Message

From: POLITICO Pro Energy [politicoemail@politicopro.com]
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To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Morning Energy: Trump's not-so simple math — Judge orders update of Keystone XL study — States' rights get tricky over water

By Kelsey Tamborrino | 08/16/2018 05:43 AM EDT

With help from Ben Lefebvre and Annie Snider

A NUMBERS GAME: The White House's plan to rewrite the Obama administration's cornerstone climate rule for power plants may be based on some fuzzy math, setting up a potentially brutal court battle for the Justice Department. The legally risky strategy, POLITICO's Alex Guillén and Emily Holden report, calls for redoing the calculations of how much the rule would cost and who would benefit.

EPA's proposed replacement plan is expected to be unveiled any day now and will likely downplay a key feature of the Obama-era greenhouse rule: the money saved by using less electricity. Some expect EPA will also count only a fraction of the improvements in public health from reduced smog and soot pollution, Alex and Emily report, and it won't consider any benefits from slowing climate change outside the U.S.

In doing so, President Donald Trump's EPA will argue that the Obama-era rule had higher costs and fewer benefits than previously stated, a change to help improve the comparison when it unveils its own proposal. The Obama administration had estimated that the benefits from its rule would outstrip the costs by $26 billion to $45 billion by 2030, though supporters of that version say those net benefits could be even higher now.

In fact, math could become vital to the success or failure of several of Trump's rules. Critics say similarly fuzzy math underlies other Trump administration proposals to reverse or stymie action on climate change, such as a recent plan by EPA and the Department of Transportation to halt a planned tightening of fuel efficiency standards for cars and trucks. "They are cooking the books on technical analysis to try to justify preconceived conclusions that these regulations are bad," said David Doniger, senior strategic director of the Natural Resources Defense Council's climate program who was influential in the Obama EPA's crafting of the original rule. Read more.

GOOD THURSDAY MORNING! I'm your host, Kelsey Tamborrino. Many of you knew, but ClearView Energy Partners' Mitch Huber was the first to correctly answer that it's Loretta and Linda Sanchez who were the first and only sisters to serve simultaneously in Congress. For today: How many current senators are also former mayors? Bonus points if you can name them. Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter @kelseytam, @Morning_Energy and @POLITICOPro.

DO THAT AGAIN: The Trump administration was ordered Wednesday to update an environmental study of the Keystone XL pipeline despite its contention the alternative route picked last year by Nebraska regulators didn't require an updated environmental impact statement. Instead, Judge Brian Morris of the U.S. District Court for Montana ordered the State Department to go back to its 2014 EIS to take into account the new route, Alex reports for Pros. Morris said the State Department still has a "meaningful opportunity to evaluate" the alternative route that was picked in Nebraska. However, he declined environmentalists' request that Trump's permit be vacated.

STATES' RIGHTS GET TRICKY OVER WATER: The roiling debate over states' right to halt development projects over their water quality effects heads to the Senate Environment and Public Works Committee today. The panel will hold a legislative hearing on a bill from Chairman John Barrasso, S. 3303 (115), the Water Quality Certification Improvement Act of 2018. The measure would limit states' authority under Section 401 of the Clean Water Act, which requires states to certify that projects won't harm their water quality standards before the federal government issues a permit. In recent years a handful of Democratic-led states have used that authority to block natural gas pipelines. Republican Maryland Gov. Larry Hogan is also using the authority to try to force Exelon Corp. to clean up nutrient pollution flowing through one of its dams that harms the Chesapeake Bay.

GOP lawmakers have backed earlier efforts to limit or remove the authority, including in this year's House Appropriations bill, House and Senate energy legislation and standalone bills. But the Western Governors Association, which represents a number of Republican governors, has come out in opposition to reining in states' authority, and the Environmental Council of the States warned Wednesday that such moves could have unintended consequences. **If you go:** The hearing begins at 10 a.m. in 406 Dirksen.

NOMINATIONS ON TAP: Two nominees to the Energy Department will testify before the Senate Energy and Natural Resources Committee this morning: Bill Cooper to be general counsel and Lane Genatowski for director of the Advanced Research Projects Agency-Energy, which the Trump administration has sought to eliminate.

Who are they? Cooper serves as senior counsel and director of the McConnell Valdés law firm. Prior to that he was a subcommittee staff director for House Natural Resources, with a particular policy focus on the National Environmental Policy Act that the White House has sought to change up. Cooper also previously was president of the Center for Liquefied Natural Gas and counsel to the House Energy and Commerce Committee. His credentials have earned him the backing of industry groups, including the Air-Conditioning, Heating, and Refrigeration Institute, the Interstate National Gas Association of America, and the Electric Reliability Coordinating Council.

— **Genatowski hails from** a banking background. He's managing partner in investments at Dividend Advisors, a firm he founded in 2012. Genatowski before that was an energy investment banker at JPMorgan Chase and other Wall Street giants. His résumé lines up with others in Rick Perry's Energy Department, which has focused more on businessmen with energy-sector experience. **If you go:** The hearing kicks off at 10 a.m. in 366 Dirksen.

RESCISSIONS — TAKE TWO: The Trump administration is once again weighing a so-called rescissions package to force Congress to roll back federal spending, with just weeks to go until the next budget deadline, Pro's Sarah Ferris and John Bresnahan report. Senate Appropriations Chairman Richard Shelby said Wednesday he was told about the idea: "I heard they were thinking about one, but I haven't seen it." But a Senate leadership source said OMB chief Mick Mulvaney has already begun moving ahead on the effort.

FLORIDA DRILLING BITS: To drill or not to drill off the Florida coast is a question once again heating up the state's election campaigns. Gwen Graham, the current front-runner in the Democratic gubernatorial primary field, sent out a message titled "Drilling 75 Miles off Florida's Beaches is Insane" after a POLITICO report highlighted the idea as one that oil industry lobbyists are pushing to have included in the Interior Department's upcoming offshore drilling plan. Sunshine State Democratic Sen. Bill Nelson took the story to the Senate floor to try to whack current Gov. Rick Scott, who is running to replace him and earlier this year got help from Trump on the drilling issue.

