



ABC's Weekly Federal Legislative Update July 19, 2021

Introduction

This week, the House will be holding votes on bills that pertain to visas for our Afghan allies, forever chemicals in drinking water and consumer protection authority for the Federal Trade Commission. The Senate plans to hold the first vote on the bipartisan Infrastructure package. This is the smaller of the two infrastructure packages and relates to more "stereotypical" priorities such as road, bridges etc. Senate Democrats are still debating the contents and scope of a larger Democratic only package that would contain President Biden's broader infrastructure priorities. The following is news from Washington, D.C.

Administration

EPA: New Political Appointees

The Senate continues to work through President Biden's nominees for various executive level appointments. The following story discusses some recent appointees as the Environmental Protection Agency.

Kevin Bogardus of [Greenwire](#) wrote on July 13, "The agency has brought on eight people under noncareer Senior Executive Service and Schedule C appointments since the beginning of May, EPA spokesman Nick Conger told E&E News.

"The hires come as EPA changes direction under the Biden administration, focusing on fighting climate change and centering environmental justice throughout the agency's work.

"EPA spokeswoman Lindsay Hamilton said in a statement shared with E&E News that as the agency advances its mission to protect human health and the environment, "we're thrilled to welcome these talented appointees to the agency."

"These experienced professionals will support EPA's mission, work to address some of the nation's greatest environmental challenges, and move the Biden-Harris Administration's aggressive environmental agenda forward," Hamilton said.

“They include Eric Wachter as director of EPA's Office of the Executive Secretariat. That office serves as the document hub for the administrator's office, managing its records and correspondence as well as processing its Freedom of Information Act requests.

“Wachter had run the office at EPA before during the Obama administration, according to his LinkedIn profile. He later served as chief of staff at the New Jersey Department of Environmental Protection and in roles at advertising giant WPP before returning to the agency in May.

“Jennifer Macedonia has also come on board as deputy associate administrator for EPA's Office of Policy. She comes to the agency from JLM Environmental Consulting and is a former senior adviser at EPA.

“Macedonia co-authored the Climate 21 Project's transition memo for EPA along with Joe Goffman, now EPA's acting assistant administrator for air, and Brenda Mallory, now the chair of the White House Council on Environmental Quality.

“Other new hires:

- Loni Russell has joined EPA as deputy associate administrator in its Office of Public Engagement and Environmental Education. She has worked with Climate Action Campaign DC and Moms Clean Air Force in the past, according to her LinkedIn profile.
- Zachary Schafer is now senior adviser for EPA's Office of Water. Before coming to the agency, he was CEO and executive director at United for Infrastructure and a senior policy director for the Council on Competitiveness.
- Susannah Weaver has joined EPA as senior counsel. She was a partner at Donahue, Goldberg & Weaver LLP and earlier a senior associate at Orrick, Herrington & Sutcliffe LLP. Weaver's LinkedIn profile also says she clerked for Supreme Court Justice Stephen Breyer and served on the professional staff for the House Science Committee.

“EPA also recently added Ashley Morgan as deputy director of scheduling and advance, Tim Carroll as deputy press secretary, and Ya-Wei (Jake) Li as deputy assistant administrator in the Office of Chemical Safety and Pollution Prevention.

“The agency filled some of its Senate-confirmed political positions in recent weeks.

“Michal Freedhoff and Radhika Fox were approved last month to lead EPA's chemicals and water offices, respectively. In addition, Faisal Amin was confirmed in June as the agency's chief financial officer.”

Congress

The following three stories contain updates on the two-track process to pass the President Biden's Infrastructure plan. Current plans include passing a bipartisan package which would focus on stereotypical infrastructure priorities such as roads, bridges, ports, water resources and broadband. A second initiative on broader initiatives including childcare would use budget reconciliation allowing the bill to pass with only Democratic votes. Nevertheless, the passage of the second measure is a challenge as it must hold the support of both moderate and progress Senators.

Infrastructure: Schumer Sets First Vote

On July 16, Geof Koss of [E&E Daily](#) submitted, "Senate Majority Leader Chuck Schumer yesterday imposed a Wednesday deadline on the parallel process Democrats are hoping will deliver President Biden's infrastructure agenda.

"The New York Democrat announced that he will take the first procedural step Monday to start votes on the yet-to-be-seen bipartisan infrastructure package agreed to by 22 senators in the White House. He will file cloture on the motion-to-proceed to a vehicle for the roughly \$600 billion package, setting up the first vote for Wednesday.

"Everyone has been having productive conversations, and it's important to keep the two-track process moving," he announced on the Senate floor. "All parties involved in the bipartisan infrastructure bill talks must now finalize their agreement so that the Senate can begin considering that legislation next week."

