Nos. 23-1067 and 23-1068

IN THE

Supreme Court of the United States

STATE OF OKLAHOMA, ET AL.,

Petitioners,

v.

ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

Respondents.

PACIFICORP, ET AL.,

Petitioners,

v.

ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

Respondents.

On Writs of Certiorari to the
United States Court of Appeals
for the Tenth Circuit

BRIEF OF FORMER EPA GENERAL COUNSELS JONATHAN CANNON, E. DONALD ELLIOTT, AND AVI GARBOW AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICI CURIAE*[1]

Amici are former General Counsels of the U.S. Environmental Protection Agency ("EPA") who collectively served in three Presidential Administrations.

Jonathan Cannon was EPA's General Counsel during the Clinton Administration. Cannon is also the Blaine T. Phillips Distinguished Professor of Environmental Law Emeritus at the University of Virginia School of Law, and was the inaugural director of the Law School's Program in Law, Communities and the Environment. As a professor and director, Cannon has taught and wrote extensively about environmental and administrative law.

E. Donald Elliott was EPA's General Counsel during the George H. W. Bush Administration. Elliott is the Florence Rogatz Professor of Law at Yale Law School. Elliott has been teaching environmental and administrative law on the Yale Law faculty for over 40 years.

Avi Garbow was EPA's General Counsel during the Obama Administration, and the longest-serving General Counsel in EPA's history. Garbow has also worked for EPA as an attorney, Deputy General Counsel, and Senior Counselor under three separate administrations.

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[1] No party's counsel authored this brief in whole or in part, and no person or entity other than *amici curiae* or their counsel contributed monetarily to the preparation or submission of this brief.

Amici write in support of Respondent EPA's position that its action to disapprove the 21 state implementation plans at issue in this case may be reviewed in only the U.S. Court of Appeals for the District of Columbia Circuit under the venue provision of the Clean Air Act, Section 7607(b)(1) of Title 42.

Amici have a strong interest, based on their prior leadership within EPA, in ensuring the agency and reviewing courts properly interpret the Clean Air Act, including the venue provision, Section 7607(b)(1). In addition, by virtue of their significant experience within EPA, including interpreting and applying Section 7607(b)(1), as well as their expertise in environmental and administrative law, *amici* are uniquely positioned to offer insight into how that provision works, Congress's intent behind the provision, and EPA's consistent approach to interpreting and applying it.

INTRODUCTION AND SUMMARY OF ARGUMENT

Under Section 7607(b)(1), judicial review of an EPA action must be had in the D.C. Circuit if the action is (1) "nationally applicable," or (2) "locally or regionally applicable" but is nonetheless "based on a determination of nationwide scope or effect." 42 U.S.C. 7607(b)(1).

As EPA has explained, consolidated review in the D.C. Circuit of multi-circuit actions avoids piecemeal litigation, promotes judicial economy, and mitigates uncertainty and inconsistency for States and regulated parties. 88 Fed. Reg. 9,336, 9,380 (Feb. 13,

2023). EPA notes, "a nationally consistent approach to the [Clean Air Act's] mandate concerning interstate transport of ozone pollution constitutes the best use of agency resources." *Id.* at 9,338. Allowing review of such actions in multiple regional circuit courts would significantly impede EPA's mission of implementing coordinated national programs to control interstate air pollution.

The text and legislative and statutory history of Section 7607(b)(1)—the "venue provision"—support EPA's position that the provision allows for centralized review of actions, like EPA's disapproval action at issue in this case, that apply to entities across multiple circuits. The 1970 version of the venue provision evinced Congress's fundamental understanding that centralized review of actions "national in scope" was necessary to protect EPA's national rulemaking ability under the Clean Air Act. Then, EPA, buttressed by the courts, interpreted the venue provision to offer centralized review of multi-circuit actions. EPA's General Counsel recommended that Congress require challenges to such actions to be heard in only the D.C. Circuit. In the 1977 Clean Air Amendments, Congress amended the venue provision, bringing its language into alignment with EPA's interpretation and practice.

