

ORAL ARGUMENT NOT YET SCHEDULED  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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NATIONAL ENVIRONMENTAL DEVELOPMENT )  
ASSOCIATION’S CLEAN AIR PROJECT, ET AL. )

Petitioners, )

) No. 17-1016  
) (consolidated with 17-  
) 1017)

v. )

UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY, ET AL. )

Respondents. )

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**EPA’S 60-DAY STATUS REPORT**

In accordance with this Court’s September 14, 2018 and January 8, 2019 Orders (Doc. ## 1750770; 1767527), Respondents the United States Environmental Protection Agency and Andrew R. Wheeler, in his official capacity as Administrator of the United States Environmental Protection Agency, (collectively, “EPA”) submit this 60-day status report. Petitioners the National Environmental Development Association’s Clean Air Project (“NEDA/CAP”) and the Air Permitting Forum (“APF”) filed petitions for review of EPA’s action entitled “Protection of Stratospheric Ozone: Update to the Refrigerant

Management Requirements Under the Clean Air Act,” 81 Fed. Reg. 82,272 (Nov. 18, 2016) (“2016 Amended Refrigerant Management Rule”) on January 17, 2017.<sup>1</sup>

EPA filed, and this Court granted, a series of unopposed motions to hold this case in abeyance through September 14, 2018. *See* Doc. # 1750545 ¶ 4 (listing motions and orders). In its September 13, 2018 motion seeking further abeyance, EPA referenced its August 10, 2017 letter to Petitioners, which stated that EPA planned “to issue a proposed rule to revisit aspects of the 2016 [Amended Refrigerant Management] Rule’s extension of the 40 CFR part 82 subpart F refrigerant management requirements to non-exempt substitutes,”<sup>2</sup> and explained that, consistent with the August 10, 2017 letter, the Agency had been working diligently on a proposed rule. *Id.* ¶¶ 7–8. The Court granted EPA’s motion, ordered that the case remain in abeyance pending further order, and directed EPA to file 60-day status reports. Doc. # 1750770. EPA filed a status report on November 13, 2018. Doc. # 1759664. In light of the lapse in appropriations to

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<sup>1</sup> Also on January 17, 2017, APF filed an administrative petition for reconsideration before EPA regarding the 2016 Amended Refrigerant Management Rule. As part of the September 14, 2018 Order, “[t]he parties are directed to file motions to govern further proceedings within 30 days of the completion of the agency proceedings on the petition for administrative reconsideration.” Doc. # 1750770.

<sup>2</sup> Letter from EPA to NEDA/CAP and APF (Aug. 10, 2017), [https://www.epa.gov/sites/production/files/2017-08/documents/608\\_update\\_letter.pdf](https://www.epa.gov/sites/production/files/2017-08/documents/608_update_letter.pdf).

fund certain parts of the Government, on January 8, 2019, the Court ordered EPA to file a status report by February 13, 2019, and at 60-day intervals thereafter.

Doc. #1767527. EPA filed its most recent status report on February 13, 2019.

Doc. # 1773259.

EPA published a proposed rule in the Federal Register on October 1, 2018. “Protection of Stratospheric Ozone: Revisions to the Refrigerant Management Program’s Extension to Substitutes,” 83 Fed. Reg. 49,332–44 (“Proposed Rule”).<sup>3</sup> The public comment period on the Proposed Rule has closed, and EPA is considering the comments and any final action regarding the Proposed Rule.

Pursuant to the Court’s September 14, 2018 and January 8, 2019 Orders, EPA will submit a further status report no later than 60 days from the date of this report.

Dated: April 12, 2019

Respectfully Submitted,

*/s/ Patrick R. Jacobi*  
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<sup>3</sup> <https://www.gpo.gov/fdsys/pkg/FR-2018-10-01/pdf/2018-21084.pdf>.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of April 2019, I served the foregoing document on all registered counsel through the Court's electronic filing system (ECF).

Dated: April 12, 2019

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