



ABC's Weekly Federal Legislative Update January 11, 2021

Introduction

This past week witnessed an armed mob descend on Congress as both chambers met to certify the 2020 Presidential election. Congress and the public are still dealing with the aftermath and the ramifications. President Trump is likely to be impeached, again, next week by the U.S House of Representatives which would be followed by a future trial in the Senate. As the Senate is officially out of session until January 19, the trial is likely to be managed by incoming Senate Majority Leader, Chuck Schumer (D-NY). The day prior to these disturbing events, Georgia elected two new Democrats to the Senate. The Senate is now equally divided between Republicans and Democrats. However, as the Presiding Officer of the Senate is Vice President Harris, the GA election results gives control of the Senate to the Democrats. Below are stories on the new leadership of the Democratic Senate, energy and environmental policies that could be on their priority list as well as more information on the transition to the Biden Administration.

Administration

Congress

[How Congress Could use Budget Reconciliation](#)

While Democrats are now in control of both bodies of Congress, their majorities are very slim. In the Senate, 60 votes are need to end a debate and move to vote on a bill. However, budget reconciliation could be a way that the Democratic Senate overcomes that hurdle.

Nick Sobczyk and George Cahlink of [E&E Daily](#) wrote on January 7, "The newly elected Democratic Senate will have too narrow a margin to pass much of anything, meaning their best chance for action on President-elect Joe Biden's agenda may lie with a budget tool that allows them to move legislation with a simple majority vote.

"With victories for Senators-elect Raphael Warnock and Jon Ossoff in Georgia called by the Associated Press yesterday, Democrats are set to take control Jan. 20 with a 50-50 split in the Senate.

“That leaves a bumpy road for legislating, especially with moderates like Senator Joe Manchin (D-WV), the incoming chairman of the Energy and Natural Resources Committee, opposing calls from progressives to eliminate the filibuster.

“But Democrats could have a chance to move bills through budget reconciliation, a process that allows certain budget-related legislation to bypass the filibuster. Observers and lawmakers say it could be a prime way to pass a carbon tax, alongside a slew of other spending-related priorities for the Biden administration.

“The Democratic Senate "doesn't change the fact that there's still a 60-vote threshold for big package legislation, so that's going to require a lot of bipartisan work," Senator Martin Heinrich (D-NM) told reporters yesterday.

"But for things like budget reconciliation, for example, it really does open up opportunities for the Biden administration to go more aggressively, and I certainly hope they'll take advantage of that," he said.

“It's the vehicle that Republicans used in 2017 to pass a tax cut bill that opened the Arctic National Wildlife Refuge to oil exploration and that Democrats used a decade ago to pass the Affordable Care Act.

"The expedited process provided by reconciliation creates a unique opportunity for tax reform and climate policy," said Alex Flint, a former aide to Senator Pete Domenici, the late New Mexico Republican who chaired the Senate Budget and Energy & Natural Resources committees.

"The potential for carbon tax in reconciliation now is at the center of the potential climate policy negotiations in this country for this year," said Flint, who now runs the pro-carbon tax group Alliance For Market Solutions.

Possible vehicles

“In that sense, the limited path could also affect which climate policies Democrats are able to prioritize.

“New regulatory regimes, for instance, would be difficult to achieve under the process because of the "Byrd rule" — for the late Senator Robert Byrd (D-W.Va.) — which dictates that provisions of a reconciliation bill have a direct budgetary impact/

"Carbon taxes or fees fits more neatly within the constraints of reconciliation as do changes to the tax treatment of fossil fuels," said Scott Segal, a partner at Bracewell LLP, which represents energy industry clients. "Actual emissions limits or clean-energy standards are tougher sells through reconciliation."

“Should Democrats opt for the process, the Budget panel would develop a resolution with instructions to committees of jurisdiction to come up with policies for a reconciliation bill.

“In the case of a carbon tax, the Finance Committee would ultimately be responsible for developing the policy under reconciliation and sending it to the full Senate.

