setting fuel economy standards, see *id.* at A55, and the potential for interference with the United States' ongoing negotiations with other nations, see *id.* at A56, did not justify EPA's action.

4. The court of appeals denied a petition for rehearing en banc. See Pet. App. A94-A97. Judge Tatel filed an opinion dissenting from the denial of rehearing en banc, in which Judge Rogers joined. See *id.* at A95-A98. Judge Griffith also would have granted the petition for rehearing en banc, but he did not join Judge Tatel's dissent from the denial of that petition. *Id.* at A95.

ARGUMENT

Petitioners argue that the Clean Air Act required EPA to embark on the extraordinarily complex and scientifically uncertain task of addressing the global issue of greenhouse gas emissions by regulating mobile sources of such emissions in the United States. Although the court of appeals did not itself reach a firm conclusion regarding petitioners' standing, petitioners failed to make the necessary showing of causation and redressability to satisfy Article III standing requirements. On the merits, EPA reasonably concluded that regulation of greenhouse gases by means of vehicle emissions standards is neither authorized by the Clean Air Act nor an appropriate exercise of agency authority at the present time and on the existing record. The judgment of the court of appeals upholding that decision—which is supported by separate opinions of the panel members rather than a single majority opinion and thus would provide a particularly poor vehicle for review—does not conflict with any decision of this Court or any other court of appeals. Further review is not warranted.

1. As a threshold matter, petitioners lack standing to bring their challenge. "In every federal case, the party

bringing the suit must establish standing to prosecute the action." *Elk Grove Unified Sch. Dist.* v. *Newdow*, 542 U.S. 1, 11 (2004). In addition to a showing of "injury in fact," the plaintiff must establish causation and redressability. The plaintiff must show that there is "a causal connection between the injury and the conduct complained of," so that the plaintiff's injury is "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (quoting *Simon* v. *Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41-42 (1976)). The plaintiff must also show that it is "'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.'" *Id.* at 561 (also quoting *Simon*).

Petitioners in this case failed to establish either causation or redressability. As Judge Tatel explained, the relevant particularized injury asserted in the declarations submitted by petitioners was that of the Commonwealth of Massachusetts, which asserted that greenhouse gas emissions would lead to global warming, which would cause rising sea levels, which in turn "would lead both to permanent loss of coastal land and to more frequent and severe storm surge flooding events along the coast." Pet. App. A27 (internal quotation marks omitted). Thus, to establish causation and redressability, petitioners had to do more than show that global warming, generally, would cause the alleged injury. Rather, they had to show that the subject of their rulemaking petition—greenhouse gas emissions from new motor vehicles in the United States—would, at least to a material extent, cause them the alleged injury.[3] In addi-

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[3] Under Section 202(a)(1), EPA may regulate only new motor vehicles and cannot impose controls on existing vehicles. Therefore,

tion, they had to show that a successful resolution of this case—a decision by EPA to impose emission standards on such new motor vehicles—would, to a material extent, redress that injury.

The declarations that petitioners submitted are insufficient to make those showings. Judge Tatel cited, as the best evidence of causation, a declaration asserting that global warming, chiefly triggered by anthropogenic greenhouse gas emissions, was increasing the sea level, with "the U.S. transportation sector (mainly automobiles) . . . responsible for about 7% of global fossil fuel emissions." Pet. App. A28 (citation omitted). Similarly, with respect to redressability, Judge Tatel cited a declaration asserting that "[a]chievable reductions in emissions of [carbon dioxide] and other [greenhouse gases] from U.S. motor vehicles would . . . delay and moderate many of the adverse impacts of global warming." *Id.* at A28-A29.

In light of the speculative nature of petitioner's theories, petitioners failed to establish that the injuries they allege from global warming are traceable to greenhouse gas emissions from new vehicles in the United States—rather than to greenhouse gas emissions from other sources in the United States, greenhouse gas emissions from vehicles or other sources elsewhere in the world, or entirely different factors—and that a decision to require regulation of emissions of greenhouse gases from new motor vehicles in the United States would redress their injuries. Petitioners allege only an indirect injury from vehicular emissions of greenhouse gases in the United States; they assert that such emissions will cause global warming, which in turn will cause sea levels to rise, which in turn will, in the case of

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petitioners have the burden of showing that regulation of new motor vehicles would provide redress for their alleged injury.