REMEMBRANCE OF TARBALLS PAST: Former Florida Lt. Gov. Jeff Kottkamp is catching heat for his statement at a pro-drilling rally in Tallahassee that oil from the Deepwater Horizon spill "didn't even reach the shores of Florida." The remark, as first reported in the Florida Phoenix, may have surprised those who

remember former Gov. Charlie Crist squatting over oil-stained beaches in Pensacola . Kottkamp, who was speaking as co-chair of Explore Offshore Florida, went on to say "tarballs are naturally occurring." Earthjustice staff attorney Bradley Marshall called it "absurd to claim the Deepwater Horizon spill did not reach Florida" given the damage the state experienced. "That's why so many of Florida's leaders, regardless of what political party they belong to, have been so protective of our coasts all these years," he said in a statement.

WHAT'S THE RISK? EPA acting Administrator Andrew Wheeler delivered a video address at the National Environmental Justice Advisory Council's public meeting in Boston on Wednesday where he acknowledged the need for improvement in risk communication and noted the agency owes it to the American public to improve. "How well or how poorly we communicate risk disproportionately impacts those on the lower end of the socioeconomic ladder," he said. "We have fallen short in the past from our response to the Gold King Mine in Colorado, to the Kanawha River in West Virginia, to Flint, Mich." Watch it here.

CASE CLOSED: Interior's Office of Inspector General has closed its investigation into an allegation made against National Park Service officials. The claim centered around references to human-caused climate change in a report on sea-level rise and storm surge projections that officials allegedly sought to remove. The watchdog office said Wednesday that shortly after it opened the investigation, the NPS "published the report with all original references to human-caused climate change," thus prompting it to close its probe.

'SECRET' AGENTS: Comments are due today on EPA's proposed "scientific transparency" rule, which would ban the use of studies that don't publicly disclose all their data. Experts have said that plan could prohibit the use of vital studies on how pollutants affect human health because researchers typically promise to keep subjects' health information confidential. But conservatives have long accused the agency of relying on "secret science," prompting former Administrator Scott Pruitt to unveil the proposal in the name of transparency.

Under the wire: With the comment deadline approaching, nearly 80 groups, including the Union of Concerned Scientists, Sierra Club and Moms Clean Air Force, signed onto a letter Wednesday calling on Wheeler to withdraw the so-called secret science proposal. Separately, 66 health and medical organizations sent comments to Wheeler in opposition to the proposed rule. That's not to say there isn't support for the proposal; several comments posted Wednesday echoed the refrain that scientists should be required to "show your work."

AFTER THE STORM: The nonprofit Environmental Integrity Project released a new report today leading up to the one-year anniversary of Hurricane Harvey's widespread destruction in Texas. Using records from the Texas Commission on Environmental Quality, the report looks at air pollution during and after the storm as well as the government's and industries' response, and makes recommendations for the future. The "Preparing for the Next Storm" report found that all five of the largest industrial air pollution releases during Harvey were in the Houston area — with the Magellan Galena Park Terminal the biggest polluter, releasing 2,472,402 pounds of air pollution.

Harvey also triggered the release of at least 8.3 million pounds of unpermitted air pollution from petrochemical plants, according to the EIP report. And in the nine months after Harvey, "18 companies revised their air pollution reports to the state to erase 1.7 million pounds of unpermitted emissions during Hurricane Harvey," the report found.

LET'S MAKE A DEAL: Trump might soon strike a deal with Mexico on NAFTA, even as a trade war plays out with the rest of the world, POLITICO's Megan Cassella reports. The apparent turnaround after months of stalemate arrives as Mexican Secretary of Economy Ildefonso Guajardo visited Washington on Wednesday to hammer out some of the most contentious issues on NAFTA. "Both U.S. and Mexican officials now say they could be on the verge of announcing a preliminary agreement on everything from complicated automotive rules to environmental regulations by the end of August," Megan reports.

CATCHING FIRE: Agriculture Secretary Sonny Perdue will join Senate Energy ranking member Maria Cantwell and Sens. Steve Daines and Ron Wyden to unveil a new federal plan for addressing wildfires. Earlier this year, Perdue and Cantwell worked together on a commitment to use unmanned aircraft technology this fire season, and the Washington Democrat will likely highlight similar tools and technology today. Watch the livestream here.

POLL: CLIMATE A FACTOR FOR MOST: Slightly more than half (53 percent) of U.S. voters believe climate change is a factor in making the ongoing California wildfires more extreme, while 39 percent say it's not, according to a new poll from Quinnipiac University released Wednesday. Sixty-four percent of voters said they think the country is not doing enough to address climate change, the national poll found. Eighteen percent of voters say the U.S. is doing enough to address the issue, while 10 percent say the U.S. is doing too much.

— **On a related note,** the Natural Resources Defense Council launched a tracker this week to see where every state's lawmakers stand on offshore drilling.

QUICK HITS

— "A coal company and Interior teamed up to save a power plant," E&E News.

— "FirstEnergy Solutions takes next step toward closure of nuclear power plants," Akron Business Journal.

— "A rising concern? After straws, balloons get more scrutiny," The Associated Press.

— "Will Washington State Voters Make History on Climate Change?" The Atlantic.

HAPPENING TODAY

10 a.m. — Senate Environment and Public Works Committee hearing on clean water, 406 Dirksen.

10 a.m. — Senate Energy and Natural Resources Committee hearing to consider DOE nominees, 366 Dirksen.

10 a.m. — American Petroleum Institute conference call briefing on efforts "to reform the broken Renewable Fuel Standard that threatens to reverse America's energy progress."

12:45 p.m. — Senate Energy and Natural Resources ranking member Maria Cantwell and Agriculture Secretary Sonny Perdue unveil a federal plan for addressing wildfire, Senate Room S-115.

THAT'S ALL FOR ME!

To view online:
https://subscriber.politicopro.com/newsletters/morning-energy/2018/08/trumps-not-so-simple-math-319039

Stories from POLITICO Pro

Exclusive: Draft details Trump's plan for reversing Obama climate rule Back

By Emily Holden | 08/14/2018 07:46 PM EDT

The Trump administration is preparing to unveil its plan for undoing Barack Obama's most ambitious climate regulation — offering a replacement that would do far less to reduce the greenhouse gas emissions that are warming the planet, according to POLITICO's review of a portion of the unpublished draft.

The new climate proposal for coal-burning power plants, expected to be released in the coming days, would give states wide latitude to write their own modest regulations for coal plants or even seek permission to opt out, according to the document and a source who has read other sections of the draft.