“But Congress gets a limited chance to do a reconciliation bill each year, and it could be a primary vehicle for other Democratic priorities that are unlikely to get by Republicans, such as health care reform or the revenue portions of an infrastructure bill, Flint said.

“Democrats are also still eager to provide additional direct payments to Americans in response to COVID-19, an issue both Georgia candidates ran on.

"One of the first things that I want to do when our new senators are seated is deliver the \$2,000 checks," Senator Chuck Schumer (D-NY), who will soon be majority leader, told reporters yesterday.

“Asked whether COVID-19 relief could move through reconciliation, Senator Ron Wyden (D-OR), the incoming chair of the Finance Committee, said Democrats would "be looking at a variety of issues."

"I'm going to be spending a lot of time on that tonight and the days ahead," Wyden told reporters.

“Still, Senator Sheldon Whitehouse (D-RI), who sits on the Budget Committee, has already talked up the idea of using it to move a carbon pricing bill.

“It's not exactly clear how committee rosters will shape up, but they will likely either be evenly divided — as they were during the last 50-50 Senate in 2001 — or Democrats will hold a one-vote advantage.

“Senator Bernie Sanders (I-VT), Biden's rival in the Democratic presidential primary, is in line to chair the Budget panel, but the even split could allow leverage for Whitehouse or another member of the Budget panel to push for carbon pricing.

"He can insist upon its inclusion," Flint said.

'A sustained effort'

“Still, there could be other avenues for climate and energy legislation, and Democrats are already signaling they will cast a wide net across committee jurisdictions.

“Incoming Banking, Housing and Urban Affairs Chairman Sherrod Brown (D-OH) and incoming Agriculture Chairwoman Debbie Stabenow (D-MI) both said yesterday they want to tackle the issue on their respective panels.

"As chair of the Agriculture Committee, we're going to lead an effort to create a voluntary climate exchange — basically climate policy for farmers and ranchers — and that's a top priority for me," Stabenow told reporters yesterday.

"Senator Brian Schatz (D-HI), who chaired the Democrats' Special Committee on the Climate Crisis during the 116th Congress, said he doesn't know yet whether Democrats would use reconciliation to move a climate bill.

"But, he said, "we cannot think of climate action as one bill."

"It has to be a sustained effort over many, many years in the executive branch, in federal legislation, in state action, in the private sector, in the international context," Schatz told reporters yesterday.

"And what that means is that when we do infrastructure, it should be with an eye toward the climate crisis, when we do the State and Foreign Ops Subcommittee on appropriations markup, it should be with an eye toward climate."

"Schumer also did not rule out scrapping the filibuster yesterday.

"Senate Democrats know we face some of the greatest crises Americans have," Schumer told reporters when asked about filibuster reform. "We're united in wanting big, bold change, and we're going to sit down as a caucus and discuss the best ways to get that done."

Reporter Geof Koss contributed.

[New Senate Committee Leadership](#)

On Tuesday, control of the Senate flipped to the Democratic Party. As a result, the leadership of all Senate committees switch to the highest ranking Democrat. The following story discusses the new incoming chairs of committees with jurisdiction over energy or environmental issues.

On January 7, [E&E Daily](#) published, "Earlier this week many observers assumed Senator John Barrasso (R-WY) would take over the Energy and Natural Resources Committee and Senator Shelley Moore Capito (R-WV) the Environment and Public Works Committee.

"That's no longer the case.

"Despite the chaos of Capitol Hill yesterday, a picture of the Senate's future under Democratic control is beginning to emerge. Here's a look at how the power shift will affect energy and environment panels:

Joe Manchin

“Senator Joe Manchin, the centrist Democrat from West Virginia, will take over as the new chairman of the Energy and Natural Resources Committee.

“Manchin spent the last two years as ranking member. In that time, he worked with outgoing Chairwoman Lisa Murkowski (R-AK) to pass one of the largest public land packages in decades. They also secured passage of the first energy reform package in years.

