

ORAL ARGUMENT NOT YET SCHEDULED**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN PETROLEUM INSTITUTE, et al.,**Petitioners,****v.****UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et al.,****Respondents.**

**No. 13-1108 (and
consolidated cases)****PETITIONERS' UNOPPOSED MOTION TO EXTEND BRIEFING
SCHEDULE DEADLINE**

State and Non-State Petitioners (“Petitioners”) in the above-captioned consolidated petitions for review respectfully request that this Court extend the deadline for the parties to file a briefing schedule and proposed format for briefing. Pursuant to this Court’s Order dated January 4, 2017 (ECF No. 1654072), the current deadline is February 3, 2017. The Petitioners request a 45-day extension, which would result in a new deadline of March 20, 2017. There is good cause for this request because it will allow time for the new administration to consider and formulate a position on the briefing schedule and proposed format for briefing.

Respondents, United States Environmental Protection Agency (“EPA” or “Agency”) and Gina McCarthy, and Intervenor Environmental Groups have indicated they do not oppose the requested relief. The Intervenor States have stated they take no position on this motion and that they do not intend to file a response at this time.

The Petitioners state as follows in support of this motion:

1 On January 4, 2017, this Court consolidated three groups of cases: *American Petroleum Institute, et al. v. EPA, et al.*, No. 13-1108 (and consolidated cases), *Independent Petroleum Association of America, et al. v. EPA*, No. 15-1040 (and consolidated cases), and *State of North Dakota, et al. v. EPA*, No. 16-1242 (and consolidated cases).

2. Because of this consolidation, these consolidated cases now involve challenges to three final actions by EPA, spanning four years: (a) “Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews,” 77 Fed. Reg. 49,490 (Aug. 16, 2012) (“2012 NSPS Rule”); (b) “Oil and Natural Gas Sector: Reconsideration of Certain Provisions of New Source Performance Standards,” 79 Fed. Reg. 79,018 (Dec. 31, 2014) (“2014 NSPS Rule”); and (c) “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Final Rule,” 81 Fed. Reg. 35,823 (June 3, 2016) (“2016 NSPS Rule”).

3. These rules pose a number of fundamental legal issues and implementation issues, and not all parties have challenged all three rules now at issue, as discussed in the Petitioners' Motion to Govern Further Proceedings (ECF No. 1642341). These facts are relevant to the briefing schedule and format.

4. In light of the complexity of this litigation, including multiple issues on three rules with a multitude of parties (including both State and environmental intervenors), the proposal for a briefing schedule and format will require careful consideration and negotiation among the parties.

5. The current deadline of February 3, 2017 does not provide adequate time for new administration personnel to be involved adequately in the discussions regarding the briefing schedule and format. A 45-day extension would allow time for new administration personnel to be briefed on the rules, issues, and history of this litigation, and it would allow them to provide meaningful input on the parties' discussions regarding the briefing schedule and format.

6. A 45-day extension until March 20, 2017 would not prejudice any party or inconvenience this Court. On the contrary, it will promote judicial economy if the parties agree to a joint proposal regarding the briefing schedule and format. Additional time may allow for that agreement to occur.

CONCLUSION

For the foregoing reasons, the Petitioners respectfully request that the Court grant the requested extension.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 27(d)(1)(D) of the Federal Rules of Appellate Procedure and Circuit Rules 27(a)(1) and 27(a)(1)(2), I certify that the foregoing Unopposed Motion To Extend Briefing Schedule Deadline contains 528 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit of 5,200 words set by Rule 27(d)(2)(A) and the Court.

/s/ William L. Wehrum

William L. Wehrum

Dated: January 23, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January 2017, a copy of the foregoing Unopposed Motion to Extend Briefing Schedule Deadline was served electronically through the Court's CM/ECF system on all registered counsel.

/s/ William L. Wehrum

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