

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.)	

NOTICE OF CONGRESSIONAL ACTION

The United States, on behalf of Respondents United States Environmental Protection Agency, and Michael Regan, Administrator¹ (collectively “EPA”), hereby provides notice to the Court of a Congressional resolution that has direct impact on the above-captioned case, as further described herein:

1. The above consolidated petitions seek review of an EPA rule promulgated under Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), entitled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review” (“the Rule”). 85 Fed. Reg. 57,018 (Sept. 14,

¹ EPA Administrator Michael Regan is automatically substituted for his predecessor in office pursuant to Fed. R. App. P. 43(c)(2).

2020). The 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. *See id.* at 57,019.

2. The Court placed these cases in abeyance on February 12, 2021, ECF No. 1885114, in consideration of an Executive Order requiring EPA to immediately reconsider the challenged Rule. Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," 86 Fed. Reg. 7037 (Jan. 25, 2021). The Court's abeyance order directed the parties to file status reports at 120-day intervals, beginning June 14, 2021, and to file motions to govern future proceedings within 30 days of the completion of EPA's administrative reconsideration. ECF No. 1885114.

3. EPA has commenced that administrative reconsideration. However, Congress has since passed a resolution under the Congressional Review Act, 5 U.S.C. §§ 801-802, to nullify the Rule. *See* Joint Resolution Providing for Congressional Disapproval, S. J. Res 14, 117th Congress (2021). The Congressional Review Act gives Congress the authority to "disapprove" a regulation within 60 days of its enactment (measured by Congressional "session" days), rendering it without "force or effect." *See* 5 U.S.C. §§ 801(b)(1), 802(a). The Congressional Review Act also provides that after such a disapproval, the agency may not adopt or re-promulgate any regulation that is "substantially the

same” as the disapproved regulation. *Id.* § 801(b)(2). The Congressional resolution disapproving the Rule was signed by the President on June 30, 2021. *See* <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/30/bills-signed-s-j-res-13-s-j-res-14-s-j-res-15/>. This has the effect of terminating EPA’s administrative reconsideration of the Rule, which is now without force or effect and cannot be re-promulgated.

4. Pursuant to the Court’s February 12, 2021 Order, EPA will consult with the parties and file a motion or motions to govern by July 30, 2021.

Respectfully submitted,

JEAN E. WILLIAMS
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DATED: July 1, 2021

/s/ Chloe H. Kolman
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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Notice of Congressional Action complies with the requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in 14-point Times New Roman, a proportionally spaced font.

I further certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 27(2)(A) because it contains approximately 405 words, excluding exempted portions, according to the count of Microsoft Word.

/s/ Chloe H. Kolman

CHLOE H. KOLMAN

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Congressional Action have been served through the Court's CM/ECF system on all registered counsel this 1st day of July, 2021.

/s/ Chloe H. Kolman

CHLOE H. KOLMAN