ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

MOTION FOR LEAVE TO INTERVENE AS RESPONDENTS

Pursuant to Federal Rules of Appellate Procedure 15(d) and 27 and Circuit Rules 15(b) and 27, the American Forest & Paper Association ("AF&PA"), American Wood Council ("AWC"), Chamber of Commerce of the United States of America ("Chamber"), Corn Refiners Association ("CRA"), National Association of Manufacturers ("NAM"), Rubber Manufacturers Association ("RMA"), Southeastern Lumber Manufacturers Association, Inc. ("SLMA"), and Society of Chemical Manufacturers and Affiliates ("SOCMA") (collectively, "the

Associations") respectfully move for leave to intervene as respondents in case No. 13-1105.[1] The petition for review in case No. 13-1105 was filed by the Louisiana Environmental Action Network, Sierra Club, Clean Air Council, Partnership for Policy Integrity, and Environmental Integrity Project ("Petitioners") and challenges a final regulation of the U.S. Environmental Protection Agency ("EPA" or the "Agency") entitled "National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers," published at 78 Fed. Reg. 7488 (February 1, 2013) ("Final GACT Rule").

Certain members of the Associations filed a petition for review with this court on April 2, 2013, challenging the Final GACT Rule. That petition was docketed as No. 13-1107 and has subsequently been consolidated with petition No. 13-1105. The Associations now seek leave to intervene as Respondents in support of the EPA as to issues that may be raised in the Petitioners' petition for review.

EPA takes no position on this motion. Petitioners do not oppose this motion.

BACKGROUND

The Final GACT Rule was promulgated by EPA under the authority of Clean Air Act ("CAA") § 112(c), 42 U.S.C. § 7412(c). 78 Fed. Reg. at 7488. The

[1] Counsel for all parties to this motion have given consent to Counsel for AWC, et al. to sign the motion on their behalf.

standard strictly regulates hazardous air pollutant ("HAP") emissions from industrial boilers and related industrial combustion equipment located at facilities that are not HAP major sources – *i.e.*, at "area sources." The term "boiler" is defined in the rule to mean "an enclosed device using controlled flame combustion in which water is heated to recover thermal energy in the form of steam and/or hot water." *Id.* at 7514. Members of the Associations operate numerous boilers that are subject to the Final GACT Rule. *See*, *e.g.*, Letter to EPA Docket Center from Paul Noe, Vice President, Public Policy, AF&PA, at 1 (Dec. 23, 2011) (EPA Docket No. EPA-HQ-OAR-2006-7090-2426) ("AF&PA Comments").

In their comments on the proposed rule, Petitioners objected to several aspects of the proposed rule. *See* Comments of Earthjustice et al. (Feb. 21, 2012) (EPA Docket No. EPA-HQ-OAR-2006-0790-2473). Many of these concerns were not resolved in the final rule in the manner suggested by Petitioners. For example, Petitioners asserted in their comments that EPA was required to set numerical emission limitations under section 112(d)(2) or (d)(4) for HAP emissions from existing biomass boilers. *Id*. at 1-2. ("EPA … fails to propose any § 112(d)(2) or (d)(4) emission standards for area source boilers that combust oil and biomass. … EPA's failure to set lawful § 112(d)(2) or (d)(4) standards for all area source boilers not only contravenes the Clean Air Act but also the Court order in *Sierra Club v. EPA*, No 01-1537 (D.D.C.) . . . .").

Notwithstanding this comment, EPA chose in the final rule to set work practice standards for HAP emissions from existing biomass boilers. ("Existing biomass and oil-fired boilers and new small biomass- and oil-fired boilers are subject to periodic tune-up management practices for PM as a surrogate for urban metal HAP, based on GACT. New and existing biomass- and oil-fired boilers are subject to periodic tune-up management practices for CO as a surrogate for urban organic HAP, based on GACT.") 78 Fed. Reg. at 7489. It is reasonable to assume that this issue, or other similar issues, will be pursued by Petitioners in this case.

