

17-1229

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

IN RE KIDS AND CARS, INC., and CENTER FOR AUTO SAFETY,

Petitioners,

v.

ELAINE L. CHAO, SECRETARY OF TRANSPORTATION;
UNITED STATES DEPARTMENT OF TRANSPORTATION,

Respondents.

**RESPONSE IN OPPOSITION TO
PETITION FOR A WRIT OF MANDAMUS**

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INTRODUCTION AND SUMMARY

In the Moving Ahead for Progress in the 21st Century Act of 2012, Pub. L. No. 112-141 (2012) (MAP-21 Act or Act), Congress directed the Department of Transportation to engage in an array of rulemakings with respect to a variety of motor vehicle safety issues. The particular safety standard at issue here, addressed in Section 31503 of the Act, involves a reminder system for rear seat belt use.

Petitioners seek a writ of mandamus requiring the Department of Transportation “to immediately publish in the Federal Register a proposed safety standard requiring rear seat belt reminders, and, within one year from the date of the proposed rule, issue a final standard.” Pet. 26. The petition should be denied. Mandamus is “an extraordinary remedy, reserved only for the most transparent violations of a clear duty to act.” *American Hosp. Ass’n v. Price*, 867 F.3d 160, 165 (D.C. Cir. 2017). The Department of Transportation is not under a duty to issue a proposed rule immediately, nor is there any legal requirement to issue a final standard within a year of a proposed rule.

The petition rests on a series of incorrect premises. First, the MAP-21 Act does not mandate a rear seat belt reminder requirement. The Department may not impose such a standard unless the Department determines that the standard meets the requirements of the National Traffic and Motor Vehicle Safety Act of 1966, now codified at 49 U.S.C. § 30111. Section 31503 of the MAP-21 Act directs the

Department to notify Congress if the Department determines that the requirements of 49 U.S.C. § 30111(a) and (b) are not met. In making that determination, the Department must determine whether it can prescribe a standard that is “practicable, meet[s] the need for motor vehicle safety, and [is] stated in objective terms.” 49 U.S.C. § 30111(a). It must “consider relevant available motor vehicle safety information” and determine “whether a proposed standard is reasonable, practicable, and appropriate” and the extent to which it will carry out the purposes of the National Traffic and Motor Vehicle Safety Act. 49 U.S.C. § 30111((b); *see also Motor Vehicle Mfrs. Ass’n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 33-34 (1983) (*State Farm*).

Second, the MAP-21 Act did not establish a deadline for publishing a proposed rule with respect to a rear seat belt reminder standard. Although Congress has set deadlines for publishing other proposed rules,¹ Section 31503(a) simply directed the Department to “initiate” a rulemaking proceeding within two years of the Act’s passage. In accordance with that provision, the Department initiated a rulemaking proceeding by early 2013, when it submitted for public

¹ *See, e.g.*, Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Pub. L. No. 106-414, § 14(g) (“No later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints.”) (emphasis added).

comment a proposal to undertake a study regarding the effectiveness of existing rear seat belt reminder systems. *See* 78 Fed. Reg. 5865 (Jan. 28, 2013). That study commenced after it was approved by the Office of Management and Budget (“OMB”) in March 2014. *See* Notice of OMB Action No. 2127-0696 (March 27, 2014) (Add. 23).

Third, Sections 31503 and 31505 of the MAP-21 Act explicitly authorized the Department of Transportation to extend the initial three-year deadline for issuing a final rule, and the Department has repeatedly announced extensions of the target date for a notice of proposed rulemaking (NPRM). For example, in the spring of 2015, the Department projected that an NPRM would issue in December 2015, *see* Add. 1,² and in the fall of 2015, the Department projected that an NPRM would issue in October 2016, *see* Add. 2.³ Recently, the Department published a detailed schedule that includes the dates on which it expects to submit an NPRM to OMB (July 2018) and the NPRM’s anticipated publication date (October 2018). *See* Add. 4.⁴ And the Department has referred the relevant congressional committees to its publicly available regulatory agenda. *See, e.g.*, Add. 5 (Jan. 9,

²<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201504&RIN=2127-AL37>

³<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201510&RIN=2127-AL37>

⁴<https://www.transportation.gov/regulations/report-on-significant-rulemakings>

2018 letter to the Honorable Greg Walden, Chair of the House Committee on Energy and Commerce).

