

No. _____

In the United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF WISCONSIN, ET AL.,
PETITIONERS,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND
REGINA A. MCCARTHY, ADMINISTRATOR, UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY,
RESPONDENTS.

PETITION FOR REVIEW

Pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure, Section 307(b)(1) of the Clean Air Act (42 U.S.C. § 7607(b)(1)), and 5 U.S.C. § 702, the State of Wisconsin, the State of Alabama, the State of Arkansas, the State of Ohio, and the State of Wyoming (“the States”) hereby petition this Court for review of the Final Rule of the U.S. Environmental Protection Agency, published in the Federal Register at 81 Fed. Reg. 74,504 (October 26, 2016), titled “Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS.” This Court has jurisdiction, and is a proper venue for this action, under 42 U.S.C. § 7607(b)(1). The States will show that the Final Rule is in excess of the agency’s statutory

authority and otherwise is arbitrary, capricious, an abuse of discretion and not in accordance with law. The States ask this Court to hold unlawful and set aside the Rule, and to order such other relief as may be appropriate. *See* 42 U.S.C. § 7607(d)(9).

Respectfully submitted,

Dated: November 22, 2016.

BRAD D. SCHIMEL
Attorney General

MISHA TSEYTLIN
Solicitor General
State Bar #1102199

RYAN J. WALSH
Chief Deputy Solicitor General

LUKE N. BERG
Deputy Solicitor General

WISCONSIN DEPARTMENT OF JUSTICE
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857
tseytlinm@doj.state.wi.us
(608) 267-9323

Additional counsel

/s/ Lee Rudofsky

LESLIE RUTLEDGE
Arkansas Attorney General
LEE RUDOFSKY
Arkansas Solicitor General
NICHOLAS J. BRONNI
Arkansas Deputy Solicitor General
323 Center Street, Suite 200
Little Rock, AR 72201
lee.rudofsky@arkansasag.gov
(501) 682-6302

Counsel for State of Arkansas

/s/ Andrew Brasher

LUTHER STRANGE
Alabama Attorney General
ANDREW BRASHER
Alabama Solicitor General
501 Washington Avenue
Montgomery, AL 36130
abrasher@ago.state.al.us
(334) 353-2609

Counsel for State of Alabama

/s/ Eric Murphy

MICHAEL DEWINE
Ohio Attorney General
ERIC MURPHY
State Solicitor
30 East Broad Street,
Columbus, OH 43215
eric.murphy@ohioattorneygeneral.gov
(614) 466-8980

Counsel for State of Ohio

/s/ Peter Michael

PETER MICHAEL
Wyoming Attorney General
JAMES KASTE
Deputy Attorney General, Water and
Natural Resources Division
MICHAEL J. MCGRADY
Senior Assistant Attorney General
ELIZABETH MORRISSEAU
Assistant Attorney General
2320 Capitol Avenue
Cheyenne, WY 82002
(307) 777-6946

Counsel for State of Wyoming

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November 2016, a copy of the foregoing Petition for Review was served upon the parties listed below by first-class mail, postage prepaid.

MISHA TSEYTLIN
Solicitor General

UNITED STATES OF AMERICA
Loretta E. Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

ENVIRONMENTAL PROTECTION AGENCY
Avi Garbow
General Counsel
Environmental Protection Agency
2310A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460