That's a sharp contrast from the aims of Obama's Clean Power Plan, a 2015 regulation that would have sped a shift away from coal use and toward less-polluting sources such as natural gas, wind and solar. That plan was the centerpiece of Obama's pledge for the U.S. to cut carbon dioxide emissions as part of the Paris climate agreement, which President Donald Trump has said he plans to exit.

The Environmental Protection Agency acknowledges that both carbon emissions and pollutants such as soot and smog would be higher under its new proposal than under the Clean Power Plan. And Trump's critics call it a recipe for abandoning the effort to take on one of the world's most urgent problems.

The proposal would be "another, more official, sign that the government of the United States is not committed to climate policy," said Janet McCabe, EPA's air chief under Obama.

McCabe said based on a description of the proposal, it would offer "a significant amount of discretion to states to decide that nothing at all needs to be done."

Many red states and several companies sued over the Clean Power Plan, and a federal appeals court was nearing a decision when Trump's EPA asked for time to rewrite the rule. McCabe said the proposal could be meant to eat up time and stall a future president from quickly regulating greenhouse gases.

EPA was widely expected to write a far less stringent replacement rule. Trump promised to nix the Clean Power Plan and exit the Paris deal during his campaign. But the draft offers the first look at the specifics since the agency released a broader notice that it would reconsider the rule in April.

The White House Office of Management and Budget has finished reviewing the draft and sent it back to EPA this week.

The rule would allow states to write rules to make coal plants more efficient, enabling them to burn less coal to produce the same amount of electricity. But that could be bad for the planet, people familiar with state air programs say, by making it cost-effective for power companies to run those plants more often.

EPA looked at the outcomes of various scenarios that could be possible from state-proposed plans in 2025, 2030 and 2035, implying that the plans could be in place before 2025.

Obama's plan was meant to see greenhouse gas emissions from the U.S. power sector fall to 32 percent below 2005 levels by 2030. The nation has already achieved much of that reduction because of trends such as the closures of dozens of older coal plants.

EPA intends to argue that the Obama administration rule illegally sought to regulate the broader power sector, beyond coal plants, and that the compliance costs would have been big and the climate benefits negligible, according to the draft POLITICO reviewed.

Environmental advocates and blue states plan to wage war on the proposal once it is final. But while the legal fights play out, the regulation will be a placeholder that could stall a future president from regulating power plants.

States will be able to present reasons for why they don't want to regulate coal plants, including considering how many more years they have left before they would probably shut down, according to a source who reviewed a different section of the document.

In another contentious portion of the proposal, EPA is looking at letting states decide whether they want to adopt changes to pollution reviews that kick in when a plant makes upgrades. Existing rules are meant to keep plants from making changes that cause more pollution.

Conservatives and industry groups have long argued that the review process, called New Source Review, makes it too expensive for operators to make improvements to plants.

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The key to Trump's climate reversal? New math Back

By Alex Guillén and Emily Holden | 08/16/2018 05:06 AM EDT

The Trump administration's attempt to reverse Barack Obama's most sweeping climate regulation rests on a legally risky strategy — redoing the calculations of how much the rule would cost and who would benefit.

The EPA's proposed replacement is expected to downplay the money that people and businesses would save from using less electricity, a key feature of the Obama-era greenhouse rule for power plants. People tracking the issue also expect that the agency will count only a fraction of the improvements in public health from reduced smog and soot pollution, and won't consider any benefits from slowing climate change outside the U.S.

The upshot: President Donald Trump's Environmental Protection Agency will argue that the Obama administration's rule had more costs and fewer benefits than previously stated, a change to help improve the comparison when it unveils its own, much less ambitious power plant proposal as soon as next week.

The Obama administration had estimated that the benefits from its 2015 rule would outstrip the costs by $26 billion to $45 billion by 2030.

Supporters of the Obama version say those net benefits could be even higher now, because states are on track to meet the climate goals and the costs of clean energy have continued to plummet. And they warn that repealing the regulation could keep older, more expensive coal-fired power plants in operation, adding to consumers' costs.

The math could be crucial to the success or failure of a number of Trump rules. That could make the rollbacks legally vulnerable when environmental advocates and states sue to overturn Trump's action, critics of the new proposals say.

"They are cooking the books on technical analysis to try to justify preconceived conclusions that these regulations are bad," said David Doniger, the senior strategic director of the Natural Resources Defense Council's climate program who was influential in the Obama EPA's crafting of the original rule.

EPA did not respond to a request for comment on Wednesday.

Trump administration lawyers reviewing the replacement are already struggling with how to defend a rule that could cost electricity users money but would not do much to address climate change or air pollution, according to a person aware of conversations between the White House and the Justice Department. DOJ would be charged with defending the rule in court.

POLITICO has examined a portion of the agency's unpublished draft of the new rule, which would allow states to write their own modest regulations for coal plants or even let plant operators seek to opt out entirely, according to a source with knowledge of the broader proposal.

The proposed rewrite of the power plant rule is part of a pattern: Critics say similarly fuzzy math underlies other Trump administration proposals to reverse or stymie action on climate change, such as a recent plan by EPA and the Department of Transportation to halt a planned tightening of fuel efficiency standards for cars and trucks.

Sean Donahue, an environmental lawyer who has represented groups like the Environmental Defense Fund, said he would expect a court to be "very skeptical" of any effort that looks as though EPA is trying to evade its obligation to regulate greenhouse gases. But he conceded that will depend on the details of EPA's power plant proposal.

"If it were one or two technical judgments where there's a difference between this administration and the last one, or this administration and prior consistent practice, that would be one thing," Donahue said. "But it's many, many things, all pointing the same way, all pointing toward rolling back greenhouse gas mitigation efforts."

Trump has repeatedly expressed doubts about man-made climate change, and much of his Cabinet shares a similar view. In contrast, the federal government's own scientific assessment finds that human-caused climate change will not only raise temperatures but also make extreme weather more dangerous and lift sea levels by 1 to 4 feet by the end of the century.

Kate Larsen, director of economic research firm Rhodium Group, said the Trump administration's justifications for unraveling climate change policies are symptomatic of its broader governing principles.

