To: Brown, Ann[Brown.Ann@epa.gov]
From: Costa, Dan
Sent: Wed 7/12/2017 9:08:09 PM
Subject: RE: 7/12/2017 Research News Clips

You should put Andy on this circular

dlc

==========

Dan Costa, Sc.D., DABT

National Program Director for Air, Climate and Energy (ORD/EPA)

Mail: D143-01, EPA Research Campus, Research Triangle Park, NC 27711; FedEx Address: 4930 page Rd, Durham, NC 27703

Office: D142C; ph: 919.541.2532; work cell: 919.280.6841; Ex. 6 - Personal Privacy

Email: costa.dan@epa.gov; Ex. 6 - Personal Privacy

From: Brown, Ann
Sent: Wednesday, July 12, 2017 4:26 PM
To: Costa, Dan <Costa.Dan@epa.gov>; Vette, Alan <Vette.Alan@epa.gov>; Schultz, Laurel <Schultz.Laurel@epa.gov>; Hassett-Sipple, Beth <Hassett-Sipple.Beth@epa.gov>; Baker, Kirk <Baker.Kirk@epa.gov>; Katz, Stacey <Katz.Stacey@epa.gov>; Robarge, Gail <Robarge.Gail@epa.gov>; Kim, Nicole Y <kim.nicoley@epa.gov>; Priester, Nicolle <priester.nicolle@epa.gov>
Subject: FW: 7/12/2017 Research News Clips

FYI.

Best,

Ann Brown

Communications Lead

Air, Climate, and Energy Research Program

U.S. Environmental Protection Agency

Research Triangle Park, NC

Work: 919-541-7818

Mobile: 919-605-5827

brown.ann@epa.gov

From: McGuinness, Moira
Sent: Wednesday, July 12, 2017 12:11 PM
Subject: 7/12/2017 Research News Clips

Administrator Pruitt/EPA General

Politico's Morning Energy

Later this afternoon, an Appropriations subcommittee examines the fiscal 2018 Interior-EPA spending bill, released Tuesday. The package drops EPA funding to its lowest levels since 2008 - $7.5 billion - but steers away from the draconian cuts to the agency sought by the Trump administration. As Pro's Alex Guillén and Annie Snider report , the agency's State and Tribal Assistance Grants, which provide states with funds for implementing and enforcing environmental laws, would be cut to $3.3 billion from the $3.5 billion spent in 2017, but the measure strongly rebuffs the administration's efforts to end popular regional watershed cleanup efforts, providing $397 million for such programs. The Interior subcommittee markup begins at 3 p.m., but amendments typically are not introduced until the full committee takes up the bill.

Riders, yeah we got riders: The package would bar EPA from completing work on a court-ordered regulation requiring hardrock mining companies to have enough cash on hand to clean up their sites once work is complete. As Pro's Alex Guillén, Annie Snider and Esther Whieldon report, it also includes

language shielding EPA's effort to withdraw the Waters of the U.S. regulation from legal challenges, delaying implementation of the 2015 ozone standard until 2025 and barring Interior from listing the sage grouse as an endangered or threatened species, among other provisions.

NRC, EPA NOMINEES ON THE MOVE: The Senate Environment and Public Works Committee meets this morning to advance nominees for EPA and the Nuclear Regulatory Commission on potentially contentious votes. Ranking Member Tom Carper still isn't satisfied with how EPA's treating his oversight requests and would only reply "we'll see" when asked if he'd support Susan Bodine, Trump's nominee to head the agency's enforcement office. Carper also acknowledged NRC nominees Annie Caputo and David Wright are "well qualified" to join the commission, but he told ME that many Democrats likely would vote against the pair of GOP nominees to express frustration with EPW Chairman John Barrasso . Carper said Barrasso declined his request to wait for an expected renomination of Democratic NRC Commissioner Jeff Baran so all three NRC nominees could move together as part of a bipartisan package. The objections are unlikely to keep the nominees from clearing committee, but they may add to the growing animosity in the Senate over the slow pace filling the massive number of vacancies in the federal government.

In addition to the nominations, the committee will consider legislation reauthorizing popular Brownfields and diesel engine retrofitting programs. Details on the session, which kicks off at 9:45 a.m. in Dirksen 406, are here.

EPA, Industry Back Chemical Security Rule Delay Daily Environment Report

EPA Administrator Scott Pruitt acted appropriately when he moved to delay new chemical plant security rules, agency attorneys and industry groups said in court filings July 10.

If the U.S. Court of Appeals for the District of Columbia Circuit agrees, it could clear the way for the Environmental Protection Agency to continue work on a replacement for the regulation (RIN:2050-AG82) on terms likely to be more favorable to major companies as they address the need for accident prevention and emergency response.

The EPA's delay “is not an example of delay for delay's sake,” agency attorneys wrote, but is “a reasonable and appropriate step to take in assuring that serious concerns about the foundation for the RMP Amendments—including whether certain provisions may do more harm than good—are fully and fairly evaluated before its requirements are put into effect.”