“Both accomplishments came through bipartisan cooperation. He reiterated a focus on working across the aisle in a statement yesterday.

"For the sake of the country we all love, we must commit to solving the serious problems facing our nation," Manchin said before rioters stormed the Capitol.

"With respect to the Senate, we must return to regular order," he said. "I am hopeful that we will set an agenda that invites vigorous and respectful debate on the issues that matter."

“Manchin has yet to voice an agenda for the committee, other than vowing to work with Barrasso, who will be the panel's ranking Republican.

“Much of their initial work is expected to focus on implementation of the sweeping energy package, which included more than 15 demonstration projects for clean energy technology like storage and advanced nuclear.

“Manchin's interest in carbon capture and direct air capture may prove fertile grounds for bipartisan cooperation, but onlookers are not expecting a grand climate accord from the committee.

"It may seem clichéd, but his commitment to energy derives from his deep concern for the people and economy of West Virginia," said Scott Segal, partner at the Washington law firm Bracewell LLP. "Moving the energy economy of West Virginia into the future will be a primary driver for his agenda as chairman of the Senate Energy Committee."

“Such an emphasis is sure to draw the ire of more progressive, climate-focused advocacy groups. Prior to the November election, the Sunrise Movement had already expressed concern about Manchin's fossil fuel-focused voting record.

“Manchin, for his part, has egged on progressive criticism, especially as it relates to the Green New Deal and defund the police movements. He did, however, work to make inroads with his critics when becoming ranking member.

“Manchin has gone from shooting cap-and-trade legislation during a campaign ad to pushing climate change as an important agenda item.

Tom Carper

“Delaware Senator Tom Carper is poised to become the new infrastructure power broker on Capitol Hill as chairman of the Environment and Public Works Committee.

“In 2019, the EPW panel unanimously approved a \$287 billion highway bill, S. 2302, that included the first-ever climate title aimed at reducing greenhouse gas emissions from transportation.

“Carper was widely credited with securing the climate title in exchange for permit streamlining provisions sought by then-Chairman Barrasso.

“The Delaware Democrat could use the same spirit of compromise this year with Capito, another coal state senator who's in line to become EPW ranking member.

“The Biden administration is looking to pass a green infrastructure bill in February, and it will likely view the EPW's highway bill as a blueprint, along with H.R. 2, the \$1.5 trillion infrastructure package from House Transportation and Infrastructure Chairman Peter DeFazio (D-Ore.) that passed the House last year.

“Lawmakers have previously clashed over how to pay for an infrastructure bill, threatening the long-term solvency of the Highway Trust Fund. Carper supports raising the federal gasoline and diesel tax, which hasn't been increased since 1993, and studying the possibility of transitioning to a vehicle-miles-traveled fee.

“As Senate EPW chairman, Carper will likely oversee and weigh in on sweeping changes to water policy and environmental protections under the Biden administration.

“That may include an effort to reverse President Trump's controversial rule determining which waters are afforded protections under the Clean Water Act.

“As ranking member, Carper has already joined House Democrats to argue EPA's Navigable Waters Protection Rule fails to provide Congress with basic information about the effects of the rule and undermines states' ability to protect their own water sources.

“Democrats are urging a district court to hear a case against the rule, and Biden is widely expected to reverse the policy that lifted most federal protections on the nation's wetlands and streams.

“Other regulations Democrats may zero in on include recently finalized water quality standards for old lead and copper pipes, and a final rule currently wrapped up in legal wrangling over wastewater from coal-fired power plants.

Ron Wyden

“Oregon Democratic Senator Ron Wyden, who will chair the Senate Finance Committee, has made no secret of his energy ideas for the powerful tax-writing panel.

"For years, he's pushed a plan for "more clean for less green" — which he says will lead to more clean energy at less cost to the taxpayers.

"It would do so by scrapping most existing energy tax incentives and creating three new technology-neutral breaks for clean electricity, transportation fuels and energy efficiency.

