



July 9, 2020

**By ECF**

The Honorable Colleen McMahon  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 2550  
New York, New York 10007

*[Handwritten signature]*  
*Colleen McMahon*  
7/13/2020

MEMO ENDORSEMENT

Re: *State of New York et al. v. Env'tl Protection Agency et al.*, No. 20 Civ. 3714 (CM)

Dear Chief Judge McMahon:

We write on behalf of all parties to request an extension of the briefing schedule on the outstanding motion for a preliminary injunction and cross-motion to dismiss in light of the Environmental Protection Agency's ("EPA") recently announced amendment to the Temporary Enforcement Policy at issue in this litigation, which provides that the Policy will terminate on August 31, 2020. Under the current briefing schedule, completion of the briefing would end on August 7, only a few weeks before the Policy is now scheduled to terminate.

The parties believe that in light of this development, an adjournment of the briefing schedule is appropriate to preserve the parties' resources and promote judicial economy. At this time, EPA does not intend to extend the Policy beyond August 31 and, should the policy terminate on (or before) August 31, Plaintiffs currently intend to voluntarily dismiss the Complaint without prejudice. The parties have negotiated a contingent, expedited briefing schedule in the event that EPA does not in fact terminate the Policy on (or before) August 31. Under that scenario, the parties respectfully jointly propose to complete briefing as follows: Defendants' opposition and cross-motion (as well as the deadline to respond to the Complaint) would be due no later than September 9, 2020; Plaintiffs' reply and opposition to the cross-motion would be due no later than September 18, 2020; and Defendants' reply in support of the cross-motion would be due no later than September 23, 2020. The parties will provide the Court by September 4, 2020 with an update on whether the Policy has terminated or the parties will be moving forward with briefing.

We thank the Court for its consideration of this request.

Respectfully,

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<sup>1</sup> Counsel for the State of New York represents that the other plaintiff States consent to this filing.