**To:** Stenger, Wren[stenger.wren@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]
**From:** Steve Hagle
**Sent:** Thur 3/23/2017 6:09:08 PM
**Subject:** RE: TCEQ Regional Haze Mtg Attendees

I knew about Mike. I just got off the phone with Clint Woods at AAPCA and understand Mike has also contacted him about a room we can use to call in on Tuesday. He is working on that for us.

Steve

**From:** Stenger, Wren [mailto:stenger.wren@epa.gov]
**Sent:** Thursday, March 23, 2017 1:06 PM
**To:** Steve Hagle; Wood, Anna
**Subject:** RE: TCEQ Regional Haze Mtg Attendees

Steve, OAQPS will also have Mike Koerber and Phil Lorang on the phone. FYI

**From:** Steve Hagle [mailto:steve.hagle@tceq.texas.gov]
**Sent:** Thursday, March 23, 2017 10:04 AM
**To:** Stenger, Wren <stenger.wren@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>
**Subject:** FW: TCEQ Regional Haze Mtg Attendees

Wren,

See Barbara's email below. I added notes about the EA's so you will know who they are. In addition to Chairman Shaw being there himself, all three commissioner's EAs will attend. I also think Kim Herndon will attend as well. I will be in Tucson with Mike and Anna, so hopefully we can find a room to call in from together.

Steve

**From:** Barbara Robinson
**Sent:** Thursday, March 23, 2017 9:54 AM
**To:** Steve Hagle
**Cc:** Lori Wilson; Keisha Townsend
**Subject:** TCEQ Regional Haze Mtg Attendees

Chairman Shaw

Richard

Stephanie

Erin Chancellor (Chairman Shaw's EA)

Jim Rizk (Comm Niermann's EA)

Stephen Tatum (Comm Baker's EA)

David Brymer

Caroline Sweeney

Terry Salem

John Minter

Are you participating in the conference call-in?

Barbara Robinson

Assistant

Office of the Executive Director

& Deputy Executive Director

(512) 239-1279

**From:** Dunham, Sarah
**Location:** WJC-N 5400 + Video with RTP + 1 866-299-3188; Participant Code: 202-
Ex. 6 - Personal Privacy
**Importance:** Normal
**Subject:** Texas Regional Haze
**Start Date/Time:** Thur 4/20/2017 3:00:00 PM
**End Date/Time:** Thur 4/20/2017 3:45:00 PM
4_20 TX RH SO2 BART briefing.docx

**To:** Dunham, Sarah; Lewis, Josh; Page, Steve; Koerber, Mike; Schmidt, Lorie; Schwab, Justin; Gunasekara, Mandy; Zenick, Elliott; Kornylak, Vera; Coleman, Sam; Stenger, Wren; Wood, Anna; Jones, Rhea; Harvey, Reid
**Cc:** Williams, Odessa; Alston, Lala

**To:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Hogan, Stephanie[Hogan.Stephanie@epa.gov]; Payne, James[payne.james@epa.gov]; Smith, Suzanne[Smith.Suzanne@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]; Vijayan, Abi[Vijayan.Abi@epa.gov]; Tomasovic, Brian[Tomasovic.Brian@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
**From:** Smith, Kristi
**Sent:** Thur 5/25/2017 8:35:45 PM
**Subject:** RE: Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25
Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25 slh + kms.docx

See the highlighted section in the attached.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Schmidt, Lorie
**Sent:** Thursday, May 25, 2017 4:35 PM
**To:** Smith, Kristi <Smith.Kristi@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Tomasovic, Brian <Tomasovic.Brian@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
**Subject:** RE: Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25

Looping in Gautam.

Lorie Schmidt

Associate General Counsel, Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

**From:** Smith, Kristi
**Sent:** Thursday, May 25, 2017 4:27 PM
**To:** Zenick, Elliott <Zenick.Elliott@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Tomasovic, Brian <Tomasovic.Brian@epa.gov>
**Subject:** RE: Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25

Also seems consistent to me. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Zenick, Elliott
**Sent:** Thursday, May 25, 2017 4:21 PM
**To:** Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Tomasovic, Brian <Tomasovic.Brian@epa.gov>
**Subject:** RE: Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25

Looks consistent with our discussion.

**From:** Hogan, Stephanie

**Sent:** Thursday, May 25, 2017 4:16 PM
**To:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>; Tomasovic, Brian <Tomasovic.Brian@epa.gov>
**Subject:** RE: Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25

I just noticed some stray words at the end that I deleted in this version. Otherwise, I don't have any comments.

Stephanie L. Hogan | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3244 | fax: (202) 564-5603

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Schmidt, Lorie
**Sent:** Thursday, May 25, 2017 4:08 PM
**To:** Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Vijayan, Abi <Vijayan.Abi@epa.gov>
**Subject:** Texas Regional Haze SIP Addendum + OGC revised r6cmt 5-25

This is my draft of the revised (largely rewritten) piece based on our discussions.

**Ex. 5 - Deliberative Process, Attorney Client**

# Ex. 5 - Deliberative Process, Attorney Client

Logistically – how do you want to proceed? Who has the pen next?

**To:** Schwab, Justin[schwab.justin@epa.gov]
**Cc:** Payne, James[payne.james@epa.gov]; Olszewski, Joshua[olszewski.joshua@epa.gov]; Smith, Suzanne[Smith.Suzanne@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Wed 8/16/2017 6:55:26 PM
**Subject:** MOA, TX letter, declaration
MOA TCEQ EPA Final 8-14-17.pdf
TX RH_Abbott TCEQ Letter.pdf
Coleman Declaration 8-15-17 final (003) (003).docx

Attached.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|---|---|---|
| NATIONAL PARKS CONSERVATION ASSOCIATION, MONTANA ENVIRONMENTAL INFORMATION CENTER, GRAND CANYON TRUST, SAN JUAN CITIZENS ALLIANCE, OUR CHILDREN'S EARTH FOUNDATION, PLAINS JUSTICE, POWDER RIVER BASIN RESOURCE COUNCIL, SIERRA CLUB, AND ENVIRONMENTAL DEFENSE FUND | ) | CIVIL ACTION NO. 1:11-cv-01548 (ABJ) |
| Plaintiffs, | ) | |
| v. | ) | |
| Scott Pruitt, in his official capacity as Administrator, United States Environmental Protection Agency, | ) | |
| Defendant. | ) | |

I, Samuel J. Coleman, affirm and declare that the following statements are true and correct to the best of my knowledge, information, and belief, under penalty of perjury. These statements are based on my own personal knowledge or on information contained in records of the United States Environmental Protection Agency (EPA), or supplied to me by EPA employees.

1. I am the Acting Regional Administrator of EPA Region 6. I have been employed by EPA since 1989 and I have held this current position since January 2017. As Acting Regional Administrator, I am in charge of the Region 6 office and assure the effective implementation of all EPA programs managed in the Region, including air planning and permitting. I lead a team of career executives in developing strategic objectives and implementation of those strategies to assure protection of human health and the environment in our area of jurisdiction. I oversee all policy areas, and work with the

managers and staff in Region 6 and EPA Headquarters in the furtherance and implementation of policy decisions made by the EPA Administrator. Prior to becoming Acting Regional Administrator of EPA Region 6 in January 2017, I held the position of Deputy Regional Administrator since March 2012, and in this role I supported the Regional Administrator in performing his responsibilities.

## I. EPA Region 6 Organization and Responsibilities

2. EPA Region 6, in partnership with the states and tribal nations listed below, is responsible for the oversight or execution of programs implementing federal environmental laws in the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas and for 66 tribal nations.

3. EPA Region 6 is organized into eight Divisions: the Compliance Assurance and Enforcement Division, the Water Quality Protection Division, the Superfund Division, the Management Division, the Office of Regional Counsel, the Office of External Affairs, the Office of Environmental Justice and Tribal Affairs, and the Multimedia Division.

4. EPA Region 6's Multimedia Division includes the Air Program, which is responsible for implementation of the federal Clean Air Act (CAA). The CAA is structured such that States primarily take the lead in designing and adopting plans which provide for the implementation, maintenance and enforcement of standards set under the CAA. 42 USC § 7410(a). The Air Program is responsible for the review of these state implementation plans (SIPs), including in the areas of Texas Regional Haze and Visibility Transport that are the subject of current Consent Decrees (CDs) in *National Parks Conservation Association v. EPA*, No. 1:11-cv-01548 (D.D.C.) and *Sierra Club*



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*v. Pruitt*, No. 1:10-cv-01541 (D.D.C.), respectively. These CDs require EPA to establish requirements for Texas Regional Haze and Visibility Transport by approving SIPs or issuing Federal Implementation Plans (FIPs) by September 9, 2017.

5. The subject matter of *National Parks Conservation Association v. EPA*, No. 1:11-cv-01548 (D.D.C.) is regional haze. As discussed below, CAA Section 169 applies to regional haze and it establishes as a national goal the prevention of any future, and the remedying of any existing, man-made impairment of visibility in 156 national parks and wilderness areas (known as federal Class I areas). The subject matter of *Sierra Club v. Pruitt*, No. 1:10-cv-01541 (D.D.C.) is interstate visibility transport. As discussed further below, CAA Section 110(a)(2)(D)(i)(II) applies to interstate visibility transport and requires that SIPs contain adequate provisions to prohibit interference with measures required to protect visibility in other states.

## II. <u>Overview of Regional Haze Program Requirements</u>

6. Section 169A of the CAA required EPA to promulgate regulations requiring Regional Haze SIPs for states with air pollution sources that affect visibility in federal Class I areas (i.e., 156 national parks and wilderness areas). This includes emission limits, schedules of compliance and other measures necessary to make reasonable progress toward meeting the national goal. Under this program, states are responsible for adopting measures in a SIP that will ensure that reasonable progress will be made towards remedying existing visibility impairment and preventing any further degradation. Addressing regional haze is an iterative process and states are required to review and revise their regional haze SIPs approximately every ten years.

7. The CAA also required EPA to promulgate regulations that require major stationary



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sources (built between August 7, 1962 and August 7, 1977) that emit any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in federal Class I areas, to procure, install, and operate, as expeditiously as practicable the best available retrofit technology (BART) as determined by the state, or by EPA when promulgating a FIP, for controlling emissions from such source for the purpose of eliminating or reducing any such impairment. For the first regional haze SIP that was due in 2007, states were required to address the requirements for BART that apply to certain categories of existing stationary sources.

8. For BART, states are required to determine whether certain types of industrial sources with the potential to emit 250 tons or more of a visibility impairing air pollutant (oxides of nitrogen [NOx], sulfur dioxide [$SO_2$], or particulate matter [PM]) and built between August 7, 1962 and August 7, 1977 may be reasonably anticipated to impair visibility at Class I areas. For those sources that meet this threshold test, states must then determine appropriate BART controls. That is, the state under a SIP, or in the absence of a SIP, then EPA under a FIP, must determine what technological controls constitute BART controls. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART. See 40 C.F.R. § 51.308(e).

## III. Overview of Interstate Visibility Transport Program Requirements

9. When EPA revises a national ambient air quality standard (NAAQS), section 110(a)(2)(D)(i)(II) of the CAA requires each state to ensure that their SIP contains measures to ensure that emissions from within the state do not interfere with the



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protection of visibility in another state, also known as the Interstate Visibility Transport requirement or the "requirement of section 110(a)(2)(D)(i)(II) with respect to visibility." This requirement dovetails with the regional haze program which requires, among other things, that states and regional planning organizations identify those Class I areas impacted by each states' emissions. In addition, states must address their contribution to visibility impairment in other states in their regional haze SIP. When a state submits a SIP revision addressing the requirements of Section 110(a)(2)(D)(i)(II) with respect to visibility, EPA must ensure that the SIP revision achieves the necessary control of emissions. EPA has provided guidance that states may use their Regional Haze SIP to address Interstate Visibility Transport. Due to the interrelatedness of Regional Haze and Interstate Visibility Transport, EPA frequently acts on both SIPs submitted by the state at the same time.

## IV. EPA Obligations for Texas Regional Haze and Interstate Visibility Transport

10. Under the CD obligations in *National Parks Conservation Association v. EPA*, No. 1:11-cv-01548 (D.D.C.), EPA is required to "sign a notice(s) of final rulemaking promulgating a FIP for Texas to meet the regional haze implementation plan requirements…[or]…sign[] a notice of final rulemaking unconditionally approving a SIP or promulgating a partial FIP and unconditional approval of a portion of a SIP, that collectively meet the regional haze implementation plan requirements that were due by December 17, 2007 under EPA's regional haze regulations." In January 2016, EPA fulfilled certain parts of its obligation and finalized a FIP addressing, among other things, the CAA's reasonable progress requirements for Texas. See Final Texas



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Reasonable Progress FIP, 81 *Fed. Reg.* 295 (January 5, 2016). In that final action, EPA also stated it was deferring action on the State's BART determinations. 81 *Fed. Reg.* 295, at 301-302 (January 5, 2016). The parties to this CD agreed upon an amended CD to address that BART piece for Texas, with a compliance date of September 9, 2017 for EPA to approve a SIP or issue a FIP.

11. Similarly, a separate CD (*Sierra Club v. Pruitt*, No. 1:10-cv-01541 (D.D.C.)) requires EPA to sign for publication in the Federal Register a notice or notices promulgating a FIP, unconditionally approving a SIP, or promulgating a partial FIP and unconditional approval of a partial SIP, collectively satisfying the requirements of CAA Section 110(a)(2)(D)(i)(II) that implementation plans contain adequate provisions prohibiting emissions that will interfere with measures in other states related to the protection of visibility for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. EPA's January 5, 2016 action included disapproval of interstate visibility transport for these and other NAAQS, but did not finalize a FIP to fill the gap left by that disapproval for the same reason EPA deferred action on BART. 81 *Fed. Reg.* 295, at 302. As to obligations for establishing interstate transport for visibility as to Texas, the parties to this CD agreed upon an amended CD that has a compliance date of September 9, 2017 for EPA to approve a SIP or issue a FIP.

12. As a step toward compliance with the two CDs referenced above, EPA, in its January 4, 2017 proposed rulemaking at 82 *Fed. Reg.* 912 (Jan. 4, 2017), proposed a FIP with source-by source controls for both BART and interstate visibility transport, since EPA had not received from Texas an approvable SIP. The proposed FIP included these four areas: 1) $SO_2$ BART for coal-fired electric generating units (EGUs); 2) $SO_2$ BART for



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oil- and gas-fired EGUs; 3) $NO_X$ BART for all EGUs; 4) PM BART for all EGUs.

13. In response to this January 4, 2017 proposed FIP rulemaking on regional haze and interstate visibility transport, EPA received comments from the State, industry and environmental groups. On May 5, 2017, the State of Texas submitted a comment urging EPA to adopt an intrastate trading program for Texas in lieu of source-by-source controls, as this approach would comply with the CAA and promote market efficiency while helping to ensure reliability of the deregulated power generating grid in Texas. Texas indicated that a more flexible trading program would better allow managing power supply and grid reliability in light of its concerns over the potential for shutdowns with little advanced notice. The source-by-source controls in the proposed FIP would require installation of pollution control equipment on certain EGUs, likely at a substantial cost. The planning and lead time to install equipment may be months or years ahead of the actual installation, and certain EGUs could currently be at the stage where they would need to execute this planning. By contrast, an intrastate trading program offers a market-based approach that could lead to a more efficient outcome.

## V. <u>Preferred Approach to Address the Obligations</u>

14. EPA and the State of Texas have now entered into a Memorandum of Agreement (MOA) to provide for Texas to submit a SIP for an intrastate trading program to meet the applicable BART regional haze and interstate visibility transport requirements that are the subject of the two CDs. See Attachment A. Because of the time needed for Texas to develop the SIP requirements, and for EPA to act on a SIP submittal consistent with public notice and comment requirements, the MOA provides for final



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action by EPA by December 31, 2018. This MOA builds on Texas' May 5, 2017 letter submitted to EPA as part of the January 4, 2017 proposed rulemaking, urging consideration of an intrastate trading approach. This letter also builds on the overarching intent of the Clean Air Act to allow States to implement this Act through SIPs in lieu of FIPs. To carry out this SIP approach in lieu of a FIP, EPA would need an extension to the two CDs until December 31, 2018.

15. The commitments in the MOA are an outgrowth of a year of concerted effort between EPA and the State of Texas to develop a SIP approach to outstanding Texas regional haze and interstate visibility transport requirements, including the following key steps:

- on August 11, 2016, EPA met with representatives from industry and environmental groups by videoconference to discuss CAA issues including regional haze;
- on September 13, 2016, EPA met with the Texas Commission on Environmental Quality (TCEQ) and representatives from industry and environmental groups in Dallas, Texas to discuss potential options for addressing regional haze;
- on March 28, 2017, EPA met with TCEQ in Austin, Texas to discuss parameters of a potential SIP;
- EPA extended the comment period for the Regional Haze and Visibility FIP proposal;
- in the Spring of 2017, EPA and TCEQ began to conduct weekly conference calls to examine the State's intrastate trading program concept; and
- in the Summer of 2017, these EPA and TCEQ staff conference calls became

biweekly.

16. Under the MOA, the State has committed to a schedule to address BART regional haze and interstate visibility transport in a SIP. EPA would be able to expedite its review and decision making. The resulting schedule is:

- TCEQ staff proposes a SIP to the TCEQ Commissioners by March 31, 2018;
- EPA proposes action in parallel;
- Texas submits the SIP to EPA by October 31, 2018 and
- EPA finalizes by December 31, 2018.

In particular, the staff of the TCEQ will submit to the TCEQ Commissioners for their consideration a proposed revision to the Texas SIP that would implement and enforce an intrastate trading program to address the regional haze BART requirements for $SO_2$, PM, and NOx, and interstate visibility transport requirements for 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$. The Texas SIP revision would be submitted to EPA, allowing EPA to process the revision in parallel with the State's rulemaking process, including an opportunity for public comment on the plan. Parallel process means that if EPA determines that it will propose approval of the Texas SIP submittal, EPA will begin its public notice-and-comment process concurrent with the State's public notice-and-comment process. EPA has previously utilized this parallel process with submissions from states, including the State of Texas.

17. The schedule and process described above is designed to fulfill the legally required procedural requirements for a state adopting and submitting a SIP and for EPA acting upon the SIP submittal as required by the CAA and EPA SIP regulations. Further it is



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conditioned by the recognition that Texas must submit a SIP that is consistent with the CAA, such that EPA can propose and take action on the submitted SIP.

18. The Governor of the State of Texas, and the Chair of the Texas Commission on Environmental Quality, have provided to the Administrator of EPA an August 14, 2017 letter, which is attached as Attachment B to further show the State of Texas' commitment to establish an approved SIP by end of 2018. The letter provides in part:

    > We are committed to working with your administration to create a state implementation plan (SIP) by the end of next year to implement the best available retrofit technology (BART) requirements of the Regional Haze Rule. And we want to assure you that we will bring the full weight and resources of the State of Texas to bear on this issue. … After extensive consultation between staff members at TCEQ and EPA, we are confident that the BART SIP can be in place by the end of next year.

19. For the past five years, I have served as Acting Regional Administrator or Deputy Regional Administrator. The recent collaborations between TCEQ and EPA Region 6 have been the closest and most productive discussions in the past five years. The discussions are evidenced by the MOA as well as the willingness of both TCEQ and EPA to engage in very detailed discussions between the parties that have the goal of an approvable SIP.

20. For the reasons stated in this Declaration, EPA requests an extension of the CD schedule until December 31, 2018 to allow the State of Texas to develop and submit, and EPA to review and act on, a SIP that will address the outstanding obligations regarding regional haze BART and interstate visibility transport.

**MEMORANDUM OF AGREEMENT**
**BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING A STATE IMPLEMENTATION PLAN TO ADDRESS CERTAIN REGIONAL HAZE AND INTERSTATE VISBILITY TRANSPORT REQUIREMENTS PURSUANT TO SECTIONS 110 AND 169A OF THE CLEAN AIR ACT**

## BACKGROUND

This memorandum of agreement memorializes discussions between staff at the Texas Commission on Environmental Quality ("TCEQ") and the United States Environmental Protection Agency ("EPA"). TCEQ and EPA agree that the regional haze and interstate visibility transport requirements of the Clean Air Act are best met by a state implementation plan ("SIP"), not a federal implementation plan ("FIP"). TCEQ and EPA further agree that this SIP can be and will be implemented quickly and lawfully.

TCEQ and EPA agree that this SIP will meet the best available retrofit technology ("BART") requirements through a new trading program. The foundation of that trading program will be the electric generating units ("EGUs") that the EPA would have subjected to BART in its FIP. *See* 92 Fed. Reg. 921 (Jan. 4, 2017). It is possible that some of these units should not be considered subject to BART, and it is possible that some BART units would be better regulated through source specific requirements. Moreover, some non-BART units may want to opt-in to the trading program. Working closely with EPA, the State through its SIP process will address each of these issues while ensuring that the State's SIP remains consistent with Act's regional haze requirements.

TCEQ and EPA further agree that the allocations to units included in the intrastate trading program should start from the allocations under the Cross-State Air Pollution Rule ("CSAPR"). That is important for the speed of the State's SIP process because it will allow regulators to build on work that EPA already has done. TCEQ and EPA recognize that the CSAPR FIP budget already has been held to be over-control for certain interstate transport requirements. *See EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015). The new trading program will start from the CSAPR unit-level allocations and will preserve flexibility to adjust those allocations where necessary.

EPA and TCEQ further agree to parallel processing of the SIP, which will ensure that the trading program is in place and finalized by the end of next year.

At each step, TCEQ and EPA will work together to determine which units should be included, what the unit level allocations should be, and how the trading program should work. The goal of the parties is that at the end of this process, EPA will be able to determine that Texas has met all outstanding requirements for regional haze under CAA § 169A, including $SO_2$, PM, and

$NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$ national ambient air quality standards (NAAQS). And this process could serve as a model for cooperative federalism under the Clean Air Act.

**NOW, THEREFORE, EPA AND TCEQ AGREE AS FOLLOWS:**

1. The executive director of the TCEQ agrees in the spirit of cooperative federalism to submit to the commission for consideration a proposed revision to its SIP to address the outstanding BART and visibility transport requirements.

    a. The executive director agrees to submit a proposed SIP revision for commission consideration no later than March 31, 2018.
    b. TCEQ agrees to coordinate with the owners and operators of potentially impacted EGUs in the State to develop a SIP.
    c. Upon adoption by the commission, TCEQ agrees to submit to EPA for action a revision to its SIP to address the Regional Haze and interstate visibility transport requirements not later than October 31, 2018.
    d. TCEQ intends for this SIP submittal to incorporate trading program flexibilities, to the extent appropriate.
    e. TCEQ intends to ask EPA to parallel process this SIP submittal.
    f. TCEQ intends for this SIP revision to address requirements for regional haze under CAA § 169A for $SO_2$, PM, and $NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$ NAAQS.

2. EPA agrees to parallel process this SIP submittal and intends to sign a final action on the SIP revision by December 31, 2018.

3. TCEQ and EPA intend to work together to meet the goals of this MOA.

4. This document does not establish binding legal requirements on EPA or TCEQ or any of their officers, employees, other representatives, or any other person. EPA retains all the discretion afforded to it under the CAA and the general principles of administrative law. As required by the Antideficiency Act, 31 U.S.C. § 1341 and 1342, all commitments made by EPA herein are subject to the availability of appropriated funds. Nothing in this document in and of itself obligates EPA to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur other financial obligations. This document does not create any exemption from policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this document will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.



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5. All commitments made by TCEQ in this agreement are subject to Texas law, including but not limited to the Government Code, the Water Code, the Texas Health and Safety Code, and the General Appropriations Act. Nothing in this agreement requires TCEQ to expend funds in violation of Texas law.

6. This MOA may be signed in counterparts.

7. This MOA will terminate upon EPA's final rulemaking action on TCEQ's SIP submittal.

Signed this 14th day of August 2017.

Richard A. Hyde, P.E.
Executive Director
Texas Commission on
Environmental Quality

Samuel Coleman, P.E.
Acting Regional Administrator
United States Environmental
Protection Agency, Region 6

**From:** Carroll, Carly
**Sent:** Fri 10/20/2017 9:27:23 PM
**Subject:** Final Weekly Report 10.13.2017
final Weekly Report 10.20.2017 (2).docx

Good Afternoon,

Please see the attached final version of this week's report.

Best,

Carly Carroll

Special Assistant to the Acting Deputy Administrator

U.S. Environmental Protection Agency

(202) 564-2769

carroll.carly@epa.gov

# Region 1

## Hot Issues

Non-Responsive

**Region 2**

Non-Responsive

Non-Responsive

**Region 3**

Non-Responsive

Non-Responsive

**Region 4**

Non-Responsive

**Region 5**

Non-Responsive

Non-Responsive

Non-Responsive

## Region 6

**Hot Issues:**

Non-Responsive

Non-Responsive

**Texas Regional Haze BART**

On September 29, 2017, the Administrator signed a *Federal Register* notice finalizing a plan to address best available retrofit technology (BART) for Texas regional haze and interstate visibility transport. The notice was published on October 17, 2017. This action was taken to meet a consent decree deadline, and on October 13, 2017, upon direction from the court overseeing the consent decree, the environmental plaintiffs filed a notice stating their position that the EPA's final rule does not comply with the consent decree. EPA's response is due on October 25, 2017.

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*Upcoming Decisions*

Non-Responsive

- **For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan (FIP) Requirements for Texas:** This final rule will provide certainty to the Texas electric generating units (EGUs) whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 29, 2017 that would rely on the Cross-State Air Pollution Rule (CSAPR) as a NOx Best Available Retrofit Technology (BART) alternative for Texas EGUs. The package is with OP for review.

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**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**From:** Bolen, Brittany
**Sent:** Mon 9/18/2017 4:36:50 PM
**Subject:** Re: CSAPR remand/equivalency determination rule?

Thank you, Justin. This will be prepared for signature today.

Sent from my iPad

On Sep 18, 2017, at 12:35 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> Confirmed.
>
> Sent from my iPhone
>
> On Sep 18, 2017, at 12:32 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:
>
> > This is the same rule. Please confirm.
> >
> > Sent from my iPhone
> >
> > Begin forwarded message:
> >
> > **From:** "Owens, Nicole" <Owens.Nicole@epa.gov>
> > **Date:** September 15, 2017 at 6:31:39 PM EDT
> > **To:** "Bolen, Brittany" <bolen.brittany@epa.gov>
> > **Subject: RE: CSAPR remand/equivalency determination rule?**
> >
> > Just to be clear…hopefully we are both talking about this rule…
> >
> > **Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas**
> >
> > **SUMMARY:** The Environmental Protection Agency (EPA) is finalizing withdrawal of the federal implementation plan (FIP) provisions that require affected electricity generating units (EGUs) in Texas to participate in Phase 2 of the Cross-State Air Pollution Rule (CSAPR) trading programs for annual emissions of sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_X$). Withdrawal of the FIP requirements is intended to address a decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanding the CSAPR Phase 2

$SO_2$ budget for Texas to the EPA for reconsideration. With this action, the EPA is also determining that, following withdrawal of the FIP requirements, sources in Texas do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 1997 national ambient air quality standard (NAAQS) for fine particulate matter ($PM_{2.5}$). Accordingly, we are also determining that the EPA has no obligation to issue new FIP requirements for Texas sources to address transported $PM_{2.5}$ pollution under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) with regard to that NAAQS. Finally, the EPA is also affirming the continued validity of the Agency's 2012 determination that participation in CSAPR meets the Regional Haze Rule's criteria for an alternative to the application of source-specific best available retrofit technology (BART). The EPA has determined that changes to CSAPR's geographic scope resulting from the actions EPA has taken or expects to take in response to the D.C. Circuit's remand do not affect the continued validity of participation in CSAPR as a BART alternative, because the changes in geographic scope would not have adversely affected the results of the air quality modeling analysis upon which the EPA based the 2012 determination.

**From:** Owens, Nicole
**Sent:** Friday, September 15, 2017 6:30 PM
**To:** Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** RE: CSAPR remand/equivalency determination rule?

Yes, we just received OEI's review of the PRA section today. OAR made necessary edits and sent us a new version this afternoon.

It is ready to be forwarded to you and Samantha for approval on Monday.

Nicole

**From:** Bolen, Brittany
**Sent:** Friday, September 15, 2017 6:27 PM
**To:** Owens, Nicole <Owens.Nicole@epa.gov>
**Subject:** CSAPR remand/equivalency determination rule?

Hi Nicole – is this rule pending in OP?

Thanks,

Brittany

**Brittany Bolen**

Deputy Associate Administrator, Office of Policy

U.S. Environmental Protection Agency

(202) 564-3291

Bolen.Brittany@epa.gov

ED_001237D_00002814

DELIBERATIVE, NOT FOR RELEASE, ATTORNEY WORK PRODUCT

**Wednesday REPORT – Wednesday, August 30, 2017**
CALENDAR FORECAST – 08/30/17 – 09/15/17

| Date | Office | Description of Matter and Item Due |
|---|---|---|

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| 09/09 | ARLO | Consent Decree<br><br>***National Parks Conservation Association, et al. v. EPA***, No. 1:11-cv-01548 (D.D.C)<br><br>Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) |



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| | | |
|---|---|---|
| | | **Upcoming Deadline:** EPA to take action on **September 9**.<br><br>**Attorneys:** Matthew Marks & Lea Anderson |
| [illegible] | [illegible] | [illegible] |
| 09/11 | ARLO | Reply in support of Petition for Mandamus |

Non-Responsive



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ED_001237D_00002814

**To:** Schwab, Justin[schwab.justin@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Wed 8/16/2017 9:19:10 AM
**Subject:** Re: TX- timing update

**Ex. 5 - Attorney Client and Attorney Work Product**

++++++++++++
202-564-5647 (o)
202-695-6287 (c)

On Aug 15, 2017, at 10:19 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

**Ex. 5 - Attorney Client and Attorney Work Product**

Sent from my iPhone

On Aug 15, 2017, at 9:55 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

Glad you and Jim caught up on the pros and cons. **Ex. 5 - Attorney Client and Attorney Work Product**

**Ex. 5 - Attorney Client and Attorney Work Product**

If I can offer a personal view, we no need to read further. I do scratch my head over the

**Ex. 5 - Attorney Client and Attorney Work Product**

++++++++++++
202-564-5647 (o)
**Ex. 6 - Personal Privacy**

Begin forwarded message:

**From:** "Payne, James" <payne.james@epa.gov>
**Date:** August 15, 2017 at 8:06:52 PM EDT
**To:** "Schwab, Justin" <schwab.justin@epa.gov>, "Coleman, Sam" <Coleman.Sam@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Smith, Suzanne" <Smith.Suzanne@epa.gov>

**Subject: RE: TX- timing update**

Update for all is that Justin and I spoke briefly:

As to comments on MOTION – OGC and ORC have a call on this scheduled for early tomorrow am.

**Ex. 5 - Attorney Client and Attorney Work Product**

Jim

214-665-8170

**Ex. 6 - Personal Privacy**

**Ex. 5 - Attorney Client and Attorney Work Product**

**Ex. 5 - Attorney Client and Attorney Work Product**

**From:** Schwab, Justin
**Sent:** Tuesday, August 15, 2017 4:51 PM
**To:** Payne, James <payne.james@epa.gov>
**Cc:** Coleman, Sam <Coleman.Sam@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>
**Subject:** Re: TX- timing update

Thank you, Jim.

I have no comments on the declaration (which I saw and commented on in substantially similar form Friday evening).

As for the motion, Ex. 5 - Attorney Client and Attorney Work Product Ex. 5 - Attorney Client and Attorney Work Product I would be willing to try my hand at providing this if that is appropriate, but if others want to try first, here are the general notes.

(I sent Gautam some bullets late last week which may be useful here.)

Ex. 5 - Attorney Client and Attorney Work Product

**Ex. 5 - Attorney Client and Attorney Work Product**

Something along those lines (obviously, this is very rough).

Sent from my iPhone

On Aug 15, 2017, at 5:20 PM, Payne, James <payne.james@epa.gov> wrote:

Resending and adding Sam.

Attached for review is DOJ's draft motion (i.e., memo in support) and order.

Also attaching final declaration, which has only minor tweaks as compared to the one attached to my email a few minutes ago. This declaration is being sent to Sam separately for final sign-off and faxing back to us.

Jim

214-665-8170

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**To:** Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan,

Gautam <Srinivasan.Gautam@epa.gov>
**Subject:** RE: TX- timing update

Justin – yes, we just rec'd for review DOJ's draft motion and order, attached. Jim 214-665-8170, Ex. 6 - Personal Privacy

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**From:** Bolen, Brittany
**Sent:** Mon 9/18/2017 4:32:04 PM
**Subject:** Fwd: CSAPR remand/equivalency determination rule?

This is the same rule. Please confirm.

Sent from my iPhone

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**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing withdrawal of the federal implementation plan (FIP) provisions that require affected electricity generating units (EGUs) in Texas to participate in Phase 2 of the Cross-State Air Pollution Rule (CSAPR) trading programs for annual emissions of sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_X$). Withdrawal of the FIP requirements is intended to address a decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanding the CSAPR Phase 2 $SO_2$ budget for Texas to the EPA for reconsideration. With this action, the EPA is also determining that, following withdrawal of the FIP requirements, sources in Texas do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 1997 national ambient air quality standard (NAAQS) for fine particulate matter ($PM_{2.5}$). Accordingly, we are also determining that the EPA has no obligation to issue new FIP requirements for Texas sources to address transported $PM_{2.5}$ pollution under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) with regard to that NAAQS. Finally, the EPA is also affirming the continued validity of the Agency's 2012 determination that participation in CSAPR meets the Regional Haze Rule's criteria for an alternative to the application of source-specific best available retrofit technology (BART). The EPA has determined that changes to CSAPR's geographic scope resulting from the actions EPA has taken or expects to take in response to the D.C. Circuit's remand do not affect the continued validity of participation in CSAPR as a BART alternative, because the changes in geographic scope would not have adversely affected the results of the air quality modeling analysis upon which the EPA based the 2012 determination.

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**Brittany Bolen**

Deputy Associate Administrator, Office of Policy

U.S. Environmental Protection Agency

(202) 564-3291

Bolen.Brittany@epa.gov

**To:** Schwab, Justin[schwab.justin@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Wed 8/16/2017 1:55:31 AM
**Subject:** Fwd: TX- timing update

Ex. 5 - Attorney Client and Attorney Work Product

Glad you and Jim caught up on the pros and cons. Ex. 5 - Attorney Client and Attorney Work Product

Ex. 5 - Attorney Client and Attorney Work Product

**Ex. 5 - Attorney Client and Attorney Work Product**

No need to follow up or call (I'm off to bed soon anyway).

++++++++++++
202-564-5647 (o)
Ex. 6 - Personal Privacy

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**Date:** August 15, 2017 at 8:06:52 PM EDT
**To:** "Schwab, Justin" <schwab.justin@epa.gov>, "Coleman, Sam" <Coleman.Sam@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Smith, Suzanne" <Smith.Suzanne@epa.gov>
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214-665-8170

Ex. 6 - Personal Privacy

Ex. 5 - Attorney Client and Attorney Work Product

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**From:** Payne, James
**Sent:** Wed 8/16/2017 12:06:52 AM
**Subject:** RE: TX- timing update

Update for all is that Justin and I spoke briefly:

As to comments on MOTION – OGC and ORC have a call on this scheduled for early tomorrow am.

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Jim

214-665-8170

**Ex. 6 - Personal Privacy**

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**Cc:** Schwab, Justin[schwab.justin@epa.gov]; Payne, James[payne.james@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Smith, Suzanne[Smith.Suzanne@epa.gov]
**From:** Coleman, Sam
**Sent:** Tue 8/15/2017 10:11:52 PM
**Subject:** Re: TX- timing update

Thanks

Samuel Coleman, P. E.,
Deputy Regional Administrator

214.665.2100 Ofc
214.665. 3110 Desk
214.665.2016 Cell

Coleman.sam@epa.gov

Sent from my iPhone

On Aug 15, 2017, at 4:58 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

See attached.

**From:** Schwab, Justin
**Sent:** Tuesday, August 15, 2017 5:57 PM
**To:** Payne, James <payne.james@epa.gov>
**Cc:** Coleman, Sam <Coleman.Sam@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>
**Subject:** Re: TX- timing update

**Ex. 5 - Attorney Client and Attorney Work Product**

Sent from my iPhone

On Aug 15, 2017, at 5:50 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Thank you, Jim.

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**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

**Subject:** RE: TX- timing update

Justin – yes, we just rec'd for review DOJ's draft motion and order, attached. Jim 214-665-8170, Ex. 6 - Personal Privacy

**From:** Schwab, Justin
**Sent:** Tuesday, August 15, 2017 3:46 PM
**To:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
**Cc:** Payne, James <payne.james@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Subject:** Re: TX- timing update

Do we anticipate seeing the draft motion (a/o revised declaration) from DOJ this evening?

Sent from my iPhone

On Aug 15, 2017, at 12:49 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Copying Mandy for her awareness.

Sent from my iPhone

On Aug 15, 2017, at 12:35 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

**Ex. 5 - Attorney Client and Attorney Work Product**

Folks are working hard to get on file as soon as we can.

++++++++++++

202-564-5647 (o)

Ex. 6 - Personal Privacy

<ENV_DEFENSE-#816705-v1-npca_order_re_motion_amend.docx>

<ENV_DEFENSE-#816351-v1-npca_memo_for_extension_8-114.docx>

<Coleman Declaration 8-15-17.docx>

<TX RH_Abbott TCEQ Letter.pdf>

**To:** Schwab, Justin[schwab.justin@epa.gov]; Payne, James[payne.james@epa.gov]
**Cc:** Coleman, Sam[Coleman.Sam@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Smith, Suzanne[Smith.Suzanne@epa.gov]
**From:** Gunasekara, Mandy
**Sent:** Tue 8/15/2017 9:58:40 PM
**Subject:** RE: TX- timing update
TX RH_Abbott TCEQ Letter.pdf

See attached.

**From:** Schwab, Justin
**Sent:** Tuesday, August 15, 2017 5:57 PM
**To:** Payne, James <payne.james@epa.gov>
**Cc:** Coleman, Sam <Coleman.Sam@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>
**Subject:** Re: TX- timing update

**Ex. 5 - Attorney Client and Attorney Work Product**

Sent from my iPhone

On Aug 15, 2017, at 5:50 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

Thank you, Jim.

I have no comments on the declaration (which I saw and commented on in substantially similar form Friday evening).

As for the motion, this is a good start, **Ex. 5 - Attorney Client and Attorney Work Product**

**Ex. 5 - Attorney Client and Attorney Work Product**

(I sent Gautam some bullets late last week which may be useful here.)

**Ex. 5 - Attorney Client and Attorney Work Product**

Something along those lines (obviously, this is very rough).

Sent from my iPhone

On Aug 15, 2017, at 5:20 PM, Payne, James <payne.james@epa.gov> wrote:

Resending and adding Sam.

Attached for review is DOJ's draft motion (i.e., memo in support) and order.

Also attaching final declaration, which has only minor tweaks as compared to the one attached to my email a few minutes ago. This declaration is being sent to Sam separately for final sign-off and faxing back to us.

Jim

214-665-8170

214-490-6707 cell

**From:** Payne, James
**Sent:** Tuesday, August 15, 2017 4:06 PM
**To:** Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
**Subject:** RE: TX- timing update

Justin – yes, we just rec'd for review DOJ's draft motion and order, attached. Jim 214-665-8170, 214-490-6707 cell

**From:** Schwab, Justin
**Sent:** Tuesday, August 15, 2017 3:46 PM
**To:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
**Cc:** Payne, James <payne.james@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Subject:** Re: TX- timing update

Do we anticipate seeing the draft motion (a/o revised declaration) from DOJ this evening?