"A version of the plan was backed by 25 of his Senate Democratic colleagues in the last Congress, and Wyden at one point tried unsuccessfully to sell President Trump on the plan to help pay for infrastructure legislation.

"Wyden is already signaling that he will continue to push the plan in the Biden administration, noting that he discussed it with Treasury Secretary-designate Janet Yellen last month.

"And while the year-end omnibus and COVID-19 relief deal included adjustments to the phaseout schedule for key renewable tax breaks, Wyden at the time called them a "bridge to the comprehensive reform desperately needed to end our dependence on Big Oil and ensure that green jobs are good jobs."

"I plan to keep at it until America kicks its carbon habit once and for all," he said last month.

Debbie Stabenow

"On the Senate Agriculture Committee, Senator Debbie Stabenow (D-MI) takes the chair she previously held when Democrats last controlled the chamber.

"The committee will see new faces, to be determined, with the retirement of Chairman Pat Roberts (R-KS) and the defeat of Republican Senator Kelly Loeffler in Georgia's runoff election Tuesday.

"The ranking member will be Senator John Boozman (R-AR), who had been gearing up to possibly head the committee.

"The overriding theme in the Senate committee will be agriculture's impact on — and solutions to — climate change, farm policy groups said. Agriculture contributes perhaps close to 10% of U.S. greenhouse gas emissions, researchers say, and has the ability to sequester significant amounts of carbon through soil management practices and other measures.

"We know she's interested in that, and that it's a priority for her," said Jenny Hopkinson, senior government relations representative at the National Farmers Union.

"The committee's work will include early preparations for the 2023 farm bill, and with Democrats running the panel, climate change is bound to receive more "robust"

treatment, said Eric Deeble, policy director for the National Sustainable Agriculture Coalition.

“Stabenow has championed multiple farm programs aimed at climate change, including boosting resources for conservation programs, and she supports market-based approaches to carbon sequestration in farm country. Democrats would have procedural tools at their disposal, including budget reconciliation, to push climate change measures, Deeble said.

"This may be the biggest legislative opportunity to the people who are concerned about climate change," Deeble said.

Reporters Jeremy Dillon, Maxine Joselow, Hannah Northey, Geof Koss and Marc Heller contributed.

Democratic Senate Could Boost EVs

As the Senate is now under Democratic control, legislation promoting electric vehicles could get a boost.

Climatewire reporter Corbin Hiar submitted on January 7, “Corporate advisers are preparing their clients for a strong clean energy push by the incoming Biden administration after Democrats won two runoff elections in Georgia to reclaim the Senate.

“When President-elect Joe Biden and the new Congress are sworn in, Democrats will have 50 seats in the Senate and a tiebreaking vote in the White House, along with Speaker Nancy Pelosi (D-CA) running the House. Policy analysts and corporate lobbyists say Biden could use that unified power to boost federal spending on clean energy, slash tax breaks that support fossil fuels and strike down eleventh-hour environmental rollbacks by the Trump White House.

“The advisers said Biden could go so far as to bypass Congress in an effort to implement some form of a price on carbon emissions.

“Yet much of this will hinge on process, including both limits on how Congress can act in response to Trump's final actions and the rules around executive power.

“The Congressional Review Act (CRA), for example, allows Congress to kill rules issued within 60 "legislative days" of the end of an administration — a timeline that stretches back to around the middle of last May.

“Scott Segal, a partner at the law and lobbying firm Bracewell LLP, said in a note to Washington reporters that Democratic control of the Senate could make the CRA an attractive way to address late Trump rules that cut against Biden's views on climate

policy and energy. Segal is registered to lobby for a more than a dozen fossil fuel-reliant companies.

“But using the CRA comes with risks for Democrats, political and policy analysts emphasized. The law “prohibits agencies from reissuing rules that Congress has rescinded, and it also bars agencies from [issuing] rules that are 'substantially the same,'" ClearView Energy Partners said in a Jan. 5 note to clients.

