ORAL ARGUMENT NOT SCHEDULED

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

STATE OF TEXAS, et al., Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND MICHAEL S. REGAN, ADMINISTRATOR, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondents.	No. 22-1031 (and consolidated cases)

MOTION BY THE STATES OF CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, HAWAII, ILLINOIS, MAINE, MARYLAND, MICHIGAN, MINNESOTA, NEVADA, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, OREGON, RHODE ISLAND, VERMONT, WASHINGTON, AND WISCONSIN, THE COMMONWEALTHS OF MASSACHUSETTS AND PENNSYLVANIA, THE DISTRICT OF COLUMBIA, THE COUNTIES OF DENVER AND SAN FRANCISCO, AND THE CITIES OF DENVER, LOS ANGELES, NEW YORK, AND SAN FRANCISCO FOR LEAVE TO INTERVENE IN SUPPORT OF RESPONDENTS

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Pursuant to Federal Rule of Appellate Procedure (FRAP) 15(d) and D.C. Circuit Rule 15(b), the States of California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and Wisconsin, the Commonwealths of Massachusetts and Pennsylvania, the District of Columbia, the Counties of Denver and San Francisco, and the Cities of Denver, Los Angeles, New York, and San Francisco (collectively, Movant-Intervenor States) hereby move the Court for leave to intervene in case number 22-1031 and all consolidated cases in support of Respondents United States Environmental Protection Agency and Michael Regan as Administrator of the United States Environmental Protection Agency.

Petitioners challenge EPA's promulgation of federal greenhouse gas emissions standards for passenger cars and light trucks for model years 2023 through 2026. *See* 86 Fed. Reg. 74,434 (December 30, 2021). Movant-Intervenor States have a compelling interest in these standards, because they are a crucial element of urgently needed efforts to mitigate the substantial and growing adverse effects of climate change in their States. Indeed, the Supreme Court has recognized that States have significant "stake[s]" in the control of these very emissions from these very vehicles. *Massachusetts v. EPA*, 549 U.S. 497, 520

(2007). Movant-Intervenor States seek to intervene in all challenges to EPA's standards to protect those established interests.

Petitioners in Cases No. 22-1031 (State of Texas et al.) and 22-1035 (State of Arizona) do not oppose this motion. Respondents also do not oppose this motion. Petitioners in the remaining cases did not provide a position on this motion.

BACKGROUND

The Clean Air Act requires EPA to prescribe "standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in [the Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare." 42 U.S.C. § 7521(a)(1). States, including many of the Movant-Intervenor States here, have a long history of intervening in litigation and otherwise urging EPA to rigorously control greenhouse gas emissions from new motor vehicles, *see e.g.*, *Massachusetts*, 549 U.S. at 514, because the transportation sector is a major contributor to the Nation's greenhouse gas emissions. The light-duty vehicles regulated by the greenhouse gas emissions standards at issue here constitute one of the Nation's most significant sources of such emissions, accounting for approximately 17% of total U.S. greenhouse gas emissions.[1]

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[1] *See* Comments of States and Cities Supporting EPA's Proposal to Strengthen its Greenhouse Gas Emission Standards for New Light-Duty Vehicles,
(continued…)

In 2009, after *Massachusetts* was decided, EPA determined "that greenhouse gases in the atmosphere may reasonably be anticipated both to endanger public health and to endanger public welfare," and that new motor vehicles and new motor vehicle engines cause or contribute to that endangerment. 74 Fed. Reg. 66,496, 66,496-97 (Dec. 15, 2009) (Endangerment Finding). The Endangerment Finding triggered a mandatory duty for EPA to regulate greenhouse gas emissions from new motor vehicles. *See* 42 U.S.C. § 7521(a); *see Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 126 (D.C. Cir. 2012) ("By employing the verb 'shall,' Congress vested a non-discretionary duty in EPA.").

