



April 2022

TRAFFIC SAFETY

Implementing Leading Practices Could Improve Management of Mandated Rulemakings and Reports

GAO Highlights

Highlights of [GAO-22-104635](#), a report to congressional requesters

Why GAO Did This Study

According to NHTSA estimates, 38,824 people died in motor vehicle crashes in 2020 on U.S. roads and highways, with even more projected to have died in 2021. NHTSA is responsible for overseeing the safety of motor vehicles on U.S. roads.

GAO was asked to examine NHTSA's processes for developing statutorily required, or "mandated," rulemakings and reports. In this report, GAO examined: (1) the number of rulemakings and reports mandated by MAP-21 and the FAST Act that NHTSA completed, and factors that affected its completion of selected mandates; and (2) the extent to which NHTSA followed leading project schedule management practices when developing mandated rulemakings and reports, among other objectives.

GAO analyzed publicly available information on regulations under development, including [Reginfo.gov](#); reviewed relevant agency procedures; summarized literature issued in the past 10 years on factors affecting rulemaking; and interviewed NHTSA officials, six regulatory experts, and nine transportation stakeholders. GAO also selected for review five mandated rulemakings and four mandated reports to provide additional insights on factors affecting mandate completion.

What GAO Recommends

GAO is making four recommendations, including that NHTSA update its procedures on rulemaking and developing reports to Congress to require the use of leading project schedule management practices. NHTSA concurred with the recommendations.

View [GAO-22-104635](#). For more information, contact Elizabeth Repko at (202) 512-2834 or repkoe@gao.gov.

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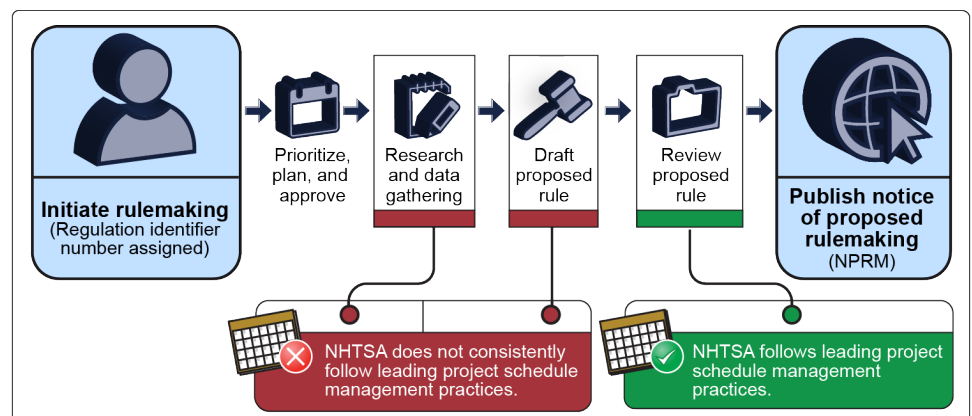
Implementing Leading Practices Could Improve Management of Mandated Rulemakings and Reports

What GAO Found

The National Highway Traffic Safety Administration (NHTSA) was mandated to complete numerous rulemakings and reports to address safety and related issues by both the 2012 Moving Ahead for Progress in the 21st Century Act (MAP-21) and the 2015 Fixing America's Surface Transportation Act (FAST Act). As of April 11, 2022, NHTSA completed all 19 reports and 6 of the 22 rulemakings required by these Acts that GAO identified. Agency officials and regulatory experts GAO interviewed cited administration priorities, issue complexity, and resource availability as factors affecting NHTSA's completion of rulemakings and reports.

NHTSA has not consistently followed leading project schedule management practices when developing mandated rulemakings and reports. These practices, which include establishing milestones and sequencing activities, can help manage project timeframes and reduce delays. While these practices should be applied to all stages of a project, NHTSA only consistently followed them for the review stage of its rulemaking and report processes, where NHTSA's procedures specify that it do so. (See fig.) For example, NHTSA followed leading project schedule management practices for the review of a proposed rule on tire pressure standards, but not for the activities, such as securing and managing a research contract, needed to draft that proposed rule. Regulatory experts have noted that these time-consuming stages of the rulemaking process are important, as they influence the contents of rules.

National Highway Traffic Safety Administration's (NHTSA) Use of Leading Project Schedule Management Practices in Its Rulemaking Process



Source: GAO analysis of NHTSA information. | [GAO-22-104635](#)

Similarly, for each mandated report to Congress, NHTSA followed leading project schedule management practices when reviewing draft reports, but not for the tasks needed to draft each report prior to review. While NHTSA has completed all of the reports mandated by MAP-21 and the FAST Act, it issued nearly all of these reports after their statutory deadlines, delaying information to Congress on topics such as traffic safety that are critical to congressional oversight.

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Abbreviations

APA	Administrative Procedure Act
DOT	U.S. Department of Transportation
FAST Act	Fixing America's Surface Transportation Act
IIJA	Infrastructure Investment and Jobs Act
MAP-21	Moving Ahead for Progress in the 21st Century Act
NHTSA	National Highway Traffic Safety Administration
NPRM	Notice of Proposed Rulemaking
OFM	Office of Financial Management
OMB	Office of Management and Budget
OST	Office of the Secretary
OST-R	Office of the Assistant Secretary for Research and Technology
<i>PMBOK® Guide</i>	<i>A Guide to the Project Management Body of Knowledge</i>
RIN	Regulation Identifier Number

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April 26, 2022

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
House of Representatives

The Honorable Jan Schakowsky
Chair
Subcommittee on Consumer Protection and Commerce
Committee on Energy and Commerce
House of Representatives

The Honorable Lisa Blunt Rochester
House of Representatives

According to National Highway Traffic Safety Administration (NHTSA) estimates, 38,824 people died in motor vehicle crashes in 2020 on U.S. roads and highways. Its latest projections for the first 9 months of 2021 indicate that annual fatalities increased to the highest number since the same period of 2006.¹

Part of the U.S. Department of Transportation (DOT), NHTSA is responsible for overseeing the safety of motor vehicles on U.S. roads. According to NHTSA, it advances safety by developing and enforcing Federal Motor Vehicle Safety Standards, supporting education campaigns, performing defect and crash investigations, conducting research, and identifying safety trends and countermeasures. For example, it issues regulations on vehicle equipment such as brakes, seat belts, and air bags. These regulations set forth minimum performance standards to which manufacturers of motor vehicles and equipment must conform and certify compliance. NHTSA also conducts research on vehicle safety and driver behavior to reduce vehicle crashes, and makes this research available to Congress, states, and the public.

¹In February 2022, NHTSA published its latest available estimate of motor vehicle traffic fatalities for the first 9 months of 2021. Those estimates are that 31,720 people died in motor vehicle traffic crashes between January and September 2021, an increase compared to the first nine months of 2020.

The 2012 Moving Ahead for Progress in the 21st Century Act (MAP-21) and the 2015 Fixing America's Surface Transportation Act (FAST Act) required, or "mandated," NHTSA to complete numerous rulemakings and reports to Congress to address safety and related issues.² According to NHTSA officials, some of these mandated rulemakings and reports can be complex and require substantial research and analysis. However, NHTSA has faced criticism from some members of Congress and safety advocates that the pace of its rulemakings has not kept up with the safety needs of the traveling public. More recently, the 2021 Infrastructure Investment and Jobs Act (IIJA) mandated NHTSA to complete additional rulemakings and reports.³

You asked us to examine NHTSA's processes for developing rulemakings and reports to Congress to identify factors affecting the agency's completion of mandates from two of these statutes. This report examines: (1) the number of mandated rulemakings and reports to Congress mandated by MAP-21 and the FAST Act that NHTSA completed, and the factors that affected its completion of selected mandates; (2) the extent to which NHTSA follows leading project schedule management practices when developing mandated rulemakings and reports; and (3) the extent to which NHTSA communicates to Congress and the public the status and progress of mandated rulemakings and reports.

To identify the number of rulemakings and reports mandated by MAP-21 and the FAST Act that NHTSA completed, and the factors that affected its completion of selected mandates, we took several steps. Specifically, to develop a list of rulemakings and reports mandated by MAP-21 and the FAST Act, we compared mandates in those statutes to a list of mandated rulemakings and reports provided by NHTSA, and to GAO's database of completed rulemakings.⁴ We excluded rulemakings that did not involve substantive policy decisions and rulemakings in which NHTSA made only a minor change. To determine whether each rulemaking was complete, we analyzed semi-annual reports on active rulemakings on Reginfo.gov and calculated the amount of time from enactment of the legislation

²Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. No. 112-141, 126 Stat. 405 (2012); Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94, 129 Stat. 1312 (2015).

³The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021).

⁴The Congressional Review Act (CRA) requires GAO to report to Congress on whether an agency, in promulgating a major rule, has complied with regulatory processes. 5 U.S.C. § 801. The category of "major rules" is similar to economically significant rules under the Unified Agenda.

mandating the rulemaking (e.g., FAST Act was enacted December 4, 2015) until the date of the latest milestone reached (e.g., the date a final rule was issued). To determine whether each mandated report was complete, we obtained from NHTSA each report and its transmittal letter to Congress and calculated the time from enactment of the legislation until the date of the transmittal letter. In addition, to describe factors affecting NHTSA's completion of selected rulemakings and reports, we reviewed six mandated rulemakings and four mandated reports, interviewed NHTSA staff responsible for those rulemakings and reports, and analyzed documentation they provided to us. We chose rulemakings and reports based on the stage of completion, how long it took to reach that stage, and other characteristics.⁵ Finally, we conducted a literature search on factors contributing to rulemaking duration, interviewed government and academic experts involved in regulatory research, and organizations representing parties affected by NHTSA rulemaking.

To evaluate the extent to which NHTSA follows leading practices for project schedule management, we analyzed relevant DOT and NHTSA policies and procedures, collected information on their practices by interviewing NHTSA officials and by reviewing documentation they provided.⁶ We compared NHTSA's policies and practices to leading project schedule management practices identified by the Project Management Institute (PMI) in *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*. These leading practices include identifying milestones, identifying and sequencing activities, and estimating duration of activities—which are all necessary to create a

⁵As explained in the Unified Agenda, which references Executive Order 12866, rulemakings are classified as significant if they (1) are economically significant due to factors such as having an annual effect of \$100 million or more on the economy, (2) create a serious inconsistency or otherwise interfere with other agencies' actions, (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients, or (4) raise novel legal or policy issues. *See, e.g.,* 86 Fed. Reg. 16,848, 16,851 (Mar. 31, 2021); *see also Exec. Order 12866*, 58 Fed. Reg. 51,735, 51,738 (Oct. 4, 1993). Mandated reports are not assigned a "significance" category.

⁶U.S. Department of Transportation, National Highway Traffic Safety Administration *Order 800-5, Rulemaking Procedures: Motor Vehicle Standards* (October 2002); and U.S. Department of Transportation, National Highway Traffic Safety Administration *Order 132-24F, Reports to Congress* (July 21, 2015).

project schedule—and can help an agency tailor its efforts to the unique characteristics of each project and to manage timeframes.⁷

To evaluate the extent to which NHTSA communicates the status of mandated rulemakings and reports to Congress and the public, we reviewed the information on Reginfo.gov, the *Federal Register*, NHTSA’s website, and the Department of Transportation’s Research Hub—a public, searchable database on active and recently completed DOT-funded research projects. Reginfo.gov and the *Federal Register* are the primary sources of public information on the status of NHTSA rulemakings, so we focused our analysis on those sources. We compared NHTSA’s procedures and practices to communications criteria in *PMBOK* principles on external communication, *Standards for Internal Control in the Federal Government*, and the FAST Act. This act required DOT to make public a comprehensive database of all research projects conducted by DOT.⁸ For more information on our objectives, scope, and methodology, including how we identified mandated rulemakings and reports, see appendix I.

We conducted this performance audit from November 2020 to April 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

NHTSA is responsible for motor vehicle policy, regulation, and safety enforcement. NHTSA’s mission is to save lives, prevent injuries, and reduce the costs associated with motor vehicle crashes through education, research, vehicle safety standards, and enforcement activity. NHTSA employs approximately 600 staff across 10 offices, including

⁷Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017. *PMBOK* is a trademark of Project Management Institute, Inc. PMI is a not-for-profit association that provides global standards for, among other things, project and program management. These standards are utilized worldwide and provide guidance on how to manage various aspects of projects, programs, and portfolios.

