

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

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| PELLET FUELS INSTITUTE, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 15-1140 |
| |) | (consolidated with Nos. |
| U.S. ENVIRONMENTAL PROTECTION |) | 15-1056, 15-1137, 15- |
| AGENCY, |) | 1140, 15-1142) |
| |) | |
| Respondent. |) | |
| |) | |

**NON-BINDING STATEMENT OF ISSUES TO BE RAISED
BY PELLETS FUELS INSTITUTE**

Pursuant to this Court’s May 19, 2015, Order, Pellet Fuels Institute (“PFI”), Petitioner in Case No. 15-1140, hereby submits this preliminary and non-binding statement of issues to be raised. PFI seeks review of the final rule promulgated by the U.S. Environmental Protection Agency (“EPA”) entitled “Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters, and Forced Air Furnaces,” docket number EPA-HQ-OAR-2009-0734, to be codified at 40 C.F.R. Part 60. *See* 80 Fed. Reg. 13672 (Mar. 16, 2015). A copy of the final rule was attached to PFI’s Petition for Review.

PFI intends to raise the following issues in this case:

- (1) Whether EPA violated Clean Air Act Section 111 by imposing requirements on the content and composition of pellet fuels that must be

used in new pellet stoves where Section 111 does not explicitly grant EPA such authority and EPA has not demonstrated that such standards reflect the best system of emission reduction.

(2) Whether EPA standards for pellet fuels are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law since EPA failed to take into account the statutory criteria for establishing standards of performance or other standards under Clean Air Act Section 111 and failed to provide a reasoned response to comments regarding EPA's statutory authority and the factual basis for the standards.

(3) Whether EPA violated Clean Air Act Section 307 and the Administrative Procedure Act by failing to provide notice and a reasoned response to comments regarding provisions in the final rule deeming non-United States third-party organizations as approved for the purpose of grading pellet fuels that must be used in new pellet stoves.

PFI reserves the right to amend and supplement this statement of issues as necessary.

Respectfully submitted,

/s/ Kirsten L. Nathanson

Robert Meyers

Kirsten L. Nathanson

Sherrie A. Armstrong

CROWELL & MORING LLP

1001 Pennsylvania Ave., N.W.

Washington, DC 20004

Telephone: (202) 624-2500

Facsimile: (202) 628-5116

knathanson@crowell.com

Attorneys for Petitioner Pellet Fuels Institute

Dated: June 15, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was on the 15th day of June, 2015, served electronically through the Court's CM/ECF system on all registered counsel.

/s/ Kirsten L. Nathanson
Kirsten L. Nathanson