

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

STATES OF TEXAS, ALABAMA,)
ALASKA, ARKANSAS, ARIZONA,)
INDIANA, KENTUCKY,)
LOUISIANA, MISSISSIPPI,)
MISSOURI, MONTANA,)
NEBRASKA, OHIO, OKLAHOMA,)
SOUTH CAROLINA, AND UTAH,)

Petitioners,)

v.)

No. 22-1031

UNITED STATES)
ENVIRONMENTAL)
PROTECTION AGENCY AND)
MICHAEL S. REGAN,)
ADMINISTRATOR, UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY,)

Respondents.)

STATEMENT OF ISSUES TO BE RAISED

Petitioners the States of Texas, Alabama, Alaska, Arkansas,¹ Arizona, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, and Utah intend to raise the following issues regarding whether Respondents' Final Rule, set forth at 86 Fed. Reg. 74,434 (Dec. 30, 2021), complies with the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, the Administrative Procedure Act,

¹ Arizona filed its own petition for review regarding the same agency action. Case No. 22-1035. That case has now been consolidated with this one, and Arizona will join in the submissions of the other State Petitioners moving forward.

5 U.S.C. § 701, *et seq.*, and the Energy Independence and Security Act, 42 U.S.C. § 17001 *et seq.* Specifically:

1. Whether the Final Rule violates Section 202(a) of the Clean Air Act, 42 U.S.C. § 7521, and the “Major Questions” doctrine by preferencing electric vehicle technology over other emission-reduction technology.
2. Whether the Final Rule is arbitrary and capricious because it unreasonably advantages electric vehicles by assuming that they contribute zero emissions, including by treating electric vehicles as contributing zero emissions.
3. Whether the Final Rule is arbitrary and capricious because it ignored record evidence that significant greenhouse gas emission reductions can be achieved without massive costs and disruption by encouraging greater production and use of biofuels and application of low-carbon technologies (such as carbon capture and storage) to traditional fossil fuel production.
4. Whether the Final Rule conflicts with the Energy Independence and Security Act’s energy security mandate, including by preferencing electric vehicles that are dependent on foreign countries for rare earth minerals and battery components, and by disregarding Congress’s instruction that renewable liquid fuels be used to achieve energy security.
5. Whether the Final Rule was arbitrary and capricious for failing to consider security implications in the emerging electric vehicle global supply chain.
6. Whether the Final Rule was arbitrary and capricious to rely on inputs from the Interagency Working Group on the Social Cost of Greenhouse Gases.

Respectfully Submitted.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically filed April 1, 2022 with the Clerk of Court using the CM/ECF system, which will send a notification to the attorneys of record in this matter who are registered with the CM/ECF system.

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