⁸See GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014); *PMBOK® Guide*, 2013; and Pub. L. No. 114-94, §6019, 129 Stat., at 1579-80 (codified, as amended, at 49 U.S.C. § 6502).

Research and Program Development, Vehicle Safety Research, Rulemaking, and Enforcement. In fiscal year 2021, NHTSA's enacted budget was \$1.1 billion—\$23.8 million of which was allocated for rulemaking.⁹

NHTSA Rulemaking

Issuing federal regulations is a tool that agencies use to implement laws aimed at achieving national goals, such as improving the economy and protecting the health and safety of the public and the environment. Agencies promulgate regulations through the rulemaking process, and may initiate a rulemaking independently or in response to a statutory mandate. Federal agencies are generally required to follow established procedures and requirements set forth by the Administrative Procedure Act (APA) and Executive Orders.¹⁰ For example, agencies are required to notify the public of three milestones for each rulemaking—(1) initiating a rulemaking by creating a regulation identifier number (RIN), (2) publishing a Notice of Proposed Rulemaking (NPRM), and (3) publishing a final rule (see figure 1).¹¹

Agencies must generally give interested persons an opportunity to comment on a proposed rule before publishing a final rule. Agencies generally publish NPRMs and final rules in the *Federal Register* and communicate these milestones, as well as any other planned regulatory

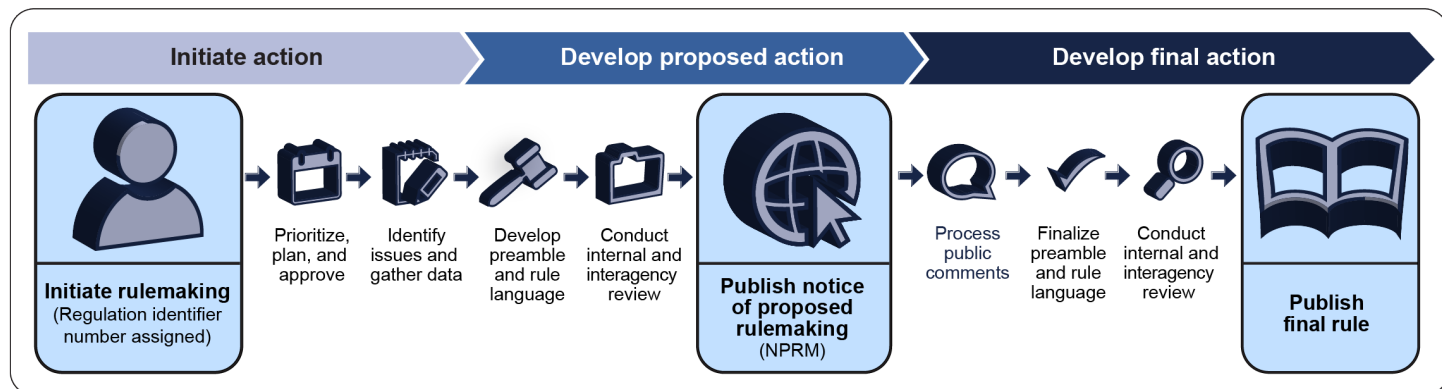
⁹In real terms, this represents a four percent decrease from NHTSA's enacted rulemaking budget in 2012 (\$24.7 million in 2020 dollars).

¹⁰See, e.g., 5 U.S.C. § 553; see also Exec. Order 12866, 58 Fed. Reg. 51,735 (Oct. 4, 1993). The APA includes exceptions to notice and comment procedures for categories of rules such as those dealing with military or foreign affairs and agency management or personnel. 5 U.S.C. § 553(a). Other exceptions include that APA requirements to publish a proposed rule generally do not apply when an agency finds, for "good cause," that those procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. § 553(b). Certain rulemakings are governed by agency- or program-specific statutory requirements instead. For example, certain Environmental Protection Agency rulemakings are subject to specific procedural requirements of the Clean Air Act in lieu of the APA provisions that would otherwise apply. See 42 U.S.C. § 7607.

¹¹Executive Order 12866, § 4(b) requires that the agencies include the RIN in the next bi-annual Unified Agenda. 58 Fed. Reg. at 51,738. Agencies are not required to notify the public on the date that they create a RIN. NHTSA officials noted that NHTSA staff may prioritize, plan, identify issues, and gather data before initiating a rulemaking. However, for the purposes of this report, we consider initiating a rulemaking and assigning a RIN as the first key milestone as it is the first time agencies are required to inform the public that they have begun a rulemaking.

or deregulatory actions, through the semi-annual Unified Agenda.¹² Agencies may also publish other documents in the *Federal Register* such as an Advance Notice of Proposed Rulemaking, which announces that an agency is considering a regulatory action and is issued before a proposed rule; or a Supplemental Notice of Proposed Rulemaking if an agency has made significant changes to an earlier proposed rule. Once issued, a final rule carries the force and effect of law with which regulated entities (e.g., car manufacturers, part suppliers) must comply.

Figure 1: Federal Rulemaking Steps Required to Initiate a Rulemaking, Develop a Notice of Proposed Rulemaking, and Develop a Final Rule



Source: GAO. | GAO-22-104635

NHTSA’s Office of Rulemaking leads the development and delivery of new rules, which focus on Federal Motor Vehicle Safety Standards, fuel economy regulations, and anti-theft and consumer information regulations, among other issues. The Office of Rulemaking works with the Office of the Chief Counsel to identify rulemakings mandated by statute and with the Office of Vehicle Safety Research and other NHTSA offices to develop rulemakings.

NHTSA Research

Several divisions within DOT and NHTSA conduct research on motor vehicle safety. DOT’s modal administrations conduct the majority of DOT’s research, with each focusing on specific transportation areas and issues. For example, NHTSA focuses on motor vehicle safety, while the

¹²The Unified Agenda is a public, semi-annual compilation of information about regulations under development by federal agencies. It is published in the spring and fall of each year. Searchable Unified Agenda information may be viewed at [Reginfo.gov](https://www.reginfo.gov).

Federal Aviation Administration focuses on aviation safety.¹³ DOT's Office of the Assistant Secretary for Research and Technology (OST-R) is responsible for coordination, facilitation, and review of research programs across all modal administrations.¹⁴ NHTSA's research is led by either (1) the Office of Vehicle Safety Research, which strategizes, plans, and implements research programs to continually further the agency's goals in reduction of crashes, fatalities, and injuries; or (2) the Office of Behavioral Safety Research, which studies behaviors and attitudes in highway safety—focusing on drivers, passengers, pedestrians, and motorcyclists—and uses that to develop and refine countermeasures to deter unsafe behaviors and promote safe alternatives. NHTSA's Office of Financial Management (OFM) is to ensure that mandated research reports are assigned to the appropriate program offices, and then is to track progress in completing the reports. NHTSA's Executive Secretariat coordinates with the program offices to ensure NHTSA transmits these reports to the appropriate congressional committees. Congress is then able to use these reports to inform its legislative efforts.

MAP-21 and FAST Act Mandated Rulemakings and Reports

MAP-21 and the FAST Act, enacted in 2012 and 2015 respectively, mandated NHTSA to issue dozens of rules and research reports on topics including rear seat belt warnings, tire pressure monitoring standards, and motor coach tires, and to complete reports on distracted driving, marijuana-impaired driving, safety recalls, and retrofitting seatbelts on motor coaches. For a full list of the mandated MAP-21 and FAST Act rulemakings and research reports to Congress we reviewed, see appendix II.

We have previously reported on DOT research efforts and recommended that DOT work to ensure that the information in its Research Hub is complete and accurate and includes all publicly available research.¹⁵ DOT agreed with this recommendation, and, in 2022, we confirmed that DOT had implemented a new department-wide system and process to help

¹³Modal administrations conduct their own research and engage with external research partners, such as universities and businesses, to conduct research through contracts, grants, cooperative agreements, and other agreements.

¹⁴GAO, *Transportation Research: Additional Actions Could Improve DOT's Internal Collaboration and Reliability of Information on Research Activities*, [GAO-20-622](#) (Washington, D.C.: Aug 10, 2020). OST-R was established in 2014 in the Office of the Secretary (OST) by the Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, div. L., tit. I, 128 Stat. 5, 574 (2014).

¹⁵[GAO-20-622](#).

ensure the information in the Research Hub is complete and accurate going forward from fiscal year 2020.

Project Management Leading Practices

The Project Management Institute's (PMI) *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)* describes leading project management practices, including those for managing the schedule and communications of a project.¹⁶ For example, *PMBOK* project schedule management leading practices can help an agency manage timeframes and tailor its efforts to the unique characteristics of each project. These leading practices include identifying milestones, identifying and sequencing activities, and estimating duration of activities to develop a project schedule. *PMBOK* defines project communications management as the processes necessary to ensure that the information needs of the project and its stakeholders are met. *PMBOK* notes the importance of timely communication with external entities about the project, and cites "schedule progress" as an example of information about a project that could be communicated.

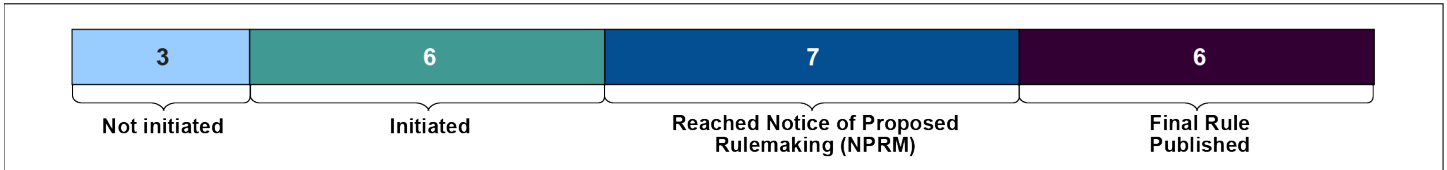
Most Mandated Rulemakings Remain Incomplete due to Several Factors, but NHTSA Completed All Reports

NHTSA Has Not Completed Nearly Three- Quarters of Mandated Rulemakings but Has Completed All Mandated Reports

According to our analysis, NHTSA has not completed 16 of the 22 rulemakings mandated by MAP-21 and the FAST Act. Figure 2 shows the status of the 22 mandated rulemakings as of April 11, 2022. Of the 22, NHTSA completed six; five of which were mandated by MAP-21. See appendix II for a list of rulemakings we identified that were mandated by each statute.

¹⁶Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition (2017).

Figure 2: Status of the 22 Rulemakings Mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Fixing America’s Surface Transportation Act (FAST Act), as of April 11, 2022



Source: GAO analysis of National Highway Traffic Safety Administration and reginfo.gov data. | GAO-22-104635

