

SCHEDULED FOR ORAL ARGUMENT OCTOBER 14, 2026

No. 25-1275

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ENVIRONMENTAL DEFENSE FUND, *et al.*,
Petitioners,

v.

LEE ZELDIN, *et al.*,
Respondents.

Petition for Review of Action of the U.S. Environmental Protection Agency

EPA’S FINAL RESPONSE BRIEF

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General

ROBERT N. STANDER
Deputy Assistant Attorney General

Of Counsel:

DEREK MILLS
LAURA COTTINGHAM
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C.

LAURA J. GLICKMAN
SUE CHEN
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044
(202) 598-3056 (Glickman)
laura.glickman@usdoj.gov

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties and Amici

All parties, intervenors, and amici appearing in this Court are listed in the Petitioners' Initial Joint Opening Brief.

B. Rulings Under Review

References to the rulings at issue appear in the Petitioners' Initial Joint Opening Brief.

C. Related Cases

The following are related cases under Circuit Rule 28(a)(1)(C):

Environmental Def. Fund, et al. v. Zeldin, et al., Nos. 25-1164 and consolidated cases (D.C. Cir.).

Dated: September 1, 2026

/s/ Laura J. Glickman

LAURA J. GLICKMAN

Counsel for Respondent EPA

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GLOSSARY

EPA	United States Environmental Protection Agency
Extension Rule	EPA, <i>Oil and Natural Gas Sector Climate Review: Extension of Deadlines in Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources</i> , 90 Fed. Reg. 55671 (Dec. 3, 2025)
Interim Rule	EPA, <i>Extension of Deadlines in Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review Final Rule</i> , 90 Fed. Reg. 35966 (July 31, 2025)
RTC	EPA, <i>Oil and Natural Gas Sector Climate Review: Extension of Deadlines in Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Response to Public Comments on the July 31, 2025 Interim Final Rule</i> , EPA-HQ-OAR-2025-0162-0673

INTRODUCTION

When a rule proves harder than expected to implement on the original compliance schedule, an agency can extend the compliance deadlines, even as it also considers whether to substantively revise the rule. That is what EPA did here with certain compliance deadlines in a 2024 Clean Air Act rule that regulates methane and other emissions from oil and natural gas sources.

But the Court need not and should not visit the merits, for it lacks jurisdiction. Petitioners do not show standing as to each (or any) extension they attack. All they provide are generalized allegations about delayed compliance. Nor can their vague references to climate change supply the missing elements of standing.

Were the Court to address the merits, it should uphold the extensions. EPA acted properly under its Clean Air Act authority to extend the deadlines. Petitioners' only statutory argument, that the Act limits the extensions to three months, has been squarely rejected by this Court. *See Clean Air Council v. EPA*, 181 F.4th 1292 (D.C. Cir. 2026).

The record, moreover, supports each extension: Actual on-the-ground experience highlighted the difficulties—including various technical issues, supply-chain problems, and confusion about what is required of regulated entities—in implementing aspects of the 2024 rule. Confronted with these compliance

obstacles, EPA extended certain deadlines for limited periods. And it did so after considering the extensions' emission impacts. Petitioners present an indiscriminate kitchen-sink collection of quarrels with EPA's reasonable judgment in EPA's area of technical expertise. The Court should defer to EPA's judgment and reject Petitioners' arguments, which are little more than disagreements with EPA's reasoning and explanations.

The petition for review should be dismissed or denied.

JURISDICTIONAL STATEMENT

This Court lacks jurisdiction on account of standing. *See infra* Argument § I. If the Court were to disagree, it would otherwise have jurisdiction under 42 U.S.C. § 7607(b)(1).

STATUTES AND REGULATIONS

All pertinent statutes and regulations not included in Petitioners' Opening Brief, Doc. #2176642, are in Petitioners' accompanying Supplemental Addendum.

STATEMENT OF ISSUES

1. Whether Petitioners met their burden to establish standing based on generalized declaration statements about emissions-related injuries and climate harms, and without connecting those generalized statements to any of the specific extensions.

2. Whether EPA reasonably justified extending certain compliance deadlines in the 2024 rule when the record shows that implementing the 2024 rule's requirements was harder and more time-consuming than expected.

STATEMENT OF THE CASE

I. Statutory and Regulatory Background

Section 111 of the Clean Air Act directs EPA to list “categories of stationary sources” and to promulgate standards of performance for new sources within each category. 42 U.S.C. § 7411(b)(1)(A)-(B). These standards must reflect the “best system of emission reduction” that EPA “determines has been adequately demonstrated,” which is selected after considering the costs of achieving the reductions, any nonair quality health and environmental impacts, and energy requirements. *Id.* § 7411(a)(1).

Promulgation of a new-source standard triggers EPA's authority to address emissions from existing sources in that source category under certain conditions. *Id.* § 7411(d). As with new sources, EPA identifies the “best system of emission reduction” for existing sources. *Id.* § 7411(a)(1), (d)(1). EPA then promulgates these regulations—referred to as “emissions guidelines”—which set forth the requirements for states to submit plans to EPA for approval detailing how they will develop, implement, and enforce standards for in-state existing sources. *Id.* § 7411(d)(1)-(2); 40 C.F.R. pt. 60, subpt. BA. For any state that chooses not to

submit a plan or that submits an unsatisfactory plan, EPA directly regulates existing sources in the state's stead. *Id.*

II. Factual Background

A. The 2024 rule

In 2024, EPA promulgated a rule under Section 111 that comprehensively regulated emissions from new and existing oil and natural-gas facilities through a variety of technology-based requirements, monitoring provisions, and reporting obligations. 89 Fed. Reg. 16820 (Mar. 8, 2024). The 2024 rule included new-source standards addressing emissions of volatile organic compounds and greenhouse gases, the latter of which are expressed as limitations on methane.

Many of the 2024 rule's provisions were novel, including new types of controls and mechanisms for third parties to monitor emissions. *Id.* at 16825-26; *see also* 90 Fed. Reg. 55671, 55678 (Dec. 3, 2025). The 2024 rule also set, for the first time, emissions guidelines (which address only methane) for 20 subcategories covering hundreds of thousands of existing oil and natural-gas sources. 89 Fed. Reg. at 16830-35. The 2024 rule's provisions included, as relevant here, standards, compliance assurance requirements, and guidelines covering things like process controllers, low-emitting valves, enclosed combustion devices, storage vessels,

closed vent systems, and annual reporting obligations.¹ *See* 89 Fed. Reg. at 16820; *see also* 90 Fed. Reg. 35966, 35966-97 (July 31, 2025).

In developing the 2024 rule, EPA made numerous “predictive judgment[s]” regarding the timing of compliance and implementation. 90 Fed. Reg. at 55676. Although EPA determined that those compliance schedules were appropriate based on the information available at that time, EPA also recognized that implementation of some requirements would require substantial planning, procurement, and operational changes. *See* 89 Fed. Reg. at 16929-30. For example, EPA established phased-in compliance deadlines for process controllers after receiving comments expressing concern about the availability of equipment necessary to achieve zero-emitting operations. *See id.*

B. EPA receives additional information

After promulgating the 2024 rule, EPA received ten petitions for reconsideration as well as additional information from regulated entities, state agencies, and other stakeholders regarding implementation of certain provisions. 90 Fed. Reg. at 55673 n.7; *see generally* 90 Fed. Reg. 3734 (Jan. 15, 2025). The petitions for reconsideration raised over 60 distinct technical and policy issues spanning 13 major topic areas within the 2024 rule. Some petitions also included

¹ Process controllers are equipment needed to convert automated devices to monitor and adjust systems.

detailed technical information and supporting documentation. *See generally* 90 Fed. Reg. 3734.

The information EPA received concerned, among other things: unavailability of equipment needed for compliance; time needed for equipment retrofits; limited availability of testing firms and laboratory capacity needed to meet the rule's monitoring and testing requirements; confusion about implementation; and states' progress on developing plans for the emissions guidelines. *See* 90 Fed. Reg. at 35976. EPA also obtained relevant information from its experience implementing the 2024 rule, such as beginning operation of the newly created Super Emitter Program. *Id.*

EPA granted reconsideration on certain parts of the 2024 rule and earlier this year issued a final rule on two discrete technical issues. 90 Fed. Reg. at 3734, 3738 n.9; 91 Fed. Reg. 18056 (Apr. 8, 2026). The reconsideration is ongoing.

