ARLO Deadline Calendar
Week of December 10, 2018

NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES

NEW CASES

NOTICES OF CITIZEN SUIT

PETITIONS

NEW DECISIONS and SETTLEMENTS

UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES

UPCOMING LITIGATION DEADLINES

12/10 Status Report
Sierra Club v. EPA, No. 15-1465 (D.C. Cir.) (challenge to interprecursor trading provisions in the 2008 ozone implementation rule) (Dan Conrad)

12/10 Status Report
State of Utah, et al. v. EPA, No. 16-9541 (10th Cir.) (petition for review of EPA's final rule entitled "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)) (Nora Greenglass)

12/10 Oral Argument
Sierra Club v. EPA, No. 16-1158 (D.C. Cir) (Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) (Jonathan Skinner-Thompson)

12/10 Status Report
National Parks Conservation Association, et al. v. EPA, No. 17-1253 (D.C. Cir.) (challenge to reaffirmation of CSAPR>BART/ the Texas Remand Rule (Daniel Schramm, Lea Anderson)

12/10 Reply on Motion to Dismiss as moot
Bay Area Quality Management District v. EPA, No. 16-73197 (9th Cir.) (petition for review of disapproval of offset calculations,81 Fed. Reg. 50,399 (August 1, 2016)) (Daniel Conrad)

12/12 EPA Sur-Reply Brief
Mexichem Fluor, Inc., et al. v. EPA, No. 17-1024 (D.C. Cir.) (challenge by two chemical suppliers to the 2016 Section 612 Significant New Alternatives Policy ("SNAP") Rule which, among other things, changed the listing of certain high global warming potential substitutes for ozone-depleting substances from acceptable to unacceptable) (Jan Tierney)

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12/12 Status Report
State of Texas, et al. v. EPA, No. 16-1078 (DC Cir.) (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) (Daniel Schramm, Nora Greenglass)

12/13 Status Report
State of Arkansas v. EPA, No. 16-4270 (8th Cir.) (Petition for review of EPA's regional haze FIP for Arkansas, 81 Fed. Reg. 66,332 (September 27, 2016)) (Nora Greenglass)

12/17 EPA Brief
Downwinders at Risk v. EPA, No. 18-60290 (5th Cir.) (Petition for review of three EPA final actions approving redesignation substitutes for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas for the 1979 and 1997 ozone NAAQS—80 Fed. Reg. 63,429 (Oct. 20, 2015) (Houston 1979 ozone NAAQS); 81 Fed. Reg. 78,691 (Nov. 8, 2016) (Houston 1997 NAAQS); 81 Fed. Reg. 78,699 (Nov. 8, 2016) (Dallas 1979 and 1997 NAAQS)) (Kaytrue Ting)

12/18 Oral Argument
Murray Energy Corporation v. EPA, No. 15-1385 (DC Cir.) (Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015)) (Melina Williams)

12/19 EPA Brief
Sierra Club v. EPA, No. 18-1038 (D.C. Cir.) (petition for review of EPA's final action in In the Matter of PacfiCorp Energy - Hunter Power Plant, Emery County, Utah at 82 Fed. Reg. 58196 (Dec. 11, 2017) (John Krallman)

12/19 Motions to Govern Future Proceedings
Mossville Environmental Action Now, et al. v. EPA, No. 12-1263 (D.C. Cir.) (Petition for review of EPA's final action entitled "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production " 77 Fed. Reg. 22,848 (April 17,2012)) (Susmita Dubey)

12/21 EPA Brief
California Communities Against Toxics, et al. v. EPA, No. 18-1085 (DC Cir.) MACT MAJOR TO AREA/ONCE-IN-ALWAYS-IN MEMORANDUM LITIGATION - Memorandum from William Wehrum, dated January 25, 2018, entitled "Issuance of Guidance Memorandum, Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act" and Federal Register notice published at 83 Fed Reg 5543 (Feb. 8, 2018) (Scott Jordan)

12/21 Briefing Schedule Format
State of California, et al. v. EPA, No. 18-1114 (D.C. Cir.) (petition for review of EPA's final action titled "Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles" at 83 Fed. Reg. 16, 077-87 (Apr. 13, 2018) (Mark Kataoka)

12/21 EPA Merits Brief
Environmental Integrity Project, et al. v. EPA, No. 18-60384 (5th Cir.) (petition for review of EPA's final action in In the Matter of ExxonMobil Corporation—Baytown Olefins Plant, Harris County, Texas at 83 Fed. Reg. 12753 (March 23, 2018) (Emily Seidman)

