ORAL ARGUMENT NOT YET SCHEDULED

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

SIERRA CLUB *et al.*,	)	
	)	
Petitioners,	)	
	)	
v.	)	**No. 15-1490 (consolidated with Nos. 15-1385, 15-1392, 15-1491, 15-1494)**
	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
	)	
Respondents.	)	

UNOPPOSED MOTION OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA *ET AL.* TO INTERVENE ON BEHALF 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 National Association of Manufacturers, the American Petroleum Institute, the Utility Air Regulatory Group, the Portland Cement Association, the American Coke and Coal Chemicals Institute, the Independent Petroleum Association of America, the National Oilseed Processors Association, the American Fuel & Petrochemical Manufacturers, the American Chemistry Council, the American Forest & Paper Association, the American Foundry Society, the American Iron and Steel Institute, and the American Wood Council

(collectively "Movant-Intervenors"), by undersigned counsel, hereby move to intervene in the above-captioned case, No. 15-1490, in support of respondents the United States Environmental Protection Agency ("EPA") and Gina McCarthy, Administrator of EPA (collectively "Respondents"). The petitioners in this case – Sierra Club, Physicians for Social Responsibility, National Parks Conservation Association, Appalachian Mountain Club, and West Harlem Environmental Action, Inc. (collectively "Environmental Petitioners") – seek review of the final, nationally applicable rule promulgated by EPA entitled "National Ambient Air Quality Standards for Ozone," published in the *Federal Register* at 80 Fed. Reg. 65292 (October 26, 2015). Environmental Petitioners are expected to challenge that rule as insufficiently stringent. Other petitions for review of the same EPA rule have been filed by Murray Energy Corporation (No. 15-1385), the State of Arizona *et al*. (No. 15-1392), the Chamber of Commerce of the United States *et al*. (consisting of many of the Movant-Intervenors) (No. 15-1491), and the State of Texas *et al*. (No. 15-1494) and will challenge the rule as overly stringent.[1] All of these cases have been consolidated with the instant case by Orders of this Court dated December 28, 2015 and January 4, 2016.

[1] Petitioners Sierra Club and Physicians for Social Responsibility, along with the American Lung Association and Natural Resources Defense Council, have moved to intervene in the Murray Energy Corporation petition (No. 15-1385) in support of Respondents; and the States of Wisconsin, Utah, and Kentucky have moved to intervene in the petition by Arizona *et al*. (No. 15-1392) in support of the state petitioners.

Counsel for Movant-Intervenors has conferred with counsel for the Environmental Petitioners, counsel for Respondents, and counsel for all other parties in the consolidated cases seeking review of the same EPA rule, as well as counsel for the other movants for intervention in those cases. Counsel for all of those parties and movants have authorized undersigned counsel to represent that those parties and movants do not oppose this motion to intervene.

BACKGROUND

The final EPA rule involved in the present petition and in the consolidated petitions identified above was promulgated by EPA under Section 109 of the federal Clean Air Act (42 U.S.C. § 7409), which directs EPA to adopt and periodically update national ambient air quality standards ("NAAQS") for a number of air pollutants. These are to 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 to be implemented through regulatory programs, known as state implementation plans, under Section 110 of the Act (*id.* § 7410).

The EPA rule at issue here constitutes a revision of 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 a 2008 rulemaking as a reduction from the previous standard of 0.08 ppm (73 Fed. Reg. 16436, March 27, 2008) – to a level of 0.070 ppm or 70 ppb. 80 Fed. Reg. 65292.

Because ozone is formed by the reaction of precursor chemicals – notably, nitrogen oxides ("NOx") and volatile organic compounds ("VOCs") – in the atmosphere, reducing ozone levels can be achieved only by reducing the emissions of those precursor chemicals from the myriad of sources in virtually all economic sectors that emit those chemicals. In an effort to reduce emissions of those chemicals and attain the revised NAAQS, the states are required to develop new or revised state implementation plans with additional regulatory control requirements (many of which are currently unknown) on sources of the precursor chemicals.[2] Further, a lower ozone NAAQS will require the states to designate many new or expanded geographical areas as "nonattainment" areas for the revised 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). Through requirements such as these, the revised NAAQS will have substantial and widespread adverse impacts on members of all of the Movant-Intervenors and on all sectors of the United States economy.

