ORAL ARGUMENT NOT YET SCHEDULED

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

Sierra Club, *Petitioner*, v. U.S. Environmental Protection Agency *and* Gina McCarthy, Administrator, U.S. Environmental Protection Agency, *Respondents*.	)	Case No. 14-1110

MOTION FOR LEAVE TO INTERVENE OF THE COALITION TO RESPONSIBLY ADDRESS EQUIPMENT MALFUNCTIONS

Pursuant to Federal Rules of Appellate Procedure 15(d) and 27 and Circuit Rules 15(b) and 27, the Coalition to Responsibly Address Equipment Malfunctions (CRAEM or Coalition), which represents many of the industries and companies directly regulated by the rules being challenged in this case,[1] by and through

[1] CRAEM consists of the American Chemistry Council, American Forest & Paper Association, American Fuel & Petrochemical Manufacturers, American Iron and Steel Institute, American Petroleum Institute, American Wood Council, Brick Industry Association, Council of Industrial Boiler Owners, Fertilizer Institute, Florida Sugar Industry, National Association of Manufacturers, Rubber Manufacturers Association, Treated Wood Council, and Vegetable Oil Coalition. Each of these organizations is a trade association within the meaning of Circuit Rule 26.1.

undersigned counsel, hereby respectfully moves to intervene in support of Respondents Environmental Protection Agency and Gina McCarthy (collectively, EPA) in this case. The Coalition's counsel has conferred with counsel for the other parties. Petitioner has reserved its position on the Coalition's intervention until it has an opportunity to review this motion. EPA takes no position on this motion.

The Coalition includes associations that represent many of the industries directly regulated by the rules for which petitioner seeks judicial review, as well as associations representing industries that are subject to rules promulgated under the same statutory provisions and containing similar provisions. For example:

- The American Chemistry Council represents the leading companies engaged in the business of chemistry, including by participating on behalf of its members in administrative proceedings before EPA and in litigation arising from those proceedings that affects member company interests. The business of chemistry is an $812 billion enterprise and a key element of the nation's economy.

- The American Forest & Paper Association is the national trade association of the pulp, paper, packaging, and wood products industry, whose members account for nearly 4 percent of the total U.S. manufacturing GDP and employ nearly 900,000 men and women.

- The American Fuel & Petrochemical Manufacturers is a trade association representing American manufacturers of virtually the entire U.S. supply of gasoline and other fuels, home heating oil, and petrochemicals used in many other applications.

- The American Petroleum Institute is a nationwide non-profit trade association that represents over 600 members, ranging from the largest oil conglomerates to the smallest independent oil and gas companies, engaged in all aspects of the petroleum and natural gas industry, including exploration, production, refining, marketing, transportation,

and distribution of petroleum products.

- The American Iron and Steel Institute serves as the voice of the North American steel industry in the public policy arena and advances the case for steel in the marketplace as the preferred material of choice. The Institute is comprised of 22 producer member companies, including integrated and electric furnace steelmakers, and approximately 125 associate members who are suppliers to or customers of the steel industry. The Institute's member companies represent over three quarters of both U.S. and North American steel capacity.

- The American Wood Council is the voice of North American traditional and engineered wood products, representing over 60% of the industry. From a renewable resource, the wood products industry makes products that are essential to everyday life and employs about one-third of a million men and women in well-paying jobs.

- The National Association of Manufacturers is the country's largest manufacturing association, representing small and large manufacturers in every industrial sector and in all 50 states.

Collectively and individually, the associations in the Coalition represent member companies that own and operate facilities that are directly regulated under the challenged rules at issue in this case[2] and would be harmed if the Court were to

[2] The rules under review are: (1) *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units*, 76 Fed. Reg. 15,372 (Mar. 21, 2011); (2) *National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins; Marine Tank Vessel Loading Operations; Pharmaceuticals Production; and the Printing and Publishing Industry*, 76 Fed. Reg. 22,566 (Apr. 21, 2011); (3) *National Emission Standards for Hazardous Air Pollutant Emissions for Primary Lead Processing*, 76 Fed. Reg. 70,834 (Nov. 15, 2011); (4) *National Emission Standards for Hazardous Air Pollutant Emissions for Shipbuilding and Ship Repair (Surface Coating); National Emission Standards for Wood Furniture Manufacturing Operations*, 76 Fed. Reg. 72,050 (Nov. 21, 2011); (5) *National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-*

grant the relief requested by petitioner.

