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Methane rule may be immune to early legislative strike

Hannah Hess, E&E News reporter

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A recent analysis raises questions about whether a suite of U.S. EPA rules targeting methane emissions from new and heavily modified oil and gas operations may be insulated from early legislative attacks in the next Congress.

Staffers at the Congressional Research Service project that agency final rules submitted to lawmakers on or after June 13 may be subject to disapproval on Capitol Hill under the Congressional Review Act (CRA).

The latest estimate, released last week in a backgrounder by the in-house research shop, is a revision from CRS's earlier estimates of June 2 and May 30.

The revised timeline is based on the House's decision to hold periodic pro forma sessions until Jan. 3, researchers note, the constitutional day the 115th Congress is set to convene. If the House deviates from the schedule, the unofficial estimate will change.

On June 3, EPA published its final rule in the *Federal Register* comprising Clean Air Act New Source Performance Standards, which increase how often companies must check and repair leaks at compressor stations, among other provisions.

The rules set up EPA to proceed on existing source rules as required by the law's Section 111, a key part of the Obama administration's pledge to lower U.S. methane emissions from the oil and gas industry between 40 and 45 percent by 2025 compared with 2012 levels (*Greenwire*, May 12).

Conservative lawmakers, as well as oil and gas industry groups, have come out strongly against new federal methane regulations, and they are also being fought in court. Republicans have been eyeing the CRA, which requires a simple majority in both chambers and the president's signature, as a straightforward route to rolling back recent regulations (*E&E News PM*, Dec. 8).

Outgoing Senate Environment and Public Works Chairman Jim Inhofe (R-Okla.) and a staffer for the House Natural Resources Committee confirmed last month GOP lawmakers intend to use the CRA to go after the methane rules (*Climatewire*, Nov. 30).

Inhofe's office and a spokesman for the House Natural Resources Committee did not comment on the revised deadline.

A memo released by CRS this fall on major Obama administration rules that are potentially eligible to be overturned by the next Congress noted researchers could not identify when EPA's rule was received in the Senate, which could affect the calculation.

"This all goes back to the fact that [CRA] is not exactly a paragon of clear legislative drafting," said James Goodwin, a senior policy analyst at the Center for Progressive Reform.

Legislative attempts to kill EPA's methane rule may ultimately turn on how the House parliamentarian defines a legislative day. "Pro forma," from the Latin meaning "as a matter of form," refers to brief legislative meetings that are often only a few minutes long. The House and Senate parliamentarians have the final say on operation of the CRA, according to the Congressional Research Service analysis.

"It's going to be a political decision ... that just sort of underscores what a political law this is," Goodwin said.

Supporters of the effort to limit emissions of the potent greenhouse gas have suggested not all companies would align with attempts to blunt the rule.

"Let's remind ourselves here that the rules not only are good for the environment but prevent waste of domestic natural gas ... equal to the domestic energy needs of 7 million American homes," said Mark Brownstein, vice president of the climate and energy program at the Environmental Defense Fund.

Industry research has concluded 76 companies nationwide manufacture, sell and support methane control technologies. Those businesses are mainly concentrated in states where oil and gas production is greatest, such as North Dakota, Oklahoma and Texas, and more than half are small businesses.

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