C. EPA's Interim Rule and subsequent agency proceedings

After receiving and reviewing the additional information, EPA determined that states as well as oil and gas operators raised "legitimate concerns" with certain aspects of the 2024 rule and issued the Interim Rule to extend a narrow subset of deadlines. *See* 90 Fed. Reg. at 35969. The "timing difficulties" raised by regulated entities, EPA explained "were not anticipated in or intended by the 2024 rule," and it is "in the public interest and consistent with the purposes of the [Act]

to provide regulated entities sufficient time to achieve the emissions reductions envisioned by the 2024 rule.” *Id.* EPA further found that the deadline extensions were “necessary, appropriate, and consistent with the purposes of the 2024 rule and the [Clean Air Act].” *Id.*

EPA concluded that only certain deadlines were infeasible for reasons specific to each deadline and explained that the extensions would “not interfere with, or unreasonably frustrate, the ultimate emission reduction requirements of the [2024] rule.” *Id.* at 35979; *see, e.g., id.* at 35972 (explaining that many requirements for reducing emissions would continue to apply).

The Interim Rule did not modify the substance of any of the new-source performance standards or the presumptive standards for existing sources established by the 2024 rule. Rather, the Interim Rule left the majority of the 2024 rule’s original deadlines intact and made eleven targeted changes that can be grouped into four buckets, as described below.

Compliance assurance mechanisms. To comply with the 2024 rule’s performance standards, sources can deploy various emissions-control technologies. The 2024 rule specifies design, use, inspection, and monitoring of certain technologies that owners may choose to use. These requirements serve as “compliance assurance mechanisms” because when an operator uses the technology and complies with the corresponding requirements, EPA is then assured

that the emissions control technology is functioning properly. *See, e.g.*, 40 C.F.R. § 60.5412b. The 2024 rule often includes several compliance assurance mechanisms such that even if a deadline for one were to be extended, others would remain. *See, e.g.*, 90 Fed. Reg. at 35972; 40 C.F.R. § 60.5417b(d)(8)(v). The Interim Rule extends certain deadlines related to monitoring requirements and flare pilot flame and alarm requirements for control devices, 90 Fed. Reg. at 35970-72, 35976-77, and covers and closed vent systems, *id.* at 35972-73. These extensions do not affect the 2024 rule’s standards of performance—emissions limits that sources must achieve—but extend limited monitoring requirements for certain technology used to demonstrate compliance.

Affected facilities. New-source performance standards in the 2024 rule apply to “affected facilities,” meaning certain defined emission sources in the oil and natural-gas industry. The Interim Rule extends a subset of the 2024 rule’s deadlines for three types of affected facilities: For process controllers, the Rule extends the deadline for compliance with the 2024 rule’s novel zero-emissions standard. *Id.* at 35974. For storage vessels and equipment leaks at natural gas processing plants (low-emitting valves), two other affected facilities, the Interim Rule extended specific deadlines that affect how these facilities determine compliance or trigger the application of new requirements. *Id.* at 35973, 35975-76.

Super Emitter Program. The Super Emitter Program establishes a new mechanism by which EPA-certified third parties, using EPA-approved technology, can voluntarily monitor for and report “super emitter events” to EPA. *Id.* at 35976. A super-emitter event occurs when the emission rate is 100 kg/hour of methane or greater, the event is located at or near an oil or natural-gas facility, and it is detected using EPA-approved technology. *Id.* The Interim Rule extends the date for future implementation of the Program, as well as for EPA action on submissions of remote-detection technology for use in the Program. *Id.*

State Plans. EPA expected 21 states to submit plans in accordance with the 2024 rule’s emissions guidelines. *Id.* at 35977. The Interim Rule extends the states’ original March 2026 submission deadline. *Id.* at 35979.

Here are the disputed deadlines extended by the Interim Rule:

Category	Original Compliance Date(s)	New Compliance Date(s)
Zero-Emission Process Controllers	May 7, 2025	January 22, 2027
Super Emitter Program	May 7, 2024	January 22, 2027
Low-Emitting Valves (Equipment Leaks)	May 7, 2024, or on initial startup.	January 22, 2027
Enclosed Combustion Devices: Performance Testing	November 3, 2024, or 180 days after startup of the affected source, whichever is later.	January 22, 2027, or 180 days after startup of the affected source, whichever is later.
Combustion Devices: Continuous Pilot Flames & Alarms	May 7, 2024, or on initial startup for certain sources; November 3, 2024, or within 30 days of startup, whichever is later for a different subset of sources.	January 22, 2027, or 180 days after startup of the affected source, whichever is later.
Storage Vessels: Thirty-Day Potential-to-Emit-Calculation	May 7, 2024, or upon initial startup or upon 30 days of startup (depending on the site), whichever is later.	January 22, 2027
Storage Vessels: Throughput-Based Modification Trigger	After May 7, 2024, within 30 days of modification	January 22, 2027
Storage Vessels: Legally and Practicably Enforceable Limits	May 7, 2024	January 22, 2027
Closed Vent Systems	Within 30 days after startup of the affected facility routing emissions through the CVS.	Within 30 days of January 22, 2027, or within 30 days of startup of the affected facility routing emissions through the CVS, whichever is later.
State Plans	March 9, 2026	January 22, 2027

In conjunction with the Interim Rule and as required by Executive Order

12866, EPA developed an Economic Impact Analysis to submit potential costs and

benefits of the action to the Office of Management and Budget. 90 Fed. Reg. at 35980. That analysis quantified, when possible, forgone emissions reductions compared to the 2024 rule. *See* EPA-HQ-OAR-2025-0162-0025 at 2-4, JA784-86. But EPA did not rely on this analysis to extend the deadlines. *See* Doc. #2158016 at 22 n.3.

The Interim Rule extensions became effective on July 31, 2025. *Id.* at 35967. Thus, on that day, the regulatory text setting the relevant compliance deadlines for the 2024 rule was changed. In addition, as EPA explained, each “change included in this final action is severable from the other,” because the deadlines operate independently, and each deadline change is separately justified. *Id.* at 35969.

In the published notice of the Interim Rule, EPA also sought comments on all the Interim Rule extensions, noting that it would “consider all comments received in determining whether amendments to [the Interim Rule] are appropriate after the conclusion of the comment period.” *Id.* at 35967. EPA held a public hearing and extended the comment period. 90 Fed. Reg. 39333 (Aug. 15, 2025); 90 Fed. Reg. 40975 (Aug. 22, 2025).

D. The Extension Rule

After reviewing and responding to comments on the Interim Rule, EPA issued the Extension Rule in December 2025. 90 Fed. Reg. 55671 (Dec. 3, 2025).

In the Extension Rule, EPA reaffirmed its prior conclusions and prior extensions, further extended one deadline already extended by the Interim Rule (net heating value), and extended another 2024 rule deadline (for initial annual compliance reports) not addressed in the Interim Rule.² *Id.* at 55674.

In the Extension Rule, EPA again explained that the standards would continue to “achieve the emission-reduction goals of the [2024 rule],” while recognizing, through targeted deadline extensions, that added time was required for regulated parties to comply with certain requirements. *Id.* at 55676. As in the Interim Rule, EPA again explained that certain provisions of the 2024 rule had presented “immediate problems related to compliance,” that certain provisions were “not workable,” and that some provisions contained regulatory language that, as written, prevented compliance. *Id.* at 55673.

The Extension Rule, just like the Interim Rule, did not reopen the substance of the 2024 rule. Instead, EPA adopted “timely, targeted changes to certain compliance and implementation dates that had created unintended compliance difficulties.” 90 Fed. Reg. at 55674. EPA also reaffirmed the findings of the Economic Impact Analysis prepared for the Interim Rule for purposes of Executive

² Petitioners do not challenge the extension for net heating value in the Interim Rule or the Extension Rule. The deadline for initial annual compliance reports was extended from 90 days after the initial compliance period to November 30, 2026, at the earliest. 90 Fed. Reg. at 55680.

Order 12866. *Id.* But EPA again disclaimed reliance on the Economic Impact Analysis for purposes of the Extension Rule itself. *See* RTC at 4-20, JA2143; *see also* Doc. #2158016 at 22 n.3.

Finally, EPA reaffirmed the Interim Rule’s finding that “each new regulatory change in this final rule is severable from the other regulatory changes in this final rule and from the conclusions and re-affirmations of the changes in the [Interim Rule].” 90 Fed. Reg. at 55674. The only regulatory text changed by the Extension Rule were the two additional extended deadlines, one of which (net heating value) Petitioners do not separately challenge. The other extended an August 2025 deadline for initial annual compliance reporting to November 30, 2026. *Id.* at 55680-81. The Extension Rule did not alter the regulatory text for any other extension. *Id.* at 55681.

