

ORAL ARGUMENT NOT YET SCHEDULED

CASE NO. 24-1129 (and consolidated cases)

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

STATE OF NEBRASKA et al.,

Petitioners,

v.

ENVIRONMENTAL
PROTECTION AGENCY et al.,

Respondents.

**MOTION OF CALSTART TO INTERVENE IN SUPPORT OF
RESPONDENTS**

Pursuant to Federal Rule of Appellate Procedure 15(d) and Circuit Rule 15(b), CALSTART requests leave to intervene in support of Respondents United States Environmental Protection Agency (“EPA”) et al. in the above-captioned challenge to EPA’s final action published as *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles – Phase 3*,

89 Fed. Reg. 29,440 (Apr. 22, 2024) (“Rule”). Under D.C. Circuit Rule 15(b), this constitutes a motion to intervene in all petitions for review of the Rule.

For the reasons explained below, this Court should grant CALSTART leave to intervene. CALSTART possesses legally protectable interests in the disposition of all petitions for review of the Rule, which may impair those interests. Fed. R. Civ. P. 24(a)(2). Neither EPA or any other existing party adequately represents CALSTART’s unique interests in this litigation. CALSTART’s request is timely, as it is submitted before the June 13, 2024 deadline for filing procedural motions established by this Court.

Petitioners in Case No. 24-1129 (State of Nebraska et al.), Case No. 24-1133 (Warren Peterson et al.), and Case No. 24-1157 (Western States Trucking Association, Inc. et al.) take no position on this motion. Respondents do not oppose this motion.

BACKGROUND

EPA finalized its first phase of regulation targeting greenhouse gases emitted by heavy-duty vehicles and engines in September 2011. 76 Fed. Reg. 57,106 (Sept. 15, 2011). Implementation of the first phase

began in model year 2014 and was phased in through model year 2018, setting performance-based standards for achieving reductions in greenhouse gas emissions. EPA finalized the second phase in 2016, which included more stringent performance-based emission standards for heavy-duty vehicles and engines. 81 Fed. Reg. 73,478 (Oct. 25, 2016). The second phase commenced in model year 2021, increasing in stringency in model year 2024, and will culminate in even more stringent model-year-2027 standards.

By promulgating this Rule, EPA has finalized the third phase of regulations to reduce greenhouse gas emissions from heavy-duty vehicles and engines, which will phase in beginning in model year 2027, with year-over-year increases in stringency through model year 2032. 89 Fed. Reg. 29,440, 29450 (Apr. 22, 2024). The stringency of the standards vary depending on the type of heavy-duty vehicle and engine (e.g., standards for long-haul tractors are less stringent than short-haul tractors, both of which are less stringent than those for smaller heavy-duty vehicles). *Id.*

The standards are performance-based and technology-neutral, allowing manufacturers to use a mix of technologies to comply. *Id.* at 29,452. EPA created two detailed examples of “projected technology

packages for potential compliance pathways” that regulated parties might use to meet the standards established by the Rule. *Id.* at 29,452-53. One example relies heavily on the use of zero-emission vehicles, while the other excludes zero-emission vehicles, but includes a suite of greenhouse gas-reducing technologies, such as the use of lower carbon fuels, hybrid electric vehicles, and hydrogen-fueled internal combustion engines. *Id.* The cost-benefit analysis conducted in connection with the Rule contemplates manufacturers’ increasing the share of zero-emission vehicles in their fleets by model year 2032. *Id.* at 29,456. EPA stated that the Rule “will likely cause some heavy-duty manufacturers to adopt control technologies more rapidly than they otherwise would.” *Id.* at 29,469. EPA cited as a positive indirect impact of the Rule “increased regulatory certainty for domestic production of pollution control technologies and their components,” including zero-emission vehicles, batteries, fuel cells, and battery components, and for the development of electric charging-and hydrogen-refueling infrastructure. *Id.* at 29,471. In all, CALSTART

estimates the Rule will increase clean transportation market activity by an average of \$19 billion per year between 2027 and 2032.¹

CALSTART is a nonprofit organization dedicated to furthering clean and efficient transportation in the United States.² CALSTART's membership includes nearly 300 companies, government agencies, and other organizations.³ CALSTART's membership includes companies representing varying aspects of the clean transportation sector, including original equipment manufacturers, infrastructure manufacturers, equipment suppliers, deployment servicers, and technology firms. However, CALSTART is not a trade association, and its membership also includes public utilities, academic institutions, fuel providers, air quality regulators, and various public agencies.⁴

For example, CALSTART's membership includes: (1) Voltera Power LLC, a company that sites, invests in, builds, and operates electric vehicle charging facilities,⁵ (2) 4 Gen Logistics, LLC, a company that operates

¹ Declaration of Trisha Dello Iacono (“Dello Iacono Decl.”) ¶ 9.

