

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Tue 8/8/2017 9:44:01 AM  
**Subject:** Morning Energy: Pruitt's new TSCA plan burns greens — Conservatives attack to defend Ex-Im pick — Dominion v. Kaine challenger

By Darius Dixon | 08/08/2017 05:42 AM EDT

*With help from Ben Lefebvre and Matt Daily*

**EPA GOES NARROW WITH NEW TSCA POLICY:** EPA says a new plan to evaluate the safety of chemicals will ease the path for bringing new substances to market and increase transparency, Annie Snider [reports](#). But environmentalists contend the plan will undermine critical safety measures that were included in last year's landmark bipartisan chemicals law overhaul. The 'operating principles' announced Monday will limit EPA's evaluation of new chemicals to solely the "intended uses" that the manufacturer identifies in its initial notice to the agency, Annie writes. If the agency decides that intended use is safe, the chemical could go on the market, even if EPA experts have concerns about other potential uses. Those concerns would be addressed through a later rulemaking, the agency said. Administrator Scott Pruitt said EPA "can either be a roadblock to new products, or it can be supporter of innovation and ever-improving chemical safety."

**This is not the TSCA we were looking for:** The the American Chemistry Council praised the move, but greens complained it's a major shift from the approach embraced by lawmakers when they updated the Toxic Substances Control Act, the country's primary chemical safety law, which pushed for chemicals to be evaluated as a whole for their safety, rather than breaking evaluations down into individual uses. "What your body cares about is not, 'How much was I exposed to by that use versus another use.' It's how much was I exposed to in totality," said Richard Denison, a lead senior scientist at the Environmental Defense Fund.

**Annie adds:** Internal documents obtained by POLITICO showed that career staffers disagreed with those changes to focus on the intended uses, which were made after the Trump administration put a former top expert for the chemical industry's top lobbying group in charge of TSCA implementation.

**BRING ON TUESDAY!** I'm your guest host, Darius Dixon. David Brown at Exelon was the first to name Frank Oppenheimer as the Manhattan Project physicist I was referring to who later founded the Exploratorium in San Francisco. That said, a lot of you, beginning with reader Craig Meyers, mentioned the Bradbury Science Museum in Los Alamos, N.M. That museum was founded by Robert Krohn, a Manhattan Project scientist. The more you know! Today's trivia: The U.S. Fermi award is one of the most prestigious for scientists, but in the first 20 years, its monetary prize was cut in half. That happened after who won it? And bonus points for naming the first person to get the skimpier check.

Send your guesses, tips, energy gossip and comments to Esther Whieldon, who will get you through the week, at [ewhieldon@politico.com](mailto:ewhieldon@politico.com). Follow us on Twitter [@esthernow](#), [@aadragna](#), [@Morning\\_Energy](#) and [@POLITICOPro](#).

**CLIMATE REPORT LEAKS:** In a bid to prevent the Trump administration from sitting on a new assessment of the impacts of climate change, sources have leaked to [The New York Times](#) a report from scientists at 13 federal agencies that says temperatures in recent decades are rising because of human activity. "It directly contradicts claims by President Trump and members of his cabinet who say that the human contribution to climate change is uncertain, and the ability to predict the effects are limited." One government scientist who worked on the document, part of the National Climate Assessment mandated by Congress, told the paper that he and others were concerned that the Trump administration may try to suppress it.

**What we'll be comparing to the final version:** The Times says the report finds it "extremely likely" that more than half of the global mean temperature increase since 1951 can be linked to human influence. The National Academy of Sciences has already gone over the report but several agencies have until Aug. 13 to approve it.

**OPEC TRIES TO PLUG THE LEAKS:** Washington may have gone quiet for August, but the oil industry is not exactly in a position to rest on its laurels. NYMEX crude oil futures turned sideways in the past few days after popping above \$50 a barrel last week, and there seems to be little momentum to move back above that psychological barrier unless OPEC members, who are finishing a two-day meeting today in Abu Dhabi today, can crack down on the cheating among cartel members who are overproducing on their output quotas. Oil bulls are also hoping Russia steps forward to deepen its cuts, but as oil prices rise, the temptation for oil-producing OPEC nations to sell some extra supplies grows. A [survey by Platts](#) showed that OPEC nations were exporting more than 900,000 barrels per day above its agreed ceiling last month, hitting the highest production level of the year at 32.82 million bpd. Much of that is coming from Libya and Nigeria, which are not subject to the cartel's output cuts agreed to in November, but OPEC members have pledged to keep their current cuts in place in to March 2018 — and compliance among the cartel members tends to decline over time.

