

and industrial water uses from Niagara Falls, New York and Ontario to Trois-Rivières, Quebec.

The Commission will consider changes to the current regulation plan, Plan 1958-D, and to its Orders of Approval for regulation of Lake Ontario outflows.

The public is invited to provide comments on the Study Board report, and any other relevant matters, to assist the Commission in its deliberations. Copies of the Study Board report are available from the Commission at the addresses below, or online from <http://www.ijc.org/en/activities/losl/index.php>.

Comments, which must be received by July 31, 2006, can be submitted online at <http://www.ijc.org/en/activities/losl/index.php> or sent by letter, fax or email to either address below:

U.S. Section Secretary, International Joint Commission, 1250 23rd Street NW., Suite 100, Washington, DC 20440. Tel: (202) 736-9024. Fax: (202) 467-0746.

Commission@washington.ijc.org.

Canadian Section Secretary, International Joint Commission, 234 Laurier Avenue West, 22nd Floor, Ottawa, ON K1P 6K6. Tel: (613) 995-0088. Fax: (613) 993-5583.

Commission@ottawa.ijc.org.

Once the Commission has adequately considered the Study Board report, public comment and any other relevant information, it will release a "preliminary decision" on regulation of Lake Ontario outflows for public comment. The Commission will examine increasing the benefits of regulation consistent with its responsibility under the Boundary Waters Treaty to ensure suitable and adequate protection of all interests that could be injured as a result of the activities that it approves.

The Commission will also hold public hearings, and consult with the governments of Canada and the United States to seek their concurrence, before making a decision whether to change its Orders of Approval or the current regulation plan. The times and locations will be announced.

Comments provided in writing or orally will become part of a public record that may be posted on the IJC's Web site or otherwise made available to the public. To protect the privacy of any person submitting comment, the IJC will remove the following identifying information from the incoming communication before making the comment available to the public: e-mail address, street address, post office box,

zip code, postal code, telephone number and fax number. The following identifying information will remain part of the record that is made available to the public: Name, organizational affiliation, city, and state/province.

For more information, contact Frank Bevacqua (202) 736-9024; bevacqua@washington.ijc.org.

Dated: June 5, 2006.

Elizabeth C. Bourget,
Secretary, U.S. Section International Joint
Commission Department of State.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST-2005-20112]

Regulatory Review Report

AGENCY: Office of the Secretary of
Transportation (OST), DOT.

ACTION: Final report.

SUMMARY: This is the Department's final report providing a brief response, including a description of further action we intend to take, to the public's participation in the Department of Transportation's review of its existing regulations and its current Regulatory Agenda.

ADDRESSES: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You can access the docket for this notice by inserting the last five-digits of the docket number into the DMS "quick search" function.

FOR FURTHER INFORMATION CONTACT: Neil Eisner, Assistant General Counsel, Office of General Counsel, Department of Transportation, 400 7th St., SW., Room 10424, Washington, DC 20590-0001. Telephone (202) 366-4723. E-mail neil.eisner@dot.gov

SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation (Department or DOT) includes 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); Research and Innovative Technology Administration (RITA); and St. Lawrence Seaway Development Corporation (SLSDC).

Each of these elements of DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues, and provides financial assistance and promulgates and enforces 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. 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, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles.

Improvement of our regulations is a continuous focus of the Department. There should be no more regulations than necessary, and those that are issued should be simple, comprehensible, and not burdensome. Most rules are issued following notice to the public and opportunity for comment. Once issued, rules are periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help implement this goal, the Department issued a Notice of Regulatory Review on January 26, 2005 (70 FR 3761), seeking public comment on how to (1) improve our rules to be more effective and less costly or burdensome, (2) identify rules no longer needed and/or new rules that may be needed, and (3) prioritize our current rulemaking activities, which were set forth in our semi-annual Regulatory Agenda. (The latest Agenda preceding the Notice can be found at 69 FR 73492, December 13, 2004; the Department's last Agenda can be found at 70 FR 64940, October 31, 2005.) At the outset, the Department accepted written public comments and requests to participate in

a public meeting. The Department held a public meeting in Washington, DC, on April 12, 2005, presided over by the Department's General Counsel. Senior officials of the Department's operating administrations also participated in this meeting. The Department continued to accept written comments from the public as well as participants at the public meeting until April 30, 2005.

We appreciate the public's participation in this regulatory review process. We especially thank our stakeholder groups, including trade associations, interest groups, consumer groups, and individual regulated parties—whether public or private sector organizations—for their participation in this process. Your participation has provided meaningful and significant input to the Secretary,

the General Counsel, and other DOT senior officials.

The Final Report

For rulemakings already in progress, we have provided Rulemaking Identification Numbers (RIN). The RIN will allow you to monitor the progress of a rulemaking through the Unified Agenda, in which we publish estimated dates for taking various public actions.

