ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK *et al.*,	)	
Petitioners,	)	
v.	)	**No. 21-1028 (consolidated with No. 21-1060)**
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
Respondents.	)	

MOTION OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA *ET AL.* FOR LEAVE TO INTERVENE IN SUPPORT OF RESPONDENTS

Pursuant to Rules 15(d) and 27 of the Federal Rules of Appellate Procedure and D.C. Circuit Rules 15(b) and 27, the Chamber of Commerce of the United States of America, the American Petroleum Institute, the American Forest & Paper Association, the American Wood Council, and the American Chemistry Council (collectively "Movant-Intervenors"), by undersigned counsel, hereby move for leave to intervene in the above-captioned case, No. 21-1028, in support of respondents the United States Environmental Protection Agency ("EPA") and its Acting Administrator (jointly "Respondents"). The petitioners in No. 21-1028, the State of New York and several other states ("State Petitioners"), seek review of the

final, nationally applicable rule promulgated by EPA entitled "Review of the Ozone National Ambient Air Quality Standards," published in the *Federal Register* at 85 Fed. Reg. 87,256 (Dec. 31, 2020), in which EPA decided not to revise the current National Ambient Air Quality Standards ("NAAQS") for ozone. An additional petition for review of the same EPA rule has been filed by numerous environmental and public health groups ("Environmental Petitioners") in American Academy of Pediatrics *et al*. (No 21-1060). That petition was consolidated with No. 21-1028 by Order of this Court dated February 16, 2021. On February 17, 2021, EPA filed an unopposed motion to hold these consolidated cases in abeyance for 90 days.

Counsel for Movant-Intervenors has conferred with counsel for the State Petitioners, counsel for the Environmental Petitioners, and counsel for Respondents. Counsel for all those parties have advised undersigned counsel that those parties take no position on this motion to intervene.

BACKGROUND

EPA issued the final rule involved in this case under Section 109 of the federal Clean Air Act (42 U.S.C. § 7409), which directs EPA to adopt and periodically review, and if necessary revise, the NAAQS for a number of air pollutants. These NAAQS include "primary" standards, which are to be "requisite to protect the public health" with "an adequate margin of safety," and "secondary"

standards, which are to be "requisite to protect the public welfare from any known or anticipated adverse effects" (*id*. § 7409(b)(1)&(2)). These standards are implemented through regulatory programs, known as state implementation plans, under Section 110 of the Clean Air Act (*id*. § 7410).

In 2015, EPA revised both the primary and the secondary NAAQS for ozone, reducing the level of those standards from 0.075 parts per million ("ppm"), equivalent to 75 parts per billion ("ppb"), which had been set in 2008, to a level of 0.070 ppm or 70 ppb. 80 Fed. Reg. 65,292 (Oct. 22, 2015). On judicial review, this Court upheld the primary standard and remanded certain aspects of the secondary standard to EPA for justification or reconsideration. *Murray Energy Corp. v. EPA*, 936 F.3d 597 (D.C. Cir. 2019). Following a detailed review of the evidence, EPA decided to retain both the current primary and the current secondary NAAQS for ozone as meeting the statutory requirements, including consideration of the issues remanded by this Court. 85 Fed. Reg. 87,256 (Dec. 31, 2020). The State and Environmental Petitioners challenge that decision and will argue that EPA was required to make those standards more stringent.

Because ozone is formed by the reaction of precursor chemicals – notably, nitrogen oxides ("NOx") and volatile organic compounds ("VOCs") – in the atmosphere, achieving the NAAQS for ozone in the ambient air requires the necessary reductions in the emissions of those precursor chemicals from the

myriad of sources in virtually all economic sectors that emit those chemicals. To accomplish this, the states are required to develop or revise their state implementation plans to include regulatory control requirements on sources of the precursor chemicals. In addition, states are required to designate geographical areas within them as "nonattainment" areas for the applicable NAAQS (42 U.S.C. § 7407(d)(1)), which carries with it very stringent regulatory requirements, including those applicable to review of potential new and modified sources within such areas (*id*. §§ 7511-7511d). Given requirements such as these, EPA's decisions on the NAAQS for ozone have substantial impacts on all sectors of the United States economy.