**ANOTHER LOG ON THE EX-IM FIRE:** Just when it didn't seem like the fight over former Rep. Scott Garrett's nomination to head the Export-Import Bank couldn't get any more heated, conservative groups lit a torch on Monday. In a letter to Senate Banking Chairman Mike Crapo, the leadership of organizations including the Club for Growth, Heritage Action for America and FreedomWorks denounced business groups that have been urging the White House to drop Garrett, Pro Financial Services' Zachary Warmbrodt [reports](#). In fact, they plan to oppose any appointments to the agency's board if Garrett's name does not move forward. "We're extremely hopeful that President Trump will ignore the special interests that are so desperate for their Export-Import Bank gravy train to continue," they said in the letter.

**THE TRIAL OF THE RECESS:** Since Congress has skipped town for the rest of August, you'll have more time to [watch](#) the week-long hearings on the Keystone XL oil pipeline taking place at the Lincoln Marriott Cornhusker Hotel in Nebraska. The Nebraska Public Service Commission is taking testimony from TransCanada executives, local landowners and others on the potential impact of the project's proposed route through the state.

**Most of Monday** was taken up with lawyer Dave Domina, who represents the landowners in the

state and quizzed TransCanada execs on issues like the web of companies that own a piece of Keystone XL, how far below waterways the pipeline will be laid, and easements. Domina also asked TransCanada Pipelines Limited President Tony Palmer whether the company will decide later this year whether to actually build the pipeline. "Sir, we hope to do so," Palmer replied. The hearings start at 10 a.m. Eastern Time. Nebraska regulators are scheduled to rule on the route proposal by the end of this year. Just last month, TransCanada suggested that it may not build the project.

**STATES PREP FOR ECLIPSE:** California produces more solar power than any other state in the union, so when the total solar eclipse cruises across North America on Aug. 21, grid operators there say they expect to draw about 6,000 megawatts from other sources to cover the losses. The Golden State has a solar capacity of about 10,000 megawatts, which the state's ISO says can sometime cover 40 percent of its electricity demand. California has preparing for the eclipse for more than a year, the grid operator said. The path of the eclipse will affect 17 utility-scale solar PV generators, mostly in eastern Oregon, according to the Energy Information Administration. Meanwhile, hundreds of plants totaling about 4,000 MW of solar capacity — largely in North Carolina and Georgia — will be at least 90 percent obscured, the EIA said. The next solar eclipse isn't expected to cross the continent until 2024.

**DOMINION OPENLY FEUDS WITH KAINE CHALLENGER:** "Why is Corey Stewart putting politics over people?" reads a Dominion ad in several Prince William County, Virginia, newspapers. The Washington Post reports that the ad is meant to highlight the role Prince William Board of County Supervisors Chairman Corey Stewart, a Republican challenging Sen. Tim Kaine next year, had in blocking an alternative route for a controversial power line through a wetlands, leading to the plan to run it through a historic black community. The ad continues: "The residents of Carver Road should look no further than Corey Stewart for the reason their community was selected."

**Stewart, who failed to win the GOP gubernatorial primary earlier this year,** is relishing the battle: "It's bringing in people and donors who otherwise wouldn't support a Republican candidate," he said.

**STATE LAWMAKERS PRESS DOE, CONGRESS ON EFFICIENCY RULES:** The Energy Department's efficiency rulemaking operation got a big endorsement from state capitols on Monday. As part of its legislative summit this week in Boston, the National Conference of State Legislatures approved a resolution (it starts on page 42) urging Congress to "fully fund" DOE's efficiency standards program. It also urges Congress and DOE to stick to its so-called look-back schedule, which requires the agency to revisit each of its efficiency standards every six years to see if they can be tightened. We're told that Vermont state Rep. Curt McCormack sponsored the resolution.

**DEMS PRESS FOR WAYS TO DECARBONIZE THE OCEANS:** Sens. Sheldon Whitehouse and Heidi Heitkamp have asked the National Academy of Sciences to investigate ways of extracting carbon dioxide from ocean water. As carbon dioxide builds up in the atmosphere, greater amounts get infused into the planet's waters, a driver of ocean acidification. "As the committee on Developing a Research Agenda for Carbon Dioxide Removal and Reliable

Sequestration continues to develop your Carbon Dioxide Removal (CDR) report, we request that you consider expanding your focus to include ocean carbon capture technologies and processes," the two lawmakers [wrote](#).

**BENNET BILL TO DIVERSIFY 'COAL COMMUNITIES':** Before skipping town last week, **Democratic** Colorado Sen. Michael Bennet introduced a [bill](#) aimed at promoting investment and business in areas that have lost jobs in the coal industry. The measure would designate 90 counties as "coal communities," including six in his home state, and create hiring credits, tax incentives and training grants.