In the 48 years since Congress made those amendments to the venue provision, the provision's text has not changed. Neither has EPA's position regarding which actions require centralized review—that is, which actions are "nationally applicable" or "based on a determination of nationwide scope or effect." EPA's interpretation of Section 7607(b)(1) in

this case remains consistent with its prior interpretations and the letter and spirit of the statute, and should receive significant "respect" from this Court under *Loper Bright Enterprises* v. *Raimondo*, 603 U.S. 369 (2024). Moreover, EPA rarely finds that its actions are "nationally applicable" or "based on a determination of nationwide scope or effect," thereby honoring the role of regional circuit courts in reviewing locally or regionally applicable actions.

In applying this interpretation to the disapproval action at issue here, EPA correctly found that its action is "nationally applicable" and "based on a determination of nationwide scope or effect," and therefore can be reviewed in only the D.C. Circuit.

ARGUMENT

I. Section 7607(b)(1)'s History Reflects Congress's Intent That the D.C. Circuit Should Review Nationally Significant EPA Actions.

Congress intended challenges to nationally significant EPA actions like the disapproval action to be reviewable in only the D.C. Circuit. Ever since Congress first wrote a venue provision for the Clean Air Act in 1970, it has maintained that an EPA action that affects entities in multiple circuits may be reviewed by only the D.C. Circuit. EPA interpreted the provision accordingly, the courts of appeals agreed with EPA's interpretation, and in 1977 Congress enshrined EPA's and the courts' interpretation in the language of the Act itself.

A. The 1970 Clean Air Act Amendments Provided Centralized Review of Multi-Circuit Actions.

In 1970, when Congress first contemplated judicial review of EPA's actions under the Clean Air Act, Congress aimed to write a venue provision that would achieve "even and consistent" application of EPA's national standards. S. Rep. No. 1196, 91st Cong., 2d Sess. 41 (1970). To this end, Congress specified that EPA actions that are "national in scope"—defined in context as actions that impact more than one air quality control region—should be reviewed by only the D.C. Circuit.[2] *Id.* Congress worried that, if actions that impacted entities in more than one circuit could be challenged in more than one circuit, the courts could reach conflicting rulings and hamper EPA's ability to effectively regulate air quality. *Id.*

To address that concern, the 1970 Clean Air Act Amendments included a venue provision that made any action "promulgating any national primary or secondary ambient air quality standard," "emission standard," or other specified standards, reviewable in only the D.C. Circuit. Pub. L. No. 91-604, 84 Stat. 1676, 1708 (1970).

The 1970 venue provision also stated that "Administrator's action in approving or promulgating any implementation plan ... may be filed only ... in the appropriate circuit." *Id.* Thus, the 1970 Clean Air Act Amendments reflected Congress's recognition that

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[2] Congress required centralized review for actions "national in scope," while requiring local review for actions that "ran only to one air quality control region." S. Rep. No. 91-1196 at 41.

EPA actions that are "national in scope" should receive "even and consistent national application," requiring centralized review in the D.C. Circuit.

Unfortunately, the 1970 venue provision proved difficult to implement. By addressing only particular EPA actions, the provision left unspecified the venue for EPA actions that were not listed, and it did not specify the "appropriate court" for judicial review of EPA actions regarding an implementation plan. Legal challenges soon made these shortcomings apparent, and prompted Congress to clarify its intent.

In 1972, EPA finalized an action approving numerous States' proposed SIPs. 37 Fed. Reg. 10,842 (May 31, 1972). Several environmental groups challenged EPA's action. *See Natural Resources Defense Council, Inc.* v. *EPA* ("*NRDC I*"), 465 F.2d 492, 493 (1st Cir. 1972). The groups argued they were permitted to sue in every regional circuit because "the appropriate circuit" referenced in the statutory text was meant to be synonymous with "local." *Id.* at 493. EPA, meanwhile, argued that the challenges had to be brought in the D.C. Circuit. The First and D.C. Circuits agreed with EPA. *NRDC I*, 465 F.2d at 493; *Natural Resources Defense Council* v. *EPA* ("*NRDC II*"), 475 F.2d 968, 969 (D.C. Cir. 1973).