The EPA, 12 states and industry groups filed responses July 10 to labor and environmental organizations' request for an emergency injunction halting the delay of the regulations that updated provisions for accident prevention programs, emergency response requirements, and public information disclosure rules for high-risk industrial sites such as chemical plants and oil refineries under section 112(r) of the Clean Air Act Amendments of 1990 (*Air Alliance Houston, et al v. EPA, et al*, D.C. Cir., 17-01155, 6/15/17).

Industry groups, including the American Chemistry Council, American Petroleum Institute, and the Chemical Safety Advocacy Group, an organization whose members include lobbyists from Koch Industries and Marathon Petroleum, have balked at what they say are burdensome requirements. They argue that the mandates could harm plant security by sharing too much sensitive information, and that a rushed process blocked consideration of important information.

While emergency response provisions would have taken effect one year from enactment, most of the new requirements would not take effect for four years, the EPA noted. In the meantime, communities will be protected by an existing risk management program, the agency said.

Pruitt, who opposed the pending regulation as Oklahoma Attorney General, granted an industry petition to reconsider the regulation in March and later issued a final rule delaying the regulation until Feb. 19, 2019.

The action drew a lawsuit from environmental and labor groups, alleging EPA exceeded its authority to delay the regulation and was putting communities at risk.

Methane Connections

The risk management program case is similar to a challenge to the EPA's delay of methane standards for oil and gas wells, which the D.C. Circuit blocked July 3 in *Clean Air Council v. Pruitt*.

The 2-1 ruling was an early win for environmental groups. In its filing, EPA contends *Clean Air Council* does not affect the risk management program delay.

EPA delayed both regulations under section 307(d) of the Clean Air Act, but the filing argues the court decision allows agencies to delay action when they stick to "rulemaking procedures to defer deadlines in conjunction with a substantive reconsideration proceeding" as long as the action is allowed by law, has good reasons, and the agency believes it will improve the regulation.

Michael Reer, an attorney at Harris, Finley & Bogle in Fort Worth, Texas, said in an email to Bloomberg BNA the EPA's action was "at least partially vulnerable" because it delayed the effective date of the regulation from March 21 to June 13 under similar reasoning to that used in *Clean Air Council*.

The filings reiterate industry complaints that it lacked meaningful opportunity to comment on the Bureau of Alcohol, Tobacco, Firearms and Explosives press conference May 11, 2016, where ATF officials spoke about the West, Texas, fertilizer plant fire that killed 15 people. The ATF believed the fire, which jumpstarted the risk management rulemaking, was caused by intentional arson. But the agency has not released any evidence to support that claim.

EPA determined the finding was of "central relevance," the agency's brief noted, and that industry organizations could not raise it during the comment period on the proposed rule, which ended May 19, 2016.

ATF's press conference also came five months after the U.S. Chemical Safety Board released a 265-page final reporttthat found multiple possible contributing factors made the fire more severe, including other substances stored nearby that could have interacted with the fertilizer-grade ammonium nitrate and the way the building was ventilated.

The CSB also flagged problems with local authorities that knew almost nothing about what chemicals were present at the site and were unprepared to fight the fire—issues EPA tried to address in the risk management program update.

APPROPRIATIONS: House proposes to slash EPA, Interior spending E&E News PM

This story was updated.

House Republicans are pushing deep spending cuts for U.S. EPA and the Interior Department, although the planned cuts are not nearly as drastic as President Trump had proposed.

Released this afternoon, the House fiscal 2018 Interior and environment bill, up for subcommittee markup tomorrow, would fund EPA at $7.5 billion, cutting the agency by more than $500 million. Still, the funding amount is far more than the White House's proposed $5.6 billion.

Rep. Ken Calvert (R-Calif.), chairman of the Interior and Environment Appropriations Subcommittee, said the bill "prioritized proven programs that have a meaningful impact to achieve these goals while also ensuring our economy can continue to grow."

The bill supports EPA's coming buyout program for employees by offering resources for the voluntary separation agreements.

It would provide $58 million on workforce restructuring at the agency, according to a House Appropriations Committee aide. Trump's budget had proposed $68 million in fiscal 2018 to reshape EPA's workforce.

EPA has planned to offer buyouts to more than 1,200 employees this summer while Trump has proposed to cut 3,800 jobs at EPA in fiscal 2018 (***E&E News PM***, June 20).

The legislation includes a provision authorizing EPA and the Army Corps of Engineers to withdraw the Obama-era Clean Water Rule "without regard to any provision of statute or regulation that establishes a requirement for such withdrawal."

That language is identical to a provision included in the energy and water spending bill, and comes as the Trump administration is moving to repeal the rule, which aims to clarify the Clean Water Act's reach (***Greenwire***, June 27).

Exempting the rule, also known as the Waters of the U.S., or WOTUS, rule, from the Administrative Procedure Act could not only remove the requirement that it undergo certain public scrutiny but also make it easier for the new administration to ignore the Obama team's justifications for WOTUS.

That could include the cost-benefit analysis of the 2015 regulation and an accompanying 408-page technical report, as well as a review from EPA's Science Advisory Board.

The appropriations bill also reiterates that the Clean Water Act does not apply to farm ponds and irrigation ditches in agricultural areas.