12/21 EPA Reply to our Motion to Dismiss
Producers of Renewables United for Integrity Truth and Transparency v. EPA, No. 18-1202, (D.C. Cir.) (petition for review of EPA's final agency action to allow the generation of RINs for the RFS program that do not represent biofuel production in the year the RIN was generated) (Susan Stahle)

12/23 Status Report
State of West Virginia, et al. v. EPA, No. 15-1363 (D.C. Cir.) (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)) (Scott Jordan)

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01/02 Status Reports
National Waste & Recycling Association, et al. v. EPA, No. 16-1372 (DC Cir.) (petition for review of EPA's final rule entitled "Standards of Performance for Municipal Solid Waste Landfills." at 81 Fed. Reg. 59, 332 (Aug. 29, 2016)) (Karen Palmer)

01/02 Status Report
National Waste & Recycling Association, et al. v. EPA, No. 16-1371 (DC Cir.) (Petition for review of EPA's final action entitled "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills; Final Rule." at 81 Fed. Reg. 59, 276 (Aug. 29, 2016)) (Karen Palmer)

01/07 Status Report
State of Texas, et al. v. EPA, No. 17-60088 (5th Cir.) (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)) (Andrea Carrillo)

01/11 Answer
Center for Biological Diversity, et al. v. EPA, No. 3:18-cv-03544-DMR (N.D. CA) (Alleging failure to take action on 17 pending 2010 SO2 SIPs for nonattainment areas in 9 states (Florida, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, West Virginia, and Wisconsin) and failure to issue findings of failure to submit regarding 2 overdue 1972 SO2 SIPs for nonattainment areas in 2 states (Arizona and New Jersey)) (Mike Thrift)

01/11 Status report
American Bakers Association v. EPA, No. 17-1264 (D.C. Cir.) (petition for review of Yeast Manufacturing RTR) (Nora Greenglass)

01/12 Status Report
National Environmental Development Association's Clean Air Project v. EPA, No. 17-1016 (D.C. Cir.) (petition for review challenging revisions to the refrigerant management regulations under CAA section 608) (Melina Williams)

01/14 Status Report
Gas Processors Association v. EPA, No. 15-1473 (DC Cir.) (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) (Andrea Carrillo)

01/14 Status Report
Gas Processors Association v. EPA, No. 11-1023 (D.C. Cir.) (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)) (Andrea Carrillo)

01/14 Status Report
Environmental Committee of the Florida Electric Power Coordinating Group, Inc., et al. v. EPA, No. 15-1239 (D.C. Cir.) (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) (Emily Seidman, Karen Bianco)

01/14 Status Report
Murray Energy Corporation v. EPA, No. 16-1127 (DC Cir.) (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)) (Karen Bianco, Kaytrue Ting)

01/14 Status Report
American Petroleum Institute; et al. v. EPA, No. 12-1405 (D.C. Cir.) (Petitions for review of EPA's 2012 oil and gas NESHAP revision based on residual risk and technology review (Amy Branning)

01/14 Status Report
National Parks Conservation Association, et al. v. EPA, No. 1:11-cv-1548 (D.D.C.) (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) (Daniel Schramm, Nora Greenglass)

01/15 Status Report
American Petroleum Institute v. EPA, No. 07-1022 (D.C. Cir.) SITE REMEDIATION MACT - challenge to final rule entitled "National Emissions Standards for Hazardous Air Pollutants: Site Remediation (Nora Greenglass)

01/16 EPA's Brief
Natural Resources Defense Council v. EPA, No. 18-1172 (D.C. Cir.) (petition for review of EPA's final action to suspend EPA's final rule prohibiting certain uses of hydrofluorocarbons, titled "Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program." at 83 Fed. Reg. 18,431 (April 27, 2018)) (Jan Tierney)

01/17 Written Responses to Discovery Requests
New York v. EPA, No. 1:18-cv-773 (D.D.C.) (Claim of unreasonable delay in issuing 111(d) guidelines to address methane emissions from existing oil and natural gas sources) (on-going negotiation for document production deadline) (Amy Branning, Derek Mills)

01/22 Status Report
State of Indiana v. EPA, No. 18-1074 (D.C. Cir.) (Challenge to the nonattainment designation for Huntington Township; Indiana contained in Air Quality Designations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard—Round 3 (83 Fed. Reg. 1098)) (Andrea Carrillo, Mike Thrift)

