

ORAL ARGUMENT NOT YET SCHEDULED

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

National Waste & Recycling Association,
et al.,

Petitioners,

v.

United States Environmental Protection
Agency, and Andrew Wheeler, Acting
Administrator, United States Environmental
Protection Agency,

Respondents.

No. 16-1371
Consolidated with No. 16-1374

STATUS REPORT

Pursuant to the Court's April 17, 2018 Order, ECF No. 1726867, Respondent U.S. Environmental Protection Agency (the EPA) submits the following status report in these consolidated cases.¹

1. On October 27, 2016, National Waste & Recycling Association, Solid Waste Association of North America, Inc., Waste Management, Inc., Republic Services, Inc., and Waste Management Disposal Services of Pennsylvania, Inc. (the Landfill Petitioners) filed a petition for judicial review of the final rule challenged in these cases, Emission Guidelines and Compliance Times for Municipal Solid Waste

¹ The EPA is filing a similar status report in Case No. 16-1372.

Landfills, 81 Fed. Reg. 59,276 (Aug. 29, 2016) (the Landfill Emission Guidelines) (Case No. 16-1371). The Utility Air Regulatory Group filed a petition for judicial review on October 28, 2016 (Case No. 16-1374). The Court consolidated the two cases on November 1, 2016. ECF No. 1644017.

2. On October 27, 2016, the Landfill Petitioners submitted a Petition to the EPA for Reconsideration, Rulemaking, and Administrative Stay of the Landfill Emission Guidelines.

3. In a May 5, 2017 letter to the Landfill Petitioners, the EPA Administrator convened a proceeding for reconsideration to address six topics related to the Landfill Emission Guidelines. In the letter, the EPA Administrator also announced that the EPA will prepare a notice of proposed rulemaking to provide an opportunity for comment on those topics, as well as “any other matter” that the EPA concludes may benefit from additional comment.

4. Subsequently, the Court granted several 90-day abeyances in these cases. Then on April 17, 2018, in response to a Joint Motion to Govern Further Proceedings, ECF No. 1725068, the Court ordered that these cases remain in abeyance pending further order of the Court. Order, ECF No. 1726867 (Apr. 17, 2018). The Court also directed the EPA to file status reports at 90-day intervals beginning July 16, 2018. *Id.* Finally, the Court directed the parties to file motions to govern further proceedings within 30 days of the completion of the agency proceedings. *Id.*

5. At this time, the EPA is continuing to develop the notice of proposed rulemaking referenced in the EPA Administrator's May 5, 2017 letter to the Landfill Petitioners, as detailed in paragraph 3, above.

6. The EPA will provide another status report in 90 days.

Dated: April 17, 2019

Respectfully submitted,

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/s/ Justin D. Heminger _____

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**CERTIFICATE OF COMPLIANCE WITH
FEDERAL RULE OF APPELLATE PROCEDURE 32**

I certify that this filing complies with the requirements of Federal Rule of Appellate Procedure 32(c)(2) and Rule 32(a), except for Rule 32(a)(7). This filing complies with the requirements of Rule 32(a)(5)(A) because it has been prepared in 14-point Garamond, a proportionally spaced font.

/s/ Justin D. Heminger
Justin D. Heminger

CERTIFICATE OF SERVICE

I certify that on April 17, 2019, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system. All registered CM/ECF users will be served by the Court's CM/ECF system.

/s/ Justin D. Heminger
Justin D. Heminger