



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

March 26, 2015

The Honorable Scott S. Harris
Clerk
Supreme Court of the United States
One First Street, NE
Washington, D.C. 20543

Re: Michigan, et al. v. Environmental Protection Agency, et al., No. 14-46;
Utility Air Regulatory Group v. Environmental Protection Agency, et al.,
No. 14-47; National Mining Association v. Environmental Protection
Agency, et al., No. 14-49

Dear Mr. Harris:

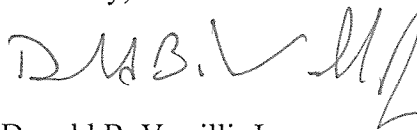
At yesterday's oral argument, members of the Court posed various questions pertaining to how EPA assesses whether to establish subcategories of sources for purposes of 42 U.S.C. 7412. I am writing to provide the Court with information relevant to those questions.

First, EPA has not promulgated regulations directly addressing the criteria for establishing subcategories under Section 7412.

Second, EPA's discussion of the subcategorization issue in the course of the rulemaking under review in this case can be found at National Mining Association (NMA) Pet. App. 526a-629a (2012 Final Rule); NMA Pet. App. 1425a-1430a (2011 Proposed Rule); and 1 EPA's *Responses to Public Comments on EPA's National Emissions Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units* 303-422 (Dec. 2011), http://www.epa.gov/ttn/atw/utility/mats_rtc_chapters_foreword-1-2-3-4_121611.pdf (last visited Mar. 26, 2015). See also, e.g., 78 Fed. Reg. 6675, 6682 (Jan. 30, 2013) (discussing subcategorization decision in final rule for regulation of reciprocating internal combustion engines); 76 Fed. Reg. 15,617-15,618; 15,633-15,637, 15,647 (Mar. 21, 2011) (same in final rule for regulating industrial, commercial, and institutional boilers and heaters); 68 Fed. Reg. 26,696-26,697 (May 16, 2003) (same in final rule for regulation of brick and structural clay products manufacturing units).

I would appreciate it if you could distribute this letter to members of the Court for their consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "D.B. Verrilli, Jr.", with a stylized flourish at the end.

Donald B. Verrilli, Jr.
Solicitor General

SERVICE LIST:

14-46 Michigan v. EPA
14-47 Utility Air Regulatory Group v. EPA
14-49 National Mining Association v. EPA

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