

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

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STATE OF CALIFORNIA, <i>et al.</i> ,))
))
Petitioners,))
))
v.)) No. 21-1014 (consolidated with
)) Nos. 21-1027 & 21-1054)
))
U.S. ENVIRONMENTAL))
PROTECTION AGENCY, <i>et al.</i> ,))
))
Respondents.))
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**MOTION OF THE AMERICAN FOREST & PAPER ASSOCIATION,
AMERICAN PETROLEUM INSTITUTE, AMERICAN WOOD COUNCIL,
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
NATIONAL MINING ASSOCIATION AND AMERICAN CHEMISTRY
COUNCIL FOR LEAVE TO INTERVENE IN SUPPORT OF
RESPONDENTS**

Pursuant to Federal Rules of Appellate Procedure Rule 15(d) and 27, and Circuit Rules 15(b) and 27, the American Forest & Paper Association, American Petroleum Institute, American Wood Council, Chamber of Commerce of the United States of America, National Mining Association, and American Chemistry Council (collectively referred to herein as “Movant-Intervenors”) respectfully move for leave to intervene in support of respondents in case No. 21-1027,

*American Lung Association, et al. v. U.S. Environmental Protection Agency, et al.*¹

Counsel for Movant-Intervenors has contacted counsel for both Respondents and Petitioners to determine their position on this motion. Counsel for Petitioners in Case Nos. 21-1027 and 21-1014 have stated that they take no position on the motion. Counsel for Respondents have also stated that they take no position on the motion. Counsel for Petitioner in case No. 21-1054 has not provided its position.

In support of this motion, Movant-Intervenors state as follows:

1. The Environmental Protection Agency (“EPA” or “Agency”) limits the level of particulate matter (“PM”) in ambient air through National Ambient Air Quality Standards (“NAAQS”). 40 C.F.R. §§ 50.6, 50.7, 50.13, & 50.18. NAAQS are implemented through controls on existing sources that emit PM or its precursors and through permitting programs for new sources or modifications to existing sources. *See* Clean Air Act §§ 110, 165, 172, 189; 42 U.S.C. §§ 7410, 7475, 7502, 7513a. EPA must review and, if necessary revise, NAAQS at least every five years, taking into account the most recent scientific information. *Id.* § 109(d); 42 U.S.C. § 7409(d).

2. On April 30, 2020, EPA proposed to retain the existing NAAQS for PM without revision. “Review of the National Ambient Air Quality Standards for

¹Under the rules of this Court, by moving to intervene in case No. 1027, Movant-Intervenors are also moving to intervene in the other consolidated cases and in any future cases that are consolidated with the current one. *See* D.C. Cir. R. 15(b).

Particulate Matter; Proposed Action,” 85 Fed. Reg. 24,094 (Apr. 30, 2020) (“Proposed Action”). Movant-Intervenors commented in support of that proposal. Comments of the NAAQS Regulatory Review & Rulemaking Coalition, Dkt. No. EPA-HQ-OAR-2015-0072-0915 (June 29, 2020) (“NR3 Coalition Comments”); Comments of the National Mining Association, Dkt. No. EPA-HQ-OAR-2015-0072-0751 (June 29, 2020). On December 18, 2020, EPA’s final decision to retain the existing PM NAAQS was published in the *Federal Register*. “Review of the National Ambient Air Quality Standards for Particulate Matter; Final Action,” 85 Fed. Reg. 82,684 (Dec. 18, 2020) (“Final Action”).

3. On January 13, 2021, the State of California, State of Connecticut, State of Delaware, State of Illinois, State of Maryland, Commonwealth of Massachusetts, State of Michigan, State of Minnesota, State of New Jersey, State of New York, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, Commonwealth of Virginia, State of Washington, State of Wisconsin, and the City of New York (collectively referred to herein as “State Petitioners”) filed a Petition for Review of EPA’s Final Action. Pet. for Review, *State of California, et al. v. EPA*, 21-1014, ECF No. 1880339 (D.C. Cir. Jan. 13, 2021).

4. On January 19, 2021, a second Petition for Review challenging EPA’s Final Action was filed by the American Lung Association, Chesapeake Bay

Foundation, Inc., Citizens for Pennsylvania's Future, Conservation Law Foundation, Environment America, Environmental Defense Fund, National Parks Conservation Association, Natural Resources Council of Maine, Natural Resources Defense Council, Sierra Club, and the Union of Concerned Scientists. (collectively referred to herein as "ALA Petitioners"). Pet. for Review, *American Lung Association, et al. v. EPA*, 21-1027, ECF No. 1881400 (D.C. Cir. Jan. 19, 2021).