By contrast, the Associations filed comments supportive of the application of work practice standards in these instances. AF&PA Comments at 1 ("First and foremost, we support and firmly believe that EPA is justified in setting GACT and not MACT standards for existing oil and biomass boilers at area sources."). The Associations have a legal interest in supporting EPA's final decision on this and other similar issues that may be raised by Petitioners.

ARGUMENT

The Court should grant the Associations' motion for leave to intervene as a Respondent because the Associations meet the standard for intervention in petition for review proceedings in this Court.

I. The Standard for Intervention in Petition for Review Proceedings in This Court Is Clear.

Intervention in petition for review proceedings in this Court is governed by Federal Rule of Appellate Procedure 15(d), which provides that a motion for leave to intervene "must be filed within 30 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention." This Court has held that this rule "simply requires the intervenor to file a motion setting forth its interest and the grounds on which intervention is sought." *Synovus Fin. Corp. v. Board of Governors*, 952 F.2d 426, 433 (D.C. Cir. 1991). Under the Federal Rules of Civil Procedure, "the 'interest' test [for intervention] is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967); *see also Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 133-35 (1967), quoted in *Nuesse*, 385 F.2d at 701. Appellate courts, including this Court, have recognized that policies supporting district court intervention under Federal Rule of Civil Procedure 24, while not binding in cases originating in courts of appeals, may inform their intervention inquiries. *See, e.g., Int'l Union v. Scofield*, 382 U.S. 205, 216 n.10 (1965); *Amalgamated Transit Union v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985). As discussed below, the Associations meet the elements of the intervention-of-right test under Federal Rule of Civil Procedure

24(a)(2)[2] and, thus, satisfy any standing test that arguably might apply to intervention. *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003) ("Requiring standing of someone who seeks to intervene as a defendant … runs into the doctrine that the standing inquiry is directed at those who invoke the court's jurisdiction.") (*citing Virginia v. Hicks*, 539 U.S. 113, 123 S. Ct. 2191, 2196-98 (2003)).[3]

The requirements for intervention of right under Federal Rule of Civil Procedure 24(a)(2) are: (1) the application is timely; (2) the applicant claims an interest relating to the subject of the action; (3) disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest; and (4) existing parties may not adequately represent the applicant's interest. *See, e.g.,*

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[2] Rule 24(a)(1) does not apply here; it authorizes intervention when a federal statute confers an unconditional right to intervene.

[3] Each of the Associations is a trade association and has standing to litigate on its members' behalf 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 Adver. Comm'n, 432 U.S. 333, 343 (1977). For reasons discussed herein, the interests of members of the Associations will be harmed if the Petitioners prevail in this litigation. Those members, therefore, would have standing to intervene in their own right. Moreover, the participation of individual members of the Associations in this litigation is not required.

Fund for Animals, Inc. v. Norton, 322 F.3d 728, 731 (D.C. Cir. 2003). The Associations satisfy these requirements in the present case.

II. The Associations Meet the Standard for Intervention in this Case.

A. The Motion Is Timely.

The Associations meet the timeliness requirement because this motion is being filed, in compliance with Federal Rule of Appellate Procedure 15(d), within 30 days after the Petitioners filed their petition for review. Moreover, because this motion is being filed at an early stage of the proceedings and before proposal or establishment of a schedule and format for briefing, granting this motion will not disrupt or delay any proceedings.

B. The Associations and Their Members Have Interests that Will Be Impaired If the Petitioners Prevail.

The individual companies that are members of the Associations operate numerous boilers that are subject to the Final GACT Rule. This litigation threatens the legal interests of the Associations and their members by creating the prospect that the regulatory relief available to the Associations' members under the Final Rule could be stripped away if Petitioners prevail in their challenges to that rule. A ruling in the Petitioners' favor in this case on key issues, such as a decision vacating the work practice standards, would harm Associations' interests. Such an outcome would ultimately make the Final GACT Rule more stringent or difficult

to meet, causing the Associations' members to face additional costly requirements that would significantly affect their business and ability to operate.