The bill would maintain spending levels for the Chesapeake Bay and Great Lakes Restoration Initiative at $72 million and $300 million, respectively.

The move is a repudiation of the Trump administration's budget request, which had asked Congress to eliminate funding for regional cleanup efforts like those in the Great Lakes and Chesapeake Bay.

The bill would also provide $1.14 billion in capitalization grants for the Clean Water State Revolving Fund and $863 million for the Drinking Water State Revolving Fund. The Water Infrastructure Finance and Innovation Act (WIFIA) program would receive an additional $25 million.

Air and climate

Appropriators flatly rejected the White House's bid to slash or eliminate funding for two popular air quality grant programs.

The administration proposed cutting Diesel Emissions Reduction Act (DERA) grants from $60 million this year to $10 million; the draft would instead increase next year's total to $75 million.

And while the White House is seeking to zero out Targeted Air Shed grants, which are getting $30 million this year, the bill would boost the amount of money in next year's pot to $40 million.

DERA grants are used to replace or retool older, higher-polluting school buses and other diesel-powered equipment; airshed grants are supposed to help areas suffering from unhealthy levels of ozone and particulate pollution.

The bill would further delay EPA attainment designations for its 2015 ozone standard until 2025; the agency had been scheduled to make those designations by this October, but Administrator Scott Pruitt recently pushed back that deadline until 2018.

Another rider would require EPA and other agencies to continue to treat forest biomass as carbon-neutral. In a victory for the forest products industry, almost identical language was included for the first time in the fiscal 2017 omnibus spending measure signed in May.

In an effort to relax industrial farming regulations, the legislation would prohibit agencies from requiring permits under the Clean Air Act to emit carbon dioxide, methane and other gases from livestock production.

The measure would also prohibit agencies from issuing rules that require mandatory reporting of greenhouse gas emissions from manure management systems.

The appropriations bill would provide more than $1.1 billion for the Superfund program, around $600.6 million more than the $515.8 million requested by the president's budget. It also represents an increase of around $27.6 million from the omnibus spending deal.

In addition, the bill seeks to send $11 million to the Chemical Safety and Hazard Investigation Board, the same amount as last fiscal year. The Trump budget had called for CSB to be eliminated.

The bill would also bar EPA from promulgating a rule to add new financial assurance requirements for hardrock mines under the Superfund law.

Interior

For Interior, the bill would provide $11.9 billion in fiscal 2018. That's slightly more than the $11.7 billion the White House requested. The legislation would also fund some popular programs at a higher level than the president's budget.

House appropriators, for example, want to fully fund the payment in lieu of taxes system at $465 million and provide $275 million for Land and Water Conservation Fund programs.

The bill hewed to the administration's recommendation on wildfire firefighting and prevention, fully funding the 10-year average for suppression costs for Interior and the Forest Service with $3.4 billion. That's $334 million below the fiscal 2017 level.

Several Interior agencies would see cuts from fiscal 2017:

•□□□□□□□ The Bureau of Land Management would receive $1.2 billion, a decrease of $46 million from fiscal 2017. The spending legislation would provide $68.9 million for sage grouse conservation.

•□□□□□□□ The National Park Service would receive $2.9 billion, a decrease of $64 million from fiscal 2017, mostly a reduction in land acquisition activities.

•□□□□□□□ The Fish and Wildlife Service would receive $1.5 billion under the bill, $38 million less than the fiscal 2017 level. The fiscal 2018 bill also continues a one-year delay on Endangered Species Act reviews and rulemakings for sage grouse.

•□□□□□□□ The U.S. Geological Survey would receive $1 billion in fiscal 2018 under the bill, $46 million below the fiscal 2017 enacted level.

•□□□□□□□ The Office of Surface Mining Reclamation and Enforcement would receive $213 million for fiscal 2018, $40 million less than in fiscal 2017. That includes $75 million to continue a pilot program to reclaim abandoned mines while also promoting economic development, and $68.6 million for state regulatory grants.

Other riders in the Interior-EPA legislation would bar funds for new EPA Solid Waste Disposal Act rules on animal feeding operations and a National Ocean Policy.

Reporters Corbin Hiar, Sean Reilly, Arianna Skibell and Ariel Wittenberg contributed.

House Bill Would Cut EPA's FY18 Funds, But Far Less Than Trump Sought Inside EPA

House appropriators are proposing to provide EPA with $7.5 billion in fiscal year 2018, a reduction of $528 million below the fiscal year 2017 level and $1.9 billion above the Trump administration's request -- but the measure is drawing criticism from environmentalists over the cuts and policy riders, including one that would postpone until 2026 mandates for states to submit ozone control plans.

The bill language, released prior to a planned July 12 markup of the House Interior Appropriations subcommittee, is the latest indication that lawmakers are rejecting many of the proposed cuts floated by the Trump administration in its FY18 budget request, which suggested slashing the agency's budget by 31 percent.

But the inclusion of policy riders appears aimed at bolstering Republican support for the measure, though it remains unclear whether those provisions -- as well as proposed budget cuts -- may repel Democrats, some of whom will be needed to ensure the often contentious legislation advances on Capitol Hill.