"A decision we make today is narrowly focused on the impacts to myself and my immediate neighbor in the next week, but you're not taking into account impacts next year and the following year to yourself, your neighbor, the entire community," she said.

Environmental experts are also scrutinizing the auto rule proposal, released earlier this month, which would freeze the Obama administration's aggressive fuel economy standards after 2020 and dial back EPA greenhouse gas rules to match.

EPA and DOT's National Highway Traffic Safety Administration argued that the freeze would save billions of dollars in costs. Critics say the administration overestimated compliance costs of the Obama-era auto targets by as much as fourfold, which could significantly tip the cost-benefit analysis in their favor. Another claim that the Trump rollback would save more than 1,000 lives per year — yielding benefits of $77 billion — has also drawn skepticism.

On Tuesday, EPA released a June memo that showed agency staff criticizing a number of "unrealistic" aspects of NHTSA's modeling. They disagreed with the proposal's fatality figures, with EPA staff estimating deaths would increase slightly under the freeze. And they thought the rule overestimated compliance costs and the time needed to recoup those costs in fuel savings, all factors that boosted benefits and lowered costs for the proposed freeze. Both EPA and NHTSA dismissed the memo as only one part of a complex review process.

The administration and industry groups have blasted the Obama administration's use of "co-benefits" — the benefits in improved health or reduced pollution that arise even when they're not the primary aim of a regulation. (One example: Cutting coal plants' carbon dioxide pollution under the power plant regulation would"t do much directly to improve people's health, but it would reduce smog.) But Donahue argued that Trump's regulators sometimes lean on co-benefits to help build the case for their rollbacks.

For example, NHTSA's modeling credits changes in consumer behavior as the overwhelming factor behind all the lives that the Trump administration contends its auto rollback would save. The agencies argue that under the previous Obama rule, drivers would be more likely to remain in older, more dangerous cars than purchase more expensive, safer ones.

That "would seem to be a co-benefits argument, since the EPA doesn't have, and NHTSA doesn't have, the authority to regulate used cars," said Donahue, who called the paradox "sort of entertaining."

Counting co-benefits is a long-standing practice for federal regulators, but energy industry groups and Republican state officials grew incensed by the Obama administration's use of it to justify major regulations.

"The co-benefits thing has ballooned into the biggest scandal in environmental regulation," said the conservative Competitive Enterprise Institute's Myron Ebell, who led Trump's post-election transition team at EPA. "You get very small direct benefits, but you make up, essentially, a lot of co-benefits."

Still, he contended that EPA's withdrawal of Obama's power plant rule would eliminate a huge amount of costs in the coming years, saying Obama's regulation represented "just the first emissions cuts."

"There were going to be more beyond that if the Obama administration had been succeeded by the Clinton administration," Ebell said. He added: "By cutting it off in the way that they're doing, we're avoiding immense future costs."

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Keystone XL pipeline wins green light in Nebraska — but may face new hurdles Back

By Ben Lefebvre | 11/20/2017 11:25 AM EDT

Nebraska regulators approved the Keystone XL pipeline Monday, but only if it is built along a new path that may force the project developer to jump through a new set of regulatory hoops.

The 3-2 vote by the Nebraska Public Service Commission gave the green light to a different route than the one preferred by Keystone developer TransCanada, moving it east to run partially alongside the original Keystone pipeline and through a portion of the state's ecologically sensitive Sandhills area as well across the Ogallala Aquifer.

The Trump administration is evaluating whether it would have to re-approve the controversial pipeline to account for the new route. But activists who have spent the better part of a decade fighting to block Keystone said the decision throws the whole project into jeopardy, while TransCanada, the company seeking to build the project, said only that it is evaluating its next steps.

"This decision today throws the entire project into a huge legal question mark," said Jane Kleeb, the activist who led the opposition to the pipeline and who is now Nebraska Democratic Party chair. "TransCanada will have to go back to the State Department because that route has never been reviewed by the feds."

The State Department said it is reviewing the PSC decision for just such a possibility.

"We won't know about any impacts until we learn precisely the extent of any changes, something we are currently engaged in," State Department spokesman Vincent Campos said.

TransCanada President and CEO Russ Girling said the company "will conduct a careful review of the Public Service Commission's ruling while assessing how the decision would impact the cost and schedule of the project."

Former President Barack Obama had blocked the permits for the pipeline in 2015, citing the oil sands' impact on climate change, but President Donald Trump quickly reversed that decision after taking office. Keystone XL is designed to transport up to 830,000 barrels per day of crude from Canada's oil sands and North Dakota's shale fields to oil refineries on the Gulf Coast.

The Nebraska PSC vote comes as TransCanada adds new crews to its cleanup operations in South Dakota, where the original Keystone Pipeline ruptured last week and released 210,000 gallons of oil. But Nebraska law bars the regulators from considering spills or pipeline safety in its decision-making process.

Environmentalists and landowners who opposed Keystone XL's construction have promised to try to overturn the commission's decision.

"We will appeal," Kleeb said. "We will challenge a foreign corporation being given eminent domain in the county courts, with every intent to bring it to the Supreme Court if needed."

Even with the approval, the project, whose costs to build the nearly 1,200 mile artery have ballooned to $8 billion, is still not ready to be built since TransCanada is gauging the economics of the huge investment. Though prices for oil have rebounded moderately in recent months, and while TransCanada has said demand for space on the pipeline is strong, it's not yet clear that enough companies will commit to the 20-year contracts required to reserve space on it.

The opposition to Keystone XL had been a rallying cry for green activists who have long said mining Canada's oil sands would be a disaster for global climate change, releasing vast amounts of carbon dioxide into the atmosphere.

But supporters have said tapping the oil fields in Alberta is no worse than the oil production in Venezuela, where much of the heavy sour crude that is shipped to U.S. refineries comes from now.

Many in the oil industry, however, no longer see the Keystone XL pipeline as crucial to the U.S. refineries as they once did, especially since the railroad sector stepped in to offer a more flexible — though more expensive — way to ship the oil.

"There's not going to be a parade thrown, although everyone in the industry is going to be grateful," said Tyler Nelson, an energy lobbyist for Cornerstone Government Affairs. "It should have been done years ago. But now a lot of people want it to be over with and done and move on."

