

DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview

DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, transit, and pipeline transportation areas. The Department also 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 transportation and vehicle safety. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern programs such as acquisition and grants management, access for people with disabilities, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles. The Department carries out its responsibilities through the Office of the Secretary (OST) and the following operating administrations (OAs): Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Maritime Administration (MARAD); National Highway Traffic Safety Administration (NHTSA); Pipeline and Hazardous Materials Safety Administration (PHMSA); and St. Lawrence Seaway Development Corporation (SLSDC).

The Department's Regulatory Philosophy and Initiatives

The Department's highest priority is safety. To achieve our safety goals responsibly and in accordance with principles of good governance, we embrace a regulatory philosophy that emphasizes transparency, stakeholder engagement, and regulatory restraint. Our goal is to allow the public to understand how we make decisions, which necessarily includes being transparent in the way we measure the risks, costs, and benefits of engaging in—or deciding not to engage in—a particular regulatory action. It is our policy to provide an opportunity for public comment on such actions to all interested stakeholders. Above all, transparency and meaningful engagement mandate that regulations should be straightforward, clear, and accessible to any interested

stakeholder.

At DOT, transparency and stakeholder engagement take a number of different forms. For example, we publish a report on our website that provides a summary and the status for all significant rulemakings that DOT currently has pending or has issued recently (<https://www.transportation.gov/regulations/report-on-significant-rulemakings>). This report provides the public with easy access to information about the Department's regulatory activities that can be used to locate other publicly-available information in the Department's regulatory docket at www.regulations.gov, or in the **Federal Register**.

We also seek public input through direct engagement. For example, we published a request asking the public to help us identify the continued necessity of existing guidance documents and determine whether they need to be updated or revised, *Notice of Review of Guidance*, 84 FR 1420 (Feb. 5, 2019). In response, we received comments proposing dozens of ideas and continue to review of these comments consistent with our obligations under Executive Order 13891, "Promoting the Rule of Law Through Improved Agency Guidance Documents." DOT also has a long history of partnering with stakeholders to develop recommendations and consensus standards through advisory committees. Some committees meet regularly to provide advice, while others are convened on an *ad hoc* basis to address specific needs. Each OA, as well as OST, has at least one standing advisory committee.

The Department's regulatory philosophy also embraces the notion that there should be no more regulations than necessary. We emphasize consideration of non-regulatory solutions and have rigorous processes in place for continual reassessment of existing regulations. These processes provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified.

For example, DOT makes a conscientious effort to review its rules in accordance with the DOT Order 2100.6 (Policies and Procedures for Rulemaking), Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and section 610 of the Regulatory Flexibility Act. The Department follows a repeating

10-year plan for the review of existing regulations. Information on the results of these reviews is included in the Unified Agenda.

In addition, through three new Executive orders, President Trump directed agencies to scrutinize their regulations and other agency actions further. On January 30, 2017, President Trump signed Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs." Under section 2(a) of the Executive order, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must identify at least two existing regulations to be repealed. On February 24, 2017, President Trump signed Executive Order 13777, "Enforcing the Regulatory Reform Agenda." Under this Executive Order, each agency must establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. On March 28, 2017, President Trump signed Executive Order 13783, "Promoting Energy Independence and Economic Growth," requiring agencies to review all existing regulations, orders, guidance documents, policies, and other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

In response to the mandate in Executive Order 13777, the Department formed an RRTF consisting of senior career and non-career leaders, which has already conducted extensive reviews of existing regulations, and identified a number of rules to be repealed, replaced, or modified. As a result of the RRTF's work, since January 2017, the Department has issued deregulatory actions that reduce net regulatory costs on the public by more than \$92 billion (in net present value cost savings). At the RRTF's direction, the Department has achieved these cost savings in a manner that is fully consistent with enhancing safety.

The Department has also significantly increased the number of deregulatory actions it is pursuing. Today, DOT is pursuing over 140 deregulatory rulemakings, demonstrating continued growth of the Department's deregulatory portfolio, despite publishing more deregulatory actions than significant regulatory actions.

The RRTF continues to conduct regular reviews across all OAs to identify appropriate

deregulatory actions. The RRTF also works to ensure that any new regulatory action is rigorously vetted and non-regulatory alternatives and options are considered. Further information on the RRTF can be found online at: <https://www.transportation.gov/regulations/regulatory-reform-task-force-report>. The priorities identified below reflect the RRTF's work to implement the Department's regulatory reform agenda and focus on reducing burdens and improving the effectiveness of all regulations.

