DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION
Office of the Secretary
14 CFR Chs. I-III
23 CFR Chs. I-III
33 CFR Chs. I and IV
46 CFR Chs. I-III
48 CFR Ch. 12
49 CFR Subtitle A, Chs. I-VI and Chs. X-XII
OST Docket 99-5129
Department Regulatory Agenda; Semiannual Summary
AGENCY: Office of the Secretary, DOT.
ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation’s regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department’s regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:
General
You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 366-4723.
Specific
You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755-7687.

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SUPPLEMENTARY INFORMATION:
   Background
   Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed. To view additional information about the Department of Transportation’s regulatory activities online, go to http://regs.dot.gov.

   To help the Department achieve these goals and in accordance with Executive Order 12866 “Regulatory Planning and Review” (58 FR 51735; October 4, 1993) and the Department’s Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

   The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department’s last agenda was published in the Federal Register on December 7, 2009 (74 FR 64470). The next one is scheduled for publication in the Federal Register in October 2010.

   The Internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

   Because publication in the Federal Register is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), DOT’s printed agenda entries include only:
1. The Agency’s agenda preamble;
2. Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and
3. Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

   Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list see section heading “Explanation of Information on the Agenda”) on these entries is available in the Unified Agenda published on the Internet.

   Significant/Priority Rulemakings
   The agenda covers all rules and regulations of the Department. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decide a rule is subject to its review under Executive Order 12866, we have classified it as significant in the agenda.

   Explanation of Information on the Agenda
   The format for this agenda is required by a fall 2010 memorandum from the Office of Management and Budget.

   First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final
rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its “significance”; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled “Additional Information.”

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration’s Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the “Timetable” column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (●) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department’s review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a “significant economic impact on a substantial number of small entities” and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department’s section 610 review plans.

Federalism

Executive Order 13132 requires us to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” are defined in the Executive order to include regulations that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we encourage State and local governments to provide us with information about how the Department’s rulemakings impact them.

Purpose

The Department is publishing this regulatory agenda in the Federal Register to share with interested members of the public the Department’s preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department’s regulatory activity and should result in more effective public participation. This publication in the Federal Register does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Ray LaHood,
Secretary of Transportation.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the semiannual agenda, are available through the Internet at http://www.regulations.gov. See Appendix C for more information.

(Name of contact person), (Name of the DOT agency), 1200 New Jersey Avenue SE, Washington, DC 20590.

For the Federal Aviation Administration, substitute the following address: Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591.

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the
rulemaking process within the various operating administrations.

FAA - Rebecca MacPherson, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone (202) 267-3073.

FHWA - Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0761.

FMCSA - Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-2992.

NHTSA - Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0596.

OST - Neil Eisner, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4400.

PHMSA - Patricia Burke, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4400.

MARAD - Christine Gurland, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-5157.

FTA - Kathryn Shelton, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room W31-214, Washington, DC 20590; telephone (202) 493-6063.

FRA - Kathryn Shelton, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room E56-202, Washington, DC 20590; telephone (202) 366-4063.

SLSDC - Carrie Mann Lavigne, Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0091.

PHMSA - Patricia Burke, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4400.

Appendix C—Public Rulemaking Dockets

All comments via the Internet are placed in the dockets. The public also may review regulatory dockets at, or deliver comments on proposed rulemakings to, the Dockets Office at 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, 1-800-647-5527. Working Hours: 9-5.

Appendix D—Review Plans for Section 610 and Other Requirements

Part I—The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866 “Regulatory Planning and Review” and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources permit its use. We are committed to continuing our reviews of existing rules and, if needed, will initiate rulemaking actions based on these reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last 10 years and (2) have a “significant economic impact on a substantial number of small entities” (SEIOSNOSE). It also requires that we publish in the Federal Register each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department’s Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

Other Review Plan(s)

All elements of the Department, except for the Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department’s Regulatory Policies and Procedures and Executive Order 12866.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidential mandate. Review. If there is any change to the review plan, we will note the change in the following agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II—The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the agenda. Thus, Year 1 (2008) begins in the fall of 2008 and ends in the fall of 2009; Year 2 (2009) begins in the fall of 2009 and ends in the fall of 2010; and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses should be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610 Review

The Agency will analyze each of the rules in a given year’s group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies’ section 610 analyses listed each fall in this agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each fall agenda, the Agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on
SEIOSNOSE, we will give a short explanation (e.g., “these rules only establish petition processes that have no cost impact” or “these rules do not apply to any small entities”). For parts, subparts, or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We will also seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The Agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each fall agenda, the Agency will also publish information on the results of the examinations completed during the previous year.

The FAA, in addition to reviewing its rules in accordance with the Section 610 Review Plan, has established a triennial process to comply with the review requirements of the Department’s Regulatory Policies and Procedures, Executive Order 12866, and Plain Language Review Plan. The FAA’s latest review notice was published November 15, 2007 (72 FR 64170). In that notice, the FAA requested comments from the public to identify those regulations currently in effect that it should amend, remove, or simplify.

The FAA also requested the public provide any specific suggestions where rules could be developed as performance-based rather than prescriptive, and any specific plain language that might be used, and provide suggested language on how those rules should be written. The FAA will review the issues addressed by the commenters against its regulatory agenda and rulemaking program efforts and adjust its regulatory priorities consistent with its statutory responsibilities. At the end of this process, the FAA will publish a summary and general disposition of comments and indicate, where appropriate, how it will adjust its regulatory priorities.

Part III—List of Pending Section 610 Reviews

The Agenda identifies the pending DOT Section 610 Reviews by inserting (Section 610 Review) after the title for the specific entry. For further information on the pending reviews, see the agenda entries at www.reginfo.gov. For example, to obtain a list of all entries that are Section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting “advanced search”) and, in effect, generate the desired “index” of reviews.

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

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Year 1 (fall 2008) List of rules with ongoing analysis
49 CFR part 91 - International Air Transportation Fair Competitive Practices
49 CFR part 92 - Recovering Debts to the United States by Salary Offset
49 CFR part 93 - Aircraft Allocation
49 CFR part 95 - Advisory Committees
49 CFR part 98 - Enforcement of Restrictions on Post-Employment Activities
49 CFR part 99 - Employee Responsibilities and Conduct
14 CFR part 200 - Definitions and Instructions
14 CFR part 201 - Air carrier authority under subtitle VII of title 49 of the United States Code [Amended]
14 CFR part 203 - Waiver of Warsaw Convention liability limits and defenses
14 CFR part 204 - Data to support fitness determinations
14 CFR part 205 - Aircraft accident liability insurance
14 CFR part 206 - Certificates of public convenience and necessity: Special authorizations and exemptions
14 CFR part 207 - Charter trips by U.S. scheduled air carriers
14 CFR part 208 - Charter trips by U.S. charter air carriers
14 CFR part 211 - Applications for permits to foreign air carriers
14 CFR part 212 - Charter rules for U.S. and foreign direct air carriers

Year 2 (fall 2009) List of rules that will be analyzed during the next year
48 CFR part 1201 - Federal acquisition regulations system
The FAA has elected to use the two-step, 2-year process used by most DOT modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the “analysis year”), all rules published during the previous 10 years within a 10 percent block of the regulations will be analyzed to identify those with a SEIOSNOSE. During the second year (the “review year”), each rule identified in the analysis year as having a SEIOSNOSE will be reviewed in accordance with section 610(b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT semiannual regulatory agenda.

