

No. 26-1037  
(consolidated with 26-1038, 26-1039, 26-1043, 26-1051, 26-1061)

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

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AMERICAN PUBLIC HEALTH ASSOCIATION, ET AL.,

*Petitioners,*

v.

ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

*Respondents.*

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**UNOPPOSED MOTION OF SENATORS TED CRUZ AND  
CYNTHIA LUMMIS FOR LEAVE TO FILE BRIEF AS *AMICI  
CURIAE* IN SUPPORT OF RESPONDENTS**

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On Review from the Environmental Protection  
Agency (No. EPA-91FR7686)

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*\*Application for Admission Forthcoming*

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## CORPORATE DISCLOSURE STATEMENT

*Amici* certify that they are not a corporation, association, joint venture, partnership, syndicate, or similar entity required to file a disclosure statement under Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1.

/s/ Jason B. Torchinsky  
JASON B. TORCHINSKY

## CERTIFICATE AS TO PARTIES, RULINGS, & RELATED CASES

Pursuant to Circuit Rule 27(a)(4) and 28(a)(1)(A) *amici* certify the following:

### Parties

The Petitioners in No. 26-1037 are American Public Health Association, Alliance for Nurses for Healthy Environments, American Lung Association, Center for Biological Diversity, Center for Community Action and Environmental Justice, Clean Air Council, Clean Wisconsin, Conservation Law Foundation, Environmental Defense Fund, Environmental Law & Policy Center, Friends of the Earth, Natural Resources Defense Council, Inc., Physicians for Social Responsibility, Public Citizen, Rio Grande International Study Center, Sierra Club, and Union of Concerned Scientists.

The Respondents in No. 26-1037 are the Environmental Protection Agency and Lee M. Zeldin, Administrator, U.S. Environmental Protection Agency.

Government Accountability & Oversight and Government Oversight & Education d/b/a Protect the Public's Trust have been granted leave to participate as *amici curiae*. An individual, John Worthington, has filed a motion for leave to participate as *amicus curiae*, as well as a motion to intervene. To *amici's* knowledge, the Court has not ruled on Mr. Worthington's motions.

A group of States has moved to intervene in support of Respondents. The State movant-intervenors include the States of West Virginia, Kentucky, Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Missouri, Mississippi, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, and Wyoming.

Several organizations have also moved to intervene in support of Respondents. The organizational movant-intervenors include Domestic Energy Producers Alliance, Western States Trucking Association, Inc., Construction Industry Air Quality Coalition, Inc., Liberty Packing

Company, LLC, Nuckles Oil Company, Inc., Truck and Engine Manufacturers Association, National Federation of Independent Business, American Free Enterprise Chamber of Commerce, Illinois Corn Growers Association, Iowa Corn Growers Association, Kentucky Corn Growers Association, Missouri Corn Growers Association, North Dakota Corn Growers Associations, Tennessee Corn Growers Association, NACCO Natural Resources Corporation, CO2 Coalition, and American Petroleum Institute.

### **Rulings**

This is an original action in this Court and does not challenge any Ruling of a district court.

### **Related Cases**

To *amici's* knowledge, this case has been consolidated with all related cases. The consolidated cases include Nos. 26-1038, 26-1039, 26-1043, 26-1051, and 26-1061.

/s/ Jason B. Torchinsky  
JASON B. TORCHINSKY

Senators Ted Cruz and Cynthia Lummis respectfully move this Court for leave to file the attached proposed brief as *amici curiae* in this matter. In support of their Motion, *amici* state as follows:

1. *Amici Curiae* are Senators Ted Cruz and Cynthia Lummis, who represent the States of Texas and Wyoming, respectively, in the United States Senate. Senator Cruz serves as Chairman of the Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights for the Senate Committee on the Judiciary. Senator Lummis serves as Chairman of the Subcommittee on Clean Air, Climate, and Nuclear Innovation and Safety for the Senate Committee on Environment & Public Works. *Amici's* respective interests overlap perfectly here.

2. Namely, both have a strong interest in judicial interpretations that preserve the legislative powers that Article I of the Constitution vests exclusively in Congress. *Amici* share an interest in ensuring that the judiciary serves as an appropriate check on the executive branch and vigilantly safeguards the Constitution's separation of powers. In addition, *amici* have an interest in ensuring that executive agencies—like the EPA—exercise only the authority Congress delegated to them,

meaning that Congress retains all federal legislative power. When an executive agency issues regulations with vast economic and political significance, the courts must invoke the major questions doctrine to protect the Constitution's separation of powers.

3. As members of the U.S. Senate, *amici* possess a unique interest in, and perspective on, the EPA's reliance on the major question doctrine to repeal its 2009 Endangerment Finding and corresponding regulations concerning greenhouse gas emissions standards for vehicles and engines. *Amici* respectfully submit this *amici curiae* brief pursuant to these interests and their unique perspective as U.S. Senators.

4. Counsel for *amici* contacted counsel for the parties in No. 26-1037 on April 6, 2026, to obtain their positions on the Motion. Counsel for *amici* contacted counsel for the parties in the consolidated cases on April 8, 2026, to obtain their positions on the Motion. Respondents consent to the Motion. Petitioners in No. 26-1037 consent to the Motion provided that the brief complies with Rule 29. Petitioners in No. 26-1043, Missouri Coalition for the Environment and Metropolitan Congregations United, take no position. Petitioner in No. 26-1051, Service Employees International Union, takes no position. The State and local government

Petitioners in No. 26-1061 take no position on the Motion. The remaining Petitioners provided no position before the filing of this Motion.

5. The proposed brief is desirable and relevant to the disposition of the case. The brief describes how the major questions doctrine plays a central role in preserving separation of powers by ensuring that questions of economic and political significance are resolved by Congress, not administrative agencies. And it explains how the EPA's invocation of the major questions doctrine in repealing the 2009 Endangerment Finding and greenhouse gas vehicle standards preserves Congress's lawmaking authority. The Court must uphold that necessary conclusion to ensure that Congress maintains its role as supreme lawmaker in the face of Executive overreach.

6. Pursuant to Circuit Rule 29(d), counsel for *amici* state that one *amicus* brief was lodged on March 13, 2026, and again on March 31, 2026, by a party that is also appearing as an intervenor (John Worthington). Another *amicus* brief was lodged on March 19, 2026, by Government Accountability & Oversight and Government Oversight & Education. *Amici* were not notified of either brief, which were filed nearly a month before *amici* are seeking leave, and therefore did not have an

opportunity to contribute to them. Additionally, neither brief analyzes the major questions doctrine and its applicability to the EPA's 2009 Endangerment Finding and greenhouse gas vehicle emission standards. *Amici's* unique perspective as members of Congress on the applicability of the major questions doctrine to this case further renders a separate brief necessary and desirable.

7. Accordingly, *amici* respectfully request that the Court grant them leave to file the proposed brief as *amici curiae*.

Dated: April 13, 2026

Respectfully submitted,

/s/ Jason B. Torchinsky

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Elizabeth Price Foley\*

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*Counsel for Amici Curiae*

## CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume and word-count limits of Federal Rule of Appellate Procedure 27(d) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), this document contains 653 words.

2. This document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 27(d) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

/s/ Jason B. Torchinsky  
JASON B. TORCHINSKY

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 13th day of April, 2026, a true copy of the foregoing was filed electronically with the Clerk of Court using the Court's CM/ECF system, which will serve all parties or their counsel.

/s/ Jason B. Torchinsky  
JASON B. TORCHINSKY