

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: POLITICO Pro Energy Whiteboard
Sent: Thur 8/31/2017 10:12:48 PM
Subject: Judge won't let EPA delay Texas haze deadline

By Alex Guillén

08/31/2017 06:09 PM EDT

A federal judge today rejected the Trump administration's request to delay taking action on Texas pollution that contributes regional haze, saying the state has had plenty of time to act before now.

Texas was supposed to have filed a plan to curb the pollution by 2007, but has yet to do so. A 2012 consent decree between EPA and environmentalists requires the agency to issue a federal plan by Sept. 9. EPA last week asked to push the deadline back through the end of 2018, arguing that the agency and the state have had more "productive" negotiations since the Trump administration took office.

But Judge Amy Berman Jackson of the U.S. District Court in D.C. said she will not give the agency or Texas more time.

"Texas has been under the statutory obligation to comply with the Clean Air Act since at least 2007, and it has been on notice of EPA's finding that it had failed to comply with the requirement to submit a state implementation plan since 2009. So there has been quite a period of time during which 'cooperative federalism' could take hold," she wrote.

"Texas has had ample time to develop, submit, and negotiate a compliant state implementation plan if that was its actual preference." Jackson added. The Clean Air Act does promote cooperation between the federal government and the states, but it also requires EPA to take action if states don't step up, she said.

In a footnote, Jackson noted the awkward timing given the devastation Texas has suffered from Hurricane Harvey, but said her hands were tied.

WHAT'S NEXT: EPA has indicated it can issue a federal plan by the Sept. 9 deadline.

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