

ORAL ARGUMENT NOT YET SCHEDULED

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

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SEMICONDUCTOR INDUSTRY		)	
ASSOCIATION,		)	
		)	
	Petitioner,	)	
		)	
v.		)	Case No. 11-1024
		)	(consolidated with
UNITED STATES ENVIRONMENTAL		)	No. 11-1022)
PROTECTION AGENCY,		)	
		)	
	Respondent.	)	
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**MOTION OF ENVIRONMENTAL DEFENSE FUND AND NATURAL  
RESOURCES DEFENSE COUNCIL TO INTERVENE IN SUPPORT OF  
RESPONDENT**

Environmental Defense Fund and Natural Resources Defense Council (collectively “Movants”) respectfully move pursuant to FED. R. APP. P. 15(d) and D.C. Cir. Rule 15(b) to intervene in support of Respondent U.S. Environmental Protection Agency (“EPA”) in the Petition for Review filed in this Court by Semiconductor Industry Association (No. 11-1024). This case concerns review of the final rule promulgated by EPA entitled “Mandatory Reporting of Greenhouse Gases: Additional Sources of Fluorinated GHGs,” published at 75 Fed. Reg. 74,774-861 (Dec. 1, 2010) (the “Final Rule”). Counsel for Petitioner

Semiconductor Industry Association has been consulted and stated that Semiconductor Industry Association intends to review this motion before taking a position on Movants' request to intervene. Pursuant to D.C. Circuit Rule 15(b), this motion also constitutes a motion to intervene in all petitions for review of the Final Rule.

## **INTRODUCTION**

At issue in this case is a key piece of our nation's first comprehensive nationwide system for tracking individual facilities' greenhouse gas emissions, a reporting regime that is central to the government's global warming policy efforts. Congress charged EPA with developing a comprehensive mandatory reporting regime for greenhouse gas emissions. Congress directed EPA to publish a final rule "not later than June 26, 2009, and to begin implementation [] to require mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States, as required by Public Law 110-161."<sup>1</sup> Movants have been deeply involved in the development of these reporting regulations, advocating for effective reporting protocols.

This action challenges a recently-finalized portion of the reporting regime which tracks emissions from economic sectors that emit some of the most potent

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<sup>1</sup> Appropriations Act of 2009, Pub. L. No. 111-8, 123 Stat. 524, 729 (March 11, 2009) (citing Fiscal Year 2008 Consolidated Appropriations Act, Pub. L. No. 110-161, 121 Stat. 1844, 2128 (Dec. 26, 2007)).

greenhouse gases in existence. The Final Rule requires monitoring and reporting of emissions from electronics and electrical equipment manufacturing and other sources of “fluorinated” greenhouse gases. *See* 75 Fed. Reg. at 74,774. When released into the air, these fluorine-containing compounds produce a warming effect that dwarfs the impact of other greenhouse gases. Many fluorinated greenhouse gases exert a warming impact that is thousands of times greater than an equivalent mass of carbon dioxide, *see* 40 C.F.R. § 98 Subpart A Table A-1 (showing the global warming potential of the greenhouse gases to which EPA’s reporting regime applies). Presumably because its members wish to weaken reporting requirements for their facilities, the Semiconductor Industry Association (“SIA”) has petitioned for review.

Industry groups have already filed a series of legal challenges to EPA’s initial set of greenhouse gas reporting regulations and other subsequent rules to add sectors to the list of facilities required to report. Two of those cases, Nos. 09-1325 and 10-1284, are presently being held in abeyance pending settlement discussions, while a third, No. 11-1020, was filed at the same time as the instant case. One or both of Movants have sought to intervene in support of EPA in each case, and those intervention motions have either been granted or await disposition.<sup>2</sup> To

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<sup>2</sup> *See* Order of Feb. 3, 2011, *American Chemistry Council v. EPA*, 09-1325 (D.C. Cir.) (Environmental Defense Fund and Natural Resources Defense Council granted intervention); Motion Natural Resources Defense Council *et al.* for Leave

ensure that EPA's greenhouse gas reporting regime receives the strongest possible defense, Movants now seek to intervene in this proceeding as well in support of Respondent EPA.