In broad terms, the $7.5 billion funding level sets up a stark contrast with the Trump administration, which proposed to slash EPA's budget from just over $8 billion to $5.6 billion, a 31 percent cut, instead floating a proposed cut to the agency's budget of just under 7 percent.

But the agency's defenders are already blasting even that proposed cut, with one environmentalists noting that passage of the legislation would mean a cut to the agency's budget of 27 percent since 2010.

It is a "steady erosion," the source says, suggesting that the funding level gives little reason for Democrats to support it given concerns over continued degradation of agency funding. "It is hard to figure out how they get it through the House," the source adds, citing the fact that passing spending bills usually requires at least some Democratic votes.

Most key agency accounts and programs receive funding at levels above those requested by the administration though some still face cuts. For example, EPA's Science and Technology (S&T) account is funded at $629.2 million -- compared to $713.8 million in FY17.

State and Tribal Assistance Grants (STAG) are funded at $1.066 billion, essentially flat with fiscal year 2017, according to the source.

Superfund gets $1.116 billion, in what one source says appears to be a roughly $30 million increase over FY17 levels.

Geographic programs are funded at $397 million, representing a cut from the $435.86 million lawmakers provided in FY17.

And EPA's Environmental Programs and Management (EPM) account -- excluding geographic programs -- is funded at just over $2 billion, compared to $2.18 billion in FY17, according to the source.

But many of these figures do not account for mandatory rescissions, including $60 million from unobligated funds for STAG, $36 million in the EPM account, and $27 million from EPA's S&T account.

Policy Riders

The bill includes several riders -- some repeats of previous years -- that affect EPA, including a prohibition on regulating livestock GHG emissions, language deeming biomass electricity “carbon neutral” and language prohibiting regulation of lead tackle under the Toxic Substances Control Act.

Also included in the funding bill is language that delays any requirement for the EPA administrator to designate localities as out of attainment with the 2015 ozone standard until 2025 and gives states until 2026 to submit ozone control plans under that standard.

One environmentalist says House lawmakers included a similar provision in a prior appropriations bill during the Obama administration but it died in the Senate. “Maybe it will be a different story with a different president," the source says.

Another rider bars EPA from enforcing a January 2017 regulation imposing financial responsibility requirements under Superfund for the hardrock mining industry.

The House appropriations panel also notes in its press release on the bill that it “supports the President’s proposal to reshape the agency’s workforce by providing resources requested to offer buyouts and voluntary separation agreements to employees,” though the location of that language in the bill, or in yet to be released report language, was not immediately clear at presstime.

One conservative critic of the agency prior to the bill's release was planning to push for cuts greater than the subcommittee's bill -- a stance that at least some Capitol Hill critics of EPA are likely to champion.

But EPA's spending bill has often fallen prey to divisive budget politics on Capitol Hill, raising questions of whether further cuts would alienate other lawmakers with either specific local environmental priorities or those concerned about EPA's persistently eroding budget.

Senate Appropriations interior subcommittee chairman Lisa Murkowski (R-AK) recently alluded to the possibilitythat the legislation could become lumped into a continuing resolution or omnibus bill. “I think that begs the obvious.” -- *Doug Obey* (dobey@iwpnews.com)

ACE

EPA chief wants scientists to debate climate on TV Reuters

Politico's Morning Energy

PRUITT'S READY FOR PRIME TIME: EPA Administrator Scott Pruitt told Reuters Tuesday his plans for a "red team" review of climate change science may be televised, Pro's Alex Guillén reports , and accused scientists of not sufficiently exploring the issue. "It is a question about how much we contribute to it. How do we measure that with precision? And by the way, are we on an unsustainable path? And is it causing an existential threat?" Pruitt said. The review is "not necessarily" the first step toward undoing the 2009 endangerment finding that declared climate change a threat, according to Pruitt. Full transcript here.

MAIL CALL! DEMOCRATS: REVERSE COURSE ON METHANE: A group of 27 Senate Democrats is urging Trump to reverse "unwarranted" efforts to delay EPA and BLM regulations aimed at curbing methane emissions. "The BLM and EPA rules each rely on proven, widely available, and cost effective technologies to reduce leaking, venting and flaring, and keep natural gas in production and in commerce rather than in the air," they wrote in a letter released Tuesday. "Delaying or revising these rules will only cause additional and unnecessary waste and result in substantial harm to communities across the country that will be exposed to dangerous air pollution."

DEMOCRATS CONVENE CLIMATE BRIEFING: House Science ranking member Eddie Bernice Johnson and Rep. Don Beyer are convening a roundtable with military leaders, scientists and foreign policy experts on climate change's national security implications this afternoon. It kicks off at 3 p.m. in Cannon 340 and can be streamed here.

Methane NSPS Supporters Say EPA Recall Bid Would 'Nullify' Court Ruling Inside EPA

Environmentalists and a group of Democratic state officials are urging a federal appellate court to reject EPA's motion to further delay implementing Obama-era oil and gas methane limits the agency had sought to stay, charging that its request "distorts" the court mandate requiring officials to immediately lift the stay and, if granted, would "effectively nullify" its ruling vacating EPA's stay.