COMMENTS WARRANTING FURTHER ACTION

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1	49 CFR Part 228.	FRA	Association of American Railroads.	Requests FRA revise its regulations to allow for electronic records rather than use the "waiver" process.	FRA allows electronic records under a waiver process that requires railroads to maintain electronic records similar to their paper records. FRA agrees that Part 228 should be reviewed and revised to facilitate electronic recordkeeping and expects to initiate work on a notice of proposed rulemaking in the current fiscal year.
2	49 CFR Part 229.	FRA	Association of American Railroads.	Requests FRA revise its locomotive inspection regulations to incorporate a performance standard.	FRA intends to offer its Railroad Safety Advisory Committee (RSAC) the task of reviewing and revising Part 229 at the RSAC full committee meeting on February 22, 2006.
3	49 CFR 395.3.	FMCSA	Association of American Railroads.	Requests FMCSA address hours of service conflicts for railroad signal employees.	FMCSA will answer the previously submitted pilot program request on this matter.
4	14 CFR Part 241.	OST RITA (BTS).	United Air Lines	Recommends eliminating regulations that no longer serve a useful purpose—like the requirement to file BTS Schedules B-7 and B-43, which requests highly detailed and competitively sensitive information.	The Department agrees that a review of these regulations is appropriate and, in fact, already has plans to include this regulation as part of a future review of certain aviation data requirements similar to the review and modernization program currently being conducted. (See RIN 2105-AC71).
5	14 CFR 21.197.	FAA	ASTAR Air Cargo	Correct obsolete references to sections 121.79 and 135.17.	This error occurred in 1995 when the FAA realigned and consolidated certain services. This error was corrected in the Maintenance Recording Requirements Final Rule published January 4, 2006 (71 FR 534).
6	14 CFR Parts 91, 121, 135.	FAA	Federal Express Corp..	Recommends that no regulation should be adopted unless it has been carefully evaluated to meet demanding cost-benefit standards—specifically, the ETOPS NPRM.	In general, the Department agrees with Federal Express, and this has long been part of the Department's policy. With regard to the ETOPS NPRM, the Current ETOPS rulemaking will include a cost-benefit analysis. (RIN 2120-AI03)
7	25 CFR Part 170.	FHWA	Lummi Nation Planning Department.	Recommends that DOT require the Bureau of Indian Affairs (BIA) Indian Reservation Roads (IRR) program to produce a complete inventory of reservation roads.	Section 1119(f) of the recently enacted long-term surface transportation authorization statute (Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users "SAFETEA-LU") requires the Secretary of Transportation, in cooperation with the Secretary of the Interior, to complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the IRR program. The Department is implementing Section 1119(f) of SAFETEA-LU and working with the Department of the Interior to conduct the comprehensive inventory. However, this does not require a rulemaking action.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	49 CFR 571.213.	NHTSA	Evenflo	Recommends eliminating the mass distinction for belt-positioning booster seats.	NHTSA will not enforce this particular requirement due to concerns about its enforceability. However, NHTSA recognizes the potential for forces generated by the mass of a booster seat to overload a child occupant's chest should be addressed and, therefore, is addressing this issue in a proposed rulemaking to expand the applicability of FMVSS No. 213 to children weighing up to 80 pounds (RIN 2127-AJ44).
9	49 CFR 571.213.	NHTSA	Evenflo	Recommends clarifying the location of the lower anchorage bar on the standard seat assembly depicted in Figure 1B.	NHTSA recognizes the inconsistency in measurements provided and will correct this inconsistency.
10	49 CFR 395.8.	FMCSA	American Trucking Associations.	Objects to FMCSA's current hours of service; supporting documents NPRM and recommends allowing/imposing a performance-based approach of self-monitoring systems designed to avoid burdensome coverage of all business records.	These comments were taken into consideration in the course of the existing, open rulemaking (RIN 2126-AA76).
11	49 CFR Part 396.	FMCSA	American Trucking Associations.	Recommends issuing rules requiring a safety program for intermodal equipment (container chassis) that travels on highways.	FMCSA recognizes the need for rulemaking on this issue and will soon begin rulemaking to implement Section 4118 of SAFETEA-LU (RIN 2126-AA86).
12	49 CFR 383.5 and 384.209.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends adopting a graduated commercial driver's license (CDL) program and clarifying disqualification standards.	FMCSA will consider these comments during its rulemaking addressing Section 4122 of SAFETEA-LU that amends the law allowing for FMCSA to implement a CDL Learner's Permit program. (RIN 2126-AB02). With regard to clarifying disqualification standards, FMCSA has on-going efforts to work with States toward more uniform definitions of serious traffic violations.
13	49 CFR Part 387.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends reevaluating whether to continue self insurance and, if so, suggests several safeguards.	This recommendation will be considered as a comment in the Unified Registration System rulemaking (RIN 2126-AA22).
14	14 CFR Part 234.	OST	United Air Lines	Recommends that reports of mishandled baggage distinguish between carriers that interline and those that do not or, at least, clarify that this distinction is not made.	Starting with the January 2006 "Air Travel Consumer Report", DOT will clarify that reports of mishandled baggage do not distinguish between carriers that interline and those that do not.
15 .....	.....	FAA	Regional Airline Association.	Recommends allowing operators to carry company material that is hazardous even though they have identified themselves as a "will not carry" operator.	FAA will be addressing this issue in an upcoming final rule.
16	49 CFR 173.134.	PHMSA FAA.	Regional Airline Association.	Suggests allowing an exception for "will not carry" operators to carry noninfectious diagnostic specimens.	The hazmat requirements do not apply to non-infectious diagnostic specimens. However, there is some confusion on this issue, which PHMSA intends to clarify in an ongoing rulemaking in which PHMSA proposes to harmonize its hazmat rules with recently adopted international standards (2137-AD93).
17	14 CFR 121.574.	PHMSA FAA.	Regional Airlines Association.	Recommends amending rules to allow carriers to carry First Aid and Trauma (FAT) kits that are supplied by government agencies and to state that the maintenance can be under an approved program without mentioning the certificate holder.	PHMSA has issued an exemption from 49 CFR Parts 171-180 allowing FAT kit to be carried in the cabin. FAA is considering an amendment that would allow the use of the FAT kit's oxygen in flight. It intends to include this in a future review of the entire Part 121.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
18	49 CFR Part 563.	NHTSA	National Automobile Dealers Association.	Recommends accelerating the electronic data recording (EDR) rulemaking.	NHTSA has devoted significant time and resources in drafting an EDR final rule. Publication is expected in 2006 (RIN 2127-A172).
19 .....	.....	OST	Regional Aviation Partners.	Recommends immediately implementing section 406 (code share pilot program) of Vision 100.	The Department has sent out a notice soliciting public comment and interest on this program. (See 70 FR 40098.)
20	FTA Circular 4220.1E.	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including third party contracting requirements.	FTA agrees to expand footnote 39 of FTA Circular 4220.1E to further acknowledge the propriety of liquidated damages and to update the Best Practices Procurement Manual.
21 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Buy America.	FTA intends to take comment on this issue during the rulemaking mandated by section 3023 of SAFETEA-LU (RIN 2132-AA80).
22 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Grants Management.	FTA will undertake a comprehensive review of all of its current program circulars in an attempt to streamline and consolidate circulars as appropriate. FTA will reach out to the transit industry and invite public comment, in accordance with section 3032 of SAFETEA-LU.
23 .....	.....	FTA FHWA.	New York MTA	Suggests several technical changes to FTA program requirements, including 4(f) criteria.	Pursuant to sections 6007 and 6009 of SAFETEA-LU, FHWA and FTA will conduct a rulemaking to clarify the regulatory procedure and criteria for evaluating "prudent and feasible" alternatives (RINs 2125-AF14 and 2132-AA83).
24	23 CFR Part 771.	FTA FHWA.	New York MTA	Suggests several technical changes to FTA program requirements, including environmental impact procedures.	Pursuant to section 6002 of SAFETEA-LU, FTA and FHWA are considering a rulemaking to revise the agencies' joint environmental impact procedures (RINs 2125-AF09 and 2132-AA82).
25	49 CFR Part 611.	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including the New Starts program.	Many of these points will be addressed through rulemaking under section 3011 of SAFETEA-LU (RIN 2132-AA81).
26	23 CFR 771.135.	FHWA	New Hampshire Department of Transportation.	Suggests revising the 4(f) criteria to require evaluation and legal sufficiency review for Environmental Impact Statements and Environmental Assessments only, not categorical exclusions.	Pursuant to sections 6009 of SAFETEA-LU, FHWA and FTA will conduct a rulemaking to clarify the regulatory procedure and criteria for evaluating "prudent and feasible" alternatives (RINs 2125-AF14 and 2132-AA83).
27	14 CFR Part 399.	OST	American Airlines	Recommends the Department issue a policy statement to establish that certain authorities under the aviation statute—exemptions, codeshare statements of authorization—will be issued for an indefinite duration in order to avoid renewal applications every 1 or 2 years.	While the Department does not agree that certain aviation authorities should be issued for an indefinite duration, it agrees that the Department should consider examining whether certain aviation authorities could be awarded for a longer duration. The Department is exploring measures to achieve this objective and has announced new streamlining procedures to this end. In a Notice issued August 23, 2005, the Department stated that it would employ show-cause procedures for the award of certain long-term certificate and permit authority, with the goal of reducing the need for frequent renewal of exemption authority. On December 9, 2005, the Department issued an order tentatively granting more than 20 U.S. air carriers blanket route integration authority. Under the terms of the order, the blanket authority will be granted for a 5-year term, renewable upon application, and will be applied prospectively to encompass future awards of authority.

