ARGUED SEPTEMBER 14, 2023

No. 22-1031
Consolidated with Nos. 22-1032, 22-1033, 22-1034, 22-1035, 22-1036, and 22-1038

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

STATE OF TEXAS, ET AL.,
Petitioners,

v.

ENVIRONMENTAL PROTECTION AGENCY AND MICHAEL S. REGAN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY,
Respondents,

ADVANCED ENERGY ECONOMY, ET AL.,
Intervenors.

On Petitions for Review of a Final Action
of the United States Environmental Protection Agency

SUPPLEMENTAL BRIEF FOR STATE PETITIONERS

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GLOSSARY

CAA	Clean Air Act
EPA	United States Environmental Protection Agency
Final Rule	*Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emission Standards*, 86 Fed. Reg. 74,434 (Dec. 30, 2021)
GHG(s)	Greenhouse Gas(es)
State Petitioners	The States of Texas, Alabama, Alaska, Arkansas, Indiana, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, and Utah and the Commonwealth of Kentucky.

INTRODUCTION

Although EPA has since taken its multi-prong effort to "substantially restructure the American . . . market[s]" for fossil fuels to greater extremes,[1] the rule at issue once "establish[ed] the most stringent GHG standards ever set for the light-duty vehicle sector." JA2. By EPA's own admission, the Final Rule would effectively force electrification of at least 17% of the national vehicle fleet by 2026, JA52—the first step towards reaching 50% electrical vehicles by 2030.[2] On July 29, 2024, this Court asked the parties to address the impact of (1) *Ohio v. EPA*, 98 F.4th 288 (D.C. Cir. 2024) (per curiam) on petitioners' standing to bring this petition; and (2) *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024) on the issues of statutory interpretation presented therein.

State Petitioners respectfully submit that *Ohio* is not implicated, but is in any event satisfied, because their injuries are "readily apparent" from the face of this record. 98 F.4th at 300. *Loper Bright* would be similarly irrelevant if the Court agrees with States Petitioners (as it should) that the Final Rule violates the major-questions doctrine. If the Court disagrees that this case presents a major question, *Loper Bright* necessitates vacatur. Although EPA never mentions *Chevron* in its brief, it repeatedly cites cases that are "governed by *Chevron*'s second step." *Miss. Comm'n on Env't*

[1] *West Virginia v. EPA*, 597 U.S. 697, 724 (2022).

[2] *See* JA4 (noting that EPA was acting "[c]onsistent with the direction of Executive Order 14037"), 61 (noting that the administration is "committed to encouraging the rapid development and deployment of zero emission vehicles").

Quality v. EPA, 790 F.3d 138, 82 (D.C. Cir. 2015) (per curiam), both in its briefing (*e.g.*, at 25-26, 49), and in the Final Rule itself (*e.g.*, at JA19). That implicit concession that the agency requires deference to its "discretion in choosing an appropriate balance among factors" to sustain the Final Rule, JA19, is fatal because such deference is no longer available.

ARGUMENT

I. *Ohio* Does Not Affect this Court's Standing Analysis.

A. State Petitioners have standing to challenge the Final Rule.

As State Petitioners explained in their opening brief (at 12-14), "standing is plain for at least two reasons." *First*, the Final Rule causes a "pocketbook injury that is incurred by the state itself," *Air All. Hous. v. EPA*, 906 F.3d 1049, 1059-60 (D.C. Cir. 2018) (per curiam), by costing State Petitioners—and particularly Texas—identifiable tax revenues. *See Wyoming v. Oklahoma*, 502 U.S. 437, 448-49 (1992). Specifically, State Petitioners explained (at 13) that oil produced in Texas is subject to a tax rate of 4.6 percent of the market value, Tex. Tax Code § 202.052(a), and that EPA itself predicted that the Final Rule would "reduce U.S. gasoline consumption by . . . roughly 15 percent." JA65.[3] In Texas alone, that translates to millions of dollars in lost tax revenue, *see* States.Br.13, easily surpassing Article III's minimum

