

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-1200

September Term 2011

**EPA-73FR16436
EPA-73FR16436-01**

Filed On: February 17, 2012

State of Mississippi,

Petitioner

v.

Environmental Protection Agency,

Respondent

County of Nassau, et al.,
Intervenors

Consolidated with 08-1202, 08-1203, 08-1204,
08-1206

No. 11-1396

**EPA Communication
Dated 09/02/2011**

American Lung Association, et al.,

Petitioners

v.

Environmental Protection Agency and Lisa
Perez Jackson, Administrator, United States
Environmental Protection Agency,

Respondents

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BEFORE: Henderson, Tatel, and Griffith, Circuit Judges

ORDER

Upon consideration of the motion to dismiss or in the alternative hold in abeyance No. 11-1396, the responses thereto, the reply, the Rule 28(j) letter, and the response to the letter; the motion to correct order in No. 11-1396, the response thereto, and the reply; the cross-motion for an extension of time to file the certified index to the record in No. 11-1396, the opposition thereto, and the reply; the motion to coordinate or consolidate No. 11-1396 and No. 08-1200, et al., the responses thereto, and the reply; and the motions to govern filed in No. 08-1200, et al., the responses thereto, and the replies, it is

ORDERED that the motion to dismiss No. 11-1396 be granted. The court lacks jurisdiction over the agency's non-final decision to defer action on the 2008 voluntary revision of the national ambient air quality standards for ozone. See generally Portland Cement Ass'n v. EPA, 665 F.3d 177 (D.C. Cir. 2011) (per curiam); see also Natural Resources Defense Council v. EPA, 643 F.3d 311, 318-20 (D.C. Cir. 2011) (and cases cited therein). It is

FURTHER ORDERED that the motion to coordinate or consolidate No. 11-1396 and No. 08-1200, et al., the motion to correct order in No. 11-1396, and the cross-motion for an extension of time to file the certified index to the record in No. 11-1396, be dismissed as moot. It is

FURTHER ORDERED that the following briefing schedule in No. 08-1200, et al. apply:

Joint brief for petitioner State of Mississippi and supporting intervenor	April 17, 2012
Joint brief for industry petitioners and supporting intervenors	April 17, 2012
Joint brief for New York State petitioners and supporting intervenors	April 17, 2012

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Joint brief for environmental petitioners	April 17, 2012
Brief for amicus curiae Province of Ontario	May 1, 2012
Brief for respondent	July 2, 2012
Brief for industry intervenors supporting respondent	July 23, 2012
Brief for environmental intervenors supporting respondent	July 23, 2012
Reply briefs	August 13, 2012
Deferred appendix	August 20, 2012
Final briefs	August 27, 2012

The word allotments established in the court's order filed December 23, 2008, and the other instructions contained in that order remain in effect. The parties will be notified by separate order of the oral argument date and the composition of the merits panel.

Pursuant to D.C. Circuit Rule 36, the disposition of No. 11-1396 will not be published. The Clerk is directed to withhold issuance of the mandate in No. 11-1396 until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Timothy A. Ralls
Deputy Clerk/LD