

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

CLEAN FUELS DEVELOPMENT
COALITION., *et al.*,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY,

Respondent.

No. 22-1085, consolidated with
Nos. 22-1081 (lead case), 22-
1083, and 22-1084

PETITIONERS' NONBINDING STATEMENT OF ISSUES TO BE RAISED

Pursuant to the Court's Order of May 18, 2022, Petitioners Clean Fuels Development Coalition *et al.* hereby submit the following, non-binding and preliminary Statement of Issues to be Raised in this Petition for Review of EPA's final action entitled *California State Motor Vehicle Pollution Control Standards; Advanced Clean Car Program; Reconsideration of a Previous Withdrawal of a Waiver of Preemption; Notice of Decision*, 87 Fed. Reg. 14,332 (Mar. 14, 2022) ("Waiver Restoration"):

1. Whether EPA erred or was otherwise acting contrary to law in concluding that it has only narrow authority to revoke a waiver to California under Section 209(b) of the Clean Air Act;

2. Whether the Waiver Restoration's determination that the waiver should be restored because California satisfied the requirements of Section 209(b) of the Clean Air Act was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with or consistent with law or contrary to the U.S. Constitution;
3. Whether the Waiver Restoration exceeded EPA's statutory authority under Section 209 of the Clean Air Act;
4. Whether the Waiver Restoration erred in approving a suite of rules that are "related to" fuel economy and average fuel economy standards, in violation of 49 U.S.C. § 32919(a);
5. Whether changes to California's separate auto-emissions program made after the initial grant of a waiver required submission of a new request for a waiver rather than a restoration of the earlier waiver;
6. Whether the Waiver Restoration violated the constitutional equal sovereignty doctrine; and
7. Whether Section 209(b)'s special treatment of California violates the constitutional equal sovereignty doctrine.

June 17, 2022

Respectfully Submitted

/s/ Michael Buschbacher

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Counsel of Record

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing through the CM/ECF system, which will send a notice of filing to all registered CM/ECF users.

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Dated: June 17, 2022