

16, 2022. Dkt No. 1953329. EPA recently entered a consent decree that delays the deadline for that proposed rule until November 16, 2022. Dkt No. 1956411. The background of that consent decree is summarized in the notice filed by EPA, *id.*, but Clean Fuels is submitting this supplement to briefly explain the relationship between that development and Clean Fuels' challenge.

The delay in EPA's proposed rule compounds the delays in this litigation and makes it even clearer that severing the food waste issue is necessary to achieve a resolution of Clean Fuels' challenge. As Clean Fuels outlined in its motion, this case has been held in abeyance six times already, and there is reason to suspect that EPA and the parties will continue to seek further abeyances in the future. EPA's administrative process is now similarly delayed—EPA's proposal to publish its 2023 proposed rule by September was already almost eleven months past the statutory deadline for doing so, and EPA has now kicked the process back even further. Now, the rule that EPA is proposing in the fall is not required to be finalized until June 14, 2023. *Id.* And that does not necessarily mean EPA will finalize *anything* with respect to food waste by that time; the consent decree applies only to EPA's obligation to determine volumes for 2023.

Because there is no clear timeline for either this litigation as a whole being adjudicated or for EPA addressing food waste administratively, it is imperative for the court to address Clean Fuels' challenge now.

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Respectfully submitted,

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CERTIFICATE OF WORD COUNT

I hereby certify that the foregoing contains 365 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f). I further certify that this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion was prepared in Microsoft Word using 14-point Times New Roman font.

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