ORAL ARGUMENT NOT YET SCHEDULED

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

AMERICAN LUNG ASSOCIATION, and AMERICAN PUBLIC HEALTH ASSOCIATION, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, and ANDREW R. WHEELER, Administrator, United States Environmental Protection Agency, Respondents.	Case No. 19-1140

MOTION OF CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA FOR LEAVE TO INTERVENE

Pursuant to Federal Rules of Appellate Procedure 15(d) and 27 and Circuit Rules 15(b) and 27, the Chamber of Commerce of the United States of America (the "Chamber") respectfully moves for leave to intervene in support of Respondents Environmental Protection Agency and Andrew R. Wheeler, Administrator of the Environmental Protection Agency (collectively, "EPA"), in opposition to the petition for review ("Petition") in *American Lung Association v. United States Environmental Protection Agency*, Case No. 19-1140. The Petition challenges a final EPA rule entitled *Repeal of the Clean Power Plan; Emissions*

Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations, 84 Fed. Reg. 32,520 (July 8, 2019) (the "Rule").

EPA promulgated the Rule under Section 111 of the Clean Air Act ("CAA"), 42 U.S.C. § 7411. Among other things, the Rule repeals the Clean Power Plan ("CPP"), a regulation that EPA promulgated under Section 111 in 2015.[1] In addition to repealing the CPP (the "Repeal Rule"), the Rule implements the Affordable Clean Energy rule (the "ACE Rule") to set guidelines for greenhouse gas emissions (CO_2) from existing coal-fired electric utility generating units ("EGUs") under Section 111(d). The ACE Rule also instructs the States on how to develop, submit, and implement plans to establish performance standards for greenhouse gas emissions from certain EGUs. Finally, the Rule adopts regulations for EPA and States implementing the ACE Rule (the "Implementation Rule").

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function

[1] *See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, 80 Fed. Reg. 64,662 (Oct. 23, 2015).

of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber's members include companies in industries directly regulated and affected by the Rule. Its members in particular include power generators that rely on fossil fuels. The CPP required generation facilities to limit CO_2 emissions. The Repeal Rule eliminates these members' obligations under the CPP, and the ACE Rule and Implementation Rule provide procedures and set obligations that are more consistent with Section 111(d) of the CAA.

The Chamber believes that the global climate is changing, and that human activities contribute to those changes. The Chamber also believes that global climate change poses a serious long-term challenge that deserves serious solutions. And it believes businesses—through technology, innovation, and ingenuity—will offer the best options for reducing greenhouse gas emissions and mitigating the impacts of climate change.

The Chamber agrees that the federal Government, through agencies such as the EPA, has an undeniable interest in addressing climate change. But to be effective, any climate policy should leverage the power of business, maintain U.S. leadership in climate science, embrace technology and innovation, aggressively pursue greater energy efficiency, promote climate resilient infrastructure, support trade in U.S. technologies and products, and encourage international cooperation.

See U.S. Chamber of Commerce, *Addressing Climate Change*, https://tinyurl.com/y38v5gms (last visited August 6, 2019). These governmental policies aimed at achieving these goals should come from the Congress. The Chamber has endorsed several legislative proposals (and opposed others) to address climate change. *See* Letter from Thomas J. Donohue to Sen. Charles E. Schumer (Mar. 26, 2019), https://www.uschamber.com/letters-congress/us-chamber-letter-opposing-sjres9.

Although addressing climate change is undeniably important, the Executive Branch must abide the authority vested by Congress in statutes such as the Clean Air Act. The CPP vastly exceeded the EPA's authority. Accordingly, the Chamber was one of the petitioners to challenge the CPP and to obtain a stay of that rule from the Supreme Court in February of 2016.

Thus, the Chamber supports the EPA's efforts to rescind the unlawful attempt by the Executive Branch through the CPP to restructure the nation's economy, but to also take steps to limit greenhouse gas emissions from EGUs.