5. On February 9, 2021, a third Petition for Review challenging EPA's Final Action was filed by the Center for Biological Diversity ("Petitioner CBD"). Pet. for Review, *Center for Biological Diversity v. EPA*, 21-1054, ECF No. 1884461 (D.C. Cir. Feb. 9, 2021).

6. This Court, on its own motion, has consolidated these cases. *State of California v. EPA*, No. 21-1014, ECF No. 1884484 (D.C. Cir. Feb. 9, 2021) (order consolidating case filed by Petitioner CBD); ECF No. 1881414 (D.C. Cir. Jan. 22, 2021) (order consolidating case filed by ALA Petitioners). On February 17, 2021, the Court ordered that the consolidated cases be held in abeyance. *Id.*, ECF No. 1885786 (Feb. 17, 2021).

7. The American Forest & Paper Association ("AF&PA") 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 percent 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 participates in administrative proceedings before EPA under environmental statutes and in litigation arising from those proceedings that affect its members. AF&PA's members operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenges, AF&PA's members expect to be required to spend additional funds and resources to comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on AF&PA's members.

8. The American Petroleum Institute (“API”) is a national trade association with approximately 600 corporate members that represents all aspects of America's oil and natural gas industry, including producers, refiners, suppliers, marketers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry. API participates in

administrative proceedings before EPA under environmental statutes and in litigation arising from those proceedings that affect its members. API's members operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenges, API's members expect to be required to spend additional funds and resources to comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on API's members.

9. 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 percent of the structural wood products industry, and its members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. AWC participates in administrative proceedings before EPA under environmental statutes and in litigation arising from those proceedings that affect its members. AWC's members operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenges, AWC's members expect to be required to spend additional funds and resources to

comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on AWC's members.

10. The Chamber of Commerce of the United States of America ("Chamber") is the world's largest business federation, representing 300,000 direct members and indirectly representing the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. Members of the Chamber operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenge, members of the Chamber expect to be required to spend additional funds and resources to comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on Chamber's members.

11. The National Mining Association ("NMA") is a nonprofit national trade association whose members include the producers of most of America's coal, metals, and industrial agricultural minerals; the manufacturers of mining and mineral-processing machinery, equipment and supplies; and, engineering and consulting firms, financial institutions and other firms serving the mining industry.

NMA's general nature and purpose is to represent the interests of approximately 250 members in the U.S. the mining industry before federal agencies, Congress, and the courts. NMA participates in administrative proceedings before EPA under environmental statutes and in litigation arising from those proceedings that affect its members. NMA's members operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenges NMA's members expect to be required to spend additional funds and resources to comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on NMA's members.

12. 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 participates in administrative proceedings before EPA under environmental statutes and in litigation arising from those proceedings that affect its members. ACC's members

operate facilities throughout the U.S. that are subject to the NAAQS for PM, which are the subject of the Final Action challenged in this case. If the ALA Petitioners are successful in their challenges ACC's members expect to be required to spend additional funds and resources to comply with any changes to the standards. Therefore, disposition of the issues raised in this case will have a substantial direct impact on ACC's members.

13. Federal Rule of Appellate Procedure 15(d) requires 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 interest of the moving party and the grounds for intervention.” The policies supporting district court intervention under Federal Rule of Civil Procedure 24, while not binding in cases originating in courts of appeals, may inform the intervention inquiry in this Court. *See, e.g., Amalgamated Transit Union Int’l v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985) (per curiam). The requirements for intervention of right under Federal Rule of Civil Procedure 24(a)(2) are that: (1) the application is timely; (2) the applicant claims an interest relating to the subject of the action; (3) disposition of the action may, as a practical matter, impair or impede the applicant’s ability to protect that interest; and (4) 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). This Court has previously stated that an applicant for intervention meeting

the test for intervention of right also thereby demonstrates Article III standing. *See Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003). More recently, the Supreme Court has recognized 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, 1151 ((2019)). Nevertheless, Movant-Intervenors have standing, as outlined below.

14. This motion is timely because it is being filed within 30 days after the filing of the petition for review in case No. 21-1027. Moreover, this motion is filed at an early stage of the proceedings, before a briefing schedule has been set and Movant-Intervenors do not intend to seek delay in the briefing. Accordingly, their intervention will not prejudice any party or result in delay.