In short, there is no legal basis to direct the Department of Transportation to issue an NPRM immediately or to issue a final rule within a year of the NPRM.

Pet. 26. Furthermore, petitioners fail to demonstrate standing under the principles applicable in an “increased-risk-of-harm” case. *See, e.g., Food & Water Watch v. Vilsack*, 808 F.3d 905, 915 (D.C. Cir. 2015); *Public Citizen, Inc. v. National Highway Traffic Safety Admin.*, 489 F.3d 1279, 1289 (D.C. Cir. 2007) (*Public Citizen I*).

STATEMENT

A. Statutory Background

1. The National Traffic and Motor Vehicle Safety Act of 1966 directs the Secretary of Transportation to issue motor vehicle safety standards that “shall be practicable, shall meet the need for motor vehicle safety, and shall be stated in objective terms.” *State Farm*, 463 U.S. at 33; *see* 49 U.S.C. § 30111(a). “In issuing these standards, the Secretary is directed to consider ‘relevant available motor vehicle safety data,’ whether the proposed standard ‘is reasonable, practicable and appropriate’ for the particular type of motor vehicle, and the ‘extent to which such standards will contribute to carrying out the purposes’ of the Act.” *State Farm*, 463 U.S. at 33-34; *see* 49 U.S.C. § 30111(b).

2. In 2012, Congress enacted the MAP-21 Act, which directed the Department of Transportation to undertake a large number of rulemakings pertaining to motor vehicle safety. For example, Section 31501 of the MAP-21 Act directed the Department to issue regulations to improve child restraint systems during side impact crashes, and Section 32703 directed the Department to issue various regulations to improve bus safety, including regulations that require seat belts, improve roof strength, and reduce rollover crashes. Other provisions of the MAP-21 Act impose additional rulemaking directives.⁵ Many of these rulemaking directives included statutory deadlines,⁶ but, as discussed below, the MAP-21 Act

⁵ See, e.g., MAP-21 Act § 31205(b) (directing the Department to prescribe regulations regarding electronic disclosures of odometer information); *id.* § 31306 (directing the Department to prescribe regulations that require passenger motor vehicle manufacturers to inform consumers of information related to vehicle defect reporting); *id.* § 31501(b) (directing the Department to issue regulations regarding rear seats in crash simulations); *id.* § 31502 (directing the Department to issue regulations to improve the anchorages for child restraint systems); *id.* § 31601(b) (directing the Department to issue regulations to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road); *id.* § 32703(b)(2) (directing the Department to issue regulations addressing anti-ejection safety countermeasures for motorcoaches); *id.* § 32703(c) (directing the Department to issue regulations regarding motorcoach tire pressure); *id.* § 32705 (directing the Department to issue regulations regarding motorcoach interior impact protection, compartmentalization safety countermeasures, and collision avoidance systems).

⁶ See, e.g., MAP-21 Act § 1111 (three-year deadline to update tunnel inspection standards); *id.* § 1203 (18-month deadline to promulgate a rulemaking regarding performance measures for Federal-aid highway program); *id.* § 20019 (one-year deadline to issue final rule regarding transit asset management system); *id.* § 31203 (directing Secretary to issue final rule regarding civil penalties within 1

made such deadlines extendable at the discretion of the Secretary, *see* MAP-21 Act § 31505.

