



U.S. Department of Justice

Office of the Solicitor General

Washington, D.C. 20530

March 28, 2024

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Ohio, et al. v. EPA, et al., and consolidated applications, Nos. 23A349,
23A350, 23A351, 23A384

Dear Mr. Harris:

On February 21, 2024, this Court held oral argument on the above-captioned applications, which concern various challenges to EPA's final Good Neighbor Plan (Plan), a final rule that establishes emissions-control requirements for large industrial polluters in 23 States to address interstate air pollution. EPA promulgated that Plan after concluding, in a separate rulemaking, that each of those States had failed to submit a state plan that complies with applicable statutory requirements. Several courts of appeals subsequently stayed the state-plan disapproval action for 12 States, and EPA therefore suspended the application of the Plan for those States. Based on those actions, EPA received several administrative petitions asking the agency to reconsider, modify, or stay the Plan because it currently applies only to a subset of the States initially contemplated. On March 27, 2024, EPA issued a decision partially denying four petitions to reconsider or modify the Plan based on its reduced geographic coverage. The decision was made available on EPA's website today. See The EPA's Basis for Partially Denying Petitions for Reconsideration of the Good Neighbor Plan on Grounds Related to Judicial Stays of the SIP Disapproval Action as to 12 States, <https://www.epa.gov/Cross-State-Air-Pollution/response-four-petitions-reconsideration> (EPA Reconsideration Decision).

We would also like to correct a statement made by counsel for the government at oral argument on February 21, 2024. In response to questioning, counsel stated that EPA had received one motion for reconsideration, and one motion for stay, raising the issue described above. See Tr. 68. The petitions to which counsel referred were the only ones raising this issue that were filed by applicants in the proceedings currently before this Court. As EPA's decision explains, however, several other parties also filed petitions for reconsideration or for a stay raising the same substantive arguments. See EPA Reconsideration Decision at 5-8 & n. 7. We apologize for the error.

I would appreciate it if you would circulate this letter to Members of the Court.

Sincerely,

Elizabeth B. Prelogar
Solicitor General

cc: See Attached Service List

SERVICE LIST: 23A349, 23A350, 23A351, 23A384 – Ohio, et al. v. EPA, et al. consolidated cases.

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