ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS DISTRICT OF COLUMBIA CIRCUIT

Union of Concerned Scientists, et al.,

Petitioners,

No. 19-1230 and consolidated cases

Filed: 01/26/2022

v.

National Highway Traffic Safety Administration, et al.,

Respondents.

Respondents' Motion to Govern

Respondents move to keep these consolidated cases in abeyance until reconsideration of the challenged action is complete. Save for petitioner Advanced Energy Economy (Case Nos. 19-1249 and 20-1175), who did not respond to Respondents' inquiry, no petitioner in these cases opposes this motion. And no intervenor opposes this motion. *See also* State and Local Government Petitioners' Mot. to Govern (Jan. 26, 2022) (seeking similar relief); Mot. of Intervenor States to Continue Holding Case in Abeyance (Jan. 21, 2022) (same).

Last February, the Court put these cases in abeyance pending reconsideration by Respondents NHTSA and EPA of the challenged action. Per

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Curiam Order (Feb. 8, 2021). That action, known as the SAFE I Rule, was jointly promulgated by NHTSA and EPA. 84 Fed. Reg. 51,310 (Sept. 27, 2019).

In ordering these cases into abeyance, the Court directed Respondents to file 90-day status reports and to notify it within 7 days of any agency action resulting from the reconsideration. Per Curiam Order (Feb. 8, 2021). The Court also ordered the parties to file motions to govern within 30 days of that notice. *Id.*

NHTSA concluded reconsideration of its part of the SAFE I Rule when it signed a final rule in December. Notice (Dec. 27, 2021); 1 see 86 Fed. Reg. 74,236 (Dec. 29, 2021). EPA's reconsideration, however, remains ongoing. Respondents ask that these cases remain in abeyance until EPA concludes reconsideration of its part of the joint SAFE I Rule, with a motion to govern due 30 days after that action.

Submitted on January 26, 2022.

Todd Kim Assistant Attorney General

/s/ Sue Chen
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¹ The notice inadvertently said the signature date is December 20. It is in fact December 21.

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Certificates of Compliance and Service

I certify that this motion complies with Fed. R. App. P. 27(d)(1)(E) because it uses 14-point Times New Roman, a proportionally spaced font.

I also certify that this motion complies with Fed. R. App. P. 27(d)(2)(A), because by Microsoft Word's count, it has 265 words, excluding the parts exempted under Fed. R. App. P. 32(f).

Finally, I certify that on January 26, 2022, I filed this motion using the Court's CMS/ECF system, which will notify each party.

<u>/s/ Sue Chen</u>	
Sue Chen	