In particular, the affirmative-defense provisions challenged by petitioner in the rules at issue were promulgated to reduce the potential for civil penalties associated with the unavoidable exceedance of emission standards established by those rules. Companies represented by the Coalition's members, which are exposed to civil penalties even when their facilities have been properly designed and operated to comply with the rules, will be directly affected by the outcome of this litigation and have a concrete, protectable interest in supporting EPA's defense of those portions of the rules that petitioner seeks to challenge.

BACKGROUND

In this case, petitioner seeks to use and expand a recent decision from this Court to invalidate an affirmative defense that EPA previously adopted in nine rules implementing provisions of the Clean Air Act (CAA) following notice-and-comment rulemaking. In *Natural Resources Defense Council v. EPA*, 749 F.3d 1055 (D.C. Cir. 2014), petitioner and other parties challenged certain EPA

Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 77 Fed. Reg. 9304 (Feb. 16, 2012); (6) *New Source Performance Standards Review for Nitric Acid Plants*, 77 Fed. Reg. 48,433 (Aug. 14, 2012); (7) *National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry*, 77 Fed. Reg. 55,698 (Sept. 11, 2012); (8) *National Emission Standards for Hazardous Air Pollutant Emissions: Steel Pickling—HC1 Process Facilities and Hydrochloric Acid Regeneration Plants*, 77 Fed. Reg. 58,220 (Sept. 19, 2012); and (9) *National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources*, 77 Fed. Reg. 75,740 (Dec. 21, 2012).

emission standards, and the corresponding compliance date, applicable to the portland cement industry. *See id.* at 1059–62; *see also National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants*, 78 Fed. Reg. 10,006 (Feb. 12, 2013). In addition, the petitioners in that case challenged EPA's authority to adopt an affirmative defense to civil penalties for emissions violations caused by unavoidable malfunctions. This Court rejected the challenges to the emission standards and the compliance date, but vacated the portions of the portland cement rule pertaining to the affirmative defense, finding that EPA lacked authority under the CAA to create a defense applicable in federal court. *See Natural Resources Defense Council*, 749 F.3d at 1062–64.

Contending that the Court's decision itself constitutes "grounds arising after" the sixty-day deadline for judicial review of an EPA rulemaking, *see* 42 U.S.C. § 7607(b)(1), petitioner filed a single petition seeking judicial review of nine other rules promulgated in 2011 and 2012 that include an affirmative defense to civil penalties. The availability of this affirmative defense has a direct impact on companies represented by the Coalition's members, which would be entitled to raise the defense in suits seeking civil penalties for emissions caused by unavoidable malfunctions. Accordingly, the Coalition and its members will be significantly and negatively affected if petitioner prevails in this litigation.

ARGUMENT

Each member of the Coalition satisfies the elements for intervention in support of EPA. The interests of the Coalition's members relate directly to the subject of this litigation, would be impaired if petitioner prevails, and are not adequately represented by existing parties. The Coalition's members also have Article III standing to intervene in this case.

I. The Coalition's Members Satisfy The Standards For Intervention.

This Court, like other courts of appeals, has recognized that the standard for intervention under Federal Rule of Civil Procedure 24, while not binding, informs the "grounds for intervention" required by 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); *see Int'l Union v. Scofield*, 382 U.S. 205, 216 n.10 (1965); *Sierra Club, Inc. v. EPA*, 358 F.3d 516, 517–18 (7th Cir. 2004). For an applicant to intervene as of right under Federal Rule of Civil Procedure 24(a)(2), it must (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 applicant's interest. *See, e.g.*, *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003). Each of these requirements is satisfied here.

A. The Coalition's Motion To Intervene Is Timely.

Petitioner filed the petition for review in this case on June 17, 2014. This motion is timely because it was filed within 30 days of the filing of the petition. Fed. R. App. P. 15(d). Moreover, allowing the Coalition to intervene will not, as a practical matter, disrupt the proceedings because it is seeking to join this case at the earliest possible stage, before the Court has even had an opportunity to establish a schedule and format for briefing.

B. The Coalition's Members Have Interests Relating To The Subject Of This Proceeding That Will Be Impaired If Petitioner Prevails.

The interests of the Coalition's members will be impaired if petitioner prevails in this case. Many of the Coalition's member associations represent companies that are directly regulated by the rules at issue here. *See, e.g.*, *National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources*, 77 Fed. Reg. 75,740, 75,741–42, 75,758 (Dec. 21, 2012); *see* 40 C.F.R. §§ 63.11494, 63.11501(e)(1) (providing an affirmative defense for chemical manufacturing sources that use, generate, or produce certain specified organic or metal compounds). And petitioner seeks to have the Court partially vacate the rules on which these companies rely. That particular result—excising the "unavoidable malfunction" affirmative-defense provisions—would directly harm these companies by depriving them of the ability to assert an affirmative defense to civil

penalties in enforcement actions or citizen suits, as prescribed by the challenged rules, based on emissions violations that may occur during malfunction periods.