## BACKGROUND

### A. Movant Environmental Organizations

Movants are nonprofit citizens' groups working on many fronts to research, analyze, and control greenhouse gases.

Environmental Defense Fund ("EDF") is a national nonprofit organization representing more than 300,000 members nationwide. Declaration of John Stith (Stith Decl.) ¶¶ 3, 8. Since 1967, EDF has linked science, economics, and law to create innovative, equitable, and cost-effective solutions to the most urgent environmental problems. *See id.* ¶ 4. A core part of EDF's mission is to advocate well-designed national policies, legislative and administrative, to reduce climate-altering emissions, in part by analyzing and providing their members and the public with information regarding emissions data to evaluate and influence policy proposals. *Id.* ¶ 6. EDF also actively engages in public education and outreach activities by communicating with its members and with the public through its website, email communications, press statements, internet-based media outlets, and

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to Intervene in Support of Respondent, Case No. 10-1284, Doc. 1271183 (Oct. 12, 2010); Motion of Environmental Defense Fund, Natural Resources Defense Council, *et al.* for Leave to Intervene in Support of Respondent, Case No. 11-1020, (filed concurrently with this motion).

other publications, and utilizes emissions data in many of those communications.

*Id.* ¶ 8. In addition, EDF seeks strategic partnerships with corporations interested in conducting their business in a manner that mitigates the impact on human health and the environment. *See id.* ¶ 6; Declaration of Arthur P. Cooley (Cooley Decl.) ¶ 8.

The Natural Resources Defense Council (“NRDC”) is a national nonprofit environmental organization with approximately 400,820 members nationwide. Declaration of Linda Lopez (Lopez Decl.) ¶¶ 3, 7. NRDC’s mission includes the prevention and mitigation of global warming in order to protect and maintain NRDC’s members’ use and enjoyment of natural resources threatened by global warming. *Id.* ¶ 4. Through its Climate Center, NRDC pursues federal and state policies to curb the pollution that is causing global warming, including emissions of greenhouse gases from U.S. stationary sources, which are a major contributor to global warming pollution. *Id.* ¶ 5.

## **B. The Final Rule**

The Final Rule’s requirements for electronics and electrical equipment manufacturing and the other sources of fluorinated greenhouse gases represent a critical component of EPA’s reporting system for greenhouse gas emissions. As the agency has explained, “[a]ccurate and timely information on [greenhouse gas] emissions is essential for informing many future climate change policy decisions.”

74 Fed. Reg. 56,260, 56,265 (“Mandatory Reporting of Greenhouse Gases, Final Rule,” Oct. 30, 2009). With access to nationwide, facility-level data, “[s]tates and the public will gain a better understanding of the relative emissions of specific industries across the nation and the distribution of emissions from individual facilities within those industries.” *Id.* These data will help determine the actions “that facilities could in the future or already take to reduce emissions, including under traditional and more flexible programs.” *Id.* In promulgating reporting requirements for the facilities covered in the Final Rule, EPA explained that “the data collected by the rule are expected to be used in analyzing and developing a range of potential [Clean Air Act greenhouse gas] policies and programs. A consistent and accurate data set is crucial to serve this intended purpose.” 75 Fed. Reg. 18,655.

The disproportionate warming impact of fluorinated greenhouse gases amplifies the need for accurate emissions data from the sources of these pollutants. For example, electronics and electrical equipment manufacturing, which includes semiconductor production, results in the emission of sulfur hexafluoride (SF<sub>6</sub>), a greenhouse gas with 23,900 times the warming impact of carbon dioxide. *See* 75 Fed. Reg. 18,657 (“The electronics industry uses multiple long-lived fluorinated [greenhouse gases] such as . . . SF<sub>6</sub> . . . during manufacturing of semiconductors.”); 40 C.F.R. § 98 Subpart A Table A-1 (showing the global warming impact of SF<sub>6</sub>).