² *Id.* ¶ 2.

³ *Id.*

⁴ *Id.*

⁵ Declaration of Thomas Ashley (“Ashely Decl.”) ¶¶ 1-3.

a fleet of large, heavy-duty zero-emission vehicles and is currently building out a charging network to support its fleet and other fleets of similar vehicles,⁶ (3) Lion Electric, a leading manufacturer of zero-emission trucks and school buses,⁷ (4) Forum Mobility, a company that builds electric charging depots, and provides electric vehicle charging services to fleets and truck owners/operators,⁸ (5) Xos Trucks, a manufacturer of medium- and heavy-duty commercial electric vehicles, which also provides comprehensive services, including charging infrastructure, fleet monitoring, telematics, and vehicle maintenance, to assist fleets in transitioning to zero-emissions.⁹ Each of these CALSTART members have indicated that the Rule will benefit their operations by accelerating the growth of markets for clean transportation technologies and services, and invalidation or delay of the Rule would directly harm them.¹⁰

⁶ Declaration of David Duncan (“Duncan Decl.”) ¶¶ 1-3.

⁷ Declaration of Nate Baguio (“Baguio Decl.”) ¶¶ 1-3.

⁸ Declaration of Adam Browning (“Browning Decl.”) ¶¶ 1-3.

⁹ Declaration of Dakota Semler (“Semler Decl.”) ¶¶ 1-3.

¹⁰ Ashley Decl. ¶¶ 4-5; Duncan Decl. ¶¶ 4-5; Baguio Decl. ¶¶ 4-5; Browning Decl. ¶¶ 4-5; Semler Decl. ¶¶ 4-5.

CALSTART itself is an active organization that works tirelessly to develop clean transportation solutions in partnership with an array of business, government, and advocacy partners. CALSTART is noted for its knowledge and expertise in spurring faster technology commercialization, supporting early markets with smart incentives, and helping shape effective policies, like regulatory signals, to provide certainty and create the conditions for self-sustaining markets.¹¹

CALSTART's largest area of work involves medium- and heavy-duty vehicles.¹² CALSTART developed the Global Commercial Drive to Zero Program, which aims to accelerate the development and deployment of commercial medium- and heavy-duty vehicles.¹³ CALSTART's Drive to Zero Program led the development of the Global Memorandum of Understanding (MOU) for Zero-Emission Medium- and Heavy-Duty Vehicles, which sets a 2040 target of 100 percent zero-emission adoption, and has now been signed by 27 nations, including the United States.¹⁴

¹¹ Dello Iacono Decl. ¶ 3.

¹² *Id.*

¹³ *Id.* ¶ 5.

¹⁴ *Id.*

CALSTART’s work includes educating policymakers on solutions to accelerate the transition to clean transportation, particularly in the commercial medium- and heavy-duty context.¹⁵

STANDARD FOR INTERVENTION

Federal Rule of Appellate Procedure 15(d) states that a motion to intervene “must contain a concise statement of the interest of the moving party and the grounds for intervention.” The Rules do not specify any particular standard for intervention. However, the United States Supreme Court has indicated that this Court may look to Federal Rule of Civil Procedure 24 for guidance, even though that rule generally applies only in district courts. *Int’l Union v. Scofield*, 382 U.S. 205, 217 n.10 (1965); *see also Mass. Sch. of Law at Andover, Inc. v. United States*, 118 F.3d 776, 779 (D.C. Cir. 1997) (applying Rule 24 “to interventions solely for purposes of appeal”).

Rule 24 provides that a court *must* grant leave to intervene to a movant who timely “claims an interest relating to the ... transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect

¹⁵ *Id.* ¶ 11.

its interest, unless existing parties adequately represent that interest.” Fed. R. Civ. P. 24(a)(2). A court *may* also grant leave to intervene to a movant who makes a “timely motion” and who “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1). CALSTART easily satisfies both standards.

STATEMENT OF INTEREST

CALSTART’s clear interest in the disposition of this action supports its request for intervention to defend the Rule. CALSTART and many of its members will benefit directly from the Rule, which CALSTART estimates will increase market activity in the clean transportation sector by \$19 billion per year, between 2027 and 2032.¹⁶ CALSTART’s membership consists of a broad range of providers of clean transportation technologies, products, and services, including zero-emission heavy-duty vehicles, batteries for electric vehicles, electric vehicle charging infrastructure, and low-carbon fuels. While CALSTART members hold a range of views on the Rule, CALSTART as an organization supports the Rule because it is critical to the development of the clean transportation industry.

