

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: POLITICO Pro Energy
Sent: Wed 11/8/2017 10:43:16 AM
Subject: Morning Energy, presented by ExxonMobil: Fireworks expected as White, Wheeler head to EPW — Democrats demand EPA officials testify — Reading the leaves on FERC comments

By Anthony Adragna | 11/08/2017 05:41 AM EDT

With help from Alex Guillén, Esther Whieldon, Darius Dixon and Eric Wolff

EPW TAKES UP WHEELER, WHITE NOMS: The Senate Environment and Public Works Committee will hear from two high-profile environmental nominees today: Andrew Wheeler for deputy EPA administrator and Kathleen Hartnett White to lead the White House's Council on Environmental Quality. White has a long history of controversial statements for Democrats to pull from, including her belief that "carbon dioxide is not a pollutant," her declaration that those who believe in climate change subscribe to a "kind of paganism" for "secular elites," and her 2014 blog post arguing fossil fuels helped end slavery in America.

But White's biggest liability may prove to be her position on the Renewable Fuel Standard. As ME wrote last week, Republican Sens. Deb Fischer and Joni Ernst are wary of White, who in 2013 called for repeal of the "counterproductive and ethically dubious" RFS. A single EPW defection could tank White's nomination, and Ernst proved last month with EPA air nominee William Wehrum that she's willing to walk the walk when defending ethanol.

Ranking member Tom Carper summed up his questions for White to ME: "I just want to ask her, 'Did you really say those things?' And there's a lot of them." Ahead of the hearing, nearly 50 environmental advocates sent a letter urging the committee to oppose her nomination. "Ms. White is unfit to hold the highest environmental post in the government to advise the president on the most pressing environmental issues our nation faces," the letter, signed by groups such as 350.org, the Natural Resources Defense Council and the Sierra Club, said.

More familiar face: Wheeler, meanwhile, is a known quantity for lawmakers who have been around for a while. He worked for Sen. Jim Inhofe in various capacities until 2009, when he departed as EPW staff director. He's been an attorney and lobbyist at Faegre Baker Daniels ever since, with his most notable client being Murray Energy, whose owner has proven adept at influencing the Trump administration. ME will be watching to see whether lawmakers delve into Wheeler's work with the ethanol group Growth Energy, which was first reported by POLITICO last month.

If you go: The hearing is at 10 a.m. in Dirksen 406.

BRIDENSTINE GETS COMMITTEE VOTE: The Senate Commerce Committee votes on Oklahoma Republican Rep. Jim Bridenstine's nomination to run NASA at 9:45 a.m. along with several other nominations. He's faced sharp criticism from Democrats, including ranking member Bill Nelson who slammed him in the nomination during his confirmation hearing: "NASA is not political. The leader should not be political." The panel also votes on Neil Jacobs' selection for another top NOAA post.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and the American Chemistry Council's Jonathan Corley was first to identify Sen. John Hoeven as the past president of North Dakota's state bank. For today: The father of which senator served three terms of governor of their state before corruption convictions ended their career? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

BIG NIGHT FOR DEMOCRATS: The League of Conservation Voters' \$4 million investment in Virginia races paid off handsomely as Lt. Gov. Ralph Northam trounced Republican Ed Gillespie to become the commonwealth's next governor. In New Jersey, Democrat Phil Murphy (also backed by green groups) decisively beat Lt. Gov. Kim Guadagno for the governorship. In Flint, Mich., Mayor Karen Weaver survived a recall attempt by a wide margin. And Democrat Manka Dhingra appeared poised to win a Washington state Senate seat, effectively handing control of the entire state government to her party in a special election that drew millions in outside spending.

DEMOCRATS: IT'S TIME! More than 10 months after his confirmation, Senate and House Democrats are officially fed up with EPA Administrator Scott Pruitt's absence from congressional oversight hearings. After calling the lack of agency witnesses "unacceptable" during a Tuesday hearing, Energy and Commerce ranking member Frank Pallone demanded Chairman Greg Walden hold oversight hearings on EPA's review and management of chemicals under the revised Toxic Substances Control Act. "The Committee bears a responsibility to the American public to make sure EPA is protecting human health and the environment," he wrote, joined by senior committee Democrats Paul Tonko and Diana DeGette.