Where parties are, as the Associations' members are here, objects of governmental regulation, "there is ordinarily little question that the action or inaction has caused [them] injury." *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 561-62 (1992); *see also Croplife Am. v. EPA*, 329 F.3d 876, 884 (D.C. Cir. 2003) (where there is "no doubt" a rule causes injury to a regulated party, standing is "clear"); *Sierra Club v. EPA,* 292 F.3d 895, 899-900 (D.C. Cir. 2002) (in many cases standing is "self-evident").

In sum, the additional regulatory burdens and compliance costs the Associations' members would bear if Petitioners prevail in their challenge to the Boiler Rule would harm the interests of members of the Associations. As a result, the Associations should be granted leave to intervene as a respondent.

C. Existing Parties Cannot Adequately Represent the Associations' Interests.

Under Federal Rule of Civil Procedure 24(a)(2), the burden of showing inadequate representation in a motion for intervention "is not onerous"; "[t]he applicant need only show that representation of his interest 'may be' inadequate, not that representation will in fact be inadequate." *Dimond v. District of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986) (c*iting Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). Assuming *arguendo* that inadequate

representation is an applicable test for intervention under Federal Rule of Appellate Procedure 15(d),[4] the Associations easily pass that test here.

The interests of Petitioners are directly opposed to those of the Associations; Petitioners cannot adequately represent the Associations' interests.

Moreover, EPA cannot adequately represent the Associations' interests. The Agency, as a governmental entity, necessarily represents the broader "general public interest." Id. at 192-93 ("A government entity … is charged by law with representing the public interest of its citizens . . . . The District [of Columbia] would be shirking its duty were it to advance th[e] narrower interest [of a business concern] at the expense of its representation of the general public interest."). Unlike EPA, the Associations have the comparatively narrow interest of avoiding the imposition of unreasonably expensive emission control obligations on their members.

This Court has recognized that, "[e]ven when the interests of EPA and [potential intervenors] can be expected to coincide, . . . that does not necessarily mean that adequacy of representation is ensured." *NRDC v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977). In *NRDC v. Costle,* rubber and chemical manufacturers

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[4] Federal Rule of Civil Procedure 24(a)(2)'s "adequate representation" prong has no parallel in Federal Rule of Appellate Procedure 15(d), but we address it here to inform the Court fully.

sought to intervene in support of EPA. In light of the fact that the companies' interests were narrower than those of EPA and were "concerned primarily with the regulation that affects their industries," the companies' "participation in defense of EPA decisions that accord with their interest may also be likely to serve as a vigorous and helpful supplement to EPA's defense." Id. at 912-13 (emphasis omitted). The first-hand perspectives of the Associations, whose members are operators of boilers, will bring will further and uniquely supplement EPA's position.

EPA's inherent inability to represent Associations adequately is, finally, a function of the relationship between EPA, as the federal agency with regulatory responsibility under the CAA, and members of the Associations, as the frequent target of EPA regulations under the Act. This relationship can generate litigation under the Act in which Associations and EPA oppose each other — the court need look no further than No. 13-1107.

In sum, EPA does not and cannot adequately represent the Associations' interests in this case.

CONCLUSION

For the foregoing reasons, the Associations respectfully request leave to intervene as a respondent.

Respectfully submitted,

/s/ William L. Wehrum
William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue N.W.
Washington, D.C. 20037
(202) 955-1500
Counsel for American Forest & Paper Association, American Wood Council, Corn Refiners Association, Rubber Manufacturers Association, and Southeastern Lumber Manufacturers Association, Inc.