Sent from my iPhone

On Aug 15, 2017, at 12:49 PM, Schwab, Justin <schwab.justin@epa.gov> wrote:

> Copying Mandy for her awareness.
>
> Sent from my iPhone
>
> On Aug 15, 2017, at 12:35 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

**Ex. 5 - Attorney Client and Attorney Work Product**

Folks are working hard to get on file as soon as we can.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

<ENV_DEFENSE-#816705-v1-npca_order_re_motion_amend.docx>

<ENV_DEFENSE-#816351-v1-npca_memo_for_extension_8-114.docx>

<Coleman Declaration 8-15-17.docx>

**To:** Schwab, Justin[schwab.justin@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Tue 8/29/2017 9:57:03 PM
**Subject:** RE: OGC Concurrence with Texas SO2 Remand Rule

Thanks for the quick response.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

**From:** Schwab, Justin
**Sent:** Tuesday, August 29, 2017 5:46 PM
**To:** Hogan, Stephanie <Hogan.Stephanie@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>
**Subject:** RE: OGC Concurrence with Texas SO2 Remand Rule

**Ex. 5 - Attorney Client and Attorney Work Product**

I will pass this on to the third floor for their awareness as well.

Thank you.

**From:** Hogan, Stephanie
**Sent:** Tuesday, August 29, 2017 4:24 PM
**To:** Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Zenick, Elliott

<Zenick.Elliott@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Schramm, Daniel <Schramm.Daniel@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>
**Subject:** OGC Concurrence with Texas SO2 Remand Rule
**Importance:** High

Justin,

We want to alert you to the next steps for what we refer to as the Texas SO2 Remand Rule,

Ex. 5 - Attorney Client and Attorney Work Product

Thanks,

Stephanie

Summary of 2 elements of the Texas SO2 Remand Rule:

1) The rule responds to the D.C. Circuit's remand of Texas's CSAPR SO2 budget, based on the court's conclusion that the budget may over-control emissions in Texas because the downwind air quality problems to which Texas is linked may be resolved at a lower cost threshold. (The SO2 budget was promulgated, together with an annual NOx budget, to address the Good Neighbor Provision requirements for the 1997 PM2.5 NAAQS.) Upon reviewing the record on remand, EPA determined that the 1997 PM2.5 air quality problems to which Texas had been linked would be fully resolved by phase 2 of CSAPR. Accordingly, EPA proposed to find that Texas no longer had a good neighbor obligation with respect to the 1997 PM2.5 NAAQS beginning in phase 2 (2017) and therefore proposed to remove Texas from both the SO2 and annual NOx trading programs. This rule would finalize these determinations and remove the FIPs subjecting EGUs in Texas to those trading programs. (Note, this rulemaking does not affect Texas's participation in the ozone-season NOx program, which was most recently addressed in the 2016 CSAPR Update for the 2008 ozone NAAQS.)

2) The rule also finalizes a sensitivity analysis intended to show that, even without Texas's participation in the SO2 and annual NOx programs, the analysis supporting the CSAPR Better than BART rule is still valid. **Ex. 5 - Attorney Client and Attorney Work Product**

**Ex. 5 - Attorney Client and Attorney Work Product**

Stephanie L. Hogan | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3244 | fax: (202) 564-5603

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**To:** Dravis, Samantha[dravis.samantha@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
**From:** Bolen, Brittany
**Sent:** Fri 9/15/2017 10:56:07 PM
**Subject:** RE: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Yes already sent Nicole an email and she said we just got it from OAR today and will have it teed up for signature on Monday!

**From:** Dravis, Samantha
**Sent:** Friday, September 15, 2017 6:44 PM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

I swear I said move it forward! Brittany can you handle

Sent from my iPhone

On Sep 15, 2017, at 4:56 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> I am hearing this is still in OP - please let me know if you need more info or if I can help in any other way.
>
> We need this signed for the reasons described below.
>
> Sent from my iPhone
>
> On Sep 13, 2017, at 8:04 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:
>
> > No problem – just wanted to check in light of the implication for other matters. Thank you very much for looking into it!!
> >
> > **From:** Dravis, Samantha
> > **Sent:** Wednesday, September 13, 2017 8:00 AM

**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Justin, this is in OP and it will be moved forward this morning. Sorry about that

Sent from my iPhone

On Sep 13, 2017, at 7:03 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

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>
> **From:** Dravis, Samantha
> **Sent:** Wednesday, September 13, 2017 7:03 AM
> **To:** Schwab, Justin <Schwab.Justin@epa.gov>
> **Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
> **Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?
>
> Will check this AM.
>
> Sent from my iPhone
>
> On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:
>
>> I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.
>>
>> Sent from my iPhone
>>
>> On Sep 12, 2017, at 8:51 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Haven't seen this in OP- let me know what I can do?

Sent from my iPhone

On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Re-upping – any word on this package?

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 6:06 PM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Dravis, Samantha
**Sent:** Fri 9/15/2017 10:44:15 PM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

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>> **Sent:** Wednesday, September 13, 2017 8:00 AM
>> **To:** Schwab, Justin <Schwab.Justin@epa.gov>
>> **Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
>> **Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?
>>
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**Sent:** Wednesday, September 13, 2017 7:03 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Will check this AM.

Sent from my iPhone

On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.
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> Sent from my iPhone
>
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> > > **From:** Schwab, Justin
> > > **Sent:** Monday, September 11, 2017 6:06 PM
> > > **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> > > **Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen,

Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package.
Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Albores, Richard[Albores.Richard@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]
**From:** Mills, Derek
**Sent:** Fri 9/15/2017 10:21:09 PM
**Subject:** Litigation Deadlines Chart
One Docket report 9-14-17 (with attorney names).pdf
One Docket report 9-14-17.pdf

Attached are two charts of OGC's upcoming litigation deadlines (from the One Docket database) until November 17. One chart includes attorney names, and the other does not.

**Derek Mills**

Special Assistant, Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-3341

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OGC Litigation Deadlines - September 14, 2017

| Due Date | Case Name | Court | Case # | Law Office | Attorney | Deadline Type | Action or Inaction Challenged |
|---|---|---|---|---|---|---|---|
| 9/15/2017 | State of Wisconsin, et al. v. EPA | DC Cir. | 16-1406 | ARLO | Daniel Schramm | EPA's Response to Cedar Falls Utilities Motion to Stay CSAPR Update | petition for review of EPA's Final Rule titled "Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS" 81 Fed. Reg. 74,504 (October 26, 2016) |
| 9/15/2017 | Sierra Club v. EPA | N.D. CA | 4:09-cv-152 | ARLO | Jonathan Averback | Proposed RTR for Portland Cement Manufacturing Industry | mandatory duty lawsuit concerning EPA's obligations to revise and revise section 112(d) emission standards pursuant to Clean Air Act section 112(d)(6) and 112(f)(2) |
| 9/15/2017 | Alon Refining Krotz Springs, Inc., et al. v. EPA | DC Cir. | 16-1052 | ARLO | Roland Dubois | Status Report | petition for review of EPA's order entitled EPA, R egulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 9/15/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Case management conference | Challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 9/15/2017 | Sierra Club, et al. v. EPA | DC Cir. | 16-1097 | ARLO | Susmita Dubey | Oral argument | petition for review of EPA's final action agency e ntitled "Transportation Conformity Guidance for Quantitative Hot-spot Analyses in PM2.5 and PM10 Nonattainment and Maintenance Areas" (US EPA, EPA-420-B-15-084, November 2015) |
| 9/15/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Zach Pilchen | Stay Expires | alleged 5th Amendment taking arisi ng from CWA 404(c) veto |
| 9/16/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Eaton Weiler | Status Report | challenge to EPA's revisions to the NSR "reaso nable possibility" recordkeeping requirement |
| 9/16/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Paul Versace | Status Reports | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Cotnmercial- Institutional, and Small Industrial-Conmmercial-Institutional Steam Generating Units," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/17/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 17-1085 | ARLO | Jonathan Averback | Petitioners' Status Report | petition for review of the Risk Manag ement Plan or RMP rule |
| 9/18/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 12-1405, consolidated , bifurcated (NESHAP) | ARLO | Amy Branning | Motion to govern further proceedings | petition for review of EPA's final action titled "Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews" 77 Fed. Reg. 49,490 (Aug. 16, 2012); bifurcated NESHAP case |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 9/18/2017 | National Family Farm Coalition, et al. v. EPA | 9th Cir. | 17-70196 | PTSLO | Benjamin Wakefield | EPA's Reply to Petitioners' Response to EPA's 07/24/17 Amended Proposed Protective Order | Registration of pesticide "XtendiMax with VaporGrip Technology" (dicamba active ingredient) for use on GE cotton and soybean in 34 states |
| 9/18/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Emily Seidman | Joint Status Report | petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 9/18/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | EPA appellate reply brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 9/18/2017 | Truck Trailer Manufacturers Association v. EPA | DC Cir. | 16-1430 | ARLO | Mark Kataoka | Motions to Govern | Petition for review of EPA's final rule "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2" 81 FR 73478 (Oct. 25, 2016) |
| 9/18/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Administrative record | Challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 9/19/2017 | American Petroleum Institute (API); Clean Air Council; more... v. EPA | DC Cir. | 13-1108 | ARLO | Amy Branning | Status Report | Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidatedwith challenge to 2013 NSPS amendmnet) |
| 9/19/2017 | sierra club, et al. v. EPA | D.C. Cir. | 06-1330, 06-1333, 07-1200 | ARLO | Mike Thrift | Status Report | challenge to final rule for the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities |
| 9/19/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Joint Status Report and Discovery Plan | Navy discharges of underwater ship husbandry without NPDES permit |
| 9/19/2017 | Sierra Club, et al. v. EPA | DC Cir. | 16-1021 | ARLO | Susmita Dubey | Oral Argument | petition for review of EPA's final action titled " National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters." at 80 Fed. Reg. 72,790 (Nov. 20, 2015) |
| 9/20/2017 | Energy & Environment Legal Insitute v. EPA | D. D.C. | 17-909 | GLO | Alan Margolis | Energy & Environment Legal Insitute v. EPA | Failure to respond. FOIA case. |
| 9/20/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | John Krallman | Status Report | petition for review of EPA's final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 9/20/2017 | Hunton & Williams v. EPA et al. | District of Columbia | 1:15-cv-1203 | GLO | Lynn Kelly | In Camera Review of Selected Documents | FOIA litigation EPA Region 9's response to multiple requests for records regarding AJD under the CWA for Redwood City Saltworks site. |



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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 9/20/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467 17-71950 | PTSLO | Scott Garrison | Petitioners must either move for voluntary withdrawal of the petition or show cause why it should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 9/22/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 08-1014 | ARLO | Amy Branning | Status Report | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |
| 9/22/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Andrea Carrillo | Motion to Govern | Petition for review of the Air Quality Designat ions for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 9/22/2017 | Center for Biological Diversity v. EPA | DC Cir. | 16-1351 | PTSLO | Bethany Fisher | Motion to govern further proceedings | EPA's final registration decision of the new active ingredient halauxifen-methyl, Docket # EPA-HQ-OPP-2012 - 09019-0024 |
| 9/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 9/22/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 9/22/2017 | State of Texas, et al. v. EPA | D.C. Cir. | 17-1021 | ARLO | Matthew Marks | Motions to govern | Petition for review of EPA's final rule titled "Protection of Visibility: Amendments to Requirements for State Plans," 82 Fed. Reg. 3078 (Jan. 10, 2017) |
| 9/22/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | Peter Ford | EPA reply brief in support of MTD | District court challenge to EPA's denial of petitions to designate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 9/22/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | Thomas Glazer | ANSWER | Approval of Ohio's 2016 303(d) list |
| 9/23/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Paul Versace | Status report | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Cotnmercial- Institutional, and Small Industrial-Conmmercial-Institutional Steam Generating Units," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/23/2017 | Center for Regulatory Reasonableness v. EPA | DC Cir. | 16-1246 | WLO | Peter Ford | Motion to govern further proceedings | Petition for Review of EPA's actions in issuing a permit for small MS4s in Massachusetts |



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| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 9/23/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Corrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |
| 9/23/2017 | Sierra Club, et al. v. EPA | W.D. Wash. | 11-cv-01759 | WLO | Stephen Sweeney | Status Report | Failure to perform mandatory duty to approve or disapprove and establish TMDL for PCBs for Spokane River |
| 9/25/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Daniel Schramm | Answer | failure to grant or deny a petition to object to a propos ed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylkill County, Pennsylvania |
| 9/25/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | David Berol | Answer/Motion to Dismiss due per court order | Denial of a TSCA Section 21 Petition |
| 9/25/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | Joint appendix | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 9/25/2017 | Conservation Law Foundation v. EPA | 1st Cir. | 17-1130 | WLO | Peter Ford | Motion to govern further proceedings | Final General Permit for Small MS4s in New Hampshire |
| 9/25/2017 | Center for Regulatory Reasonableness v. US EPA | DC Cir. | 17-1060 | WLO | Peter Ford | Motion to govern further proceedings | Petition for Review of NPDES general permits issued for small MS4s in NH |
| 9/25/2017 | National Association of Homebuilders, et al. v. EPA | DC Cir. | 17-1138 | WLO | Peter Ford | Motion to govern further proceedings | EPA's 2017 general permit for small MS4s in NH |
| 9/25/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Susan Stahle | Status reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |
| 9/26/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Angela Huskey | Any request to continue the stay of remedy briefing | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA. EPA won on the FIFRA challenges. Judge found EPA failed to consult and violated the ESA. Currently in Mediation as part of the remedy phase. If Mediation does not result in agreement, rememdy briefing will begin. |
| 9/26/2017 | State of Utah, et al. v. EPA | 10th Cir. | 16-9541 | ARLO | Nora Greenglass | EPA Merits Brief | petition for review of EPA's final rule entitle d "Approval, Disapproval and Promulgation of Air Quality Implementation Plans; Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Federal Implementation Plan; Utah; Revisions to Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze" at 81 Fed. Reg. 43,894-01 (July 5, 2016) |
| 9/26/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Scott Jordan | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standar ds of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units." At 80 Fed. Reg. 64510 (October 23, 2015) |



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| 9/27/2017 | William A. Masters v. EPA | CD CA | 2:17cv5532 | ARLO | Elliott Zenick | Motion to Dismiss | CONSTRUCTIVE FRAUD regarding the use of the words Climate Change and Greenhouse Gases |
| 9/27/2017 | Robert Ukeiley v. EPA | 10th Cir. | 16-9556 | ARLO | Jonathan Skinner-Thompson | Oral argument | petition for review of EPA's final action entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Second Ten-Year PM10 Maintenance Plan for Lamar" at 81 Fed. Reg. 63104 (September 14, 2016) |
| 9/27/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Mark Dyner | Petitioners' response to EPA's motion to dismiss | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |
| 9/28/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Scott Albright | Appellant (Hall) brief | Adequacy of the search. FOIA case . |
| 9/28/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Rule 26(f) conference | Navy discharges of underwater ship husbandry without NPDES permit |
| 9/28/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Zach Pilchen | Intervenors' brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 9/29/2017 | NRDC v. EPA | S.D. NY | 17-cv-5928 | GLO | Casey Pickell | Answer | FOIA - Failure to produce records |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Derek Mills | CD Deadline | Deadline suit for failure to submit and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapprove in part an oustanding SIP submittal for Pennsylvania for RACT |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Derek Mills | CD Deadline | Deadline suit for failure to submit and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapprove in part an oustanding SIP submittal for Los Angeles-San Bernardino Counties (West Mojave Desert); CA (Antelope Valley portion) for RACT |
| 9/29/2017 | Shenandoah Riverkeeper, et al. v. EPA | D. DC | 1:17-cv-01023 | WLO | Thomas Glazer | ADMIN RECORD | Approval of Virginia's 2014 Section 303(d) List |
| 9/29/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. of WV | 2:16-cv-11111 | WLO | Thomas Glazer | PLAINTFF'S MOTION FOR SUMMARY JUDGMENT | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |



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| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Lea Anderson | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs |
| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Roland Dubois | Status Report | petition for review of EPA's rule entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligation) |
| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | Melina Williams | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enforcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |
| 10/2/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Procedural Motions | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 10/2/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467<br>17-71950 | PTSLO | Scott Garrison | EPA's response to petitioners brief (if any) showing cause why the petition should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 10/3/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Matthew Marks | Status Report | Petition for review of EPA's final action titled " Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Howard Hoffman | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's Gallatin Fossil Plant |



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| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | Any procedural motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | David Berol | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Kaytrue Ting | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1-year extension of attainment date for multi-state nonattainment area. |
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Lea Anderson | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Initial disclosures | Navy discharges of underwater ship husbandry without NPDES permit |
| 10/6/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Charles Starrs | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Baytown Refinery in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Charles Starrs | Answer | failure to timely grant or deny a petition to object to Part 70 Operating Permit issued to the to the Pasadena Refining System Inc. authorizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Charles Starrs | Answer | for failure to grant or deny a petition to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |



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| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County, Texas |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Lynn Kelly | Reply to Oppo | This Freedom of Information Act ("FOIA") lawsuit pertains to a failure to respond to a FOIA request for certain records relating to the use and approval of a messaging application called "Signal" from July 2014 to the present. |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Angela Huskey | Plaintiffs Opening Remedy Brief | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA |
| 10/9/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Melina Williams | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | David Berol | Status Report | Petition for Review of EPA's final rule entitled "Performance Specification 18 - Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fed. Reg. 38,628 July 7, 2015 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Melina Williams | Status Report | Petition for review of EPA's final action titled " National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidated) | WLO | Peter Ford | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | James Curtin | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Jonathan Skinner-Thompson | Certified Index | petition for review Wyoming Ozone Transport SIP |



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| 10/13/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16-cv-05492-DMR | ARLO | Jonathan Skinner-Thompson | Hearing | 1) Failure to issue findings of failure to submit for PM 2.5 increments for 3 areas; 2) Failure to take final action on PM2.5 SIP submittals for 4 areas; 3) Failure to issue findings of failure to submit for 2012 PM2.5 Good Neighbor provision for 18 states; 4) Failure to take final action on 2012 PM2.5 Good Neighbor provision submittal for 1 state; 5) Failure to determine attainment for 12 areas; and 6) Failure to issue 1997 and 2006 PM2.5 iFIP for 1 state. |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | United States serves its expert reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Jonathan Skinner-Thompson | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | James Curtin | EPA answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocations to James River dischargers |
| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | John Krallman | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny petition seeking an objection to Proposed Title V Permit for the operation of PacifiCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Answer | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Matthew Marks | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. Reg. 51,915 (August 28, 2012) |
| 10/16/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 10/17/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Deferred Appendix | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Karen Bianco | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Laurel Celeste | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated into this case |



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| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | Paul Versace | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial- Commercial-Institutional, and Small Industrial-Commercial- Institutional Steam Generating Units," published at 77 Fed. Reg. 9304 (Feb. 16,2012) |
| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Paul Versace | Status Report | severance of issues from 12-1166 (peti tion for revie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Andrea Carrillo | Status Reports | petition for review of EPA's final action entitle d "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | James Curtin | Status Report | EPA TMDL for Goose Creek |
| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |
| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | Any dispositive motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Stephen Sweeney | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management statement | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |



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| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Geoffrey Wilcox | Status Report | petition for review of EPA's final rule entitled " State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Roland Dubois | Status Reports | petition for review of EPA's final rule entitled, 'Regulation of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Zach Pilchen | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 10/22/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Geoffrey Wilcox | Alabama Power Company | petition for review of EPA's final rule en titled "State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Abi Vijayan | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |
| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Final Briefs | petition for review of EPA's final action titled "T reatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Karen Bianco | Status report | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |
| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Diane McConkey | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |



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| 10/26/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Scott Jordan | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standa rds of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |
| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 176A |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Emily Seidman | Status Report | Petition for review of EPA's final rule entitled " National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | EPA Brief | petition for review of the Regional Consistency Regs |
| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | Lynn Kelly | JOINT SCHEDULE | Improper Request, Failure to Respond . FOIA case. |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Rick Vetter | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing minor oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards. |
| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Scott Albright | EPA brief | Adequacy of the search. FOIA case. |
| 10/31/2017 | Northwest Environmental Advocates v. EPA | W.D. WA | 2:16-cv-01866 | WLO | Alexis Wade | Hearing | Claims of unreasonable delay in taking fin al action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Mark Dyner | EPA's reply brief | Challenge to March 29, 2017 ord er denying PANNA/NRDC FFDCA petition |
| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |



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| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Paul Versace | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Geoffrey Wilcox | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainmcnt areas state implementation plans |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 11-1309 | ARLO | Rick Vetter | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Sara HertzWu | Status Report | Petition for review of final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |
| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Sara HertzWu | Status report | Challenge to treatment of fugitive emissions in the 2002 NSR reform rule |
| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | David Berol | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |
| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Sheila Igoe | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal combustion engines |



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| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | Stephen Sweeney | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperature on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Rick Vetter | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,068 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Daniel Conrad | Status Report | petition for review of EPA's rule entitled "Standards of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Response Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Heidi Nalven | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Mike Thrift | Status Reports | Petitions for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | Ryland Li | EPA Answer/Motion to Dismiss | for EPA's noncompliance with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS |
| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Scott Jordan | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition seeking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Scott Jordan | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Winifred Okoye | Status Reports | petition for review of EPA's grant of authorization for California's in-use nonroad engine standards |
| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Melina Williams | Status Report | challenge to endangerment finding for GHG from air craft |



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| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Andrea Carrillo | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016). |
| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Jan Tierney | Status Reports | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Lynn Kelly | Reply to Oppo | This lawsuit alleges that EPA has failed to respond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communicate about agency business, as well as EPA efforts to retrieve, recover, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Zach Pilchen | Answer | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of WV | 2:16-cv-11111 | WLO | Thomas Glazer | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | David Orlin | Status Reports | Petition for review of final regulation concerning emission durability procedures for vehicles, and trucks |
| 11/11/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 08-1277 | ARLO | Derek Mills | Status Reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | Scott Albright | EPA document production | Failure to respond. FOIA case. |



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| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | Thomas Glazer | ANSWER | Alleged inaction on New York State's submission of primary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Eaton Weiler | Status Report | challenge to EPA's revisions to the NSR "reas onable possibility" recordkeeping requirement |
| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | Michele Knorr | EPA and Intervenors' Moti ons to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultation under ESA/failure to reinitiate consulations re: 1989/1993 ESA consultations. This case has been remanded from an appeal of this case. Third amended complaint filed. 2200+ actions (pesticide product actions) alleged in the failure to consult claims on 35 activie ingredients. Arguments for MTD are currently being developed. |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | Thomas Glazer | STAY EXPIRES | Challenge to EPA Administrative Order for Complianc e, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |
| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Nora Greenglass | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EPA's final rule entitled "Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64,510 (October 23, 2015) |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Emily Seidman | Joint Status Report | petition for review of EPA's "National Emiss ion Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | James Curtin | Status Report | EPA approval of Vermont's Moon Broo k TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Matthew Schwarz | Right to Know v. EPA | FOIA: Failure to Respond |



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OGC Litigation Deadlines - September 14, 2017

| Due Date | Case Name | Court | Case # | Law Office | Deadline Type | Action or Inaction Challenged |
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| 9/15/2017 | State of Wisconsin, et al. v. EPA | DC Cir. | 16-1406 | ARLO | EPA's Response to Cedar Falls Utilities Motion to Stay CSAPR Update | petition for review of EPA's Final Rule titled "Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS" 81 Fed. Reg. 74,504 (October 26, 2016) |
| 9/15/2017 | Sierra Club v. EPA | N.D. CA | 4:09-cv-152 | ARLO | Proposed RTR for Portland Cement Manufacturing Industry | mandatory duty lawsuit concerning EPA's obligations to revise a nd revise section 112(d) emission standards pursuant to Clean Air Act section 112(d)(6) and 112(f)(2) |
| 9/15/2017 | Alon Refining Krotz Springs, Inc., et al. v. EPA | DC Cir. | 16-1052 | ARLO | Status Report | petition for review of EPA's ord er entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 9/15/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Case management conference | Challenge to EPA's rules delayin g the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 9/15/2017 | Sierra Club, et al. v. EPA | DC Cir. | 16-1097 | ARLO | Oral argument | petition for review of EPA's final action agency entitled "T ransportation Conformity Guidance for Quantitative Hot-spot Analyses in PM2.5 and PM10 Nonattainment and Maintenance Areas" (US EPA, EPA-420-B-15-084, November 2015) |
| 9/15/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Stay Expires | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 9/16/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Status Report | challenge to EPA's revisions to the NSR "reasonable possib ility" recordkeeping requirement |
| 9/16/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Status Reports | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Util ity Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Cotnmercial- Institutio nal, and Small Industrial-Conmmercial-Institutional Steam Generating Uni ts," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/17/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 17-1085 | ARLO | Petitioners' Status Report | petition for review of the Risk Management Plan or RMP rule |
| 9/18/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 12-1405, consolidated , bifurcated (NESHAP) | ARLO | Motion to govern further proceedings | petition for review of EPA's final action titled "Oil and Natur al Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews" 77 Fed. Reg. 49 ,490 (Aug. 16, 2012); bifurcated NESHAP case |
| 9/18/2017 | National Family Farm Coalition, et al. v. EPA | 9th Cir. | 17-70196 | PTSLO | EPA's Reply to Petitioners' Response to EPA's 07/24/17 Amended Proposed Protective Order | Registration of pesticide "XtendiMax with VaporGrip Technology" (dicamba active ingredient) for use on GE cotton and soybean in 34 states |
| 9/18/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Joint Status Report | petition for review of EPA's "National Emissio n Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |

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| 9/18/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | EPA appellate reply brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 9/18/2017 | Truck Trailer Manufacturers Association v. EPA | DC Cir. | 16-1430 | ARLO | Motions to Govern | Petition for review of EPA's final rule "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines an d Vehicles—Phase 2" 81 FR 73478 (Oct. 25, 2016) |
| 9/18/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Administrative record | Challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 9/19/2017 | American Petroleum Institute (API); Clean Air Council; more... v. EPA | DC Cir. | 13-1108 | ARLO | Status Report | Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidatedwith challenge to 2013 NSPS amendmnet) |
| 9/19/2017 | sierra club, et al. v. EPA | D.C. Cir. | 06-1330, 06-1333, 07-1200 | ARLO | Status Report | challenge to final rule for the National Perch loroethylene Air Emission Standards for Dry Cleaning Facilities |
| 9/19/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Joint Status Report and Discovery Plan | Navy discharges of underwater ship husbandry without NPDES perm it |
| 9/19/2017 | Sierra Club, et al. v. EPA | DC Cir. | 16-1021 | ARLO | Oral Argument | petition for review of EPA's final action titled "National E mission Standards for Hazardous Air Pollutants for Major Sources: Indus trial, Commercial, and Institutional Boilers and Process Heaters." at 80 Fed. Reg. 72,790 (Nov. 20, 2015) |
| 9/20/2017 | Energy & Environment Legal Insitute v. EPA | D. D.C. | 17-909 | GLO | Energy & Environment Legal Insitute v. EPA | Failure to respond. FOIA case. |
| 9/20/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | Status Report | petition for review of EPA's final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 9/20/2017 | Hunton & Williams v. EPA et al. | District of Columbia | 1:15-cv-1203 | GLO | In Camera Review of Selected Documents | FOIA litigation EPA Region 9's response to multiple requests fo r records regarding AJD under the CWA for Redwood City Saltworks site. |
| 9/20/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467 17-71950 | PTSLO | Petitioners must either move for voluntary withdrawal of the petition or show cause why it should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date o f the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 9/22/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 08-1014 | ARLO | Status Report | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing indu stry and in petroleum refineries |
| 9/22/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Motion to Govern | Petition for review of the Air Quality Designations fo r the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Rou nd 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 9/22/2017 | Center for Biological Diversity v. EPA | DC Cir. | 16-1351 | PTSLO | Motion to govern further proceedings | EPA's final registration decision of the new active ingredient halauxifen-methyl, Docket # EPA-HQ-OPP-2012-09019-0024 |



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| 9/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 9/22/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 9/22/2017 | State of Texas, et al. v. EPA | D.C. Cir. | 17-1021 | ARLO | Motions to govern | Petition for review of EPA's final rule titled "Pro tection of Visibility: Amendments to Requirements for State Plans," 82 Fed. Reg. 3078 (Jan. 10, 2017) |
| 9/22/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | EPA reply brief in support of MTD | District court challenge to EPA's denial of petitions to design ate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 9/22/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | ANSWER | Approval of Ohio's 2016 303(d) list |
| 9/23/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Status report | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Util ity Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Cotnmercial- Institutio nal, and Small Industrial-Conmmercial-Institutional Steam Generating Uni ts," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/23/2017 | Center for Regulatory Reasonableness v. EPA | DC Cir. | 16-1246 | WLO | Motion to govern further proceedings | Petition for Review of EPA's actions in issuing a permit for sm all MS4s in Massachusetts |
| 9/23/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozon e and Corrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |
| 9/23/2017 | Sierra Club, et al. v. EPA | W.D. Wash. | 11-cv-01759 | WLO | Status Report | Failure to perform mandatory duty to approve or disapprove and establish TMDL for PCBs for Spokane River |
| 9/25/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Answer | failure to grant or deny a petition to object to a pr oposed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylkill County, Pennsylvania |
| 9/25/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Answer/Motion to Dismiss due per court order | Denial of a TSCA Section 21 Petition |
| 9/25/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | Joint appendix | EPA failure to establish TMDLs in WV for water s impaired by "ionic stress" |
| 9/25/2017 | Conservation Law Foundation v. EPA | 1st Cir. | 17-1130 | WLO | Motion to govern further proceedings | Final General Permit for Small MS4s in New Hampshire |
| 9/25/2017 | Center for Regulatory Reasonableness v. US EPA | DC Cir. | 17-1060 | WLO | Motion to govern further proceedings | Petition for Review of NPDES general permits issued for small M S4s in NH |
| 9/25/2017 | National Association of Homebuilders, et al. v. EPA | DC Cir. | 17-1138 | WLO | Motion to govern further proceedings | EPA's 2017 general permit for small MS4s in NH |
| 9/25/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Status reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing indu stry and in petroleum refineries |



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| 9/26/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Any request to continue the stay of remedy briefing | Challenging clothianidin and thiamethoxam registrations for vio lations of FIFRA and ESA. EPA won on the FIFRA challenges. Judge found EPA failed to consult and violated the ESA. Currently in Mediat ion as part of the remedy phase. If Mediation does not result in agree ment, rememdy briefing will begin. |
| 9/26/2017 | State of Utah, et al. v. EPA | 10th Cir. | 16-9541 | ARLO | EPA Merits Brief | petition for review of EPA's final rule entitled "App roval, Disapproval and Promulgation of Air Quality Implementation Plans; Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Federal Implementation Plan; Utah; Revisions to Regional Ha ze State Implementation Plan; Federal Implementation Plan for Regi onal Haze" at 81 Fed. Reg. 43,894-01 (July 5, 2016) |
| 9/26/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generati ng Units." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 9/27/2017 | William A. Masters v. EPA | CD CA | 2:17cv5532 | ARLO | Motion to Dismiss | CONSTRUCTIVE FRAUD regarding the use of the words Climat e Change and Greenhouse Gases |
| 9/27/2017 | Robert Ukeiley v. EPA | 10th Cir. | 16-9556 | ARLO | Oral argument | petition for review of EPA's final action entitled "Approval an d Promulgation of Air Quality Implementation Plans; State of Colo rado; Second Ten-Year PM10 Maintenance Plan for Lamar" at 81 Fed. Reg . 63104 (September 14, 2016) |
| 9/27/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Petitioners' response to EPA's motion to dismiss | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |
| 9/28/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Appellant (Hall) brief | Adequacy of the search. FOIA case. |
| 9/28/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Rule 26(f) conference | Navy discharges of underwater ship husb andry without NPDES permit |
| 9/28/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Intervenors' brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 9/29/2017 | NRDC v. EPA | S.D. NY | 17-cv-5928 | GLO | Answer | FOIA - Failure to produce records |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Deadline suit for failure to subm it and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and condi tionally approve or disapprove in part an oustanding SIP submittal for Pennsylvania for RACT |



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| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Deadline suit for failure to submit and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapprove in part an oustanding SIP submittal for Los Angeles-San Bernardino Counties (West Mojave Desert); CA (Antelope Valley portion) for RACT |
| 9/29/2017 | Shenandoah Riverkeeper, et al. v. EPA | D. DC | 1:17-cv-01023 | WLO | ADMIN RECORD | Approval of Virginia's 2014 Section 303(d) List |
| 9/29/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. of WV | 2:16-cv-11111 | WLO | PLAINTFF'S MOTION FOR SUMMARY JUDGMENT | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs |
| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Status Report | petition for review of EPA's rule entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligation) |
| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enforcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |
| 10/2/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Procedural Motions | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 10/2/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467 17-71950 | PTSLO | EPA's response to petitioners brief (if any) showing cause why the petition should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 10/3/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |



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| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Status Report | Petition for review of EPA's final action titled "Appro val and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affect ing Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's Gallatin Fossil Plant |
| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Any procedural motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requireme nts |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1-year extension of attainment date for multi-state nonattainment area. |
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affect ing Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Initial disclosures | Navy discharges of underwater ship husban dry without NPDES permit |
| 10/6/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Answer | CAA § 304 action alleging that EPA failed to respond a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Baytown Refinery in Harris County , Texas |



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| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Answer | failure to timely grant or deny a petition to object to Part 70 Operating Permit issued to the to the Pasadena Refining System Inc. authorizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Answer | for failure to grant or deny a petition to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Answer | CAA § 304 action alleging that EPA failed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County, Texas |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Reply to Oppo | This Freedom of Information Act ("FOIA") lawsuit pertains to a failure to respond to a FOIA request for certain records relating to the use and approval of a messaging application called "Signal" from July 2014 to the present. |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Plaintiffs Opening Remedy Brief | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA |
| 10/9/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | Status Report | Petition for Review of EPA's final rule entitled "Performance Specification 18 - Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fed. Reg. 38,628 July 7, 2015 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Status Report | Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidated) | WLO | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Certified Index | petition for review Wyoming Ozone Transport SIP |



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| 10/13/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16-cv-05492-DMR | ARLO | Hearing | 1) Failure to issue findings of failure to submit fo r PM2.5 increments for 3 areas; 2) Failure to take final action on PM2.5 SIP submi ttals for 4 areas; 3) Failure to issue findings of failure to submit for 2012 PM2.5 Good Neighbor provision for 18 states; 4) Failure to take final action on 2012 PM2.5 Good Neighbor provision submittal for 1 state; 5) Failure to determine attainment for 12 areas; and 6) Failure to issue 1997 and 2006 PM2.5 iFIP for 1 state. |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | United States serves its expert reports | Alleging multi-agency constitutional and public trust violation s arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fe d. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecti cut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | EPA answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocati ons to James River dischargers |
| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny pet ition seeking an objection to Proposed Title V Permit for the operati on of PacifiCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Answer | for failure to make findings of failur e to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. Reg. 51,915 (August 28, 2012) |
| 10/16/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RF S standards |
| 10/17/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Deferred Appendix | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA secti ons 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated into this case |
| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units." published at 77 Fed. Reg . 9304 (Feb. 16,2012) |



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| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Status Report | severance of issues from 12-1166 (petition for rev ie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electr ic Utility, Industrial-Commercial-Institutional, and Small Industr ial-Commercial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Status Reports | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinatio ns for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct . 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | Status Report | EPA TMDL for Goose Creek |
| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of aci d mine drainage from the Gold King Mine and allege past and futur e releases from mines in the area. CWA claim under 505(h) allegin g EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Sol id Waste Incinerators |
| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Any dispositive motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requireme nts |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management statement | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Status Report | petition for review of EPA's final rule entitled "S tate Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Exces s Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Status Reports | petition for review of EPA's final rule entitled, 'Regula tion of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |



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| 10/22/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Alabama Power Company | petition for review of EPA's final rule entitled "State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |
| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Final Briefs | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Status report | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |
| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/26/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |
| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 176A |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Status Report | Petition for review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | EPA Brief | petition for review of the Regional Consistency Regs |



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| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | JOINT SCHEDULE | Improper Request, Failure to Respond. FOIA case. |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing minor oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards. |
| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | EPA brief | Adequacy of the search. FOIA case. |
| 10/31/2017 | Northwest Environmental Advocates v. EPA | W.D. WA | 2:16-cv-01866 | WLO | Hearing | Claims of unreasonable delay in taking final action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | EPA's reply brief | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |
| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainment areas state implementation plans |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 11-1309 | ARLO | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Status Report | Petition for review of final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |
| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Status report | Challenge to treatment of fugitive emissions in the 2002 NSR reform rule |



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| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |
| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal combustion engines |
| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperature on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,068 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Status Report | petition for review of EPA's rule entitled "Standards of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Response Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Status Reports | Petitions for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | EPA Answer/Motion to Dismiss | for EPA's noncompliance with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS |
| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition seeking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Status Reports | petition for review of EPA's grant of authorization for California's in-use nonroad engine standards |



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| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Status Report | challenge to endangerment finding for GHG from aircraft |
| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 F ed. Reg. 64,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Desig nations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Qual ity Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016 ). |
| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Status Reports | Petition to review a final acti on of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Reply to Oppo | This lawsuit alleges that EPA has failed to res pond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communi cate about agency business, as well as EPA efforts to retrieve, reco ver, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status reports | Petition for review of EPA's final rul e entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Answer | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of WV | 2:16-cv-11111 | WLO | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper crit erion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | Status Reports | Petition for review of final regulation concernin g emission durability procedures for vehicles, and trucks |
| 11/11/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 08-1277 | ARLO | Status Reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | EPA document production | Failure to respond. FOIA case. |
| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | ANSWER | Alleged inaction on New York State's submission of pri mary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Status Report | challenge to EPA's revisions to the NSR "reasonable possi bility" recordkeeping requirement |



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| | | | | | | |
|---|---|---|---|---|---|---|
| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | EPA and Intervenors' Motions to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultat ion under ESA/failure to reinitiate consulations re: 1989/1993 ESA consultations. This case has been remanded from an appeal of th is case. Third amended complaint filed. 2200+ actions (pesticide p roduct actions) alleged in the failure to consult claims on 35 activie ingredients. Arguments for MTD are currently being developed. |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | STAY EXPIRES | Challenge to EPA Administrative O rder for Compliance, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Sol id Waste Incinerators |
| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EP A's final rule entitled "Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64, 510 (October 23, 2015) |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Joint Status Report | petition for review of EPA's "National Emissi on Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | Status Report | EPA approval of Vermont's Moon Brook TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Right to Know v. EPA | FOIA: Failure to Respond |



ED_001237D_00002880

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**From:** Smith, Kristi
**Sent:** Fri 9/15/2017 8:37:43 PM
**Subject:** Fwd: CSAPR remand action signature?

FYI - See message below. Seems like the rule is still at OP.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

Begin forwarded message:

**From:** "Smith, Kristi" <Smith.Kristi@epa.gov>
**Date:** September 15, 2017 at 4:37:01 PM EDT
**To:** "Treimel, Ellen" <Treimel.Ellen@epa.gov>
**Cc:** "Owens, Nicole" <Owens.Nicole@epa.gov>, "Kime, Robin" <Kime.Robin@epa.gov>, "Fonseca, Silvina" <Fonseca.Silvina@epa.gov>
**Subject: Re: CSAPR remand action signature?**

OP senior management informed Justin Schwab earlier this week that they had moved the rule forward for signature, which is why I was asking the Administrator's office about signature.

On timing, there are two key points:

**Ex. 5 - Deliberative Process, Attorney Client**

**Ex. 5 - Deliberative Process, Attorney Client**

Please let me know if you need any additional information.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

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attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

On Sep 15, 2017, at 3:42 PM, Treimel, Ellen <Treimel.Ellen@epa.gov> wrote:

Thanks Nicole. Ex. 5 - Deliberative Process, Attorney Client Ex. 5 - Deliberative Process, Attorney Client which is part of why they are interested in this action moving forward.

Ellen

**From:** Owens, Nicole
**Sent:** Friday, September 15, 2017 10:16 AM
**To:** Kime, Robin <Kime.Robin@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>
**Cc:** Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
**Subject:** RE: CSAPR remand action signature?

Hello –

Hello, I believe the action in question is SAN 5923 – Interstate Transport of PM2.5: Revision of FIP Requirements for Texas. If so, the action is still under review in OP but we expect to move it forward for signature soon. Our understanding was that it Ex. 5 - Deliberative Process, Attorney Client We expect to move it shortly.

