

## DEPARTMENT OF TRANSPORTATION (DOT)

### Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of nine operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates consumer and economic issues in aviation and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. The Department establishes tolls and operational requirements for the St. Lawrence Seaway. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has the usual housekeeping regulations governing everything from conflicts of interest to the Privacy Act to seismic standards for building construction.

Although it carries this heavy regulatory workload, the Department has long been recognized as a leader in Federal efforts to improve and streamline the regulatory process and ensure that regulations do not impose unnecessary burdens. The Department was the first major Federal agency to establish a comprehensive internal management and review process for new and existing regulations.

This process is codified in the Department's regulatory policies and procedures, which ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. These policies and procedures emphasize that DOT regulations should be necessary, clear, timely, reasonable, and fair, without imposing unnecessary burdens on individuals, the private sector, or State or local governments.

For virtually all DOT rules, the initiating office must prepare an analysis that includes a discussion of the problem intended to be addressed, the major alternatives, the reasons for choosing one alternative over another, and the economic and other consequences of the action. The

Department has a management process that permits key officials to follow closely the development of significant regulatory projects. The process is intended to ensure that these rulemakings are completed in a timely manner, and it facilitates top management's involvement in these actions.

Under the leadership of Secretary of Transportation Federico Peña, the Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effect. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

Consistent with this process and the Department's regulatory philosophy, DOT continually seeks ways of improving the way it conducts regulatory work. The creation of an electronic docket for the Department and steps to shorten the internal review process for new rules are examples of these efforts. In addition, the Department consistently seeks out opportunities to review, in depth, certain regulations or groups of regulations. Some recent examples include the Federal Highway Administration's (FHWA's) "zero-based" review of its motor carrier safety rules, a Coast Guard-initiated review to cull out unnecessary and obsolete rules, and a Federal Aviation Administration (FAA) review of rules cited by the 1993 Airline Commission report as burdening the industry. The FAA also used an innovative technique for getting public input concerning priorities for regulatory reviews, by asking interested parties to list the three regulations they would most like to see FAA change.

This Department's regulatory process and philosophy also facilitated the Department's successful participation in President Clinton's 1995 Regulatory Reinvention Initiative. The cumulative impact of this effort was significant. The Department has committed to removing

13.2 percent of its Code of Federal Regulations (CFR) pages and reinventing an additional 19.6 percent of its CFR pages. In addition, DOT identified a number of specific, substantial regulatory projects that will help the Administration to achieve its regulatory policy objectives. The following are a few examples:

- FAA rules to harmonize aviation safety rules with European standards should save the industry at least \$100 million (perhaps up to \$1 billion, depending on economic conditions) over 10 years.
- As part of a review of air traffic control procedures, the FAA determined it could expand pilot participation in selecting the most desirable routings for long-distance flights. This program, which is now in effect, saves the industry about \$40 million per year; FAA is considering expanding the program in ways that could save an additional \$40 million annually.
- DOT has suspended the requirement for preemployment alcohol testing and has proposed legislation to make such testing permanently discretionary. This should save the motor carrier, mass transit, aviation, and railroad industries \$28 million a year.
- The Office of the Secretary (OST) is considering a proposal to align passenger fare tariff filing requirements more closely with international aviation policies and review requirements. This effort could substantially change the aviation tariff filing requirement for a significant number of the parties now covered. The remaining parties would file electronically. The result would be a significant reduction in paperwork.
- The Coast Guard is proposing to amend its rules to allow U.S. flag vessels to be inspected by the American Bureau of Shipping or other qualified private organizations rather than by the Coast Guard. This will eliminate duplication in inspection requirements and reduce "down time" for vessels.
- The Federal Railroad Administration (FRA) plans a major paperwork reduction initiative that would allow many "Hours of Service Act" records to be maintained and reported electronically. For Class I railroads, this initiative could save \$2.3 million annually by eliminating requirements to store 7.3 million paper records at any given time and create 3.6 million paper records per year.
- FHWA is considering a new rule to exempt motor carriers and drivers from the requirement to record duty

status on a specified grid for each 24-hour period if they use advanced technology to provide an accurate reflection of the driver's compliance with the hours-of-service regulations. Currently about 3.3 million drivers are subject to this safety requirement. This application of new technology would make possible a major paperwork reduction.

In other areas of the President's initiative, the Department reported on the ways in which we will ensure that our compliance efforts reward results and deemphasize red tape. This report focuses on such matters as improved performance measures (e.g., vessel casualties per 1,000 passenger vessels, commercial motor vehicle out-of-service rates), customer service training for front-line employees, development of a framework for performance management requiring that evaluation of the work of all employees, not just front-line regulators, be based on results, and education and training programs to assist regulators and customers to work together to achieve compliance.

The Department's enforcement policies are consistent with the effort to reward results and deemphasize red tape. For example, the Coast Guard authorizes its personnel to issue warnings, rather than impose penalties, for minor violations that are corrected promptly. It recently implemented a "pollution ticket" program that reduces paperwork and reduces penalties for first- and second-time minor violations of some environmental requirements. The Research and Special Programs Administration (RSPA) is implementing a program to waive up to 100 percent of penalties for violations that are corrected in a stated time frame. The FHWA's policy is to impose penalties only as a last resort when other means of obtaining compliance, such as education and training, have failed. The FRA's guidance to its inspectors emphasizes exercising discretion to waive or reduce initial penalty assessments, focusing particularly on efforts to achieve compliance.

The Department has engaged in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. For example, Secretary Peña participated in four transportation safety summits, along with front-line regulators and representatives of regulated industries. These concerned pipeline safety (July 1994), rail safety (September 1994), aviation safety (January 1995), and, most recently, a

national truck and bus safety summit (March 1995). Administrators and other high officials of the operating administrations have participated in a wide variety of meetings with customers to form viable partnerships among industries, consumers, and front-line regulators. For example, the Federal Transit Administrator recently participated in a "Paratransit Summit" involving disability community groups and transit providers, which discussed issues concerning accessible public transportation. In addition, the Department's agencies have established a number of continuing partnership mechanisms. For example, the FAA's Aviation Rulemaking Advisory Committee (ARAC) is an ongoing grassroots effort. ARAC provides a forum for all elements of the aviation community to participate in the early development of FAA rulemakings.

The Department of Transportation was a pioneer in creating the regulatory negotiation concept, and it conducted the Federal Government's first negotiated rulemaking. Since that time, DOT has conducted regulatory negotiations on a variety of subjects, such as the Air Carrier Access Act and aspects of the Oil Pollution Act. The Department has also used advisory committees to obtain customer input on regulatory projects, such as the Americans with Disabilities Act rule. There are several regulatory negotiation projects currently planned or underway, concerning such subjects as roadway worker safety (FRA), oxygen use by airline passengers (OST), headlamp aimability (the National Highway Traffic Safety Administration, NHTSA), incorporating physical fitness determinations in the commercial drivers' license program (FHWA), and the definition of and safety requirements for gas gathering lines (RSPA).