Therefore, even relatively small inaccuracies in SF<sub>6</sub> emissions data from electronics and electrical equipment manufacturing can translate into vast gaps in our understanding of overall global warming emissions and of the magnitude of these sources' contribution to global warming as compared to other economic sectors. Therefore, implementation of the Final Rule is needed to provide the public with accurate data on emissions of these powerful greenhouse gases, making it possible to design cost-effective strategies to reduce those emissions

### **ARGUMENT**

Movants should be permitted to intervene in these proceedings in order to support their organizational interests and the specific interests of their members in maintaining comprehensive, public, and effective greenhouse gas reporting data from all significant facilities. As demonstrated below, Movants meet the requirements for intervention. Further, this motion was timely filed within thirty days of January 31, 2011, when the Semiconductor Industry Association's petition for review was filed. FED. R. APP. P. 15(d); *Alabama Power Co. v. I.C.C.*, 852 F.2d 1361, 1367 (D.C. Cir. 1988).

#### **A. Standard Applicable to a Motion to Intervene**

Under FED. R. APP. P. 15(d), a motion to intervene need only make "a concise statement of the interest of the moving party and the grounds for intervention." This Court has noted that "in the intervention area the interest test 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) (reversing denial of intervention under FED. R. CIV. P. 24(a)). Movants seek intervention to oppose attempts to weaken access to information on public health and environmental impacts that concern the interests of their members. As discussed further below, that interest is sufficient to support intervention in this case.

This court has regularly allowed Movants to intervene in industry petitions challenging EPA actions under the Clean Air Act. *See, e.g.*, Order of Feb. 3, 2011, *American Chemistry Council v. EPA*, 09-1325 (D.C. Cir.) (EDF and NRDC granted intervention in industry lawsuits challenging greenhouse gas reporting regulations applicable to other facilities); Order of Aug. 3, 2006, *Coke Oven Env'tl. Task Force v. EPA*, No. 06-1131 (D.C. Cir.) (EDF (then known as Environmental Defense) and NRDC granted intervention in suits by industry and governmental entities challenging revisions to air pollutant emissions standards for utility boilers).<sup>3</sup> Comparable circumstances warrant a grant of intervention to Movants here.

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<sup>3</sup> Similarly, this Court has regularly permitted intervention by industry organizations seeking to support EPA actions challenged by environmental groups. *See, e.g.*, *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009) (National Petrochemical and Refiners Association and other industry groups allowed to intervene in support of EPA's 8-hour ozone National Ambient Air Quality Standard); *Am. Farm*



**B. Movants' Motion to Intervene Should Be Granted.**

1. Movants' Organizational Interest in Maintaining EPA's Reporting System

Movants have a substantial interest in this proceeding to protect their organizational investments in greenhouse gas emissions analysis and reductions. Movants are working to document and control U.S. greenhouse gas emissions and to disseminate information on these emissions and their effects to the public and policymakers. *See* Cooley Decl. ¶¶ 7-8; Declaration of Daniel A. Lashof (Lashof Decl.) ¶¶ 3-7; Declaration of Denise Fort (Fort Decl.) ¶¶ 6, 9. They need these data to effectively argue for reduction strategies, educate the public and politicians, and help progressive companies reduce their emissions. *See* Cooley Decl. ¶¶ 7-8; Lashof Decl. ¶¶ 6-8; Fort Decl. ¶¶ 6, 9. Their members, who have vital personal interests in controlling global warming and better understanding its causes, benefit substantially from this work. *See, e.g.*, Cooley Decl. ¶¶ 2-6; Fort Decl. ¶¶ 5-9; Declaration of Sarah Gordon (Gordon Decl.) ¶¶ 3-6; Declaration of Elizabeth Coplon (Coplon Decl.) ¶¶ 3-6.