Central to EPA's position was that the action at issue "nationally and uniformly" approved or disapproved the SIPs, making challenges in regional circuits inappropriate and potentially problematic. *NRDC I*, 465 F.2d at 493. The First Circuit agreed; since the issues were the same across circuits, "litigation in several circuits" could unnecessarily lead to "possible inconsistent and delayed results." *Id.* at

495. The D.C. Circuit similarly cautioned that reading the venue provision to allow non-centralized review of multi-circuit issues could yield undesirable consequences, such as multiple reviews of a decision by EPA concerning an implementation plan for a single metropolitan area that sits in more than one circuit. "We doubt that Congress intended such a result, especially in light of the indication elsewhere in the Act of a strong congressional concern for coordinated decision-making ... over several jurisdictions." *NRDC II*, 475 F.2d at 969. In other words, the courts understood that Congress, in the 1970 Clean Air Act Amendments, had aimed to provide a consistent review process for actions that applied to entities in more than one circuit, and that EPA was interpreting the venue provision consistent with Congress's intent.

If Congress had other intentions, later amendments to the Clean Air Act in 1977 and 1990 provided ample opportunity to correct course. Yet the legislative history shows Congress choosing to double down on EPA's interpretation of the venue provision: that challenges to EPA actions like the one at issue in this case are "national in scope" and must be reviewed in the D.C. Circuit.

B. The 1977 Clean Air Act Amendments Supported EPA's Interpretation of the Venue Provision.

Four years after the D.C. Circuit's decision in *NRDC II*, Congress returned to the venue provision in the 1977 Clean Air Act Amendments. Pub. L. No. 95-95, 91 Stat. 685, 776 (1977). The Amendments were prepared by the House Committee on Interstate and

Foreign Commerce, which explained its intention behind the Amendments in an accompanying report. H.R. 6161, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 294, 95th Cong., 1st Sess. (1977). Unlike the 1970 venue provision, which directed review of only certain enumerated actions to the D.C. Circuit, see p. 5, *supra*, the 1977 Amendments added a catch-all clause to direct review of "any other nationally applicable regulations promulgated, or final action taken" to the D.C. Circuit, as well. Pub. L. No. 95-95 at 776.

In addition, the 1977 Clean Air Act Amendments added a catch-all clause to direct review of "any other final action ... which is locally or regionally applicable" to the appropriate circuit. *Id*. But the Amendments made an important exception: A challenge to a locally or regionally applicable action could be filed in only the D.C. Circuit "if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination." *Id*.

These changes to the venue provision enshrined the First and D.C. Circuits' 1972 and 1973 decisions in support of EPA's interpretation. In *NRDC II*, the D.C. Circuit recognized that the provision allowed for centralized review of "determinations of nationwide effect"—a phrase that was not yet a term of art. *NRDC II*, 475 F.2d at 970. In the Amendments, Congress modified the venue provision to include almost precisely the same phrase. Pub. L. No. 95-95 at 776. The nearly identical language indicates the attention Congress paid to EPA's legal arguments in litigation,

and Congress's corresponding intention to keep review of multi-circuit SIP actions in the D.C. Circuit.

The changes to the venue provision were also responsive to recommendations from then-EPA General Counsel G. William Frick. The 1970 version of the venue provision and the *NRDC I* and *II* decisions prompted recommendations to the House Committee on Interstate and Foreign Commerce regarding amendments to the provision. Two sets of these recommendations influenced the final amendments enacted in 1977. H.R. Rep. No. 95-294 at 324.

The first of the two sets of recommendations was written by Professor David Currie, while the second was written by General Counsel Frick. 41 Fed. Reg. 56,767, 56,767-69 (Dec. 30, 1976). Both sets of recommendations were published in 1976 by the Administrative Conference of the United States, an independent federal agency established in part to "study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies ... and to make recommendations for improvement" to Congress. *Id.* at 56,767.

According to Professor Currie, "Congress should amend [the venue provision] of the Clean Air Act to make explicit that the Administrator's action in approving or promulgating state implementation plans is reviewable in the circuit containing the state whose plan is challenged," not just "the appropriate court." *Id.* at 56,768. General Counsel Frick opposed that recommendation because, if adopted, it would foreclose a conclusion that the D.C. Circuit was the appropriate venue for "matters on which national

uniformity is desirable." *Id*. Frick agreed that interpreting "appropriate" to mean "local" was sensible for challenges involving "issues peculiar to the affected states." However, he urged that Congress maintain the flexible usage of "appropriate" to ensure the D.C. Circuit would review actions "where 'national issues' are involved" or which "involve generic determinations of nationwide scope or effect." *Id*. at 56,768-69.