The pipeline may struggle to succeed in the oil business. Energy markets have made the Alberta oil sands less attractive, with ExxonMobil, ConocoPhillips and others pulling out of the region to concentrate on U.S. oil

shale development in Texas. Meanwhile, rival pipeline company Enbridge has expanded its pipeline system delivering Canadian crude to the U.S.

Critics have pointed to the recent shale oil boom as a reason that supply from the Canadian and North Dakota fields is in less demand, and they argue that much of the oil from Keystone XL could end up on tankers bound for export. U.S. oil production is on target to average more than 9 million barrels a day this year, nearly double what it was when TransCanada first proposed the massive pipeline.

If TransCanada gives its final approval to go ahead, construction would not start until 2019 at the earliest, Paul Miller, TransCanada's president of liquids pipelines, said during a conference call earlier this month.

The pipeline already is the focus of a court challenge stemming from Trump's State Department approving the project. A coalition of groups is arguing the State Department did not do due diligence before approving the cross-border pipeline in March. The case is still in the beginning stages, with a decision pending from the U.S. District Court of Montana on a Trump administration motion to dismiss.

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Judge orders Trump administration to update Keystone XL environmental study Back

By Alex Guillén | 08/15/2018 08:17 PM EDT

A federal judge today ordered the Trump administration to update its environmental study of the Keystone XL pipeline.

Nebraska regulators last year picked an alternative route through the state after the pipeline was approved by President Donald Trump. Now the State Department must update its previous 2014 environmental impact statement to take that route into account, ruled Judge Brian Morris of the U.S. District Court for Montana.

The Trump administration argued that it did not need to update the EIS, despite Nebraska regulators' decision to pick the alternate route.

But Morris concluded that the State Department still has a "meaningful opportunity to evaluate" the alternative route that was picked in Nebraska. "Federal Defendants cannot escape their responsibility under NEPA to evaluate the Mainline Alternative route," he ruled.

The approved route differs from the one studied in the 2014 EIS by crossing different counties and bodies of water and requiring an extra pump station and electric infrastructure, Morris noted.

However, Morris declined environmentalists' request that Trump's permit be vacated, at least for now.

TransCanada does not plan to start construction before the second quarter of 2019, he said, giving the Trump administration sufficient time "to supplement the EIS in a manner that allows appropriate review before TransCanada's planned construction activities." Morris said he would revisit the issue if "circumstances change" and he is unable to review the new supplemental EIS before TransCanada begins construction.

WHAT'S NEXT: Morris ordered the State Department to propose a schedule to supplement the EIS.

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Trump administration to make a second try on spending cutbacks Back

By Sarah Ferris and John Bresnahan | 08/15/2018 07:15 PM EDT

The Trump administration is eyeing a second attempt to force Congress to roll back federal spending, after its last attempt collapsed in the GOP-led Senate, according to the chairman of the Senate Appropriations Committee as well as a Senate leadership source.

The Office of Management and Budget is said to be considering a second package of so-called rescissions, with just weeks to go until Congress' next budget deadline.

OMB officials did not return a request for comment and it's not known yet what spending the White House might try to cut or eliminate this time around.

Senate Appropriations Chairman Richard Shelby said today he was told about the idea. "I heard they were thinking about one, but I haven't seen it," Shelby (R-Ala.) told POLITICO.

OMB chief Mick Mulvaney has already begun moving ahead, according to the Senate leadership source.

Budget hawks, led by Mulvaney, fought hard for the last package, H.R. 3 (115), which would have pulled back $15 billion in already-approved federal dollars. That bill ultimately tanked in the Senate, coming up just one vote shy on a procedural vote.

If the White House moves quickly, its next rescissions package could arrive in the middle of a separate major funding fight on Capitol Hill. Lawmakers have until Sept. 30 to send roughly $1.4 trillion in fiscal 2019 funding to President Donald Trump's desk or risk a funding lapse.

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Oil companies ask Florida lawmakers to unlock offshore drilling Back

By Ben Lefebvre | 08/15/2018 05:01 AM EDT

Oil and gas companies are aggressively lobbying Florida lawmakers to agree to allow offshore drilling in the eastern Gulf of Mexico — seeking to break decades of bipartisan opposition in a state that has long viewed oil spills as an existential threat to its tourist economy.

The effort, which would potentially bring oil rigs as close as 75 miles to Florida beaches, comes just seven months after Interior Secretary Ryan Zinke promised that the state was "off the table" for offshore drilling. And it could complicate Republican Gov. Rick Scott's campaign to unseat Democratic Sen. Bill Nelson, whose opposition to drilling off the coast has been a main theme of his decades in Congress.

But the expansion would aid President Donald Trump's effort to increase U.S. oil and gas production, in what he calls a bid for American "energy dominance."

Gaining access to the millions of barrels of oil and natural gas off Florida's west coast is a top priority for Exxon Mobil, Chevron, Shell and other companies.

Energy lobbyists and trade associations believe Zinke left some wiggle room in his comments, and they are trying to persuade Florida lawmakers to sign on to possible compromises, including allowing drill rigs to operate up to 75 miles off the state's Gulf coast, lawmakers and industry sources said. That would be down from more than 200 miles under an existing drilling moratorium.

Zinke's tweet exempting Florida — which critics charge was simply a political gift for Scott's Senate campaign — and his subsequent statement that he was "removing Florida from consideration for any new oil and gas platforms" shouldn't be read as official Interior policy, said Randall Luthi, president of the trade group National Offshore Industry Association, which is pressing for access to the waters.

"Secretarial tweets and statements to Congress are outside the administrative process, but certainly are indicators of where the Secretary and evidently the White House might end up," Luthi said in a statement to POLITICO. "The Eastern Gulf of Mexico is ripe for some kind of a reasonable compromise."

The Gulf of Mexico Energy Security Act of 2006 put a moratorium on oil and gas exploration in the eastern Gulf until June 2022. Department of Defense offshore training zones put another large part of those waters out of contention for drilling.

Interior's first draft plan included opening up every acre of federal water to oil and gas companies, however. Zinke has implied in later conversations with coastal state governors, senators and trade associations that the final plan wouldn't necessarily include drilling off the coasts of New Jersey, Delaware, Maine, but his plan to announce a final decision this fall could delay unpopular decisions — including possibly opening up the waters off southern California and the Mid-Atlantic region — until after the midterm elections, sources said.

