

D.C. Circuit Dismisses Challenges to Proposed Clean Air Act Section 111(d) Rule

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The U.S. Court of Appeals for the D.C. Circuit has denied petitions to review the **EPA's** proposed rule to regulate carbon dioxide emissions from existing electric generating sources. See [*In re Murray Energy Corporation, No. 14-1112 \(D.C. Cir. June 9, 2015\)*](#). The proposed rule was issued under section 111(d) of the Clean Air Act in June 2014, and it is expected to be promulgated in final form by late summer this year.

Murray Energy Corporation and several states filed petitions for review of the proposed rule. Citing conflicting House and Senate versions of the 1990 Clean Air Act Amendments, the petitioners argued, among other things, that EPA has based the rule on an improper interpretation of the Clean Air Act. The Murray Energy Corporation and state petitions cases were consolidated for review, with oral arguments held in April 2015. Today, the court, without ruling on the merits of the underlying challenge, has held that it is without authority to review proposed agency rules. Many of the arguments raised by the petitioners are expected to be used in challenges to the final rule as well.

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