Nicole

-----Original Message-----
From: Kime, Robin
Sent: Friday, September 15, 2017 10:11 AM
To: Treimel, Ellen <Treimel.Ellen@epa.gov>
Cc: Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>
Subject: Re: CSAPR remand action signature?

Hi

Adding Nicole who may know more. I'm not aware if this, I'm sorry.

Sent from my iPhone

> On Sep 15, 2017, at 9:19 AM, Treimel, Ellen <Treimel.Ellen@epa.gov> wrote:

>

> Hi Robin,

>

> Does this ring any bells for you? See Kristi Smith's email at the bottom regarding an action having to do with Texas regional haze. I have put in a call to her and left her a message as well.

>

> Thanks,

>

> Ellen Treimel, Special Assistant

> Office of the Administrator

> U.S. Environmental Protection Agency

> WJC-N 3310

> 202-564-0557 (w)

> 703-667-0553 (c)

>

>

>

>

> -----Original Message-----

> From: Knapp, Kristien

> Sent: Thursday, September 14, 2017 9:36 PM

> To: Smith, Kristi <Smith.Kristi@epa.gov>

> Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>

> Subject: Re: CSAPR remand action signature?

>

> Hi Kristi,

>

> I left my position in the Administrator's immediate office back in August. My understanding is that Ellen Treimel and Silvina Fonseca are still in that office and should be able to help identify the status of signature items.

>

> I hope that helps.

> Kristien

>

> Sent from my iPhone

>

>> On Sep 14, 2017, at 6:48 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

>>

>> Kristien -

>>

>> Hi. I need you help figuring out the status of an action for the Administrator's signature. Earlier this week, Justin Schwab from the OGC Immediate Office (cc'ed here) heard from OP managers that they had moved an action responding the the CSAPR court remand to the Administrator's office for signature. Specifically, the action removed Texas from CSAPR for PM transport purposes and affirmed that CSAPR was still better BART for regional haze purposes. This action is needed to

**Ex. 5 - Deliberative Process, Attorney Client**

>>

>> Do you know if this action has been signed? If not, do you know when it might be? Any information you have would be greatly appreciated.

>>

>> Thanks in advance for your help,

>> Kristi

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Tue 10/17/2017 2:48:41 PM
**Subject:** RE: Draft prompt for Mandy on TX transport SIP disapproval next steps

Just to double check, you will attend the TX transport SIP meeting instead of the biomass meeting w/Sarah and Mandy? Both are scheduled for 10/18 at 10a.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

**From:** Schwab, Justin
**Sent:** Tuesday, October 17, 2017 10:46 AM
**To:** Vijayan, Abi <Vijayan.Abi@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>
**Subject:** RE: Draft prompt for Mandy on TX transport SIP disapproval next steps

Thank you!

Discussion tomorrow should be fine.

**From:** Vijayan, Abi
**Sent:** Tuesday, October 17, 2017 9:40 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>
**Subject:** RE: Draft prompt for Mandy on TX transport SIP disapproval next steps

Hi Justin,

As requested, attached are the proposed and final actions on Texas' SIP, and the proposed and final CSAPR Update. Our response to comments on the SIP is included in the final action document itself, starting on pg. 1 and pretty much spanning the entire notice.

Also, as Stephanie kindly mentioned yesterday, I was out of the office yesterday and so am working through your series of questions today in prep for discussion during our meeting tomorrow. If there's a specific question you'd like an answer to via e-mail in advance of our meeting, please let me know. Thanks!

Abi Vijayan | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3178

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Schwab, Justin
**Sent:** Monday, October 16, 2017 8:01 PM
**To:** Vijayan, Abi <Vijayan.Abi@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>
**Subject:** Re: Draft prompt for Mandy on TX transport SIP disapproval next steps

Also the proposed and final CSAPR update (I assume that's what Texas refers to as "the proposed FIP" in its brief challenging the disapproval).

Sent from my iPhone

On Oct 16, 2017, at 7:59 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> Can I please have our proposed and final actions on texas's sip, as well as a link to a separate RTC document, if any?
>
> Sent from my iPhone

On Oct 15, 2017, at 11:31 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Finally, my substantive reactions, in advance of our meeting Wed 10/18 10 AM to prep for the call:

**Ex. 5 - Attorney Client, Attorney Work Product**

Sent from my iPhone

On Oct 15, 2017, at 11:22 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

In preparation for the call with Texas, please (re)send their briefs, Luminant's briefs, any briefs we may have filed, etc.

Thank you!

Sent from my iPhone

On Oct 15, 2017, at 11:20 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

**Ex. 5 - Attorney Client, Attorney Work Product**

Ex. 5 - Attorney Client, Attorney Work Product

Sent from my iPhone

On Oct 15, 2017, at 11:12 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Ex. 5 - Attorney Client, Attorney Work Product

Sent from my iPhone

On Oct 12, 2017, at 4:54 PM, Vijayan, Abi <Vijayan.Abi@epa.gov> wrote:

Hi Justin,

Quick initial note: DOJ has asked Texas to reschedule the call from October 16th to October 24th, which was a fallback date previously suggested by the State. We haven't yet received a response.

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

The judge in that case has asked the parties to address whether EPA has met its obligations under the CD. Petitioners will file on October 13, and EPA will file on October 25. The environmental petitioners intend to file a motion to enforce the consent decree next Friday.

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

Ex. 5 - Attorney Client, Attorney Work Product

**Ex. 5 - Attorney Client, Attorney Work Product**

Abi Vijayan | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3178

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**From:** Schwab, Justin
**Sent:** Wednesday, October 11, 2017 7:37 AM
**To:** Vijayan, Abi <Vijayan.Abi@epa.gov>
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Hogan, Stephanie <Hogan.Stephanie@epa.gov>
**Subject:** Re: Draft prompt for Mandy on TX transport SIP disapproval next steps

**Ex. 5 - Attorney Client, Attorney Work Product**

Sent from my iPhone

On Oct 11, 2017, at 6:55 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

**Ex. 5 - Attorney Client, Attorney Work Product**

Sent from my iPhone

On Oct 5, 2017, at 1:11 PM, Schwab, Justin
<Schwab.Justin@epa.gov> wrote:

Thank you! I will keep working to get a decision here.

Sent from my iPhone

On Oct 5, 2017, at 12:47 PM, Vijayan, Abi
<Vijayan.Abi@epa.gov> wrote:

Hi Justin,

**Ex. 5 - Deliberative Process, Attorney Client, Attorney Work Product**

Ex. 5 - Deliberative Process, Attorney Client, Attorney Work Product

**Ex. 5 - Deliberative Process, Attorney Client, Attorney Work Product**

Please let us know if you concur in our recommendation, or if you have further questions.

Abi Vijayan | US EPA | Office of General Counsel | Air and Radiation Law Office | Mail Code 2344A | phone: (202) 564-3178

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<TX 2008 ozone transport SIP litigation briefing 8.4.17.docx>

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**Office of Air and Radiation**

**OAR Weekly Report – September 14, 2017**

Non-Responsive

Non-Responsive

*Upcoming Decisions*

Non-Responsive

- **For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan (FIP) Requirements for Texas:** This final rule will provide certainty to the Texas electric generating units (EGUs) whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 29, 2017 that would rely on the Cross-State Air Pollution Rule (CSAPR) as a NOx Best Available Retrofit Technology (BART) alternative for Texas EGUs. The package is with OP for review.

Non-Responsive

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**To:** Knapp, Kristien[Knapp.Kristien@epa.gov]
**Cc:** Schwab, Justin[Schwab.Justin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Fonseca, Silvina[Fonseca.Silvina@epa.gov]
**From:** Smith, Kristi
**Sent:** Fri 9/15/2017 1:35:03 PM
**Subject:** RE: CSAPR remand action signature?

Kristien -

Thanks for the update. I just spoke with Ellen, and she has the information she needs to start tracking down this package.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

-----Original Message-----
From: Knapp, Kristien
Sent: Thursday, September 14, 2017 9:36 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: Re: CSAPR remand action signature?

Hi Kristi,

I left my position in the Administrator's immediate office back in August. My understanding is that Ellen Treimel and Silvina Fonseca are still in that office and should be able to help identify the status of signature items.

I hope that helps.
Kristien

Sent from my iPhone

> On Sep 14, 2017, at 6:48 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:
>
> Kristien -
>
> Hi. I need you help figuring out the status of an action for the Administrator's signature. Earlier this week, Justin Schwab from the OGC Immediate Office (cc'ed here) heard from OP managers that they had moved an action responding the the CSAPR court remand to the Administrator's office for signature. Specifically, the action removed Texas from CSAPR for PM transport purposes and affirmed that CSAPR was still better BART for regional haze purposes. Ex. 5 - Deliberative Process, Attorney Client

Ex. 5 - Deliberative Process, Attorney Client

>
> Do you know if this action has been signed? If not, do you know when it might be? Any information you have would be greatly appreciated.

>
> Thanks in advance for your help,
> Kristi

**To:** Knapp, Kristien[Knapp.Kristien@epa.gov]
**Cc:** Schwab, Justin[Schwab.Justin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
**From:** Smith, Kristi
**Sent:** Thur 9/14/2017 10:48:37 PM
**Subject:** CSAPR remand action signature?

Kristien -

Hi. I need you help figuring out the status of an action for the Administrator's signature. Earlier this week, Justin Schwab from the OGC Immediate Office (cc'ed here) heard from OP managers that they had moved an action responding the the CSAPR court remand to the Administrator's office for signature. Specifically, the action removed Texas from CSAPR for PM transport purposes and affirmed that CSAPR was still better BART for regional haze purposes. Ex. 5 - Deliberative Process, Attorney Client

Ex. 5 - Deliberative Process, Attorney Client

Do you know if this action has been signed? If not, do you know when it might be? Any information you have would be greatly appreciated.

Thanks in advance for your help,
Kristi

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Dravis, Samantha
**Sent:** Wed 9/13/2017 11:59:54 AM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Justin, this is in OP and it will be moved forward this morning. Sorry about that

Sent from my iPhone

On Sep 13, 2017, at 7:03 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> Thank you.
>
> **From:** Dravis, Samantha
> **Sent:** Wednesday, September 13, 2017 7:03 AM
> **To:** Schwab, Justin <Schwab.Justin@epa.gov>
> **Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
> **Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?
>
> Will check this AM.
>
> Sent from my iPhone
>
> On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:
>
> > I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.
> >
> > Sent from my iPhone
> >
> > On Sep 12, 2017, at 8:51 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
> >
> > > Haven't seen this in OP- let me know what I can do?

Sent from my iPhone

On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Re-upping – any word on this package?

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 6:06 PM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Dravis, Samantha
**Sent:** Wed 9/13/2017 11:02:46 AM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Will check this AM.

Sent from my iPhone

On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.
>
> Sent from my iPhone
>
> On Sep 12, 2017, at 8:51 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
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> > Haven't seen this in OP- let me know what I can do?
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> > Sent from my iPhone
> >
> > On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:
> >
> > > Re-upping – any word on this package?
> > >
> > > **From:** Schwab, Justin
> > > **Sent:** Monday, September 11, 2017 6:06 PM
> > > **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> > > **Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
> > > **Subject:** status of CSAPR remand/equivalency determination rule?
> > >
> > > Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Dravis, Samantha
**Sent:** Wed 9/13/2017 12:51:36 AM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Haven't seen this in OP- let me know what I can do?

Sent from my iPhone

On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Re-upping – any word on this package?

**From:** Schwab, Justin
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**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Ford, Hayley[ford.hayley@epa.gov]
**Cc:** Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
**From:** Fotouhi, David
**Sent:** Tue 8/29/2017 1:02:38 AM
**Subject:** RE: 30 Day Report Updates
OGC Edits to EPA Cabinet 30 Day Report 8.29.17.docx

Hi, Hayley. Please find OGC's update to the weekly report attached to this e-mail. Thanks!

Best,

David

**David Fotouhi**

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

**From:** Ford, Hayley
**Sent:** Monday, August 28, 2017 10:54 AM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin

<schwab.justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Morris, Madeline <morris.madeline@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>
**Subject:** 30 Day Report Updates

Please send your 30 day updates by COB today. Thanks!

**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

Non-Responsive

13. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-cv-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must, by September 9, 2017, either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of these deadlines to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental

parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension").
**Timing**: The court in *Sierra Club* has ordered the other side to respond by September 1. The court in *National Parks* has ordered the other side to respond by August 29.
**Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

Non-Responsive

August 29, 2017

MEMORANDUM FOR THE WHITE HOUSE STAFF SECRETARY AND CABINET SECRETARY

FROM: Ryan Jackson, Chief of Staff, U.S. Environmental Protection Agency

SUBJECT: Environmental Protection Agency Weekly Update for the Week of August 28, 2017

## EPA 30-Day Policy Look Ahead

### A. Rulemakings, Guidance, Initiatives, & Policies

Non-Responsive

4.

5.

6. Non-Responsive

7.

8.

# Non-Responsive

Non-Responsive

**B. Reports to Congress**

Non-Responsive

## C. State and Local-Based Issues

Non-Responsive

3. **TEXAS REGIONAL HAZE**: EPA is working closely with Gov. Abbott's office to meet a September 9 consent decree deadline to take action regarding a pending Federal Implementation Plan (FIP) for Regional Haze. The pending FIP was proposed by the previous Administration in early January. The state and EPA are working to get the process on a State Implementation Plan (SIP) pathway to better incorporate the states' leadership in this area.
   **Timing**: The relevant consent decree would require final action on either a SIP or FIP by September 9. On August 18, EPA, in conjunction with DOJ and concurrence from TCEQ and Texas Governor Abbott's office, requested an extension of that timeline from the DC District Court until December 31, 2018, for purposes of putting a SIP in place to meet associated Regional Haze requirements. Parties are awaiting the court's decision. **Contact**: Mandy Gunasekara, Senior Policy Advisor, Gunasekara.mandy@epa.gov

## D. Legal Decisions

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

14. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must, by September 9, 2017, either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of these deadlines to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions.
**Timing**: The court in *Sierra Club* has ordered EPA to address by August 23 two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted), and has ordered the other side to respond by September 1 to EPA's motion (and indicate whether they oppose "*any* length of extension"). The court in *National Parks* has ordered the other side to respond by August 29.
**Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

Non-Responsive

**E. Release of High-Profile Grants**

Non-Responsive

# Non-Responsive

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# Non-Responsive

AGENDA - REGULATORY UPDATE
AIR & RADIATION LAW OFFICE
Week of August 28, 2017

## I. UPCOMING AA/DAA/ADMINISTRATOR's OFFICE MEETINGS

Non-Responsive

## II. FRONT OFFICE ACTION ITEMS

### A. FOLLOW UP

Non-Responsive

Non-Responsive

## III. OTHER ITEMS FOR PRIORITY DISCUSSION

Non-Responsive

## IV. ONGOING MATTERS AND UPCOMING RULES

Non-Responsive

## V. NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES

Non-Responsive

**NOTICES OF CITIZEN SUIT**

Non-Responsive

**PETITIONS**

**NEW DECISIONS and SETTLEMENTS**

Non-Responsive

**CONGRESSIONAL MATTERS**

**VI. RECENT FOIA REQUESTS AND IMMINENT FOIA RELEASES**

**VII. UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES**

**A. UPCOMING LITIGATION DEADLINES**

**2017**

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Non-Responsive

09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD)

***National Parks Conservation Association, et al. v. EPA***, No. 1:11-cv-01548 (D.D.C) (Matthew Marks & Lea Anderson)

09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the prong 4 requirements for the 1997 ozone and PM2.5 NAAQS (CD)
***Sierra Club v. EPA***, No. 1:10-cv-01541 (D.D.C.) (Matthew Marks & Lea Anderson)

**Non-Responsive**

# Non-Responsive

**To:** Schwab, Justin[schwab.justin@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Shinkman, Susan[Shinkman.Susan@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
**Cc:** Wood, Jeffrey (ENRD)[Jeffrey.Wood@usdoj.gov]; Middleton, Brandon (ENRD)[Brandon.Middleton@usdoj.gov]; Brightbill, Jonathan (ENRD)[Jonathan.Brightbill@usdoj.gov]; Grant, Eric (ENRD)[Eric.Grant@usdoj.gov]
**From:** Gelber, Bruce (ENRD)
**Sent:** Mon 8/28/2017 4:16:59 PM
**Subject:** Agenda for today's EPA-ENRD leadership calls
OAAG-#81144-v1-EPA-ENRD_Weekly_Agenda_-_8_28_17.docx

Dear EPA Colleagues: Attached is the agenda for the EPA-ENRD leadership calls with OECA at 3:30 pm and OGC at 4:00 pm today. Per our normal approach, where recusals are an issue, the entry is limited to public information. We look forward to speaking to you.

---

Bruce S. Gelber

Deputy Assistant Attorney General

Environment and Natural Resources Division
U.S. Department of Justice

950 Pennsylvania Avenue, N.W., Room 2609

Washington, D.C. 20530-0001

Phone: (202) 514-4624

Facsimile: (202) 514-0557

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**Agenda -- Weekly ENRD-EPA Leadership Call**

**August 28, 2017**

**OECA CALL**

Non-Responsive

**OGC CALL**

**Mandatory Duty and Other Defensive Cases**

- **[Jeff Wood recused]** National Parks Conservation Ass'n v. Pruitt (D.D.C.); Sierra Club v. EPA (D.D.C.) -- Two longstanding consent decrees establishing a September 9, 2017, deadline for EPA to promulgate a FIP (or fully approve a SIP) addressing certain BART and visibility transport requirements for Texas. On August 18 ENRD filed motions to amend the consent decrees to extend the deadline to December 31, 2018. Promptly after our filing, one of the courts issued an order directing EPA to file a supplemental brief by August 23 answering two questions. **We filed the supplement on August 23 in both cases. ENRD thanks EPA for their rapid coordination & review, which were a tremendous help given the short turnaround. Plaintiffs' responses are due August 29 in National Parks and September 1 in Sierra Club, and we anticipate that both courts will rule promptly.**

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**REGION 6**

***Upcoming Hot Issues and Important Deadlines***

Non-Responsive

**Texas Regional Haze and Interstate Visibility Transport**
EPA is currently subject to a deadline of September 9, 2017 under two consent decrees issued by two different federal district courts in the District of Columbia (one for best available retrofit technology [BART] for regional haze, and one for interstate visibility transport). EPA's final action on regional haze is expected to address the issues in both BART and interstate visibility transport. On August 18, 2017, EPA (through the Department of Justice) filed a motion in both courts to extend the consent decree deadline to December 31, 2018. The basis for the extension request is the changed circumstances between EPA and the State of Texas, and the recently signed Memorandum of Agreement (MOA) between EPA and the Texas Commission on Environmental Quality (TCEQ) outlining the procedural steps each agency will take to address a State Implementation Plan (SIP) revision to address regional haze requirements that will be submitted by the TCEQ to EPA. Pursuant to the MOA, the TCEQ Executive Director will propose a SIP revision for consideration by the TCEQ commissioners by March 31, 2018. EPA will parallel process the SIP revision. The TCEQ will complete its administrative process and submit the SIP revision to EPA by October 31, 2018. EPA intends to sign a final action on the SIP revision by December 31, 2018.

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**OFFICE OF AIR AND RADIATION**

Non-Responsive

***Upcoming Decisions***

Non-Responsive

- **For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas:** This final rule will provide certainty to the Texas EGUs whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 9, 2017 that would rely on CSAPR as a NOX BART alternative for Texas EGUs. Note that there are still ongoing discussions that would have implications for the timing of this action.



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**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
**Cc:** Reed Clay[Reed.Clay@gov.texas.gov]
**From:** Andrew Oldham
**Sent:** Tue 8/22/2017 10:44:27 PM
**Subject:** RE: letter
2017 08 22 TCEQ SIP Timing Letter 2.docx
Addendum - Texas APA.docx

PRIV/CONF/DRAFT

Revised draft attached. I'm also including the statutory addendum that Mandy requested. The Chairman will be ready to sign it first thing in the morning.

**From:** Andrew Oldham
**Sent:** Tuesday, August 22, 2017 2:54 PM
**To:** 'Gunasekara, Mandy' <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Reed Clay <Reed.Clay@gov.texas.gov>
**Subject:** letter

PRIV/CONF/DRAFT

We are still working on this, and I'm sure there will be more changes. But wanted to get you a rough draft as soon as humanly possible.

August 22, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

The Texas Commission on Environmental Quality ("TCEQ") is grateful that your administration is willing to work with the States rather than against them. And the State of Texas is particularly grateful for the opportunity to provide a revision to its State Implementation Plan ("SIP") to address outstanding Federal Clean Air Act requirements for Best Available Retrofit Technology ("BART") and visibility transport. I understand that a federal district judge has asked for additional information regarding the timing of that SIP revision. This letter provides that information.

As indicated in the August 14 Memorandum of Agreement between TCEQ and the U.S. Environmental Protection Agency ("EPA"), TCEQ will propose a SIP revision and associated rulemaking no later than March 31, 2018. This is an aggressive timeline by any measure. Historically, the process for proposing a SIP revision has taken up to 48 months or even longer. Here, TCEQ has committed to doing it in less than 7. That means that in less than 7 months, TCEQ will complete all of the technical work associated with the BART SIP (*e.g.*, creating budgets for a new trading program and demonstrating the lawfulness of those budgets), draft the rules for that new trading program, draft the SIP narrative, conduct informational meetings with environmental groups, citizen groups, electricity generators, and electric grid operators, and conduct all of the legal and management reviews required by state and federal law.

The March 31, 2018 deadline for proposing this SIP revision is particularly aggressive because the TCEQ-EPA MOA also commits both agencies to "parallel processing." That means almost immediately after TCEQ proposes its SIP revision, EPA will begin its regulatory process for approving it. The upside of that procedure is that it creates regulatory certainty much faster than the traditional SIP-revision process. The downside is that the final SIP must closely match the proposed one. As a consequence, TCEQ will be forced to severely front-load its regulatory work on this rule and have it all but done by the time the SIP revision is proposed in March.

Proposing this SIP revision in less than 7 months (as opposed to 48 or more) is a significant lift. For example, Texas's 2009 SIP revisions for the Regional Haze Rule took more than 7 *years* to finalize and over 5 *years* just to propose. EPA started by designating five Regional Planning Organizations to assist with the coordination and cooperation needed to address visibility and haze issues. Texas was assigned to the Central Regional Air Planning Association ("CENRAP"). In 2002, Texas starting working with CENRAP on several aspects in developing the Texas regional haze plan including the development of a common emissions inventory of pollutants that can impact visibility. These emissions were then used in conjunction with meteorological inputs and chemical reaction calculations in complex photochemical models to estimate pollutant concentrations and impacts across a wide geographic area. The pollutant concentrations could then be converted to estimated visibility impairment impacts. In addition, the determination of visibility impairment due to natural conditions and determining the estimated timeline for Texas areas to reach natural visibility conditions is a time consuming and complex task. The TCEQ then had to evaluate what additional controls might be possible, the anticipated cost, and the visibility benefit of those potential controls. The TCEQ held SIP-related consultation meetings and invited participation from federal land managers for the Texas Class I areas as well as federal land managers in surrounding states Class I areas, tribes in Texas and adjacent states, other surrounding states that may have an impact on

Texas Class I areas, and the EPA. This process, beginning with initial internal meetings on developing a rulemaking for BART in July 2005 to the commission considering proposal of the Regional Haze SIP in December 2007, took roughly 29 months. Again, Texas has committed to proposing this BART SIP in less than 7.

That timeline is made still more aggressive by the fact that TCEQ and EPA have committed to implementing BART through a trading program. Historically, it takes much longer than 7 months to set up a trading program because it requires an enormous amount of work to identify program participants, requirements and restrictions on who can and who must participate, emission allowances, rules for trading or selling allowances, life of allowances, use of allowances, contingency requirements, reporting and compliance requirements, penalty requirements, and tracking mechanisms. For example, TCEQ is in the process of implementing a trading program for the Area and Mobile Source Credit Generation Rule ( "AMSCGR"). It took TCEQ 17 months to propose the AMSCGR trading program. During that time, TCEQ conducted numerous meetings with EPA, the Environmental Defense Fund, industry representatives, and other representatives from groups such as the port authority and other governmental entities. This collaboration resulted in the development of a draft strategy and paved the way for staff to begin work on a rule proposal, a database contract to develop tracking mechanisms, and procedures for ensuring that the credits satisfy federal law—in particular, that the credits are real, surplus, permanent, enforceable, and quantifiable.

Likewise, it took TCEQ 17 months to propose the Highly Reactive Volatile Organic Compound Emissions Cap and Trade ("HECT") Program. To implement that program, TCEQ used information from an intensive study that included more than two hundred scientists working on ozone and other pollution issues. That study alone took a year to complete.

Proposing a statewide trading program to satisfy the Regional Haze BART requirements is, if anything, even more complicated and difficult. It is only because you have committed to working with us and because the State has committed the full weight of its resources to this issue that I am confident we can propose a SIP revision on the virtually unprecedented timeline specified in our MOA.

In addition to the technical and administrative work that must be done to propose a SIP revision and rule, there are also public review periods and notice and comment requirements that must be met in accordance with state and federal law to finalize a SIP. (An addendum summarizing the relevant state law requirements for the SIP revision is attached.) Under state law, TCEQ must provide at least seven days for public notice prior to commission consideration of any issue. For any revision to the SIP, the state is also required to provide at least 30 days for the public to review and comment. TCEQ must then compile, summarize, and respond to all comments received and make any necessary revisions to SIP based on those comments. Depending on comments, additional technical work may also be required. The work associated with this research, response to comments, and subsequent review process for the adoption packet has historically taken approximately 4 months after the 30-day comment period closes. These documents must then go before the commission again, with an additional seven-day notice, for final approval before submittal to the EPA. This entire process, which is designed to ensure adequate opportunity for public input and internal development and review, routinely takes 12 months and in some cases more than 4.5 years, depending on the complexity of the subject. In this case, however, TCEQ has committed to finalizing the proposed rule within 7 months of proposing it. Again, for something as big and complicated as a statewide Regional Haze BART trading program, that is breakneck speed.

Finally, I would like to emphasize why TCEQ has committed to such an aggressive timetable for proposing and finalizing this SIP revision. TCEQ has done so because the Clean Air Act envisions a process of cooperative federalism where your agency and mine work together to promote clean air in a lawful and responsible way. TCEQ also agreed to the August 14 MOA because it wants to set an example for the nation of how cooperative federalism can work and to correct some of the mistakes that have been made in the past. TCEQ did *not* sign the MOA because it thinks the absence of Regional Haze BART rules constitutes an emergency. As you know, the Fifth Circuit recently stayed and remanded the reasonable progress part of the Regional Haze Rule, so as of today, it is not even clear what are the

appropriate targets for restoring natural visibility by 2064. What is clear is that Texas is *already* below the glide path that was previously established by EPA. TCEQ is confident that, if our agencies cooperate on this SIP revision, we can make even better strides in more efficient ways.

We again congratulate you on your approach to these regulatory matters. And we trust that this information is responsive to the judge's question. If I or my office can be of further assistance, please do not hesitate to contact me. TCEQ looks forward to working with you on this and many other matters in the years to come.

Sincerely,

Bryan W. Shaw, Ph.D., P.E.
Chairman
Texas Commission on Environmental Quality

Enclosure

Addendum: Texas Legal Requirements for Proposal and Adoption of Rules

The Texas Commission on Environmental Quality ("TCEQ") is an Executive Agency of the State of Texas subject to the procedural rulemaking requirements of the Texas Administrative Procedure Act (Texas APA)[1] in addition to other general requirements for rulemaking found in its enabling authority.[2] In adopting rules that are intended to address the requirements of the Federal Clean Air Act ("FCAA"), 42 U.S.C. §§7401 – 7515, States are also required to meet similar federal requirements, including requirements for public notice, public hearing, response to comment and other procedural submission requirements.[3]

The Texas APA requires the TCEQ to meet specific requirements for public input prior to adoption of a rule. Texas agencies are required to give at least 30 days' notice of their intention to adopt a rule before it adopts the rule, and is required to file notice of the proposed rule with the Secretary of State for publication in the Texas Register.[4] The Texas APA requires specific public notice of the proposed rules including a brief explanation of the proposed rule, the text of the proposed rule prepared in a manner to indicate any words to be added or deleted from the current text,[5] a statement of statutory authority or other authority for the proposed rule and the statutory provision affected by the proposed rule, a fiscal analysis assessing the anticipated implementation cost of the proposed rule for state and local government for each year of the first five years that the rule will be in effect, a statement regarding public benefits and costs of compliance for the public for each year of the first five years the rule will be in effect, a request for public comment on the proposed rule and any other statement required by law.[6] Additionally, separate regulatory analyses regarding local employment impact statements,[7] major environmental rules,[8] and takings impacts[9] and are also required, if applicable. TCEQ is also required to hold a public hearing on proposed rules.[10] The notice of proposed rulemaking is required to provide an opportunity for the public to submit comment on the proposed rules for consideration by the commission prior to any adoption of the rules.[11]

Texas agencies are required to provide an explanation of the proposed rule that is sufficient to apprise the public of the rule's purpose. Although not required in the proposal, the TCEQ regularly includes, as part of the brief explanation of the rule, a statement of the rule's factual basis or reasons for the rule. This information is beneficial in assisting both the commission and the public in understanding the proposed rule in addition to facilitating the development of the rule's reasoned justification required for rule adoption. The required statement of authority is a concise explanation of the particular statutory provision of law that authorizes the agency to adopt the rule. Also, the agency must identify that portion of its enabling statute or other provision of law that the proposed rule is intended to implement.

The Texas Third Court of Appeals has held that section 2006.002 of the Government Code requires agencies to conduct an analysis in a proposed rule's preamble to determine whether the rule will have an adverse economic effect on small businesses.[12] If a rule may have an adverse economic effect on these businesses, an agency must prepare and include in the proposed rule an economic impact statement, as described in the provision, and a regulatory flexibility analysis, that includes alternative methods of achieving the purpose of the rule to lessen the effect on small or micro-businesses. Also, a copy of the

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[1] Tex. Gov't Code, §§ 2001.021-2001.041.
[2] Tex. Health & Safety Code, §382.017; Tex. Water Code, §5.103.
[3] Federal Clean Air Act (FCAA), 42 U.S.C. §7410(a)(1)-(2); 40 C.F.R. §§51.100 – 51.105.
[4] Tex. Gov't Code, §2001.023.
[5] Tex. Gov't Code, § 2002.014.
[6] Tex. Gov't Code, §2001.024.
[7] Tex. Gov't Code, §2001.022.
[8] Tex. Gov't Code, §2001.0225.
[9] Tex. Gov't Code, §2001.043.
[10] Tex. Gov't Code, §2001.029, Tex. Health & Safety Code, §382.017 and 40 C.F.R. §51.102.
[11] Tex. Gov't Code, §2001.029, Tex. Health & Safety Code, §382.017, Tex. Water Code, §5.103.
[12] *Unified Loans, Inc. v. Pettijohn*, 955 S.W.2d 649, 654 (Tex. App.—Austin, 1997, no pet.); *see also* Tex. Gov't Code, §2006.002.



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proposed rule that is submitted to the Texas Register must be provided to the Senate and House standing committees that are charged with reviewing the proposed rule.[13]

An agency may not adopt a proposed rule sooner than 30 days or later than six months after it is published in the Texas Register.[14] A proposed rule is automatically withdrawn six months after its publication in the Texas Register if the agency does not publish an order adopting or withdrawing the rule before that time.[15] Texas agencies must consider fully all written and oral submissions concerning the proposed rule.[16] The agency order adopting a rule must include a reasoned justification of the rule, a statement of the authority under which the rule is adopted, and a legal certification.[17] The agency's justification must explain "how and why it reached the conclusions it did."[18] The agency must present its justification "in a relatively clear, precise, and logical fashion."[19] The justification must include: 1) a summary of comments received from parties interested in the rule that shows the names of interested groups or associations offering comment on the rule and whether they were for or against its adoption; 2) a summary of the factual basis for the rule as adopted that demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and 3) the reasons why the agency disagrees with party submissions and proposals.[20] After the commission approves the order adopting a rule, the adopted rule text is forwarded to the Secretary of State for publication in the Texas Register.[21] Adopted rules are effective 20 days after they are filed with the Secretary of State.[22]

For rules concerning requirements specified in the Federal Clean Air Act, such as the regional haze and interstate visibility transport, including best available control technology, States must also meet similar public notice, comment, hearing and submission requirements.[23]

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[13] Tex. Gov't Code, § 2001.024(a)(3)(C).
[14] Tex. Gov't Code, §§ 2001.023, .027.
[15] Tex. Gov't Code, § 2001.027.
[16] Tex. Gov't Code, §§ 2001.029(c), .033.
[17] Tex. Gov't Code, § 2001.033.
[18] *Nat'l Ass'n of Indep. Insurers v. Tex. Dep't of Ins.*, 925 S.W.2d 667, 669 (Tex. 1996)
[19] *Id.* at 669; *Lambright v. Tex. Parks & Wildlife Dep't*, 157 S.W.3d 499, 504-05 (Tex. App.—Austin 2005, no pet.).
[20] Tex. Gov't Code, §2001.033(a)(1).
[21] Tex. Gov't Code, §2001.036.
[22] Tex. Gov't Code, §2001.036.
[23] FCAA, 42 U.S.C. §7410(a)(1) and (2); 40 C.F.R. §§51.100 – 51.105.



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**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
**Cc:** Reed Clay[Reed.Clay@gov.texas.gov]
**From:** Andrew Oldham
**Sent:** Tue 8/22/2017 7:54:26 PM
**Subject:** letter
2017 08 22 TCEQ SIP Timing Letter.docx

PRIV/CONF/DRAFT

We are still working on this, and I'm sure there will be more changes. But wanted to get you a rough draft as soon as humanly possible.

August 22, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Pruitt:

The Texas Commission on Environmental Quality ("TCEQ") is grateful that your administration is willing to work with the States rather than against them. And the State is particularly grateful for the opportunity to provide a revision to the Texas State Implementation Plan ("SIP") to address outstanding Federal Clean Air Act requirements for Best Available Retrofit Technology ("BART") and visibility transport. I understand that a federal district judge has asked for additional information regarding the timing of that SIP revision. This letter provides that information.

As indicated in the August 14 Memorandum of Agreement between TCEQ and the U.S. Environmental Protection Agency ("EPA"), the TCEQ will propose a SIP revision and associated rulemaking no later than March 31, 2018. This is one of the most aggressive timelines for proposing a SIP revision in the history of the United States. Historically, the process for proposing a SIP revision has taken up to 48 months or even longer. Here, TCEQ has committed to doing it in less than seven. That means that in less than 7 months, TCEQ will complete all of the technical work associated with the BART SIP (including the creation of budgets for a new trading program and demonstrating the lawfulness of those budgets), draft the rules for that new trading program, draft the SIP narrative, conduct numerous informational meetings with environmental groups, citizen groups, electricity generators, and electric grid operators, and conduct all of the legal and management reviews required by state and federal law.

The March 31, 2018 deadline for proposing this SIP revision is particularly aggressive because the TCEQ-EPA MOA also commits both agencies to "parallel processing." That means almost immediately after TCEQ proposes its SIP revision, EPA will begin its regulatory process for approving it. The upside of that procedure is that it creates regulatory certainty much faster than the traditional SIP-revision process. The downside is that the final SIP must closely match the proposed one. As a consequence, TCEQ will be forced to severely front-load its regulatory work on this rule and have it all-but-done by the time the SIP revision is proposed in March.

Proposing this SIP revision in less than 7 months (as opposed to 48 or more) is a herculean lift. For example Texas's 2009 SIP revisions for the Regional Haze Rule took more than 7 *years* to finalize and over 5 *years* just to propose. EPA started by designating five Regional Planning Organizations to assist with the coordination and cooperation needed to address visibility and haze issues. Texas was assigned to the Central Regional Air Planning Association ("CENRAP"). In 2002, Texas starting working with CENRAP on several aspects in developing the Texas regional haze plan including the development of a common emissions inventory of pollutants that can impact visibility. These emissions were then used in conjunction with meteorological inputs and chemical reaction calculations in complex photochemical models to estimate pollutant concentrations and impacts across a wide geographic area. The pollutant concentrations could then be converted to estimated visibility impairment impacts. In addition, the determination of visibility impairment due to natural conditions and determining the estimated timeline for Texas areas to reach natural visibility conditions is a time consuming and complex task. The TCEQ then had to evaluate what additional controls might be possible, the anticipated cost, and the visibility benefit of those potential controls. The TCEQ held SIP-related consultation meetings and invited participation from federal land managers for the Texas Class I areas as well as federal land managers in surrounding states

Class I areas, tribes in Texas and adjacent states, other surrounding states that may have an impact on Texas Class I areas, and the EPA. This process, beginning with initial internal meetings on developing a rulemaking for BART in July 2005 to the commission considering proposal of the Regional Haze SIP in December 2007, took roughly 29 months. Again, Texas has committed to proposing this BART SIP in less than 7.

That timeline is made still more aggressive by the fact that TCEQ and EPA have committed to implementing BART through a trading program. Historically, it takes much longer than 7 months to set up a trading program because it requires an enormous amount of work to identify program participants, requirements and restrictions on who can and who must participate, emission allowances, rules for trading or selling allowances, life of allowances, use of allowances, contingency requirements, reporting and compliance requirements, penalty requirements, and tracking mechanisms. For example, TCEQ is in the process of implementing a trading program for the Area and Mobile Source Credit Generation Rule ( "AMSCGR"). It took TCEQ 17 months to propose the AMSCGR trading program. During that time, TCEQ conducted numerous meetings with EPA, the Environmental Defense Fund, industry representatives, and other representatives from groups such as the port authority and other governmental entities. This collaboration resulted in the development of a draft strategy and paved the way for staff to begin work on a rule proposal, a database contract to develop tracking mechanisms, and procedures for ensuring that the credits satisfy federal law—in particular, that the credits are real, surplus, permanent, enforceable, and quantifiable. Likewise, it took TCEQ 17 months to propose the Highly Reactive Volatile Organic Compound Emissions Cap and Trade ("HECT") Program. To implement that program, TCEQ used information from an intensive study that included more than two hundred scientists working on ozone and other pollution issues. That study alone took a year to complete. Proposing a statewide trading program to satisfy the Regional Haze BART requirements is, if anything, even more complicated and difficult. It is only because you have committed to working with us and because the State has committed the full weight of its resources to this issue that I am confident we can propose a SIP revision on the virtually unprecedented timeline specified in our MOA.

In addition to the technical and administrative work that must be done to propose a SIP revision and rule, there are also public review periods and notice and comment requirements that must be met in accordance with state and federal law to finalize a SIP. TCEQ must provide at least seven days for public notice prior to commission consideration of any issue. For any revision to the SIP, the state is also required to provide at least 30 days for the public to review and comment. TCEQ must then compile, summarize, and respond to all comments received and make any necessary revisions to SIP based on those comments. Depending on comments, additional technical work may also be required. The work associated with this research, response to comments, and subsequent review process for the adoption packet has historically taken approximately 4 months after the 30-day comment period closes. These documents must then go before the commission again, with an additional seven-day notice, for final approval before submittal to the EPA. This entire process, designed to ensure adequate opportunity for public input and internal development and review routinely takes 12 months and in some cases more than 4.5 years, depending on the complexity of the subject. In this case, however, TCEQ has committed to finalizing the proposed rule within 7 months of proposing it. Again, for something as big and complicated as a statewide Regional Haze BART trading program, that is breakneck speed.

Finally, I would like to emphasize why TCEQ has committed to such an aggressive timetable for proposing and finalizing this SIP revision. TCEQ has done so because the Clean Air Act envisions a process of cooperative federalism where your agency and mine work together to promote clean air in a lawful and responsible way. TCEQ also agreed to the August 14 MOA because it wants to set an example for the nation of how cooperative federalism can work and to mend some of the mistakes that have been made in the past. TCEQ did *not* sign the MOA because it thinks the absence of Regional Haze BART rules constitutes an emergency. As you know, the Fifth Circuit recently stayed and remanded the reasonable progress part of the Regional Haze Rule, so as of today, it is not even clear what are the appropriate targets for restoring natural visibility by 2064. What is clear is that even without a BART rule in place, Texas is *already* below the glide path that was previously established by EPA.