COMMENTS WARRANTING FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
28	14 CFR Part 399.	OST	United Air Lines	Recommends eliminating duration limitations on carrier certificates and exemption route authority.	See above response (#27).
29	14 CFR Part 399.	OST	Delta Airlines	Recommends a default rule that would provide that exemptions and other authorities under the aviation statute—exemptions, codeshare statements of authorization—will be issued for an indefinite duration but that the Department may amend, modify or revoke them at any time without a hearing.	See above response (#27).
30	14 CFR 257.5.	OST	United Air Lines	Recommends allowing a generic statement of code-sharing and long-term wet leases in advertisement.	In response to United Air Lines recent Petition for Rulemaking on this issue, DOT issued a final rule on August 4, 2005 (see 70 FR 44848).
31	49 CFR Part 222 ...	FRA	Chicago Area Transportation Study Council of Mayors Executive Committee.	Recommends reconsidering the analysis of risk for not sounding the train horn in the Chicago area.	This comments pre-dates FRA issuance of its final rule on “Use of Locomotive Horns as Highway-Rail Crossings” (see 80 FR 21844). In the final rule FRA carved out the Chicago area and will study that area separately. If appropriate, it will be addressed in a future rulemaking (RIN 2130–AB73).
32	23 CFR Part 636.	FHWA	Texas Department of Transportation.	Suggests several revisions to the design-build regulations.	Section 1503 of SAFETEA–LU requires a revision to the design-build regulations. FHWA plans to amend the regulations accordingly. In addition, FHWA is currently evaluating the need to modify the design-build regulations in the context of public-private partnerships (RIN 2125–AF12).
33 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including reporting requirements for the national transit database.	This is a long list of technical changes some of which must be done by legislation while others may be done by regulation. Each of these will require detailed evaluation to determine whether it can be done by regulation. Those that can be changed by regulation will be addressed.
34	49 CFR 173.24(b)	PHMSA	Association of Hazmat Shippers.	Objects to the additional packaging requirements for oxygen cylinders.	This will be treated as a comment to the current rulemaking on this issue (RIN 2137–AD33).
35 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including to Fixed Guideway Modernization.	Most of the suggestions offered would require legislative change. The remaining suggestion regarding risk assessments will be addressed through upcoming guidance.
36	14 CFR Part 121 ...	FAA	Regional Airline Association	Requests a rulemaking to allow air carriers to conduct both scheduled and charter service with one set of books.	FAA is developing, with industry, appropriate language for an operation specification and, therefore, believes that a rulemaking is unnecessary.

COMMENTS WARRANTING FURTHER CONSIDERATION

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1	DOT	Marion C. Pulsifer Consulting.	Suggests that the development, financing, environmental review, etc. of large multimodal infrastructure projects be coordinated through a single point in DOT.	DOT recently completed a report to develop a process to ensure effective and comprehensive oversight of large transportation infrastructure projects and is carefully monitoring the use of one possible process in the administration of the on-going multimodal Transportation Expansion (TREX) megaproject in Denver, Colorado.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
2 .....	.....	FMCSA FAA	Federal Express Corp.	Recommends clearly defining the scope of the agencies' jurisdiction vis-a-vis OSHA.	The agencies are mindful of the need for clarity in defining regulatory jurisdiction.
3	49 CFR 571.124	NHTSA	Alliance of Automobile Manufacturers.	Suggests revising all Federal Motor Vehicle Safety Standards (FMVSS)—in similar fashion used for FMVSS 124—to accommodate technological changes and voluntary industry action.	NHTSA currently has a regulatory review program that specifically evaluates the need to revise FMVSS to accommodate technological and other changes. NHTSA's review schedule under Section 610 of the Regulatory Flexibility Act and other reviews was published in Appendix D to the Unified Agenda (70 FR 64079, 64949). FMVSS 124 was one of the first standards to be reviewed under this process at which time no changes were warranted and the standard will be reviewed again through this process.
4	49 CFR 571.108	NHTSA	American Trucking Associations.	Recommends providing for commercial vehicle lighting equipment interchangeability.	Current regulations allow the most safe and effective replaceable headlamps. The agency is currently reviewing this regulation to determine if revisions are appropriate.
5 .....	.....	FMCSA PHMSA	American Trucking Associations.	Requests a rule to implement uniform requirements for hazmat permits and to preempt state permit requirements that are not substantively the same..	FMCSA is working with the current Alliance for Uniform Hazardous Materials Registration to encourage States to voluntarily join in a base-state hazmat permitting arrangement. FMCSA and PHMSA will establish a work group to study hazmat permitting and registration practices in response to a requirement in SAFETEA-LU and will reevaluate whether it should open a rulemaking at the completion of that working group's report.
6	14 CFR Part 121 ...	FAA	Airline Dispatchers Federation.	Recommends applying the rules for dispatching scheduled airline operations to supplemental operations, so that a certified dispatcher is on site for departures.	With electronic communication much more sophisticated now than it was when the studies offered in support of this comment were performed, one would intuitively expect less need for on-site dispatchers. However, FAA believes that it is worthwhile to review dispatch-related accidents and incidents to ascertain whether the number is disproportionately high when no dispatcher is physically present.
7	14 CFR 121.465	FAA	Airline Dispatchers Federation.	Recommends revising the rules on aircraft dispatchers duty time to be consistent both in and out of the U.S.	FAA agrees that, on face value, dispatcher fatigue is primarily an issue of time. However, before taking definitive steps to revise the regulation, it is appropriate to review whether there are higher levels of accidents and incidents among flag carriers dispatching aircraft from outside the U.S.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	14 CFR 121.619	FAA	Aircraft Dispatchers Federation.	Recommends liberalizing the requirement for specifying an alternate destination prior to dispatch.	The FAA is currently reviewing air carriers' ability to dispatch while carrying alternate fuel at lower limits than the current rule allows. The FAA will determine if rulemaking is appropriate based on the outcome of this review.
9	14 CFR Part 91	FAA	Aircraft Dispatchers Federation.	Recommends developing a plan to certify and regulate unmanned aerial vehicles (UAV).	The FAA has begun a broad-based program to assess the need for UAV regulations. The FAA Flight Plan has identified the development of policies, procedures, and approval processes to enable the operation of UAVs in the National Airspace System as a long-term initiative. The FAA is well on its way to developing these policies. There is a Federal Advisory Committee working on the development of standards the FAA hopes to use as the basis for a future rulemaking.
10	49 CFR Part 177 ...	PHMSA	American Trucking Associations.	Recommends either extending the deadline for submitting a written update report on a hazmat spill from 30 to 90 days or eliminating the provision.	The 30-day timeframe for submitting the "update" actually refers to the timeframe in which a written report must be submitted for all incidents. PHMSA agrees to consider whether 30 days is sufficient to collect all the information required and, therefore, will consider this issue for possible rulemaking.
11 .....	.....	FHWA	American Road and Transportation Builders Association.	Recommends continuing to implement environmental streamlining for transportation projects.	The Department and FHWA continue to work to expedite and improve the environmental review/approval process and have identified 15 priority projects for review by the interdepartmental Transportation Infrastructure Streamlining Task Force and expect that, in the future, additional priority projects will be selected.
12	23 CFR 750.707	FHWA	Florida Department of Transportation.	Recommends revising the regulation to remove requirements that inhibit States' ability to regulate nonconforming outdoor advertising signs; adding a provision requiring each State to develop its own requirements for control.	FHWA recognizes that this regulation needs review, but believes that any such review should be part of an overall evaluation of the Outdoor Advertising Control Program. FHWA currently is developing a program review of the Outdoor Advertising Control Program. This regulation on nonconforming signs will certainly be a part of this review.
13	14 CFR 121.311	FAA	Regional Airline Association.	Requests regulation be amended to allow an "adult or parent" to carry a lap child.	FAA recognizes this as an issue and is looking into the best way to ensure young parents (under 18) are allowed to lap-hold children under two. However, it must determine its priorities for its limited resources prior to committing to a rulemaking on this issue.