As directly relevant here, Section 31503 of the MAP-21 Act concerns a potential amendment to an existing safety standard, Standard Number 208, which includes requirements that certain vehicles be equipped with a warning system that alerts drivers when the seat belt is not buckled for the driver seat. There is currently no similar requirement for passenger and rear seats. Section 31503(a) instructed the Secretary to “initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.” Section 31503(b) qualified that directive, providing that “[i]f the Secretary determines that an amendment to [Standard 208] does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49”—*i.e.*, the National Traffic and Motor Vehicle Safety Act—“the Secretary shall submit a report describing the reasons for not prescribing such a standard” to specified congressional committees. The Act thus instructs the Department to issue a new standard for rear seat belt reminders, but only if the Department determines that such a rule would meet the requirements applicable to

year); *id.* § 31601 (two-year deadline to promulgate rule to improve visibility of agricultural equipment operated on public roads).

all safety standards, including the requirements that the standard be “practicable” and “meet the need for motor vehicle safety.” 49 U.S.C. § 30111(a). The Department must “consider ‘relevant available motor vehicle safety data,’ whether the proposed standard ‘is reasonable, practicable and appropriate’ for the particular type of motor vehicle, and the ‘extent to which such standards will contribute to carrying out the purposes’ of the Act.” *State Farm*, 463 U.S. at 33-34 (quoting 49 U.S.C. § 30111(b)).

Section 31503 of the MAP-21 Act directed the Secretary to initiate the rulemaking proceeding within two years of the Act’s passage and to issue a final rule within three years, but the MAP-21 Act expressly granted the Secretary discretion to extend the Act’s rulemaking deadlines. Section 31505 provides that “[i]f the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—(1) provide [specified congressional committees] with an explanation for why such deadline cannot be met; and (2) establish a new deadline for that rule.”⁷

In 2015, Congress enacted the Fixing America’s Surface Transportation Act, Pub. L. No. 114-94 (2015) (FAST Act), which directed the Secretary to undertake

⁷ The Department’s projected schedule for this rulemaking is publicly accessible in its October 2017 Report on Significant Rulemakings (Add. 4), available at <https://www.transportation.gov/regulations/report-on-significant-rulemakings> (first link under “Access to the Report”) (last visited Feb. 2, 2018).

a large number of rulemakings on top of those contained in the MAP-21 Act.⁸

Congress also instructed the Department to provide periodic updates regarding the status of its rulemakings on the Department's website and to the relevant congressional committees. *See* FAST Act § 24401 (Required Reporting of NHTSA Agenda).

B. Rulemaking Proceedings

The Department initiated the rulemaking proceeding at issue here shortly after the MAP-21 Act went into effect by preparing a proposal to undertake a study that would assess the effectiveness and consumer acceptance of rear seat belt reminder systems currently in the market. It that released that study for public

⁸ *See, e.g.*, FAST Act § 24104 (directing the Department to issue regulations to improve notification of recalls); *id.* § 24112 (directing the Department to issue regulations regarding corporate responsibility for NHTSA reports); *id.* § 24115 (directing the Department to issue regulations regarding tire pressure monitoring systems); *id.* § 24303 (directing the Department to issue regulations regarding crash data recorders); *id.* § 24322 (directing the Department to issue regulations regarding disclosure of crash avoidance information); *id.* § 24322 (directing the Department to issue regulations regarding tire fuel efficiency and tire wet traction capability); *id.* § 24333 (directing the Department to issue regulations regarding record-keeping by certain tire dealers and distributors); *id.* § 24352 (directing the Department to issue regulations regarding motor vehicle safety whistleblower incentives and protections); *id.* § 24403 (directing the Department to issue regulations regarding safety record retention by motor vehicle manufacturers); *id.* § 24405 (directing the Department to issue regulations regarding the treatment of low-volume manufacturers).

comment in early 2013.⁹ *See* 78 Fed. Reg. 5865 (Jan. 28, 2013) (soliciting comments on proposed study)¹⁰; 78 Fed. Reg. 40823 (July 8, 2013) (announcing that study would be submitted for OMB approval).¹¹ The study commenced after OMB granted approval in March 2014. *See* Notice of OMB Action No. 2127-0696 (March 27, 2014) (Add. 23).¹²