In 2010, EPA promulgated greenhouses gas emissions standards for light-duty vehicles for model years 2012 through 2016. 75 Fed. Reg. 25,324 (May 7, 2010). And, in 2012, EPA finalized greenhouse gas emissions standards for model years 2017 through 2025. 77 Fed. Reg. 62,624 (Oct. 15, 2012). EPA explained that it was responding "to the country's critical need to address global climate change," *id.* at 62,626-27, and it estimated that its standards would prevent "approximately 2 billion metric tons" of greenhouse gas emissions, *id*. at 62,627.

In April 2020, following a change in presidential administrations, EPA revised and dramatically weakened its standards for model years 2021 through

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at 20 (Sept. 27, 2021) (Docket ID EPA-HQ-OAR-2021-0208-0116) (citing U.S. EPA, EPA 430-R-21-005, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2019*, (2021)).

2025 and promulgated similarly weak standards for model year 2026. 85 Fed. Reg. 24,174 (April 30, 2020) (SAFE 2). The SAFE 2 standards increased in stringency by approximately 1.5% per year, *id*., which was well below the approximately 5% per year required by the standards promulgated in 2012, *id*. at 25,106. EPA projected that its SAFE 2 standards would increase greenhouse gas emissions by up to 923 million metric tons, *id*. at 24,176, and cause up to 1,000 premature deaths and other adverse health impacts due to increases in criteria pollutant emissions, *id*. at 25,119.

All of Movant-Intervenor States challenged the SAFE 2 standards in this Court. Case No. 20-1145 (and consolidated cases). The Court placed those cases in abeyance when, shortly after his inauguration, President Biden directed EPA to reconsider its SAFE 2 standards. Order, *Competitive Enterprise Institute, et al. v. EPA*, Case No. 20-1145, ECF #1892931 (D.C. Cir. April 2, 2021).

In August 2021, EPA proposed to increase the stringency of its greenhouse gas emissions standards for model years 2023 through 2026. 86 Fed. Reg. 43,726 (Aug. 10, 2021). EPA stated "that in light of the significant contribution of light-duty vehicles to transportation sector greenhouse gas emissions, standards more stringent than those relaxed in the SAFE rule are appropriate under the Clean Air Act." *Id*. at 43,726. EPA's proposal included three alternatives reflecting a range

of stringencies with EPA's preferred standards in the middle between a weaker alternative and a stronger one.

In December 2021, EPA finalized its standards, adopting the standards from its preferred alternative for model years 2023 and 2024 and from its most stringent alternative for model years 2025 and 2026. EPA estimates its new standards will reduce greenhouse gas emissions by 3.1 billion metric tons, 86 Fed. Reg. at 74,437, and will also reduce emissions of particulate matter by 14,701 tons and smog-forming oxides of nitrogen by 60,216 tons by 2050, 86 Fed. Reg. at 74,491-92. Petitioners here seek to vacate these standards, to restore the weaker SAFE 2 standards, and, perhaps, to constrain EPA's ability to set robust vehicular greenhouse gas emissions standards in the future. If Petitioners prevail, harmful emissions that threaten public health and the environment will increase and those increases will be long-lasting, not only because of the longevity of greenhouse gases in the atmosphere, but also because of the longevity of higher-emitting vehicles sold under any weakened standards. Those increased emissions would exacerbate the consequential climate change harms Movant-Intervenor States are already experiencing. Movant-Intervenor States respectfully request that this Court grant their motion to intervene to defend these important standards and EPA's ability to meaningfully control these emissions.

LEGAL STANDARD

Federal Rule of Appellate Procedure 15(d) states that a motion to intervene "must contain a concise statement of the interest of the moving party and the grounds for intervention" and be filed "within 30 days after the petition for review is filed." Because "[i]ntervenors become full-blown parties to litigation, . . . all would-be intervenors must demonstrate Article III standing." *Old Dominion Electric Cooperative v. FERC*, 892 F.3d 1223, 1232 (D.C. Cir. 2018); *see Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 316 (D.C. Cir. 2015) (stating "where a party tries to intervene as another defendant, we have required it to demonstrate Article III standing").

