

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

ENVIRONMENTAL DEFENSE FUND;  
MONTANA ENVIRONMENTAL  
INFORMATION CENTER; and CITIZENS  
FOR CLEAN ENERGY,

*Plaintiffs,*

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY; and ANDREW R. WHEELER, in  
his official capacity as Administrator of  
the U.S. Environmental Protection  
Agency,

*Defendants.*

Case No. 4:21-cv-00003-BMM

The Honorable Brian Morris,  
Chief Judge

**INTRODUCTION**

Defendants seek vacatur and remand of the final rulemaking entitled “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” 86 Fed. Reg. 469-01 (Jan. 6, 2021) (“Final Rule”). Defendants explain that in light of the Court’s conclusion that the Final Rule constitutes a substantive rule, the Environmental Protection Agency lacked authorization to promulgate the rule pursuant to its housekeeping authority, which is the only source of authority identified in the Final Rule. Accordingly, Defendants

state that vacatur and remand of the Final Rule is appropriate under the circumstances. Plaintiffs do not oppose this request.

**ORDER**

Accordingly, **IT IS SO ORDERED** that:

- Defendants' Unopposed Motion for Vacatur and Remand is **GRANTED.**
- The Final Rule is hereby vacated and remanded to the Environmental Protection Agency.

Dated the 1<sup>st</sup> of February, 2021.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive, flowing style.

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Brian Morris, Chief District Judge  
United States District Court