[3] *See also* JA1102 ("[T]he net effect of the [Standards] is now a decrease in revenue for U.S. exporters of crude oil and products[.]"); *Delta Constr. Co. v. EPA*, 783 F.3d 1291, 1294 (D.C. Cir. 2015) (per curiam) ("[A]ny rule that limits tailpipe [carbon-dioxide] emissions is effectively identical to a rule that limits fuel consumption.")

injury requirement. *E.g.*, *Uzuegbunam v. Preczewski*, 141 S.Ct. 792, 801 (2021). Moreover, for the purposes of assessing redressability, this Court presumes that parties will act in their economic best interests and thus will halt expensive regulatory changes if offered the opportunity. *See Competitive Enter. Inst. v. FCC*, 970 F.3d 372, 383-84 (D.C. Cir. 2020) (CEI).

Second, State Petitioners explained (at 13-14) that they have standing to protect their quasi-sovereign interest in managing their electrical grids. The Supreme Court recognized that the "[n]eed for new power facilities, their economic feasibility, and rates and services, are areas that have been characteristically governed by the States." *Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n*, 461 U.S. 190, 205 (1983). Indeed, it has described the regulation of such utilities as "one of the most important of the functions traditionally associated with the police power of the States." *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983). As State Petitioners further explained (at 18-20) EPA has effectively admitted that the Final Rule will put pressure on—and thus threaten the reliability of—the grid due to "increased electricity demand," JA1080, and the need for "exponential growth in charging infrastructure," JA1066, which is expensive for States. When challenging such a threat to its sovereign or quasi-sovereign interests, States are entitled to "special solicitude" in the standing analysis. *Massachusetts v. EPA*, 549 U.S. 497, 520 (2007).

B. Nothing in *Ohio* changes this analysis.

Nothing in *Ohio*—about which a request for certiorari remains pending—changes this analysis. There, 17 States and a coalition of fuel producers challenged EPA's decision to reinstate a federal-preemption waiver issued under Section 209(a) of the CAA, 42 U.S.C. § 7543(a), on several statutory and constitutional grounds. *Ohio*, 98 F.4th at 293-94.

1. As relevant here, State Petitioners asserted standing based on three economic harms: "an increase in the cost of conventional vehicles nationwide, . . . a reduction in fuel tax revenues available for the provision of highway and road services, and an increase in the costs and prices of delivering electric power services." *Id.* at 301 (quotations omitted).[4] The fuel producers claimed economic injury due to the "depress[ed] demand for liquid fuels." *Id.* at 300. The Court did not directly question the existence of that injury, but it concluded that *Ohio*'s injury was not "readily apparent" because it depended on the content *and timing* of decisions made by parties not before the Court. *Id.* at 300-01.

As a result, the Court concluded that the petitioners had the "burden of production" in their opening brief to "cit[e] any record evidence relevant to its claim of standing, and, if necessary, append[] to its filing additional affidavits or other evidence sufficient to support its claim." *Id.* at 300 (quoting *Sierra Club v. EPA*, 292 F.3d 895, 899 (D.C. Cir. 2002)). *Ohio* found the petitioners' proffer inadequate

[4] *Ohio*'s analysis of the petitioners' equal-sovereignty is not pertinent because State Petitioners have not raised anything "akin to the type of dignitary injury recognized in equal protection cases." *Ohio*, 98 F.4th at 307.

because the claimed injuries "would be redressed only if automobile manufacturers responded to vacatur of the waiver by producing and selling fewer non-conventional vehicles or by altering the prices of their vehicles," during the "relatively short" period the waiver was in effect. *Id.* at 302. Petitioners ultimately failed to establish standing, the Court concluded, because it found "no basis" in the record to conclude that "vacatur of the waiver would be substantially likely to result in any change to manufacturers' vehicle fleets by Model Year 2025" but would instead "need years of lead time." *Id.*

2. Although dealing with similar subjects (the forced transition to electric vehicles) *Ohio* differs from the present case in at least three ways.[5]