This Court also looks to factors analogous to those under Federal Rule of Civil Procedure (FRCP) 24(a), which requires a party to satisfy four factors for intervention as of right:

> (1) timeliness of that application to intervene; (2) a legally protected interest; (3) that the action, as a practical matter, impairs or impedes that interest; and (4) that no party to the action can adequately represent the potential intervenor's interest.

Crossroads Grassroots Policy Strategies, 788 F.3d at 320; *see Massachusetts Sch. of Law at Andover, Inc. v. U.S.*, 118 F.3d 776, 779 (D.C. Cir. 1997) ("[W]e have held that intervention *in* the court of appeals is governed by the same standards as in the district court."). A court may also grant permissive intervention under FRCP

24(b) when a movant makes a "timely application" and the "applicant's claim or defense and the main action have a question of law or fact in common." *See EEOC v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1045 (D.C. Cir. 1998).

ARGUMENT

I. MOVANT-INTERVENOR STATES ARE ENTITLED TO INTERVENTION AS OF RIGHT

Movant-Intervenor States readily satisfy the requirements for intervention as of right. Movant-Intervenor States have Article III standing, and they meet the requirements for intervention as of right under this Court's precedents and under FRCP 24(a).

A. Movant-Intervenor States Have Article III Standing

To satisfy the requirements of Article III standing, Movant-Intervenor States must demonstrate: (1) that they "have suffered an injury in fact . . . which is [] concrete and particularized, and [] actual or imminent," (2) that there is a "causal connection between the injury and the conduct complained of," and (3) that it is "likely . . . the injury will be redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). For purposes of intervention to defend an agency's action, causation and redressability are established if the party seeking intervention demonstrates that injury would result from a decision to grant the petition for review. *Crossroads*, 788 F.3d at 316-319.

Here, Movant-Intervenor States would be injured if Petitioners succeed in obtaining vacatur of EPA's greenhouse gas emissions standards promulgated in the Final Rule, because any such decision would increase short- and long-term emissions by weakening the standards applicable to most new vehicles sold in the United States for at least one, and likely more, model years. Movant-Intervenor States would also be injured by a ruling that compromises EPA's ability to reduce these harmful vehicle emissions in the future. *See* 42 U.S.C. § 7521(a).

The administrative record contains abundant evidence of the types of injuries that Movant-Intervenor States would suffer as a result of weakened greenhouse gas emissions standards. *See Sierra Club v. EPA*, 292 F.3d 895, 899-900 (D.C. Cir. 2002) ("In many if not most cases the petitioner's standing to seek review of administrative action is self-evident; no evidence outside the administrative record is necessary for the court to be sure of it."). Movant-Intervenor States have explained that their States and Cities are currently experiencing direct and compounding climate harms that are projected to worsen without deep reductions in anthropogenic emissions of greenhouse gases, such as those from passenger cars and light trucks regulated by the Final Rule.[2] For

[2] *See* Comments of States and Cities Supporting EPA's Proposal to Strengthen its Greenhouse Gas Emission Standards for New Light-Duty Vehicles, at 2-10 (Sept. 27, 2021) (Docket ID EPA-HQ-OAR-2021-0208-0245) ("States Comments").

example, rising temperatures "unequivocally caused"[3] by anthropogenic greenhouse gas emissions contribute to the severity of drought conditions, which are particularly severe in California, where nearly 90% of the State is facing at least extreme drought and about 45% of the State is experiencing exceptional drought;[4] rising temperatures and drier conditions are increasing the frequency and intensity of wildfires in California, Colorado, Oregon, and Washington;[5] and a warmer climate is intensifying costly extreme weather events.[6] Additionally, human-induced climate change leads to sea level rise that submerges sovereign territory in coastal States.[7]

These harms result in the loss of state lands and natural resources as well as increased expenditure of funds by Movant-Intervenor States on, among other

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[3] Richard P. Allan et al., *Climate Change 2021: The Physical Science Basis, Summary for Policymakers, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* SPM-5 (V. Masson-Delmotte et al., eds. 2021) (Docket ID EPA-HQ-OAR-2021-0208-0245).