"To withhold the mandate, as EPA suggests, for fifty-two days 'or longer' . . . would effectively nullify the Court's decision by allowing EPA to run out the clock, maintaining the unauthorized Administrative Stay in place until at least August 24, one week before it currently is set to expire," the coalition of state intervenors write in **a July 11 response**to EPA's recall motion.

In their **July 11 brief**, environmentalists went even further, reiterating the states' argument but also charging that EPA Administrator Scott Pruitt's "dilatory and irregular approach" to staying the rule's

requirements -- which took almost seven weeks to be released, two days after one of the rule's compliance deadlines -- for any problems that industry might face in complying.

EPA is asking the U.S. Court of Appeals for the District of Columbia Circuit to recall its July 3 mandate requiring the agency to immediately adhere to the ruling in *Clean Air Council, et al. v. EPA*, which vacated the agency's 90-day administrative stay of several provisions of the Obama-era oil and gas methane new source performance standards (NSPS).

The D.C. Circuit's mandate required EPA to reinstate the methane NSPS deadlines that had been paused by the agency's administrative stay.

In a rare move, EPA July 7 filed a motion asking the court to recall that mandate, particularly as officials evaluate options for appeal. The agency's motion suggested the immediate nature of the court's mandate places the oil and gas industry at risk of noncompliance.

The agency also argued the immediate nature of the court's mandate was a “departure from its norms.” EPA said it and regulated entities would typically “be provided with 52 days, or longer, before compliance was required.” That 52-day timeframe appears to be a reference in part to the 45 days federal agencies like EPA are afforded to file a petition for panel rehearing or rehearing *en banc*.

But both environmentalists and the coalition of supporting states that intervened in the case sharply refute EPA's arguments.

“Far from imposing some elaborate judicial decree on EPA, the Court simply required the agency to adhere to its own rule, which it has not lawfully altered or suspended,” environmental petitioners write in a July 11 response.

Environmentalists, as well as supporting states, note the court's immediate issuance of the mandate was “entirely proper” and “well within its discretion.” And they appear to suggest it would be counter-intuitive for the D.C. Circuit panel to adhere to EPA's request to postpone the mandate, as it would undercut the court's own ruling finding the agency's action unlawful.

“Issuance of the mandate . . . therefore had to occur immediately to meaningfully remedy EPA's unauthorized action,” the states write.

'Dilatory And Irregular Approach'

The D.C. Circuit's July 3 ruling was a victory for environmentalists in a lawsuit over the Trump EPA's deregulatory efforts, and it likely will have an impact in pending litigation over other EPA attempts to delay other Obama-era rules -- including methane standards for municipal solid waste landfills.

In its ruling, two D.C. Circuit judges -- David Tatel and Robert Wilkins -- sided with environmentalists' arguments that EPA improperly used its authority under Clean Air Act section 307(d)(7)(B) to pause provisions of the methane NSPS for 90 days while it reconsidered them.

The majority agreed with environmentalists that the reconsideration was invalid because it failed to meet one part of a two-pronged test: that the provisions at issue were “impracticable” to raise during the original rulemaking's comment period. The court found that because industry raised objections to the provisions at issue during the rulemaking, that prong of the test failed, meaning the reconsideration was not mandatory and thus EPA could not use air act section 307(d)(7)(B) to stay the rule.

Judge Janice Rogers Brown dissented, arguing that the court did not have jurisdiction to consider the case because EPA's decision to grant reconsideration of the rule is not a final action subject to court

review.

In its July 7 motion, EPA cites risk to industry as a primary reason for its request for the court to recall its mandate. With the immediate nature of the mandate -- requiring swift reinstatement of the deadlines -- "the Court has arguably placed the regulated community abruptly at risk of noncompliance with the 2016 Rule," the agency writes.

But environmentalists in their July 11 response are skeptical, at best, of this rationale. They instead suggest that Pruitt's "own dilatory and irregular approach to suspending these protections, as well as some of the companies' failure to take advantage of the extensive lead time provided in the 2016 Rule" is the real cause of any risk to industry.

Environmentalists note that Pruitt informed industry groups in an April 18 letter that he planned to stay several provisions of the methane NSPS due to reconsideration proceedings he initiated under air act section 307(d)(7)(B) in response to an industry petition but waited until nearly seven weeks later, to June 5, to issue the stay.

In fact, EPA issued the 90-day stay just two days after a June 3 deadline requiring oil and gas operators to conduct an "initial monitoring survey" to identify leaks in their equipment that they would be required to subsequently fix. EPA made the stay retroactive to that deadline, but environmentalists argue the late timing made it "impossible for Petitioners to obtain judicial review in advance of the compliance deadline."

To further their point, in a related footnote, environmentalists uncharacteristically suggest EPA is at fault for not doing enough to help relieve burdens to industry that the agency's brief "complain[s] repeatedly" about.

