

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Fri 9/8/2017 9:50:18 AM  
**Subject:** Morning Energy, presented by Chevron: House muddles through EPA-Interior amendments — Wehrum picked as EPA air chief — Florida hopes to avoid fuel shortages as Irma looms

By Anthony Adragna | 09/08/2017 05:48 AM EDT

*With help from Eric Wolff, Alex Guillén, Esther Whieldon and Eric Geller*

**GLIMPSES INTO DECEMBER DEBATE:** House lawmakers churned through about 70 of the 80 amendments related to EPA and Interior during a debate on a spending package [H.R. 3354 \(115\)](#) Thursday evening. Final votes on the overall measure will now occur next week, but the results so far offer some glimpse into what may happen during the forthcoming December government funding debate, so here are some highlights:

1. There's love for addressing park maintenance (a priority for Interior Secretary Ryan Zinke)! In a voice vote, lawmakers backed [an amendment](#) adding \$9.7 million to address the backlog.
2. An effort to [restore funding](#) to EPA's environmental justice program by cutting from the Interior secretary's budget fell short by a vote of 190 to 218.
3. Rep. [John Katko's amendment](#) to restore \$250 million in Clean Water State Revolving Funds, an infrastructure program that typically enjoys broad bipartisan support, passed by voice vote.
4. Republican [Frank LoBiondo](#) and Democrat [Don Beyer's](#) bipartisan push to block offshore drilling in a host of Atlantic sites came up short on a voice vote.
5. An [amendment](#) giving EPA \$6 million to implement a long-term monitoring program for water quality of the waters affected by the Gold King Mine spill passed the House 220 to 191.
6. Rep. [Scott Perry's](#) amendment to block EPA from issuing any regulations under Section 115 of the Clean Air Act, an obscure section of the statute some fear could be used to force carbon rules, passed by voice vote.

**Rather extraordinary:** Rep. [Don Young](#) had to apologize after calling Democratic Rep. [Pramila Jayapal](#) a "young lady" who "doesn't know a damn thing what she's talking about" concerning his amendment blocking regulations on sport hunting and trapping in national preserves in Alaska. He apologized later, though his amendment passed 215 to 196. Video [here](#).

**Reminder:** This bill won't become law in anything approaching its current form and likely won't resemble the Senate's version, so take its contents with a grain of salt. That said, a bunch of amendments will get votes next week.

**TGIF EVERYONE!** I'm your host Anthony Adragna, and New York was home to the first ATM in the U.S. way back in 1969. For today: How many states have had a lawmaker serve as president pro tempore of the Senate? Send your tips, energy gossip and comments to

[aadragna@politico.com](mailto: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).

**CONGRATS!** ME's warmest wishes go out to our own Annie Snider and her husband, Joel, as they welcomed Henry Terhune Kirkland into the world in the wee hours of Tuesday morning. "He is passing all his tests with flying colors and we are quite certain he is the most incredible little guy ever!" Annie writes.

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**GOTTA GET RIGHT BACK TO WHERE WE WEHRUM:** Pros learned it was coming in July, but Bill Wehrum, a George W. Bush-era EPA official who has represented a variety of energy industry interests at law firm Hunton & Williams, received President Donald Trump's formal nod Thursday to run EPA's powerful air office, Pro's Alex Guillén reports. He's been critical of EPA's authority to regulate greenhouse gases, even after the Supreme Court's 2007 ruling saying the agency did have such authority. Democrats blocked his nomination from proceeding in the Senate during the Bush administration, though the threshold has since been lowered to just a majority level to clear the chamber.

**FLORIDA PREPS FOR IRMA:** EPA Administrator Scott Pruitt, seeking to ensure there's enough fuel for Florida as Hurricane Irma bears down on it, on Thursday extended a fuel waiver for summer reformulated fuel requirements for 38 states through Sept. 30, Pro's Ben Lefebvre and Bruce Ritchie report. "It was important to send a message I think to the citizens of Florida but also those producing gasoline they would have certainty to the end of September with respect to these issues," Pruitt said in an interview. "And we'll do it beyond that obviously if necessary. We have the authority to do that." That comes as Florida Gov. Rick Scott told reporters the state was working to mitigate any potential fuel shortages. "While we are making progress, you will see lines and outages, unfortunately," he added. "I know this is frustrating. We are laser-focused on how we get as much fuel as possible to our ports while they remain open."

