elect Joe Biden as a candidate was sympathetic to the biofuel industry's argument that biofuel-blending waivers granted by EPA cut ethanol production.

“Rulemaking for the biofuel volumes may be more complicated than usual this year. Demand for liquid fuels rests on Americans' appetite for car travel, which depends on how quickly the pandemic and its restrictions ease.

“That's a primary cause for the delay, a refining industry source told E&E News, adding that EPA has plenty of time this year to propose volumes for 2021.

“In addition, EPA officials must weigh how much to account for biofuel volumes "lost" to small refinery waivers granted in cases of economic hardship. Those waivers could plummet from prior years due to litigation losses for EPA, as well as a changed approach under Biden.

“In a typical year, EPA would propose the next year's volumes in summer, then publish a final rule in November. But the agency doesn't always meet the deadline, and the Obama administration once had to make up for two years, issuing rules retroactively.”

## **Congress**

### [Agenda: COVID 19 Relief and Appropriations](#)

***The following story contains an update on the latest COVID 19 Stimulus bill as well as the appropriations process. The current Continuing Resolution, which is funding the government, expires December 11. Its most likely that Congress will pass another short term CR before passing the Omnibus appropriations package. This omnibus package is also a likely vehicle for the latest COVID 19 relief bill.***

On December 3, Geof Koss of [E&E Daily](#) submitted, “With the clock ticking on the 116th Congress, House Speaker Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) are signaling a new willingness to accept a smaller COVID-19 relief package.

“But as the prospects improve for a pandemic accord, some lawmakers are questioning progress on must-pass spending legislation, with the clock running out.

"Pelosi and Schumer insisted for months on a broad pandemic relief bill totaling more than \$2 trillion, but they pointed yesterday to the \$908 billion bipartisan package unveiled by House and Senate members earlier this week as a good starting point for negotiations.

"Despite having made a new offer to House and Senate GOP leaders on Monday, "in the spirit of compromise we believe the bipartisan framework introduced by senators yesterday should be used as the basis for immediate bipartisan, bicameral negotiations," they said in a statement.

"Of course, we and others will offer improvements, but the need to act is immediate and we believe that with good-faith negotiations we could come to an agreement," Pelosi and Schumer added.

The joint statement came hours after Treasury Secretary Steven Mnuchin told reporters in the Capitol that President Trump would sign a new proposal circulated by Senate Majority Leader Mitch McConnell (R-KY) on Tuesday, which totals more than \$500 billion and contains Senate Energy and Natural Resources Committee provisions to secure the availability of critical minerals.

"The president will sign the McConnell proposal that he put forward yesterday," said Mnuchin. "We look forward to making progress on that."

"In Senate floor remarks yesterday morning, McConnell also noted that "making law will require not just the Senate's approval, but also the signature of the president of the United States."

"Schumer yesterday, in response to McConnell, reiterated his call for bipartisan talks as the only path to a successful COVID-19 deal.

"The Republican leader should not waste the Senate's time on another inadequate, partisan proposal, and instead should sit down with Democrats to begin a true, bipartisan effort to quickly meet the needs of the country," Schumer said.

"He criticized controversial legal liability shield provisions in McConnell's latest plan, although the bipartisan framework that emerged Tuesday also would temporarily limit COVID-19-related litigation in state and federal courts.

"Senator Joe Manchin (D-WV), who helped lead the bipartisan push, applauded Pelosi and Schumer's support for the effort and called on McConnell to do the same. "The American people cannot wait any longer," Manchin said in a statement.

"In addition to a liability shield, a major sticking point remains the opposition of many Republicans to emergency funds for state and local governments.

"The Manchin-led framework would provide \$160 billion for states and localities; McConnell's latest proposal would provide none.

"The National Association of Counties (NACo) yesterday urged House and Senate leaders to allow direct and flexible federal funding in any end-of-year agreement, citing a potential fiscal 2021 revenue shortfall for its members of more than \$200 billion.

"In every way, counties are on the front lines of the nation's pandemic response," wrote NACo Executive Director Matthew Chase. "We provide many essential services, especially for our most vulnerable residents, and support small businesses that are the lifeblood of our communities and our economy."

"After months of partisan sniping over the size of another phase of pandemic relief, Senate Majority Whip John Thune (R-SD) said Pelosi and Schumer's statement was "definitely progress."

"They've gotten reasonable, and I think that would help us get to a solution," Thune told reporters yesterday.

"He said the McConnell and Manchin plans may be fodder for an eventual deal. "At some point, hopefully we'll be able to find the common ground, and maybe we can merge those," Thune said. "I think there's still time, although it's short to put a deal together."