Tri-Annual Review Plan

The FAA, in addition to reviewing its rules in accordance with the Section 610 Review Plan, has established a tri-annual process to comply with the review requirements of the Department’s Regulatory Policies and Procedures, Executive Order 12866, and Plain Language Review Plan. Our latest review notice was published November 15, 2007 (72 FR 64170). In that notice, we requested comments from the public to identify those regulations currently in effect that we should amend, remove, or simplify. We also requested the public provide any specific suggestions...
where rules could be developed as performance-based rather than prescriptive, and any specific plain language that might be used, and provide suggested language on how those rules should be written. The FAA will review the issues addressed by the commenters against its regulatory agenda and rulemaking program efforts and adjust its regulatory priorities consistent with its statutory responsibilities. At the end of this process, the FAA will publish a summary and general disposition of comments and indicate, where appropriate, how we will adjust our regulatory priorities.

Year 1 (2008) List of rules analyzed and summary of results

14 CFR part 119 - Certification: Air Carriers and Commercial Operators
- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.

14 CFR part 121 - Operating Requirements: Domestic, Flag, and Supplemental Operations
- Section 610: The Agency conducted a Section 610 Review of this part and found six amendments that could have a SEIOSNOSE.

Amendment No. 121-216

Amendment No. 121-216 removed the requirement that windshear flight guidance equipment be installed on older airplanes; amended the provision allowing for an extended compliance period based on an approved airplane retrofit schedule; and provided for acceptance of alternative airplane equipment in the form of an approved airborne windshear detection and avoidance system (predictive systems). The final rule allowed certificate holders to install windshear equipment in coordination with the installation of traffic alert and collision avoidance system (TCAS II) equipment, thereby reducing the prospect that carriers would have to divert critical maintenance resources from other safety programs.

Original FAA finding: This amendment primarily was in response to an Air Transport Association (ATA) petition to the FAA, dated June 1, 1989, to amend the windshear rule to exclude certain older airplanes from the flight guidance systems requirements and to extend the compliance date. The FAA determined that ATA’s petition had merit and issued amendment No. 121-216. In doing so, the FAA found that there would be a significant beneficial economic impact on a substantial number of small nonscheduled part 121 certificate holders due to the cost relief from not having to install the equipment on certain older aircraft.

Finding of this 5 U.S.C. section 610 analysis and review: The benefits to small entities of amendment No. 121-216 have probably diminished over time. However, the original FAA finding of a positive SEIOSNOSE should still stand.

Amendment No. 121-269

Amendment No. 121-269 upgraded the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments as an option for future type certification.

Original FAA finding: The FAA found that this amendment would have a SEIOSNOSE. The FAA conducted an exhaustive analysis of potential alternatives to seek possible ways of mitigating the burden on small entities and still provide an equivalent level of safety. In its analysis, the Agency considered several alternatives that ranged from relatively low-cost, purely preventive approaches (e.g., banning certain types of material from air transport), to mitigating approaches such as: (1) Retrofit of detection systems only; (2) a requirement for detection systems on newly manufactured aircraft only; (3) a requirement for detection and/or suppression systems for extended over water operations only; (4) retrofit of detection and suppression systems; (5) a requirement for detection and suppression systems on newly manufactured aircraft only; and (6) logical combinations of these alternatives.

Finding of this 5 U.S.C. section 610 analysis and review: During the comment period, the FAA did not receive any comments that indicated the amendment would place small part 121 operators at a competitive disadvantage relative to large part 121 operators or that there were alternatives that could provide the same level of safety benefit at reduced costs to small operators. Moreover, no analysis was submitted that indicated that fire safety risks for small part 121 carriers differed from those large part 121 carriers. Therefore, even though this amendment did have a SEIOSNOSE, it was necessary in order to achieve the level of safety sought by this rule action.

Amendment No. 121-282

Amendment No. 121-282 required design approval holders of certain turbine-powered transport category airplanes, and of any subsequent modifications to these airplanes, to substantiate that the design of the fuel tank system precluded the existence of ignition sources within the airplane fuel tanks. It also required developing and implementing maintenance and inspection instructions to assure the safety of the fuel tank system. For new type designs, this amendment also required demonstrating that ignition sources could not be present in fuel tanks when failure conditions were considered, identifying any safety-critical maintenance actions, and incorporating a means either to minimize development of flammable vapors in fuel tanks or to prevent catastrophic damage if ignition did occur.

Original FAA finding: The FAA determined that this amendment would have a SEIOSNOSE. The FAA identified 143 air carriers that would be impacted by this amendment. Of the 143 impacted air carriers, 107 were small airlines.

Finding of this 5 U.S.C. section 610 analysis and review: In order to mitigate the costs to the extent possible without reducing the effectiveness of the amendment, the FAA extended operator compliance time from 18 months to 36 months. In addition, the Agency determined that fewer fuel tank re-inspections would be needed than originally estimated in the NPRM. The net result of these modifications was to reduce the overall cost impact from $172.2 million to $126.6 million (in 2000 dollars), a 26.4 percent reduction. The FAA was not able to identify any other alternatives that could reduce the cost impact to small entities and still achieve the desired safety results. A review of the petition for exemption history revealed that no relief was sought from this amendment since its issuance.
Amendment No. 121-284
Amendment No. 121-284 (67 FR 72726) required airplanes operated under part 121 to undergo inspections and records reviews by the Administrator or a designated representative after their 14th year in service and at specified intervals thereafter. This amendment also prohibited operation of those airplanes after specified deadlines unless damage-tolerance-based inspections and procedures were included in their maintenance or inspection programs. This amendment represented a critical step toward compliance with the Aging Aircraft Safety Act of 1991.

Original FAA finding: The FAA conducted a full regulatory flexibility analysis to assess the impact of this amendment on small entities. The FAA determined that 58 small part 121 carriers would be impacted by this amendment. Two of these were estimated to incur annualized costs greater than 1 percent of annual revenues. A step the FAA took to significantly lower compliance costs on the carriers, including small entities, was to lengthen the time period between required inspections from 5 years to 7 years. This longer period was expected to lower compliance costs to operators by enabling them to schedule the required inspections during heavy maintenance checks. To further assist carriers in complying with the requirements, the FAA also issued an advisory circular to provide guidance for complying with a damage-tolerance supplemental structural inspections program (DT-SSIP).

Finding of this 5 U.S.C. section 610 analysis and review: A review of the petition for exemption records indicated that no one sought relief from these requirements since they were implemented. The FAA took actions to minimize the costs on small entities to the extent that it thought was possible and still meet the objectives of the Aging Aircraft Safety Act. Based on the comments it received in response to this interim final rule, the FAA took further steps in amendment No. 121-284 (70 FR 5517).

Amendment No. 121-297
Amendment No. 121-297 introduced airplane weight and performance characteristics as the basis for collision avoidance system requirements to capture cargo airplanes weighing more than 33,000 pounds maximum certificated takeoff weight (MCTOW). This action was mandated by the Wendell H. Ford Aviation Investment and Reform Act (AIR-21), enacted April 5, 2000, to take measures to reduce the risk and collateral damage of a mid-air collision involving a cargo airplane.

Original FAA finding: The FAA found that this amendment would have a SEIOSNOSE. The FAA identified 24 all cargo turbine-powered fleet operators who would be impacted by this amendment. Eleven, or roughly 46 percent, of these operators were determined to be significantly impacted. The FAA identified seven all cargo piston-powered operators who would be impacted by this amendment. Six, or 86 percent, of these operators were determined to be significantly impacted. The Agency believed that a compliance cost of 2 percent or less of a firm’s revenue was affordable. The costs to these firms exceeded this level. Due to the congressional mandate, the FAA was limited in what actions it could take to mitigate the impact on small entities. The Agency was able, however, to reduce the TCAS requirement from TCAS II to TCAS I for piston-powered airplanes to mitigate some of the costs to operators of those airplanes. It also eliminated the requirement for TCAS I in turbine-powered airplanes of less than 33,000 pounds maximum certificated takeoff weight. Finally, the FAA set the rule’s compliance date at the latest date allowed by the congressional mandate. Taken together, these measures were viewed as the upper level of the extent to which the FAA could mitigate cost impacts on small entities and still achieve the goals of the legislation.

