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Court Hears Oral Argument in Case Challenging EPA's Prioritization and Risk Evaluation Rules

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On May 16, 2019, the U.S. Court of Appeals for the Ninth Circuit heard oral arguments in a case filed by non-governmental organizations (NGO) challenging the U.S. Environmental Protection Agency's (EPA) prioritization and risk evaluation rules. *Safer Chemicals, Healthy Families v. EPA*, No. 17-72260. During oral arguments, the court asked the Natural Resources Defense Council (NRDC) whether it had standing to be before the court. NRDC responded that it does, arguing that EPA's rules violate the statutory requirements of the Frank R. Lautenberg Chemical Safety for the 21st Century Act. The court suggested that petitioners could wait to see whether EPA will ignore certain uses of chemicals in its risk evaluations. EPA maintained that petitioners were raising a challenge to a hypothetical scenario and that EPA has the legal discretion to study whichever chemical uses it sees fit. Following oral argument, on May 16, 2019, the court ordered petitioners to file a supplemental brief addressing why they should be allowed to bring a lawsuit against EPA. The petitioners filed their supplemental brief on June 3, 2019, arguing that they have standing because the Toxic Substances Control Act (TSCA) Framework Rules threaten their members' concrete interests in minimizing toxic chemical exposures; they have information standing for each of their challenges to the Framework Rules; and their claims are ripe. EPA was granted an extension and its response is due **June 28, 2019**.

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