"Notably, while readying three different suspensions of the Rule, the Administrator has not taken readily available steps suggested by industry to alleviate the alleged burdens of the Rule, such as issuing guidance to clarify that a company or trade association may apply for approval of alternative means of compliance for multiple sites," the environmentalists write, referring to pending EPA proposals to delay the methane NSPS provisions by an additional three months and by two years.

"Indeed, his proposal to extend the stay explicitly does not seek comments on any 'substantive issues,' including the issues he raised for reconsideration months ago," they add.

EPA, as well as industry groups and a separate coalition of states that have both intervened to back the agency, must file replies on the recall motion by morning July 12. -- *Abby Smith* (asmith@iwpnews.com)

Democrats urge Trump to 'fully implement' methane rules Inside EPA

A group of 27 Democratic senators is urging President Donald Trump to "fully implement" EPA and Bureau of Land Management (BLM) regulations issued by the Obama administration to limit emissions of the potent greenhouse gas methane from oil and gas operations.

"Suspending commonsense regulations to reduce waste and stop air pollution needlessly poses health and safety risks on children and our most vulnerable citizens," says a July 10 letter from the lawmakers. The letter was coordinated by Sen. Tom Udall (D-NM), and among the other signatories are Sen. Tom Carper (D-DE), the ranking member on the Senate environment committee, and Sen. Maria

Cantwell (D-WA), ranking member on the Senate energy committee.

The advocacy comes as the administration has hit legal and other roadblocks in its effort to roll back the methane rules.

Most recently, the U.S. Court of Appeals for the District of Columbia Circuit **ruled July 3** that EPA unlawfully stayed key portions of its methane new source performance standards (NSPS) for new equipment in the oil and gas sector.

Because the court issued its mandate immediately, the rule's requirements are set to quickly take effect. However, EPA has filed a rare request for the D.C. Circuit to **recall its mandate**.

Sources say the court ruling **could portend legal troubles** for EPA and other agencies' efforts to stay a host of climate and environmental rules, and leaves the oil and gas industry **in limbo**.

For example, California and New Mexico recently filed suit over BLM's move to “postpone” major requirements in its methane rule, which covers existing drilling facilities on federal land. That agency used a separate statute to pause its rule -- the Administrative Procedure Act -- so its action might not be directly affected by the D.C. Circuit ruling.

Even so, BLM was forced to undertake a lengthy administrative process to revise or rescind its methane rule after the Senate **failed to approve** a resolution to quickly scrap the rule through the Congressional Review Act.

“The administration’s struggle to free oil and gas companies from Obama-era limits on how much methane they can release into the air reflects the challenge Trump faces in carrying out his 'America first' energy policy,” says **a July 11 report in the *Los Angeles Times***. “Signing executive orders and making speeches were the easy part. Pushing policies to fruition is proving more complicated.”

EPA: Agency warns against summer heat, gets trolled Climatewire

Slather on sunscreen, douse yourself with bug spray. Watch out for ticks!

U.S. EPA's official account has been tweeting about ways to protect against heat exhaustion, insect bites and asthma attacks from wood smoke — and the internet isn't having any of it.

"It's summertime! That means the days can get hot. Wear sunscreen and plan for the heat," EPA tweeted on Friday, with a link detailing what to do in response to extreme heat.

@EPA/Twitter

Twitter users pounced, calling out the agency for failing to act on climate change and for eliminating or stalling regulations aimed at addressing climbing temperatures.

"How is someone to protect themselves against increased levels of ozone due to climate change and increased heat waves? Do your job!" wrote Susan J. Masten.

"SAD! EPA has become a joke," Melina Gatos tweeted.

Environmental lawyers were also quick to join in the criticism.

John Walke, senior attorney at the Natural Resources Defense Council, called out EPA Administrator Scott Pruitt for blocking standards for smog. He noted that summertime means more unhealthy code orange and red days. David Doniger, director of NRDC's climate and clean air program, added his own take.

"We should wear hats and sunglasses, but it's EPA's job to protect us from ozone depletion and climate change. How 'bout it @EPAScottPruitt?" Doniger wrote.

An EPA spokeswoman said the agency's tweets are nonpartisan.

"These tweets were developed by career staff from the various program offices," she said.

In June, EPA had warned its Twitter followers of the potential risk of asthma attacks from exposure to bonfire smoke, and in a separate tweet cautioned against lung irritation from burning incense and scented candles.

"What about coal-fired plants and trucks emitting diesel? Any help there?" Victoria Harmon replied to EPA's bonfire tweet.

The agency's efforts to raise awareness about outdoor summer safety came as EPA is rolling back environmental regulations finalized under the Obama administration, including one aimed at methane emissions from new and modified oil and gas wells. This week, EPA sought public comment on postponing implementation of the rule, which was set to go into effect last month, for another two years.

The agency faced stiff opposition from environmental advocates and private citizens against the health impacts of continued exposure from industry pollutants, including increased risk of asthma attacks.

CSS

Practitioner Insights: EPA's New Chemical Delays Causing Ripple Effect Daily Environment Report

Experts agree the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA), the Toxic Substances Control Act (TSCA) reform bill enacted last June, is an improvement over the old TSCA of 1976. It clearly strengthened it. However, the new law has created a major disruption to supply chains due to the backlog of pre-manufacture notices (PMNs), and innovation is starting to suffer. Society of Chemical Manufacturers and Affiliates (SOCMA) member companies are reporting negative impacts both internally and externally.