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
14	49 CFR Part 568 ... 49 CFR 571.110 ...	NHTSA	National Auto- mobile Deal- ers Associa- tion.	Recommends amending the motor vehicle placarding regulations to require re-placarding only when alteration or final stage manufacturing has occurred.	Consumer protection and good faith disclosure is best served by requiring re-labeling. This issue may be addressed through a current rulemaking (see RIN 2127-AJ57).
15	14 CFR Part 241 ...	RITA (BTS)	Federal Express Corp.	Recommends eliminating provisions that require carriers to report separately mail revenues and mail weights.	The Department agrees that this regulation is a good candidate for review. However, because there are offices within the Department that use this data, the Department needs to evaluate its need for the information before determining whether to proceed on a rulemaking to eliminate or revise this regulation.
16 .....	.....	FMCSA	Federal Express Corp.	Recommends federalizing and mandating real time driver and carrier notifications of a driver violation or license restriction that would potentially disqualify a driver to hold a commercial drivers license.	FMCSA is currently exploring the development of a national Employer Notification Service (ENS) system that will allow carriers to register their drivers in a database and then be immediately notified of changes in the status of their CDLs. A prototype system has been developed and will be evaluated during an 18-month pilot test in California and Colorado beginning in March 2006.
17	49 CFR Part 107 ...	PHMSA	Federal Express Corp.	Recommends that carriers should not be penalized when a shipper fails to identify its package as hazmat.	The HMR generally prohibit accepting or transporting hazmat not in compliance with the regulations. All operating modes typically seek to bring enforcement actions against the shipper of the material. There are cases, however, where enforcement actions are appropriate against a carrier who knew, or should have known the material offered for transportation contains hazmat. The "knowingly" standard for civil penalty liability is defined in Federal hazardous material transportation law and embodies the "negligence" standard which is well developed in common law. There is currently an open proceeding (see OST-2001-10380 on the Department's Docket Management System) considering whether to issue further industry guidance on the "knowingly" standard. In addition, the FAA is considering allowing credit in any subsequent enforcement action to an air carrier that voluntarily provides hazmat recognition training to its employees. PHMSA notes the concern and will review existing enforcement guidance.
18	49 CFR Part 107 ...	FAA PHMSA	United Air Lines	Recommends that the FAA should prosecute non-compliant shippers rather than carriers reporting hazmat discrepancies in accepted baggage or freight.	See response above (#17).

COMMENTS WARRANTING FURTHER CONSIDERATION—Continued

Item number	Regulation	Operating admin./ OST office	Commenter	Comment	Response
19	49 CFR Parts 387 and 371.	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Proposes adopting stricter standards for brokers and freight forwarders to include increasing the security bond, eliminating trust funds as a surety alternative, and eliminating freight forwarders as a separately-regulated category of transportation intermediaries and require them to follow broker requirements.	These comments and associated matters are currently under agency consideration.
20	49 CFR 373.101	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends adding a requirement for shipment date and pick-up and delivery times to bills of lading.	These comments were taken into consideration in the course of the existing open rulemaking (See RIN 2126-AA76).
21	49 CFR Parts 171-180.	PHMSA	United Air Lines	Recommends using the term "dangerous goods" rather than the term "hazardous materials" for consistency with foreign jurisdictions.	PHMSA appreciates the need to seek further harmonization of international hazmat regulations and will study this issue further but needs further information concerning the actual benefits to safety of changing terminology.