III. Procedural Background

Petitioners challenged the Interim Rule and moved for summary vacatur. *Env’t Def. Fund v. Zeldin*, No. 25-1164 and consolidated cases (D.C. Cir.), Interim Rule; Doc. #213055. After EPA promulgated the Extension Rule, Petitioners challenged that rule and also moved for summary vacatur. *See* Doc. #2151923.

In March 2026, this Court dismissed as moot both Petitioners’ Interim Rule challenge and their motion for summary vacatur as to the Interim Rule. It then

denied the motion for summary vacatur as to the Extension Rule. Doc. #2161664 at 2. Petitioners did not seek reconsideration or any other relief from that decision.

SUMMARY OF ARGUMENT

I. This Court lacks jurisdiction because Petitioners failed to establish standing for each disputed extension. They do not describe with the requisite particularity the connection between their generalized injuries and each specific deadline that EPA extended. These generalized grievances and concerns about emissions do not connect the necessary dots for standing. Nor do vague allegations about methane emissions and climate change provide Petitioners standing.

II. Should the Court reach the merits, it should uphold the extensions as lawful. Petitioners do not dispute that EPA has statutory authority to extend compliance deadlines. Their only statutory argument—that Section 307(d)(7)(B) of the Act limits the extensions to three months—has been rejected by this Court in *Clean Air Council*. And EPA properly exercised its authority: Faced with a range of specific implementation problems, EPA reasonably extended the relevant deadlines by finite periods. EPA also reasonably considered the extensions' impacts and explained its rationale in the record. Nothing in the Clean Air Act requires EPA to undertake the wholesale and comprehensive analysis that Petitioners now demand. At heart, Petitioners' challenge is nothing more than

disagreement with EPA's reasonable exercise of discretion within its technical expertise. Under the deferential standard of review here, this Court should reject Petitioners' arguments.

STANDARD OF REVIEW

The same arbitrary-and-capricious standard applies for the Clean Air Act as the Administrative Procedure Act. *See* 42 U.S.C. § 7607(d)(9)(A); *Miss. Comm'n on Env't Quality v. EPA*, 790 F.3d 138, 150 (D.C. Cir. 2015) (per curiam). The Court gives an "extreme degree of deference" to EPA's evaluation of complicated issues within its area of technical expertise. *Huntsman Petrochem. LLC v. EPA*, 114 F.4th 727, 735 (D.C. Cir. 2024). That deference applies to "EPA's administration of the complicated provisions of the Clean Air Act." *Am. Fuel & Petrochem. Mfrs. v. EPA*, 937 F.3d 559, 574 (D.C. Cir. 2019).

The question for the Court, then, is not whether it or anyone else "[l]ooking at the same data . . . would simply reach a different conclusion." *Miss. Comm'n*, 790 F.3d at 162. It is whether EPA "considered all relevant factors and articulated a rational connection between the facts found and the choice made." *Id.* at 150 (citation modified). When EPA does so, its decisions must be upheld. *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

The Court will also “uphold a decision of less than ideal clarity if the agency’s path may reasonably be discerned.” *Catawba County v. EPA*, 571 F.3d 20, 50 (D.C. Cir. 2009) (per curiam). This Court’s review is limited to the administrative record. *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 743-44 (1985).

ARGUMENT

I. Petitioners lack standing.

To establish Article III standing, Petitioners must present specific facts that demonstrate they suffer a cognizable injury that is fairly traceable to the challenged rule, and is redressable by the Court. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992). Because Petitioners are not the object of regulation, standing is “substantially more difficult” to show. *Id.* at 562.

Petitioners failed to meet their burden. For one thing, their generalized allegations skate over how they are harmed by *any* of the extensions they challenge. For another, Petitioners cannot rely on invocation of climate change writ large to show standing.

A. Petitioners fail to show standing for any extension.

“Standing is not dispensed in gross.” *Davis v. FEC*, 554 U.S. 724, 734 (2008). Petitioners must “separately prove standing ‘for each claim’ that they seek to press.” *Competitive Enter. Inst. v. FCC*, 970 F.3d 372, 382 (D.C. Cir. 2020).

Because Petitioners challenge 11 extensions, they must show standing for each extension. They fail to do so.

As an initial matter, Petitioners' failure to address standing for each challenged extension forfeits those arguments. *Entergy Ark., LLC v. FERC*, 134 F.4th 576, 581 (D.C. Cir. 2025). Nor can Petitioners' voluminous declarations substitute for argument. *See id.* at 581-82 (emphasizing that arguments must be in the opening brief and that including only the bases for argument, without more, is insufficient); *see also* D.C. Cir. R. 28(a)(7).

Even if no forfeiture occurred, Petitioners cannot show standing. To begin, their allegations of injury are vague. Though Petitioners claim current injuries, those allegations say little beyond a perfunctory claim of “fac[ing] health risks.” Pets. Br. at 17. And their claims of past harm (Pets. Br. at 18) do not count. *See, e.g., KERM, Inc. v. FCC*, 353 F.3d 57, 60 (D.C. Cir. 2004). Finally, they claim that additional emissions of volatile organic compounds “will contribute” to already high levels of pollution, “increasing the risk” of various health problems. Pets. Br. at 17. But an “increased risk” theory of standing requires Petitioners to show “both that the risk is substantial and that the challenged action substantially increases it.” *Entergy*, 134 F.4th at 583. Their declarations are facially insufficient to meet that standard. *See Pub. Safety*

Spectrum All. v. FCC, 2026 WL 2093901, at *4 (D.C. Cir. July 21, 2026) (rejecting “conclusory assertion” as sufficient to show standing).

Petitioners also fail to trace their alleged injuries to any one extension and thus cannot show that any injury is redressable. Instead, ignoring that standing is not dispensed in gross, Petitioners gesture toward the group of extensions to allege that it leads to emission increases that harm them. *See, e.g.*, Schreiber Decl., Pets. Add. at 316, ¶ 17 (alleging harm from flaring and combustion devices and increases in ozone emissions but not connecting harm to any extension); Nichols Decl, *id.* at 213-15, ¶¶ 20-23 (similar for allegations of aesthetic and recreational injury).³ But this approach leaves crucial gaps in the causal chain.

Petitioners assume, but fail to show, that every extension would result in the higher emissions that they allege.⁴ For example, EPA extended the deadline for various mechanisms for assuring compliance—but not the underlying standards of performance. *See supra* Statement of the Case at II.C. That is, the emission limits that sources must achieve under those standards and requirements, along with when they must be achieved, have not changed since the 2024 rule’s

³ *See also* Bower-Bjornson Decl., Pets. Add. at 17, ¶ 16; Deville Decl., *id.* at 92-93, ¶¶ 17-19; Graber Decl., *id.* at 105, ¶¶ 6-7; Schreiber Decl., *id.* at 305, ¶¶ 1-2.

⁴ *See, e.g.*, Bower-Bjornson Decl., Pets. App. at 26-27, ¶¶ 49-51 (claiming, without more, that extending deadlines will “prolong and exacerbate” exposure to harmful pollutants); Leach Decl., *id.* at 152-53, ¶¶ 4-6 (surmising that Extension Rule will negatively impact health and climate).

promulgation. *See id.*; 90 Fed. Reg. at 35976-77; 90 Fed. Reg. at 55675-76 (enclosed combustion devices, performance testing); 90 Fed. Reg. at 35977 (combustion devices, continuous pilot flames, and alarms), 35973 (closed vent systems); *see also* 90 Fed. Reg. at 55679-80 (explaining extension for initial annual report, which has no impact on emissions). Affected facilities are another example. *See supra* at Statement of the Case II.C. Those facilities have either kept their standards of performance or have interim standards in place that limit emissions. 90 Fed. Reg. at 55677 (process controllers); 90 Fed. Reg. at 35975-76 (storage vessels); RTC at 11-4, JA2169 (low-emitting valves). Petitioners thus have not explained how that limited extension results in any increased emissions. That gap destroys any causation and redressability needed for standing to challenge this extension.