We again congratulate you on your approach to these regulatory matters. And we trust that this information is responsive to the judge's question. If I or my office can be of further assistance, please do not hesitate to contact me. TCEQ looks forward to working with you on this and many other matters in the years to come.

Sincerely,

Bryan W. Shaw, Ph.D., P.E.
Chairman
Texas Commission on Environmental Quality

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

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14. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-1541 (D.D.C.)—TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT—MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must, by September 9, 2017, either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of these deadlines to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions.
**Timing**: The court in *Sierra Club* has ordered EPA to address by August 23 two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted), and has ordered the other side to respond by September 1 to EPA's motion (and indicate whether they oppose "*any* length of extension"). The court in *National Parks* has ordered the other side to respond by August 29. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov.

Non-Responsive

# Non-Responsive

**Agenda -- Weekly ENRD-EPA Leadership Call**

**August 21, 2017**

**OECA CALL**

**Enforcement Cases**

Non-Responsive

**OGC CALL**

**Mandatory Duty and other Defensive Cases**

- **[JEFF RECUSED]** National Parks Conservation Ass'n v. Pruitt (D.D.C.); Sierra Club v. EPA (D.D.C.) -- Two longstanding consent decrees establishing a September 9, 2017, deadline for EPA to promulgate a FIP (or fully approve a SIP) addressing certain BART and visibility transport requirements for Texas. **On Friday August 18 ENRD filed motions to amend the consent decrees to extend the deadline to December 31, 2018, along with motions for expedited consideration. Promptly after our filing, one of the courts issued an order directing EPA to file, by August 23, a supplement "explaining (1) why such a lengthy extension is required (for example, why is TCEQ**

**not able to submit a SIP sooner than March 31, 2018?), (2) if an extension were not granted, is the EPA prepared to sign for publication a notice promulgating the FIP by September 9, 2017?"**

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**REGION 6**

***Upcoming Hot Issues and Important Deadlines***

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**Texas Regional Haze**

EPA asked the court to move the September 9, 2017 deadline in two consent decrees to December 31, 2018, consistent with the Clean Air Act's state-first approach to implementation as passed by Congress. Currently, the EPA's deadline of September 9, 2017 is to approve a state implementation plan (SIP), or issue a federal implementation plan (FIP), related to regional haze in Texas. While there currently is no SIP available to approve, the agency and the State of Texas have entered into a Memorandum of Agreement for the State to provide a SIP that could be approved by end of 2018. The Governor of the State of Texas has provided a separate letter reinforcing that commitment. The EPA is proposing this alternative as an acceptable approach to providing clean air protection in Texas.

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***Upcoming Decisions***

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**For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas:** This final rule will provide certainty to the Texas EGUs whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 9, 2017 that would rely on CSAPR as a NOX BART alternative for Texas EGUs. Note that there are still ongoing discussions that would have implications for the timing of this action.

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DELIBERATIVE, NOT FOR RELEASE, ATTORNEY WORK PRODUCT

**Wednesday REPORT – Wednesday, September 06, 2017**
CALENDAR FORECAST – 09/06/17 – 09/22/17

| Date | Office | Description of Matter and Item Due |
|---|---|---|

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| | | |
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| Non-Responsive | | |
| 09/09 | ARLO | Consent Decree<br><br>***National Parks Conservation Association, et al. v. EPA***, No. 1:11-cv-01548 (D.D.C)<br><br>Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD)<br><br>**Upcoming Deadline:** EPA to take action on **September 9**.<br><br>**Attorneys:** Matthew Marks, Lea Anderson |
| 09/09 | ARLO | Consent Decree<br><br>***Sierra Club v. EPA***, No. 1:10-cv-01541 (D.D.C.) |



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| | | |
|---|---|---|
| | | Take final action by promulgating a FIP or unconditionally approving a SIP to address the prong 4 requirements for the 1997 ozone and PM2.5 NAAQS (CD)<br><br>**Upcoming Deadline:** EPA to take action on **September 9**.<br><br>**Attorneys:** Matthew Marks, Lea Anderson |
| | | Recently asked parties to provide a short supplemental brief by September 11 on the |

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**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

General Counsel, fotouhi.david@epa.gov

11. **AMERICAN PETROLEUM INSTITUTE v. EPA, NO. 09-1038 (D.C. CIR.) – CHALLENGE TO RCRA RECYCLING RULE – DECISION ISSUED.** On July 7th,

Ex. 5 - Attorney Client, Attorney Work Product

12. **SINCLAIR WYOMING REFINING CO. v. EPA, NO. 16-9532 (10TH CIR.) – CHALLENGE TO DENIALS OF SMALL REFINERY EXEMPTIONS FROM RFS —DENIALS VACATED.** The 10th Circuit vacated EPA's decisions denying small refinery

Ex. 5 - Attorney Client, Attorney Work Product

13. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must, by September 9, 2017, either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the

Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of these deadlines to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). On August 31, the court in *National Parks* denied the extension request. On September 6, the court granted a stipulated request to extend deadlines until September 30.
**Timing**: EPA must take final action by September 30. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

**Non-Responsive**

**To:** OGC Immediate Office All[OGC_Immediate_Office_All@epa.gov]
**Cc:** Patrick, Monique[Patrick.Monique@epa.gov]; Jones, Gail-R[Jones.Gail-R@epa.gov]; Veney, Carla[Veney.Carla@epa.gov]
**From:** Graham, Cheryl
**Sent:** Wed 9/6/2017 12:26:50 PM
**Subject:** 9/6/17 ARLO reg review agenda
17-09-04 agenda.docx

Cheryl R. Graham
OGC/ARLO
(202) 564-5473

AGENDA - REGULATORY UPDATE
AIR & RADIATION LAW OFFICE
Week of September 4, 2017

## I. UPCOMING AA/DAA/ADMINISTRATOR's OFFICE MEETINGS

Non-Responsive

## II. FRONT OFFICE ACTION ITEMS

### A. FOLLOW UP

Non-Responsive

Non-Responsive

## III. OTHER ITEMS FOR PRIORITY DISCUSSION

Non-Responsive

## IV. ONGOING MATTERS AND UPCOMING RULES

Non-Responsive

## V. NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES

**NEW CASES**

Non-Responsive

**NOTICES OF CITIZEN SUIT**

Non-Responsive

**PETITIONS**

Non-Responsive

Non-Responsive

**CONGRESSIONAL MATTERS**

**VI. RECENT FOIA REQUESTS AND IMMINENT FOIA RELEASES**

**VII. UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES**

**A. UPCOMING LITIGATION DEADLINES**

**2017**

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**B. UPCOMING COURT-ORDERED AND RELATED DEADLINES**

**2017**

09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD)
***National Parks Conservation Association, et al. v. EPA***, No. 1:11-cv-01548 (D.D.C) (Matthew Marks & Lea Anderson)

09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the prong 4 requirements for the 1997 ozone and PM2.5 NAAQS (CD)
***Sierra Club v. EPA***, No. 1:10-cv-01541 (D.D.C.) (Matthew Marks & Lea Anderson)

Non-Responsive



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Non-Responsive

## VIII. CASES and MAJOR MOTIONS AWAITING DECISION

Non-Responsive

**To:** Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Albores, Richard[Albores.Richard@epa.gov]
**From:** Mills, Derek
**Sent:** Tue 9/12/2017 7:31:14 PM
**Subject:** RE: FOIA Production Set #1 for 2017-006656
ED_001256_00000002.pdf
ED_001256_00000003.pdf
ED_001256_00000007.pdf
ED_001256_00000009.pdf
ED_001256_00000058.pdf
ED_001256_00002963.pdf

# Non-Responsive

U.S. Environmental Protection Agency

(202) 564-3341

**From:** Mills, Derek
**Sent:** Tuesday, September 12, 2017 1:32 PM
**To:** Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Albores, Richard <Albores.Richard@epa.gov>
**Subject:** FOIA Production Set #1 for 2017-006656

Please see attached for discussion. Thanks!

**Derek Mills**

Special Assistant, Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-3341

# Regional Haze Overview

April 19, 2017

# Outline for Today's Discussion

I. Regional haze program overview
   A. Statutory and regulatory background
   B. Elements of regional haze plans

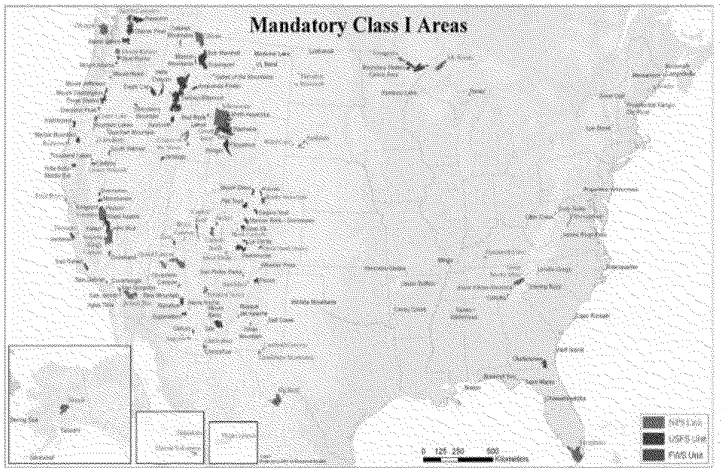
II. First planning period

III. Upcoming key dates

IV. Looking forward

Appendix – States in Play

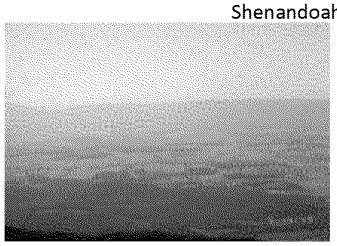
# Regional Haze Program Overview: The Clean Air Act's Visibility Provisions



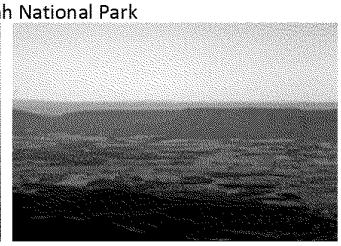

- In 1977, Congress declared as a national goal *"the prevention of any future, and the remedying of any existing, impairment of visibility…from manmade air pollution"* in mandatory Class I Federal areas. CAA §169A(a)(1).
  - Mandatory Class I Federal areas consist of certain national parks and wilderness areas (156 total).
- CAA §169A requires EPA to promulgate rules for state plans to meet the national goal.

# Regional Haze Program Overview

Shenandoah National Park



Poor Visibility Day
Visual Range ~ 40 miles



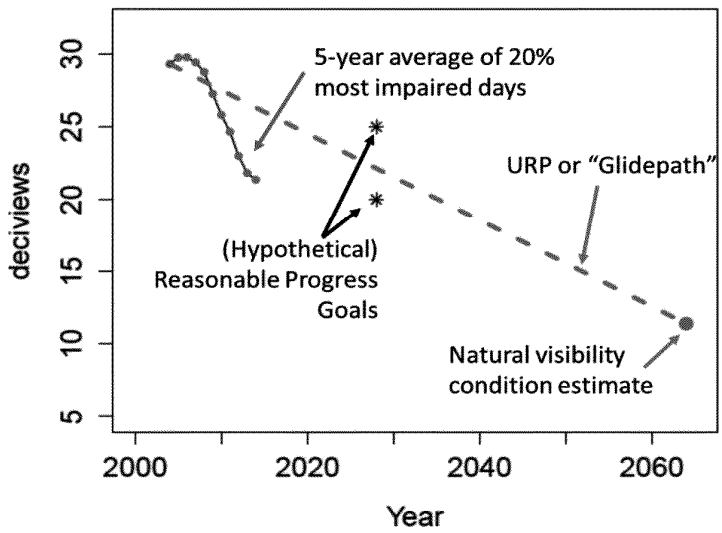
Good Visibility Day
Visual Range ~ 170 miles

- *Regional haze* is visibility impairment that is caused by emissions from numerous sources located over a wide geographic area.
  - *Visibility impairment* is due to anthropogenic sources, not natural sources.
- Basic requirements of the Regional Haze Rule (1980, 1999, 2017 rules):
  - Periodic SIPs (submitted under CAA § 110) cover 10-year implementation periods (due in 2007, 2021, 2028, 2038, etc.).
  - Progress reports mid-way between SIPs.
- The Regional Haze Rule does not establish specific, numeric visibility targets for states. It only requires "reasonable progress" towards natural visibility in each period.
  - The rule requires states to use the year 2064 as a point of comparison and consideration for states when determining reasonable controls.

# Regional Haze Program Overview: Regional Haze SIP Elements and Process

| | |
|---|---|
| Required SIP Elements | • **Visibility Metrics:** Baseline, current and natural visibility conditions and uniform rate of progress (URP) for each Class I area.<br><br>• **Best Available Retrofit Technology (BART**) for certain sources (first SIPs only):<br>  • Units that began operation between 1962 and 1977 and are in one of 26 categories (e.g., EGUs, taconite facilities, petroleum refineries, etc.)<br>  • Five statutory factors are considered by states and EPA when determining BART: 1) cost of compliance; 2) energy and non-air quality environmental impacts; 3) existing pollution control technology in use at the source; 4) remaining useful life; 5) visibility benefits.<br><br>• **Long Term Strategy (LTS)** reflecting controls needed to ensure **Reasonable Progress** towards natural visibility:<br>  • Four statutory factors are considered by states and EPA when determining RP: 1) cost of compliance; 2) energy and non-air quality environmental impacts; 3) remaining useful life; 4) time necessary for compliance.<br>  • Some states and EPA have considered visibility when determining appropriate reasonable progress measures.<br><br>• **Reasonable Progress Goals (RPGs)** for each Class I area – *see next slide* |
| Process | • State develops plan in consultation with other upwind/downwind affected states and with FLMs (Federal Land Managers).<br>• State submits plan to EPA Regional office.<br>• Region, in consultation with HQ, develops *Federal Register* notice of approval/disapproval. |

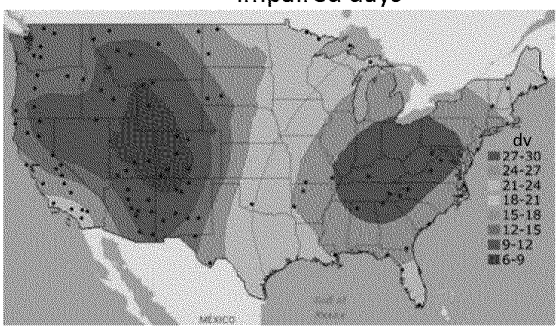
# Uniform Rate of Progress (i.e., Glide Path)



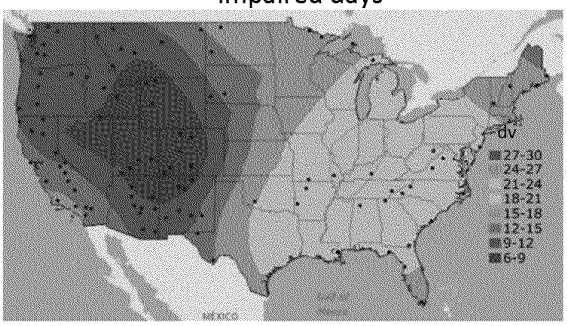

- The uniform rate of progress or "glide path" is drawn between the end of the 2000-2004 baseline period and 2064 (dv/year).
- Framework for consideration, not a requirement to be on or below the URP.

# First Planning Period: Visibility is Improving

**2000-2004**
Visibility (dv) on 20% most impaired days




**2011-2015**
Visibility (dv) on 20% most impaired days



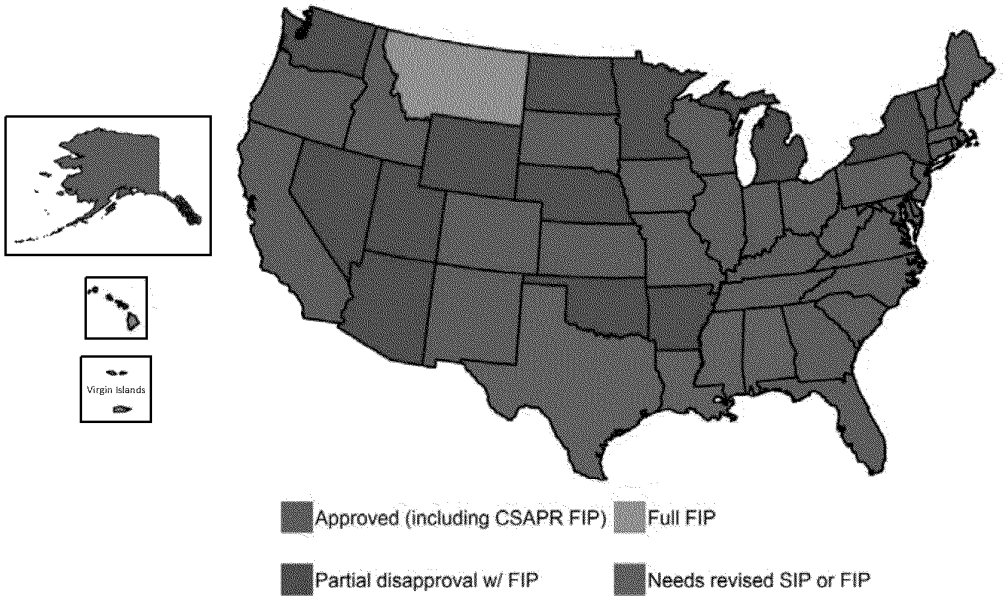

Emission controls established under the first planning period will reduce $SO_2$ and NOx emissions by approximately 500,000 tons/year and 300,000 tons/year, respectively.

# First Planning Period: Status of Regional Haze Plans

- Regional haze plans covering the first implementation period were due from states to EPA in December 2007.
- Almost all states have plans in place. EPA has taken action (partial or complete) on **52** required plans:
  - 33 full SIPs approved – 2 remanded
  - 12 partial SIPs approved (with partial FIPs adopted) – 2 remanded, 6 under litigation
  - 4 partial SIPs approved* – awaiting submittal or action on remaining elements
  - 3 full FIPs adopted (at request of state) – 1 remanded (partial)
- Of approximately 845 source-specific BART determinations made by states, we approved approximately 744 (88%). Additionally, EPA estimates that states were relieved from approximately 504 unit and pollutant specific BART determinations for EGUs because of the national rule allowing sources participating in CSAPR to use CSAPR in lieu of source-specific BART.
- Number of state plans in play: 16 – *see Appendix*
  - 7 under litigation
  - 5 remanded
  - 4* awaiting submittal or action on remaining elements

*Texas is included in this category, though one portion of the state's plan is also under litigation.

# Status of Regional Haze Plans
# (First Planning Period, April 2017)



# Upcoming Key Dates

- 2017
  - **May 1:** Current due date for plaintiff's briefs in litigation surrounding the BART FIP covering taconite facilities in MN and MI.
  - **May 5:** End of public comment period on EPA's proposed BART FIP for Texas.
  - **June 8:** End of abeyance period for litigation on the Arkansas Regional Haze FIP.
  - **June 29:** CD deadline to propose action on Louisiana's Regional Haze plan.
    - Region 6 is working with the state and facility on one BART determination.
  - **September 9**: CD deadline, final action on the BART element of Texas' plan.
    - Before this haze action can be finalized, a related OAR action addressing Texas' CSAPR budgets needs to be finalized (NPRM: 81 FR 78954) so that this final haze action can be finalized with reliance on CSAPR for NOx BART.
  - **December 15**: CD deadline for final action on Louisiana's Regional Haze plan.
  - **TBD:** Briefs due in litigation on 2017 Regional Haze Rule revisions.
  - **TBD:** Draft guidance for 2nd implementation period ready for OAR review.

- Other & longer term deadlines
  - Ongoing CAA deadlines to act on incoming or late progress reports.
  - **July 31, 2021:** Second implementation period SIPs are due.

Looking Forward

# Ex. 5 - Deliberative Process

# Appendix

# First Planning Period: States in Play

Active Litigation

**Ex. 5 - Attorney Work Product, Deliberative Process**

*

# First Planning Period: States in Play (cont.)

Awaiting State or Federal Plan

- Four plans: AL, LA, MS, TX*
- Action on SIP or FIP is ongoing, because a complete plan is not yet in place. EPA is awaiting a SIP submission, working to review a SIP, and/or working on a FIP.

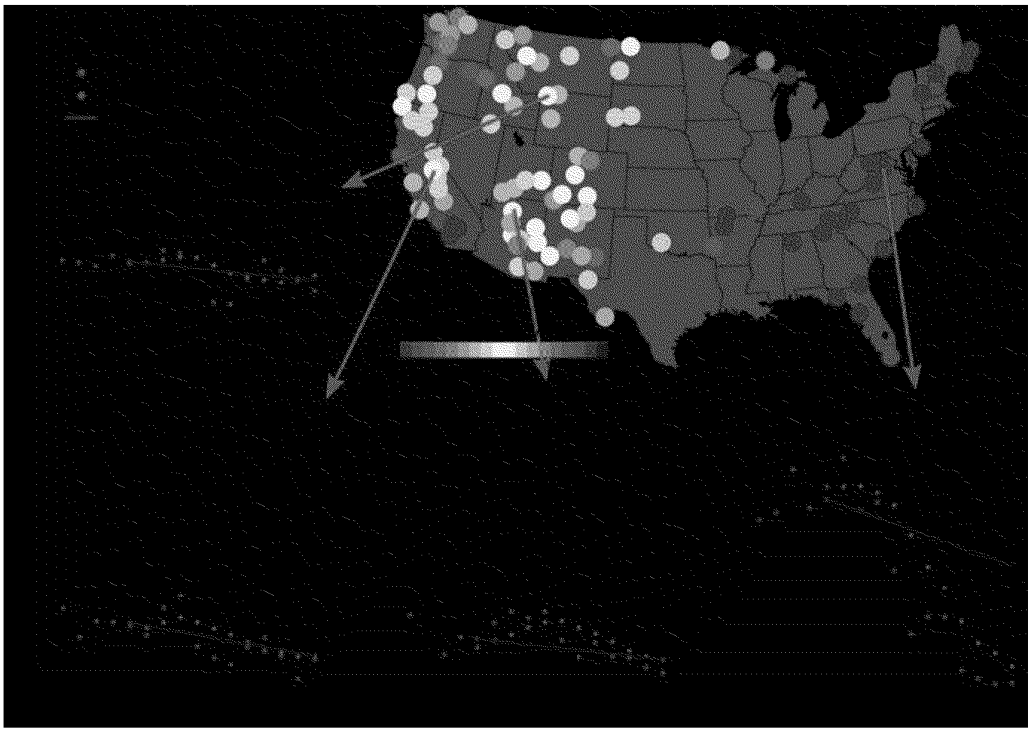
**Ex. 5 - Attorney Work Product, Deliberative Process**

# First Planning Period: States in Play (cont.)

SIP approval or FIP Remanded

- Five plans: CO, MT, ND, NE, PA
- SIP (CO, PA) or FIP revisions (NE, ND, MT) are ongoing because litigation resulted in a remand of previous actions. EPA requested remand for CO, PA, and NE, rather than defend previous action.

**Ex. 5 - Attorney Work Product, Deliberative Process**



**A. Legal Decisions**

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12. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30 in light of the ongoing recovery efforts in the wake of Hurricane Harvey..
**Timing**: EPA must take final action by September 30. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

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**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Feeley, Drew (Robert)[Feeley.Drew@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Gordon, Stephen[gordon.stephen@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Harlow, David[harlow.david@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lovell, Will (William)[lovell.william@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; White, Elizabeth[white.elizabeth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**From:** Ford, Hayley
**Sent:** Mon 10/16/2017 1:48:44 PM
**Subject:** RE: Draft LxL / 8AM COS Meeting on Monday
final Weekly Report 10.13.2017.docx

Apologies that this wasn't sent out on Friday. See attached for weekly report. Thanks!


**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

**From:** Ford, Hayley
**Sent:** Friday, October 13, 2017 5:26 PM
**To:** Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
**Cc:** Dickerson, Aaron <dickerson.aaron@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>
**Subject:** Draft LxL / 8AM COS Meeting on Monday

See attached for draft LxL. Please plan for an 8AM COS meeting on Monday morning.

Have a nice weekend!

**Hayley Ford**

Deputy White House Liaison

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Environmental Protection Agency

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ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

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**Pending Actions (Pending Federal Register Publication):**

Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)

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September 5, 2017

MEMORANDUM FOR THE WHITE HOUSE STAFF SECRETARY AND CABINET SECRETARY

FROM: Ryan Jackson, Chief of Staff, U.S. Environmental Protection Agency

SUBJECT: Environmental Protection Agency Weekly Update for the Week of September 4, 2017

**EPA 30-Day Policy Look Ahead**

# Non-Responsive

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**C. State and Local-Based Issues**

Non-Responsive

5. **TEXAS REGIONAL HAZE**: EPA is working closely with Gov. Abbott's office to meet a September 9 consent decree deadline to take action regarding a pending Federal Implementation Plan (FIP) for Regional Haze. The pending FIP was proposed by the previous Administration in early January. The state and EPA are working to get the process on a State Implementation Plan (SIP) pathway to better incorporate the states' leadership in this area.
   **Timing**: The relevant consent decree would require final action on either a SIP or FIP by September 9. On August 18, EPA, in conjunction with DOJ and concurrence from TCEQ and

Texas Governor Abbott's office, requested an extension of that timeline from the DC District Court until December 31, 2018, for purposes of putting a SIP in place to meet associated Regional Haze requirements. Parties are awaiting the court's decision. **Contact**: Mandy Gunasekara, Senior Policy Advisor, Gunasekara.mandy@epa.gov

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**To:** 2017HQfirstassistants[2017HQfirstassistants@epa.gov]; 2017Regionfirstassistants[2017Regionfirstassistants@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]
**Cc:** Burton, Tamika[burton.tamika@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]
**From:** Fonseca, Silvina
**Sent:** Fri 10/13/2017 5:50:11 PM
**Subject:** Weekly for October 13, 2017
Weekly Report 10.13.2017.docx

Good Afternoon,

Attached you will find the complete Weekly for October 13, 2017. Please let me know if you have any questions and have a great weekend.

*Silvina Fonseca*

*Special Assistant*

*Office of the Administrator*

*U.S. Environmental Protection Agency*

*Desk: 202.564.1955*

*Cell:* 202.306.6844

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**Pending Actions (Pending Federal Register Publication):**

Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)

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10/25 EPA's Response as to whether a Consent Decree has been satisfied is due in *NPCA v. EPA*, a complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs.

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**Office of Policy**

Documents Submitted to OFR from October 4 - October 12, 2017

| FRL | Title | Date Submitted to OFR |
|---|---|---|
| 9969-43-Region 4 | Air Plan Approval; Georgia: New Source Review Updates | 10/10/2017 |
| 9969-20-Region 4 | Air Plan Approval; Florida; Interstate Transport (Prongs 1 and 2) for the 2010 1-hour NO2 Standard | 10/10/2017 |
| 9969-38-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendment to Ambient Air Quality Standard for Ozone | 10/10/2017 |
| 9969-40-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendment to Ambient Air Quality Standard for Ozone | 10/10/2017 |
| 9969-42-Region 4 | Air Plan Approval: Georgia; New Source Review and Permitting Updates | 10/10/2017 |
| 9969-47-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards | 10/10/2017 |
| 9969-48-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards | 10/10/2017 |
| 9969-50-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard | 10/10/2017 |
| 9969-51-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard | 10/10/2017 |
| 9969-62-Region 5 | Air Plan Approval; Ohio; Regional Haze Five-Year Progress Report State Implementation Plan | 10/10/2017 |
| 9968-59-OCSPP | Pesticide Program Dialogue Committee; Notice of Public Meeting | 10/10/2017 |
| 9964-42-OCSPP | Significant New Use Rules on Certain Chemical Substances | 10/10/2017 |
| 9966-70-OCSPP | Certain New Chemicals or Significant New Uses; Statements of Findings for July 2017 | 10/10/2017 |



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|---|---|---|
| 9969-32-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings | 10/10/2017 |
| 9969-34-Region 3 | Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface Coatings | 10/10/2017 |
| 9966-72-OCSPP | Disapproval of Pesticide Product Registrations for Special Local Needs | 10/6/2017 |
| 9967-09-OCSPP | Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities | 10/6/2017 |
| 9967-35-OCSPP | Pesticide Product Registration; Receipt of Applications for New Active Ingredients | 10/6/2017 |
| 9967-60-OCSPP | Pesticide Program Dialogue Committee; Notice of Charter Renewal | 10/6/2017 |
| 9968-94-OCSPP | Chemical Data Reporting; Requirements for Inorganic Byproduct Chemical Substances; Notice of Public Meeting; Cancellation and Public Input Opportunity | 10/6/2017 |
| 9969-27-Region 4 | Air Plan Approval; South Carolina; Cross-State Air Pollution Rule | 10/6/2017 |
| 9969-28-Region 4 | Air Plan Approval: North Carolina; Transportation Conformity | 10/6/2017 |
| 9969-29-Region 4 | Air Plan Approval; SC: Multiple Revisions to Air Pollution Control Standards | 10/6/2017 |
| 9969-30-Region 4 | Air Plan Approval; Georgia; Cross-State Air Pollution Rule | 10/6/2017 |
| 9969-31-Region 4 | Air Plan Approval: South Carolina; Standards for Volatile Organic Compounds and Oxides of Nitrogen | 10/6/2017 |
| 9969-33-Region 4 | Air Plan Approval; North Carolina; Air Curtain Burners | 10/6/2017 |
| 9969-35-Region 4 | Air Plan Approval; AL; VOC Definitions and Particulate Emissions | 10/6/2017 |
| 9969-36-Region 4 | Air Plan Approval; AL; VOC Definitions and Particulate Emissions | 10/6/2017 |
| 9969-37-Region 4 | Air Plan Approval; Florida; Stationary Sources Emissions Monitoring | 10/6/2017 |
| 9969-39-Region 4 | Air Plan Approval; Florida; Stationary Sources Emissions Monitoring | 10/6/2017 |
| 9969-41-Region 4 | Air Plan Approval; SC: Miscellaneous Revisions to Multiple Rules | 10/6/2017 |



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|---|---|---|
| 9969-44-Region 3 | Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; City of Philadelphia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator Units | 10/6/2017 |
| 9969-45-Region 3 | Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; City of Philadelphia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator Units | 10/6/2017 |
| 9969-49-OW | Notice of Extension to Comment Period on the Request for Public Comments To Be Sent to EPA on Peer Review Materials To Inform the Safe Drinking Water Act Decision Making on Perchlorate | 10/6/2017 |
| 9969-54-Region 1 | Air Plan Approval; Connecticut; Nonattainment New Source Review Permit Requirements for the 2008 8-Hour Ozone Standard | 10/6/2017 |
| 9969-56-Region 1 | Air Plan Approval; Vermont; Regional Haze Five-Year Progress Report; Withdrawal of Direct Final Rule | 10/6/2017 |
| 9968-83-OAR | Proposed Information Collection Request; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings (Renewal) | 10/5/2017 |
| 9968-88-ORD | Human Studies Review Board; Notification of Public Meetings | 10/5/2017 |
| 9969-07-Region 6 | Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan | 10/5/2017 |
| 9969-08-OAR | National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast Manufacturing Residual Risk and Technology Review | 10/5/2017 |
| 9969-14-Region 7 | Air Quality Implementation Plan; Iowa; Withdrawal of Direct Final Rule; Amendment to the Administrative Consent Order, Grain Processing Corporation, Muscatine, Iowa | 10/5/2017 |
| 9969-15-OARM | National Advisory Council for Environmental Policy and Technology | 10/5/2017 |
| 9969-19-Region 4 | Air Plan Approval; KY; Miscellaneous Source Specific Revisions for Jefferson County | 10/5/2017 |
| 9969-21-Region 4 | Air Plan Approval; Alabama; Regional Haze Plan and Prong 4 (Visibility) for the 2012 PM2.5, 2010 NO2, 2010 SO2, and 2008 Ozone NAAQS | 10/5/2017 |
| 9969-22-Region 4 | Air Plan Approval; Alabama: PSD Replacement Units | 10/5/2017 |
| 9969-23-Region 4 | Approval and Promulgation of Air Quality Implementation Plans; State of South Carolina; Regional Haze State Implementation Plan | 10/5/2017 |
| 9969-24-Region 4 | Air Plan Approval: Alabama; Transportation Conformity | 10/5/2017 |

| | | |
|---|---|---|
| 9969-25-Region 4 | Air Plan Approval: Alabama; Transportation Conformity | 10/5/2017 |
| 9969-26-Region 4 | Air Plan Approval; Kentucky; Regional Haze Progress Report | 10/5/2017 |
| 9969-46-Region 8 | Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Regulation Number 3 | 10/5/2017 |
| 9968-98-Region 10 | Approval and Promulgation of Implementation Plans; Oregon: Permitting and General Rule Revisions | 10/4/2017 |
| 9969-18-Region 9 | Approval and Promulgation of Air Quality State Implementation Plans; California; Ambient Ozone Monitoring Requirements | 10/4/2017 |
| 9969-09-Region 7 | Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Oxide National Ambient Air Quality Standard | 10/4/2017 |
| 9969-10-Region 7 | Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2010 Nitrogen Oxide National Ambient Air Quality Standard | 10/4/2017 |
| 9969-06-OAR | National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills | 10/4/2017 |
| 9967-71-OCSPP | Tetrachlorvinphos; Notice of Receipt of Request to Voluntarily Cancel Certain Pesticide Registrations | 10/4/2017 |
| 9967-72-OCSPP | Tolfenpyad; Pesticide Tolerances for Emergency Exemptions | 10/4/2017 |
| 9963-91-OCSPP | Agency Information Collection Activities; Proposed Collection; Comment Request | 10/4/2017 |
| 9965-58-OCSPP | Tall oil fatty acids; Exemption from the Requirement of a Tolerance | 10/4/2017 |
| 9969-01-Region 8 | Approval and Promulgation; State of Utah; Salt Lake County and Utah County Nonattainment Area Coarse Particulate Matter State Implementation Plan Revisions to Control Measures for Point Sources | 10/4/2017 |
| 9969-11-Region 7 | Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM2.5)National Ambient Air Quality Standard | 10/4/2017 |
| 9969-12-Region 7 | Approval of Missouri Air Quality Implementation Plans; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM2.5)National Ambient Air Quality Standard | 10/4/2017 |



ED_001237D_00003008

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**To:** Schwab, Justin[schwab.justin@epa.gov]
**Cc:** Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Gunasekara, Mandy
**Sent:** Tue 9/5/2017 2:22:49 PM
**Subject:** RE: TX RH - draft briefing paper for SP
TX RH Memo for SP_Background-MMG edits.DOCX
TX REgional Haze Briefing Memo_MMG edits.docx

No edits to the backgrounder. A few to the memo and incorporated in the attached.

**From:** Schwab, Justin
**Sent:** Tuesday, September 5, 2017 9:35 AM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** RE: TX RH - draft briefing paper for SP

I will send to Lincoln at 10. Send any comments you may have ASAP, please.

**From:** Schwab, Justin
**Sent:** Monday, September 4, 2017 10:32 AM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Fwd: TX RH - draft briefing paper for SP

Sent from my iPhone

Begin forwarded message:

**From:** "Schwab, Justin" <schwab.justin@epa.gov>
**Date:** September 1, 2017 at 4:19:09 PM EDT
**To:** "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
**Subject: TX RH - draft briefing paper for SP**

ATTORNEY-CLIENT COMMUNICATION

Please find attached.

Assuming we get the 21 days, we have a *little* breathing room here. We may want to reschedule past Tuesday (especially in light of the conflict with the landfills meeting).

If you approve this and the two-pager I gave you in hard copy [and am attaching here], we can proceed to send for inclusion in a briefing book.

**Background**

EPA has September 30 deadlines[1] with regard to Texas's Clean Air Act requirements under 2 court orders entered in D.D.C. before different judges. One is to approve a SIP or issue a FIP satisfying Texas's obligations under the Best Available Retrofit Technology (BART) prong of the regional haze/interstate visibility program. The other is to approve a SIP or to issue a FIP satisfying Texas's obligations under the Act's "good neighbor"/interstate transport requirements.

Because these parts of the Act both deal with interstate pollution issues, EPA has repeatedly developed programs under which states through SIPs, or the agency through FIPs, can "kill two birds with one stone." The first of these efforts was the Clean Air Interstate Rule (CAIR), issued in 2005. This was an interstate cap-and-trade focusing on power plant emissions. It was designed to address the "good neighbor" provision, but EPA in a separate rulemaking determined that it was "better than BART," so that if a state was subject to CAIR either by SIP or by FIP, it would not need to require source-by-source BART controls.

The D.C. Circuit held in 2008 that CAIR was incompatible with the statute (*North Carolina v. EPA*), and remanded it to EPA. The Circuit did not vacate the rule, but made clear in its opinion that the rule was fundamentally defective and would need to be reworked from scratch.

In 2009, Texas submitted a SIP purporting to rely on CAIR for both its BART and "good neighbor" obligations. EPA eventually (in 2012) disapproved this SIP. (In a 2015 case, the D.C. Circuit clarified that no SIP based on CAIR could ever have been lawfully approved.)

Meanwhile, EPA in 2011 took another try at addressing the "good neighbor" provision when it issued the Cross-State Air Pollution Rule ("CSAPR")—the successor to the Clean Air Interstate Rule—CAIR. EPA determined that CSAPR was "better than BART" for those states subject to it.

EPA issued CSAPR as a FIP for Texas. In 2015, the D.C. Circuit held that CSAPR "over-controlled" SO2 emissions in Texas (*EME Homer City II*), and remanded the rule to EPA. Other states (SC, AL, GA) that achieved this same victory decided to voluntarily stay in CSAPR to satisfy their BART requirements, but

**Ex. 5 - Deliberative Process**

On January 4, 2017, EPA proposed a source-by-source BART FIP that would satisfy both BART and the "good neighbor" provision. This would require some 2.2 billion dollars' worth of controls on dozens of EGUs. In the comment period on this proposal, some owners and the state asked EPA to instead use a trading program to satisfy the statute.

**Ex. 5 - Deliberative Process**

In mid-August, EPA asked the D.D.C. judges for an extension of time under the consent decrees until the end of 2018, to allow Texas time to develop and submit an intrastate trading program SIP. EPA attached a letter from Gov. Abbott and a Memorandum of Agreement with TCEQ, laying out a concept and

[1] The deadlines were September 9. After the courts denied EPA's request for an extension through 2018, plaintiffs stipulated to a 21-day extension in light of the emergencies following Hurricane Harvey.

schedule for the SIP timeline, to support this request.

On August 31 and [X date], the judges denied this request.

**Current Status and Proposed Action**

Ex. 5 - Deliberative Process

Ex. 5 - Attorney Client, Deliberative Process



ED_001237D_00003043

**To:** Hupp, Millan[hupp.millan@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]
**From:** Ford, Hayley
**Sent:** Tue 9/5/2017 11:17:18 AM
**Subject:** RE: September 4 - 10, 2017: Draft Line X Line & Weekly Report
Weekly Report 09012017.docx

See attached for the weekly report from regions and program offices.


**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296


**From:** Hupp, Millan
**Sent:** Monday, September 4, 2017 11:00 AM
**To:** Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck,

Nancy <Beck.Nancy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
**Subject:** September 4 - 10, 2017: Draft Line X Line

Happy Labor Day.

Please be aware that there will be a 30 minute COS meeting in the morning starting at 8:30AM. We will be in the Alm Room and we will have a hard stop at 9AM. The Administrator will not be in this meeting but will be in the office in the afternoon for his scheduled briefings.

See you then.

Millan Hupp

Director of Scheduling and Advance

Office of the Administrator, EPA
202.380.7561 hupp.millan@epa.gov

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- **For Administrator's Signature – Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan (FIP) Requirements for Texas:** This final rule will provide certainty to the Texas electric generating units (EGUs) whose FIP requirements are being withdrawn and provide a stronger legal foundation for expected finalization of an action by September 9, 2017 that would rely on the Cross-State Air Pollution Rule (CSAPR) as a NOx Best Available Retrofit Technology (BART) alternative for Texas EGUs. The package is with OP for review.

