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**PER CURIAM ORDER,
U.S. COURT OF APPEALS FOR THE DISTRICT
OF COLUMBIA CIRCUIT
(MAY 14, 2026)**

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ALBERT EKLADYOUS,

Petitioner,

v.

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

Respondents.

September Term, 2025

No. 26-1004

NHTS-87FR9916

Filed On: May 14, 2026

Before: HENDERSON, PILLARD, and RAO,
Circuit Judges.

ORDER

Upon consideration of the motion to dismiss and to extend time to file the certified index to the record, the opposition thereto, which is combined with a

motion to compel production of the administrative record and expedite briefing, the reply in support of the motion to dismiss, and the reply in support of the motion to compel and expedite; the motion for summary reversal, styled as a motion for summary judgment, the opposition thereto, and the reply; and the motion to supplement the record, the opposition thereto, and the reply, it is

ORDERED that the motion to dismiss be granted. To the extent petitioner challenges agency action or inaction other than the final rule published on February 22, 2022, *see* 87 Fed. Reg. 9916 (Feb. 22, 2022), he does not identify what that action or inaction is or any statute providing for direct review thereof in this court. *See Pub. Citizen, Inc. v. NHTSA*, 489 F.3d 1279, 1287-88 (D.C. Cir. 2007). To the extent petitioner challenges the final rule itself, the petition for review is untimely. *See* 49 U.S.C. § 30161(a) (requiring a petition for review of an order prescribing a motor vehicle safety standard to be filed “not later than 59 days after the order is issued”). Contrary to petitioner’s argument, the agency’s December 30, 2024 denial of petitions for reconsideration of the final rule, *see* 89 Fed. Reg. 106365 (Dec. 30, 2024), did not extend the time for seeking judicial review as to petitioner, *see* 49 C.F.R. § 553.39, and, even if measured from December 30, 2024, the petition for review would still be untimely. It is

FURTHER ORDERED that the remaining motions be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or

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petition for rehearing en banc. *See* Fed. R. App. P. 41(b);
D.C. Cir. Rule 41.

Per Curiam

**ORDER DENYING PETITION FOR
REHEARING EN BANC,
U.S. COURT OF APPEALS FOR THE DISTRICT
OF COLUMBIA CIRCUIT
(JULY 23, 2026)**

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ALBERT EKLADYOUS,

Petitioner,

v.

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

Respondents.

September Term, 2025

No. 26-1004

NHTS-87FR9916

Filed on: July 23, 2026

Before: SRINIVASAN, Chief Judge, and
HENDERSON, MILLETT, PILLARD, WILKINS,
KATSAS, RAO, WALKER, CHILDS, PAN, and
GARCIA, Circuit Judges.

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ORDER

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:

Clifton B. Cislak, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

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**DOCKET REPORT OF THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT
(AS OF AUGUST 5, 2026)**

General Docket
United States Court of Appeals for District of
Columbia Circuit
Court of Appeals Docket #: 26-1004

Docketed: 01/06/2026

Termed: 05/14/2026

Albert Ekladyous v. DOT, et al

Appeal From: National Highway Traffic Safety
Administration

Fee Status: Fee Paid

Case Type Information:

- 1) Petition for Review
- 2) Review

Originating Court Information:

District: NHTS-1 : NHTS-87FR9916

Prior Cases: None

Current Cases: None

Panel Assignment: Not available

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Albert Ekladyous

Petitioner

4226 Tyler Road
Shelby Township, MI 48316
248-289-0057
ADBpetition@gmail.com

v.

National Highway Traffic Safety Administration

Respondent

Andrew Marshall Bernie, Trial Attorney
Email: andrew.bernie@usdoj.gov
[COR LD NTC Gvt US DOJ]
U.S. Department of Justice
(DOJ) Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

United States Department of Transportation

Respondent

Andrew Marshall Bernie, Trial Attorney
[COR LD NTC Gvt US DOJ]
(see above)

Albert Ekladyous,
Petitioner

v.