¹⁶ Dello Iacono Decl. ¶ 9.

CALSTART itself possesses a direct interest in defense of the Rule because it participated in the rulemaking proceedings, submitting lengthy comments that provided extensive background on the heavy-duty vehicle sector and recommended numerous changes to the proposed standards. Docket ID No. EPA-HQ-OAR-2022-0985. CALSTART and its partners spearheaded the mobilization of an industry letter in support of the Rule, signed by over 100 companies and businesses that support strong vehicle-emissions regulation.¹⁷ CALSTART has been instrumental in mobilizing companies and other stakeholders to engage with EPA in developing the Rule, emphasizing the need for stringent regulation to induce necessary infrastructure investments and ensure market certainty.¹⁸ CALSTART also provided extensive comments on the previous phases of EPA’s regulation of greenhouse gas emissions from heavy-duty vehicles.¹⁹

¹⁷ Dello Iacono Decl. ¶ 6.

¹⁸ *Id.* ¶¶ 6-7.

¹⁹ *Id.* ¶ 6.

CALSTART also has standing to intervene in this action, to the extent standing is required for a defendant-intervenor.²⁰ Standing to intervene as a respondent is regularly shown “where a party benefits from agency action, the action is then challenged in court, and an unfavorable decision would remove the party’s benefit.” *Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 316 (D.C. Cir 2015). That is clearly the case here.

The Rule requires manufacturers of heavy-duty vehicles and engines to reduce the greenhouse gas emissions from their fleets. CALSTART estimates the Rule will increase clean transportation market activity by \$19 billion per year.²¹ The Rule thus creates significant demand for the technologies, products, and services of CALSTART and many of its members. If this Court vacates the Rule, CALSTART and

²⁰ The Supreme Court has indicated that Article III’s standing requirement applies to “[o]ne who seeks to initiate or continue proceedings in federal court,” but does not limit those who seek to defend against such proceedings. *Bond v. United States*, 131 S. Ct. 2355, 2361 (2011); *see also Comcast Corp. v. FCC*, 579 F.3d 1, 6 (D.C. Cir. 2009) (“[I]f one party has standing in an action a court need not reach the issue of standing of other parties when it makes no difference to the merits of the case.”) (internal quotation marks omitted).

²¹ Dello Iacono Decl. ¶ 9.

many of its members will suffer direct economic injuries. Because CALSTART's and its members' "injur[ies] suffice[] for standing purposes," it "rationally follows the injury is directly traceable" to Petitioners' challenge to the Rule, and CALSTART "can prevent the injury by defeating" Petitioners' challenge. *Crossroads Grassroots Policy Strategies*, 788 F.3d at 316. Thus, because CALSTART "can prove injury, then it can establish causation and redressability." *Id.* at 316.

Military Toxics Project v. EPA, 146 F.3d 948 (D.C. Cir. 1998) is instructive. In that case, an organization whose membership included producers of military munitions moved to intervene to defend against a challenge to an EPA rule that would have exempted the producers from numerous solid waste regulations. *Id.* at 953-54. This Court found that the munitions producers "benefit from" EPA's Rule and "would suffer concrete injury if the court grants the relief the petitioners seek." *Id.* at 954. This Court held that the munitions producers "would therefore have standing to intervene in their own right," and thus the trade association itself had standing "to intervene on their behalf in support of the EPA." *Id.*

CALSTART also satisfies the remaining requirements of associational standing. An organization may defend agency action on its members' behalf when: "(1) at least one of its members would have standing to [defend] in his or her own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the [defense] asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hearth, Patio & Barbecue Ass'n v. EPA*, 11 F.4th 791, 802 (D.C. Cir. 2021) (quotations omitted).

The interests CALSTART seeks to protect by participating in this litigation are germane to its organizational mission of accelerating the nationwide transition to a clean and efficient transportation sector. The Rule's purpose is to reduce greenhouse gas emissions from the nation's heavy-duty vehicle fleet, and thus represents a significant step toward achieving CALSTART's goals. The Rule is thus vital to CALSTART's core organizational purpose, which is why CALSTART decided to intervene in litigation to defend it. CALSTART therefore easily satisfies this "undemanding" requirement, which only requires a "mere pertinence between [the] litigation subject and organizational purpose." *Humane Soc. of the U.S. v. Hodel*, 840 F.2d 45, 58 (D.C. Cir. 1988).