Since January 2020, the Department has been providing rapid response and emergency review of legal and operational challenges presented by COVID-19 within the transportation network. Domestically, our efforts have focused on addressing regulatory compliance made impracticable by the COVID-19 public health emergency due to office closures, personnel shortages, and other restrictions. DOT has provided extensive relief to transportation stakeholders impacted by the COVID-19 public health emergency. The Department has taken over 100 actions to provide emergency relief to transportation stakeholders through regulatory waivers, exemptions, extensions of deadlines, statements of enforcement discretion, and other guidance.

These actions individually and collectively kept our transportation systems and supply chains open to provide critical supplies and services during the national emergency. For example, to support commercial vehicle drivers—including the truckers carrying vital medical supplies to hospitals—FMCSA issued its first ever national emergency declaration to provide regulatory relief from its hours-of-service rules. FRA opened an emergency relief docket pursuant to the Administrator's Declaration of Emergency Situation, supporting a number of emergency waivers. FAA took numerous actions to ensure the continued safety of the National Airspace System and operations supporting essential services, including addressing expiring medical certificates and training requirements for pilots, and finalizing a rule to address oxygen mask usage given the risk of COVID-19 transmission. PHMSA provided temporary relief to enable transportation of hand sanitizer and other disinfecting materials.

Pursuant to the President's Executive Order on Regulatory Relief to Support Economic Recovery, the Department has been coordinating with each of its Operating Administrations to

evaluate how to expedite regulatory relief and recovery from COVID-19 without compromising safety, and determine whether such relief may be considered for permanent incorporation into the Department's rules.

The Department's Regulatory Priorities

Four fundamental principles – safety, innovation, enabling investment in infrastructure, and reducing unnecessary regulatory burdens – are the top priorities of the Department. These priorities are grounded in our national interest in maintaining U.S. global leadership in safety, innovation, and economic growth. To accomplish these regulatory goals, we must create a regulatory environment that fosters growth in new and innovative industries without burdening them with unnecessary restrictions. At the same time, safety remains our highest priority; we must remain focused on managing safety risks and be sure not to regress from the successes already achieved. Accordingly, the regulatory plan laid out below reflects a careful balance that emphasizes the Department's priority in fostering innovation while at the same time meeting the challenges of maintaining a safe and reliable transportation system.

Safety. The success of our national transportation system requires us to keep safety as our highest priority. The DOT Regulatory Plan reflects this commitment to safety through a balanced regulatory approach. Our goals are to deliver safety more efficiently and at a lower cost to the public by looking to market-driven solutions first and grounding our regulatory actions in reliable data and analysis.

Innovation. Every mode of transportation is affected by transformative technology. Whether automation, unmanned vehicles, or other emerging technologies, DOT is looking forward to new and promising frontiers that will change the way Americans move on the ground, in water, through the air, and into space. DOT's regulatory plan reflects the Administration's commitment to fostering innovation by lifting barriers to entry and enabling new and innovative uses of transportation technology. The Department prioritizes performance based solutions to enhance technological growth and flexibility.

Enabling investment in Infrastructure. The safe and efficient movement of goods and

passengers requires us not just to maintain, but to improve our national transportation infrastructure. But that cannot happen without changes to the way we plan, fund, and approve projects. Accordingly, our Regulatory Plan prioritizes regulatory action that streamlines the approval process and facilitates more efficient investment in infrastructure, which is necessary to maintain global leadership and foster economic growth.

Reducing unnecessary regulatory burdens. Finally, our Regulatory Plan reflects DOT's commitment to reducing unnecessary regulatory burdens. The Plan also reflects our policy of providing thorough consideration of non-regulatory solutions before taking regulatory action. If and when regulatory intervention is necessary, however, it is our policy to rely data-driven and risk-based analysis to craft the most effective and least burdensome solution, or set of solutions, to the problem.