The Department's regulatory process and philosophy also make it possible for the Department to achieve the aims of the DOT Strategic Plan. Many of the objectives of this plan—Tie America Together, Invest Strategically in Transportation Infrastructure, Promote Safe and Secure Transportation, Actively Enhance Our Environment, and Put People First—call for creating, reinventing, or improving DOT regulations.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the

Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns making the Department's regulatory process run smoothly and effectively, this office also plays an important role in the substance of rulemaking projects concerning aviation economic rules and those having cross-modal significance. In connection with its oversight and coordination role, the Office of the Secretary also led the Department's work to carry out President Clinton's Regulatory Reinvention Initiative.

OST provides guidance for use of regulatory personnel throughout the Department on compliance with requirements concerning the regulatory process. For example, OST provided guidance concerning implementation of the regulatory portions of the Unfunded Mandates Act, as well as providing updated information on such matters as compliance with Executive Orders, economic analyses, paperwork reduction, the Regulatory Agenda and Plan, and other regulatory policy matters. During the next year, OST plans to provide guidance and training concerning cost-benefit analyses and risk assessments, as well as continuing to offer DOT personnel a periodic 2-day training course on regulatory development and process.

OST led and coordinated the Department's response to the Administration and Congress in 1995 concerning legislative proposals for regulatory reform. The General Counsel's office worked closely with representatives of other agencies, the Office of Management and Budget, the White House, and Congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions. OST gathered substantial information from the operating administrations to provide examples of the effects of these proposals. If regulatory reform legislation is enacted, OST will have the lead responsibility for providing Department-wide guidance and training on its implementation. Regardless of action on the pending proposals, OST and the operating administrations will continue their efforts to ensure that problems identified by proponents of

the legislation do not exist in the Department's programs.

The Office of Commercial Space Transportation (OCST) is responsible for providing regulatory guidance to the emerging U.S. commercial space transportation industry. (Effective October 1, 1995, OCST will move from OST to the Federal Aviation Administration, where it will operate as a "seventh line of business.") U.S. aerospace companies, which have traditionally constructed launch vehicles and conducted launches as contractors of the U.S. Government, have been successfully marketing commercial services worldwide and are now conducting commercial launches on a regular basis. Commercial launch firms are developing and testing innovative vehicle technologies that will serve the important small-payload market. The Department, as the agency authorized by statute to license and otherwise regulate commercial space launch activities, is responsible for ensuring that these activities are conducted in a safe manner. At the same time, the Department must also shape its policies and requirements in a way that does not unduly burden the U.S. commercial space transportation industry. OCST, therefore, is seeking to streamline and further refine its regulatory processes, while continuing to consult with other agencies having responsibilities related to commercial space transportation.

#### United States Coast Guard (USCG)

The United States Coast Guard, an armed force of the United States, has many peacetime missions directly affecting the public. These missions include placing and maintaining aids to navigation, enforcing laws and treaties, protecting the marine environment, performing search and rescue, and ensuring marine safety and security. Various statutes authorize the Coast Guard to issue regulations in connection with these missions. The Coast Guard traditionally provides for pollution prevention and safety of passengers, crew, cargo, and ports through a framework of regulations that apply to U.S. flag vessels and foreign vessels that call at U.S. ports. The Marine Safety Council, a group of senior Coast Guard officers, establishes regulatory policy, reviews each rulemaking project, and advises the Commandant of the Coast Guard on regulatory matters.

The Oil Pollution Act of 1990 mandated over 30 different rulemaking projects, affecting pollution liability, personnel training and qualification,

and vessel construction and equipment requirements. A number of regulations issued under the authority of the Oil Pollution Act of 1990 are now in effect, including requirements for financial responsibility, double-hull construction, and vessel and facility oil spill response plans. Other rulemaking projects, including requirements for hazardous substances response plans and structural and operational measures to prevent pollution from existing tank vessels, are in progress.

The percentage of foreign vessel traffic in U.S. ports has increased significantly over the past several years. As a result, the Coast Guard is shifting its emphasis from "flag state control," directed primarily at U.S. vessels, to "port state control." Its goal will be to identify substandard foreign vessels and operators, and ensure that deficiencies are corrected. Through Coast Guard initiatives at the International Maritime Organization (IMO), international standards have been raised to a level comparable with U.S. domestic requirements. The Coast Guard intends to increase its acceptance of international standards and eliminate or reduce inconsistencies with domestic regulations, while still ensuring an appropriate level of safety.

The Coast Guard recognizes its obligation to engage in a partnership with the regulated public. It will continue to provide meaningful opportunities for public participation at all stages of the regulatory process, using negotiated rulemaking when possible. The Coast Guard also recognizes its obligation to protect the maritime interests of the United States through helping the regulated public to achieve compliance with effective, efficient regulations. Finally, the Coast Guard is working to reduce unnecessary paperwork burdens. Very few of the Coast Guard information collection requirements are in the form of regularly scheduled reports. As directed by the President, the Coast Guard has reviewed its reporting requirements and has identified only six reports of this nature.

In the past year, the Coast Guard has reviewed each part of the Code of Federal Regulations for which it is responsible, primarily in titles 33 and 46. It received suggestions for improving these regulations from members of the affected public at local grassroots meetings, at a meeting at Coast Guard Headquarters, in written comments, and from Coast Guard field personnel. In identifying regulations to be eliminated or reinvented, the Coast Guard selected those parts which impose the greatest

burdens and provide the least benefits. As a result of this review, the Coast Guard currently plans to remove over 300 pages from the Code of Federal Regulations.

#### Federal Aviation Administration (FAA)

Title 49, United States Code, Subtitle VII—Aviation Programs, charges the Administrator of the FAA with promoting safety of flight of civil aircraft in air commerce. The stated FAA mission is to provide a safe, secure, and efficient global aviation system which contributes to national security and the promotion of U.S. aviation. The agency relies on its Regulatory Plan to provide that system.

The FAA currently has underway a major initiative to improve the regulatory process in the spirit of Executive Order 12866, which charges agencies to promulgate regulations that are effective, consistent, sensible, and understandable. As a matter of policy, the FAA will promulgate no regulation if a nonregulatory solution exists. Other innovations include:

- Involving the aviation community early in the regulatory process to obtain input, both on the rule and the economics, from affected parties prior to publishing a proposed regulation. The Aviation Rulemaking Advisory Committee represents members from all aviation interests and is presently working on the resolution of more than 100 issues.
- Improving the agency's economic analysis process. The agency sponsored a Benefit Cost Conference on June 28, 1994, to obtain public input for the improvement of the process. An action plan has been developed to respond to concerns raised at the conference.
- Harmonizing the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry, which contributed approximately \$23 billion in trade surplus for 1990, to remain internationally competitive. While the

overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects.