CALSTART's defense does not require participation of any of its members because Petitioners will raise question of law and/or fact that will be resolved on the administrative record, without "consideration of the individual circumstances of any aggrieved member of the organization." *Ctr. for Sustainable Economy v. Jewell*, 779 F.3d 588, 598 (D.C. Cir. 2015).

GROUNDS FOR INTERVENTION

The Court should permit CALSTART to intervene in all actions seeking review of the Rule. For the reasons stated above, CALSTART has an interest in upholding the Rule, and the disposition of these cases "may as a practical matter impair or impede [CALSTART's] ability to protect its interests." Fed. R. Civ. P. 24(a)(2).

Further, Respondents may not "adequately represent" CALSTART's interests. Fed. R. Civ. P. 24 (a)(2). The Supreme Court has described the burden of making this showing to be "minimal" (*Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)), and this Court has described the requirement as "not onerous," *Dimond v. Dist. of Columbia*, 792 F.2d 179, 192 (D.C. Cir. 1986). Intervention should only be denied on these grounds where it is "clear" that the Respondents will

“provide adequate representation” for CALSTART. *United States v. Am. Tel. & Tel. Co.*, 642 F.2d 1285, 1293 (D.C. Cir. 1980) (quotation marks omitted).

As this Court has “often concluded,” “governmental entities do not adequately represent the interests of aspiring intervenors.” *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003. Respondents’ “obligation is to represent the interests of the American people,” whereas CALSTART represents the more specific interest of advancing the deployment of clean transportation technologies, products, and services. *Id.* That there may be “some overlap” between the interest of CALSTART and Respondents is immaterial. *Id.*; *see also Dimond*, 792 F.2d at 192-93 (insurance company satisfied this requirement because the government agency it sought to litigate alongside “is charged by law with representing the public interest of its citizens,” whereas the insurance company “is seeking to protect a more narrow and ‘parochial’ financial interest not shared by the” agency’s citizens).

Moreover, Respondents could change position or make litigation concessions with which CALSTART disagrees. In *Environmental Defense v. Duke Energy Corp.*, 549 U.S. 561 (2007), the United States declined to

seek certiorari from an adverse court of appeals decision. Intervenors petitioned for certiorari themselves and eventually prevailed on the merits, despite the United States' switching sides to align itself with Duke Energy. *Id.* at 573.

CALSTART's interests are also not adequately represented by the other groups that have moved to intervene, almost all of which are environmental organizations primarily concerned with harm to the environment and public health. No movant-intervenor represents the unique interests of the clean transportation industry, other than CALSTART. *Fund for Animals*, 322 F.3d at 737 (“partial congruence of interests ... does not guarantee the adequacy of representation”). Consistent with the Circuit's rules, CALSTART will “focus on points not made or adequately elaborated upon in ... [EPA's] brief, although relevant to the issues before this court.” D.C. Cir. R. 28(d)(2), (4).²²

²² In the alternative, CALSTART readily meets the requirements for permissive intervention because (1) CALSTART will not introduce new claims and simply offer defensive arguments, all of which necessarily share questions of law and fact with the underlying challenges; and (2) these cases are at a preliminary stage and no briefing schedule has been set, so this timely motion will not unduly delay or prejudice any other. Fed. R. Civ. Proc. 24(b)(1)(B); *see also Nuesse v. Camp*, 385 F.2d 694, 704 (D.C. 1967) (“Rule 24(b) ... provides basically that anyone may be

CONCLUSION

This Court should grant CALSTART leave to intervene in support of Respondents in all cases challenging the Rule. *See* Cir. R. 15(b).

DATED: June 13, 2024

/s/ Matthew D. Zinn

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permitted to intervene if his claim and the main action have a common question of law or fact,” absent any indication or prejudice or delay).

CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, CALSTART states that it is a nonprofit organization and does not have any parent corporation or any publicly held corporation that owns 10% of its stock.

DATED: June 13, 2024

/s/ Matthew D. Zinn

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CERTIFICATE OF PARTIES

Pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), I certify that the parties to this case are set forth below.

Petitioners: Petitioners in Case No. 24-1129 are the States of Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming, and the Commonwealths of Kentucky and Virginia.

Petitioners in Case No. 24-1133 are Warren Peterson, President of the Arizona State Senate; Ben Toma, Speaker of the Arizona House of Representatives; and the Arizona Trucking Association.

Petitioners in Case No. 24-1157 are Western States Trucking Association, Inc.; and Construction Industry Air Quality Coalition, Inc.,

Respondents: Respondents are the U.S. Environmental Protection Agency (“EPA”) and Michael S. Regan, in his official capacity as Administrator of the EPA.