Not alone: All 16 Democrats on the House Science Committee sent their own letter to Chairman Lamar Smith demanding Pruitt come testify "as soon as possible," pointing out Gina McCarthy came before the full panel just four months after confirmation. "Not only is such oversight routine, but as a public official Administrator Pruitt has an obligation to address his conduct and management of EPA," they wrote.

And Carper too: "I wonder what my friend John Barrasso would have said if Gina McCarthy had refused to come before our committee for months? I wonder what my Republican EPW colleagues would have said if our committee hadn't held a single oversight hearing after a Democratic administration had issued multiple environmental executive orders and was the subject of several ongoing investigations? I heard them push for transparency for eight years, but suddenly there's silence over the last eight months."

TELL ME HOW YOU REALLY FEEL ABOUT THE DOE RULE (AGAIN!): Reply comments were due at FERC Tuesday night, and there was no less passion in this set of filings than in the first round two weeks ago. But ME was hard-pressed to see if anyone had really budged from their positions. FirstEnergy's comments started with a refrain that was almost poetic. "This proceeding is not about picking fuel supply winners and losers. This proceeding is not about the reliability of natural gas pipelines... This proceeding is not about the Polar Vortex...", former FERC general counsel Bill Scherman wrote on the company's behalf. Instead,

the company pressed for its own resiliency tariffs that would serve as a Band-Aid until new market rules were crafted. "Simply put, the imminent closure of resilient generation presents a clear and present danger to the Nation," Scherman wrote, echoing the call of Energy Secretary Rick Perry. "If the Commission does not act now, our national security will be put at risk."

Where FirstEnergy downplayed the usefulness of the 2014 "polar vortex," Murray Energy argued the critics just don't get it. "During the Polar Vortex, the country was relying on an unacceptably high percentage of interruptible gas-fired generation," the company said. There's been too much talk as it is, Murray said, and "FERC appears to have lost its moorings." Murray's filing even refers to an article by House Science Chairman Lamar Smith to tally how the federal government has repeatedly created energy subsidies with everything from tax policy to R&D funding.

Among those who tried to find middle ground was PJM itself, a critic and central target of Perry's plan, arguing that FERC should approve an alternative proposal that instructs all the grid operators to report back with new pricing or tariff proposals within 180 days. It also suggests creating a new docket aimed at defining resilience.

SOLAR FOR PUERTO RICO: The Solar Foundation, along with a host of companies and the Clinton Foundation, is launching an industry-wide push to get the lights back on in Puerto Rico and the U.S. Virgin Islands. Initial priorities will be restoring electricity to two food markets in San Juan and 62 rural medical clinics around the island. More on the project, Solar Saves Lives, available here.

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HYDROPOWER BILL STREAMS ONTO FLOOR: House lawmakers are expected today to consider H.R. 3043 (115), which would revamp the licensing process for hydropower projects. Ahead of the vote, utility and labor groups sent a letter encouraging support for what they called "a moderate proposal developed with bipartisan input" and warned "the current regulatory environment is placing hydropower at risk."

MODERATE CLIMATE REPUBLICAN HEADS FOR THE EXITS: South Jersey Republican Rep. Frank LoBiondo, one of the few congressional GOPers to land environmental group endorsements in recent years, will retire from Congress. With LoBiondo and Rep. Dave Reichert departing at the end of this Congress, Reps. Chris Smith and Leonard Lance will be the two remaining House Republicans that backed cap and trade legislation in 2009.

LET'S KICK AGAIN? Chatter's already getting louder that Congress may have to consider another kick-the-can extension of government funding by Dec. 8 to keep the lights on, but top Appropriators aren't throwing in the towel yet, Pro Budget & Appropriations Jennifer Scholtes and Sarah Ferris report. "So, hopefully, if we consider one, it will be very, very short," Appropriations Chairman Rodney Frelinghuysen told them. Others say it's too early to give up.

"I don't think we even need to be thinking about a CR," says [Hal Rogers](#), who endured tough spending negotiations many times in his six years of chairing the House Appropriations panel.