The most aggressive plan industry lobbyists have brought to lawmakers calls for allowing drilling platforms within 75 miles of Florida's Gulf coast, an idea that Interior itself floated in its draft plan. Buffer zones going out as far as 125 miles have also been discussed, sources said. Either could technically adhere to Zinke's promise not to open Florida's waters, since the state's jurisdiction only extends nine nautical miles from the shoreline. Interior proposed the use of so-called exclusion zones for the eastern Gulf of Mexico and the Atlantic coast in its draft plan.

One lobbyist working the issue told POLITICO that Zinke and Scott were careful to "not say the entire Eastern Gulf," was off the table during their press conference at the Tallahassee airport in January.

"There are some Republicans who are prepared to make a deal. Seventy-five miles is the expected buffer, but folks might be willing to throw it a little further," said the lobbyist, speaking anonymously to frankly discuss ongoing negotiations.

That reduced buffer zone would please the oil industry because most of the oil and gas reserves in the eastern Gulf are believed to be in the waters south of Alabama and the Florida Panhandle, said a person at one oil and gas company who was not authorized to discuss the draft plan.

"I think we could live with 75 miles," the person said. "I think that wouldn't hurt anyone."

The idea so far has failed to gain much traction with at least two Florida Republicans who said they have been inundated with industry requests to open the area to drilling.

Florida Republican Rep. Matt Gaetz said he opposes the idea on national security grounds, given that the Defense Department uses a large part of the eastern Gulf for training exercises.

"It seems every week the oil and gas industry is working to obtain permission to crack the Destin Dome," Gaetz said in an interview with POLITICO, referring to one offshore site believed to hold large amounts of natural gas. "That would be devastating to our national security. I don't have a nuanced view on this. I am opposed."

Gaetz said he has raised his concerns on several occasions with Zinke, who he said has not pushed for a specific policy but has espoused an expansion of oil and gas drilling in general.

"I've had meetings with the secretary on this," Gaetz said. "I've had spirited conversations with him. I would not say he was wedded to any particular plan. He was trying to advance the cause of energy exploration."

An Interior spokeswoman did not answer questions about Zinke's meetings with Florida lawmakers or the possibility of establishing a 75-mile buffer zone.

"Secretary Zinke regularly meets with and communicates with many members on both sides of the aisle, coastal and non-coastal," the spokeswoman said in a written statement. "Members often discuss relevant issues pertaining to their districts and states as appropriate."

Republican Rep. Francis Rooney, who opposed drilling off the Florida coast during his 2016 campaign, said the industry has also been reaching out to him. Industry representatives have suggested several compromises, including a 100-mile buffer zone, he said, though he has rejected that plan, saying currents could carry any spilled oil from that part of the Gulf onto state beaches.

Instead, Rooney, who had served on the board of the oil and gas company Laredo Petroleum, offered to allow drilling 200 miles off the coast, west of the area where the military conducts training.

"The oil people have brought up several different things and I have been pretty much recalcitrant in negotiating with them," Rooney told POLITICO. "I think we need a clear delineation of where they will drill and not drill, and we don't need them drilling east of that military mission line."

Environmentalists also oppose any drilling, saying a buffer zone wouldn't protect Florida's beaches and tourism economy.

"The Deepwater Horizon disaster that spoiled Florida's coastline was 200 miles from its shore," said Diane Hoskins, director of environmental group Oceana, referring to the 2010 deepwater gusher that took months to plug. "A 75-mile buffer would be a cold comfort for Floridians."

Alexandra Glorioso contributed to this report.

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Trump delivers a Senate race sweetener to Scott Back

By Marc Caputo, Ben Lefebvre, Matt Dixon and Bruce Ritchie | 01/09/2018 11:24 PM EDT

Donald Trump delivered a big political contribution to Rick Scott on Tuesday as the Florida governor contemplates a bid for U.S. Senate: a pledge to spare Florida from administration plans to expand offshore oil drilling nationwide.

The surprise announcement from Secretary of Interior Ryan Zinke — who went to the trouble of flying to Tallahassee to stand beside Scott — outraged environmentalists and Democrats who insist the decision was a political ploy that unlawfully gave preferential treatment to Florida, a swing state that voted for Trump and that's home to his so-called "Winter White House" escape at Mar-a-Lago in Palm Beach.

Zinke made sure that the term-limited governor got all the credit. In response to a question about what was the final determining factor in his decision, Zinke said: "The governor."

"You have a tremendous governor that is straightforward, easy to work for, says exactly what he means. And I can tell you Florida is well-served," Zinke said.

Zinke's glowing endorsement of Scott has become de facto policy for Trump, who has tried for more than a year to woo Scott publicly and privately to run for U.S. Senate against Democratic incumbent Bill Nelson. The veteran senator is one of the most vocal opponents of offshore oil-drilling in Florida, an issue that typically enjoys broad bipartisan support in a state whose economy depends heavily on tourism and development along 1,300 miles of coastline.

Scott used to be an exception to the blanket opposition to offshore oil drilling. In 2010, the then-political newcomer voiced more support for oil exploration, but the position became a political liability in the state after the Deepwater Horizon oil spill coated some Florida beaches with tar balls and damaged tourism in parts of the Gulf.

A 2016 University of South Florida-Nielson poll found that 47 percent of state residents see offshore drilling as a move in the "wrong direction," a distinction that makes it one of the most unpopular policy proposals in the state.

So when Zinke announced last Thursday that the administration wanted to open vast new stretches of federal waters to oil and gas drilling, opposition was united in Florida — from liberal environmentalists to conservative lawmakers and even Scott, who issued a rare public denunciation of the policy.

At the time, Democrats and Nelson supporters highlighted the unpopular policy announcement by a president who's flagging in the polls. Nelson's campaign began fundraising off of the initial announcement to expand oil exploration.

One Republican insider, however, told POLITICO shortly after the initial announcement that the administration would scale the plan back somewhat to give Scott a political boost that would "be a big win, and it won't be Bill Nelson bringing it home."

As late as Tuesday, Nelson was still fundraising off the drilling announcement. "President Trump is about to hand a huge victory to the oil industry and put Florida's entire economy at risk," Nelson's campaign wrote. "He just announced plans to rollback offshore drilling regulations that were put in place after the 2010 Deepwater Horizon disaster, and open up nearly all federal waters to offshore oil drilling — including the eastern Gulf of Mexico."