Intervenors: Proposed Intervenors are Alliance of Nurses for Healthy Environments; American Lung Association; American Public Health Association; Appalachian Mountain Club; Clean Air Council;

Environmental Defense Fund; Environmental Law & Policy Center; Natural Resources Defense Council, Inc.; Public Citizen; Sierra Club; State of California; State of Arizona; State of Colorado; State of Connecticut; State of Delaware; State of Hawaii; State of Illinois; State of Maine; State of Maryland; State of Michigan; State of Minnesota; State of New Mexico; State of New Jersey; State of New York; State of North Carolina; State of Oregon; State of Rhode Island; State of Vermont; State of Washington; State of Wisconsin; Commonwealth of Massachusetts; Commonwealth of Pennsylvania; District of Columbia; City and County of Denver; City of Chicago; City of Los Angeles; City of New York, and Ford Motor Company.

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

DATED: June 13, 2024

/s/ Matthew D. Zinn

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion contains 2,809 words and was composed in New Century Schoolbook, 14-point font. The motion complies with all applicable type-volume and typeface requirements.

DATED: June 13, 2024

/s/ Matthew D. Zinn

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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2024 I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the Court's CM/ECF system. I further certify that all the above parties are participating in the Court's CM/ECF system and will be served electronically by that system.

DATED: June 13, 2024

/s/ Matthew D. Zinn

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ATTACHMENTS

1. Declaration of Trisha Dello Iacono
2. Declaration of Thomas Ashley
3. Declaration of David Duncan
4. Declaration of Nate Baguio
5. Declaration of Adam Browning
6. Declaration of Dakota Semler

DECLARATION OF TRISHA DELLO IACONO

I, Trisha Dello Iacono, declare as follows:

1. I am the Head of Policy at CALSTART. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in support of CALSTART's Motion to Intervene in support of respondent United States Environmental Protection Agency ("EPA") in *State of Nebraska, et al. v. U.S. Environmental Protection Agency, et al.*, No. 24-1129.

2. CALSTART is a U.S.-based, nonprofit clean transportation organization, dedicated to furthering clean and efficient transportation both in the United States and worldwide. CALSTART's membership includes nearly 300 companies that represent many aspects of the clean transportation sector, including original equipment manufacturers ("OEMs"), infrastructure manufacturing and deployment businesses, equipment suppliers, utilities, clean-air regulators, fleets, technology firms, academic institutions, government agencies, non-governmental organizations, fuel providers, banks and other businesses, working together to move the clean transportation industry forward. While CALSTART is a membership organization, it is not a trade association. Instead, CALSTART's members are united behind a shared perspective that clean transportation solutions

are critical elements of the strategy to protect communities, clean the air, and address climate change.

3. CALSTART is a mission-driven organization. Our work is informed by science-based targets to decarbonize the transportation sector in service of climate goals. CALSTART works nationally and internationally with businesses and governments to advocate for policies and regulations that reduce greenhouse gas emissions from the transportation sector and promote zero-emission mobility solutions. CALSTART's largest area of work involves decarbonization of medium- and heavy-duty vehicles. CALSTART is noted for our knowledge and expertise in spurring faster technology commercialization, supporting early markets with smart incentives, and helping shape effective policies like regulatory signals to provide certainty and create the conditions for self-sustaining markets.

4. Consistent with this mission, CALSTART supports EPA's final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (the "Rule"), which establishes revised greenhouse gas emissions standards that phase in over model years 2027–2032. While CALSTART members hold a range of views on the rule, CALSTART as an organization supports the Rule because, in our judgment, the Rule is critical to clean transportation industry development.

5. CALSTART participated in the regulatory process to develop the Rule. CALSTART submitted comments on the proposed rule (88 Fed. Reg. 25,926 (Apr. 27, 2023)) on June 16, 2023. These comments advocated for the most stringent option of the three offerings laid out in EPA's proposal, and amplified the fact that the industry demonstrates technological readiness to meet even more stringent standards than are included in the Rule. CALSTART advocated for stringency levels based on the Advanced Clean Truck ("ACT") penetration rates and the Global Memorandum of Understanding on Zero-Emission Medium- and Heavy-Duty Vehicles ("Global MOU"), an effort led by CALSTART's Drive to Zero Program and the Government of the Netherlands. Under the Global MOU, leading countries commit to working together to enable 100% zero-emission new truck and bus sales by 2040 with an interim goal of 30% zero-emission truck and bus sales by 2030, to facilitate achievement of net-zero carbon emissions by 2050. The United States is one of 36 country signatories to the Global MOU. CALSTART also noted in its comments the benefit of the Rule to reducing criteria emissions, including of NO_x, which causes health impacts, especially in communities that carry a disproportionate share of transportation pollution. Finally, CALSTART commented that infrastructure is not a long-term barrier to zero-emission vehicle adoption, as there is currently considerable investment in this area

including numerous emerging business models deploying capital in innovative ways.