Finding of this 5 U.S.C. section 610 analysis and review: Between April 2003 and January 2005, the FAA received five petitions from small entities for exemption from the TCAS requirements of this amendment. Two of these exemptions were denied because they sought relief strictly on the basis of economic impact and did not differ in any material way from other similar requests that had been denied in the past for airplanes involved in non-cargo operations. Three exemptions were granted because they were found to be necessary to ensure that needed services in Alaska would not be disrupted and doing so would not adversely impact safety. The original FAA finding of a SEIOSNOSE held true but should be fully diminished as the compliance date is 4 years past.

Amendment No. 121-340
Amendment No. 121-340 established a performance-based set of requirements that set acceptable flammability exposure values in tanks most prone to explosion or required the installation of an ignition mitigation means in an affected fuel tank.

Original FAA finding: The FAA determined that this amendment would have a SEIOSNOSE. The FAA identified 14 small air carriers that would be affected. Of these 14, 3 were found to be affected significantly. This determination was based on whether or not the cost to the carrier was equal to or exceeded 2 percent of its revenue. Three carriers met this criterion. The FAA considered several alternative approaches to this amendment to ease the burden on small carriers. The Agency concluded that this amendment provided the best balance of cost and benefits for the United States society. The FAA argued, further, that the risk is largely the same, regardless of whether the plane was flown by a large or small entity.

Finding of this 5 U.S.C. section 610 analysis and review: This amendment still has a SEIOSNOSE. The FAA will need to make a determination regarding the continued need for this regulation.

14 CFR part 125 - Certification and Operations: Airplanes Having a Seating Capacity of 20 or More Passengers or a Maximum Payload Capacity of 6,000 Pounds or More; and Rules Governing Persons on Board Such Aircraft
- Section 610: The Agency conducted a Section 610 Review of this part and found part 125 itself and five amendments that could have a SEIOSNOSE.
Part 125

Part 125 provides a single set of certification and operation rules for U.S.-registered airplanes, which have a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when used in any non-common (private) carriage operation.

Original FAA finding: The economic impacts of part 125 were estimated and documented by a study conducted by the Aerospace Corporation during December 1978 and January 1979 and reflected data available at that time. While their study did not specifically address the economic impact on small entities, their estimate of $88.28 million in first year total costs (in 1979 dollars, $222.2 million in current dollars), and $20.45 million in recurring annual costs (in 1979 dollars, $51.12 million in current dollars), it can reasonably be concluded that this rule did have a SEIOSNOSE.

Finding of this 5 U.S.C. section 610 analysis and review: A review of petitions for exemption from part 125 revealed that relief was generally sought from safety requirements such as collision avoidance systems. The FAA denied these requests because petitioners were never able to provide convincing arguments for why it would be in the public interest to grant them the requested relief. There was no evidence in the record to suggest that part 125 continues to have a SEIOSNOSE.

Amendment No. 125-10

Amendment No. 125-10 required digital flight data recorders and cockpit voice recorders (CVRs) to be installed in a broad category of airplanes and rotorcraft operated by air carriers and commuters, as well as, in selected aircraft operated in general aviation.

Original FAA finding: The FAA determined that this amendment could have a SEIOSNOSE. In order to mitigate the cost to some extent, the FAA modified its proposal to extend the compliance period from 2 years to 3 years. Given that this rule action was in response to a congressional mandate, the Agency was constrained to take sufficient action to ensure the NTSB had available data in needed for accident investigation purposes if acquiring that data cost to some extent, the FAA modified its proposal to extend the compliance period from 2 years to 3 years. Given that this rule action was in response to a congressional mandate, the Agency was constrained to take sufficient action to ensure the NTSB had available data in needed for accident investigation purposes if acquiring that data was technologically feasible.

Finding of this 5 U.S.C. section 610 analysis and review: Since this rulemaking was promulgated over 20 years ago, the cost impact has diminished substantially and has approached if not reached a negligible level. This analysis concludes that there is no longer a SEIOSNOSE as a result of this amendment.

Amendment No. 125-11

This amendment required the installation and use of a Traffic Alert and Collision Avoidance System (TCAS) in large transport-type airplanes and certain turbine-powered smaller airplanes. The Airport and Airway Safety and Capacity Expansion Act of 1987 directed the FAA to require the installation and operation of TCAS in commercial aircraft flying in the United States.

Original FAA finding: The FAA found that this amendment would have a SEIOSNOSE.

Finding of this 5 U.S.C. section 610 analysis and review: The FAA estimated the average total cost impact of this amendment on part 125 operators at $96,000 in 1989 dollars ($151,000 in current dollars) annualized over the period of 1989 to 2003. The FAA concluded, however, that there were no viable alternatives for small air carriers to adopt that would reduce the cost of compliance and still achieve the levels of protection sought by this amendment. This amendment implemented a congressional mandate, thereby limiting the discretion the Agency had and still has in mitigating the burden on small entities. Moreover, a review of the petition for exemption records indicates that the Agency has been consistent in denying requests for relief from this requirement on safety grounds. This analysis finds, therefore, that a SEIOSNOSE may still exist and the FAA will need to make a determination regarding the continued need for this regulation.

Amendment No. 125-36

Amendment No. 125-36 was part of a larger action that required design approval holders of certain turbine-powered transport category airplanes, and any subsequent modifications to these airplanes, to substantiate that the design of the fuel tank system precluded the existence of ignition sources within the airplane fuel tanks. It also required developing and implementing maintenance and inspection instructions to assure the safety of the fuel tank system. For new type designs, this amendment also required demonstrating that ignition sources could not be present in fuel tanks when failure conditions were considered, identifying any safety-critical maintenance actions, and incorporating a means either to minimize development of flammable vapors in fuel tanks or to prevent catastrophic damage if ignition did occur.

Original FAA finding: The FAA determined that this amendment would have a SEIOSNOSE. The FAA identified 143 carriers that would be impacted by this amendment. Of the 143 impacted air carriers, 107 were small airlines.

Finding of this 5 U.S.C. section 610 analysis and review: In order to mitigate the costs to the extent possible without reducing the effectiveness of the amendment, the FAA extended operator compliance time from 18 months to 36 months. In addition, the Agency determined that fewer fuel tank re-inspections would be needed than originally estimated in the NPRM. The net result of these modifications was to reduce the overall cost impact from $172.2 million to $126.6 million (in 2000 dollars), a 26.4 percent reduction. The FAA was not able to identify any other alternatives that could reduce the cost impact to small entities and still achieve the desired safety results. A review of the petition for exemption history revealed that no relief was sought from this amendment since its issuance.

Amendment No. 125-41

Amendment No. 125-41 was part of a larger rulemaking action that introduced airplane weight and performance characteristics as the basis for collision avoidance system requirements to capture cargo airplanes weighing more
than 33,000 pounds maximum certificated takeoff weight (MCTOW). This action was mandated by the Wendell H. Ford Aviation Investment and Reform Act (AIR-21) enacted April 5, 2000, to take measures to reduce the risk and collateral damage of a mid-air collision involving a cargo airplane.

**Original FAA finding:** The FAA found that this amendment would have a SEIOSNOSE. The FAA identified 24 all-cargo turbine-powered fleet operators who would be impacted by this amendment. Eleven, or roughly 46 percent, of these operators were determined to be significantly impacted. The FAA identified seven all-cargo, piston-powered operators who would be impacted by this amendment. Six, or 86 percent, of these operators were determined to be significantly impacted. The Agency believed that a compliance cost of 2 percent or less of a firm’s revenue was affordable. The costs to these firms exceeded that level. Due to the congressional mandate, the FAA was limited in what actions it could take to mitigate some of the costs to operators of those airplanes. It also eliminated the requirement for TCAS I in turbine-powered airplanes of less than 33,000 pounds maximum certificated takeoff-weight. Finally, the FAA set the rule’s compliance date at the latest date allowed by the congressional mandate. Taken together, these measures were viewed as the upper level of the extent to which the FAA could mitigate cost impacts on small entities and still achieve the goals of the legislation.

