

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, 179, 180

[Docket No. PHMSA–2019–0031 (HM–265A)]

RIN 2137–AF47

### Hazardous Materials: Modernizing Regulations To Improve Safety and Efficiency; Extension of Comment Period

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Advance notice of proposed rulemaking; Extension of comment period.

**SUMMARY:** On July 5, 2023, PHMSA published an advance notice of proposed rulemaking, titled “Hazardous Materials: Modernizing Regulations to Improve Safety and Efficiency (HM–265A),” seeking comment of 46 topics related to modernizing the hazardous materials regulations to increase efficiency while maintaining and improving safety. In response to a request for an extension of the comment period submitted by the American Short Line and Regional Railroad Association, PHMSA is extending the comment period for the HM–265A notice for an additional 60 days. Comments to the HM–265A notice will now be due by December 4, 2023.

**DATES:** The comment period for the proposed rule published July 5, 2023, at 88 FR 43016, is extended. Comments should be received on or before December 4, 2023. To the extent possible, PHMSA will consider late-filed comments.

**ADDRESSES:** Comments should reference Docket No. PHMSA–2019–0031 (HM–265A) and may be submitted in the following ways:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** 1–202–493–2251.

- **Mail:** Dockets Management System, U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

- **Hand Delivery:** To the Docket Management System: Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

**Instructions:** All submissions must include the Agency name and Docket Number (PHMSA–2019–0031) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

**Docket:** For access to the dockets to read associated documents or comments received, go to <https://www.regulations.gov> or DOT’s Docket Operations Office (see **ADDRESSES**).

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its process. DOT posts these comments without change, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.dot.gov/privacy>.

**Confidential Business Information:** Confidential Business Information (CBI) is commercial or financial information that is both customarily and treated as private by its owner. Under the Freedom of Information Act (FOIA; 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this ANPRM contain commercial or financial information that is customarily treated as private, that you treat as private, and that is relevant or responsive to this ANPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN” for “proprietary information.” Submissions

containing CBI should be sent to Eamonn Patrick, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary that PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### FOR FURTHER INFORMATION CONTACT:

Eamonn Patrick, Standards and Rulemaking Division, 202–366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 5, 2023, PHMSA published the HM–265A advance notice of proposed rulemaking (ANPRM)<sup>1</sup> which seeks comment on 46 topics related to modernizing the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171 through 180) to increase efficiency while maintaining or improving the safety of hazardous materials transportation.

#### II. Comment Period Extension

PHMSA initially provided a 90-day comment period for the HM–265A ANPRM, which closes on October 3, 2023. In response to a request to extend the comment period from the American Short Line and Regional Railroad Association (ASLRRA),<sup>2</sup> PHMSA is extending the comment period for an additional 60 days. ASLRRA requested the extension to allow for additional time to gather feedback on the numerous topics addressed in the ANPRM from its member railroads, the majority of which are small businesses. The comment period will now close on December 4, 2023. This extension provides the public with an additional 60 days and should provide adequate opportunity for the public and stakeholders to submit comments; however, PHMSA may, at its discretion, extend the comment period further if necessary. To the extent possible, PHMSA will also consider late-filed comments.

<sup>1</sup> 88 FR 43016.

<sup>2</sup> ASLRRA’s comment may be reviewed at: <https://www.regulations.gov/comment/PHMSA-2019-0031-0011>.

Issued in Washington, DC, on September 15, 2023, under authority delegated in 49 CFR part 1.97.

**William S. Schoonover,**

*Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2023–20440 Filed 9–20–23; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA–2022–0097]

#### Federal Motor Vehicle Safety Standards

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

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This document denies a petition for rulemaking submitted by Mr. Eddie L. Fray on behalf of the Parent Advocacy Group on November 27, 2015. The petitioner requested that the Secretary of Transportation mandate installation of specific products and systems as well other complementary safety features intended to prevent pediatric heatstroke in vehicles. NHTSA is denying the petition because the Agency does not initiate rulemaking to require installation of specific products.

**DATES:** September 21, 2023.

**ADDRESSES:** National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Riddoch, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Telephone: (202) 366–2367, or Mr. Eli Wachtel, Telephone: 202–366–3065, Office of Chief Counsel. Address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

### I. Background

The National Traffic and Motor Vehicle Safety Act (“Safety Act”) (49 U.S.C. 30101 *et seq.*) authorizes NHTSA to issue safety standards for new motor vehicles and new items of motor vehicle equipment. Each Federal Motor Vehicle Safety Standard (FMVSS) must be practicable, meet the need for motor vehicle safety, and be stated in objective

terms. NHTSA does not endorse any vehicles or items of equipment. Further, NHTSA does not approve or certify vehicles or equipment. Instead, the Safety Act establishes a “self-certification” framework under which each manufacturer is responsible for certifying that its products meet all applicable safety standards.

