

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

STATES OF TEXAS, ARKANSAS,)
INDIANA, KENTUCKY,)
LOUISIANA, MISSISSIPPI,)
MONTANA, NEBRASKA, OHIO,)
SOUTH CAROLINA, and UTAH,)

Petitioners)

v.)

NATIONAL HIGHWAY)
TRAFFIC SAFETY)
ADMINISTRATION; STEVEN)
CLIFF, in his official capacity as)
Administrator of the National)
Highway Traffic Safety Administration;)
U.S. DEPARTMENT OF)
TRANSPORTATION; and PETE)
BUTTIGIEG, in his official capacity as)
Secretary of the U.S. Department of)
Transportation,)

Respondents.)

No. 22-1144

(Consolidated with 22-1080
and 22-1145)

STATEMENT OF ISSUES TO BE RAISED

Petitioners the States of Texas, Arkansas, Indiana, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Ohio, South Carolina, and Utah intend to raise the following issues regarding whether Respondents' Final Rule, set forth at 87 Fed. Reg. 25,710 (May 2, 2022), complies with requirements of 49 U.S.C. § 39202, the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*, the Administrative

Procedure Act, 5 U.S.C. § 701, *et seq.*, and the Energy Independence and Security Act, 42 U.S.C. § 17001 *et seq.* Specifically:

1. Whether the Final Rule violates 49 U.S.C. § 39202(h) by considering electric and other zero-emission vehicles in setting maximum feasible average fuel economy standards.
2. Whether the Final Rule violates the equal sovereignty doctrine by considering California's mandates and agreements regarding electric and other zero-emission vehicles.
3. Whether the Final Rule undermines the Congressional intent and mandates found in the National Environmental Policy Act by failing to adequately consider the environmental impacts of increased electrification of motor vehicles.
4. Whether the Final Rule conflicts with the Energy Independence and Security Act's energy security mandate, by considering electric vehicles that are dependent on foreign countries for rare earth minerals and battery components, and by disregarding Congress's instruction that renewable liquid fuels be used to achieve energy security.
5. Whether the Final Rule is arbitrary and capricious by relying on inputs from the Interagency Working Group on the Social Cost of Greenhouse Gases.

6. Whether the Final Rule is arbitrary and capricious by considering California's mandates and agreements regarding electric and other zero-emission vehicles.
7. Whether the Final Rule is arbitrary and capricious for failing to consider security implications in the emerging electric vehicle global supply chain.

Respectfully Submitted.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was electronically filed August 1, 2022 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/ Ryan S. Baasch _____

RYAN S. BAASCH