**Finding of this 5 U.S.C. section 610 analysis and review:** Between April 2003 and January 2005, the FAA received five petitions from small entities for exemption from the TCAS requirements of this amendment. Two of these exemptions were denied because they sought relief strictly on the basis of economic impact and did not differ in any material way from other similar requests that had been denied in the past for airplanes involved in non-cargo operations. Three exemptions were granted because they were found to be necessary to ensure that needed services in Alaska would not be disrupted and doing so would not adversely impact safety. The original FAA finding of a SEIOSNOSE holds true but should be fully diminished as the compliance date is 4 years past.

**Amendment No. 125-55**

Amendment No. 125-55 established a performance-based set of requirements that set acceptable flammability exposure values in tanks most prone to explosion or required the installation of an ignition mitigation means in an affected fuel tank.

**Original FAA finding:** The FAA determined that this amendment would have a SEIOSNOSE. The FAA identified 14 small air carriers that would be affected. Of these 14, three were found to be affected significantly. This determination was based on whether or not the cost to the carrier was equal to or exceeded 2 percent of its revenue. Three carriers met this criterion. The FAA considered several alternative approaches to this amendment to ease the burden on small carriers. The Agency concluded that this amendment provided the best balance of cost and benefits for the United States society. The FAA argued, further, that the risk is largely the same, regardless of whether the plane was flown by a large or small entity.

**Finding of this 5 U.S.C. section 610 analysis and review:** This amendment still has a SEIOSNOSE. The FAA will need to make a determination regarding the continued need for this regulation.

14 CFR part 129 - Operations: foreign air carriers and foreign operators of U.S.-registered aircraft engaged in common carriage

- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE because this part does not impact domestic entities
- 14 CFR part 153 - Airport operations
- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
- 14 CFR part 154 - Federal aid to airports
- Section 610: The Agency conducted a Section 610 Review of this part and found there have not been any amendments to part 154 since the Regulatory Flexibility Act was enacted.
- 14 CFR part 152 - Airport aid program
- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
- 14 CFR part 155 - Release of airport property from surplus property disposal restrictions
- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
- 14 CFR part 156 - State block grant pilot program
- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.

**Year 2 (2009) List of rules analyzed and summary of results**

14 CFR part 133 - Rotorcraft external-load operations

- Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
- 14 CFR part 135 - Operating requirements: Commuter and on demand operations and rules governing persons on board such aircraft
- Section 610: The Agency conducted a Section 610 Review of this part and found three amendments that could have a SEIOSNOSE.

**Amendment No. 135-42**

Amendment No. 135-42 revised the operating rules for air taxi and commercial operators by requiring that all turbine-powered (rather than just turbojet) airplanes with 10 or more seats be equipped with an approved ground proximity warning system.

**Original FAA finding:** The FAA certified that this amendment may have a SEIOSNOSE because the annual cost that would be imposed on small part 135 operators to install a ground proximity warning system on turbine-powered
airplanes would exceed the significant impact criteria in place when the rule was promulgated. The FAA concluded after analysis, however, that there were no viable alternatives to the provisions of the amendment and issued the rule in final.

Finding of this 5 U.S.C. section 610 analysis and review: Between the period of January 2003 and December 2008, the period beyond the analysis period of this final rule, there were no cases of affected parties seeking relief from the provisions of the amendment. The original finding of a possible SEIOSNOSE should be fully diminished, as the compliance date was 16 years ago.

Amendment No. 135-66 (61 FR 69302)
Amendment No. 135-66 (61 FR 69302) was one part of an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate to provide the substantial restoration of natural quiet and experience in Grand Canyon National Park (GCNP).

Original FAA finding: The FAA found that this amendment would have a SEIOSNOSE. This amendment affected commercial sightseeing operators conducting flight over the GCNP under part 135. This amendment was unique in that most of the economic impact fell upon small businesses.

Finding of this 5 U.S.C. section 610 analysis and review: Consistent with the spirit and intent of the RFA, the FAA chose a regulatory alternative that tailored most requirements to the size of the firm. In doing so, the Agency believed that the regulatory requirements in this amendment provided the least burdensome way for small entities to accomplish the goals of the final rule-restore natural quiet and preserve the opportunity for the public to enjoy air tours at the GCNP. In addition, the FAA proposed to take further action that would phase out noisier aircraft from air tour service prior to the 2008 deadline imposed by the statute.

Amendment No. 135-107
Amendment No. 135-107 set safety and oversight rules for a broad variety of sightseeing and commercial air tour flights. The intended effect of this amendment was to standardize requirements for air tour operators and consolidate air tour safety standards within part 135.

Original FAA finding: The FAA determined that there would be a SEIOSNOSE. The FAA estimated that part 135 would incur 82 percent of the costs of the rule. The FAA noted that helicopter operators would incur much higher costs than airplane operators due to the requirement to equip their aircraft with floats if they conducted operations over water and to the requirement to prepare helicopter performance plans. The FAA believed, however, that the only way to accomplish the commercial air tour safety needs for helicopter operations was to impose the higher standards on those entities.

Finding of this 5 U.S.C. section 610 analysis and review: A review of the petition for exemption and petition for rulemaking records since this amendment was issued found that no entities sought relief from the float equipage requirement. The cost impacts from the original estimates remain valid. However, absent requests for relief from the regulated community, the notion espoused by the FAA that a number of options were available to operators to avoid or minimize the costs, may have merit. The FAA noted, for example, that some operators may alter their air tour routes to avoid the compliance costs. The Agency added that others may elect to only equip part of their fleet to ensure the affordability to their business. This analysis concludes that there continues to be a SEIOSNOSE, but there is no evidence to suggest that small businesses are suffering a hardship.

14 CFR part 136 - Commercial air tours and national parks air tour management
• Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
14 CFR part 137 - Agricultural aircraft operations
• Section 610: The Agency conducted a Section 610 Review of this part and found no amendments with a SEIOSNOSE.
14 CFR part 139 - Certification of airports
• Section 610: The Agency conducted a Section 610 Review of this part and found one amendment with a SEIOSNOSE.

Amendment No. 139-94
Amendment No. 139-94 established certification requirements for airports serving scheduled air carrier operations in aircraft designed for more than 9 passenger seats but less than 31 passenger seats.

Original FAA finding: The FAA determined that this amendment would have a SEIOSNOSE. The FAA stated that under SBA’s definition of a “small” public entity, there were more than 200 small entity airports that would be affected by this rule action. For each small entity, the FAA estimated the average initial hours required to set up a recordkeeping system, as mandated by this amendment, would be 70 hours and expected a continuing paperwork requirement of about 90 hours annually. Having sought possible alternatives to mitigate the costs on small entities, the FAA, in consultation with industry, concluded that there existed a need to require at least some minimum level of both risk reduction and accident mitigation measures at airports during operations of smaller air carrier airplanes. The FAA believed that the chosen alternative was the only one that was relatively affordable and would achieve the safety objectives of the rule. The Agency recognized the need, however, to provide some flexibility in the implementation of certain safety measures at airports with infrequent air carrier service or where local resources were severely limited. The FAA added that other measures at its disposal to mitigate impacts on small airport operators included its authority to permit alternative means of compliance to accommodate local conditions and the use of its statutory authority to grant exemptions from part 139 requirements, as appropriate. Other methods the FAA identified as ways small entity airports could mitigate the economic impact of this amendment included Airport Improvement Program (AIP) funding, which was available for certain capital expenditures that could be required by this amendment. Examples of these requirements were firefighting equipment, airport marking, and signs. Another potential source
Federal Highway Administration