On a positive note, the comprehensive reforms addressed what many believed were fundamental flaws of old TSCA by:

• Requiring review of existing chemicals with an inventory “reset” (active and inactive buckets).

• Providing a prioritization process with deadlines.

• Explicitly separating cost considerations from safety.

• Enhancing testing authority for existing chemicals.

• Clarifying trade secret protections and requiring periodic substantiation.

• Requiring EPA to set up a fee structure to supplement appropriations.

Overall, the new law gives the Environmental Protection Agency more tools to obtain and review information on chemicals. The mandate to review existing chemicals with deadlines is arguably the biggest fix. Over the course of nearly a decade, a broad range of stakeholders testified that the existing chemicals section of TSCA required the most attention, whereas the new chemicals program was in working order. Nevertheless, changes to the new chemicals provision were made when House and Senate TSCA reform bills were reconciled before eventual enactment even though the House bill left the new chemicals provision alone.

When the stars aligned and the compromise bill was signed, the thought was that the throughput of new chemical reviews would continue, and the EPA essentially codified its ongoing practice.

For background, there were some concerns under the old TSCA about the ability of manufacturers to go to market if the EPA missed the 90-day deadline, which largely was not an issue. Manufacturers had to submit a second notice after a pre-manufacture notice anyway, a notice of commencement (NOC) to manufacture. According to EPA statistics, only 50 percent of new chemicals ever commenced manufacture. The number of NOCs of new TSCA PMNs has dropped substantially, approximately 50 since the passage of LCSA.

Furthermore, some new chemicals of concern were the subject of significant new use rules (SNURs)

requiring manufacturers to submit a notice called a significant new use notice (SNUN). Contrary to what some TSCA critics said, the old PMN process was never completely self-executing, and the EPA did indeed have a regulatory stick it could use.

Delays in New Chemical Reviews

Now manufacturers are particularly struggling with delays in the review of their new chemical submissions. The EPA said it typically has about 300 chemicals pending at any given time, however, there continues to be an additional backlog, which peaked at 600 at the end of 2016, but is now 150 chemicals or less.

It should be noted the Trump administration has publicly said PMN review is a top priority and understands the negative impact of the backlog. Further, the administration has a target goal of eliminating the backlog by the end of July.

Since the new TSCA was enacted, only 52 new chemicals have been approved with determinations of "not likely to present an unreasonable risk to human health or the environment for low hazard," and 320 or more consent orders have been recommended out of approximately 600 or more that were pending when the backlog peaked. Traditionally, the EPA would "drop from further review" about 80 percent of the 600 or so PMNs it would receive annually. There has clearly been a marked shift in approach to reviewing new chemicals post-TSCA reform.

Because this shift has caused a major disruption to supply chains and innovation, SOCMA member companies are reporting that, internally, regulatory affairs staff who work closely with their R&D counterparts are finding it difficult to measure success since getting a new idea commercialized is proving to be more and more onerous. It is difficult to justify R&D if there are no rewarding metrics to show favorable results of investments. With the EPA's extremely broad approach in considering "conditions of use," only the most innocuous new chemicals are getting approved when oftentimes the uses specified in a PMN have exposure scenarios that do not present risks. It is unclear what has happened to the other submissions, but it seems they are being held up with consent orders yet to be signed, or the EPA is requiring additional testing.

It is worth noting that at the early stage of product development detailed health and safety studies are typically not yet conducted. Companies often test the market at small scale to determine if a substance is commercially viable and has the potential to recoup investment. The EPA understands this and, as such, has developed state-of-the-art tools and has put programs in place that facilitate innovation while protecting human health and the environment based on the relative scale of risk as commercialization proceeds. Conversely, the cost of blanket testing requirements without consideration of scale would discourage many new chemicals from being developed.

Companies are finding that chemicals that would typically get dropped from further review are now being regulated due to the EPA's interpretation of LCSA, resulting in a bias towards continued use of existing chemicals—ironically the same problem very vocal TSCA critics highlighted with the old TSCA. While we support the EPA's track record of reviewing the safety of new chemicals, there could now be mixed messages being sent to the public since chemicals that had been considered safe are now considered unreasonably risky.

If the EPA continues to implement the new chemicals section as it has over the course of nearly a year, there will be a dramatic impact in the business of chemistry and the ability to enter the market, particularly impacting entrepreneurs and small businesses.

Updates to TSCA were certainly necessary, and SOCMA supported LCSA, but if the law is implemented in a way that over-burdens chemical manufacturers, it will fail. If customers end up with fewer choices, less effective, and more costly products that are not necessarily safer, the law will fail. If

the EPA wants to promote innovation and the development of greener chemistries, Section 5 must remain efficient, predictable, and affordable.