[2] See EPA's *Regulatory Impact Analysis of the Proposed Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone* (November 2014), EPA Docket ID No. EPA-HQ-OAR-2013-0169.

Movant-Intervenors submitted extensive comments on the EPA proposed rule that led to the adoption of the final rule at issue in this review proceeding.[3] Those comments opposed any reduction in the level of the primary and secondary NAAQS for ozone, arguing that such a reduction would not meet applicable legal standards. By contrast, at least some of the Environmental Petitioners submitted comments arguing that EPA should reduce the standards even further than the level that EPA ultimately adopted – i.e., by reducing the primary standard to a level of 60 ppb and setting a secondary standard using a different, seasonal form, which would be more stringent than the standard set by EPA.[4] While Movant-Intervenors continue to believe that EPA's final rule reducing the level of the ozone NAAQS is unlawful, and thus many of them have filed a separate petition to challenge that rule (No. 15-1491), they also have a vital interest in intervening in the review proceeding filed by Environmental Petitioners in order to demonstrate that Environmental Petitioners' arguments that EPA should have made the NAAQS even more stringent are without merit.

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[3] See, *e.g.*, Comments of the U.S. Chamber of Commerce, the National Association of Manufacturers, and other associations (Docket ID No. EPA-HQ-OAR-2008-0699-2397); Comments of American Petroleum Institute (*id*.-2465); Comments of Utility Air Regulatory Group (*id*.-3174); Comments of Independent Petroleum Association of America (*id*.-2065); Comments of American Fuel & Petrochemical Manufacturers (*id*.-3300).

[4] See comments of Sierra Club and Physicians for Social Responsibility cited in the Motion of Health and Environmental Organizations to Intervene on Behalf of Respondents in No. 15-1385, dated November 24, 2015 (Document #1585195).

In fact, the more stringent standards sought by Environmental Petitioners would have even more devastating impacts on Movant-Intervenors' members and the overall economy than the NAAQS that EPA did adopt. For example, an economic analysis in the record estimates that a standard of 65 ppb, if attainable, could, over the period from 2017 through 2040, cost nearly $1.1 trillion (present value) and result in a loss of approximately 1.4 million job equivalents. [5] A standard of 60 ppb would be even harder to attain and would have even more severe economic impacts – a potential annual cost of $270 million over the same period (for a total cost of over $6 trillion) and a loss of approximately 2.9 million job equivalents.[6] In fact, comments in the record show that a standard in the range of 60-70 ppb may not be attainable at all in large parts of the country due to background ozone concentrations (i.e., those that are not attributable to anthropogenic U.S. sources).[7]

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

[5] See analysis by NERA Economic Consulting, attached to Comments of U.S. Chamber of Commerce et al. (Docket ID No. EPA-HQ-OAR-2008-0699-2397).

[6] See analysis by NERA Economic Consulting, attached to comments of the National Association of Manufacturers (*id*-2463).

[7] See comments cited in note 3 above.

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 v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985); *see also, e.g., Int'l Union 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.

In addition, an intervenor must establish its standing under Article III of the Constitution. *See, e.g., Fund for Animals*, 322 F.3d at 731-32; *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003).

As shown below, Movant-Intervenors satisfy the standards for intervention here because: (1) they have filed a timely motion; (2) they have interests in the

subject matter of this proceeding which will be impaired if Environmental Petitioners prevail, and have standing to intervene; (3) their interests are not adequately represented by the existing parties; and (4) in any event, they will raise questions of law or fact that are common with the petition for review.

1. The Motion to Intervene Is Timely.

Environmental Petitioners filed their petition for review in this proceeding on December 23, 2015. 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 Outcome of This Proceeding and Have Standing to Intervene.

Movant-Intervenors have strong interests in the revised NAAQS for ozone. 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 that emit ozone precursor chemicals (notably NOx and VOCs). As such, those companies will be directly and significantly affected by the revised ozone NAAQS due to the emission control and other regulatory requirements that will need to be included in revised state implementation plans in an effort to achieve the revised NAAQS. In addition, some of these associations' members may wish to build new emitting facilities or modify existing facilities and thus will be directly affected by the stringent new source review requirements that will apply to such facilities in areas newly

designated as nonattainment for the revised NAAQS, as well as additional stringent requirements that will apply to such new or modified facilities immediately in attainment areas due to the revised NAAQS.