SECTION 610 AND OTHER REVIEWS

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Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of title 23 of the U.S.C. Section 145 of title 23 expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for the construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 2 (fall 2009) List of rules that will be analyzed during the next year

23 CFR part 1 - General
23 CFR part 140 - Reimbursement
23 CFR part 172 - Administration of engineering and design-related service contracts
23 CFR part 176 - Credit assistance for Surface Transportation projects
23 CFR part 190 - Incentive payments for controlling outdoor advertising on the Interstate system
23 CFR part 192 - Drug offender’s driver’s license suspension
23 CFR part 200 - Title VI program and related statutes-implementation and review procedures
23 CFR part 230 - External programs
23 CFR part 260 - Education and training programs

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SECTION 610 AND OTHER REVIEWS

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**Year 1 (fall 2008) List of rules analyzed and a summary of results**

#### 49 CFR part 372, subpart A - Exemptions
- Section 610: There is no SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FMCSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 381 - Waivers, exemptions, and pilot programs
- Section 610: There is no SEIOSNOSE. No small entities are affected.
- General: These regulations are cost effective and impose the least burden. FMCSA’s plain language review of these rules indicates no need for substantial revision.

### NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
#### SECTION 610 AND OTHER REVIEWS

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**Year 1 (fall 2008) List of rules analyzed and a summary of results**

#### 49 CFR part 571.223 - Rear impact guards
- Section 610: No SEIOSNOSE. No economically significant impact on small business.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 571.224 - Rear impact protection
- Section 610: No SEIOSNOSE. No economically significant impact on small business.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 571.225 - Child restraint anchorage systems
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 571.301 - Fuel system integrity
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 571.302 - Flammability of interior materials
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

#### 49 CFR part 571.303 - Fuel system integrity of compressed natural gas vehicles
- Section 610: No SEIOSNOSE. No small entities are affected.
• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.304 - Compressed natural gas fuel container integrity

• Section 610: No SEIOSNOSE. No small entities are affected.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.305 - Electric-powered vehicles: electrolyte spillage and electrical shock protection

• Section 610: No SEIOSNOSE. No small entities are affected.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.401 - Interior trunk release

• Section 610: No SEIOSNOSE. No small entities are affected.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.403 - Platform lift systems for motor vehicles

• Section 610: No SEIOSNOSE. No economically significant impact on small business.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.404 - Platform lift installations in motor vehicles

• Section 610: No SEIOSNOSE. No economically significant impact on small business.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 571.500 - Low-speed vehicles

• Section 610: No SEIOSNOSE. No economically significant impact on small business.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 575 - Consumer information

• Section 610: No SEIOSNOSE. No small entities are affected.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

49 CFR part 579 - Reporting of information and communications about potential defects

• Section 610: No SEIOSNOSE. No small entities are affected.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA’s plain language review of these rules indicates no need for substantial revision.

Year 2 (fall 2009) List of rules that will be analyzed during the next year

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**FEDERAL RAILROAD ADMINISTRATION (Continued)**

#### SECTION 610 AND OTHER REVIEWS

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#### Year 1 (Fall 2008) List of rules analyzed and a summary of results

- **49 CFR part 200 - Informal rules of practice for passenger service**
  - Section 610: There is no SEIOSNOSE.
  - General: The rule prescribes procedures under which applications are received and heard and by which rules and orders are issued primarily affecting the Class I railroads and Amtrak, none of which are small entities. FRA’s plain language review of this rule indicates no need for substantial revision.

- **49 CFR part 201 - Formal rules of practice for passenger service**
  - Part 201 was removed from the CFR on May 27, 2009.

#### Year 2 (Fall 2009) List of rule(s) that will be analyzed during next year

- **49 CFR part 207 - Informal rules of practice for passenger safety**
- **49 CFR part 209 - Railroad safety enforcement procedures**
- **49 CFR part 211 - Rules of practice**
- **49 CFR part 215 - Railroad freight car safety standards**
- **49 CFR part 238 - Passenger equipment safety standards**
- **49 CFR part 256 - Passenger assistance for railroad passenger terminals**

### FEDERAL TRANSIT ADMINISTRATION

#### SECTION 610 AND OTHER REVIEWS

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<td>49 CFR part 665</td>
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#### Year 1 (Fall 2008) List of rules analyzed and summary of results

- **49 CFR part 604 - Charter service**
  - Section 610: The Agency has determined that the rule will not have a significant effect on a substantial number of small entities.
  - General: This rule clarifies and sets forth provisions to protect private charter operators from unfair competition by public transit agencies. The rule was drafted using plain language techniques.

- **49 CFR part 661 - Buy America**
  - Section 610: The Agency has determined that the rule will not have a significant effect on a substantial number of small entities.
  - General: This rulemaking amends FTA’s Buy America requirements by adding bi-metallic rail to the list of traction power equipment. The rule was drafted using plain language techniques.

#### Year 2 (Fall 2009) List of rules that will be analyzed during the next year

- **49 CFR part 605 - School bus operations**
- **49 CFR part 633 - Program management oversight**
- **49 CFR part 665 - Bus testing**

### MARITIME ADMINISTRATION

#### SECTION 610 AND OTHER REVIEWS

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SECTION 610 AND OTHER REVIEWS

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Year 1 (fall 2008) List of rules analyzed and a summary of the results

46 CFR part 201 - Rules of practice and procedure
- Section610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 202 - Procedures relating to review by Secretary of Transportation of actions by Maritime Subsidy Board
- Section610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 203 - Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936
- Section610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 204 - Claims against the Maritime Administration under the Federal Tort Claim Act
- Section610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 205 - Audit appeals; policy and procedure
- Section610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

Year 2 (fall 2009) List of rules that will be analyzed during the next year

46 CFR part 221 - Regulated transactions involving documented vessels and other maritime interests
46 CFR part 232 - Uniform financial reporting requirements

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)  
SECTION 610 AND OTHER REVIEWS

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Year 1 (fall 2008) List of rules with ongoing analysis

49 CFR part 178 - Specifications for packaging

Year 2 (fall 2009) List of rules that will be analyzed during the next year

49 CFR part 178 - Specifications for packagings
49 CFR part 179 - Specifications for tank cars
49 CFR part 180 - Continuing qualification and maintenance of packagings
## DOT

### RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION (RITA)

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**Year 1 (fall 2008) List of rules with ongoing analysis**

14 CFR part 241 - Uniform system of accounts and reports for large certificated air carriers, form 41

**Year 2 (fall 2009) List of rules that will be analyzed during the next year**

14 CFR part 217 - Reporting traffic statistics by foreign air carriers in civilian scheduled, charter, and nonscheduled services

14 CFR part 241 - Uniform system of accounts and reports for large certificated air carriers, Schedule T-100

### SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

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**Year 1 (fall 2008) List of rules with ongoing analysis**

33 CFR part 401 - Seaway Regulations and Rules
33 CFR part 402 - Tariff of Tolls
33 CFR part 403 - Rules of Procedure of the Joint Tolls Review Board

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Federal Aviation Administration—Long-Term Actions

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Federal Aviation Administration—Completed Actions

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<td>+Flight Crewmember Duty Limitations and Rest Requirements</td>
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Federal Motor Carrier Safety Administration—Proposed Rule Stage

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<td>+Unified Registration System</td>
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<td>+Drivers of Commercial Vehicles: Restricting the Use of Cellular Phones (Section 610 Review)</td>
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<td>+National Registry of Certified Medical Examiners</td>
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National Highway Traffic Safety Administration—Final Rule Stage

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Federal Railroad Administration—Proposed Rule Stage

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<td>Hours of Service—Passenger Train Employees (Rulemaking Resulting From a Section 610 Review)</td>
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Federal Railroad Administration—Final Rule Stage

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Pipeline and Hazardous Materials Safety Administration—Final Rule Stage

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<td>258</td>
<td>Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries</td>
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Maritime Administration—Proposed Rule Stage

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<td>Cargo Preference—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties</td>
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+ DOT-designated significant regulation

Department of Transportation (DOT) Proposed Rule Stage

Office of the Secretary (OST)

235. USE OF THE SEAT–STRAPPING METHOD FOR CARRYING A WHEELCHAIR ON AN AIRCRAFT

**Legal Authority:** The Department has authority and responsibility under the ACAA (49 USC 41705) to ensure that US and foreign air carriers do not discriminate against air travelers on the basis of disability.