Maintaining the productivity of the new chemicals program is perhaps the single most important way the EPA can continue to meet the policy direction LCSA retained in Section 2(b)(3): that the EPA should exercise its TSCA authority "in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation..." The EPA should be applauded for all of its hard work in implementing the new TSCA, and the administration's stated commitment to eliminate the backlog of PMNs is very encouraging. The success of the specialty chemical industry depends on the EPA making the necessary adjustments to successfully implement review of new chemicals.

Robert F. Helminiak is the managing director of government relations at the Society of Chemical Manufacturers and Affiliates

HHRA

EPA Chemical Risk Reviews Demand New Rigor Under Amended Law Daily Environment Report

EPA scientists are grappling with meticulous new methods imposed by the nation's primary chemicals law for reviewing risks, a senior agency official said.

The law's deadlines mean that the Environmental Protection Agency must specify by the end of 2017 the uses and exposure scenarios that will inform the risk reviews of asbestos, pigment violet 29, seven solvents, and a cluster of three related flame retardants, Nancy Beck, EPA deputy assistant administrator for chemical safety and pollution prevention, said July 11.

The amended chemicals law requires the EPA to weigh evidence, and the agency intends to do that by embracing "systematic review"—a method for rigorously examining the body of scientific evidence it gathers for each chemical or group of chemicals.

Despite the challenges, Beck said that by the end of 2018, the agency should be able to release for public comment and peer review its draft risk evaluations for all 10 chemicals. She addressed a group of toxicologists, risk assessors and other scientists attending the Toxicology Forum's summer meeting in Annapolis, Md. After receiving public input, the statute requires the agency to then complete the 10 risk assessments by December 2019.

The agency's evaluations will determine whether the 10 chemicals, or particular uses of them, pose an unreasonable risk to public health or the environment. If so, the Toxic Substances Control Act amendments of 2016 require the agency to reduce those risks. Risk control options include limiting uses of a chemical, requiring labeling, or banning a risky compound outright.

Deadlines Plus 'Systematic Review'

The chemical law couples tight deadlines with requirements that the information and analytic methods the agency uses meet robust data quality standards, Beck said. Those standards include requiring the EPA to use a "weight of evidence" approach in its chemical assessments. A final chemical risk evaluation rule (RIN:2070-AK20) the EPA issued on June 22 discusses how the terms "weight of

evidence" and "systematic review" are interwoven.

The regulation defines systematic review and offers examples of its core elements. These elements include deciding—ahead of time—what questions a risk analysis will address and what chemical uses, hazards and exposures it will examine. Analysts also must document how they followed the predetermined risk analysis strategy.

Methods to Evolve

The criteria the EPA will use to select some scientific studies over others in setting risk limits must be clear to understand, so people outside the agency can understand the agency's decision rationale, Beck said.

Systematic review approaches, while rigorous, can be expensive in terms staff time and resources. "I think we'll find out very quickly how implementable it is, and how much it costs," she said.

The agency is determined to meet the law's deadlines, so it is working to figure out when, where and how to use systematic review, Beck said. The agency expects its systematic review methods to evolve over time, she added.

The EPA's risk evaluation rule did not codify any particular approach.

"It would be premature to codify specific methods and criteria that may change as the agency gains more experience conducting TSCA risk evaluations," the rule said.

SSWR

New Harvard analysis highlights how media failed the people of Flint. Colorlines

Politico's Morning Energy

STEP ONE TOWARD REVERSING PEBBLE VETO: EPA took the first step Tuesday toward reversing the Obama administration's effort to preemptively veto Clean Water Act permits for the Alaska's planned Pebble Mine in the Bristol Bay region, Pro's Alex Guillén reports. The agency will take public comment for 90 days on its proposal to withdraw the previously proposed veto and accompanying analysis, according to a notice published Tuesday.

Science and Science Communication

Trump Navy secretary nominee: Climate change is real and poses a threat The Hill

State Science Adviser Resigns Early, Amid Departmental Reorganization. Government Executive

House Appropriators Reject Call to Shutter Chemical Safety Board Daily Environment Report

The U.S. Chemical Safety Board, targeted for elimination in the White House's budget request earlier this year, would continue operating under a funding proposal released July 11 by a House subcommittee.

The House Appropriations Committee posted the fiscal year 2018 Interior-Environment Appropriations bill July 11, which funds the CSB along with other agencies such as the Environmental Protection Agency and Interior Department.

The White House proposed closing the board earlier this year, with a budget document describing it as "duplicative." Not only did lawmakers decide the CSB should keep running, but their proposal would keep funding flat at $11 million.

The CSB "is encouraged and grateful that the Subcommittee recognizes the valuable work of the Board," spokeswoman Hillary Cohen said in a statement to Bloomberg BNA July 11. "The funding level proposed allows the Board to continue to execute the mission to protect the safety of citizens and the environment by driving chemical safety change."

In a statement July 11, Appropriations Chairman Rodney Frelinghuysen (R-N.J.) said the bill "responsibly supports the agencies and offices we rely on to preserve our natural resources for future generations, and prioritizes our limited funding to programs that protect environmental safety, such as the Chemical Safety Board."

Moira

Moira McGuinness

EPA Research Editor in Chief
202-564-1507—desk

202-590-0010—mobile

mcguinness.moira@epa.gov