

**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.	)	No. 20-1357 (and
	)	consolidated cases)
MICHAEL REGAN, Administrator, et al.,	)	
	)	
Respondents.	)	
	)	

**EPA’S STATUS REPORT**

Pursuant to this Court’s order of February 12, 2021, Respondents Administrator Michael Regan and the United States Environmental Protection Agency (“EPA”) provide the following status report. As explained below, EPA’s review of the challenged rulemaking is ongoing. Accordingly, EPA recommends that these consolidated cases continue to be held in abeyance pending completion of that review.

1. These consolidated cases involve challenges to a final EPA action entitled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review,” 85 Fed. Reg. 57,018 (Sept. 14, 2020) (“2020 Rule” or “the Rule”). The 2020 Rule sought to repeal aspects of EPA’s 2012 and 2016

rulemakings concerning the regulation of pollutants, including methane, from the oil and gas industry.

2. While merits briefing of these challenges was ongoing, President Joseph R. Biden Jr. signed Executive Order 13990 on “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” 86 Fed. Reg. 7037 (Jan. 25, 2021). That Executive Order and associated documents specifically directed EPA to review the 2020 Rule for compliance with the terms of the Executive Order.

3. Accordingly, on February 1, 2021, EPA moved for an order holding these consolidated cases in abeyance until 30 days after EPA completes its review of the 2020 rule and any resulting rulemaking. ECF No. 1883156. On February 12, 2021, the Court issued an Order that granted EPA’s motion for abeyance, requiring that the agency file status reports at 120-day intervals and further requiring that the parties file a motion or motions to govern further proceedings within 30 days of the completion of agency proceedings. ECF No. 1885114.

4. Since that date, EPA has continued to review the 2020 Rule as required under the Executive Order and in response to administrative reconsideration petitions it received in November 2020.<sup>1</sup> In addition, EPA has initiated public outreach to

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<sup>1</sup> “In Re Petition for Reconsideration of Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review & Reconsideration Rules, 85 Fed. Reg. 57,018 (September 14, 2020) & 85 Fed. Reg. 57,398 (September 15, 2020)” (November 13, 2020), submitted by the State of California and 18 other states and 3 cities; “Petition for Reconsideration of EPA’s Final Rules: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified

gather community and stakeholder input, including opening a public docket for pre-proposal comments, holding training sessions on the rulemaking process and how to participate in it, and scheduling listening sessions for stakeholders for June 15-17, 2021. See <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/epa-announces-public-listening-sessions>.

5. In addition, EPA is closely monitoring Congressional action on S.J. Res. 14, a resolution that would “disapprove” the 2020 Rule under the terms of the Congressional Review Act, 5 U.S.C. §§ 801-802, rendering the 2020 Rule without force or effect. EPA will notify the Court in the event that resolution is signed into law, as it would have the effect of terminating EPA’s administrative reconsideration of the voided 2020 Rule. S.J. Res 14 was passed by the Senate on April 28, 2021, was approved by the House Committee on Energy and Commerce on June 10, 2021, and is presently awaiting further consideration in the House of Representatives.

6. In consideration of the above facts, EPA believes its ongoing review of the 2020 Rule justifies continued abeyance in the above-captioned case.

Respectfully submitted,

DATED: June 14, 2021

/s/ Chloe H. Kolman

CHLOE H. KOLMAN

U.S. Department of Justice

Environment & Natural Resources Division

Environmental Defense Section

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Sources Review; and Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration” (Nov. 13, 2020), submitted by Center for Biological Diversity and 9 other nongovernmental organizations.

P.O. Box 7611  
Washington, D.C. 20044  
(202) 514-9277  
chloe.kolman@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Status Report was today served electronically through the court's CM/ECF system on all registered counsel.

DATED: June 14, 2021

/s/ Chloe H. Kolman  
Counsel for Respondent