CR talk

"Hiccups in assembling an omnibus spending bill to close out the year may provide COVID-19 negotiators some breathing room, given that McConnell said this week any pandemic assistance would likely hitch a ride on the \$1.4 trillion fiscal 2021 appropriations measure.

"Senate Appropriations Chairman Richard Shelby (R-AL) told reporters yesterday that while about 95% of the 12-bill package has been agreed to, it may not be finished in time to pass it through both chambers by the Dec. 11 deadline, when current stopgap spending expires. Another short-term continuing resolution may be necessary.

"I think it's where we're headed at the moment," he said, noting that an omnibus would need to be filed by Dec. 9 to allow enough time for votes in both chambers and head off a government shutdown that would kick in two days later.

"But Vermont Senator Patrick Leahy, the top Democratic appropriator, questioned the need for another short-term CR.

"We've worked out almost everything on the omnibus between the Republicans and the Democrats on the Appropriations Committee," he told reporters. "I think if we have a short-term one, I think it just shows irresponsibility on our part."

## Climate, other requests

"Groups, including the Environmental and Energy Study Institute and the American Council for an Energy-Efficient Economy, issued a plea to top appropriators yesterday to provide \$12 million for the Rural Energy Savings Program, which gives zero-interest loans for an assortment of entities to boost efficiency in rural areas.

"Dozens of environmental groups earlier this week also called on appropriators not to include any new funds in the omnibus to support construction of President Trump's border wall with Mexico.

"The advocates also called for the enactment of language from the House's Department of Homeland Security spending bill that would transfer up to \$75 million to the Fish and Wildlife Service for mitigation activities related to the construction of border barriers on federal lands.

"This is just a needed first step in beginning to address the appalling damage from this unnecessary and destructive wall," wrote Defenders of Wildlife and other groups.

"Other outstanding bills looking to hitch a ride on an omnibus or COVID-19 deal include the bipartisan Senate energy package, S. 2657, which was sidelined by a spat over regulating superpolluting hydrofluorocarbons (HFCs) that has since been resolved by the Senate Environment and Public Works Committee.

"Democratic aides on the panel said yesterday they are working to include the HFCs deal on whatever vehicle moves before the end of the year, including the omnibus or any other piece of legislation."

*Reporter Jeremy Dillon contributed.*

## [Update on House Appropriations Leadership](#)

***The following article contains an update on the House Leadership races.***

E&E Daily report George Cahlink published on December 2, "Veteran appropriator Rosa DeLauro of Connecticut is the front-runner to helm the spending panel next year after winning the decisive backing of the House Democratic Steering and Policy Committee yesterday.

"The panel also picked Representative David Scott (D-GA) to lead the Agriculture Committee, while Representative Gregory Meeks (D-NY) got the nod for the House Foreign Affairs Committee.

"The House Democratic Caucus will consider those recommendations when it votes on chairs for the 117th Congress tomorrow.

“The contest for the Appropriations gavel is the marquee committee chair race for the upcoming Congress. The leader will control more than \$1 trillion in annual discretionary spending and will be central to carrying out the Biden administration's agenda, including a push for more infrastructure spending and more money to fight climate change.

“At Steering, DeLauro got 36 votes, compared with 11 for Representative Debbie Wasserman Schultz of Florida and six for Representative Marcy Kaptur of Ohio during a closed-door meeting.

“Democrats are picking a replacement for Appropriations Chairwoman Nita Lowey (D-NY), who will retire at the end of this Congress.

“The Democratic Caucus often — but not always — follows the recommendations of the Steering Committee, which is controlled by House Speaker Nancy Pelosi (D-CA), a longtime DeLauro ally.

“For example, Energy and Commerce Chairman Frank Pallone (D-NJ) was not backed by Steering to be the panel's top Democrat in 2014, but he won the job after the caucus eventually selected him over Representative Anna Eshoo (D-CA).

“Wasserman Schultz, a moderate Democrat, is seen as having the better shot at defeating DeLauro in caucus than Kaptur.

“The Floridian has a track record as a strong fundraiser, including serving as Democratic National Committee chair, and has aggressively courted progressives by outlining extensive funding plans to fight climate change and address racial inequities in federal spending.

“The League of Conservation Voters had not endorsed in the race, saying any of the three would be good for the environment.

“DeLauro, the chairwoman of the House Labor, Health and Human Services, and Education Appropriations Subcommittee, stressed her experience on spending, health and workforce issues tied to the coronavirus pandemic.

"Our caucus has made it clear it is essential to have a strong Appropriations chair who has experience tackling these issues, is inclusive and can work with the Biden-Harris administration and Republicans to respond to the needs of the American people with robust federal investments in relief and recovery," she said after yesterday's Steering vote.