TRUMP RELATIVE MOVES UP AT DOE: Kyle Yunaska, brother-in-law to Eric Trump, seems to be climbing the ladder at the Energy Department's Energy Policy and Systems Analysis office recently, adding the title of chief of staff to his resume, in addition to his senior adviser role. A DOE source told ME that Sean Cunningham, the head of EPSA, made the announcement in a staff email last week. Yunaska joined DOE early this year as a member of the "beachhead" team. His sister, Lara, married the president's son in 2014. (Greenwire first reported the move.)

ZINKE HIRES FORMER NAVY SEALS TO KEY ROLES: Interior Secretary Ryan Zinke has hired former Navy Seal Mike Argo as deputy chief of staff and former SEAL Captain Rick May to head up the agency's focus on increasing recreation opportunities on public land. Speaking at a webcast honoring veterans event in Interior's Washington headquarters, Zinke, who is himself a former SEAL, said "we're bringing recreation back."

MARKING ON UP: Nine bills are on the House Natural Resources Committee [mark up agenda](#) today, but most of the attention will be on the SECURE American Energy Act [H.R. 4239 \(115\)](#). Among other provisions, the bill would give more oil and gas permitting power to the states, create an offshore oil and gas revenue program for East Coast drilling and roll back Obama-era offshore drilling rules. ME hears the measure may be fast-tracked to the floor as quickly as next week. Also of note: [H.R. 2907 \(115\)](#) from Rep. [Scott Tipton](#), which would require an all-of-the-above quadrennial federal onshore energy production strategy.

PANELS LOOKS AT GEOENGINEERING LATEST: Two House Science subcommittees today [take a look at](#) the latest technologies and possibilities concerning geoengineering, in which humans attempt to alter the worldwide climate system in effort to avoid human-caused climate change. The committee will hear from experts on reducing the total sunlight hitting the earth and pulling carbon from atmosphere. But ahead of the session, nearly two dozen leading proponents warn the committee in [a letter](#) that geoengineering should not be viewed as a substitute for swift action to curb greenhouse gases that are fueling climate change. "Geoengineering is not a silver bullet, and treating it as one could greatly increase already severe climate change risks," they wrote. The hearing kicks off at 10 a.m. in Rayburn 2318.

MAIL CALL! DON'T EXPAND CCS CREDITS: More than 40 environmental groups released [a letter](#) Tuesday urging lawmakers not to include an expansion and extension of the Section 45Q tax credit for carbon capture and sequestration in an emerging tax package. A [second letter](#) warned efforts to subsidize CCS technologies are "false solutions" to climate change and impose significant burdens on communities on the front lines.

CHANGE COURSE! Sixty-two members of Congress, led by Rep. [Bill Foster](#), asked Pruitt to reverse a policy instituted last week barring any scientists receiving agency funds from serving on scientific advisory boards. Letter [here](#).

NOT TO BE LEFT OUT: Representatives from the hydropower, biomass power, waste-to-energy and biogas industries sent [a letter](#) to the top Republican tax writers asking them to

"provide parity and a level playing field for all renewable energy technologies" as they work on the tax package. HR1 "would extend the same tax treatment to fiber-optic solar energy, fuel cells and small wind energy property that is afforded solar technology under current law," they write. "However, the bill fails to provide equal treatment for hydropower, biomass power, waste-to-energy and biogas."

COMMERCE SET TO DO ITS BIODIESEL DUTY: The Commerce Department is expected to announce a final decision on its countervailing duties and anti-dumping cases against Argentine and Indonesian imports of biodiesel. Commerce has already started collecting the duty after making a preliminary determination that both countries were undercutting U.S. biodiesel.

EPA SEEKS REMAND OF PARTS OF COAL ASH RULE AHEAD OF ARGUMENTS: EPA on Tuesday asked the D.C. Circuit Court of Appeals to remand key parts of the coal ash rule to the agency for reconsideration ahead of Nov. 20 oral arguments that could see the case put on ice. The court in September said it would not put the case on hold indefinitely while EPA reconsiders the rule, though it did order attorneys for all sides to be prepared to discuss abeyance at arguments. In a new motion, EPA asks that five specific parts of the rule be remanded without being vacated, meaning they would remain in place while EPA reworks them. Because it is reconsidering the rule, EPA argued, its attorneys "will likely be unable to represent EPA's present position on these issues at oral argument."

