

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
STATE OF NEW YORK, et al.,	)	
	)	
Plaintiffs,	)	
	)	
and	)	
	)	
ENVIRONMENTAL DEFENSE FUND,	)	Civil Action No. 18-cv-773 (RBW)
	)	
Plaintiff-Intervenor,	)	
	)	Hon. Reggie Walton
v.	)	
	)	
ANDREW WHEELER, et al.,	)	
	)	
Defendants.	)	
_____	)	

**PLAINTIFFS’ RESPONSE TO NOTICE OF EXECUTIVE ORDER**

Plaintiffs the States of New York, California, Connecticut, Illinois, Iowa, Maine, Maryland, New Mexico, Oregon, Rhode Island, Vermont, Washington, the Commonwealths of Massachusetts and Pennsylvania, the District of Columbia, and the City of Chicago and Plaintiff-Intervenor Environmental Defense Fund (collectively Plaintiffs), by and through the undersigned counsel, hereby respectfully respond to the notice by Defendant Environmental Protection Agency (EPA) of President Biden’s Executive Order titled, “Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” ECF 106, Ex. 1 (86 Fed. Reg. 7037 (Jan. 25, 2021)).

In its notice, EPA reported that, pursuant to the Executive Order, EPA is now engaging in a review of the final rule that constitutes the sole basis for EPA’s recent Motion to Dismiss this case. EPA also notified the Court that it has sought to hold in abeyance consolidated challenges

to that final rule in the U.S. Court of Appeals for the District of Columbia Circuit proceedings. *State of California*, Case Nos. 20-1357 (consolidated), Docket No. 1883156 (D.C. Cir.). These actions support Plaintiffs' request in their opposition to EPA's motion that this Court, in the interest of judicial economy and fairness, hold in abeyance EPA's motion to dismiss pending further order of the Court and set a status conference in ninety (90) days. ECF 103 at 7-10. An abeyance here will simply preserve the status quo.

Dated: February 8, 2021

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**CERTIFICATE OF SERVICE**

I certify that on February 8, 2021, I filed the foregoing document using the Court's CM/ECF system, which caused all counsel of record to be served electronically.

Respectfully Submitted,

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