

AUG 11 2015

RECEIVED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES COURT OF APPEALS FOR DISTRICT OF COLUMBIA CIRCUIT	
FILED	AUG 11 2015
CLERK	

STATE OF FLORIDA,
 STATE OF ALABAMA,
 STATE OF ARIZONA,
 STATE OF ARKANSAS,
 STATE OF DELAWARE,
 STATE OF GEORGIA,
 STATE OF KANSAS,
 STATE OF LOUISIANA,
 STATE OF MISSISSIPPI,
 STATE OF MISSOURI,
 STATE OF OHIO,
 STATE OF OKLAHOMA,
 STATE OF SOUTH CAROLINA,
 STATE OF SOUTH DAKOTA,
 STATE OF WEST VIRGINIA,
 COMMONWEALTH OF KENTUCKY,
 and
 NORTH CAROLINA DEPARTMENT OF
 ENVIRONMENT AND NATURAL
 RESOURCES,

Case No. 15-1267

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
 PROTECTION AGENCY AND GINA
 McCARTHY, ADMINISTRATOR,

Respondents.

_____ /

PETITION FOR REVIEW

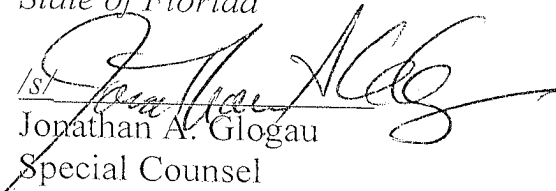
Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1),
 and Federal Rule of Appellate Procedure 15, the States of Florida, Alabama,

Arizona, Arkansas, Delaware, Georgia, Kansas, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, South Dakota, West Virginia, Commonwealth of Kentucky, and North Carolina Department of Environment and Natural Resources petition the Court for review of the United States Environmental Protection Agency's ("EPA") final action on rulemaking titled *State Implementation Plans: Response to Petition for Rulemaking; Restatement and 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*, published in the Federal Register at 80 Fed. Reg. 33,839 on June 12, 2015, and attached to this petition as Exhibit 1.

Specifically, EPA erroneously concluded that the following State's EPA-approved State Implementation Plans are "substantially inadequate" with respect to periods of startup, shutdown and malfunction and must be revised. See: Alabama – 80 Fed. Reg. at 33,962; Arizona – 80 Fed. Reg. at 33,971-72; Arkansas – 80 Fed. Reg. at 33,967; Delaware – 80 Fed. Reg. at 33,960; Florida – 80 Fed. Reg. at 33,962; Georgia – 80 Fed. Reg. at 33,962-63; Kansas – 80 Fed. Reg. at 33,969; Kentucky – 80 Fed. Reg. at 33,963; Louisiana – 80 Fed. Reg. at 33,967-68; Mississippi – 80 Fed. Reg. at 33,963-64; Missouri – 80 Fed. Reg. at 33,969; North Carolina – 80 Fed. Reg. at 33,964; Ohio – 80 Fed. Reg. at 33,966-67; Oklahoma – 80 Fed. Reg. at 33,968; South Carolina – 80 Fed. Reg. at 33,964; South Dakota –

80 Fed. Reg. at 33,971; and West Virginia – 80 Fed. Reg. at 33,961-62.

Pamela Jo Bondi
Attorney General
State of Florida


/s/ Jonathan A. Glogau

Special Counsel
Chief, Complex Litigation
Florida Bar No. 371823
OFFICE OF THE ATTORNEY GENERAL
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Phone: (850) 414-3817
Fax: (850) 414-9650
jon.glogau@myfloridalegal.com
Counsel for Petitioner State of Florida

Samuel S. Olens
Attorney General
State of Georgia

/s/ Britt C. Grant

Britt C. Grant
Solicitor General
Georgia Bar No.
OFFICE OF THE ATTORNEY GENERAL
40 Capitol Sq. SW
Atlanta, GA 30334
Phone: (404) 651-9453
Fax: (404) 463-1519
bgrant@law.ga.gov
Counsel for Petitioner State of Georgia

Derek Schmidt
Attorney General
State of Kansas

/s/ Jeffrey A. Chanay

Jeffrey A. Chanay
Chief Deputy Attorney General
OFFICE OF THE ATTORNEY GENERAL
120 SW Tenth Avenue, Third Floor
Topeka, Kansas 66612-1597
Phone: (785) 368-8435
jeff.chanay@ag.ks.gov
Counsel for Petitioner State of Kansas

Patrick Morrissey
Attorney General
State of West Virginia

/s/ Elbert Lin

Elbert Lin
Solicitor General
OFFICE OF THE ATTORNEY GENERAL
State Capitol
Building 1, Room E-26
Charleston, WV 25305
(304) 558-2021
Counsel for Petitioner State of West Virginia

