

IN THE SUPREME COURT OF THE UNITED STATES

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No. 24-7

DIAMOND ALTERNATIVE ENERGY, LLC, ET AL., PETITIONERS

v.

ENVIRONMENTAL PROTECTION AGENCY, ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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MOTION OF THE FEDERAL RESPONDENTS FOR DIVIDED ARGUMENT

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Pursuant to Rule 28.4 of the Rules of this Court, the Acting Solicitor General, on behalf of the federal respondents, respectfully moves to divide the oral argument time for respondents in the above-captioned case. We move to allocate fifteen minutes of oral argument time to the federal respondents and fifteen minutes of time to the state respondents, led by the State of California. The state respondents have authorized us to represent that they agree with that proposed allocation of time. Granting this motion would not require the Court to enlarge the overall time for argument.

This case concerns whether petitioners carried their burden of proving that they had standing under Article III to challenge a federal regulatory action implicating the interests of California and other States. In 2022, the Environmental Protection Agency (EPA) reinstated a waiver that EPA had granted to California in 2013 under Section 209(b) of the Clean Air Act, 42 U.S.C. 7543(b), to allow California to enforce certain state-law vehicle emissions standards that would otherwise be preempted by federal law. Section 209(b) directs EPA to waive federal preemption under the Clean Air Act of California emissions standards under specified circumstances. No other State is eligible for such a waiver, but other States may in some circumstances adopt and enforce vehicle emissions standards promulgated by California for which EPA has granted a Section 209(b) waiver. 42 U.S.C. 7507.

Petitioners sought judicial review of EPA's 2022 reinstatement of the 2013 waiver in the United States Court of Appeals for the D.C. Circuit. The state respondents -- California and a group of other States, the District of Columbia, and two cities -- intervened to defend the 2022 reinstatement. As relevant here, the court of appeals held that petitioners lack Article III standing, and this Court granted further review limited to the question whether "a party may establish the redressability component of Article III standing by relying on the coercive and predictable effects of regulation on third parties." Pet. I.

The federal government has a significant interest in the resolution of that question, which may affect not only petitioners' current challenge to the 2022 reinstatement, but also future challenges to federal agency action. The state respondents also have a distinct interest in the question presented, given that the 2022 reinstatement had the effect of allowing the California emissions standards encompassed by the 2013 waiver to take effect in California and other States. Accordingly, we believe that dividing the argument time between the federal and state respondents would be of material assistance to the Court.

Respectfully submitted.

SARAH M. HARRIS  
Acting Solicitor General  
Counsel of Record

MARCH 2025