- Reviewing the regulations to identify those rules that are inconsistent with state-of-the-art technology or current industry practice. To enhance its ability to perform its statutory role without undue economic burden on the aviation industry, the agency announced a comprehensive review on January 10, 1994, asking interested parties to identify those regulations that are believed to be unwarranted or inappropriate. The comments provided in response to this notice will assist the agency in establishing its priorities for future regulatory changes. Other reviews will be conducted periodically.
- Improving the regulatory process. To improve its internal process, the FAA is experimenting with a new method of processing regulations that will require earlier involvement by all interested parties. Also, through an improved prioritization process, top management at the FAA now identifies certain projects that are designated as expedited rulemakings. These are generally simple, relieving rulemakings that are accomplished quickly through a dedication of resources. In addition, the FAA is working on a rulemaking proposal that would allow the use of a finding of equivalent level of safety that could be used in lieu of exemptions.

On July 13, 1995, Administrator Hinson announced CHALLENGE 2000—a comprehensive review of the FAA's regulation and certification capabilities. The purpose of the review is to determine what the agency will need to do to overcome the increasing challenges of regulating the aviation industry and certifying rapidly changing technologies as America enters the 21st century. Near term initiatives of CHALLENGE 2000 include an aggressive education program, targeting rulemaking initiatives to enhance safety, voluntary accreditation of parts suppliers, and a status report on the Safety Summit held in January 1995.

Top regulatory priorities of the FAA for 1995-1996 include a review of regulations affecting commuter operations and general certification and operations requirements, security at airports, harmonization of U.S. regulations with those of other countries, certification and maintenance of aircraft, survival equipment, and drug enforcement.

#### Federal Highway Administration (FHWA)

FHWA will continue to promulgate regulatory actions to implement the Intermodal Surface Transportation Efficiency Act of 1991 and other relevant statutes and will revise existing regulations where appropriate. The FHWA will rigorously pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

The major areas in which the FHWA will initiate or continue to develop significant rulemaking actions are in its ongoing zero-base review of the Federal Motor Carrier Safety Regulations and in implementing the Intermodal Surface Transportation Efficiency Act. The goals and objectives of the zero-base review project are to (a) focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents, (b) reduce compliance costs, (c) encourage innovation, (d) clearly and succinctly describe what is required, and (e) facilitate enforcement. Through the zero-base review, the FHWA intends to develop a unified, performance-based regulatory system that will enhance safety on our Nation's highways while minimizing the burdens placed on the motor carrier industry. In addition, the FHWA is currently redrafting the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings. It plans to simplify the current process to facilitate responses by the accused motor carriers and drivers, and to offer alternative means of adjudicating the claims. It also intends to promulgate comprehensive rules covering the entire enforcement process from initial contact with the motor carrier to the final disposition of the claim.

#### National Highway Traffic Safety Administration (NHTSA)

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) include reducing and mitigating motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. The agency pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandate; issues new standards and regulations or amendments to existing standards and

regulations when appropriate; ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action; and considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished by a number of means, including encouraging initiatives in such areas as safety belt usage, motorcycle helmet usage, child safety-seat usage, activities aimed at combating drunk driving and driving under the influence of other drugs, and consumer information activities.

Furthering initiatives begun under the National Performance Review, NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, the agency is continuing an evaluation of the effectiveness of Standard No. 208's automatic crash protection requirement and is beginning an evaluation of Standard No. 214's new dynamic side-impact protection requirements.

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice. Also, pursuant to the President's 1995 Regulatory Reinvention Initiative, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency identified several regulations that are potential candidates for rescission or amendment. NHTSA will continue to pursue these actions during the next year. The agency also will be continuing other ongoing safety rulemakings.

#### Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety. The Federal Railroad Safety Act of 1970 is the primary source of this authority.

FRA promotes safe, environmentally sound, and successful railroad transportation to meet the current and

future needs of all its customers. It encourages policies and investment in infrastructure and technology to enable rail to reach its full potential.

FRA seeks to develop a regulatory program that is based on the regulatory principles enunciated in Executive Order 12866 and that satisfies the Order's basic criteria for such programs. FRA's vision is of a regulatory program that protects the health and safety of all persons affected by railroading in America and enhances the environment without imposing unreasonable costs on society. FRA seeks to create regulations that are as "effective, consistent, sensible, and understandable" as those envisioned by the President in his Order. More specifically, given the significant number of pending congressional mandates for railroad safety regulations, FRA is also challenged to address the most important regulatory issues on the agency's own agenda in the most timely and reasonable manner possible.

Our current regulatory priorities include the issuance of final rules on several important subjects: track safety; power brake inspection and maintenance; whistle bans at highway-rail grade crossings; and railroad accident reporting. Each of these rules will embody cost-effective improvements of the way railroads currently conduct business. These measures, we believe, will increase safety performance significantly within an industry that is already performing at high safety levels.

Pursuant to the President's 1995 Regulatory Reinvention Initiative, and for over the past 2 years on its own initiative, FRA has conducted a vigorous review of its regulations, consulting both its own safety professionals and our external customers in the industry. In so doing, FRA has identified numerous opportunities to eliminate or improve significant aspects of our regulatory program. For example, FRA identified 11 pages of the CFR, representing roughly 3 percent of the CFR parts, that it should eliminate. In addition, FRA identified roughly 55 percent of the CFR parts, the majority of those items identified for reinvention, as requiring significant improvements.

FRA has also commenced various nonstatutory regulatory reform initiatives. First, FRA is using negotiated rulemaking to create, with the industry, a rule addressing the issue of roadway worker safety. Begun early this year, the negotiated rulemaking advisory committee recently came to

agreement on the recommendations they will make to the agency for ensuring the safety of roadway workers. This negotiated rulemaking represented an historic departure from FRA's traditional rulemaking program.

Second, based on the beneficial aspects of its negotiated rulemaking experience, FRA is intensively pursuing a new regulatory paradigm. This new model will consist of a more collaborative rulemaking program and will include the creation of a Rail Safety Advisory Committee (RSAC). RSAC will consist of members of rail management, labor, FRA and other interested parties and will operate by seeking agreement on the facts and data underlying any real or perceived safety problem; identifying cost-effective solutions based upon stipulated facts; and, where appropriate, identifying regulatory options to implement these solutions.

Finally, FRA is examining revising the User Fee Program to ease the user fee burdens imposed upon small entities who do not fit within the formulaic approach to assessment. FRA is required to establish and maintain a schedule of fees to be assessed equitably upon railroads to defray the costs of administering FRA's safety laws. Currently, many small entities that have low formula-based amounts assessed pay a minimum user fee that is higher than the formula assessment. Thus, FRA is considering proposing revisions to the user fee regulations to exempt small railroads or to eliminate a minimum fee for them.

#### Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways which provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and
- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priority for 1995 is to assist FTA recipients in complying with the drug and alcohol testing regulations.

#### Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities are prescribed by statute and reflect the agency's responsibility for ensuring the availability of efficient water transportation services to American shippers and consumers. To advance these objectives, MARAD's regulations, which are principally administrative and interpretive in nature, are issued so as to provide a significant net benefit to the maritime industry. MARAD works closely with other agencies, for example, the Department of Defense and the Department of Agriculture, to ensure that its cargo preference regulations can be implemented by those agencies in a cost-effective manner. MARAD's proposal in the present Regulatory Plan is designed to bring government procurement of ocean transport more in line with commercial practices, and thus support a system that is more cost-effective to carriers, shippers, and ultimately the consumer.

#### Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under three programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

The Associate Administrator for Research, Technology, and Analysis is responsible for collecting, evaluating, and disseminating the necessary tariff information to support the aviation

programs of the Department under the Federal aviation laws. In the aviation tariffs area, the regulatory priorities are to fully automate tariff filings by air carriers and eliminate routine filing of cargo tariffs. However, this function is expected to be moved to OST on October 1, 1995, in order to improve program coordination.

In the area of hazardous materials transportation, the regulatory priorities are to complete the rulemaking actions mandated by the 1990 amendments of the Federal hazardous materials law, including extending Federal regulation to the intrastate highway transportation of hazardous materials. Another priority is to adopt a simplified compliance enforcement procedure that involves ticketing shippers, carriers, and other persons for minor violations of hazardous materials regulations. Also, as part of the President's 1995 Regulatory Reinvention Initiative, RSPA is considering the elimination of unnecessary, obsolete, and duplicative regulations and a simplification and reformatting of the remaining regulations that potentially may reduce the size of the Code of Federal Regulations by 100 pages and may reduce the size of the hazardous materials regulations by one volume, thereby reducing the cost to industry by more than \$75,000 per year.

The regulatory priorities in the pipeline area are to manage the risks inherent in pipeline transportation through strategies directed at prevention, detection, and mitigation activities. Specific regulatory actions to implement these activities include excavation damage prevention programs, mandating participation in one-call notification systems, increased inspection requirements using instrumented internal inspection devices, and prescribing risk-based approaches to pipeline safety regulations.

Bureau of Transportation Statistics (BTS)

The Office of Airline Information (OAI), which recently became part of the Bureau of Transportation Statistics (BTS), is the only BTS function with regulatory authority. OAI collects airline passenger, cargo, traffic, and financial data. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international

route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, and market trends.

BTS has two short-term regulatory priorities. The first is to resolve the requirement for on-time flight information in a way that meets consumer needs without compromising safety. The second is to consider whether to include foreign carriers among those that provide passenger origin and destination data for their operations within the United States.

BTS will also conduct a complete review and modernization of the passenger origin and destination survey. BTS can make significant improvements by providing data for the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changed airline industry.

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#### DOT—Office of the Secretary (OST)

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#### PROPOSED RULE STAGE

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#### 85. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

##### Priority:

Other Significant

##### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

##### Legal Authority:

49 USC 70101 to 70119

##### CFR Citation:

14 CFR 400 to 415

##### Legal Deadline:

None

##### Abstract:

The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation's Office of Commercial Space Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. The Office must ensure that commercial space launch activities are conducted in a manner that does not

jeopardize public health and safety and the safety of property, without, however, imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and the Office's licensing program continues to evolve to reflect these changes. This rulemaking would modify the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs. This rulemaking is significant because of substantial public interest.

##### Statement of Need:

On April 4, 1988, the Office of Commercial Space Transportation (OCST) published final regulations for licensing commercial space launch activities. The regulations include the general administrative procedures of OCST as well as revised and expanded policies for licensing commercial launch activities. The industry has grown in size and complexity since the licensing regulations were first published in 1988. As a result, the Office has continued to refine its approach to licensing launch proposals in a manner that facilitates private sector launch activities. This rulemaking would modify the current regulations to reflect a more efficient licensing regime. In addition, the rulemaking will address the procedures and requirements applicable to the licensing of commercial spaceport operators.

##### Summary of the Legal Basis:

The Commercial Space Launch Act of 1984, as amended, 49 USC 70101 to 70119, confers upon the Department of Transportation the responsibility to license and otherwise regulate launches by the private sector of launch vehicles and the commercial operation of launch sites. The Department's Office of Commercial Space Transportation carries out this responsibility for ensuring that these commercial launch activities do not jeopardize public health and safety, the safety of property, and national security and foreign policy interests of the United States.

##### Alternatives:

No alternatives were considered. OCST is required by the Commercial Space Launch Act to review and act upon applications for licenses to conduct commercial launches and commercial

launch site operations. The Act does not permit OCST to follow alternative approaches in carrying out this responsibility. Therefore, although this rulemaking will make further refinements to the licensing process, the basic regulatory approach will not change.

**Anticipated Costs and Benefits:**

The rule should impose no additional costs on the commercial space transportation industry. By streamlining the licensing process that is already in place, the rule should benefit the industry by reducing the regulatory burden. The rule should benefit the Office by establishing a more efficient licensing mechanism, thereby reducing staff time.

**Risks:**

DOT's Office of Commercial Space Transportation must ensure that commercial space launch activities do not jeopardize public health and safety and the safety of property and also ensure compliance with international obligations of the United States. Although the historical safety record of government and commercial launch firms is excellent, significant risks or hazards are presented by the launch of launch vehicles. Risks or hazards include possible explosions and fires involving liquid or solid rocket propellants and ordnance, as well as the generation of launch vehicle and payload debris. Launch accidents, including in-flight failures of guidance or destruction systems, may result in injury to launch personnel and the public and in damages to or loss of government and private property. The potential maximum probable loss for injuries and damages from a single launch typically is in the tens of millions of dollars. The OCST licensing process, in conjunction with U.S. Government launch facilities' range safety control procedures, are directed at ensuring that these launch activities do not jeopardize public safety or U.S. national interests. In addition, OCST imposes financial responsibility requirements on licensees to protect the public and the government, pursuant to the 1988 amendments to the Commercial Space Launch Act.

**Timetable:**

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020

Action	Date	FR Cite
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	04/00/96	

**Small Entities Affected:**

None

**Government Levels Affected:**

Federal

**Analysis:**

Regulatory Evaluation

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**DOT—U.S. Coast Guard (USCG)**

**PRERULE STAGE**

**86. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)**

**Priority:**

Other Significant

**Legal Authority:**

33 USC 1321(j); PL 101-380

**CFR Citation:**

33 CFR 154

**Legal Deadline:**

None

**Abstract:**

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause substantial or significant and substantial harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. This would be defined as any facility capable of transferring hazardous substances regulated under

46 CFR Subchapters D and O to or from a vessel with a capacity of 250 barrels or more. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This action is considered significant because of substantial public interest.

**Statement of Need:**

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

**Summary of the Legal Basis:**

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

**Alternatives:**

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are

required by statute to maintain contracts or other acceptable arrangements with spill-response organizations.

#### Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

#### Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

#### Timetable:

Action	Date	FR Cite
ANPRM	10/00/95	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

None

#### Analysis:

Regulatory Evaluation

#### Agency Contact:

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RIN: 2115-AE87

#### DOT-USCG

#### 87. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

#### Priority:

Other Significant

#### Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

#### CFR Citation:

33 CFR 155

#### Legal Deadline:

None

#### Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances regulated under 46 CFR Subchapters D and O. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This action is considered significant because of substantial public interest.

#### Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

#### Summary of the Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for

oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

#### Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are required by statute to maintain contracts or other acceptable arrangements with spill response organizations.

#### Anticipated Costs and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill-response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits

of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

**Risks:**

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/00/95	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

None

**Analysis:**

Regulatory Evaluation

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**RIN:** 2115-AE88

**DOT—USCG**

**PROPOSED RULE STAGE**

**88. +STRUCTURAL AND OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045)**

**Priority:**

Economically Significant

**Legal Authority:**

46 USC 3703; PL 101-380

**CFR Citation:**

33 CFR 157

**Legal Deadline:**

Final, Statutory, August 26, 1991.

**Abstract:**

This rulemaking will address the interim measures existing vessels must take to provide substantial protection to the environment. The interim measures will apply to existing vessels until the vessel must comply with the double-hull regulations. No tank vessel without a double hull may operate after January 15, 2015. Interim measures are to include structural and operational standards to provide substantial protection to the environment that are economically and technologically feasible. This rulemaking is considered significant due to substantial public interest and environmental impact.

**Statement of Need:**

This rulemaking is intended to reduce the likelihood of, and impact from, oil spills from existing tank vessels.

**Summary of the Legal Basis:**

Section 4115(b) of OPA 90, codified at 46 USC 3703a, mandates that the Secretary of Transportation "... issue a final rule to require that tank vessels over 5,000 gross tons ... comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible."

**Alternatives:**

In 1989, the Coast Guard commissioned the National Academy of Sciences to conduct a study of alternative tank vessel designs. The study addressed the feasibility and ramifications of implementing various design options. An advance notice of proposed rulemaking (ANPRM) was published on November 1, 1991, and solicited comments on a number of possible structural and operational measures. Comments were specifically solicited on the number of vessels affected, technical feasibility, and costs of various measures. Based on comments received and the Coast Guard's own analysis, the range of possible alternatives was narrowed. Remaining options included protectively located noncargo tanks (PL/Spaces), emergency rapid transfer systems, emergency rescue systems, underpressure systems, and hydrostatically balanced loading (HBL). Following publication of a notice of proposed rulemaking (NPRM)

on October 22, 1993, the Coast Guard conducted a public meeting and received additional comments. Several comments expressed concern over the effectiveness of some of the proposed structural and operational measures, such as protectively located spaces and hydrostatic balance loading. Therefore, the Coast Guard is considering a three-prong approach. A partial final rule addressed emergency lightering equipment and prearrival notification requirements. Two SNPRMs will address operational and structural measures respectively and solicit additional comments.

**Anticipated Costs and Benefits:**

The costs of the proposed rule will depend on what combination of alternatives is eventually selected. Costs may range from approximately \$50,000 to create PL/Spaces on a small, pre-MARPOL ship to approximately \$25 million to add a double bottom to a very large crude carrier. Lost cargo capacity may also impose substantial costs for certain alternatives, especially HBL, double sides, and double bottoms. The principal benefit of the proposed rule will be a potential reduction in oil spillage into U.S. waters. This should result in reduced cleanup costs and natural resource damages. The proposed regulation would provide environmental benefits during the period of time that single-hull vessels remain in service.

**Risks:**

The effectiveness of this rulemaking will depend on the combination of alternatives selected.

**Timetable:**

Action	Date	FR Cite
ANPRM	11/01/91	56 FR 56284
ANPRM Comment Period End	12/31/91	
ANPRM Comment Period Extended to 01/30/92	01/13/92	57 FR 1243
NPRM	10/22/93	58 FR 54870
NPRM Correction	11/19/93	58 FR 61143
Notice of Meeting and Comment Period Extended to 02/21/94	12/16/93	58 FR 65683
NPRM Comment Period End	12/20/93	
Final Rule; Arrival Notice and Lightering Equipment	08/05/94	59 FR 40186
SNPRM; Operational Measures	10/00/95	
SNPRM; Structural Measures	12/00/95	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Analysis:**

Regulatory Evaluation; Environmental Impact

**Additional Information:**

This entry was previously titled Existing Tank Vessel Hull Requirements. The correct docket number is 91-045. The rulemaking project has been divided into three distinct parts: A final rule was published that requires an advance notice of arrival for all tank vessels 5,000 GT or more entering U.S. ports and the carriage of lightering equipment on these vessels. A supplemental notice of proposed rulemaking will be issued for Structural Measures and an SNPRM will be issued for Operational Measures.

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RIN: 2115-AE01

**DOT—Federal Aviation Administration (FAA)**

**FINAL RULE STAGE**

**89. +AIRCRAFT FLIGHT SIMULATOR USE IN PILOT TRAINING, TESTING, AND CHECKING AND AT TRAINING CENTERS**

**Priority:**

Other Significant

**Legal Authority:**

49 USC 1301; 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352; 49 USC 1355; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g)

**CFR Citation:**

14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 141; 14 CFR 142

**Legal Deadline:**

None

**Abstract:**

This action would amend the pilot and flight instructor certification rules to include additional use of aircraft, aircraft flight simulators, and flight training devices for pilot training, testing, and checking. This notice also would propose a new part 142 that would govern a new concept called *training centers*. This new concept will emphasize the use of flight simulators in training applicants for pilot certificates. This rulemaking is considered significant because of substantial public interest; it involves a major change in the way industry trains applicants.

**Statement of Need:**

The training roles of several elements of the aviation community have expanded during the past 10 years. In October 1989, an advisory committee studying matters relating to training and qualification recommended that the FAA standardize the use of flight simulators and flight training devices, provide a means to certificate entities called training centers, and permit the training centers to apply for national approval of core curriculums that could be used by individuals receiving training. This rulemaking project responds to this recommendation by including the concept of a certificated training center.

**Summary of the Legal Basis:**

Secs. 601 and 602 of the Federal Aviation Act: section 601 empowers the Administrator to prescribe the minimum standards governing appliances such as simulators; section 602 empowers the Administrator to issue airmen certificates.

**Alternatives:**

Since the FAA accepted the recommendations of the advisory committee, it will not pursue any nonregulatory options.

**Anticipated Costs and Benefits:**

The total 10-year cost to implement part 142 is estimated to be about \$1.3 million discounted. The benefits of this rule, however, far outweigh its costs. Most of the cost savings come from lowered operations costs. The estimated savings from existing simulator training centers training pilots will be \$808 million, discounted over the next 10 years.