In early 2015, the Department determined that the costs associated with a new rear safety belt reminder standard rendered the rulemaking “major” and “economically significant.” *See* Spring 2015 Agenda (Add. 1).¹³ The Department provided a target date of December 2015 for issuance of a proposed rule. *See id.* In the fall of 2015, the Department published preliminary estimates of the anticipated costs and benefits of a reminder standard for rear and front passenger seats. *See* Fall 2015 Agenda (Add. 2) (estimating that a rule would cost between \$164 million and \$325 million and result in the equivalent of 43.7 to 65.4 lives

⁹ The Department also obtained a Regulation Identification Number and published information regarding the rulemaking in the Fall 2013 Unified Agenda. <https://reginfo.gov/public/do/eAgendaViewRule?pubId=201310&RIN=2127-AL37>.

¹⁰ <https://www.federalregister.gov/documents/2013/01/28/2013-01715/reports-forms-and-recordkeeping-requirements>

¹¹ <https://www.federalregister.gov/documents/2013/07/08/2013-16268/reports-forms-and-record-keeping-requirements>

¹² https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201307-2127-004

¹³ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201504&RIN=2127-AL37>

saved).¹⁴ The Department also described alternative rules that it was considering and indicated that its new target date for issuing a notice of proposed rulemaking was October 2016. *Id.* In October 2017, the Department published a detailed schedule that includes the dates on which it expects to submit an NPRM to OMB and the NPRM's anticipated publication date. *See* Department of Transportation, October 2017 Report on Significant Rulemakings (Add. 4).¹⁵ That report projected the following schedule for the ongoing rulemaking process:

Milestone	New Projected Date
To Office of the Secretary of Transportation	06/21/2018
To OMB	07/26/2018
OMB Clearance	10/25/2018
Publication Date	10/30/2018
End of Comment Period	12/29/2018

See id. The Department has also referred the relevant congressional committees to its publicly available regulatory agenda. *See, e.g.*, Add. 6 (Jan. 9, 2018 letter to the Honorable Greg Walden, Chair of the House Committee on Energy and Commerce); Add. 18 (Jan. 9, 2018 letter to the Honorable John Thune, Chair of the

¹⁴<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201510&RIN=2127-AL37>

¹⁵<https://www.transportation.gov/regulations/report-on-significant-rulemakings>

Senate Committee on Commerce, Science, and Transportation); *see generally* Add. 5-23.

ARGUMENT

A. There Is No Basis For A Writ Of Mandamus

Petitioners seek a writ of mandamus that would direct the Department of Transportation “to immediately publish in the Federal Register a proposed safety standard requiring rear seat belt reminders, and, within one year from the date of the proposed rule, issue a final standard.” Pet. 26. The petition should be denied. Mandamus is “limited to enforcement of a specific, unequivocal command,” “the ordering of a precise, definite act . . . about which [an official] had no discretion whatever.” *Norton v. Southern Utah Wilderness All.*, 542 U.S. 55, 63 (2004) (quotation marks omitted; alterations in original). The Department of Transportation is not under a legal duty to issue a proposed safety standard immediately or to issue a final standard at all. On the contrary, the Department may not issue a safety rear seat belt reminder standard unless it determines that such a standard meets the requirements of the National Traffic and Motor Vehicle Safety Act. And the MAP-21 Act expressly authorizes the Department to extend its rulemaking deadlines, which the Department has done.

The central premise of the mandamus petition is that “[t]he standard at issue” here “has already been mandated by Congress.” Pet. 1. That is incorrect.