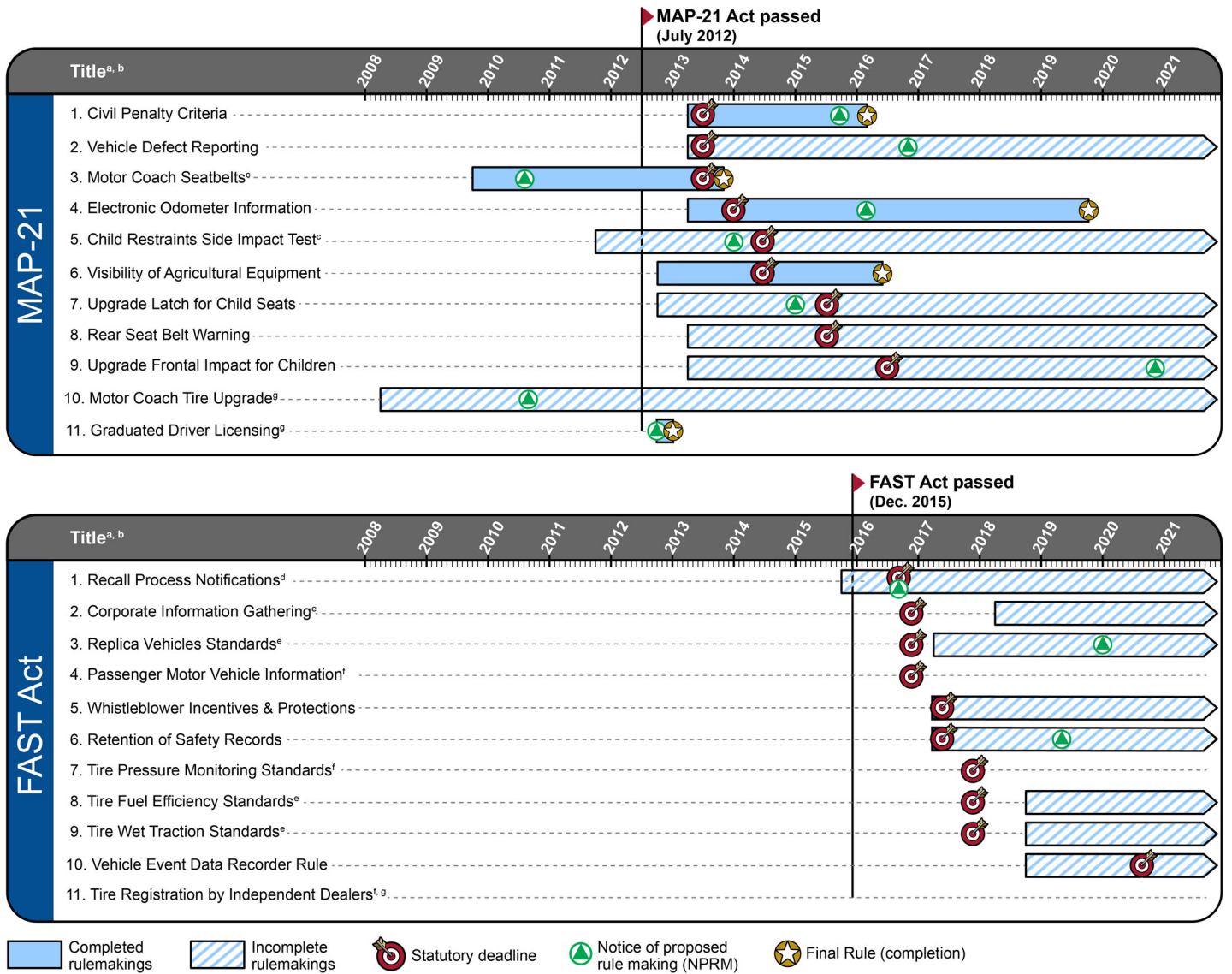
Note: MAP-21 and the FAST Act were enacted in 2012 and 2015 respectively. The status of the 22 rulemakings is illustrated in sequential order for a rulemaking—from “not initiated” to “initiated,” to the NPRM, and finally to the final rule.

As described above, MAP-21 and the FAST Act mandated NHTSA to complete rulemakings on topics such as motor coach, child restraints, and tire performance standards, and assigned statutory deadlines to many of them. For the mandated rulemakings that NHTSA completed, it exceeded those statutory deadlines by a period ranging from about 5 months to nearly 6 years.¹⁷ For example, NHTSA completed the Motor Coach Seatbelt rulemaking on November 25, 2013, roughly 4 months after it was due on July 6, 2013; yet it completed the Electronic Odometer Information rulemaking on October 2, 2019, nearly 6 years after it was due on January 6, 2014 (see figure 3, MAP-21 table, rows 3 and 4).

Figure 3 below illustrates the duration and completion status of each of the 22 mandated rulemakings. Each bar begins when it was first assigned a RIN in the Unified Agenda. The solid light blue shading in the figure indicates rulemakings that are complete (see MAP-21 table rows 1, 3, 4, 6 and 11, and FAST Act table row 3), while the hatch-mark light blue indicates rulemakings that are not complete. (See app. II for more detail).

¹⁷Three of the mandated rulemakings (two in MAP-21 and one in the FAST Act) did not have statutory deadlines.

Figure 3: Duration and Status of Rulemakings Mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Fixing America’s Surface Transportation Act (FAST Act), as of April 11, 2022



Source: GAO analysis of regInfo.gov data. | GAO-22-104635

^aSome rulemaking titles have been abbreviated.

^bThe start date for these rulemakings is based on when each first appeared in the Unified Agenda. Since the Unified Agenda is published semi-annually in Spring and Fall, for the purposes of this chart we use the seasonal mid-point as a proxy date. For example, a rulemaking that first appeared in the Unified Agenda in Spring 2013 is given a start-date of April 1, 2013. Likewise, fall dates use October 1 as the proxy date.

^cThe first notice in the Unified Agenda for this rulemaking predates MAP-21.

^dThe first notice in the Unified Agenda for this rulemaking predates the FAST Act.

^eThis rulemaking was initiated after its statutory deadline.

^fNHTSA has not initiated this rulemaking as of April 11, 2022.

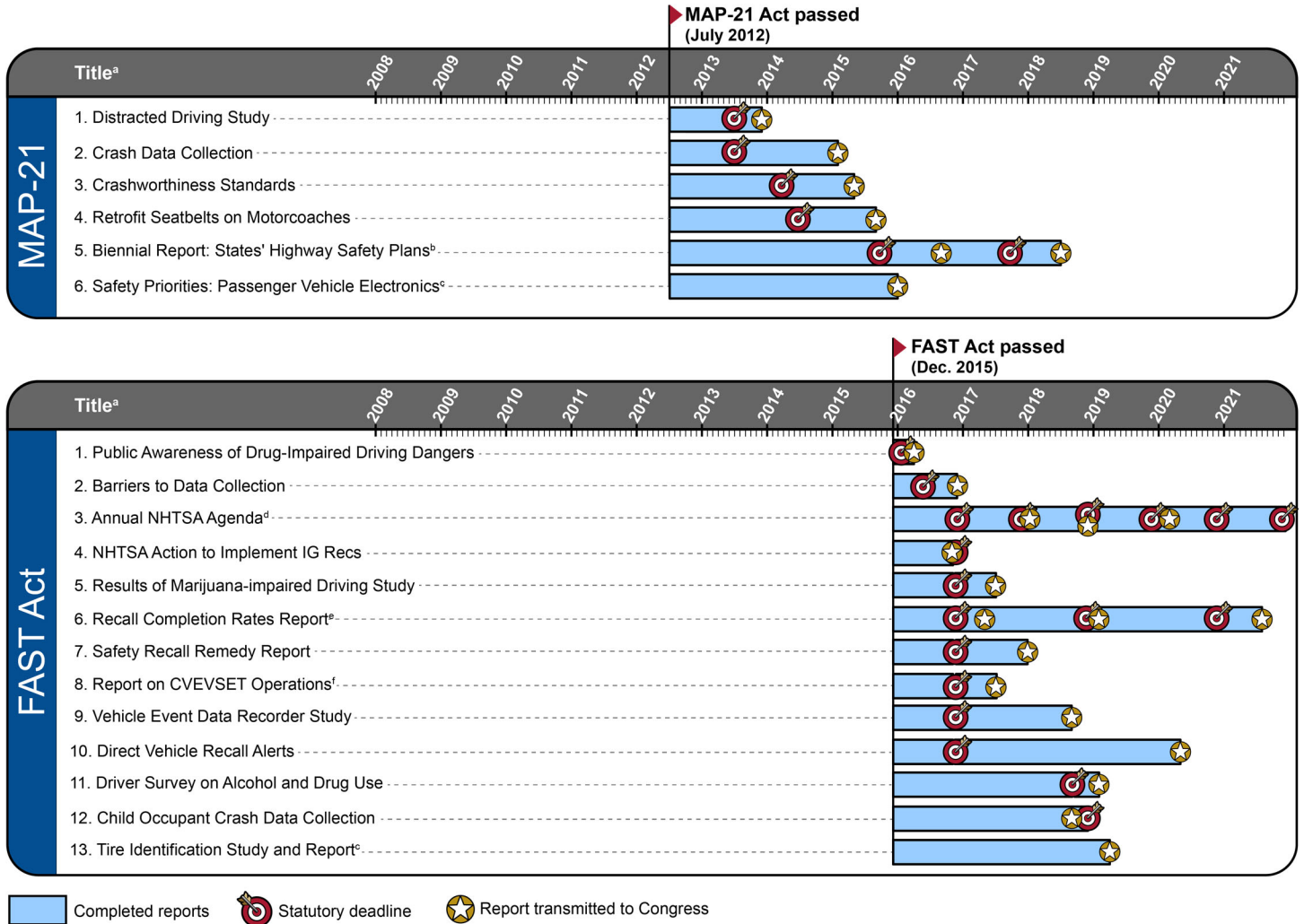
^gThis rulemaking did not have a statutory deadline.

NHTSA completed all 19 mandated reports to Congress, including six mandated by MAP-21 and 13 mandated by the FAST Act.¹⁸ For the mandated reports with statutory deadlines, all but two were issued after their statutory deadlines—exceeding those deadlines by periods ranging from about 2 months to more than 3 years.¹⁹ For example, NHTSA sent a mandated FAST Act report, Increasing Public Awareness of the Dangers of Drug-Impaired Driving, to Congress on April 5, 2016, about 2 months after the statutory deadline of February 2, 2016, while NHTSA sent another mandated FAST Act report, Report on Direct Vehicle Notification Recall Alerts, to Congress on May 1, 2020, nearly 3.5 years after its statutory deadline of December 4, 2016. (See fig. 4 and app. II for more detail on status and duration of MAP-21 and FAST Act mandated reports to Congress).

¹⁸For a complete list of the mandated MAP-21 and FAST Act reports to Congress and rulemakings, their sources in the legislation, and completion status, see appendix II.

¹⁹Two reports did not have statutory deadlines—one from MAP-21 and one from the FAST Act.

Figure 4: Duration and Status of Reports Mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Fixing America’s Surface Transportation Act (FAST Act), as of April 11, 2022



Source: GAO analysis of National Highway Traffic Safety Administration data. | GAO-22-104635

Note: Since we do not have specific information about the dates on which reports or related research for reports began, we represent each of the mandated reports as beginning with the enactment of MAP-21 and the FAST Act.

^aSome report titles have been abbreviated.

^bThis report mandate required two reports with two different statutory deadlines.

^cThis report mandate did not have a statutory deadline.

^dThis report mandate called for an annual report to Congress beginning on December 1, 2016. NHTSA officials told us that it delivered at least two reports to Congress informally, but provided us with transmittal letters and printed reports for the 2018, 2019 and 2020 calendar years.

^eThis report mandate required three reports with three different statutory deadlines.

¹CVEVSET is an acronym for the Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies.

Changing Priorities, Issue Complexity, Resource Availability, and Other Factors Affected NHTSA's Limited Progress on Selected Mandates

Regulatory experts and literature we reviewed identified administration and agency priorities, issue complexity, and resource availability as factors that could affect rulemaking duration and completion. NHTSA officials confirmed that these factors affected how long it took NHTSA to complete the five mandated rulemakings we selected for closer review and that some of these factors also affected their progress on the four mandated reports we also reviewed.

Administration and agency priorities. Regulatory experts we spoke to cited administration and agency priorities as factors that could affect the pace of rulemaking. For example, according to one expert we interviewed, an agency's Secretary or other appointees in the rulemaking review chain could terminate a rulemaking at any time given their administration's priorities. Likewise, other regulatory experts noted that presidential priorities, such as the deregulatory priorities implemented through Executive Order 13777 issued by the President in February 2017, could slow the pace of rulemaking.²⁰

NHTSA officials working on selected rulemakings cited administration or agency priorities as important factors in four of the five selected rulemakings. For example, according to NHTSA officials, they started the rulemaking on motor coach seatbelts in 2009, published an NPRM a year later, and completed the rulemaking relatively quickly because it was a NHTSA priority—part of a broader initiative to improve motor coach safety. As such, they had completed the bulk of the research required for the rulemaking when mandated to issue a rule by MAP-21.

In contrast, NHTSA officials said relatively lower prioritization hindered NHTSA's progress on a mandated rulemaking to require manufacturers to notify vehicle owners of recalls by electronic means in addition to first-

²⁰Executive Order 13777, "Enforcing the Regulatory Reform Agenda" directed regulatory agencies to evaluate existing regulations and make recommendations regarding their repeal, replacement or modification, among other things. Exec. Order No. 13777, 82 Fed. Reg. 12285 (Feb. 24, 2017). This order was revoked by Executive Order No. 13992, 86 Fed. Reg. 7049 (Jan. 20, 2021).

class mail.²¹ Although an NPRM was issued within a year of its first notice in the Unified Agenda in fall 2015, according to NHTSA officials, progress slowed when agency and administration priorities shifted away from the rulemaking. As of April 11, 2022, NHTSA had not issued the recall notification rule—more than 5 years after it issued an NPRM.

