

UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

JUN - 1 2010

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THE NATIONAL ASSOCIATION OF)
MANUFACTURERS, AMERICAN FROZEN FOOD)
INSTITUTE, AMERICAN PETROLEUM INSTITUTE,)
BRICK INDUSTRY ASSOCIATION, CORN)
REFINERS ASSOCIATION, GLASS PACKAGING)
INSTITUTE, INDEPENDENT PETROLEUM)
ASSOCIATION OF AMERICA, INDIANA CAST)
METALS ASSOCIATION, MICHIGAN)
MANUFACTURERS ASSOCIATION, MISSISSIPPI)
MANUFACTURERS ASSOCIATION, NATIONAL)
ASSOCIATION OF HOME BUILDERS, NATIONAL)
FEDERATION OF INDEPENDENT BUSINESS,)
NATIONAL OILSEED PROCESSORS)
ASSOCIATION, NATIONAL PETROCHEMICAL)
AND REFINERS ASSOCIATION, NORTH)
AMERICAN DIE CASTING ASSOCIATION,)
SPECIALTY STEEL INDUSTRY OF NORTH)
AMERICA, TENNESSEE CHAMBER OF)
COMMERCE AND INDUSTRY, WESTERN)
STATES PETROLEUM ASSOCIATION, WEST)
VIRGINIA MANUFACTURERS)
ASSOCIATION, and WISCONSIN)
MANUFACTURERS & COMMERCE)

Petitioners,)

v.)

U.S. ENVIRONMENTAL PROTECTION)
AGENCY and LISA P. JACKSON,)
Administrator, U.S. Environmental)
Protection Agency,)

Respondents.)

10-1127

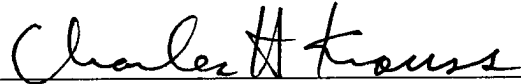
Case No. _____

PETITION FOR REVIEW

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and section 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), the National Association of Manufacturers, American Frozen Food Institute, American Petroleum Institute, Brick Industry Association, Corn Refiners Association, Glass Packaging Institute, Independent Petroleum Association of America, Indiana Cast Metals Association, Michigan Manufacturers Association, Mississippi Manufacturers Association, National Association of Home Builders, National Federation of Independent Business, National Oilseed Processors Association, National Petrochemical and Refiners Association, North American Die Casting Association, Specialty Steel Industry of North America, Tennessee Chamber of Commerce and Industry, Western States Petroleum Association, West Virginia Manufacturers Association and Wisconsin Manufacturers & Commerce hereby petition the Court for review of a final action of respondents, the U.S. Environmental Protection Agency and Lisa P. Jackson, Administrator, U.S. Environmental Protection Agency, entitled “Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs; Final Rule.” 75 Fed. Reg. 17,004 (Apr. 2, 2010). The final rule established the EPA Administrator’s position on the reconsideration of a memorandum that EPA issued on December 18, 2008, entitled

“EPA’s Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program.”

Respectfully submitted,

A handwritten signature in black ink, reading "Charles H. Knauss", is positioned above a horizontal line.

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Dated: June 1, 2010

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RULE 26.1 STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioners make the following Disclosures:

The National Association of Manufacturers (“NAM”) states that it is the nation’s largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM’s mission is to enhance the competitiveness of manufacturers by shaping a legislative and regulatory environment conducive to U.S. economic growth and to increase understanding among policymakers, the media and the general public about the vital role of manufacturing to America’s economic future and living standards. The NAM has no parent company, and no publicly held company has a 10% or greater ownership interest in the NAM.

The American Frozen Food Institute (“AFFI”) states that it is a trade association that serves the frozen food industry by advocating its interests in Washington, D.C., and communicating the value of frozen food products to the public. The AFFI is comprised of 500 members including manufacturers, growers, shippers and warehouses, and represents every segment of the \$70 billion frozen food industry. As a member-driven association, AFFI exists to advance the frozen food industry’s agenda in the 21st century. The AFFI has no parent company, and no publicly held company has a 10% or greater ownership interest in the AFFI.