[4] *See* States' Comments at 3-6.

[5] *See id.* at 6-8; Decl. of E. Scheehle, California Air Resources Board ¶¶ 21-24.

[6] *See* States' Comments at 8-10; Decl. of G. Auburn, Maryland Department of the Environment ¶ 15.

[7] *See* Decl. of G. Auburn, Maryland Department of the Environment ¶ 14; Decl. of J. Chamberlin, California Department of Parks and Recreation ¶¶ 7-10; Decl. of L. Berry Engler, Massachusetts Executive Office of Energy and Environmental Affairs ¶¶ 8-12; Decl. of E. Fleishman, Oregon Climate Change Research Institute ¶¶ 7, 19-21; Decl. of M. Hammond, Pennsylvania Department of Environmental Protection ¶ 17; Decl. of E. Scheehle, California Air Resources Board ¶¶ 9, 20.

things, drought and wildfire preparation and response, protection of public health, strengthening and repairing infrastructure impacted by extreme weather events, and additional actions necessary to meet federal air quality standards.[8] Weaker greenhouse gas emissions standards—which Petitioners seek by way of vacatur of the Final Rule—would result in increased emissions and greater harms to Movant-Intervenor States.

The Supreme Court and this Court have repeatedly found that these types of climate harms establish standing that supports state intervention. In *Massachusetts*, the Supreme Court decided that States—including many of the Movant-Intervenor States here—had standing to intervene to compel EPA to determine that these very emissions—greenhouse gas emissions from new motor vehicles—endanger public health and welfare. 549 U.S. at 522-23. There, the Court noted that "U.S. motor-vehicle emissions make a meaningful contribution to greenhouse gas concentrations and hence . . . to global warming," and "reducing domestic automobile emissions . . . would slow the pace of global emissions increases, no matter what happens elsewhere." *Id*. at 525. Similarly, this Court

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[8] *See* Decl. of G. Auburn, Maryland Department of the Environment ¶ 16; Decl. of J. Chamberlin, California Department of Parks and Recreation ¶¶ 7-10; Decl. of L. Berry Engler, Massachusetts Executive Office of Energy and Environmental Affairs ¶¶ 16-25; Decl. of E. Fleishman, Oregon Climate Change Research Institute ¶¶ 7, 19-21; Decl. of M. Hammond, Pennsylvania Department of Environmental Protection ¶¶ 21-24; Decl. of E. Scheehle, California Air Resources Board ¶¶ 16-26.

permitted many of the Movant-Intervenor States here to intervene to defend EPA's Endangerment Finding, in which EPA found that "the combined emissions of [] greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas air pollution that endangers public health and welfare," and therefore must be regulated. 74 Fed. Reg. at 66,496; *see Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, 126 (D.C. Cir. 2012), *rev'd in part on unrelated issues* (*Util. Air Regul. Grp. v. EPA*, 573 U.S. 302 (2014)). Similarly, this Court granted leave to several of the Movant-Intervenor States here to intervene in support of EPA's first greenhouse gas emissions standards for passenger cars and light trucks, Doc. No. 1406411, *Plant Oil Powered Diesel Fuel Systems, Inc. v. EPA, et al.*, No. 12-1428 (D.C. Cir. Nov. 23, 2012), and in support of EPA's greenhouse gas emissions standards for heavy-duty trailers, Doc. No. 1665427, *Truck Trailer Mfrs. Ass'n, Inc. v. EPA*, No. 16-1430 (D.C. Cir. Mar. 10, 2017). The Court should likewise find that the States have standing and grant their intervention here.