**Getting Superfund sites ready:** Perhaps learning a lesson from Hurricane Harvey, EPA said Thursday evening it's assessing 80 Superfund sites from Miami to North Carolina for potential vulnerabilities to the impending storm. The agency also said it has 43 Region 2 personnel and 34 from Region 4 responding to the storm.

**Pruitt: 'Not now':** Pruitt also told CNN Thursday now is not the time to discuss whether climate change has exacerbated these hurricanes. "To have any kind of focus on the cause and effect of the storm; versus helping people, or actually facing the effect of the storm, is misplaced," he said. Instead, the focus should be on ensuring access to clean water and protecting Superfund sites, among other issues, he said. His comments echo those made by Energy Secretary Rick Perry last week.

**Cornyn won't go there either:** Texas' John Cornyn, the Senate's No. 2 Republican, told ME he wasn't sure if climate change exacerbated the storm that slammed his state last week. "Beats the heck out of me," he said. "I've never read anything on [that] point." Asked if it people should be

debating the link right now, he said: "It's a free country."

**\*\* A message from Chevron:** When an endangered butterfly was found near a Chevron refinery, we protected the habitat and still plant the only thing they eat—buckwheat. Watch the video: <http://politi.co/2xaoDCa> \*\*

**IF I WAS A RICH MAN, YEAH I'D HAVE ALL THE ARPA-E:** Microsoft co-founder Bill Gates lauded DOE's ARPA-E program and urged strong congressional support for what he called the potential "key" to major energy breakthroughs. "Private companies depend on public research," he wrote on his [personal blog](#). "ARPA-E is bringing private investors to the table, and it is delivering results." Gates' strong endorsement comes as a bipartisan group of House lawmakers, including top Science ranking member [Eddie Bernice Johnson](#), introduced legislation [H.R. 3681 \(115\)](#) authorizing reasonable growth in funding for ARPA-E through 2022.

**A WARNING ON GRID HACKS:** Senior cybersecurity officials warned Thursday that hackers are growing more audacious in exploiting dangerous links between critical infrastructure systems and the business networks of their operators. "We have control systems that are connected to business systems," said John Felker, the director of the Department of Homeland Security's cyber watch center, during a panel at the Intelligence and National Security Summit. "The biggest thing we see is that vulnerability of that connection." Some sectors, he said, "have done a good job of segregating that, but others have not." His comments came one day after Symantec said that suspected Russian hackers [may have begun](#) a new phase of power company hacking. Scott Smith, head of the FBI's Cyber Division, said, "This is an area that there's no easy solutions to."

**STEPPING UP FOR HARVEY RELIEF:** Texas oil and gas companies have contributed \$27.3 million toward Hurricane Harvey relief efforts, according to the Texas Oil and Gas Association. Contributions include: \$1 million from Anadarko; \$1 million from Chevron; \$5 million from ConocoPhillips; up to \$10.3 million from Exxon Mobil; \$1 million from Koch; \$1 million from Shell and \$1 million from Valero. The funding will go to various charities and other relief organizations.

**HOEVEN PRAISES TRUMP'S REFINERY SPEECH:** Count Sen. [John Hoeven](#) among the fans of Trump's Wednesday speech at a North Dakota refinery. "I thought it was a good message and it's helpful for what we're trying to do," Hoeven told ME, adding he wasn't disappointed by the lack of energy-specific chatter. But the North Dakota Republican didn't take ME's bait on how he felt about Trump calling his Democratic colleague [Heidi Heitkamp](#) a "good woman" during the speech.

**SENATE SAVES SOME CLIMATE FUNDING:** The Senate Appropriations Committee added \$10 million for the Intergovernmental Panel on Climate Change and U.N. Framework Convention on Climate Change after Republican Sens. [Lamar Alexander](#) and [Susan Collins](#) bucked their party to support an amendment to the panel's State and Foreign Operations bill Thursday. But the committee did not restore any funds to the Green Climate Fund, which aims to help developing countries adapt to the effects of climate change.

**CLEAN POWER PLAN REPEAL EXPECTED THIS FALL:** Pruitt expects to sign a proposed repeal of the Obama administration's Clean Power Plan "in the fall of 2017," Pro's Alex Guillén [reports](#), citing a new [court filing](#). The agency offered no additional details on its repeal effort, which has been under review by OMB since June 8.