15. Movant-Intervenors seek leave to intervene because their members have a direct and substantial interest in this proceeding that would otherwise go unrepresented by any other party. *See Dimond v. Dist. of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986) (intervention appropriate if “representation of [the movant’s] interest ‘may be’ inadequate”) (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). Because Movant-Intervenors’ members “indisputably will be directly affected” by more stringent NAAQS for PM, their standing and interest in this action is “self-evident[.]” *See Am. Library Ass’n v. FCC*, 401 F.3d

489, 491-92 (D.C. Cir. 2005). Indeed, the impact of more stringent NAAQS on members of Movant-Intervenors would be both direct and immediate. Movant-Intervenors' members construct, operate, and modify major sources that emit PM and its precursors. If a more stringent NAAQS were promulgated, as soon as it became effective, no construction or modification of such sources would be permitted without a demonstration that the source would not cause or contribute to a violation of that NAAQS. *See Murray Energy Corp. v. EPA*, 936 F.3d 597, 624-27 (D.C. Cir. 2019). In addition, sources operated by Movant-Intervenors are routinely required by the Clean Air Act to control emissions that contribute to PM levels that violate the PM NAAQS. *See, e.g.*, Clean Air Act §§ 172(c), 189; 42 U.S.C. §§ 7502(c), 7513a. Not surprisingly, members of Movant-Intervenors have intervened in support of EPA multiple times in past cases involving review and revision of NAAQS. *See, e.g.*, *Murray Energy Corp. v. EPA*, 936 F.3d 597; *Mississippi v. EPA*, 744 F.3d 1334 (D.C. Cir. 2013); *American Farm Bureau Fed'n v. EPA*, 559 F.3d 512 (D.C. Cir. 2009).

16. Further, because Movant-Intervenors' members would otherwise have standing to sue in their own right and the interests they seek to protect are germane to their organizational purposes, each of them has representational standing. *See Sierra Club v. EPA*, 292 F.3d 895, 900 (D.C. Cir. 2002) (“In particular, if the complainant is ‘an object of the action (or forgone action) at issue’ – as is the case

usually in review of a rulemaking and nearly always in review of an adjudication – there should be ‘little question that the action or inaction has caused him injury, and that a judgment preventing or requiring the action will redress it.’”) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561-62 (1992)); see also *S. Coast Air Quality Mgmt. Dist. v. EPA*, 472 F.3d 882, 895-96 (D.C. Cir. 2006). Furthermore, all that is required is that one member of Movant-Intervenors has established standing. See *Military Toxics Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998). Further illustrating the certain impact the Final Action will have on members of Movant-Intervenors, AF&PA and AWC submitted comments describing in greater detail the impact that a more stringent PM NAAQS would have, on a location-by-location basis, on facilities owned by their member companies. See NR3 Coalition Comments, Dkt. No. EPA-HQ-OAR-2015-0072-0915, Attach. 5. Thus, Movant-Intervenors meet the criteria for representational standing.

17. Intervention is appropriate where an intervenor-movant’s legally protectable interest stands to “gain or lose by the direct legal operation and effect of the judgment.” *United States v. AM. Tel. & Tel. Co.*, 642 F.2d 1285, 1292 (D.C. Cir. 1980) (internal quotation marks and citation omitted). This Court has held that “[t]he ‘threatened loss’ of [a] favorable action [by an agency] constitutes a ‘concrete and imminent injury’” justifying intervention of right. Order, *New York v. EPA*, No. 17-1273, ECF No. 1722115 (D.C. Cir. Mar. 14, 2018) (quoting *Fund*

for Animals, 322 F.3d at 733). As discussed above, each Movant-Intervenor's members would be harmed by Petitioner's requested relief because they operate facilities throughout the U.S. that are subject to the NAAQS for PM being challenged in this case. If the ALA Petitioners are successful in their challenges to the final action at issue in this case, Movant-Intervenors' member companies may be required to bear additional costs and expend additional resources that would not be required if EPA's action is upheld.

18. No other party to this case directly represents Movant-Intervenors' interests. The State Petitioners, ALA Petitioners, and Petitioner CBD are individual states, a city and environmental advocacy organizations and do not represent Movant-Intervenors' interests. Indeed, based on the comments that they filed on the Proposed Action, Movant-Intervenors anticipate that the asserted positions of State Petitioners, ALA Petitioners and Petitioner CBD will be largely contrary to Movant-Intervenors' positions. *See, e.g.*, Comments of the California Air Resources Board & California Office of Environmental Health Hazard Assessment, Dkt. No. EPA-HQ-OAR-2015-0072-0975 (June 29, 2020); Comments of the Allergy & Asthma Network, American Lung Association, *et al.*, (undated), Dkt. No. EPA-HQ-OAR-2015-0072-0702; Comments of the Center for Biological Diversity & Sound Rivers, Dkt. No. EPA-HQ-OAR-2015-0072-1140 (June 29, 2020). Further, while Movant-Intervenors' positions will likely align somewhat

