

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

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Washington, DC 20001-2866  
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**AGENCY DOCKETING STATEMENT**

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

1. CASE NO. \_\_\_\_\_ 2. DATE DOCKETED: \_\_\_\_\_
3. CASE NAME (lead parties only) \_\_\_\_\_ v. \_\_\_\_\_
4. TYPE OF CASE: ☐ Review ☐ Appeal ☐ Enforcement ☐ Complaint ☐ Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? ☐ Yes ☐ No  
If YES, cite statute \_\_\_\_\_
6. CASE INFORMATION:
- a. Identify agency whose order is to be reviewed: \_\_\_\_\_
- b. Give agency docket or order number(s): \_\_\_\_\_
- c. Give date(s) of order(s): \_\_\_\_\_
- d. Has a request for rehearing or reconsideration been filed at the agency? ☐ Yes ☐ No  
If so, when was it filled? \_\_\_\_\_ By whom? \_\_\_\_\_  
Has the agency acted? ☐ Yes ☐ No If so, when? \_\_\_\_\_
- e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2):  
\_\_\_\_\_  
\_\_\_\_\_
- f. Are any other cases involving the same underlying agency order pending in this Court or any other?  
☐ Yes ☐ No If YES, identify case name(s), docket number(s), and court(s)  
\_\_\_\_\_
- g. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve *substantially the same issues* as the instant case presents?  
☐ Yes ☐ No If YES, give case name(s) and number(s) of these cases and identify court/agency:  
\_\_\_\_\_
- h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? ☐ Yes ☐ No If YES, provide program name and participation dates.  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name of Counsel for Appellant/Petitioner \_\_\_\_\_

Address \_\_\_\_\_

E-Mail \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_ Fax (\_\_\_\_) \_\_\_\_ - \_\_\_\_

**ATTACH A CERTIFICATE OF SERVICE**

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement.

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

Attachment to Agency Docketing Statement for Case No. 10-1044

**6(d).** The following parties filed petitions for reconsideration with the Agency on the listed dates:

Arthur Randol (2/16/2010)

Chamber of Commerce of the United States of America (3/15/2010)

Coalition for Responsible Regulation *et. al.* (2/11/2010)

Commonwealth of Virginia (2/16/2010)

Competitive Enterprise Institute *et. al.* (2/12/2010, supplement filed 2/16/2010)

Pacific Legal Foundation (2/5/2010)

Peabody Energy Company (2/11/2010)

Southeastern Legal Foundation *et. al.* (12/23/2010, amended 12/24/2010, 2/17/2010, 2/16/2010, 2/18/2010, and 3/25/2010)

State of Texas (undated)

The Ohio Coal Association (2/12/2010, supplement filed 2/16/2010)

**6(e).** The National Association of Manufacturers (“NAM”) and other petitioners in No. 10-1044 are all national trade associations whose collective membership base includes virtually every industrial sector and does include every state in the nation. Each of these organizations has members who are subject to the Clean Air Act and would be subject to new regulatory burdens as a result of the rulemaking challenged in this case (the “Endangerment Finding”). Specifically, the Endangerment Finding was a legal prerequisite to, and required EPA to promulgate, the “Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule” (the “Motor Vehicle Rule”). Pre-Publication version issued April 1, 2010. Furthermore, as Respondents themselves expressly and unequivocally assert, promulgation of the Motor Vehicle Rule will itself trigger the Clean Air Act’s Prevention of Significant Deterioration and Title V permitting requirements applicable to petitioners and their members. *See* Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Proposed Rule, 74 Fed. Reg. 55,292, 55,294 (October 27, 2009). Because the Endangerment Finding has a determinative or substantial effect on the legality of further EPA regulations injuring petitioners or their members, petitioners have standing to challenge the Endangerment Finding in this case. *See, e.g., Bennett v. Spear*, 520 U.S. 154, 168-70 (1997).

In addition, the Endangerment Finding exposes Petitioners’ members to increased risks of lawsuits related to the impacts of greenhouse gas emissions on public health and welfare, which is a threat of injury sufficient for standing. *See, e.g., Chlorine Chem. Council v. EPA*, 206 F.3d 1286, 1289-90 (D.C. Cir. 2000); *Cargill, Inc. v. United States*, 173 F.3d 323, 330.5 (5th Cir. 1999).

Furthermore, the NAM and other petitioners meet the requirements for an association to have standing in federal court because: (a) their members would otherwise have standing to sue in their own right; (b) the interests the NAM and other petitioners seek to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the

participation of the individual members of the NAM or other petitioners in the lawsuit. *See Hunt v. Washington State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977).

**6(f).** The cases with which 10-1044 has been consolidated are:

09-1322, Coalition for Responsible Regulation, Inc., *et. al.* v. United States Environmental Protection Agency (“EPA”)  
10-1024, National Mining Association v. EPA  
10-1025, Peabody Energy Company v. EPA  
10-1026, American Farm Bureau Federation v. EPA  
10-1030, Chamber of Commerce of the United States of America v. EPA and Lisa P. Jackson, Administrator, EPA  
10-1035, Southeastern Legal Foundation, *et. al.* v. EPA  
10-1036, Commonwealth of Virginia, ex. rel. Kenneth T Cuccinelli, II v. EPA  
10-1037, Gerdau Ameristeel Corporation v. EPA  
10-1038, American Iron and Steel Institute v. EPA  
10-1039, State of Alabama v. EPA  
10-1040, The Ohio Coal Association v. EPA  
10-1041, State of Texas v. EPA  
10-1042, Utility Air Regulatory Group v. EPA  
10-1045, Competitive Enterprise Institute, *et. al.* v. EPA  
10-1046, Portland Cement Association v. EPA  
10-1049, Alliance for Natural Climate Change Science, William Orr, Pro-Se v. EPA and Lisa P. Jackson, Administrator, EPA