The Final Rule's greenhouse gas emissions standards would also decrease emissions of criteria pollutants and toxic chemicals.[9] Movant-Intervenor States would be injured by emissions that would result if the Final Rule did not become effective, as relaxed greenhouse gas standards would increase emissions of criteria

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[9] *See* 86 Fed. Reg. at 74,490-74,492; States Comments at 10-13.

pollutants and toxic chemicals. Such increases in criteria pollution would exacerbate adverse health impacts and make it more difficult for States to attain and maintain National Ambient Air Quality Standards established by EPA to protect public health.[10] Because States depend on early planning to reduce the costs of compliance, changes in federal regulatory approaches that significantly increase criteria emissions can be costly and disruptive to regulated industries in those States, as well as to the States themselves.[11]

Accordingly, Movant-Intervenor States satisfy the requirements for Article III standing.

B. Movant-Intervenor States Also Satisfy the Other Requirements for Intervention as of Right

As noted above, courts look to FRCP 24 when analyzing motions for leave to intervene in petitions for review. *Supra* at 7. FRCP 24(a) requires a court to grant intervention as of right to anyone who, on a timely motion, "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Under this Court's precedent, a prospective intervenor "need not

[10] *See* States Comments at 10-13; Decl. of S. Vanderspek, California Air Resources Board ¶¶ 18-22.

[11] *See* Decl. of S. Vanderspek, California Air Resources Board ¶¶ 8-15, 23.

show anything more than that it has standing to sue in order to demonstrate the existence of a legally protected interest for purposes of Rule 24(a)." *See Mova Pharmaceutical Corp. v. Shalala*, 140 F.3d 1060, 1076 (D.C. Cir. 1998).

As demonstrated above, Movant-Intervenor States have Article III standing. Even if more were required, intervention should still be granted, because the disposition of the Petitioners' petition could impair or impede Movant-Intervenor States' ability to protect their interests. *See Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 733 (D.C. Cir. 2003) (determining that intervention in administrative review proceedings is appropriate where the movant would be harmed by a successful challenge to a regulatory action and that harm could be avoided by a ruling denying the relief sought by the petitioner).

This Court has made clear that a party need only "show[] that representation of [its] interest 'may be' inadequate; and the burden of making that showing should be treated as minimal." *Id*. at 735 (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). "[I]nterests need not be wholly adverse before there is a basis for concluding that existing representation of a different interest may be inadequate." *Nuesse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967) (quotation marks omitted). Courts have also recognized that federal and state entities may not share the same interests. *See Forest Conserv. Council v. U.S. Forest Serv.*, 66 F.3d 1489, 1499 (9th Cir. 1995) (finding the interests of the State of Arizona were not

necessarily represented by the U.S. Forest Service), *abrogated on other grounds by Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173 (9th Cir. 2011).

Movant-Intervenor States have particular and substantial interests in limiting climate change pollution in order to prevent and mitigate loss and damage to publicly owned lands and natural resources, to protect public infrastructure and reduce damage-related costs, and to limit emergency response costs. *See Massachusetts*, 549 U.S. at 521-23. The history of EPA's greenhouse gas emissions standards demonstrates that these interests have not always aligned with those of Respondents. EPA promulgated standards in 2012, found that those standards remained appropriate in 2017, reversed its finding of appropriateness in 2018, significantly weakened its standards in 2020, and increased the stringency of its standards in 2021. While Movant-Intervenor States currently share EPA's broad aim of opposing the petitions seeking to vacate the Final Rule, EPA's recent shifts in positions underscores that the specific interests of EPA and Movant-Intervenor States may diverge as the litigation progresses. More generally, given our States and Cities' distinct interests, Movant-Intervenor States may choose to advance different arguments or make different strategic choices than EPA in this litigation. For example, EPA may seek to settle or otherwise resolve this case in ways that could be adverse to Movant-Intervenor States' interests. Movant-

Intervenor States seek to intervene here in order to adequately protect the important and substantial interests described above.

Finally, this motion is timely, because it was filed within 30 days after the petitions for review were filed. *See* Fed. Rule of App. Proc. 15(d).

Accordingly, Movant-Intervenor States satisfy the requirements for intervention of right.