/s/ Quentin Riegel
Quentin Riegel
Vice President, Litigation
& Deputy General Counsel
NATIONAL ASSOCIATION OF MANUFACTURERS
733 10th Street, N.W.
Suite 700
Washington, DC 20001
(202) 637-3000
qriegel@nam.org
Counsel for National Association of Manufacturers

/s/ Rachel L. Brand
Rachel L. Brand
Sheldon Gilbert
NATIONAL CHAMBER LITIGATION CENTER, INC.
1615 H Street N.W.
Washington, DC 20062
(202) 463-5337
Counsel for the Chamber of Commerce of the United States of America

/s/ James W. Conrad, Jr.
James W. Conrad, Jr.
CONRAD LAW & POLICY COUNSEL
1615 L St., N.W., Suite 650
Washington, DC 20036
(202) 822-1970
Counsel for Society of Chemical Manufacturers and Affiliates

Dated: May 2, 2013

Of Counsel:

Jan Poling
Vice President, General Counsel
& Corporate Secretary
AMERICAN FOREST & PAPER ASSOCIATION
1111 19th Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 463-2590

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR AMERICAN FOREST & PAPER ASSOCIATION

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant-Intervenor, American Forest & Paper Association ("AF&PA"), makes the following declarations:

AF&PA is the national trade association of the forest products industry, representing pulp, paper, packaging and wood products manufacturers, and forest landowners. Our companies make products essential for everyday life from

renewable and recyclable resources that sustain the environment. The forest products industry accounts for approximately 5 percent of the total U.S. manufacturing GDP. Industry companies produce about $175 billion in products annually and employ nearly 900,000 men and women, exceeding employment levels in the automotive, chemicals and plastics industries. The industry meets a payroll of approximately $50 billion annually and is among the top 10 manufacturing sector employers in 47 states. No parent corporation or publicly held company has a ten percent (10%) or greater ownership interest in AF&PA.

Respectfully submitted,

/s/ William L. Wehrum

William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
(202) 955-1500
wwehrum@hunton.com
sstone@hunton.com
Counsel for American Forest & Paper Association

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR AMERICAN WOOD COUNCIL

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant-Intervenor American Wood Council ("AWC") makes the following declarations:

The American Wood Council (AWC) is the voice of North American traditional and engineered wood products, representing over 75% of the industry. From a renewable resource that absorbs and sequesters carbon, the wood products

industry makes products that are essential to everyday life and employs over one-third of a million men and women in well-paying jobs. AWC's engineers, technologists, scientists, and building code experts develop state-of-the-art engineering data, technology, and standards on structural wood products for use by design professionals, building officials, and wood products manufacturers to assure the safe and efficient design and use of wood structural components. AWC also provides technical, legal, and economic information on wood design, green building, and manufacturing environmental regulations advocating for balanced government policies that sustain the wood products industry.

Respectfully submitted,

/s/ William L. Wehrum

William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
(202) 955-1500
wwehrum@hunton.com
sstone@hunton.com
Counsel for American Wood Council

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR 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 undersigned Movant-Intervenor, Chamber of Commerce of the United States of America (the "Chamber"), makes the following declarations:

The Chamber is a non-profit corporation organized and existing under the laws of the District of Columbia. The Chamber is not a publicly held corporation and no corporation or other publicly held entity holds more than 10% of its stock.

The Chamber is the world's largest business federation. The Chamber represents 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry, from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before the courts, Congress, and the Executive Branch. Many of the Chamber's members are subject to the regulations at issue in this matter.

Respectfully submitted,

/s/ Rachel L. Brand

Rachel L. Brand
Sheldon Gilbert
NATIONAL CHAMBER LITIGATION CENTER, INC.
1615 H Street N.W.
Washington, DC 20062
(202) 463-5337
Counsel for Chamber of Commerce of the United States of America

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR CORN REFINERS ASSOCIATION

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant-Intervenor Corn Refiners Association ("CRA") makes the following declarations:

CRA is a non-profit, national trade association headquartered in the District of Columbia. CRA has no parent corporation. CRA serves as the voice of the U.S. corn wet millers industry in the public policy arena. CRA is comprised of 6

member companies with 23 plants located throughout the United States.

Respectfully submitted,

/s/ William L. Wehrum

William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
(202) 955-1500
wwehrum@hunton.com
sstone@hunton.com
Counsel for Corn Refiners Association

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR THE NATIONAL ASSOCIATION OF MANUFACTURERS

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant Intervenor, the National Association of Manufacturers ("NAM"), makes the following declarations:

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. 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. The NAM has no parent company, and no publicly held company has a 10% or greater ownership interest in the NAM.

