

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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NATIONAL ENVIRONMENTAL	)	
DEVELOPMENT ASSOCIATION'S	)	
CLEAN AIR PROJECT,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 10-1252
	)	(and consolidated cases)
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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**RESPONDENT'S MOTION TO GOVERN  
FURTHER PROCEEDINGS**

In accordance with the Court's Order of December 14, 2010, Respondent United States Environmental Protection Agency ("EPA") submits this motion to govern further proceedings. The consolidated petitions in this case seek review of an EPA regulation revising the primary National Ambient Air Quality Standard for oxides of sulfur pursuant to section 109 of the Clean Air Act, 42 U.S.C. § 7409. 75 Fed. Reg. 35,520 (June 22, 2010). Because EPA received multiple administrative petitions for reconsideration of the rule, EPA moved to hold the case in abeyance for three months while it considered the administrative petitions

for reconsideration. By Order dated December 14, 2010, the Court granted the motion to hold the case in abeyance and ordered EPA to file a motion to govern further proceedings by January 18, 2011.

On January 14, 2011, the EPA Administrator signed a decision denying the administrative petitions for reconsideration. Attachment 1. Thus, the administrative proceedings are now complete, and the case regarding the June 22, 2010 final rule could proceed to briefing. However, petitions for review of the Administrator's decision denying the administrative petitions for reconsideration might be filed in this Court. The Clean Air Act provides that such petitions may be filed within 60 days of publication of the final action in the Federal Register. 42 U.S.C. § 7607(b)(1). EPA believes that it would be in the interest of judicial economy to defer briefing in this case until any petitions for review of EPA's decision denying the petitions for reconsideration are filed and to consolidate any such petitions with the current case. Therefore, EPA requests that the Court continue to hold the case in abeyance until April 14, 2011 (90 days from the date of the Administrator's decision) to allow time for the reconsideration denial decision to be published in the Federal Register and for the statutory review period to run, and issue an order requiring submission of another motion to govern further proceedings at that time.

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January 18, 2011

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 2011, I caused a copy of the foregoing document to be served by the Court's CM/ECF system on:

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