

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 20-1357**

**September Term, 2020**

**EPA-85FR57018**

**Filed On: October 27, 2020**

State of California, by and through Attorney  
General Xavier Becerra, and the California Air  
Resources Board, et al.,

Petitioners

v.

Andrew Wheeler, in his official capacity as  
Administrator, United States Environmental  
Protection Agency and Environmental  
Protection Agency,

Respondents

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American Petroleum Institute, et al.,  
Intervenors  
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Consolidated with 20-1359, 20-1363

**BEFORE:** Henderson, Rogers\*, and Walker, Circuit Judges

## **ORDER**

Upon consideration of the emergency motions for a stay, the motion for summary vacatur, the combined responses in opposition thereto, and the replies; and the motions for leave to intervene filed by the state of North Dakota and the International Association of Drilling Contractors, et al., it is

**ORDERED** that the motion for summary vacatur be denied. The merits of the parties' positions are not so clear as to warrant summary action. See Cascade Broadcasting Group, Ltd. v. FCC, 822 F.2d 1172, 1174 (D.C. Cir. 1987) (per curiam). It is

**FURTHER ORDERED** that the administrative stay entered on September 17, 2020, be dissolved. It is

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\* Judge Rogers would grant the motions for stay.

**FURTHER ORDERED** that the motions for stay be denied. Petitioners have not satisfied the stringent requirements for a stay pending court review. See Nken v. Holder, 556 U.S. 418, 434 (2009); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2019). It is

**FURTHER ORDERED** that the motions for leave to intervene be granted. It is

**FURTHER ORDERED** that the following briefing schedule and format will apply in these consolidated cases:

Petitioners' Briefs (no more than two briefs, not to exceed a combined total of 16,000 words)	December 7, 2020
Respondents' Brief (not to exceed 16,000 words)	January 6, 2021
Intervenor-Respondents' Briefs (no more than two briefs, not to exceed a combined total of 11,200 words)	January 13, 2021
Petitioners' Reply Briefs (no more than two briefs, not to exceed a combined total of 8,000 words)	January 27, 2021
Deferred Joint Appendix	February 3, 2021
Final Briefs	February 10, 2021

The parties will be informed later of the date of oral argument and the composition of the merits panel.

The court reminds the parties that

In cases involving direct review in this court of administrative actions, the brief of the appellant or petitioner must set forth the basis for the claim of standing. . . . When the appellant's or petitioner's standing is not apparent from the administrative record, the brief must include

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arguments and evidence establishing the claim of standing.

See D.C. Cir. Rule 28(a)(7).

All issues and arguments must be raised by petitioners in the opening brief. The court ordinarily will not consider issues and arguments raised for the first time in the reply brief.

To enhance the clarity of their briefs, the parties are urged to limit the use of abbreviations, including acronyms. While acronyms may be used for entities and statutes with widely recognized initials, briefs should not contain acronyms that are not widely known. See D.C. Circuit Handbook of Practice and Internal Procedures 42 (2019); Notice Regarding Use of Acronyms (D.C. Cir. Jan. 26, 2010).

Parties are strongly encouraged to hand deliver the paper copies of their briefs to the Clerk's office on the date due. Filing by mail may delay the processing of the brief. Additionally, counsel are reminded that if filing by mail, they must use a class of mail that is at least as expeditious as first-class mail. See Fed. R. App. P. 25(a). All briefs and appendices must contain the date that the case is scheduled for oral argument at the top of the cover. See D.C. Cir. Rule 28(a)(8).

## Per Curiam

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Manuel J. Castro

Deputy Clerk