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

No. 79-1112 and Consolidated Cases

CHEMICAL MANUFACTURERS ASSOCIATION, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

JOINT MOTION TO DEFER BRIEFING

Industry petitioners in the above-captioned cases and respondents United States Environmental Protection Agency, et al., ("EPA") jointly move the Court to defer indefinitely any further briefing of the issues that industry petitioners have raised in these consolidated cases. 1/ In support of this motion, the parties state as follows:

1. Industry petitioners principally seek review of regulations promulgated on August 7, 1980 (45 Fed. Reg. 52676) revising the prevention of significant deterioration ("PSD") regulations and revising the regulations governing the construction of new sources in nonattainment areas. Also at issue are amendments to the Emissions Offset Interpretative Ruling, 40 C.F.R. Part 51, Appendix S, which were promulgated on

1/ The only other issue raised in these cases was raised by Sierra Club, petitioner in No. 80-2218. EPA has moved separately to dismiss Sierra Club's petition.

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January 16, 1979 (44 Fed. Reg. 3274) and September 11, 1980 (45 Fed. Reg. 59874).

2. Briefing in these cases has been stayed since March 1981 to allow EPA and industry petitioners to discuss settlement of the issues raised by industry petitioners. Agreement has now been reached on all of those issues and a settlement agreement, a copy of which is attached hereto, has been signed on behalf of EPA and industry petitioners.

3. Under the terms of the settlement agreement, EPA is obligated to propose certain amendments to its PSD and non-attainment regulations, to make good faith best efforts to meet certain target deadlines as to some of those amendments, and to act as expediously as practicable as to the rest.

4. If EPA fulfills its obligations under the agreement and promulgates final amendments that have substantially the same effect as the proposed amendments, then industry petitioners are to dismiss their petitions for review voluntarily. On the other hand, if EPA does not fulfill those obligations or if the final amendments do not have substantially the same effect as the proposed amendments, then industry petitioners may pursue their petitions for review in these cases.

5. Implementation of the settlement agreement may obviate the need for litigation of the issues raised by industry petitioners. It would therefore be premature for briefing on those issues to continue, or for the Court to consider them, while EPA is attempting to implement the settlement agreement.

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For the reasons set forth above, EPA and industry petitioners jointly move the Court to defer further briefing on the issues raised by industry petitioners pending implementation of the settlement agreement.

Respectfully submitted,

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