In defending centralized review of multi-circuit issues, Frick cited the *NRDC I* and *NRDC II* decisions of the First and D.C. Circuits. *Id*. at 56,769. Frick believed that centralizing judicial review of multi-circuit issues in the D.C. Circuit would "tak[e] advantage of [that court's] administrative law expertise and facilitat[e] an orderly development of the Act, rather than to have such issues decided separately by a number of courts." *Id*. He further reasoned that the validity of EPA's actions in such cases would turn not "on the particulars of its impacts within a given circuit," but on general issues, and therefore that a single court, and the D.C. Circuit specifically, was best situated to hear challenges to such actions. *Id*. And although Professor Currie and General Counsel Frick disagreed over the interpretation of "appropriate" in the wake of earlier litigation, both emphasized the need to avoid "undue duplication of proceedings" that could be caused by allowing several circuit courts to independently rule on a single EPA action. *Id*. at 56,768-69.

When Congress finally enacted the 1977 Clean Air Act Amendments, it both (1) kept the 1970 Amendments' original language directing any

individual SIP approval to the "appropriate court," and (2) specified that any locally or regionally applicable action based on a determination of nationwide scope or effect could be challenged in *only* the D.C. Circuit. Pub. L. No. 95-95 at 776. Thus, it reinforced EPA's interpretation. In fact, in the House Committee on Interstate and Foreign Commerce's report explaining changes to the Act, the House Committee stated that it agreed with the "comments, concerns, and recommendation ... of the separate statement of G. William Frick." H.R. Rep. No. 95-294 at 324.

The House Committee's report also clarified that "determination of nationwide scope or effect" includes "a determination which has scope or effect beyond a single judicial circuit." *Id*. at 324. Congress's expansive definition of "nationwide" underscored its primary purpose in updating the venue provision: to avoid duplicative or inconsistent rulings in order to maximize the efficacy of EPA's administrative programs. Congress's 1977 Clean Air Act Amendments represented an effort to centralize review of issues, including EPA decisions regarding SIPs, that impact entities in more than one circuit. 41 Fed. Reg. at 56,769; H.R. Rep. No. 95-294 at 324.

In sum, with every chance to clarify to the contrary, Congress's 1977 Amendments supported EPA's conclusions regarding how the venue provision should be construed, and Congress has not amended the provision further. Overall, the text and history of Section 7607(b)(1) shows that Congress intended to allow for centralized review of multi-circuit issues. It also shows that Congress wrote the provision to be

consistent with EPA's position regarding the types of actions that require centralized review (that is, which actions are "nationally applicable" or "based on a determination of nationwide scope or effect").

II. EPA's "Nationally Applicable" and "Based on a Determination of Nationwide Scope or Effect" Findings Are Consistent and Judicious.

Over time, EPA's explanations for why it finds particular actions "nationally applicable" or "based on a determination of nationwide scope or effect" have remained consistent with the letter and spirit of Section 7607(b)(1). Such consistent interpretations by the agency charged with applying the statute are entitled to substantial weight under long-established Supreme Court precedent. *See, e.g.*, *Udall* v. *Tallman*, 380 U.S. 1 (1965). The findings in the disapproval action are consistent with EPA's prior "nationally applicable" and "based on a determination of nationwide scope or effect" findings.

Moreover, EPA interprets Section 7607(b)(1) narrowly and judiciously to make such findings. The agency's reading has neither deprived regional circuit courts of their appropriate judicial-review roles nor resulted in an overload of Clean Air Act cases in the D.C. Circuit. Rather, EPA makes a finding that an action is either "nationally applicable" or "based on a determination of nationwide scope or effect" in fewer than two percent of its Clean Air Act final rules regarding implementation plans.

A. EPA's Findings for the Disapproval Action are Consistent With Its Longstanding Approach to Making Such Findings.

A locally or regionally applicable action that is "based on a determination of nationwide scope or effect" is reviewable in the D.C. Circuit only if EPA makes and publishes a finding to that effect. 42 U.S.C. 7607(b)(1). EPA can also make and publish a finding that its action is "nationally applicable," but such a finding is not required for review of a nationally applicable action to be directed to the D.C. Circuit.

Review of EPA's "nationally applicable" and "based on a determination of nationwide scope or effect" findings over time shows that EPA's arguments regarding the disapproval action at issue here are consistent with its longstanding practice and interpretation of Section 7607(b)(1). A few examples are illustrative.