II. ALTERNATIVELY, MOVANT-INTERVENOR STATES SHOULD BE GRANTED PERMISSIVE INTERVENTION

Movant-Intervenor States also satisfy the less burdensome requirements for permissive intervention. FRCP 24(b) allows a court to grant intervention to anyone who, on timely motion, "has a claim or defense that shares with the main action a common question of law or fact" so long as the intervention would not "unduly delay or prejudice the rights of the original parties." This Court has "eschewed strict readings of the phrase 'claim or defense,'" and its body of precedents instead "compels a flexible reading of Rule 24(b)." *EEOC*, 146 F.3d at 1046.

As demonstrated above, Movant-Intervenor States have compelling interests in preventing any weakening of the standards for model years 2023 through 2026 as well as preserving the ability of EPA to adopt robust standards in the future. In recognition of similar interests, this Court has previously permitted Movant-Intervenor States to participate in related litigation. *See supra* at 11-12. This

motion is timely and granting it will not cause undue delay or prejudice the rights of any parties. Petitioners filed their petitions for review on February 28, 2022, their initial submissions are not due until April 1, 2022, and Respondents have until April 18, 2022 to file the certified index. Moreover, the Court has not yet set a briefing schedule. Thus, Movant-Intervenor States meet the requirements for permissive intervention.

CONCLUSION

For the reasons stated herein, Movant-Intervenor States respectfully request that the Court grant their motion to intervene in case number 22-1031 and consolidated cases.

Dated: March 8, 2022

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2) because it contains 3,509 words. I further certify that this motion complies with the typeface requirements of Federal Rules of Appellate Procedure 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared using a proportionally spaced typeface (Times New Roman) in 14-point font.

Dated: March 8, 2022

/s/ Micaela M. Harms
Micaela M. Harms
Attorney for State of California by and through its Governor Gavin Newsom, its Attorney General Rob Bonta, and the California Air Resources Board

CERTIFICATE OF PARTIES ADDENDUM

Pursuant to Circuit Rule 27(a)(4) and 28(a)(1)(A), I certify that the parties—including proposed intervenors and amici curiae—are set forth below.

Petitioners: The States of Texas, Alabama, Alaska, Arkansas, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, and Utah (Case No. 22-1031); Competitive Enterprise Institute, Anthony Kreucher, Walter M. Kreucher, James Leedy, Marc Scribner, and the Domestic Energy Producers Alliance (Case No. 22-1032); the State Soybean Associations of the States of Illinois, Iowa, Indiana, Michigan, Minnesota, North Dakota, Ohio, and South Dakota, and Diamond Alternative Energy, LLC (Case No. 22-1033); American Fuel and Petrochemical Manufacturers (Case No. 22-1034); the State of Arizona (Case No. 22-1035); Clean Fuels Development Coalition, ICM, Inc., Illinois Corn Growers Association, Indiana Corn Growers Association, Kansas Corn Growers Association, Kentucky Corn Growers Association, Michigan Corn Growers Association, Missouri Corn Growers Association, and Valero Renewable Fuels Company, LLC (Case No. 22-1036); and Energy Marketers of America (Case No. 22-1038).

Respondents: United States Environmental Protection Agency and Michael S. Regan, Administrator, United States Environmental Protection Agency.

Proposed Intervenors: Conservation Law Foundation, Environmental Defense Fund, Environmental Law and Policy Center, Natural Resources Defense Council, Public Citizen, Sierra Club, and Union of Concerned Scientists.

Amici Curiae: There are no amici curiae at the time of this filing.

Dated: March 8, 2022

/s/ Micaela M. Harms
Micaela M. Harms
Attorney for State of California by and through its Governor Gavin Newsom, its Attorney General Rob Bonta, and the California Air Resources Board

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2022 I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the Court's CM/ECF system.

I further certify that all parties are participating in the Court's CM/ECF system and will be served electronically by that system.

Dated: March 8, 2022

/s/ Micaela M. Harms
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Attorney for State of California by and through its Governor Gavin Newsom, its Attorney General Rob Bonta, and the California Air Resources Board