"Schumer also announced a Wednesday deadline for the entire 50-member Democratic caucus to agree to move forward on the \$3.5 trillion budget resolution agreed to by Budget Committee members and leadership this week.

"Passing the budget resolution is the first step in unlocking the budget reconciliation process that will allow much of Biden's infrastructure agenda to bypass a GOP filibuster in the Senate and pass by a simple majority. Democrats this week said the deal will include a clean electricity standard that aims to reduce emissions by 50% and hit 80% clean energy by 2030.

"The time has come to make progress, and we will," he said. "We must."

"While Schumer had previously said that he plans to vote on the bipartisan package and the budget resolution before the August recess, the deadlines add impetus to the parallel negotiations unfolding on Capitol Hill.

"Some Republicans who are part of the bipartisan talks were miffed by the deadline, which they said they learned of from Schumer's floor remarks.

“Senator Mitt Romney (R-UT), who is part of the group, said he would not support the procedural vote to advance a bill that remains under construction. “I would think it would be a dereliction of duty to vote for a bill that hasn't been drafted yet,” he told reporters.

“Another GOP negotiator— Louisiana's Bill Cassidy — said the bipartisan group is working to meet the deadline but questioned the feasibility of doing so. He noted that the negotiations depend on technical assistance from outside agencies, including the Congressional Budget Office, which must assess the deficit impacts of legislation before it hits the floor.

“There is an iterative process with the agencies that you just can't say, ‘OK deadline,’ and you know that the agencies have completed everything,” he told reporters. “We're working toward a deadline, I suppose, but I can't promise you it's going to be completed.”

“Senate Minority Whip John Thune (R-SD), who is not part of the talks, questioned the wisdom of an “artificial deadline.” “I imagine he's trying to get the process moving forward, but it could be really nonproductive on his end if he actually wants a result,” Thune said in the Capitol yesterday.

“However, Schumer later said that Democrats involved in the talks have said they're making “very good progress.” “There is no reason why we can't start voting next Wednesday, and that's what we're going to do,” he told reporters.

Energy, water, roads and bridges

“Several Democrat involved in the talks said yesterday that having a bill ready by Wednesday is achievable, and downplayed the deadline pressure.

“There are a few remaining issues,” Senator Chris Coons (D-Del.) told reporters. “Our staffs worked very hard over the recess. We had a very positive and constructive, long meeting Tuesday night. A group of senators just finished a follow-on meeting about some of the key pieces. I am optimistic that we can hit this goal next week, but we're just going to have to keep working at the same frequency and intensity.”

“Coons added that work will continue over the weekend. “It will be a busy week,” he said.

“Two key Democratic committee chairs said yesterday they were optimistic on their panels' contributions to the bipartisan package.

“Energy and Natural Resources Chair Joe Manchin (D-WV) said in an interview yesterday that “it looks good” for the \$95 billion energy package his committee approved

Wednesday to be included in the framework. He said legislative text of the energy provisions would be finalized by today.

“We're gonna be done,” Manchin said.

“Environment and Public Works Chair Tom Carper (D-DE) said committee staff continue to work on incorporating the surface reauthorization legislation that passed the panel in June, S. 1953, into the bipartisan bill. It will also include the Senate-passed \$35 billion water infrastructure bill, S. 914, which will be “fully funded” when it gets to the floor, Carper added.

“There's money that's going to be added on to what was in our bills, and we are heavily involved in parsing that in directing that money, which is good,” he told E&E News.

“However, there are other issues dogging the talks, including the difficult task of paying for the plan. Many Republicans who are not part of the discussions are opposed to one agreed to pay-for — boosting IRS enforcement — and several senators suggested yesterday that the group may be looking for other options.

“Pay-fors were one topic between top White House officials who huddled with the 10 Republican negotiators yesterday. “We're working on the pay-fors,” Senator Rob Portman (R-OH) told reporters after the meeting. “And we'll end up with a good package.”

“But he also suggested that Schumer's deadline could slip. “I don't know if we'll meet anybody's arbitrary timeline,” Portman said. “That's not the point. The point is to get it right. We're moving as fast as we possibly can.”

Reporters Nick Sobczyk and Emma Dumain contributed.

Infrastructure

E&E Daily reporters Geof Koss of Jeremy Dillion published on July 13, “Both ends of Pennsylvania Avenue are bracing for a bumpy ride as congressional Democrats put in motion the two-track process that they hope will deliver on President Biden's ambitious infrastructure agenda.

“Addressing the Senate after the July 4 recess, Majority Leader Chuck Schumer reiterated plans to bring the \$973 billion bipartisan infrastructure framework to the floor in the coming weeks. That framework was agreed to in principle by the White House and 21 senators from both parties last month.