In 2011, EPA looked to "a common core of factual findings and analyses" to explain why it designated a final action concerning the [interstate] transport of pollutants as "based on a determination of nationwide scope or effect." 76 Fed. Reg. 48,208, 48,352 (Aug. 8, 2011). In 2014, EPA similarly found that a consolidated SIP decision was "based on a determination of nationwide scope or effect" because the States whose SIPs were affected were situated in different circuits. 79 Fed. Reg. 69,769, 69,772 (Nov. 24, 2014). And in 2018, EPA found that 20 SIPs had met their good neighbor provision obligations, and explained that its approach to regulating ozone emissions standards had nationwide scope or effect

because it was intended to be "consistently implemented nationwide." 83 Fed. Reg. 65,878, 65,923 (Dec. 21, 2018). EPA also designated each of these actions "nationally applicable."[3]

In the disapproval action at issue in this case, in which EPA disapproved multiple SIPs, EPA relied on similar reasoning to explain its "nationally applicable" and "based on a determination of nationwide scope or effect" findings. EPA: (1) based its actions on a common core of findings and analyses; (2) reached a decision concerning the SIPs of multiple States in multiple circuits; and (3) adopted an approach that effectuates consistent nationwide implementation of the Clean Air Act. 88 Fed. Reg. at 9,380.

Other patterns in EPA's venue findings over time demonstrate that EPA's findings in the disapproval action are consistent with its longstanding approach to making such findings. First, our review of all EPA final rules regarding implementation plans since 1998 shows that the majority of EPA's "nationally applicable" and "based on a determination of nationwide scope or effect" findings have been made for rules that involved multiple States but not the whole country.

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[3] These justifications may sound broad, but EPA is careful and precise in making them. As we discuss in more detail in the next section, in the last 10 years, EPA published "based on a determination of nationwide scope or effect" findings in only 41 (1.5%) of its 2,708 Clean Air Act implementation plan final rules. Similarly, EPA published "nationally applicable" findings in only 50 (1.8%) of those rules.

Second, EPA has a long history of making "nationally applicable" and "based on a determination of nationwide scope or effect" findings for actions related to the interstate transport of emissions. For instance, in 2011, when EPA published its Transport Rule limiting emissions of certain regulated pollutants to downwind States, EPA found that "*any* final action related to the Transport Rule is 'nationally applicable' within the meaning of Section [7607(b)(1)]." 76 Fed. Reg. at 48,352 (emphasis added). Further back, in 1999, EPA reasoned that its consolidated SIP action was "nationally applicable" and "based on a determination of nationwide scope or effect" where it employed "uniform modeling techniques and a uniform set of air quality metrics to assess upwind impacts on downwind states," even though the action applied to only eight Northeastern States. 64 Fed. Reg. 28,250, 28,318 (May 25, 1999).

Since 1999, EPA has continued to emphasize the necessity of centralized review for rules relating to the interstate transport of emissions. This is unsurprising; as the Court recognizes, "[a]ir pollution is transient, heedless of state boundaries," such that "most upwind States contribute pollution to multiple downwind States in varying amounts." *EPA* v. *EME Homer City Generation, L. P.*, 572 U.S. 489, 496, 516 (2014). Indeed, our review of the Federal Register shows that, over the last 25 years, more than half of all EPA implementation plan final rules with "based on a determination of nationwide scope or effect" findings have concerned the interstate transport of emissions.

In sum, EPA's arguments regarding the proper venue for review of its 2023 disapproval action are consistent with longstanding agency practice spanning Presidential Administrations of both parties. The disapproval action directly impacts States in multiple circuits and concerns the interstate transport of emissions.

B. EPA's "Nationally Applicable" and "Based on a Determination of Nationwide Scope or Effect" Findings are Judicious.

Petitioners claim that EPA's interpretation of Section 7607(b)(1) will leave no challenges in the regional circuit courts. State Br. 13 (citing *West Virginia* v. *EPA*, 90 F.4th 323, 325 (4th Cir. 2024)). Petitioners are mistaken. EPA has been using this very same interpretation for decades, during which time it has left judicial review of its actions almost exclusively to regional circuit courts.