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*Bureau Fed'n v. EPA*, 559 F.3d 512 (D.C. Cir. 2009) (industry groups intervened to support EPA's 2006 revisions to its national ambient air quality standards for fine and coarse particulate matter); *Sierra Club v. EPA*, 551 F.3d 1019 (D.C. Cir. 2008) (chemical industry groups intervened to support EPA rule exempting major sources of air pollution from normal emission standards during periods of startups, shutdowns, and malfunctions).

Movants have advanced their organizational interests and the interests of their members by advocating in favor of regulation of greenhouse gases since EPA first requested public comment on a 1999 petition to EPA to regulate greenhouse gas emissions from motor vehicles. *See, e.g.*, EPA Document No. EPA-HQ-OAR-2001-0002-0026 at 2 (discussing comments of NRDC). Movants were also prevailing parties in the *Massachusetts v. EPA* litigation, which confirmed that greenhouse gases fall under the Clean Air Act's purview. *See Massachusetts*, 549 U.S. at 505 n.4 (listing environmental group petitioners). More recently, Movants have been granted leave by this Court to intervene on behalf of EPA in consolidated challenges to EPA's initial regulatory finding that greenhouse gases endanger the public and to rules establishing greenhouse gas emissions limits for motor vehicles. *See* Order of May 5, 2010, *Coalition for Responsible Regulation v. EPA*, No. 09-1322 (D.C. Cir.); Order of Aug. 5, 2010, *Coalition for Responsible Regulation v. EPA*, No. 10-1092 (D.C. Cir.).

Because comprehensive and accurate emissions data are central to any emissions control strategy, Movants have been deeply involved in the development of EPA's greenhouse gas reporting regulations. Movants submitted extensive technical comments on EPA's initial rulemaking proposal in 2009 and have consistently advocated a comprehensive and public reporting system through their comments on EPA's subsequent proposals, including the agency's April 2010

proposed reporting requirements for sources of fluorinated greenhouse gases. *See* EPA Docket ID No. EPA-HQ-OAR-2009-0927-0128.1 (June 11, 2010)

(Comments of EDF *et al.*).<sup>4</sup> Moreover, when EPA's 2009 final rule establishing greenhouse gas reporting failed to include requirements covering sources of fluorinated greenhouse gas emissions and other economic sectors, Movant EDF

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<sup>4</sup> *See also* EPA Docket ID No. EPA-HQ-OAR-2008-0508-2398.1 (Sept. 27, 2010) (Comments of NRDC *et al.* on proposed revisions to the Mandatory Greenhouse Gas Reporting Rule, 75 Fed. Reg. 48,744 (Aug. 11, 2010)); EPA Docket ID No. EPA-HQ-OAR-2008-0508-2370.1 (Sept. 27, 2010) (Comments of EDF on same); EPA Docket ID No. EPA-HQ-OAR-2009-0924-0053.1 (Sept. 7, 2010) (Comments of NRDC *et al.* on proposed rule on confidentiality of reporting data, 75 Fed. Reg. 39,094 (July 7, 2010)); EPA Docket ID No. EPA-HQ-OAR-2009-0924-0047.1 (Sept. 7, 2010) (Comments of EDF on same); EPA Docket ID No. EPA-HQ-OAR-2009-0924-0018 (Aug. 26, 2010) (Comments of NRDC *et al.* on proposed rule on additional confidentiality determinations, 75 Fed. Reg. 43,889 (June 27, 2010)); EPA Docket ID No. EPA-HQ-OAR-2009-0924-0018.3 (Aug. 19, 2010) (Comments of NRDC *et al.* on proposed reporting rule settlement agreements, 75 Fed. Reg. 42,085 (July 20, 2010)); EPA Docket ID No. EPA-HQ-OAR-2009-0926-0809.1 (June 11, 2010) (Comments of EDF, NRDC, *et al.* on proposed reporting rule for geologic sequestration systems emissions, 75 Fed. Reg. 18,576 (Apr. 12, 2010)); EPA Docket ID No. EPA-HQ-OAR-2009-0923-1155 (June 11, 2010) (Comments of NRDC *et al.*, on proposed rule for mandatory reporting of greenhouse gases from petroleum and natural gas systems, 75 Fed. Reg. 18,608 (April 12, 2010)); EPA Docket ID No. EPA-HQ-OAR-2009-0925-0040.1 (June 11, 2010) (Comments of EDF *et al.* on proposed rule to add corporate parent and cogeneration reporting requirements, 75 Fed. Reg. 18,455 (Apr. 12, 2010)); EPA Docket ID No. EPA-HQ-OAR-2008-0508-0635 (June 8, 2009) (comments of EDF, NRDC, *et al.*, on the proposed mandatory greenhouse gas reporting rule, 74 Fed. Reg. 16,448 (Apr. 10, 2009)).