As previously noted, many of the Movant-Intervenors have filed their own petition for review (No. 15-1491) challenging EPA's decision to reduce the level of the ozone NAAQS. At the same time, Movant-Intervenors have a substantial and direct interest in opposing Environmental Petitioners' arguments that EPA was required to set the revised ozone NAAQS at even more stringent levels. If Environmental Petitioners should prevail in that challenge, the adverse impacts on Movant-Intervenors' members that generate ozone precursors would be even more severe due to the more stringent regulatory requirements that would be necessitated by such a further reduced standard.

As associations representing companies that are directly affected by the challenged rule and that would be more severely affected if Environmental Petitioners should prevail, Movant-Intervenors fall within the class of parties that have standing and sufficient protectable interests to intervene.

> 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 Adver. 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 v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998) (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 will be directly and substantially affected by the regulatory requirements stemming from the revised NAAQS, and even more affected if EPA should be required to lower the standard levels even further. Specifically, those companies could be required to reduce their emissions or take other control actions, including potentially the closure of plants and/or scrapping of 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 revised 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 Environmental 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.[8]

Third, neither the claims asserted nor the relief requested in this proceeding (either by Environmental Petitioners or by Movant-Intervenors) requires the participation of Movant-Intervenors' individual members. The issues involved in this review proceeding relate to the general lawfulness of EPA's action in promulgating revised 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. By the same token, they have a sufficient interest in the outcome to support intervention, because a decision upholding Environmental Petitioners' position that the ozone NAAQS should have been made even more stringent would have concrete and substantial adverse

[8] This is evidenced by the fact that, in prior challenges to NAAQS by environmental groups, many of the present Movant-Intervenors were allowed to intervene in opposition to those challenges, as shown by the cases cited on the next page.

impacts on Movant-Intervenors' members. Associations representing companies that would be impacted by an agency rule are routinely allowed to intervene in cases reviewing that rule. See, *e.g.*, *Military Toxics Project*, 146 F.3d at 954. Indeed, in prior cases in which NAAQS were challenged by environmental groups seeking more stringent standards, many of these same Movant-Intervenors were allowed to intervene. See, *e.g.*, *American Farm Bureau Federation v. EPA*, 559 F.3d 512 (D.C. Cir. 2009); *Mississippi v. EPA*, 744 F.3d 1334 (D.C. Cir. 2013); *Center for Biological Diversity v. EPA*, 749 F.3d 1079 (D.C. Cir. 2014).

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*, 404 U.S. 528, 538 n.10 (1972); *Dimond v. Dist. 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, Environmental Petitioners cannot adequately represent the interests of Movant-Intervenors because their interests are diametrically opposed to Movant-Intervenors' interests. Nor can Respondents adequately do so. Although

Movant-Intervenors are moving to intervene in this proceeding in support of Respondents, their interests are not fully aligned with those of EPA, as evidenced by the fact that many of them have filed their own petition for review of EPA's final revised ozone NAAQS. As such, while Movant-Intervenors will support EPA's decision not to adopt the stricter standards sought by Environmental Petitioners, they also believe that the standards that EPA did adopt are overly stringent. Thus, Movant-Intervenors may well raise different legal arguments and certainly cannot rely on EPA to raise all of the arguments necessary to protect their interests. For this reason, EPA cannot adequately represent Movant-Intervenors' interests.

In any event, this Court has 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.[9] That is plainly the case here, where 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, construction, 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 created by a new standard that they believe is unnecessarily stringent. Under the above cases, that difference is sufficient to justify intervention.

4. Movant-Intervenors also Meet the Standard for 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 Environmental Petitioners' position that EPA was required to set the ozone NAAQS at a lower (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

[9] 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.

or prejudice the adjudication" of Environmental 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.

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 thus under Federal Rule of Appellate Procedure 15(d) as well.

CONCLUSION

For the foregoing reasons, Movant-Intervenors respectfully seek leave to intervene in support of Respondents in Case No. 15-1490.

