

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

<hr/>		)	
HEARTH, PATIO & BARBECUE		)	
ASSOCIATION, <i>et al.</i>		)	
		)	
Petitioners,		)	
		)	
v.		)	Nos. 15-1056 (lead),
		)	15-1137, 15-1140 &
		)	15-1142
U.S. ENVIRONMENTAL PROTECTION		)	
AGENCY,		)	
		)	
Respondent.		)	
<hr/>		)	

**PETITIONER HEARTH, PATIO & BARBECUE ASSOCIATION’S  
NONBINDING STATEMENT OF ISSUES**

Pursuant to the Court’s Order of April 24, 2015, Petitioner Hearth, Patio & Barbecue Association (“HPBA”) hereby submits the following Nonbinding Statement of Issues to be raised in this proceeding to review the U.S. Environmental Protection Agency’s (“EPA’s”) final action entitled “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces; Final Rule,” 40 C.F.R. Part 60, published at 80 Fed. Reg. 13,672-13,753 on March 16, 2015. The provisions applicable to new residential wood heaters will be codified at 40 C.F.R. Part 60, Subpart AAA. The provisions applicable to new residential hydronic heaters and forced-air furnaces will be codified at 40 C.F.R. Part 60, Subpart QQQQ.

1. Whether the 2020 particulate matter (“PM”) emission standard applicable to Subpart AAA wood heaters is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
2. Whether the 2020 PM emission standard applicable to Subpart QQQQ residential hydronic heaters is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
3. Whether the 2020 PM emission standard applicable to Subpart QQQQ residential forced-air furnaces is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
4. Whether EPA’s failure to include adjustments for test method precision in the compliance audit testing provisions within Subparts AAA and QQQQ is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
5. Whether EPA’s failure to make findings under the National Technology Transfer and Advancement Act of 1995 to support substituting government-unique provisions in place of provisions within voluntary consensus standards is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
6. Whether in promulgating the final emission standards and other requirements in Subparts AAA and QQQQ, EPA failed to comply with the

requirements of Clean Air Act Section 307(d).

HPBA reserves the right to modify the list of issues addressed, as well as to address these and other issues in more detail in future pleadings.

Respectfully submitted,

/s/ David Y. Chung

David E. Menotti

David Y. Chung

CROWELL & MORING LLP

1001 Pennsylvania Ave., N.W.

Washington, DC 20004

Telephone: (202) 624-2500

Facsimile: (202) 628-5116

*Attorneys for Petitioner Hearth, Patio &  
Barbecue Association*

Dated: June 10, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I filed the foregoing Nonbinding Statement of Issues through the CM/ECF systems, which will send a notice of filing to all registered CM/ECF users.

/s/ David Y. Chung\_\_\_\_\_

David Y. Chung

Dated: June 10, 2015