The Chamber meets the standards for intervention in support of EPA in this litigation because: (1) its request is timely; (2) it has material interests related to the Petition, as its members are regulated and affected by each part of the Rule; (3) disposition of the Petition may impair those interests, as the consequences of any relief Petitioners might obtain would be borne directly by the Chamber's

members; and (4) EPA cannot adequately represent the Chamber, whose members have direct commercial interests in each part of the Rule. For similar reasons, the Chamber has standing, as it has a concrete interest in defending the repeal of the CPP and the regulations EPA promulgated in its place. Accordingly, the Chamber's motion should be granted.

BACKGROUND

In Section 111(b) of the CAA, Congress empowered EPA to regulate "new sources" of air pollution that might endanger the public health or welfare. *See* 42 U.S.C. § 7411(b)(1). EPA exercises this authority by issuing regulations that "establish[] Federal standards of performance for new sources." *Id.* Section 111(d) further provides that when EPA issues standards for new sources under Section 111(b), EPA must establish procedures for each State to submit a plan to EPA demonstrating that *existing* sources will meet the same standards. *See id.* § 7411(d)(1). A key factor in the applicable standard of performance for both new and existing sources is whether the standard "reflects the degree of emission limitation achievable through the application of the best system of emission reduction" ("BSER"). *Id.* § 7411(a)(1).

The Clean Power Plan. Relying on Section 111(d), the CPP obligated the States and existing fossil-fuel-fired power plants to significantly reduce CO_2 emissions from the electricity-generating sector. *See* 84 Fed. Reg. at 64,663–64.

In particular, the CPP required the States to design and submit plans to EPA demonstrating how they would limit CO_2 emissions from certain existing sources. EPA determined that the BSER for CO_2 emissions involved a "combination of emission rate improvements and limitations on overall emissions at affected EGUs" based on three "building blocks." *Id.* at 64,707. The first block—"improving heat rate at affected coal-fired steam EGUs"—could apply to individual sources. *Id.* But the other two blocks were not source-specific. Block two involved "[s]ubstituting increased generation from lower-emitting existing natural gas combined cycle units for generation from higher-emitting affected steam generating units," and block three involved "[s]ubstituting increased generation from new zero-emitting [renewable energy] generating capacity for generation from affected fossil fuel-fired generating units." *Id.*

The Chamber and numerous other petitioners sought review of the CPP. *See West Virginia v. EPA*, D.C. Cir. Case No. 15-1363 (and consolidated cases). The Supreme Court stayed implementation of the rule during the course of judicial review. *See West Virginia v. EPA*, 136 S. Ct. 1000 (2016). This Court, sitting *en banc*, heard oral argument on the petitions on September 27, 2016.

Before this Court could decide *West Virginia*, the President issued an Executive Order that instructed EPA to reconsider and "suspend, revise, or rescind" the CPP "as appropriate and consistent with law." Exec. Order No.

13,783 § 4, 82 Fed. Reg. 16,093, 16,095 (Mar. 28, 2017). On the same day, EPA notified the public that it would review the CPP and its interpretation of Section 111 of the CAA. 82 Fed. Reg. 16,329, 16,330 (Apr. 4, 2017). This Court has held the *West Virginia* case in abeyance since then. *See, e.g.*, Order (Apr. 5, 2019), ECF No. 1781428. A motion to dismiss the petitions as moot is currently pending.

In October 2017, EPA issued a notice of proposed rulemaking explaining that it had reconsidered its interpretation of Section 111 of the CAA. *See Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, 82 Fed. Reg. 48,035 (Oct. 16, 2017). Under the reconsidered interpretation, the CPP exceeded "EPA's statutory authority and would be repealed." *Id.* at 48,036.

The Chamber, along with other industrial and manufacturer associations, submitted comments in support of the CPP's repeal. *See Comment Submitted by Am. Chem. Council et al.* (Apr. 26, 2018), EPA-HQ-OAR-2017-0355-19907. In particular, the Chamber supported EPA's conclusion that the CPP exceeded EPA's statutory authority by regulating the *owners* of existing sources instead of the *sources* themselves. *Id.* at 7–15. The Chamber and other associations also submitted comments in support of the proposed Affordable Clean Energy ("ACE") Rule EPA proposed to replace the CPP. *See Comment Submitted by Am. Chem. Council et al.,* (Oct. 31, 2018), EPA-HQ-OAR-2017-0355-24270. In these

comments, the Chamber specifically supported the proposed ACE Rule's balance of federal and state authority where EPA determines the BSER to be applied to an existing source, while the States, informed by EPA, apply source-specific standards of performance. *Id.* at 7–8.