with Respondents' positions, Movant-Intervenors' interests are likely to diverge from Respondents' regulatory and institutional interests in significant ways, given that Respondents are governmental regulators responsible to the public as a whole. Even where Movant-Intervenors' and Respondents' interests may coincide, "that [would] not necessarily mean that adequacy of representation is ensured." *NRDC v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977). Movant-Intervenors' interests are "more narrow and focused than [Respondents']," and thus their participation is "likely to serve as a vigorous and helpful supplement to [Respondents'] defense." *Id.* at 912-913. Moreover, this Court has long recognized the "inadequacy of governmental representation" when the government has no financial stake in the outcome of the suit but the private intervenor does. *See, e.g., Dimond*, 792 F.2d at 192 (following "the relatively large class of cases" that "recogniz[e] the inadequacy of governmental representation of the interests of private parties"); *Fund for Animals*, 322 F.3d at 736 (despite overlap in interests, U.S. Fish and Wildlife Service would not give Mongolia's interests the same "primacy"); *NRDC*, 561 F.2d at 912 n.41 (representation may not be adequate because "parties have different scopes to their interest."). Mere general alignment between a private party and a government agency is insufficient to establish adequate representation. *See, e.g., Fund for Animals*, 322 F.3d at 736.

19. Movant-Intervenors also satisfy the criteria for permissive intervention. Under the Federal Rules of Civil Procedure, which, as noted above, may inform decisions on intervention in this Court, the Court may grant permissive intervention sought by a timely motion when the movant “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b). As discussed above, this motion is timely. Moreover, Movant-Intervenors share common questions with the other parties to this case concerning the legal and factual basis for the Final Action.

WHEREFORE, Movant-Intervenors respectfully request that the Court grant this Motion for Leave to Intervene in Support of Respondents.

Of Counsel:

Michael B. Schon
U.S. Chamber Litigation Center
1615 H St., NW
Washington, DC 20036
(202) 463-5948
mschon@uschamber.com
*Counsel for Chamber of Commerce of
the United States of America*

Tawny Bridgford
National Mining Association
101 Constitution Ave., NW
Washington, DC 20001
(202) 463-2629
tbridgford@nma.org
*Counsel for National Mining
Association*

Respectfully submitted,

/s/Lucinda Minton Langworthy
Lucinda Minton Langworthy
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, NW
Washington, D.C. 20037
(202) 955-1525
clangworthy@HuntonAK.com

/s/Elbert Lin
Elbert Lin
Hunton Andrews Kurth LLP
951 East Byrd Street
Richmond, VA 23219
(804) 788-7202
elin@HuntonAK.com

Counsel for Movant-Intervenors

DATED: February 18, 2021

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Motion of Movant-Intervenors American Forest & Paper Association, American Petroleum Institute, American Wood Council, Chamber of Commerce of the United States of America, and National Mining Association 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 3,206 words, excluding exempted portions, according to the count of Microsoft Word.

/s/ Lucinda Minton Langworthy
Lucinda Minton Langworthy

DATED: February 18, 2021

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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U.S. ENVIRONMENTAL)	
PROTECTION AGENCY, <i>et al.</i> ,)	
)	
Respondents.)	

**MOVANT-INTERVENORS
RULE 26.1 STATEMENTS**

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

The American Forest & Paper Association (“AF&PA”) 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 percent 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 percent or greater ownership in AF&PA.

The American Petroleum Institute (“API”) is a national trade association with approximately 600 corporate members that represents all aspects of America’s oil and natural gas industry, including producers, refiners, suppliers, marketers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry. 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 has 10 percent or greater ownership in API.

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 percent of the structural wood products industry, and its members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. 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 percent or greater ownership interest in AWC.

The Chamber of Commerce of the United States of America (“Chamber”) is the world’s largest business federation, representing 300,000 direct members and indirectly representing the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. The Chamber is a “trade association” within the meaning of Circuit Rule 26.1(b). No publicly held company has a 10 percent or greater ownership interest in the Chamber.

The National Mining Association (“NMA”) is a nonprofit national trade association whose members include the producers of most of America’s coal, metals, and industrial agricultural minerals; the manufacturers of mining and mineral-processing machinery, equipment and supplies; and, engineering and consulting firms, financial institutions and other firms serving the mining industry. It is not a publicly held corporation and has no parent corporation. No publicly held company has 10% or greater ownership interest in NMA.

