

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

RISE ST. JAMES, et al.,	)	
	)	
<i>Petitioners,</i>	)	
	)	Case No. 20-1336 (and
v.	)	consolidated case)
	)	
U.S. ENVIRONMENTAL PROTECTION	)	
AGENCY, et al.,	)	
	)	
<i>Respondents.</i>	)	
_____	)	

**UNOPPOSED MOTION TO EXTEND THE DATE FOR FILING  
MOTIONS TO GOVERN**

Respondent United States Environmental Protection Agency (“EPA”) requests that the Court extend, until June 17, 2022, the date for the parties in these consolidated petitions for review to file motions to govern further proceedings. Counsel for all petitioners and the movant-intervenors in these cases do not oppose this requested relief and thus this motion is unopposed. The grounds for this motion are as follows:

1) Based upon EPA’s prior unopposed motion, the Court placed these cases in abeyance to allow EPA time to review the challenged action to consider whether the Agency intends to reconsider portions of these action, to suspend,

revise or rescind them.<sup>1</sup> The Court's order directed EPA to file status reports every 120 days and directed the parties to file motions to govern further proceedings by March 9, 2022, Doc. #1889189 (Order); Doc. #1889096 (Motion). The Court extended that date to May 2, 2022, based upon EPA's unopposed motion, to allow EPA additional time to consider whether it intends to reconsider portions of the actions challenged in this case. Doc. #1939210 (Order).

2) On April 19, 2022, EPA concluded that it intends to reconsider certain portions of the action challenged in this case, and it has since initiated discussions with all parties to consider how this may impact these consolidated cases, before filing motions to govern further proceedings. However, additional time is needed to complete some of those discussions.

3) As noted above, all other parties in each of these cases (Petitioners Rise St. James, et al., in Case No. 20-1336 and American Chemistry Council, et al., in Case No. 20-1340, and the movant-intervenors<sup>2</sup>) have authorized EPA to state that they do not oppose the relief requested by this motion.

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<sup>1</sup> These cases challenge regulations promulgated by EPA under the Clean Air Act, titled: "National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards Residual Risk and Technology Review for Ethylene Production; Final Rule," 85 Fed. Reg. 40386 (July 6, 2020).

<sup>2</sup> On October 5, 2020, each set of Petitioners filed an unopposed motion to intervene as respondents with regard to the other set of Petitioners' pending

WHEREFORE, EPA requests that the Court extend, until June 17, 2022, the date for filing motions to govern further proceedings.

Respectfully submitted,

/s/ David Kaplan

DAVID J. KAPLAN

United States Department of Justice

Environmental Defense Section

P.O. Box 7611

Washington D.C. 20044

Tel: (202) 514-0997

david.kaplan@usdoj.com

*Counsel for Respondents EPA, et al.*

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petition for review. Doc. No. 1864774 (Motion of RISE St. James, et al.); Doc. No. 1864925 (Motion of American Chemistry Council, et al.).

**CERTIFICATE OF COMPLIANCE WITH FEDERAL RULES OF  
APPELLATE PROCEDURE 27(D) & 32(A)**

This motion complies with the requirements of Fed. R. App. P. 27(d)(2) because it contains 406 words, excluding any accompanying documents authorized by Fed. R. App. R. 27(a)(2)(B).

This motion 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 it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

/s/ David Kaplan  
DAVID KAPLAN

**CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2022, I electronically filed the foregoing pleading with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, which will accomplish service to participants in this case that are, as required, registered CM/ECF users.

/s/ David Kaplan  
DAVID KAPLAN

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

AMERICAN FUEL & PETROCHEMICAL )  
MANUFACTURERS, *et al.*, )

*Petitioners,* )

v. )

U.S. ENVIRONMENTAL PROTECTION )  
AGENCY, )

*Respondent.* )

Case No. 16-1033 (and  
consolidated cases)

**UNOPPOSED MOTION TO GOVERN FURTHER PROCEEDINGS**

Respondent United States Environmental Protection Agency (“EPA”) requests that the Court continue to hold these cases in abeyance, until July 31, 2023, and direct EPA to file status reports on six month intervals. Counsel for all petitioners and intervenors in these consolidated cases do not oppose this requested relief and thus this motion is unopposed. The grounds for this motion are as follows:

1) These cases challenge related regulations promulgated by EPA under the Clean Air Act, entitled: “Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards; Final Rule,” 80 Fed. Reg. 75,178 (Dec. 1, 2015); “National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards: Petroleum Refinery Sector Amendments;

Final Rule,” 83 Fed. Reg. 60,696 (Nov. 26, 2018); “National Emission Standards for Hazardous Air Pollutants: Petroleum Refinery Sector: Action Denying a Petition for Reconsideration,” 85 Fed. Reg. 6064 (Feb. 4, 2020); and “National Emission Standards for Hazardous Air Pollutants: Petroleum Refinery Sector: Action Denying a Petition for Reconsideration,” 85 Fed. Reg. 67,665 (Oct. 26, 2020).

2) Based upon EPA’s prior unopposed motion, the Court placed these cases in abeyance to allow EPA time to review the challenged actions in these cases, to consider whether the Agency intends to reconsider portions of these actions, to suspend, revise or rescind them. The Court’s order directed EPA to file status reports every 120 days and directed the parties to file motions to govern further proceedings by February 23, 2022. Doc. #1889094 (Order); Doc. #1886758 (Motion). The Court extended that date to May 2, 2022, to allow EPA additional time to consider whether it intends to reconsider portions of the actions challenged in this case. Doc. #1936240 (Order).

3) On April 19, 2022, EPA concluded that it intends to reconsider certain portions of one of the actions challenged in this case. EPA intends to undertake notice and comment rulemaking proceedings as part of that reconsideration process. In view of this, EPA has conferred with all the parties regarding how this reconsideration process may impact further proceedings in this case.

4) In view of those discussions, EPA requests that these cases be held in abeyance as EPA undertakes rulemaking proceedings to reconsider certain portions of the actions challenged in this case. This will conserve judicial economy, as well as the resources of the parties, because that rulemaking may render all or some portions of these consolidated cases moot.

5) EPA also requests that the parties be directed to file motions to govern further proceedings by July 31, 2023, and that EPA be directed to file status reports on six month intervals pending the abeyance.

6) As noted above, all petitioners and intervenors in each of these consolidated cases have authorized EPA to state that they do not oppose the relief requested by this motion.

WHEREFORE, EPA requests that the Court continue to hold this case in abeyance, direct the Parties to file motions to further govern further proceedings by July 31, 2023, and direct EPA to file status reports on six month intervals during this abeyance.

Respectfully submitted,

/s/ David Kaplan

DAVID J. KAPLAN

United States Department of Justice

Environmental Defense Section

P.O. Box 7611

Washington D.C. 20044

Tel: (202) 514-0997

david.kaplan@usdoj.com



*Counsel for Respondent EPA*

**CERTIFICATE OF COMPLIANCE WITH FEDERAL RULES OF  
APPELLATE PROCEDURE 27(D) & 32(A)**

This motion complies with the requirements of Fed. R. App. P. 27(d)(2) because it contains 513 words, excluding any accompanying documents authorized by Fed. R. App. R. 27(a)(2)(B).

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