

ORAL ARGUMENT NOT YET SCHEDULED**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT, *et al.*

Petitioners,

v.

ENVIRONMENTAL PROTECTION
AGENCY, *et al.*

Respondents.

No. 19-1241
(consolidated with 19-1230 (lead),
19-1239, 19-1242, 19-1243, 19-1245,
19-1246, 19-1249)

PETITIONERS' NON-BINDING STATEMENT OF ISSUES

Pursuant to the Court's Order of December 2, 2019, Petitioners South Coast Air Quality Management District, Bay Area Air Quality Management District, and Sacramento Metropolitan Air Quality Management District ("Air Districts") hereby submit the following non-binding statement of issues presented for review:

1. Whether EPA exceeded its authority in acting to revoke parts of a waiver that it previously granted to the State of California for the control of emissions from new motor vehicles sold within the State.

2. Whether EPA's action was contrary to statute, unreasonable, arbitrary and capricious, an abuse of discretion, without adequate explanation of its reasoning, or otherwise not in accordance with law, in violation of the Clean Air Act or the Administrative Procedure Act (APA); and
3. Whether EPA violated 42 U.S.C. § 7506 by not providing an assurance of conformity for its action.

Regarding the part of the Petition for Review that is protective in nature and challenges the rulemaking action of the National Highway Transportation Safety Administration (NHTSA), Petitioner Air Districts recount their claims now pending in the United States District Court for the District of Columbia:

1. Whether NHTSA's action was in excess of statutory authority and contrary to constitutional power in violation of the APA.
2. Whether NHTSA's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the APA.
3. Whether NHTSA's action was without observance of procedures required by law in violation of the APA, including by the failure to observe procedures required by the National Environmental Policy Act.

Date: December 26, 2019

Respectfully Submitted,

/s/ Brian Tomasovic

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CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2019, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system for service on all registered counsel in these consolidated cases.

Date: December 26, 2019

/s/ Brian Tomasovic
BRIAN TOMASOVIC