

ORAL ARGUMENT NOT SCHEDULED

No. 19-1230

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

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UNION OF CONCERNED SCIENTISTS, et al.,

*Petitioners,*

v.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,

*Respondent.*

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**NOTICE REGARDING D.C. CIRCUIT RULE 15(B) BY THE COALITION  
FOR SUSTAINABLE AUTOMOTIVE REGULATION AND THE  
ASSOCIATION OF GLOBAL AUTOMAKERS, INC.**

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*Attorneys for the Coalition for  
Sustainable Automotive Regulation and  
the Association of Global Automakers,  
Inc.*

This action initially involved petitioners' October 28, 2019 filing of a protective petition for review of the final action of the National Highway Traffic Safety Administration (NHTSA), entitled the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, 84 Fed. Reg. 51,310 (Sept. 27, 2019) (the "ONP Rule"). *See Union of Concerned Scientists v. NHTSA*, No. 19-1230, Doc. No. 1813281 ("*UCS*"). On November 21, 2019, the Coalition for Sustainable Automotive Regulation (the "Coalition") and the Association of Global Automakers, Inc. ("Global Automakers") (collectively, "Intervenors") were granted leave to intervene in *UCS*. *See* Doc. No. 1816934.

On November 15, 2019, three separate, additional petitions for review were filed before this Court, protectively seeking review of the final NHTSA action, and also seeking review of the final action of the Environmental Protection Agency (EPA) as part of the ONP Rule in the same Federal Register notice as the challenged NHTSA action. *See California v. Wheeler*, No. 19-1239, Doc. No. 1816808; *S. Coast Air Quality Mgmt. Dist. v. EPA*, No. 19-1241, Doc. No. 1816493; *Nat'l Coalition for Advanced Transp. v. EPA*, No. 19-1242, Doc. No. 1816844. On November 19 and 20, 2019, the Court issued an order consolidating these three cases with *UCS*. *See* Doc. Nos. 1816510, 1816817, 1816851.

Since then, three other petitions for review have been filed before this Court. Two of those petitions seek review only of EPA's final action in the ONP Rule. *See*

*Sierra Club v. EPA*, No. 19-1243, Doc. No. 1817486; *Advanced Energy Econ. v. EPA*, No. 19-1249, Doc. No. 1818015. The third petition, like the petitions filed on November 15, 2019, protectively seeks review of the final NHTSA action and also seeks review of the final EPA action. *City & Cty. of San Francisco v. Wheeler*, No. 19-1246, Doc. No. 1817978. On November 25 and 27, 2019, these three additional cases were also consolidated with *UCS*. See Doc. Nos. 1817490, 1818023.

Pursuant to D.C. Circuit Rule 15(b), “[a] motion to intervene in a case before this court concerning direct review of an agency action will be deemed a motion to intervene in all cases before this court involving the same agency action or order, including later filed cases, unless the moving party specifically states otherwise.” D.C. Cir. R. 15(b). Furthermore, the Rule provides that “an order granting such motion has the effect of granting intervention in all such cases.” *Id.*

In light of (i) this Rule, (ii) the consolidation of the six above-mentioned cases with *UCS*, and (iii) the Court’s order granting Intervenors’ motion to participate as a party in *UCS*, Intervenors hereby state their understanding that the order granting the motion to intervene in *UCS* shall be deemed to apply to all later-filed cases involving the same agency action or order—here, the ONP Rule, which sets forth the challenged final actions taken by both NHTSA and EPA. Thus, the effect of this Court’s order granting Intervenors’ motion in *UCS* is that Intervenors are also a party to each of *California v. Wheeler*, No. 19-1239, *South Coast Air Quality Management*

*District v. EPA*, No. 19-1241, *National Coalition for Advanced Transportation v. EPA*, No. 19-1242, *Sierra Club v. EPA*, No. 19-1243, *City & County of San Francisco v. Wheeler*, No. 19-1246, and *Advanced Energy Economy v. EPA*, No. 19-1249, as well as to any later-filed cases.

Intervenors file this notice in an abundance of caution and in order to ensure absolute transparency on Intervenors' party status and the nature and scope of Intervenors' participation in the consolidated challenges to the ONP Rule.

Date: November 27, 2019

Respectfully submitted,

/s/ Raymond B. Ludwiszewski

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**CERTIFICATE OF COMPLIANCE**

To the extent applicable, I hereby certify that the foregoing Notice complies with the type-volume limitations of the Federal Rules of Appellate Procedure because it contains 588 words. I further certify that this Notice complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman 14-point font.

Date: November 27, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of November, 2019, I electronically filed the foregoing Notice with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the Court's appellate CM/ECF system.

I further certify that service was accomplished on all participants in the cases via the Court's CM/ECF system.

/s/ Raymond B. Ludwiszewski

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