

---

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

---

UNION OF CONCERNED SCIENTISTS et al.,

*Petitioners,*

v.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,

*Respondent,*

ASSOCIATION OF GLOBAL AUTOMAKERS, INC., et al.,

*Intervenors for Respondent,*

STATE OF OHIO et al.,

*Movant-Intervenors for Respondent,*

---

**STATEMENT OF ISSUES TO BE RAISED**

---

Petitioners in Case No. 19-1230 (Union of Concerned Scientists et al.) submit the following non-binding statement of issues:

1. Whether this Court has statutory subject-matter jurisdiction over this petition per 49 U.S.C. § 32909(a)(1), or whether—as petitioners contend—jurisdiction to review the challenged action of the National Highway Traffic Safety Administration (NHTSA) lies in the United States District Court for the District of Columbia.

2. Whether NHTSA exceeded its authority and acted *ultra vires* by issuing regulations respecting preemption under the Energy Policy and Conservation Act of 1975.

3. Whether NHTSA's issuance of preemption regulations was, in numerous respects, arbitrary and capricious; an abuse of discretion; contrary to record evidence; and otherwise not in accordance with laws including the Administrative Procedure Act, Clean Air Act, Energy Independence and Security Act of 2007, and Energy Policy and Conservation Act of 1975.

4. Whether NHTSA unlawfully issued regulations without observance of procedures mandated by the Energy Policy and Conservation Act of 1975 and the National Environmental Policy Act.

Respectfully submitted,

/s/ Matthew Littleton

Matthew Littleton

DONAHUE, GOLDBERG,

WEAVER & LITTLETON

1008 Pennsylvania Avenue SE

Washington, DC 20003

(202) 683-6895

matt@donahuegoldberg.com

Dated: December 26, 2019