**Abstract:** This rulemaking would address whether or not carriers should be allowed to utilize the seat-strapping method to stow a passenger’s wheelchair in the aircraft cabin.
### Timetable:

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<td>NPRM</td>
<td>04/00/10</td>
<td>FR 21858</td>
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**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Email:** blane.workie@ost.dot.gov

**RIN:** 2105–AD87

### 236. +ENHANCING AIRLINE PASSENGER PROTECTIONS—PART 2

**Legal Authority:** 49 USC 41712; 49 USC 40101(a)(4); 49 USC 40101(a)(9); 49 USC 41702

**Abstract:** This rulemaking would enhance airline passenger protections by addressing the following areas: (1) Contingency plans for lengthy tarmac delays; (2) reporting of tarmac delay data; (3) customer service plans; (4) notification to passengers of flight status changes; (5) inflation adjustment for denied boarding compensation; (6) alternative transportation for passengers on canceled flights; (7) opt-out provisions (e.g. travel insurance); (8) contract of carriage provisions; (9) baggage fees disclosure; and (10) full fare advertising.

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<tr>
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<td>FR 21858</td>
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**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Email:** blane.workie@ost.dot.gov

**RIN:** 2105–AD92

### 237. PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

**Legal Authority:** 40 USC 102; 40 USC 301; 40 USC 322; 40 USC 5331; 40 USC 20140; 40 USC 31306; 40 USC 31306; 40 USC 54101

**Abstract:** This rulemaking would propose to amend certain provisions of its drug and alcohol testing procedures that will address collection and testing of urine specimens. These changes would affect the role and standards applying to collectors and Medical Review Officers (MROs). The proposed changes are intended to create consistency with requirements established by the U.S. Department of Health and Human Services.

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**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Habib Azarsina, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Email:** habib.azarsina@dot.gov

**RIN:** 2105–AD95

**BILLING CODE 4910—9X—S**

### Department of Transportation (DOT)

Federal Aviation Administration (FAA)

#### 238. +QUALIFICATION, SERVICE, AND USE OF CREWMEMBERS AND AIRCRAFT DISPATCHERS

**Legal Authority:** 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44912; 49 USC 46105

**Abstract:** This rulemaking would amend the regulations for crewmember and dispatcher training programs in domestic, flag, and supplemental operations. The rulemaking would enhance traditional training programs by requiring the use of flight simulation training devices for flight crewmembers and including additional training requirements in areas that are critical to safety. The rulemaking would also reorganize and revise the qualification and training requirements. The changes are intended to contribute significantly to reducing aviation accidents.

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**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Nancy L Claussen, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591

**Phone:** 202 267–8166

**Email:** nancy.claussen@faa.gov

**RIN:** 2120–AJ00

### 239. +AIR AMBULANCE AND COMMERCIAL HELICOPTER OPERATIONS; SAFETY INITIATIVES AND MISCELLANEOUS AMENDMENTS

**Legal Authority:** 49 USC 106(g); 49 USC 1155; 49 USC 40101 to 40103; 49 USC 40120; 49 USC 41706; 49 USC 41721; 49 USC 44101; 49 USC 44106; 49 USC 44111; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

**Abstract:** This rulemaking would change equipment and operating requirements for commercial helicopter operations, including many specifically for helicopter air ambulance operations. This rulemaking is necessary to increase crew, passenger, and patient safety. The intended effect is to implement the National Transportation...
240. +FLIGHT AND DUTY TIME LIMITATIONS AND REST REQUIREMENTS

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 41706; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45101; 49 USC 45102; 49 USC 45103; 49 USC 45104; 49 USC 45105; 49 USC 46105

Abstract: This rulemaking would establish one set of flight time limitations, duty period limits, and rest requirements for pilots. The rulemaking is necessary to ensure that pilots have sufficient rest to perform their duties. The objective of the rule is to contribute to and improve aviation safety. This rulemaking is related to the following:

an NPRM (RIN 2120-AF63), and a Withdrawal (RIN 2120-AJ93).

241. +OPERATION AND CERTIFICATION OF SMALL UNMANNED AIRCRAFT SYSTEMS (SUAS)

Legal Authority: 49 USC 44701

Abstract: This rulemaking would enable small unmanned aircraft to safely operate in limited portions of the national airspace system (NAS). This action is necessary because it addresses the novel legal or policy issues about minimum safety parameters for operating recreational remote control model and toy aircraft in the NAS. The intended effect of this action is to develop requirements and standards to ensure that risks are adequately mitigated, such that safety is maintained for the entire aviation community.

243. +AUTOMATICA DEPENDENT SURVEILLANCE—BROADCAST (ADS–B) EQUIPAGE MANDATE TO SUPPORT AIR TRAFFIC CONTROL SERVICE

Legal Authority: 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 47 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531; 49 USC 106(g); Articles 12 and 29 of 61 stat.1180; 49 USC 46507

Abstract: This rulemaking would add equipage requirements and performance standards for Automatic Dependent Surveillance—Broadcast (ADS–B) Out avionics on aircraft operating in specified classes of airspace within the U.S. National Airspace System. This action facilitates the use of ADS–B for aircraft surveillance by FAA and Department of Defense (DOD) air traffic controllers to safely and efficiently accommodate aircraft operations and the expected increase in demand for air transportation. This rule would also provide aircraft operators with a platform for additional flight applications and services.

Department of Transportation (DOT) Federal Aviation Administration (FAA)
## 244. COMMUTER OPERATIONS IN VERY LIGHT JETS (VLJS)

### Legal Authority:
- 49 USC 106(g); 49 USC 40115; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44705; 49 USC 44709; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 4605; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 4712; 49 USC 47508; 49 USC 47528 to 47531; 49 USC 44702; 49 USC 44904; 49 USC 46507

### Abstract:
This rulemaking would establish a rule to allow passenger-carrying commuter operations to be conducted under the provisions of part 135 using multiengine turbojets, certificated under either part 23 or part 25, configured with 9 or fewer passenger seats. The rulemaking would allow multiengine turbojet operators to provide commuter service to the traveling public, thus accommodating new technologies and a new generation of turbojet airplanes that otherwise would not be allowed in part 135 commuter service. Since 1995, turbojets used in scheduled operations must operate under the provisions of part 121. This current rulemaking resulted, in part, from recommendations from the Aviation Rulemaking Committee for parts 14 CFR 135/125 and covers pilot crew, equipment, training, and dispatch requirements for the safe operation of this new generation airplane. The previous internet report listed this item as an NPRM with a scheduled publication date of 10/20/09. FAA is now reconsidering what action to take with respect to this rulemaking.

### Timetable:
- **Next Action Undetermined**
- **Regulatory Flexibility Analysis Required:** Yes

### Regulatory Flexibility Analysis
- **Agency Contact:** Vincent Capezzuto, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591
- **Email:** vincent.capezzuto@faa.gov
- **Phone:** 202 385–8637

### RIN:
- **2120–AI92**

### Completed Actions

#### Department of Transportation (DOT)
Federal Aviation Administration (FAA)

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## 245. ACTIVATION OF ICE PROTECTION

### Legal Authority:
- 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46015; 49 USC 46306; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 4712; 49 USC 47508; 49 USC 47528 to 47531; 49 USC 44702; 49 USC 44904; 49 USC 46507

### Abstract:
This rulemaking would amend the regulations applicable to operators of certain airplanes used in air carrier service and certificated for flight in icing conditions. The standards would require either the installation of ice detection equipment or changes to the Airplane Flight Manual to ensure timely activation of the airframe ice protection system. This regulation is the result of information gathered from a review of icing accidents and incidents, and it is intended to improve the level of safety when airplanes are operated in icing conditions.

