

NELMCC Questions and Answers as of October 28, 2020

1. Did COGA attempt to make any objection (petition or comment) during the rulemaking of the 2009 Endangerment Finding?

*The record will not be supplemented on this issue.*

2. If not, did COGA offer an explanation for why it was impracticable to raise an objection within the 2009 period for public comment or explain why their objection arose after the 2009 Finding was finalized?

*The record will not be supplemented on this issue.*

3. Concerning issue one ("jurisdiction"), is the court requesting teams to consider jurisdiction in a very narrow sense (limited to the statutes cited in the issue), or is the court looking for teams to brief jurisdiction more broadly (including provisions of U.S. Const. Art. III).

*The court is only requesting briefing on the question of statutory jurisdiction under Clean Air Act § 304(a).*

4. In our briefs, does the court prefer the CAA provisions to be referenced by section number (ex. CAA 304), the provision in the U.S. code (42 U.S.C. 7xxx), both, or no preference?

*All citations shall be complete and in the form prescribed in the latest edition of the Bluebook. Appendices may be used to recite the text of statutes, constitutional provisions, regulations and materials that are not generally available. If you want to include both citations, you may also refer to the Clean Air Act Section # as well*

5. Concerning footnote i. and the assumption that the petition also included CHAWN as a co-petitioner--should we also assume CHAWN is a co-petitioner on any subsequent litigation or other acts arising from the Center for Biological Diversity's "real-life" petition.

*The record will not be supplemented on this issue.*

6. Does the Twelfth Circuit have any local rules that we must follow? (specifically left-justified vs. full justification)?

*"All briefs shall comply with Federal Rules of Appellate Procedure 28 and 32, except as modified by these Rules." Rule IV (B)(1). The relevant rules for brief-writing do not include the local rules of the Twelfth Circuit. While the relevant Federal Rules of Appellate Procedure and the Competition Rules are silent on text justification, model measuring briefs consistently use left justification for headings and full justification for main text. See <https://libraryguides.law.pace.edu/nelmcc>.*

7. The Federal Rules of Appellate Procedure referenced in the problem and rules requires double spacing in the brief. However, the measuring briefs from prior years are all single spaced in law review format. These briefs are often over 30 pages, and our limit is 35 pages. Can you confirm we are submitting a double-spaced brief with a maximum of 35 pages (for the parts of the brief that count toward page count)?

*Per Rule IV(B)(1), all briefs shall comply with Federal Rule of Appellate Procedure 32(a)(4), which provides that the text of the brief “must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced.” The brief’s total length may not exceed thirty-five (35) pages, excluding the Table of Contents, Table of Authorities, and Appendices.*

8. Issue 1 asks whether the District Court had jurisdiction over the unreasonable delay claim made by CHAWN. Issue 1 also indicates that CHAWN must argue that the District Court did have jurisdiction. Is it permissible for CHAWN to argue that while the Court did have jurisdiction over the unreasonable delay claim, that it did NOT have jurisdiction to review the Endangerment Finding? It seems that arguing against jurisdiction, solely on the issue of Reviewing the Endangerment Finding, is in CHAWN’s best interest.

*The record will not be supplemented on this issue.*

9. Without getting into details about the competition problem, can we ask faculty to explain a certain legal issue to us?

*Rule VI: No Team shall receive assistance prior to filing its brief, including research, writing or any aspect of preparing the brief. No Team shall receive assistance of any kind during an oral argument at the Competition or during any recess thereof. To maintain Team anonymity, coaches may not communicate with their Team during the oral arguments.*

10. Can we ask faculty to recommend books pertaining to a certain topic?

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