

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

STATE OF CALIFORNIA, *et al.*

Petitioners,

v.

ANDREW R. WHEELER, in his official  
capacity as Administrator, United States  
Environmental Protection Agency; UNITED  
STATES ENVIRONMENTAL PROTECTION  
AGENCY

Respondents.

No. 20-1367  
*Consolidated with  
Nos. 20-1360 and  
20-1364*

**STATE PETITIONERS' NON-BINDING  
STATEMENT OF ISSUES**

Pursuant to the Court's Order of September 16, 2020, ECF No. 1861799, the undersigned petitioners in *State of California, et al. v. Andrew R. Wheeler, et al.*, Case No. 20-1367,<sup>1</sup> submit the following non-binding, preliminary statement of

---

<sup>1</sup> The State of California, by and through Attorney General Xavier Becerra, and the California Air Resources Board, the States of Connecticut, Delaware, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, and Washington; the Commonwealths of Massachusetts, Pennsylvania, and Virginia; the City of

issues to be raised in this case regarding the final action taken by Respondents United States Environmental Protection Agency and Administrator Andrew R. Wheeler, in his official capacity (collectively, “EPA”), titled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration,” 85 Fed. Reg. 57,398 (Sept. 15, 2020) (hereinafter, “Rollback Rule”).

Without waiving their right to modify these issues or raise additional issues in this matter, State Petitioners intend to raise the following issues with regard to EPA’s Rollback Rule:

1. Whether EPA’s reconsideration of new source performance standards for the oil and natural gas source category in the Rollback Rule is arbitrary and capricious, an abuse of discretion, not supported by the underlying factual record, or otherwise not in accordance with the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, because, *inter alia*:

- a. EPA failed to provide a reasoned explanation for rescinding fugitive emissions requirements from low production wells;
- b. EPA failed to provide a reasoned explanation for rescinding quarterly leak detection and repair standards at compressor stations;

---

Chicago; the District of Columbia; and the City and County of Denver (collectively, “State Petitioners”).

- c. EPA failed to adequately consider and reasonably weigh relevant factors including impacts that the emission of air pollutants caused by EPA's action will have on public health and welfare, and improperly considered and/or gave undue weight to non-statutory factors;
- d. EPA failed to adequately consider and reasonably weigh the evidence before it, failed to consider important aspects of the problem the rule was intended to address, failed to consider the significant reliance interests; and
- e. The analyses underlying EPA's decision were flawed, ignored contrary evidence, and contained multiple, substantial errors that render EPA's decision unsupported, arbitrary and capricious, and otherwise unlawful.

Dated: Oct. 16, 2020

Respectfully Submitted,

FOR THE STATE OF CALIFORNIA

XAVIER BECERRA

Attorney General of California

ROBERT W. BYRNE

EDWARD H. OCHOA

Senior Assistant Attorneys General

GARY E. TAVETIAN

DAVID A. ZONANA

Supervising Deputy Attorneys General

TIMOTHY E. SULLIVAN

KAVITA LESSER

CAITLAN MCLOON

PHILLIP M. HOOS

Deputy Attorneys General

/s/ Meredith J. Hankins

MEREDITH J. HANKINS

Deputy Attorney General

300 South Spring Street, Suite 1702

Los Angeles, CA 90013

Tel: (213) 269-6177

Meredith.Hankins@doj.ca.gov

*Attorneys for Petitioner State of  
California, by and through its Attorney  
General Xavier Becerra, and California  
Air Resources Board*

FOR THE STATE OF CONNECTICUT

WILLIAM TONG  
Attorney General

*/s/ Jill Lacedonia*

JILL LACEDONIA  
Assistant Attorney General  
Connecticut Office of the Attorney  
General  
165 Capitol Avenue  
Hartford, CT 06106  
Tel: (860) 808-5250  
Jill.Lacedonia@ct.gov

*Attorneys for Petitioner State of  
Connecticut*

FOR THE STATE OF DELAWARE

KATHLEEN JENNINGS  
Attorney General

*/s/ Christian Douglas Wright*

CHRISTIAN DOUGLAS WRIGHT  
Director of Impact Litigation  
VALERIE EDGE  
Deputy Attorney General  
JAMESON A.L. TWEEDIE  
Special Assistant Deputy Attorney  
General  
Delaware Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
Tel: (302) 577-8600  
Christian.Wright@delaware.gov  
Valerie.Edge@delaware.gov  
Jameson.Tweedie@delaware.gov