Movant-Intervenors submitted extensive comments (as part of a coalition) on EPA's proposed rule that led to the adoption of the final rule at issue in this review proceeding.[1] Those comments took the position that EPA's August 2020 proposal to retain the current primary and secondary NAAQS for ozone was reasonable, adequately explained, and justified by the scientific evidence. By contrast, the State Petitioners (except for Minnesota) submitted comments arguing that EPA's proposal to retain the current ozone NAAQS was flawed, arbitrary, and

[1] *See* Comments of the Alliance for Automotive Innovation and others, including the U.S. Chamber of Commerce, the American Petroleum Institute, the American Forest & Paper Association, the American Wood Council, and the American Chemistry Council (Oct. 1, 2020; Docket ID No. EPA-HQ-OAR-2018-0279-0447).

unlawful, and that EPA should reduce the level of the primary standard and should adopt a more stringent secondary standard than the current standard, using a different form and addressing welfare effects that, in their view, are not adequately addressed by the current standard.[2] Similarly, most of the Environmental Petitioners submitted comments contending that EPA's proposal was unjustified and that the NAAQS were required to be more stringent, including reducing the primary standard to a level no higher than 60 ppb.[3]

Movant-Intervenors have a vital interest in intervening in this review proceeding in order to demonstrate that the Petitioners' arguments that EPA should have made the ozone NAAQS more stringent are without merit. As discussed further below, Movant-Intervenors are several trade associations that represent companies owning or operating facilities that emit ozone precursor chemicals (notably NOx and VOCs). As a result, as also shown below, the additional

[2] *See* Comments of the Attorneys General of New York and other states (Oct. 1, 2020; Docket ID No. EPA-HQ-OAR-2018-0279-0435). *See also, e.g.*, Comments of the New York State Department of Environmental Conservation (Sept. 25, 2020; *id*. at -0430) and Comments of the California Air Resources Board *et al*. (Oct. 1, 2020; *id*. at -0492).

[3] *See, e.g.*, Comments of the American Lung Association and other public health groups (Oct. 1, 202; Docket ID No. EPA-HQ-OAR-2018-0279-0436); Comments of Natural Resources Defense Council and other environmental groups (Oct. 1, 2020; *id*. at -0434); Comments of the Appalachian Mountain Club and other environmental groups (Oct. 1, 2020; *id*. at -0444); Comments of the Chesapeake Bay Foundation (Oct. 1, 2020; *id*. at -0431).

emission control and other regulatory requirements that would have to be included in state implementation plans due to more stringent ozone NAAQS would have substantial adverse impacts on many of Movant-Intervenors' members.

ARGUMENT

Federal Rule of Appellate Procedure 15(d) provides that a motion for leave to intervene "must be filed within 30 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention." This Court, like other courts, has indicated that "the grounds for intervention" required by this rule may be informed by the standards for intervention under Federal Rule of Civil Procedure 24. *Amalgamated Transit Union Int'l v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985); *see also, e.g.*, *Int'l Union, United Auto. Workers of Am., Local 283 v. Scofield*, 382 U.S. 205, 216 n.10 (1965); *Sierra Club, Inc. v. EPA*, 358 F.3d 516, 517-18 (7th Cir. 2004). For an applicant to intervene as of right under Federal Rule of Civil Procedure 24(a)(2), it must, in a timely motion, claim an interest relating to the subject of the action, show that disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, and demonstrate that existing parties may not adequately represent the applicant's interest. *See, e.g.*, *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003).

Federal Rule of Civil Procedure 24(b)(1) authorizes permissive intervention when an applicant shows, in a timely motion, that the applicant's claim or defense and the main action have a question of law or fact in common.

