

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 21-108, 21-428, 21-564

Caption [use short title]

Motion for: Stay Briefing

Set forth below precise, complete statement of relief sought:

Stay briefing of case until April 20, 2022

STATE OF CALIFORNIA, et al. v. US DOE

MOVING PARTY: Alliance for Water Efficiency

OPPOSING PARTY: United States Department of Energy

- Plaintiff Defendant
Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Keith Bradley

OPPOSING ATTORNEY: Kyle T. Edwards

[name of attorney, with firm, address, phone number and e-mail]

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Court- Judge/ Agency appealed from: United States Department of Energy

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? Yes No

Has this relief been previously sought in this court? Yes No

Requested return date and explanation of emergency: On September 30, 2021, this Court granted a stay of the briefing until February 1, 2022

Opposing counsel's position on motion: Unopposed Opposed Don't Know

Does opposing counsel intend to file a response: Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date:

Signature of Moving Attorney:

Keith Bradley Date: 2/9/22

Service by: CM/ECF Other [Attach proof of service]

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

STATE OF CALIFORNIA, et al.,

Petitioners,

v.

UNITED STATES DEPARTMENT OF
ENERGY, et al.,

Respondents.

No. 21-108 (L)

No. 21-428 (CON)

No. 21-564 (CON)

UNOPPOSED MOTION TO STAY BRIEFING

The above-captioned case represents three petitions (consolidated in this Court) for review of a final rule, issued by the U.S. Department of Energy (DOE), to establish new product classes for residential clothes washers and clothes dryers. *See* 85 Fed. Reg. 81,359 (Dec. 16, 2020) (“Washer-Dryer Rule”). The petitioners across the consolidated cases—the Alliance for Water Efficiency; the State of California and its co-petitioners; and the Sierra Club (collectively “Petitioners”)—respectfully move to stay the briefing of this case until April 20, 2022. This motion is unopposed.

1. On October 1, 2021, this Court granted the Petitioners' joint motion to stay briefing in the consolidated cases, pending DOE's review of the Washer-Dryer Rule. ECF No. 202.

2. On January 19, 2022, DOE published a final rule to revoke the Washer-Dryer Rule. 87 Fed. Reg. 2,673 (Jan. 19, 2022). Petitioners are submitting a copy of the final rule as an attachment to this motion.

3. The parties have begun discussions regarding the implications and consequences of the final rule for this action. Given the publication of the final rule in January, Petitioners anticipate that their consideration of the impact of the rule will need additional time, even though the Court's previously-ordered abeyance has ended.

4. Petitioners respectfully request that the Court extend the period of abeyance, which ended on February 1, 2022, to end on April 29, 2022. The parties intend to confer further during the coming months to agree on a proposal regarding further proceedings.

5. Extending the stay of the briefing schedule, and the filing of opening briefs, until April 20 would give all parties time to review the action taken by DOE, and to respond appropriately in subsequent filings.

6. Petitioners have conferred with DOE about this motion, and
DOE does not oppose it.

Respectfully submitted,

/s/ Keith Bradley

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FOR THE STATE OF
CALIFORNIA

/s/ Rob Bonta _____

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing motion complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 27(d)(1)(E) because it has been prepared in 14-point Vollkorn, a proportionally spaced font. I further certify that this response complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 296 words according to the count of Microsoft Word.

/s/ Keith Bradley _____
KEITH BRADLEY

CERTIFICATE OF SERVICE

I certify that on February 9, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Keith Bradley

KEITH BRADLEY