Next, some of Petitioners' alleged harms turn on third-party conduct. For example, the Super Emitter Program is a voluntary program that third parties can use to report certain emissions. Petitioners have not shown how extending the deadline to implement that program causes them harm. In fact, any causal chain that links their alleged harm and the extension would necessarily turn on the choices of third parties: (1) a qualifying emission would have to happen (2) near where Petitioners live or recreate (3) at the exact time that a certified third party would choose to monitor that area (4) that the third party would actually detect and

report the event and (5) that the event would be eligible for, and warrant, corrective action. *See, e.g.*, 90 Fed. Reg. at 35976 (reflecting role of third-party reporting). But this theory impermissibly relies on “speculation” that third parties “might act in a certain way” *Ctr. for Biological Diversity v. U.S. Dep’t of Interior*, 563 F.3d 466, 479 (D.C. Cir. 2009). Such a “protracted chain of causation” fails both because of the “uncertainty of several individual links” and because of the “number of speculative links that must hold for the chain to connect” the extension to the alleged harm. *Fla. Audubon Soc’y v. Bentsen*, 94 F.3d 658, 670 (D.C. Cir. 1996).⁵

Finally, though Petitioners note some of their declarants’ proximity to oil and gas facilities and related activities, proximity alone cannot make up for the failure to show the elements of standing for each extension.⁶ Petitioners, in short, have not met their burden.

⁵ *See, e.g.*, Schreiber Decl., Pets. Add. at 305, 316, ¶¶ 1-2, 17 (making flaring and combustion device complaints but not tracing those to any actual extended provision); *see* Bower-Bjornson Decl., *id.* at 17, ¶ 16; Deville Decl., *id.* at 92-93, ¶¶ 17-19; Graber Decl., *id.* at 105, ¶¶ 6-7; Nicols Decl., *id.* at 213-14, ¶¶ 20-23.

⁶ *See, e.g.*, Bower-Bjornson Decl., Pets. Add. at 17, ¶ 16; Deville Decl., *id.* at 92-93, ¶¶ 17-19; Graber Decl., *id.* at 105, ¶¶ 6-7; Nichols Decl., *id.* at 213-15, ¶¶ 20-23; Schreiber Decl., *id.* at 305, 316, ¶¶ 1-2, 17.

B. General allegations about climate change do not give Petitioners standing.

Petitioners' alternative standing theory appears to rely on general statements about methane emissions and supposed climate impacts from oil and gas operations. Pets. Br. at 16-19. This theory applies to all disputed extensions but especially the extension for state plans, which address only methane. To show standing on account of climate impacts, Petitioners need to tie their alleged injuries to increases in methane emissions from each specific extension. That requires not only showing increased methane emissions attributable to the extensions, but also requires Petitioners to overcome the insurmountable problem that they cannot show climate-change standing under long-established Article III terms. *See Ctr. for Biological Diversity*, 563 F.3d at 477-78. Indeed, because Petitioners are private parties, they are held to ordinary traceability and redressability standards. *Id.* at 476-77. Petitioners have failed to show causation and redressability from their generalized claims about climate change to the challenged extensions here.

For one, Petitioners do not show that each (or any) challenged extension would increase methane emissions. *See supra* Argument I.A. For another, even if Petitioners could show that methane emissions increased because of the extensions, they do not tie any increased emissions to the "climate change impacts" they blame for their alleged injuries. Pets. Br. at 18. Climate change is a complicated phenomenon that involves many factors. *Cf. Ctr. for Biological Diversity v. United*

States Dep't of the Interior, 144 F.4th 296, 314 (D.C. Cir. 2025). Petitioners do not trace the threads in this tangled web to connect global climate-change concerns with the challenged actions at issue here.

II. The extensions are lawful.

Petitioners do not dispute that EPA has authority under Section 111 to extend compliance deadlines. Their sole statutory argument is that EPA's concurrent reconsideration of the 2024 rule somehow converted the compliance extensions here into administrative stays that are subject to Section 307(d)(7)(B)'s three-month cap. *Pets. Br.* at 28-32. This Court recently rejected that exact argument and should do so again here. *See Clean Air Council*, 181 F.4th 1292.

EPA also reasonably exercised its statutory authority to extend the deadlines. The 2024 rule included "several provisions that subsequent developments have shown are unworkable on the original timeframes for compliance." 90 Fed. Reg. at 55673-74. EPA found "legitimate barriers to compliance" and "questions as to whether certain regulatory provisions were practically and logistically achievable as promulgated." *Id.* at 55674. The record shows actual, unanticipated implementation problems ranging from equipment unavailability, supply-chain limitations, laboratory constraints, personnel limitations, logistical implementation problems, state administrative burdens, and other issues. Petitioners' sundry record arguments are nothing more than technical disagreements with EPA.

Indeed, EPA’s determinations about compliance timing fall “squarely within EPA’s expertise to make predictive judgments about the implementation” of the 2024 rule. *Clean Air Council*, 181 F.4th at 1303. When, as here, EPA extends compliance deadlines based on “specific compliance challenges,” this Court should uphold those extensions. *See id.* at 1302.

And even if the Court were to conclude otherwise, any record-based infirmity—the only kind of infirmity possible here given *Clean Air Council*’s definitive rejection of Petitioners’ only statutory argument—warrants, at most, remand without vacatur of the relevant extensions. Because the deadline extensions have almost run their course, vacatur would be extremely disruptive while having negligible, if any, impact on Petitioners’ concerns, and any record-based defects that can be addressed on remand.

A. EPA acted within its statutory authority to extend the deadlines.

Section 111 of the Clean Air Act authorizes EPA to set standards of compliance and emission guidelines. 42 U.S.C. § 7411. That includes the authority to specify dates for compliance, along with authority to reconsider and extend those dates as well. *Ivy Sports Med., LLC v. Burwell*, 767 F.3d 81, 86 (D.C. Cir. 2014) (“power to reconsider is inherent in the power to decide”); *see also* 90 Fed. Reg. 35698, 35968 n.2. Petitioners do not dispute EPA’s authority to extend compliance deadlines under Section 111.

The only statutory issue they raise is the applicability of Section 307(d)(7)(B) of the Act. Under that provision, EPA may administratively stay a rule's effectiveness for three months while it reconsiders the rule. 42 U.S.C. § 7607(d)(7)(B). But as this Court recently made clear, the fact that EPA is reconsidering a rule does not transform extensions of compliance dates into administrative stays of effective dates. *Clean Air Council*, 181 F.4th at 1302-03.

In *Clean Air Council*, this Court rejected an argument that is materially identical to Petitioners' argument here: that the Extension Rule is an administrative stay pending reconsideration and thus subject to Section 307(d)(7)(B)'s three-month limit. Pets. Br. at 28-32, 57. In so doing, the Court distinguished *Air Alliance Houston v. EPA*, on which Petitioners rely. *Id.* As the Court explained, when, as in *Air Alliance*, EPA delays a rule's effectiveness "merely" to reconsider a rule, it "must abide by the three-month limit." *Clean Air Council*, 181 F.4th at 1302. But when, as here, EPA delays compliance deadlines "because of specific technical issues" or other "specific compliance challenges," "[n]either the statute nor *Air Alliance*" precludes the delay. *Id.* That is true "[e]ven if EPA relied in part on needing more time" to reconsider the rule. *Id.*; *see also id.* (noting "[t]he Clean Air Act's reconsideration provision does not swallow EPA's other regulatory authorities to change compliance deadlines.>").

Because nothing in the record supports their only statutory argument, Petitioners stray outside the record, relying on the EPA Administrator’s April 2026 testimony to Congress. Pets. Br. at 10. As an initial matter, that testimony is both post-decisional and extra-record, so the Court cannot consider it. *See* 42 U.S.C. § 7607(d)(7)(A) (limiting judicial review to the administrative record). In any event, “the fact that EPA also candidly referred to ongoing efforts to update the 2024 rule does not render the new deadlines arbitrary and capricious.” *Clean Air Council*, 181 F.4th at 1302. The Administrator’s statements are, at most, evidence that reconsideration of the 2024 rule is occurring, not evidence that the Extension Rule is somehow improper.

B. EPA reasonably justified each extension.

Next, Petitioners contend that EPA failed to adequately explain its reasoning for the challenged extensions. According to Petitioners, each and every extension fails the deferential standard of arbitrary and capricious review. But in their obligatory effort to come up with some passable argument to challenge every extension, Petitioners fail to meet their burden on any one.

Petitioners do not dispute the central rationale behind the extensions—that some states and regulated entities faced challenges complying with some of the original deadlines in the 2024 rule. Instead, Petitioners simply come to a different conclusion about compliance timing.

But it is not the Court’s role to ask if it, or anyone else, looking at the record would reach a different conclusion. *Miss. Comm’n*, 790 F.3d at 162. Rather, the question is whether EPA considered relevant factors and articulated a rational connection between the facts found and the choice made. Here, EPA did so. The Court should thus uphold the extensions.

Though Petitioners seem to suggest that a higher standard of review should apply to actions taken under a new policy (Pets. Br. at 20), they never seriously argue that EPA’s extensions represent a change in policy. Indeed, Petitioners themselves apply the ordinary arbitrary-and-capricious standard in their arguments. *E.g., id.* at 33, 35, 58. Even if the court were to apply a heightened standard, EPA’s record provides sufficient justification.