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**Office of General Counsel**

**New Judicial Decisions**

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**Upcoming Major Deadlines in the Next Two Weeks**

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09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (Consent Decree) relating to *National Parks Conservation Association, et al. v. EPA*.

09/09 Take final action by promulgating a FIP or unconditionally approving a SIP to address the prong 4 requirements for the 1997 ozone and PM2.5 NAAQS (Consent Decree) relating to *Sierra Club v. EPA*.

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**To:** Munoz, Charles[munoz.charles@epa.gov]
**Cc:** Ford, Hayley[ford.hayley@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
**From:** Fotouhi, David
**Sent:** Tue 10/10/2017 11:23:21 PM
**Subject:** RE: Submit 30 Day Look-Ahead Updates by COB
OGC edits to EPA Cabinet 30 Day Report 10.2.17.docx

Please find OGC's edits tracked in the attached draft. Thanks!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Message-----
From: Munoz, Charles
Sent: Tuesday, October 10, 2017 1:05 PM
To: Ford, Hayley <ford.hayley@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>
Subject: RE: Submit 30 Day Look-Ahead Updates by COB

Due to the holiday, please submit any updates to me by COB today. Attached is the prior report for reference.

Thanks,

Charles Munoz
White House Liaison
Environmental Protection Agency
202-380-7967

-----Original Appointment-----
From: Letendre, Daisy On Behalf Of Ford, Hayley
Sent: Monday, October 9, 2017 4:50 PM
To: Greenwalt, Sarah; Lyons, Troy; Ferguson, Lincoln; Darwin, Henry; Schwab, Justin; Munoz, Charles; Chmielewski, Kevin; Gunasekara, Mandy; Bolen, Brittany; Yamada, Richard (Yujiro); Kelly, Albert; Brown, Byron; Bowman, Liz; Brooks, Becky; Baptist, Erik; Bennett, Tate; Graham, Amy; Jackson, Ryan; Dominguez, Alexander; Dravis, Samantha; Fotouhi, David; Beck, Nancy; Konkus, John; Davis, Patrick; Forsgren, Lee; Darwin, Veronica; Letendre, Daisy
Subject: FW: Submit 30 Day Look-Ahead Updates by COB
When: Monday, October 9, 2017 1:00 PM-1:15 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Email to Charles and Hayley

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From: Ford, Hayley
Sent: Thursday, August 3, 2017 4:03:14 PM UTC
To: Ford, Hayley; Chmielewski, Kevin; Dravis, Samantha; Brown, Byron; Bowman, Liz; Graham, Amy; Konkus, John; Ferguson, Lincoln; Greenwalt, Sarah; Gunasekara, Mandy; Kelly, Albert; Schwab, Justin; Fotouhi, David; Beck, Nancy; Lyons, Troy; Bennett, Tate; Davis, Patrick; Bolen, Brittany; Jackson, Ryan; Munoz, Charles; Baptist, Erik; Forsgren, Lee; Yamada, Richard (Yujiro); Darwin, Veronica; Darwin, Henry; Letendre, Daisy; Dominguez, Alexander
Cc: Brooks, Becky
Subject: Submit 30 Day Look-Ahead Updates by COB
When: Monday, October 9, 2017 5:00 PM-5:15 PM.
Where: Email to Charles and Hayley

**A. Legal Decisions**

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9. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-cv-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – FIP ISSUED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a

State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). Plaintiffs were ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30. EPA issued a FIP on September 29.
**Timing**: Plaintiffs have until October 13, 2017 to file a notice setting forth their position on whether EPA's FIP complies with the consent decree. DOJ may respond to such a notice by October 25, 2017. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

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October, 2nd 2017

MEMORANDUM FOR THE WHITE HOUSE STAFF SECRETARY AND CABINET SECRETARY

FROM: Ryan Jackson, Chief of Staff, U.S. Environmental Protection Agency

SUBJECT: Environmental Protection Agency Weekly Update for the Week of October, 2 2017

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**C. State and Local-Based Issues**

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2. **TEXAS REGIONAL HAZE**: EPA is working closely with Gov. Abbott's office to meet a September 30 consent decree deadline to take action regarding a pending Federal Implementation Plan (FIP) for Regional Haze. The pending FIP was proposed by the previous Administration in early January. The state and EPA are working to get the process on a State Implementation Plan (SIP) pathway to better incorporate the states' leadership in this area.
   **Timing**: The relevant consent decree would require final action on either a SIP or FIP by September 30. On August 18, EPA, in conjunction with DOJ and concurrence from TCEQ and Texas Governor Abbott's office, requested an extension of that timeline from the DC District Court until December 31, 2018, for purposes of putting a SIP in place to meet associated Regional Haze requirements. The court denied the extension request and the Agency is moving forward with an interim FIP. (The other parties to the consent decree did stipulate to an extension of the deadline until September 30 in light of the aftermath of Hurricane Harvey.) **Contact**: Mandy Gunasekara, Senior Policy Advisor, Gunasekara.mandy@epa.gov

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9. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State

Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30 in light of the ongoing recovery efforts in the wake of Hurricane Harvey.
**Timing**: EPA issued a FIP on September 29. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

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**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Feeley, Drew (Robert)[Feeley.Drew@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Gordon, Stephen[gordon.stephen@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Harlow, David[harlow.david@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lovell, Will (William)[lovell.william@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; White, Elizabeth[white.elizabeth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**Cc:** Dickerson, Aaron[dickerson.aaron@epa.gov]; Woodward, Cheryl[Woodward.Cheryl@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]
**From:** Ford, Hayley
**Sent:** Mon 10/9/2017 9:51:51 PM
**Subject:** DRAFT LxL / NO COS Meeting Tomorrow
Weekly Report 10.06.2017 final.docx
October 10 - November 4 2017- Draft Line X Line.pdf

Draft LxL and weekly report attached. NO COS meeting in the morning.

Thanks!

**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

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**Region 6**

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**PAST WEEK ACCOMPLISHMENTS**

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**Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)**
EPA has partially approved the Texas Clean-air Plan for Regional Haze and Interstate Visibility Transport and finalized a Federal Implementation Plan for a best available retrofit technology (BART) alternative that includes an intrastate trading program for sulfur dioxide

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**PENDING ACTIONS (Pending Federal Register Publication)**

DFW 2008 Ozone Nonattainment and RACT for VOC requirements for NAAQS
Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)

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**Office of Air and Radiation**

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*Recap of Past Week*

- **Actions signed recently:**
  - Nutritional Yeast Manufacturing Risk and Technology Review (Final Rule)
  - Pulp and Paper Risk and Technology Review (Final Rule)
  - Approval of Texas Regional Haze and Interstate Visibility Transport (Final Rule)

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**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
**Cc:** Reed Clay[Reed.Clay@gov.texas.gov]; Bryan Shaw[Bryan.Shaw@tceq.texas.gov]; Erin Chancellor[erin.chancellor@tceq.texas.gov]
**From:** Andrew Oldham
**Sent:** Mon 8/14/2017 7:51:43 PM
**Subject:** RE: Drafts
2017 08 14 MOA.docx
O-PruittScott20170814.pdf

Great – here's a clean version of the MOA. Bryan/Erin – can you please get Richard's signature and send it around?

Also attached is a final version of the letter.

**From:** Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
**Sent:** Monday, August 14, 2017 2:46 PM
**To:** Andrew Oldham <Andrew.Oldham@gov.texas.gov>; Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Reed Clay <Reed.Clay@gov.texas.gov>; Bryan Shaw <Bryan.Shaw@tceq.texas.gov>; Erin Chancellor <erin.chancellor@tceq.texas.gov>
**Subject:** RE: Drafts

We just got the greenlight from our technical and legal folks. This is good to go.

**From:** Andrew Oldham [mailto:Andrew.Oldham@gov.texas.gov]
**Sent:** Monday, August 14, 2017 12:14 PM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Reed Clay <Reed.Clay@gov.texas.gov>; Bryan Shaw <Bryan.Shaw@tceq.texas.gov>; Erin Chancellor <erin.chancellor@tceq.texas.gov>
**Subject:** Drafts

PRIV/CONF/DRAFT

Mandy and Justin—

Apologies for our delay. We've been working to make sure that everyone is on the same page here before circling back. Attached are two documents – a revised MOA and a draft letter to Administrator Pruitt. On the MOA, I omitted the redlines because the document was already a mess. But I've flagged for your attention with call-out boxes two issues. Please call me if you'd like to discuss.

And as we discussed late last week, we converted much of the MOA's preamble into a joint letter from the Governor and the TCEQ Chairman. Please let us know if these documents are acceptable so we can begin collecting the signatures from the Governor, Chairman Shaw, and Richard Hyde.

Thank you.

Andy

Ex. 6 - Personal Privacy

**MEMORANDUM OF AGREEMENT**
**BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING A STATE IMPLEMENTATION PLAN TO ADDRESS CERTAIN REGIONAL HAZE AND INTERSTATE VISBILITY TRANSPORT REQUIREMENTS PURSUANT TO SECTIONS 110 AND 169A OF THE CLEAN AIR ACT**

## BACKGROUND

This memorandum of agreement memorializes discussions between staff at the Texas Commission on Environmental Quality ("TCEQ") and the United States Environmental Protection Agency ("EPA"). TCEQ and EPA agree that the regional haze and interstate visibility transport requirements of the Clean Air Act are best met by a state implementation plan ("SIP"), not a federal implementation plan ("FIP"). TCEQ and EPA further agree that this SIP can be and will be implemented quickly and lawfully.

TCEQ and EPA agree that this SIP will meet the best available retrofit technology ( "BART") requirements through a new trading program. The foundation of that trading program will be the electric generating units ("EGUs") that the EPA would have subjected to BART in its FIP. *See* 92 Fed. Reg. 921 (Jan. 4, 2017). It is possible that some of these units should not be considered subject to BART, and it is possible that some BART units would be better regulated through source specific requirements. Moreover, some non-BART units may want to opt-in to the trading program. Working closely with EPA, the State through its SIP process will address each of these issues while ensuring that the State's SIP remains consistent with Act's regional haze requirements.

TCEQ and EPA further agree that the allocations to units included in the intrastate trading program should start from the allocations under the Cross-State Air Pollution Rule ( "CSAPR"). That is important for the speed of the State's SIP process because it will allow regulators to build on work that EPA already has done. TCEQ and EPA recognize that the CSAPR FIP budget already has been held to be over-control for certain interstate transport requirements. *See EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015). The new trading program will start from the CSAPR unit-level allocations and will preserve flexibility to adjust those allocations where necessary.

EPA and TCEQ further agree to parallel processing of the SIP, which will ensure that the trading program is in place and finalized by the end of next year.

At each step, TCEQ and EPA will work together to determine which units should be included, what the unit level allocations should be, and how the trading program should work. The goal of the parties is that at the end of this process, EPA will be able to determine that Texas has met all outstanding requirements for regional haze under CAA § 169A, including $SO_2$, PM,



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and $NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$ national ambient air quality standards (NAAQS). And this process could serve as a model for cooperative federalism under the Clean Air Act.

**NOW, THEREFORE, EPA AND TCEQ AGREE AS FOLLOWS:**

1. The executive director of the TCEQ agrees in the spirit of cooperative federalism to submit to the commission for consideration a proposed revision to its SIP to address the outstanding BART and visibility transport requirements.

    a. The executive director agrees to submit a proposed SIP revision for commission consideration no later than March 31, 2018.
    b. TCEQ agrees to coordinate with the owners and operators of potentially impacted EGUs in the State to develop a SIP.
    c. Upon adoption by the commission, TCEQ agrees to submit to EPA for action a revision to its SIP to address the Regional Haze and interstate visibility transport requirements not later than October 31, 2018.
    d. TCEQ intends for this SIP submittal to incorporate trading program flexibilities, to the extent appropriate.
    e. TCEQ intends to ask EPA to parallel process this SIP submittal.
    f. TCEQ intends for this SIP revision to address requirements for regional haze under CAA § 169A for $SO_2$, PM, and $NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$ NAAQS.

2. EPA agrees to parallel process this SIP submittal and intends to sign a final action on the SIP revision by December 31, 2018.

3. TCEQ and EPA intend to work together to meet the goals of this MOA.

4. This document does not establish binding legal requirements on EPA or TCEQ or any of their officers, employees, other representatives, or any other person. EPA retains all the discretion afforded to it under the CAA and the general principles of administrative law. As required by the Antideficiency Act, 31 U.S.C. § 1341 and 1342, all commitments made by EPA herein are subject to the availability of appropriated funds. Nothing in this document in and of itself obligates EPA to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur other financial obligations. This document does not create any exemption from policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this document will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

5. All commitments made by TCEQ in this agreement are subject to Texas law, including but not limited to the Government Code, the Water Code, the Texas Health and Safety Code, and the General Appropriations Act. Nothing in this agreement requires TCEQ to expend funds in violation of Texas law.

6. This MOA may be signed in counterparts.

7. This MOA will terminate upon EPA's final rulemaking action on TCEQ's SIP submittal.

Signed this 14th day of August 2017.

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| Richard Hyde, P.E.<br>Executive Director<br>Texas Commission on<br>Environmental Quality | Samuel Coleman, P.E.<br>Acting Regional Administrator<br>United States Environmental<br>Protection Agency, Region 6 |



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**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Feeley, Drew (Robert)[feeley.robert@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Gordon, Stephen[gordon.stephen@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lovell, Will (William)[lovell.william@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; White, Elizabeth[white.elizabeth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**Cc:** Woodward, Cheryl[Woodward.Cheryl@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]
**From:** Ford, Hayley
**Sent:** Fri 9/29/2017 9:59:18 PM
**Subject:** DRAFT LxL / NO COS Meeting Monday
Weekly Report 09-29-2017.docx
UPDATED CONTACT INFO_Slide for Senior Manager Training_Litigation Holds.....pptx
October 2 - November 4 2017- Draft Line X Line.pdf

See attached for a few items:

•□□□□□□□□ Draft LxL

•□□□□□□□□ Weekly report

•□□□□□□□□ PowerPoint slide from this week's Lit Hold meeting. If you weren't in attendance, please review this information and respond to your lit holds ASAP. See attached slide for all questions or Erik Baptist would be a good POC.

NO COS Meeting Monday.

Have a great weekend!

**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

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**Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)**
This FIP action finalizes determinations regarding BART for Electric Generating Units and interstate transport requirements in Texas. We are approving Texas' determination that the EGUs are not subject to BART for particulate matter. Other determinations have been made to render this action approvable. There is a court ordered deadline of September 30, 2017 on Texas Regional Haze and Interstate Visibility Transport.

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## Office of Air and Radiation

*Upcoming Hot Issues and Important Deadlines*

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- **Final Approval of Texas Regional Haze and Interstate Visibility Transport:** We have a court-ordered date of September 29, 2017, for the Administrator to take final action to address regional haze and interstate visibility transport in Texas. The package is in OP for review.

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**Upcoming Major Deadlines in the Next Two Weeks**

09/29 Take final action pursuant to a Consent Decree by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas in *National Parks Conservation Association, et al. v. EPA*.

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**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Albores, Richard[Albores.Richard@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]
**From:** Mills, Derek
**Sent:** Fri 9/29/2017 5:59:49 PM
**Subject:** Litigation Deadlines Chart
One Docket report 9-29-17 (with attorney names).pdf
One Docket report 9-29-17.pdf

Attached are two charts of OGC's upcoming litigation deadlines (from the One Docket database) until November 30. One chart includes attorney names, and the other does not.

**Derek Mills**

Special Assistant, Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-3341

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OGC Litigation Deadlines - September 29, 2017

| Due Date | Case Name | Court | Case # | Law Office | Attorney | Deadline Type | Action or Inaction Challenged |
|---|---|---|---|---|---|---|---|
| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Lea Anderson | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs |
| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Roland Dubois | Status Report | petition for review of EPA's rule entitled EPA, R egulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligation) |
| 10/1/2017 | Treated Wood Council, et al. v. EPA | DC Cir. | 14-1202 | SWERLO | Patrick Chang | Quarterly status report | EPA issuance of Non-Hazardous Secondary Materials (NHSM) rule under RCRA. This case was severed from another lawsuit while EPA conducts a rulemaking regarding whether to make a categorical non-waste determination for "other treated railroad ties." Case currently held in abeyance pending finalization of that rule. |
| 10/1/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Corrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |
| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/2/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Andrea Carrillo | Response to motions to govern | Petition for review of the Air Qua lity Designations for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 10/2/2017 | New Mexico v. Environmental Protection Agency Environmental Restoration Gina McCarthy Kinross Gold Corp. Kinross Gold USA Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Elizabeth Berg | Submit documents and declaration related to the scope of EPA's response action in response to court's 7/28 order | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gold King Mine |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Jessica Zomer | Deadline for EPA to file opposition to Plaintiffs' motion to hold the case in abeyance | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |

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|---|---|---|---|---|---|---|---|
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | Melina Williams | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enforcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |
| 10/3/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Alexis Wade | Answer and Administrative Record | Claims of unreasonable delay in taking final action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Matthew Marks | Status Report | Petition for review of EPA's final action titled " Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Howard Hoffman | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's Gallatin Fossil Plant |
| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | Any procedural motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/4/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Plaintiffs' summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | David Berol | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Kaytrue Ting | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1-year extension of attainment date for multi-state nonattainment area. |



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|---|---|---|---|---|---|---|---|
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Lea Anderson | Status Report | Petition for review of EPA's final action titled " Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Truck Trailer Manufacturers Association v. EPA | DC Cir. | 16-1430 | ARLO | Mark Kataoka | Response to Motion for Stay | Petition for review of EPA's final rule "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2" 81 FR 73478 (Oct. 25, 2016) |
| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Initial disclosures | Navy discharges of underwater ship husbandry without NPDES permit |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Baytown Refinery in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Charles Starrs | Answer | failure to timely grant or deny a petition to object to P art 70 Operating Permit issued to the to the Pasadena Refining System Inc. authorizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Charles Starrs | Answer | for failure to grant or deny a petition to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County, Texas |
| 10/6/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Jessica Zomer | Deadline for filing any dispositive motions | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Lynn Kelly | Reply to Oppo | This Freedom of Information Act ("FOI A") lawsuit pertains to a failure to respond to a FOIA request for certain records relating to the use and approval of a messaging application called "Signal" from July 2014 to the present. |
| 10/6/2017 | Alaska Center for the Environment, et al. v. EPA | W.D. Wash. | C90-595R | WLO | Stephen Sweeney | Status Report to notify Court when proposed TMDLs for remaining drainage from 1992 list will be submitted | Failure to establish TDMLs and WLAs for Alaska waters. |



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|---|---|---|---|---|---|---|---|
| 10/8/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Melina Williams | Status Reports | Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Angela Huskey | Plaintiffs Opening Remedy Brief | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report Due - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | David Berol | Status Report | Petition for Review of EPA's final rule entitled "Performance Specification 18 - Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fed. Reg. 38,628 July 7, 2015 |
| 10/10/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Melina Williams | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Melina Williams | Status Report | Petition for review of EPA's final action titled " National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidated) | WLO | Peter Ford | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Daniel Schramm | Answer | failure to grant or deny a petition to object to a proposed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylkill County, Pennsylvania |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | James Curtin | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Jonathan Skinner-Thompson | Certified Index | petition for review Wyoming Ozone Transport SIP |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | United States serves its expert reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Jonathan Skinner-Thompson | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |



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| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | James Curtin | Answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocations to James River dischargers |
| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | John Krallman | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny petition seeking an objection to Proposed Title V Permit for the operation of PacifiCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Answer | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Matthew Marks | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. Reg. 51,915 (August 28, 2012) |
| 10/16/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | Peter Ford | Hearing | District court challenge to EPA's denial of petitions to designate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Karen Bianco | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Laurel Celeste | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated into this case |
| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | Paul Versace | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial- Commercial-Institutional, and Small Industrial-Commercial- Institutional Steam Generating Units," published at 77 Fed. Reg. 9304 (Feb. 16,2012) |
| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Paul Versace | Status Report | severance of issues from 12-1166 (petition for revie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Andrea Carrillo | Status Reports | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | James Curtin | Status Report | EPA TMDL for Goose Creek |



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| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/19/2017 | New Mexico v. Environmental Protection Agency Environmental Restoration Gina McCarthy Kinross Gold Corp. Kinross Gold USA Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Elizabeth Berg | Status report due advising whether further discovery on the jurisdictional question raised in the court's 7/28 order is necessary | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gold King Mine |
| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |
| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | National Association of Homebuilders v. EPA | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Stephen Sweeney | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Charles Starrs | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |
| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/20/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | Joint appendix | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management statement | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/20/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 09-1038 | SWERLO | Patrick Chang | Petition for Rehearing | Challenge from industry and enviro petiti oners to EPA's definition of solid waste rule (80 Fed. Reg. 1694 (2015)) under RCRA. |
| 10/20/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | Thomas Glazer | ANSWER | Approval of Ohio's 2016 303(d) list |



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| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Geoffrey Wilcox | Status Report | petition for review of EPA's final rule entitled " State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Roland Dubois | Status Reports | petition for review of EPA's final rule entitled, 'Regulation of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Zach Pilchen | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Abi Vijayan | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |
| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Karen Bianco | Status report due | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |
| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Diane McConkey | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |



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| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 176A |
| 10/27/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | EPA appellate reply | EPA failure to establish TMDL s in WV for waters impaired by "ionic stress" |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/27/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Scott Jordan | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Emily Seidman | Status Report | Petition for review of EPA's final rule entitled " National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Erik Swenson | Due date to request more time before the mandate issues. | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | EPA Brief | petition for review of the Regional Consistency Regs |
| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | Lynn Kelly | JOINT SCHEDULE | Improper Request, Failure to Respond |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Rick Vetter | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing minor oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards. |
| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Scott Albright | EPA brief | Adequacy of the search. FOIA case. |
| 10/30/2017 | Ergon-West Virginia, Inc. v. EPA | 4th Cir. | 17-1839 | ARLO | Susan Stahle | EPA's Brief | petitions for review of EPA's final action: Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.'s Newell, WV Refinery |
| 10/31/2017 | Northwest Environmental Advocates v. EPA | W.D. WA | 2:16-cv-01866 | WLO | Alexis Wade | Hearing | Claims of unreasonable delay in taking fin al action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. | 9th Cir. | NO. 17-71636 | PTSLO | Mark Dyner | EPA's reply brief | Challenge to March 29, 2017 ord er denying PANNA/NRDC FFDCA petition |



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| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Paul Versace | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 10/31/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | EPA's response to summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Geoffrey Wilcox | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainmcnt areas state implementation plans |
| 11/1/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | James Curtin | Stay ends | EPA TMDL for Goose Creek |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/1/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Procedural Motions | for EPA's failure to comply with the R FA in issuing the 2017 RFS standards |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | D.C. Cir. | 11-1309 | ARLO | Rick Vetter | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Sara HertzWu | Status Report | Petition for review of final rule entitled "Preven tion of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |
| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Sara HertzWu | Status report | Challenge to treatment of fugitive emissions in th e 2002 NSR reform rule |



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| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | David Berol | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |
| 11/3/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | James Curtin | EPA SJ Brief | Challenge to EPA approval of bacteri a TMDL for Potomac River |
| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Sheila Igoe | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal combustion engines |
| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | Stephen Sweeney | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperature on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Rick Vetter | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,068 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Daniel Conrad | Status Report | petition for review of EPA's rule entitled "Standa rds of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Response Brief | failure to grant or deny section 1 26 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Heidi Nalven | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC v. EPA | D.C. Cir. | 14-1267 | ARLO | Mike Thrift | Status Reports | Petitions for review of EPA's final action e ntitled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Mike Thrift | Status Report | Petitions for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |



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| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | Ryland Li | EPA Answer/Motion to Dismiss | for EPA's noncompliance with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS |
| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Scott Jordan | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition seeking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Scott Jordan | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Winifred Okoye | Status Reports | petition for review of EPA's grant of authorizati on for California's in-use nonroad engine standards |
| 11/7/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Deferred Appendix Due | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 11/7/2017 | North Dakota v. EPA | DC Cir. | No. 17-5010 | SWERLO | Laurel Celeste | Oral Argument | Appeal of denial of intervention; challenge to ent ered CD |
| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Melina Williams | Status Report | challenge to endangerment finding for GHG from air craft |
| 11/8/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Eric Wilber | Reply due for Motion to Dismiss | Denial of a TSCA Section 21 Petition |
| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report Due - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Andrea Carrillo | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016). |
| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Jan Tierney | Status Reports | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |



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| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Lynn Kelly | Reply to Oppo | This lawsuit alleges that EPA has failed to respond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communicate about agency business, as well as EPA efforts to retrieve, recover, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | Sierra Club, et al. v. EPA | DC Cir. | 15-1487 | ARLO | Scott Jordan | Oral Argument | BRICK MACT RULE CHALLENGE - Petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing" (80 FR 65470 (Oct. 26, 2015) |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Zach Pilchen | Answer | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 11/10/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Plaintiff's' SJ reply brief | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of WV | 2:16-cv-11111 | WLO | Thomas Glazer | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 11/11/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 08-1277 | ARLO | Dan Conrad | Status Reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | David Orlin | Status Reports | Petition for review of final regulation concerning emission durability procedures for vehicles, and trucks |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | Scott Albright | EPA document production due | Failure to respond. FOIA case. |
| 11/14/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Final Briefs | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 11/14/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Erik Swenson | Mandate enforcing Court's order to vacate Rule goes into effect | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 11/14/2017 | Troy Chemical Corp. v. EPA | DC Cir. | 14-1290 | SWERLO | Erik Swenson | Status report due - case stayed pending settlement. | CERCLA 113(a) petition challenging a rulemaking to add a site to the NPL |



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| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | Thomas Glazer | ANSWER | Alleged inaction on New York State's submission of primary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Eaton Weiler | Status Report | challenge to EPA's revisions to the NSR "reas onable possibility" recordkeeping requirement |
| 11/15/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | Michele Knorr | EPA and Intervenors' Motions to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultation under ESA/failure to reinitiate consulations re: 1989/1993 ESA consultations. This case has been remanded from an appeal of this case. Third amended complaint filed. 2200+ actions (pesticide product actions) alleged in the failure to consult claims on 35 activie ingredients. Arguments for MTD are currently being developed. |
| 11/15/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | Thomas Glazer | STAY EXPIRES | Challenge to EPA Administrative Order for Compliance, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |
| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Nora Greenglass | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EPA's final rule entitled "Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64,510 (October 23, 2015) |
| 11/17/2017 | Burgess, et al. v. EPA et al. | E.D. Mich. | Civ. No. 4:17-cv-11218 | CRFLO | Ann Sisson | Depositions and Prep scheduled 9/29 - 11/17/17 | Plaintiffs suing EPA under the FTCA alleging negligence in responding to Flint drinking water crisis. Challenging that EPA's action/inaction violated mandatory duties prescribed by SDWA Sections 1414 and 1431. |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Emily Seidman | Joint Status Report | petition for review of EPA's "National Emiss ion Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | James Curtin | Status Report | EPA approval of Vermont's Moon Broo k TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Matthew Schwarz | Joint Status Report | FOIA: Failure to Respond |



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| 11/18/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Ragan Tate | status report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/19/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | John Krallman | Status Report | petition for review of EPA's final rule entitled " Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 11/20/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Reply Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/20/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Heidi Nalven | Petitioners' Reply Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/20/2017 | Southwestern Electric Power Company, et al. v. EPA | 5th Cir. | 15-60821 | WLO | Jessica Zomer | 90-day status report | Petition for review of EPA's final Steam Electric Effluent Limitations Guidelines and Standards Rule published November 3, 2015. |
| 11/20/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | Joint Reply Brief for Petitioners | petition for review of the Regional Consistency Regs |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1311 | ARLO | Scott Jordan | Status Report | PULP AND PAPER MACT SUBPART MM CHALLENGE - Challenge to Chemical Recovery Combustion Sources at Pulp Mills (MACT Subpart MM), alleging grounds arising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemption case |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1312 | ARLO | Scott Jordan | Status Report | PULP AND PAPER MACT (SUBPART S) ARISING AFTER CHALLENGE - Petition for review of EPA's final rule entitled "NESHAP for source category: Pulp and Paper Production" 63FR18503 (Subpart S) alleging grounds arising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemption case |
| 11/20/2017 | Hearth, Patio & Barbecue Association v. EPA | DC Cir. | 15-1056 | ARLO | Scott Jordan | Petitioners' Initial Brief | WOOD HEATERS NSPS RULE CHALLENGE - petition for review of EPA's final action entitled "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces" at 80 Fed. Reg. 13,672-13,753 (March 16, 2015) |
| 11/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 11/22/2017 | Spokane Riverkeeper v. EPA | W.D. Wash. | 2:15-cv-01542 | WLO | James Curtin | EPA answer | EPA approval of Washington state TMDL for Hangman Creek. |



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| 11/22/2017 | Compsys, Inc. v. EPA | DC Cir. | 15-1334 | ARLO | Jan Tierney | Motion to Govern Further Proceedings | Petition for review of EPA's final rule titled "Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program, Part II" at 80 FR 42870 (July 20, 2015) |
| 11/23/2017 | State of Nevada v. EPA | D.C. Cir. | 08-1327 | ARLO | Charles Starrs | Status Report | Final rule promulgating amendments to 40 C.F.R. Pa rt 197, 73 Fed. Reg. 61255 (Oct. 15, 2008). |
| 11/24/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Susan Stahle | Status reports | Challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries. |
| 11/26/2017 | Felman Production, LLC v. EPA | D.C. Cir. | 15-1296 | ARLO | Jonathan Averback | Status Report | Petition for review of EPA's final action entitled "National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production." at 80 Fed. Reg. 37,366 (June 30, 2015) |
| 11/26/2017 | American Fuel & Petrochemical Manufacturers Western States Petroleum Association v. EPA | DC Cir. | 12-1249 | ARLO | Roland Dubois | Status Report | Response to petition for reconsideration of 2011 c ellulosic biofuel standard and response to petition for waiver of 2011 cellulosic biofuel standard |
| 11/27/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | Deferred Appendix | petition for review of the Regional Consistency Regs |
| 11/27/2017 | American Chemistry Council, et al. v. EPA | DC Cir. | 17-1064 | SWERLO | Katherine Nam | status report | ACC petitioned the D.C. Circuit to review the RCRA generator improvements rule. ACC has requested the D.C. Circuit to set aside the rule because it is "unlawful, arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with law." |
| 11/27/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1346 | ARLO | Kaytrue Ting | Status Report | petition for review of EPA's final rule entitled "Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone." at 77 Fed. Reg. 34,830 (June 12, 20 12) |
| 11/27/2017 | Wisconsin Public Service Corporation v. EPA | D.C. Cir. | 12-1163 | ARLO | Kaytrue Ting | Status Report | Petition for Review of TR Revisions Rule (Feb.): final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" 77 Fed. Reg. 10324 (Feb. 21, 2012) |
| 11/27/2017 | National Alliance of Forest Owners, et al. v. EPA | D.C. Cir. | 10-1209 | ARLO | Nora Greenglass | Status Report | NAFO/AFPA PETITION RE BIOGENIC EMISSIONS UNDER TAILORING RULE - Challenge to EPA's treatment of Biogenic Emissions in Tailoring Rule, 75 Fed. Reg. 31,514 (June 3, 2010). |



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| 11/28/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Jan Tierney | Status Report | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Delaware OTR for RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Sacramento Metro (Placer County); various RACT. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for New York for Industrial Cleaning Solvents (2006) CTG RACT |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for NY-N. New Jersey-Long Island; NY for NNSR – Moderate. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Jamestown; NY for NNSR – Marginal. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Karen Bianco | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for New York OTR RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources. |
| 11/30/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Eric Wilber | Hearing on Motion to Dismiss | Denial of a TSCA Section 21 Petition |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | Motion to govern | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |



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OGC Litigation Deadlines - September 29, 2017

| Due Date | Case Name | Court | Case # | Law Office | Deadline Type | Action or Inaction Challenged |
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| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it made a find ing of failure to submit, and to take action on 10 regional haze SIPs |
| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Status Report | petition for review of EPA's rule entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligatio n) |
| 10/1/2017 | Treated Wood Council, et al. v. EPA | DC Cir. | 14-1202 | SWERLO | Quarterly status report | EPA issuance of Non-Hazardous Secondary Materials (NHSM) rule under RCRA. This case was severed from another lawsuit while EP A conducts a rulemaking regarding whether to make a categorical n on-waste determination for "other treated railroad ties." Case cur rently held in abeyance pending finalization of that rule. |
| 10/1/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozon e and Corrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |
| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of aci d mine drainage from the Gold King Mine and allege past and future rel eases from mines in the area. CWA claim under 505(h) alleging EPA's f ailure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/2/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Response to motions to govern | Petition for review of the Air Quality De signations for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Rou nd 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 10/2/2017 | New Mexico v. Environmental Protection Agency Environmental Restoration Gina McCarthy Kinross Gold Corp. Kinross Gold USA Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Submit documents and declaration related to the scope of EPA's response action in response to court's 7/28 order | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gol d King Mine |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Deadline for EPA to file opposition to Plaintiffs' motion to hold the case in abeyance | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enf orcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |

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| 10/3/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Answer and Administrative Record | Claims of unreasonable delay in taking final action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's Gallatin Fossil Plant |
| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Any procedural motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/4/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Plaintiffs' summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1-year extension of attainment date for multi-state nonattainment area. |
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Truck Trailer Manufacturers Association v. EPA | DC Cir. | 16-1430 | ARLO | Response to Motion for Stay | Petition for review of EPA's final rule "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2" 81 FR 73478 (Oct. 25, 2016) |



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| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Initial disclosures | Navy discharges of underwater ship husban dry without NPDES permit |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Answer | CAA § 304 action alleging that EPA f ailed to respond a petition to object to a Title V permit issued by the Texas Commission on Environme ntal Quality for the Baytown Refinery in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Answer | failure to timely grant or deny a pe tition to object to Part 70 Operating Permit issued to the to the Pasadena Refining System Inc. autho rizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Answer | for failure to grant or deny a petit ion to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Answer | CAA § 304 action alleging that EPA f ailed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County , Texas |
| 10/6/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Deadline for filing any dispositive motions | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Reply to Oppo | This Freedom of Information Act ("FOIA") lawsui t pertains to a failure to respond to a FOIA request for certain records relating to the u se and approval of a messaging application called "Signal" from July 2 014 to the present. |
| 10/6/2017 | Alaska Center for the Environment, et al. v. EPA | W.D. Wash. | C90-595R | WLO | Status Report to notify Court when proposed TMDLs for remaining drainage from 1992 list will be submitted | Failure to establish TDMLs and WLAs for Alaska waters. |
| 10/8/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Status Reports | Petition for review of EPA's fi nal action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Plaintiffs Opening Remedy Brief | Challenging clothianidin an d thiamethoxam registrations for violations of FIFRA and ESA |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report Due - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64 ,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | Status Report | Petition for Review of EPA's fin al rule entitled "Performance Specification 18 - Performance Specifications and Test Procedur es for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fe d. Reg. 38,628 July 7, 2015 |



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| 10/10/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Status Report | Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidated) | WLO | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Answer | failure to grant or deny a petition to object to a proposed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylkill County, Pennsylvania |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Certified Index | petition for review Wyoming Ozone Transport SIP |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | United States serves its expert reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | Answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocations to James River dischargers |
| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny petition seeking an objection to Proposed Title V Permit for the operation of PacifiCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Answer | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. Reg. 51,915 (August 28, 2012) |
| 10/16/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | Hearing | District court challenge to EPA's denial of petitions to designate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated into this case |



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| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial- Commercial-Institutional, and Small Industrial-Commercial- Institutional S team Generating Units," published at 77 Fed. Reg. 9304 (Feb. 16,2012 ) |
| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Status Report | severance of issues from 12-1166 (petition for revie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electr ic Utility, Industrial-Commercial-Institutional, and Small Industrial-Comme rcial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Status Reports | petition for review of EPA's fi nal action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinatio ns for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct . 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | Status Report | EPA TMDL for Goose Creek |
| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of aci d mine drainage from the Gold King Mine and allege past and future rel eases from mines in the area. CWA claim under 505(h) alleging EPA's f ailure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/19/2017 | New Mexico v. Environmental Protection Agency Environmental Restoration Gina McCarthy Kinross Gold Corp. Kinross Gold USA Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Status report due advising whether further discovery on the jurisdictional question raised in the court's 7/28 order is necessary | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gol d King Mine |
| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Sol id Waste Incinerators |
| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | National Association of Homebuilders v. EPA | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |



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| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/20/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | Joint appendix | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management statement | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/20/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 09-1038 | SWERLO | Petition for Rehearing | Challenge from industry and enviro petitioners to EPA's definition of solid waste rule (80 Fed. Reg. 1694 (2015)) under RCRA. |
| 10/20/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | ANSWER | Approval of Ohio's 2016 303(d) list |
| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Status Report | petition for review of EPA's final rule entitled "State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Status Report | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Status Reports | petition for review of EPA's final rule entitled, 'Regulation of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |
| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Status report due | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |



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| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant ma nagement regulations under CAA section 608 |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |
| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 1 76A |
| 10/27/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | EPA appellate reply | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/27/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, an d Reconstructed Stationary Sources: Electric Utility Generating U nits." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Status Report | Petition for review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Reco very Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Due date to request more time before the mandate issues. | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | EPA Brief | petition for review of the Region al Consistency Regs |
| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | JOINT SCHEDULE | Improper Request, Failure to Re spond |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing mino r oil and natural gas sources in Indian country to satisfy construction p ermitting requirements by complying with applicable emissions standards. |
| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | EPA brief | Adequacy of the search. FOIA case. |
| 10/30/2017 | Ergon-West Virginia, Inc. v. EPA | 4th Cir. | 17-1839 | ARLO | EPA's Brief | petitions for review of EPA's fin al action: Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.' s Newell, WV Refinery |
| 10/31/2017 | Northwest Environmental Advocates v. EPA | W.D. WA | 2:16-cv-01866 | WLO | Hearing | Claims of unreasonable delay in taking final action o n Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. | 9th Cir. | NO. 17-71636 | PTSLO | EPA's reply brief | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |



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| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 10/31/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | EPA's response to summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainment areas state implementation plans |
| 11/1/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | Stay ends | EPA TMDL for Goose Creek |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/1/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Procedural Motions | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | D.C. Cir. | 11-1309 | ARLO | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Status Report | Petition for review of final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |
| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Status report | Challenge to treatment of fugitive emissions in the 2002 NSR reform rule |
| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |
| 11/3/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |



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| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal combustion engines |
| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperatu re on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,0 68 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Status Report | petition for review of EPA's rule entitled "Standards of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Response Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC v. EPA | D.C. Cir. | 14-1267 | ARLO | Status Reports | Petitions for review of EPA's final action entitled "Na tional Emission Standards for Hazardous Air Pollutants: Generic Maximum Achieva ble Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Status Report | Petitions for review of EPA's final action ent itled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achieva ble Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | EPA Answer/Motion to Dismiss | for EPA's noncompliance with se ctions 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually rev iew the point of obligation of the RFS |
| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition se eking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Status Reports | petition for review of EPA's grant of authorization for California's in-use nonroad engine standards |



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| 11/7/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Deferred Appendix Due | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 11/7/2017 | North Dakota v. EPA | DC Cir. | No. 17-5010 | SWERLO | Oral Argument | Appeal of denial of intervention; challenge to entered CD |
| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Status Report | challenge to endangerment finding for GHG from aircraft |
| 11/8/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Reply due for Motion to Dismiss | Denial of a TSCA Section 21 Petition |
| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report Due - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64 ,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Desig nations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Qual ity Standard—Supplement to Round 2 for Four Areas in Texas: Freesto ne and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016). |
| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Status Reports | Petition to review a final acti on of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Reply to Oppo | This lawsuit alleges that EPA has failed to res pond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communicat e about agency business, as well as EPA efforts to retrieve, reco ver, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | Sierra Club, et al. v. EPA | DC Cir. | 15-1487 | ARLO | Oral Argument | BRICK MACT RULE CHALLENGE - Petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing" (80 FR 65470 (Oct. 26, 2015) |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status reports | Petition for review of EPA's final rul e entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Answer | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 11/10/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Plaintiff's' SJ reply brief | N.D.Ca. challenge to EPA's rule s delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 ( Jan. 4, 2017) |



