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 aviation consumer and economic issues 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 responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, property asset management, seismic safety, security, and the use of aircraft and vehicles.

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.

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 its regulatory work. The creation of an electronic docket for the Department, the use of direct final rulemaking, and the increased use of regulatory negotiation are three examples of this.

This Department's regulatory process and philosophy also facilitated the Department's successful participation in President Clinton's Regulatory Reinvention Initiative. The cumulative impact of this effort was significant. The Department has removed 13.2 percent (1221 pages) of its Code of Federal Regulations (CFR) pages and reinvented an additional 19.6 percent (2129 pages) of its CFR pages. In addition, DOT took a number of specific, substantial regulatory steps that helped the Administration achieve its regulatory policy objectives. The following are a few examples:

- FAA completed four rulemakings to harmonize aviation safety rules with European standards. Overall, the rules should save the industry at least $100 million (perhaps up to $1 billion, depending on economic conditions) over 10 years.
- FAA took action to permit more liberal use of flight simulators and flight training devices for airman certification training, testing, and checking. Benefits will include savings in flight hours and fuel, and the decreased potential for accidents during training.
- DOT suspended the requirement for preemployment alcohol testing in advance of legislation to make such testing permanently discretionary in the National Highway System Act of 1995. This has saved the motor carrier, mass transit, aviation, and railroad industries $28 million a year. DOT is now in the process of amending its rules to conform to the statutory language.
- USCG reduced the reporting burdens placed on sponsors of marine events while continuing to protect life at sea. This change will lower the number of permit requests filed annually from over 3,000 to below 100.
- FHWA eliminated a requirement for semiannual reports regarding on-the-job training on Federal-aid construction contracts. Elimination of this requirement reduced the administrative burden on highway construction contractors and State highway agencies.
- MARAD amended its rules governing the ''Title XI'' Obligation Guarantees Program to significantly shorten the time for processing applications for guarantees and reduce the amount of information required by applicants.
- RSPA removed unnecessary, obsolete, and duplicative regulations. It changed the format of the Hazardous Materials Table and List of Hazardous Substances to eliminate approximately 100 pages from the CFR.

In responding to other Presidential initiatives, the Department is ensuring that compliance efforts reward results and deemphasize red tape. It is stressing results, and education and training programs, to assist regulators and customers to work together 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. These have included summits with front-line regulators and representatives of regulated industries. In addition, the Department's agencies have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department of Transportation was a pioneer in creating the regulatory negotiation concept, and it conducted the Federal Government's first

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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. Regulatory negotiation projects currently planned, underway, or completed concern 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), qualifications for pipeline personnel (RSPA), and modernizing the motor carrier financial reporting requirements in light of changes made by the ICC Termination Act (Bureau of Transportation Statistics, BTS).

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 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, the Paperwork Reduction Act of 1995, and the Small Business Regulatory Enforcement Act of 1996 (including congressional review of rules). It also provides updated information on such matters as compliance with Executive orders, economic analyses, the Regulatory Agenda and Plan, and other regulatory policy matters. OST provides guidance and training concerning cost-benefit analyses and risk assessments, as well as offering DOT personnel periodic training on regulatory development and process.

OST led and coordinated the Department's response to the Administration and Congress in 1995-96 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. 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.

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, vessel and facility oil spill response plans, and operational measures to prevent oil spills from tank vessels without double hulls. Other rulemaking projects, including requirements for hazardous substance response plans, 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 has begun an effort 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. The Coast Guard sponsors standing advisory committees and councils including: Chemical Transportation, Towing Safety, Merchant Marine Personnel, National Offshore Safety, Commercial Fishing Industry Vessel, National Boating Safety, and Navigational Safety, to facilitate a broad range of interests participating in regulatory development. Very few of the Coast Guard information collection requirements are in the form of regularly scheduled reports.

In 1994, the Coast Guard 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, in 1995 and 1996 the Coast Guard removed more than 370 pages from the Code of Federal Regulations and reinvented more than 1,250 others, with the substantive effect of facilitating international commerce while also protecting maritime safety and the marine environment.

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 77 issues. To date, the ARAC has accomplished the issuance of 12 notices of proposed rulemaking, 11 final rules, and 10 advisory circulars.
- 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.
- Changing the regulatory process to conform more closely with other changes being implemented throughout the Agency. In May of 1996, the Administrator announced the results of a comprehensive review of the regulation and certification capabilities, better known as Challenge 2000. In the final report, the FAA noted that it faces a rapidly changing aviation environment which is becoming global in nature with increased growth and technology. This in turn could accelerate a pace of change that would also have to meet increasing public expectations. In terms of the regulatory process, it found that the regulatory process is lengthy, that additional regulations alone will not answer the future challenges, and that Government and industry must build effective partnerships to achieve the challenge of the years ahead. The FAA is committed to identifying industry best practices, to developing centers of excellence, to using empowered rulemaking teams, and to promulgating performance-based rules.
- Improving the rulemaking process internally. Managers would provide rulemaking with greater visibility and top-level attention as rulemaking teams identify issues early in the process. The process of rulemaking would utilize the integrated team concept. More flexibility of compliance would be provided by developing regulations that require a standard of performance, rather than rigid requirements, such as number of training hours. The Agency also plans periodic and selective reviews of the FARs.

Top regulatory priorities of the FAA for 1996-1997 include the regulations governing duty limitations and rest requirements for flight crewmembers, an update to the digital flight data recorder requirements, and three separate regulations to address airspace management and noise from aircraft overflights of the national parks (one specifically applying to the Grand Canyon National Park, one for the Rocky Mountain National Park, and the third to apply to national parks in general). Also, the White House Commission on Aviation Safety and Security, chaired by Vice President Gore, will be making a number of recommendations in the months ahead to enhance aviation safety and security and modernize air traffic control. To the extent regulatory action will be needed to support the recommendations, the FAA will take the appropriate action.

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 will continue evaluating Standard 208's automatic crash protection requirement and Standard 214's new dynamic side-impact protection requirement and begin evaluating Standard 108's requirement for reflective marking (either retroreflective tape or reflex reflectors) on heavy truck trailers to enhance their detectability at night or under other conditions of reduced visibility. NHTSA will also begin evaluating the implementation of the American Automobile Labeling Act, which requires new passenger cars, light trucks and multipurpose passenger vehicles to carry labels providing information on their domestic and foreign parts content.

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 regulations that are potential candidates for rescission or amendment. NHTSA completed action on many of the candidate regulations and will complete action on the few remaining ones in the coming year. The Agency will also 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.

While railroad safety has improved substantially over the past decade due to the implementation of easy and obvious risk reduction measures, significant risk remains due to the nature of rail transportation. Properly ranking safety priorities, based on apparent need and available opportunities for risk reduction, requires increasingly sophisticated approaches to accident and casualty trend analysis, industry practices, and other factors. Fashioning solutions that have favorable benefit-to-cost ratios, and that, where feasible, incorporate flexible performance standards, requires cooperative action by all affected parties. Interested parties have traditionally approached rail safety rulemakings in an adversarial manner, however, which greatly inhibited the development of the best regulatory approaches to resolve difficult safety issues.

FRA began addressing these concerns when it decided to use negotiated rulemaking to create a rule addressing the safety of roadway workers. Begun early in 1995, the negotiated rulemaking advisory committee reached a consensus agreement about how best to ensure the safety of roadway workers and presented its recommendations to the Agency. FRA issued an NPRM based upon these recommendations in March of 1996 and expects to issue the rule in final by November of 1996. This negotiated rulemaking represented an historic departure from FRA's traditional rulemaking program.

Building on its success with this collaborative rulemaking experience, and also to further address the concerns delineated above, FRA established the Railroad Safety Advisory Committee (RSAC) in late March of 1996. Making collaborative rulemaking a new way of doing business at FRA is essential to future improvements in public and railroad employee safety. RSAC provides the foundation for accomplishing this objective because it represents a rare commitment on the part of labor unions, railroads, and private associations to work together, and with FRA, on the establishment of regulatory priorities, the gathering and analysis of safety data, and the development of standards which are necessary to ensure that maximum safety levels are both obtained and maintained. As such, it is important to the creation of trust, both between the Agency and the industry, as well as among industry members.

The purpose of RSAC is to develop consensus recommendations for regulatory action on issues referred to it by FRA. Where consensus is achieved, and FRA believes it serves the public interest, the resulting rule is very likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied. Where consensus cannot be achieved, however, FRA will fulfill its regulatory role without the benefit of RSAC's recommendations.

The RSAC has met on a quarterly basis so far and currently has established working groups to address the following five tasks: (1) the revision of the regulations governing power brake systems for freight equipment; (2) the revision of the regulations governing track safety standards; (3) the revision of the regulations governing radio standards and procedures; (4) the revision of the regulations governing locomotive inspection standards for steam-powered locomotives; and (5) the review of FRA regulations for their applicability to tourist, excursion, scenic, and historic railroads on and off the general rail system.

Other than those items being addressed by the RSAC, or other collaborative rulemaking initiatives like the negotiated rulemaking on roadway worker safety, FRA's current regulatory priorities include the issuance of final rules on several important subjects: passenger equipment standards, emergency preparedness for rail passenger service, and two-way end-of-train telemetry devices.

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 1996 is to assist FTA recipients in complying with the drug and alcohol rules and the State safety oversight rule.

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 adequate and efficient water transportation services for American shippers and consumers. To advance these objectives, MARAD issues regulations, which are principally administrative and interpretive in nature, when appropriate, in order to provide a net benefit to the U.S. maritime industry. In developing its regulations MARAD routinely consults with other interested agencies, for example, the Departments of Defense and Agriculture, to ensure that its cargo preference regulations can be implemented by those agencies in a cost-effective manner.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under two 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.

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 update and consolidate the regulatory requirements for cylinders used to transport hazardous materials.

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 Intermodal Surface Transportation Efficiency Act of 1991 created the Bureau of Transportation Statistics (BTS). BTS is responsible for compiling, analyzing, and making accessible information on the nation's transportation systems; collecting information on intermodal transportation and other areas as needed; and enhancing the quality and effectiveness of the statistical program of DOT through research, the development of guidelines, and the promotion of improvements in data acquisition and use.

One of BTS's regulatory priorities is to completely review its motor carrier financial data collection program. The data is collected under recently revised statutory authority, which requires BTS to give consideration to: (1) safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. Further, the statute calls for BTS to ''streamline and simplify'' reporting requirements to the ''maximum extent practicable.'' Among the issues BTS plans to address are: which motor carriers should report, what data items should be collected, and how often should data be collected. BTS hopes to use negotiated rulemaking to help it design a collection program that meets legitimate public and private sector data needs while minimizing the burden on the industry.

BTS's Office of Airline Information (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's regulatory priority in the aviation area is to 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 changing airline industry.

DOT—Office of the Secretary (OST)

PROPOSED RULE STAGE

77. +PASSENGER MANIFEST INFORMATION

Priority:

Other Significant

Legal Authority:

49 USC 44909

CFR Citation:

14 CFR 243

Legal Deadline:

Final, Statutory, March 16, 1991.

Abstract:

This rule would require that each air carrier and foreign air carrier collect basic information from specified passengers traveling on flight segments to or from the United States. U.S. carriers would collect the information for all passengers and foreign air carriers would collect the information for U.S. citizens. The information would include the passenger's full name and passport number and issuing country code, if a passport is required for travel. In addition, airlines would be required to solicit the name and telephone number of a person or entity to be contacted in case of emergency. Airlines would be required to make a record of passengers who decline to provide an emergency contact. The information would be provided to the Departments of Transportation and State in case of an aviation disaster. This rulemaking is considered significant because of substantial public interest and the congressional mandate.

Statement of Need:

During the immediate aftermath of the tragic bombing of Pan American Flight over Lockerbie, Scotland in 1988, the Department of State experienced difficulties in securing complete and accurate passenger manifest information and in notifying the families of victims. The Department of State did not receive the information for ''more than seven hours after the tragedy'' and then, in accordance with current airline practice, it included only the passenger's surnames and first initials which was insufficient information to permit notification of the victims' families in a timely manner. There were continuing problems after subsequent crashes on international flights from the U.S. that took place near Cali, Columbia, in December 1995, and off Long Island, New York, in July 1996.

Summary of the Legal Basis:

This proposal is being issued in order to implement the requirements of 49 USC 44909. In 1990, Congress mandated that the Secretary of Transportation require all U.S. air carriers to provide a passenger manifest for any flight to an appropriate representatives of the U.S. Department of State (1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but no later than 3 hours after such notification.

In addition, the statute requires that the passenger manifest information include the full name of each passenger, the passport number of each passenger, if a passport is required for travel, and the name and telephone number of an emergency contact for each passenger. The statute further notes that the Secretary of Transportation shall consider the necessity and feasibility of requiring U.S. carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to the passenger manifest requirements. Finally, the statute provides that the Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed on U.S. air carriers.

Alternatives:

The Department is proposing to waive compliance with certain requirements if an air carrier has in effect a signed Memorandum of Understanding with the Department of State concerning cooperation and mutual assistance following aviation disasters abroad.

The Department proposes to allow air carriers to develop their own passenger manifest data collection systems. Air carriers would be free to adopt any system that minimizes the burden on them, so long as the system is capable of meeting the requirements set out in the statute. In an attempt to not disproportionately burden smaller air carriers, DOT is considering, in addition, a longer phase-in period for these air carriers.

Anticipated Costs and Benefits:

The Department estimates that the rule would cost between $27.6 and $44.8 million per year plus a one-time start-up cost of $30.5 million. The direct benefits would include prompt and accurate notification to families of victims of aviation disasters that occur on flights to and from the United States and a general increase in the response capability of the Department of State regarding its duties to U.S. citizens and to foreign governments following an aviation disaster.

Risks:

This action addresses the need for prompt and accurate notification of families of victims of aviation disasters on international flights to or from the U.S. We expect the action to significantly reduce, if not eliminate, many of the notification problems that the air carriers and the Department of State have encountered in previous aviation disasters.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/91	56 FR 3810
ANPRM Correction	02/12/91	56 FR 5665
ANPRM Comment Period End	02/19/91	
Notice: Public Meeting 3/29/96	03/15/96	61 FR 10706
NPRM	09/10/96	61 FR 47692
NPRM Comment Period End	11/12/96	

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Analysis:

Regulatory Evaluation 09/10/96 (61 FR 47692)

Additional Information:

This entry was formerly titled Aviation Security: Passenger Manifest Information.

Agency Contact:

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DOT—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

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

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

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 final 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 carried in bulk by vessels.

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. While the specific estimates of potential monetary costs and benefits have not been measured, this is considered an economically significant action. 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	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	09/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Analysis:

Economic Analysis

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RIN: 2115–AE87

DOT—USCG

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

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

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 final 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	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	09/00/97	

Small Entities Affected:

Undetermined

Government Levels Affected:

None

Analysis:

Regulatory Evaluation

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RIN: 2115–AE88

DOT—USCG

FINAL RULE STAGE

80. +STRUCTURAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045C)

Priority:

Other Significant

Legal Authority:

46 USC 3703; PL 101-380

CFR Citation:

33 CFR 157

Legal Deadline:

Final, Statutory, August 18, 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 may include structural 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 990, 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, under pressure 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. In light of the comments received at the public meeting and in response to the written comments received on the NPRM, the Coast Guard reviewed the proposed requirements for structural and operational measures. To expedite the implementation of section 4115(b) of OPA 90, the Coast Guard developed a three-pronged approach which encompassed three separate rulemaking projects. First, the Coast Guard issued a final rule on August 5, 1994, requiring the carriage of emergency lightering equipment and the inclusion of the vessel;s International Maritime Organization (IMO) number in the advance notice of arrival report; second, under RIN number 2115-AE01, on November 3, 1995, the Coast Guard issued a supplemental notice of proposed rulemaking (SNPRM) regarding additional operational measures. The final rule on operational measures was published on July 30, 1996. It contains requirements for bridge resource management and vessel specific policy and procedures, enhanced survey programs, maneuvering performance capability tests, and other measures aimed at reducing the likelihood of an oil discharge from these vessels. Third, on December 28, 1995, the Coast Guard issued an SNPRM regarding structural requirements for Single-hull tank vessels. Structural measures addressed in this third project included hydrostatic loading requirements, structural refit of existing hull areas, emergency cargo off-loading capabilities, and other structural adaptations or major cargo carrying adjustments. The Coast Guard plans to issue a final rule in December 1996.

Anticipated Costs and Benefits:

The costs of the regulation on structural measures 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 Coast Guard is reexamining the economic and technological feasibility of imposing certain structural requirements in light of the finding contained in the revised regulatory assessment. The principal benefit of these rules will be a potential reduction in oil spillage into U.S. waters. This should result in reduced cleanup costs and natural resource damages. The regulations will 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	
NPRM	10/22/93	58 FR 54870
NPRM Comment Period End	12/20/93	
SNPRM	12/28/95	60 FR 67226
Notice of Meeting and Comment Period Extended to 4/10/96	02/20/96	61 FR 6334
Notice of Correction to SNPRM	02/21/96	61 FR 6590
SNPRM Comment Period End	03/27/96	
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation

Additional Information:

This action was part of RIN 2115-AE01 until the Notice of Correction to the SNPRM, published 2/21/96, 61 FR 6590, which corrected Table 2 and identified the new RIN, 2115-AF27 for Structural Measures. The public meeting was 3/19/96. The final rule for operational measures, RIN 2115-AE01, was published on July 30, 1996, 61 FR 39770.

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RIN: 2115–AF27

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

81. +REVISIONS TO DIGITAL FLIGHT DATA RECORDER RULES

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline:

None

Abstract:

This rule will revise the Federal Aviation Regulations to require that additional parameters be recorded by certain aircraft digital flight data recorders. This rulemaking follows a recommendation from the National Transportation Safety Board. This rule will allow for more comprehensive accident and incident information to be gathered. The accident and incident data gathered by recorders is essential to prescribe future corrective action. This rulemaking is considered significant because of anticipated costs and substantial public interest.

Statement of Need:

The history of aircraft accidents and the lack of information that has inhibited proper investigation of their causes is much broader than recent accident experience with certain Boeing 737 airplanes. Historical records of airplane incidents suggest that additional reliable data for the entire fleet of transport category airplanes is necessary to identify causes of these incidents before accidents occur. This rule will expand the data collection requirements to include all parameters that can cost-effectively be collected.

Summary of the Legal Basis:

49 USC 44701 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

Some alternatives considered include: European Joint Aviation Requirements for Operations vs. parameters proposed in this rulemaking (57 vs. 88 parameters); whether airplanes with 10-19 passenger seats should be covered; whether expected but not currently existing technology could be mandated in future requirements for new airplanes.

Anticipated Costs and Benefits:

For a 4-year compliance timeframe, the estimated costs of this rule would be $309.0 million ($259.2 discounted). It is expected, however, that implementing this rule will help reduce accidents because the recordation of additional parameters will aid in determining probable cause of an incident or accident, and will supply information that may detect a trend in operations that can be corrected before an accident or incident could occur.

DFDR's do not in and of themselves prevent accidents; they are used as an investigative tool when accidents or incidents occur. From the DFDR information, a greater understanding of the dynamics and probable causes of accidents and incidents can be obtained. With this knowledge, a ''fix'' can be made to reduce the chance of a similar occurrence in the future. In addition, the FAA will be able to use incident information to reduce accidents of the nature that are currently of undetermined cause.

Risks:

If adopted, this action will help provide data to prevent otherwise non-preventable accidents based on past experience.

Timetable:

Action	Date	FR Cite
NPRM	07/16/96	61 FR 37144
NPRM Comments Due on Parts 121, 125, and 135	08/15/96	
NPRM Comments Due on Part 129	11/13/96	
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 07/16/96 (61 FR 37144)

Additional Information:

Project Number: AIR-95-267R. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact:

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RIN: 2120–AF76

DOT—FAA

82. +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 authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. In accordance with this authority, delegated to the FAA, the Associate Administrator for Commercial Space Transportation (AST) 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 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 AST'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 general administrative procedures 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 FAA's Associate

Administrator for Commercing Space Tax 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, a future rulemaking currently under development by the FAA will address the procedures and requirements applicable to the licensing of commercial launch site 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 FAA's Assoc. Administrator for 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. the FAA is required under U.S.C. 70101-70119 to review and act upon applications for licenses to conduct commercial launches. The Act does not permit the FAA 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 FAA by establishing a more efficient licensing mechanism, thereby reducing staff time.

Risks:

The Assistant Administrator for Commercial Space Transportation of the FAA 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 FAA's 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, the FAA 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
Extended Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM	10/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

Analysis:

Regulatory Evaluation 10/00/96

Additional Information:

This action first appeared in the Agenda under RIN 2105-AB85. However, it was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

Agency Contact:

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RIN: 2120–AF99

DOT—FAA

FINAL RULE STAGE

83. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations to establish one set of duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The proposal resulted from public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data contained in recent National Aeronautics and Space Administration reports. The proposal would replace certain outdated regulations with a simplified regulatory approach based on scientific studies of fatigue. The objective of the proposal is to ensure that flight crewmembers are provided with the opportunity to obtain sufficient rest to perform their routine and emergency safety duties.

This action is considered significant because of substantial public interest.

Statement of Need:

The aviation community requires 24-hour activities to meet operational demands. Growth in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices. A primary purpose of this rulemaking is to incorporate as much as possible of the scientific knowledge into the applicable regulations.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

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:

One obvious alternative would be to continue with the current rules, which would be very expensive for the industry. In reviewing the comments, the FAA is also considering other reserve alternatives that would not penalize certain segments of the industry, such as the air ambulance operators. There is no overall alternative to rest and duty regulations; however, there may be some alternatives that would lend flexibility for operators.

Anticipated Costs and Benefits:

The FAA estimates in the NPRM that total discounted costs over a 10-year period would range between $536 and $800.17 million. Benefits accruing from preventing a fatal accident and the opportunity for using pilots more intensively, are estimated to be approximately $780 million over 10 years.

Risks:

Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and NASA test data indicates that pilots are subject to dozing. Intuitively, it is reasonable to expect, that as air traffic increases, there will be more pilots, and thus more of a probability of fatigued pilots. This is especially true in overnight delivery operations, which are expected to increase significantly in the future.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Extended Comment Period End 6/19/96	03/20/96	61 FR 11492
Final Action	07/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 12/20/95 (60 FR 65951)

Additional Information:

Project Number AFS-94-443R

Agency Contact:

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RIN: 2120–AF63

DOT—FAA

84. +AIRSPACE MANAGEMENT: SPECIAL FLIGHT RULES IN THE VICINITY OF THE GRAND CANYON

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation:

14 CFR 91; 14 CFR 93; 14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

In l987, the Congress enacted P.L. 100-91, commonly known as the National Parks Overflights Act, which stated that noise associated with aircraft overflights at Grand Canyon National Park was causing ''a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.'' The law mandated a number of studies and required that subsequent recommendations provide for the substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with overflights.

In March l994, the FAA and the National Park Service issued an ANPRM seeking public comment on policy recommendations addressing the effects of aircraft overflights on National parks, including Grand Canyon National Park. The FAA received more than 30,000 comments.

On April 22, l996, the President issued a memorandum directing the Secretary of Transportation to issue within 90 days; proposed regulations to place appropriate limits on sightseeing aircraft over the Grand Canyon National Park to reduce the noise immediately and make further substantial progress toward restoration of the natural quiet. The memorandum further directed that action on this rulemaking be completed by the end of 1996.

On July 31, l996, the FAA published a notice of proposed rulemaking to provide a variety of options for the continued elimination of noise in the Grand Canyon National Park. The comment period on the proposal closed September 30, 1996. In addition, public meetings were held in September 1996.

The Department of Transportation has been working with the Department of Interior to address the issue of reducing noise from aircraft overflights of the national parks and restoring the national quiet. In addition to this rule on the Grand Canyon, there are two other significant rulemaking actions which are included in the overall regulatory effort. They are a rule on

Special Flight Rules in the Vicinity of the Rocky Mountain National Park (RIN 2120-AG11) and Overflights of Units of the National Park System (RIN 2120-AF46).

Statement of Need:

As pointed out in the referenced Presidential memorandum, aircraft flying at low altitudes can mar the natural beauty of the parks and present considerable problems to the environment. If not monitored, aircraft noise can interfere with wildlife, cultural resources and visitors' enjoyment of the park.

Summary of the Legal Basis:

Section 41103, Title 49 of the United States Code states that the Administrator shall develop plans and policy for the use of the navigable airspace and shall assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.

Alternatives:

In addition to the basic proposal for more restrictions and flight-free zones, the proposed rulemaking contains two principal alternatives to further protect park resources: a moratorium or immediate cap on flights and an operational curfew on when flights could be conducted. Another alternative, although very costly, might be an allocation of slots.

Anticipated Costs and Benefits:

The FAA estimates that the annual cost of establishing and modifying the flight-free zones and corridors and adding the new reporting requirement is approximately $1.3 million in potential operator revenue losses and added consumer costs. The FAA also estimates that, with the introduction of the variable flight-free periods for the 3-year timeframe 1999-2001, the average annual cost would rise to about $11.0 million for variable and fixed curfews. The estimated cost of the proposed alternative to flight-free periods (a cap) would have slightly lower costs. Benefits are measured by an estimated 38 percent increase of the park experiencing a substantial restoration of the natural quiet.

Risks:

The alternative of not doing rulemaking, or the destruction of the natural quiet, has been determined to be a greater risk than the rulemaking, especially as the FAA has stated in the proposal that any combination of the proposals may be adopted.

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 40120
Correction	08/07/96	61 FR 41040
NPRM Comment Period End	09/30/96	
Final Action	12/00/96	

Small Entities Affected:

Businesses

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 07/31/96 (61 FR 40120)

Additional Information:

Project Number: ATP-95-236R.

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RIN: 2120–AF93

DOT—National Highway Traffic Safety Administration (NHTSA)

PROPOSED RULE STAGE

85. +FEDERAL MOTOR VEHICLE SAFETY STANDARDS: HEAD IMPACT PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.201

Legal Deadline:

None

Abstract:

This rulemaking would amend Federal motor vehicle standard No. 201 ''Occupant Protection in Interior Impact'' to modify the performance requirement and test procedures in order to facilitate the introduction and assess the performance of crash deployed restraint systems that will provide occupants with protection in side impacts and other crash modes. This action is considered significant because of substantial public interest.

Statement of Need:

Having installed air bags to provide crash-deployed protection in frontal crashes, motor vehicle manufacturers are now developing a variety of technologies for providing crash-deployed protection in other crash modes, including side crashes. However, the manufacturers believe that they cannot do so without amendments to the upper interior head protection requirements of Federal motor vehicle safety standard No. 201.

Those requirements are intended to reduce deaths and injuries to motor vehicle occupants resulting from impacts with the interior of the passenger compartment. They were adopted in a rulemaking proceeding completed in 1995. In that year, NHTSA published a final rule amending Standard 201 to require passenger cars and trucks, busses, and multipurpose passenger vehicles (collectively, LTVs) with a gross vehicle weight rateing (GVWR) of 10,000 pounds or less, to provide protection against injury when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash (60 FR 43031). The amendments added procedures and performance requirements for a new in-vehicle component test. It is expected that vehicle manufacturers will comply using a variety of energy absorbing materials. The potential benefits of this rulemaking place it among the highest benefit rulemaking in the agency history.

The advent of new dynamic restraint and head protection systems such as side air bags, may require modification of this standard. These dynamic systems, which may offer significant safety benefits, may not conform to the standard as it is currently written. Accordingly, NHTSA is considering amendments to Standard No. 201 that would allow these dynamic systems and specify new requirements and test procedures to assess their performance.

Summary of the Legal Basis:

Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 501.2.

Alternatives:

NHTSA is reviewing comments and suggestions included in petitions for reconsideration of the August 1995 final rule. The agency is in the process of evaluating a variety of performance requirements and test procedures for the purpose of making a tentative assessment of which would most appropriately measure the performance of the dynamic systems, and assure their effectiveness. Given that the petitioners are contemplating significantly different types of technology, more than one set of requirements and test procedures may be necessary.

Anticipated Costs and Benefits:

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

Risks:

Even in the future when all cars and light trucks on the road are equipped with air bags, an estimated 1,924 fatalities per year will occur from an occupant's head striking an upper interior surface. A variety of dynamic systems are being considered as an alternative or supplement to simply padding certain portions of these surfaces. Padding is estimated to be able to reduce these fatalities by 873 to 1,045 annually. The effectiveness of dynamic systems, some of which also address additional accident modes, is currently being studied.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/96	61 FR 9136
ANPRM Comment Period End	04/22/96	
NPRM	10/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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DOT—NHTSA

FINAL RULE STAGE

86. +FEDERAL MOTOR VEHICLE SAFETY STANDARDS; OCCUPANT CRASH PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.208

Legal Deadline:

None

Abstract:

The agency is proposing amendments to the occupant crash protection standard and child restraint standard to reduce the adverse effects of air bags, especially those on children. Eventually, either through market forces or government regulation, the NHTSA expects that ''smart'' passenger-side air bags will be installed in passenger cars and light trucks to mitigate these adverse effects. The agency considers smart air bags to include any system that automatically prevents an air bag from injuring the two groups of children that experience has shown to be at special risk from air bags: infants in rear-facing child seats and children who are out-of-position (because they are unbelted or improperly belted) when the air bag deploys. This is considered significant because of substantial public interest.

Statement of Need:

As of August 1, 1996, NHTSA had identified 22 crashes in which the deployment of the passenger-side air bag resulted in fatal injuries to a child. In addition, the agency had investigated 5 cases of serious injuries to children in air-bag-related crashes. The fatalities are believed to reflect a complete census of all fatalities related to air bags and small children. The injuries are not a census; they simply are cases that have come to NHTSA's attention. The number of fatalities and injuries is expected to grow dramatically as the number of passenger-side air bags in the fleet grows dramatically. Between 1995 and 2000, the number of passenger-side air bags will increase by a factor of six. Out-of-position adult injuries and fatalities are also being investigated.

Summary of the Legal Basis:

Section 30111, title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Section 30127, title 49, states that the Secretary shall require the installation of air bags in the driver's and right front passenger's seating positions in passenger cars and light trucks. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 501.2.

Alternatives:

Several alternatives are being examined to reduce the risks. These include: labeling, manual cutoff switches, and ''smart'' air bags (including weight sensors to preclude air bag deployment in the presence of children).

Anticipated Costs and Benefits:

The costs of this rulemaking are dependent on the nature of the alternatives ultimately adopted by the agency. NHTSA estimates that the costs of the new or enhanced labels that would be required by the proposed rule at between 15 and 25 cents per vehicle. The enhanced labels for child restraints would add between $0.05 and $1.00 per child restraint. The costs of automatic cutoff devices, or other automatic systems to prevent injuries from bags, varies considerably, although the agency does not have accurate estimates of these costs. A weight sensor may cost $20 or more; a smart air bag system incorporating other technologies may add $50 or more in incremental cost; an air bag that utilizes different fold patterns and inflators may add very little incremental cost to the current air bag system. These are all rough estimates. NHTSA estimates the cost of a manual cutoff device at a little over five dollars. Such a device would be optional, not required.

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

Risks:

This is one of NHTSA's most significant rulemakings regarding children. The alternatives include labeling, manual cut-off switches, and ''smart'' air bags (including weight sensors to preclude air bag deployment in the presence of children). The reduction in risk due to improved labeling and expanding the option for manufacturers to install manual cut-off switches has not been quantified. The effectiveness of smart air bags for

children and adults is believed to be high but has not yet been estimated. As an illustration of their possible effectiveness, if passenger weight sensors had been used with a minimum deployment threshold of 30 kilograms, in 19 of the 21 child fatality cases described above, the air bag would not have deployed. As a result, the child would likely not have been either fatally or even seriously injured.

Timetable:

Action	Date	FR Cite
Request for Comments: Comment Period End 12/26/95	11/09/95	60 FR 56554
NPRM	08/06/96	61 FR 40784
NPRM Comment Period End	09/20/96	
Final Action	12/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

Analysis:

Regulatory Evaluation 08/06/96 (61 FR 40784)

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DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

87. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 20306; 49 USC 21301 to 21302; 49 USC 21304 to 21311; PL 103-440, sec 215

CFR Citation:

49 CFR 239

Legal Deadline:

Final, Statutory, November 2, 1997.

NPRM, Statutory, November 2, 1997, Initial regulations.

Final, Statutory, November 2, 1999, Final regulations.

Abstract:

Pursuant to the Federal Railroad Safety Authorization Act of 1994, FRA is proposing to prescribe regulations establishing minimum emergency preparedness standards to ensure that railroads involved in passenger train operations can effectively and officially manage emergencies. The NPRM will provide substantial flexibility to each railroad to establish procedures and policies appropriate to its particular operations, subject to review and approval by the FRA. The NPRM will provide substantial flexibility to each railroad to establish procedures and policies appropriate to its particular operations, subject to review and approval by the FRA. This is considered significant due to public interest.

After the 1993 derailment of the ''Sunset Limited'' near Mobile, Alabama, the NTBS found that rescue efforts were delayed by a lack of prompt and accurate communication between Amtrak and emergency responders. Even before this, the FRA had commissioned a study by the Volpe Transportation Systems Center, which resulted in a publication containing guidelines for emergency preparedness for passenger train operators. Finally, some passengers in the MARC train collision in Silver Spring, Maryland, last year had difficulty finding and opening emergency window exits.

Statement of Need:

After the 1993 derailment of the ''Sunset Limited'' near Mobile, Alabama, the NTSB found that rescue efforts were delayed by a lack of prompt and accurate communication between Amtrak and emergency responders. Even before this, the FRA had commissioned a study by the Volpe Transportation Systems Center, which resulted in a publication containing guidelines for emergency preparedness for passenger train operators. Finally, some passengers in the MARC train collision in Silver Spring, Maryland last year had difficulty finding and opening emergency window exits.

Summary of the Legal Basis:

Section 215 of the Federal Railroad Safety Authorization Act of 1994, 49 USC 20133, requires the Secretary of Transportation to prescribe regulation establishing minimum standards for the safety of cars used by railroad passengers, including emergency response procedures and equipment.

Alternatives:

The proposed rule is expected to incorporate a variety of alternatives, in order to allow each railroad to adapt the basic requirements to its specific operations. In addition, the NPRM will invite comment on whether certain additional emergency preparations should be mandatory for all railroads conducting passenger operations.

Anticipated Costs and Benefits:

Undetermined.

Risks:

The Mobile, Alabama, accident showed that lack of preparation for an emergency can delay the arrival of emergency responders. Such a delay increases the risk of death and severe injuries following an accident or other emergency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

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DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

88. +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:

49 U.S.C. 60102 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. 49 U.S.C. 60102 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	03/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

Additional Information:

Docket No. PS-133. Public workshop 10/19/95 (60 FR 44822).

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DOT—RSPA

FINAL RULE STAGE

89. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE (SECTION 610 REVIEW)

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 5101 to 5127

CFR Citation:

49 CFR 107; 49 CFR 171 to 180

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 materials transportation by promoting uniformity of the regulations. Currently the regulations generally do not apply to intrastate carriage by highway, with the exception of hazardous wastes, hazardous substances, marine pollutants, and flammable cryogenic liquids in portable tanks and cargo tanks. A supplemental notice proposed to extend the mandatory compliance date for regulations applicable to certain cargo tanks, and proposed a ''materials of trade'' exception for relatively small quantities of hazardous materials contained on service vehicles operated by plumbing, welding, lawn service, and other non-transportation businesses. As part of this action, a small entities review under 5 USC Section 610 will be included.

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 has issued a supplemental notice reducing the scope of the proposed requirements.

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 Federal regulations to the intrastate transportation 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. Adoption of, and proficiency in using, one set of regulations will enhance the effectiveness of State and local emergency response and enforcement programs and improve transportation safety 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 have led to public concern regarding the transportation of hazardous materials and the risks associated with such movements. This public concern has resulted in form of increased State and local activity 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
Extended Comment Period End 11/28/87	09/21/87	52 FR 35464
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	03/20/96	61 FR 11484
Extended Comment Period End 8/16/96	05/17/96	61 FR 24904
Final Action	12/00/96	

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. The supplemental notice reflects this concern.

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