

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NATIONAL RESOURCES DEFENSE
COUNCIL, INC., SIERRA CLUB,

Petitioners,

v.

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION, PETE BUTTIGIEG,
in his official capacity as SECRETARY OF
THE UNITED STATES DEPARTMENT
OF TRANSPORTATION,

Respondents.

Nos. 21-139

21-339

21-593

RESPONDENTS' STATUS REPORT

On April 6, 2021, this Court granted respondents' motion to hold these cases in abeyance pending the conclusion of the agency's review of the challenged rule. Respondents' abeyance motion stated that NHTSA is willing to provide regular status reports to the Court during the abeyance period, and proposed to do so every 30 days. *See* Abeyance Mot. at 7. NHTSA provided its last status report on December 8, 2021.

NHTSA continues to review the challenged rule pursuant to President Biden's January 20, 2021 Executive Order. As NHTSA has explained, it released a Supplemental Notice of Proposed Rulemaking (SNPRM) on August 16, 2021, which was published in the Federal Register on August 20, 2021. *See Civil Penalties*, 86 Fed. Reg. 46,811 (Aug. 20, 2021). The 30-day public comment period provided in the

SNPRM closed on September 20, 2021. *See id.* at 46,811. The draft final rule has been submitted to the Office of Information and Regulatory Affairs (OIRA) for regulatory review in accordance with Executive Order 12866, *see* 58 Fed. Reg. 51,735 (Sept. 30, 1993), as reflected on the OIRA website, *see* OIRA, *List of Regulatory Actions Currently Under Review*, <https://www.reginfo.gov/public/jsp/EO/eoDashboard.myjsp> (last visited Jan. 7, 2022).

Respondents will provide a further status update to the Court in thirty days, on February 7, 2022.

Respectfully submitted,

H. THOMAS BYRON III

/s/ Courtney L. Dixon

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JANUARY 2022

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2022, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Courtney L. Dixon

Courtney L. Dixon