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

THE TRANSPORT PROJECT, also known as THE NATURAL GAS VEHICLE COALITION, Petitioner, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, and MICHAEL S. REGAN, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 24-1129 [Consolidated with 24-1133, 24-1157, 24-1207, 24-1208, 24-1209, 24-1210, 24-1214]

PETITIONER'S NON-BINDING STATEMENT OF ISSUES

Pursuant to this Court's order of June 24, 2024, Petitioner The Transport Project ("TTP") submits this Non-Binding Statement of Issues with respect to the final rule issued by the U.S. Environmental Protection Agency ("Agency" or "EPA") entitled *Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3*, 89 Fed. Reg. 29,440 (April 22, 2024) ("Final Rule").

1. Whether the Final Rule violates section 202(a)(2) of the Clean Air Act ("Act"), 42 U.S.C. § 7521(a)(2), is unsupported by substantial evidence in violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(E), and/or is otherwise contrary to law because the

Agency failed to fully consider the total cost of compliance, the cost to fleet owners and operators, and/or based its findings on speculative assumptions about costs and technological feasibility. *See Motor & Equip. Mfrs. Ass'n, Inc. v. EPA*, 627 F.2d 1095, 1118 (DC Cir. 1979) (through Section 202 of the Act, ''Congress wanted to avoid undue economic disruption in the automotive manufacturing industry and also sought to avoid doubling or tripling the cost of motor vehicles to purchasers.'').

2. Whether the Agency's exclusive focus on tailpipe emissions and its refusal to consider the lifecycle emissions of net-zero or near-zero greenhouse gas ("GHG") fuels in the Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law in violation of 5 U.S.C. § 706(2).

3. Whether the Agency acted outside of its statutory authority under the Act in violation of the APA, 5 U.S.C. § 706(2)(C), by providing multiplier credits for battery electric vehicles while failing to incentivize the increased use of cellulosic biofuels and/or other fuels with net-zero or near-zero GHG emissions.

TTP reserves the right to refine or supplement these issues in subsequent submissions.

Respectfully submitted,

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Attorneys for The Transport Project

Dated: July 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Respectfully submitted,

/s/ *Charlene Koski*
Charlene Koski

Dated: July 24, 2024