**WYOMING TRESPASS LAW VIOLATED FIRST AMENDMENT, COURT RULES:** Collecting environmental information on public lands is a protected form of First Amendment speech, the 10th Circuit Court of Appeals [ruled](#) Thursday. A three-judge panel struck down a Wyoming law setting strong punishments for anyone who crossed private lands in order to get to public lands to collect information, which includes taking water or soil samples, making observational notes or snapping photos. "Although trespassing does not enjoy First Amendment protection, the statutes at issue target the 'creation' of speech by imposing heightened penalties on those who collect resource data," the court ruled. Trespassers on private land can still be prosecuted under the state's weaker general trespassing law, but a special law targeting trespassers who gather environmental information is unconstitutional, the court noted.

**STICKING AROUND:** Legal challenges to the delay of an Obama-era BLM methane rule will stay in California rather than moving to Wyoming, as Interior requested, Pro's Alex Guillén [reports](#). Litigation over the original underlying regulation, known as the venting and flaring rule, are still playing out in Wyoming but Magistrate Judge Elizabeth Laporte of the U.S. District Court for Northern California [said](#) the two issues are rather different and likely would not be combined anyway.

**Speaking of methane,** eight Senate Democrats led by [Sheldon Whitehouse](#) sent a [letter](#) to Pruitt asking for information on his reported plans to enforce EPA's separate methane emissions standards for new oil and gas wells on a "case by case" basis.

**INDUSTRY PONDERING BREAKING 15B GALLON ETHANOL BARRIER:** Pruitt has set off an ethanol industry debate about lifting the volume requirement beyond the 15 billion gallon conventional biofuel limit established under the Renewable Fuel Standard. "We're all just starting to talk about it as a broad industry," Growth Energy's Emily Skor tell ME. "You've got the head of the EPA saying well you could consider a reset beyond 15 billion gallons." Pruitt told Radio Iowa last month that he would consider going beyond the limit set by Congress if biofuel volumes are reset in two years' time. Skor said it was the second time the administrator made a such a remark. "The first time you don't know, did he mean to say that?" she said. "The second time well, he did mean to say that."

**It's all about demand:** EPA told ME in a statement, "Administrator Pruitt believes that RFS volume obligations should be reflective of actual demand. As Administrator Pruitt told Radio Iowa, if demand exceeds current statutory limits, then the reset volumes will be reflective of that fact. However, much work remains to be done before we can come to this type of conclusion."

**ETHANOL WANTS FEDS TO RESPOND TO BRAZIL ETHANOL DUTIES :** Growth Energy, the Renewable Fuels Association and the U.S. Grains Council are collaborating on letters to U.S. Trade Representative Robert Lighthizer and Agriculture Secretary Sonny Perdue asking them to respond to ethanol quotas imposed by Brazil last month. The groups have not

released the letters to the media, but Skor told ME, "What we're saying to the government is, here's the impact and we need your help." Brazil set a 20 percent tariff on ethanol imported beyond 600 billion liters (158 million gallons), and the groups would like to see the tariff removed or the quota raised. The U.S. exported 277 million gallons of ethanol to Brazil in 2016, a sharp rise from the previous year, according to EIA. Skor said they make no specific ask of the administration, saying, "We don't want to be prescriptive right now with the U.S. government."

**REPORT ROUNDUP! CLEAN ENERGY BOOMING OUT WEST:** The Clean Energy Trust and Environmental Entrepreneurs released [an analysis](#) Thursday finding nearly 600,000 people are employed in clean energy jobs throughout the Midwest, up five percent since 2015 alone. That's more than double the number of computer programmers in the region, according to the groups.

**FIXING INFRASTRUCTURE YIELDS BIG ENVIRONMENTAL BENEFITS:** Investing in significant infrastructure improvements over the next decade could fuel huge environmental benefits, according a report from the BlueGreen Alliance. Among them: 4.4 billion gallons of saved fuel; reducing leaked drinking water by 6 billion gallons and reducing overall carbon dioxide emissions by 12 percent. More [here](#).

**INTERIOR RELEASES RECREATION SURVEY:** The Interior Department released a [preliminary report](#) Thursday that shows 40 percent of the U.S. population ages 16 and older partook in at least one wildlife recreation activity last year. While there were more wildlife watchers and anglers than in the last survey the Census Bureau conducted for the agency in 2011, hunting was down by 16 percent. The data from these reports is often used by agencies and companies to gauge business opportunities and for wildlife management decisions. Interior's Fish and Wildlife Service expects to issue the full data in early 2018.

