

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

COMPETITIVE ENTERPRISE
INSTITUTE, ANTHONY
KREUCHER, WALTER M.
KREUCHER, JAMES LEEDY,
and MARC SCRIBNER,

Petitioners,

v.

NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION;
JAMES C. OWENS, in his official
capacity as Acting Administrator,
National Highway Traffic Safety
Administration; ENVIRONMENTAL
PROTECTION AGENCY; ANDREW
R. WHEELER, in his official
capacity as Administrator of the
Environmental Protection Agency

Respondents.

No. 20-1145 and
consolidated cases

STATEMENT OF ISSUES TO BE RAISED

Petitioners intend to raise the following issues regarding whether the respondent agencies' Final Rule, set forth at 85 FR 24174 (April 30, 2020), complies with the Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, the

Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the Administrative Procedure Act, 5 U.S.C. 706.

1. Whether, in issuing their Final Rule, the respondent agencies arbitrarily and capriciously, and without substantial evidence, relied on excessive estimates of vehicle emission health costs and thereby failed to adequately consider less stringent alternatives to the Final Rule.
2. Whether, in issuing their Final Rule, the agencies arbitrarily and capriciously underestimated its effect in restricting vehicle size and weight, and in increasing vehicle prices, causing negative impacts on vehicle safety. This is especially true given the possibility of continuing low fuel prices, which would make the Rule more stringent in practice than the agencies claimed.
3. Whether the agencies arbitrarily and capriciously failed to adequately consider less stringent alternatives to the Rule.

Dated: June 22, 2020

Respectfully submitted,

/s/ Devin Watkins

Devin Watkins, D.C. Circuit #60334

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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically filed June 22, 2020 with the Clerk of Court using the CM/ECF system, which will send a notification to the attorneys of record in this matter who are registered with the CM/ECF system.

/s/ Devin Watkins

Devin Watkins