The MAP-21 Act did not relieve the Department of Transportation of its usual responsibility to determine whether a motor vehicle safety standard comports with the requirements of the National Traffic and Motor Vehicle Safety Act. Instead, Section 31503(b) directs the Secretary to inform Congress if the Secretary determines that a rear seat belt reminder standard would not meet the requirements and considerations set forth in 49 U.S.C. § 30111(a) and (b), including the overarching requirements that safety standards be “practicable, meet the need for motor vehicle safety, and be stated in objective terms,” 49 U.S.C. § 30111(a). In making that determination, the Secretary must “consider ‘relevant available motor vehicle safety data,’ whether the proposed standard ‘is reasonable, practicable and appropriate’ for the particular type of motor vehicle, and the ‘extent to which such standards will contribute to carrying out the purposes’ of the Act.” *State Farm*, 463 U.S. at 33-34; 49 U.S.C. § 30111(b).

Petitioners’ subsidiary arguments are equally wide of the mark.

Section 31503 did not direct the Department to “publish a proposed standard” by October 2014. Pet. 10 (emphasis omitted). Although Congress occasionally sets deadlines for publishing a proposed motor vehicle safety standard,¹⁶ Section 31503 simply instructed the Department to “initiate” a rulemaking by October 2014. In

¹⁶ *See, e.g.*, FAST Act § 24115(a) (“Not later than 1 year after the date of enactment of this Act, the Secretary *shall publish a proposed rule*” that updates standards pertaining to tire pressure monitoring systems.) (emphasis added).

accordance with that provision, the Department designed a study to ascertain the effectiveness and consumer perceptions of existing rear seat belt warning systems. *See* 78 Fed. Reg. 5865 (Jan. 28, 2013); 78 Fed. Reg. 40823 (July 8, 2013). As noted above, that study commenced after it received the necessary OMB approval in March 2014. Studies of this kind play a significant role in the determinations that the Department must make under the National Traffic and Motor Vehicle Safety Act. Indeed, when the Department first mandated front seat belt warnings, *see* 37 Fed. Reg. 3911 (Feb. 24, 1972), consumer reaction was so negative that Congress prohibited the Department from requiring any seat belt warning system that buzzed for longer than 8 seconds, *see* Motor Vehicle and School Bus Safety Amendments of 1974, Pub. L. No. 93-492, § 109, 88 Stat. 1482 (since repealed).

Nor did the MAP-21 Act set firm deadlines for its various rulemaking directives. As petitioners acknowledge (at 9), Section 31505 explicitly grants the Department the authority to extend the MAP-21 Act's deadlines "[i]f the Secretary determines that any deadline for issuing a final rule under this Act cannot be met."¹⁷ Under these circumstances, petitioners' reliance on the factors set out in in

¹⁷ Section 31505, entitled "NEW DEADLINE," provides:
If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—
(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy

Telecommunications Research & Action Center v. FCC, 750 F.2d 70 (D.C. Cir. 1984) (*TRAC*), is wholly misplaced. Petitioners cite no case that applied the *TRAC* factors in the face of an express grant of authority to an agency to extend the deadline for agency action. Congress did not authorize courts to decide whether MAP-21 Act deadlines should be extended; Congress authorized the Secretary to extend those deadlines “[i]f the Secretary determines” that a deadline cannot be met. MAP-21 Act § 31505. Congress thus committed that determination to the Secretary’s discretion. This Court has recognized that it cannot “interfere with the normal progression of agency proceedings” except as necessary “to correct *transparent violations of a clear duty to act.*” *In re Aiken County*, 645 F.3d 428, 436 (D.C. Cir. 2011) (discussing *TRAC*).