Respectfully submitted,

/s/ Quentin Riegel

Quentin Riegel
Vice President, Litigation
& Deputy General Counsel
NATIONAL ASSOCIATION OF MANUFACTURERS
733 10th Street, N.W.
Suite 700
Washington, DC 20001
qriegel@nam.com
(202) 637-3000
Counsel for National Association of Manufacturers

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR RUBBER MANUFACTURERS ASSOCIATION

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant-Intervenor Rubber Manufacturers Association ("RMA") makes the following declarations:

RMA is a non-profit, national trade association headquartered in the District of Columbia. RMA has no parent corporation, and no publicly held company has a ten percent (10%) or greater ownership interest in RMA. RMA is the national

trade association representing tire manufacturing companies that manufacture tires in the United States. RMA member companies include: Bridgestone Americas, Inc.; Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli Tire North America; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation. RMA's eight member companies operate 30 tire manufacturing plants, employ thousands of Americans and ship over 90 percent of the original equipment ("OE") tires and 80 percent of the replacement tires sold in the United States.

Respectfully submitted,

/s/ William L. Wehrum

William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
(202) 955-1500
wwehrum@hunton.com
sstone@hunton.com
Counsel for Rubber Manufacturers Association

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	No. 13-1105 (Consolidated with No. 13-1107)

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR SOUTHEASTERN LUMBER MANUFACTURERS ASSOCIATION

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant-Intervenor Southeastern Lumber Manufacturers Association ("SLMA ") makes the following declarations:

Southeastern Lumber Manufacturers Association (SLMA) is a trade association that represents independently-owned sawmills, lumber treaters, and their suppliers in 17 states throughout the Southeast. SLMA's members produce

more than 2 billion board feet of solid sawn lumber annually, employ over 12,000 people, and responsibly manage over a million acres of forestland. These sawmills are often the largest job creators in their rural communities, having an economic impact that reaches well beyond people that are in their direct employment. The association serves as the unified voice of its members on state and federal government affairs and offers various other programs including networking events, marketing and management, and operational issues. No parent corporation and no publicly held company has a ten percent (10%) or greater ownership interest in SLMA.

Respectfully submitted,

/s/ William L. Wehrum

William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
(202) 955-1500
wwehrum@hunton.com
sstone@hunton.com
Counsel for Southeastern Lumber Manufacturers Association

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT,	)	
Petitioners,	)	
v.	)	No. 13-1105 (Consolidated with No. 13-1107)
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency,	)	
Respondents.	)	

RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR SOCIETY OF CHEMICAL MANUFACTURERS AND AFFILIATES

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Movant Intervenor Society of Chemical Manufacturers and Affiliates ("SOCMA") makes the following declarations:

SOCMA is a non-profit, national trade association headquartered in the District of Columbia. SOCMA has no parent corporation, and no publicly held company has a ten percent (10%) or greater ownership interest in SOCMA.

SOCMA is the leading trade association representing the batch, custom, and specialty chemical industry. SOCMA's 210 member companies employ more than 46,500 workers across the country and produce products – valued at $24 billion annually – that make our standard of living possible. From pharmaceuticals to cosmetics, soaps to plastics and all manner of industrial and construction products, SOCMA members make materials that save lives, make our food supply safe and abundant, and enable the manufacture of literally thousands of other products. Over 70% of SOCMA's active members are small businesses.

SOCMA advocates for U.S. laws and regulations that promote our members' competitiveness and bottom line.

Respectfully submitted,

/s/ James W. Conrad, Jr.