This Regulatory Plan identifies pending rulemaking areas that reflect the Department's commitment to safety, innovation, infrastructure, and reducing burdens. For example:

- FAA will focus on regulatory activity to enable, safely and efficiently, the integration of unmanned aircraft systems (UAS) into the National Airspace System (NAS), and to enable expanded commercial space activities.
- NHTSA will focus on maintaining and advancing safety while reducing regulatory barriers to technology innovation, including the development of automated driving system technologies, and updating regulations on fuel efficiency.
- FMCSA will continue to coordinate efforts to enable autonomous vehicle technologies and clarifying operational flexibilities for the hours of service regulations.
- FRA will continue to focus on providing regulatory relief through a rulemaking that would provide relief from various brake-related regulations, including single car air brake tests, end-of-train devices, helper service, brake maintenance, and the time that freight rail equipment can be "off-air" before requiring a new brake inspection.
- FTA will continue to focus on its statutorily-mandated efforts to establish a comprehensive Public Transportation Safety Program to improve the safety of public transportation systems.

- PHMSA will focus on pipeline safety as well as the movement of hazardous materials across multiple modes of transportation.

At the same time, all OAs are prioritizing their regulatory and deregulatory actions accordance with Executive Orders 13771 and 13563 to make sure they are providing the highest level of safety while eliminating outmoded and ineffective regulations, and streamlining other existing regulations in an effort to promote economic growth, innovation, competitiveness, and job creation. Since each OA has its own area of focus, we summarize the regulatory priorities of each below. More information about each of the rules discussed below can be found in the DOT Unified Agenda.

Office of the Secretary of Transportation

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 senior officials in regulatory decision making. Through the Office of the General Counsel, OST is also responsible for ensuring that the Department complies with the Administrative Procedure Act, Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), Executive Order 13771 (Reducing Regulation and Controlling Regulatory costs), Executive Order 13777 (Enforcing the Regulatory Reform Agenda), Executive Order 13873 (Promoting Energy Independence and Economic Growth), DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting the Department's rulemaking activities. In addition, OST has the lead role in matters concerning aviation economic rules, the Americans with Disabilities Act, and rules that affect multiple elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and processes for personnel throughout the Department. OST also plays an instrumental role in the Department's efforts to improve our economic analyses; risk assessments; regulatory flexibility analyses; other related analyses; retrospective reviews of rules; and data quality, including peer reviews. The Office of the General Counsel is the lead office that works with the Office of

Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) to comply with Executive Order 12866 for significant rules, and other relevant Administration rulemaking directives.

OST also leads and coordinates the Department's response to OMB's intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The Office of the General Counsel works closely with representatives of other agencies, OMB, 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.

In 2018, DOT undertook a comprehensive review and revision of the Department's regulatory and enforcement practices, issuing an order on the DOT rulemaking process, as well as General Counsel's Memoranda on the issuance of guidance documents and enforcement policies. These documents created a framework to ensure that the Department's regulatory activities remain lawful, transparent, reasonable, fair, and consistent. They also encapsulated many of the principles outlined in the Administration's executive actions on regulatory reform, guidance, and enforcement, such as regulatory budgeting and issuing two deregulatory actions for every significant regulatory action, the RRTF, making sure guidance documents do not impose legal obligations and are not used as a basis for enforcement, and ensuring due process protections for subjects of enforcement actions. On December 27, 2019, DOT became the first Department to make these regulatory reform principles permanent in its "Rule on Rules," by codifying these processes into regulation. See 49 CFR part 5. With these procedures in place, the Department and its regulated communities will have much greater clarity into how the Department regulates and undertakes enforcement actions, and the basis for those actions. These procedures also improve the effectiveness of DOT's safety enforcement by eliminating unnecessary and misguided regulations.

In Fiscal Year 2021, the Department will also finalize reforms to the regulations concerning the transportation of service animals onboard aircraft, addressing growing instances of fraudulent representation of pets as emotional support animals, while continuing to ensure accessible

transportation for individuals with disabilities and safety for the traveling public. The Department will also finalize revisions to how it regulates and enforces against unfair and deceptive practices.

In addition, OST will continue its efforts to help coordinate the activities of several OAs that advance various departmental efforts that support the Administration's initiatives on promoting safety, enabling innovation, investing in infrastructure, and reducing regulatory burdens. OST will also continue to provide significant support to the RRTF to implement the Department's regulatory reform policies.

Federal Aviation Administration

FAA is charged with safely and efficiently operating and maintaining the most complex aviation system in the world.