*Attorneys for Petitioner State of  
Delaware*

FOR THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
MATTHEW J. DUNN  
Chief, Environmental  
Enforcement/Asbestos Litigation  
Division

/s/ Daniel I. Rottenberg  
DANIEL I. ROTTENBERG  
JASON E. JAMES  
Assistant Attorneys General  
69 W. Washington Street, 18th Floor  
Chicago, IL 60602  
Tel: (312) 814-3816  
drottenberg@atg.state.il.us

*Attorneys for Petitioner State of  
Illinois*

FOR THE STATE OF MAINE

AARON M. FREY  
Attorney General  
/s/ Laura E. Jensen  
LAURA E. JENSEN  
Assistant Attorney General  
Office of the Attorney General  
6 State House Station  
Augusta, ME 04333  
Tel: (207) 626-8868  
Laura.Jensen@maine.gov

*Attorneys for Petitioner State of  
Maine*

FOR THE STATE OF MARYLAND

BRIAN E. FROSH  
Attorney General  
/s/ Joshua M. Segal  
JOSHUA M. SEGAL  
Special Assistant Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
Tel: (410) 576-6446  
jsegal@oag.state.md.us

*Attorneys for Petitioner State of  
Maryland*

FOR THE COMMONWEALTH OF  
MASSACHUSETTS

MAURA HEALEY  
Attorney General  
/s/ Melissa Hoffer  
MELISSA HOFFER  
Chief, Energy and Environment  
Bureau  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
Tel: (617) 727-2200  
Melissa.Hoffer@mass.gov

*Attorneys for Petitioner  
Commonwealth of Massachusetts*

FOR THE PEOPLE OF THE STATE OF  
MICHIGAN

DANA NESSEL  
Attorney General

/s/ Elizabeth Morrisseau  
ELIZABETH MORRISSEAU  
Assistant Attorney General  
Environment, Natural Resources, and  
Agriculture Division 6th Floor  
G. Mennen Williams Building  
525 W. Ottawa Street  
P.O. Box 30755  
Lansing, MI 48909  
Tel: (517) 335-7664  
MorrisseauE@michigan.gov

*Attorneys for Petitioner People of the  
State of Michigan*

FOR THE STATE OF MINNESOTA

KEITH ELLISON  
Attorney General of Minnesota

/s/ Peter N. Surdo  
PETER N. SURDO  
Special Assistant Attorney General  
445 Minnesota Street Suite 900  
Saint Paul, MN 55101  
Tel: (651) 757-1061  
Peter.Surdo@ag.state.mn.us

*Attorneys for Petitioner State of  
Minnesota*

FOR THE STATE OF NEW JERSEY

GURBIR S. GREWAL  
Attorney General

/s/ Lisa Morelli  
LISA MORELLI  
Deputy Attorney General  
25 Market St., PO Box 093  
Trenton, NJ 08625-0093  
Tel: (609) 376-2745  
Lisa.Morelli@law.njoag.gov

*Attorneys for Petitioner State of New  
Jersey*

FOR THE STATE OF NEW MEXICO

HECTOR BALDERAS  
Attorney General of New Mexico

/s/ William Grantham  
WILLIAM GRANTHAM  
Assistant Attorney General  
201 Third Street NW, Suite 300  
Albuquerque, New Mexico 87102  
Tel: (505) 717-3520  
wgrantham@nmag.gov

*Attorneys for Petitioner State of New  
Mexico*

## FOR THE STATE OF NEW YORK

LETITIA JAMES

Attorney General

BARBARA D. UNDERWOOD

Solicitor General

STEVEN C. WU

Deputy Solicitor General

/s/ Morgan A. Costello

MORGAN A. COSTELLO

MICHAEL J. MYERS

Assistant Attorneys General

Office of the Attorney General

The Capitol

Albany, NY 12224

Tel: (518) 776-2392

morgan.costello@ag.ny.gov

*Attorneys for Petitioner State of New  
York*

## FOR THE STATE OF NORTH CAROLINA

JOSHUA H. STEIN

Attorney General

DANIEL S. HIRSCHMAN

Senior Deputy Attorney General

/s/ Asher P. Spiller

ASHER P. SPILLER

TAYLOR H. CRABTREE

Assistant Attorneys General

North Carolina Department of Justice

P.O. Box 629

Raleigh, NC 27602

Tel: (919) 716-6400

aspiller@ncdoj.gov

tcrabtree@ncdoj.gov

*Attorneys for Petitioner State of North  
Carolina*



FOR THE STATE OF OREGON

ELLEN F. ROSENBLUM  
Attorney General

/s/ Paul Garrahan

PAUL GARRAHAN  
Attorney-in-Charge  
STEVE NOVICK  
Special Assistant Attorney General  
Natural Resources Section  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
Tel: (503) 947-4593  
Paul.Garrahan@doj.state.or.us  
Steve.Novick@doj.state.or.us

