

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

THE NATIONAL ASSOCIATION OF
MANUFACTURERS, *et. al.*

Petitioners

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY and LISA P.
JACKSON, Administrator, U.S.
Environmental Protection Agency,

Respondents

No. 10-1044

(consolidated with cases
09-1322, 10-1024, 10-1025,
10-1026, 10-1030, 10-1035,
10-1036, 10-1037, 10-1038,
10-1039, 10-1040, 10-1041,
10-1042, 10-1045, 10-1046,
10-1049)

**PETITIONERS' THE NATIONAL ASSOCIATION OF
MANUFACTURERS, *et. al.* NON-BINDING
STATEMENT OF ISSUES TO BE RAISED**

Pursuant to this Court's Order of March 15, 2010 in consolidated Case No. 09-1322, Petitioners The National Association of Manufacturers, American Petroleum Institute, Brick Industry Association, Corn Refiners Association, National Association of Home Builders, National Oilseed Processors Association, National Petrochemical and Refiners Association, and Western States Petroleum Alliance hereby submit the following Non-Binding Statement of Issues to be Raised in this proceeding to review the "Endangerment and Cause or Contribute

Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, Final Rule” (the “Endangerment Finding”) promulgated by the U.S. Environmental Protection Agency (“EPA”) and Lisa P. Jackson, the Administrator of the EPA (collectively, “Respondents”). *See* 74 Fed. Reg. 66,496 (Dec. 15, 2009).

1. Whether the Respondents’ Endangerment Finding is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because Respondents misconstrued or misapplied the terms, standards, and requirements of the Clean Air Act.

2. Whether the Respondents’ finding that emissions of greenhouse gases endanger public health and welfare is arbitrary and capricious, an abuse of their discretion, or otherwise not in accordance with law because:

a. the Respondents’ determination is not supported by reasoned decision-making, including but not limited to Respondents’ failure to: (i) provide sufficient independent analysis; (ii) analyze and provide reasons for rejecting contrary data and studies; (iii) consider offsetting and beneficial effects; (iv) consider adaptation; and (v) consider the cost implications of its proposed actions; and

b. the Respondents' finding is not supported by sufficient record evidence, including: (i) evidence of harm to the public health in the U.S.; and (ii) evidence of harm to welfare in the U.S.

3. Whether the Respondents acted arbitrarily and capriciously, in abuse of their discretion, or otherwise not in accordance with law in finding that emissions of greenhouse gases from new motor vehicles in the United States "cause or contribute" to air pollution reasonably anticipated to endanger public health and welfare.

4. Whether the Respondents violated applicable law, guidelines, or other requirements regarding data quality in a manner that renders Respondents' Endangerment Finding arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

This is a preliminary listing of issues that Petitioners may raise. Petitioners reserve the right to modify the list of issues addressed, as well as to address these and other issues in more detail in future pleadings.

Dated: April 15, 2010

Respectfully submitted,

/s/ Matthew G. Paulson

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