

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

AMERICAN FUEL & PETROCHEMICAL
MANUFACTURERS; DOMESTIC ENERGY
PRODUCERS ALLIANCE; ENERGY
MARKETERS OF AMERICA; and NATIONAL
ASSOCIATION OF CONVENIENCE STORES,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY,

Respondent.

Case No. 22-1084

PETITIONERS' NONBINDING STATEMENT OF ISSUES

Pursuant to this Court's order of May 18, 2022, petitioners American Fuel & Petrochemical Manufacturers, Domestic Energy Producers Alliance, Energy Marketers of America, and National Association of Convenience Stores submit this Nonbinding Statement of Issues in the consolidated cases challenging the final action of the United States Environmental Protection Agency ("EPA") entitled California State Motor Vehicle Pollution Control Standards; Advanced Clean Car Program; Reconsideration of a Previous Withdrawal of a Waiver of Preemption, published at 87 Fed. Reg. 14332 (Mar. 14, 2022).

The issues presented are (1) whether Section 209(b) of the Clean Air Act violates the Constitution by granting California regulatory authority denied to other states; (2) whether EPA exceeded its statutory authority under Section 209(b) in granting California a preemption waiver for emission standards aimed at addressing global climate change; and (3) whether EPA acted unlawfully in determining that its prior action withdrawing California's preemption waiver was an inappropriate exercise of the agency's reconsideration authority.

Dated: June 17, 2022

Respectfully submitted,

/s/ Eric D. McArthur
Eric D. McArthur
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
emcarthur@sidley.com

Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2022, I will cause the foregoing to be served by electronic means through the Court's CM/ECF system, on all counsel of record.

Dated: June 17, 2022

Respectfully submitted,

/s/ Eric D. McArthur

Eric D. McArthur
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8000
emcarthur@sidley.com

Counsel for Petitioners