Four of the provisions are related to challenges brought by industry groups: rules for temporary coal ash piles; EPA's rules for inactive ponds; a lack of a risk-based compliance option; and a provision dealing with large piles of coal ash intended for "beneficial use" in products like wallboard. The fifth provision, dealing with regulation of legacy ponds, was raised by environmental groups. The industry challengers had no problem with the remand request, but greens plan to object to their provision being remanded.

APPROVED: The California State Water Resources Control Board green lighted a 10-year plan for adding new wildlife habitat and curbing toxic dust from the Salton Sea lake in Southern California, Pro's Esther Whieldon reports.

PERRY SPEAKS... ON TAX OVERHAUL: Even as he attends meetings this week in Paris, Energy Secretary Rick Perry released an op-ed in Syracuse, N.Y.'s local paper Tuesday strongly backing Republican tax overhaul efforts. "Americans deserve a low tax climate and responsible regulation to spur the economic and energy revolution we have been waiting for," the former Texas governor wrote.

NOT MINCING WORDS: Actor Alec Baldwin didn't hold back on his dislike of Pruitt during an interview with *Entertainment Weekly*. "He's done more damage to one department than anyone in American history," Baldwin, who plays Trump on SNL, said. "It's like being in a vegetarian restaurant and the chef decides he's only gonna cook steak, to insist everyone eat a meal that's abhorrent to them."

QUICK HITS

- Severe air pollution declared public health emergency in Delhi, India. [ABC News](#).
- France backpedals on pledge to cut reliance on nuclear power. [AP](#).
- Fresh From Deluge, Miami Weighs Bonds to Gird for Climate Change. [Bloomberg](#).
- Kinder Morgan Canada denied expedited appeal for oil pipeline. [Reuters](#).
- GOP tax bill would end deduction for wildfire and earthquake victims — but not recent hurricane victims. [Los Angeles Times](#).

HAPPENING TODAY

9:45 a.m. — Senate Commerce Committee holds [vote](#) on the Bridenstine nomination and others, Dirksen 106

10:00 a.m. — The House Science Committee's Energy Subcommittee and Environment Subcommittee hold a [joint hearing](#) on "Geoengineering: Innovation, Research, and Technology," Rayburn 2318

10:00 a.m. — [Markup](#) on Offshore-Onshore Energy Bill, 8 Additional Measures, House Natural Resources Committee, 1324 Longworth

10:00 a.m. — Senate Environment and Public Works Committee holds [hearing](#) on White and Wheeler nominations, Dirksen 406

10:30 a.m. — API hosts press call on latest efforts to reform the Renewable Fuel Standard, RSVP: press@api.org

12:15 p.m. — EPW Democrats hold press conference on environmental nominees, Senate Swamp

2:00 p.m. — Rep. Keith Ellison hosts [briefing](#) on zero waste and environmental justice, Cannon 122

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<https://www.politicopro.com/tipsheets/morning-energy/2017/11/fireworks-expected-as-white-wheeler-head-to-epw-025437>

Stories from POLITICO Pro

EPA deputy nominee Wheeler represented ethanol group [Back](#)

By Alex Guillén | 10/18/2017 03:47 PM EDT

Andrew Wheeler, the nominee for EPA deputy administrator, worked for the ethanol group Growth Energy this year, according to his financial disclosure documents.

Wheeler, an attorney at Faegre Baker Daniels, was previously known to lobby for coal producer Murray Energy, among several other companies, as revealed in lobbying disclosures. But his [financial disclosure](#) shows Wheeler provided "strategic advice and counseling" rather than lobbying services to Growth Energy.

Growth Energy hired FBD for lobbying earlier this year, according to [records](#), but Wheeler was never named on those disclosures.

"We hired Faegre Baker Daniels for lobbying and consultant help on renewable fuels issues. Andrew Wheeler has not lobbied on our behalf but has provided consultant services," Growth Energy spokeswoman Jenni Roberson said in an email. Wheeler did not return a request for comment today.

Growth Energy was one of the groups that successfully sued EPA over its 2014-2016 Renewable Fuel Standard volumes. It has also opposed EPA Administrator Scott Pruitt's recent move to potentially weaken biodiesel requirements, a proposal that has angered several key corn state Republican senators and threatened to hold up several other EPA nominees.