During Fiscal Year 2020, FAA prioritized enabling transformative UAS and commercial space technologies by publishing a notice of proposed rulemaking to allow for remote identification of UAS. FAA is also working towards finalizing a rule to streamline launch and reentry licensing requirements. The rule will update and consolidate current commercial space regulations contained in four separate parts into a single regulatory part which will provide safety objectives to be achieved for the launch of suborbital and orbital expendable and reusable vehicles, and the reentry of vehicles. Finalizing this proposal will significantly streamline and simplify licensing of launch and reentry operations and will enable novel operations.

In Fiscal Year 2021, the FAA will continue to advance rulemakings allowing for unmanned aircraft operations over people and enabling remote identification of UAS. In addition, FAA will also prioritize issuance of a final rule implementing a pilot records database.

Federal Highway Administration

FHWA carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. FHWA's mission is to improve the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, in Fiscal Year 2021, the FHWA will continue with ongoing regulatory initiatives in support of its surface transportation programs and work to implement legislation in the most cost-effective way possible. The Agency will 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 decision-making authority of our State and local partners can be increased.

Federal Motor Carrier Safety Administration

The mission of FMCSA is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. In addition to Agency-directed regulations, FMCSA develops regulations mandated by Congress, through legislation such as the Moving Ahead for Progress in the 21st Century (MAP-21) and the Fixing America's Surface Transportation (FAST) Acts. FMCSA regulations establish minimum safety standards for motor carriers, commercial drivers, commercial motor vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory efforts focus on removing unnecessary regulatory burdens and costs while preserving safety. In June 2020, FMCSA promulgated a final rule adding operational flexibilities to its hours of service regulations. This rule saved the public billions of dollars without adversely affecting safety.

The Agency will work on clarifying operational flexibilities in its hours of service regulations for motor carriers consistent with safety. In addition, FMCSA will continue to coordinate efforts on the development of autonomous vehicle technologies and review existing regulations to identify changes that might be needed.

National Highway Traffic Safety Administration

The mission of NHTSA is to save lives, prevent injuries, and reduce economic costs due to roadway crashes. The statutory responsibilities of NHTSA relating to motor vehicles include

reducing the number, and mitigating the effects of, motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency requirements. NHTSA pursues policies that enable safety technologies and encourages the development of non-regulatory approaches when feasible in meeting its statutory mandates. NHTSA issues new standards, regulations, and amendments to existing standards and regulations, when appropriate.

NHTSA's regulatory priorities for Fiscal Year 2021 include continuing to coordinate efforts on the development of motor vehicles equipped with automated driving systems and reducing regulatory barriers to technology innovation. NHTSA also plans to continue issuing rulemakings and other actions that increase safety and reduce economic burden. Most prominently, NHTSA plans to continue work on amendments to existing regulations to ensure occupant protection in the deployment of automated vehicles, particularly those that affect vehicles that may have innovative designs, and finalize key rulemakings to establish a new standard for side impact protection of children car seats. In addition, working with the Environmental Protection Agency, NHTSA will seek public comment and propose amendments to the fuel efficiency and emissions standards for medium and heavy-duty trucks and trailers.

Federal Railroad Administration

FRA exercises regulatory authority over all areas of railroad safety and, where feasible, incorporates flexible performance standards. The current FRA regulatory program continues to reflect a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and the FAST Act. These actions support a safe, high-performing passenger rail network, address the safe and effective movement of energy products, and encourage innovation and the adoption of new technology in the rail industry to improve safety and efficiencies.

FRA's regulatory priority for Fiscal Year 2021 will be to revise its regulations governing brake inspections, tests and equipment, incorporating relief from various provisions provided in long-

standing waivers related to single car air brake tests, end-of-train devices, helper service, and brake maintenance. These changes will reduce the overall regulatory burden on railroads, create consistency between U.S. and Canadian regulations, and incorporate the use of newer technologies demonstrated to maintain or increase safety.

Federal Transit Administration

The mission of FTA is to improve public transportation for America's communities. To further that end, FTA provides financial and technical assistance to local public transit systems, including buses, subways, light rail, commuter rail, trolleys and ferries, oversees safety measures, and helps develop next-generation technology research. FTA's regulatory activities implement the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards.

In addition to the Department-wide goals described above, FTA regulatory policy includes:

- Ensuring the safety of public transportation systems;
- Providing maximum benefit to the Nation's mobility through the connectivity of transportation infrastructure;
- Providing maximum local discretion;
- Ensuring the most productive use of limited Federal resources;
- Protecting taxpayer investments in public transportation; and
- Incorporating principles of sound management into the grant management process.

