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From: POLITICO Pro Energy Whiteboard
Sent: Fri 9/1/2017 7:33:52 PM
Subject: Court rejects EPA bid to delay Delaware ozone deadline plan

By Alex Guillén

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A federal judge has rejected an EPA request to push back a deadline to act on ozone pollution in Delaware.

Under a consent decree approved in January, the agency is supposed to make a decision about a state plan to curb emissions of nitrogen oxides and volatile organic compounds by Sept. 29. EPA recently asked for an extension while it reviews a separate but related Obama-era rule requiring states to modify their air plans to drop a "shield" for lawsuits against power plants or other sources that violate emissions limits during startup, shutdown or malfunction, a regulation known as the "SSM SIP call."

But Judge Phyllis Hamilton of the U.S. District Court for Northern California on Thursday said EPA can't have any more time.

"Whether EPA's 'policy review' will have any impact on EPA's decision is entirely speculative at this juncture," Hamilton wrote. "Even if EPA ultimately decided to change policy, EPA could later revise its decision on the Delaware SIP, if necessary."

She also criticized the agency for seeking an indefinite delay of the Delaware deadline while it reviews the SSM SIP call regulation, saying "an open-ended extension ... would defeat the core purpose of the Consent Decree by perpetuating a statutory violation."

WHAT'S NEXT: EPA has until Sept. 29 to decide on the Delaware plan.

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