Much of NHTSA’s regulatory work from 2017 through 2020 was devoted to deregulatory actions. For example, NHTSA officials told us that agency and administration priorities tended to emphasize deregulatory over regulatory actions under Executive Orders 13771 and 13777.²² Our analysis of NHTSA’s Unified Agenda data shows that of the 47 rulemakings NHTSA began during that Administration between fall 2017 and fall 2020, 42 (89 percent) were classified as deregulatory actions.

Issue Complexity. Some of the regulatory experts we interviewed also noted that the complexity of a rulemaking can contribute to its duration.²³ For example, two regulatory experts said that rules requiring substantial data gathering and analysis can take years to reach an NPRM. Further, according to the same experts, complex rules are more likely to be designated as “significant,” a designation that brings with it Office of Management and Budget (OMB) review and additional requirements.²⁴

NHTSA officials working on selected rulemakings cited issue complexity as an important factor in three of the five selected rulemakings and three of the four selected reports. For example, officials said complexity was a

²¹The Recall Process Notifications rulemaking that would require manufacturers to notify vehicle owners of equipment recalls by electronic means in addition to first-class mail, initially appeared in the Unified Agenda in Fall 2015. It was subsequently included in the FAST Act as a mandate in December 2015.

²²Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” required agencies to identify two existing regulations to be repealed for every new regulation publically proposed. Exec. Order No. 13771. 82 Fed. Reg. 9339 (Jan. 30, 2017). Executive Order No. 13777, “Enforcing the Regulatory Reform Agenda,” directed regulatory agencies to evaluate existing regulations and make recommendations regarding their repeal, replacement or modification, among other things. 82 Fed. Reg. 12,285 (Feb. 24, 2017). These orders were rescinded by Executive Order 13992, 86 Fed. Reg. 7049 (Jan. 20, 2021).

²³For example, NHTSA must consider whether a proposed motor vehicle safety standard is reasonable, practicable, and appropriate. See National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. No. 89-563, §103, 80 Stat. 718, 719 (1966) (codified, as amended, at 49 U.S.C. § 30111).

²⁴Six of the mandated rulemakings included in this review are designated as significant: five from MAP-21 and one from the FAST Act.

key factor in the long duration of a rulemaking mandated by MAP-21 on a side-impact test for child restraints. According to NHTSA officials, this rulemaking required extensive research and testing, such as creating new crash test protocols and a new crash test dummy to replicate the dynamics of side-impact crashes on children in car seats. Several NHTSA offices contributed to conducting the research, crash tests, and data analysis and to preparing the NPRM. NHTSA officials said that because of this complexity the agency has spent more than 10 years on the rulemaking thus far, issuing an NPRM in January 2014. NHTSA anticipates publishing a final rule in 2022—more than 7 years after the statutory deadline.

NHTSA also cited complexity as a key factor in the length of time it took to complete one of the selected reports to Congress. NHTSA took a year longer than anticipated to complete the report, *The Need for Additional Heavy Truck Crashworthiness Test Standards*. According to NHTSA staff we interviewed, existing data on heavy truck crashes were insufficient, resulting in a need for additional time for NHTSA and contract staff to collect and analyze data on truck crashes—including data on specific crashes from local jurisdictions. NHTSA officials said the complexity of the data collection and analysis, in addition to extending one of the three research contracts for about 3 months to assure the quality of the data, contributed to their exceeding the statutory deadline by about one year.

Resource availability and other factors. According to regulatory experts and literature we reviewed, resource availability, review process timeframes, and the number of public comments received may also affect the pace of promulgating rules and producing reports. We have previously reported, for example, that review process requirements under Executive Order 12866 and analytical requirements under the Paperwork Reduction Act may affect the pace of rulemaking.²⁵ In addition, one of the regulatory experts we interviewed said that new artificial intelligence

²⁵GAO, *Aviation Rulemaking: Further Reform Is Needed to Address Long-standing Problems*, [GAO-01-821](#) (Washington, D.C.: July 9, 2001) and GAO, *Federal Rulemaking: Improvements Needed to Monitoring and Evaluation of Rules Development as Well as to the Transparency of OMB Regulatory Reviews*, [GAO-09-205](#) (Washington, D.C.: Apr. 20, 2009).

technologies could sometimes dramatically increase the number of public comments, which an agency must process.²⁶

NHTSA officials working on selected rulemaking and report mandates cited similar factors: resource availability (two rulemaking mandates and two report mandates), review process timeframes (one rulemaking mandate and three report mandates), and the number of public comments received in response to NPRMs (one rulemaking mandate). For example:

- NHTSA officials in the Office of the Chief Counsel who worked on the recall notification rulemaking mentioned above cited staff resources as another factor that affected the pace of promulgating that rule. Specifically, they said that fewer staff resources were available for the rulemaking because staff were also working on a recall of Takata air bag inflators at the same time. The recall notification rulemaking was mandated by the FAST Act in 2015. The Takata air bag inflator recall, which began that same year, eventually involved tens of millions of vehicles and, according to officials, contributed to the rulemaking's delay.
- NHTSA staff working on the Vehicle Event Data Recorder mandated report said it took longer to review because it was going to be used to support a contingent rulemaking and was therefore subject to closer scrutiny.
- According to NHTSA staff that worked on the Motor Coach seatbelt rulemaking, the rulemaking received more than 130 comments in response to the NPRM, which NHTSA officials said was far more than the 10 to 15 comments they typically receive on rulemakings for light vehicles such as pickup trucks, minivans, and sport-utility vehicles.²⁷ In particular, NHTSA staff noted that one comment from European motor coach manufacturers, where some of the motor coaches operated in the United States are manufactured, questioned why NHTSA needed to develop different standards from those promulgated by the European Union.

²⁶We have reported on this and related issues in GAO, *Federal Rulemaking: Information on Selected Agencies' Management of Public Comments*, [GAO-20-383R](#) (Washington, D.C.: April 16, 2020) and GAO, *Federal Rulemakings: Selected Agencies Should Fully Describe Public Comment Data and Their Limitations*, [GAO-21-103181](#) (Washington, D.C.: Sept. 21, 2021).

²⁷We have previously reported that some agencies may receive up to millions of comments. See: [GAO-21-103181](#).

NHTSA Does Not Consistently Follow Leading Practices when Developing Mandated Rulemakings or Reports

NHTSA Follows Leading Project Schedule Management Practices for Some Stages of Its Rulemaking Process but Not for Others

We found that NHTSA followed leading project schedule management practices for the review of draft rules, but not for the work needed to prepare each draft rule. According to leading project management practices outlined in *PMBOK*, the purpose of project scheduling is to develop a plan for how and when a project is expected to be completed. *PMBOK* emphasizes the importance of: (1) establishing project-specific milestones, (2) identifying and sequencing the activities between these milestones, and (3) estimating the duration of these activities, each of which is necessary to create a project schedule.²⁸ Our review of relevant literature and interviews with knowledgeable officials suggests there is not a standard length of time in which an agency should be expected to complete the federal rulemaking process. However, following leading schedule management practices outlined in *PMBOK* allows an agency to consider the unique characteristics of each rulemaking and arrive at an understanding of how and when the agency anticipates completing each stage of the process, a practice which can be useful in managing project timeframes and reducing delays.²⁹

Developing a rule includes a number of activities. As shown in figure 1 several pages ago, after initiating a rulemaking and assigning it a Regulation Identifier Number (RIN), an agency conducts relevant research and analyses before drafting a proposed rule and submitting it

²⁸*PMBOK* states that a milestone is a significant point or event in a project, noting that milestones have zero duration because they represent a significant point or event. Additionally, it states that an *activity* is a distinct, scheduled portion of work performed during the course of a project.

²⁹NHTSA officials acknowledged *PMBOK* as a resource, but noted that the agency is not required to use it as part of its rulemaking or research efforts.

for review.³⁰ Once a proposed rule is reviewed and approved, an agency then publishes a Notice of Proposed Rulemaking (NPRM) in the Federal Register. NHTSA follows these steps.

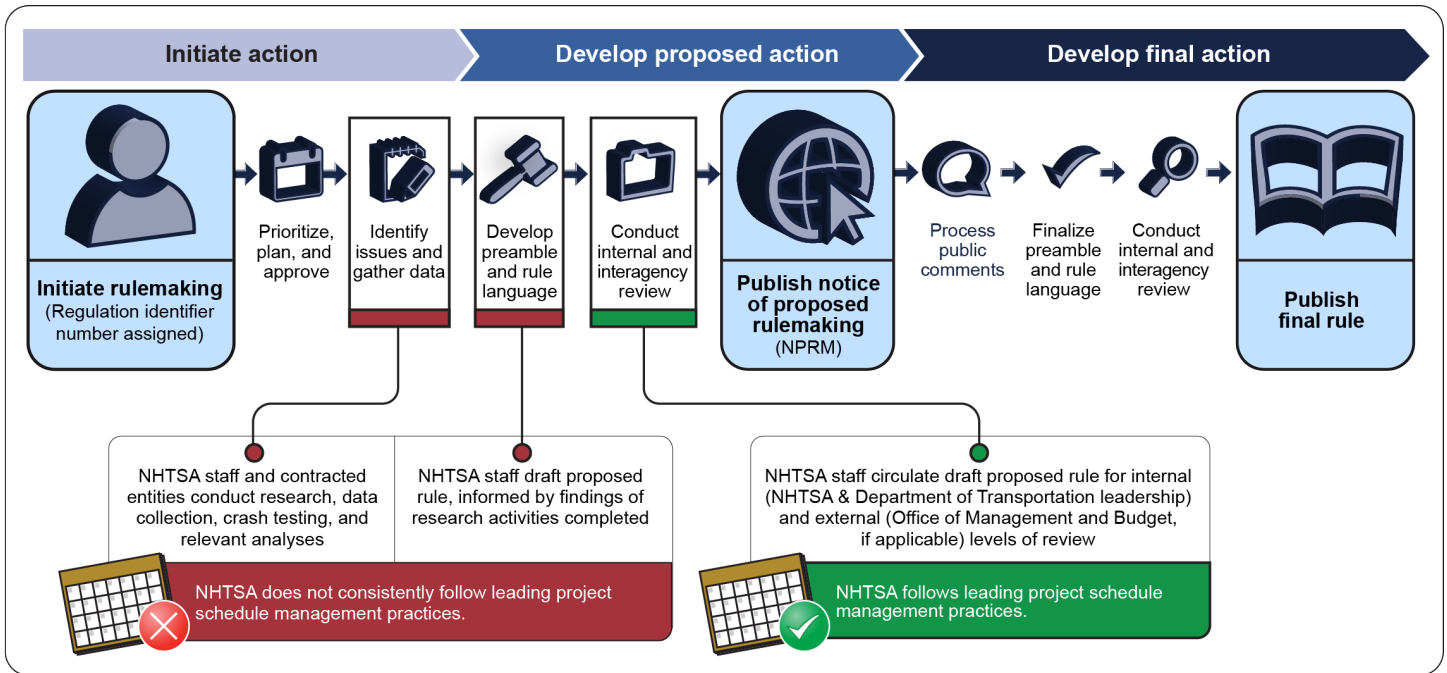
We found that after NHTSA drafts a proposed rule, it follows leading project schedule management practices to develop schedules for the review process. NHTSA's rulemaking procedures outline its process for circulating a proposed rule for review before publishing the NPRM in the Federal Register.³¹ These procedures state that NHTSA staff are to establish milestones for the completion of review of specific documents, identify and sequence the internal and external reviews of a draft rule, and estimate the duration of each review. The result is a schedule for the review of the draft rule. For example, NHTSA procedures note average lengths of review timeframes for a draft rule at various levels, such as 20 days for the Secretary of Transportation and 30 days for OMB, if applicable. Senior NHTSA officials told us that they maintain a spreadsheet on the status of each draft rule, which records where it is in the review process.

However, NHTSA procedures for the work needed to prepare and draft a proposed rule do not align with leading practices for project schedule management—and NHTSA staff confirmed that they did not consistently following the processes needed to develop schedules for this work. For example, activities such as research, testing, and other analyses inform the drafting of each proposed rule. However, NHTSA procedures do not include any mention of the leading project schedule development practices emphasized by *PMBOK* for these stages, which can be time-consuming (see fig. 5).

³⁰NHTSA officials said that assigning a RIN requires them to provide an estimated publication date for the rulemaking. As described earlier, NHTSA officials noted that its staff may prioritize, plan, identify issues, and gather data before initiating a rulemaking. For the purposes of this report, we consider initiating a rulemaking and assigning a RIN as the first key milestone, as it is the first time that an agency is required to inform the public that it has begun a rulemaking.

