

**United** §  
FOR

Post-it® Fax Note 7671		Date 12/24	# of pages 2
To Keri Powell		From M. A. McMan	
Co./Dept.		Co. Court	
Phone #		Phone # 202-214-7290	
Fax # 202-214-2356		Fax #	

**No. 02-1387 (Compl**

**13**

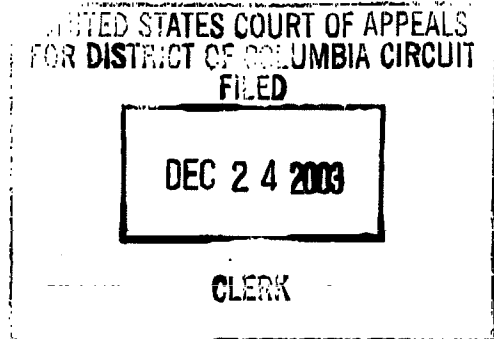
**Filed On:**

State of New York, et al.,  
Petitioners

v.

Environmental Protection Agency,  
Respondent

NSR Manufacturers Roundtable, et al.,  
Intervenors



Consolidated with 03-1016, 03-1033, 03-1036,  
03-1040, 03-1041, 03-1044, 03-1045, 03-1046,  
03-1047, 03-1048, 03-1049, 03-1050, 03-1051,  
03-1052, 03-1054, 03-1055, 03-1056, 03-1057,  
03-1104, 03-1130, 03-1131, 03-1135, 03-1175,  
03-1176, 03-1177, 03-1178

**03-1380**

State of New York, et al.,  
Petitioners

v.

Environmental Protection Agency,  
Respondent

Consolidated with 03-1381, 03-1383, 03-1390,  
03-1402

**BEFORE:** Edwards, Rogers, and Tatel, Circuit Judges

**ORDER**

Upon consideration of the motion to consolidate No. 02-1387 et al. with No. 03-1380 et al., the responses thereto, and the reply; the motion to stay filed in No. 02-1387

**United States Court of Appeals**

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 02-1387 (Complex)****September Term, 2003**

et al., the responses thereto, and the reply; and the motions to stay filed in No. 03-1380 et al., the responses thereto, and the reply, it is

**ORDERED** that the motion to consolidate be denied. It is

**FURTHER ORDERED** that the alternative request to designate the same panel for No. 03-1380 et al. as is assigned to complex case No. 02-1387 et al. be granted. It is

**FURTHER ORDERED** that the alternative request to have the same panel hear argument in No. 03-1380 et al. on the same day as it will hear argument in No. 02-1387 et al. be deferred pending further order of the court. It is

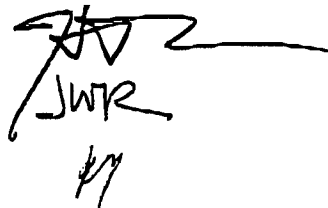
**FURTHER ORDERED** that the renewed motion to stay the New Source Review rule at issue in No. 02-1387 et al. be denied. Petitioners have not demonstrated sufficient changed circumstances to justify revisiting the order, filed March 6, 2003, denying the original motion to stay. It is

**FURTHER ORDERED** that the motions to stay the Equipment Replacement rule at issue in No. 03-1380 et al. be granted. Petitioners have demonstrated the irreparable harm and likelihood of success on the merits required for the issuance of a stay pending review. See Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2002). It is

**FURTHER ORDERED**, on the court's own motion, that No. 03-1380 et al. be expedited.

The parties will be notified by separate orders of the briefing format and schedule for No. 02-1387 et al. and for No. 03-1380 et al.

**Per Curiam**



JWR  
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