Massachusetts, damage its coastal property. As this Court has explained, "indirectness of injury, while not necessarily fatal to standing, may make it substantially more difficult * * * to establish that * * * the asserted injury was the consequence of the defendants' actions, or that prospective relief will remove the harm." *Simon*, 426 U.S. at 44-45 (internal quotation marks and citation omitted). In this case, as in *Simon*, "[s]peculative inferences are necessary to connect [petitioners'] injury to the challenged actions," *id.* at 45, and a "federal court, properly cognizant of the Art. III limitation upon its jurisdiction, must require more than [petitioners] have shown before proceeding to the merits." *Id.* at 46.

Indeed, petitioners' standing allegations rest on speculation at two levels. First, petitioners' standing argument depends on their claim that greenhouse gases emitted by new motor vehicles in the United States *alone* are sufficient to cause, at least in material part, the injuries that they allege will occur from global warming. Petitioners' declarations, however, address the alleged causation of global warming by greenhouse gases emitted from many different sources and from many different countries throughout the world. Their declarations do not establish that the subject matter of this case—emissions of greenhouse gases by new motor vehicles in the United States—causes or meaningfully contributes to their injuries.

Second, petitioners' standing argument depends on the proposition that EPA, if it adopted standards to limit emissions of greenhouse gases from new vehicles in the United States, could limit such emissions sufficiently to have an appreciable effect on global warming and, ultimately, on the degree of injury petitioners allegedly would suffer. Petitioners' declarations do not establish that a mere reduction in greenhouse gas emissions from new vehicles in the United

States would be sufficient to eliminate or meaningfully reduce the harm that they allege they will suffer from global warming. Indeed, EPA concluded that it would not "be either *effective* or appropriate for EPA to establish [greenhouse gas] standards for motor vehicles at this time." Pet. App. A82 (emphasis added).

In concluding that petitioners had shown causation and redressability, Judge Tatel relied principally on the statement in one declaration that "[a]chievable reductions in emissions of [carbon dioxide] and other greenhouse gases from U.S. motor vehicles would . . . delay and moderate many of the adverse impacts of global warming." Pet. App. A28-A29. That conclusory statement was taken from the declarant's summary of his findings, but the balance of the declaration did not address the question of whether, or the extent to which, reductions in greenhouse gas emissions *from new motor vehicles in this country alone* would "delay and moderate" the injuries alleged by petitioners. To the contrary, the declarant's conclusion that EPA regulation of automobile emissions would redress the alleged harm appears to be based on his claim that, if EPA acts, then foreign governments will eventually take similar steps. See Pet. C.A. Standing App. 220 (para. 32) ("If the U.S. takes steps to reduce motor vehicle emissions, other countries are very likely to take similar actions regarding their own motor vehicles using technology developed in response to the U.S. program."). According to the declarant, "[w]ith such efforts, accompanied by progress in limiting other emissions, it would be much more likely that the extent of climate change could ultimately be limited to levels that would avoid the most serious impacts of global warming." *Ibid.*[4]

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[4] Judge Tatel also relied on another declaration that made essentially the same point. See Pet. App. A29 (quoting statement in declaration

In short, petitioners' theory is that redress of their alleged injuries would result only from a chain of causation beginning with EPA regulation, which would cause advances in technology, which would cause decisions by other countries similarly to limit vehicle emissions, which would cause an effect on global climate, and which would finally result in a redress of petitioners' alleged injuries. Such a chain of causation, involving coordinated actions by entirely independent third-party governments around the world, is far too speculative to support standing. See *ASARCO Inc.* v. *Kadish*, 490 U.S. 605, 615 (1989) (Opinion of Kennedy, J.) (plaintiffs could not establish standing because whether their "claims of economic injury would be redressed by a favorable decision in this case depends on the unfettered choices made by independent actors * * * whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict"); *Allen* v. *Wright*, 468 U.S. 737, 759 (1984) ("chain of causation" is "far too weak for the chain as a whole to sustain * * * standing," where it depended on actions of "numerous third parties" making "independent decisions").

In short, petitioners have failed to make the necessary showings of causation and redressability. The problem is not that there is a factual dispute raised by the declarations submitted by petitioners. Rather, the problem is that petitioners have failed adequately to present proof of causation and redressability, and therefore that they lack standing to bring this challenge.

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that "establishing emissions standards for pollutants that contribute to global warming would lead to investment in developing improved technologies to reduce those emissions from motor vehicles, and * * * successful technologies would gradually be mandated by other countries around the world").