6. CALSTART was also involved in the regulatory process in earlier phases of the rulemaking for EPA's greenhouse gas emissions standards program for heavy-duty vehicles. CALSTART commented on the Phase 2 standards, which increased the stringency of applicable standards. CALSTART convened a diverse cohort of industry and state government staff with federal officials, including the EPA and White House, to provide education around, and advocate for, stringent vehicle standards in the Rule. CALSTART and its partners spearheaded the mobilization of an industry sign-on letter in support of the Rule, comprising of over 100 companies and businesses in support of strong vehicle regulations. CALSTART coordinated another letter, endorsed by eight states, advocating for an ACT-aligned rule for heavy-duty vehicles. CALSTART facilitated a 90-minute meeting involving key EPA staff and representatives from ten states, and hosted multiple in-person meetings for industry stakeholders to provide the EPA with market and technology readiness information. Notably, these included two three-hour meetings, one for utilities and one for fleets, OEMs, and charging providers. CALSTART partnered with Members of Congress and industry leaders to host a press conference to present informed recommendations to the EPA finalize a robust rule. Following the press conference, industry representatives and

CALSTART members engaged in strategic meetings with key congressional staff, including a session with Leader Schumer, focusing on working in accord with significant opposition from legacy OEMs in their states.

7. CALSTART has been instrumental in mobilizing companies and stakeholders to engage with the EPA regarding the Rule, stressing the importance of a strong ACT-aligned regulation to spur necessary infrastructure investments and bring about market certainty. CALSTART has consistently emphasized that delaying the GHG reduction timeline for heavy-duty vehicles due to current infrastructure gaps would be counterproductive and resulted in a final rule in the Spring of 2024.

8. The Rule will accelerate the growth of markets for clean transportation technologies and services. Specifically, more stringent emissions standards will encourage adoption of clean transportation technologies and services. While CALSTART had advocated for more stringent standards than were promulgated, the Rule nevertheless advances CALSTART's mission to foster development of clean, efficient transportation solutions.

9. The Rule directly benefits CALSTART and its members that are seeking regulatory certainty regarding the transition to a zero-emission medium- and heavy-duty transportation sector. The Rule is likely to spur development and deployment of clean transportation technologies and services that will be necessary

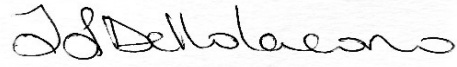
for compliance with the Rule. CALSTART estimates that the Rule would support approximately \$19 billion per year in additional clean transportation market activity between 2027 and 2032.

10. For example, electric vehicle fleet deployment and infrastructure support services like CALSTART-members Zeem Solutions, Voltera, WattEV, EV Realty and Forum Mobility would benefit from increased demand for medium- and heavy-duty fleet services in response to the Rule. Similarly, manufacturers of medium- and heavy-duty electric vehicles, like CALSTART members Lion Electric Co., 4 Gen Logistics and Xos, which would benefit from increased demand for such vehicles likely to arise from the Rule's stricter emissions requirements.

11. In contrast, invalidation of the Rule would imperil the ability for the United States to meet the targets it has set through its participation in the Global MOU by removing this regulatory certainty for the clean transportation industry, thereby directly harming CALSTART's ability to achieve its mission. Further, invalidation of the rule would harm at least some of CALSTART's members' ability to grow their businesses.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 13th day of June, 2024, at Mullica Hill, New Jersey.

A handwritten signature in black ink, appearing to read "Trisha Dello Iacono". The signature is written in a cursive style with a large initial "T".

Trisha Dello Iacono

DECLARATION OF THOMAS ASHLEY

I, Thomas Ashley, declare as follows:

1. I am Vice President of Government and Utility Relations at Voltera Power LLC (“Voltera”). I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. I make this declaration in support of CALSTART’s Motion to Intervene in support of respondent United States Environmental Protection Agency (“EPA”) in *State of Nebraska, et al. v. U.S. Environmental Protection Agency*, et al., No. 24-1129.

2. Voltera sites, invests in, builds, and operates charging facilities for a range of customers. Many of Voltera’s fleet customers are motivated to electrify their fleets by regulatory requirements.

3. Voltera is a member of CALSTART, a nationwide nonprofit organization dedicated to furthering clean and efficient transportation both in the United States and worldwide. Voltera is a member of CALSTART because we support CALTSART’s mission to work nationally and internationally with businesses and governments to develop clean, efficient transportation solutions.