EPA finalized the Rule on July 8, 2019. Although finalized in a single document, as further discussed below, the Rule includes three key elements. First, in the Repeal Rule, EPA rescinded the CPP as inconsistent with Section 111(d) of the CAA. *See* 84 Fed. Reg. at 32,522–32. Second, in the ACE Rule, EPA issued guidelines for the States and their plans establishing standards of performance for CO_2 for certain coal-fired EGUs. *Id.* at 32,532–64. Third, in the Implementation Rule, EPA established new regulations to implement Section 111(d). *Id.* at 32,564–71; *see also id.* at 32,575–84.

The Repeal Rule. Through the Repeal Rule, EPA recognized that the CPP rested on a novel—and ultimately untenable—interpretation of Section 111(d). *See id.* at 32,522–23. "Fundamentally," EPA explained, "the CPP read the statutory term 'best system of emission reduction' so broadly as to encompass measures the EPA had never before envisioned in promulgating performance standards under CAA section 111." *Id.* at 32,523. Contrary to the statute's plain language and longstanding practice, the CPP set standards that "could only be achieved by a shift in the energy generation mix at the grid level." *Id.*

EPA thus acknowledged in the Repeal Rule that its prior interpretation of Section 111 in the CPP was in error. *See id.* at 32,523–26. Specifically, EPA concluded that "CAA section 111 unambiguously limits the BSER to those systems that can be put into operation *at* a building, structure, facility, or installation." *Id.* at 32,524. Thus, EPA cannot select a BSER that applies to an entire category of sources. *See id.* By using "building blocks" that relied on categories of sources—instead of regulating individual sources—the CPP did not comport with the plain text of Section 111. *See id.* at 32,526–27. EPA therefore repealed the CPP. *See id.*

The ACE Rule and the Implementation Rule. The ACE Rule establishes guidelines for the States and their plans establishing standards of performance for CO_2 for certain coal-fired EGUs. *See id.* at 32,532. EPA "determined that the BSER for CO_2 emissions from existing coal-fired EGUs is [heat rate improvement measures]" applied to individual facilities. *Id.* The ACE Rule also provides information relevant to States developing plans under the CAA, and it allows the States to retain a role in setting environmental policy on this front, as the CAA contemplates. *See id.*

The Implementation Rule "harmonize[s]" the ACE Rule with existing regulations. *Id.* at 32,521, 32,564–71. In doing to, it "make[s] clear that states have broad discretion in establishing and applying emissions standards consistent

with the BSER." *Id.* at 32,521. The regulations promulgated by the Rule will be codified at 40 C.F.R. Part 60(Ba), Part 60(UUUa). *See id.* at 32,575–84.

The Chamber's Interests. The Chamber's members represent the nation's leading energy and manufacturing sectors, which form the backbone of the nation's industrial ability to grow the economy and provide jobs in an environmentally sustainable and energy-efficient manner. Its members include power generation companies that own existing power plants that were regulated by the CPP, companies that produce and transport fossil fuels that provide energy to those power plants, and thousands of members who use electricity—frequently in large amounts to support industrial processes—all of which would be directly affected by changes in the electricity sectors that shift production away from certain fossil-fuel-fired power plants while potentially impacting electricity costs. In addition, as noted, the Chamber is among the petitioners that sought this Court's review of the CPP in *West Virginia* and that successfully obtained a stay of the CPP from the Supreme Court. Thus, the Chamber and its members have a substantial interest in this litigation.

ARGUMENT

I. The Chamber Satisfies the Standards for Intervention as of Right.

This Court has recognized that the standard for intervention under Federal Rule of Civil Procedure 24 informs the "grounds for intervention" under Federal

Rule of Appellate Procedure 15(d). *Amalgamated Transit Union Int'l v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985) (per curiam); *see Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am. v. Scofield*, 382 U.S. 205, 217 n.10 (1965). To intervene as of right under Federal Rule of Civil Procedure 24(a)(2), the movant must (1) file a timely application; (2) claim an interest relating to the subject of the action; (3) show that disposition of "the action may as a practical matter impair or impede" its ability to protect that interest; and (4) demonstrate that existing parties may not adequately represent the movant's interest. *See, e.g.*, *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003). The Chamber satisfies each element here.