A. Movant-Intervenors Satisfy the Standards for Intervention as of Right.

Movant-Intervenors satisfy the standards for intervention as of right because: (1) they have filed a timely motion; (2) they have interests in the subject matter of this proceeding which may be impaired if the Petitioners prevail; and (3) their interests are not adequately represented by the existing parties.

1. The Motion to Intervene Is Timely.

The State Petitioners filed their petition for review in this proceeding on January 19, 2021. This motion is being filed within 30 days after the filing of that petition and thus is timely under Federal Rule of Appellate Procedure 15(d).

2. Movant-Intervenors Have a Substantial Interest in the Subject of this Proceeding That May Be Impaired by the Outcome.

Movant-Intervenors have a strong and direct interest in opposing any arguments that could lead to a decision to make the 2015 ozone NAAQS more stringent. Brief descriptions of each of the Movant-Intervenors are provided in Addendum A, the Movant-Intervenors' Rule 26.1 Disclosure Statement. These associations represent companies that own or operate facilities throughout the United States that emit the chemicals that form ozone (NOx and VOCs). As such, those companies would experience direct and substantial adverse impacts from a

reduction in the level of the ozone NAAQS (or other EPA decision to make those standards stricter) due to the additional emission control and other regulatory requirements that would need to be included in revised state implementation plans in an effort to achieve such stricter NAAQS. In addition, some of these associations' members may wish to build new emitting facilities or modify existing facilities, and thus would be directly affected by the stringent new source review requirements that would apply to such facilities in areas designated as nonattainment for stricter NAAQS, as well as additional stringent requirements that would apply to new or modified facilities in attainment areas due to such stricter NAAQS.

In short, if the Petitioners should prevail in their contentions that EPA is required to make the ozone NAAQS more stringent, many of Movant-Intervenors' members would suffer severe adverse effects due to the stringent additional regulatory requirements that would be necessitated by such standards. As a result, their interests could be significantly impaired by the outcome of this review proceeding.

As associations representing companies that would be directly and severely affected if the Petitioners should prevail, Movant-Intervenors fall within the class of parties that this Court allows to intervene in cases reviewing final agency action. *See, e.g.*, *Fund for Animals*, 322 F.3d at 735; *Military Toxics Project v. EPA*, 146

F.3d 948, 954 (D.C. Cir. 1998).[4] In fact, in several prior cases in which NAAQS were challenged as insufficiently stringent by many of the same states and environmental groups that are petitioners here, Movant-Intervenors or groups including them were allowed to intervene. *See, e.g.*, *American Farm Bureau Fed'n v. EPA*, 559 F.3d 512 (D.C. Cir. 2009); *Mississippi v. EPA*, 744 F.3d 1334 (D.C. Cir. 2013); *Murray Energy Corp.*, 936 F.3d 597.

3. Movant-Intervenors' Interests Are Not Adequately Represented by the Existing Parties.

It is well established that, to show an absence of adequate representation by existing parties, an applicant for intervention need only show that their representation of its interests "may be" inadequate, not that their representation will in fact be inadequate. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *Dimond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986); *NRDC v. Costle*, 561 F.2d 904, 911 (D.C. Cir. 1977). This burden has been described as "minimal" (*Trbovich*, 404 U.S. at 538 n.10; *NRDC*, 561 F.2d at 911) and "not onerous" (*Dimond*, 792 F.2d at 192; *Fund for Animals*, 322 F.3d at 735).

In this case, the Petitioners cannot adequately represent the interests of Movant-Intervenors because their interests are diametrically opposed to Movant-Intervenors' interests. Nor can the Respondents adequately do so. This Court has

[4] As discussed further in Section B, to the extent that Movant-Intervenors need to show standing to support intervention, they have such standing.

frequently concluded that, even where the interests of a private party seeking intervention and those of a government agency are aligned, the government agency does not adequately represent the private party. *See, e.g.*, *NRDC*, 561 F.2d at 912-13; *Dimond*, 792 F.2d at 192-93; *Fund for Animals*, 322 F.3d at 736. As the Court has pointed out in these cases, the government agency is charged with acting in the interest of the general public, whereas the private party is seeking to protect a more narrow and focused financial or other specific interest and thus cannot be considered to be adequately represented by the government agency. *NRDC*, 561 F.2d at 912; *Dimond*, 792 F.2d at 192-93; *see also Fund for Animals*, 322 F.3d at 736-37.[5]

That is plainly the case here. Movant-Intervenors have specific interests distinct from EPA's broader public mandate – namely, ensuring that their member companies are able to operate the Nation's manufacturing, energy, and other facilities, preserve and create jobs, and provide products critical to the Nation's economy, all in an environmentally sound manner, but without the adverse impacts that would be imposed by a new and unnecessarily stringent standard. Under the above cases, that difference is enough to justify intervention.

[5] In *NRDC*, the Court noted further that, due to that more narrow and focused interest, the private party's participation is "likely to serve as a vigorous and helpful supplement to EPA's defense." 561 F. 2d at 912-13.

B. Movant-Intervenors Have Standing to Intervene.

Although this Court has previously held that an intervenor-respondent must establish its standing under Article III of the Constitution, *see, e.g.*, *Fund for Animals*, 322 F.3d at 731-32, the Supreme Court recently clarified that an intervenor that is not affirmatively invoking the court's jurisdiction (such as the Movant-Intervenors here) need not demonstrate standing. *Virginia House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1950-51 (2019). Nevertheless, Movant-Intervenors have standing in this case.

> An association has standing to sue on behalf of its members when:
>
> (a) its members would otherwise have standing to sue in their own right; (b) the interest it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

Hunt v. Wash. State Apple Advert. Comm'n, 432 U.S. 333, 343 (1977); *see also Sierra Club v. EPA*, 292 F.3d 895, 898 (D.C. Cir. 2002). Only one Movant-Intervenor must satisfy these requirements. *See Military Toxics Project*, 146 F.3d at 954 (holding that standing for one party among a group of aspiring intervenors is sufficient for the group).

In this case, it is clear that many of Movant-Intervenors' members – namely, companies that own and/or operate facilities that emit ozone precursors – would have standing to intervene in their own right, because, as noted above, they would be directly and substantially affected by the regulatory requirements stemming

from any EPA decision to make the current ozone NAAQS more stringent.[6] Specifically, those companies could be required to reduce their emissions or take other control actions, including potentially closing plants and/or scrapping equipment, at great financial cost.

Second, the interests that Movant-Intervenors seek to protect here – i.e., to avoid undue (and unlawful) burdens on their members resulting from stricter ozone NAAQS – are germane to their organizational purpose of promoting the well-being of their member companies and industries, as described in Addendum A. As indicated by the comments submitted by these associations in the present rulemaking, Movant-Intervenors vigorously represent the interests of their members in federal agency rulemakings, including EPA rulemakings, that could adversely affect those interests. Similarly, opposing efforts by others, such as the Petitioners, to obtain judicial relief that would force EPA to adopt more stringent standards that would severely and widely impact Movant-Intervenors' members is clearly within the scope of these organizations' purposes.

Third, neither the claims asserted nor the relief requested in this proceeding (either by the Petitioners or by Movant-Intervenors) requires the participation of Movant-Intervenors' individual members. The issues involved in this review

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[6] *See Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003) ("[A]ny person who satisfies [the intervention standards of] Rule 24(a) will also meet Article III's standing requirement.").

proceeding relate to the general lawfulness of EPA's action in deciding to retain the current ozone NAAQS, and do not pertain to or depend on the circumstances of any specific company or facility. Similarly, the relief involved – i.e., either vacating or upholding the revised ozone NAAQS – would apply nationwide, rather than only to specific companies, and thus does not require the individual members' participation.