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.

Of Counsel:

Michael B. Schon
U.S. Chamber Litigation Center
1615 H St., NW
Washington, DC 20036
(202) 463-5948
mschon@uschamber.com
*Counsel for Chamber of Commerce of
the United States of America*

Tawny Bridgford
National Mining Association
101 Constitution Ave., NW
Washington, DC 20001
(202) 463-2629
tbridgford@nma.org
*Counsel for National Mining
Association*

Respectfully submitted,

/s/Lucinda Minton Langworthy
Lucinda Minton Langworthy
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, NW
Washington, D.C. 20037
(202) 955-1525
clangworthy@HuntonAK.com

/s/Elbert Lin
Elbert Lin
Hunton Andrews Kurth LLP
951 East Byrd Street
Richmond, VA 23219
(804) 788-7202
elin@HuntonAK.com

Counsel for Movant-Intervenors

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UNITED STATES COURT OF APPEALS FOR
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)	
Respondents.)	
)	

**MOVANT-INTERVENORS
CERTIFICATE OF PARTIES AND *AMICI***

As required by Circuit Rule 27(a)(4) and pursuant to Circuit Rule 28(a)(1)(A), the following Certificate as to Parties and *Amici* is made on behalf of Movant-Intervenors:

Parties and *Amici*

This case involves a challenge to a final action taken by Respondents, U.S. Environmental Protection Agency and the EPA Administrator (collectively “EPA” or “Agency”) entitled, “Review of the National Ambient Air Quality Standards for Particulate Matter,” which was published in the *Federal Register* at 85 Fed. Reg. 82,684 (Dec. 18, 2020). There was no action in the district court, and so there were no parties in the district court. The parties in this case include:

Petitioners

Case No. 21-1014: State of California, State of Connecticut, State of Delaware, State of Illinois, State of Maryland, Commonwealth of Massachusetts, State of Michigan, State of Minnesota, State of New Jersey, State of New York, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, Commonwealth of Virginia, State of Washington, State of Wisconsin, and the City of New York.

Case No. 21-1027: American Lung Association, Chesapeake Bay Foundation, Inc., Citizens for Pennsylvania's Future, Conservation Law Foundation, Environment America, Environmental Defense Fund, National Parks Conservation Association, Natural Resources Council of Maine, Natural Resources Defense Council, Sierra Club, and the Union of Concerned Scientists.

Case No. 21-1054: Center for Biological Diversity

Respondents

U.S. Environmental Protection Agency

Andrew Wheeler, Administrator, U.S. Environmental Protection Agency.

Jane Nishida, Acting Administrator, U.S. Environmental Protection Agency

Movant Respondent-Intervenors

American Forest & Paper Association, American Petroleum Institute, American Wood Council, Chamber of Commerce of the United States of America, National Mining Association and the American Chemistry Council.

We are unaware that this Court has granted any interventions at this time.

We also believe that no entity has been admitted as an *amicus* at this time.

Of Counsel:

Michael B. Schon
U.S. Chamber Litigation Center
1615 H St., NW
Washington, DC 20036
(202) 463-5948
mschon@uschamber.com
*Counsel for Chamber of Commerce of
the United States of America*

Tawny Bridgford
National Mining Association
101 Constitution Ave., NW
Washington, DC 20001
(202) 463-2629
tbridgford@nma.org
*Counsel for National Mining
Association*

Respectfully submitted,

/s/Lucinda Minton Langworthy
Lucinda Minton Langworthy
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, NW
Washington, D.C. 20037
(202) 955-1525
clangworthy@HuntonAK.com

/s/Elbert Lin
Elbert Lin
Hunton Andrews Kurth LLP
951 East Byrd Street
Richmond, VA 23219
(804) 788-7202
elin@HuntonAK.com

Counsel for Movant-Intervenors

DATED: February 18, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of February, 2021, I caused to be electronically filed the foregoing Motion of Movant-Intervenors American Forest & Paper Association, American Petroleum Institute, American Wood Council, Chamber of Commerce of the United States of America, National Mining Association and the American Chemistry Council for Leave to Intervene in Support of Respondents, Rule 26.1 Statements, and Certificate of Parties and *Amici* with the Clerk of the Court of the United States Court of Appeals for the District of Columbia Circuit by using the Court's CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the Court's CM/ECF system.

/s/ Lucinda Minton Langworthy
Lucinda Minton Langworthy