“How courts would interpret those terms is an open question if the Senate strikes down a Trump regulation and the Biden administration turns around and proposes a stronger regulation.

“As a result, ClearView analysts said the CRA remains a “viable tactic” for Democrats even if that uncertainty “does not make its use likely or widespread.”

“In terms of federal spending, Bracewell's Segal wrote there might be room for bipartisan deal-making around energy projects and research spending — “if the year-end omnibus is any guide.” That \$2.3 trillion year-end spending and COVID-19 relief deal included a bipartisan energy innovation package, a regulatory crackdown on superpolluting hydrofluorocarbons, extensions of key clean energy tax breaks and water project authorizations.

“Analysts with Wedbush Securities expect electric vehicle companies to be major beneficiaries of the Democratic takeover of the Senate.

“A more green-driven agenda [is] now certainly in the cards for the next few years,” said the financial services company in a note to clients. “We believe a doubling down on EV tax credits and further consumer incentives and government initiatives around the EV sector will be on the horizon, which is a major positive for Tesla, GM, Fisker, and other auto players.”

“ClearView singled out the Clean Cars for America proposal from Senator Chuck Schumer (D-NY), who is expected to become the Senate majority leader. His plan to create a “cash for clunkers” type of program to speed the transition to EVs now has brighter prospects.

“ClearView was also bullish on bipartisan energy legislation to support carbon capture, utilization and sequestration and incentives to support existing nuclear energy.

“With Schumer running the Senate, analysts said Democrats could also wield the tax code to combat climate change. That's a change from late last year, when Republicans opposed to taking significant climate action appeared likely to maintain control the upper chamber.

"Democratic control in an evenly split U.S. Senate does re-open the potential to use the budget reconciliation process as a way to advance a pricing mechanism for carbon," Segal wrote.

"Budget reconciliation is a maneuver that allows tax-related legislation to bypass the filibuster and pass by a simple majority.

"Carbon taxes or fees fits more neatly within the constraints of reconciliation as do changes to the tax treatment of fossil fuels," Segal wrote.

"ClearView also saw reconciliation as a way to roll back the Trump tax cuts for corporations and remove some of the tax write-offs for coal, oil and gas producers.

"But in a separate note early in the day yesterday, ClearView analysts suggested the chaos that had already ensued around the 2020 elections, and expectations that Republicans in Congress would contest Biden's election, could force the new president to take more extreme measures to enact policy changes.

"There are options for executive action under Biden. ClearView noted Biden could look for ways to cut oil exports and limit offshore drilling. "Biden could also pursue commercial interventions into energy production and manufacturing using the Korean War-era Defense Production Act."

"What if today's events mark the start of a deep and enduring partisan rift that extinguishes Biden's hope of brokering bipartisan compromise on even the relatively narrow objective of a recovery-focused stimulus package?" the analysts said.

"In that eventuality, we would not rule out Biden's use of one or several emergency powers to advance his climate agenda," they said.

"Later, Trump supporters stormed the Capitol. Windows were broken. Rioters overwhelmed police. A woman was killed inside the building.

"Senators and members of the House were evacuated before completing the process of certifying votes cast by state electors for Biden to become president on Jan. 20."

Other

Transition

[Congress Certifies Biden Win After Pro-Trump Riot](#)

George Cahlink and Geof Koss of [E&E Daily](#) wrote on January 7, "After a harrowing day of fierce and violent rioting at the Capitol by supporters of President Trump, Congress formally approved the results of the 2020 presidential election this morning, paving the way for President-elect Joe Biden to be sworn in Jan. 20.

“Republicans in both the House and Senate raised objections to the certifying results in Arizona and Pennsylvania. The chambers easily dismissed the objections. Still, more than 100 House Republicans voted against certification.

“The process, usually a formality noted for pomp and circumstance, was delayed for almost six hours yesterday after thousands of Trump supporters rioted inside and outside the Capitol.

“The angry, armed mob broke through police lines, climbed walls and scaffolding, smashed doors and roamed the centuries-old building for a few frenetic hours — breaking windows, scrawling graffiti in offices and vandalizing the hallowed Senate chamber.