**DAINES PUSHES WILDFIRE REFORMS:** Montana Republican Sen. [Steve Daines](#) urged new U.S. Forest Service Chief Tony Tooke to pursue immediate wildfire policy reforms as his state deals with ongoing devastating fires. "Fire season always reminds us that either we manage our forests, or our forests manage us," he wrote in a [Thursday letter](#). "We need to focus our time and energy on pursuing reforms that better equip the U.S. Forest Service with the tools and resources needed to accomplish its goals."

**GOT YOUR BACK!** Kansas Sen. [Pat Roberts](#) ran interference to save Senate Energy Chairman [Lisa Murkowski](#) from a pack of energy reporters. Asked by the self-proclaimed newest Dodge City Globe reporter what she'd done for Kansas, the affable Alaskan replied: "I grew a sunflower this summer."

## QUICK HITS

— Texas Chemical Plant Sued For Millions, First Responders Charge Gross Negligence. [International Business Times](#).

— Climate Change Speeds Beach Erosion With Huge Storms. [Bloomberg](#).

- As Hurricane Irma approaches, BP evacuates Gulf platform and drilling rig. [Houston Chronicle](#).
- Florida cites complaints over Chevron gas prices as shortages mount. [Reuters](#).
- Shailene Woodley says she was strip searched after Dakota pipeline arrest. [ABC News](#).
- Former Wagoner County sheriff receives deferred sentence on reduced charge related to cash seizure during 2014 traffic stop. [Tulsa World](#).
- Record-setting smoke haunts Seeley Lake. [Missoulian](#).

## HAPPENING TODAY

\*crickets\*

## THAT'S ALL FOR ME!

**\*\* A message from Chevron:** This is a story about DOERS, butterflies, and buckwheat. In '75, the endangered El Segundo Blue butterfly was found near a Chevron refinery. We protected the habitat and planted the only thing they eat—buckwheat. We're still planting and keeping an eye on our littlest neighbor. Watch the video: <http://politi.co/2xaoDCa> \*\*

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/09/house-muddles-through-epa-interior-amendments-024495>

## Stories from POLITICO Pro

**Trump expected to pick Bush EPA official turned industry lawyer for agency's air office**  
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By Alex Guillén | 07/24/2017 10:03 AM EDT

President Donald Trump is expected to nominate Bill Wehrum, a former George W. Bush-era EPA official, to run the agency's powerful air office, according to two sources outside the administration familiar with the plans.

While Wehrum would bring critical knowledge of EPA's workings and environmental law, he also represents several high-profile industry groups in lawsuits challenging numerous Obama-era EPA regulations, meaning he may face recusal and conflict issues similar to EPA Administrator Scott Pruitt.

Wehrum served as acting assistant administrator for the Office of Air and Radiation from 2005 to 2007. Bush pulled Wehrum's formal nomination to that post after Democrats blocked him as too industry-friendly, though the new simple majority threshold on nominees likely will prevent

that from happening again. Wehrum spent 2001-2005 as counsel to Jeff Holmstead, Bush's first air administrator. Holmstead emerged last month as a possible Trump pick to be EPA deputy administrator, though coal lobbyist Andrew Wheeler remains the frontrunner for that job.

In a 2013 interview with Law360, Wehrum said that despite the Supreme Court's 2007 ruling that said EPA has the authority to regulate greenhouse gases, he believes "Congress never intended the EPA to address an issue such as climate change under the Clean Air Act."

He also called for lengthening the review cycle for National Ambient Air Quality Standards beyond five years — House Republicans recently passed a bill that would stretch that to ten years — and said the Obama administration tried to shift power away from the states and toward EPA, comments since echoed by Pruitt.

And in a 2015 Wall Street Journal editorial, Wehrum said the EPA-caused Gold King mine spill highlighted how the agency "often criminalizes actions that are nothing more than accidents, many far less damaging to the environment than the Animas River disaster." That spill fouled Colorado's Animas River and downstream areas for several weeks before water quality returned to normal and the river was reopened to recreational activities.

Wehrum pointed to the 2014 chemical spill that fouled drinking water for hundreds of thousands of West Virginia residents, which led to an EPA investigation and the company's bankruptcy, as an example of "unjust" treatment.

For the last decade Wehrum has been a partner at the high-powered D.C. law firm Hunton & Williams, where he currently represents high-profile clients, including two leading oil and gas industry lobbying groups, in a number of ongoing lawsuits against EPA.