Moreover, even when a statute establishes a firm deadline, this Court has recognized that mandamus should not issue if the effect would be to accelerate one agency action at the expense of competing projects. *See In re Barr Laboratories, Inc.*, 930 F.2d 72, 75-76 (D.C. Cir. 1991); *see also In re Cheney*, 406 F.3d 723, 729 (D.C. Cir. 2005) (en banc) (“[E]ven if the plaintiff overcomes all these hurdles, whether mandamus relief should issue is discretionary.”). A court has “no basis for reordering agency priorities.” *Barr Laboratories*, 930 F.2d at 76. “The

and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and
(2) establish a new deadline for that rule.

agency is in a unique—and authoritative—position to view its projects as a whole, estimate the prospects for each, and allocate its resources in the optimal way.” *Id.* As discussed above, in both the MAP-21 Act and the subsequently enacted FAST Act, Congress enacted a large number of rulemaking directives pertaining to motor vehicle safety, many of which included deadlines. *See supra* pp. 5-7 & nn. 5-6, 8. Although petitioners assert that “there simply is no higher priority for DOT” than the rear seat belt reminder standard, Pet. 17, they make no attempt to reconcile that assertion with the multitude of rulemaking provisions in the MAP-21 and FAST Acts.

Accordingly, there is no basis for the relief sought in the petition, which asks this Court to order the Department to issue an NPRM immediately and to issue a final rule within a year. Petitioners rightly do not ask this Court to supervise the Department’s communications with Congress regarding the status of the rulemakings contemplated by the MAP-21 and FAST Acts. It is well settled that Executive Branch responses to congressional reporting requirements are not subject to judicial review. *Natural Res. Def. Council, Inc. v. Hodel*, 865 F.2d 288, 318-19 (D.C. Cir. 1988). As this Court emphasized, the adequacy of agency reports to Congress is “a judgment peculiarly for Congress to make” and “quintessentially within the province of the political branches to resolve as part of their ongoing relationships.” *Id.*

B. Petitioners Fail To Demonstrate Standing

Petitioners also fail to demonstrate standing under the principles that this Court applies in “increased-risk-of-harm” cases. This Court has held that when, as here, a claim of injury is premised on a risk of future harm, the Article III requirement of an “injury-in-fact” that is “actual” or “imminent” is met only when the challenged action is “at least *both* (i) a *substantially* increased risk of harm and (ii) a *substantial* probability of harm with that increase taken into account.” *Public Citizen, Inc. v. National Highway Traffic Safety Admin.*, 489 F.3d 1279, 1292 (D.C. Cir. 2007); *see also Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2341 (2014) (“An allegation of future injury may suffice if the threatened injury is ‘certainly impending,’ or there is a ‘substantial risk’ that the harm will occur.”) (quoting *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409, 415 n. 5 (2013)).

Petitioners rely on *Public Citizen* for the uncontroversial proposition that “[i]njuries from car accidents” are “concrete harms.” Pet. 21 (quoting *Public Citizen*, 489 F.3d at 1292). But they fail to address the central holding of that case, which ruled that organizational plaintiffs may not aggregate multiple “remote and speculative” claims, but must instead demonstrate that individual claimants face a risk that is both “substantial” and “substantially increased” by the challenged action. *Public Citizen*, 489 F.3d at 1294-95. This Court reasoned that “[m]uch government regulation slightly increases a citizen’s risk of injury—or

insufficiently decreases the risk compared to what some citizens might prefer.” *Id.* at 1295. If mere changes in the “probabilistic” likelihood of injury were sufficient to confer standing, it would follow that “after an agency takes virtually *any* action, virtually *any* citizen—because of a fractional chance of benefit from alternative action—would have standing to obtain judicial review of the agency’s course.” *Id.* This Court concluded that such a result would be incompatible with the limited role of Article III courts. *Id.*

Plaintiffs do not explain how their declarations are materially different from the evidence that this Court found insufficient to establish Article III standing in *Public Citizen*. But even assuming that petitioners’ declarations suffice to demonstrate Article III standing, they fail to show that the extraordinary writ is needed to avoid any imminent impact on their own interests.

CONCLUSION

The petition for a writ of mandamus should be denied.