filed both a petition for judicial review of that rule and a complaint in Federal district court to compel completion of reporting requirements for the omitted sectors. *See* Petition for Review, *EDF v. EPA*, No. 09-1334 (D.C. Cir. Dec. 29, 2009); Complaint, *EDF v. Jackson*, No. 10-CIV-0466 (S.D.N.Y. Jan. 20, 2010).

Movants depend upon emissions data, including data from sources of fluorinated greenhouse gases, in their work. The Final Rule’s data support basic policy decisions and analyses, along with strategic advocacy choices. *See, e.g.*, Lashof Decl. ¶ 7 (“I will use data obtained from sources of fluorinated gases to determine whether these sources of greenhouse gas emissions may be able to readily control and reduce emissions and the costs of such reductions, which will improve the policy analysis that I undertake.”); Cooley Decl. ¶¶ 7-8 (“to effectively advocate for policies that protect these areas, I need data on greenhouse gas emissions from facilities in all sectors of the economy, including facilities . . . emitting high global warming potential gases like the fluorinated gas sector”). They also inform communications with Congress, policymakers, and the public. *See, e.g.*, Lashof Decl. ¶ (“I will also use the data to enhance public comments on proposed regulations relating to greenhouse gas emissions”); Cooley Decl. ¶ 7 (“I plan to use this [emissions] data to advocate for policies that will protect the natural habitats which I have studied and for which I care deeply”); Fort Decl. ¶ 7 (emissions data “will aid my students in understanding the relative contribution of .

. . . sources of fluorinated gases . . . to U.S. greenhouse gas emissions, and it will inform our discussions on both legal and policy-based solutions to mitigate greenhouse gas emissions”). Weakening the rule would undermine these critical organizational tasks. *See* Lashof Decl. ¶ 8; Cooley Decl. ¶ 8; Fort Decl. ¶ 9.

Movants’ significant participation in proceedings related to EPA’s greenhouse gas rulemaking effort, and to the emissions reporting system specifically, strongly favors their motion for leave to intervene. Both the Supreme Court and this Court have noted the anomaly that would result if participants in administrative proceedings who prevail, in whole or in part, before the agency were denied the ability to defend that success in judicial review proceedings brought as of right by parties aggrieved by the agency’s decision. *See Int’l Union, Aerospace and Agric. Implement Workers of Am. v. Scofield*, 382 U.S. 205, 216 (1965) (criticizing “element of fortuity” that would arise if party’s ability to participate in court of appeals depended on whether it prevailed before the agency, and embracing assumption that “Congress would not intend, without clearly expressing a view to the contrary, that a party should suffer by his own success before the agency”); *Synovus Fin. Corp. v. Bd. of Gov’rs of Fed. Reserve Sys.*, 952 F.2d 426, 432 (D.C. Cir. 1991). Further, the Clean Air Act does not limit intervention by parties that have participated extensively in the agency’s decision.