NO FURTHER ACTION

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
1	14 CFR 121.377	FAA	Steven M. Jones	Maintenance and preventative maintenance personnel duty time limitation regulation is unclear; commenter compares it to regulation for aircraft dispatcher duty time limitations.	FAA notes that this regulation is not as detailed as the aircraft dispatcher regulation. However, the FAA believes that the intent of this regulation is clear and has no data to support maintenance personnel working consecutively for seven days as commenter alleges. The FAA has evaluated the regulation and how it is understood in the industry and has determined that addressing the differing levels of detail in duty time regulations is not a priority.
2	49 CFR 382.107	FMCSA OST-ODAPC.	Roxanne Wyant	Suggests removing the term "actual knowledge" of drug or alcohol use from the list of grounds for finding a violation of the FMCSA rules.	If an employer learns reliably that a covered employee has engaged in conduct otherwise prohibited by the regulations, relating to use of illegal drugs or abuse of alcohol, it is fully consistent with the safety objectives of the regulation for the employer to treat that information as the basis for a violation of the rules, even if no drug or alcohol test had occurred.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
3 .....	.....	DOT	Air Transport Association of America, Inc.	Recommends restricting the number of regulatory proceedings, establishing smaller Government-industry working groups to develop recommendations, working to harmonize international regulatory regimes, and improving enforcement programs.	The Department agrees that it should strive to improve the efficiency of its rulemaking and enforcement processes and that many of the recommendations go to that effort. The Department already uses some of the recommended strategies where appropriate and will continue to do so. The Department is putting this on the No Further Action Warranted chart only because it is not tied to specific regulations.
4 .....	.....	OST-C	American Society of Travel Agents, Inc.	Suggests that the Department provide public notice and an opportunity to comment before new aviation enforcement interpretations are adopted.	Requiring advance notice and comment prior to adopting any new enforcement interpretation would significantly interfere with and burden the Department's discretion in administering aviation enforcement and could result in fewer, often-helpful, interpretations being issued. Moreover, it is not practical to conduct lengthy and costly proceedings to define what the Department believes is required by statute or to hold public hearings before issuing interpretations or policy statements. However, requests for reconsideration often are entertained.
5	14 CFR 121.311	FAA	Greg Niebeding, President of Baby B'Air Flight Vests.	Requests the FAA revise its regulations to allow the use of Baby B'Air Flight Vests during take-off and landing.	FAA considered this issue through a petition for an exemption and, in October 2004, determined that an exemption was not in the public interest. No new evidence was presented through this process.
6	49 CFR 571.204	NHTSA	Alliance of Automobile Manufacturers.	Suggests implementing and modifying test procedures manufacturers use to demonstrate regulatory compliance with FMVSS—like FMVSS 201.	While test procedures are provided in the FMVSS, they reflect the specifications established by regulation. The tests detail how NHTSA and its contractors should conduct compliance tests; the industry is not required to use NHTSA's test procedures.
7	14 CFR Part 93	FAA OST	Air Carrier Association of America.	Recommends review of regulations operating to frequently block low fare carriers from competing at various airports—specifically, the high-density rule.	FAA has an open rulemaking to address congestion at O'Hare airport (see RIN 2120-AI51) and has been analyzing market based approaches at LaGuardia that will likely involve rulemaking. It is not feasible at this time to begin a separate rulemaking in the interim to address certain elements of the High Density Rule, which phases out at LaGuardia and John F. Kennedy International Airport in January 2007. The FAA is also reluctant to promulgate changes to the slot rules at Ronald Reagan Washington National Airport until it has concluded its analysis of market approaches at LaGuardia.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
8	49 CFR Part 26	OST FHWA FAA FTA.	American Road and Transportation Builders Association.	Recommends one Disadvantaged Business Enterprise goal for minority and women contractors.	This is a Congressionally-mandated program. However, the Department hopes to address some program implementation issues through meetings with industry groups, including the American Road and Transportation Builders Association. Afterwards, any needed changes will be considered, if appropriate.
9	49 CFR 395.3	FMCSA	American Road and Transportation Builders Association.	Requests short-haul drivers in the transportation construction industry be excluded from the hours of service rule.	FMCSA published its hours of service rule on August 25, 2005 (see 70 FR 49978). The rule adopted a special hours of service regime for short-haul drivers.
10	40 CFR Part 93	FHWA	American Road and Transportation Builders Association.	Recommends allowing grandfathering or a grace period for Clean Air Act conformity so that transportation planning projects can better respond to obligations on short notice.	Section 6011 of the recently enacted long-term surface transportation authorization statute (Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users "SAFETEA-LU") provides for a one-year grace period for conformity determinations. Thus, this issue does not require rule-making action.
11 .....	.....	FHWA	American Road and Transportation Builders Association.	Recommends allowing the Interstate Highway System an exemption from historic preservation requirements.	Section 6007 of SAFETEA-LU exempts the Interstate Highway System from consideration as a historic site under Section 4(f) of the National Historic Preservation Act. Therefore, no rule-making action is required at this time.
12 .....	.....	DOT	Federal Express Corp.	Recommends expediting reevaluation and publication for comment of any notices or rules over 20 years old and reviewing existing rules to see if a revision can be made or a rule can be eliminated rather than issuing a new regulation that "layers on."	The Department's regulatory review plan addresses this issue by requiring all rules to be reviewed every ten years. It also asks for public comment on whether any specific review should be expedited. (See Appendix D to the Unified Agenda (70 FR 64079, 64943) The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations in need of more immediate attention than our existing process will provide
13 .....	.....	DOT	Federal Express Corp.	Recommends organizing rules by specific regulated groups in separate and clearly identified sections.	As rules are rewritten, agencies do reorganize them to help regulated industries comply. There is some risk in both directions. E.g., FMCSA tried the suggested approach in a recent rulemaking and found that it required a lot of duplication, which would increase the chance for errors and inconsistencies. The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
14	DOT	Federal Express Corp.	Recommends harmonizing all rules with international rules and procedures.	Agencies attempt to harmonize their rules with international rules; however, this is not always possible. PHMSA is currently attempting to harmonize its hazardous materials nomenclature with the international system. FMCSA and Canada worked out uniform North American cargo securement standards—that process took nearly a decade. The Department is putting this on the No Further Action Warranted chart because it is not tied to specific regulations.
15	FMCSA, PHMSA ...	Federal Express Corp.	Recommends revising the policy for granting exemptions: either fully regulate an item or do not regulate it at all.	This is inconsistent with FMCSA's statutory authority, which permits exemptions if the specified level of safety can be maintained or improved. Similarly, PHMSA's statutory authority permits the agency to grant special permits authorizing variances from the hazmat regulations if the special permit provides an equivalent level of safety to that specified in the regulations. The special permit program provides an opportunity for the testing and evaluation of technological improvements in a real-world transportation environment. Special permits that result in demonstrated safety and efficiency benefits are frequently converted into regulations of general applicability.
16	DOT	Federal Express Corp.	Recommends designing a single federal program to require transportation worker identification cards (TWIC).	The Department acknowledges that there are multiple security programs currently in place. However, as the Transportation Security Administration (under Department of Homeland Security) is the lead Agency, the Department cannot take the lead on this problem.
17	FMCSA, NHTSA	Federal Express Corp.	Recommends standardizing and harmonizing safety and recording requirements for passenger and commercial vehicles.	NHTSA has exclusive authority to set manufacturing standards for the Department; FMCSA's rules apply only to the operators, not the manufacturers, of commercial motor vehicles. However, the agencies do work together on rules when appropriate.
18	FMCSA	Federal Express Corp.	Recommends that the Agency regulate all commercial drivers and vehicles including non-DOT drivers.	FMCSA regulates all drivers of commercial motor vehicles, as defined by 49 U.S.C. 31132.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
19	49 CFR Part 172 ...	PHMSA	Federal Express Corp.	Recommends requiring that material safety data sheets (MSDS) be supplied to first responders and that any product information regarding hazardous materials (hazmat) be widely disseminated to the public.	This information is already widely distributed to employees of hazmat shippers, transport workers, and emergency responders. The hazardous material regulations (HMR) currently require hazmat shipments to be accompanied by emergency response information to assure that transport workers and emergency responders have sufficient information to protect themselves and others in the event of an accident or other emergency; however, this requirement can be met in a number of ways, including the use of an MSDS form.
20	49 CFR Parts 171–180.	PHMSA	Federal Express Corp.	Wants DOT to take full jurisdiction of all transportation safety issues.	PHMSA has worked with the other Federal agencies to define the limits of DOT's regulations. PHMSA published a rule on this subject in 2004 which is currently the subject of a legal challenge PHMSA's final rule codifies long-standing interpretations and administrative decisions concerning the applicability of DOT's regulations in the overall statutory framework which includes other agencies beyond the scope of DOT's jurisdiction.
21	49 CFR 571.208 ...	NHTSA	Evenflo	Recommends working with manufacturers to assure appropriate child restraints will be available to conduct occupant crash protection testing and that Appendix A reflects only products currently in production.	It is not necessary to update Appendix A to remove child restraint systems (CRS) not currently in production because the appendix is intended to be representative of CRSs in use by the public, not merely those on the market. In addition, in November 2003, NHTSA established a procedure for amending Appendix A—seats will be added or removed when real world usage makes it appropriate. Moreover, manufacturers are provided sufficient lead-time as to the CRSs the agency is using in its compliance tests.
22	23 CFR Part 658 ...	FHWA	American Trucking Associations.	Recommends granting States more flexibility in addressing operational requirements for Longer Combination Vehicle (LCV) restrictions.	The LCV "freeze" was put in place by Congress to protect national infrastructure and highway safety. FHWA does not have the authority to amend the LCV "freeze".

