

**ORAL ARGUMENT NOT YET SCHEDULED****IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AIR ALLIANCE HOUSTON, *et al.*,

Petitioners,

v.

No. 17-1155

U.S. ENVIRONMENTAL PROTECTION  
AGENCY and SCOTT PRUITT,  
Administrator, U.S. Environmental  
Protection Agency,

Respondents.

**AMERICAN CHEMISTRY COUNCIL, AMERICAN FUEL &  
PETROCHEMICAL MANUFACTURERS, AMERICAN PETROLEUM  
INSTITUTE, CHAMBER OF COMMERCE OF THE UNITED STATES OF  
AMERICA’S UNOPPOSED MOTION TO INTERVENE IN SUPPORT OF  
RESPONDENTS**

The American Chemistry Council (ACC), American Fuel & Petrochemical Manufacturers (AFPM), the American Petroleum Institute (API), and the Chamber of Commerce of the United States of America (collectively, the “RMP Coalition”) move for leave to intervene in support of Respondents in this matter. Fed. R. App. P. 15(d). Counsel for both Petitioners and Respondents state that the parties do not oppose this motion.

1. ACC represents the leading companies engaged in the business of chemistry. AFPM is a national trade association representing approximately 400

companies that encompass virtually all U.S. refining and petrochemical manufacturing capacity. API is a national trade association with 625 corporate members that represents all aspects of America's oil and natural gas industry, including producers, refiners, suppliers, marketers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of the industry. The Chamber of Commerce of the United States of America is the world's largest business federation, representing 300,000 direct members and indirectly representing the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country.

2. Petitioners seek to vacate a final rule by the U.S. Environmental Protection Agency (EPA) entitled, "Accidental Release Prevent Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date," 82 Fed. Reg. 27,133 (June 14, 2017). This final rule extends the effective date of another EPA rule currently under reconsideration, "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act," 82 Fed. Reg. 4594 (Jan. 13, 2017) (the "Risk Management Program Amendments").

3. The RMP Coalition has a substantial interest in Petitioners' action. If granted, the relief sought by Petitioners will harm the interests of each

organization's members. Chemical manufacturers, petroleum refiners, petrochemical producers, fertilizer manufacturers, and the owners or operators of other facilities would be forced to incur costs immediately to comply with certain aspects of the Risk Management Program Amendments, even while they remain under review by the agency. *See, e.g.*, Risk Management Program Amendments, 82 Fed. Reg. at 4600. These costs include training personnel on new requirements, revising manuals and operating procedures, and conducting additional compliance audits for each "covered processes." *See id.* at 4609. Member companies would also face new security risks from mandatory disclosure requirements. *See id.* at 4667-69. Finally, vacatur of the final rule will subject members to significant uncertainty under EPA's Safer Technology Alternatives and Analysis (STAA) provisions, which would take effect before the agency has published guidance implementing that concept. The agency acknowledged in the Risk Management Program Amendments that facilities need that guidance to effectively implement the STAA mandate. *See id.* at 4676.

4. In light of their distinct commercial and financial interests, the RMP Coalition's interests are not adequately represented by the Respondents. Respondents represent the public interest in defending the rulemaking; the RMP Coalition will represent their members' private interests. The Coalition should therefore be permitted to intervene in support of Respondents. *See Fund for*

*Animals, Inc. v. Norton*, 322 F.3d 728, 736-737 (D.C. Cir. 2003) (recognizing representation of the public interest is not identical to representing specific private interests); *see also Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 912-13 (D.C. Cir. 1977) (explaining that industry intervenors have a more-focused interest than that of EPA and that each separate industry has interests distinct from other intervenors).

5. Counsel for Petitioners and Respondents have stated that they do not oppose intervention.

For the foregoing reasons, the motion should be granted.

Respectfully submitted,

/s/ Catherine E. Stetson

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June 30, 2017

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INSTITUTE, CHAMBER OF COMMERCE OF THE UNITED STATES OF  
AMERICA'S CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, the American Chemistry Council, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, and the Chamber of Commerce of the United States of America hereby submit this Corporate Disclosure Statement.

The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health

and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$797 billion enterprise and a key element of the nation's economy. It is the nation's largest exporter, accounting for fourteen percent of all U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and to defend against any threat to the nation's critical infrastructure. ACC certifies that it is a "trade association" for purposes of Circuit Rule 26.1(b).

American Fuel & Petrochemical Manufacturers is a national trade association representing approximately 400 companies that encompass virtually all U.S. refining and petrochemical manufacturing capacity. AFPM states that it is a trade association for purposes of Circuit Rule 26.1(b); that it has no parent company; and that no publicly traded corporation owns ten percent or more of its stock.

The American Petroleum Institute (API) is a national trade association with 625 corporate members that represents all aspects of America's oil and natural gas industry, including producers, refiners, suppliers, marketers, pipeline

operators and marine transporters, as well as service and supply companies that support all segments of the industry. API's mission is to promote safety across the industry globally and to influence public policy in support of a strong, viable U.S. oil and natural gas industry. API negotiates with regulatory agencies, represents the industry in legal proceedings, participates in coalitions, and works in partnership with other associations to achieve its members' public policy goals. API certifies that it is a "trade association" for purposes of Circuit Rule 26.1(b).

The Chamber of Commerce of the United States of America is the world's largest business federation, representing 300,000 direct members and indirectly representing the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. The Chamber certifies that it is a "trade association" for purposes of Circuit Rule 26.1(b).



Respectfully submitted,

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June 30, 2017

## CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limits of Fed. R. App. P. 27(d)(2) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 586 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman.

/s/ Catherine E. Stetson  
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**CERTIFICATE OF SERVICE**

I certify that on June 30, 2017, the foregoing was electronically filed through this Court's CM/ECF system, which will send a notice of filing to all registered users.

/s/ Catherine E. Stetson  
Catherine E. Stetson