³¹NHTSA Order 800-5: *Rulemaking Procedures: Motor Vehicle Standards*.

Figure 5: National Highway Traffic Safety Administration’s (NHTSA) Use of Leading Project Schedule Management Practices in Its Rulemaking Process



Source: GAO analysis of NHTSA information. | GAO-22-104635

NHTSA program officials working on three of five mandated rulemakings we selected for further review reported that they did not follow leading project schedule management practices for the activities needed to draft a proposed rule.³² For example, for a rulemaking on tire pressure monitoring standards mandated by the FAST Act, NHTSA staff reported that a contractor created a schedule specific to their research, but they did not take steps to develop a schedule for their broader work on the effort. Specifically, NHTSA staff said that they did not follow leading project schedule management practices to develop a schedule for their work to secure or manage the contract. NHTSA was required to publish a final rule on tire pressure monitoring standards by December 2017, but as of April 11, 2022, this rulemaking had yet to be formally initiated and assigned a RIN. NHTSA staff working on two of the selected mandated rulemakings said that they independently decided to develop schedules

³²NHTSA rulemaking staff assigned to three of the five selected rulemakings reported that they did not develop schedules for the activities needed to draft a proposed rule. Of those three, staff assigned to one rulemaking said they did not develop a schedule because they have not yet formally initiated the rulemaking and assigned it a RIN.

for some of the research, testing, and other activities needed to draft a proposed rule.

Regulatory experts we spoke with and relevant academic literature note that the work to prepare and draft a proposed rule is typically a time-consuming part of the process that influences the content of new rules. While it can take years to complete the necessary research to draft a proposed rule, one regulatory expert we interviewed said it is notable that many of the rules mandated by MAP-21 and the FAST Act remain incomplete. Further, as one piece of academic literature notes, agencies make many of their most important decisions in rulemaking prior to reviewing and publishing an NPRM—and these early decisions strongly influence the contents of new rules.³³

When asked why NHTSA staff do not consistently follow leading project schedule management practices for the entire rulemaking process—including the stages of research, analysis, and drafting of a proposed rule—senior NHTSA officials said that the agency’s procedures grant discretion to program offices to determine whether to develop a schedule for these rulemaking stages. However, this discretion led to inconsistent use of leading project schedule management practices. NHTSA officials told us that they meet regularly to discuss the status of mandated rulemakings, but leading practices call specifically for developing schedules with milestones, activities, and estimates of duration for each.

Completing rulemakings in a timely manner is critical to NHTSA’s mission of ensuring motor vehicle safety because those rules address the current safety needs of the public. As noted above, nearly three-quarters of rulemakings mandated by MAP-21 and the FAST Act remain incomplete years after they were required by law—including three that NHTSA has not yet started. Taking key steps to develop a project schedule for all stages of the process—including the research and analysis that inform the drafting of each proposed rule—could help NHTSA complete statutorily mandated rulemakings in a timely manner.

³³Michael Sant’Abrogio & Glen Staszewski, *Democratizing Rule Development*, 98 WASH. U. L. REV. 793 (2021).

NHTSA Follows Leading Project Schedule Management Practices for Some Stages of Developing Mandated Reports, but Not for Others

NHTSA follows leading project schedule management practices needed to develop a schedule for the review of mandated reports after it drafts them; however, it does not consistently follow leading practices for the activities prior to the review of mandated reports, including their research, analysis, and drafting.

NHTSA's procedures for the review of draft reports include leading project schedule management practices necessary to develop a schedule such as (1) establishing project milestones; (2) identifying and sequencing activities; and (3) estimating activity durations. NHTSA's procedures on reports to Congress state that NHTSA staff are to establish milestones for the review of a draft report to Congress, identify and sequence the levels of review, and estimate the duration of each level of review.³⁴ Specifically, the procedures state that staff typically allow 15 calendar days for internal stakeholder review, another 15 days for NHTSA Administrator review, and between 60 and 90 days for reviews by the Secretary of Transportation and OMB.³⁵

However, NHTSA does not consistently follow leading project schedule management practices for the activities prior to the review of mandated reports, including their research, analysis, and drafting. For example, NHTSA procedures do not mention establishing milestones, identifying and sequencing activities, or estimating durations for the schedule of activities needed to draft a report to Congress. These activities can include in-house research or testing, procuring a contract for research or testing, or coordinating with stakeholders, among other activities. NHTSA staff responsible for specific reports to Congress confirmed they do not consistently identify and sequence—or estimate the duration of—the activities needed to draft a report prior to its submission for internal review. For example, NHTSA officials who worked on a report on drivers' alcohol and drug use, mandated by the FAST Act, said that they were told to produce a draft report by a specific date. The officials added that no one asked them to develop a schedule for the activities needed to

³⁴These procedures state NHTSA's Office of Financial Management (OFM) is responsible for assigning reports to appropriate program office(s) and establishing milestones (e.g., completion of internal agency review, completion of OST/OMB review, etc.) for each report—a key schedule development step. The procedures further state that OFM is to “allow adequate time for the Administrator, OST, and OMB officials to review before the congressional due date,” suggesting typical durations for each review activity in the sequence. *NHTSA Order 132-24F: Reports to Congress*, ¶¶ 6–7.

³⁵*NHTSA Order 132-24F* states that reports that do not require the signature of the Secretary of Transportation only require 60 days, but note that 90 days are required for Secretary review and signature.

research and develop this report, which was completed 6 months after its statutory deadline. In addition, officials told us they track the status of each draft report as it is circulated for review, but not for the activities needed to draft a report in the first place.

When asked why NHTSA does not consistently follow leading schedule management practices during the research, analysis, and drafting of mandated reports, senior NHTSA officials said NHTSA's relevant procedures grant discretion to its program offices to determine whether to do so.³⁶ Senior officials also stated that program offices follow leading practices necessary to develop schedules for these stages. However, NHTSA program staff reported to us that they did not follow leading practices for these stages for any of the four reports that we selected for closer review. Specifically, NHTSA officials working on the four selected reports confirmed that they did not identify milestones, sequence activities, or estimate activity durations for the tasks required to draft the mandated reports. While NHTSA has completed all 19 of the reports to Congress mandated by MAP-21 and the FAST Act, only two of these reports were completed by their statutory deadlines.

Without consistently following leading schedule management practices for all activities needed to draft mandated reports, NHTSA lacks tools that could help it manage the timely completion of these reports, and members of Congress are unable to use the most current information to inform their legislative efforts. For example, the timely completion of mandated reports on topics such as alcohol-impaired driving helps inform decisions on congressional authorizations. Further, failing to complete reports in a timely manner could affect NHTSA's safety mission by delaying the initiation of work on related rulemakings. For example, NHTSA's rulemaking staff said the late completion of a FAST Act-mandated report on vehicles' electronic data recorders delayed their work on the related rulemaking by nearly 2 years.³⁷

³⁶NHTSA leadership told GAO that in cases where research is needed to complete a report, a milestone and deliverable schedule is developed in every case and guides the completion of the research. However, NHTSA staff who worked on reports to Congress selected for further review did not discuss taking any such steps.

³⁷This report, due December 4, 2016, was transmitted to Congress on September 21, 2018. With the report's finalization, the related rulemaking's statutory deadline was set for September 21, 2020 based on the FAST Act. NHTSA had not completed this rulemaking as of April 11, 2022.

Gaps Exist in NHTSA's Communications on Mandated Rulemakings and Reports

NHTSA Does Not Routinely Communicate Activities Completed between Rulemaking Milestones

As noted above, agencies are required by Executive Order to report on regulations under development or review in the Unified Agenda twice a year.³⁸ We found that as of April 11, 2022, NHTSA had published the most recent milestone—initiation, NPRM, or final rule—in the Unified Agenda for each of the 19 mandated rulemakings NHTSA had initiated. (See fig. 2 for the status of all mandated rulemakings).³⁹ For rulemakings NHTSA initiated, the agency also published whether it anticipated reaching the next required milestone within the following year from the publication of the Unified Agenda and a projected date for that milestone. See figure 6 for an example of a NHTSA rulemaking update in the Unified Agenda, which is published on [Reginfo.gov](https://www.reginfo.gov). According to NHTSA officials, for some rulemakings, as appropriate, NHTSA may include additional information under the “timetable” portion of the Unified Agenda entry, such as “reviewing public comments.” For mandated rulemakings that NHTSA has not yet initiated, NHTSA is not required to publish updates in the Unified Agenda because only regulations under development or review must be reported.

³⁸See Exec. Order 12866, 58 Fed. Reg. 51,735 (Oct. 4, 1993).

³⁹As noted above, agencies are generally required to notify the public of each of these three milestones. Agencies may also issue an Advance Notice of Proposed Rulemaking prior to an NPRM, a Supplemental Notice of Proposed Rulemaking after an NPRM, or a Withdrawal. For the purposes of this report, we are focusing on how NHTSA communicates rulemaking information to Congress and the public through government-wide public sources, including [Reginfo.gov](https://www.reginfo.gov), which publishes information from the Unified Agenda.

Figure 6: Screenshot from Reginfo.gov of the Fall 2021 Unified Agenda for National Highway Traffic Safety Administration (NHTSA) Rulemaking on Vehicle Event Data Recorder Standards

View Rule

[View EO 12866 Meetings](#) [Printer-Friendly Version](#) [Download RIN Data in XML](#)

DOT/NHTSA **RIN: 2127-AM12** **Publication ID: Fall 2021**

Title: Updating Event Data Recorder Standard for Time Capture

Abstract:

In accordance with the 2015 Fixing America's Surface Transportation Act (FAST Act) 24303(b), this rulemaking proposes to amend 49 CFR part 563, "Event Data Recorders," to update the current pre-crash recording duration for motor vehicles equipped with event data recorders. For motor vehicles equipped with an event data recorder, the current regulation requires a 5 second pre-crash recording period at a frequency rate of 2 cycles/second (Hz).

Agency: Department of Transportation(DOT) **Priority:** Substantive, Nonsignificant

RIN Status: Previously published in the Unified Agenda **Agenda Stage of Rulemaking:** Proposed Rule Stage

Major: No **Unfunded Mandates:** No

CFR Citation: [49 CFR 563](#)

Legal Authority: delegation of authority at 49 CFR 1.95

Legal Deadline:

Action	Source	Description	Date
Final	Statutory	Final Rule required not later than 2 years after submission of Report to Congress required under 24303(a)	09/27/2020

Timetable:

Action	Date	FR Cite
NPRM	06/00/2022	

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:
 Carla Rush
 Safety Standards Engineer
 Department of Transportation
 National Highway Traffic Safety Administration
 1200 New Jersey Avenue, SE,
 Washington, DC 20590
 Phone:202-366-4583
 Email: carla.rush@dot.gov

Source: reginfo.gov. | GAO-22-104635

While NHTSA reports status information on required rulemaking milestones, it does not routinely communicate information on activities it completes between these milestones. This approach does not align with leading project management practices. NHTSA officials and regulatory experts told us these activities may include substantial research, testing,

and other work. For example, for the rulemaking on developing a side impact test for child restraints that MAP-21 mandated NHTSA to complete, NHTSA officials summarized analyses of crashes involving children in car seats, and recommended the agency take steps to develop a rule on side impact test procedures. However, the information NHTSA provided publicly did not communicate that it had completed such analyses.⁴⁰ Instead, NHTSA reported that it was at the “proposed rule stage” for this rulemaking in five consecutive Unified Agendas from 2011 through 2013. Each Unified Agenda included an estimate for the planned publication date of the NPRM until it was published on January 28, 2014 (see table 1).⁴¹

Table 1: Unified Agenda Reports for National Highway Traffic Safety Administration (NHTSA) Rulemaking on a Child Restraints Side Impact Test, 2011 through 2014

Unified Agenda	Agency	Agenda Stage of Rulemaking	Title	Projected Notice of Proposed Rulemaking (NPRM)
Fall 2011	Department of Transportation (DOT)/NHTSA	Proposed Rule Stage	Child Restraints Side Impact Test	May 2012
2012	DOT/NHTSA	Proposed Rule Stage	Child Restraints Side Impact Test	June 2013
Spring 2013	DOT/NHTSA	Proposed Rule Stage	Child Restraints Side Impact Test	September 2013
Fall 2013	DOT/NHTSA	Proposed Rule Stage	Child Restraints Side Impact Test	December 2013
Spring 2014	DOT/NHTSA	Proposed Rule Stage	Child Restraints Side Impact Test	1/28/14 (NPRM published)