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
23	49 CFR 392.9	FMCSA	American Trucking Associations.	Recommends eliminating the extra stops necessitated by the en route load securement inspection requirements for certain hazmat and improving the definition of "impermissible cargo movement" to avoid inconsistent enforcement.	This requirement was discussed during public meetings concerning the development of new cargo securement standards. The model regulations developed through this public meeting process included the cargo securement inspection provision—FMCSA and Canadian Provinces have implemented these model regulations. (See 67 FR 61212, published September 27, 2002.)
24	14 CFR 61.23	FAA	Aircraft Owners and Pilots Association.	Recommends changing the requirement that pilots hold a valid FAA medical certificate when exercising the privileges of a Recreational Pilot certificate to accept a valid driver's license.	FAA notes that private pilots can fly in the most complex airspace and to many of the nation's busiest airports. Therefore, they should be held to the highest standard of fitness. FAA further notes that, while some medical conditions may be grounds for disqualification, most states rely on voluntary disclosure of disqualifying conditions and test only vision. Therefore, it is not appropriate to make this revision.
25	14 CFR Part 61	FAA	Charles Garrison	Recommends changing the requirement that all private pilots hold a valid FAA medical certificate to accept a valid driver's license.	See response above (#24).
26	14 CFR Part 380	FAA	Airline Dispatchers Federation.	Recommends eliminating the distinction between public charters and other operations for purposes of safety.	DOT believes that it is important to maintain the distinction between economic/consumer protection regulations for Public Charters, in 14 CFR Part 380, and the safety regulations of 14 CFR Parts 121 and 135. The latter parts apply to direct air carriers, with whom the charter operators would contract; they do not apply to the charter operators themselves or to the public charter product which they sell to their customers.
27	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends requiring edible food to be labeled as edible to facilitate compliance with prohibition on transporting with poisons.	Current regulations only prohibit transporting poisons and edible food in the same motor vehicle if the food is marked or known to be foodstuffs. PHMSA does not have the authority to require marking of foodstuffs, but will suggest to its contacts in FDA that they may want to address this problem.
28	49 CFR Part 177	PHMSA	American Trucking Associations.	Recommends defining "impermissible movement".	This term is not used in the regulations and, therefore, need not be defined. Moreover, PHMSA believes that its more general requirement is a better standard for compliance and enforcement purposes.
29	49 CFR Part 382	OST—OADPC FMCSA.	American Trucking Associations.	Recommends allowing carriers to reduce their random testing rate if they have a low violation rate rather than basing it on the industry-wide violation rate.	The current regulation is a long-standing policy decision based on performance evidence. In addition, it is too difficult, time-consuming, and expensive to enforce the regulations on a carrier by carrier basis.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
30	49 CFR Part 365 ...	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Proposes adopting stricter standards for brokers and freight forwarders to include lengthening the protest and review period for broker applications.	FMCSA does not see a connection between the requested action and the actual problem—brokers not paying the motor carrier for the transportation services rendered.
31	49 CFR 376.12	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends redefining “Party” to a brokered transaction.	FMCSA believes that the regulations adequately address the owner-operator’s rights because the owner-operator must have a written lease agreement with the authorized motor carrier and that agreement must meet the specified requirements, which should be negotiable.
32	49 CFR Part 375 ...	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends eliminating non-binding estimates for household goods moves.	FMCSA believes that this recommendation is adequately addressed in its recently issued final rule for Transportation of Household Goods Consumer Protection Regulations (see 70 FR 39949) and in household goods provisions adopted as part of SAFETEA-LU.
33	49 CFR 368.6(d) ...	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends revising regulation to allow public protests to applications from Mexico-domiciled carriers for operating authority in the border areas.	FMCSA considered this issue prior to promulgating its final rule regarding applications for provisional Certificates of Registration (see 67 FR 12654).
34	49 CFR 397.5	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Requests a review and revision of the hours of service and hazmat rules to ensure compatibility.	FMCSA believes that the rules are not incompatible and that there are various operational ways for a motor carrier to approach this issue and remain in compliance with both sets of rules. FMCSA has addressed this comment in responding to hours of service petitions for reconsideration.
35	49 CFR Pars 40 and 382.	FMCSA OST–OADPC.	Owner-Operator Independent Drivers Association, Inc.	Suggests several modifications to the drug and alcohol testing program.	DOT does not see a need to re-address any of these points before this rule is scheduled for its next periodic review in 2007.
36	49 CFR Part 571 ...	NHTSA	Porsche	Suggests developing a method of implementing new safety requirements that does not jeopardize manufacturers of models with long production cycles by lengthening phase-in periods; establishing a new vehicle category; or establishing longer combined lead-time and phase-in periods across the board.	NHTSA provides flexible regulatory solutions for long lead times to low volume manufacturers, allowing them to load a higher percentage of their compliance toward the end of the phase-in period than larger volume manufacturers. In addition, many of the lead times are lengthy, to accommodate minimal impact or no impact to mid-cycle redesigns for manufacturers. Moreover, the current regulations provide provisions for small manufacturers to ask for specific exemptions if they are economically burdened by a regulatory change.
37 .....	.....	FTA	American Public Transit Association.	Requests transparency in non-rulemaking matters, including notice and an opportunity to comment on interpretations and policy statements that affect transit authorities.	FTA will embrace Section 3032 of SAFETEA-LU which should allay these concerns. The Department is putting this on the No Further Action Warranted chart only because it is not tied to any specific regulations.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
38	14 CFR 212.10	OST	United Air Lines	Requests eliminating DOT's authorization of block space arrangements.	These authorizations serve a number of public interest concerns, including assessing the competitive implications, security risks, and safety of the arrangements and, therefore, no rulemaking action is appropriate at this time.
39	14 CFR 212.10	OST	United Air Lines	Requests eliminating DOT's authorization of code-sharing arrangements.	These reviews serve a number of public interest concerns, including assessing the competitive implications, security risks, and safety of the arrangements and, therefore, no rulemaking action is appropriate at this time.
40	14 CFR 211.20	OST	United Air Lines	Recommends eliminating the requirement that U.S. carriers conduct safety audits of their foreign code-share partners.	To the extent that U.S. carriers represent and sell seats on foreign air carriers as if they were their own, it is reasonable to ask them to bear some responsibility for ensuring the safety of those passengers.
