

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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NATURAL RESOURCES DEFENSE COUNCIL,  
*Petitioner,*

v.

MEXICHEM FLUOR, INC., ET AL.,  
*Respondents.*

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**APPLICATION FOR AN EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI**

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To the Honorable John G. Roberts, Jr., Chief Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the District of Columbia Circuit:

1. Pursuant to Supreme Court Rule 13.5, the Natural Resources Defense Council, Inc., (NRDC) respectfully requests a 60-day extension of time, until Monday, June 25, 2018, within which to file a petition for a writ of certiorari. On March 8, 2018, the Chief Justice granted the application of Honeywell International, Inc., (Honeywell) and The Chemours Company FC, LLC (Chemours) for an identical 60-day extension to June 25, 2018, in No. 17A933. NRDC respectfully requests a similar extension to align the due dates

in these parallel petitions for certiorari that seek review of the same court of appeals decision.

2. The court of appeals issued its opinion on August 8, 2017. *Mexichem Fluor, Inc. v. EPA*, 866 F.3d 451 (D.C. Cir. 2017). A copy of the slip opinion is attached. The full court denied rehearing en banc on January 26, 2018. A copy of that order is attached. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

3. Absent an extension, NRDC's petition for a writ of certiorari would be due April 26, 2018. This application is being filed more than 10 days in advance of that date, and NRDC has made no prior application in this case.

4. This application concerns a D.C. Circuit decision vacating portions of an Environmental Protection Agency (EPA) regulation prohibiting manufacturers of new products from using certain chemicals called hydrofluorocarbons (HFCs) in specified uses after designated effective dates. The regulation was issued in 2015 pursuant to Clean Air Act Section 612, 42 U.S.C. §7671k. That provision, enacted in the Clean Air Act Amendments of 1990, establishes a "safe alternatives policy" and an implementing program to assure the health and environmental safety of alternatives and substitutes adopted to serve the functions previously performed by chemicals that deplete the stratospheric ozone layer.

5. The EPA's 2015 regulation prohibited the use of certain HFCs in categories of new products as of specified dates because those HFCs are powerful greenhouse gases that contribute to climate change and because safer alternatives for those uses are now available. *See* 80 Fed. Reg. 42,870 (July 20, 2015).

6. The 2015 regulation was challenged in the D.C. Circuit by two chemical producers, Mexichem Fluor, Inc., and Arkema, Inc., who are named as respondents here. Honeywell and Chemours intervened below as respondents in defense of the EPA's rule. NRDC also intervened as respondent below to represent its core interest in assuring that its members are protected from the serious health and environment risks posed by HFCs.

7. The panel unanimously upheld EPA's decision to place HFCs on the list of substances prohibited for specified uses that the agency is required to establish under Clean Air Act Section 612(c), 42 U.S.C. §7671k(c). But the panel then divided, holding 2-1 that EPA lacks statutory authority to stop any product manufacturer that already utilizes HFCs in those prohibited uses from continuing to do so. That holding deprives the prohibitions on HFC use of nearly all force and effect.

8. Leaving the panel ruling undisturbed would have far-reaching consequences and cripple EPA's ability to respond effectively to substantial

dangers to human health and the environment posed by substitutes for ozone-depleting chemicals. For example, the ruling deprives EPA of the authority it exercised in 1999 when it stopped product manufacturers from using a refrigerant that caused kidney damage to exposed workers. These outcomes are contrary to the express policy that Congress declared in Clean Air Act Section 612(a), that “[t]o the maximum extent practicable, [ozone depleting] substances shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.” 42 U.S.C. § 7671k(a). The panel ruling thus harms NRDC’s core interest in protecting its members from serious health and environment risks posed by HFCs and other chemicals serving the functions previously performed by ozone-depleting substances.

9. Petitioner respectfully requests an extension of time to file a petition for certiorari to June 25, 2018, the same date set for petitions by Honeywell and Chemours in the Court’s March 8, 2018, order. The extension would not prejudice any party and would serve the interests of judicial economy and efficiency by aligning other parties’ deadlines for responding to the petitions and facilitating the Court’s consideration of the related petitions together.

10. *Wherefore*, petitioner respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to June 25, 2018.

Dated: March 14, 2018

Respectfully submitted,



David D. Doniger

*Counsel of Record*

NATURAL RESOURCES DEFENSE COUNCIL

1152 15<sup>th</sup> St., NW, Suite 300

Washington, DC 20005

(202) 289-2403

[ddoniger@nrdc.org](mailto:ddoniger@nrdc.org)

*Counsel for Petitioner NRDC*

## CORPORATE DISCLOSURE STATEMENT

In accordance with Supreme Court Rule 29.6, petitioner makes the following disclosures:

Natural Resources Defense Council, Inc, is a non-profit 501(c)(3) charitable organization with more than three million members and supporters. NRDC has no parent corporation and issues no stock.

Dated: March 14, 2018

Respectfully submitted,



David D. Doniger

*Counsel of Record*

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Washington, DC 20005

(202) 289-2403

ddoniger@nrdc.org

*Counsel for Petitioner NRDC*