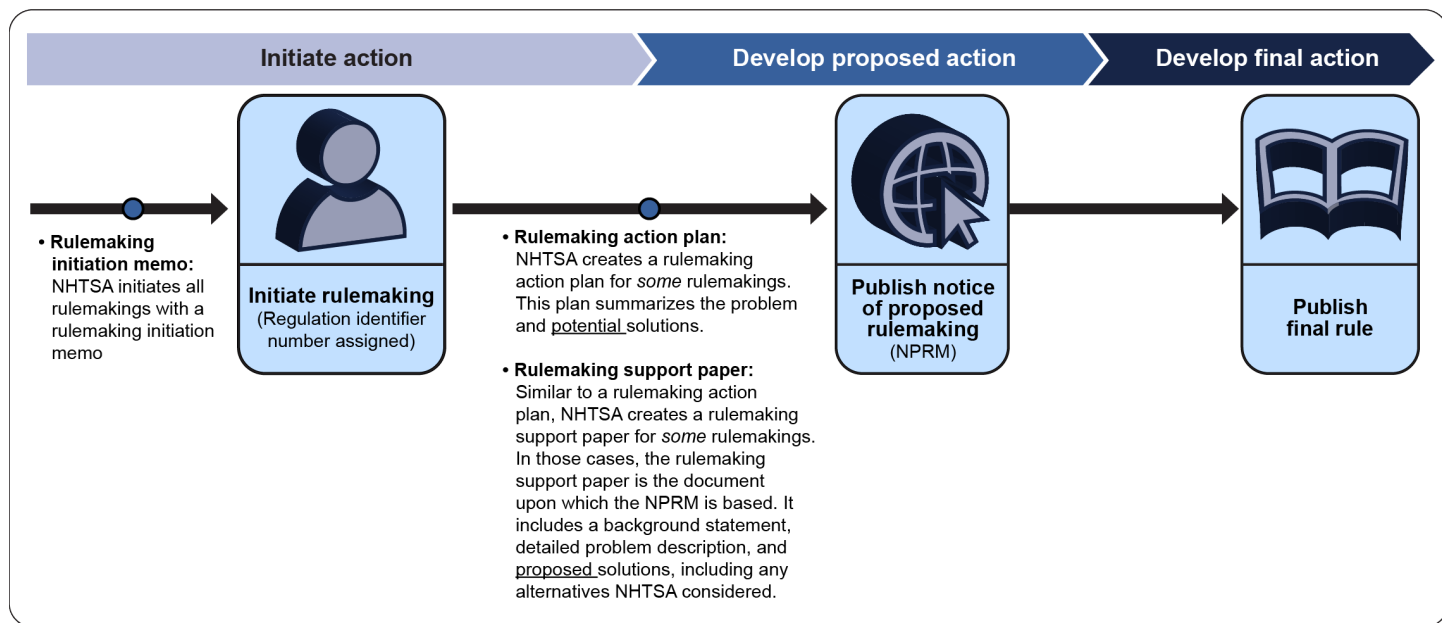
Source: GAO analysis of Unified Agenda information as of April 11, 2022 | GAO-22-104635

⁴⁰NHTSA officials said they may provide additional information on the status of rulemakings, such as a notice of a public meeting or the addition of research into the public rulemaking dockets, but that they do so on an as-needed basis.

⁴¹See 79 Fed. Reg. 4570 (Jan. 28, 2014). This NPRM proposed “to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ‘Child restraint systems,’ to adopt side impact performance requirements for all child restraint systems designed to seat children in a weight range that includes weights up to 18 kilograms (40 pounds). NHTSA is issuing this NPRM to ensure that child restraints provide a minimum level of protection in side impacts by effectively restraining the child, preventing harmful head contact with an intruding vehicle door or child restraint structure, and by attenuating crash forces to the child’s head and chest.” *Id.*, at 4570. NHTSA officials noted that for this rulemaking, the Unified Agenda also provided information on the date the comment period would close for this NPRM and when NHTSA would be analyzing public comments.

Development of internal rulemaking documents is another example of activities NHTSA may complete, but not communicate, between federally required rulemaking milestones. For example, NHTSA’s Order on Rulemaking describes an internal Rulemaking Action Plan, which staff may prepare before an NPRM for some rulemakings.⁴² The Rulemaking Action Plan summarizes “the safety problems to be addressed, known data on problems and potential solutions... [and] research and resource requirements...” for a potential rulemaking. See figure 7 below for examples of other internal rulemaking documents NHTSA may create for some rulemakings.

Figure 7: Examples of Internal Documents National Highway Traffic Safety Administration (NHTSA) Officials May Create for Some Rulemakings



Source: GAO analysis of NHTSA information. | GAO-22-104635

⁴²See U.S. Department of Transportation National Highway Traffic Safety Administration *NHTSA Order 800-5: Rulemaking Procedures: Motor Vehicle Standards*. NHTSA officials told us that recommendations for future rulemaking actions are submitted to the Executive Management Team for review and determination about whether a team working on a particular rulemaking should prepare a Rulemaking Action Plan.

Lengthy gaps between rulemaking milestones may mean that years have passed without NHTSA providing new or substantive information in the Unified Agenda. For example, for a completed mandated rulemaking on electronic odometer information, DOT initiated the rulemaking in spring 2013, issued an NPRM on March 25, 2016, and issued a final rule on October 2, 2019. In this instance, while NHTSA updated projected NPRM and final rule dates in most Unified Agendas, it did not communicate substantive information other than the NPRM and final rule, which were published 3 years apart. It communicated even less substantive information for rulemakings that it did not complete. For example, as of April 11, 2022, for the three mandated rulemakings that NHTSA had not yet initiated, it did not communicate any information in the Unified Agenda. Officials said that, although not standard for any rulemaking action, NHTSA may communicate status in other ways including by issuing press announcements, posting information on specific websites, and responding to requests for updates.

PMBOK's leading project management practices note the importance of timely communication with external entities, and cite "schedule progress" as an example of information about a project that could be communicated.⁴³ Further, *Standards for Internal Control in the Federal Government* state that entities should communicate quality information so that external parties can help the entity achieve its objectives, and that both the quality of information communicated and the way in which it is communicated should be timely.⁴⁴

In November 2021, Congress passed the IIJA, which included a requirement for the Secretary of Transportation to communicate more information on the status and progress of NHTSA's mandated rulemakings.⁴⁵ For example, the IIJA generally requires the Secretary to provide information at least twice a year on NHTSA's incomplete

⁴³See Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition (2017). Also, since NHTSA's key objectives include issuing rules on motor vehicle safety and other standards, we consider each rulemaking to be a project with a schedule of activities—as described above—about which NHTSA can communicate status and progress to its stakeholders.

⁴⁴[GAO-14-704G](#).

⁴⁵The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 24210, 135 Stat. 429, 824–25 (2021). The Secretary of Transportation is required to report on covered rulemakings, which include all incomplete rulemakings mandated by IIJA and specified incomplete rulemakings mandated by the FAST Act and MAP-21.

mandated rulemakings, including an explanation for why a statutory deadline was not met, expected date of completion for each incomplete rulemaking, and “any other details associated with the status of the [incomplete] rulemaking.”⁴⁶ The first report is due to Congress on May 14, 2022.

Once published, this report should provide Congress with consolidated information about mandated rulemakings, which it does not currently receive. However, when asked whether the report would include information on substantive activities completed between rulemaking milestones, NHTSA officials told us they could not commit to including such information as they were still developing the report’s content. In addition, information NHTSA previously provided to Congress—through the Unified Agenda and posts to specific websites we reviewed—did not include a description of substantive activities NHTSA had taken between milestones, raising the possibility that the IJA report also may not include this information.

Without more communication on the substantive activities NHTSA has completed on mandated rulemakings, Congress does not have timely information on NHTSA’s progress, or how much work it needs to complete on particular rulemakings. As evidence of this, some Members of Congress sent letters to NHTSA from 2018 through 2020 asking for additional information regarding incomplete rulemakings mandated by MAP-21 and the FAST Act. The letters stated that not issuing rules designed to reduce traffic fatalities and injuries could compromise public safety. Absent timely information on NHTSA’s progress and on what it has accomplished between required milestones, Congress cannot effectively target its support or oversight in the future.

NHTSA Notifies Congress but Rarely Notifies the Public When It Completes a Mandated Report

We found that for all 19 mandated reports to Congress, NHTSA notified and sent final reports to the appropriate congressional committees when it completed each report. As noted above, MAP-21 and the FAST Act required NHTSA to conduct research on topics such as drug- and alcohol-impaired driving, distracted driving, seatbelts in motor coaches, and crash data related to children as vehicle occupants. To notify Congress when it has completed a mandated report, NHTSA follows internal procedures that outline steps to identify mandated reports,

⁴⁶*Id.*, at § 24210, 135 Stat. at 825.

circulate draft reports for review, and send final reports to relevant congressional committees.⁴⁷

While NHTSA sent all 19 mandated reports to the appropriate congressional committees, it rarely notified the public when it completed these reports or made them publicly available. The FAST Act required DOT, among other things, to “annually publish on a public website a comprehensive database of all research projects conducted by the Department of Transportation.”⁴⁸ DOT expanded its Research Hub database—a public, searchable database on active and recently completed DOT-funded research projects—to address this mandate. According to the Research Hub website, it is designed to, among other things, “provide a full account of DOT’s research portfolio to the transportation research community in the U.S. and abroad.”⁴⁹ In addition, as previously stated, both *PMBOK* project management practices and federal standards for internal control note that communication with external entities, such as the public, can help entities better achieve their objectives.⁵⁰ For example, members of the public such as safety organizations and industry associations can help NHTSA identify gaps or opportunities in its research reports if the research is shared.

NHTSA officials told us that most of the 19 mandated reports should be available in either DOT’s Research Hub or on NHTSA’s website titled NHTSA Reports Sent to Congress. However, we searched for all 19 mandated reports in the DOT Research Hub and on NHTSA’s website, and as of March 2022 we were only able to find one potential match—

⁴⁷NHTSA procedures state that, in consultation with the Office of the Chief Counsel and the Office of Governmental Affairs, Policy and Strategic Planning, NHTSA’s Office of Financial Management is responsible for identifying mandated reports, assigning them to the appropriate program office depending on the subject, and for tracking their status in a DOT-wide system. The NHTSA Executive Secretariat is responsible for ensuring delivery of final reports to the relevant congressional committees. *NHTSA Order 132-24F: Reports to Congress*, ¶ 6 (2015).

⁴⁸Pub. L. No. 114-94, § 6019, 129 Stat. 1312, 1579-80 (2015). (codified as amended at 49 U.S.C. § 6502).

⁴⁹See <https://researchhub.bts.gov/about>.

⁵⁰See [GAO-14-704G](#) and Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017.

listed on the NHTSA Reports Sent to Congress webpage.⁵¹ We were not able to find any of the mandated reports in the Research Hub.⁵² It is possible that some of these reports are included in the Research Hub, but because the Research Hub does not indicate whether a report is the result of a congressional mandate, it is difficult to confirm. We previously reported that information in the DOT Research Hub was sometimes incomplete and recommended DOT take additional steps to improve this information.⁵³

Additionally, two industry and safety stakeholders we interviewed cited challenges locating mandated research reports completed by NHTSA. For example, an official from one industry organization said they were not able to find a mandated report to Congress related to event data recording on any DOT website. The official said they finally located the report through the Congressional Research Service, but they were concerned that the delay in locating the report affected their ability to update their members on the results of the research, and vet NHTSA's research in a timely manner. The officials said this was important because the research was going to be used to inform a rulemaking on vehicle event data recorders.

When asked why NHTSA does not communicate completed mandated reports to the public, officials said that the focus is on providing the report to Congress—the entity which requested the report for its own research and decision-making purposes. Additionally, NHTSA officials noted that while the mandated reports transmitted to Congress may not be publicly available, the research behind some of them is in the DOT Research Hub. However, they did not provide evidence of this and our review could not confirm it. Further, as noted above, if members of the public cannot find this research—either due to challenges with the DOT Research Hub, or because NHTSA's Reports Sent to Congress website is out of date—the public cannot benefit from this information.

⁵¹As of March 2022, the webpage listed reports completed between 2003 and 2016. However, NHTSA completed many of the reports mandated by MAP-21 and the FAST Act after 2016. Further, the webpage does not list reports that NHTSA was mandated to complete, but are in process.