As associations representing companies who are directly regulated by the challenged rules, these groups fall within the class of parties who are routinely allowed to intervene in cases reviewing agency action. For example, in the case on which petitioner's current challenge is based, this Court allowed the Portland Cement Association, which represented companies that owned and operated facilities that were directly regulated under the rule at issue, to intervene in support of EPA. *See Sierra Club v. EPA*, No. 13-1112 (D.C. Cir. May 20, 2013) (order granting motions to intervene); *see also, e.g.*, *Military Toxics Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998) (allowing an association whose member companies produced military munitions and operated military firing ranges to intervene in a challenge to EPA's Military Munitions Rule); *Conservation Law Found. of New Eng. v. Mosbacher*, 966 F.2d 39, 41–44 (1st Cir. 1992) (holding that 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) (holding that pesticide manufacturers subject to challenged regulation and industry representatives had a legally protected interest supporting intervention). Indeed, this Court has regularly granted intervention to

associations representing entities regulated by CAA rules that petitioner sought to overturn. *See*, *e.g.*, *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008).

The Coalition's members also have broader interests that would be impaired if the Court ruled for petitioner in this case. It is well established that even an indirect interest is sufficient to justify intervention of right. *Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 133–35 (1967); *see NRDC v. Costle*, 561 F.2d 904, 908–10 (D.C. Cir. 1977) (granting intervention to industry parties in environmental group's action to compel EPA to issue categorical effluent limitations guidelines on agreed schedule). Rule 24's requirement that the action's outcome will impact the applicant's interests involves both practical and legal considerations: "If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene ...." Fed. R. Civ. P. 24, advisory committee's note, 1966 amend. Under this practical approach, the Coalition's members would be adversely affected by the *stare decisis* effect of a decision adopting petitioner's assertion that it is entitled to reopen emission standards issued years ago and excise portions of a rule relating to an affirmative defense for malfunctions. *See Nuesse v. Camp*, 385 F.2d 694, 702 (D.C. Cir. 1967) (the potential *stare decisis* effect of a judgment may supply the requisite practical impairment warranting intervention); *see also Am. Train Dispatchers Ass'n v. ICC*, 26 F.3d 1157, 1162 (D.C. Cir. 1994) (permitting

association to intervene in review of agency action because of the "strong precedential impact" the Court's decision would have in future proceedings), *abrogated on other grounds by Rio Grande Pipeline Co. v. FERC*, 178 F.3d 533 (D.C. Cir. 1999).

The Coalition's members have an interest in this case that would be concretely and adversely affected by the relief petitioner seeks.

C. Existing Parties Cannot Adequately Represent The Interests Of The Coalition's Members.

The interests of the Coalition's members will not be adequately represented by the existing parties in this case. The burden of showing that an intervenor's interests will not be adequately represented by the parties 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 interests '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). Further, this Court has recognized the "inadequacy of governmental representation" when the government has no financial stake in the outcome of the suit, but a private party does. *Dimond*, 792 F.2d at 192; *see also Fund for Animals*, 322 F.3d at 736; *NRDC*, 561 F.2d at 912 n.41. In particular, mere agreement between a private party and a government agency that the agency's actions are proper is not sufficient to establish adequate representation. *See Fund for Animals*, 322 F.3d at 736.

Petitioner cannot adequately represent the interests of the Coalition's member associations because petitioner's interests directly oppose the associations' interests. Nor can EPA adequately do so. As a government agency, EPA is focused on a broad "representation of the general public interest," not the "narrower interest" of certain businesses. *Dimond*, 792 F.2d at 192–93. Although EPA must properly implement the commands of the CAA, EPA must also pursue its broader public mandate. In contrast, the Coalition's members admittedly have interests distinct from EPA's broader mandate, namely, helping to ensure that the companies they represent are able to operate the nation's manufacturing and energy facilities, preserve and create jobs, and provide products critical to the nation's infrastructure, all in an environmentally sound manner. The Coalition's members cannot rely solely on a public agency to safeguard these concerns. *See id.* at 193. Where entities have private interests like these that are distinct from the government's public interests, this difference is sufficient to justify intervention. *Fund for Animals*, 322 F.3d at 736; *Sierra Club v. Espy*, 18 F.3d 1202, 1207–08 (5th Cir. 1994); *see also supra* pp. 8–9 (listing cases in which this Court has granted intervention to private parties supporting EPA).