Respectfully submitted,

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Dated: January 22, 2016

ADDENDUM A

IN THE UNITED STATES COURT OF APPEALS
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SIERRA CLUB *et al.*,	)	
Petitioners,	)	
v.	)	**No. 15-1490 (consolidated with Nos. 15-1385, 15-1392, 15-1491, and 15-1494)**
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 3 million companies, state and local chambers, and trade associations of every size, in every industry sector, and from every region of the country. A central 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 has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

The National Association of Manufacturers ("NAM") is the largest manufacturing association in the United States. It is a national not-for-profit trade association representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million men and women, contributes more than $2.17 trillion to the U.S. economy annually, has the largest economic impact of any major sector, and accounts for two-thirds of private-sector research and development. The NAM's mission is to enhance the competitiveness of manufacturers by shaping a legislative and regulatory environment conducive to U.S. economic growth and to increase understanding among policymakers, the media, and the general public about the vital role of manufacturing to America's economic future and living standards. It is the powerful voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States. The NAM has no parent corporation, and no publicly held company has 10% or greater ownership in the NAM.

The American Petroleum Institute ("API") is a national not-for-profit trade association representing over 590 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 has no parent corporation, and no publicly held company owns a 10% or greater interest in API.

The Utility Air Regulatory Group ("UARG") is a group of individual electric generating companies and national trade associations. The vast majority of electric energy in the United States is generated by individual members of UARG or by other members of UARG's trade association members. UARG's purpose is to participate on behalf of its members collectively in administrative proceedings under the Clean Air Act that affect electric generators and in litigation arising from those proceedings. UARG has no outstanding shares or debt securities in the hands of the public and has no parent company. No publicly held company has a 10% or greater ownership interest in UARG.

The Portland Cement Association ("PCA") is a national not-for-profit trade association representing companies responsible for more than 80% of cement-making capacity in the United States. Its members operate manufacturing plants in 35 states, with distribution centers in all 50 states. PCA conducts market

development, engineering, research, education, technical assistance, and public affairs programs on behalf of its members. Its mission includes a focus on improving and expanding the quality and uses of cement and concrete, raising the quality of construction, and contributing to a better environment. PCA has no parent corporation, and no publicly held company owns a 10% or greater interest in PCA.

The American Coke and Coal Chemicals Institute ("ACCCI"), founded in 1944, is an international trade association that represents 100% of the U.S. producers of metallurgical coke used for iron and steelmaking, and 100% of the Nation's producers of coal chemicals, who combined have operations in 12 states. It also represents chemical processors, metallurgical coal producers, coal and coke sales agents, and suppliers of equipment, goods, and services to the industry. ACCCI has no parent corporation, and no publicly held company has 10% or greater ownership in ACCCI.

The Independent Petroleum Association of America ("IPAA") is a national not-for-profit trade association that represents the thousands of independent oil and natural gas producers and service companies across the United States. Independent producers develop 90% of American oil and gas wells, produce 54% of American oil, and produce 85% of American natural gas. IPAA has over 6,000 members, including companies that produce oil and natural gas ranging in size from large

publicly traded companies to small businesses, companies that support this production such as drilling contractors, service companies, and financial institutions. IPAA has no parent corporation, and no publicly held company owns a 10% or greater interest in IPAA.

The National Oilseed Processors Association ("NOPA") is a national not-for-profit trade association that represents 12 companies engaged in the production of vegetable meals and vegetable oils from oilseeds, including soybeans. NOPA's member companies process more than 1.6 billion bushels of oilseeds annually at 63 plants in 19 states, including 57 plants which process soybeans. NOPA has no parent corporation, and no publicly held company has 10% or greater ownership in NOPA.

The American Fuel & Petrochemical Manufacturers ("AFPM") is a national not-for-profit trade association whose members comprise more than 400 companies, including virtually all United States refiners and petrochemical manufacturers, and supply consumers with a wide range of products and services that are used daily in homes and businesses. AFPM has no parent corporation, and no publicly held company owns a 10% or greater interest in AFPM.

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 has no parent corporation, and no publicly held company has 10% or greater ownership in ACC.

The American Forest & Paper Association ("AF&PA") is the national trade association of the paper and wood products industry, which accounts for approximately 4% of the total U.S. manufacturing gross domestic product. The industry makes products essential for everyday life from renewable and recyclable resources, producing about $210 billion in products annually and employing nearly 900,000 men and women with an annual payroll of approximately $50 billion. AF&PA has no parent corporation, and no publicly held company has 10% or greater ownership in AF&PA.