National Highway Traffic Safety Administration;
United States Department of Transportation,
Respondents

01/06/2026

PETITION FOR REVIEW CASE docketed. [26-1004] [Entered: 01/12/2026 10:37 AM]

01/06/2026

PETITION FOR REVIEW [2153737] of a decision by federal agency filed by Albert Ekladyous [Service Date: 01/12/2026] Disclosure Statement: Not Applicable to this Party. [26-1004] [Entered: 01/12/2026 10:41 AM]

01/12/2026

CERTIFIED COPY [2153739] of Petition for Review sent to respondent [2153737-2] [26-1004] [Entered: 01/12/2026 10:45 AM]

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01/12/2026

CLERK'S ORDER [2153744] filed directing party to file initial submissions: PETITIONER docketing statement due 02/11/2026. PETITIONER certificate as to parties due 02/11/2026. PETITIONER statement of issues due 02/11/2026. PETITIONER underlying decision due 02/11/2026. PETITIONER deferred appendix statement due 02/11/2026. PETITIONER procedural motions due 02/11/2026. PETITIONER dispositive motions due 02/26/2026; directing party to file initial submissions: RESPONDENT entry of appearance due 02/11/2026. RESPONDENT procedural motions due 02/11/2026. RESPONDENT certified index to record due 02/26/2026. RESPONDENT dispositive motions due 02/26/2026, Failure to respond shall result in dismissal of the case for lack of prosecution [26-1004] [Entered: 01/12/2026 10:50 AM]

02/03/2026

NOTICE [2157781] filed by Albert Ekladyous [Service Date: 02/05/2026] [26-1004] [Entered: 02/05/2026 12:21 PM]

02/03/2026

CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES [2157782] filed by Albert Ekladyous [Service Date: 02/05/2026] [26-1004] [Entered: 02/05/2026 12:22 PM]

02/03/2026

DOCKETING STATEMENT [2157784] filed by Albert Ekladyous [Service Date: 02/05/2026] [26-1004] [Entered: 02/05/2026 12:23 PM]

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02/03/2026

STATEMENT OF INTENT REGARDING
APPENDIX DEFERRAL [2157785] filed by Albert
Ekladyous [Service Date: 02/05/2026] Intent:
AppxDeferred [26-1004] [Entered: 02/05/2026
12:24 PM]

02/03/2026

STATEMENT OF ISSUES [2157787] filed by
Albert Ekladyous [Service Date: 02/05/2026] [26-
1004] [Entered: 02/05/2026 12:26 PM]

02/03/2026

UNDERLYING DECISION IN CASE [2157788]
submitted by Albert Ekladyous [Service Date:
02/05/2026] [26-1004] [Entered: 02/05/2026 12:26
PM]

02/04/2026

NOTICE [2158154] filed by Albert Ekladyous
[Service Date: 02/09/2026] [26-1004] [Entered:
02/09/2026 11:44 AM]

02/05/2026

ENTRY OF APPEARANCE [2157713] filed by
Andrew Marshall Bernie on behalf of Respondents
DOT and NHTSA. [26-1004] (Bernie, Andrew)
[Entered: 02/05/2026 09:49 AM]

02/23/2026

MOTION [2160983] to permit pro se electronic
filing status filed by Albert Ekladyous (Service
Date: 02/25/2026 by US Mail, Clerk) Length
Certification: 5 Pages. [26-1004] [Entered:
02/25/2026 12:19 PM]

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02/24/2026

MOTION [2160656] to dismiss case for lack of jurisdiction, to dismiss case filed by DOT and NHTSA (Service Date: 02/24/2026 by US Mail, Email) Length Certification: 1,000 words. [26-1004] (Bernie, Andrew) [Entered: 02/24/2026 07:42 AM]

02/27/2026

MOTION [2161880] for summary reversal filed by Albert Ekladyous (Service Date: 03/03/2026 by US Mail, Clerk) Length Certification: 36 Pages. [26-1004] [Entered: 03/03/2026 01:33 PM]