A. The Motion to Intervene is Timely.

This motion is timely because it was filed within 30 days after the filing of the Petition on July 8, 2019. *See* Fed. R. App. P. 15(d). The Chamber is seeking to join this case at the earliest possible stage, before Petitioner's initial filings are due and before the Court has established a schedule and format for briefing.

B. The Chamber Has an Interest Relating to the Subject of This Proceeding That May As a Practical Matter Be Impaired By the Outcome of This Petition.

The Chamber also has a direct and substantial interest in the outcome of this case that may be impaired if Petitioners prevail. As noted, the Chamber's members include power generation companies whose existing power plants were

subject to the CPP. Under the Repeal Rule, these members are relieved of the unlawful and burdensome obligations imposed by the CPP, which EPA has now agreed transgress the statutory boundaries of the CAA. As also noted, the Chamber submitted comments to EPA in support of the CPP's repeal and the ACE Rule, and it was a petitioner in the prior challenges to the CPP. *See supra* p. 6–8 (citing comments). The Chamber therefore has a concrete interest in defending the repeal of the CPP, as well as in defending the regulations EPA promulgated in its place against claims that EPA was required to impose substantially more burdensome regulations.

As an association representing companies that were directly regulated by the CPP and are directly regulated by the Rule, the Chamber falls within the class of parties that are routinely allowed to intervene in cases reviewing agency actions. *See, e.g.*, *Fund for Animals*, 322 F.3d at 735; *Military Toxics Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998) (association whose members produced military munitions and operated military firing ranges permitted to intervene in support of an EPA rule); *Conservation Law Found. of New England, Inc. v. Mosbacher*, 966 F.2d 39, 41–44 (1st Cir. 1992) (commercial fishing groups who were subject to a regulatory plan to address overfishing had a cognizable interest in litigation over the plan's implementation); *NRDC v. EPA*, 99 F.R.D. 607, 609 (D.D.C. 1983)

(pesticide manufacturers subject to challenged regulation and industry representatives had a legally protected interest supporting intervention).

In addition, the Chamber represents members who were indirectly affected by the CPP. The Chamber's members include companies that mine and transport coal, produce the equipment utilized for such activities, and rely on existing coal-fired power plants for a substantial portion of their business. Likewise, virtually all of the Chamber's members depend on electricity for their daily operations. In the case of heavy manufacturing and other energy-intensive industries, electricity costs are among the most significant expenses. Regulations such as the CPP that increase electricity costs and potentially reduce the reliability of the electricity grid directly harm those members and reduce their competitiveness in the global marketplace.

In sum, the Chamber's members have a substantial interest in this case that will be concretely and adversely affected if Petitioners prevail.

C. Existing Parties Cannot Adequately Represent the Chamber's Interests.

The Chamber's interests will not be adequately represented by the existing parties. This requirement is "minimal." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). "The applicant need only show that representation of his interest 'may be' inadequate, not that representation will in fact be inadequate." *Dimond v. Dist. Of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986).

Petitioners obviously cannot represent the Chamber's interests, because their interests are directly opposed to the Chamber's. Nor can EPA adequately represent the Chamber's interests. Although the Chamber generally supports EPA's positions here, mere agreement between a private party and a government agency does not establish adequate representation. *See Fund for Animals*, 322 F.3d at 736. As a government agency, EPA is focused on a broad "representation of the general public interest," not the "narrower interest" of regulated entities. 792 F.2d at 192–93. The Chamber and its members have substantial financial and competitive interests in this proceeding that are distinct from EPA's interests. This Court has found an "inadequacy of governmental representation" when the government has no financial stake in the suit, but a private party does. *See e.g.*, *id.* at 192; *Fund for Animals*, 322 F.3d at 736; *NRDC v. Costle*, 561 F.2d 904, 912 & n.41 (D.C. Cir. 1977).