*Attorneys for Petitioner State of  
Oregon*

FOR THE COMMONWEALTH OF  
PENNSYLVANIA

JOSH SHAPIRO  
Attorney General  
MICHAEL J. FISCHER  
Chief Deputy Attorney General

/s/ Ann R. Johnston

ANN R. JOHNSTON  
Senior Deputy Attorney General  
Office of Attorney General  
1600 Arch St. Suite 300  
Philadelphia, PA 19103  
Tel: (215) 560-2171  
ajohnston@attorneygeneral.gov

*Attorneys for Petitioner  
Commonwealth of Pennsylvania*

FOR THE STATE OF RHODE ISLAND

PETER F. NERONHA  
Attorney General

/s/ Gregory S. Schultz

GREGORY S. SCHULTZ  
Special Assistant Attorney General  
Rhode Island Office of Attorney  
General  
150 South Main Street  
Providence, RI 02903  
Tel: (401) 274-4400  
gschultz@riag.ri.gov

*Attorneys for Petitioner State of  
Rhode Island*

FOR THE STATE OF VERMONT

THOMAS J. DONOVAN, JR.  
Attorney General

/s/ Nicholas F. Persampieri

NICHOLAS F. PERSAMPIERI  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609  
Tel: (802) 828-3171  
nick.persampieri@vermont.gov

*Attorneys for Petitioner State of  
Vermont*

FOR THE COMMONWEALTH OF  
VIRGINIA

MARK R. HERRING  
Attorney General  
PAUL KUGELMAN, JR.  
Senior Assistant Attorney General  
Chief, Environmental Section

/s/ Caitlin C. G. O'Dwyer  
CAITLIN C. G. O'DWYER  
Assistant Attorney General  
Office of the Attorney General  
Commonwealth of Virginia  
202 North 9th Street  
Richmond, VA 23219  
Tel: (804) 786-1780  
godwyer@oag.state.va.us

*Attorneys for Petitioner  
Commonwealth of Virginia*

FOR THE STATE OF WASHINGTON

ROBERT W. FERGUSON  
Attorney General  
  
/s/ Emily C. Nelson  
EMILY C. NELSON  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 40117  
Olympia, WA 98504  
Tel: (360) 586-4507  
emily.nelson@atg.wa.gov

*Attorneys for Petitioner State of  
Washington*

FOR THE CITY OF CHICAGO

MARK A. FLESSNER  
Corporation Counsel

/s/ Benna Ruth Solomon  
BENNA RUTH SOLOMON  
Deputy Corporation Counsel  
JARED POLICICCHIO  
Supervising Assistant Corporation  
Counsel  
30 N. LaSalle Street, S. 800  
Chicago, IL 60602  
Tel: (312) 744-7764  
Benna.Solomon@cityofchicago.org  
Jared.Policicchio@cityofchicago.org

*Attorneys for Petitioner City of  
Chicago*

FOR THE DISTRICT OF COLUMBIA

KARL A. RACINE  
Attorney General

/s/ Loren L. AliKhan  
LOREN L. ALIKHAN  
Solicitor General  
Office of the Attorney General  
400 Sixth Street, NW, Ste. 8100  
Washington, D.C. 20001  
Tel: (202) 727-6287  
Loren.Alikhan@dc.gov

*Attorneys for Petitioner District of  
Columbia*

FOR THE CITY AND COUNTY OF  
DENVER

KRISTIN M. BRONSON  
City Attorney

*/s/ Edward J. Gorman*

EDWARD J. GORMAN

LINDSAY S. CARDER

Assistant City Attorneys

Denver City Attorney's Office

201 W. Colfax Avenue, Dept. 1207

Denver, Colorado 80202

Tel: (720) 913-3275

Edward.Gorman@denvergov.org

*Attorneys for Petitioner City and  
County of Denver*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2020, I filed the foregoing “Petitioners’ Non-Binding Statement of Issues” using the Court’s CM/ECF system, and that service was thereby accomplished upon counsel of record registered with the Court’s system.

/s/ Meredith J. Hankins  
MEREDITH J. HANKINS