1. Extension of state-plan submittal deadline

For the first time, the 2024 rule required states to develop plans to implement emissions guidelines for existing oil and gas facilities. 90 Fed. Reg. at 35977-78, 35978 n.46. This “uniquely large” source category—which has “hundreds of thousands of designated facilities”—is complex, so developing standards to apply the emissions guidelines to all existing facilities is a similarly complex undertaking. 90 Fed. Reg. at 35977-78; 89 Fed. Reg. at 17000.

Despite these challenges, the 2024 rule set a highly ambitious two-year deadline of March 9, 2026, for states to submit plans to implement the emissions

guidelines. 89 Fed. Reg. at 17008-10. In 2024, EPA found this deadline to be “a reasonable balance” between providing states sufficient time to develop and submit a satisfactory plan and ensuring that timely emission reductions would be achieved. *Id.* at 17010. But based on actual experience over a year into this two-year timeline, EPA justifiably found that the balance was not, in fact, reasonable. 90 Fed. Reg. at 35978; *contra* Pets. Br. at 58.

Many states struggled to develop their plans and lagged behind schedule. 90 Fed. Reg. at 35978. Indeed, with the submittal deadline less than a year away, 12 of the 21 states that intended to submit plans had not identified *how* they planned to implement the emissions guidelines’ requirements, let alone started to do so. *Id.* at 35977-78. 18 states had yet to seek EPA’s feedback on significant portions of their draft plans. *Id.*

In the face of these challenges, EPA assisted states with the development of their plans. *Id.* at 35979. But it became clear that most states, if not all, could not meet the March 9, 2026 deadline. *Id.* EPA did not want to set states up to fail, so it extended the state-plan submittal deadline to January 22, 2027. *Id.* This allowed states, with further assistance from EPA, to devote the time and resources necessary to develop approvable plans. *Id.* Critically, the Interim Rule and Extension Rule did not modify any of the emission-reduction requirements or the

substance of any presumptive standards for existing sources. The extensions simply provided states with sufficient time to develop and submit their plans.

EPA's conclusions were not "vague." Pets. Br. at 58. To the contrary, EPA spelled out its bases and reasons in the record. *See, e.g.*, 90 Fed. Reg. at 35977-79. For example, EPA noted that "twelve states that have yet to identify how they plan to implement [the emissions guidelines]." *Id.* at 35978. And "[s]everal of these states are still seeking to identify all the potentially impacted facilities within their borders before deciding whether to develop a state plan." *Id.* Further, EPA "identified that 18 of 21 states intending to submit a state plan have yet to share significant portions of those plans with the EPA for feedback." *Id.* Finally, EPA stated that "[t]hese challenges have increased the time needed to develop state plans beyond the EPA's expectations. The EPA has worked to provide assistance to states along the way," but "anticipates the vast majority of states . . . will be unable to meet the current state plan submittal deadline" *Id.* at 35979.

Petitioners are wrong to claim that EPA ignored their evidence that several states have "taken steps toward completing their state plans." Pets. Br. at 59. Having "taken steps" is different from having a completed plan. EPA acknowledged that some states had taken some steps but reasonably found that the states on the whole were not nearly far enough along in their process to submit a complete plan on time. 90 Fed. Reg. at 35977-79. Any state could have submitted

by the original deadline; none did. RTC at 4-22, JA2144. EPA acknowledged that some states are making progress, albeit slower than anticipated. 90 Fed. Reg. at 35979. Petitioners' one-off anecdotal claims do not somehow make EPA's determination wrong, nor do they somehow suggest that EPA "failed to consider" the problem. *See* RTC at 4-22, JA2144.

In response to comments, EPA reaffirmed that the state plan deadline is distinct from the various new-source deadlines, and EPA independently justified the extension based on the realities facing the states. 90 Fed. Reg. at 55671, 55679. EPA adequately addressed the relevant problem before it. EPA acknowledged the various considerations, explained why ongoing implementation concerns warranted additional time, and articulated a rational connection between those concerns and the revised deadlines. *Contra* Pets. Br. at 58. That is all the law requires. *State Farm*, 463 U.S. at 43; *Miss. Comm'n*, 790 F.3d at 162; *see Clean Air Council*, 181 F.4th at 1303-05 (upholding extension after EPA determined that implementation proved harder than expected).

2. Extension of new-source deadlines for oil and gas operators

a. Zero-emitting process controllers

The 2024 rule provided a one-year phase-in period for the new zero-emissions standard for process controllers because the necessary equipment was unlikely to be available quickly enough, and in large enough quantities, to enable

immediate compliance for all sources. 89 Fed. Reg. at 16929-30. EPA later determined that more time was needed because there was still “significant demand” for the equipment, supplies, and service vendors necessary for compliance. 90 Fed. Reg. at 35974. And EPA found immediate action prudent because if operators could not obtain and install the necessary equipment, they could be forced to choose between noncompliance and shutdown. *Id.* What is more, during both the one-year phase-in and the extension, an interim standard applied, meaning that these emissions sources are not left unregulated. *Id.* This interim standard is still achieving emission reductions. 90 Fed. Reg. at 55677; 40 C.F.R. § 60.5370b(a)(5).

Petitioners curiously claim that EPA “failed to adequately explain its change in position from determinations made just one year prior, and its action lacks record support.” Pets. Br. at 34. Even the most cursory review of the record undercuts Petitioners’ claim: EPA detailed in the Interim Rule, Extension Rule, and in response to comments the same lack of available equipment and supply-chain issues relating to the zero-emitting process controllers. 90 Fed. Reg. at 35974; 90 Fed. Reg. at 55677; RTC at 12-1, 12-2, 12-3, JA2170, 2170, 2170-71; *contra* Pets. Br. at 36-37. There is nothing arbitrary or capricious about EPA relying on information from regulated entities and other stakeholders based upon their on-the-

ground knowledge about the difficulties of implementing the zero-emission standard. *Contra* Pets. Br. at 35.

Petitioners have identified no meaningful evidence in the record to dispute EPA's findings. Petitioners' one-off anecdotes that some regulated entities can comply with the standards with specific technology that may or may not be universally used at all sites, *see* Pets. Br. at 36-37, does not somehow undermine EPA's bases and explanations for its determinations that there were still widespread supply chain and logistical issues. 90 Fed. Reg. at 35974. EPA stated that some sources could obtain the equipment and encouraged early compliance where possible. 89 Fed. Reg. at 16930. But this does not undermine the logic for the extension. *See* RTC at 12-2, JA2170; *see Clean Air Council*, 181 F.4th at 1305 (upholding extensions where EPA found that "some facilities" needed more time than expected to comply). Nor does Petitioners' argument that the extension here is somehow more than the industry requested (Pets. Br. at 37-38) change anything. EPA's determinations about how much time is needed for compliance are "squarely within [its] expertise" and ability to "make predictive judgments about the implementation of the 2024 rule." *Clean Air Council*, 181 F.4th at 1303.

b. Super Emitter Program

The Super Emitter Program, created by the 2024 rule, is a program for certified third parties to voluntarily report certain methane emissions events to

EPA. EPA extended the date for future implementation of this program because of unanticipated difficulties in early implementation. 90 Fed. Reg. at 35976. EPA explained that aspects of this novel program had “proven time- and labor-intensive” and generated “unanticipated concerns about improper attribution” and related issues with enforcement and compliance efforts. *Id.* EPA also observed in implementing the program that it was broader in scope than anticipated. *Id.* EPA explained that its concerns could delay providing notifications to owners and operators and limit the value of the information that might be learned through the required investigation and the chance to take corrective action. *Id.*

Given these problems, EPA extended the timeline for future implementation of the Super Emitter Program but did not revise its structure or its requirements. *See* 90 Fed. Reg. at 35976; *see Clean Air Council*, 181 F.4th at 1303-05 (upholding extensions made on account of implementation difficulties); *contra* Pets. Br. at 40. EPA did not change the public’s ability to voluntarily provide EPA with information about emissions events. 90 Fed. Reg. at 55678 (“[A]ny person can voluntarily provide information about any emission event to the EPA at any time . . .”). Petitioners have identified nothing in the record to suggest otherwise.