41 .....	.....	OST	United Air Lines	Requests DOT issue regulations precisely defining what constitutes a "joint venture agreement" for purposes of triggering statutory filing requirements.	The statute specifies certain types of joint venture agreements that must be filed for review and authorizes the Secretary to require certain additional types of agreements be filed for review. DOT believes that the statute is sufficiently clear and that regulations would add little additional clarity.
42 .....	.....	DOT	United Air Lines	Requests DOT exercise restraint in its reviews of airline operational events.	DOT does not dispute the need for appropriate restraint. However, this request does not require rulemaking.
43	49 CFR Part 177 ...	PHMSA	American Trucking Associations.	Recommends developing a National Response Center or web-based database that carriers can tap into to find out which regulations apply because immediate notice of a hazmat spill is unduly burdensome.	Immediate notification is essential and PHMSA does not consider its "as soon as practicable, but no more than 12 hours after an incident occurs" to be unduly burdensome. PHMSA also believes that the cost of creating and maintaining a Federal database that would include all state and local reporting requirements would be prohibitive.
44	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends requiring each hazmat shipper provide general awareness training to all of its employees.	PHMSA currently requires training for all employees who, during the course of their employment, affect the safe transportation of hazardous materials and estimates the requirement covers approximately 1.4 million individuals. PHMSA believes the regulations already cover the employee population in question. A significant increase in the number of employees subject to training would be cost prohibitive without a measurable safety impact. PHMSA and other DOT modes will continue to bring enforcement actions against shippers of undeclared hazmat.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
45	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends requiring carriers of hazmat packages to leave a copy of the shipping papers, including full hazmat description, with the consignee in order to avoid reshipping of unpackaged hazmat cartons.	PHMSA believes consignees receive more than sufficient information and the cost to impose such an additional requirement would not be offset by any tangible benefit to safety.
46	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends reaching out to small businesses to inform them of hazmat regulations.	PHMSA agrees that HMR compliance should be the subject of an extensive outreach campaign, specifically to small businesses. Although PHMSA currently has an extensive outreach program for small businesses, the agency is open to suggestions for improving its program.
47	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends urging OSHA to require complete hazmat descriptions as part of all MSDSs.	PHMSA does not have the authority to change the information on the MSDS, but will suggest to its contacts at OSHA that they might want to address this problem.
48	49 CFR Parts 171–180.	PHMSA	United Air Lines	Recommends revitalizing DOT's work with the United Nations and the international community to harmonize hazmat shipping requirements.	PHMSA and the Department are both very active in working with the international community to ensure consistency in its regulations and international standards. PHMSA currently represents the U.S. on various international and UN technical committees. Because of difference of opinion in terms of safety issues, cost impacts, and issues related to compliance with the Administrative Procedure Act, there are instances where DOT regulations will vary from the international standards. Regardless, the Department will continue to seek ways in which to further harmonize global standards and would be receptive to further discussions.
49	14 CFR Part 119.53	FAA	National Air Carrier Association.	Suggests (1) allowing operations under a wet lease to continue while FAA reviews the lease and (2) eliminating subsection (f) because the special authority is unnecessary where the appropriate air carrier already has charter authority for the route.	These regulations were implemented to codify FAA policy. The review of lease arrangements prior to operations is necessary to confirm that each party to the wet lease holds the necessary operating and economic authority. For this reason, FAA does not intend to take further action.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
50	14 CFR Part 121 ...	FAA	National Air Carrier Association. Regional Airline Association.	Suggests rescinding the recent change to Part 121 prohibiting an employer from hiring an employee to conduct safety-sensitive functions unless the employer first conducts pre-employment drug testing and receives a negative result.	In 1994, the FAA revised its "prior to hire" requirement and implemented a prior to performing safety-sensitive functions. This was amended in 2004 to return to the original "prior to hire" standard because communications with industry and enforcement cases revealed that some employers misunderstood the requirement and employees who were performing safety-sensitive functions would subsequently test positive for illegal drug use. In addition, FAA considered the reasons behind this suggestion as part of the public comment process prior to publishing its final rule in January 2004. For this reason, FAA does not intend to take further action.
51 .....	.....	PHMSA	Association of Hazmat Shippers.	Recommends that agencies do not issue regulations that go into effect prior to allowing public comment.	Agencies have the legal authority to issue rules without notice and comment and must occasionally use that authority to respond to emergencies and other situations that meet the statutory standard.
52	49 CFR Part 582 ...	NHTSA	National Automobile Dealers Association.	Recommends pursuing the elimination of statutory requirements regarding mandatory distribution of insurance cost information booklets to dealerships.	NHTSA recognizes that these data only have limited usefulness to consumers, given that most insurance information is driver-specific, not vehicle-specific. However, it fulfills a statutory mandate.
53	49 CFR Part 583 ...	NHTSA	National Automobile Dealers Association.	Recommends pursuing the elimination of statutory requirements regarding parts content labeling.	NHTSA has indicated on several occasions that, while a number of parties continue to have objections to the current labeling program, the objections are with the underlying statute. Any significant changes need to come from Congress.
54	49 CFR Part 595 ...	NHTSA	National Automobile Dealers Association.	Recommends improving outreach regarding alteration and modification activities to aid small business compliance and enhance transportation safety.	Significant outreach efforts have and will continue to be expended. NHTSA reaches out to and travels to industry organizations to update them on regulatory requirements of relevance to their members and encourages them to share that information. NHTSA continues to be open to considering specific recommendations to improve its outreach.
55 .....	.....	OST	Regional Aviation Partners.	Recommends immediately implementing section 402 (fuel subsidies) of Vision 100.	While section 402 allows the Department to increase fuel compensation rates without regard to negotiated contracts in the event that air carriers experience significant increased costs, it is impracticable for the Department to do so given the limited funding for the program.