“Senate committees are "getting closer" to turning the agreement into legislation, the New York Democrat said yesterday. "We are making very good progress towards that goal."

“Additionally, the Senate Budget Committee is "close" to finalizing a fiscal 2022 budget resolution that will allow the Senate to "move forward" with the rest of Biden's American Jobs and Families Plan, the combined cost of which is north of \$4 trillion.

“Passing a budget resolution is the first step in assembling a filibuster-proof package that is expected to contain much of Biden's proposals that were not included in the bipartisan deal.

“But internal divisions among Democrats and the pace of actually translating the bipartisan deal into legislative text remain major hurdles that must be sorted out as the August recess approaches.

"My guess would be a lot of twists and turns before we get done," Senate Environment and Public Works Chair Tom Carper (D-Del.) told E&E News yesterday.

“Carper's EPW Committee staff is already working to incorporate the panel's roughly \$350 billion surface transportation measure into the bipartisan package, which additionally will carry the \$35 billion water infrastructure measure, S. 914, that passed the Senate in April.

“Carper said his goal is to ensure that the committee's bills that have passed are actually funded. "It's not enough just to authorize," he said.

“However, Senator Rob Portman (R-OH) — a member of the bipartisan group — told reporters yesterday that actual text of the bill may not emerge until next week.

“Furthermore, Senate Democrats are still trying to find agreement on a top-level spending number for the budget resolution.

“Budget Chair Bernie Sanders (I-VT) is said to favor a budget that would allow as much as \$6 trillion in reconciliation spending, while more moderate Democrats have proposed spending at about \$3.5 trillion.

“Following a meeting with Biden at the White House, Sanders yesterday downplayed the internal tensions.

"You got 50 members of the Democratic caucus and, no great secret, some are progressive, some are more conservative," Sanders told reporters at the Capitol. "But I'm confident we're going to reach a happy medium and end up with a bill the American people can be very proud of."

"Sanders said the resolution under development will be "the most consequential piece of legislation for working people since the 1930s," including "dealing with the literal, existential threat that we face in terms of climate."

"This is a big deal," he said. "And I think at the end of the day, we're going to have 50 votes — 50 Democratic votes of folks who want to go forward in a very substantial way."

"White House spokesperson Jen Psaki yesterday also downplayed internal disagreements among Democrats, while acknowledging the rough sailing that lies ahead.

"Our policymaking muscles have atrophied over the last few years," Psaki told reporters. "This is exactly what it looks like. It's messy at times, and we fully expect that these negotiations will have ups and downs. We're prepared for that."

Greens criticize Manchin bill

"Yet another question mark in the infrastructure sausage-making is the bid by Senate Energy and Natural Resources Chair Joe Manchin (D-W.Va.) to insert his own energy priorities into the bipartisan framework.

"Green groups have started to rally against the \$73 billion in energy provisions that Manchin put forward just before the recess.

"The committee is set to mark up that draft bill tomorrow, but a new analysis from Friends of the Earth accuses the legislation of favoring fossil fuel interests over actually implementing policies to reduce greenhouse gas emissions.

"According to the report, released this morning, Manchin's bill favors nuclear, carbon capture and hydrogen production authorizations at \$28.8 billion compared to \$420 million in direct authorizations for wind, solar, geothermal and tidal, the group said.

"That's a ratio of dirty to renewables of over 70-to-1," the report said. "Even when combining the renewable provisions with the bill's meager storage and efficiency programs, Manchin still proposes spending more than twice as much on dirty than he does on clean."

"For his part, Manchin has defended the initial draft as an all-of-the-above strategy for energy innovation to reduce carbon emissions.

"Indeed, many of the provisions coming under criticism from green groups were taken directly from the White House's American Jobs Plan, which calls for more than a dozen

hydrogen demonstration projects in addition to carbon capture demonstration spending.

“Additionally, the bill authorizes a nuclear credit program to help at-risk nuclear reactors, a position also backed by the White House and Energy Secretary Jennifer Granholm.

“Friends of the Earth, however, pointed to recently released taped admissions from an Exxon Mobil Corp. lobbyist, who cited Manchin as one of the industry's top Democratic supporters, as evidence to his alleged compromised position in authoring the bill.

“Manchin's bill has numerous climate-inspired provisions, though they are far less than what advocates are seeking.

"This bill has Exxon's fingerprints all over it," the group said.

Wish lists

“As lawmakers put pen to paper, interest groups continue to reiterate their infrastructure priorities to Capitol Hill.

“More than 130 mayors today will lay out infrastructure priorities in a letter to congressional leaders that urges large investments in multiple areas to tackle climate change, while providing flexibility for cities to utilize funds.