The American Petroleum Institute (“API”) states that it is a national trade association representing all aspects of America’s oil and natural gas industry. API has approximately 400 members, from the largest major oil company to the smallest of independents, from all segments of the industry, including producers, refiners, suppliers, pipeline operators and marine transporters, as well as service and supply companies that support all segments of industry. API has no parent company, and no publicly held company has a 10% or greater ownership interest in API.

The Brick Industry Association (“BIA”) states that it is a national trade association representing small and large brick manufacturers and associated services. Founded in 1934, the BIA is the recognized national authority on clay brick construction, representing approximately 270 manufacturers, distributors, and suppliers that generate approximately \$9 billion annually in revenue and provide employment for more than 200,000 Americans. BIA has no parent company, and no publicly held company has a 10% or greater ownership interest in BIA.

The Corn Refiners Association (“CRA”) states that it is the national trade association representing the corn refining (wet milling) industry of the United States. CRA and its predecessors have served this important segment of American agribusiness since 1913. Corn refiners manufacture starches, sweeteners, corn oil,

bioproducts (including ethanol), and animal feed ingredients. CRA has no parent company, and no publicly held company has a 10% or greater ownership interest in CRA.

The Glass Packaging Institute (“GPI”) states it is a national trade association that represents the interests of the North American glass container industry to promote understanding of the industry and promote sound environmental and health regulatory policies. GPI member companies bring a broad array of products to consumers, producing glass containers for food, beer, soft drinks, wine, liquor, cosmetics, toiletries, medicines and other products. GPI members are involved in a highly competitive market that includes both glass containers and potential substitute container products such as metals and plastics. GPI has no parent company and no publicly-held company holds more than a 10% ownership interest in it.

The Independent Petroleum Association of America (“IPAA”) states that it is the leading, national upstream trade association representing more than 5,000 independent oil and natural gas producers that drill 90 percent of the nation's oil and natural gas wells. These companies account for 68 percent of America's oil production and 82 percent of its natural gas production. Independent producers represent the exploration and production segment of the industry. IPAA has no

parent company, and no publicly held company has a 10% or greater ownership interest in IPAA.

The Indiana Cast Metals Association ("INCMA") states that it is a not-for-profit trade association organized for the purposes of promoting the general commercial, professional, and legislative interests of its approximately 70 foundry and associate members throughout Indiana. INCMA's membership includes entities that manufacture metal castings that in general are found in more than 90 percent of all manufactured goods or other manufacturing processes such as automotive, defense, agriculture, energy and renewable energy, and many more. INCMA has no parent company, and no publicly held company has a 10% or greater ownership interest in INCMA.

The Michigan Manufacturers Association ("MMA") states that it is a private nonprofit organization and is the state of Michigan's leading advocate exclusively devoted to promoting and maintaining a business climate favorable to industry. MMA represents the interests and needs of over 2,500 members, ranging from small manufacturing companies to some of the world's largest corporations. MMA's members operate in the full spectrum of manufacturing industries, which account for 90% of Michigan's industrial workforce and employ over 500,000 Michigan citizens. MMA has no parent company, and no publicly held company has a 10% or greater ownership interest in MMA.

The Mississippi Manufacturer's Association states that it is Mississippi's largest industrial trade association, representing small and large manufacturers in every industrial sector within the state. The mission of the Mississippi Manufacturer's Association is to provide unrelenting advocacy in support of measures benefiting manufacturers while also working to eliminate unfair, unnecessary or costly burden on the operation of Mississippi's manufacturing community. The Mississippi Manufacturer's Association has no parent company, and no publicly held company has a 10% or greater ownership interest in the Mississippi Manufacturer's Association.

The National Association of Home Builders ("NAHB") states that it is a not-for-profit trade association organized for the purposes of promoting the general commercial, professional, and legislative interests of its approximately 175,000 builder and associate members throughout the United States. NAHB's membership includes entities that construct and supply single family homes, as well as apartment, condominium, multi-family, commercial and industrial builders, land developers and remodelers. NAHB has no parent company, and no publicly held company has a 10% or greater ownership interest in NAHB.

The National Federation of Independent Business ("NFIB") states that it is the nation's leading association of small businesses and has a presence in all 50 States and the District of Columbia. NFIB's mission is to promote and protect the

rights of its members to own, operate, and grow their businesses. NFIB has no parent company, and no publicly held company has a 10% or greater interest in NFIB.