These factors demonstrate that Movant-Intervenors have a sufficient stake in the outcome of this case to have standing. Associations representing companies that would be impacted by an agency rule are routinely found to have standing to intervene in cases reviewing that rule. *See, e.g.*, *Military Toxics Project*, 146 F.3d at 954; *American Trucking Ass'ns v. Fed. Motor Carrier Safety Admin.*, 724 F.3d 243, 247 (D.C. Cir. 2013). Indeed, as noted above, in prior cases in which NAAQS were challenged by states or environmental groups seeking more stringent standards, associations representing affected companies (including Movant-Intervenors) were allowed to intervene. *See, e.g.*, *American Farm Bureau Fed'n*, 559 F.3d 512; *Mississippi*, 744 F.3d 1334; *Murray Energy*, 936 F.3d 597.

C. At a Minimum Movant-Intervenors Should Be Granted Permissive Intervention.

Federal Rule of Civil Procedure 24(b)(1)(B) authorizes permissive intervention where an applicant shows, in a timely motion, that it "has a claim or defense that shares with the main action a common question of law or fact." In this

case, Movant-Intervenors oppose the State Petitioners' position that EPA was required to set the ozone NAAQS at a lower or other more stringent level than it did. As such, their positions share common questions of law and/or fact regarding that issue, which are diametrically opposed to each other.

Moreover, as shown above, Movant-Intervenors are filing a timely motion to intervene and have standing to intervene. Their intervention will not "unduly delay or prejudice the adjudication" of the Petitioners' claims (*see* Federal Rule of Civil Procedure 24(b)(3)), because this motion is being submitted at an early stage, before this Court has established a schedule and format for briefing. Indeed, as noted above, on February 17, 2021, EPA filed an unopposed motion to hold these consolidated cases in abeyance for 90 days.

Accordingly, in addition to being entitled to intervention as of right, Movant-Intervenors meet the standards for permissive intervention under Federal Rule of Civil Procedure 24(b) and Federal Rule of Appellate Procedure 15(d).

CONCLUSION

For the foregoing reasons, Movant-Intervenors respectfully seek leave to intervene in support of Respondents in this consolidated review proceeding.

Respectfully submitted,

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Dated: February 18, 2021

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK *et al.*,	)	
	)	
Petitioners,	)	
	)	
v.	)	**No. 21-1028 (consolidated with No. 21-1060)**
	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
	)	
Respondents.	)	

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Motion of the Chamber of Commerce of the United States of America *et al*. for Leave to Intervene in Support of Respondents complies with the requirements of Fed. R. App. P. 32(a)(5) and 32(a)(6) because it has been prepared in proportionally spaced 14-point Times New Roman type.

I further certify that the motion complies with the type volume limitation of Fed. R. App. P. 27(d)(2) and 32(g) because it contains 3,127 words, excluding exempted portions, according to the count of Microsoft Word.

/s/ James R. Bieke
James R. Bieke

Dated: February 18, 2021

ADDENDUM A

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF NEW YORK *et al.*,	)	
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
Respondents.	)	

MOVANT-INTERVENORS' RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, Movant-Intervenors make the following statements:

The Chamber of Commerce of the United States of America (the "Chamber") is the world's largest business federation. The Chamber is a not-for-profit corporation that represents 300,000 direct members and indirectly represents the interests of more than three million companies, state and local chambers, and trade associations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to advocate for the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber is a "trade association" within the meaning of Circuit Rule

26.1(b). The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

The American Petroleum Institute ("API") is a national not-for-profit trade association representing approximately 600 oil and natural gas companies from all segments of the industry, including producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. Its members are leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8% of the U.S. economy, and, since 2000, has invested nearly $2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. API states that it is a "trade association" for purposes of Circuit Rule 26.1(b). API has no parent corporation, and no publicly held company owns a 10% or greater interest in API.