James W. Conrad, Jr.
CONRAD LAW & POLICY COUNSEL
805 15th St., NW, Suite 501
Washington, DC 20005-2242
(202) 822-1970
Counsel for Society of Chemical Manufacturers and Affiliates

Dated: May 2, 2013

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

LOUISIANA ENVIRONMENTAL ACTION NETWORK, SIERRA CLUB, CLEAN AIR COUNCIL, PARTNERSHIP FOR POLICY INTEGRITY, AND ENVIRONMENTAL INTEGRITY PROJECT, Petitioners, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and ROBERT PERCIASEPE, in his official capacity as Acting Administrator of the U.S. Environmental Protection Agency, Respondents.	)	No. 13-1105 (Consolidated with No. 13-1107)

CERTIFICATE AS TO PARTIES AND AMICI

As required by Circuit Rule 27(a)(4) and pursuant to Circuit Rule 28(a)(1)(A), the following Certificate as to Parties and Amici is made on behalf of the American Forest & Paper Association ("AF&PA"), American Wood Council ("AWC"), Chamber of Commerce of the United States of America ("Chamber"), Corn Refiners Association ("CRA"), National Association of Manufacturers ("NAM"), Rubber Manufacturers Association ("RMA"), Southeastern Lumber

Manufacturers Association, Inc. ("SLMA"), and Society of Chemical Manufacturers and Affiliates ("SOCMA") (collectively, "the Associations"):

Parties and Amici

This case involves consolidated petitions for review of a final regulation of the United States Environmental Protection Agency entitled "National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial and Institutional Boilers," published at 78 Fed. Reg. 7438 (February 1, 2013) ("Final GACT Rule"). There was no action in the district court, and so there were no parties in the district court.

The parties in this Court in these consolidated petitions for review are:

Petitioners

Louisiana Environmental Action Network, Sierra Club, Clean Air Council, Partnership for Policy Integrity, and Environmental Integrity Project (Case No. 13-1105); and,

Council of Industrial Boiler Owners, the American Chemistry Council, American Wood Council, American Forest and Paper Association, Southeastern Lumber Manufacturers Association, Com Refiners Association, National Association of Manufacturers, Rubber Manufacturers Association, and Chamber of Commerce of the United States of America (No. 13-1107).

Respondents

United States Environmental Protection Agency is the Respondent in both of these cases.

Robert Perciasepe, Acting Administrator, United States Environmental Protection Agency, is also named as a Respondent in case No. 13-1105.

Movant-Intervenors

As of the date of the filing, the Associations are aware of the following movant-intervenors: Council of Industrial Boiler Owners, and American Chemistry Council; and, American Petroleum Institute.

We are unaware that this Court has granted any interventions at this time on these petitions for review.

Amici

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

Respectfully submitted,

/s/ William L. Wehrum
William L. Wehrum
Scott J. Stone
HUNTON & WILLIAMS LLP
2200 Pennsylvania Avenue N.W.
Washington, D.C. 20037
(202) 955-1500
Counsel for American Forest & Paper Association, American Wood Council, Corn Refiners Association, Rubber Manufacturers Association, and Southeastern Lumber Manufacturers Association, Inc.

/s/ Quentin Riegel
Quentin Riegel
Vice President, Litigation
& Deputy General Counsel
NATIONAL ASSOCIATION OF MANUFACTURERS
733 10th Street, N.W.
Suite 700
Washington, DC 20001
(202) 637-3000
qriegel@nam.org
Counsel for National Association of Manufacturers

/s/ Rachel L. Brand
Rachel L. Brand
Sheldon Gilbert
NATIONAL CHAMBER LITIGATION CENTER, INC.
1615 H Street N.W.
Washington, DC 20062
(202) 463-5337
Counsel for the Chamber of Commerce of the United States of America

/s/ James W. Conrad, Jr.
James W. Conrad, Jr.
CONRAD LAW & POLICY COUNSEL
1615 L St., N.W., Suite 650
Washington, DC 20036
(202) 822-1970
Counsel for Society of Chemical Manufacturers and Affiliates

Dated: May 2, 2013

Of Counsel:

Jan Poling
Vice President, General Counsel
& Corporate Secretary
AMERICAN FOREST & PAPER ASSOCIATION
1111 19th Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 463-2590

CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of May, 2013, a copy of the foregoing Motion for Leave to Intervene as Respondents was served electronically through the court's CM/ECF system on all registered counsel.

/s/ William L. Wehrum
William L. Wehrum