Petitioners take issue with EPA’s extension because the agency did not disclose “how many of the seven reported super-emitter events lacked attribution data” and “how long it took [EPA] to identify the relevant operators.” Pets. Br. at

38. That argument misses the point. EPA explained that it had identified larger real-world programmatic concerns. *See* 90 Fed. Reg. at 35976. For example, EPA explained that certified third parties in the Super Emitter Program do not identify the owner or operator responsible for the emission. *Id.*; *contra* Pets. Br. at 38. EPA also explained that if the Super Emitter Program were to receive more notifications or if satellite detection technologies were to be approved, the attribution concerns would hamper EPA's ability to timely provide the notifications to the relevant owners and operators. 90 Fed. Reg. at 35976.

Similarly, Petitioners argue that EPA's concerns about the program applying more broadly than intended are based on a single notification and thus do not justify an extension for the program as a whole. Pets. Br. at 41. But, again, Petitioners fail to recognize the greater programmatic concerns that are the basis of the extension. *See* 90 Fed. Reg. at 35976.

Petitioners simultaneously claim that EPA failed to provide information to support the administrative burden and that EPA suffers no such burden. Pets. Br. at 38-39 (stating, without any support, that "attribution was accomplished promptly and without undue administrative burden"). But Petitioners have identified no record evidence that the attribution was not an undue administrative burden on EPA. EPA's reasons are not, as Petitioners' claim, "bald assertion[s]." Pets. Br. at 38. Rather, they are specific concerns EPA identified as to the challenges and

workability of the Super Emitter Program created by the 2024 rule. EPA supported its decision based on the “specific, technological reasons” described in the record. *Clean Air Council*, 181 F.4th at 1302; *see* 90 Fed. Reg. at 55678. The Court should uphold the extension.

c. Low-emitting valves

The 2024 rule included a requirement at natural-gas processing plants such that, upon detecting a leaking valve, an operator must upgrade to a lower-emitting valve type. 90 Fed. Reg. at 35973. After promulgation, EPA realized that the regulatory language was confusing and that there were inventory and availability issues with the lower-emitting valves. *Id.* These issues formed the basis of EPA’s extension to allow for improvement on equipment availability. 90 Fed. Reg. at 55677; 90 Fed. Reg. at 35973.

Though Petitioners claim (Pets. Br. at 42) that EPA’s decision lacks any support in the record, EPA explained that it based this extension on information from regulated entities. 90 Fed. Reg. at 35973; 90 Fed. Reg. at 55676-77. And it is reasonable for EPA to rely on on-the-ground knowledge about implementation challenges. Nor did EPA receive information—whether from Petitioners or anyone else—that contradicted those assertions.

EPA reasonably determined that sources needed more time to obtain needed low-emitting equipment given the lack of commercial availability and widespread

need for such equipment. 90 Fed. Reg. at 35973; RTC at 11-3, 11-4, 11-5, JA2168-69, 2169, 2169-70. EPA made these determinations based on stakeholder information and reaffirmed them in the Extension Rule after reviewing comments. 90 Fed. Reg. at 55677; *see also* 90 Fed. Reg. at 35793; *contra* Pets. Br. at 42. That Petitioners would prefer a different result does not somehow mean EPA “abdicated its responsibility,” as Petitioners suggest. Pets. Br. at 42; *Clean Air Council*, 181 F.4th at 1304 (upholding extension when practice showed the 2024 rule would require more frequent equipment replacements than expected).

And contrary to Petitioners’ point about EPA not addressing confusion (Pets. Br. at 40-42), EPA explained that it needed to provide more time for operators to plan for and obtain the low-emissions valves and equipment. 90 Fed. Reg. at 55676-77. That explanation is reasonable and should be upheld. *See Clean Air Council*, 181 F.4th at 1304 (upholding EPA’s conclusion that ambiguity in rule about how to measure emissions justified extension).

d. Enclosed combustion devices: performance testing

Enclosed combustion devices are a type of device used to control emissions such as methane and volatile organic compounds. EPA found that an extension for the requirement to conduct performance tests on these devices was necessary to “provide affected facilities sufficient lead time to retrofit sources and to plan and execute the performance tests required by the final rule.” 90 Fed. Reg. at 35972.

The 2024 rule finalized performance test requirements for enclosed combustion devices applicable to numerous emissions sources. These performance test requirements consist of a minimum of three test runs at least one hour long to determine compliance with a total organic compound reduction requirement. 90 Fed. Reg. at 35971. EPA determined that operators raised credible concerns about meeting the enclosed combustion devices' performance test requirements. *Id.* The sheer volume of the required testing created laboratory backlogs and made the testing requirement "untenable." *Id.* at 35970-71. EPA thus reasonably relied on "information showing that compliance would be significantly more difficult than anticipated." *Clean Air Council*, 181 F.4th at 1303 (upholding extensions on that basis).

And the record itself adequately supports EPA's position, including direct responses to comments. *See* RTC at 9-6, JA2163-64; 90 Fed. Reg. at 35971. EPA did not ignore evidence or minimize such evidence. *Contra* Pets. Br. at 43. EPA provided reasoned bases for its determination—including that the 2024 rule's deadlines to test a "vast number of source[s] subject to the rule was not achievable on the timeline laid out in the 2024 final rule." 90 Fed. Reg. at 55676. Petitioners' insistence to the contrary does not make EPA's actions arbitrary, capricious, or unlawful.

e. Combustion devices: continuous pilot flames and alarms

The 2024 rule requires that certain combustion devices and flares, used to comply with some performance standards, include specific features such as continuous burning flames and alarm systems. 90 Fed. Reg. at 35976-77. Based on issues raised to EPA after the 2024 rule’s promulgation, EPA found that operators raised credible technical concerns about their ability to comply with these requirements by the original deadline in the 2024 rule. *Id.* As EPA noted in the record, regulated entities faced “challenges in obtaining and installing communications equipment capable of reliably transmitting an alarm to the nearest control room.” 90 Fed. Reg. at 35977. EPA also found credible concerns that maintaining a continuous flame can pose significant logistical challenges for sources that operate intermittently or at locations far from reliable supplemental fuel supplies. *Id.* The agency thus reasonably extended this deadline. *See Clean Air Council*, 181 F.4th at 1302-05 (upholding extensions made in the face of equipment and logistics difficulties).

To Petitioners, these determinations were improper because EPA supposedly took the regulated entity’s representations “at face value without any independent review or verification.” *Pets. Br.* at 46. Just as with the other extended deadlines, however, EPA took the information it received from those petitioning for reconsideration (i.e., those experiencing the real-time “significant logistical

challenges”) and determined that an extension was appropriate. 90 Fed. Reg. at 35977. As recognized in *Clean Air Council*, the Clean Air Act provides EPA with discretion to evaluate technical issues such as this, and Petitioners have identified nothing in the record to suggest that EPA overlooked evidence that the logistical difficulties and implementation practicalities flagged by the regulated community are exaggerated or do not exist.

f. Storage vessels: thirty-day potential-to-emit calculation

The 2024 rule included criteria for determining which storage vessels are subject to the rule’s requirements based on a source’s potential to emit methane and volatile organic compounds. 90 Fed. Reg. at 35974. EPA extended the deadline to use a specific calculation method after finding that there was significant confusion in the regulated community about when and how to apply it, thus causing uncertainty about the scope of sources subject to the rule. 90 Fed. Reg. at 55677; 90 Fed. Reg. at 35974-76; RTC at 4-10, 15-1, JA2137, 2177. EPA therefore reasonably extended that timeline to allow facilities to obtain additional information and make the requisite decisions about facilities that may be subject to the 2024 rule’s emissions-reduction requirements. 90 Fed. Reg. at 35975. This Court recently upheld extensions made to address similar problems. *See Clean Air Council*, 181 F.4th at 1302-05.

Petitioners claim that EPA has not “explained how a delay clears up any confusion, or why a delay is necessary when [EPA] could have instead adopted petitioners’ proposed interpretation.” Pets. Br. at 48. But EPA explained that an extension was needed because, for one, “[w]ithout clarification, operators may not know with certainty the scope of affected storage vessels” subject to compliance, or the contours of compliance. 90 Fed. Reg. at 35975; *contra* Pets. Br. at 48 (wrongly contending that relief was too broad and should have been limited to subset of storage vessels). And this ongoing confusion means there is shorter lead-in time than what EPA first contemplated in the 2024 rule.

