

**Pagination**

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Majority Opinion >

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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State of California, by and through Attorney General Xavier Becerra and the California Air Resources Board, et al., Petitioners v. Environmental Protection Agency, Respondent

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No. 21-1035 Consolidated with 21-1036 21-1063

April 5, 2021, Filed

PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

EPA-86FR2542.

For State of California, by and through Attorney General Xavier Becerra and the California Air Resources Board, Petitioner (21-1035): Timothy Eugene Sullivan, Deputy Attorney General, Office of the Attorney General, State of California, Oakland, CA.

For State of Connecticut, Petitioner (21-1035): Scott Norman Koschwitz, Esquire, Assistant Attorney General, Matthew Ivan Levine, Assistant Attorney General, Office of the Attorney General, State of Connecticut, Hartford, CT.

For State of Delaware, Petitioner (21-1035): Valerie Melissa Edge, Deputy Attorney General, Delaware Department of Justice, Dover, DE; Christian Douglas Wright, Delaware Department of Justice, Wilmington, DE.

For State of Illinois, Petitioner (21-1035): Daniel Isaac Rottenberg, Assistant Attorney General, Office of the Attorney General, State of Illinois, Chicago, IL.

For State of Maryland, Petitioner (21-1035): Joshua Segal, Office of the Attorney General, State of Maryland, Baltimore, MD.

For State of Maine, Petitioner (21-1035): Laura Jensen, Assistant Attorney General, Office of the Attorney General, State of Maine, Augusta, ME.

For Commonwealth of Massachusetts, Petitioner (21-1035): David S. Frankel, Megan M. Herzog, Attorney, Massachusetts Office of the Attorney General, Boston, MA.

For People of the State of Michigan, Petitioner (21-1035): Gillian E. Wener, Assistant Attorney General, Michigan Department of Attorney General, Lansing, MI.

For State of Nevada, Petitioner (21-1035): Heidi Parry Stern, Solicitor Petitioner, Office of the Attorney General, State of Nevada, Las Vegas, NV.

For State of Minnesota, Petitioner (21-1035): Peter Surdo, Special Assistant Attorney General, Office of the Attorney General, State of Minnesota, St. Paul, MN.

For State of New Mexico, Petitioner (21-1035): Robert F. Lundin, Assistant Attorney General, Office of the Attorney General, State of New Mexico, Santa Fe, NM.

For State of New York, Petitioner (21-1035): Michael J. Myers, Assistant Attorney General, Office of the Attorney General, State of New York, Albany, NY.

For State of Oregon, Petitioner (21-1035): Paul Andrew Garrahan, Oregon Department of Justice, Portland, OR.

For Commonwealth of Pennsylvania, Petitioner (21-1035): Ann R. Johnston, Sr. Deputy Attorney General, Office of the Attorney General, Commonwealth of Pennsylvania, Harrisburg, PA.

For State of Rhode Island, Petitioner (21-1035): Gregory Stage Schultz, Special Assistant Attorney General, Office of the Attorney General, State of Rhode Island, Providence, RI.

For State of Vermont, Petitioner (21-1035): Nicholas Frank Persampieri, Office of the Attorney General, State of Vermont, Montpelier, VT.

For State of Washington, Petitioner (21-1035): Christopher Huriaux Reitz, Assistant Attorney [\*2] General, Office of the Attorney General, State of Washington, Olympia, WA.

For Commonwealth of Virginia, Petitioner (21-1035): Caitlin O'DwyerPetitioner, Office of the Attorney General, State of Virginia, Richmond, VA.

For State of Wisconsin, Petitioner (21-1035): Gabe Johnson-Karp, Wisconsin Department of Justice, Madison, WI.

For District of Columbia, Petitioner (21-1035): Loren L. AliKhan, Solicitor General, Office of the Attorney General for the District of Columbia, Washington, DC.

For City of Boulder, Petitioner (21-1035): Debra S. Kalish, City Attorney's Office, Boulder, CO.

For Broward County, Petitioner (21-1035): Andrew Jeffrey Meyers, Esquire, Office of the Broward County Attorney, Fort Lauderdale, FL.

For City of Chicago, Petitioner (21-1035): Benna Ruth Solomon, Deputy Corporation Counsel, Corporation Counsel of the City of Chicago, Chicago, IL.

For City of Los Angeles, Petitioner (21-1035): Michael James Bostrom, Los Angeles City Attorney's Office, Los Angeles, CA.

For City of New York, Petitioner (21-1035): Christopher Gene King, Assistant Corporation Counsel, New York City Law Department, New York, NY.

For City of South Miami, Petitioner (21-1035): Thomas Frank Pepe, Attorney, Pepe & Nemire, LLC, Coral Gables, FL.

For State of North Carolina, Petitioner (21-1035): Asher Paris Spiller, Assistant Attorney General, Office of the Attorney General, State of North Carolina, Raleigh, NC.

For Environmental Protection Agency, Respondent (21-1035): Chloe Hamity Kolman, U.S. Department of Justice, Washington, DC.

For American Public Health Association, Appalachian Mountain Club, Petitioners (21-1036): Ann Brewster Weeks, Esquire, Senior Counsel, James Patrick Duffy, Attorney, Darin T. Schroeder, Clean Air Task Force, Boston, MA.

For Environmental Defense Fund, Petitioner (21-1036): Sean H. Donahue, Susannah Weaver, Donahue, Goldberg & Weaver, LLP, Washington, DC; Benjamin Michael Levitan, Environmental Defense Fund, Washington, DC; Vickie Lynn Patton, Rosalie Giselle Winn, Esquire, Peter Michel Zalzal, Esquire, Attorney, Environmental Defense Fund, Boulder, CO.

For Natural Resources Defense Council, Petitioner (21-1036): Melissa Joy Lynch, David D. Doniger, Counsel, Benjamin Hoyt Longstreth, Lucas Lawrence May, Natural Resources Defense Council, Washington, DC.

For Sierra Club, Petitioner (21-1036): Joanne Marie Spalding, Sierra Club, Oakland, CA.

For Environmental Protection Agency, Respondent (21-1036): Chloe Hamity Kolman, U.S. Department of Justice, Washington, DC.

For American Lung Association, Petitioner (21-1063): Ann Brewster Weeks, Esquire, Senior Counsel, James Patrick Duffy, Attorney, Darin T. Schroeder, Clean Air Task Force, Boston, MA.

BEFORE: Rogers and Wilkins, Circuit Judges, and Sentelle, Senior Circuit Judge.

**ORDER**

Upon consideration of the unopposed motion for voluntary vacatur and remand, it is

**ORDERED** that respondent's action in Pollutant-Specific Contribution Finding for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, and Process for Determining Significance of Other New Source Performance Standards [**\*3**] Source Categories, 86 Fed. Reg. 2542 (Jan. 13, 2021), be vacated, and these consolidated cases be remanded for further proceedings.

Pursuant to D.C. Circuit Rule 36 , this disposition will not be published. The Clerk is directed to issue the mandate forthwith.

***Per Curiam***