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From: Morning Energy
Sent: Thur 8/10/2017 2:06:22 PM
Subject: POLITICO's Morning Energy: Trump's 2-for-1 reg order gets day in court — A detour on the road from Montreal to Kigali — Heartland backing Pruitt's uphill climate fight

By Esther Whieldon | 08/10/2017 10:00 AM EDT

With help from Emily Holden and Alex Guillén

TRUMP'S 2-FOR-1 REG ORDER GOES TO COURT : A federal judge will hold a hearing this morning on President Donald Trump's "2-for-1" regulatory executive order that directed agencies to identify two rules for revision or repeal for every one they finalized. Three groups - the Natural Resources Defense Council, Public Citizen and the Communications Workers of America - will argue Trump's order is unlawful and endangers public welfare by threatening health and safety rules. The administration says Trump's order is a valid exercise of presidential authority and doesn't require agencies to do more than identify potential rules to cut. The White House also argues it is too early to challenge the order, and the groups must wait for an agency to act on it before going to court. The 10 a.m. hearing at the U.S. District Court will be held before Judge Randolph D. Moss, an Obama appointee.

A DETOUR ON THE ROAD FROM MONTREAL TO KIGALI: Finding ways to get the U.S. to comply with an international treaty to limit the use of a heat-trapping chemical got more difficult this week, Pro's Eric Wolff [reports](#). The D.C. Circuit Court's decision to block EPA from using a key section of the Clean Air Act to rein in hydrofluorocarbons means there won't be a simple way for the U.S. to implement the Kigali amendment to the Montreal Protocol.

The way is long, and uncertain: Treaty backers now must not only sell the Senate on ratification, they must persuade both chambers of Congress to write implementing legislation if the treaty is affirmed. Either that or they'll have to persuade EPA Administrator Scott Pruitt to use the agency's power to regulation chemicals under the Toxic Substances Control Act. And even though the move is backed by business interests, getting Pruitt to write a new climate regulation would be no small feat. Treaty proponents must still convince a skeptical Trump administration, which has been dismissive of both multi-party treaties and climate science, on bringing the treaty to Congress.

Green groups are looking for a short cut: NRDC's David Doniger says they group is exploring an en banc appeal of Tuesday's court ruling. If that were to succeed, the rule would go back into effect, and treaty backers can go back to focusing on the Senate.

HEARTLAND BACKING PRUITT'S UPHILL CLIMATE FIGHT: The Heartland Institute, a group that rejects climate science, is voicing its support for EPA's Pruitt to challenge a finding that EPA must limit greenhouse gas emissions. The group's comments follow POLITICO's [reporting](#) that other conservative allies of the administration haven't endorsed that strategy. "A lot of resources will be expended in fighting this," H. Sterling Burnett, a Heartland research fellow, told ME. "Ultimately if you don't overturn the endangerment finding, Trump or whoever comes after him will have to impose their own carbon restrictions. ... You can't get around it."

Burnett argues climate models are often wrong and can't show with certainty that humans are causing climate change. A draft report from federal climate scientists that emerged on Tuesday contradicts that view. Burnett says Pruitt could challenge the endangerment finding on procedural or scientific grounds and should pursue both, although EPA might not finish the fight before the end of the Trump administration.

FALSE ALARM AT EPA: D.C. Police and Federal Protective Service officers responded to reports of gunshots inside EPA's Pennsylvania Ave. headquarters around 5 p.m. Wednesday, but authorities said the reports of gunshots were "unfounded," no one was injured and the building was secure."

Welcome to Thursday! I'm your guest host, Esther Whieldon. Joe McClelland of FERC was the first to answer that Abigail Fillmore was the first First Lady to keep her day job as a teacher for more than a year after she married Millard Fillmore, the future 13th U.S. president. Joe also knew that Abigail met her husband in 1819 when she was his teacher at New Hope Academy in New York. Today's trivia question: Name the first female artist to be commissioned by the U.S. government to sculpt a statue (Hint, the statue is in the Capitol). Bonus points if you can name the statue, where the artist is buried today and what sculpture marks her grave. Send me your guesses, tips, energy gossip and comments at ewhieldon@politico.com and follow us on Twitter [@esthernow](https://twitter.com/esthernow), [@aadragna](https://twitter.com/aadragna), [@bjlefebvre](https://twitter.com/bjlefebvre), [@Morning_Energy](https://twitter.com/Morning_Energy), and [@POLITICOPro](https://twitter.com/POLITICOPro).