⁵²Our search included the full title for each of the 19 mandated reports, in addition to key words. We then compared the results of the search findings to the content of the reports that NHTSA had provided to us.

⁵³[GAO-20-622](#).

Consistently communicating mandated research reports to the public could allow the public to more effectively engage with NHTSA research on important safety topics. Members of the public, including safety organizations and industry associations, use NHTSA research on safety hazards and countermeasures to inform their own work. Without consistently communicating mandated reports to the public, NHTSA is not fully meeting its goal to improve motor vehicle safety through education and research on motor vehicle safety issues.

Conclusions

Issuing regulations through the rulemaking process, and conducting research, are essential tools that NHTSA uses to improve motor vehicle safety in the United States. However, NHTSA does not consistently follow leading project schedule management practices that could help it manage the timeframes of these rulemakings and research. Without the timely issuance of mandated rules and research reports, improvements to important safety features such as seat belts and child car seats may be delayed. In addition, NHTSA could better achieve its safety mission by communicating more information about its rulemakings to members of Congress. The Infrastructure Investment and Jobs Act, which mandated the Secretary of Transportation to provide more information to Congress on NHTSA's incomplete mandated rulemakings, could serve as a vehicle to communicate the substantive activities NHTSA has completed between rulemaking milestones. Communicating about these activities could give members of Congress important information on which to base their funding and oversight decisions. Similarly, providing the public easy access to mandated research reports would allow safety organizations, industry associations, and others to engage in, learn from, and contribute to NHTSA's research—furthering NHTSA's mission to improve motor vehicle safety.

Recommendations for Executive Action

We are making the following four recommendations to NHTSA:

The NHTSA Deputy Administrator should update NHTSA's rulemaking procedures to require the use of leading project schedule management practices for the activities needed to draft a proposed rule.

(Recommendation 1)

The NHTSA Deputy Administrator should update NHTSA's procedures for developing reports to Congress to require the use of leading project schedule management practices for the activities needed to draft a report.

(Recommendation 2)

The NHTSA Deputy Administrator should provide additional information on incomplete rulemakings to Congress, including the substantive activities that NHTSA completed between rulemaking milestones. NHTSA could consider providing this information as part of the biannual reports required by the Infrastructure Investment and Jobs Act.
(Recommendation 3)

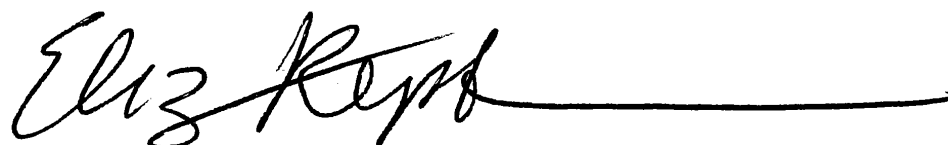
The NHTSA Deputy Administrator should update NHTSA's publicly available information, such as the Reports Sent to Congress webpage or the DOT Research Hub, to include mandated research reports.
(Recommendation 4)

Agency Comments

We provided a draft of this report to the Department of Transportation for review and comment. In its comments, reproduced in appendix III, DOT concurred with our recommendations. DOT also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Transportation, and the Administrator of the National Highway Traffic Safety Administration. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact us at (202) 512-2834 or repkoe@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Elizabeth Repko
Director
Physical Infrastructure Issues

Appendix I: Objectives, Scope, and Methodology

This report examines NHTSA's processes for developing rulemakings and reports to Congress to identify factors contributing to the agency's completion of mandates from two statutes. Our objectives were to determine: (1) the number of mandated rulemakings and reports to Congress mandated by MAP-21 and the FAST Act that NHTSA completed, and factors that affected NHTSA's completion of selected mandates; (2) the extent to which NHTSA follows leading project schedule management practices when developing mandated rulemakings and reports; and (3) the extent to which NHTSA communicates to Congress and the public the status and progress of mandated rulemakings and reports.

To identify the number of mandated rulemakings and reports required by MAP-21 and the FAST Act that NHTSA completed, and factors that affected NHTSA's completion of selected mandates, we took several steps. These steps included identifying the number of mandated rulemakings and reports NHTSA was required to complete and the number it completed. Specifically:

- To identify the number of mandated rulemakings and reports that MAP-21 and the FAST Act required NHTSA to complete, we reviewed MAP-21 and the FAST Act and included rulemakings and reports, regardless of whether the law included a deadline.¹ To ensure we had a complete list of mandates to NHTSA, we compared this list to a list provided to us by NHTSA, and to GAO's database of completed rulemakings.² As a result, we included 22 mandated rulemakings (11

¹We excluded rulemakings that did not involve substantive policy decisions, for example, rulemakings that simply amended language to reflect changes in the law. We also excluded mandated rulemakings in which NHTSA made only a minor change. In addition, we excluded mandated rulemakings and reports in which the law allowed NHTSA discretion to pursue them (e.g., "NHTSA may promulgate a rule on..."). We also excluded rulemakings that were not explicitly required. For example, MAP-21 increased odometer fraud penalties, which in turn necessitated NHTSA to update its regulations accordingly even though MAP-21 did not explicitly mandate NHTSA to do so.

²The Congressional Review Act (CRA) requires GAO to report to Congress on whether an agency, in promulgating a major rule, has complied with regulatory processes. 5 U.S.C. § 801. The category of "major rules" is similar to economically significant rules under the Unified Agenda.

from MAP-21 and 11 from the FAST Act) and 19 mandated reports (6 from MAP-21 and 13 from the FAST Act).³

- To determine the number of mandated rulemakings from MAP-21 and the FAST Act that NHTSA completed, we analyzed publicly available information on Reginfo.gov—a website maintained by the General Services Administration (GSA) that provides information on regulations under development. Reginfo.gov also includes information from Unified Agendas, which are semi-annual reports on active rulemakings, and the dates they reached milestones such as a Notice of Proposed Rulemaking (NPRM) or a Final Rule.⁴ We analyzed this information to identify the rulemaking milestones NHTSA reached for each mandated rulemaking.⁵ We categorized mandated rulemakings that reached the “final rule” milestone, indicated by publication of a Final Rule in the *Federal Register*, as “complete.” We categorized mandated rulemakings that had not reached the “final rule” milestone as incomplete, and noted whether they had reached earlier milestones, such as issuing an NPRM.
- To evaluate the reliability of Reginfo.gov data, we reviewed information collected for previous GAO reports on federal rulemaking, which included comparing data between other federal sources and Reginfo.gov and interviewing knowledgeable OMB officials.⁶ We found the information in Reginfo.gov to be reliable for the purposes of obtaining information on the status of each rulemaking required by MAP-21 and the FAST Act for NHTSA to complete.
- To describe how long it took NHTSA to reach rulemaking milestones, we calculated the time from enactment of the legislation mandating the rulemaking (e.g., FAST Act was enacted December 4, 2015) until

³When commenting on a draft of this report, NHTSA officials said that they had identified 46 mandated rulemaking actions for NHTSA—21 in MAP-21 and 25 in the FAST Act. NHTSA did not provide a list of these rulemaking actions or the agency’s criteria for including them. Accordingly, it is possible that NHTSA’s list includes some rules we excluded, as described in footnote 1 above.

⁴The semi-annual Unified Agenda provides uniform reporting of data on those regulatory and deregulatory activities under development or review throughout the executive branch. The Unified Agenda was published semi-annually for each year within the scope of our review, with the exception of 2012 in which the Unified Agenda was published once.

⁵See the background section of this report for a description of rulemaking milestones.

⁶GAO, *Federal Rulemaking: Deregulatory Executive Orders Did Not Substantially Change Selected Agencies’ Processes or Procedures*, [GAO-21-104305](#) (Washington, D.C.: November 1, 2021).

the date of the milestone(s) NHTSA reached (e.g., the date a final rule was issued).

- To determine the number of mandated reports that NHTSA completed, we obtained from NHTSA each report and its transmittal letter to Congress. To determine how long it took NHTSA to complete each mandated report, we calculated the time from enactment of the legislation until the date of the transmittal letter to Congress. We also compared the transmittal date to the statutory deadline, if established.
- To describe factors that contributed to NHTSA's completion of selected mandated rulemakings and reports, we selected a nongeneralizable sample of six mandated rulemakings and four mandated reports to Congress for closer review. We chose rulemakings based on stage of completion (e.g., not yet initiated, reached NPRM, reached final rule), "significance" as defined by the Unified Agenda "priority" category, duration from enactment of legislation mandating the rulemaking, and duration from the statutory deadline.⁷ We selected two mandated rulemakings that NHTSA had not initiated, one that NHTSA had initiated but not reached NPRM, two that reached NPRM, and one that was complete. During the course of our review, we learned from NHTSA officials that one of the two selected rulemakings that had not been initiated—Motor coach Occupant Protection, Collision Avoidance, Fire Causation and Fire Extinguisher Research and Testing Rulemaking from MAP-21—was "discretionary" based upon the outcome of related research. NHTSA officials said they determined not to pursue that rulemaking, and therefore we removed that rulemaking from our selection.
- We selected mandated reports based on how long NHTSA took to complete each report and how much time had elapsed between the statutory deadline and when the report was transmitted to Congress. We interviewed NHTSA staff responsible for each of the selected rulemakings and reports, and analyzed documentation they provided to identify factors affecting NHTSA's progress. We used the results of these interviews to further inform our description of factors that

⁷As explained in the Unified Agenda, which references Executive Order 12866, rulemakings are classified as significant if they (1) are economically significant due to factors such as having an annual effect of \$100 million or more on the economy, (2) create a serious inconsistency or otherwise interfere with other agencies' actions, (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients, or (4) raise novel legal or policy issues. See, e.g., 86 Fed. Reg. 16,848, 16851 (Mar. 31, 2021); see also *Exec. Order 12866*, 58 Fed. Reg. 51,735, 51,738 (Oct. 4, 1993). Mandated reports are not assigned a "significance" category.

affected NHTSA's progress on these mandates; the results are not generalizable to other mandated NHTSA rulemakings and reports.

- We also conducted a literature search of relevant books, articles, government reports and other publications on factors contributing to rulemaking duration that were issued in the last 10 years. We interviewed six government and academic experts involved in regulatory research, and nine organizations representing parties affected by NHTSA rulemaking including industry associations, public safety advocacy organizations and a vehicle manufacturer. We identified these individuals and organizations based on our literature review and prior GAO work, and selected them for their work in automotive safety and recommendations from industry officials. The views of these individuals are not generalizable, but provide a range of perspectives from those affected by NHTSA rulemaking and research.

To evaluate the extent to which NHTSA follows leading practices for project schedule management in developing its rulemakings and reports to Congress, we analyzed relevant DOT and NHTSA policies and procedures, such as *NHTSA Order 800-5: Rulemaking Procedures: Motor Vehicle Standards*, and *NHTSA Order 132-24F: Reports to Congress*.⁸ We also interviewed NHTSA officials and reviewed documentation they provided describing NHTSA's expectations for staff working on rulemakings and reports to follow leading project schedule management practices. These included identifying milestones, identifying and sequencing activities, and estimating duration activities to create a project schedule. In addition, we reviewed documentation and interviewed officials responsible for developing each of the six selected rulemakings and four selected reports noted above, and evaluated the schedule materials NHTSA officials provided.⁹ The results of these interviews and document reviews informed but did not determine our assessment of NHTSA's use of leading project schedule management practices. Finally, we compared these procedures, documentation, and information from interviews to leading project schedule management practices identified by the Project Management Institute (PMI) in *A Guide to the Project*

⁸U.S. Department of Transportation, *National Highway Traffic Safety Administration Order 800-5, Rulemaking Procedures: Motor Vehicle Standards* (October 2002); and U.S. Department of Transportation, *National Highway Traffic Safety Administration Order 132-24F, Reports to Congress* (July 21, 2015).

⁹As noted above, we initially interviewed officials from six selected rulemakings, but removed one rulemaking during the course of our review.

