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From: POLITICO Pro Energy Whiteboard
Sent: Mon 7/31/2017 10:42:19 PM
Subject: D.C. Circuit orders EPA to resume enforcing methane rule

By Alex Guillén

07/31/2017 06:39 PM EDT

The full D.C. Circuit Court of Appeals today ordered EPA to resume enforcing its methane rule for new oil and gas wells, a potentially temporary but important loss for EPA Administrator Scott Pruitt's deregulatory agenda.

A three-judge panel ruled on July 3 that Pruitt improperly imposed a 90-day stay of the rule amid a reconsideration of key leak detection and repair requirements.

The court agreed to keep the stay in place for two weeks to give EPA time to decide on an appeal, a timeline that expired last week. The agency has not asked for an appeal, but industry groups and states critical of rule have. The court ordered responses to those appeal petitions be turned in by Wednesday afternoon, with any further reply due Thursday, indicating the court will move quickly on the appeal.

The order was issued by a 9-2 vote. Judges Janice Rogers Brown, who will retire from the court effective Aug. 31, and Brett Kavanaugh voted against reinstating the rule immediately.

EPA is taking comment through Aug. 9 on a proposed two-year stay of the rule through 2019 and could have it in place by September. That longer-term stay may not face the same legal issues as the 90-day one since EPA will incorporate public comment.

WHAT'S NEXT: The court could decide as early as this week whether to hear an en banc appeal. Pruitt's 90-day stay would expire on Aug. 31 anyway, putting a ticking clock on the court proceedings before the matter becomes moot.

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