

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

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**Independent Petroleum Association of  
America, Arkansas Independent  
Producers and Royalty Owners,  
Domestic Energy Producers Alliance,  
Eastern Kansas Oil & Gas Association,  
Gas and Oil Association of West  
Virginia, Illinois Oil & Gas  
Association, Independent Petroleum  
Association of New Mexico, Indiana Oil  
and Gas Association, International  
Association of Drilling Contractors,  
Kansas Independent Oil & Gas  
Association, Kentucky Oil & Gas  
Association, National Stripper Well  
Association, North Dakota Petroleum  
Council, Ohio Oil and Gas Association,  
Oklahoma Independent Petroleum  
Association, Panhandle Producers &  
Royalty Owners Association,  
Pennsylvania Independent Oil & Gas  
Association, Permian Basin Petroleum  
Association, Petroleum Association of  
Wyoming, Texas Alliance of Energy  
Producers, Texas Independent  
Producers & Royalty Owners  
Association, and Western Energy  
Alliance**

**Petitioners,**

**v.**

**United States Environmental  
Protection Agency and Michael S.  
Regan, Administrator, United States  
Environmental Protection Agency  
Respondent.**

**CASE NO. 24-1054  
(Consolidated with Nos.  
24-1059, 24-1101, 24-1103,  
24-1111, 24-1114, 24-1115,  
25-1116, 25-1117, 24-1118)**

## **PETITIONERS' NON-BINDING STATEMENT OF ISSUES**

In accordance with this Court's Order issued on May 1, 2024, Petitioners The Independent Petroleum Association Of America, Arkansas Independent Producers And Royalty Owners, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Gas And Oil Association Of West Virginia, Illinois Oil & Gas Association, Independent Petroleum Association Of New Mexico, Indiana Oil And Gas Association, International Association Of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & Gas Association, National Stripper Well Association, North Dakota Petroleum Council, Ohio Oil And Gas Association, Oklahoma Independent Petroleum Association, Panhandle Producers & Royalty Owners Association, Pennsylvania Independent Oil & Gas Association, Permian Basin Petroleum Association, Petroleum Association Of Wyoming, Texas Alliance Of Energy Producers, Texas Independent Producers & Royalty Owners Association, And Western Energy Alliance (collectively, "Independent Producers") challenge the legality of the United States Environmental Protection Agency's ("EPA") rulemaking entitled, "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review," published at 89 Fed. Reg. 16,820 (Mar. 8, 2024) (the "Final Rule"), and respectfully submit this preliminary and non-binding statement of issues:

1. Whether the Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by basing leak, detection, and repair requirement on component counts and creating subcategories that are illusory;
2. Whether the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, because the BSER analysis for pneumatic devices is flawed as it relied upon emissions factors that EPA acknowledges are erroneous & inaccurate as evidenced by its own proposed revisions to Subpart W rules;
3. Whether the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by establishing emissions guidelines which contain time frames and procedures that eliminate the states' ability to take into consideration the reasonable useful life and other factors required in the Clean Air Act to account for certain existing sources such that the requirements for existing source are the same as those for new or modified sources;
4. Whether the Final Rule is arbitrary and capricious, an abuse of discretion,

or otherwise not in accordance with law, or is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by the manner in which associated gas and combustion control devices are regulated;

5. Whether the Final Rule is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by establishing the "Super Emitter Program," which has no logical basis in and is technologically infeasible pursuant to the Clean Air Act.
6. Whether the Final Rule is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, by making a Best System of Emissions Reductions determination for existing sources that limited the consideration of emissions guidelines to the same regulatory framework of new sources and failed to consider the diversity of oil and natural gas production operations in assessing cost effectiveness of its requirements.

Dated: May 31, 2024

**RESPECTFULLY SUBMITTED,**

/s/James D. Elliott

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Association, Independent Petroleum  
Association Of New Mexico, Indiana Oil And  
Gas Association, International Association Of  
Drilling Contractors, Kansas Independent Oil &  
Gas Association, Kentucky Oil & Gas  
Association, National Stripper Well  
Association, North Dakota Petroleum Council,  
Ohio Oil And Gas Association, Oklahoma  
Independent Petroleum Association, Panhandle  
Producers & Royalty Owners Association,  
Pennsylvania Independent Oil & Gas  
Association, Permian Basin Petroleum  
Association, Petroleum Association Of  
Wyoming, Texas Alliance Of Energy  
Producers, Texas Independent Producers &  
Royalty Owners Association, And Western  
Energy Alliance

Dated: May 31, 2024

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of May 2024, a copy of the foregoing **Petitioners' Non-Binding Statement of Issues** was served electronically through the Court's CM/ECF system on all registered counsel.

/s/ James D. Elliott

James D. Elliott