Wehrum represents the American Petroleum Institute in a challenge to EPA's methane rule for new oil and gas wells, as well as the separate legal battle over EPA Administrator Scott Pruitt's decision to stay that rule while under review, where API has defended Pruitt's stay.

He also represents either API or American Fuel & Petrochemical Manufacturers, a refinery sector group, in lawsuits over a 2015 rule limiting pollution from oil refineries; a "regional consistency" rule that governs how court rulings apply to nationwide EPA regulations; and permitting rules for Indian lands.

He represents the Utility Air Regulatory Group, a coalition that challenges EPA air regulations, in a legal challenge over an Obama-era rule meant to decrease explosions at chemical plants and other facilities. Pruitt has put that rule on hold while it is under review.

Wehrum helped the Gas Processors Association challenge two greenhouse gas reporting rules. He took an EPA boiler regulation to court on behalf of a coalition of industry groups, including the American Chemistry Council, the National Association of Manufacturers and the American Forest & Paper Association. He is challenging an EPA emissions rule for brick manufacturers on behalf of an industry group. And he represented construction interests in various lawsuits against the Labor Department, including an ongoing challenge to the Occupational Safety and Health

Administration's 2016 silica exposure rule.

Wehrum did not immediately reply to a request for comment on Monday. EPA and White House spokespeople did not immediately respond to a request for comment.

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### **Trump picks Bush-era EPA official for air chief** [Back](#)

By Alex Guillén | 09/07/2017 07:16 PM EDT

President Donald Trump has nominated Bill Wehrum, a George W. Bush-era EPA official who since has represented a variety of energy industry interests, to run EPA's powerful air office.

POLITICO [reported](#) in July that Wehrum was expected to receive the nod.

As head of EPA's Office of Air and Radiation, Wehrum will play a key role in undoing many of the Obama-era regulations most opposed by Republicans, including the Clean Power Plan, the 2015 ozone standard and forthcoming vehicle emissions rules. Wehrum has been critical of EPA's authority to regulate greenhouse gases, even after the Supreme Court's 2007 ruling saying EPA did have such authority.

He served as a counsel to Jeff Holmstead, Bush's first-term air chief, before replacing Holmstead in an acting capacity from 2005 to 2007. Bush nominated Wehrum to the job permanently, but Democrats blocked his nomination from proceeding in the Senate.

Wehrum spent the past decade as a partner at the Washington, D.C., law firm Hunton & Williams. His clients have included the American Petroleum Industry, American Fuel & Petrochemical Manufacturers, the Utility Air Regulatory Group, the American Chemistry Council, the National Association of Manufacturers and the American Forest & Paper Association.

**WHAT'S NEXT:** The Senate Environment and Public Works Committee will review Wehrum's nomination in what is certain to be a contentious process.

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### **EPA extends fuel waivers to help Florida prep for Irma** [Back](#)

By Ben Lefebvre and Bruce Ritchie | 09/07/2017 07:09 PM EDT

Florida is racing to stock up on gasoline before Hurricane Irma slams into its ports this weekend.

EPA on Thursday extended a fuel waiver for summer reformulated fuel requirements for 38 states through Sept. 30 to ensure gasoline is available in Florida in advance of Hurricane Irma. The move extends by 15 days a waiver EPA issued Aug. 31 in response to Hurricane Harvey, which badly damaged pipelines and refineries when it struck Texas.

EPA Administrator Scott Pruitt told POLITICO he was responding to requests from Florida Gov. Rick Scott and the oil industry because of shortages in Florida.

"It was important to send a message I think to the citizens of Florida but also those producing gasoline they would have certainty to the end of September with respect to these issues," Pruitt said in an interview Thursday. "And we'll do it beyond that obviously if necessary. We have the authority to do that."

A day earlier, EPA approved the Florida Department of Environmental Protection's request for a fuel dye waiver. That allows off-road diesel fuel to be used in on-road vehicles.

Florida Petroleum Council Executive Director David Mica applauded both moves.

"I think that [Administrator] Pruitt was deliberative and expeditious in historic fashion," Mica said. "They really jumped on it doing all they can to assist out there on several waiver requests."

Irma is currently expected to hit southeastern Florida early Sunday.

The storm will be a one-two punch for the region, coming mere weeks after Hurricane Harvey slammed into Texas and forced many of the refineries dotting the Gulf Coast to shut down. At one point last week, Harvey had forced 4 million barrels a day of Gulf Coast refining capacity offline.