But even if the Chamber's and EPA's interests were more closely aligned, "that [would] not necessarily mean that adequacy of representation is ensured." *Costle*, 561 F.2d at 912. Precisely because the Chamber's interests are "more narrow and focussed [*sic*] than EPA's," its participation is "likely to serve as a vigorous and helpful supplement to EPA's defense" of the Rule. *Id.* at 912–13.

Accordingly, the Chamber should be allowed to intervene to represent fully and fairly its legitimate interests in this litigation.[2]

D. The Chamber Has Standing to Intervene.

The Chamber has Article III standing to intervene in support of EPA because, as discussed above, it represents companies that are both directly regulated and indirectly affected by the Rule. 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 interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). This Court has held that "[t]he standing inquiry for an intervening-defendant is the same as for a plaintiff: the intervenor must show injury in fact, causation, and redressability." *Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 316 (D.C. Cir. 2015).[3]

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[2] As the world's largest business federation, the Chamber's interests also cannot be adequately represented by other intervenors.

[3] Although this Court has previously required intervenor-respondents to demonstrate standing, *see NRDC v. EPA*, 896 F.3d 459, 462–63 (D.C. Cir. 2018), the Supreme Court recently clarified that an intervenor who is not invoking the Court's jurisdiction need not demonstrate standing, *Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1950–51 (2019). Regardless, the Chamber clearly has standing.

The Chamber satisfies each of these elements. First, "at least some of the members" of the Chamber "would have standing to [intervene] in their own right." *Fed'n for Am. Immigration Reform, Inc. v. Reno*, 93 F.3d 897, 899 (D.C. Cir. 1996). The member companies would have standing for the same reasons they fulfill the grounds for intervention. *See Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003) ("any person who satisfies Rule 24(a) will also meet Article III's standing requirement"). The Chamber's members include power generation companies that own and operate existing generating units that were directly regulated by the CPP. Indeed, the Chamber challenged the CPP—and obtained a stay of that rule from the Supreme Court—and no party (or court) questioned the Chamber's standing in that proceeding. *See generally* Agency Docketing Statement filed by the Chamber of Commerce, *et al.*, Response 6e, No. 15-1382 (consolidated with No. 15-1363) (Dec. 18, 2015), ECF No. 1589448.

The case law is clear: there is "little question" that a party who "is himself an object of [the governmental] action (or forgone action) at issue" has standing. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561-62 (1992); *cf. Grocery Mfrs. Ass'n v. EPA*, 693 F.3d 169, 175 (D.C. Cir. 2012) (parties "easily" establish standing when agency action imposes "regulatory restrictions, costs, or other burdens" on them). As noted, the Chamber's members include companies that own and operate generation units that would have been directly regulated by the CPP as well as the

ACE Rule that EPA has now adopted to replace the CPP. The Chamber's standing is thus "self-evident." *Sierra Club v. EPA*, 292 F.3d 895, 900 (D.C. Cir. 2002); *see also Am. Trucking Ass'ns, Inc. v. Fed. Motor Carrier Safety Admin.*, 724 F.3d 243, 247 (D.C. Cir. 2013) (trade association had an "obvious interest in challenging [Federal Motor Carrier Safety Administration] rulemaking that directly—and negatively—impact[ed] its motor carrier members").

Moreover, the Chamber's members include numerous companies that have concrete interests in defending both the repeal of the CPP and the regulations EPA promulgated in its place against Petitioners' apparent claims that EPA was required to impose farther-reaching regulations. For example, the Chamber's members include entities that provide various support services to companies that own existing coal- and gas-fired electric generating units or to coal-mining companies and could suffer if Petitioners are successful in overturning the Rule. The Chamber's members also include companies that produce and transport the coal that provides energy to regulated power plants, and also manufacture the equipment utilized for such activities. Finally, the Chamber's members use electricity in their daily operations, and many members (such as heavy manufacturers) use vast amounts. Petitioners' apparent arguments seeking to force EPA to adopt rules that would reduce electricity generation from some of the most affordable generating units would increase prices for electricity for many of these

members. Those interests would be directly undermined if Petitioners prevailed in their challenge to the Rule, and independently support standing. *See, e.g.*, *Fund for Animals*, 322 F.3d at 733; *Military Toxins Project,* 146 F.3d at 954.