"The climate and equity crises we face are interrelated and have been compounded by COVID-19, and therefore must be addressed through collaborative, holistic thinking and bold, innovative ideas," dozens of city officials wrote in the letter, which includes a lengthy appendix of recommended investments in transportation, climate resilience, buildings and housing, land use and work force.

“The Solar Energy Industries Association (SEIA) last week issued its own plea to House Ways and Means Chair Richard Neal (D-MA), urging a longer extension of the investment tax credit (ITC) than the five-year extension included in Democrats' clean energy overhaul.

“Specifically, SEIA wants the five-year ITC extension included in the "Growing Renewable Energy and Efficiency Now (GREEN) Act," H.R. 848, to be "lengthened and strengthened to fill as much of the 10-year budget window as possible and increase the credit back to at least 30 percent."

“To address financing shortfalls related to the COVID-19 pandemic, SEIA wants Ways and Means to include a 100% direct pay option "for as long as possible."

“SEIA also reupped its support for adding energy storage to the ITC, while also backing tax breaks to promote transmission lines.

“The group additionally issued a warning about new domestic content requirements that are under consideration by Ways and Means.

"While we fully support a broad approach to incentivizing domestic manufacturing investments, we urge the committee to avoid policies which are overly restrictive and unnecessarily harm solar deployment," wrote SEIA President and CEO Abigail Ross Hopper.

“Neal has not yet indicated his plans for a markup of the "GREEN Act," but a competing proposal, S. 1298, by Senate Finance Chair Ron Wyden (D-OR) advanced through that panel in May.

“Wyden's bill aims to streamline the energy tax code by jettisoning long-standing tax breaks for fossil fuels and implementing three categories of technology-neutral incentives for electricity, transportation and efficiency. He told reporters yesterday that his bill "is the linchpin of a climate strategy."

“His bill would continue the ITC until EPA and the Energy Department certifies that emission levels are at 75% below 2021 levels, triggering a five-year phaseout with the credit's value decreasing annually until it hits zero, according to a summary.”

[Democrats Set Ambitious Legislative Timeline](#)

Emma Dumain and Jeremy Dillion of [E&E Daily](#) published on July 12, “Senators return to Washington this week with a short timetable for an ambitious infrastructure package but in a Capitol full of hard feelings and colliding interests.

“Those interests include those of progressives, who are panicked that Democratic leaders are prepared to make too many compromises to win not only Republican votes for various infrastructure proposals but also those of moderate Democrats.

“One big player in this battle, Senator Joe Manchin (D-WV), will get his chance on stage this week as his committee marks up a \$95 billion clean energy bill, parts of which are expected to be included in a bipartisan package.

“Progressives have thus far been cool to Manchin's plan, eying it with suspicion that it could become the ceiling, rather than a floor, for addressing the climate crisis.

“That's just one example of the uncertainty surrounding infrastructure, including timing and procedure. Senate Majority Leader Chuck Schumer (D-N.Y.) offered some clarity on both late last week when he said his intention was "for lawmakers to both pass a

bipartisan infrastructure package and adopt a budget resolution," as he wrote in a Friday letter to his Democratic colleagues.

"The budget resolution will open the door for Democrats to pursue reconciliation, the process that allows the majority to bypass a Republican filibuster. Many components of President Biden's original, more expansive infrastructure proposal are expected to be stuffed in that package. Among the biggest of those components are efforts to fight climate change.

"And, if senators can't complete this work by the end of the first week of August — at which time the Senate is scheduled to break for its regular monthlong summer recess — Schumer has threatened they'll work overtime.

"Please be advised that time is of the essence and we have a lot of work to do," Schumer warned. "Senators should be prepared for the possibility of working long nights, weekends, and remaining in Washington into the previously-scheduled August state work period."

"It's hard to imagine how the Senate will meet this self-imposed deadline. There is no text for the bipartisan deal with the White House on a \$973 billion measure that focuses mostly on surface transportation, and support for that agreement remains fragile after Biden at one point suggested he wouldn't sign the narrower bill without a reconciliation measure alongside it.

"Biden has since walked back that position, but it remains a red line for congressional Democrats who want to pressure Senate Democratic moderates — namely Manchin and Kyrsten Sinema of Arizona — to support reconciliation.

"House Speaker Nancy Pelosi (D-CA) has said she will not allow the House to vote on the bipartisan infrastructure deal until the Senate has also advanced reconciliation. Schumer also reiterated Friday he has not abandoned the two-track approach.

"On the bipartisan infrastructure track, our committees are working tirelessly with the White House and the bipartisan infrastructure group to turn their recent agreement into legislation," Schumer said. "On the second track, the Senate Budget Committee continues their work on a ... budget resolution to enact the remaining elements of the American Jobs and Families Plan — especially provisions on climate change, health care and the caring economy."