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| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of WV | 2:16-cv-11111 | WLO | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper crit erion for a segment of the Kanawha River. Following EPA disapproval, chall enges EPA disapproval |
| 11/11/2017 | American Petroleum Institute, et al. v. EPA | D.C. Cir. | 08-1277 | ARLO | Status Reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | Status Reports | Petition for review of final regulation concerning emission durability procedures for vehicles, and trucks |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | EPA document production due | Failure to respond. FOIA case. |
| 11/14/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Final Briefs | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 11/14/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Mandate enforcing Court's order to vacate Rule goes into effect | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 11/14/2017 | Troy Chemical Corp. v. EPA | DC Cir. | 14-1290 | SWERLO | Status report due - case stayed pending settlement. | CERCLA 113(a) petition challenging a rulemaking to add a site t o the NPL |
| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | ANSWER | Alleged inaction on New York State's submission of pri mary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Status Report | challenge to EPA's revisions to the NSR "reasonable possi bility" recordkeeping requirement |
| 11/15/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | EPA and Intervenors' Motions to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultat ion under ESA/failure to reinitiate consulations re: 1989/1993 ESA consul tations. This case has been remanded from an appeal of this case. Third amended complaint filed. 2200+ actions (pesticide product actio ns) alleged in the failure to consult claims on 35 activie ingredie nts. Arguments for MTD are currently being developed. |
| 11/15/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RF S standards |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | STAY EXPIRES | Challenge to EPA Administrative O rder for Compliance, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Sol id Waste Incinerators |



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| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EP A's final rule entitled "Standards of Performance for Greenhouse Gas Emis sions From New, Modified, and Reconstructed Stationary Sources: Elect ric Utility Generating Units" at 80 Fed. Reg. 64,510 (October 23, 2 015) |
| 11/17/2017 | Burgess, et al. v. EPA et al. | E.D. Mich. | Civ. No. 4:17-cv-11218 | CRFLO | Depositions and Prep scheduled 9/29 - 11/17/17 | Plaintiffs suing EPA under the FTCA alleging negligence in resp onding to Flint drinking water crisis. Challenging that EPA's action/ inaction violated mandatory duties prescribed by SDWA Sections 1414 and 1431. |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Joint Status Report | petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | Status Report | EPA approval of Vermont's Moon Brook TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Joint Status Report | FOIA: Failure to Respond |
| 11/18/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | status report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/19/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | Status Report | petition for review of EPA's final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 11/20/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Reply Brief | failure to grant or deny section 126 petition fi led by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/20/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Petitioners' Reply Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/20/2017 | Southwestern Electric Power Company, et al. v. EPA | 5th Cir. | 15-60821 | WLO | 90-day status report | Petition for review of EPA's final Steam Electric Effluent Limitations Guidelines and Standards Rule published November 3, 2015. |
| 11/20/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Joint Reply Brief for Petitioners | petition for review of the Regional Consistency Regs |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1311 | ARLO | Status Report | PULP AND PAPER MACT SUBPART MM CHALLENGE - Challenge to Chemical Recovery Combustion Sources at Pulp Mills (MACT Subpar t MM), alleging grounds arising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemption case |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1312 | ARLO | Status Report | PULP AND PAPER MACT (SUBPART S ) ARISING AFTER CHALLENGE - Petition for review of EPA's final rule entitled "N ESHAP for source category: Pulp and Paper Production" 63FR18503 (Subp art S) alleging grounds arising after due to D.C. Circuit Sierra Cl ub v. EPA decision vacating SSM exemption case |



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|---|---|---|---|---|---|---|
| 11/20/2017 | Hearth, Patio & Barbecue Association v. EPA | DC Cir. | 15-1056 | ARLO | Petitioners' Initial Brief | WOOD HEATERS NSPS RULE CHALLENGE - petition for review of EPA's final action entitled "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces" at 80 Fed. Reg. 13,672-13,753 (March 16, 2 015) |
| 11/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 11/22/2017 | Spokane Riverkeeper v. EPA | W.D. Wash. | 2:15-cv-01542 | WLO | EPA answer | EPA approval of Washington state TMDL for Hangman Creek. |
| 11/22/2017 | Compsys, Inc. v. EPA | DC Cir. | 15-1334 | ARLO | Motion to Govern Further Proceedings | Petition for review of EPA's final rule titled "Protection of S tratospheric Ozone: Change of Listing Status for Certain Substitutes Under t he Significant New Alternatives Policy Program, Part II" at 80 FR 42870 (July 20, 2015) |
| 11/23/2017 | State of Nevada v. EPA | D.C. Cir. | 08-1327 | ARLO | Status Report | Final rule promulgating amendments to 40 C.F.R. Part 197, 73 Fed. Reg. 61255 (Oct. 15, 2008). |
| 11/24/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Status reports | Challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing indu stry and in petroleum refineries. |
| 11/26/2017 | Felman Production, LLC v. EPA | D.C. Cir. | 15-1296 | ARLO | Status Report | Petition for review of EPA's final action entitled "Na tional Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production. " at 80 Fed. Reg. 37,366 (June 30, 2015) |
| 11/26/2017 | American Fuel & Petrochemical Manufacturers Western States Petroleum Association v. EPA | DC Cir. | 12-1249 | ARLO | Status Report | Response to petition for reconsi deration of 2011 cellulosic biofuel standard and response to petition for waiver of 2011 cellulosic biofuel standard |
| 11/27/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Deferred Appendix | petition for review of th e Regional Consistency Regs |
| 11/27/2017 | American Chemistry Council, et al. v. EPA | DC Cir. | 17-1064 | SWERLO | status report | ACC petitioned the D.C. Circui t to review the RCRA generator improvements rule. ACC has requested the D.C. Circuit to set as ide the rule because it is "unlawful, arbitrary, capricious, an abuse o f discretion, or not otherwise in accordance with law." |
| 11/27/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1346 | ARLO | Status Report | petition for review of EPA's f inal rule entitled "Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone." at 77 Fed. Reg. 34,830 (June 12, 20 12) |
| 11/27/2017 | Wisconsin Public Service Corporation v. EPA | D.C. Cir. | 12-1163 | ARLO | Status Report | Petition for Review of TR Revi sions Rule (Feb.): final rule entitled "Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" 77 Fed. Reg. 10 324 (Feb. 21, 2012) |
| 11/27/2017 | National Alliance of Forest Owners, et al. v. EPA | D.C. Cir. | 10-1209 | ARLO | Status Report | NAFO/AFPA PETITION RE BIOGENIC EMISSIONS UNDER TAILORING RULE - Challenge to EPA's treatment of Biogenic Emissions in Tailoring Rule, 75 Fed. Reg. 31,514 (June 3, 2010) . |



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|---|---|---|---|---|---|---|
| 11/28/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Status Report | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Delaware OTR for RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Sacramento Metro (Placer County); various RACT. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for New York for Industrial Cleaning Solvents (2006) CTG RACT |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for NY-N. New Jersey-Long Island; NY for NNSR – Moderate. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for Jamestown; NY for NNSR – Marginal. |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Sign a notice of final rulemaking regarding oustanding SIP submittal for New York OTR RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources. |
| 11/30/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Hearing on Motion to Dismiss | Denial of a TSCA Section 21 Petition |
| 11/30/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Motion to govern | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |



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**To:** OGC IO[OGC_IO@epa.gov]; OGC HQ ADDs[OGC_HQ_ADDs@epa.gov]; OGC RCs and DRCs[OGC_RCs_and_DRCs@epa.gov]
**From:** Minoli, Kevin
**Sent:** Thur 9/28/2017 10:15:55 PM
**Subject:** FW: OGC's Weekly Report
OGC Weekly Report 9.28.2017.docx


**Kevin S. Minoli**

**Acting General Counsel**

**Office of General Counsel**

**US Environmental Protection Agency**

**Main Office Line: 202-564-8040**


**From:** Minoli, Kevin
**Sent:** Thursday, September 28, 2017 6:16 PM
**To:** Weekly Report Group <Weekly_Report_Group@epa.gov>
**Subject:** OGC's Weekly Report

Please contact us with any questions. Thanks, Kevin


**Kevin S. Minoli**

**Acting General Counsel**

**Office of General Counsel**

**US Environmental Protection Agency**

**Main Office Line: 202-564-8040**

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**Upcoming Major Deadlines in the Next Two Weeks**

09/29 Take final action pursuant to a Consent Decree by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas in *National Parks Conservation Association, et al. v. EPA*.

09/29 Answer due in *NRDC v. EPA*, a FOIA litigation concerning a multi part FOIA that sought records regarding Nancy Beck.

10/01 Consent Decree deadline for the Final RTR for the Yeast Manufacturing NESHAP and Pulp Mills NESHAP in *Sierra Club v. EPA*.

10/02 EPA's Response to Petition for Certiorari is due in *DTE, et al. v. US*, a petition for writ of



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**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Morris, Madeline[morris.madeline@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**From:** Morris, Madeline
**Sent:** Fri 8/11/2017 6:55:17 PM
**Subject:** FW: Weekly Report 08.11.2017
Weekly report 08112017.docx

Here you go everyone!

**From:** Burton, Tamika
**Sent:** Friday, August 11, 2017 1:52 PM
**Subject:** Weekly Report 08.11.2017

Good Afternoon,

Please see the attached weekly report for 08.11.2017.

Best regards,

***Tamika Burton***

***Staff Assistant***

*Office of the Deputy Administrator*

*MC 1104A Room 3412 WJC North*

*(202) 564-4771 (d)*

*(202) 507-3630 (c)*

*burton.tamika@epa.gov*

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**Texas Regional Haze**

EPA and the State of Texas continue to have senior level discussions on the best pathway to address the

proposed Regional Haze BART FIP for Texas. EPA and the State of Texas are developing a letter or Memorandum of Agreement to formally outline a 15-month schedule with commitments and next steps to present to the Court as part of a request for an extension of the deadline so as to allow Texas to develop and proceed with a SIP. Plaintiffs (NPCA, Sierra Club) in the case are expected to oppose EPA's request for this 15-month extension. As a contingency for a scenario where the court denies the request, Region 6 is preparing final briefings for the Administrator on a Texas Regional Haze Intrastate Trading Program BART FIP, which is Texas' preferred outcome in the event an extension is denied. EPA has a Consent Decree deadline of September 9.

**PENDING ACTIONS (Pending Federal Register Publication)**

None

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**To:** Munoz, Charles[munoz.charles@epa.gov]
**Cc:** Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]
**From:** Fotouhi, David
**Sent:** Tue 9/26/2017 5:52:21 PM
**Subject:** RE: Last weeks report attached
OGC edits to EPA Cabinet 30 Day Report.docx

Charles: please find OGC's edits to the weekly report attached to this e-mail. Thanks!

**David Fotouhi**

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

**From:** Munoz, Charles
**Sent:** Tuesday, September 26, 2017 10:17 AM
**To:** Fotouhi, David <Fotouhi.David@epa.gov>
**Subject:** Last weeks report attached

Charles Munoz

White House Liaison

Environmental Protection Agency

202-380-7967

**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hale, Michelle[hale.michelle@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Hupp, Sydney[hupp.sydney@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Morris, Madeline[morris.madeline@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**From:** Morris, Madeline
**Sent:** Fri 8/4/2017 5:54:32 PM
**Subject:** FW: Weekly Report 08042017
Weekly Report 08042017.docx

Good afternoon everyone! As Ryan mentioned on Monday, we will have a staff meeting at 8:00am on Monday, and here is the weekly report.

Please let me know if you have any questions!

Have a good weekend!

**From:** Burton, Tamika
**Sent:** Friday, August 4, 2017 1:51 PM
**Subject:** Weekly Report 08042017

Good Afternoon,

Please see attached the weekly report for this week.

Best regards,

*Tamika Burton*

*Staff Assistant*

*Office of the Deputy Administrator*

*MC 1104A Room 3412 WJC North*

*(202) 564-4771 (d)*

*(202) 507-3630 (c)*

*burton.tamika@epa.gov*

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**Weekly Report – 08/04/2017**
**Region 6**

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**Texas Regional Haze**
Region 6 is preparing final briefings for the Administrator on a Texas Regional haze Intrastate Trading Program BART SIP. EPA is using all available resources to develop the Federal Action by September 9. EPA has a September 9 CD deadline that requires EPA to finalize.

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**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
**Cc:** Schwab, Justin[schwab.justin@epa.gov]
**From:** Srinivasan, Gautam
**Sent:** Wed 8/16/2017 9:44:33 PM
**Subject:** FW: draft extension motion
npca_memo_for_extension_8-16 345p.docx

This is what we sent.

I just talked to the line manager. They are reviewing now, but she indicated they may need to discuss some aspects of the argument. Hopefully will not be necessary.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

**From:** Srinivasan, Gautam
**Sent:** Wednesday, August 16, 2017 3:45 PM
**To:** 'McDonough, Eileen (ENRD)' <Eileen.McDonough@usdoj.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>; Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Olszewski, Joshua <olszewski.joshua@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>
**Subject:** draft extension motion

Eileen and Angie- Attached is a clean version of the motion reflecting edits from EPA, including from Justin. I didn't attempt to generate a compare version, but let me know if that would be helpful. We will do whatever we can to help expedite the review. Thank you.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

**To:** Abboud, Michael[abboud.michael@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Falvo, Nicholas[falvo.nicholas@epa.gov]; Feeley, Drew (Robert)[feeley.robert@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Gordon, Stephen[gordon.stephen@epa.gov]; Graham, Amy[graham.amy@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Hupp, Millan[hupp.millan@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Kelly, Albert[kelly.albert@epa.gov]; Konkus, John[konkus.john@epa.gov]; Letendre, Daisy[letendre.daisy@epa.gov]; Lovell, Will (William)[lovell.william@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Palich, Christian[palich.christian@epa.gov]; Ringel, Aaron[ringel.aaron@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Shimmin, Kaitlyn[shimmin.kaitlyn@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Yamada, Richard (Yujiro)[yamada.richard@epa.gov]
**Cc:** Woodward, Cheryl[Woodward.Cheryl@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]
**From:** Ford, Hayley
**Sent:** Fri 9/22/2017 10:57:34 PM
**Subject:** DRAFT LxL / 8:30AM COS Meeting Monday
Weekly Report 09222017 .docx
September 25 - October 20 2017- Draft Line X Line.docx

See attached draft LxL and the weekly report. Our COS meeting will be at 8:30 on Monday morning.

Have a great weekend!

**Hayley Ford**

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

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**Region 6**

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**Texas Regional Haze and Interstate Visibility Transport Final Action (Federal Implementation Plan)**
This FIP action would finalize determinations regarding BART for Electric Generating Units and interstate transport requirements in Texas. We are approving Texas' determination that the EGUs are not subject to BART for particulate matter. Other determinations have been made to render this action approvable. There is a court ordered deadline of September 30, 2017 on Texas Regional Haze and Interstate Visibility Transport.

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09/29 Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas in *National Parks Conservation Association, et al. v. EPA*.

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**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
**Cc:** Albores, Richard[Albores.Richard@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]
**From:** Mills, Derek
**Sent:** Thur 9/21/2017 6:11:23 PM
**Subject:** Litigation Deadlines Chart
One Docket report 9-21-17 (with attorney names).pdf
One Docket report 9-21-17.pdf

Attached are two charts of OGC's upcoming litigation deadlines (from the One Docket database) until November 24. One chart includes attorney names, and the other does not.

**Derek Mills**

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OGC Litigation Deadlines - September 21, 2017

| Due Date | Case Name | Court | Case # | Law Office | Attorney | Deadline Type | Action or Inaction Challenged |
|---|---|---|---|---|---|---|---|
| 9/22/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 08-1014 | ARLO | Amy Branning | Status Report | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |
| 9/22/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Andrea Carrillo | Motion to Govern | Petition for review of the Air Quality Designations for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 9/22/2017 | Center for Biological Diversity v. EPA | DC Cir. | 16-1351 | PTSLO | Bethany Fisher | Motion to govern further proceedings | EPA's final registration decision of the new active ingredient halauxifen-methyl, Docket # EPA-HQ-OPP-2012-09019-0024 |
| 9/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 9/22/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | Status Report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 9/22/2017 | State of Texas, et al. v. EPA | D.C. Cir. | 17-1021 | ARLO | Matthew Marks | Motions to Govern | Petition for review of EPA's final rule titled "Protection of Visibility: Amendments to Requirements for State Plans," 82 Fed. Reg. 3078 (Jan. 10, 2017) |
| 9/22/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | Peter Ford | EPA reply brief in support of MTD | District court challenge to EPA's denial of petitions to design ate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 9/22/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | Thomas Glazer | ANSWER | Approval of Ohio's 2016 303(d) list |
| 9/23/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Paul Versace | Status Report | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility , Industrial-Cotnmercial- Institutional, and Small Industrial-Conmmercial-Institutional Steam Generating Units," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/23/2017 | Center for Regulatory Reasonableness v. EPA | DC Cir. | 16-1246 | WLO | Peter Ford | Motion to govern further proceedings | Petition for Review of EPA's actions in issuing a permit for small MS4s in Massachusetts |
| 9/23/2017 | Sierra Club, et al. v. EPA | W.D. Wash. | 11-cv-01759 | WLO | Stephen Sweeney | Status Report | Failure to perform mandatory duty to approve or di sapprove and establish TMDL for PCBs for Spokane River |
| 9/25/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | David Berol | Answer/Motion to Dismiss due per court order | Denial of a TSCA Section 21 Petition |

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| 9/25/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | David Berol | EPA Response to Plaintiffs Motion to Supplement the Pleadings | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 9/25/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | Joint appendix | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 9/25/2017 | Conservation Law Foundation v. EPA | 1st Cir. | 17-1130 | WLO | Peter Ford | Motion to govern further proceedings | Final General Permit for Small MS4s in New Hampshire |
| 9/25/2017 | Center for Regulatory Reasonableness v. US EPA | DC Cir. | 17-1060 | WLO | Peter Ford | Motion to govern further proceedings | Petition for Review of NPDES general permits issued for small MS4s in NH |
| 9/25/2017 | National Association of Homebuilders, et al. v. EPA | DC Cir. | 17-1138 | WLO | Peter Ford | Motion to govern further proceedings | EPA's 2017 general permit for small MS4s in NH |
| 9/25/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Susan Stahle | Status Reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |
| 9/26/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Angela Huskey | Any request to continue the stay of remedy briefing | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA. EPA won on the FIFRA challenges. Judge found EPA failed to consult and violated the ESA. Currently in Mediation as part of the remedy phase. If Mediation does not result in agreement, rememdy briefing will begin. |
| 9/26/2017 | State of Utah, et al. v. EPA | 10th Cir. | 16-9541 | ARLO | Nora Greenglass | EPA Merits Brief | petition for review of EPA's final rule entitle d "Approval, Disapproval and Promulgation of Air Quality Implementation Plans; Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Federal Implementation Plan; Utah; Revisions to Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze" at 81 Fed. Reg. 43,894-01 (July 5, 2016) |
| 9/27/2017 | William A. Masters v. EPA | CD CA | 2:17cv5532 | ARLO | Elliott Zenick | Motion to Dismiss | CONSTRUCTIVE FRAUD regarding the use of the words Climate Change and Greenhouse Gases |
| 9/27/2017 | Robert Ukeiley v. EPA | 10th Cir. | 16-9556 | ARLO | Jonathan Skinner-Thompson | Oral argument | petition for review of EPA's final action entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Second Ten-Year PM10 Maintenance Plan for Lamar" at 81 Fed. Reg. 63104 (September 14, 2016) |
| 9/27/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Mark Dyner | Petitioners' response to EPA's motion to dismiss | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |
| 9/28/2017 | Atlantic Wood Industries, Inc. v. EPA | DC Cir. | 08-1111 | SWERLO | Earl Salo | Status report - case stayed pending settlement. | Rulemaking petition challenging the addition of the Atlantic Woods Product site to the National Priorities List (NPL). |
| 9/28/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Scott Albright | Appellant (Hall) brief | Adequacy of the search. FOIA case. |



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| 9/28/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467 17-71950 | PTSLO | Scott Garrison | EPA's response to petitioners brief (if any) showing cause why the petition should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date o f the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 9/28/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Rule 26(f) conference | Navy discharges of underwater ship husband ry without NPDES permit |
| 9/28/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Zach Pilchen | Intervenors' brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 9/29/2017 | NRDC v. EPA | S.D. NY | 17-cv-5928 | GLO | Casey Pickell | Answer | FOIA - Failure to produce records |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Derek Mills | CD Deadline | Deadline suit for failure to submit a nd failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapprove in part an oustanding SIP submittal for Pennsylvania for RACT |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | Derek Mills | CD Deadline | Deadline suit for failure to submit a nd failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapprove in part an oustanding SIP submittal for Los Angeles-San Bernardino Counties (West Mojave Desert); CA (Antelope Valley portion) for RACT |
| 9/29/2017 | Shenandoah Riverkeeper, et al. v. EPA | D. DC | 1:17-cv-01023 | WLO | Thomas Glazer | ADMIN RECORD | Approval of Virginia's 2014 Section 303(d) List |
| 9/29/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. of W.V. | 2:16-cv-11111 | WLO | Thomas Glazer | PLAINTFF'S MOTION FOR SUMMARY JUDGMENT | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Lea Anderson | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it mad e a finding of failure to submit, and to take action on 10 region al haze SIPs |



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| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Roland Dubois | Status Report | petition for review of EPA's rule entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligation) |
| 10/1/2017 | Treated Wood Council, et al. v. EPA | DC Cir. | 14-1202 | SWERLO | Patrick Chang | Quarterly status report | EPA issuance of Non-Hazardous Secondary Materials (NHSM) rule under RCRA. This case was severed from another lawsuit while EPA conducts a rulemaking regarding whether to make a categorical non-waste determination for "other treated railroad ties." Case currently held in abeyance pending finalization of that rule. |
| 10/1/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Corrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |
| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard o r limitation in another state (Colorado). |
| 10/2/2017 | New Mexico v. EPA, Environmental Restoration, Gina McCarthy, Kinross Gold Corp., Kinross Gold USA, Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Elizabeth Berg | Submit documents & declaration related to the scope of EPA's response action in response to court's 7/28 order | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gold King Mine |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | James Curtin | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | Melina Williams | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enforcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |
| 10/2/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Procedural Motions | for EPA's failure to comply with the R FA in issuing the 2017 RFS standards |
| 10/3/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Alexis Wade | Answer and Administrative Record | Claims of unreasonable delay in taking final action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/3/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |



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| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Matthew Marks | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Howard Hoffman | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's Gallatin Fossil Plant |
| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | Any procedural motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/4/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Plaintiffs' summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | David Berol | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Kaytrue Ting | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1 - year extension of attainment date for multi-state nonattainment area. |
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Lea Anderson | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Stephen Sweeney | Initial disclosures | Navy discharges of underwater ship husbandry without NPDES permit |



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| 10/6/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Charles Starrs | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Baytown Refinery in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Charles Starrs | Answer | failure to timely grant or deny a petition to object to Part 70 Operating Permit issued to the to the Pasadena Refining System Inc. authorizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Charles Starrs | Answer | for failure to grant or deny a petition to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Charles Starrs | Answer | CAA § 304 action alleging that EPA failed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County, Texas |
| 10/6/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Jessica Zomer | Deadline for filing any dispositive motions | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Lynn Kelly | Reply to Oppo | This Freedom of Information Act ("FOIA") lawsuit pertains to a failure to respond to a FOIA request for certain records relating to the use and approval of a messaging application called "Signal" from July 2014 to the present. |
| 10/6/2017 | Alaska Center for the Environment, et al. v. EPA | W.D. Wash. | C90-595R | WLO | Stephen Sweeney | Status Report to notify Court when proposed TMDLs for remaining drainage from 1992 list will be submitted | Failure to establish TDMLs and WLAs for Alaska waters. |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Angela Huskey | Plaintiffs Opening Remedy Brief | Challenging clothianidin and thiamethoxam registrations for violations of FIFRA and ESA |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units. " at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | David Berol | Status Report | Petition for Review of EPA's final rule entitled "Performance Specification 18 - Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fed. Reg. 38,628 July 7, 2015 |



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| 10/10/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Melina Williams | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Melina Williams | Status Report | Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidated) | WLO | Peter Ford | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Daniel Schramm | Answer | failure to grant or deny a petition to object to a proposed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylkill County, Pennsylvania |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | James Curtin | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for Potomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Jonathan Skinner-Thompson | Certified Index | petition for review Wyoming Ozone Transport SIP |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | United States serves its expert reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Jonathan Skinner-Thompson | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | James Curtin | EPA Answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocations to James River dischargers |
| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | John Krallman | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny petition seeking an objection to Proposed Title V Permit for the operation of PacifiCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Answer | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Matthew Marks | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. Reg. 51,915 (August 28, 2012) |



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| 10/16/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Ryland Li | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RFS standards |
| 10/17/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Deferred Appendix | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Karen Bianco | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Laurel Celeste | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated into this case |
| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | Paul Versace | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units," published at 77 Fed. Reg. 9304 (Feb. 16,2012) |
| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Paul Versace | Status Report | severance of issues from 12-1166 (petition for revie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, an d Small Industrial-Commercial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Andrea Carrillo | Status Reports | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | James Curtin | Status Report | EPA TMDL for Goose Creek |
| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Alexis Wade | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of acid mine drainage from the Gold King Mine and allege past and future releases from mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard o r limitation in another state (Colorado). |
| 10/19/2017 | New Mexico v. EPA, Environmental Restoration, Gina McCarthy, Kinross Gold Corp., Kinross Gold USA, Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Elizabeth Berg | Status report advising whether further discovery on the jurisdictional question raised in the court's 7/28 order is necessary | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gold King Mine |
| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |



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| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Peter Ford | Any dispositive motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Stephen Sweeney | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Elizabeth Thaler | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management statement | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/20/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 09-1038 | SWERLO | Patrick Chang | Petition for Rehearing | Challenge from industry and enviro petitioners to EPA's definition of solid waste rule (80 Fed. Reg. 1694 (2015)) under RCRA. |
| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Geoffrey Wilcox | Status Report | petition for review of EPA's final rule entitled " State Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Roland Dubois | Status Reports | petition for review of EPA's final rule entitled, 'Regulation of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Zach Pilchen | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Standards; Montana |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Abi Vijayan | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |
| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |



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| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Kaytrue Ting | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Emily Seidman | Final Briefs | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Karen Bianco | Status report | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |
| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Diane McConkey | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |
| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Daniel Schramm | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 176A |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Karen Bianco | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/27/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Scott Jordan | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standa rds of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utilit y Generating Units." At 80 Fed. Reg. 64510 (October 23, 2015) |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Emily Seidman | Status Report | Petition for review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Erik Swenson | Due date to request more time before the mandate issues. | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | EPA Brief | petition for review of the Regional Consistency Regs |
| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | Lynn Kelly | JOINT SCHEDULE | Improper Request, Failure to Respond |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Rick Vetter | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing mino r oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards. |



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| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Scott Albright | EPA brief | Adequacy of the search. FOIA case. |
| 10/30/2017 | Ergon-West Virginia, Inc. v. EPA | 4th Cir. | 17-1839 | ARLO | Susan Stahle | EPA's Brief | petitions for review of EPA's final action : Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.'s Newell, WV Refinery |
| 10/31/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Alexis Wade | Hearing | Claims of unreasonable delay in taking fin al action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Mark Dyner | EPA's reply brief | Challenge to March 29, 2017 ord er denying PANNA/NRDC FFDCA petition |
| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Mark Kataoka | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Paul Versace | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility , Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 10/31/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | EPA's response to summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Geoffrey Wilcox | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings o f failure to submit for 2006 PM2.5 NAAQS nonattainmcnt areas state implementation plans |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Karen Palmer | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | D.C. Cir. | 11-1309 | ARLO | Rick Vetter | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Sara HertzWu | Status Report | Petition for review of final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |



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| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Sara HertzWu | Status report | Challenge to treatment of fugitive emissions in the 2002 NSR reform rule |
| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | David Berol | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |
| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Sheila Igoe | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal combustion engines |
| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | Stephen Sweeney | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperature on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Rick Vetter | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,068 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Daniel Conrad | Status Report | petition for review of EPA's rule entitled "Standards of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Response Brief | failure to grant or deny section 1 26 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Heidi Nalven | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Mike Thrift | Status Reports | Petitions for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed. Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | Ryland Li | EPA Answer/Motion to Dismiss | for EPA's noncompliance with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the point of obligation of the RFS |



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| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Scott Jordan | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition seeking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Scott Jordan | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Winifred Okoye | Status Reports | petition for review of EPA's grant of authorization for California's in-use nonroad engine standards |
| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Melina Williams | Status Report | challenge to endangerment finding for GHG from aircraft |
| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Scott Jordan | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units. " at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Andrea Carrillo | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016). |
| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Jan Tierney | Status Reports | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Lynn Kelly | Reply to Oppo: Cause of Action v. EPA | This lawsuit alleges that EPA has failed to respond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communicate about agency business, as well as EPA efforts to retrieve, recover, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | Sierra Club, et al. v. EPA | DC Cir. | 15-1487 | ARLO | Scott Jordan | Oral Argument | BRICK MACT RULE CHALLENGE - Petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing" (80 FR 65470 (Oct. 26, 2015) |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Susan Stahle | Status reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Zach Pilchen | Answer | alleged 5th Amendment taking arising fro m CWA 404(c) veto |



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| 11/10/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Scott Garrison | Plaintiff's' SJ reply brief | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of W.V. | 2:16-cv-11111 | WLO | Thomas Glazer | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | David Orlin | Status Reports | Petition for review of final regulation concerning emission durability procedures for vehicles, and trucks |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | Scott Albright | EPA document production | Failure to respond. FOIA Case. |
| 11/14/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Erik Swenson | Mandate enforcing Court's order to vacate Rule goes into effect | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 11/14/2017 | Troy Chemical Corp. v. EPA | DC Cir. | 14-1290 | SWERLO | Erik Swenson | Status report - case stayed pending settlement | CERCLA 113(a) petition challenging a rulemaking to add a site to the NPL |
| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | Thomas Glazer | ANSWER | Alleged inaction on New York State's submission of primary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Eaton Weiler | Status Report | challenge to EPA's revisions to the NSR "reasonable possibility" recordkeeping requirement |
| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | Michele Knorr | EPA and Intervenors' Motions to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultation under ESA/failure to reinitiate consulations re: 1989/1993 ESA consultations. This case has been remanded from an appeal of this case. Third amended complaint filed. 2200+ actions (pesticide product actions) alleged in the failure to consult claims on 35 activie ingredients. Arguments for MTD are currently being developed. |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | Thomas Glazer | STAY EXPIRES | Challenge to EPA Administrative Order for Compliance, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Karen Bianco | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and Industrial Solid Waste Incinerators and other categories of Solid Waste Incinerators |



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| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Nora Greenglass | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EPA's final rule entitled "Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64,510 (October 23, 2015) |
| 11/17/2017 | Burgess, et al. v. EPA et al. | E.D. Mich. | Civ. No. 4:17-cv-11218 | CRFLO | Ann Sisson | Depositions and Prep scheduled 9/29 - 11/17/17 | Plaintiffs suing EPA under the FTCA alleging negligence in responding to Flint drinking water crisis. Challenging that EPA's action/inaction violated mandatory duties prescribed by SDWA Sections 1414 and 1431. |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Emily Seidman | Joint Status Report | petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | James Curtin | Status Report | EPA approval of Vermont's Moon Brook TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Matthew Schwarz | Joint Status Report | FOIA: Failure to Respond |
| 11/18/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Ragan Tate | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/19/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | John Krallman | Status Report | petition for review of EPA's final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 11/20/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Abi Vijayan | Reply Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/20/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Heidi Nalven | Petitioners' Reply Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/20/2017 | Southwestern Electric Power Company, et al. v. EPA | 5th Cir. | 15-60821 | WLO | Jessica Zomer | Status Report | Petition for review of EPA's final Steam Electric Effluent Limitations Guidelines and Standards Rule published November 3, 2015. |
| 11/20/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Karen Bianco | Joint Reply Brief for Petitioners | petition for review of the Regional Consistency Regs |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1311 | ARLO | Scott Jordan | Status Report | PULP AND PAPER MACT SUBPART MM CHALLENGE - Challenge to Chemical Recovery Combustion Sources at Pulp Mills (MACT Subpart MM), alleging grounds arising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemption case |



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| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1312 | ARLO | Scott Jordan | Status Report | PULP AND PAPER MACT (SUBPART S) ARISING AFTER CHALLENGE - Petition for review of EPA's final rule entitled "NESHAP for source category: Pulp and Paper Production" 63FR18503 (Subpart S) alleging grounds arising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemption case |
| 11/20/2017 | Hearth, Patio & Barbecue Association v. EPA | DC Cir. | 15-1056 | ARLO | Scott Jordan | Petitioners' Initial Brief | WOOD HEATERS NSPS RULE CHALLENGE - petition for review of EPA's final action entitled "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces" at 80 Fed. Reg. 13,672-13,753 (March 16, 2015) |
| 11/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | James Curtin | Status report | EPA TMDL for Indian Creek, PA |
| 11/22/2017 | Spokane Riverkeeper v. EPA | W.D. Wash. | 2:15-cv-01542 | WLO | James Curtin | EPA answer | EPA approval of Washington state TMDL for Hangman Creek. |
| 11/22/2017 | Compsys, Inc. v. EPA | DC Cir. | 15-1334 | ARLO | Jan Tierney | Motion to Govern Further Proceedings | Petition for review of EPA's final rule titled "Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program, Part II" at 80 FR 42870 (July 20, 2015) |
| 11/23/2017 | State of Nevada v. EPA | D.C. Cir. | 08-1327 | ARLO | Charles Starrs | Status Report | Final rule promulgating amendments to 40 C.F.R. Part 197, 73 Fed. Reg. 61255 (Oct. 15, 2008). |
| 11/24/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Susan Stahle | Status Reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |



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OGC Litigation Deadlines - September 21, 2017

| Due Date | Case Name | Court | Case # | Law Office | Deadline Type | Action or Inaction Challenged |
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| 9/22/2017 | American Chemistry Council, et al. v. EPA | D.C. Cir. | 08-1014 | ARLO | Status Report | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petroleum refineries |
| 9/22/2017 | Samuel Masias,, et al. v. EPA | DC Cir. | 16-1314 | ARLO | Motion to Govern | Petition for review of the Air Quality Designations for the 2010 Sulfur Dioxide (S02) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016) |
| 9/22/2017 | Center for Biological Diversity v. EPA | DC Cir. | 16-1351 | PTSLO | Motion to govern further proceedings | EPA's final registration decision of the new active ingredient halauxifen-methyl, Docket # EPA-HQ-OPP-2012-09019-0024 |
| 9/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 9/22/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Status Report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 9/22/2017 | State of Texas, et al. v. EPA | D.C. Cir. | 17-1021 | ARLO | Motions to Govern | Petition for review of EPA's final rule titled "Protection of Visibility: Amendments to Requirements for State Plans," 82 Fed. Reg. 3078 (Jan. 10, 2017) |
| 9/22/2017 | Los Angeles Waterkeeper, et al. v. EPA | D. CA | 2:17-CV-03454 | WLO | EPA reply brief in support of MTD | District court challenge to EPA's denial of petitions to designate stormwater discharges under section 402(p) of CWA in LA watersheds. |
| 9/22/2017 | Environmental Law & Policy Center, et al. v. EPA | N.D. Ohio | 3:17cv1514 | WLO | ANSWER | Approval of Ohio's 2016 303(d) list |
| 9/23/2017 | Chesapeake Bay Foundation, et al. v. EPA | D.C. Cir. | 13-1200 | ARLO | Status Report | Petition for review of EPA's final action entitled "Reconsideration of Certain New Source Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial- Cotnmercial-Institutional, and Small Industrial-Conmmercial-Institutional Steam Generating Units," at 78 Fed. Reg. 24,073 (April 24, 2013) |
| 9/23/2017 | Center for Regulatory Reasonableness v. EPA | DC Cir. | 16-1246 | WLO | Motion to govern further proceedings | Petition for Review of EPA's actions in issuing a permit for small MS4s in Massachusetts |
| 9/23/2017 | Sierra Club, et al. v. EPA | W.D. Wash. | 11-cv-01759 | WLO | Status Report | Failure to perform mandatory duty to approve or disapprove and establish TMDL for PCBs for Spokane River |
| 9/25/2017 | Food & Water Watch, et al. v. EPA | N.D. CA | 4:17-cv-02162 | PTSLO | Answer/Motion to Dismiss due per court order | Denial of a TSCA Section 21 Petition |
| 9/25/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | EPA Response to Plaintiffs Motion to Supplement the Pleadings | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consultation on Washington State's Revised Sediment Management Standards for Marine Finfish Facilities |
| 9/25/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | Joint appendix | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |

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| 9/25/2017 | Conservation Law Foundation v. EPA | 1st Cir. | 17-1130 | WLO | Motion to govern further proceedings | Final General Permit for Small MS4s in New Hampshire |
| 9/25/2017 | Center for Regulatory Reasonableness v. US EPA | DC Cir. | 17-1060 | WLO | Motion to govern further proceedings | Petition for Review of NPDES general permits issued for small M S4s in NH |
| 9/25/2017 | National Association of Homebuilders, et al. v. EPA | DC Cir. | 17-1138 | WLO | Motion to govern further proceedings | EPA's 2017 general permit for small MS4s in NH |
| 9/25/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Status Reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petro leum refineries |
| 9/26/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Any request to continue the stay of remedy briefing | Challenging clothianidin and thiamethoxam registrations for vio lations of FIFRA and ESA. EPA won on the FIFRA challenges. Judge found EPA faile d to consult and violated the ESA. Currently in Mediation as part of the rem edy phase. If Mediation does not result in agreement, rememdy briefing will b egin. |
| 9/26/2017 | State of Utah, et al. v. EPA | 10th Cir. | 16-9541 | ARLO | EPA Merits Brief | petition for review of EPA's final rule entitled "App roval, Disapproval and Promulgation of Air Quality Implementation Plans; Partial Appro val and Partial Disapproval of Air Quality Implementation Plans and Federal Imp lementation Plan; Utah; Revisions to Regional Haze State Implementation Plan; Fed eral Implementation Plan for Regional Haze" at 81 Fed. Reg. 43,894-0 1 (July 5, 2016) |
| 9/27/2017 | William A. Masters v. EPA | CD CA | 2:17cv5532 | ARLO | Motion to Dismiss | CONSTRUCTIVE FRAUD regarding the use of the words Climat e Change and Greenhouse Gases |
| 9/27/2017 | Robert Ukeiley v. EPA | 10th Cir. | 16-9556 | ARLO | Oral argument | petition for review of EPA's final action entitled "Approval an d Promulgation of Air Quality Implementation Plans; State of Colorado; Second Ten-Yea r PM10 Maintenance Plan for Lamar" at 81 Fed. Reg. 63104 (September 14 , 2016) |
| 9/27/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | Petitioners' response to EPA's motion to dismiss | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA peti tion |
| 9/28/2017 | Atlantic Wood Industries, Inc. v. EPA | DC Cir. | 08-1111 | SWERLO | Status report - case stayed pending settlement. | Rulemaking petition challenging the addition of the Atlantic Wo ods Product site to the National Priorities List (NPL). |
| 9/28/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | Appellant (Hall) brief | Adequacy of the search. FOIA case. |
| 9/28/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | 9th Cir. | 17-71467 17-71950 | PTSLO | EPA's response to petitioners brief (if any) showing cause why the petition should not be dismissed for lack of jurisdiction. | 9th Cir. challenge to EPA's rules delaying the effective date o f the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |



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| 9/28/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Rule 26(f) conference | Navy discharges of underwater ship husb andry without NPDES permit |
| 9/28/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | Intervenors' brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Stan dards; Montana |
| 9/29/2017 | NRDC v. EPA | S.D. NY | 17-cv-5928 | GLO | Answer | FOIA - Failure to produce records |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Deadline suit for failure to subm it and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapp rove in part an oustanding SIP submittal for Pennsylvania for RACT |
| 9/29/2017 | Center for Biological Diversity, et al. v. EPA | ND CA | 4:16cv4092 | ARLO | CD Deadline | Deadline suit for failure to subm it and failure to act on 2008 ozone attainment SIPs. Sign a notice of final rulemaking to approve; disapprove; conditionally approve; or approve in part and conditionally approve or disapp rove in part an oustanding SIP submittal for Los Angeles-San Bernardino Countie s (West Mojave Desert); CA (Antelope Valley portion) for RACT |
| 9/29/2017 | Shenandoah Riverkeeper, et al. v. EPA | D. DC | 1:17-cv-01023 | WLO | ADMIN RECORD | Approval of Virginia's 2014 Section 303(d) List |
| 9/29/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. of W.V. | 2:16-cv-11111 | WLO | PLAINTFF'S MOTION FOR SUMMARY JUDGMENT | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disap proval |
| 9/30/2017 | National Parks Conservation Association, et al. v. EPA | D.D.C. | 1:11-cv-1548 | ARLO | Take final action by promulgating a FIP or unconditionally approving a SIP to address the BART requirement for EGUs in Texas (CD) | Complaint alleging EPA's failure to perform a non-discrationary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs |
| 9/30/2017 | Valero Energy Corporation v. EPA | DC Cir. | 16-1055 | ARLO | Status Report | petition for review of EPA's rule entitled EPA, Regulation of Fuels and Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14,670 (Mar. 26, 2010) (challenging RFS point of obligation) |
| 10/1/2017 | Treated Wood Council, et al. v. EPA | DC Cir. | 14-1202 | SWERLO | Quarterly status report | EPA issuance of Non-Hazardous Secondary Materials (NHSM) rule under RCRA. This case was severed from another lawsuit while EPA conducts a rulemaking regarding whether to make a categorical non-waste determination for "other treated railroad ties." Case currently held in abeyance pending finalization of that rule. |
| 10/1/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 12-1043 | ARLO | Status Report | petition for review of EPA's final rule entitled "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and C orrected SIP Approvals" 76 Fed. Reg. 48,208 (Aug. 8, 2011) |



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| 10/2/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Produce documents relevant to jurisdictional issue and scope of the EPA response action (including a declaration) | Claims against EPA are based on the Aug. 5, 2015 release of aci d mine drainage from the Gold King Mine and allege past and future releases fro m mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/2/2017 | New Mexico v. EPA, Environmental Restoration, Gina McCarthy, Kinross Gold Corp., Kinross Gold USA, Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Submit documents & declaration related to the scope of EPA's response action in response to court's 7/28 order | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gol d King Mine |
| 10/2/2017 | OVEC, et al. v. EPA | S.D.W.Va | 3:15-cv-00271 | WLO | EPA Reply Appellate Brief | EPA failure to establish TMDLs in WV for waters impaired by "ionic stress" |
| 10/2/2017 | DTE Energy Company, et al. v. United States of America | Sup. Ct. | 17-170 | ARLO | EPA's response to petition for certiorari | petition for a writ of certiorari to the 6th circuit in PSD enf orcement case (Melina Williams) (DOJ plans to seek a 30 day extension) |
| 10/2/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Procedural Motions | for EPA's failure to comply with the RFA in iss uing the 2017 RFS standards |
| 10/3/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Answer and Administrative Record | Claims of unreasonable delay in taking final action on Washingt on CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/3/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | EPA Reply in Support of Motion for Summary Judgment | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufactu ring facility in Osceola, Arkansas |
| 10/3/2017 | State of Texas, et al. v. EPA | 5th Cir. | 16-60118 | ARLO | Status Report | Petition for review of EPA's final action titled "Appro val and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State I mplementation Plans; Interstate Visibility Transport State Implementation Pla n to Address Pollution Affecting Visibility and Regional Haze; Federal Imple mentation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/4/2017 | Sierra Club v. EPA | D. D.C. | 1:17-cv-00906 | ARLO | Reply to Sierra Club's Response to EPA's Cross-Motion for Summary Judgement | for failure to grant or deny a petition seeking an objection by EPA to the Title V Operating Permit renewal for the Tennessee Valley Authority's G allatin Fossil Plant |
| 10/4/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Any procedural motions | Challenge to EPA's 2017 Construction G eneral Permit (CGP) |
| 10/4/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Plaintiffs' summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 10/5/2017 | Wild Fish Conservancy v. EPA | W.D. Wash | 15-cv-1731 | WLO | Discovery Complete | Notice of Intent to Sue U.S. EPA and National Marine Fisheries Service for Violations of the Endangered Species Act Associated with Consul tation on Washington State's Revised Sediment Management Standards for Ma rine Finfish Facilities |



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| 10/5/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | Plaintiff statement of issues to be raised & both parties procedural motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requirements |
| 10/5/2017 | State of Delaware Department of Natural Resources & Environmental Control v. EPA | DC Cir. | 16-1230 | ARLO | Oral Argument | Petition for review of final rule entitled "Determinations of Attainment by Attainment Date, Extension of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" published on May 4, 2016 (81 FR 26697). Delaware challenging EPA's approval of 1-year extension of attainment date for multi-state nonattainment area. |
| 10/5/2017 | Luminant Generation Company, LLC, et al. v. EPA | 10th Cir. | 16-9508 | ARLO | Status Report | Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze; Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016) |
| 10/5/2017 | Puget Soundkeeper Alliance; Washington Environmental Council; more... v. U.S. Department of the Navy | W.D. WA | No. 3:17-cv-05458 | WLO | Initial disclosures | Navy discharges of underwater ship husbandry without NPDES permit |
| 10/6/2017 | Environmental Integrity Project, et al. v. EPA | D. D.C. | 1:17cv1439 | ARLO | Answer | for Failure to Timely Grant or Deny a Petition to Object to Part 70 Operating Permit No. 01553 Issued to the ExxonMobil Corporation for the Baytown Olefins Plant in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1440 | ARLO | Answer | CAA § 304 action alleging that EPA failed to respond a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Baytown Refinery in Harris County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1441 | ARLO | Answer | failure to timely grant or deny a petition to object to Part 70 Operating Permit issued to the to the Pasadena Refining System Inc. authorizing operation of the company's Pasadena Refinery |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1442 | ARLO | Answer | for failure to grant or deny a petition to object to Part 70 operating permit for the Motiva Enterprises LLC's Port Arthur Refinery in Jefferson County, Texas |
| 10/6/2017 | Environmental Integrity Project, et al. v. Pruitt | D. D.C. | 1:17cv1443 | ARLO | Answer | CAA § 304 action alleging that EPA failed to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for the Welsh Power Plant in Titus County, Texas |
| 10/6/2017 | Clean Water Action; Environmental Integrity Project; more... v. EPA | DC Cir. | 17-1193 | WLO | Deadline for filing any dispositive motions | Postponement of Certain Compliance Dates in 2015 Steam Electric Effluent Limitations Guidelines and Standards, pursuant to APA Section 705 |
| 10/6/2017 | Judicial Watch, Inc. v. EPA | District of Columbia | 1:17-cv-00533 | GLO | Reply to Oppo | This Freedom of Information Act ("FOIA") lawsuit pertains to a failure to respond to a FOIA request for certain records relating to the use and approval of a messaging application called "Signal" from July 2014 to the present. |



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| 10/6/2017 | Alaska Center for the Environment, et al. v. EPA | W.D. Wash. | C90-595R | WLO | Status Report to notify Court when proposed TMDLs for remaining drainage from 1992 list will be submitted | Failure to establish TDMLs and WLAs for Alaska waters. |
| 10/9/2017 | Steve Ellis, et al. v. EPA | N.D. Cal. | 3:13-cv-01266-MMC | PTSLO | Plaintiffs Opening Remedy Brief | Challenging clothianidin and thiamethoxam registrations for vio lations of FIFRA and ESA |
| 10/9/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary S ources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 10/10/2017 | Portland Cement Association v. EPA | DC Cir. | 15-1310 | ARLO | Status Report | Petition for Review of EPA's fin al rule entitled "Performance Specification 18 - Performance Specifications and Test Procedures for Hydrogen Chl oride Continuous Emission Monitoring Systems at Stationary Sources," published in the Federal Register at 80 Fed. Reg. 38,628 July 7, 2015 |
| 10/10/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | Entry of Appearance Form | petition for review challenging revisions to the refrigerant management regulation s under CAA section 608 |
| 10/10/2017 | Murray Energy Corporation v. EPA | DC Cir. | 15-1385 | ARLO | Status Report | Petition for review of EPA's fin al action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015) |
| 10/11/2017 | Conservation Law Foundation, et al. v. EPA | 1st Cir. | 17-1166 and 17-1354 (consolidate d) | WLO | EPA merits brief | Consolidated appeals to CA1 of two decisions in D. Ma. and D. RI concerning whether statements in TMDLs constitute residual designation by EPA to require NPDES permits of certain stormwater discharges. |
| 10/13/2017 | Sierra Club, et al. v. EPA | D. D.C. | 1:17-cv-01475 | ARLO | Answer | failure to grant or deny a petition to object to a pr oposed Title V Operating Permit for Wheelabrator Frackville Energy, Inc. power plant in Schuylk ill County, Pennsylvania |
| 10/13/2017 | Anacostia Riverkeeper, et al. v. EPA | D DC | 1:16-cv-01651 | WLO | EPA SJ Brief | Challenge to EPA approval of bacteria TMDL for P otomac River |
| 10/13/2017 | State of Wyoming v. EPA | 10th Cir. | 17-9514 | ARLO | Certified Index | petition for review Wyoming Ozone Transport SIP |
| 10/13/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | United States serves its expert reports | Alleging multi-agency constitutional and public trust violation s arising from actions and inactions on climate change |
| 10/14/2017 | Sierra Club v. EPA | D.C. Cir. | 16-1158 | ARLO | Status Report | Petition for judicial review of monitoring rule revisions, 81 Fe d. Reg. 17,248 (Mar. 28, 2016) |
| 10/16/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Cross Motion for Summary Judgment | failure to grant or deny section 126 petition filed by Connecti cut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 10/16/2017 | James River Dischargers Coalition, et al. v. EPA | W.D. Va. | 3:16-cv-00089-NKM | WLO | EPA Answer | Challenge to 2010 EPA Chesapeake Bay TMDL allocati ons to James River dischargers |



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| 10/16/2017 | Sierra Club v. EPA | D. D.C. | 1:16-cv-01895 | ARLO | Take Action to Respond to Petition on title V permit for PacifiCorp-Hunter facility | failure to perform a nondiscretionary duty to grant or deny pet ition seeking an objection to Proposed Title V Permit for the operation of Pacif iCorp's Hunter Power Plant located in Castle Dale, Utah |
| 10/16/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Answer | for failure to make findings of failur e to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/16/2017 | National Parks Conservation Association, et al. v. EPA | 2nd Cir. | 12-4316 | ARLO | Status Reports | Petition for review of EPA's final action titled, "Approval and Promulgation of Air Quality Implementation Plans; State of New York; Regional Haze State Implementation Plan and Federal Implementation Plan," 77 Fed. R eg. 51,915 (August 28, 2012) |
| 10/16/2017 | Small Retailers Coalition v. EPA | D.C. Cir. | 17-1197 | ARLO | Dispositive Motions and Certified Index to the Record | for EPA's failure to comply with the RFA in issuing the 2017 RF S standards |
| 10/17/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Deferred Appendix | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/17/2017 | Association of Battery Recyclers, Inc., et al. v. EPA | D.C. Cir. | 12-1373 | ARLO | Status of the reconsideration proceedings | Issue 21 - Petition for review of secondary lead RTR (CAA secti ons 112 (d)(6) and (f)(2)) - |
| 10/17/2017 | USWAG v. EPA | DC Cir. | 15-1219 | SWERLO | Oral arguments | Challenge to final CCR rule; all other CCR challenges consolidated int o this case |
| 10/17/2017 | White Stallion Energy Center, LLC v. EPA | D.C. Cir. | 13-1106 | ARLO | status reports | Petitions for review of EPA's final action entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial- Commercial-Inst itutional, and Small Industrial-Commercial- Institutional Steam Generating Units," p ublished at 77 Fed. Reg. 9304 (Feb. 16,2012) |
| 10/17/2017 | Utility Air Regulatory Group v. EPA | DC Cir. | 13-1065 | ARLO | Status Report | severance of issues from 12-1166 (petition for revie of EPA's final rule entitled "Standards of Performance for Fossil-Fuel-Fired Electric Utilit y, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Insti tutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16,2012)) |
| 10/18/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Status Reports | petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/18/2017 | West Goshen Sewer Authority v. EPA | E.D. Pa. | 2:12-cv-05353-JS | WLO | Status Report | EPA TMDL for Goose Creek |
| 10/19/2017 | New Mexico v. EPA | D.N.M. | 1:16-cv-00465 | WLO | Status report advising Court if further discovery is requested | Claims against EPA are based on the Aug. 5, 2015 release of aci d mine drainage from the Gold King Mine and allege past and future releases fro m mines in the area. CWA claim under 505(h) alleging EPA's failure to enforce an effluent standard or limitation in another state (Colorado). |
| 10/19/2017 | New Mexico v. EPA, Environmental Restoration, Gina McCarthy, Kinross Gold Corp., Kinross Gold USA, Sunnyside Gold Corp. | D.N.M. | 1:16-cv-00465 | SWERLO | Status report advising whether further discovery on the jurisdictional question raised in the court's 7/28 order is necessary | CERCLA 107 cost recovery and CWA 505 claims against EPA for Gol d King Mine |



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| 10/19/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | EPA combined cross-motion for summary judgment and opposition to plaintiff's motion for summary judgment | concerning Clean Air Act deadlines related to Commercial and In dustrial Solid Waste Incinerators and other categories of Solid Waste Incinera tors |
| 10/19/2017 | National Association of Homebuilders v. EPA | DC Cir. | No. 17-1039 | WLO | Any dispositive motions | Challenge to EPA's 2017 Construction General Permit (CGP) |
| 10/19/2017 | Rosanna Rosado, New York Secretary of State Basil Seggos, Commissioner of New York Department of Environmental Conservation v. Scott Pruitt | E.D.N.Y. | No. 17-cv-04843 | WLO | Answer | MPRSA site designation |
| 10/20/2017 | Environmental Defense Fund v. EPA | DC Cir. | 17-1201 | PTSLO | EPA certified index to the record & both parties dispositive motions (if any) | Rule -- TSCA Inventory Notification (Active-Inactive) Requireme nts |
| 10/20/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management statement | for failure to make findings of failure to submit for 2008 ozon e NAAQS nonattainment areas state implementation plans |
| 10/20/2017 | American Petroleum Institute (API), et al. v. EPA | DC Cir. | 09-1038 | SWERLO | Petition for Rehearing | Challenge from industry and enviro petitioners to EPA's definition of solid waste rule (80 Fed. Reg. 1694 (2015)) under RCRA. |
| 10/21/2017 | Walter Coke, Inc., et al. v. EPA | D.C. Cir. | 15-1166 | ARLO | Status Report | petition for review of EPA's final rule entitled "S tate Implementation Plans: Response to Petition for Rulemaking; Restatement Update of EPA' s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Start up, Shutdown, and Malfunction" at 33839-33985 Fed. Reg. June 12, 2015 |
| 10/21/2017 | Gas Processors Association v. EPA | DC Cir. | 15-1473 | ARLO | Status Report | petition for review of EPA's fin al action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015) |
| 10/21/2017 | Monroe Energy, LLC v. EPA | D.C. Cir. | 14-1014 | ARLO | Status Reports | petition for review of EPA's final rule entitled, 'Regula tion of Fuels and Fuel Additives: Changes to Renewable fuel Standard Program', 75 Fed. Reg. 14,670 (Mar. 26, 2010) |
| 10/21/2017 | Montana Environmental Information Center v. EPA | 9th Cir. | 16-71933 | ARLO | MEIC's optionial reply brief | petition for review of EPA's final rule: Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO2, 2010 SO2, and 2012 PM2.5 National Ambient Air Quality Stan dards; Montana |
| 10/22/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status report for Industry Petitioners | Petition for review of EPA's final rule entitled Standards of P erformance for Petroleum Refineries |
| 10/23/2017 | Sierra Club v. EPA | D. D.C. | 1:10-CV-01541-CKK | ARLO | Status Report on PM2.5 Transport Claim | Failure to promulgate a good neighbor FIP for Texas |



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| 10/23/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 10/23/2017 | Center for Biological Diversity, et al. v. EPA | D. D.C. | 1:17cv818 | ARLO | Status report | for failure to make "bump up" determinations for Philadelphia and Washington D.C. marginal nonattainment areas for the 2008 ozone NAAQS |
| 10/24/2017 | Natural Resouces Defense Council, et al. v. EPA | D.C. Cir. | 16-1413 | ARLO | Final Briefs | petition for review of EPA's final action titled "Treatment of Data Influenced by Exceptional Events." at 81 Fed. Reg. 68,216 (Oct. 3, 2016) |
| 10/24/2017 | Murray Energy Corporation v. EPA | DC Cir. | 16-1127 | ARLO | Status report | petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016) |
| 10/26/2017 | Development Association's Clean Air Project v. EPA | D.C. Cir. | 17-1016 | ARLO | EPA's Certified Index to the Record and Any Dispositive Motions | petition for review challenging revisions to the refrigerant management regulations under CAA section 608 |
| 10/27/2017 | Van Der Vaart, Donald, et al. v. EPA | E.D. NC | 5:16cv138 | ARLO | Take final action approving or disapproving 176A petition as to North Carolina | Failure to timely respond to 2013 petition regarding the Ozone Transport |
| 10/27/2017 | State of New York, et al. v. EPA | S.D. NY | 1:16-cv-07827 | ARLO | Take final action approving or disapproving 176A petition | Failure to Act on their Petitions Under Clean Air Act Section 176A |
| 10/27/2017 | Center for Biological Diversity, et al. v. EPA | N.D. CA | 17cv3239 | ARLO | Case management conference | for failure to make findings of failure to submit for 2008 ozone NAAQS nonattainment areas state implementation plans |
| 10/27/2017 | State of North Dakota v. EPA | DC Cir. | 15-1381 | ARLO | Status Report | EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units." At 80 Fed. Reg. 64 510 (October 23, 2015) |
| 10/30/2017 | American Chemistry Council v. EPA | D.C. Cir. | 15-1146 | ARLO | Status Report | Petition for review of EPA's final rule entitled "National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations" (80 Fed. Reg. 14248; March 18, 2015) |
| 10/30/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Due date to request more time before the mandate issues. | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 10/30/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | EPA Brief | petition for review of the Regional Consistency Regs |
| 10/30/2017 | Center for Biological Diversity v. EPA | D DC | 1:17-cv-816 | GLO | JOINT SCHEDULE | Improper Request, Failure to Respond |
| 10/30/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 16-1271 | ARLO | Motion to Govern Further Proceedings | Challenge to Federal Implication Plan that allows existing minor oil and natural gas sources in Indian country to satisfy construction permitting requirements by complying with applicable emissions standards. |
| 10/30/2017 | Hall and Associates v. EPA | DC Cir. | No. 16-5315 | GLO | EPA brief | Adequacy of the search. FOIA case. |



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| 10/30/2017 | Ergon-West Virginia, Inc. v. EPA | 4th Cir. | 17-1839 | ARLO | EPA's Brief | petitions for review of EPA's final action: Denial of Request for Extension of Small Refinery Temporary Exemption Under the Renewable Fuel Standards Program for Ergon-West Virginia, Inc.'s Newell, WV Refinery |
| 10/31/2017 | Northwest Environmental Advocates v. Department of Commerce | W.D. WA | 2:16-cv-01866 | WLO | Hearing | Claims of unreasonable delay in taking final action on Washington CZARA and in withholding grant funds, APA challenges to EPA oversight of CWA nonpoint source grant funding for Washington |
| 10/31/2017 | League of United Latin American Citizens (LULAC), et al. v. EPA | 9th Cir. | NO. 17-71636 | PTSLO | EPA's reply brief | Challenge to March 29, 2017 order denying PANNA/NRDC FFDCA petition |
| 10/31/2017 | Nucor Steel-Arkansas, et al. v. EPA | D. D.C. | 14-CV-0199 | ARLO | Take action to respond to petition on title V permit for Nucor Steel facility | Failure to grant or deny Nucor petition for objection to Title V Operating Permit issued to Big River Steel by Arkansas DEQ for a steel manufacturing facility in Osceola, Arkansas |
| 10/31/2017 | ARIPPA; Chesapeake Climate Action Network; more... v. EPA | DC Cir. | 16-1168, 16-1169, 16-1171 | ARLO | Status Report | Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial-Commercial—Institutional Steam Generating Units; Technical Correction," at 81 Fed. Reg. 20,172 (April 6, 2016) |
| 10/31/2017 | Gas Processors Association v. EPA | D.C. Cir. | 11-1023 | ARLO | Status Report | petition for review of EPA's final rule entitled 'Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010) |
| 10/31/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | EPA's response to summary judgment motion | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/1/2017 | Center For Biological Diversity, et al. v. EPA | ND CA | 4:15cv4663 | ARLO | Take action on San Francisco Bay Area SIP regarding NSR Permits | for failure to take final action and failure to make findings of failure to submit for 2006 PM2.5 NAAQS nonattainment areas state implementation plans |
| 11/1/2017 | Kelsey Cascadia Rose Juliana et al., et al. v. United States etl al | D. Ore. | 6:15-cv-01517-TC | ARLO | Plaintiffs serve rebuttal reports | Alleging multi-agency constitutional and public trust violations arising from actions and inactions on climate change |
| 11/2/2017 | American Petroleum Institute (API), et al. v. EPA | D.C. Cir. | 11-1309 | ARLO | Status Report | petition for review of EPA's final action titled "Review of New Sources and Modifications in Indian County" 76 FR 38748 (July 1, 2011) |
| 11/2/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1065 | ARLO | Status Report | Petition for review of final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions, Part II" published at 73 Fed. Reg. 77882 (December 19, 2008) |
| 11/2/2017 | Newmont USA Limited, D/B/A Newmont Mining Corporation v. EPA | D.C. Cir. | 04-1069 | ARLO | Status report | Challenge to treatment of fugitive emissions in the 2002 NSR reform rule |
| 11/3/2017 | Northwest Envrionmental Advocates v. EPA | W.D. Wash. | 2:14-cv-00196 | WLO | EPA file final admin record | Washington WQS: Lack of consultation on CWA criteria approvals pursuant to ESA 7(a)(2); Lack of re-initiation on criteria for which EPA previously concluded consultation pursuant to ESA 7(a)(2); Lack of CWA action on submissions that EPA previously determined were not WQS; Allegedly arbitrary approval of narrative natural conditions critiera. |



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| 11/3/2017 | American Petroleum Institute v. EPA | D.C. Cir. | 08-1124 | ARLO | Status report - API to file | petition for review challenging NSPS standards for spark ignition internal combustion engines and NESHAP for new reciprocating internal co mbustion engines |
| 11/3/2017 | Columbia Riverkeeper, Idaho Rivers United, Snake River Waterkeeper, Pacific Coast Federation of Fishermen's Associations the Institute for Fisheries Resources v. EPA | U.S. District | 2:17-cv-289 | WLO | EPA cross-motion for SJ and response | Alleging non-discretionary duty to establish TMDL for temperatu re on Lower Columbia River |
| 11/4/2017 | American Petroleum Institute v. EPA | DC Cir. | 15-1197 | ARLO | Status Reports | petition for review of EPA's final action entitled "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories" at 80 Fed. Reg. 25,068 (May 1, 2015) |
| 11/5/2017 | Utility Air Regulatory Group v. EPA | D.C. Cir. | 09-1299 | ARLO | Status Report | petition for review of EPA's r ule entitled "Standards of Performance for Coal Preparation and Processing Plants" 74 FR 51950 (10/8/09) |
| 11/6/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Response Brief | failure to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/6/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | EPA's Answering Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/6/2017 | Georgia-Pacific, LLC , et al. v. EPA | D.C. Cir. | 14-1267, 14-1269 | ARLO | Status Reports | Petitions for review of EPA's final action en titled "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Te chnology Standards; and Manufacture of Amino/Phenolic Resins," at 79 Fed . Reg. 60898 (October 8, 2014)) |
| 11/6/2017 | Small Retailers Coalition v. EPA | N.D. TX | 7:17-cv-00121 | ARLO | EPA Answer/Motion to Dismiss | for EPA's noncompliance with sections 603 and 604 of the RFA in issuing the 2017 RFS standards, and for failure to annually review the poin t of obligation of the RFS |
| 11/6/2017 | Humane Society of The United States, et al. v. EPA | D. D.C. | 17-1719 | ARLO | Response to Complaint | HSUS CAFO SECTION 111 UNREASONABLE DELAY CASE (2017) - Claim of Unreasonable Delay in Responding to a 2009 Petition seeking the Regulation of CAFOs under Section 111 of the Clean Air Act |
| 11/6/2017 | American Forest & Paper Association v. EPA | DC Cir. | 14-1097 | ARLO | Status Report | KRAFT PULP MILL NSPS LITIGATION - Petition for review of EPA's final rule entitled "Kraft Pulp Mill NSPS Review" (79 FR 18952 (April 4, 2 014)) |
| 11/6/2017 | Dalton Trucking, Inc., et al. v. EPA | 9th Cir. | 13-74019 | ARLO | Status Reports | petition for review of EPA's grant of authorization for California's in-use nonroad engine standards |
| 11/7/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 16-1358 | ARLO | Status Report | challenge to endangerment finding for GHG from aircraft |
| 11/8/2017 | State of West Virginia, et al. v. EPA | D.C. Cir. | 15-1363 | ARLO | Status Report - State of Alabama | CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary S ources: Electric Utility Generating Units." at 80 Fed. Reg. 64,662 (October 23, 2015) |
| 11/9/2017 | State of Texas, et al. v. EPA | 5th Cir. | 17-60088 | ARLO | Brief due in Big Brown Power Company LLC | Petition for review of final action entitled "Air Quality Desig nations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Stand ard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Coun ties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Re g. 89,870 (Dec. 13, 2016). |



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| 11/9/2017 | American Fuel & Petrochemical Manufacturers, et al. v. EPA | DC Cir. | 16-1033 | ARLO | Status Reports | Petition to review a final action of EPA's entitled "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards," published at 80 Fed. Reg. 75178, et. seq. (Dec. 1, 2015) |
| 11/9/2017 | Cause of Action v. EPA | District of Columbia | 1:17-cv-00509 | GLO | Reply to Oppo: Cause of Action v. EPA | This lawsuit alleges that EPA has failed to respond to a Freedom of Information Act ("FOIA") request concerning EPA employees' use of an encrypted messaging application, called "Signal," to communicate about agency business, as well as EPA efforts to retrieve, recover, or retain records created or received by EPA employees on Signal, from January 20, 2017 to the present. |
| 11/9/2017 | Sierra Club, et al. v. EPA | DC Cir. | 15-1487 | ARLO | Oral Argument | BRICK MACT RULE CHALLENGE - Petition for review of EPA Final Rule entitled "NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing" (80 FR 65470 (Oct. 26, 2015) |
| 11/9/2017 | American Petroleum Institute, et al. v. EPA | D.C. Circuit | 08-1277 | ARLO | Status reports | Petition for review of EPA's final rule entitled Standards of Performance for Petroleum Refineries |
| 11/9/2017 | United Affiliates Corp., et al. v. United States | Ct. Fed. Cl. | 1:17-cv-00067-TCW | CCILO | Answer | alleged 5th Amendment taking arising from CWA 404(c) veto |
| 11/10/2017 | Pineros Y Campesinos Unidos Del Noroeste, et al. v. EPA | N.D. CA | 3:17-cv-03434 | PTSLO | Plaintiff's' SJ reply brief | N.D.Ca. challenge to EPA's rules delaying the effective date of the Certification of Pesticide Applicators Rule, 82 Fed. Reg. 952 (Jan. 4, 2017) |
| 11/10/2017 | Sanitary Board of the City of Charleston, West Virginia v. EPA | U.S. Dist. Ct. for the S. Dist. Of W.V. | 2:16-cv-11111 | WLO | EPA'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE BRIEF | Alleges that EPA has a mandatory duty under CWA section 303(c) to approve or disapprove West Virginia's site-specific copper criterion for a segment of the Kanawha River. Following EPA disapproval, challenges EPA disapproval |
| 11/11/2017 | Afton Chemical Corporation v. EPA | D.C. Cir. | 06-1095 | ARLO | Status Reports | Petition for review of final regulation concerning emission durability procedures for vehicles, and trucks |
| 11/12/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/13/2017 | Judicial Watch, Inc. v. EPA | D. D.C. | 17-cv-01218-KBJ | GLO | EPA document production | Failure to respond. FOIA Case. |
| 11/14/2017 | Waterkeeper Alliance, et al. v. EPA | D.C. Cir. | 09-1017, 09-1104 | SWERLO | Mandate enforcing Court's order to vacate Rule goes into effect | CERCLA 113(a) action challenging a rulemaking which provides a full CERCLA reporting exemption and a limited EPCRA reporting exemption for air releases of hazardous substances from animal waste at farms. |
| 11/14/2017 | Troy Chemical Corp. v. EPA | DC Cir. | 14-1290 | SWERLO | Status report - case stayed pending settlement | CERCLA 113(a) petition challenging a rulemaking to add a site to the NPL |
| 11/14/2017 | Riverkeeper, Inc., et al. v. EPA | S.D. NY | 1:17-cv-04916 | WLO | ANSWER | Alleged inaction on New York State's submission of primary recreation criteria for the waters around New York City |
| 11/15/2017 | State of New Jersey v. EPA | D.C. Cir. | 08-1065 | ARLO | Status Report | challenge to EPA's revisions to the NSR "reasonable possibility" recordkeeping requirement |



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| 11/15/2017 | Center for Biological Diversity, et al. v. EPA | N.D. Cal. | 11-293-JCS | PTSLO | EPA and Intervenors' Motions to Dismiss | Known as the MegaSuit. Claims for failure to initiate consultat ion under ESA/failure to reinitiate consulations re: 1989/1993 ESA consultations. Thi s case has been remanded from an appeal of this case. Third amended complaint f iled. 2200+ actions (pesticide product actions) alleged in the failure to c onsult claims on 35 activie ingredients. Arguments for MTD are currently being deve loped. |
| 11/15/2017 | Pine View Estates Homeowners Association v. EPA | D. NV | 3:16cv402 | WLO | STAY EXPIRES | Challenge to EPA Administrative O rder for Compliance, Docket No. UIC-09-2016-0001 |
| 11/16/2017 | Sierra Club v. EPA | D. DC | 1:16-cv-02461 | ARLO | Sierra Club's combined opposition to EPA's motion for summary judgment and reply | concerning Clean Air Act deadlines related to Commercial and In dustrial Solid Waste Incinerators and other categories of Solid Waste Incinera tors |
| 11/16/2017 | Biogenic CO2 Coalition v. EPA | DC Cir. | 15-1480 | ARLO | Status Report | EGU 111(b) BIOMASS LEAD CASE - Petition for review of EP A's final rule entitled "Standards of Performance for Greenhouse Gas Emissions From New , Modified, and Reconstructed Stationary Sources: Electric Utility Generati ng Units" at 80 Fed. Reg. 64,510 (October 23, 2015) |
| 11/17/2017 | Burgess, et al. v. EPA et al. | E.D. Mich. | Civ. No. 4:17-cv-11218 | CRFLO | Depositions and Prep scheduled 9/29 - 11/17/17 | Plaintiffs suing EPA under the FTCA alleging negligence in resp onding to Flint drinking water crisis. Challenging that EPA's action/inaction violated mandatory duties prescribed by SDWA Sections 1414 and 1431. |
| 11/17/2017 | Kaiser Aluminum Corporation v. EPA | DC Cir. | 15-1423 | ARLO | Joint Status Report | petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56, 700 (September 18, 2015 ) |
| 11/17/2017 | City of Rutland, Vermont v. EPA | D. Vt. | 2:15-cv-00035-wks | WLO | Status Report | EPA approval of Vermont's Moon Brook TMDL |
| 11/17/2017 | Right to Know v. EPA | D. D.C. | 1:17-cv-00423 | GLO | Joint Status Report | FOIA: Failure to Respond |
| 11/18/2017 | Kinder Morgan CO2 Co., LP v. EPA | D.C. Cir. | 09-1332 | ARLO | Status Report | petition for review of EPA's final action entitled "Mandatory Reporting of Greenhouse Gases" 74FR56260 (October 30, 2009) |
| 11/19/2017 | Natural Resources Defense Council v. EPA | D.C. Cir. | 09-1103 | ARLO | Status Report | petition for review of EPA's final rule entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting" 74 Fed. Reg. 2376 (January 15, 2009) |
| 11/20/2017 | State of Connecticut v. EPA | D. CT | 3:17-cv-00796 | ARLO | Reply Brief | failure to grant or deny section 126 petition fi led by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania |
| 11/20/2017 | Cahaba Riverkeeper, et al. v. EPA | 11th Cir. | 17-11972 | WLO | Petitioners' Reply Brief | Denial of Petition to Withdraw approval of AL NPDES program |
| 11/20/2017 | Southwestern Electric Power Company, et al. v. EPA | 5th Cir. | 15-60821 | WLO | Status Report | Petition for review of EPA's fi nal Steam Electric Effluent Limitations Guidelines and Standards Rule published November 3, 2015. |
| 11/20/2017 | National Environmental Development Association's Clean Air Project v. EPA | D.C. Cir. | 16-1344 | ARLO | Joint Reply Brief for Petitioners | petition for review of the Regional Consistency Regs |
| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1311 | ARLO | Status Report | PULP AND PAPER MACT SUBPART MM CHALLENGE - Challenge to Chemical Recovery Combustion Sources at Pulp Mills (MACT Subpart MM), al leging grounds arising after due to D.C. Circuit Sierra Club v. EPA d ecision vacating SSM exemption case |



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| 11/20/2017 | American Forest & Paper Association, Inc. v. EPA | D.C. Cir. | 09-1312 | ARLO | Status Report | PULP AND PAPER MACT (SUBPART S ) ARISING AFTER CHALLENGE - Petition for review of EPA's final rule entitled "NESHAP for so urce category: Pulp and Paper Production" 63FR18503 (Subpart S) alleging grounds ar ising after due to D.C. Circuit Sierra Club v. EPA decision vacating SSM exemp tion case |
| 11/20/2017 | Hearth, Patio & Barbecue Association v. EPA | DC Cir. | 15-1056 | ARLO | Petitioners' Initial Brief | WOOD HEATERS NSPS RULE CHALLENGE - petition for review of EPA's final action entitled "Standards of Performance for New Residential W ood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces" at 80 Fed . Reg. 13,672-13,753 (March 16, 2015) |
| 11/22/2017 | Telford Borough Authority v. EPA | E.D. Pa. | 2:12-cv-06548-CDJ | WLO | Status report | EPA TMDL for Indian Creek, PA |
| 11/22/2017 | Spokane Riverkeeper v. EPA | W.D. Wash. | 2:15-cv-01542 | WLO | EPA answer | EPA approval of Washington state TMDL for Hangman Creek. |
| 11/22/2017 | Compsys, Inc. v. EPA | DC Cir. | 15-1334 | ARLO | Motion to Govern Further Proceedings | Petition for review of EPA's final rule titled "Protection of S tratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Sign ificant New Alternatives Policy Program, Part II" at 80 FR 42870 (July 20, 2015) |
| 11/23/2017 | State of Nevada v. EPA | D.C. Cir. | 08-1327 | ARLO | Status Report | Final rule promulgating amendments to 40 C.F.R. Part 197, 73 Fed. Reg. 61255 (Oct. 15, 2008). |
| 11/24/2017 | American Chemistry Council, et al. v. EPA | D.C. Circuit | 08-1014 | ARLO | Status Reports | challenges to final rule for equipment leaks of volatile organic compounds in the synthetic organic chemicals manufacturing industry and in petro leum refineries |



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**To:** Marks, Matthew[Marks.Matthew@epa.gov]
**From:** Schwab, Justin
**Sent:** Fri 10/20/2017 10:39:18 PM
**Subject:** RE: Marks, Matthew shared "ENV_DEFENSE-822889-v1-npca_haze_opp_enforce_to_epa_10-19 - mcm" with you.
EDIT ENV_DEFENSE-822889-v1-npca_haze_opp_enforce_to_epa_10-19 - mcm.DOC

Please find redline attached.

**From:** Marks, Matthew
**Sent:** Thursday, October 19, 2017 4:07 PM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Subject:** Marks, Matthew shared "ENV_DEFENSE-822889-v1-npca_haze_opp_enforce_to_epa_10-19 - mcm" with you.

Hi Justin, given timing, I am sharing DOJ's first draft of our opposition to NPCA's motion to enforce with you on SharePoint for your review. OGC staff are concurrently reviewing and commenting. We'd like to send something back to them by cob tomorrow.

This link only works for the direct recipients of this message.

ENV_DEFENSE-822889-v1-npca_haze_opp_enforce_to_epa_10-19 - mcm

Last modified 10/19/2017 1:02:46 PM

Microsoft OneDrive

Microsoft respects your privacy. To learn more, please read our Privacy Statement.
Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

**To:** Munoz, Charles[munoz.charles@epa.gov]
**Cc:** Ford, Hayley[ford.hayley@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
**From:** Schwab, Justin
**Sent:** Mon 10/2/2017 11:45:47 PM
**Subject:** OGC WH update
OGC's EPA Cabinet Report 10.02.2017.docx

Please find attached redline showing changes from last week's version.

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

9. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30 in light of the ongoing recovery efforts in the wake of Hurricane Harvey.
**Timing**: EPA issued a FIP on September 29. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

Non-Responsive

**Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov.

# Non-Responsive

# Non-Responsive

**To:** Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]
**Cc:** Payne, James[payne.james@epa.gov]; Smith, Suzanne[Smith.Suzanne@epa.gov]; Olszewski, Joshua[olszewski.joshua@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]
**From:** Schwab, Justin
**Sent:** Wed 8/16/2017 7:22:27 PM
**Subject:** RE: draft motion
EDIT npca_memo_for_extension_8-114 - 230pm.docx

Please find a redline attached. Gautam, I will call to discuss my suggestions. Thanks to all for the hard work and good product.

**From:** Srinivasan, Gautam
**Sent:** Wednesday, August 16, 2017 2:46 PM
**To:** Schwab, Justin <schwab.justin@epa.gov>
**Cc:** Payne, James <payne.james@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Olszewski, Joshua <olszewski.joshua@epa.gov>; Marks, Matthew <Marks.Matthew@epa.gov>; Anderson, Lea <anderson.lea@epa.gov>
**Subject:** draft motion

Justin- Attached is the draft motion reflecting OGC and ORC edits. You will find the most changes to the intro and the argument section. I will just let you commence reading, but if you have questions about the approach or specific language, we are ready to jump on a call with you.

Thanks to all who helped with this.

++++++++++++

202-564-5647 (o)

202-695-6287 (c)

**To:** Gautam Srinivasan (Srinivasan.Gautam@epa.gov)[Srinivasan.Gautam@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]
**From:** Schwab, Justin
**Sent:** Thur 8/31/2017 10:12:29 PM
**Subject:** TX RH - first bunch of my edits/comments to draft
EDIT TX BART trading program FRN final action draft for concurrence.docx

Please find attached.

This has a redline and bubbles through page 78.

I will send the rest when and as I can.

Please send me TCEQ/PUC's comment on the BART FIP.

Please send me the separate Legal RTC (if it is in a draft ready to be seen).

