

**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

Sam Kazman

COMPETITIVE ENTERPRISE INSTITUTE

1310 L Street NW, 7th Floor

Washington, DC 20005

Phone: 202-331-1010

[devin.watkins@cei.org](mailto:devin.watkins@cei.org)

[sam.kazman@cei.org](mailto:sam.kazman@cei.org)

*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