

**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)

**INTERVENORS' TWENTY-ONE INDUSTRY AND MANUFACTURING
ASSOCIATIONS NOTICE OF INTENT TO PARTICIPATE IN SUPPORT
OF PETITIONERS AND NON-BINDING STATEMENT OF ISSUES TO BE
RAISED**

Pursuant to this Court's Order filed on May 5, 2010 in consolidated Case No. 09-1322, Intervenors Glass Packaging Institute, Independent Petroleum Association of America, Louisiana Oil and Gas Association, North American Die Casting Association, Steel Manufacturers Association, National Electrical Manufacturers Association, Michigan Manufacturers Association, Indiana Cast Metals Association, Virginia Manufacturers Association, Colorado Association of Commerce and Industry, Tennessee Chamber of Commerce and Industry, West

Virginia Manufacturers Association, The Kansas Chamber of Commerce and Industry, Idaho Association of Commerce and Industry, Pennsylvania Manufacturers Association, The Ohio Manufacturers Association, Wisconsin Manufacturers and Commerce, Nebraska Chamber of Commerce and Industry, Arkansas State Chamber of Commerce, Associated Industries of Arkansas, and Mississippi Manufacturers Association hereby notify the Court that Intervenor intend to participate in support of Petitioners the National Association of Manufacturers, *et. al.* 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).

In addition, Intervenor note their support for *Petitioners’ The National Association of Manufacturers, et. al. Non-Binding Statement of Issues to be Raised*, filed in Case No. 10-1044, and hereby submit the following Non-Binding Statement of Issues to be Raised in this proceeding:

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 Intervenors may raise. Intervenors 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: May 19, 2010

Respectfully submitted,

/s/

Matthew G. Paulson
Brian J. Faulkner
BAKER BOTTS LLP
98 San Jacinto Blvd.
1500 San Jacinto Center
Austin, Texas 78701
(512) 322-2500

Alexandra M. Walsh
Adam J. White
BAKER BOTTS LLP
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 639-7700

Jeffrey A. Lamken
MOLOLAMKEN LLP
600 New Hampshire Ave., N.W.
Washington, D.C. 20037
(202) 556-2010

Timothy K. Webster
Roger R. Martella
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

*Counsel for Intervenors Glass
Packaging Institute, Independent
Petroleum Association of America,
Louisiana Oil and Gas Association,
North American Die Casting
Association, Steel Manufacturers
Association, National Electrical
Manufacturers Association, Michigan
Manufacturers Association, Indiana
Cast Metals Association, Virginia
Manufacturers Association, Colorado
Association of Commerce And Industry,
Tennessee Chamber of Commerce And
Industry, West Virginia Manufacturers
Association, The Kansas Chamber of
Commerce, Idaho Association of
Commerce and Industry, Pennsylvania
Manufacturers Association, The Ohio
Manufacturers Association, Wisconsin
Manufacturers and Commerce,
Nebraska Chamber of Commerce and
Industry, Arkansas State Chamber of
Commerce and Associated Industries of
Arkansas, and Mississippi
Manufacturers Association*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Intervenor's Twenty-One Industry and Manufacturing Associations Notice of Intent to Participate in Support of Petitioners and Non-Binding Statement of Issues to be Raised has been filed with the Clerk of the Court this 19th day of May, 2010 by using the CM/ECF System.

In addition, I hereby certify that the foregoing have been served by United States first-class mail this 19th day of May, 2010 upon each of the following participants or proposed intervenors in the case who are not registered CM/ECF users:

Greg Abbott
Office of the Attorney General
State of Texas
PO Box 12548
Austin, TX 78711-2548

Karen R. Harned
National Federation of Independent
Business
1201 F. Street, NW, Suite 200
Washington, DC 20004

Mark J. Bennett
Attorney General
State of Hawaii
Department of Agriculture
425 Queen Street
Honolulu, HI 96813-0000

Charles E. James, Jr.
Office of the Attorney General
Commonwealth of Virginia
900 East Main Street
Richmond, VA 23219

David G. Bookbinder
Sierra Club
408 C Street, NE
Washington, DC 20002-0000

Sam Kazman
Competitive Enterprise Institute
1899 L Street, NW, 12th Floor
Washington, DC 20036

Kelvin Allen Brooks
Office of the Attorney General
State of New Hampshire
33 Capitol Street
Concord, NH 03301-6397

Christopher Gene King
New York City Law Department
6-143
100 Church Street
New York, NY 10007

Jon Cumberland Bruning
Attorney General
State of Nebraska
2115 State Capitol
P.O. Box 98920
Lincoln, NE 68509-8920

Troy King
Office of the Attorney General
State of Alabama
500 Dexter Avenue
Montgomery, AL 36130

Robert Richard Gasaway
Kirkland & Ellis LLP
655 15th Street, NW, Suite 1200
Washington, DC 20005

Kimberly P. Massicotte
Office of the Attorney General
State of Connecticut
55 Elm Street
PO Box 120
Hartford, CT 06106

Joseph P. Mikitish
Office of the Attorney General
State of Arizona
1275 West Washington Street
Phoenix, AZ 85007-2926

Jocelyn Furtwangler Olson
Attorney General
State of Minnesota
1400 Bremer Tower
445 Minnesota St.
St. Paul, MN 55101

William Orr
c/o Dr. Bonner Cohen
1600 North Oak Street, #617
Arlington, VA 22209

Gerald D. Reid
Office of the Attorney General
State of Maine
6 State House Station
Augusta, ME 04333-0006

Valerie Melissa Satterfield
Office of the Attorney General
State of Delaware
102 West Water Street, Third Floor
Dover, DE 19904-0000

Wayne Kevin Stenehjem
Attorney General
State of North Dakota
600 East Boulevard Ave.
Bismarck, ND 58505-2210

/S/

Matthew G. Paulson