But even if Coalition members' interests were more closely aligned with EPA's, "that [would] not necessarily mean that adequacy of representation is ensured." *NRDC*, 561 F.2d at 912. Precisely because the members' interests are

"more narrow and focused than EPA's," the Coalition's participation is "likely to serve as a vigorous and helpful supplement to EPA's defense." *Id.* at 912–13. Accordingly, the Coalition is entitled to intervene to represent fully and fairly the legitimate interests of its members in this litigation.

II. The Coalition's Members Have Standing To Intervene In This Case.

The Coalition's members have Article III standing to intervene in support of EPA because many of the companies they represent are directly regulated by the rules at issue here. 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 Adver. Comm'n, 432 U.S. 333, 343 (1977). Only one Coalition member must satisfy these requirements. *See Military Toxics Project*, 146 F.3d at 954 (holding that standing for one party among a group of aspiring intervenors is sufficient for the group).

First, "at least some of the members" of the associations "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). As an initial matter, the member companies 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) (noting that "any person who satisfies Rule 24(a) will also meet Article III's standing requirement").

In any event, a respondent-side intervenor's standing depends on how that party would be impacted by the relief sought by the petitioner. *See Fund for Animals*, 322 F.3d at 733. Here, petitioner seeks to extinguish affirmative defenses that otherwise would be available to protect from monetary penalties the very companies that the Coalition's members represent. If granted, that relief would inevitably increase the financial burden the challenged rules impose on these companies, especially because the affirmative defense covers malfunctions, which are by definition "unavoidable." 77 Fed. Reg. at 75,745; *see Affum v. United States*, 566 F.3d 1150, 1158 (D.C. Cir. 2009) (plaintiff's standing to challenge regulations under which agency imposed penalties on her was "self-evident"); *Vill. of Bensenville v. FAA*, 376 F.3d 1114, 1119 (D.C. Cir. 2004) (municipalities had standing to challenge agency action authorizing fees that they would eventually have to pay); *Nat'l Coal Ass'n v. Lujan*, 979 F.2d 1548, 1552 (D.C. Cir. 1992) (association of coal companies had standing to challenge civil penalty provision designed to compel compliance with the Surface Mining Control and Reclamation Act).

Further, these affirmative defenses were enacted specifically to shield these companies from unwarranted penalties. The purpose of these defenses is to account for EPA's position that it must establish the applicable emissions standards "on a continuous basis," 42 U.S.C. § 7602(k), without regard for emissions variations caused by shutdowns, startups, or malfunctions, *see* 77 Fed. Reg. at 75,744. EPA asserts that the affirmative defenses aim to strike a balance by "ensur[ing] adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission limits may be violated under circumstances beyond the control of the source." *Id.* at 75,745. Consequently, the companies represented by the Coalition's members are "directly subject to" and "benefit from" the challenged provisions. *See Military Toxics Project*, 146 F.3d at 954 (industry association had standing where its members were directly regulated by and benefited from the challenged rule).

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. Defenders 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) (distinguishing parties on whom agency action imposes "regulatory restrictions, costs, or other burdens," for whom standing is easily established, from others, for whom it is "more difficult"). Put another way, if EPA decided on its own to do away with these defenses, there

would be no doubt that the directly regulated companies, whom the defenses were created to benefit, would have standing to challenge that decision. Because that is the outcome petitioner seeks here, the directly regulated companies that the Coalition's members represent would have Article III standing to intervene.[3]

In turn, the associations that represent those companies have standing. For example, the American Chemistry Council has member companies regulated by a number of rules at issue here, including both the polymer and resin standards and the chemical manufacturing area source standards,[4] *see* 76 Fed. Reg. 22,566; 77 Fed. Reg. 75,740; members of the American Forest & Paper Association operate facilities that are subject to pulp and paper mill standards,[5] *see* 77 Fed. Reg.

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[3] The directly regulated companies would plainly have prudential standing as well: "their interests are '… within the zone of interests to be protected or regulated by the [challenged rules],'" *In re Vitamins Antitrust Class Actions*, 215 F.3d 26, 29 (D.C. Cir. 2000), because they are directly regulated by those rules, and the unavoidable-malfunction affirmative defenses exist precisely to protect them from penalties for violations beyond their control, *see, e.g.*, 77 Fed. Reg. at 75,745; *see also First Nat. Bank & Trust Co. v. Nat'l Credit Union Admin.*, 988 F.2d 1272, 1275 (D.C. Cir. 1993) ("Litigants can qualify as 'protected' by a statute if they are intended beneficiaries of the legislation….").