01/22 EPA's Brief
Sierra Club v. EPA, No. 18-1167 (D.C. Cir.) (petition for review of EPA's final action titled "Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program" dated April 17; 2018) (Mark Kataoka)

01/22 Status Report
Southern Illinois Power Cooperative v. EPA, No. 17-1173 (DC Cir.) (petition for review of EPA's final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard—Round 2," 81 Fed. Reg. 45039 (July 12, 2016)) (Andrea Carrillo)

01/22 Status Report
Kaiser Aluminum Corporation v. EPA, No. 15-1423 (D.C. Cir.) (petition for review of EPA's final action "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production" at 80 Fed. Reg. 56,700 (September 18, 2015)) (Emily Seidman)

01/22 Status Report
State of West Virginia, et al. v. EPA, No. 15-1363 (D.C. Cir.) (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)) (Scott Jordan)

01/22 Status Report
American Chemistry Council et al v. EPA, No. 08-1014 (D.C. Cir.) (Petitions for review of 2007 revisions to NSPS for Leak Detection and Repair for refineries and chemical processing plants) (Amy Branning)

01/29 Status Report
American Petroleum Institute, et al. v. EPA, No. 13-1108 (DC Cir.) (Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidated with challenges to 2014 NSPS amendment and 2016 NSPS setting methane standards)) (Amy Branning)

02/04 Status Report
State of Texas, et al. v. EPA, No. 16-60118 (5th Cir.) (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)) (Daniel Schramm, Nora Greenglass)

02/04 Joint Status Report
Sierra Club v. EPA, No. 1:17cv2174 (D. DC) (for failure to conduct triennial reports to congress on Environmental and Conservation Impacts of the Renewable Fuel Standard and failure to

conduct Anti-Backsliding Analysis or determine if mitigation measures are necessary) (Seth Buchsbaum)

02/08 Status Report
National Parks Conservation Association, et al. v. EPA, No. 17-1253 (D.C. Cir.) (challenge to reaffirmation of CSAPR>BART/ the Texas Remand Rule) (Daniel Schramm)

02/15 Answer
Our Children's Earth Foundation v. EPA, No. 3:18-cv-04765-SK (N.D. CA) (for failure to review and revise certain National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards every eight years) (Daniel Schramm, Jan Tierney, Lea Anderson)

02/15 EPA Response Brief
Advanced Biofuels Association v. EPA, No. 18-1115 (DC Cir.) (Petition for review of EPA's decision to modify the criteria or lower the threshold by which the Agency determines whether to grant small refineries an exemption from the CAA's Renewable Fuel Standards for reasons of "disproportionate economic hardship) (Susan Stahle)

02/19 Status Report
Downwinders at Risk, et al. v. EPA, No. 18-1260 (D.C. Cir.) (petition for review of EPA's final action titled "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review" at 83 Fed. Reg. 35,122 (July 25, 2018)) (Jonathan Averback)

02/21 Status Report
State of West Virginia, et al. v. EPA, No. 15-1363 (D.C. Cir.) (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)) (Scott Jordan)

02/22 EPA Response Brief
Renewable Fuels Association, et al. v. EPA, No. 18-9533 (10th Cir.) (petition for review of EPA's final actions issued for Extensions of Small Refineries Temporary Exemptions Under the Renewable Fuels Standard Program for HollyFrontier Corp.'s Woods Cross; Utah Refinery (December 2017); HollyFrontier Corp.'s Cheyenne; Wyoming Refinery (May 2017) and Wynnewood Refining Company; LLC's Wynnewood; Oklahoma Refinery (2018) (Susan Stahle)

02/25 Status Report
National Alliance of Forest Owners, et al. v. EPA, No. 10-1209 (D.C. Cir.) (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)) (Nora Greenglass)

02/27 Status Report
American Petroleum Institute v. EPA, No. 15-1020 (DC Cir.) (Petition for Review of "Greenhouse Gas Reporting rule: 2014 Revisions and Confidentiality Determinations from Petroleum and Natural Gas Systems; " 79 Fed. Reg. 70352 (Nov. 25, 2014)) (Andrea Carrillo)

02/27 Status Report
Gas Processors Association v. EPA, No. 11-1023 (D.C. Cir) (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)) (Andrea Carrillo)

02/27 Status Report
Gas Processors Association v. EPA, No. 15-1473 (DC Cir.) (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)) (Andrea Carrillo)