**Risks:**

Flight simulators will expand under the changes in the simulator rule. The future use of simulators should reduce the need for pilot instructional flights and the incidence of instructional flight accidents. Each year many student pilots and their instructors die in instructional flight accidents. In the 10-year period 1983 through 1993, the National Transportation Safety Board reported 307 fatal instructional accidents resulting in 553 fatalities. The FAA estimates the average value of such an accident equals \$4.8 million. Instructional flight accidents are a risk that would follow in the absence of the simulator rule.

**Timetable:**

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35888
NPRM Comment Period End	12/09/92	
SNPRM Comment Period End	02/19/93	58 FR 9514
Final Action	10/00/95	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Analysis:**

Regulatory Evaluation 08/11/92 (57 FR 35888)

**Additional Information:**

This project was formerly entitled "Aircraft Simulator Use in Airman Training and Certification." Project Number AFS-83-105R.

The SNPRM clarified or eliminated certain provisions found to be unclear or inappropriate for present consideration.

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RIN: 2120-AA83

**DOT—FAA**

**90. +AIRWORTHINESS STANDARDS: FLIGHT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

49 USC 134; 49 USC 1354(a); 49 USC 1355; 49 USC 1421; 49 USC 1423; 49 USC 1425; 49 USC 1428; 49 USC 1429; 49 USC 1430; 49 USC 106(g); PL 97-449

**CFR Citation:**

14 CFR 23

**Legal Deadline:**

None

**Abstract:**

The FAA established an Aviation Rulemaking Advisory Committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The ARAC has been tasked to recommend airworthiness standards for standard and commuter category airplanes in part 23 of Title 14 of the CFR. The FAA has also committed to harmonizing its requirements applicable to type certification of new airplanes, rotocraft, aircraft engines, and propellers with those of the European members of the Joint Aviation Authorities (JAA). This proposal and the three related proposals, which resulted from recommendations from the ARAC, will harmonize the airworthiness requirements of part 23 with those of the JAA, and will result in significant cost savings to applicants for type certification for part 23 airplanes.

**Statement of Need:**

The FAA has committed to harmonizing the requirements that apply to type certification of new airplanes, rotocraft, aircraft engines, and propellers. Currently, an applicant for U.S. and European type certificates for a product must demonstrate that its design complies with Title 14 of the CFR, and the airworthiness requirements of the European countries in which applications are made. Because of differences between U.S. and European requirements, type certification programs can involve multiple certification efforts, including costly expenditures for flight testing and computer data generation and modeling. This is often redundant, because the requirements have common safety objectives. This effort to harmonize will result in type

certification programs for which an applicant for multiple certification need only demonstrate compliance once. This rule is one of four such proposals to harmonize part 23 of the CFR with European requirements. Other areas are systems and equipment (2120-AE59), propulsion (2120-AE60), and airframe (2120-AE62).

**Summary of the Legal Basis:**

Former Title VI of the Federal Aviation Act of 1958, as amended, now codified at 49 USC 44701, requires the FAA to promote safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers.

**Alternatives:**

The only alternative to harmonization of the FAA's type certification requirements would be to allow the status quo to continue; that would mean that applicants for U.S. and foreign type certificates would continue to demonstrate compliance with multiple sets of rules.

**Anticipated Costs and Benefits:**

These flight harmonization rules would reduce the regulatory burden on type certificate applicants, both domestic and foreign, who apply for U.S. and foreign type certificates. A typical new airplane certification in the commuter category can cost tens of millions of dollars for a U.S. type certificate; demonstrating compliance with additional requirements for one or more foreign aviation authorities can cost additional millions of dollars. The overall cost benefits to the domestic and foreign aircraft, engine, and propeller manufacturers will be a function of the numbers of products for which new type certificate applications will be made. That is difficult to predict. However, it should be noted that typical type certification programs for new transport airplanes are more expensive than those for commuter airplanes, and programs for new engines and propellers are less expensive than for commuter airplanes.

**Risks:**

The aircraft, aircraft engine, and propeller industry has identified the additional, and sometimes redundant, cost of certifying a product to different sets of standards. Should the FAA not harmonize its rules with those of the other countries in which modern aircraft are operated, it will have lost

an opportunity to achieve an important goal of "reinventing" government by decreasing the financial burden of regulations. The FAA has evaluated the proposed rules to ensure that they will further the public interest in a high level of aviation safety.

**Timetable:**

Action	Date	FR Cite
NPRM	07/25/94	59 FR 37878
NPRM Comment Period End	11/22/94	
Final Action	06/00/96	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Analysis:**

Regulatory Evaluation 07/25/94 (59 FR 37878)

**Additional Information:**

Project No.: ACE-94-286A.

**Agency Contact:**

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**RIN:** 2120-AE61

**DOT—FAA****91. +COMMUTER OPERATIONS AND GENERAL CERTIFICATION AND OPERATIONS REQUIREMENTS****Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

49 USC 1153; 49 USC 40101 to 40103; 49 USC 40113; 49 USC 44105; 49 USC 44106; 49 USC 44111; 49 USC 44701; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44912; 49 USC 44914; 49 USC 49936; 49 USC 44938; ...

**CFR Citation:**

14 CFR 121; 14 CFR 135

**Legal Deadline:**

None

**Abstract:**

This action would respond to the 10 recommendations from the National Transportation Safety Board dated November 15, 1994. The primary objective of this action is to revise the Federal Aviation Regulations (FAR) to require all scheduled passenger operations conducted with airplanes with more than nine passenger seats to be conducted under the requirements of Part 121. Other projects that the FAA already has ongoing include: Part 142, Training Centers; Flight Crewmember Duty Limitations and Rest Requirements; and the 121/135 Training Program. This rulemaking is considered significant because of substantial public interest.

**Statement of Need:**

The accident record of Part 135 operators is not as good as that of Part 121 operators. There has been a growing public perception that flying under Part 135 is not as safe as flying under Part 121. Although the safety record of Part 135 operators is improving, several accidents in the past several years have increased the public's desire for a single set of requirements for all passenger-carrying operations. These accidents led to NTSB to recommend to the FAA that scheduled passenger-carrying operations conducted in aircraft with 10 or more seats comply with Part 121.

**Summary of the Legal Basis:**

Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

**Alternatives:**

The FAA is reviewing the comments submitted by the public. It is in the process of evaluating whether any suggested alternatives should be pursued in lieu of some regulatory proposals.

**Anticipated Costs and Benefits:**

In the notice of proposed rulemaking, the FAA anticipated that the safety benefits would be \$393 million (discounted) from 1996-2005. Over the same period, the rule would impose costs of \$275 million (discounted). The FAA is considering comments on these estimated costs and benefits to determine a final economic evaluation.