As described above, EPA's current interpretation of which actions are "nationally applicable" or "based on a determination of nationwide scope or effect" under Section 7607(b)(1) has remained consistent with its prior interpretation. Accordingly, if petitioners were correct, EPA's history of Clean Air Act actions would be highly saturated with "nationally applicable" or "based on a determination of nationwide scope or effect" findings.

This is not the case. Between 1998 and 2023, EPA published 6,555 final rules modifying part 51 or 52 of

the Code of Federal Regulations.[4] Only 75 rules (1.1%) included a "based on a determination of nationwide scope or effect" finding, and only 119 (1.8%) included a "nationally applicable" finding. Accordingly, judicial review for the vast majority of the relevant EPA final rules is left to the appropriate regional circuit. Thus, EPA has been highly selective in determining which actions are "nationally applicable" or "based on a determination of nationwide scope or effect." The data ring true with *amici*'s experience implementing the venue provision under Presidential Administrations of both parties. EPA's practice is, in *amici*'s experience, highly judicious and based on the statutory text of 7607(b)(1).

As just one of many recent examples of EPA's judiciousness, in December, 2024, EPA did not find that its disapproval of Texas's SIP was "nationally applicable" or "based on a determination of nationwide scope or effect," where the SIP fell short of Clean Air Act enforceability requirements regarding emissions. 89 Fed. Reg. 104,043 (Dec. 20, 2024). Rather, as it does for the overwhelming majority of SIP disapprovals, EPA left judicial review to the appropriate regional circuit. 89 Fed. Reg. at 104,058.

In fact, though petitioners argue that EPA's interpretation of Section 7607(b)(1) would eliminate non-exempt locally or regionally applicable rules, State Br. 13, the antithesis is closer to the truth. Under EPA's current interpretation, very few rules

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[4] Parts 51 and 52 reflect the universe of Clean Air Act rulemakings regarding implementation plan submissions. 40 C.F.R. pts. 51-52.

are "nationally applicable" or "based on determinations of nationwide scope or effect." Petitioners would narrow these findings further. They argue, for example, that nationally applicable rules must directly affect every state, and that the D.C. Circuit venue provision for actions "based on determinations of nationwide scope or effect" does not apply if determinations involve state-specific observations. Industry Br. 28-29; State Br. 19-20. But these arguments would render the carefully crafted venue categories in Section 7607(b)(1) practically insignificant, and bring the small percentage of actions reviewable in the D.C. Circuit even closer to zero. *See* EPA Br. 41. That outcome would undermine Congress's clear intent to ensure judicial economy and the appropriate uniformity in the implementation of Clean Air Act programs through centralized review.

C. EPA Correctly Applies Its "Nationally Applicable" and "Based on a Determination of Nationwide Scope or Effect" Findings to Its Entire Action.

Petitioners urge the Court to consider each of EPA's 21 disapprovals at issue in this case as a separately reviewable action, each belonging in a regional circuit court. State Br. 22-26. Such disaggregation would be inconsistent with both the plain language and history of Section 7607(b)(1) and EPA's longstanding practice.

The plain language specifies the venue for the review of a singular "final action" of EPA, as the court of appeals recognized. 42 U.S.C. 7607(b)(1); Pet. App. 13a. Here, EPA's final action consists of all 21 disapprovals. The fact that a petitioner may seek to

challenge just one disapproval of one SIP does not change the fact that the relevant "action" for determining venue, according to the language of Section 7607(b)(1), is EPA's entire final action consisting of all 21 disapprovals. *See, e.g., Southern Ill. Power Coop.* v. *EPA*, 863 F.3d 666, 670 (7th Cir. 2017) ("[U]nder the straightforward statutory text [of Section 7607(b)(1)], venue depends entirely on—and is fixed by—the nature of the agency's action; the scope of the petitioner's challenge has no role to play in determining venue.").

EPA's single action on multiple SIP submissions is a well-established practice. The early *NRDC I* and *NRDC II* cases discussed above concerned a final action regarding several SIP submissions. Since then, EPA has regularly grouped SIP decisions into a single final action. The reasoning behind this practice is the same as Congress's reasoning for providing centralized review of such actions: It promotes judicial economy and facilitates the maintenance of national standards. Congress was aware of this practice when it crafted the 1977 Amendments, and indeed, intended Section 7607(b)(1) to channel review of such multi-circuit actions to the D.C. Circuit.

CONCLUSION

The order of the court of appeals should be affirmed.

Respectfully submitted,

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