The American Forest & Paper Association ("AF&PA") is the national trade association of the paper and wood products industry. It serves to advance a sustainable U.S. pulp, paper, packaging, tissue, and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative – *Better Practices, Better Planet 2020*. The

forest products industry accounts for approximately 4% of the total U.S. manufacturing gross domestic product, manufactures over $300 billion in products annually, and employs nearly 950,000 men and women. The industry meets a payroll of approximately $55 billion annually and is among the top 10 manufacturing sector employers in 45 states. AF&PA states that it is a "trade association" for purposes of Circuit Rule 26.1(b). AF&PA has no parent corporation, and no publicly held company has 10% or greater ownership in AF&PA.

The American Wood Council ("AWC") is the voice of North American wood products manufacturing, an industry that provides approximately 450,000 men and women in the U.S. with family-wage jobs. AWC represents 86% of the structural wood products industry, and members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. Staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC states that it is a "trade association" for purposes of Circuit Rule 26.1(b). AWC has no parent corporation and no publicly held company has a 10% or greater ownership interest in AWC.

The American Chemistry Council ("ACC") represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier, and safer. ACC is committed to improved environmental, health, and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is an $801 billion enterprise and a key element of the nation's economy. ACC states that it is a "trade association" for purposes of Circuit Rule 26.1(b). ACC has no parent corporation, and no publicly held company has 10% or greater ownership in ACC.

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Dated: February 18, 2021

ADDENDUM B

IN THE UNITED STATES COURT OF APPEALS
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STATE OF NEW YORK *et al.*,	)	
Petitioners,	)	
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
Respondents.	)	

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Movant-Intervenors provide the following information specified in D.C. Circuit Rule 28(a)(1):

A. Parties and *Amici*.

Because this case involves direct review of a final agency action, the requirement to furnish a list of parties, intervenors, and *amici curiae* that appeared below is inapplicable. The above-captioned consolidated review proceeding involves the following parties:

Petitioners in No. 21-1028

State of New York

State of California

State of Connecticut

District of Columbia

State of Illinois

State of Maryland

Commonwealth of Massachusetts

State of Minnesota

State of New Jersey

State of Oregon

Commonwealth of Pennsylvania

State of Rhode Island

State of Vermont

Commonwealth of Virginia

State of Washington

State of Wisconsin

City of New York

Petitioners in No. 21-1060

American Academy of Pediatrics

American Lung Association

American Public Health Association

Appalachian Mountain Club

Chesapeake Bay Foundation, Inc.

Clean Air Council

Conservation Law Foundation

Environment America

Environmental Defense Fund

Environmental Law and Policy Center

National Parks Conservation Association

Natural Resources Council of Maine

Natural Resources Defense Council

Sierra Club

Respondents

United States Environmental Protection Agency ("EPA")

Jane Nishida, Acting Administrator, EPA

Movant-Intervenors

Chamber of Commerce of the United States of America

American Petroleum Institute

American Forest & Paper Association

American Wood Council

American Chemistry Council

B. Rulings Under Review

The petition in this proceeding challenges EPA's final rule entitled "Review of the Ozone National Ambient Air Quality Standards," published in the *Federal Register* at 85 Fed. Reg. 87,256 (Dec. 31, 2020).

C. Related Cases

This case has never appeared before this Court or any other court. By Order of this Court dated February 16, 2021, the above-captioned case (No. 21-1028) was consolidated with American Academy of Pediatrics *et al*. (No. 21-1060), in which the petitioners are challenging the same final EPA rule that is at issue in the present proceeding.

Respectfully submitted,

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Respondents.	)	

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of February, 2021, I served one copy of the foregoing Motion of the Chamber of Commerce of the United States of America *et al*. for Leave to Intervene in Support of Respondents, as well as the addenda thereto, on all registered counsel in these consolidated cases through the Court's CM/ECF system.

/s/ James R. Bieke
James R. Bieke