The financial disclosure shows Wheeler also provided advice and counsel, but not lobbying work, to International Paper, Archer Daniels Midland and General Mills. Previously reported lobbying clients included Xcel Energy, Bear Head LNG and Energy Fuels Resources.

WHAT'S NEXT: Wheeler was nominated earlier this month and has yet to have a nomination hearing in the Senate.

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Northam beats Gillespie in Virginia governor's race [Back](#)

By Gabriel Debenedetti | 11/07/2017 05:59 PM EDT

Democrat Ralph Northam was elected governor of Virginia on Tuesday in a sweeping victory that defied the conventional wisdom of a tightening race.

The lieutenant governor's victory joins Democrat Phil Murphy's win in New Jersey's gubernatorial race to hand Democrats new hope in the Donald Trump era.

After a bruising race against former Republican National Committee chairman Ed Gillespie, Northam outran Hillary Clinton in a state she carried by 5 points while losing the presidency in November 2016. A series of late-campaign controversies hitting Northam had Republicans cautiously optimistic that Gillespie could close the gap and pull off an upset, but Democrats rode a wave of anti-Trump backlash and satisfaction with outgoing Gov. Terry McAuliffe's administration.

"It was said that the eyes of the nation are now on the commonwealth," Northam said in his victory speech. "Today, Virginians have answered and spoken. Virginians have told us to end the divisiveness, that we will not condone hatred and bigotry, and to end the politics that have torn this country apart."

Murphy, a former U.S. ambassador, defeated Kim Guadagno, New Jersey's lieutenant governor, to replace unpopular Republican Gov. Chris Christie. Murphy led the race from the start by double digits.

The pair of off-year governors races is traditionally read as a bellwether for the next year's midterm elections, but this year the results — particularly in Virginia — are also likely to be read as referenda on the state of each party's national well-being in the age of Trump.

Democrats had eyed the race nervously, as an opportunity to both demonstrate political momentum and help the party dig out from a historic low in terms of governorships. Democrats currently have just 15 compared to Republicans' 34 (Alaska Gov. Bill Walker is an independent), so party officials had for months seen flipping the New Jersey seat and retaining Virginia's as top priorities. Come January, they will hold 16.

"This was a vote for an inclusive Virginia," said former Rep. Tom Perriello, who lost to Northam in the primary but went on to endorse him and help lead his party's charge in the House of Delegates, where Democrats on Tuesday elected the first Latina members of the House of Delegates and a transgender candidate. "Gillespie went all-in on an identity politics agenda, and we rejected it."

Near tears with excitement, Perriello sounded a bullish note on his party's future.

"We're seeing the Prop 187 of Virginia, and probably of America," he said, referring to the famous California ballot proposition targeting illegal immigration that helped Republicans win in 1994 but has been credited with turning state voters against the Republican Party ever since.

Gillespie sought to strike a balance between engaging moderates with talk of jobs and taxes and firing up his base by running ads on illegal immigration and sanctuary cities — which don't exist in Virginia — and cultural touchstones like Confederate monuments and NFL anthem protests. Gillespie did not initially home in on those subjects, but they became a bigger part of his

campaign after he nearly lost the June Republican primary to Trump's former Virginia campaign chairman.

Trump, who tweeted in support of Gillespie before the election, quickly turned on him after the race was called.

"Ed Gillespie worked hard but did not embrace me or what I stand for," Trump tweeted, before referencing Republican special election wins earlier this year. "Don't forget, Republicans won 4 out of 4 House seats, and with the economy doing record numbers, we will continue to win, even bigger than before!"

Democratic turnout in Virginia's primary skyrocketed from previous years' levels. Party leaders including former President Barack Obama and Vice President Joe Biden swooped into the state to back Northam in the final month.

"The initial goal was for Democrats to nationalize the race and make it about the president; our initial goal was to localize the race and make it about Virginia," Virginia Republican Party chairman John Whitbeck said before Tuesday's vote. "If we win, it will say that a mainstream conservative like Ed Gillespie can win in an era of uncertainty. What it says about the Democrats is they have a lot of soul-searching to do: I don't think they know what their message is, their agenda is."