First, assuming *Ohio* accurately reflected the nature of the States' injury (which the States dispute in their pending cert petition), the mechanism of injury depended upon more "contingencies," which would make it more difficult to "satisfy the requirement that any injury in fact [is] fairly traceable to [the Final Rule.]" *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 410-11 (2013). EPA's own admissions here, by contrast, reflect that the Final Rule will lead to a 15% decline in the amount of fuel sold. JA65. And EPA *acknowledges* that its rule produces this effect: "As the standards become more stringent over MYs 2023 to 2026, the projected penetration of plug-in electrified vehicles (BEV and PHEV combined) increases by approximately 10 percentage points over this 4-year period," which "is driven by

[5] For the avoidance of doubt, State Petitioners agree with the reasoning of the Private Petitioners.

several factors, including the increased stringency of our final standards." JA51. Because Texas taxes every barrel of oil produced within its borders, States.Br.2-3, 12-14, that drop directly costs Texas money. Such a monetary injury "provid[es] a basis for a lawsuit in American courts" both for private parties, *TransUnion LLC v. Ramirez*, 594 U.S. 413, 427 (2021), and for States, *Wyoming*, 502 U.S. at 448-49.

Although "causation does not inevitably imply redressability, because a new status quo may be held in place by other forces besides the government action at issue," *CEI*, 970 F.3d at 385 (cleaned up), that is not so here. Even EPA admits "[c]ompliance with the final standards will necessitate *greater* implementation and pace of technology penetration" than the status quo. JA60 (emphasis added). Vacatur would redress the harm those standards cause by "restor[ing] the status quo" by avoiding the harms of this accelerated transition to electric vehicles. *Am. Great Lakes Ports Ass'n v. Zukunft*, 301 F. Supp. 3d 99, 103 (D.D.C. 2018) (citation omitted) *aff'd sub nom. Am. Great Lakes Ports Ass'n v. Schultz*, 962 F.3d 510 (D.C. Cir. 2020); *see also, e.g.*, *Energy Future Coal. v. EPA*, 793 F.3d 141, 144 (D.C. Cir. 2015) (redressability satisfied where a favorable decision would remove a "regulatory hurdle" to consumption of the petitioner's product). True, State Petitioners *might* experience some economic harm through a natural influx of electric vehicles, but Article III does not demand compete redress. *Larson v. Valente*, 456

U.S. 228, 242 (1982). That the harm "would be reduced to some extent" by vacatur is enough. *Massachusetts*, 549 U.S. at 526.[6]

Second, this case lacks the timing "complicat[ion]" that ultimately doomed petitioners in *Ohio*. 98 F.4th at 288. As EPA explains, the redesign cycle for a motor vehicle is "typically about every 5 years." JA135; *see also, e.g.*, JA62-6. In *Ohio*, California first sought the disputed waiver in 2012 to establish emission standards for model years 2017 to 2025. *Ohio*, 98 F.4th at 297. The automakers then began to "adjust[] their fleets to comply" until the waiver was rescinded in 2019—two years into the waiver period and well into the design cycle. *Id.* at 297-98. *Ohio* challenged EPA's decision to allow the program to come "back into force" in 2022. *Id.* at 298. Due to the years of lead time required for automakers to re-adjust to pre-ACC standards, many automakers had voluntarily complied even after the recission, making it "far from clear" to the Court even at the time of the complaint that vacatur would lead to any material change "within the model years covered by the waiver." *Id.* at 303.

Here, the timing issues go in the other direction: EPA issued the Final Rule in December 2022 for model years 2023 through 2026. As the Alliance for Automotive Innovation explained, "[t]his unprecedented leap in stringency with virtually no lead ime will be a challenge for at least some manufacturers to meet." JA578. This

[6] The status quo also does not include technology needed to comply with new fuel-economy standards challenged in this case's companion case, which petitioners have separately challenged EPA's standards. *See NRDC v. NHTSA*, No. 22-1080 (D.C. Cir. Feb. 28, 2022).

comment, and a number like it, reflect that this rate of electrification would not occur absent the Final Rule's constraints. Again, the Final Rule acknowledges that it will "necessitate" a more rapid transition to electric vehicles. JA60. Given the cost of such a transition, there is a "substantial likelihood" that automakers would respond differently if the Final Rule were not implemented. *CEI*, 970 F.3d at 384. That is, it is "reasonably predictable" that electrification will slow if the Final Rule is vacated. *Id.* Accordingly, the demonstrated harms to State Petitioners are traceable to defendants' actions and may be redressed through a favorable result here. *See Dep't of Comm. v. New York*, 588 U.S. 752, 768 (2019).