Respectfully submitted,

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FEBRUARY 2018

CERTIFICATE OF COMPLIANCE

I hereby certify the attached response to the petition of mandamus complies with the requirements of Fed. R. App. P. 32(c) because the text is prepared in 14-point Times New Roman, a proportionally spaced font, and that it complies with the type-volume limitation set forth in this Court's order dated November 30, 2017, because it contains 3888 words, according to the count of Microsoft Word.

/s/ Carleen M. Zubrzycki
Carleen M. Zubrzycki

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2018, I electronically filed the foregoing response with the Clerk of this Court by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Carleen M. Zubrzycki
Carleen M. Zubrzycki

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RIN Data**DOT/NHTSA****RIN:** 2127-AL37**Publication ID:** Spring 2015**Title:** *Rear Seat Belt Reminder System

Abstract: This rulemaking would amend Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, to require automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat belt reminder system is intended to increase belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted. This rulemaking would respond in part to a petition for rulemaking submitted by Public Citizen and Advocates for Highway and Auto Safety, as well as to requirements in MAP-21.

Agency: Department of Transportation(DOT)**Priority:** Economically Significant**RIN Status:** Previously published in the Unified Agenda**Agenda Stage of Rulemaking:** Proposed Rule Stage**Major:** Yes**Unfunded Mandates:** No**EO 13771 Designation:****CFR Citation:** [49 CFR 571.208](#)**Legal Authority:** [49 U.S.C. 30101](#) delegation of authority at 49 CFR 1.95**Legal Deadline:**

Action	Source	Description	Date
NPRM	Statutory	Initiate	10/01/2014
Final	Statutory	Final Rule	10/01/2015

Timetable:

Action	Date	FR Cite
NPRM	12/00/2015	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Small Entities Affected:** No**Federalism:** No**Included in the Regulatory Plan:** No**RIN Information URL:** www.regulations.gov**Public Comment URL:** www.regulations.gov**RIN Data Printed in the FR:** No**Agency Contact:**

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RIN Data**DOT/NHTSA****RIN:** 2127-AL37**Publication ID:** Fall 2015**Title:** *Rear Seat Belt Reminder System**Abstract:**

This rulemaking would amend Federal Motor Vehicle Safety Standard No. 208, occupant crash protection, to require automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat belt reminder system is intended to increase belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted. This rulemaking would respond in part to a petition for rulemaking submitted by Public Citizen and Advocates for Highway and Auto Safety, as well as to requirements in MAP-21.

Agency: Department of Transportation(DOT)**Priority:** Economically Significant**RIN Status:** Previously published in the Unified Agenda**Agenda Stage of Rulemaking:** Proposed Rule Stage**Major:** Yes**Unfunded Mandates:** No**EO 13771 Designation:****CFR Citation:** [49 CFR 571.208](#)**Legal Authority:** [49 U.S.C. 30101](#) delegation of authority at 49 CFR 1.95**Legal Deadline:**

Action	Source	Description	Date
NPRM	Statutory	Initiate	10/01/2014
Final	Statutory	Final Rule	10/01/2015

Statement of Need:

Based on recent FARS data, there was an annual average of 1,695 rear-seat passenger vehicle occupants killed. Of these fatalities, 1,057 rear-seat occupants (62.4%) were known to be unrestrained. According to recent NASS-GES data, there was an annual average of 46,927 rear-seat occupants injured, of which 15,254 (32.5%) were unrestrained. These unrestrained occupants who were killed or injured represent the rear-seat occupant target population. There was an annual average of 3,846 front outboard passenger seat occupant fatalities in the FARS data. Of these fatalities, 1,799 occupants (46.8%) were unrestrained. In addition, according to NASS-GES data, there was an annual average of 67,948 injured occupants in front outboard seating positions in crashes. Of those front outboard seat occupants injured, 20,369 (30%) were unrestrained. These unrestrained occupants who were killed or injured in crashes represent the front outboard passenger seat occupant target population.

Summary of the Legal Basis:

MAP-21 required the Secretary to initiate a rulemaking proceeding to amend FMVSS No. 208 to provide a safety belt use warning system for designated seating positions in the rear seat.[1] It directed the Secretary to either issue a final rule, or, if the Secretary determined that such an amendment did not meet the requirements and considerations of 49 U.S.C. section 30111, to submit a report to Congress describing the reasons for not prescribing such a standard.

Alternatives:

The agency considered several alternatives, including 1) Low cost front outboard passenger system without occupant protection; 2) requiring a SBRS for the front center seat; 3) system hardening from inadvertent and intentional defeat; and 4) awarding points through NCAP for rear SBRSs.

Anticipated Costs and Benefits:

The proposed rule would result in 43.7-65.4 equivalent lives saved (ELS) and 33.7-60.6 ELS at 3% and 7% discount rates, respectively. The estimated total cost range is \$164.3 million to \$324.6 million.

Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.

Risks:

The agency believes there are no substantial risks to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	10/00/2016	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Small Entities Affected:** No**Federalism:** No**Included in the Regulatory Plan:** Yes**RIN Information URL:** www.regulations.gov**Public Comment URL:** www.regulations.gov**RIN Data Printed in the FR:** No**Agency Contact:**

Carla Rush
 Safety Standards Engineer
 Department of Transportation
 National Highway Traffic Safety Administration
 1200 New Jersey Avenue, SE,
 Washington, DC 20590

Add. 2

Phone: 202 366-4583
Email: carla.rush@dot.gov

National Highway Traffic Safety Administration

58. **Rear Seat Belt Reminder System** Black

Popular Title: Rear Seat Belt Reminder System

RIN 2127-AL37

Stage: NPRM

Previous Stage:None

Abstract: This rulemaking would amend Federal Motor Vehicle Safety Standard No. 208, "Occupant crash protection," to require automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat belt reminder system is intended to increase seat belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted. This rulemaking would respond in part to a petition for rulemaking submitted by Public Citizen and Advocates for Highway and Auto Safety, as well as to requirements in MAP-21.

Effects:

Economically Significant
Major

Prompting action: Statute

Legal Deadline: Initiate : 10/01/2014
Final Rule : 10/01/2015

Rulemaking Project Initiated: 07/06/2012

Docket Number:

Dates for NPRM:

Milestone	Originally Scheduled Date	New Projected Date	Actual Date
To OST	11/22/2015	06/21/2018	
To OMB	12/27/2015	07/26/2018	
OMB Clearance	03/26/2016	10/25/2018	
Publication Date	03/31/2016	10/30/2018	
End of Comment Period	05/31/2016	12/29/2018	

Explanation for any delay: Additional coordination necessary

Federal Register Citation for NPRM: None



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 9, 2018

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely yours,



Heidi R. King
Deputy Administrator



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Heidi R. King
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Please note that the OMB number and expiration date may not have been determined when this Information Collection Request and associated Information Collection forms were submitted to OMB. The approved OMB number and expiration date may be found by clicking on the Notice of Action link below.

View ICR - OIRA Conclusion

OMB Control No: 2127-0696

Status: Historical Active

Agency/Subagency: DOT/NHTSA

Title: National Survey of Principal Drivers of Vehicles with a Rear Seat Belt Reminder System

Type of Information Collection: New collection (Request for a new OMB Control Number)

Type of Review Request: Regular

OIRA Conclusion Action: Approved with change

[Retrieve Notice of Action \(NOA\)](#)

Terms of Clearance:

ICR Reference No: 201307-2127-004

Previous ICR Reference No:

Agency Tracking No:

Common Form ICR: No

Conclusion Date: 03/27/2014

Date Received in OIRA: 08/15/2013

	Inventory as of this Action	Requested	Previously Approved
Expiration Date	03/31/2017	36 Months From Approved	
Responses	2,500	2,500	0
Time Burden (Hours)	667	625	0
Cost Burden (Dollars)	0	0	0

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