

ORAL ARGUMENT NOT YET SCHEDULED  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

TRUCK TRAILER  
MANUFACTURERS ASS'N, INC.,

Petitioner,

v.

U.S. ENVIRONMENTAL  
PROTECTION AGENCY; ANDREW  
R. WHEELER, in his official capacity  
as Acting Administrator, U.S.  
Environmental Protection Agency;  
NATIONAL HIGHWAY TRAFFIC  
SAFETY ADMINISTRATION; and  
HEIDI R. KING, in her official capacity  
as Deputy Administrator, National  
Highway Traffic Safety Administration,

Respondents, and

CALIFORNIA AIR RESOURCES  
BOARD, et al,

Intervenors.

No. 16-1430 (consolidated with  
No. 16-1447)

**Respondents' Status Report**

As directed by this Court's orders on October 27, 2017 and January 17,  
2019, Respondents submit this status report.

Petitioners seek review of the action “Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2,” 81 Fed. Reg. 73,478 (Oct. 25, 2016) (the Rule). The Rule was promulgated by the U.S. Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) on behalf of the U.S. Department of Transportation under the Clean Air Act and the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act.

In its October, 27, 2017, order, the Court granted Respondents’ motion to continue abeyance pending completion of administrative proceedings with status reports due every 90 days. On that day the Court also granted Petitioner Truck Trailer Manufacturers Association’s (Trailer Petitioner’s) motion to stay the trailer provisions of EPA’s portion of the Rule.

In August 2017 EPA sent a letter to Trailer Petitioner responding to its administrative request and expressing EPA’s intent to develop and issue a Federal Register notice of proposed rulemaking to revisit the trailer provisions of the Rule; at the same time, NHTSA sent Trailer Petitioner a letter granting the request for rulemaking. *See* Respondents’ Motion to Continue Abeyance (Sept. 18, 2017), at 3. Respondents requested the continued abeyance so that they may complete the administrative proceedings discussed in the two letters. *See id.*

In September 2018, EPA's leadership met with Trailer Petitioner and its counsel to discuss the ongoing administrative process to develop a proposed rule to revisit the Rule's trailer provisions. NHTSA continues to assess next steps after granting Trailer Petitioner's request for rulemaking. Trailer Petitioner has requested a meeting with NHTSA to discuss the administrative process, and arrangements were being made before the agency's appropriations lapsed in December 2018. Since funding was restored on January 25, NHTSA has prioritized addressing safety-sensitive matters, though it also plans to schedule a meeting with Trailer Petitioner and to continue discussions in the near future. Respondents will submit their next 90-day status report on May 9, 2019.

Dated: February 8, 2019

Respectfully submitted,

/s/ Sue Chen

SUE CHEN  
U.S. Department of Justice  
Environment & Natural Resources  
Division  
Environmental Defense Section  
P.O. Box 7611  
Washington, D.C. 20044  
Tel: (202) 305-0283  
[Sue.Chen@usdoj.gov](mailto:Sue.Chen@usdoj.gov)

H. THOMAS BYRON III  
U.S. Department of Justice  
Civil Division, Appellate Staff  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Tel: (202) 616-5367

[H.Thomas.Byron@usdoj.gov](mailto:H.Thomas.Byron@usdoj.gov)

*Counsel for Respondents*

**Certificate of Service**

I certify that on February 8, 2019, I filed the foregoing with the Court's CMS/ECF system, which will send notice to each party.

*/s/ Sue Chen*

\_\_\_\_\_  
SUE CHEN