The National Oilseed Processors Association (“NOPA”) states that it is a national trade association that represents 15 companies engaged in the production of vegetable meals and oils from oilseeds, including soybeans. NOPA’s member companies process more than 1.7 billion bushels of oilseeds annually at 64 plants located throughout the country, including 59 plants that process soybeans. NOPA has no parent company, and no publicly held company has a 10% or greater ownership interest in NOPA.

The National Petrochemical and Refiners Association (“NPRA”) states that it is a national trade association whose members comprise more than 450 companies, including virtually all United States refiners and petrochemical manufacturers. NPRA’s members supply consumers with a wide variety of products and services that are used daily in homes and businesses. These products include gasoline, diesel fuel, home-heating oil, jet fuel, asphalt products, and the chemicals that serve as “building blocks” in making plastics, clothing, medicine, and computers. NPRA has no parent company, and no publicly held company has a 10% or greater ownership interest in NPRA.

The North American Die Casting Association (“NADCA”) states that it serves as the voice of the die casting industry. NADCA represents more than 3,000 individual and 300 corporate members in the U.S., Canada and Mexico. NADCA is committed to promoting industry awareness, domestic growth in the global marketplace and member exposure. NADCA has no parent company, and no publicly held company has a 10% or greater ownership interest in NADCA.

The Specialty Steel Industry of North America (“SSINA”) states that it is a national trade association comprised of 17 producers of specialty steel products, including stainless, electric, tool, magnetic, and other alloy steels. SSINA members produce steel by melting scrap metal in electric arc furnaces (“EAFs”) and account for over 90 percent of the specialty steel manufactured in the United States. The SSINA has no parent company, and no publicly held company has a 10% or greater ownership interest in the SSINA.

The Tennessee Chamber of Commerce and Industry states that it is Tennessee’s largest statewide, broad-based business and industry trade association, representing small and large businesses and organizations in every economic sector across the state. The Tennessee Chamber exists to protect and enhance the business climate in Tennessee, enabling Tennessee companies to be competitive and to grow and create jobs. The Tennessee Chamber has no parent company, and no

publicly held company has a 10% or greater ownership interest in the Tennessee Chamber.

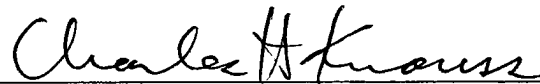
The Western States Petroleum Association (“WSPA”) states that it is headquartered in California and is a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation, and marketing in the six western states of Arizona, California, Hawaii, Nevada, Oregon, and Washington. WSPA has no parent company, and no publicly held company has a 10% or greater ownership interest in WSPA.

The West Virginia Manufacturers Association (“WVMA”) states that it is a non-profit, statewide organization that has been continuously representing the interests of the manufacturing industries in West Virginia since 1915. Its membership currently consists of one hundred fifty (150) member companies employing twenty-five thousand (25,000) men and women in West Virginia. The average wage of employees of WVMA's members in West Virginia is forty-four thousand two hundred dollars (\$44,200). WVMA has no parent company, and no publicly held company has a 10% or greater ownership interest in WVMA.

The Wisconsin Manufacturers and Commerce (“WMC”) states that it is a business trade association with nearly 4,000 members and is dedicated to making Wisconsin the most competitive state in the nation to do business through public policy that supports a healthy business climate. Its members are Wisconsin

businesses that operate throughout the state in the manufacturing, energy, commercial, health care, insurance, banking, and service industry sectors of the economy. Roughly one-fourth of Wisconsin's workforce is employed by a WMC member company. WMC has no parent company, and no publicly held company has a 10% or greater ownership interest in WMC.

Respectfully submitted,



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Case No. **10-1127**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition for Review and Rule 26.1 Statement have been served by United States first-class mail this 1st day of June 2010, upon each of the following:

U.S. ENVIRONMENTAL PROTECTION
AGENCY

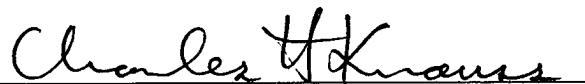
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