### Timetable:
- **Next Action Undetermined**
- **Regulatory Flexibility Analysis Required:** Yes

### Regulatory Flexibility Analysis
- **Agency Contact:** Jerry Ostronic, Air Carrier Operations Branch, AFS 220, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591
- **Email:** jerry.ostronic@faa.gov
- **Phone:** 202 267–9321

### RIN:
- **2120–AJ43**

### Completed Actions

#### Department of Transportation (DOT)
Federal Aviation Administration (FAA)

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## 246. FLIGHT CREWMEMBER DUTY LIMITATIONS AND REST REQUIREMENTS

### Legal Authority:
- 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44705; 49 USC 44709 to 44713; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 44904

### Abstract:
This rulemaking would withdraw a previously published NPRM (RIN 2120-AF63) that proposed to establish one set of duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The NPRM also proposed to establish consistent and clear duty period limitations, flight time limitations, and rest requirements for domestic, flag, supplemental, commuter and on-demand operations. This action is necessary, because (1) the NPRM is outdated and (2) there were many significant issues commenters raised.

### Completed Actions

#### Department of Transportation (DOT)
Federal Aviation Administration (FAA)

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### DOT—FAA

#### Timetable:

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#### Regulatory Flexibility Analysis

**Required:** Yes

**Agency Contact:** Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591

**Phone:** 202 267–9360

**Email:** larry.youngblut@faa.gov

**RIN:** 2120–AF93

**BILLING CODE:** 4910—13—S

#### Proposed Rule Stage

**Abstract:** This rulemaking would restrict the use of cell phones while operating a commercial motor vehicle. This rulemaking is in response to Federal Motor Carrier Safety Administration-sponsored studies that analyzed safety incidents and distracted drivers. This rulemaking would also address the National Transportation Safety Board’s “Most Wanted List” of safety recommendations.

#### Timetable:

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#### Regulatory Flexibility Analysis

**Required:** Undetermined

**Agency Contact:** Mike Huntley, Chief, Vehicle and Roadside Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Phone:** 202 366–9209

**Email:** michael.huntley@dot.gov

**RIN:** 2126–AB29

### DOT—FMCSA

#### Department of Transportation (DOT)

**Federal Motor Carrier Safety Administration (FMCSA)**

247. +UNIFIED REGISTRATION SYSTEM

**Legal Authority:** 104–88; 109 Stat. 803, 888 (1995); 49 USC 13908; PL 109–159, sec 4304

**Abstract:** This rulemaking would replace three current identification and registration systems: the US DOT number identification system, the commercial registration system, and the financial responsibility system, with an online Federal unified registration system (URS). This program would serve as a clearinghouse and depository of information on, and identification of, brokers, freight forwarders, and others required to register with the Department of Transportation. The Agency is revising this rulemaking to address amendments directed by the ICC Termination Act which the ICC Termination Act originally directed be merged under SAFETEA-LU. The replacement system for the Single State Registration System, which the ICC Termination Act would be removed from the National Registry. This action is in response to section 4116 of Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users.

#### Timetable:

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#### Regulatory Flexibility Analysis

**Required:** Yes

**Agency Contact:** Valerie Height, Management Analyst, Department of Transportation, Federal Motor Carrier Safety Administration, Office of Policy Plans and Regulation (MC–PRR), 1200 New Jersey Avenue, SE., Washington, DC 20590

**Phone:** 202 366–0901

**Email:** valerie.height@dot.gov

**RIN:** 2126–AA22

### Department of Transportation (DOT)

**Federal Motor Carrier Safety Administration (FMCSA)**

248. +DRIVERS OF COMMERCIAL VEHICLES: RESTRICTING THE USE OF CELLULAR PHONES (SECTION 610 REVIEW)

**Legal Authority:** PL 98–554

#### Timetable:

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#### Regulatory Flexibility Analysis

**Required:** Undetermined

**Agency Contact:** Mike Huntley, Chief, Vehicle and Roadside Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Phone:** 202 366–9209

**Email:** michael.huntley@dot.gov

**RIN:** 2126–AB29

### Department of Transportation (DOT)

**Federal Motor Carrier Safety Administration (FMCSA)**

249. +NATIONAL REGISTRY OF CERTIFIED MEDICAL EXAMINERS

**Legal Authority:** PL 109–59 (2005), sec 4116

**Abstract:** This rulemaking would establish training, testing, and certification standards for medical examiners responsible for certifying that interstate commercial motor vehicle drivers meet established physical qualifications standards; provide a database (or National Registry) of medical examiners that meet the prescribed standards for use by motor carriers, drivers, and Federal and State enforcement personnel in determining whether a medical examiner is qualified to conduct examinations of interstate truck and bus drivers; and require medical examiners to transmit electronically to FMCSA the name of the driver and a numerical identifier for each driver that is examined. The rulemaking would also establish the process by which medical examiners that fail to meet or maintain the minimum standards would be removed from the National Registry. This action is in response to section 4116 of Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users.

#### Timetable:

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#### Regulatory Flexibility Analysis

**Required:** Yes

**Agency Contact:** Dr. Mary D. Gunnels, Director, Office of Medical Programs, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590

**Phone:** 202 366–4001
250. +COMMERCIAL DRIVER’S LICENSE TESTING AND COMMERCIAL LEARNER’S PERMIT STANDARDS

Legal Authority: PL 109–347, sec 703; 49 USC 31102; PL 105–178, 112 stat 414 (1998); PL 99–570, title XII, 100 stat 3207 (1086); PL 102–240, sec 4007(a)(1), stat 1914, 2151; PL 109–59 (2005), sec 4122; 49 USC 31136

Abstract: This rulemaking would establish revisions to the commercial driver’s license knowledge and skills testing standards as required by section 4019 of TEA-21, implement fraud detection and prevention initiatives at the State driver licensing agencies as required by the SAFE Port Act of 2006, and establish new minimum Federal standards for States to issue commercial learner’s permits (CLPs), based in part on the requirements of section 4122 of SAFETEA-LU. In addition, to ensuring the applicant has the appropriate knowledge and skills to operate a commercial motor vehicle, this rule would establish the minimum information that must be on the CLP document and the electronic driver’s record. The rule would also establish maximum issuance and renewal periods, establish a minimum age limit, address issues related to a driver’s State of Domicile, and incorporate previous regulatory guidance into the Federal regulations. This rule would also address issues raised in the SAFE Port Act.

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Regulatory Flexibility Analysis Required: Yes

Agency Contact: Robert Redmond, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590
Phone: 202 366–5014
Email: robert.redmond@dot.gov

RIN: 2126–AB02

251. +CARGO INSURANCE FOR PROPERTY LOSS OR DAMAGE

Legal Authority: 49 USC 13906

Abstract: This final rule would eliminate the requirement for most for-hire motor carriers of property and freight forwarders to maintain cargo insurance in prescribed minimum amounts and file evidence of this insurance with FMCSA. Household goods motor carriers and household goods freight forwarders would continue to be subject to this cargo insurance requirement. This rule was split from RIN 2126-AA22.