“Police shot and killed a woman just outside the House chamber. Three died on the Capitol grounds because of medical emergencies. More than 50 arrests were made.

“Lawmakers, their aides and other workers were forced to lock down and evacuate to nearby House and Senate office buildings. It marked the worst looting and violence seen in the building since the British torched it in 1814.

"We're going to finish exactly what we started," said Majority Leader Mitch McConnell (R-KY) when the chamber reconvened in the evening. "We'll complete the process the right way. Criminal behavior will never dominate the Congress. The institution is resilient. Our democratic republic is strong."

“McConnell earlier in the day said he opposed the maneuvering by some on the right and warned against Congress trying to overturn the election for political gain. In the end, Vice President Mike Pence declared Biden the winner just before 4 a.m.

'Everlasting shame'

“Senate Minority Leader Chuck Schumer (D-NY) blasted Trump for sparking the riots. "This was in good part President's Trump's doing, incited by his word, his lies. His everlasting shame. Today's events certainly — certainly — would not have happened without him."

“Before the riots several conservatives, including Senator Ted Cruz (R-TX), argued against certifying results for Arizona, the first of several states Biden won.

"For those who respect the voters, simply telling the voters, go jump in a lake, the fact that you have deep concerns is of no moment to us?" Cruz said. "That jeopardizes, I believe, the legitimacy of this and subsequent elections."

“Cruz said, "What we are doing here tonight is actually very important because for those who have concerns about the integrity of our elections, those who have concerns of what happened in November, this is the appropriate means."

“Last night after the riots, Senator Josh Hawley (R-Mo.) joined House conservatives in objecting to electors from Pennsylvania. The Senate quickly voted down the objection while the House held more extended debate into the morning.

“House members raised objections against other states like Georgia and Wisconsin but lacked Senate support. Members of both chambers have to object to certifying a state's electors to trigger a vote.

“Hard-line GOP senators stepping back from joining more objections was a nod to the long-shot odds of overturning the election and calls for unity after one of the darkest days in congressional history.

Senate objections

“Of more than a dozen senators expected to oppose certification of at least one state, just six ended up voting to reject the Arizona electors: Ted Cruz of Texas, Hawley, Cindy Hyde-Smith of Mississippi, John Kennedy of Louisiana and freshman Senators Roger Marshall from Kansas and Alabama's Tommy Tuberville.

“The following senators voted to reject Pennsylvania's electors: Cruz, Hawley, Hyde-Smith, Marshall, Tuberville, Tim Scott of South Carolina and Cynthia Lummis of Wyoming.

“Several senators who had planned to object announced their change of heart after the riots, including Senators James Lankford of Oklahoma and Steve Daines of Montana.

"We must, and we will, have a peaceful and orderly transition of power," the pair said in a joint statement, while vowing to press on with scrutiny of election integrity through "all legal and peaceful means."

“Also reversing course was Senator Kelly Loeffler (R-GA). She lost a runoff election Tuesday to Democrat Raphael Warnock.

“I cannot now in good conscience object to the certification of these electors,” she said last night. “The violence, the lawlessness and siege of the halls of Congress are abhorrent and stand as a direct attack on what my objection was intended to protect.”

‘Enough is enough’

“Democrats were united against the objections. Some in the GOP forcefully broke with colleagues who questioned an election that has survived dozens of legal challenges.

"The best way we can show respect for people who were upset [by Trump's loss] is by telling them the truth. That's the burden. That's the duty of leadership," said Senator Mitt Romney (R-UT).

“Even close Trump allies look to put distance between themselves and the president, including Senator Lindsey Graham (R-SC).

"Trump and I, we had a hell of a journey," he said during the Senate debate. "I hate it being this way. From my point of view, he's been a consequential president, but today ... all I can say is count me out. Enough is enough. I tried to be helpful."