***[TCEQ DRAFT OF 8-10-2017]***

# MEMORANDUM OF AGREEMENT BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING A STATE IMPLEMENTATION PLAN TO ADDRESS CERTAIN REGIONAL HAZE AND INTERSTATE VISBILITY TRANSPORT REQUIREMENTS PURSUANT TO SECTIONS 110 AND 169A OF THE CLEAN AIR ACT

## BACKGROUND

Congress intended the Clean Air Act to be "[a]n experiment in cooperative federalism." *Luminant Generation Co. v. EPA*, 675 F.3d 917, 921 (5th Cir. 2012) (internal quotation marks omitted). The Act gave the Environmental Protection Agency the power to identify pollutants and set air quality standards. And Congress gave States "the primary responsibility for implementing those standards." *Id.* (internal quotation marks omitted); *see* 42 U.S.C. § 7407(a) ( "Each State shall have the primary responsibility for assuring air quality within [its] entire geographic area."); *id.* § 7401(a)(3) ("[A]ir pollution prevention . . . is the primary responsibility of States and local governments.").

The principal way States implement air quality standards is through state implementation plans ("SIPs"). The States have "wide discretion" in formulating those SIPs. *Union Elec. Co. v. EPA*, 427 U.S. 246, 250 (1976). And the Clean Air Act provides that EPA "shall approve" a SIP "if it meets the applicable requirements of this chapter." 42 U.S.C. § 7410(k)(3). Only where the State fails to meet those requirements does EPA gain the power to issue a federal implementation plan ("FIP"). *Id.* § 7410(c)(1). As the Fifth Circuit recently observed in a related case involving the Regional Haze Rule, "[t]he structure of the Clean Air Act indicates a congressional preference that states, not EPA, drive the regulatory process." *Texas v. EPA*, 829 F.3d 405, 411 (5th Cir. 2016).

EPA and Texas agree that, in recent years, the regulatory process has become both uncooperative and unproductive. Take first the uncooperativeness. Between January 2009 and January 2017, EPA imposed 56 FIPs. That is more than ten times as many FIPs as were issued in the three preceding presidential administrations combined. EPA and Texas agree that imposing another FIP here would further unsettle the cooperative federalism that Congress intended to foster in the Act.

EPA and Texas also agree the Cross-State Air Pollution Rule ("CSAPR") and the Regional Haze Rule prove that FIPs can be unproductive. In 2011, EPA imposed CSAPR FIPs on 27 States, including Texas, to limit the cross-state transport of certain air pollutants. That approach resulted in years of protracted litigation, and ultimately, the D.C. Circuit held that the Texas FIP was illegal and remanded the issue back to EPA. *See EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015).



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Similarly, in January 2016, EPA imposed a Regional Haze FIP on Texas. That FIP set "reasonable progress goals" that Texas must meet to restore natural visibility at two national parks and one federal wildlife refuge by 2064. EPA imposed that FIP because it concluded that Texas's reasonable-progress calculations were off by between 0.18% and 0.65%. And as a consequence of that error, EPA required scrubber upgrades and retrofits at fifteen electricity generation facilities at a cost of $2 billion. The Fifth Circuit stayed that FIP and remanded it to EPA, again returning everyone to the drawing board. *See Texas v. EPA*, 829 F.3d 405 (5th Cir. 2016).

EPA and Texas agree that it is time to break the FIP-stay-remand cycle. Regulators at the federal and state levels have been working together for months to implement the Regional Haze Rule in accordance with binding directions from the Fifth and D.C. Circuits. And rather than doing so through yet another FIP—this one to implement the Regional Haze Rule's best available retrofit technology ("BART") requirement—both EPA and Texas agree that a SIP provides a better path forward.

EPA and Texas further agree that the BART SIP should be motivated by three principles. The first is speed. Everyone wants to see clear rules in place as soon as possible. Citizens and environmental groups want to see measurable progress toward natural visibility. Power generators want certainty in their budgets. And consumers want to know that their power grid is reliable. All of that requires that this SIP be proposed and finalized faster than normal. After extensive consultation, EPA and Texas are confident that the BART SIP can be in place by the end of next year.

The second principle is cooperation. Much of the delay associated with the Regional Haze Rule (and CSAPR too for that matter) stems from a lack of federal-state cooperation, both inside and outside the courtroom. EPA and Texas now agree to change that and to work collaboratively to establish an intrastate trading program that satisfies the BART and interstate visibility transport requirements. As part of that cooperation—and as a further measure to speed up this SIP process—the parties agree to parallel processing of the SIP under 40 C.F.R. Part 51, Appendix V.2.3.

Law is the third principle motivating EPA and Texas in this SIP process. The Fifth Circuit held that even without a Regional Haze BART SIP in place, Texas is already under the glide path that both the State and EPA calculated for restoring natural visibility. *See Texas*, 829 F.3d at 414-15; *see also* 79 Fed. Reg. at 74,887 (finding that measured visibility already exceeds reasonable progress goals under both Texas's 2009 SIP and EPA's FIP). The parties also recognize that the Fifth Circuit's *Texas* decision likely precludes a BART requirement for all of so-called "reasonable progress" units that EPA originally proposed. *See* 829 F.3d at 425 (emphasizing the link to BART).

Accordingly, EPA and Texas agree that the new intrastate trading program should start



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with the electric generating units ("EGUs") that the EPA would have subjected to BART in its FIP. *See* 92 Fed. Reg. 921 (Jan. 4, 2017). It is possible that some of those units should not have been subject to BART, and it is possible that some BART units are better regulated though source-specific requirements rather than participation in the new trading program. Moreover, it is likely that some non-BART units will want to opt-in to the trading program. Working closely with EPA, the State through its SIP process will address each of these issues while ensuring that the State remains on (or, as it is now, below) an appropriate glide path to natural visibility.

EPA and Texas further agree that the budgets for the intrastate trading program should start from the CSAPR baseline. That is important for the speed of the State's SIP process because it will allow regulators to build on work that EPA already has done, rather than redoing it from scratch. Of course, EPA and Texas recognize that the CSAPR FIP budgets already have been held to be over-controlled for transport purposes. *See EME Homer*, 795 F.3d at 128-29, 130, 131, 138. Accordingly, the new trading program will use the CSAPR budgets only as a starting point and will preserve flexibility to make those budgets more generous where necessary.

Thus, at each step, EPA and Texas will work together to determine which units should be included, what the trading budgets should be, and how the trading program should work. The parties are confident that at the end of this process, EPA will be able to determine that Texas has met all outstanding requirements for regional haze under CAA § 169A, including $SO_2$, PM, and $NO_X$ BART and reasonable progress for the first planning period, as well as interstate visibility transport under CAA § 110(a)(II)(D)(ii) for 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$. And this process will provide a new model for cooperative federalism under the Clean Air Act.

**NOW, THEREFORE, EPA AND TCEQ AGREE AS FOLLOWS:**

1. The executive director of the TCEQ agrees in the spirit of cooperative federalism to submit to the commission for consideration a proposed revision to its SIP to address the outstanding BART requirements.

    a. The executive director agrees to submit a proposed SIP revision for commission consideration no later than March 31, 2018.
    b. TCEQ agrees to coordinate with the owners and operators of potentially impacted EGUs in the State to develop a SIP.
    c. Upon adoption by the commission, TCEQ agrees to submit to EPA for action a revision to its SIP to address the Regional Haze requirements not later than October 31, 2018.
    d. TCEQ intends for this SIP submittal to incorporate trading program flexibilities, to the extent appropriate.
    e. TCEQ intends to ask EPA to parallel process this SIP submittal.
    f. TCEQ intends for this SIP revision to address requirements for regional haze

under CAA § 169A for $SO_2$, PM, and $NO_X$ BART.

2. EPA agrees to parallel process this SIP submittal and sign a final action on the SIP revision by December 31, 2018.

3. TCEQ and EPA intend to work together to meet the goals of this MOA.

4. This document does not establish binding legal requirements on EPA or TCEQ or any of their officers, employees, other representatives, or any other person. EPA retains all the discretion afforded to it under the CAA and the general principles of administrative law. As required by the Antideficiency Act, 31 U.S.C. § 1341 and 1342, all commitments made by EPA herein are subject to the availability of appropriated funds. Nothing in this document in and of itself obligates EPA to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur other financial obligations. This document does not create any exemption from policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this document will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

5. All commitments made by TCEQ in this agreement are subject to Texas law, including but not limited to the Government Code, the Water Code, the Texas Health and Safety Code, and the General Appropriations Act. Nothing in this agreement requires TCEQ to expend funds in violation of Texas law.

6. This MOA may be signed in counterparts.

7. This MOA will take effect upon approval of an extension of time to a date no earlier than December 31, 2018, for EPA action under paragraph 4.a.ii.b of the consent decree entered in *NPCA v. EPA*, No. 1:11-cv-01548 (ABJ) (D.D.C.).

8. This MOA will terminate upon EPA's final rulemaking action on TCEQ's SIP submittal.

Signed this _____ of August 2017.

| | |
|---|---|
| _____ | _____ |
| Richard Hyde, P.E.<br>Executive Director<br>Texas Commission on<br>Environmental Quality | Samuel Coleman, P.E.<br>Acting Regional Administrator<br>United States Environmental<br>Protection Agency, Region 6 |



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DRAFT

**To:** Gautam Srinivasan (Srinivasan.Gautam@epa.gov)[Srinivasan.Gautam@epa.gov]; Anderson, Lea[anderson.lea@epa.gov]; Marks, Matthew[Marks.Matthew@epa.gov]
**From:** Schwab, Justin
**Sent:** Fri 9/8/2017 11:44:30 PM
**Subject:** TX RH draft FIP - part 3 (final part) of my comments/edits
EDIT TX BART trading program FRN final action draft for concurrence.docx

Please find attached a redline that goes through page 153. (I will not be commenting on/editing the CFR text itself).

Best,

Justin

**To:** Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Mon 9/18/2017 4:35:13 PM
**Subject:** Re: CSAPR remand/equivalency determination rule?

Confirmed.

Sent from my iPhone

On Sep 18, 2017, at 12:32 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:

This is the same rule. Please confirm.

Sent from my iPhone

Begin forwarded message:

**From:** "Owens, Nicole" <Owens.Nicole@epa.gov>
**Date:** September 15, 2017 at 6:31:39 PM EDT
**To:** "Bolen, Brittany" <bolen.brittany@epa.gov>
**Subject: RE: CSAPR remand/equivalency determination rule?**

Just to be clear…hopefully we are both talking about this rule…

**Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas**

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing withdrawal of the federal implementation plan (FIP) provisions that require affected electricity generating units (EGUs) in Texas to participate in Phase 2 of the Cross-State Air Pollution Rule (CSAPR) trading programs for annual emissions of sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_X$). Withdrawal of the FIP requirements is intended to address a decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanding the CSAPR Phase 2 $SO_2$ budget for Texas to the EPA for reconsideration. With this action, the EPA is also determining that, following withdrawal of the FIP requirements, sources in Texas do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 1997 national ambient air quality standard (NAAQS) for fine particulate matter ($PM_{2.5}$). Accordingly, we are also determining that the EPA has no obligation to issue new FIP requirements for Texas sources to address transported $PM_{2.5}$ pollution under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I) with regard to that NAAQS. Finally,

the EPA is also affirming the continued validity of the Agency's 2012 determination that participation in CSAPR meets the Regional Haze Rule's criteria for an alternative to the application of source-specific best available retrofit technology (BART). The EPA has determined that changes to CSAPR's geographic scope resulting from the actions EPA has taken or expects to take in response to the D.C. Circuit's remand do not affect the continued validity of participation in CSAPR as a BART alternative, because the changes in geographic scope would not have adversely affected the results of the air quality modeling analysis upon which the EPA based the 2012 determination.

**From:** Owens, Nicole
**Sent:** Friday, September 15, 2017 6:30 PM
**To:** Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** RE: CSAPR remand/equivalency determination rule?

Yes, we just received OEI's review of the PRA section today. OAR made necessary edits and sent us a new version this afternoon.

It is ready to be forwarded to you and Samantha for approval on Monday.

Nicole

**From:** Bolen, Brittany
**Sent:** Friday, September 15, 2017 6:27 PM
**To:** Owens, Nicole <Owens.Nicole@epa.gov>
**Subject:** CSAPR remand/equivalency determination rule?

Hi Nicole – is this rule pending in OP?

Thanks,

Brittany

**Brittany Bolen**

Deputy Associate Administrator, Office of Policy

U.S. Environmental Protection Agency

(202) 564-3291

Bolen.Brittany@epa.gov

**To:** Dravis, Samantha[dravis.samantha@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Fri 9/15/2017 8:56:54 PM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

I am hearing this is still in OP - please let me know if you need more info or if I can help in any other way.

**Ex. 5 - Deliberative Process**

Sent from my iPhone

On Sep 13, 2017, at 8:04 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

No problem – just wanted to check in light of the implication for other matters. Thank you very much for looking into it!!

**From:** Dravis, Samantha
**Sent:** Wednesday, September 13, 2017 8:00 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Justin, this is in OP and it will be moved forward this morning. Sorry about that

Sent from my iPhone

On Sep 13, 2017, at 7:03 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Thank you.

**From:** Dravis, Samantha
**Sent:** Wednesday, September 13, 2017 7:03 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany

<bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Will check this AM.

Sent from my iPhone

On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

> I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.
>
> Sent from my iPhone
>
> On Sep 12, 2017, at 8:51 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:
>
> > Haven't seen this in OP- let me know what I can do?
> >
> > Sent from my iPhone
> >
> > On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:
> >
> > > Re-upping – any word on this package?
> > >
> > > **From:** Schwab, Justin
> > > **Sent:** Monday, September 11, 2017 6:06 PM
> > > **To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> > > **Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
> > > **Subject:** status of CSAPR remand/equivalency determination rule?
> > >
> > > Dear All,

I have been asked to inquire into the status of this rule package.
Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process**

Best,

Justin

**To:** Smith, Kristi[Smith.Kristi@epa.gov]
**From:** Schwab, Justin
**Sent:** Fri 9/15/2017 8:54:56 PM
**Subject:** Re: CSAPR remand action signature?

Ok will follow up. Thank you.

Sent from my iPhone

On Sep 15, 2017, at 4:37 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

FYI - See message below. Seems like the rule is still at OP.

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

Begin forwarded message:

**From:** "Smith, Kristi" <Smith.Kristi@epa.gov>
**Date:** September 15, 2017 at 4:37:01 PM EDT
**To:** "Treimel, Ellen" <Treimel.Ellen@epa.gov>
**Cc:** "Owens, Nicole" <Owens.Nicole@epa.gov>, "Kime, Robin" <Kime.Robin@epa.gov>, "Fonseca, Silvina" <Fonseca.Silvina@epa.gov>
**Subject: Re: CSAPR remand action signature?**

OP senior management informed Justin Schwab earlier this week that they had moved the rule forward for signature, which is why I was asking the Administrator's office about signature.

On timing, there are two key points:

**Ex. 5 - Deliberative Process, Attorney Client**

Please let me know if you need any additional information.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group *
Air & Radiation Law Office * US EPA, Office of General Counsel
* smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

On Sep 15, 2017, at 3:42 PM, Treimel, Ellen <Treimel.Ellen@epa.gov> wrote:

Thanks Nicole. I know Kristi mentioned this morning that Ex. 5 - Deliberative Process, Attorney Client

Ex. 5 - Deliberative Process, Attorney Client

Ellen

**From:** Owens, Nicole
**Sent:** Friday, September 15, 2017 10:16 AM
**To:** Kime, Robin <Kime.Robin@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>
**Cc:** Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
**Subject:** RE: CSAPR remand action signature?

Hello –

Hello, I believe the action in question is SAN 5923 – Interstate Transport of PM2.5: Revision of FIP Requirements for Texas. If so, the action is still under review in OP but we expect to move it forward for signature soon. Our

Ex. 5 - Deliberative Process, Attorney Client

Nicole

-----Original Message-----
From: Kime, Robin
Sent: Friday, September 15, 2017 10:11 AM
To: Treimel, Ellen <Treimel.Ellen@epa.gov>
Cc: Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>
Subject: Re: CSAPR remand action signature?

Hi

Adding Nicole who may know more. I'm not aware if this, I'm sorry.

Sent from my iPhone

> On Sep 15, 2017, at 9:19 AM, Treimel, Ellen <Treimel.Ellen@epa.gov> wrote:

>

> Hi Robin,

>

> Does this ring any bells for you? See Kristi Smith's email at the bottom regarding an action having to do with Texas regional haze. I have put in a call to her and left her a message as well.

>

> Thanks,

>

> Ellen Treimel, Special Assistant

> Office of the Administrator

> U.S. Environmental Protection Agency

> WJC-N 3310

> 202-564-0557 (w)

> Ex. 6 - Personal Privacy

>

>

>

>

> -----Original Message-----

> From: Knapp, Kristien

> Sent: Thursday, September 14, 2017 9:36 PM

> To: Smith, Kristi <Smith.Kristi@epa.gov>

> Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>

> Subject: Re: CSAPR remand action signature?

>

> Hi Kristi,

>

> I left my position in the Administrator's immediate office back in August. My understanding is that Ellen Treimel and Silvina Fonseca are still in that office and should be able to help identify the status of signature items.

>

> I hope that helps.

> Kristien

>

> Sent from my iPhone

>

>> On Sep 14, 2017, at 6:48 PM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

>>

>> Kristien -

>>

>> Hi. I need you help figuring out the status of an action for the Administrator's signature. Earlier this week, Justin Schwab from the OGC Immediate Office (cc'ed here) heard from OP managers that they had moved an action responding the the CSAPR court remand to the Administrator's office for signature.

**Ex. 5 - Deliberative Process, Attorney Client**

>>

>> Do you know if this action has been signed? If not, do you know when it might be? Any information you have would be greatly appreciated.

>>

>> Thanks in advance for your help,

>> Kristi

**To:** Dravis, Samantha[dravis.samantha@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Wed 9/13/2017 12:04:47 PM
**Subject:** RE: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

No problem – just wanted to check in light of the implication for other matters. Thank you very much for looking into it!!

**From:** Dravis, Samantha
**Sent:** Wednesday, September 13, 2017 8:00 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Justin, this is in OP and it will be moved forward this morning. Sorry about that

Sent from my iPhone

On Sep 13, 2017, at 7:03 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Thank you.

**From:** Dravis, Samantha
**Sent:** Wednesday, September 13, 2017 7:03 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Will check this AM.

Sent from my iPhone

On Sep 12, 2017, at 9:01 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.

Sent from my iPhone

On Sep 12, 2017, at 8:51 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:

Haven't seen this in OP- let me know what I can do?

Sent from my iPhone

On Sep 12, 2017, at 8:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Re-upping – any word on this package?

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 6:06 PM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Dravis, Samantha[dravis.samantha@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Wed 9/13/2017 11:03:06 AM
**Subject:** RE: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Thank you.

**From:** Dravis, Samantha
**Sent:** Wednesday, September 13, 2017 7:03 AM
**To:** Schwab, Justin <Schwab.Justin@epa.gov>
**Cc:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Will check this AM.

Sent from my iPhone

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**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

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**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Dravis, Samantha[dravis.samantha@epa.gov]
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Wed 9/13/2017 1:01:55 AM
**Subject:** Re: RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

I guess just please ask your staff to confirm it hasn't come yet from OAR and, if so, who they would be expecting it from so that we can then follow up with OAR. Air law seemed to think it had gone from the program to OP but they could be wrong.

Sent from my iPhone

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**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
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**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
**Cc:** Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Wed 9/13/2017 12:16:13 AM
**Subject:** RESENDING - ATTENTION NEEDED RE: status of CSAPR remand/equivalency determination rule?

Re-upping – any word on this package?

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 6:06 PM
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
**Cc:** Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

Non-Responsive

14. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 & SIERRA CLUB v. EPA, NO. 10-1541 (D.C.C.)—TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT—MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.**
Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must, by September 9, 2017, either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of these deadlines to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions.
**Timing**: The court in *Sierra Club* has ordered EPA to address by August 23 two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted), and has ordered the other side to respond by September 1 to EPA's motion (and indicate whether they oppose "*any* length of extension"). The court in *National Parks* has ordered the other side to respond by August 29. Contact: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov.

Non-Responsive

# Non-Responsive

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
**Cc:** Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Mon 9/11/2017 10:06:09 PM
**Subject:** status of CSAPR remand/equivalency determination rule?

Dear All,

I have been asked to inquire into the status of this rule package. Originally anticipated to be signed 9/8.

**Ex. 5 - Deliberative Process, Attorney Client**

Best,

Justin

**To:** Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
**From:** Schwab, Justin
**Sent:** Mon 9/11/2017 6:04:46 PM
**Subject:** RE: WH weekly report
OGC's EPA Cabinet Report 9.11.17 (2).docx

Please find attached – David, please use this one to review/add content.

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 1:48 PM
**To:** Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
**Subject:** RE: WH weekly report

I will have at least one update coming soon. Will up-number the new word file as (2).

**From:** Schwab, Justin
**Sent:** Monday, September 11, 2017 1:31 PM
**To:** Baptist, Erik <baptist.erik@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
**Subject:** WH weekly report

Please find redline attached. I've put in comment bubbles where I'm either recused or (mostly in water/waste) unaware of whether there are updates or nuances to report. (David, as discussed, I have created an entry for USWAG at the end but left it blank past the case name.)

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

Non-Responsive

13. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State

Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30 in light of the ongoing recovery efforts in the wake of Hurricane Harvey..
**Timing**: EPA must take final action by September 30. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

**Non-Responsive**

# Non-Responsive

**To:** Baptist, Erik[baptist.erik@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
**From:** Schwab, Justin
**Sent:** Mon 9/11/2017 5:30:35 PM
**Subject:** WH weekly report
OGC's EPA Cabinet Report 9.11.17.docx

Please find redline attached. I've put in comment bubbles where I'm either recused or (mostly in water/waste) unaware of whether there are updates or nuances to report. (David, as discussed, I have created an entry for USWAG at the end but left it blank past the case name.)

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

Non-Responsive

13. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State

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**Timing**: EPA must take final action by September 30. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov

Non-Responsive

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

Non-Responsive

9. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-cv-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – FIP ISSUED, BRIEFING ON MOTION TO ENFORCE DECREE ONGOING.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either

issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). Plaintiffs were ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30. EPA issued a FIP on September 29. In response to an order from the court, Plaintiffs on October 13 filed a statement of position and motion to enforce the consent decree, stating their view that the FIP did not satisfy EPA's consent decree obligations and requesting that the court order EAP to finalize within 30 days the previous administration's proposed source-by-source BART FIP.
**Timing**: DOJ has until October 25 to respond. **Contact**: Justin Schwab, Deputy General Counsel, schwab.justin@epa.gov.

**Non-Responsive**

# Non-Responsive

# Non-Responsive

**To:** Ferguson, Lincoln[ferguson.lincoln@epa.gov]
**Cc:** Jackson, Ryan[jackson.ryan@epa.gov]; McMurray, Forrest[mcmurray.forrest@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
**From:** Schwab, Justin
**Sent:** Tue 9/5/2017 2:36:45 PM
**Subject:** Materials for this afternoon's Texas regional haze briefing
Texas Regional Haze Briefing Memo.docx
TX RH two-pager .docx

Please find attached

- 1-page briefing memo
- 2-page background/analysis supplement

**ATTORNEY-CLIENT COMMUNICATION – ATTORNEY WORK PRODUCT – DELIBERATIVE**

**TEXAS REGIONAL HAZE**

**Background**

EPA has September 30 deadlines[1] with regard to Texas's Clean Air Act requirements under 2 court orders entered in D.D.C. before different judges. One is to approve a SIP or issue a FIP satisfying Texas's obligations under the Best Available Retrofit Technology (BART) prong of the regional haze/interstate visibility program. The other is to approve a SIP or to issue a FIP satisfying Texas's obligations under the Act's "good neighbor"/interstate transport requirements.

Because these parts of the Act both deal with interstate pollution issues, EPA has repeatedly developed programs under which states through SIPs, or the agency through FIPs, can "kill two birds with one stone." The first of these efforts was the Clean Air Interstate Rule (CAIR), issued in 2005. This was an interstate cap-and-trade focusing on power plant emissions. It was designed to address the "good neighbor" provision, but EPA in a separate rulemaking determined that it was "better than BART," so that if a state was subject to CAIR either by SIP or by FIP, it would not need to require source-by-source BART controls.

The D.C. Circuit held in 2008 that CAIR was incompatible with the statute (*North Carolina v. EPA*), and remanded it to EPA. The Circuit did not vacate the rule, but made clear in its opinion that the rule was fundamentally defective and would need to be reworked from scratch.

In 2009, Texas submitted a SIP purporting to rely on CAIR for both its BART and "good neighbor" obligations. EPA eventually (in 2012) disapproved this SIP. (In a 2015 case, the D.C. Circuit clarified that no SIP based on CAIR could ever have been lawfully approved.)

Meanwhile, EPA in 2011 took another try at addressing the "good neighbor" provision when it issued the Cross-State Air Pollution Rule ("CSAPR")—the successor to the Clean Air Interstate Rule—CAIR. EPA determined that CSAPR was "better than BART" for those states subject to it.

EPA issued CSAPR as a FIP for Texas. In 2015, the D.C. Circuit held that CSAPR "over-controlled" SO2 emissions in Texas (*EME Homer City II*), and remanded the rule to EPA. Other states (SC, AL, GA) that achieved this same victory decided to voluntarily stay in CSAPR to satisfy their BART requirements, but

**Ex. 5 - Deliberative Process**

On January 4, 2017, EPA proposed a source-by-source BART FIP that would satisfy both BART and the "good neighbor" provision. This would require some 2.2 billion dollars' worth of controls on dozens of EGUs. In the comment period on this proposal, some owners and the state asked EPA to instead use a trading program to satisfy the statute.

**Ex. 5 - Deliberative Process**

[1] The deadlines were September 9. After the courts denied EPA's request for an extension through 2018, plaintiffs stipulated to a 21-day extension in light of the emergencies following Hurricane Harvey.

In mid-August, EPA asked the D.D.C. judges for an extension of time under the consent decrees until the end of 2018, to allow Texas time to develop and submit an intrastate trading program SIP. EPA attached a letter from Gov. Abbott and a Memorandum of Agreement with TCEQ, laying out a concept and schedule for the SIP timeline, to support this request. On August 31, the judge in the regional haze deadline suit denied this request.

**Current Status and Proposed Action**

**Ex. 5 - Attorney Client, Attorney Work Product, Deliberative Process**

**Background**

EPA has September 30 deadlines[1] with regard to Texas's Clean Air Act requirements under 2 court orders entered in D.D.C. before different judges. One is to approve a SIP or issue a FIP satisfying Texas's obligations under the Best Available Retrofit Technology (BART) prong of the regional haze/interstate visibility program. The other is to approve a SIP or to issue a FIP satisfying Texas's obligations under the Act's "good neighbor"/interstate transport requirements.

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[1] The deadlines were September 9. After the courts denied EPA's request for an extension through 2018, plaintiffs stipulated to a 21-day extension in light of the emergencies following Hurricane Harvey.

schedule for the SIP timeline, to support this request.

On August 31 and [X date], the judges denied this request.

**Current Status and Proposed Action**

**Ex. 5 - Attorney Client , Attorney Work Product, Deliberative Process**

**Background**

EPA has September 9 deadlines with regard to Texas's Clean Air Act requirements under 2 court orders entered in D.D.C. before different judges. One is to approve a SIP or issue a FIP satisfying Texas's obligations under the Best Available Retrofit Technology (BART) prong of the regional haze/interstate visibility program. The other is to approve a SIP or to issue a FIP satisfying Texas's obligations under the Act's "good neighbor"/interstate transport requirements.

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Meanwhile, EPA in 2011 took another try at addressing the "good neighbor" provision when it issued the successor to CAIR—the Clean Air Interstate Rule (CSAPR, "Casper" or "cee-sapper"). EPA determined that CSAPR was "better than BART" for those states subject to it.

EPA issued CSAPR as a FIP for Texas. In 2015, the D.C. Circuit held that CSAPR "over-controlled" SO2 emissions in Texas (*EME Homer City II*), and remanded the rule to EPA. Other states (SC, AL, GA) that achieved this same victory decided to voluntarily stay in CSAPR to satisfy their BART requirements, but

**Ex. 5 - Deliberative Process**

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# Ex. 5 - Deliberative Process

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On August 31 and [X date], the judges denied this request.



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**Current Status and Proposed Action**

**Ex. 5 - Attorney Client , Attorney Work Product, Deliberative Process**

# MEMORANDUM OF AGREEMENT BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING A STATE IMPLEMENTATION PLAN TO ADDRESS CERTAIN REGIONAL HAZE AND INTERSTATE VISBILITY TRANSPORT REQUIREMENTS PURSUANT TO SECTIONS 110 AND 169A OF THE CLEAN AIR ACT

## BACKGROUND

Congress intended the Clean Air Act to be "[a]n experiment in cooperative federalism." *Luminant Generation Co. v. EPA*, 675 F.3d 917, 921 (5th Cir. 2012) (internal quotation marks omitted). The Act gave the Environmental Protection Agency the power to identify pollutants and set air quality standards. And Congress gave states "the primary responsibility for implementing those standards." *Id.* (internal quotation marks omitted); *see* 42 U.S.C. §7407(a) ( "Each State shall have the primary responsibility for assuring air quality within [its] entire geographic area."); *id.* § 7401(a)(3) ("[A]ir pollution prevention . . . is the primary responsibility of States and local governments.").

The principal way States implement air quality standards is through state implementation plans ("SIPs"). The States have "wide discretion" in formulating those SIPs. *Union Elec. Co. v. EPA*, 427 U.S. 246, 250 (1976). The Clean Air Act provides that EPA "shall approve" a SIP "if it meets the applicable requirements of this chapter." 42 U.S.C. § 7410(k)(3). Only where the State fails to meet those requirements does EPA gain the power to issue a federal implementation plan ("FIP"). *Id.* § 7410(c)(1). As the Fifth Circuit recently observed in a related case involving the Regional Haze Rule, "[t]he structure of the Clean Air Act indicates a congressional preference that states, not EPA, drive the regulatory process." *Texas v. EPA*, 829 F.3d 405, 411 (5th Cir. 2016).

EPA and Texas agree that, in recent years, meeting the Act's goal of protecting public health through the cooperative federalism approach for Texas Regional Haze has been difficult. The Agency and the State have at times ended up as adversaries in court, rather than as partners in developing effective programs.

EPA and Texas also agree that FIPs are the last resort and may not be the most effective way to improve air quality in a timely manner.

EPA and Texas agree that the current circumstances present a unique opportunity to move past prior disagreement and to realize the Act's cooperative federalism vision. Regulators at the federal and state levels have been working together for months to implement the Regional Haze Rule in accordance with directions from federal court decisions. Rather than issuing a FIP—to implement the Regional Haze Rule's best available retrofit technology ("BART") requirement and address interstate visibility transport—both EPA and Texas agree that a SIP



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provides a better path forward to meet the Congressional intent to give states primary responsibility to implement these requirements of the Act.

EPA and Texas further agree that this SIP should be motivated by three principles. The first is speed. Both EPA and Texas desire to see clear rules promulgated as soon as possible. After extensive consultation, this Memorandum of Agreement provides for EPA and Texas to take all available opportunities to expedite development, review, and processing of a SIP package consistent with applicable requirements and are confident that a SIP that addresses BART and interstate visibility transport can be in place by the end of next year.

The second principle is cooperation. EPA and Texas now agree to work collaboratively to establish an intrastate trading program that satisfies the BART and interstate visibility transport requirements. As part of that cooperation—and as a further measure to speed up this SIP process—the parties agree to parallel processing of the SIP under 40 C.F.R. Part 51, Appendix V.2.3.

Law is the third principle motivating EPA and Texas in this SIP process. EPA and Texas agree that the SIP process must be grounded firmly in the requirements of the Clean Air Act and guided by relevant court decisions.

EPA and Texas agree that the development of a new intrastate trading program should start with the electric generating units ("EGUs") that the EPA would have subjected to BART in its FIP. *See* 92 Fed. Reg. 921 (Jan. 4, 2017). It is possible that some of these units should not be considered subject to BART, and it is possible that some BART units would be better regulated through source specific requirements. Moreover, some non-BART units may want to opt-in to the trading program. Working closely with EPA, the State through its SIP process will address each of these issues while ensuring that the State's SIP remains consistent with Act's regional haze requirements.

EPA and Texas further agree that the allocations to units included in the intrastate trading program should be equivalent to the allocations under CSAPR. That is important for the speed of the State's SIP process because it will allow regulators to build on work that EPA already has done. EPA and Texas recognize that the CSAPR FIP budget already has been held to be over-control for certain interstate transport requirements. *See EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015). The new trading program will use the CSAPR unit level allocations and will preserve flexibility to adjust those allocations where necessary.

Thus, at each step, EPA and Texas will work together to determine which units should be included, what the unit level allocations should be, and how the trading program should work. The goal of the parties is that at the end of this process, EPA will be able to determine that Texas has met all outstanding requirements for regional haze under CAA § 169A, including $SO_2$, PM, and $NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for the 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour SO2

national ambient air quality standards (NAAQS). And this process could serve as a model for cooperative federalism under the Clean Air Act.

**NOW, THEREFORE, EPA AND TCEQ AGREE AS FOLLOWS:**

1. The executive director of the TCEQ agrees in the spirit of cooperative federalism to submit to the commission for consideration a proposed revision to its SIP to address the outstanding BART and visibility transport requirements.

    a. The executive director agrees to submit a proposed SIP revision for commission consideration no later than March 31, 2018.
    b. TCEQ agrees to coordinate with the owners and operators of potentially impacted EGUs in the State to develop a SIP.
    c. Upon adoption by the commission, TCEQ agrees to submit to EPA for action a revision to its SIP to address the Regional Haze and interstate visibility transport requirements not later than October 31, 2018.
    d. TCEQ intends for this SIP submittal to incorporate trading program flexibilities, to the extent appropriate.
    e. TCEQ intends to ask EPA to parallel process this SIP submittal.
    f. TCEQ intends for this SIP revision to address requirements for regional haze under CAA § 169A for $SO_2$, PM, and $NO_X$ BART and interstate visibility transport under CAA § 110(a)(II)(D)(ii) for 1997 8-hour ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 8-hour ozone, 2010 1-hour $NO_2$, and 2010 1-hour $SO_2$ NAAQS.

2. EPA agrees to parallel process this SIP submittal and intends to sign a final action on the SIP revision by December 31, 2018.

3. TCEQ and EPA intend to work together to meet the goals of this MOA.

4. This document does not establish binding legal requirements on EPA or TCEQ or any of their officers, employees, other representatives, or any other person. EPA retains all the discretion afforded to it under the CAA and the general principles of administrative law. As required by the Antideficiency Act, 31 U.S.C. § 1341 and 1342, all commitments made by EPA herein are subject to the availability of appropriated funds. Nothing in this document in and of itself obligates EPA to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur other financial obligations. This document does not create any exemption from policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this document will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

5. All commitments made by TCEQ in this agreement are subject to Texas law, including but not limited to the Government Code, the Water Code, the Texas Health and Safety



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Code, and the General Appropriations Act. Nothing in this agreement requires TCEQ to expend funds in violation of Texas law.

6. This MOA may be signed in counterparts.

7. This MOA will terminate upon EPA's final rulemaking action on TCEQ's SIP submittal.

Signed this _____ of August 2017.

_____

Richard Hyde, P.E.
Executive Director
Texas Commission on
Environmental Quality

_____

Samuel Coleman, P.E.
Acting Regional Administrator
United States Environmental
Protection Agency, Region 6

**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Payne, James[payne.james@epa.gov]; Stenger, Wren[stenger.wren@epa.gov]
**To:** Coleman, Sam[Coleman.Sam@epa.gov]
**From:** Schwab, Justin
**Sent:** Tue 9/26/2017 9:04:12 PM
**Subject:** Re: TX Haze Slide Deck

# Ex. 5 - Deliberative Process

Sent from my iPhone

On Sep 26, 2017, at 1:12 PM, Coleman, Sam <Coleman.Sam@epa.gov> wrote:

I had my team prepare a Top Level Slide Deck summarizing the recommendation on TX Haze. Let me know if you have any questions.

Samuel Coleman, P.E.

Deputy Regional Administrator

EPA Region 6

coleman.sam@epa.gov

214.665.2100 Ofc

214.665.3110 Direct

214.789.2016 Cell

<Tex Reg Haze Trading FIP briefing for Administrator DRAFT Sept 26 2017_SC.pptx>

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
**From:** Schwab, Justin
**Sent:** Fri 8/4/2017 10:11:14 AM
**Subject:** Fwd: TIME SENSITIVE - Tex Reg Haze TCEQ draft letter commitment for SIP revision trading program
Tex Reg Haze EPA CLEAN Tx letter DRAFT request for Trading Program Aug 3 2017.docx
ATT00001.htm

See below. The new draft is SIP-only and has a shorter timeline (everything done by end of 2018 rather than mid 2020).

You and I should get with Reed (Ried?) et al on this, but in the meantime Sam is going to run it by TCEQ.

Sent from my iPhone

Begin forwarded message:

**From:** "Payne, James" <payne.james@epa.gov>
**Date:** August 3, 2017 at 11:35:55 PM EDT
**To:** "Schwab, Justin" <schwab.justin@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>
**Cc:** "Coleman, Sam" <Coleman.Sam@epa.gov>, "Smith, Suzanne" <Smith.Suzanne@epa.gov>
**Subject: TIME SENSITIVE - Tex Reg Haze TCEQ draft letter commitment for SIP revision trading program**

Based on comments in past two days, Sam plans to share this revised draft letter with TCEQ tomorrow/Fri at 8am central / 9am eastern.

Sam and I are in Austin with TCEQ and many others at annual Texas Environmental Law Superconference.

Jim
Ex. 6 - Personal Privacy

Sent from my iPhone

Begin forwarded message:

**From:** "Stenger, Wren" <stenger.wren@epa.gov>
**Date:** August 3, 2017 at 4:00:36 PM CDT
**To:** "Coleman, Sam" <Coleman.Sam@epa.gov>, "Payne, James" <payne.james@epa.gov>

**Cc:** "Donaldson, Guy" <Donaldson.Guy@epa.gov>, "Price, Lisa" <Price.Lisa@epa.gov>, "Stenger, Wren" <stenger.wren@epa.gov>, "Smith, Suzanne" <Smith.Suzanne@epa.gov>
**Subject: Tex Reg Haze TCEQ draft letter commitment for SIP revision trading program**

Ex. 5 - Deliberative Process

# Ex. 5 - Deliberative Process

Wren Stenger

Director, Multimedia Division

EPA Region 6 Dallas, Texas

214.665.6583

**A. Legal Decisions**

Non-Responsive

# Non-Responsive

# Non-Responsive

# Non-Responsive

Non-Responsive

12. **NATIONAL PARKS CONSERVATION ASSOCIATION v. EPA, NO. 11-1548 (D.D.C.) & SIERRA CLUB v. EPA, NO. 10-cv-1541 (D.D.C.) – TEXAS REGIONAL HAZE & INTERSTATE POLLUTION TRANSPORT – MOTIONS FOR EXTENSION OF CONSENT DECREE DEADLINES FILED.** Under two consent decrees entered in separate deadline/mandatory duty suits under the previous administration, EPA must either issue a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP), to satisfy the Clean Air Act's requirements for Texas's obligations under (1) the Best Available Retrofit Technology (BART) prong of the Regional Haze program (the *National Parks* case), and (2) the "good neighbor" provision addressing interstate pollution transport (the *Sierra Club* case). On August 18, EPA filed motions with both courts requesting extension of the consent decree deadlines from September 9, 2017, to December 31, 2018, attaching a Memorandum of Agreement between EPA and the state environmental agency, as well as a letter from Governor Abbott, laying out Texas's commitment to develop and submit for EPA's approval a SIP establishing an intrastate trading program to satisfy both the BART/haze requirements and the interstate transport requirements. The environmental parties to the consent decrees are expected to oppose the motions. Upon the court's direction, EPA on August 23 filed a response to two questions (regarding Texas's timeline for SIP submission and EPA's preparedness to issue a FIP on September 9 if no extension is granted). The other side was ordered to respond to EPA's motion (and indicate whether they oppose "*any* length of extension"). The district court denied the request for a long-term extension, but granted a stipulated request to extend the deadline from September 9 to September 30 in light of the ongoing recovery efforts in the wake of Hurricane Harvey.
**Timing**: EPA must take final action by September 30. **Contact**: Justin Schwab, Deputy

General Counsel, schwab.justin@epa.gov

# Non-Responsive

# Non-Responsive