Though Trump loomed over the race, Gillespie did not actually appear with him in Virginia — the first time in years a sitting president did not cross the Potomac River to campaign in the governor's race. "Ralph Northam will allow crime to be rampant in Virginia. He's weak on crime, weak on our GREAT VETS, Anti-Second Amendment and has been horrible on Virginia economy," Trump tweeted during his Asia trip on Tuesday. Gillespie appeared multiple times with Vice President Mike Pence, who is more popular among conservatives and perceived as less likely to fire up Democrats who can't stand the president.

In New Jersey, Murphy was heavily favored in large part because of the unpopularity of Christie. Guadagno, Christie's deputy, tried tacking away from Christie, but the former presidential candidate's abysmal 14 percent approval rating — according to a late October Suffolk poll — proved to be a serious drag on his hoped-for successor.

While Guadagno tried tarnishing Murphy's image by painting him in ads as soft on illegal immigration, Murphy — a former Goldman Sachs executive and Democratic National Committee finance chairman — relied heavily on support from local and national-level Democrats to pad his comfortable margin.

In Virginia, Democrats also aimed to peel back the GOP advantage in the state legislature. The party hopes that Northam's win, combined with continued down-ballot gains, will put Democrats in position to exert more influence over the next round of political map-drawing in Virginia at the end of this decade.

Democrats also won the closely watched mayoral races in Manchester, New Hampshire, and St.

Petersburg, Florida.

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LoBiondo to retire from Congress [Back](#)

By Elena Schneider | 11/07/2017 02:51 PM EDT

New Jersey Rep. [Frank LoBiondo](#), a senior Republican on the Armed Services Committee, will not run for reelection in 2018, he announced Tuesday.

LoBiondo cited committee term-limits for his departure, but the 12-term incumbent also took parting shots at partisan gridlock in Congress.

"There is no longer middle ground to honestly debate issues and put forward solutions," LoBiondo said in a statement. "... Those of us who came to Congress to change Washington for the better through good governance are now the outliers. In legislating, we previously fought against allowing the perfect to become the enemy of the good. Today a vocal and obstinate minority within both parties has hijacked good legislation in pursuit of no legislation.

LoBiondo said that his decision isn't "electoral" and that he was "very confident voters would again reelect me" in 2018 had he decided to run for reelection.

The decision opens a battleground district in southern New Jersey that LoBiondo has held easily since 1994. New Jersey's 2nd District backed President Donald Trump with 50.6 percent of the vote to Hillary Clinton's 46 percent in 2016. But former President Barack Obama also won the seat twice with between 53 and 54 percent of the vote.

Harry Hurley, a New Jersey talk radio host, [first reported](#) the news of LoBiondo's retirement.

LoBiondo raised \$117,000 in the last fundraising quarter, among the lowest totals reported by House Republican incumbents, sparking speculation that he would retire instead of running for reelection. Though the district has 147,000 registered Democrats to 132,000 registered Republicans, LoBiondo has managed to easily and consistently win reelection thanks in part to strong labor ties.

National Democrats have actively recruited state Sen. Jeff Van Drew, a conservative-leaning Democrat, in years past, but he's declined to run. Democrat Tanzie Youngblood, a retired teacher, already launched her bid to challenge LoBiondo in July. Democrats also floated retired judge Ray Batten as a potential candidate for the district.

Republican operatives in the state floated two potential GOP candidates to replace LoBiondo: State Assemblyman Chris Brown, who's on the ballot for a state Senate seat on Tuesday, and

former Atlantic County Sheriff Frank Balles.

LoBiondo's retirement adds another major opportunity for Democrats to pick up a House seat in New Jersey. Already, two normally well-entrenched New Jersey GOP incumbents in the northern half of the state, [Rodney Frelinghuysen](#) and [Leonard Lance](#), have attracted several credible Democratic challengers who are raising substantial amounts of campaign cash.

LoBiondo, a member of the moderate Tuesday Group caucus, is the latest in a string of what Rep. [Charlie Dent](#) (R-Pa.) called "governing-wing" Republicans who have opted against running for reelection in 2018. Dent, Florida Rep. [Ileana Ros-Lehtinen](#), Washington Rep. [Dave Reichert](#) and Michigan Rep. [Dave Trott](#) have all announced their plans for retirement.

Matt Friedman, Jake Sherman and Alex Isenstadt contributed to this report.

