

## Office of the Secretary of Transportation

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advisor to the Secretary, and final authority within the Department on questions of law. The Office of the General Counsel provides legal advice to the Secretary and secretarial offices, and supervision, coordination, and review of the legal work of the Chief Counsel Offices in the Department. The General Counsel participates with each Operating Administrator in the performance reviews of Chief Counsel. The General Counsel is responsible for retention of outside counsel, and for the approval of the hiring and promotion of departmental attorneys (other than in the Federal Aviation Administration). The General Counsel is also responsible for departmental regulation under statutes including the Air Carrier Access Act, statutes prohibiting unfair and deceptive practices in air transportation, the Americans with Disabilities Act, the Disadvantaged Business Enterprise program, and the Uniform Time Act. The General Counsel coordinates all international legal matters, and departmental participation in proceedings before other federal and state agencies. The General Counsel provides oversight of departmental litigation, regulation, legislation, Freedom of Information Act compliance, and administrative enforcement.

### § 1.27 Delegations to the General Counsel.

The General Counsel is delegated authority to:

- (a) Conduct all rulemaking proceedings under the Americans with Disabilities Act, the Disadvantaged Business Enterprise program, and the Uniform Time Act, as amended (15 U.S.C. 260 *et seq.*).
- (b) Determine the practicability of applying the standard time of any standard time zone to the movements of any common carrier engaged in interstate or foreign commerce and issue operating exceptions in any case in which the General Counsel determines that it is impractical to apply the standard time (49 CFR 71.1).
- (c) Issue regulations making editorial changes or corrections to the regulations of the Office of the Secretary.
- (d) Grant permission, under specific circumstances, to deviate from a policy

or procedure prescribed by the regulations of the Office of the Secretary (49 CFR part 9) with respect to the testimony of OST employees as witnesses in legal proceedings, the serving of legal process and pleadings in legal proceedings involving the Secretary or his Office, and the production of records of that Office pursuant to subpoena.

(e) Respond to petitions for rule-making or petitions for exemptions in accordance with 49 CFR 5.3, and notify petitioners of decisions in accordance with 49 CFR 5.3(d)(5).

(f) Provide counsel to employees on questions of conflict of interest covered by departmental regulations on employee responsibility and conduct.

(g) Coordinate the issuance of proposed Executive Orders and proclamations for transmittal to the Office of Management and Budget for action by the White House.

(h) Except with respect to proceedings relating to safety fitness of an applicant (49 U.S.C. 307), decide on requests to intervene or appear before courts (with the consent of the Department of Justice) or agencies to present the views of the Department, subject to the concurrence of the Secretary.

(i) Exercise the authority delegated to the Department by the Assistant Attorney General, Land and Natural Resources Division, in his order of October 2, 1970, to approve the sufficiency of the title to land being acquired by purchase or condemnation by the United States for the use of the Department. (See also Appendix 1 relating to delegations to Operating Administration Chief Counsel).

(j) Exercise the Secretary's authority under 28 U.S.C. 2672 and 28 CFR part 14, related to the administrative disposition of federal tort claims, for claims involving the Office of the Secretary.

(k) Compromise, suspend collection action on, or terminate claims of the United States that are referred to, or arise out of the activities of the Office of the Secretary of Transportation.

(l) Conduct coordination with foreign governments under section 118 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1428).

(m) Exercise review authority under 49 U.S.C. 41307 (related actions about foreign air transportation) delegated to

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the Secretary by the President in Executive Order 12597.

(n) Assist and protect consumers in their dealings with the air transportation industry and conduct all departmental regulation of airline consumer protection and civil rights pursuant to chapters 401 (General Provisions), 411 (Air Carrier Certificates), 413 (Foreign Air Transportation), 417 (Operations of Carriers), and 423 (Passenger Air Service Improvements) of title 49 U.S.C.

(o) Carry out the functions vested in the Secretary by 49 U.S.C. 40119(b) (Security and research and development activities), as implemented by 49 CFR part 15 (Protection of Sensitive Security Information), in consultation and coordination with the Office of Intelligence, Security and Emergency Response.

(p) Appear on behalf of the Department on the record in hearing cases, and initiate and carry out enforcement actions on behalf of the Department, under the authority transferred to the Department from the Civil Aeronautics Board as described in §§1.25 and 1.25a (delegations to and redelegations by the Under Secretary), and 1.99 (RITA). This includes the authority to compromise penalties under 49 U.S.C. 46301 (civil penalties); to issue appropriate orders, including cease and desist orders, under 49 U.S.C. 46101 (complaints and investigations); and to require the production of information, under 49 U.S.C. 41708, enter carrier property and inspect records, under 49 U.S.C. 41709, and inquire into the management of the business of a carrier under 49 U.S.C. 41711 (Air carrier management inquiry and cooperation with other authorities), as appropriate to the enforcement responsibilities. In the event that such an enforcement matter comes before the Secretary of Transportation for adjudication, the Deputy General Counsel shall advise the Secretary.

(q) Initiate and carry out enforcement actions relating to:

(1) Foreign airport security on behalf of the Department under 49 U.S.C. 44907; and

(2) The Consumer Credit Protection Act under section 4(a)(5) of the Civil Aeronautics Board Sunset Act of 1984

## 49 CFR Subtitle A (10–1–23 Edition)

(Pub. L. 98–443) [15 U.S.C. 1607(a)(4), 1681s(b)(5), 1691c(a)(5) and 16921(b)(5)].

(r) Administer 5 U.S.C. 552 (FOIA) and 49 CFR part 7 (Public Availability of Information) in connection with the records of the Office of the Secretary and issue procedures to ensure uniform departmental implementation of statutes and regulations regarding public access to records.

(s) Prepare reports by carriers on incidents involving animals during air transport pursuant to 49 U.S.C. 41721.

(t) Exercise authority vested in the Secretary by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321), to promulgate rules that adjust civil penalties with respect to aviation enforcement.

(u) In coordination with the Under Secretary, to carry out the duties of the Secretary under Executive Orders 12866 and 13563 to establish the value of statistical life in connection with assessing the costs and benefits of Departmental regulatory action.

(v) Approve the initiation of regulatory action, as defined in Executive Order 12866, by Secretarial offices and Operating Administrations in the event that the Deputy Secretary is absent or otherwise unavailable to exercise such authority (see §1.23(h)).

(w) Approve requests to reclassify rulemakings as non-significant under DOT procedures.

[81 FR 19819, Apr. 5, 2016, as amended at 84 FR 71717, Dec. 27, 2019; 86 FR 17294, Apr. 2, 2021]

### § 1.27a Delegations to the Career Deputy General Counsel.

The career Deputy General Counsel is delegated authority to:

(a) Serve as the Department’s Designated Agency Ethics Official in accordance with 5 CFR 2638.202;

(b) Serve as the Department’s Dispute Resolution Specialist pursuant to section 3(b) of the Alternative Dispute Resolution Act of 1996, Pub. L. 104–320, 5 U.S.C. App.; and

(c) Serve as the Department’s Chief FOIA Officer under 5 U.S.C. 552(j).