[4] The chemical manufacturing area source rule, 77 Fed. Reg. 75,740, was the subject of both an American Chemistry Council petition for review filed in this court on December 29, 2009, and an administrative petition for reconsideration filed with EPA on February 12, 2010. After holding the case in abeyance and successfully resolving its objections to certain of the rule's provisions through settlement discussions with EPA and further rulemaking, ACC moved this Court to dismiss its petition for review, and that motion was granted on April 30, 2013.

[5] In fact, those pulp and paper mill emission standards are the subject of a petition for review filed by the American Forest & Paper Association on November 13,

55,698; American Iron and Steel Institute members are regulated by steel pickling standards, *see* 77 Fed. Reg. 58,220, including Nucor Corporation, a company that owns seven facilities that include steel pickling plants used in the manufacture of coiled sheet products, *see* Exhibit A (declaration of Peter Pagano); members of the American Petroleum Institute are regulated under the standards for marine tank vessel loading operations, *see* 76 Fed. Reg. 22,566; members of the Council of Industrial Boiler Owners own and operate large and small industrial, commercial, and institutional steam generating units, which are directly subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for several different source categories,[6] *see, e.g.*, 77 Fed. Reg. 9304; the Fertilizer Institute's member companies are covered by standards for nitric acid plants, *see* 77 Fed. Reg. 48,433; and the National Association of Manufacturers represents companies regulated by the steam-generating-unit standards,[7] *see* 77 Fed. Reg. 9304. The Coalition's

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2012, currently being held in abeyance pending EPA reconsideration. *Am Forest & Paper Ass'n, Inc. v. U.S. EPA*, No. 12-1441 (D.C. Cir. filed Nov. 13, 2012). Petitioner has a pending motion to intervene in that action.

[6] On behalf of its members, the Council of Industrial Boiler Owners is petitioner in cases now before this Court that challenge EPA's 2011 and 2013 NESHAPs for boilers and process heaters, which include an affirmative-defense provision that mirrors the provision for which petitioner here seeks judicial review: *U.S. Sugar Corp. v. EPA*, No. 11-1108 (D.C. Cir. filed Apr. 14, 2011), and *Am. Chemistry Council v. EPA*, No. 11-1141 (D.C. Cir. filed May 17, 2011).

[7] Among the National Association of Manufacturers' members is Luminant Generation Company LLC, which owns or operates facilities that are directly subject to the rule governing steam generating units, *see* 77 Fed. Reg. 9304, and

associations, which have members that are directly regulated, thus have standing to intervene. *See Military Toxics Project*, 146 F.3d at 954.

Second, the interests that the Coalition's members seek to protect here are germane to their organizational purposes of promoting the well-being of their member companies and industries and of representing those interests in, *inter alia*, federal agency rulemaking. More burdensome CAA regulations that allow civil penalties for unavoidable malfunctions would squarely conflict with those purposes. In addition, given the investments that companies make to comply with rules promulgated by EPA following notice-and-comment rulemakings, the Coalition's members have an interest in ensuring that any subsequent modifications to finalized rules are made through proper administrative and regulatory processes, not through attempts to have the judiciary reopen rulemakings long past the time for judicial review. Thus, both the procedural and substantive issues raised by this case are germane to the Coalition members' organizational purposes.

Finally, the participation of individual member companies—while permissible—is not mandatory. Petitioner is seeking judicial review of regulations that impose emission standards on entire classes of industry facilities, and therefore

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which is separately moving to intervene in this action. *See* Exhibit B (declaration of Ross Eisenberg).

this action is not directed at, and does not depend on the circumstances of, any specific facility. The Coalition understands that petitioner would seek to invalidate the challenged affirmative defenses for all regulated entities.

The members of the Coalition unquestionably have a sufficient stake in this case to support Article III standing.

CONCLUSION

For the reasons stated above, CRAEM respectfully seeks leave to intervene in support of EPA in this Case.

Dated: July 17, 2014

Respectfully submitted,

/s/ Roger R. Martella, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Unopposed Motion For Leave To Intervene were today served, this 17th day of July, 2014, through the Court's CM/ECF system on all registered counsel.

/s/ Roger R. Martella, Jr.

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