03/02/2026

RESPONSE IN OPPOSITION [2162322] to motion to dismiss case for lack of jurisdiction [2160656-2], motion to dismiss case [2160656-3] combined with a MOTION to compel and expedite case filed by Albert Ekladyous [Service Date: 03/05/2026 by US Mail, Clerk] Length Certification: 32 Pages. [26-1004] [Entered: 03/05/2026 03:19 PM]

03/09/2026

RESPONSE IN OPPOSITION [2162748] to motion [2161880-2] filed by DOT and NHTSA [Service Date: 03/09/2026 by US Mail, Email] Length Certification: 369 Words. [26-1004] (Bernie, Andrew) [Entered: 03/09/2026 03:14 PM]

03/09/2026

REPLY [2162751] filed by DOT and NHTSA to response [2162322-4] [Service Date: 03/09/2026 by US Mail, Email] Length Certification: 823

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words. [26-1004] (Bernie, Andrew) [Entered: 03/09/2026 03:19 PM]

03/13/2026

MOTION [2164287] to supplement record filed by Albert Ekladyous (Service Date: 03/18/2026 by US Mail, Clerk) Length Certification: 58 Pages. [26-1004] [Entered: 03/18/2026 04:05 PM]

03/13/2026

NOTICE [2164288] to change party address filed by Albert Ekladyous [Service Date: 03/18/2026] [26-1004] [Entered: 03/18/2026 04:09 PM]

03/13/2026

REPLY [2164289] filed by Albert Ekladyous to response [2162751-2] [Service Date: 03/18/2026 by Clerk, US Mail] Length Certification: 18 Pages. [26-1004] [Entered: 03/18/2026 04:15 PM]

03/13/2026

REPLY [2164290] filed by Albert Ekladyous to response [2162748-2] [Service Date: 03/18/2026 by US Mail, Clerk] Length Certification: 36 Pages. [26-1004] [Entered: 03/18/2026 04:18 PM]

03/20/2026

RESPONSE IN OPPOSITION [2164741] to motion to supplement record [2164287-2] filed by DOT and NHTSA [Service Date: 03/20/2026 by US Mail, Email] Length Certification: 488 words. [26-1004] (Bernie, Andrew) [Entered: 03/20/2026 02:52 PM]

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03/23/2026

REPLY [2165750] filed by Albert Ekladyous to response [2164741-2] [Service Date: 03/26/2026 by Clerk, US Mail] Length Certification: 8 Pages. [26-1004] [Entered: 03/26/2026 12:05 PM]

04/16/2026

CLERK'S ORDER [2169043] filed granting motion to permit pro se electronic filing [2160983-2] [26-1004] [Entered: 04/16/2026 03:23 PM]

05/14/2026

PER CURIAM ORDER [2173440] filed ORDERED that the motion to dismiss [2160656-3] be granted. It is FURTHER ORDERED that the remaining motions [2164287-2], [2162322-2], [2162322-3], & [2161880-2] be dismissed as moot. Withholding issuance of the mandate. Before Judges: Henderson, Pillard and Rao. [26-1004] [Entered: 05/14/2026 03:12 PM]

05/15/2026

PETITION [2173516] for rehearing en banc filed by Petitioner Mr. Albert Ekladyous [Service Date: 05/15/2026 by CM/ECF NDA] Length Certification: Petition complies with Fed. R. App. P. 32(g)(1) (1,052 words) and the typeface/style requirements of Fed. R. App. P. 32(a)(5)-(6). Full Certificate of Compliance is included on page 11 of the attached PDF.. [26-1004]--[Edited: 07/01/2026 by AY] (Ekladyous, Albert) [Entered: 05/15/2026 06:55 AM]

