

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

NATIONAL ASSOCIATION OF)	
MANUFACTURERS,)	
)	
Petitioner,)	
)	
v.)	Case No. 13-1069
)	
U.S. ENVIRONMENTAL PROTECTION)	
AGENCY and BOB PERCIASEPE,)	
Acting Administrator, U.S. Environmental)	
Protection Agency,)	
)	
Respondents.)	
)	

NON-BINDING STATEMENT OF ISSUES TO BE RAISED

Petitioner National Association of Manufacturers (“NAM”) submits this Non-binding Statement of Issues to be Raised.

1. Whether the United States Environmental Protection Agency’s (“EPA’s”) issuance of the final rule entitled “National Ambient Air Quality Standards for Particulate Matter,” 78 Fed. Reg. 3085 (Jan. 15, 2013) was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the Clean Air Act (“CAA”), the Administrative Procedure Act (“APA”), or other law.

2. Whether EPA failed to comply with the CAA’s procedural requirements for reviewing National Ambient Air Quality Standards (“NAAQS”), 42 U.S.C. § 7409(d), by, for example, prejudging whether a downward revision to the primary

PM_{2.5} NAAQS was appropriate and only soliciting comment on a narrow range of potential standards that were below the existing standard.

3. Whether EPA's decision to revise the primary PM_{2.5} NAAQS was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law because EPA failed to provide a reasoned basis demonstrating that the revised standard was "requisite to protect the public health."

4. Whether EPA's revision of the primary PM_{2.5} NAAQS was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law because EPA failed to "accurately reflect[] the latest scientific knowledge" by ignoring a substantial body of contrary scientific evidence that does not support lowering the primary PM_{2.5} NAAQS.

5. Whether EPA's decision to require PM_{2.5} monitoring along roadways was arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law because the roadside monitors will record maximum rather than ambient PM_{2.5} concentrations.

The foregoing is a preliminary listing of issues that NAM may raise. NAM reserves the right to modify this list of issues, as well as to address these and other issues in more detail in future pleadings.

Dated: April 17, 2013

Of Counsel

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Non-Binding Statement Of Issues To Be Raised was today served, this 17th day of April, 2013, through the Court's CM/ECF system on all registered counsel.

/s/ Timothy K. Webster
Timothy K. Webster
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Manufacturers*