

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-1093

September Term, 2014

Filed: May 1, 2015

Amended: July 21, 2015

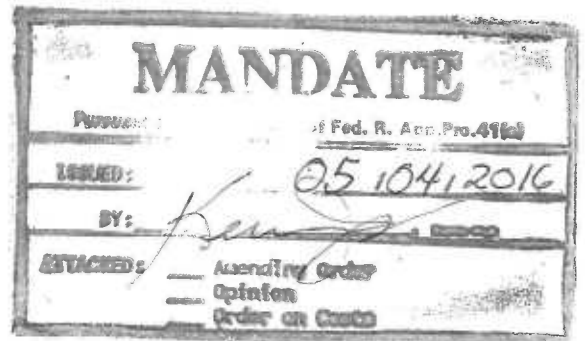
DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL,
PETITIONER

v.

ENVIRONMENTAL PROTECTION AGENCY,
RESPONDENT

ELECTRIC POWER SUPPLY ASSOCIATION, ET AL.,
INTERVENORS

Consolidated with 13-1102, 13-1104



On Petitions for Review of A Final Rule Promulgated
by the United States Environmental Protection Agency

Before: GARLAND, *Chief Judge*, WILLIAMS and RANDOLPH, *Senior Circuit Judges*.

AMENDED JUDGMENT

These causes came on to be heard on the petitions for review of a Final Rule Promulgated by the United States Environmental Protection Agency and were argued by counsel. On consideration thereof, and in accordance with the opinion of the court filed herein this date and amended on July 21, 2015, it is

ORDERED and **ADJUDGED** that the petitions for review be granted except that the portion of Delaware's petition for review in No. 13-1093, challenging the exemption from emissions controls for backup generators be dismissed for lack of standing. The challenged rules that contain the 100-hour exemption for operation of emergency engines for purposes of emergency demand response under the National Emissions Standards, 40 C.F.R. § 63.6640(f)(2)(ii)-(iii), and the Performance Standards, 40 C.F.R. §§ 60.4211(f)(2)(ii)-(iii), 60.4243(d)(2)(ii)-(iii), be reversed and remanded to EPA for further action. The rest of the 2013 Rule remains in effect. If vacatur of portions of the 2013 Rule cause administrative or other difficulties, EPA or the parties to this proceeding may file a motion to delay issuance of the mandate.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk

Date: July 21, 2015

Opinion for the court by Senior Circuit Judge Randolph.