*See* 42 U.S.C. § 7607(b); *Alabama Mun. Distribs. Gr. v. FERC*, 300 F.3d 877, 879 (D.C. Cir. 2002).

2. Movants' Members' Interests Will Be Harmed if Petitioners Succeed in Undermining the Final Rule.

Movants' undertook their long history of engagement with the greenhouse gas reporting regime's development and with greenhouse gas regulation more broadly to protect the significant interests of their hundreds of thousands of members who are threatened by the impacts of greenhouse gas emissions.<sup>5</sup> Only by reducing emissions of greenhouse gases can the pace and severity of global warming be mitigated, and its worst consequences for public health, property, and the environment be avoided.<sup>6</sup> Rigorous data are required to support these reductions, as policymakers and the public must first understand where emissions come from in order to determine where reductions can be made and in what amounts. *See* 75

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<sup>5</sup> Greenhouse gases cause climate change. The U.S. has already started to experience the impacts of climate change, including increases in air and water temperatures, reduced frost days, increased frequency and intensity of heavy downpours, a rise in sea level, and reduced snow cover, glaciers, and sea ice. EPA, *Climate Change Indicators in the United States* at 4-6 (2010); *see also* EPA, *Denial of the Petitions to Reconsider the Endangerment and Cause or Contribute Findings Under Section 202(a) of the Clean Air Act* at 7 (July 29, 2010) (the science linking greenhouse gases to climate change is "robust, voluminous, and compelling").

<sup>6</sup> *See Massachusetts*, 549 U.S. at 526 (explaining that a "reduction in domestic emissions would slow the pace of global emissions increases, no matter what happens elsewhere").

Fed. Reg. 18,655 (“A consistent and accurate data set is crucial” to greenhouse gas reduction policy choices).

Movants’ members use, own, and enjoy property and natural resources which are harmed or are at risk of harm from global warming, and so will benefit if EPA and other decisionmakers can effectively address global warming pollution using data from the Final Rule. *See, e.g.*, Gordon Decl. ¶ 4 (“Harm to nearby beaches would deprive me of recreational opportunities and likely affect the value of my home, which is linked to its beach-front location.”); Coplon Decl. ¶ 4 (“My property could be eroded and my home destroyed if sea level rise caused increased erosion of the shoreline”); Cooley Decl. ¶ 3 (“If greenhouse gas emissions continue unabated, it appears likely that I will lose access to this beach or will be required to end or curtail my regular enjoyment of the beach due to its impairment”); Fort Decl. ¶ 7 (global warming-induced bark beetle infestations threaten the “destruction of the landscape around my home and possibly my home itself from forest fire and dead trees”). Harms to Movants’ use and enjoyment of their property, as well as their interests in use and enjoyment of natural resources, are sufficient to establish injury. *See Massachusetts*, 549 U.S. at 521-23 (finding particularized injury based on harm to Massachusetts’ coastal property).

Controlling these emissions, which can only be done effectively if their sources are adequately understood, will also benefit the health of Movants’

members. For example, stabilizing the climate by reducing greenhouse gas emissions would likely prevent an increase in wildfires, which are a major air pollution source, and would also help to reduce ozone pollution levels. *See* Gordon Decl. ¶ 5 (“The air quality near my home is compromised during wildfires, which are expected to occur more frequently as a result of global warming. . . . These problems are of particular concern to me because I have asthma and chronic obstructive pulmonary disease.”); Coplon Decl. ¶ 5 (“air quality has been extremely bad during wildfires, which are expected to occur more frequently as a result of global warming”); Cooley Decl. ¶ 5 (“Because global warming is likely to lead to worsening ground-level ozone concentrations and increases in heat waves and droughts, I will likely have to curtail my outdoor activities to an even greater extent if global warming is not abated”).