In extending this deadline, EPA thus identified practical implementation concerns and allowed additional time for facility-specific determinations. The Court should reject Petitioners’ contrary arguments.

g. Storage vessels: throughput-based modification trigger

In extending the 2024 rule’s deadline for throughput-based modification triggers—which occur when storage vessels receive additional crude oil or other fluids under certain conditions—EPA reasonably concluded that the 2024 rule in practice may have caused more storage vessels to be considered “modified” than originally anticipated. 90 Fed. Reg. at 35975. EPA explained that the 2024 rule would subject a much larger number of storage vessels to new-source requirements than EPA had estimated when promulgating the 2024 rule. *Id.*

Petitioners claim that EPA’s “delay” lacks record support and is a rubberstamp of the “regulated entities’ assertions.” Pets. Br. at 49-50. That contention, too, is belied by the record. EPA acknowledged that the 2024 rule contained “a degree of vagueness such that it is possible that far more midstream storage vessels could trigger modification than the EPA estimated in the 2024 final rule” and found additional compliance time necessary given the unexpectedly large number of potentially impacted sources. 90 Fed. Reg. at 35975. EPA then explained that the affected sources needed more time for facility planning, equipment procurement, and process changes to comply once the modification status is triggered. 90 Fed. Reg. at 55678; RTC at 15-1, JA2177. EPA, in short, reasonably justified this extension. *Contra* Pets. Br. at 50-51 (ignoring the record); *see Clean Air Council*, 181 F.4th at 1304 (upholding EPA’s conclusion that ambiguity in rule about how to measure emissions justified extension).

h. Storage vessels: legally and practicably enforceable emission limits

In the 2024 rule, EPA explained that, based on years of nationwide enforcement experience, many purported permit limits failed to ensure emissions remained below applicability thresholds (meaning facility-specific emission and other limits). 89 Fed. Reg. at 16974-77. To ensure that limits are enforceable, EPA in the 2024 rule adopted source-specific legally and practicably enforceable limit criteria. *See id.*

That process, EPA realized, was resource-intensive, requiring monitoring, recordkeeping, and reporting infrastructures that need to be created and maintained. 90 Fed. Reg. at 35975. Stakeholders expressed concerns that states lacked authority and did not have established mechanisms to incorporate limits into permits. They therefore sought more time for state, local, and tribal agencies to adopt and implement such limits. *Id.*

Upon reviewing information from stakeholders after promulgating the 2024 rule, EPA then reasonably concluded that additional time was in fact warranted to enable this process. *Id.*; 90 Fed. Reg. at 55677-78. Though Petitioners claim (Pets. Br. at 52) that EPA has made an about-face without any new record evidence or explanation for the change, that argument is contradicted by the record. *See* RTC at 15-1, JA2177; 90 Fed. Reg. at 35974-76. The practical realities of the promulgation of the 2024 rule and the new process inevitably yielded unanticipated implementation issues that EPA reasonably addressed by extending this deadline to ensure sufficient time for sources to work with delegated authorities to establish legally and practicably enforceable limits. *See* 90 Fed. Reg. at 55678. EPA also considered comments regarding the timeline for a limit to be considered legally and practicably enforceable. *Id.*; *see also* RTC at 15-1, JA2177. And EPA reaffirmed the findings of the Interim Rule. 90 Fed. Reg. at 55678. EPA need not do more than it already did. *See Clean Air Council*, 181 F.4th at 1302-05

(upholding extensions made when implementation needed more time than expected).

i. Closed vent systems

The 2024 rule requires inspection of all covers and closed vent systems within 30 days of startup of a connected emissions source, and annually thereafter, to ensure that such systems operate with no identifiable emissions. 90 Fed. Reg. at 35972. Upon receiving information from stakeholders with on-the-ground experience implementing the 2024 rule, EPA determined that operators raised credible concerns about their ability to continuously meet the “no identifiable emissions” requirement because fugitive emissions will inevitably occur over time under normal operations. *Id.* at 35972-73. The original compliance assurance requirements and schedule, EPA determined, could not reasonably be achieved. EPA thus reasonably concluded that these serious workability concerns warranted extending the compliance date for the no identifiable emissions inspection requirement for covers and closed vent systems. *Id.* at 35973.

Though Petitioners claim that “EPA has yet again failed to explain its change in policy” for closed vent systems (Pets. Br. at 51), Petitioners yet again offer nothing more than their simple disagreement with EPA’s reasoned explanation.

Petitioners also again provide no record evidence to suggest that industry's concerns were not legitimate, not credible, or that EPA should not consider them.⁷

As for Petitioners' nonsensical assertion (Pets. Br. at 54-56) that fugitive leaks were inevitable and thus no extension is appropriate, this Court recently rejected a similar argument: Even when compliance is impracticable on "any" timeline, EPA nonetheless acts reasonably to extend the deadline. *Clean Air Council*, 181 F.4th at 1304 n.4. Here, EPA acted reasonably to give everyone some breathing room to figure out next steps in light of its "serious concerns regarding the ability of owners/operators to meet" the no identifiable emissions inspection requirements in the 2024 rule. 90 Fed. Reg. at 35973. The Court should uphold that action.

⁷ Petitioners argue that EPA incorrectly represented the scope of its actions by stating in the preambles to the Interim Rule and the Extension Rule that EPA was delaying only the "no identifiable emissions" inspection requirement, when really the regulatory text suspended all monitoring and repair requirements for closed-vent systems. *See* Pets. Br. at 54-55 (citing 40 C.F.R. § 60.5416b). While EPA stands by the extension of the "no identifiable emissions" inspection requirement for covers and closed vent systems during which identifying a leak would be considered a deviation of the no identifiable emissions requirement, 90 Fed. Reg. 55676, to the extent that certain other regulatory provisions *unrelated to that specific inspection requirement* were extended, it was an inadvertent error. EPA thus seeks voluntary remand on those discrete, severable provisions of the Rule to address those errors in the regulatory text.

j. Annual compliance report deadline

The 2024 rule required some new-source operators to submit initial annual compliance reports in 2025. 90 Fed. Reg. at 55679-80. EPA “received over 400 letters identifying confusion and requesting extensions for the first round of initial reports.” *Id.* at 55679. EPA reasonably recognized this as an issue and tried to address it through granting individual extension requests. But EPA concluded that “[p]roviding the extension for all owners and operators” in a national rule “is a more efficient and equitable approach than dealing with this issue on a one-off submission basis.” *Id.*

Petitioners do not dispute that this was a problem, or that EPA’s extension approach was reasonable and explained in the record. Instead, Petitioners say that EPA can just “disregard the unnecessary information” submitted by regulated entities. *Pets. Br.* at 55. But that ignores the efficiency and consistency that EPA aimed for here. Besides, the question here is not what else EPA could have done. It is whether EPA’s chosen course is reasonable. Because it is, the Court should uphold the extension.

C. EPA properly considered the extensions’ impact.

EPA considered the potential health and environmental consequences of the extensions. As EPA explained when responding to comments: “The emissions impacts of the [Interim Rule]”—which, as Petitioners point out (*Pets. Br.* at 20),

include health and environmental impacts—“were considered and the EPA determined that the extensions were warranted given those impacts.” RTC at 2-3, JA2124-25. And EPA concluded that the extensions would “not interfere with, or unreasonably frustrate, the ultimate emission reduction requirements.” 90 Fed. Reg. at 35979. To the extent that Petitioners fault EPA for not monetizing certain emission impacts (Pets. Br. at 26), such an exercise is not required. *See Michigan v. EPA*, 576 U.S. 743, 752-53 (2015) (recognizing that agencies may decide *how* to account for an action’s advantages and disadvantages, including whether to monetize all factors).

EPA thus properly considered all relevant factors. *Contra* Pets. Br. at 21-24. And it did not need to give any one factor more weight than another. *See State Farm*, 463 U.S. at 42. Petitioners’ objections are nothing more than disagreements with EPA’s judgment about how much weight to give each of these factors. *See id.*

Moreover, the extensions did not result in “additional” emissions or pollution—the extensions merely extended the existing conditions as they existed before the extensions. Any claimed impacts would be forgone benefits, which is different from the “additional emissions” that Petitioners argue (Pets. Br. at 26). Petitioners have not shown that the extensions—which, again, do nothing to change the underlying substantive standards—would result in meaningful emission *increases*.

Nor does Section 111 of the Act require EPA to exhaustively consider health and environmental impacts when adopting the Extension Rule in the same way it did when adopting the 2024 rule. *See* Pets. Br. at 20-24, 24-28. That equivalence is a false one: Unlike the 2024 rule, which promulgated substantive standards, the extensions did nothing of the sort. EPA simply extended certain compliance deadlines while leaving the substantive standards the same.

