ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UTILITY SOLID WASTE ACTIVITES GROUP, *et al.*,	)	
Petitioners,	)	Case No. 24-1269 (Consolidated with Nos. 24-1200 (lead), 24-1267, 24-1274, 24-1275, and 24-1276)
v.	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and MICHAEL S. REGAN, Administrator, United States Environmental Protection Agency,	)	
Respondents.	)	

NON-BINDING STATEMENT OF ISSUES FOR PETITIONERS UTILITY SOLID WASTE ACTIVITIES GROUP, NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION, AND AMERICAN PUBLIC POWER ASSOCIATION

Pursuant to this Court's Order dated September 5, 2024, Petitioners the Utility Solid Waste Activities Group (USWAG),[1] the National Rural Electric Cooperative Association (NRECA), and the American Public Power Association (APPA), hereby submit their non-binding Statement of Issues to be raised in the above-captioned proceeding. The Statement of Issues is as follows:

[1] USWAG member Tennessee Valley Authority is not participating in this litigation.

(1) Whether EPA's regulation of areas that do not contain CCR on or after the effective date of the rule is in excess of statutory jurisdiction, authority, or limitations, or is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Whether EPA's regulation of any non-containerized accumulation of one (1) ton or more of CCR is in excess of statutory jurisdiction, authority, or limitations, or is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(3) Whether the regulation of previously exempt beneficial uses of CCR is in excess of statutory jurisdiction, authority, or limitations, is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or was promulgated without procedure required by law.

(4) Whether EPA's retroactive regulation of CCR disposal units closed under pre-existing federal and state authorities is in excess of statutory jurisdiction, authority, or limitations, or is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

(5) Whether the new definitions of "liquids" and "contains CCR and liquids," together with EPA's retroactive application of those terms to previously closed units, were promulgated without procedure required by law or are otherwise in excess of statutory jurisdiction, authority, or limitations, or

are arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

Petitioners reserve the right to raise other issues in addition to those described above.

Dated: September 20, 2024

Respectfully submitted,

s/ Margaret K. Fawal
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CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing Non-Binding Statement of Issues with the Clerk of the Court using the Electronic Court Filing System, which sends notifications of such filings to the Counsel of Record in the above-captioned action.

Dated: September 20, 2024

s/ Margaret K. Fawal
Margaret K. Fawal

Counsel for Utility Solid Waste Activities Group, National Rural Electric Cooperative Association, and American Public Power Association