#### Agriculture, Foreign Affairs

“The panel backed replacements for Agriculture Chairman Collin Peterson (D-MN) and Foreign Affairs Chairman Eliot Engel (D-NY), both of whom lost their bids for reelection.

"For Agriculture, Scott, next in line based on seniority, bested Representative Jim Costa (D-CA), 32-19. The race pitted Southern farming interests against California's powerful Central Valley agriculture community.

"The new chairman will be responsible for implementing the 2018 farm bill, while also beginning work on the next one due in 2023.

"In the Foreign Affairs race, Meeks, the panel's second-most senior member, got 29 votes to easily beat the committee's most senior Democrat, Representative Brad Sherman (D-Calif.), who got 10 votes, and Vice Chairman Joaquin Castro (D-Texas), who got 13 votes.

"The new Foreign Affairs leader will help shape President-elect Joe Biden's international climate and nuclear agendas.

"Both Scott and Meeks would be historic selections as the first Black chairs of their respective committees.

#### New Dems

"Washington Democratic Representative Suzan DelBene was unanimously picked today to lead the New Democrat Coalition, a centrist group that could be pivotal in shaping environmental legislation.

"After years of gridlock and obstructionism, I'm focused on getting to 'yes' on the biggest issues before us, including additional pandemic relief; better health care for all Americans; getting the middle class back to work with living wages; and investing in new, green infrastructure," DelBene said.

"She will replace Representative Derek Kilmer (D-WA), who was term limited. He'll serve as chairman emeritus for the caucus.

"The House's New Democrat Coalition, a caucus of more than 100 centrist Democrats, favors carbon pricing and other market-based approaches to reach net-zero greenhouse gas emissions.

"The group will likely gain clout next year, as the group's moderate agenda is closely aligned with the incoming Biden administration.

"New Democrats also selected four vice chairs: Representatives Ami Bera and Scott Peters of California, Sharice Davids of Kansas, and Annie Kuster of New Hampshire. Peters and Kuster are both members of the Energy and Commerce Committee.

\*\*\**Read more about power players and policy changes after the elections in the E&E News special report **POWER SHIFT**.*\*\*\*

#### Other

## Transition: Biden Introduces Economic Team, Touts Pandemic Plan

On December 1, Timothy Cama of E&E News PM published, "President-elect Joe Biden formally introduced his leading economic policy team today and said its main task will be to lead pandemic recovery efforts.

"Biden also used the opportunity to push again for Congress and President Trump to pass a "robust package" of stimulus spending, even if it's before he takes office Jan. 20.

"In a Wilmington, Del., speech, he called the nominees and appointees "a first-rate team that's going to get us through this ongoing economic crisis and help us build the economy back — not just build it back, but build it back better than it was before."

"A team that's tested and experienced, and includes groundbreaking Americans who come from different backgrounds, but who share my core vision for economic relief here in the United States of America," he said.

"The team includes former Federal Reserve Chairwoman Janet Yellen, whom Biden will nominate to be Treasury secretary, and Center for American Progress President Neera Tanden, his pick for Office of Management and Budget director.

"The former vice president also named Wally Adeyemo to be deputy Treasury secretary and Cecilia Rouse, Jared Bernstein and Heather Boushey for the Council of Economic Advisers, with Rouse slated to be chairwoman.

"The team I'm announcing today will play a critical role in shaping our plan for actions starting on day one and move fast to revive this economy," Biden said, laying out his priorities for economic relief under the "Build Back Better" plan.

"Part of that, said Biden, is "to invest in infrastructure, clean energy, climate change, manufacturing and so much more that will create millions of good-paying jobs."

"Tanden has quickly emerged as the main lightning rod of the economic team. Her expected nomination has angered many Senate Republicans, who see her mainly as a political actor. Democrats have rallied around her.

"If Republican Senators Kelly Loeffler and David Perdue win next month's runoff elections in Georgia, the GOP will retain control of the upper chamber and, as a united front, could block Biden's nominees.

"But if the Democratic candidates, the Rev. Raphael Warnock and Jon Ossoff, win, the Senate will be tied 50-50, with Vice President-elect Kamala Harris able to break ties.



"I'm here today because of social programs, because of budgetary choices, because of a government that saw my mother's dignity and gave her a chance," Tanden said during today's event with Biden.

"Now it is my profound honor to help shape those budgets and programs to keep lifting Americans up, to pull families back from the brink, to give everybody the fair chance that my mom got and that every single person deserves."

"Biden called on the Senate to confirm his team. "I hope these outstanding nominees receive prompt hearings, and that we will be able to work across the aisle in good faith and move forward as one country," he said.

"The team presented today did not include Brian Deese, the former climate and energy adviser to President Obama, whom Biden is expected to name as director of the National Economic Council."