“Trump, for his part, did little to rein in the protesters he fired up early in the day at a rally outside the White House, even urging them to march on the Capitol.

“Members of the House Judiciary Committee sent Pence a letter yesterday urging him to invoke the 25th amendment of the Constitution, which allows the vice president and a majority of the Cabinet to declare a president unfit to perform his duties.

“Trump "has shown time and time again that he is unwilling to protect our Democracy and carry out the duties of the office," the Democrats wrote.

“House and Senate Democrats also called for impeaching Trump again, which Senator Ed Markey (D-MA) noted would prevent him from running for president in the future.

“Trump this morning released a statement through aide Dan Scavino, pledging an "orderly transition." Scavino tweeted the statement after Trump's own Twitter account was temporarily locked out.

"Even though I totally disagree with the outcome of the election, and the facts bear me out, nevertheless there will be an orderly transition on January 20th," Trump said in the statement.

"I have always said we would continue our fight to ensure that only legal votes were counted. While this represents the end of the greatest first term in presidential history, it's only the beginning of our fight to Make America Great Again."

[Biden EPA Nominee Plays to Agriculture Crowd](#)

The following article discusses Michael Regan of North Carolina, President Elect Biden's nominee to head the EPA.

On January 6, Marc Heller of [Greenwire](#) reported, “The incoming Biden administration's prospective EPA administrator, Michael Regan, held an online discussion yesterday with agriculture groups, long a source of antagonism with the environmental agency.

“Regan, the top environmental official in North Carolina, emphasized his background in farming, including that his grandfather farmed peanuts, soybeans, corn and tobacco in the state, according to a readout of the meeting from the Biden transition office.

“Sixteen groups representing commodities, farm chemicals and other interests participated. The roughly hourlong virtual meeting was mainly a chance for introductions, although groups involved said they raised issues such as ensuring that science guides EPA actions and that the agency considers agriculture's priorities in making major decisions, such as a replacement for the "Waters of the U.S." regulations under the Clean Water Act, involving runoff into waterways on and near farms.

"An emphasis of sound science was stressed as well as support for crop protection tools and the current WOTUS rule," said Chandler Goule, executive director of the National Association of Wheat Growers, through a spokeswoman. "Secretary Regan said he will always have an open-door policy for agriculture."

“If confirmed by the Senate, Regan will arrive at an agency that's been moving toward softer regulation of agriculture during the Trump administration, including scaling back the clean water rules. EPA has also proved more inclined to approve certain pesticides and will face pressure from environmental and health groups to limit them based on human health and other concerns.

“As with other federal agencies, the Biden EPA is likely to have a greater emphasis on climate change, which could affect carbon sequestration and emissions tied to agriculture. The trade group representing pesticide makers, CropLife America, noted the issue in a statement from its president and CEO, Chris Novak, who participated.

"Agriculture needs to be part of the global climate solution, and yesterday's meeting provided us the opportunity to share our commitment to work with the Biden Administration in developing new programs and policies to address this challenge," Novak said.

“While the meeting didn't provide an opportunity for in-depth discussions, CropLife's priorities include making sure EPA had adequate staff and funding to meet deadlines for pesticide registration decisions, defends the work of career scientists on pesticide reviews and "continues to improve" pesticide-related reviews under the Endangered Species Act, he said.

“Major farm groups such as the American Farm Bureau Federation, American Soybean Association, Fertilizer Institute and National Pork Producers Council were represented, as were the Biotechnology Innovation Organization and the National Association of State Departments of Agriculture.

“In its news release, the transition office said Regan "reiterated President-elect Joe Biden's commitment to working with agricultural leaders to promote healthy and secure food supplies, clean air, and clean water." He was joined by Cedric Richmond, incoming senior adviser to the president and director of the White House Office of Public Engagement.

Candidates to lead EPA's Air Office

The following story discusses some of the likely candidates to head EPA's Office of Air and Radiation.

Greenwire reporter Sean Reilly published on January 8, "Contenders are lining up to lead EPA's air office, a traditionally powerful agency bailiwick whose influence is set to grow under an incoming president who has already declared a "climate emergency."