4. Voltera supports EPA’s final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (the “Rule”), which establishes revised greenhouse gas emissions standards for heavy-

duty vehicles that phase in over model years 2027–2032. Voltera supports the Rule because the Rule will accelerate the growth of markets for clean transportation technologies and services, which benefits Voltera, and more broadly provides some clarity for stakeholders in the zero emission vehicle transition. Most broadly the Rule will help enable the United States to be more competitive globally in relation to China and Europe. Specifically, emissions standards will encourage adoption of clean transportation technologies and services, like the sites and related services Voltera develops.

5. In contrast, delay or invalidation of the Rule would directly harm Voltera by diminishing this substantial opportunity from the clean transportation industry outside of state markets that have adopted more stringent standards. Specifically, there would likely not be the same demand for Voltera’s sites and related services in those jurisdictions without the Rule.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 13th day of June, 2024, at Atlanta, Georgia.



Thomas Ashley

DECLARATION OF David Duncan

I, David Duncan, declare as follows:

1. I am the owner of 4 Gen Logistics, LLC. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in support of CALSTART's Motion to Intervene in support of respondent United States Environmental Protection Agency ("EPA") in *State of Nebraska, et al. v. U.S. Environmental Protection Agency, et al.*, No. 24-1129.

2. 4 Gen Logistics, LLC operates a fleet of 69 ZEVs with ten more recently ordered, 79 ZEVs by the end of this year. It is also building out a charging network of over 90 charging dispensers to support its fleet and other Class 8 ZEVs. 4 Gen Logistics will be the only drayage trucking company in North America that has a fleet of over 75 Class 8 drayage trucks that are 100% ZEVs.

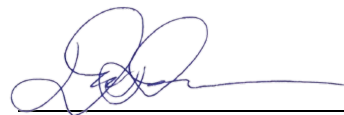
3. 4 Gen Logistics, LLC is a member of CALSTART, a nationwide nonprofit organization dedicated to furthering clean and efficient transportation both in the United States and worldwide. 4 Gen Logistics, LLC is a member of CALSTART because it supports CALTSART's mission to work nationally and internationally with businesses and governments to develop clean, efficient transportation solutions.

4. 4 Gen Logistics, LLC supports EPA’s final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (the “Rule”), which establishes revised greenhouse gas emissions standards for heavy-duty vehicles that phase in over model years 2027–2032. 4 Gen Logistics, LLC supports the Rule because the Rule will accelerate the growth of markets for clean transportation technologies and services, which benefits 4 Gen Logistics, LLC and its customers. Specifically, more stringent emissions standards will encourage the adoption of clean transportation technologies and services, like the ones our company uses.

5. In contrast, delay or invalidation of the Rule would directly harm 4 Gen Logistics, LLC by removing this substantial opportunity from the clean transportation industry. Specifically, there would not be the same demand for 4 Gen Logistics, LLC services without the Rule.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12th day of June 2024 at Buckeye, Arizona.



David Duncan

DECLARATION OF Nate Baguio

I, Nate Baguio, declare as follows:

1. I am the Senior Vice President of Commercial Development at Lion Electric. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in support of CALSTART's Motion to Intervene in support of respondent United States Environmental Protection Agency ("EPA") in *State of Nebraska, et al. v. U.S. Environmental Protection Agency, et al.*, No. 24-1129.

2. Lion Electric is a leading manufacturer of purpose built, zero emission school buses and trucks.

3. Lion Electric is a member of CALSTART, a nationwide nonprofit organization dedicated to furthering clean and efficient transportation both in the United States and worldwide. Lion Electric is a member of CALSTART because it supports CALTSART's mission to work nationally and internationally with businesses and governments to develop clean, efficient transportation solutions.

4. Lion Electric supports EPA's final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (the "Rule"), which establishes revised greenhouse gas emissions standards for heavy-

duty vehicles that phase in over model years 2027–2032. Lion Electric supports the Rule because the Rule will accelerate the growth of markets for clean transportation technologies and services, which benefits Lion Electric.

Specifically, more stringent emissions standards will encourage the critical need for speedier adoption of zero emission medium and heavy-duty vehicles, like the ones Lion Electric produces.

5. In contrast, delay or invalidation of the Rule would directly harm Lion Electric by removing this substantial opportunity from the clean transportation industry. Specifically, there would not be the same demand for Lion Electric’s vehicles without the Rule.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 13th day of June, 2024, at Joliet, Illinois.



