



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, New York 10007*

February 9, 2021

**By ECF**

The Honorable Sidney H. Stein  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**MEMO ENDORSED, p. 2**

Re: *State of New York, et al. v. Department of Labor, et al.*, No. 21 Civ. 536 (SHS)

Dear Judge Stein:

This Office represents Defendants, the Department and Acting Secretary of Labor (together, "DOL"), in this Administrative Procedure Act challenge to a final rule issued by DOL on December 9, 2020. Plaintiffs, fourteen states and the District of Columbia, commenced this action by filing a complaint on January 21, 2021, Dkt. No. 1, and pursuant to Federal Rule of Civil Procedure 12(a)(2), DOL's deadline to respond to the complaint is March 29, 2021, *see* Dkt. No. 18.

DOL writes to inform the Court that it intends to propose rescission of the rule at issue in this case in the near future, a process that is expected to take several months, as it will entail notice-and-comment rulemaking. In light of that, DOL respectfully requests that this case be stayed to avoid unnecessary motion practice. At this time, DOL requests a stay of 90 days, with a status report to be provided in 45 days, or by March 26, 2021. After 90 days have elapsed, DOL will seek further relief from the Court, including an extension of the stay, as needed. This is DOL's first request for relief in this case and Plaintiffs consent to the request.

We thank the Court for its consideration of this request.

Respectfully,

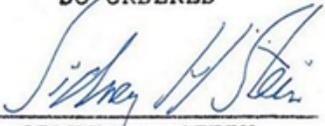
AUDREY STRAUSS  
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cc: Counsel for Plaintiffs (by ECF)

In light of the government's statement that it "intends to propose rescission of the rule at issue in this case in the near future," defendants' time to answer or move in response to the complaint is extended to June 18, 2021. Defendants are directed to submit a status report on or before March 26, 2021.

Dated: New York, New York  
February 9, 2021

SO ORDERED  
  
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SIDNEY H. STEIN  
U.S.D.J.