**Risks:**

Since the FAA initiated this rulemaking, one additional commuter

airplane accident has occurred, resulting in the deaths of five persons. If issued as proposed, this rulemaking would add requirements, for example, for additional pilot training, a dispatch system, and enhanced performance requirements, that the FAA believes would increase the level of safety for the traveling public. On the other hand, these requirements will be very expensive for some operators. Alaska operators and air tour operators have indicated that, if the rule is imposed, they will convert to smaller, less safe 9-seat airplanes. This in turn would mean an increase in noise and air traffic. Other operators have pointed out that the costs would be passed on to passengers, making the price of tickets so expensive that the public would choose to travel by automobile, a less safe means of travel.

**Timetable:**

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16230
NPRM Comment Period End	06/27/95	
Final Action	12/00/95	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Additional Information:**

Project Number: AFS-95-064  
49 USC 46103, 49 USC 46105.

**Agency Contact:**

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**RIN:** 2120-AF62

**DOT—Federal Highway Administration (FHWA)**

**PRERULE STAGE**

**92. • +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

49 USC 31136; 49 USC 31502

**CFR Citation:**

49 CFR 395

**Legal Deadline:**

None

**Abstract:**

Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. This is significant because of the broad industry impact.

**Statement of Need:**

The hours-of-service regulations adopted by the FHWA are intended to address the issue of driver fatigue and to enhance highway safety by reducing the number and severity of accidents caused by fatigue. The recordkeeping associated with this regulation, primarily the requirement for drivers to maintain daily records of duty status, imposes a significant burden on drivers and motor carriers.

The FHWA believes that advances in technology may hold the promise for substantially reducing the paperwork burden of this rule while improving compliance with the underlying hours-of-service limitations, thus enhancing highway safety.

**Summary of the Legal Basis:**

The FHWA is authorized to regulate hours of service of CMV drivers in order to enhance highway safety. Beginning in 1935, the Federal Government (first the Interstate Commerce Commission and then the Federal Highway Administration) has regulated the hours of service of interstate drivers. See 49 USC 31502. In 1984, the Congress directed the Secretary of Transportation to prescribe regulations to ensure that commercial motor vehicles are operated safely and that the physical condition of operators of CMVs is adequate to enable them to operate safely. See 49 USC 31136. Finally the Congress has provided that, if the Secretary prescribes a regulation about the use of monitoring devices in

CMVs to increase compliance with hours of service regulations, the regulation is to ensure that the devices are not used to harass vehicle operators. See 49 USC 31137(a).

**Alternatives:**

Current Federal safety regulations require drivers to maintain records of duty status on handwritten forms or alternatively, at a motor carrier's option, electronically through the use of on-board recording devices (49 CFR 395).

The FHWA has considered the use of satellite tracking technology to replace handwritten records of duty status. The FHWA believes that system modifications necessary to allow the use of this technology for this purpose is not cost effective at this time. Satellite tracking systems, as currently configured, are primarily designed to track vehicle location. They do not provide driver identification or supporting documentation for roadside enforcement.

The FHWA is now planning further study of the use of on-board recording devices to monitor drivers' hours of service. This study will include recent advances in technology and current costs.

**Anticipated Costs and Benefits:**

Current recordkeeping requirements directly affect 3.3 million drivers who are required to complete records of duty status. The motor carrier industry expends 14.8 million burden hours at an estimated cost of \$340 million annually.

**Risks:**

Hours of service recordkeeping requirements are intended to reduce safety risks associated with driver fatigue. No risks have been identified with increased use of onboard recording devices.

**Timetable:**

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comments Period End	11/06/95	
Study To Be Completed	09/00/96	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

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**RIN:** 2125-AD65

**DOT—Federal Railroad Administration (FRA)**

**PRERULE STAGE**

**93. • +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

49 USC 20103; 49 USC 21101 to 21108; 49 USC 21303 to 21304; 49 USC 21311

**CFR Citation:**

49 CFR 228

**Legal Deadline:**

None

**Abstract:**

The Federal Railway Administration (FRA) will launch a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA will host an industry forum and propose to issue a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228.

**Statement of Need:**

Two of the goals of FRA's Strategic Plan are to increase our customer focus by giving our best to the customer's needs and priorities and to "advance technological innovation in rail transportation through leadership and partnership." It is consistent with these

goals to allow greater flexibility in the maintenance of hours-of-service records and to encourage the railroads' use of electronic recordkeeping. Moreover, when meeting with sectors of the industry pursuant to the President's March 4, 1995 Reinvention Initiative, FRA learned that the industry is interested in obtaining greater flexibility in this area. Consequently, it is anticipated that FRA will change the hours-of-service regulations' paper records and reports requirements for subscribing railroads. This will improve these regulations by providing flexibility in the generation of payroll and hours-of-service records from the same databases, by facilitating electronic filing of excess service records, and by providing data to FRA in a format that can be more readily analyzed.

**Summary of the Legal Basis:**

Under the Federal railroad safety laws, the FRA (by delegation from the Secretary), has regulatory and enforcement authority over all areas of railroad safety. This plenary authority certainly covers a modification of the method employed in the maintenance of hours-of-service records. There is currently no statutory or judicial requirement to make this modification.

**Alternatives:**

Because this rulemaking is at such a formative stage, it is premature to discuss alternatives. However, during the process of developing this waiver project, FRA will consider all reasonable alternatives.

**Anticipated Costs and Benefits:**

While FRA cannot yet conclusively provide an analysis of the costs and benefits of this project, it is estimated that this project will, after the initial cost of systems is recovered, yield savings to the industry of 2.3 million dollars annually for Class I railroads. These savings will flow from the elimination of the requirement to create 3.6 million paper records each year and to store 7.3 million records at any given time.

**Risks:**

As this project is designed to allow railroads to make technological improvements in the manner of creating and maintaining hours-of-service records, it is not anticipated that there will be any risks associated with allowing participating railroads to waive the requirements of paper recordkeeping.

**Timetable:**

Action	Date	FR Cite
Grant or Deny Master Waiver Application	04/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

None

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**RIN:** 2130-AB04

**DOT—Research and Special Programs Administration (RSPA)**

**PROPOSED RULE STAGE**

**94. +EMERGENCY FLOW-RESTRICTING DEVICES**

**Priority:**

Other Significant

**Legal Authority:**

49 USC 60101 to 60125

**CFR Citation:**

49 CFR 195

**Legal Deadline:**

Final, Statutory, October 24, 1996.

**Abstract:**

This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow-restricting devices, and other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

**Statement of Need:**

The adverse safety and environmental effects of pipeline accidents are often the result of an operator's failure to rapidly detect and locate a leak and to rapidly shut down the pipeline. Quicker response to pipeline leaks through the strategic placement and use of emergency flow-restricting devices, with a reliable leak detection capability, can reduce the amount of

liquid spilled into the environment and the consequent damages to life and property.

**Summary of the Legal Basis:**

Section 212 of the Pipeline Safety Act of 1992 requires the Secretary to survey and assess the effectiveness of emergency flow-restricting devices (including remotely controlled valves and check valves) and other equipment used to detect and locate pipeline ruptures and minimize product releases. Section 212 requires the Secretary, within 2 years after completing the survey and assessment, to issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow-restricting devices or other equipment.

**Alternatives:**

The alternatives under consideration are different types of emergency flow-restricting devices and associated leak detection systems, and the sites that would maximize the usefulness of these devices and systems.

**Anticipated Costs and Benefits:**

The potential costs and benefits of this action have not yet been determined.

**Risks:**

This action addresses the increased risks to safety and the environment that result from the lack of prompt response to a line leak. Although the magnitude of potential risk reduction has not yet been determined, an example of the type of accident that this action might mitigate is the 1989 spill from an Exxon pipeline in the harbor between New York and New Jersey. Over 500,000 gallons of No. 2 fuel oil entered the water from a gash in the pipeline. A leak detection system that had been malfunctioning for 12 years failed to alert the operator to shut down the pipeline immediately.

This action is related to an action required by the Oil Pollution Act of 1990. This other action, now in effect under an interim final rule, but subject to change, requires operators to develop and execute approved oil spill response plans. Both actions are directed toward improving operators' accident response capabilities and minimizing accident consequences.

**Timetable:**

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	12/00/95	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Analysis:**

Docket No. PS-133; Regulatory Evaluation 01/00/96

**Additional Information:**

Docket No. PS-133. Public Workshop 10/19/95. Notice published 8/29/95 (60 FR 44822).

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**RIN:** 2137-AC39

**DOT—RSPA**

**FINAL RULE STAGE**

**95. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE**

**Priority:**

Other Significant

**Legal Authority:**

49 USC 5101 to 5127

**CFR Citation:**

49 CFR 171 to 179

**Legal Deadline:**

None

**Abstract:**

This rulemaking proposes to extend the application of the hazardous materials regulations (HMR) to all intrastate transportation of hazardous materials in commerce. The 1990 amendments to Federal hazardous material transportation law mandate that the Research and Special Programs Administration (RSPA) regulate the safe transportation of hazardous materials in intrastate, in addition to interstate and foreign, commerce. The goal of this action is to raise the safety level of hazardous transportation by promoting national uniformity of the regulations. Currently the regulations generally do not apply to intrastate carriage by highway, with the exception of hazardous waste, hazardous substances, and flammable cryogenic liquids in

portable tanks and cargo tanks. The supplemental notice would propose to extend the mandatory compliance date for regulations applicable to certain cargo tanks, and propose a "materials of trade" exception for relatively small quantities of hazardous materials contained on service vehicles operated by plumbing, welding, and lawn service companies.

**Statement of Need:**

Section 5103(b)(1) of Title 49, USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. This statutory mandate follows the Department's long-standing policy of encouraging the States to adopt the HMR as a means of promoting national uniformity and transportation safety. In addition, the Federal Highway Administration (FHWA) requires States to adopt and enforce the highway-related portions of the HMR to qualify for grants under FHWA's Motor Carrier Safety Assistance Program.

Comments submitted in response to the original notice of proposed rulemaking advised RSPA that many cargo tank motor vehicles currently used by farmers and small businesses would need to be removed from hazardous materials service far in advance of the useful life of the tanks, or require extensive retrofitting. Other commenters noted the potential for significant adverse impact on small businesses that engage in the incidental transportation of hazardous materials used in support of their non-transportation-related commercial activities. To adequately address these concerns, RSPA is considering certain proposals that would require prior notice to the regulated community.

**Summary of the Legal Basis:**

Section 5103(b)(1) of Title 49 USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

**Alternatives:**

The statutory mandate to regulate the transportation of hazardous materials in intrastate commerce requires RSPA to take affirmative action. The alternative to the proposed action is to require immediate and uniform application of hazardous materials by motor vehicle.

**Anticipated Costs and Benefits:**

A preliminary regulatory evaluation prepared by RSPA considered potential costs and benefits in seven States (California, Georgia, Iowa, Illinois, Kansas, Texas, and Wyoming) having State regulations that are not in full conformance with the HMR. The preliminary estimate of costs and benefits for these seven States (where the regulatory cost impact would be the greatest) demonstrates a favorable benefit/cost ratio of approximately 3:1. The supplemental notice for "materials of trade" has the potential for annual savings by small businesses on the order of \$50 million.

**Risks:**

There are several major considerations involved in developing uniform intrastate/interstate regulations for the transportation of hazardous materials in commerce. Most hazardous materials are of such a nature that no useful distinction can be made as to why intrastate transportation should be subject to less demanding safety standards than interstate counterparts. For example, the transportation of gasoline in a cargo tank presents the same level of risk to the public regardless of whether the transportation is intrastate or interstate.

It is neither economical nor efficient for each of the 50 states to duplicate RSPA's expertise and safety research efforts with respect to classification of hazardous materials; determination of transportation risks; and development of effective transportation safety standards. Economically and administratively, it is more efficient for State and local emergency response and enforcement personnel to focus on and become more proficient in one set of regulations that uniformly apply to the transportation of hazardous materials regardless of whether intrastate or interstate.

Emergency response personnel may not be able to make distinctions as to whether hazardous materials carriers are in intrastate or interstate service. Emergency response personnel reacting to incidents involving hazardous materials must first identify the specific hazards before determining a proper response. An inappropriate response involving an unfamiliar hazardous material carried intrastate by a cargo tank not subject to the HMR can significantly endanger the public, community, and environment. Also response to an incident involving materials, carried intrastate by a cargo tank, which are found to be

nonhazardous, may cause inconvenience and needless economic hardship on the public and surrounding community. Communities have been evacuated on the mere suspicion that hazardous materials are present. Major roads and arteries have been closed and transportation patterns and delivery schedules have been disrupted or delayed because of poor or inadequate emergency planning and response. By adopting and becoming more proficient in one set of regulations, the effectiveness of State and local emergency response and enforcement programs will be increased, and transportation safety will be enhanced with respect to both intrastate and interstate transportation of hazardous materials.

This rule will address legitimate public concerns about incidents involving hazardous materials in intrastate commerce. Such incidents now lead to public concern regarding the transportation of hazardous materials and the risks associated with such movements in the form of increased State activity and Congressional pressure to further regulate both intrastate and interstate carriers of hazardous materials without regard to the underlying costs and benefits.

**Timetable:**

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period	09/21/87	52 FR 35464
Extended to	11/28/87	
ANPRM Comment Period End	09/28/87	
NPRM	07/09/93	58 FR 36920
NPRM Correction	07/15/93	58 FR 38111
NPRM Comment Period End	10/13/93	
SNPRM	10/00/95	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Analysis:**

Regulatory Evaluation 07/09/93 (58 FR 36920)

**Additional Information:**

Docket No. HM-200. Regarding Small Entities Affected by this rule, RSPA is working with the Small Business Administration to identify the small entities affected and to minimize the impact on them.

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