

UNITED STATES COURT OF APPEALS  
FOR DISTRICT OF COLUMBIA CIRCUIT  
FEB 26 2003  
RECEIVED

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF DELAWARE, )  
)  
)  
Petitioner, )  
)  
)  
v. )  
)  
)  
UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
)  
Respondent. )  
)

Docket No. 03-03-1041

**PETITION FOR REVIEW**

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and § 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), Delaware hereby petitions the Court to review the final rule of the United States Environmental Protection Agency entitled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-future-actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects." The final rule has been published at 67 Fed. Reg. 80185 (December 31, 2002), to be codified at 40 C.F.R. §§ 51.165, 51.166, 52.21, and 52.24.

Petitioners have a direct interest in the outcome of this action. The Clean Air Act gives Delaware the primary responsibility for enforcing the Act's requirements and achieving its goals in Delaware. 42 U.S.C. § 7401, 7407. The final rule will have a substantial impact on Delaware's responsibilities in enforcing the Clean Air Act's requirements and the flexibility afforded Delaware in enforcing these requirements. While other states have filed petitions seeking judicial review of the final rule, it does not appear to Delaware that its interests are necessarily aligned with those of the other petitioners or the Respondent United States

Environmental Protection Agency. Therefore, it does not appear that any other party is in a position to adequately protect the interests and views of the State of Delaware.

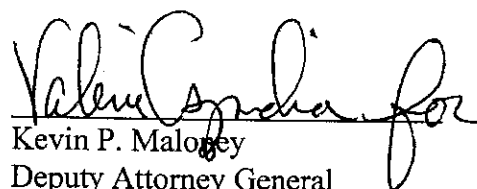
Dated: February 25, 2003

Respectfully submitted,

FOR THE STATE OF DELAWARE

M. JANE BRADY  
Attorney General

By:

A handwritten signature in cursive script, appearing to read "Kevin P. Maloney for".

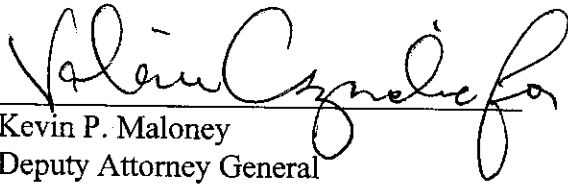
Kevin P. Maloney  
Deputy Attorney General  
Department of Justice  
Third Floor  
102 W. Water Street  
Dover, DE 19904  
(302) 739-4636

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of February, 2003, a copy of the foregoing Petition for Review was sent by U.S. mail, first class postage prepaid, to the following:

Hon. John Ashcroft  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Hon. Christine Whitman, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

  
Kevin P. Maloney  
Deputy Attorney General  
Department of Justice  
Third Floor  
102 W. Water Street  
Dover, DE 19904  
(302) 739-4636