Third, even if this Court determines that vacatur would not redress the harm to State Petitioners' revenues from oil production, injury to a State's quasi-sovereign interests will also support standing. *Alfred L. Snapp & Son, Inc. v. Puerto Rico*, 458 U.S. 592, 601 (1982). State Petitioners have a quasi-sovereign interest in managing their electrical grids. *See, e.g., Pac. Gas & Elec. Co.*, 461 U.S. at 205. Although the Plaintiffs in *Ohio* apparently *raised* such a theory, 98 F.4th at 301, the Court never expressly addressed it. True, this Court has occasionally recognized the notion of an implicit standing holding, *Safir v. Kreps*, 551 F.2d 447, 451 (D.C. Cir. 1977). But typically courts do not create binding precedent through silence, *see, e.g.*, *Webster v. Fall*, 266 U.S. 507, 511 (1925); *accord Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 91 (1998) (holding that "drive-by jurisdictional rulings . . . have no precedential effect").

As State Petitioners explained in their opening brief (at 18-20), the record amply supports that EPA's decision to force electrification of 17% of the fleet places a substantial risk on the nation's grid. Indeed, EPA all but concedes it, saying that "the grid is *generally* expected to be capable of serving *near term* electricity needs for an increase in EVs," JA1084 (emphasis added),[7] but acknowledging that "exponential growth in charging infrastructure" will be required, JA1066; *see also* JA130, 531. Such infrastructure is enormously expensive for States, JA534, and creates "a critical need for complementary federal policies to support a . . . modernized and more sophisticated electric grid." JA1054. Even States who have intervened *on EPA's side* here recognize such coordination has not yet occurred. JA1062 (Maryland). Indeed, even EPA admits that "the impact of this electricity demand on the grid infrastructure will depend on several factors, such as the time of day when vehicles are charged, and the advent of vehicle-to-grid (V2G) services." JA1080. In other words, EPA does not know how its Final Rule will ultimately affect the nation's electrical grid, creating a risk to States Petitioners' quasi-sovereign interests that they have standing to vindicate in this Court. That interest should not be lightly disregarded based on a single, passing reference to potential effects on the electrical grid in *Ohio*.

[7] There is also reason to question EPA's rosy predictions given that EPA's authority for its projection is thin at best. *See* States.Br.20. That is, however, ultimately a merits question, which must be presumed in assessing standing. *See, e.g.*, *FEC v. Cruz*, 596 U.S. 289, 298 (2022).

II. To the Extent It Is Implicated, *Loper Bright* Confirms the Final Rule's Unlawfulness.

Loper Bright also need not—and, in State Petitioners' view, likely *should* not—control this case. In *Loper Bright*, the Supreme Court squarely and unequivocally held one thing: "*Chevron* is overruled." *Loper Bright*, 144 S.Ct. at 2273. Because "the question at issue" here, however, "is one of 'deep economic and political significance,'" *Chevron* deference never applied in the first place. *Id.* at 2269 (quoting *King v. Burwell*, 576 U.S. 473, 486 (2015)). As a result, even before *Loper Bright*, this Court was obliged to "exercise [its] independent judgment" as well as the "traditional tools of statutory construction" to "decid[e] whether an agency has acted within its statutory authority." *Id.* at 2268, 2273.

If the Court disagrees with State Petitioners that this case presents a major question, *Loper Bright* would nonetheless require vacatur. Under *Chevron*'s erstwhile two-step framework, courts were required to "defer" to agency interpretations of ambiguous statutes—"even if" the agency interpretation was "not the reading the court would have reached if the question initially had arisen in a judicial proceeding." *Id.* at 2264 (quotation marks omitted). Although far from pellucidly clear, EPA appears to have relied on *Chevron*'s progeny to demand deference to its supposedly reasoned "discretion in choosing an appropriate balance among factors" discussed by the CAA. *E.g.*, JA19 (collecting cases, many of which rely on *Chevron* Step II); EPA.Br.49 (expressly invoking *Chevron* Step II *cases* in the standard of

review). Because EPA can no longer rely on *Chevron* to justify its Final Rule, the Court should vacate and remand.