"We know fuel is very important," Scott said earlier Thursday as he addressed Florida residents on the dangers of the storm. "We are devoting every state resource to address this.

"While we are making progress, you will see lines and outages, unfortunately," he added. "I know this is frustrating. We are laser-focused on how we get as much fuel as possible to our ports while they remain open."

Refinery outages and damaged pipelines in Harvey's wake forced fuel sellers to dip into inventories to meet demand. Between Aug. 25, the day Harvey made landfall in Texas, and Sept. 1, gasoline inventories on the East Coast fell 3.5 percent to 60.5 million barrels, according to the latest EIA data.

State-by-state figures are only available up to June, at which point Florida had about 34 million gallons of gasoline stored. At the time, wholesale gasoline consumption averaged 15.5 million gallons per day, according to EIA.

Emergency contractors for Florida secured 1.5 million gallons of fuel for immediate delivery and identified additional supply for the future, Scott's office said in a press release.

Florida is also searching for other fuel barges that can be diverted to Florida ports. Scott told the state's emergency response team to provide a military escort for a ship delivering fuel from a refinery in Mississippi to the Port of Tampa, the governor's office said. The governor said he also asked state police to escort gasoline trucks through traffic so they could quickly shuttle between fuel terminals and gas stations.

A gallon of regular gasoline now costs an average of \$2.72 in Florida, 5 cents higher than the national average and 30 cents above where it was a week ago, according to [AAA](#).

"Supplies are tight. Everyone is looking for fuel," said Ned Bowman, executive director for the Florida Petroleum Marketers and Convenience Stores Association, which represents gas stations in the Sunshine State. "Everyone is putting five gallons into their tanks, so that's stretching things."

But now that the Texas refineries are coming back up, Irma is threatening the more than two-dozen ports that receive the fuel they deliver across the Gulf. Florida's main fuel barge receiving centers are in Miami, Fort Lauderdale, Tampa and Jacksonville, [according](#) to EIA. The former two sites are on the southeastern tip of the peninsula, smack dab where Irma is forecast to make landfall.

"When you have back-to-back storms, it exacerbates logistics for distribution," said Mica, of the Florida Petroleum Council. "As [refineries] come up, that will help supply, but as the storm approaches, it does not allow vessel traffic, it does not allow fuel in."

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**EPA projects fall proposal to repeal Clean Power Plan [Back](#)**

By Alex Guillén | 09/07/2017 02:59 PM EDT

EPA Administrator Scott Pruitt expects to sign the proposal to repeal the Clean Power Plan "in the fall of 2017," the agency said in a [court filing](#) today.

The filing offered no other details on the Trump administration's plan to repeal the rule, which has been under review at the White House Office of Management and Budget since June 8.

EPA added that the CPP repeal's classification as a "long term action" in the July update to the Unified Agenda was inadvertent. Environmental groups had seized on that classification, which indicates rules will not progress within the following 12 months, to [argue](#) that the D.C. Circuit

Court of Appeals should issue its ruling on the Clean Power Plan rather than keep the lawsuit suspended indefinitely.

EPA said it will correct the classification error in the next edition of the Unified Agenda.

**WHAT'S NEXT:** The repeal proposal will most likely be released within the next few months.

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**Judge keeps methane waste rule delay lawsuit in California federal court** [Back](#)

By Alex Guillén | 09/07/2017 04:35 PM EDT

A federal judge said today that legal challenges to the Interior Department's delay of an Obama-era methane waste rule will remain in a California court rather than be moved to Wyoming.

Interior had asked for the lawsuits to be transferred to a federal court in Wyoming where cases over the original regulation, also known as the venting and flaring rule, are still playing out.

But Magistrate Judge Elizabeth Laporte of the U.S. District Court for Northern California said she's keeping the case on her docket because, legally speaking, the two matters are rather distinct. Interior's delay relied on Section 705 of the Administrative Procedure Act, but the underlying rule does not, meaning the two cases likely would not be combined anyway, she concluded.

In addition, the lead challenger in the suit over the delay is the state of California, adding weight to the arguments to keep it in a California court.

Laporte noted she is "already familiar with the legal issues in this lawsuit" because it is very similar to the challenge to Interior's delay of its royalty valuation rule — which Laporte last week said violated Section 705 of the APA by not seeking public input first.

However, she stopped short of issuing a ruling in the methane case today.

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