Matthew P. Denn
Attorney General
State of Delaware

/s/ Valerie Satterfield

Valerie Satterfield Edge
Deputy Attorney General
(DE I.D. #3937)
Delaware Department of Justice
102 W. Water Street, 3rd Floor
Dover, DE 19904
Counsel for Petitioner State of Delaware

Marty J. Jackley
Attorney General
State of South Dakota

/s/ Steven R. Blair

Steven R. Blair
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
1302 E. Highway 14, Suite 1
Pierre, SD 57501
Tel. (605) 773-3215
Email: steven.blair@state.sd.us
Counsel for Petitioner State of South Dakota

James D. “Buddy” Caldwell
Attorney General
State of Louisiana

/s/ James D. Buddy Caldwell

James D. “Buddy” Caldwell
Attorney General
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 94005
Baton Rouge, Louisiana 70804-9005
Counsel for Petitioner State of Louisiana

Leslie Rutledge
Attorney General
State of Arkansas

/s/ Jamie Leigh Ewing

Jamie Leigh Ewing
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-5310 (phone)
(501) 682-3896 (fax)
Jamie.ewing@arkansasag.gov
Counsel for Petitioner State of Arkansas

Mark Brnovich
Attorney General
State of Arizona

/s/ Mark Brnovich

Mark Brnovich
Attorney General of Arizona
OFFICE OF THE ATTORNEY GENERAL
1275 West Washington
Phoenix, AZ 85007
Tel. (602) 542-5025
Counsel for Petitioner State of Arizona

Luther Strange
Attorney General
State of Alabama

/s/ Andrew Brasher

Andrew Brasher
Solicitor General
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, AL 36130
Direct: 334-353-2609
Fax: 334-242-4891
Counsel for Petitioner State of Alabama

Michael DeWine
Attorney General
State of Ohio

/s/ Eric E. Murphy

Eric E. Murphy
State Solicitor
OFFICE OF THE ATTORNEY GENERAL
30 E. Broad St., 17th Floor
Columbus, OH 43215
Tel. (614) 466-8980
Email:
eric.murphy@ohioattorneygeneral.gov
Counsel for Petitioner State of Ohio

JACK CONWAY
Attorney General
Commonwealth of Kentucky

/s/ Jack Conway

Jack Conway
Attorney General of Kentucky
OFFICE OF THE ATTORNEY GENERAL
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
Counsel for Petitioner Commonwealth
of Kentucky

/s/ Harold E. Pizzetta, III

BY: HAROLD E. PIZZETTA,
MSB No. 99867
U.S. Court of Appeals - D.C. Circuit
No. 51936
Assistant Attorney General
Civil Litigation Division
Office of the Attorney General
Post Office Box 220
Jackson, Mississippi 39205
Telephone: (601) 359-3816
Facsimile: (601) 359-2003
hpizz@ago.state.ms.us
Counsel for Petitioner State of
Mississippi

ALAN WILSON
Attorney General
State of South Carolina

/s/ J. Emory Smith, Jr.

J. EMORY Smith, Jr.
Deputy Solicitor General
ROBERT D. COOK
Solicitor General
Email: BCOOK@SCAG.GOV
OFFICE OF THE ATTORNEY GENERAL
Post Office Box 11549
Columbia, South Carolina 29211
Phone: (803) 734-3680
Fax: (803) 734-3677
Email: esmith@scag.gov
Counsel for Petitioner State of South
Carolina

/s/ Sam M. Hayes

Sam M. Hayes
General Counsel
Craig A. Bromby
Deputy General Counsel
Andrew J. Norton
Deputy General Counsel
North Carolina Department of
Environment and Natural Resources
215 W. Jones Street
Raleigh, North Carolina 27603
sam.hayes@ncdenr.gov
craib.bromby@ncdenr.gov
andrew.norton@ncdenr.gov
(919) 707-8600
Counsel for Petitioner North Carolina
Department Of Environment and
Natural Resources
(pro hac vice to be filed)

/s/ P. Clayton Eubanks

P. Clayton Eubanks
Deputy Solicitor General
Office of the Attorney General of
Oklahoma
313 N.E. 21st Street
Oklahoma City, OK 73105
Tel: (405) 522-8992
Fax:(405) 522-0085
clayton.eubanks@oag.ok.gov
*Counsel for Petitioner State of
Oklahoma*

/s/ Chris Koster

Chris Koster
Attorney General of Missouri
Supreme Court Building
207 West High Street
Jefferson City, MO 65101
(573)751-3321
Counsel for Petitioner State of Missouri


CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2015, I caused one copy of the foregoing Petition for Review of Petitioner Florida, et al. to be served on each of the following by United States mail, first class:

The Honorable Gina McCarthy
Administrator
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

The Honorable Loretta E. Lynch
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460


Jonathan A. Glogau