A. The Final Rule violates the major-questions doctrine, under which EPA has never been entitled to any deference.

From the beginning, State Petitioners have maintained that, due to its economic and political significance, only Congress may decide to "functionally force vehicle manufacturers to produce more electric vehicles." States.Br.2. The *Loper Bright* decision was deeply divided on many things, but the Court agreed on one thing: "*Chevron* does not apply" to such questions. 144 S.Ct. 2269; *see also id.* at 2309 (Kagan, J., dissenting) ("[C]ourts are not supposed to defer when the agency construing a statute . . . is intervening in a 'major question,' of great economic and political significance."). Instead, for decades courts have "expected Congress to delegate such authority 'expressly' if at all" and not through "modest words, vague terms, or subtle devices." *Id.* at 2269 (majority op.) (citing *inter alia*, *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001)).

As State Petitioners have explained at length, *e.g.*, States.Br.14-24, this case presents a question of enormous "economic and political significance" for at least three reasons. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160 (2000). *First*, this case involves multiple industries, which each possess a "unique place in American history and society," as well as a question of the electrification of the fleet that has its "own unique political history." *Id.* at 159. *See, e.g.*, States.Br.6-11 (tracing

the history of the electrification debate); *id.* at 15-16 (discussing the electricity industry's place in American society).

Second, even supporters of the rule have acknowledged a "critical need" for a "build-out of a nationwide public refueling infrastructure, and a modernized and more sophisticated electric grid to support [the] widespread EV use" that the Final Rule demands. JA364; *accord* JA130 (acknowledging the need "to examine the potential impact [of growing EV-related load] on grid reliability and resiliency"). As State Petitioners have explained, this requires hundreds of billions of dollars in capital investment, States.Br.15-16; *see also, e.g.*, JA534 (providing a "low-end estimate of $7.6 billion" to reach 7.9% sales, far below EPA's stated goal), and "significantly alter[s] the balance between federal and state power"—both of which are indicators of a major question. *Ala. Ass'n of Realtors v. HHS*, 594 U.S. 758, 764 (2021) (per curiam). *Third*, because the forced electrification will necessarily increase the Nation's reliance on materials controlled by foreign powers, States.Br.24, the Final Rule also implicates questions of national security of the type that Congress typically retains for itself. *Cf.*, *e.g.*, Protecting Americans from Foreign Adversary Controlled Applications Act, Pub. L. No. 118-50, Div. H, 138 Stat.895 (Apr. 24, 2024); H.R. Rep. No. 109-215, pt. 1, at 169 (2005); S. Rep. No. 109-78, at 1, 6 (2005); JA1016, 1028.

Because the Final Rule implicates such major questions, decades before *Loper Bright*, EPA was required to point to "clear congressional authorization" before it could weigh in. *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 324 (2014) (collecting

cases dating back to *Indus. Union Dept., AFL–CIO v. Am. Petrol. Inst.*, 448 U.S. 607, 645-46 (1980) (plurality opinion)). It cannot, and has not, identified such statutory authorization. Although the CAA directs EPA to establish emission standards for vehicles, 42 U.S.C. § 7521(a)(1), there is no text even remotely authorizing EPA to force major car manufactures to fundamentally rewrite their business models, thus crippling the Nation's electrical grid, or to dramatically increase the Nation's reliance on foreign-controlled rare-earth metals.

To the contrary, Congress has placed strict limits on EPA action in other contexts to prevent harm to "electric reliability." *See* 42 U.S.C. § 7651b(d)(2) (sulfur dioxide allowance program for power plants). It has also made repeated efforts to "move the United States toward greater energy independence and security," *Ams. for Clean Energy v. EPA*, 864 F.3d 691, 697 (D.C. Cir. 2017) (referencing the Energy Independence and Security Act of 2007). And its unambiguous, statutorily defined purpose of "protect[ing] and enhanc[ing] the quality of the *Nation's* air resources so as to promote the public health and welfare and the productive capacity of *its* population" is indicative that Congress intended for EPA to focus on national effects, not global ones. 42 U.S.C. § 7401(b)(1) (emphasis added). By ignoring each of these principles in the name of combatting global climate change,[8] however, EPA has invaded Congress's prerogative to define national policy on issues of vital economic and political significance.

