

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO, *et al.*,

Plaintiff,

v.

Case No. 2:15-cv-2467

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, *et al.*,**

Defendants.

ORDER

On August 5, 2020, the Sixth Circuit Court of Appeals issued an Opinion and Judgment dismissing Plaintiffs’ appeal as moot, vacating the Court’s order denying Plaintiffs’ motion for a preliminary injunction, and remanding the case for further proceedings consistent with the court’s opinion. (ECF No. 98.) The mandate issued on September 29, 2020. (ECF No. 100.) The Court of Appeals determined that the preliminary-injunction appeal was moot because the Agencies have both repealed and replaced the rule that the States sought preliminarily to enjoin. (ECF No. 98 at 3.) However, the court determined that the case as a whole remained a live one because there was a “fair prospect” that the challenged conduct “will recur in the foreseeable future”: “given the recent proliferation of nationwide injunctions and the pendency of 15 cases challenging the Repeal or Protection Rules, we cannot exclude the possibility that, as those cases move forward—and by the orders of two judges or even one—the 2015 Rule might again take effect nationwide.” (*Id.* at 5.)

Since the mandate issued on September 29, 2020, there has been no activity in this case. Accordingly, the Court **DIRECTS** the parties to file a notice within **TWENTY DAYS** indicating

that this case remains a live controversy or to file a stipulation of dismissal if this case no longer remains a live controversy.

IT IS SO ORDERED.

8/11/2021
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE