

No.

26-314

ORIGINAL

In the
Supreme Court of the United States

FILED

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SUPREME COURT, U.S.

ALBERT EKLADYOUS,

Petitioner,

v.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
AND THE
UNITED STATES DEPARTMENT OF TRANSPORTATION,

Respondents.

On Petition for a Writ of Certiorari to the United States
Court of Appeals for the District of Columbia Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a court of appeals may dismiss as untimely under 49 U.S.C. § 30161(a) a petition for review alleging that an agency has failed to perform a discrete, mandatory statutory duty, by treating the claim as a challenge to a completed rule under 5 U.S.C. § 706(2) rather than as a claim of agency action unlawfully withheld under 5 U.S.C. § 706(1).

2. Whether a claim that an agency has not adopted the performance standard Congress made part of a statutory definition—here, the SAE International Standard J3069 requirements incorporated in IIJA § 24212(a)(1)—states a reviewable claim of agency action unlawfully withheld under 5 U.S.C. § 706(1), where the agency has issued a rule that expressly departs from that standard.

PARTIES TO THE PROCEEDINGS

Petitioner and Petitioner below

- Albert Ekladyous, appearing pro se.

Respondents and Respondents below

- National Highway Traffic Safety Administration (NHTSA)
- United States Department of Transportation (DOT).

CORPORATE DISCLOSURE STATEMENT

Petitioner Albert Ekladyous is an individual proceeding pro se and is not a corporation. Accordingly, no corporate disclosure statement is required under Supreme Court Rule 29.6.

LIST OF PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Supreme Court Rule 14.1(b)(iii):

U.S. Court of Appeals for the D.C. Circuit

No. 26-1004

Ekladyous, *Petitioner v.* National Highway Traffic
Safety Administration, et al., *Respondents*

Per Curiam Order: May 14, 2026

Order denying rehearing: July 23, 2026

Note: There were no district court proceedings preceding this action in the D.C. Circuit.

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GLOSSARY

Term	Definition
ADB	Adaptive Driving Beam
APA	Administrative Procedure Act
App.	Appendix
Fed. Reg.	Federal Register
FMVSS	Federal Motor Vehicle Safety Standard
IIJA	Infrastructure Investment and Jobs Act (2021)
NHTSA	National Highway Traffic Safety Administration ("Agency")
p. / pp.	Page / Pages
Pub. L.	Public Law
SAE	SAE International
Safety Act	National Traffic and Motor Vehicle Safety Act (1966)
Stat.	Statutes at Large

NOTE ON HEADLAMP / HEADLIGHT:

Terms used interchangeably throughout FMVSS No. 108 and the IIJA.



OPINIONS BELOW

The order of the United States Court of Appeals for the District of Columbia Circuit granting Respondents' motion to dismiss the petition for review entered May 14, 2026, is unpublished and is reproduced in the Appendix ("App.") at 1a-3a.

The order of the United States Court of Appeals for the District of Columbia Circuit denying the petition for rehearing en banc entered July 23, 2026, is unpublished. (App.4a-5a).

There were no district court proceedings preceding this action in the D.C. Circuit.



JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The United States Court of Appeals for the District of Columbia Circuit entered an order granting Respondents' motion to dismiss the petition for review on May 14, 2026. (App.1a-3a). Petitioner timely filed a petition for rehearing en banc, which the court of appeals denied on July 23, 2026. (App.4a-5a). This petition for a writ of certiorari is filed within 90 days after entry of the order denying rehearing en banc pursuant to Supreme Court Rule 13.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The questions presented implicate the constitutional allocation of lawmaking authority between Congress and the Executive Branch, because they concern whether an executive agency may substitute its own policy judgment for a standard Congress enacted and whether that determination remains subject to judicial review. Petitioner does not, however, raise a standalone constitutional claim, and no constitutional provision is independently at issue. The statutory and regulatory provisions involved in this case are:

1. The Administrative Procedure Act, 5 U.S.C. § 706(1), providing for judicial review of agency action, including review of agency action unlawfully withheld or unreasonably delayed, reproduced in the Appendix to the Petition. (App.15a-16a).
2. The National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30111, governing the establishment of Federal motor vehicle safety standards, reproduced in the Appendix to the Petition. (App.16a-18a).
3. The National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30161, governing judicial review of motor vehicle safety standards and applicable filing requirements, reproduced in the Appendix to the Petition. (App.18a-20a).
4. The Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 24211 and 24212,

establishing statutory requirements relating to headlamp illumination and Adaptive Driving Beam systems, reproduced in the Appendix to the Petition. (App.21a-22a).



STATEMENT OF THE CASE

Petitioner invoked the D.C. Circuit's direct-review jurisdiction under 49 U.S.C. § 30161(a). This case concerns whether a claim that an agency failed to perform a discrete statutory duty may be reviewed under 5 U.S.C. § 706(1), or instead recharacterized as an untimely challenge to a rule the agency has already issued. The underlying duties arise from requirements Congress enacted for Adaptive Driving Beam (ADB) headlamp systems in the Infrastructure Investment and Jobs Act (IIJA), which the National Highway Traffic Safety Administration (NHTSA) and the United States Department of Transportation administer under the National Traffic and Motor Vehicle Safety Act. No court has reached whether those requirements were satisfied.

A. Statutory and Regulatory Background

Under the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. § 30111 (App.16a-18a), NHTSA is tasked with establishing Federal motor vehicle safety standards designed to meet safety needs and reduce deaths and injuries on roadways. For decades, Federal lighting regulations did not permit advanced, dynamic high-beam systems—known globally as Adaptive Driving Beams—that safely illuminate the

roadway while automatically shielding oncoming and preceding drivers from glare.

To address limitations in the existing regulatory framework, Congress enacted the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, §§ 24211, 24212. (App.21a-22a). Section 24212(a)(1) defined an “adaptive driving beam headlamp” by reference to the performance requirements of SAE International Standard J3069 (June 2016), and § 24212(b)(2) directed the Secretary to issue a final rule, not later than two years after enactment, amending Standard 108, 49 C.F.R. § 571.108, to allow the use of such systems on vehicles. The two-year period ran through November 15, 2023.

On February 22, 2022, the Agency published a final rule amending Standard 108. 87 Fed. Reg. 9916. (App.25a-26a). In the preamble to that rule, the Agency stated that it had adopted “deviations from SAE J3069,” which it concluded were necessary under the Safety Act. 87 Fed. Reg. at 9923. (App.25a-26a). Interested parties petitioned for reconsideration, and on December 30, 2024, the Agency denied those petitions. 89 Fed. Reg. 106365. (App.26a-27a). Petitioner alleges that the Agency never adopted the SAE J3069 performance requirements Congress incorporated, and that the regulatory framework it issued instead does not implement the statutory definition Congress enacted in IIJA § 24212(a)(1). (App.21a).

Petitioner has more than thirty years of professional experience in automotive lighting, regulatory compliance, and cross-jurisdictional harmonization. The divergence between the performance standard Congress incorporated and the framework the Agency adopted imposes concrete burdens on that work, including

duplicative development programs and inconsistent homologation requirements across the jurisdictions Congress directed the Secretary to harmonize. IIJA § 24211. (App.21a). Petitioner is also a road user affected by the forward illumination and glare performance that the mandated standard was intended to secure. These injuries are concrete and particularized, are fairly traceable to the Agency's alleged failure to adopt the standard Congress specified, and would be redressed by judicial review of that alleged failure under 5 U.S.C. § 706(1). *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

B. Proceedings Below

Petitioner Albert Ekladyous sought review in the United States Court of Appeals for the District of Columbia Circuit, alleging that the Agency had failed to perform the discrete statutory duties imposed by IIJA § 24212 and that the failure was continuing. On May 14, 2026, a panel of the D.C. Circuit granted the Respondents' motion to dismiss. (App.1a-3a). The court held that to the extent the petition challenged agency action or inaction other than the Final Rule published on February 22, 2022 (87 Fed. Reg. 9916), it failed to identify a statutory duty, and to the extent it challenged the Final Rule itself, the petition was untimely under 49 U.S.C. § 30161(a). The court further ruled that the Agency's subsequent December 30, 2024 denial of petitions for reconsideration (89 Fed. Reg. 106365) did not extend the time for seeking judicial review of the 2022 Final Rule. (App.1a-3a). The court resolved the motion before Respondents filed with the court the record of the proceeding contemplated by 49 U.S.C. § 30161(b). (App.19a); (*see* App.6a-14a). That analysis treated Petitioner's claim

as a challenge to completed agency action reviewable under 5 U.S.C. § 706(2) rather than the § 706(1) claim Petitioner presented—that the Agency’s continuing failure to perform mandatory statutory duties constituted agency action unlawfully withheld or unreasonably delayed under 5 U.S.C. § 706(1) and was therefore timely subject to judicial review.

Petitioner timely sought rehearing en banc. On July 23, 2026, the D.C. Circuit denied the petition for rehearing in the absence of a request by any member of the court for a vote. (App.4a-5a). This petition for a writ of certiorari followed.



REASONS FOR GRANTING THE PETITION

The petition for a writ of certiorari should be granted because the decision below presents an important and recurring question concerning judicial review of agency inaction: whether a court may recharacterize an alleged failure to perform a discrete, mandatory statutory duty as an untimely challenge to a completed rule. By treating Petitioner’s claim of ongoing statutory noncompliance as an untimely attack on the 2022 Final Rule, the decision below narrows judicial review under the Administrative Procedure Act (APA) and permits agencies to avoid review of alleged failures to carry out congressional mandates by pointing to earlier rulemaking activity.

I. The Decision Below Adopts a Rule that Cannot Be Squared with *Norton*: That a Claim of Agency Action Unlawfully Withheld Becomes an Untimely Challenge to a Rule Once the Agency Has Issued One

In *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004), this Court set the standard governing claims of agency action unlawfully withheld. A claim under 5 U.S.C. § 706(1) lies where an agency has failed to take a discrete agency action that it is required to take. That test has two elements, and neither of them is whether the agency has conducted a rulemaking. The inquiry asks what Congress required and whether the agency did it. *Norton* thus establishes that the availability of § 706(1) review turns on the content of the statutory duty, not on the existence of agency activity in the same subject area.

The decision below adopts a different rule. Rather than reaching whether the statutory obligations Petitioner identified were satisfied, the court held that claims concerning agency action or inaction separate from the 2022 Final Rule failed to identify a reviewable statutory duty, while claims directed at the Final Rule were untimely under 49 U.S.C. § 30161(a). Those two holdings operate together to leave no category for the claim *Norton* recognized. Once an agency has issued a rule addressing the subject of a statutory command, any contention that the command went unperformed is treated as an attack on that rule and is time-barred. The consequence is that the existence of agency action, rather than the content of the statutory duty, determines whether § 706(1) review is available.

That rule cannot be reconciled with *Norton*. This Court held that § 706(1) reaches an agency's failure to

take a discrete action it is required to take; the decision below holds that the agency's having taken some action forecloses the inquiry. Petitioner does not contend merely that the court of appeals applied *Norton* incorrectly to these facts. The court adopted a rule of decision that displaces the test this Court announced, and it did so in a form that will govern future cases in the circuit that reviews the largest share of federal agency action. Review is warranted to confirm that the availability of § 706(1) review depends on what Congress required, not on whether the agency has issued a rule.

II. The Underlying Claim is Substantial: The Agency Did Not Adopt the Adaptive Driving Beam Definition and Performance Standard Congress Enacted

Petitioner does not ask this Court to resolve the merits in the first instance. The court below did not reach whether the Agency complied with IIJA § 24212, and Petitioner seeks only the opportunity to have that question decided. The substantiality of the underlying claim is set out here because it confirms that the characterization error described above has real consequences: the claim foreclosed by the decision below is not insubstantial, and it rests on the Agency's own statements.

Congress did not leave the content of the Adaptive Driving Beam requirement to the Agency. In IIJA § 24212(a)(1), Congress defined an "adaptive driving beam headlamp" as a headlamp "that meets the performance requirements specified in SAE International Standard J3069, published on June 30, 2016." (App.21a). In IIJA § 24212(b)(2), Congress then directed

the Secretary to issue a final rule amending Standard 108 “to allow for the use on vehicles of adaptive driving beam headlamp systems.” (App.21a-22a). Read together, these provisions impose a duty with a fixed statutory content: the rule Congress required is one that permits the use of systems meeting the J3069 performance requirements Congress incorporated by reference.

The Agency did not adopt that standard, and it has said so. In the preamble to the Final Rule published on February 22, 2022, the Agency stated that “NHTSA has concluded that these deviations from SAE J3069 are—pursuant to the Safety Act—necessary for the final rule to meet the need for motor vehicle safety, because SAE J3069 does not adequately address the safety needs of visibility and glare prevention.” 87 Fed. Reg. 9916, 9923 (Feb. 22, 2022). (App.25a-26a). The performance requirements Congress specified in § 24212(a)(1) were therefore never adopted into Standard 108. Whatever the merits of the Agency’s safety judgment, the standard Congress selected is not the standard Federal law now requires.

That the Agency issued *a* rule does not answer the question. Section 24212(b)(2) did not require the Secretary merely to conduct a rulemaking; it required a rule accomplishing a specified result, defined by a standard Congress itself selected. Congress also specified how Standard 108 could move beyond that standard—by “revising Standard 108 to reflect an *updated version* of SAE International Standard J3069.” IIJA § 24212(c)(2) (emphasis added). (App.22a). Congress thus contemplated revision of the standard it chose, not substitution of a different one. An agency that issues a rule departing from the statutory definition

has not performed the duty Congress imposed any more than an agency that issues no rule at all. Under *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004), that remains a discrete, legally required action, and its non-performance is reviewable under 5 U.S.C. § 706(1). Petitioner does not ask the courts to superintend the Agency's lighting program generally; he identifies one statutory command, with content fixed by Congress, that he alleges was never carried out.

Section 24212(c) does not supply the authority the Agency claimed. That subsection is a savings clause of defined scope: it preserves the Secretary's ability to review Standard 108 "as amended pursuant to subsection (b)" and to revise Standard 108 "to reflect an updated version of SAE International Standard J3069." IIJA § 24212(c). (App.22a). Both provisions presuppose that the rule required by subsection (b) issued in conformity with the statutory definition, and the only revision Congress described is one that tracks a later version of the same standard. The reference to section 30111 in § 24212(c) conditions such a revision; it does not convert a general grant of standard-setting authority into license to depart from the definition Congress enacted. In any event, the deviations at issue were adopted in the subsection (b) rulemaking itself, not in a subsequent periodic revision.

Nor does the Agency's safety rationale answer the question presented. Whether SAE J3069 adequately addresses the safety needs of visibility and glare prevention is a judgment Congress made when it incorporated that standard into the statutory definition. An agency's disagreement with a policy choice Congress has already made does not enlarge

the agency's authority to depart from it. If the Agency believed the congressional choice unsound, its recourse was to seek amendment from Congress, not to adopt a different standard by rule. The question presented is therefore not whether the Agency's safety judgment was correct, but whether the Agency was permitted to substitute that judgment for the standard Congress enacted.

Congress's choice of J3069 was neither arbitrary nor impracticable. In IIJA § 24211, Congress directed the Secretary to cooperate "to the maximum extent practicable" with foreign governments and stakeholders on global harmonization of vehicle regulations. (App.21a). Canada had already incorporated SAE J3069 into Canada Motor Vehicle Safety Standard 108 in 2018, permitting adaptive driving beam lamps conforming to that standard. (App.23a). Congress thus incorporated a performance standard that a neighboring jurisdiction had adopted three years earlier, and the Agency's departure from it moved Federal law away from the harmonization Congress directed rather than toward it.

This Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), confirms that courts, not agencies, determine whether an agency has acted within the authority Congress conferred. The Agency's own rationale places that principle squarely at issue. The Agency justified departing from a standard Congress incorporated by reference on its own judgment, under the general standard-setting authority of 49 U.S.C. § 30111, that the congressional choice was inadequate. Whether a 1966 general grant of authority to prescribe safety standards permits an agency to displace a 2021 specific definition Congress

enacted is a question of statutory interpretation for the courts. This Court's review is warranted to resolve it.

III. The Question Recurs and Has Concrete Consequences for Public Safety

The consequences here are not abstract. Adaptive Driving Beam systems illuminate the roadway ahead while automatically shielding oncoming and preceding drivers from glare, and Congress identified them as a safety improvement warranting a specific legislative directive. Congress set a deadline of two years from enactment for the rule it required. IIJA § 24212(b). (App.21a-22a). That deadline passed in November 2023. On Petitioner's allegations, the performance standard Congress selected has still not been adopted, and Federal law continues to impose requirements different from the standard Canada has permitted since 2018. Each year the question goes unresolved is a year in which a safety measure Congress enacted remains, on Petitioner's account, unimplemented.

The question will recur well beyond this case. Congress legislates in this form routinely, directing an agency to act by a date certain and to a standard Congress itself specifies. If an agency discharges such a command merely by issuing a rule, and the issuance of that rule simultaneously starts a short limitations period barring any claim that the statutory standard went unadopted, then the drafting technique loses much of its force. The agency's own action would define both the scope of its duty and the window for challenging its performance. That consequence follows from the reasoning below regardless of the subject

matter, and this Court's guidance is needed to resolve it.

Petitioner respectfully submits this petition pro se. This Court has recognized that pleadings filed by pro se litigants are held to less stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972).



CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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