NO FURTHER ACTION—Continued

Item No.	Regulation	Operating admin./ OST office	Commenter	Comment	Response
56 .....	.....	OST	Regional Aviation Partners.	Recommends giving greater weight and consideration to community preferences in awarding Essential Air Service (EAS) contracts.	The program already affords significant weight to community views. However, this is only one of the factors considered, and the Department continues to need flexibility to consider all factors.
57 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including reporting requirements for the national transit database.	Some of the issues raised are controlled by statute and cannot be addressed. The remaining data issues address data necessary for FTA to assure that it is exercising its authority properly.
58 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including Clean Air Act regulations pertaining to transportation projects.	These issues were highly negotiated by EPA and DOT prior to adopting the program requirements. FTA does not agree that these issues need to be readdressed at this time.
59 .....	.....	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including amending the Congestion Mitigation and Air Quality (CMAQ) program.	Eligibility for CMAQ funds is limited to programs and projects that help the nonattainment area attain the national ambient air quality standards. Because of the basic statutory objective of this program, there is no leeway to extend eligibility to routine maintenance and rehabilitation.
60	26 CFR 1.132-9	FTA	New York MTA	Suggests several technical changes to FTA program requirements, including increasing transit subsidies and extending them to include parking.	This is an IRS regulation that FTA cannot amend.
61	23 CFR 658.5	FHWA	National Association of Home Builders.	Suggests modifying the truck height and width regulation to accommodate transportation of modular housing on the National Network.	The provisions governing this issue are Congressionally defined. Therefore, FHWA does not have the authority to make this change.
62 .....	.....	FHWA, FTA	California Federal Programming Group.	Recommends improving coordination among DOT databases and making them more user-friendly.	The Fiscal Management Information System (FMIS) is FHWA's primary information system for tracking individual Federal-aid highway projects. Since the data in the system is highway specific, there is no purpose in coordinating the FMIS with other non-highway DOT databases. FHWA believes that FMIS is reasonably user-friendly and provides training and assistance to users.
63	49 CFR Part 398 ...	FMCSA	Owner-Operator Independent Drivers Association, Inc.	Recommends eliminating unique rules for migrant workers.	A comprehensive review of this part occurred in the early 1990s and the decision was made not to remove the migrant workers rules.

(Authority: 5 U.S.C. 610; E.O. 12866, 58 FR 51735, Oct. 4, 1993)

Issued this 14th day of April, 2006, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 06-5240 Filed 6-9-06; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Advisory Circulars, Other Policy Documents and Proposed Technical Standard Orders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: This is a recurring Notice of Availability, and request for comments, on the draft advisory circulars (ACs), other policy documents, and proposed technical standard orders (TSOs) currently offered by the Aircraft Certification Service.

SUMMARY: The FAA's Aircraft Certification Service publishes proposed non-regulatory documents that are available for public comment on the Internet at http://www.faa.gov/aircraft/draft_docs/.

DATES: We must receive comments on or before the due date for each document as specified on the Web site.

ADDRESSES: Send comments on proposed documents to the Federal Aviation Administration at the address specified on the Web site for the document being commented on, to the attention of the individual and office identified as point of contact for the document.

FOR FURTHER INFORMATION CONTACT: See the individual or FAA office identified on the Web site for the specified document.

SUPPLEMENTARY INFORMATION:

Comments Invited

When commenting on draft ACs, other policy documents or proposed TSOs, you should identify the document by its number. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date before issuing a final document. You can obtain a paper copy of the draft document or proposed TSO by contacting the individual or FAA office responsible for the document as identified on the Web site. You will find the draft ACs, other policy documents and proposed TSOs on the "Aircraft Certification Draft Documents Open for Comment" Web site at

http://www.faa.gov/aircraft/draft_docs/. For Internet retrieval assistance, contact the AIR Internet Content Program Manager at 202-267-8361.

Background

We do not publish an individual **Federal Register** Notice for each document we make available for public comment. Persons wishing to comment on our draft ACs, other policy documents and proposed TSOs can find them by using the FAA's Internet address listed above. This notice of availability and request for comments on documents produced by the Aircraft Certification Service will appear again in 30 days.

Issued in Washington, DC, on June 6, 2006.

Terry Allen,

Acting Manager, Production and Airworthiness Division, Aircraft Certification Service.

[FR Doc. 06-5302 Filed 6-9-06; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 18, 2006, page 2982.

DATES: Please submit comments by July 12, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267-9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Commercial Space Transportation Licensing Regulations.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120-0608.

Forms(s): Form 8800-1.

Affected Public: An estimated 2 Respondents.

Abstract: The required information will be used to determine if applicant proposal for conducting commercial space launches can be accomplished in a safe manner according to regulations and license orders issued by the Office of the Associate Administrator for

Commercial Space Transportation. Respondents are applying for licenses to authorize licensed launch activities.

Estimated Annual Burden Hours: An estimated 3,089 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 2, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Information Systems and Technology Services Staff, ABA-20.

[FR Doc. 06-5304 Filed 6-9-06; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 15, 2006, pages 13445-13446.

DATES: Please submit comments by July 12, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267-9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Recording of Aircraft Conveyances and Security Documents.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120-0043.

Forms(s): AC Form 8050-41.