## QUICK HITS

- Here's how Carl Icahn's bet on Donald Trump went terribly wrong. [CNBC](#).
- California pension fund divests from coal as industry rebounds. [The Sacramento Bee](#).
- U.S. federal department is censoring use of term 'climate change,' emails reveal. [The Guardian](#).
- Iowa Gov. Kim Reynolds: The red state with an energy blueprint. [The Hill](#).

## THAT'S ALL FOR ME!

Cloudy with a high of 81.

*To view online:*

<https://www.politicopro.com/tipsheets/morning-energy/2017/08/pruitts-new-tsca-plan-burns-greens-024122>

## Stories from POLITICO Pro

**EPA plans narrower chemical reviews, critics see TSCA reversal** [Back](#)

By Annie Snider | 08/07/2017 07:12 PM EDT

EPA announced a new approach to evaluate the safety of chemicals that it said would remove roadblocks to bringing new substances to market and increase transparency, but that environmentalists contend will undermine critical safety measures established under last year's landmark bipartisan chemicals law overhaul.

Under the "operating principles" the agency announced Monday, EPA will evaluate new chemicals based solely on the "intended uses" that the manufacturer identifies in its initial notice to the agency. If the agency decides that intended use is safe, the chemical could go on the market, even if EPA has concerns about other potential uses. Those concerns would, "as a general matter," be addressed through a later rulemaking, the agency said.

"EPA can either be a roadblock to new products, or it can be supporter of innovation and ever-improving chemical safety," EPA Administrator Scott Pruitt said in a statement.

This method is a major shift from the approach embraced by lawmakers under last year's bipartisan update to the Toxic Substances Control Act, the country's primary chemical safety law, which pushed for chemicals to be evaluated as a whole for their safety, rather than breaking evaluations down into individual uses. Under the law, If EPA has concerns about any of the ways that a chemical might reasonably be used, it should issue an order setting conditions on the substance before it comes onto the market.

"What your body cares about is not, 'How much was I exposed to by that use versus another use.' It's how much was I exposed to in totality," said Richard Denison, lead senior scientist at the Environmental Defense Fund. He argued that the approach laid out by EPA on Monday would return EPA's chemicals program to the way it was before last year's TSCA overhaul.

Environmentalists say that once a chemical is on the market, it is difficult for EPA to know how it is being used and to limit uses that may present hazards.

But chemical manufacturers prefer to have substances evaluated for the individual use that they are designing their product for, rather than for additional uses that may be outside of their control. The chemical industry's trade group lauded the newly announced changes.

"We strongly support the Administrator's commitment to a more predictable and transparent process for decision-making and look forward to continued collaboration in achieving these improvements," the American Chemistry Council said in a statement.

Monday's announcement follows a pair of rules finalized in July that laid out how EPA will evaluate the safety of existing chemicals. The Trump administration made significant changes to the rules originally proposed by the Obama administration's EPA.

Internal documents obtained by POLITICO showed that career staffers disagreed with those changes to focus on the intended uses, which were made after the Trump administration put a former top expert for the chemical industry's top lobbying group in charge of TSCA implementation.

Environmental groups — and congressional Democrats — opposed the final version of those rules pertaining to existing chemicals and still could challenge them in court.

The approach laid out by EPA for evaluating new chemicals, however, is not a formal agency action, so it is unclear whether it can be legally challenged. Denison said his group and others are still evaluating their options.

The agency also announced Monday that it has eliminated the backlog of new chemicals awaiting review. More than 600 new chemicals had piled up, awaiting review, as the agency got up to speed on implementing the new processes required under the new law passed by Congress last year. As of Aug. 1, the agency had decreased that backlog to 382, according to EPA's

website, which says the caseload typically hovers around 300.

EPA also said it would post weekly updates of program statistics on its [website](#) in a bid to improve transparency.

Pruitt has prioritized TSCA in his first months at the agency, with programs directly supporting the new law's implementation protected under the Trump administration's budget — although other related programs were targeted for cuts. The agency has also staffed up the offices reviewing chemicals and said Monday it will continue to redeploy employees from other parts of the agency to work on new chemical reviews.

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### **Conservative groups threaten fight over Ex-Im nomination [Back](#)**

By Zachary Warmbrodt | 08/07/2017 03:35 PM EDT

Conservative groups escalated the fight over former Rep. Scott Garrett's nomination to lead the Export-Import Bank, warning lawmakers today that they would oppose any appointments to the agency's board if Garrett's name did not move forward.