[8] JA1103 (brushing off security concerns rising from the "manufacture and importation of different types of vehicles and vehicle components" because "the

B. Where the major questions doctrine does not apply, *Loper Bright* requires the Court to determine the meaning of the CAA.

To the extent that the Court disagrees with State Petitioners and holds the major-questions doctrine inapplicable here, *Loper Bright* would nevertheless still require vacatur because the Final Rule's discussion of its standard-setting authority invokes concepts of deference to the agency's interpretation of the CAA. JA19, 201; *accord* JA234. The Supreme Court has now unequivocally held that "agency interpretations of statutes . . . are *not* entitled to deference." *Loper Bright*, 144 S.Ct. at 2262. Instead, "the final interpretation of the laws" are "the proper and peculiar province of the courts." *Id.* at 2257 (quotations omitted).

True, even after *Loper Bright*, the Court may "seek aid from the interpretations of those responsible for implementing particular statutes," but "the basic nature and meaning of a statute does not change when an agency happens to be involved." *Loper Bright*, 144 S.Ct. at 2262, 2271. Regardless of how EPA interprets the CAA, "[t]he statute still has a best meaning, necessarily discernible by a court deploying its full interpretive toolkit." *Id.* at 2271. That "toolkit" includes, among other things, the presumption against extraterritoriality, *RJR Nabisco v. European Cmty.*, 579 U.S. 325, 336 (2016), and the goal of "giv[ing] effect to the intent of Congress." *Fischer v. United States*, 144 S.Ct. 2176, 2191 (2024) (Jackson, J. concurring) (quoting *United States v. Am. Trucking Ass'ns, Inc.*, 310 U.S. 534, 542 (1940)). EPA's interpretation of the CAA violates these and other principles of

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topic of energy security has focused on imported oil from unstable supply sources and OPECs ability to exert market power").

statutory interpretation for the reasons State Petitioners have already discussed at length.

Under these circumstances, if the Court rejects State Petitioners' arguments under the major-question doctrine, the appropriate remedy is vacatur. It is a "foundational principle of administrative law that a court may uphold agency action only on the grounds that the agency invoked when it took the action." *Michigan v. EPA*, 576 U.S. 743, 758 (2015) (citing *SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943)). This Court has applied that principle to preclude the agency even from raising legal arguments that were not invoked in the rulemaking process.[9] Because this rule, though admittedly ambiguous, appears to have invoked a deference to which EPA is no longer entitled, the APA requires a clearer explanation of the standard being applied—if not an entirely new rulemaking. *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22-23 (2020).

[9] *Johnson v. Copyright Royalty Bd.*, 969 F.3d 363, 390 (D.C. Cir. 2020); *see also Ass'n of Civilian Technicians v. Fed. Labor Rels. Auth.*, 269 F.3d 1112, 1117 (D.C. Cir. 2001); *Chen v. GAO*, 821 F.2d 732, 736 (D.C. Cir. 1987).

CONCLUSION

State Petitioners' petition for review should be granted and the Final Rule should be vacated.

Respectfully submitted.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the Federal Rule of Appellate Procedure 32(f) and (g), and this Court's July 29, 2024, Order, because it contains 3,856 words, as counted by the Microsoft Word software to produce this brief, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii) and Circuit Rule 32(a)(1). This brief also complies with the requirements of Federal Rule of Appellate Procedure 27(d)(1)(E), 32(a)(5) and (6) because it was prepared in 14-point font using a proportionally spaced typeface.

/s/ Lanora C. Pettit
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CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing brief to be filed on August 19, 2024, using the Court's CM/ECF system and that service was accomplished upon counsel of record by the Court's system.

/s/ Lanora C. Pettit
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