In furtherance of its mission and consistent with statutory changes, in Fiscal Year 2021, FTA will update its Buy America regulation to incorporate changes to the waiver process made by MAP-21, FAST Act, and to make other conforming updates and amendments.

Maritime Administration

MARAD administers Federal laws and programs to improve and strengthen the maritime

transportation system to meet the economic, environmental, and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the Agency's responsibility for ensuring the availability of water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major MARAD program areas include the following: Maritime Security, Voluntary Intermodal Sealift Agreement, National Defense Reserve Fleet and the Ready Reserve Force, Cargo Preference, Maritime Guaranteed Loan Financing, United States Merchant Marine Academy, Mariner Education and Training Support, Deepwater Port Licensing, Port and Intermodal Development, and Small Shipyard Grants. Additionally, MARAD administers the Deepwater Ports Program to issue licenses for Deepwater port structures located beyond the U.S. territorial sea for the import and export of oil and natural gas.

During Fiscal Years 2019 and 2020, MARAD undertook a thorough review of its regulations and policies to identify opportunities to reduce regulatory burdens while increasing the efficiency of program operations. MARAD will leverage those efforts in Fiscal Year 2021 to further the objectives and priorities described above in addition to identifying new opportunities for deregulatory action.

Pipeline and Hazardous Materials Safety Administration

PHMSA has responsibility for rulemaking under two programs. Through the Associate Administrator for the Office of Hazardous Materials Safety (OHMS), PHMSA administers regulatory programs under Federal hazardous materials transportation law. Through the Associate Administrator for the Office of Pipeline Safety (OPS), PHMSA administers regulatory programs under the Federal pipeline safety laws. In addition, both offices administer programs under the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

PHMSA will continue to work to improve safety related to transportation of hazardous materials by all transportation modes, including pipeline, while promoting economic growth, innovation, competitiveness, and job creation. PHMSA will concentrate on the prevention of high-risk incidents identified through PHMSA's evaluation of transportation incident data. PHMSA will use all available Agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

Further, PHMSA will continue to focus on streamlining its regulatory system and reducing regulatory burdens. PHMSA will evaluate existing rules to examine whether they remain justified; should be modified to account for changing circumstances and technologies; or should be streamlined or even repealed. PHMSA will continue to evaluate, analyze, and be responsive to petitions for rulemaking. PHMSA will review regulations, letters of interpretation, and petitions for rulemaking, special permits, enforcement actions, approvals, international standards, and industry standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

In Fiscal Year 2021, OHMS will focus on two rulemakings. The first rulemaking will clarify current regulatory requirements and address public comments received to the Department's regulatory reform and infrastructure notices, and address a variety of petitions for rulemaking specific to modal stakeholders and other issues identified by PHMSA during its regulatory review. The second rulemaking will propose to revise certain provisions related to recently adopted international regulatory bodies updates where PHMSA has identified areas in which harmonization will provide an enhanced level of safety, an economic benefit, or in many instances both increased safety and economic benefits and consequently facilitate the safe global trade of hazardous materials.

OPS will focus on six pipeline rulemakings in Fiscal Year 2021. The first rulemaking will propose to provide regulatory relief to certain pipeline operators that experience a reduction in allowable operating pressure due to construction that has occurred in the area. The second rulemaking will revise the Pipeline Safety Regulations to adopt a number of actions that ease

regulatory burdens on the construction and operation of gas transmission, distribution and gathering pipeline systems. The third rulemaking will revise the Pipeline Safety Regulations applicable to newly constructed or entirely replaced natural gas transmission and hazardous liquid pipelines to improve rupture mitigation and shorten pipeline segment isolation times. The fourth rulemaking will amend the Pipeline Safety Regulations to require all operators of onshore natural gas gathering pipelines to report incidents and annual pipeline data, as well as extend safety requirements to Type A gathering lines in Class 1 locations and change certain definitions related to gas gathering operation. The fifth rulemaking will amend the Pipeline Safety Regulations governing gas transmission pipelines by revising requirements pertaining to repair criteria in high consequence and other areas, inspection of pipelines following extreme events, in-line inspection tool launchers and receivers, pipeline corrosion control, management of change processes, and integrity management. Lastly, PHMSA will propose a rulemaking to revise its regulations at 49 CFR part 193 governing liquefied natural gas facilities to incorporate updated industry standards and other amendments of Part 193 to address risks associated with natural gas facilities.