

In the Supreme Court of the United States

STATE OF LOUISIANA; et al.,
Applicants,

v.

JOSEPH R. BIDEN, JR., in his official capacity as
President of the United States; et al.,
Respondents.

**APPENDIX TO APPLICATION TO VACATE AN ORDER OF THE U.S. COURT
OF APPEALS FOR THE FIFTH CIRCUIT STAYING AN INJUNCTION FROM
THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA**

To the Honorable Samuel Alito
Associate Justice of the Supreme Court of the United States
and Circuit Justice for the Fifth Circuit

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April 27, 2022

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Appendix A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

STATE OF LOUISIANA ET AL

CASE NO. 2:21-CV-01074

VERSUS

JUDGE JAMES D. CAIN, JR.

JOSEPH R BIDEN JR ET AL

MAGISTRATE JUDGE KAY

MEMORANDUM RULING

Before the Court is a “Motion for Preliminary Injunction” (Doc. 53) filed by the States of Louisiana, Alabama, Florida, Georgia, Kentucky, Mississippi, South Dakota, Texas, West Virginia, and Wyoming (collectively referred to as the “Plaintiff States”). The Plaintiff States move pursuant to Rule 65 of the Federal Rules of Civil Procedure for a preliminary injunction against Defendants Joseph R. Biden, Jr., Cecilia Rouse, Shalanda Young, Kei Koizumi, Janet Yellen, Deb Haaland, Tom Vilsack, Gina Raimondo, Xavier Becerra, Pete Buttigieg, Jennifer Granholm, Brenda Mallory, Michael S. Regan, Gina McCarthy, Brian Deese, Jack Danielson, U.S. Environmental Protection Agency, U.S. Department of Energy, U.S. Department of Transportation, U.S. Department of Agriculture, U.S. Department of Interior, National Highway Traffic Safety Administration, and the Interagency Working Group on Social Cost of Greenhouse Gases (hereinafter collectively referred to as “Defendants”).

Plaintiff States also move to make the Order effective immediately and to remain in effect pending the final resolution of this case, or until further orders of this Court, the United States Court of Appeals for the Fifth Circuit, or the United States Supreme Court.

I. BACKGROUND

On April 22, 2021, the Plaintiff States filed a Complaint [doc. 1] against the Government Defendants seeking declaratory and injunctive relief as a result of Executive Order 13990 (“EO 13990”). EO 13990 reinstated the Interagency Working Group (“IWG”) on Social Costs of Greenhouse Gas Emissions (“SC-GGE”) and ordered the IWG to publish Interim Estimates for the Social Cost of Carbon, Nitrous Oxide, and Methane (collectively referred to as “SC-GHG Estimates”) for agencies to use when monetizing the value of changes in greenhouse gas emissions resulting from regulations and other relevant agency actions. EO 13990 provides as follows:

Accounting for the Benefits of Reducing Climate Pollution

- (a) It is essential that agencies capture the full costs of greenhouse gas emissions as accurately as possible, including by taking global damages into account. Doing so facilitates sound decision-making, recognizes the breadth of climate impacts, and supports the international leadership of the United States on climate issues. The “social cost of carbon” (SCC), social cost of nitrous oxide” (SCN), and “social cost of methane” (SCM) are estimates of the monetized damages associated with incremental increases in greenhouse gas emissions. They are intended to include changes in net agricultural productivity, human health, property damage from increased flood risk, and the value of ecosystem services. An accurate social cost is essential for agencies to accurately determine the social benefits of reducing greenhouse gas emissions when conducting cost-benefit analyses of regulatory and other actions.
- (b) There is hereby established an Interagency Working Group on the Social Cost of Greenhouse Gases (the “Working Group”). The Chair of the Council of Economic Advisers, Director or OMB, and Director of the office of Science and Technology Policy shall serve as Co-Chairs of the Working Group.
 - (i) **Membership.** The Working Group shall also include the following other officers, or their designees: the Secretary of the Treasury; the Secretary of the Interior; the Secretary of Agriculture; the Secretary of Commerce; the Secretary of Health and Human Services; the Secretary of Transportation; the Secretary of Energy; the Chair of the Council on

Environmental Quality; the Administrator of the Environmental Protection Agency; the Assistant to the President and National Climate advisor; and the Assistant to the President for Economic Policy and director of the National Economic council.

- (ii) Mission and Work. The Working Group shall, as appropriate and consistent with applicable law:
 - (A) Publish an interim SCC, SCN, and SCM within 30 days of the date of this order, which agencies shall use when monetizing the value of changes in greenhouse gas emissions resulting from regulations and other relevant agency actions until final values are published;
 - (B) Publish a final SCC, SCN, and SCM by no later than January 2022;
 - (C) Provide recommendations to the President, by no later than September 1, 2021, regarding areas of decisions-making, budgeting, and procurement by the Federal Government where the SCC, SCN, and SCM should be applied;
 - (D) Provide recommendations, by no later than June 1, 2022, regarding a process for reviewing, and, as appropriate, updating, the SCC, SCN, and SCM to ensure that these costs are based on the best available economics and science; and
 - (E) Provide recommendations, to be published with the final SCC, SCN, and SCM under subparagraph (A) if feasible, and in any event by no later than June 1, 2022, to revise methodologies for calculating the SCC, SCN, and SCM, to the extent that current methodologies do not adequately take account of climate risk, environmental justice, and intergenerational equity.

(iii) Methodology. In carrying out its activities, the working Group shall consider the recommendations of the National Academies of Science, Engineering, and Medicine as reported in Value Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide (2017) and other pertinent scientific literature; solicit public comment; engage with the public and stakeholders; seek the advice of ethics experts; and ensure that the SCC, SCN, and SCM reflect the interests of future generations in avoiding threats posed by climate change.

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