"One is Alberto Ayala, who has spent 20 years as a California air pollution regulator as the state emerged as a national leader in efforts to improve air quality and combat climate change. Now, Ayala says he's eager to put that experience to use in heading EPA's Office of Air and Radiation in the administration of President-elect Joe Biden.

"It's probably easy to understand that California provides a really good example or template for what potential national programs could be," Ayala, executive director of the Sacramento Metropolitan Air Quality Management District, said in a phone interview yesterday confirming his interest in the Senate-confirmed post.

"He's part of what appears to be a surge of applicants to head the air office. The number of candidates is unclear; Patrice Simms, the Earthjustice vice president who heads the Biden transition team for EPA, did not reply to phone and email messages yesterday.

"But they may include Obama administration alumni Janet McCabe and Joe Goffman as well as state regulators like Ali Mirzakhilili, who heads the Oregon Department of Environmental Quality's air office and previously worked in Biden's home state of Delaware, according to people following the search who spoke on condition that they not be identified.

"I really cannot comment at this time," Mirzakhilili wrote in an emailed reply this week to an E&E News inquiry asking whether he's interested in the job. McCabe, who served as acting EPA air chief from 2013 to early 2017 and is now director of Indiana University's Environmental Resilience Institute, declined to comment in a brief phone interview.

"Goffman, also a Biden transition team member, focused on climate issues at EPA from 2009 to 2017 and now heads Harvard University's environmental law program, according to his LinkedIn profile. He did not reply to emails yesterday and today.

"Biden officials have given no indication of when they will announce a choice for the air post. Based on recent history, however, that won't happen until the Senate votes on the nomination of Michael Regan, Biden's choice for EPA administrator. As of this morning, the Senate Environment and Public Works Committee, likely to be chaired in the new Congress by Senator Tom Carper (D-DE), had not publicly scheduled a hearing on the nomination.

“While the choice of assistant administrators for the air post and other top agency jobs is a collaborative effort with the White House, the EPA chief “certainly has a say in how the [assistant administrators] are chosen because after all he has to work with them,” said Bob Sussman, an attorney and consultant who aided the Obama transition effort.

“In the meantime, Sussman said, chatter on the prospects of individual candidates should be taken with a grain of salt. The process, he said, “is pretty opaque.”

“Some of the names are put out there to generate interest as trial balloons to see what other people think, but that doesn't necessarily mean that they're going to be on the short list,” he said. “Nor does it mean that there is a short list at this point in time.”

“Soon after the November presidential election, for example, then-California Air Resources Board Chair Mary Nichols was widely seen as the front-runner to lead EPA in the new administration. News outlets reported that Regan, secretary of the North Carolina Department of Environmental Quality, was a contender only days before Biden confirmed his selection last month.

“Before taking his current job in 2017, Ayala spent 16 years at the Air Resources Board in jobs that included deputy executive director, his LinkedIn profile shows. After submitting his application in late November, Ayala said, he's had no further contact with the transition team.

“I know there are a lot of really good candidates out there,” said Bill Becker, retired executive director of the National Association of Clean Air Agencies, the largest organization of state and local air regulators. While disavowing direct knowledge of specific applicants, Becker said Regan might have a predilection for someone who not only knows the issues but also understands states' role in implementation.

“Asked to name some, Becker mentioned Mirzakhilili, who has been Oregon's air quality administrator since 2018, according to his LinkedIn page. Before that, Mirzakhilili spent more than 18 years in Delaware state government, the last 10 as director of the air quality division at the Department of Natural Resources and Environmental Control, the page shows.

“In that role, he testified at the request of EPW Democrats at a 2016 committee hearing on relations between state regulators and EPA.

“Carper was then a senior member of the panel. A spokeswoman had no comment this week when asked whether the senator is now advocating for Mirzakhilili to head EPA's air office or has contacted the Biden transition team for that purpose.”