In a [letter](#) to Senate Banking Chairman [Mike Crapo](#) (R-Idaho), the leadership of groups including the Club for Growth, Heritage Action for America and FreedomWorks denounced business groups that have been urging the White House to drop Garrett.

"We're extremely hopeful that President Trump will ignore the special interests that are so desperate for their Export-Import Bank gravy train to continue," they said in the letter. "To that end, our groups and the people we represent will vocally oppose any nomination (or slate of nominations) to Ex-Im's board if Garrett's nomination is not considered."

The letter marked the latest skirmish in a battle for influence involving businesses that rely on the agency and critics who have fought to rein it in. At issue is Garrett's opposition to the existence of the bank while he served in Congress.

Separately, the Office of Government Ethics has released Garrett's financial disclosure [form](#).

His finances are less complicated than other Trump economic appointees. He disclosed a checking account worth up to \$50,000 and a savings account worth up to \$100,000, as well as retirement investments, stock in Lakeland Bank and a mortgage with the Credit Union Mortgage Association. In an ethics [agreement](#), Garrett said he would not participate in matters affecting Lakeland unless he obtained a waiver.

**WHAT'S NEXT:** The White House is giving Garrett a [chance](#) to secure support for his

confirmation. At least three GOP senators have indicated they're on the fence about confirming him.

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## **Too soon to say whether Keystone XL will be built, TransCanada exec says [Back](#)**

By Ben Lefebvre | 07/28/2017 02:20 PM EDT

The company behind the Keystone XL pipeline has not yet determined whether there is enough demand for the project to justify actually building it, a top executive said Friday.

It was the strongest acknowledgment from TransCanada to date that the nearly decade-long Keystone saga may end in failure — despite President Donald Trump's overwhelming support for the project, which he green-lit as one of his first acts in office. The company says it remains confident in the project. But it has been struggling to find enough customers, and it still needs approval from Nebraska regulators for the pipeline's route, which landowners and activists in the state have been fighting since the project was first proposed.

TransCanada on Thursday called for an "open season" on Keystone XL, a process in which potential customers are invited to bid for contracts to ship oil on the pipeline, which would connect oil sands in Alberta with refiners and export opportunities in the U.S. The open season will last until September, TransCanada Executive Vice President Paul Miller said during the company's second-quarter earnings call Friday.

A decision on whether to follow through with construction of the \$7 billion pipeline will come later, he said.

"In November, we'll make an assessment of commercial support and [Nebraska] approval," Miller said. "In the event we do decide to proceed on the project, we'll need six to nine months" before construction could start.

It would be another two years once construction begins before the project comes online, Miller added.

If TransCanada decides to build, that schedule means oil would start flowing through the pipeline just before the 2020 presidential election — but any further delays could complicate Trump's ability to boast about Keystone when he runs for re-election.

On the campaign trail last year, Trump promised to green-light the pipeline, saying "I want it built, but I want a piece of the profits." When he approved the project in March, Trump did not apply any special conditions to his approval of the project that would have required TransCanada to share its profits, and he backed away from another [promise](#) to make the company use all U.S.-

made steel for the pipeline. He seemed caught off guard when TransCanada CEO Russ Girling told him in a televised Oval Office appearance that construction was not imminent.

Keystone XL would transport up to 830,000 barrels a day of heavy crude from oil sands in western Canada to Steele City, Neb. From there it would go to refiners in the Midwest and along the Gulf Coast, where it also could be exported thanks to Congress lifting the oil export ban in late 2015 after then-President Barack Obama had denied an earlier permit for the line.

But refiners have been able to take delivery of Canadian crude without Keystone XL, using either rail cars or alternative pipelines. Oil imports from Canada grew to 3.8 million barrels a day in 2016, up 52 percent from when TransCanada first proposed the pipeline in 2008, according to EIA data.

One problem facing TransCanada is that much of the new demand for oil is coming from Asia. Canadian oil shippers would most likely prefer to ship oil to the west coast via Kinder Morgan's proposed Trans Mountain pipeline or rail car for easier export to Asia, said Rusty Braziel, president of energy consulting firm RBN Energy.

"If you're a producer in Alberta, the conundrum you face here is you really want to go west. Do you want to take barrels to the Gulf Coast and fight with everyone else sending barrels through the Gulf Coast? Hell no."

TransCanada is also trying to woo back companies who had signed on for Keystone XL but then dropped away after Obama denied the cross-border permit it needed, Miller said.

"When the permit was decided in late 2015, many of our shippers reviewed other options," Miller said.

TransCanada spokeswoman Jacquelynn Benson said the company "maintains shipper support for the project and remains committed to Keystone XL. We are confident that we will have the support we need to move this project forward as we seek additional shipper commitments through the open season."

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