The American Foundry Society ("AFS"), founded in 1896, is the leading U.S.-based metalcasting society, assisting member companies and individuals to effectively manage their production operations, profitably market their products and services, and equitably manage their employees. The association is composed of more than 7,500 individual members representing over 3,000 metalcasting

firms, including foundries, suppliers, and customers. AFS has no parent corporation, and no publicly held company has 10% or greater ownership in AFS.

The American Iron and Steel Institute ("AISI") serves as the voice of the North American steel industry and represents 19 member companies, including integrated and electric furnace steelmakers, accounting for the majority of U.S. steelmaking capacity with facilities located in 41 states, Canada, and Mexico, and approximately 125 associate members who are suppliers to or customers of the steel industry. AISI has no parent corporation, and no publicly held company has 10% or greater ownership in AISI.

The American Wood Council ("AWC") is the voice of North American traditional and engineered wood products, representing over 75% of the industry that provides approximately 400,000 men and women with family-wage jobs. AWC members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. AWC has no parent corporation, and no publicly held company has a ten percent (10%) or greater ownership interest in AWC.

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Dated: January 22, 2016

ADDENDUM B

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

SIERRA CLUB *et al.*,	)	
	)	
Petitioners,	)	
	)	
v.	)	**No. 15-1490 (consolidated**
	)	**with Nos. 15-1385, 15-1392,**
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	**15-1491, and 15-1494)**
	)	
Respondents.	)	

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Movant-Intervenors provide the following information pursuant to 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 case (No. 15-1490) involves the following parties:

Petitioners

Sierra Club

Physicians for Social Responsibility

National Parks Conservation Association

Appalachian Mountain Club

West Harlem Environmental Action, Inc.

Respondents

United States Environmental Protection Agency ("EPA")

Gina McCarthy, Administrator, EPA

Movant-Intervenors

Chamber of Commerce of the United States of America

National Association of Manufacturers

American Petroleum Institute

Utility Air Regulatory Group

Portland Cement Association

American Coke and Coal Chemicals Institute

Independent Petroleum Association of America

National Oilseed Processors Association

American Fuel & Petrochemical Manufacturers

American Chemistry Council

American Forest & Paper Association

American Foundry Society

American Iron and Steel Institute

American Wood Council

B. Rulings Under Review

This petition challenges EPA's final rule entitled "National Ambient Air Quality Standards for Ozone," published in the *Federal Register* at 80 Fed. Reg. 65292 (October 26, 2015).

C. Related Cases

This case has never appeared before this Court or any other court. By orders of this Court dated December 28, 2015 and January 4, 2016, the above-captioned case was consolidated with the following related cases in which the petitioners are challenging the same final EPA rule that is at issue in the present proceeding:

(1) *Murray Energy Corporation v. EPA*, No. 15-1385 (filed on October 26, 2015);

(2) *Arizona et al. v. EPA et al.*, No. 15-1392 (filed on October 27, 2015, in which the petitioners are the States of Arizona, Arkansas, North Dakota, and Oklahoma and the New Mexico Environmental Department);

(3) *Chamber of Commerce of the United States or America et al. v. EPA et al.*, No. 15-1491 (filed on December 23, 2015, in which the petitioners consist of many of the present Movant-Intervenors); and

(4) *Texas et al. v. EPA et al.*, No. 15-1494 (filed on December 23, 2015, in which petitioners are the State of Texas and the Texas Commission on Environmental Quality).

The American Lung Association, Sierra Club, Natural Resources Defense Council, and Physicians for Social Responsibility have moved to intervene in No. 15-1385. The States of Wisconsin, Utah, and Kentucky have moved to intervene in No. 15-1392.

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

SIERRA CLUB *et al.*,	)	
	)	
Petitioners,	)	
	)	
v.	)	**No. 15-1490 (consolidated with Nos. 15-1385, 15-1392, 15-1491, and 15-1494)**
	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,	)	
	)	
Respondents.	)	

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January, 2016, I served one copy of the foregoing Motion of the Chamber of Commerce of the United States of America *et al*. 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