

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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STATE OF NEW YORK, et al.,

Petitioners,

v.

No. 21-1026 &  
consolidated cases

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, et al.,

Respondents.

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**NOTICE OF PROMULGATION OF  
INTERIM FINAL REVOCATION RULE**

The U.S. Environmental Protection Agency et al. (EPA), hereby provide notice of an EPA rulemaking action that impacts the above-captioned litigation.

1. The Petitioners seek review of an EPA final action entitled, “Increasing Consistency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process,” 85 Fed. Reg. 84,130 (December 23, 2020) (“the Rule”).
2. A new Administration took office on January 20, 2021. That

day, the President signed an Executive Order on “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” published at 86 Fed. Reg. 7,037 (Jan. 25, 2021).

Pursuant to this Executive Order, EPA commenced a review of the Rule.

3. On February 22, 2021, EPA filed an unopposed motion to place the case in abeyance for 90-days while the Agency conducted its review. This Court on February 23, 2021 granted EPA’s motion and placed the case in abeyance in 90-days. The Court’s abeyance order directed the parties to file motions to govern further proceedings by June 23, 2021.

4. On May 11, 2021, EPA signed an interim final rule rescinding the Rule. *See* “Rescinding the Rule on Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process” (publication inspection version available at <https://public-inspection.federalregister.gov/2021-10216.pdf>). EPA will consider comments on the interim final rule received within 30 days of publication in the Federal Register.

5. EPA intends to consult with Petitioners regarding this administrative development, and the parties will file motions to govern further proceedings by the June 23, 2021 deadline set forth in the Court's abeyance order.

Dated: May 13, 2021

Respectfully submitted,

*/s/ Eric G. Hostetler*

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## **CERTIFICATE OF SERVICE**

I hereby certify that on May 13, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

## CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d) because this document contains 263 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Century Schoolbook font.

*/s/ Eric G. Hostetler*