But just before that email solicitation was sent out, Zinke was unexpectedly standing in Tallahassee's regional airport with Scott announcing the reversal to the Florida capital press corps.

Nelson said he was incredulous.

"I have spent my entire life fighting to keep oil rigs away from our coasts. But now, suddenly, Secretary Zinke announces plans to drill off Florida's coast and four days later agrees to 'take Florida off the table'? I don't believe it," Nelson said in a written statement. "This is a political stunt orchestrated by the Trump administration to help Rick Scott, who has wanted to drill off Florida's coast his entire career. We shouldn't be playing politics with the future of Florida."

Similarly, the Sierra Club of Florida said the decision was "a purely political move to aid the ambitions of Rick Scott." And the League of Conservation Voters called it a "publicity stunt."

Scott's spokesman, Jonathan Tupps, said oil-drilling opponents should not be upset.

"Senator Nelson and anyone else who opposes oil drilling off of Florida's coast should be happy that the governor was able to secure this commitment," he said. "This isn't about politics. This is good policy for Florida."

Tupps said that, contrary to claims by Scott's opponents, the governor and staff have frequently discussed Florida's opposition to more offshore oil drilling with the Interior Department. Scott personally raised the issue with Zinke in an October meeting in Washington, Tupps said.

Why Zinke suddenly reversed months of planning four days after announcing the new oil and gas exploration policy are unclear. Zinke also made his announcement via Twitter after a brief question-and-answer session with reporters in Tallahassee.

In reversing the policy for Florida, however, Zinke may have have run afoul of the Administrative Procedure Act, critics said. That could give ammunition to California and Atlantic Coast states wanting to get on the same no-drill list -- the opposite of what President Donald Trump intended when he directed Zinke to expand oil companies' access to federal waters to boost U.S. energy production.

The American Petroleum Institute President Jack Gerard earlier in the day had applauded the Trump administration's plan to make all available federal waters available for drilling, saying "It represents a bold acknowledgement of the industry's advancements in technology to safely access U.S. energy resources."

Almost immediately after Zinke's announcement, lawmakers from other states took to Twitter to raise the specter of lawsuits, which could lead to courtroom entanglements for Interior's offshore drilling plan. The proposal was supposed to go into effect in 2019 and offer acres off the coast of Florida in late 2022 when a drilling moratorium officially ends.

"Under the Administrative Procedure Act, an agency can't act in an arbitrary and capricious manner. In this case, exempting Florida but not California (which has an even larger coastal economy) is arbitrary and capricious," Rep. Ted Lieu, a California Democrat and attorney, told POLITICO.

"So the agency would either have to not exempt Florida, or in the alternative, exempt Florida, California and any other state that can show the coasts are important to the state's tourism and economy."

California Attorney General Xavier Becerra also hammered that point on Twitter, echoing Scott's argument against drilling off the Florida coast to say "California is also 'unique" & our 'coasts are heavily reliant on tourism as an economic driver.' Our 'local and state voice' is firmly opposed to any and all offshore drilling. If that's your standard, we, too, should be removed from your list. Immediately."

In Virginia, U.S. Sen. Tim Kaine took a more low key approach. "Virginia's governor (and governor-elect) have made this same request [as Florida], but we have not received the same commitment. Wonder why..." he tweeted.

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Pruitt touts science policy as transparency as Democrats slam him for secrecy Back

By Emily Holden and Annie Snider | 04/26/2018 03:17 PM EDT

Embattled EPA Administrator Scott Pruitt sought to fend off criticisms he had clouded his activities within the agency in secrecy, pointing during Thursday's congressional hearing to the new science policy rolled out this week that he said is boosting transparency around new rules.

But that new policy, long a conservative priority, had Democrats howling that Pruitt had effectively given himself carte blanche to conceal studies that would not support his rollback of Obama EPA rules.

"The type of studies you want to exclude are the same kind of scientific studies that were used to prove that lead in pipes and paints harm children and that secondhand smoke is a dangerous carcinogen," said Rep. Raul Ruiz (D-Calif.). "You have demonstrated a disregard of true science [and] the scientific process," he said.

The discussion was one of the most substantive policy issues at the hearing of the Energy and Commerce subcommittee that focused largely on the scandals that have erupted around Pruitt in recent weeks.

The draft rule, which was announced at a closed event at agency headquarters on Tuesday, could have far-reaching effects that limit EPA's ability to rely on studies that don't have publicly available raw data when making decisions about air and water regulations. Scientists and public health advocates have argued the change could keep the agency from updating health protections based on new science since those studies typically redact subjects' personal information.

Pruitt's GOP supporters on the panel praised the move as a way to ensure that scientific data used to support new regulations was available for everyone to review.

"I've had a lot of constituents over the years who've been very concerned about decisions ... that get made by administrators or the bureaucracy and in some cases they can't get access to the underlying data that underpins the decisions," said Rep. Greg Walden (R-Ore.), chairman of the Energy and Commerce Committee.

Rep. Paul Tonko (D-N.Y.) called Pruitt "hypocritical" because the proposed rule gives broad authority Pruitt to grant exemptions from the new requirements, which he said Pruitt could use "without any transparency or accountability" for his decisions.

Tonko pointed to internal emails between top EPA officials initially released under the Freedom of Information Act that show the agency's top chemicals official, a former leading chemicals industry expert, expressing concerns about the impact the policy could have on companies' confidential business information.

"If EPA was assessing the safety of a chemical, you alone would have the power to selectively block public health studies that do not support your political priorities and allow ones that favor your friends in industry. Not only does this open the door to special treatment for industry over the public health, but you could also pick winners and losers among the industry types," Tonko said.

Pruitt argued the restrictions will apply equally to "all third party studies." He said both business and personal health information could be redacted, which experts have argued would be time-consuming and expensive.

Yogin Kothari, a Washington representative for the Union of Concerned Scientists, which has opposed the change, said Democrats were right to highlight the hypocrisy of the policy that he said was really about restricting science.

"What it highlights is a lack of transparency at the agency because he hasn't really talked about this or explained this or explained his thinking about this," Kothari said.

Frank Maisano, a spokesman for the lobbying firm Bracewell who attended the hearing, said Republicans on the committee appeared to be interested in hearing more about the policy.