Neither case Petitioners cite (Pets. Br. at 23) alters that conclusion. One case involved an administrative stay under Section 307(d)(7)(B). *Clean Air Council v. Pruitt*, 862 F.3d 1 (D.C. Cir. 2017). But as this Court recently explained, the compliance extension at dispute here is not a Section 307(d)(7)(B) administrative stay of the 2024 rule's effective date. *Clean Air Council*, 181 F.4th at 1302. The other case Petitioners cite involved EPA's elimination and temporary suspension of certain rules that the Court said were substantive for purposes of the Administrative Procedure Act's notice-and-comment requirement. *Env't Def. Fund, Inc. v. EPA*, 716 F.2d 915, 917, 920 (D.C. Cir. 1983). But whether the Extension Rule is a substantive rule for notice-and-comment purposes says nothing about whether EPA must consider the rule's health and environmental impacts just as it did for the 2024 rule.

And Section 111 does not, as Petitioners contend (Pets. Br. at 21), compel EPA to weigh or quantify health and environmental impacts in a particular way

whenever the agency extends compliance or state-plan submittal deadlines.

Petitioners do not cite a single provision within the Clean Air Act that supports such a statement, which is understandable: Section 111, 42 U.S.C. § 7411, has no such language. And Petitioners cannot read into the statute a blanket requirement to quantify health and environmental impacts where no such requirement exists.

See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania, 591 U.S. 657, 677 (2020).

Though Petitioners lean extensively on *American Lung Association v. EPA* (Pets. Br. at 20-24, 28-29), that case does not help them. 985 F.3d 914 (D.C. Cir. 2021), *rev'd and remanded sub nom. West Virginia v. EPA*, 597 U.S. 697 (2022).

There, the delay involved EPA's revamp of the entire framework for default state-plan submittal deadlines in EPA's Section 111(d) implementing regulations that had been in place for over 30 years. *Am. Lung*, 985 F.3d at 992. The Court held that EPA failed to justify such a major change to a longstanding program. *Id.* The Court also noted that "EPA did not document any problems during the decades that the existing timelines had been in place." *Id.* at 993.

That situation is worlds away from the single, discrete extension of states' deadlines for their *first ever* emissions guideline for oil and gas sources at issue here. In addition to being a discrete deadline extension, rather than the universal default deadline in *American Lung Association*, EPA detailed the challenges that

states faced in meeting the 2024 rule's state-plan submittal deadlines—which Petitioners do not meaningfully contest. *See supra* Argument § II.B.1; *see also* 90 Fed. Reg. at 35977-79.

As for new-source extensions, this Court should reject Petitioners' attempt to expand the holding in *American Lung Association*, which concerned Section 111(d) and addressed state plans for existing sources, to the Section 111(b) context at issue here. Whereas new-source standards become effective upon promulgation under Section 111(b), 42 U.S.C. § 7411(b)(1)(B), under Section 111(d), there is necessarily a lag between when EPA promulgates emissions guidelines and when states develop their plans. *American Lung Association* was speaking to this lag time, during which no substantive standard exists for existing sources. That lag time, however, does not exist under Section 111(b). Given this difference, Petitioners offer no basis to extend *American Lung Association* to the Section 111(b) context. In any case, unlike in *American Lung Association*, the record for the new-source extensions adequately documents various implementation problems.

Lastly, Petitioners cannot seriously fault EPA for failing to respond to comments in one breath (Pets. Br. at 21), then in the next paragraph criticize the substance of EPA's responses. Pets. Br. at 22 (quoting EPA's response). All they

have shown is that they disagree with EPA's response. The Court should reject that argument.

D. Petitioners' arguments about the Economic Impact Analysis are irrelevant because EPA did not rely on that analysis.

EPA quantified foregone benefits in the Economic Impact Analysis. *See* 90 Fed. Reg. at 35980; *see also* Exec. Order No. 12866, 58 Fed. Reg. 51735 (Sep. 30, 1993). EPA performed the Economic Impact Analysis to comply with Executive Order 12866. 90 Fed. Reg. at 35980. But EPA did not rely on that analysis for the Interim Rule or the Extension Rule. *See* Doc. #2158016 at 22 n.3; RTC at 4-20, JA2143. As EPA put it, that analysis was "prepared for informational purposes in compliance" with the executive order but "was not part of the EPA's decision making and has no independent effect." RTC at 4-20, JA2143. And indeed, EPA's brief here never cites this analysis to justify the reasonableness of any extension. Petitioners' arguments about this analysis are beside the point. Any arguments Petitioners make about EPA's analysis are irrelevant and not reviewable. *See, e.g., Air Transp. Ass'n of Am. v. FAA*, 169 F.3d 1, 7 (D.C. Cir. 1999).

At any rate, as much as Petitioners fault EPA for failing to explain why it did not monetize health effects (Pets. Br. at 27-28), they ignore EPA's response to comments, which addresses this very issue. RTC at 5-3, JA2147. The rest of Petitioners' arguments about the Economic Impact Analysis (Pets. Br. at 24-28) simply rehash their argument that EPA failed to adequately consider health and

environmental impacts. That argument, as EPA has shown, is wrong. *See supra* Argument II.C.

* * *

This Court should reject Petitioners' arguments. But if it does not, any remand should be without vacatur.

Whether to vacate an inadequately supported action turns on (1) the “seriousness of the . . . deficiencies” and (2) the “disruptive consequences of an interim change that may itself be changed.” *Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm’n*, 988 F.2d 146, 150-51 (D.C. Cir. 1993). Where alleged deficiencies are curable, and vacatur would cause disruptive consequences, this Court routinely remands without vacatur. *Heartland Reg’l Med. Ctr. v. Sebelius*, 566 F.3d 193, 198 (D.C. Cir. 2009).

Neither *Allied-Signal* factor favors vacatur. Petitioners have established no serious legal error, let alone one that is incurable on remand. Petitioners' merits arguments all relate to contentions that EPA failed to consider or justify its decision-making process. Remand would allow EPA to further consider any part of its actions. Plus, the consequences of vacatur would be substantial. Vacatur would immediately restore already-passed compliance deadlines that the states and regulated entities could not meet—putting them in instant noncompliance. That result is particularly disproportionate here especially given that the regulated

entities are due to comply largely by January 2027. *See supra* Statement of the Case at II.C, II.D.

Beyond the *Allied-Signal* factors, vacatur is further inappropriate because of the procedural posture here: Technically, the Interim Rule, not the Extension Rule, amended the regulatory text setting forth the relevant compliance dates for ten of the 11 challenged extensions. 90 Fed. Reg. at 35981-85; 90 Fed. Reg. at 55681. But Petitioners' challenge to the Interim Rule has been dismissed.⁸ Vacatur of the Extension Rule could thus create further confusion. By contrast, remand without vacatur would avoid that problem while giving EPA the opportunity to review the disputed extensions and take any appropriate action in line with the Court's decision.

Finally, any relief should be limited. Each extension is "severable from the other," because the deadlines operate independently, and each deadline change is separately justified. 90 Fed. Reg. at 35969; 90 Fed. Reg. at 55674. Each deadline extension is a separate and distinct action. Thus, if this Court were to find any of the extensions unlawful, the Court should sever those from the rest of the

⁸ The only challenged extension whose regulatory text was amended by the Extension Rule was the deadline for initial annual compliance reporting. The Extension Rule never touched the regulatory text for those 10 other disputed extensions. And the Interim Rule, though reaffirmed by the Extension Rule, was never superseded by it. 90 Fed. Reg. at 35981-85.

extensions that are found to be lawful or not challenged here. *See Am. Fuel & Petrochem. Mfrs. v. EPA*, 3 F.4th 373, 384 (D.C. Cir. 2021).

CONCLUSION

The petition for review should be dismissed or denied.

Dated: September 1, 2026

Respectfully submitted,

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney
General

ROBERT N. STANDER
Deputy Assistant Attorney General

Of Counsel:

DEREK MILLS

LAURA COTTINGHAM

Attorneys

U.S. Environmental Protection Agency

Office of General Counsel

Washington, D.C.

/s/ Laura J. Glickman

LAURA J. GLICKMAN

Senior Attorney

SUE CHEN

Senior Counsel for Appellate Matters

Environment and Natural Resources

Division

U.S. Department of Justice

P.O. Box 7611

Washington, D.C. 20044

(202) 598-3056 (Glickman)

laura.glickman@usdoj.gov

Counsel for Respondent EPA

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Dated: September 1, 2026

/s/ Laura J. Glickman

LAURA J. GLICKMAN

Counsel for Respondent EPA

CERTIFICATE OF SERVICE

I hereby certify that under the D.C. Circuit Rules, I filed via CM/ECF the foregoing, which will cause service on all counsel of record who are required to be registered on CM/ECF.

Dated: September 1, 2026

/s/ Laura J. Glickman

LAURA J. GLICKMAN

Counsel for Respondent EPA