Petitions for rulemaking are governed by 49 CFR 552. Pursuant to Part 552, the agency conducts a technical review of the petition, which may consist of an analysis of the material submitted, together with information already in possession of the agency. In deciding whether to grant or deny a petition, the agency considers this technical review as well as appropriate factors, which include, among others, allocation of agency resources and agency priorities.

### II. Petition

On November 27, 2015, Mr. Fray submitted a petition on behalf of the Parent Advocacy Group<sup>1</sup> asking that the Secretary of Transportation mandate lifesaving features and systems intended to reduce heatstroke deaths of children in vehicles.<sup>2</sup> The petitioner states that the mandate is necessary to save lives and requests that the Secretary issue the mandate within 30 days.<sup>3</sup> A copy of the petition is available in the docket identified at the beginning of this document.

In support of his request, the petitioner cites heatstroke death statistics dating back to 1998 as well as information about specific heatstroke deaths of children in vehicles. The petitioner also includes information about actions NHTSA has taken regarding child heatstroke deaths in vehicles and why he believes those actions fall short of what is needed.<sup>4</sup> The petition then describes a product called “the Guardian Cam,” a heatstroke prevention alarm system called “Accessory,” and a seat belt and pressure sensing alert system called “seat to seat.”<sup>5</sup> In addition to descriptions of the concepts, the petitioner included exemplar sketches of what the concepts would look like

<sup>1</sup> The petition states that the Parent Advocacy Group is a group of members dedicated to ending heatstroke deaths of children in vehicles.

<sup>2</sup> Fray, Eddie L., Petition to the Secretary of Transportation to Mandate a Number of Higher Safety Standards to the Automobile Industry (“Fray Petition”), November 27, 2015, page 1.

<sup>3</sup> *Id.*

<sup>4</sup> Fray Petition at page 9.

<sup>5</sup> Fray Petition, pages 9–12. The petitioner has filed copyrights for some of these concepts with the U.S. Copyright Office in 2014 and 2015. (Guardian Car Cam: TXu001931485; Accessory: TXu001999496; S2S Hot Car System: TXu001982523).

when installed in a vehicle. The petitioner also outlined how the concepts are designed to work in various scenarios to prevent child heatstroke in vehicles.

It is our understanding that the petitioner is requesting that the Secretary of Transportation mandate the installation of Guardian Cam and other complementary systems and features on new motor vehicles. The Secretary of Transportation has delegated responsibility for responding to this petition to NHTSA.

### III. NHTSA’s Consideration of the Petition and Decision

NHTSA has conducted an analysis of Mr. Fray’s petition and, after careful consideration, has decided to deny his petition and will not initiate rulemaking proposing to require his concept countermeasures. NHTSA is denying Mr. Fray’s petition because it requests that NHTSA mandate specific products and accompanying features. Under the Safety Act, NHTSA is tasked with issuing motor vehicle safety standards that set minimum standards for motor vehicle or motor vehicle equipment performance. In doing so, NHTSA aims to establish standards that are performance-based and technology neutral. Additionally, as stated above, NHTSA does not endorse individual products. Accordingly, NHTSA finds that it would be inappropriate to grant a petition to initiate rulemaking to require specific products. Mr. Fray also asks the Secretary of Transportation to “develop, demonstrate, and evaluate” his proposed countermeasures. This request, however, does not fall within the scope of a petition for rulemaking under 49 CFR part 552.<sup>6</sup>

Although NHTSA is denying the petition, the agency shares Mr. Fray’s concerns about the risk of pediatric heatstroke in vehicles and is committed to taking appropriate steps to address this issue. To this end, NHTSA continues to issue public messaging campaigns with numerous safety partners and conduct research. Additionally, NHTSA has recently initiated a rulemaking to establish new requirements to address pediatric heatstroke in vehicles.<sup>7</sup>

<sup>6</sup> Mr. Fray’s petition did not request that NHTSA initiate rulemaking to require vehicles to be able to detect and respond to the presence of unattended children in seats, nor did it provide supporting information demonstrating the practicability and safety benefits of such a requirement. Such a request would have fallen within the scope of a petition for rulemaking under 49 CFR part 552.

<sup>7</sup> The RIN for this planned rulemaking is 2127–AM49. For more information see <https://www.reginfo.gov/public/do/>