

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

)	
RICHARD S. BURNS & COMPANY,)	
INC.)	
Petitioner,)	NO. 15-1142
)	(consolidated with Nos.
v.)	15-1056, 15-1137, 15-1140)
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

NONBINDING STATEMENT OF ISSUES

Pursuant to this Court’s Order of May 19, 2015, Petitioner Richard S. Burns & Company, Inc. submits the following Nonbinding Statement of Issues to be raised in this proceeding reviewing the final action of Respondent United States Environmental Protection Agency (“EPA”) published in the Federal Register at 80 Fed. Reg. 13,672 (March 16, 2015) and titled “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces” (“the Rule”).

1. Whether the Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law under Section 307(d)(9)(A) of the

Clean Air Act, 42 U.S.C. § 7607(d)(9)(A), because EPA failed to clarify that the prohibitions in the Rule against burning pellet fuel and chip wood fuel made from or containing construction and demolition (“C&D”) waste or C&D debris in units covered by the Rule do not apply to pellet fuel and chip wood fuel made from reclaimed wood separated from C&D waste or C&D debris.

2. Whether EPA violated Section 111 of the Clean Air Act, 42 U.S.C. § 7411, by imposing restrictions on the content and composition of pellet fuels and chip wood fuels where EPA has not demonstrated that such restrictions reflect the best system of emission reduction.
3. Whether EPA’s interpretations of the prohibitions in the Rule against burning pellet fuel and chip wood fuel made from or containing C&D waste or C&D debris in units covered by the Rule to also prohibit burning pellet fuel and chip wood fuel made from reclaimed wood separated from C&D waste or C&D debris are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
4. Whether in promulgating the Rule, EPA failed to comply with the requirements of Clean Air Act Section 307(d), 42 U.S.C. § 9607(d).

Petitioner Richard S. Burns & Company, Inc. reserves the right to modify the foregoing list of issues, as well as to address these and other issues in more detail in future pleadings.

Respectfully submitted,

/s/ Lorene L. Boudreau

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Dated: June 18, 2015

Counsel for Richard S. Burns & Company, Inc.

CERTIFICATE OF SERVICE

I certify that on this 18th day of June, 2015, a copy of the foregoing Nonbinding Statement of Issues was served electronically through the Court's CM/ECF system on all registered counsel.

/s/ Lorene L. Boudreau_____

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