02/28 Status Report
Utility Air Regulatory Group, et al. v. EPA, No. 04-1076 (D.C. Cir.) (Petition for review of EPA's 2004 final rule promulgating monitoring requirements for particulate matter continuous emissions monitoring systems at new stationary sources) (Amy Branning)

UPCOMING COURT-ORDERED AND RELATED DEADLINES

12/19 Court order to take final action on non-RFP-related SIP submissions for the 2008 ozone SJV nonattainment area, pursuant to 7/24/2018 order
AIR v. EPA, No. 18-cv-01604-YGR (N.D. Cal.) (ozone deadline suit) (Kaytrue Ting)

12/31 Court order to take final action to complete its RTR rulemakings for at least 7 of the 13 overdue source categories, pursuant to 3/22/2017 order
Blue Ridge Environmental Defense League, et al. v. EPA, No. 1:16-cv-00364 (D. D.C.) (Jan Tierney)

2019

01/28 Sign notice of final rulemaking setting forth final decision in review of primary SOx NAAQS pursuant to CD
Center for Biological Diversity, et al. v. EPA, No. 3:16cv3796 (ND CA) (failure to timely review, revise and promulgate the Air Quality Criteria for Sulfur Oxides and the NAAQS for Sulfur Dioxide and Nitrogen Oxides as may be appropriate) (Melina Williams)

01/31 Court order to take final action on RFP-related components of 2008 ozone SJV state implementation plans, per 7/24/2018 order
AIR v. EPA, No. 18-cv-01604 (N.D. Cal.) (ozone deadline suit) (Kaytrue Ting)

CASES and MAJOR MOTIONS AWAITING DECISION

- ***State of West Virginia, et al. v. EPA***, No. 15-1363 (D.C. Cir.) 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.") (Scott Jordan) (argued September 27, 2016)
- ***United States Steel Corporation v. EPA***, No. 16-2668 (8th Cir.) (Petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants," 81 Red. Reg. 21,672 (Apr. 12, 2016)) (Matthew Marks) (argued Nov. 15, 2017)

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- ***American Lung Association, et al. v. EPA***, No. 17-1172 (D.C. Cir.) (petition for review of EPA's final action extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards, at 82 FR 29,246 (June 28, 2017)) (Karen Bianco, Jan Tierney) (case is fully brief as of September 5, 2017)
- ***Cl88ean Air Council v. United States,* Case No. 2:17-cv-04977-PD (E.D. Pa.)** (Defendants' motion to dismiss constitutional lawsuit alleging that efforts to "rollback" climate-related initiatives violate the Fifth Amendment and a federal Public Trust Doctrine) (briefing completed May 3, 2018)
- ***Juliana v. United States***, No. 6:15-cv-01517 (D. Ore.) (constitutional and federal public trust climate case brought by minors and guardians of future generations) (motion for summary judgment and motion for judgement on the pleadings argued July 18, 2018)
- ***Wisconsin v. EPA***, No. 16-1406 (D.C. Cir.) (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) (Stephanie Hogan, Dan Schramm, Kaytrue Ting) (argued October 3, 2018)
- ***Alon Refining Krotz Springs, Inc., et al. v. EPA***, No. 16-1052 (DC Cir.) and ***Coffeyville Resources Refining & Marketing, LLC, et al. v. EPA***, No. 17-1044, (D.C. Cir.) (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) (Roland Dubois, Ryland Li) (argued October 5, 2018)
- ***State of California v. EPA***, No. 4:18-cv-03237-HSG (N.D. CA.) Hearing on EPA's Motion to Dismiss Plaintiff's Mandatory Duty Suit regarding Municipal Solid Waste Landfills Emission Guidelines based on lack of jurisdiction and failure to state a claim. (Karen Palmer) (hearing October 25, 2018)
- ***Valero Energy Corporation v. EPA***, No. 18-1028 (D.C. Cir.) (petition for review of EPA's final action entitled Periodic Reviews for the Renewable Fuel Standard Program, notice of which was published in the Federal Register at 82 Fed. Reg. 58; 364 (Dec. 12, 2017)) (Ryland Li) (argued November 08, 2018)
- ***State of New York, et al. v. EPA***, No. 17-1273 (D.C. Cir.) (petition for review of EPA's final action "Response to the December 9, 2013, Clean Air Act Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont," 82 Fed. Reg. 51,238 (November 3, 2017)) (Daniel Schramm) (argued November 28, 2018)
- ***Sierra Club v. EPA***, No. 16-1158 (D.C. Cir) (Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) (Jonathan Skinner-Thompson) (argued December 10, 2018)