

No.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF CALIFORNIA,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY, AND LEE ZELDIN, IN HIS OFFICIAL
CAPACITY AS ADMINISTRATOR OF THE U.S. ENVIRONMENTAL PROTECTION
AGENCY

Protective Petition for Review

ROB BONTA
Attorney General of California
ANNADEL A. ALMENDRAS
DEBORAH M. SMITH
Senior Assistant Attorneys General
MYUNG J. PARK
DAVID ZAFT
*Supervising Deputy Attorneys
General*

NATALIE COLLINS
M. ELAINE MECKENSTOCK
KATHERINE GAUMOND
Deputy Attorneys General
STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Telephone: (415) 510-4439
Email: katherine.gaumond@doj.ca.gov
*Attorneys for Petitioner State of
California*

September 18, 2026

Pursuant to 42 U.S.C. § 7607(b)(1) (Clean Air Act § 307(b)(1)), Rule 15 of the Federal Rules of Appellate Procedure, and Ninth Circuit Rule 15-1, the State of California hereby protectively petitions this Court for review of the final actions of Respondents United States Environmental Protection Agency (EPA) and Administrator Lee Zeldin, set forth in (1) the July 22, 2026, press release titled “EPA Again Fulfills Its Statutory Obligation by Transmitting Two Additional California Waiver Rules to Congress,”¹ and (2) EPA’s July 2026 submissions to Congress,² copies of which are attached as Exhibits A-E.

This petition is protective. California has challenged these actions in the U.S. District Court for the District of Columbia, *California v. EPA*, No. 1:26-cv-02185-BAH (D.D.C. June 22, 2026) (complaint supplemented Sept. 4, 2026, Dkt. No. 48). All parties and the district court have agreed that 42 U.S.C. § 7607(b)(1) “does not deprive [the district court] of jurisdiction.” *Id.*, Dkt. No. 46 at 34 n.8; *see also id.* Dkt. No. 55 at 5. However, out of caution, California files this protective petition in order to protect its right to judicial review in the event that on appeal the

¹ EPA, *EPA Again Fulfills Its Statutory Obligation by Transmitting Two Additional California Waiver Rules to Congress* (July 22, 2026), available at <https://www.epa.gov/newsreleases/epa-again-fulfills-its-statutory-obligation-transmitting-two-additional-california>, last visited September 3, 2026, attached as Exhibit A.

² *See* EC-4159, EC-4160 (July 22, 2026); attached as Exhibit B-C. *See also* 172 Cong. Rec. S4282 (daily ed. July 27, 2026); 172 Cong. Rec. H5205 (daily ed. July 30, 2026); attached as Exhibits D-E.

district court is found to lack jurisdiction, and this Court is found to be the proper venue pursuant to 42 U.S.C. § 7607(b)(1). California is filing petitions in both this Court and the Court of Appeals for the District of Columbia Circuit in case of a dispute regarding *which* court of appeals is the proper venue to review such actions under 42 U.S.C. § 7607(b)(1), in the event jurisdiction is proper in a court of appeals.

Dated: September 18, 2026

Respectfully Submitted,

ROB BONTA
Attorney General of California
ANNADEL A. ALMENDRAS
DEBORAH M. SMITH
Senior Assistant Attorneys General
MYUNG J. PARK
DAVID ZAFT
Supervising Deputy Attorneys General

/s/ Katherine Gaumond
KATHERINE GAUMOND
NATALIE COLLINS
M. ELAINE MECKENSTOCK
Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Telephone: (415) 510-4439
Email: katherine.gaumond@doj.ca.gov

*Attorneys for Petitioner State of
California*

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of September, 2026, the foregoing
Petition for Review and exhibits were served on Respondents by sending a copy
via certified mail, return receipt requested, to each of the following addresses:

Administrator Lee M. Zeldin
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Todd Blanche
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530- 0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: September 18, 2026

/s/ Katherine Gaumond
KATHERINE GAUMOND