Nate Baguio

DECLARATION OF ADAM BROWNING

I, Adam Browning, declare as follows:

1. I am Executive Vice President for Policy and Communications at Forum Mobility. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. I make this declaration in support of CALSTART's Motion to Intervene in support of respondent United States Environmental Protection Agency ("EPA") in *State of Nebraska, et al. v. U.S. Environmental Protection Agency, et al.*, No. 24-1129.

2. Forum Mobility builds electric truck charging depots, and provides charging services to fleets and truck owner/operators to facilitate the transition to zero-emission freight.

3. Forum Mobility is a member of CALSTART, a nationwide nonprofit organization dedicated to furthering clean and efficient transportation both in the United States and worldwide. Forum Mobility is a member of CALSTART because it supports CALTSART's mission to work nationally and internationally with businesses and governments to develop clean, efficient transportation solutions.

4. Forum Mobility supports EPA's final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22,

2024) (the “Rule”), which establishes revised greenhouse gas emissions standards for heavy-duty vehicles that phase in over model years 2027–2032. Forum Mobility supports the Rule because the Rule will accelerate the growth of markets for clean transportation technologies and services, which benefits Forum Mobility. Specifically, more stringent emissions standards will encourage adoption of clean transportation technologies and services, like the ones Forum Mobility produces.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 13th day of June, 2024, at Oakland, California.

A handwritten signature in black ink, appearing to read "Adam Browning". The signature is fluid and cursive, with a large loop at the end of the last name.

Adam Browning

DECLARATION OF DAKOTA SEMLER

I, Dakota Semler, declare as follows:

1. I am CEO at Xos Trucks. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in support of CALSTART's Motion to Intervene in support of respondent United States Environmental Protection Agency ("EPA") in *State of Nebraska, et al. v. U.S. Environmental Protection Agency*, et al., No. 24-1129.

2. Xos Trucks is a manufacturer of medium- and heavy-duty commercial electric vehicles. Our Xos Trucks provides comprehensive services to assist fleets in transitioning to zero-emissions, including charging infrastructure, fleet monitoring, telematics, and vehicle maintenance. Since its founding nearly eight years ago, Xos Trucks has supported the largest fleets in the world, including FedEx, UPS, Cintas, and numerous other fleets, in their transition to zero-emissions vehicles.

3. Xos Trucks is a member of CALSTART, a nationwide nonprofit organization dedicated to furthering clean and efficient transportation both in the United States and worldwide. Xos Trucks is a member of CALSTART because it

supports CALSTART’s mission to work nationally and internationally with businesses and governments to develop clean, efficient transportation solutions.

4. Xos Trucks supports EPA’s final rule, *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles*, 89 Fed. Reg. 29,440 (Apr. 22, 2024) (the “Rule”), which establishes revised greenhouse gas emissions standards for heavy-duty vehicles that phase in over model years 2027–2032. We support the rule, because these regulations are vital for enhancing the health and safety of our cities, neighborhoods, and living spaces. The rule will accelerate the growth of markets for clean transportation technologies and services, which benefits Xos Trucks. Medium- and heavy-duty vehicles are disproportionate contributors to greenhouse gas emissions compared to other on-highway vehicles, such as light-duty vehicles. Over the past eight years, Xos Trucks has invested over \$400 million in technology development, engineering, production, and manufacturing capacity to support the on-highway truck industry's electrification efforts.

5. Groups challenging this rule often cite the capital cost of deploying new technology, presenting erroneous facts and manipulated information to exaggerate the cost of adopting zero-emission solutions. However, these facts in many cases are drafted by consulting agencies hired by these organizations to inflate the true cost. As demonstrated through the successful sale of hundreds of Xos vehicles, our customers have significantly reduced their total cost of

ownership across their fleets. While the acquisition cost of our vehicles carries a small premium over internal combustion engine vehicles, the significant savings in reduced fuel and maintenance costs offset this incremental capital cost, making these solutions not only viable but also more profitable for fleets transitioning their vehicles.

6. Delay or invalidation of the Rule would directly harm Xos Trucks by removing this substantial opportunity from the clean transportation industry. Rolling back or modifying this rule would significantly jeopardize these capital investments and hinder the industry's progress in achieving emissions goals. These goals are essential not only for local air quality but also for reducing the transportation sector's greenhouse gas emissions to mitigate its impact on climate change. Xos Trucks employs nearly 200 individuals nationwide who support our customer fleets with the design, engineering, manufacturing, and servicing of these vehicles. Rolling back these rules would endanger the employment of these individuals and jeopardize hundreds and thousands of other jobs in our supplier and supporting industries.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12 day of June, 2024, at Los Angeles, California.

Dakota Semler

Dakota Semler

CEO, Xos Trucks