

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

NATIONAL COALITION FOR
ADVANCED TRANSPORTATION,

Petitioner,

v.

ENVIRONMENTAL PROTECTION
AGENCY,

ANDREW R. WHEELER, in his official
capacity as Administrator, United States
Environmental Protection Agency,

UNITED STATES DEPARTMENT OF
TRANSPORTATION,

ELAINE L. CHAO, in her official capacity
as Secretary, United States Department of
Transportation,

NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION,

JAMES C. OWENS, in his official
capacity as Deputy Administrator,
National Highway Traffic Safety
Administration,

Respondents.

No. 20-1174 (Consolidated with
Nos. 20-1145 (Lead), 20-1167,
20-1168, 20-1169, 20-1173,
20-1176, 20-1177, 20-1230)

**PETITIONER NATIONAL COALITION FOR ADVANCED
TRANSPORTATION'S NON-BINDING STATEMENT OF ISSUES**

Pursuant to the Court's June 1, 2020 Order, Petitioner National Coalition for Advanced Transportation submits the following non-binding, preliminary statement of issues to be raised in this proceeding to review the final agency actions by respondents United States Environmental Protection Agency ("EPA") and National Highway Traffic Safety Administration ("NHTSA") entitled, "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks," and published in the Federal Register at 85 Fed. Reg. 24,174 on April 30, 2020, and the final agency action by respondent EPA entitled, "Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022–2025 Light-Duty Vehicles," and published in the Federal Register at 83 Fed. Reg. 16,077 on April 13, 2018 ("Revised Mid-Term Evaluation"):

(1) Whether NHTSA's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the Administrative Procedure Act and the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act, because its corporate average fuel economy standards are not "maximum feasible" as required by the Energy Policy and Conservation Act, are based on flawed modeling and analysis and are otherwise unsupported by the rulemaking record.

(2) Whether EPA's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the Administrative Procedure Act and the Clean Air Act because its greenhouse gas standards for light-duty vehicles do not comply with Clean Air Act Section 202, are based on flawed modeling and analysis and are otherwise unsupported by the rulemaking record and arbitrary and capricious.

(3) Whether EPA's Revised Mid-Term Evaluation action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law in violation of Clean Air Act Section 307(d)(9) and the Administrative Procedure Act Section 706(2)(A) because it lacks factual support in the agency's record and fails to provide the reasoned explanation required to justify EPA's policy change in light of the factual findings supporting the agency's reversed decision and because it violates EPA regulations, 40 C.F.R. § 86.1818-12(h), requiring that the agency determination be made following the procedures specified in the regulations, such as that the determination be based on a record that includes the draft Technical Assessment Report EPA previously completed.

Dated: July 1, 2020

Respectfully submitted,

s/ Stacey L. VanBelleghem

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CERTIFICATE OF SERVICE

I, Stacey L. VanBelleghem, hereby certify that on this 1st day of July, 2020, a true and correct copy of the foregoing Petitioner's Statement of Issues was served on all counsel of record in this case by means of the Court's CM/ECF system. Additionally, a true and correct copy of the foregoing Petitioner's Statement of Issues was served via First Class U.S. Mail on the following:

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/s/ Stacey L. VanBelleghem
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