ONE IN FIVE MINE INSPECTORS MEDICALLY UNFIT: As many as one in five federal mine inspectors doesn't meet the physical requirements necessary to do the job, Ian Kullgren reports. The Labor Department said on Wednesday it would create individualized assessment plans for employees who do not pass routine physical exams.

CALL IT THE REVERSE CARBON TAX: West Virginia Governor and new Republican Jim Justice, who made billions as a coal magnate, says President Donald Trump is "really interested" in his plan to subsidize Appalachian coal production, according to news reports. The subsidy would involve the Department of Homeland Security paying eastern utilities \$15 per ton of Appalachian coal burned, according to Bloomberg. Justice says he has discussed the plan, which analysts peg at costing more than \$1.6 billion annually, with Vice President Mike Pence, Jared Kushner and Energy Secretary Rick Perry. The subsidy likely would face opposition from Western coal producers, the natural gas industry, and the wind and solar sectors.

Why DHS? Justice says a healthy reliance on coal for electricity is the best protection against terror attacks on energy infrastructure, echoing an argument made frequently by EPA Administrator Scott Pruitt. "Can you imagine what would happen if we lost the power in the east for a month, or two months, or three months?" Justice said. "It would be like a nuclear blast went off. You would lose hundreds of thousands of people. It would be just absolute chaos beyond belief."

COMMISSION REJECTS CALL TO CLOSE SUNIVA TRADE HEARING: The US International Trade Commission on Wednesday rejected a request by the Solar Energy Industries Association and SunPower Inc. to close a portion of the agency's Aug. 15 hearing to the public.

The commission ruled it has already obtained enough confidential information from solar companies and SEIA to consider all of the group's arguments "without resorting to the extraordinary measure" of closing part of the hearing.

INTERIOR AIMS TO EXPAND HUNTING, FISHING IN WILDLIFE REFUGES:

Following up on Secretary Ryan Zinke's pledge to create more opportunities for sportsmen to use public lands, the Interior Department's Fish and Wildlife Service is proposing to allow more hunting and fishing in 10 wildlife refuges in Georgia, South Carolina, Indiana, Minnesota, North Dakota, Oklahoma, Oregon and Wisconsin. The agency will accept comments on the proposed rule for 30 days after publication in the Federal Register, which is expected this morning. For the 2017-2018 season, FWS is also adding refuge-specific regulations on topics such as hunting dog use, ATV riding and minimum age requirements.

ZINKE OKS LAND DONATION NEAR ELK STOMPING GROUNDS:

Zinke on Wednesday gave BLM the thumbs to accept the donation of about 4,000 acres of a former ranch that would for the first time allow public access to prime elk hunting grounds in the Sabinoso Wilderness in Northeastern New Mexico. The public has been cut off from the 16,000-acre area because it is surrounded by private land. But the Wilderness Land Trust bought a closed down ranch bordering Sabinoso and has offered to donate it. New Mexico Sens. Tom Udall, Martin Heinrich and Zinke toured the Sabinoso by horseback in late July.

CERES REPORT SAYS AUTOMAKERS NEED TO EVOLVE FASTER: A new report out today by Ceres that says that the increasing importance of operating costs and synergy between autonomous vehicles and electrification, fuel efficiency and electrification are key to automakers succeeding in the fast changing marketplace. The report argues that automakers are blaming their financial woes on fuel economy standards but that the standards are actually stimulating investment in advanced technologies "that are necessary for automakers' long-term financial health, especially given oil price volatility."

NOAA CLIMATE REPORT DUE OUT TODAY: The National Oceanic and Atmospheric Administration and American Meteorological Society are slated to release their annual check up on the state of the planet's climate this afternoon. More than 450 scientists from over 60 countries contributed to the report, which will highlight such indicators as greenhouse gases, temperature, sea level rise and glacier sizes. The report comes just days after the controversy over an earlier report that US scientists feared could be altered by the Trump administration.

QUICK HITS:

- The Sea Level Did, in Fact, Rise Faster in the Southeast U.S., NYT
- Exclusive: Tesla developing self-driving tech for semi-truck, wants to test in Nevada, Reuters
- Power Hungry: The States That Use The Most And Least Energy Per Capita, Forbes
- U.S. oil industry pushes back on sanctions against Venezuela, Washington Post

- Sunoco Reaches Settlement on Natural Gas Pipeline, [AP](#)

That's all for ME!

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<http://www.politico.com/tipsheets/morning-energy/2017/08/10/trumps-2-for-1-reg-order-gets-day-in-court-221803>

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