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07/23/2026

PER CURIAM ORDER, En Banc, [2184814] filed denying the petition for rehearing en banc [2173516-2]. Before Judges: Srinivasan, Henderson, Millett, Pillard, Wilkins, Katsas, Rao, Walker, Childs, Pan and Garcia. [26-1004] [Entered: 07/23/2026 03:50 PM]

GENERAL STATUTES

5 U.S.C. § 706

Administrative Procedure Act (Scope of Review)

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall-

- (1) compel agency action unlawfully withheld or unreasonably delayed; and
- (2) hold unlawful and set aside agency action, findings, and conclusions found to be-
 - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (B) contrary to constitutional right, power, privilege, or immunity;
 - (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
 - (D) without observance of procedure required by law;
 - (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

- (F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

49 U.S.C. § 30111

The Safety Act (Motor Vehicle Safety Standards)

(a) General Requirements.-The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

(b) Considerations and Consultation.-When prescribing a motor vehicle safety standard under this chapter, the Secretary shall-

- (1) consider relevant available motor vehicle safety information;
- (2) consult with the agency established under the Act of August 20, 1958 (Public Law 85-684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);
- (3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

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- (4) consider the extent to which the standard will carry out section 30101 of this title.
- (c) Cooperation.-The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.
- (d) Effective Dates of Standards.-The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.
- (e) 5-Year Plan for Testing Standards.-The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing motor vehicle safety standards prescribed under this chapter that the Secretary considers capable of being tested. In developing the plan and establishing testing priorities, the Secretary shall consider factors the Secretary considers appropriate, consistent with section 30101 of this title and the Secretary's other duties and powers under this chapter. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on December 18, 1991.

(f) Motor Vehicle Safety Guidelines.-

- (1) In general.-No guidelines issued by the Secretary with respect to motor vehicle safety shall confer any rights on any person, State, or locality, nor shall operate to bind the Secretary or any person to the approach recommended in such guidelines. In any enforcement action with respect to motor vehicle safety, the Secretary shall allege a violation of a provision of this subtitle, a motor vehicle safety standard issued under this subtitle, or another relevant statute or regulation. The Secretary may not base an enforcement action on, or execute a consent order based on, practices that are alleged to be inconsistent with any such guidelines, unless the practices allegedly violate a provision of this subtitle, a motor vehicle safety standard issued under this subtitle, or another relevant statute or regulation.
- (2) Rule of construction.-Nothing in this subsection shall be construed to confer any authority upon or negate any authority of the Secretary to issue guidelines under this chapter.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 944; Pub. L. 114-94, div. B, title XXIV, § 24406, Dec. 4, 2015, 129 Stat. 1725.)

49 U.S.C. § 30161

The Safety Act (Judicial Review)

- (a) Filing and Venue.—A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review

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of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) Notifying Secretary.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c) Additional Proceedings.—

(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside the order, and the additional evidence with the court.

(d) Certified Copies of Records of Proceedings.—The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regard-

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less of whether the proceeding under this section has begun or becomes final.

(e) Finality of Judgment and Supreme Court Review.—A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 966.)

INFRASTRUCTURE MANDATE PUBLIC LAW
117–58, 135 STAT. 429 (2021)

IIJA § 24211

Global Harmonization

The Secretary shall cooperate, to the maximum extent practicable, with foreign governments, nongovernmental stakeholder groups, the motor vehicle industry, and consumer groups with respect to global harmonization of vehicle regulations as a means for improving motor vehicle safety.

IIJA § 24212(a)

Adaptive Driving Beam Headlamp Definition

- (a) DEFINITIONS.—In this section:
 - (1) ADAPTIVE DRIVING BEAM HEADLAMP.—The term “adaptive driving beam headlamp” means a headlamp (as defined in Standard 108) that meets the performance requirements specified in SAE International Standard J3069, published on June 30, 2016.
 - (2) STANDARD 108.—The term “Standard 108” means Federal Motor Vehicle Safety Standard Number 108, contained in section 571.108 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

IIJA § 24212(b)

ADB System Authorization Requirement

- (b) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Standard 108—
 - (1) to include performance-based standards for vehicle headlamp systems—

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- (A) to ensure that headlights are correctly aimed on the road; and
- (B) requiring those systems to be tested on-vehicle to account for headlight height and lighting performance; and
- (2) to allow for the use on vehicles of adaptive driving beam headlamp systems.