"It's a topic that is different from what Democrats are talking about, it's a topic that's substantive," Maisano said. "It's a topic that many in the business community and many in the conservative community have been focused on for years."

EPA's proposal, based on long-sought legislation from House Science Chairman Lamar Smith (R-Texas), also drew support from Rep. Kevin Cramer (R-N.D.) who said it undercut Democrats who attacked Pruitt for secrecy while defending the agency previous use of "secret science."

"You've also been accused of hypocrisy, a lack of transparency, by people who are in the same breath defending secret science as a means of carrying out their political philosophy ... the irony is rich beyond rich with me," he said.

Quint Forgey contributed to this report.

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Mexico, U.S. may be heading toward NAFTA deal amid Trump's global trade war Back

By Megan Cassella | 08/15/2018 05:32 PM EDT

President Donald Trump could be poised to make a deal with Mexico on NAFTA even as he engages in a trade war with the rest of the world.

Mexican Economy Secretary Ildefonso Guajardo arrived in Washington on Wednesday — as he has every week for the past month — to hammer out some of the most contentious issues on NAFTA. U.S. and Mexican officials now say they could be on the verge of announcing a preliminary agreement on everything from complicated automotive rules to environmental regulations by the end of August.

The apparent turnaround after months of stalemate is a surprise outcome of discussions reaching their year anniversary on Thursday. And while the two sides have yet to bring Canada, the third partner in NAFTA, into the latest round, the negotiators' optimistic tone could signal that Trump may be ready to extinguish at least one trade conflagration before the midterms. That would placate Republicans who have been calling for a return to stability as the U.S. and China have been slapping tariffs on each other's exports, roiling international markets and burdening American farmers.

"We're settling in for the long haul with China, so we really need to release the pressure in our backyard," said Dan Ujczo, an international trade lawyer who specializes in Canada-U.S. matters. "I think that's a driving force for the U.S.' desire to get a deal right now."

To be sure, some major controversial issues remain unresolved, including the U.S. proposal to automatically terminate the pact after five years unless all three countries agree to renew it — an idea that Canada and Mexico have both rejected outright. And for the time being, at least, Canada still remains on the outside of the current talks.

But reaching even a bare-bones agreement on NAFTA before November's elections would hand a concrete victory to Trump, who would likely point to the revamped pact as a symbol that his strong-arm tactics have worked, industry sources and experts closely following the talks say. It would also allow U.S. trade officials to clear a major task off their agenda and dedicate more time to areas where U.S. Trade Representative Robert Lighthizer in particular has wanted to focus, primarily trade issues with China.

At the same time, Mexican negotiators are also under renewed pressure to get a deal after the country elected a new leader who takes office in December and who badly wants NAFTA to be signed and off his plate before then. Mexico has pointed to Aug. 25 as the date by which it must wrap up at least a preliminary agreement for outgoing President Enrique Peña Nieto to be able to sign the deal before he leaves office.

Those domestic politics have put Guajardo in a tough position, as he tries to appease the incoming Mexican administration and quickly wrap up a deal while still standing up firmly against some U.S. proposals that Mexico has repeatedly derided as unworkable.

"They're under a lot of pressure to just come up with anything, whatever it is," one source close to the talks said, requesting anonymity to speak freely about internal deliberations. "What I've been hearing from other Mexican parties is that Ildefonso was sort of distraught and frazzled by the fact that he's being asked to wrap it up, and that of course means making concessions that he wasn't ready to make. It lowers his negotiating potential."

Against that backdrop, sources close to the talks say Mexico appears to be poised to accept large swaths of a U.S. proposal involving the rules that govern North American-produced automobiles and dictate what percentage of each car must be sourced from within a NAFTA country to qualify for reduced duties under the agreement.

At the U.S.' urging, Mexico looks likely to agree to an increase in the overall amount of North American-sourced content that must be included in each automobile, and will accept a requirement that a certain percentage of each car must be produced by workers earning at least $16 an hour, sources say. Mexico is also poised to accept mandates that a certain percentage of the steel, aluminum and plastic included in each vehicle is also sourced from a NAFTA country.

In exchange, the United States would be prepared to give up a controversial proposal that would have made it easier for American fruit and vegetable growers to make the case that Mexico is selling produce at unfairly low prices when crops are in season in a particular region, two sources with knowledge of the trade-off told POLITICO. The U.S. would also submit to Mexico's demand to leave a chapter largely untouched that contains rules on disputes between governments, one of the sources said.

"Essentially, there is a deal," one of the sources said.

At the same time, however, other major aspects of the renegotiation remain unfinished. Chief among them is the so-called sunset clause that the U.S. wants, which would end the pact after five years unless the parties opt to continue it. Several sources close to the talks say the sunset clause has hardly been discussed during the latest set of meetings between the U.S. and Mexico, and the two countries still remain on opposite sides.

And Canada will need to come to the table for a deal to be finalized. Officials from all three countries have sought to emphasize that the U.S.-Mexico engagement is not a sign of ill will toward Canada but is instead an attempt to work out bilateral issues before bringing Ottawa back into the fold.

But negotiators had expected that Washington and Mexico City would have made enough progress by now for Canadian Foreign Minister Chrystia Freeland to have joined the meetings in Washington. The more time that passes, the more likely it is that the strategy to put off a trilateral meeting could backfire, a source close to the talks said.

"Yes, there's U.S.-Mexico momentum — that's a positive message and great from Mexico's point of view," the source said. "But the longer it takes to bring in Canada, the less likely this is going to get done in the short term."

Still, any incremental progress, or even the fact that the U.S. and Mexico are continuing to engage in good-faith negotiations and regular meetings, has offered a signal of some hope to U.S. farmers, consumers and industry groups who have been worn out by months of uncertainty and pummeled by retaliatory tariffs imposed over the past few months.

Retailers and business groups are reluctant to throw their support at this point behind a deal that is still unfinished, particularly when a number of proposals that some have termed poison pills remain on the table.

But at the same time, "I think what all of our members want, what the business industry at large wants, is certainty," said Vanessa Sciarra, a former U.S. trade negotiator who now works as a vice president at the National Foreign Trade Council. "Anything that provides for greater clarity on trade relationships, particularly with Mexico and Canada ... would be helpful."

Adam Behsudi contributed to this report.

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