Management Body of Knowledge (PMBOK® Guide), and identified similarities and differences.¹⁰

To determine that *PMBOK* schedule management principles were suited to this review, we reviewed literature on timeliness in the rulemaking process; interviewed regulatory experts, NHTSA, and DOT Office of the Secretary officials; and reviewed GAO's *Schedule Assessment Guide* and other relevant GAO reports.¹¹ Our review of this literature and interviews with officials suggested there is not a standard length of time in which an agency should be expected to complete the federal rulemaking process and that the length of rulemakings vary.¹² As such, regulatory experts agreed that it is appropriate to consider each rulemaking as an individual project to which NHTSA could apply project management principles, which includes tailoring its efforts to the unique characteristics of each project. Therefore, we compared NHTSA's implementation of mandated rulemakings and reports to *PMBOK*'s best practices for project schedule management, which can help an entity manage the timely completion of its projects.

To evaluate the extent to which NHTSA communicates the status of mandated rulemakings and reports to Congress and the public, we reviewed the information NHTSA makes available to the public on rulemakings, such as that in *Reginfo.gov* and the *Federal Register*. We also reviewed information NHTSA makes available to the public on reports to Congress on its website and in the Department of Transportation's Research Hub—a public, searchable database on active

¹⁰Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017. *PMBOK* is a trademark of Project Management Institute, Inc. PMI is a not-for-profit association that provides global standards for, among other things, project and program management. These standards are utilized worldwide and provide guidance on how to manage various aspects of projects, programs, and portfolios.

¹¹GAO's *Schedule Assessment Guide* cites schedule management steps similar to those cited in *PMBOK*—identifying all of the activities necessary to complete a project, sequencing those activities, and estimating their durations. See GAO, *Schedule Assessment Guide: Best Practices for Project Schedules*, [GAO-16-89G](#) (Washington, D.C., Dec. 2015). *PMBOK* states that a milestone is a significant point or event in a project, noting that milestones have zero duration because they represent a significant point or event. Additionally, it states that an activity is a distinct, scheduled portion of work performed during the course of a project.

¹²See, for example, Congressional Research Service, *Agency Delay: Congressional and Judicial Means to Expedite Agency Rulemaking*, R45336 (Washington, D.C.: Oct. 5, 2018).

and recently completed DOT-funded research projects. We reviewed NHTSA and DOT procedures on rulemaking and drafting reports to Congress that were in effect between 2012, when MAP-21 was enacted, and 2021 when we conducted our audit work. We summarized the parts relevant to how NHTSA communicates the status of its rulemakings and reports to Congress and the public. We also interviewed NHTSA officials on agency communication practices. Finally, we compared NHTSA's procedures and practices to relevant communications criteria, including *Standards for Internal Control in the Federal Government*, *PMBOK* principles on external communication, and the FAST Act, which required DOT to make public a comprehensive database of all research projects conducted by DOT.¹³

We conducted this performance audit from November 2020 to April 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹³See GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014); Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition, 2017; and Pub. L. No. 114-94, § 6019, 129 Stat. 1312, 1579-80 (2015) (codified, as amended, at 49 U.S.C. § 6502).

Appendix II: Selected Characteristics of National Highway Traffic Safety Administration (NHTSA) Mandates

The tables below provide selected details, such as the statutory deadline and most recent milestone, for each rulemaking and report mandated by the Moving Ahead for Progress in the 21st Century Act (Table 2 and Table 3) or the Fixing America's Surface Transportation Act (Table 4 and Table 5) within the scope of this review. They are listed chronologically in order of statutory deadline.

Table 2: Rulemakings Mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21)

	Title	Section	Statutory Deadline	First Notice in Unified Agenda	Most Recent Milestone	Date of Most Recent Milestone
1.	Civil Penalty Criteria	§ 31203	7/6/2013	Spring 2013	Final Rule	3/2/2016
2.	Vehicle Defect Reporting Requirement	§ 31306	7/6/2013	Spring 2013	Notice of Proposed Rulemaking (NPRM)	11/28/2016
3.	Motor Coach Seatbelts	§ 32703(a)	7/6/2013	Fall 2009	Final Rule	11/25/2013
4.	Electronic Disclosures of Odometer Information	§ 31205	1/6/2014	Spring 2013	Final Rule	10/2/2019
5.	Child Restraints Side Impact Test	§ 31501(a)	7/6/2014	Fall 2011	NPRM	1/28/2014
6.	Visibility of Agricultural Equipment	§ 31601(b)	7/6/2014	2012	Final Rule	6/22/2016
7.	Upgrade LATCH for Child Seats	§ 31502	7/6/2015	2012	NPRM	1/23/2015
8.	Rear Seat Belt Warning	§ 31503	7/6/2015	Spring 2013	Advance Notice of Proposed Rulemaking (ANPRM)	9/27/2019
9.	Upgrade Frontal Impact for Children	§ 31501(b)	7/6/2016	Spring 2013	NPRM	11/2/2020
10.	Motor coach Tire Upgrade	§ 32703(d)	none	Spring 2008	Supplemental NPRM	1/10/2013
11.	Grant for State Graduated Driver Licensing	§ 31105	none	2012	Final Rule	1/23/2013

Source: GAO analysis of Reginfo.gov data. | GAO-22-104635

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Table 3: Reports Mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21)

Title	Section	Statutory Deadline	Date Transmitted to Congress
1. Distracted Driving Study	§ 31105	7/16/2013	12/20/2013
2. Study of Crash Data Collection	§ 31309	7/16/2013	2/6/2015
3. Analysis on the Need for Crashworthiness Standards	§ 32201	4/6/2014	5/8/2015
4. Retrofit Assessment of Seatbelts on Motor coaches	§32703 (e)(2)(B)	7/6/2014	9/11/2015
5. Biennial Report on States' Highway Safety Plans	§ 31102(h)	10/1/2015, 10/1/2017	9/6/2016, 7/19/2018
6. Report on Highest Priority Areas for Safety with Regard to the Electronic Systems in Passenger Motor Vehicles	§ 31402	none	1/15/2016

Source: GAO analysis of National Highway Traffic Safety Administration data. | GAO-22-104635

Table 4: Rulemakings Mandated by the Fixing America's Surface Transportation Act (FAST Act)

Title	Section	Statutory Deadline	First Notice in Unified Agenda	Most Recent Milestone	Date of Most Recent Milestone
1. Recall Process Notifications	§ 24104(a)	9/4/2016	Fall 2015	NPRM	9/1/2016
2. Corporate Responsibility for NHTSA Reports – Information Gathering ^a	§ 24112	12/4/2016	Spring 2018	None	None
3. Treatment of Low-Volume Manufacturers for Vehicle Safety Standards and Vehicle Emission Compliance Standards – Replica Vehicles	§ 24405(c)	12/4/2016	Spring 2017	Final Rule	3/9/2022
4. Passenger Motor Vehicle Information – Crash Avoidance on Monroney Label ^c	§ 24322	12/4/2016	None	None	None
5. Motor Vehicle Safety Whistleblower Incentives and Protections ^a	§ 24352(a)	6/4/2017	Spring 2017	None	None
6. Retention of Safety Records by Manufacturers	§ 24403(a)	6/4/2017	Spring 2017	NPRM	5/15/2019
7. Tire Pressure Monitoring System Standards ^c	§ 24115	12/4/2017	None	None	None
8. Regulations for Tire Fuel Efficiency Minimum Performance Standards ^{a, b}	§ 24332 (b)	12/4/2017	Fall 2018	None	None
9. Regulations for Tire Wet Traction Minimum Performance Standards ^{a, b}	§ 24332 (c)	12/4/2017	Fall 2018	None	None
10. Vehicle Event Data Recorder Rule ^a	§ 24303	9/21/2020	Fall 2018	None	None
11. Tire Registration by Independent Dealers ^c	§ 24333	None	None	None	None

Source: GAO analysis of Reginfo.gov data. | GAO-22-104635

^aThe National Highway Traffic Safety Administration (NHTSA) has initiated this rulemaking and assigned a regulation identifier number (RIN) but has not reached any milestones.

**Appendix II: Selected Characteristics of
National Highway Traffic Safety Administration
(NHTSA) Mandates**

^bNHTSA consolidated two related rulemaking mandates—Regulations for Tire Fuel Efficiency Minimum Performance Standards (§ 24332(b)) and Regulations for Tire Wet Traction Minimum Performance Standards (§ 24332(c)) into a single rulemaking (RIN 2127-AM08).

^cNHTSA has not yet initiated or assigned a RIN for this rulemaking.

Table 5: Reports Mandated by the Fixing America’s Surface Transportation Act (FAST Act)

Title	Section	Statutory Deadline	Date Transmitted to Congress
1. Increasing Public Awareness of the Dangers of Drug-Impaired Driving	§ 4009(b)	2/2/2016	4/5/2016
2. NHTSA Report on Barriers to Data Collection	§ 4013	6/1/2016	12/14/2016
3. Annual NHTSA Agenda ^a	§ 24401	12/1/2016 12/1/2017, 12/1/2018, 12/1/2019, 12/1/2020, 12/1/2021	1/9/2018 12/10/2018 3/4/2020
4. NHTSA Action to Implement Inspector General Recommendations	§ 24102(b)	12/4/2016	11/9/2016
5. Report on Results of Study on Marijuana-impaired Driving	§ 4008(c)	12/4/2016	7/26/2017
6. Recall Completion Rates Report	§ 24104(c)	12/4/2016 12/4/2018 12/4/2020	5/30/2017, 2/26/2019, 8/6/2021
7. Safety Recall Remedy Report	§ 24109(g)	12/4/2016	1/9/2018
8. Report on Operations of the Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies	§ 24201	12/4/2016	7/14/2017
9. Vehicle Event Data Recorder Study – EDR Minimum Time	§ 24303	12/4/2016	9/21/2018
10. Report on Direct Vehicle Notification Recall Alerts	§ 24113	12/4/2016	5/8/2020
11. Report on NHTSA’s Progress Reviewing and Implementing Recommendations from the Study on the National Roadside Survey of Alcohol and Drug Use by Drivers	§ 4012	9/8/2018	2/28/2019
12. Report on Child Occupant Crash Data Collection	§ 24407(c)	12/4/2018	9/18/2018
13. Tire Identification Study and Report	§ 24334	none	4/2/2019

Source: GAO analysis of National Highway Traffic Safety Administration. | GAO-22-104635

^aThis reporting mandate called for an annual report to Congress beginning on 12/1/2016. NHTSA told us that it delivered at least two reports to Congress informally, but provided us with transmittal letters and printed reports for the 2018, 2019 and 2020 calendar years.

Appendix III: Comments from the Department of Transportation

U.S. Department of
Transportation

Office of the Secretary
of Transportation

April 11, 2022

Elizabeth Repko
Director, Physical Infrastructure Issues
U.S. Government Accountability Office (GAO)
441 G Street, NW
Washington DC 20548

Assistant Secretary
for Administration

1200 New Jersey Ave., SE
Washington, DC 20590

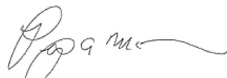
Dear Ms. Repko:

The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce the economic impacts of crashes occurring on the Nation's roadways. NHTSA's top priorities are to improve safety through the agency's rulemaking and research activities and to meet or exceed our statutory obligations and Congressional directives. NHTSA is committed to ensuring its underlying processes improve the timely completion of Congressional mandates.

Upon review of the draft report, NHTSA concurs with the four recommendations to: (1) update NHTSA's rulemaking procedures to require the use of leading project schedule management practices for the activities needed to draft a proposed rule; (2) update NHTSA's procedures for developing reports to Congress to require the use of leading project schedule management practices for the activities needed to draft a report; (3) provide additional information on incomplete rulemakings to Congress, including the substantive activities that NHTSA completed between rulemaking milestones. NHTSA could consider providing this information as part of the biannual reports required by the Infrastructure Investment and Jobs Act; and (4) update NHTSA's publicly available information, such as the 'Reports Sent to Congress' webpage or the DOT Research Hub, to include mandated research reports. DOT will provide a detailed response to each recommendation within 180 days of the final report's issuance.

NHTSA appreciates the opportunity to respond to the GAO draft report. Please contact Keeva Scrivner, Deputy Director of Audit Relations and Program Improvement, at (202) 366-9247 with any questions or if GAO would like to obtain additional information.

Sincerely,



Philip A. McNamara
Assistant Secretary for Administration

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Elizabeth Repko, at (202) 512-2834 or RepkoE@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Brandon Haller (Assistant Director), Sarah Farkas (Analyst-in-Charge), Lindsay Bach, Jieun Chang, Yvonne Jones, Andrea Levine, Edward Malone, Danielle Novak, Malika Rice, Michael Soressi, Janet Temko-Blinder, Michelle Weathers, Chad Williams, and Elizabeth Wood made key contributions to this report.

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