IIJA § 24212(c)

Periodic Review

- (c) PERIODIC REVIEW.—Nothing in this section precludes the Secretary from—
 - (1) reviewing Standard 108, as amended pursuant to subsection (b); and
 - (2) revising Standard 108 to reflect an updated version of SAE International Standard J3069, as the Secretary determines to be—
 - (A) appropriate; and
 - (B) in accordance with section 30111 of title 49, United States Code.

**INTERNATIONAL HARMONIZATION AND
TECHNICAL STANDARDS REGULATIONS**

**Canada Motor Vehicle Safety Standard (CMVSS)
108 – Lighting System and Retroreflective Devices
(C.R.C., c. 1038, Sched. IV) Evidence of established
North American harmonization under IIJA
§ 24211**

... Alternative Lamps for Passenger Cars, Three-wheeled Vehicles, Multi-purpose Passenger Vehicles, Trucks and Buses

- (3) Subject to subsection (4), instead of being equipped with headlamps as required under subsection (1) or (2), as the case may be, passenger cars, three-wheeled vehicles, multi-purpose passenger vehicles, trucks and buses may be equipped with adaptive driving beam lamps that conform to SAE Recommended Practice J3069, *Adaptive Driving Beam* (June 2016), except that the lamps shall not be capable of activation or deactivation by pedal.

**SAE International Standard J3069 (June 2016)
Adaptive Driving Beam (ADB) Test Procedure
and Performance Requirements**

Authority

SAE J3069

Specific Statutory Reference

ADB Statutory Definition and Performance Standard: The statutory definition and incorporated performance standard for ADB

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under IIJA § 24212(a)(1). Incorporated by
reference in CMVSS 108 since 2018

Document Record Evidence

SAE International Standard (June 2016)

AGENCY RULEMAKING DOCUMENTS

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment, Adaptive Driving Beam Headlamps, 87 Fed. Reg. 9916 (Feb. 22, 2022) — Final Rule excerpt addressing the Agency's treatment of SAE J3069

ADB FINAL RULE—87 Fed. Reg. 9916

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2022–0013]

RIN 2127–AL83

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

[...]

ADB FINAL RULE—87 Fed. Reg. 9923

... 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. The final rule, however, does not conflict with ADB systems that meet the performance requirements of SAE J3069 because a headlamp designed to comply with NHTSA's final rule can also be designed to conform with SAE J3069. The differences between the final rule and SAE J3069, as well as our test data

on the performance of ADB systems tested to both the final rule and J3069 are described in detail throughout this preamble.

[...]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment, Adaptive Driving Beam Headlamps, 89 Fed. Reg. 106365 (Dec. 30, 2024) — Denial of petitions for reconsideration, excerpt

Note: Reproduced verbatim; typographical errors appear in the original Federal Register.

PETITIONS FOR RECONSIDERATION 89 Fed. Reg. 106365

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[[Docket No. NHTSA–2022–0013]

AGENCY: National Highway Traffic Safety Administration (NHTSA or the Agency), Department of Transportation (DOT).

ACTION: Denial of petitions for reconsideration.

[...]

PETITIONS FOR RECONSIDERATION 89 FR 106374

[...]

V. Conclusion

For the reasons discussed above, the agency denies the Petitioners' petitions for reconsideration of the February 22, 2022, final rule (87 FR 9916).

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Issued in Washington, DC, under authority
delegated in 49 CFR 1.95 and 501.

Adam Raviv,
Chief Counsel.

[FR Doc. 2024-31141

Filed 12-27-24; 8:45 am]

BILLING CODE 4910-59-P

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