Second, the interests that the Chamber seeks to protect are germane to its organizational purpose. The Chamber seeks to promote the well-being of its member companies, industries, and the business community, including by advocating on their behalf in favor of sound regulatory policy and against unlawful, costly, and overly burdensome regulation. The Chamber routinely participates as a petitioner and intervenor in litigation in this Court and many other federal courts to challenge unlawful agency action that harms the business community and to defend lawful agency action that advances sound policy.

Third, the participation of individual member companies is unnecessary. Petitioners are seeking judicial review of regulations that concern CO_2 emission-reduction requirements on existing fossil-fuel-fired power plants. This action is not directed at, and does not depend on the circumstances of, any specific facility.

Thus, the Chamber and its members unquestionably have a sufficient stake in this case to support the Chamber's associational standing.

II. Alternatively, the Chamber Should be Granted Permissive Intervention.

The Chamber also qualifies for permissive intervention. Federal Rule of Civil Procedure 24(b)(1) authorizes permissive intervention when, on a timely

motion, the movant shows that its claim or defense has a question of law or a question of fact in common with the main action. *E.g.*, *EEOC v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998) (supporting flexible reading of Rule 24(b)). Permissive intervention requires neither a showing of the inadequacy of representation nor a direct interest in the subject matter of the action.[4]

The Chamber's motion is timely, and if permitted to intervene, the Chamber will address the issues of law and fact that the Petitioners present on the merits. Because the Chamber and Petitioners maintain opposing positions on these common questions, and because permissive intervention would contribute to the just and equitable adjudication of the questions presented, it should be permitted.

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[4] This Circuit has not decided if standing is needed for permissive intervention. *E.g., In re Endangered Species Act Section 4 Deadline Litig.*, 704 F.3d 972 (D.C. Cir. 2013). Regardless, the Chamber has standing. *See* Part I.D, *supra.*

CONCLUSION

For the foregoing reasons, the Chamber respectfully requests that this Court grant its motion to intervene in support of Respondents.

Dated: August 6, 2019

Respectfully submitted,

/s/ C. Frederick Beckner III

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AMERICAN LUNG ASSOCIATION, and AMERICAN PUBLIC HEALTH ASSOCIATION, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, and ANDREW R. WHEELER, Administrator, United States Environmental Protection Agency, Respondents.	Case No. 19-1140

CORPORATE DISCLOSURE STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, the Chamber of Commerce of the United States of America respectfully submits this Corporate Disclosure Statement and states as follows:

The Chamber of Commerce of the United States of America (the "Chamber") states that it is the world's largest business federation. The Chamber represents approximately 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. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

Dated: August 6, 2019

Respectfully submitted,

/s/ C. Frederick Beckner III
C. Frederick Beckner III
Counsel for the Chamber of Commerce of the United States

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CERTIFICATE AS TO PARTIES AND AMICI

Pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), the Chamber of Commerce of the United States (the "Chamber") hereby states as follows:

The Petitioners in this matter are the American Lung Association and the American Public Health Association. The Respondents are the U.S. Environmental Protection Agency ("EPA") and EPA Administrator Andrew R. Wheeler. The National Rural Electric Cooperative Association has filed a motion seeking leave to intervene in support of Respondents. The Chamber is not aware of any *amici* in this matter.

Dated: August 6, 2019

Respectfully submitted,

/s/ C. Frederick Beckner III

C. Frederick Beckner III
Counsel for the Chamber of Commerce of the United States

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 27(d)(2) and 32(g), and D.C. Circuit Rules 27(a)(2) and 32(a), the undersigned certifies that the accompanying Unopposed Motion for Leave to Intervene has been prepared using 14-point, Times New Roman typeface and is double-spaced (except for headings and footnotes).

The undersigned further certifies that the document is proportionally spaced and contains 4,143 words exclusive of the accompanying documents excepted from the word count by Rule 27(a)(2)(B), (d)(2).

/s/ C. Frederick Beckner III
C. Frederick Beckner III
Counsel for the Chamber of Commerce of the United States

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Unopposed Motion for Leave to Intervene will be served, this 6th day of August, 2019, through the Court's CM/ECF system on all registered counsel.

/s/ C. Frederick Beckner III
C. Frederick Beckner III
Counsel for the Chamber of Commerce of the United States