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Pruitt to reconsider parts of 2015 coal ash rule [Back](#)

By Alex Guillén | 09/14/2017 04:15 PM EDT

EPA will reconsider key portions of the 2015 coal ash rule, according to a [letter](#) from Administrator Scott Pruitt to industry officials released by Earthjustice.

Two petitions were filed in May by AES Puerto Rico and the Utility Solid Waste Activities Group, an umbrella group whose members include the Edison Electric Institute, National Rural Electric Cooperative Association, American Public Power Association and more than a hundred utilities and related companies.

Pruitt's letter does not specify which parts of the rule he plans to reconsider, but both USWAG and AES identified specific issues with the regulation.

[USWAG's petition](#) asked that pending deadlines be pushed back and called for the rule to be changed in the wake of a December 2016 law changing the enforcement scheme in order to accommodate new management options based on site-specific risk analyses rather than the original "burdensome, inflexible, and often impracticable requirements." USWAG also argued that various executive orders from President Donald Trump dealing with regulations justify cracking the rule open.

[AES' petition](#) focused on requirements for how power plants store their coal ash piles before they are moved off site to be disposed of or to make products such as concrete and wallboard.

Oral arguments at the D.C. Circuit Court of Appeals over the rule are currently scheduled for Oct. 17, but EPA is likely to ask the case be put on hold while it reconsiders the rule.

WHAT'S NEXT: Pruitt will initiate a formal reconsideration process. Any actual changes to the rule will have to go through public comment and will be open to legal challenge.

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Court delays coal ash arguments to November [Back](#)

By Alex Guillén | 09/27/2017 04:54 PM EDT

The D.C. Circuit Court of Appeals today [granted a one-month delay](#) in arguments over EPA's 2015 coal ash rule following Administrator Scott Pruitt's [decision to reconsider](#) key parts of the regulation.

Arguments had been scheduled for Oct. 17, but a three-judge panel ordered them delayed until Nov. 20.

The judges ordered EPA to reveal by Nov. 15 which portions of the rule will be reconsidered "and setting forth with specificity the timeline for reconsideration." In addition, all sides, including industry and environmental challengers, are supposed to file new briefs by Oct. 11 addressing whether the new [state-based coal ash permitting program](#) that passed Congress as part of the Water Infrastructure Improvements for the Nation Act at the end of 2016 affect the broader lawsuit at all. And the court told attorneys to be ready at arguments to discuss whether a longer delay in the lawsuit is appropriate, opening up the possibility of further delay.

The court set 90 minutes' worth of arguments in total, split into four sections: Three dealing with various legal and technical challenges to the rule and one on whether the case should be delayed longer.

The case will be heard by Judges Karen LeCraft Henderson, a George H.W. Bush appointee, and two Obama appointees, Judges Patricia Millett and Cornelia Pillard.

WHAT'S NEXT: The parties must submit briefs regarding the permitting program by Oct. 11. Oral argument is scheduled for Nov. 20.

To view online [click here](#).

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California board approves 10-year Salton Sea water mitigation plan [Back](#)

By Esther Whieldon | 11/07/2017 06:31 PM EDT

The California State Water Resources Control Board today approved the state's 10-year plan for adding new wildlife habitat and curbing toxic dust from the Salton Sea lake in Southern California.

The plan addresses expectations the 350-square-mile lake will shrink by one-third as the Imperial Irrigation District, other water users and states continue cutting back on water usage amid diminishing Colorado River supplies.

The lake is an ecological haven for migratory birds, but its receding shoreline is polluted with chemicals from farming irrigation drainage, and the resulting dust from the dry lake bed has caused asthma problems in nearby communities.

The plan is also key to Imperial agreeing to a voluntary water conservation compact among lower Colorado River basin states to preserve water levels at Lake Mead, the river's most important reservoir. Under a deal that expires this year, Imperial has been putting extra water into the Salton Sea in exchange for the state's pledge to install mitigation projects — a commitment California has failed to meet. Imperial has been reluctant to agree to further water cuts without assurances the state will actually act.

The plan outlines the state acreage goals for habitat creation and dust suppression, requires it to come up with a long-term mitigation plan for the Salton Sea by 2022, and would have board staff create a correction plan if the state falls more than 20 percent short of any annual goal.

WHAT'S NEXT: Californians will vote on a ballot measure in June 2018 to issue \$200 million in bonds for Salton Sea projects.

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