These health and environmental benefits and concerns establish Movants’ “interest” both under Rule 15(d) and their standing to sue under Article III of the Constitution, *see Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), whether or not standing is independently required of parties who, as here, seek to intervene in support of a respondent.<sup>7</sup> For the same reasons, Movants fall squarely within the

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<sup>7</sup> *See 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.”) (discussing district court intervention under Fed. R. Civ. P. 24, citing *Virginia v. Hicks*, 539 U.S. 113, 117-22 (2003)) (internal citation omitted);



“zone of interests” protected or regulated by the relevant provisions of the Clean Air Act. *See Federal Election Comm’n v. Akins*, 524 U.S. 11, 20 (1998) (quoting *Association of Data Processing Service Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970)).

The disposition of this case “may as a practical matter impair or impede” Movants’ interests. *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003) (quoting Fed. R. Civ. P. 24(a)(2)). Petitioner seeks to undermine the reporting rule and, in particular, to attack cost-effective reporting requirements for facilities that emit powerful greenhouse gases.<sup>8</sup> Movants and their members have invested a great deal of effort in identifying and reducing such greenhouse gas emissions. Thus, disposition of the petitions may as a practical matter materially impair the interests of Movants and their members in understanding and responding to climate change.

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*cf. Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731-32 (D.C. Cir. 2003) (overturning district court decision denying intervention in support of defendant under Fed. R. Civ. P. 24, and rejecting court’s conclusion that proposed intervenor lacked Article III standing); *Rio Grande Pipeline Co. v. F.E.R.C.*, 178 F.3d 533, 538-39 (D.C. Cir. 1999) (discussing standing to intervene question).

<sup>8</sup> In its comments on EPA’s proposed greenhouse gas reporting requirements, Petitioner Semiconductor Industry Association advocated several changes that, if adopted by EPA, would have diminished the accuracy of facilities’ reported emissions. For example, Petitioner urged EPA to reduce the frequency of the random tests required to confirm the efficiency of facilities’ emissions abatement systems. *See EPA, Mandatory Greenhouse Gas Reporting Rule: EPA’s Response to Public Comments: Subpart I - Electronics Manufacturing* (Nov. 2010) at 73 (EPA Document No. EPA-HQ-OAR-2009-0927-0228).

3. Movants Bring an Important Perspective to this Action.

This Court's practice of granting intervention to private organizations – including environmental groups, trade organizations, and others – supporting agency actions in which they have an interest, *see supra* at 8 (citing cases), reflects its recognition that private entities have a distinctive perspective that contributes to the Court's careful consideration of challenges to important agency actions.

Movants' status as private organizations with missions focusing solely and systematically on environmental protection and conservation objectives, and their extensive experience with the development and implementation of environmental protection programs, including the regulations at issue here, provide them with a unique and distinctive perspective on the issues at stake. As independent nonprofit organizations that perform public education and advocacy to protect public health and the environment while working to represent the interests of their members, Movants also have a unique perspective to offer on the importance of the public having speedy and complete access to the information reported under the Final Rule. Movants therefore respectfully requests that the Court not require them to rely on EPA alone to present the full range of legitimate arguments available to oppose weakening, limitation, or delay of the Final Rule.

## CONCLUSION

For all of the foregoing reasons, Movants Environmental Defense Fund and Natural Resources Defense Council respectfully request leave to intervene in case No. 11-1024, and under D.C. Circuit Rule 15(b), in all other petitions for review of the Final Rule.

Dated February 28, 2011.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on this day, I served Movants Environmental Defense Fund, and Natural Resources Defense Council's Motion to Intervene, Rule 26.1 Disclosure Statement, Certificate as to Parties, Rulings, and Related Cases, and the attached Declarations on the following counsel and parties, either through the Court's ECF system (Email) or through Certified First-Class U.S. Mail, as indicated below:

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