Timetable:

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Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dorothea Gyrmes, Lead Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590
Phone: 202 385–2405
Email: dorothea.gyrmes@dot.gov

RIN: 2126–AB21

252. +SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICO–DOMICILED MOTOR CARRIERS OPERATING IN THE UNITED STATES

Legal Authority: PL 107–87, sec 350; 49 USC 113; 49 USC 31136; 49 USC 31144; 49 USC 31502; 49 USC 504; 49 USC 5113; 49 USC 521(b)(5)(A)

Abstract: This rule would implement a safety monitoring system and compliance initiative designed to evaluate the continuing safety fitness of all Mexico-domiciled carriers within 18 months after receiving a provisional Certificate of Registration or provisional authority to operate in the United States. It also would establish suspension and revocation procedures for provisional Certificates of Registration and operating authority, and incorporate criteria to be used by FMCSA in evaluating whether Mexico-domiciled carriers exercise basic safety management controls. The interim rule included requirements that were not proposed in the NPRM but which are necessary to comply with the FY-2002 DOT Appropriations Act. On January 16, 2003, the Ninth Circuit Court of Appeals reversed this rule, along with two other NAFTA-related rules, to the agency, requiring a full environmental impact statement and an analysis required by the Clean Air Act. On June 7, 2004, the Supreme Court reversed the Ninth Circuit and remanded the case, holding that FMCSA is not required to prepare the environmental documents. FMCSA originally planned to publish a final rule by November 28, 2003. FMCSA will determine the next steps to be taken after enactment of any pending legislation authorizing cross border trucking.

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Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dominick Spataro, Chief, Borders Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590
Phone: 202 266–2995
Email: dom.spataro@dot.gov

RIN: 2126–AA35

Department of Transportation (DOT) Federal Motor Carrier Safety Administration (FMCSA)
253. INTERSTATE VAN OPERATIONS

Legal Authority: PL 109–59 (2005), Sec 4136

Abstract: This rulemaking would make the requirements concerning driver qualifications; driving of CMVs; parts and accessories necessary for safe operations; hours of service; and inspection, repair, and maintenance applicable to the operation of vehicles designed or used to transport between 9 and 15 passengers (including the driver) for direct compensation, in interstate commerce, regardless of the distance traveled. Currently the safety regulations apply to such vans when the vehicle is operated beyond a 75-air-mile radius of the driver’s work reporting location. This action is in response to SAFETEA-LU.

Timetable:

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Regulatory Flexibility Analysis Required: Yes

Agency Contact: Thomas Yager, Driver and Carrier Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590
Phone: 202 366–4325
Email: tom.yager@dot.gov
RIN: 2126–AA98
BILLING CODE 4910—EX—S

254. +EJECTION MITIGATION

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322; delegation of authority at 49 CFR 1.50

Abstract: This rulemaking would create a new Federal Motor Vehicle Safety Standard (FMVSS) for reducing occupant ejection. Currently, there are over 52,000 annual ejections in motor vehicle crashes, and over 10,000 ejected fatalities per year. This rulemaking would propose new requirements for reducing occupant ejection through passenger vehicle side windows. The requirement would be an occupant containment requirement on the amount of allowable excursion through passenger vehicle side windows. The SAFETEA-LU legislation requires that: “[t]he Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.” The SAFETEA-LU legislation also requires that if the Secretary determines that the subject final rule deadline cannot be met, the Secretary shall notify and provide an explanation to the Senate Committee on Commerce, Science and Transportation and the House of Representatives Committee on Energy and Commerce of the delay. On September 24, 2009, the Secretary provided appropriate notification to Congress that the final rule will be delayed until January 31, 2011.

Timetable:

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Regulatory Flexibility Analysis Required: Yes

Agency Contact: Louis Molino, Safety Standards Engineer, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590
Phone: 202 366–1833
Fax: 202 366–4329
Email: louis.molino@dot.gov
RIN: 2127–AK23

255. +PASSENGER CAR AND LIGHT TRUCK CORPORATE AVERAGE FUEL ECONOMY STANDARDS MYS 2012 TO 2016

Legal Authority: 49 USC 32902; delegation of authority at 49 CFR 1.50

Abstract: This rulemaking would address Corporate Average Fuel Economy (CAFE) standards for light trucks and passenger cars for model years 2012-2016. CAFE standards must be set at least 18 months prior to the start of a model year. The NPRM for this rulemaking was inadvertently published under RIN 2127-AK90.

Timetable:

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Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stephen Wood, Director, Rulemaking Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590
Phone: 202 366–2992
Email: steve.wood@nhtsa.dot.gov
RIN: 2127–AK50
BILLING CODE 4910—59—S
256. +HOURS OF SERVICE—
PASSenger TRAIN EMPLOYEES
(RULEMAKING RESULTING FROM A
SECTION 610 REVIEW)

Legal Authority: PL 110–432, div A,
122 stat 4848 et seq; Rail Safety
Improvement Act of 2008; sec 108(e)
(49 USC 21109)

Abstract: This rulemaking would
establish hours of service requirements
for train employees engaged in
commuter and intercity passenger rail
transport.

Timetable:

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<td>NPRM</td>
<td>10/00/10</td>
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</table>

Regulatory Flexibility Analysis
Required: Yes

Agency Contact: Kathryn Shelton,
Trial Attorney, Department of
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Administration, 1200 New Jersey
Avenue, SE, Washington, DC 20590
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RIN: 2130–AC15

257. +POSITIVE TRAIN CONTROL

Legal Authority: PL 110–432, sec 104
(Codified at 49 USC 20157); Rail Safety
Improvement Act of 2008

Abstract: This rulemaking would
regulate the submission of Positive
Train Control plans; the
implementation of the Positive Train
Control Systems; and the qualification,
installation, maintenance and use of the
these systems required under 49 USC
20157 or specifically required by the
Federal Railroad Administration.

Timetable:

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<th>Action</th>
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<td>07/21/09</td>
<td>74 FR 35950</td>
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<td>08/20/09</td>
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<td>Final Rule</td>
<td>01/15/10</td>
<td>75 FR 2598</td>
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<td>Final Rule Effective</td>
<td>03/16/10</td>
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<td>Final Rule; Response to Comments</td>
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Regulatory Flexibility Analysis
Required: Yes

Agency Contact: Kathryn Shelton,
Trial Attorney, Department of
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RIN: 2130–AC03

258. +HAZARDOUS MATERIALS:
REVISIONS TO REQUIREMENTS FOR
THE TRANSPORTATION OF LITHIUM
BATTERIES

Legal Authority: 49 USC 5101 et seq

Abstract: This rulemaking would
amend the Hazardous Materials
Regulations to comprehensively address
the safe transportation of lithium cells
and batteries. The intent of the
rulemaking is to strengthen the current
regulatory framework by imposing more
effective safeguards, including design
testing to address risks related to
internal short circuits, and enhanced
packaging, hazard communication, and
operational measures for various types
and sizes of lithium batteries in specific
transportation contexts. The rulemaking
responds to several recommendations
issued by the National Transportation
Safety Board.

Timetable:

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<td>01/11/10</td>
<td>75 FR 1302</td>
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Regulatory Flexibility Analysis
Required: Yes

Agency Contact: Kevin Leary,
Transportation Specialist, Department
of Transportation, Pipeline and
Hazardous Materials Safety
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RIN: 2137–AE44

259. +CARGO PREFERENCE—
COMPROMISE, ASSESSMENT,
MITIGATION, SETTLEMENT, AND
COLLECTION OF CIVIL PENALTIES

Legal Authority: PL 110–417

Abstract: This rulemaking would
establish part 383 of the Cargo
Preference regulations. This rulemaking
would cover Public Law 110-417,
Section 3511 National Defense
Authorization Act for FY 2009 statutory
changes to the cargo preference rules,
which have not been substantially
revised since 1971. The rulemaking
also would include compromise,
assessment, mitigation, settlement, and
collection of civil penalties.

Timetable:

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Regulatory Flexibility Analysis
Required: Yes

Agency Contact: Christine Gurland,
Department of Transportation, Maritime
Administration

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