



# Federal Register

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**Monday,  
November 24, 2008**

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**Part X**

**Department of  
Transportation**

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**Semiannual Regulatory Agenda**

## 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 May 5, 2008 (73 FR 24728). The next one is scheduled for publication in the **Federal Register** in May 2009.

The Internet is the basic means for disseminating the Unified Agenda. The

complete Unified Agenda is available online at [www.reginfo.gov](http://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) decides 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 2008 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

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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.

**Dated:** September 16, 2008.

**Mary E. Peters,**  
*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.

#### *Federal Highway Administration (FHWA)*

(Name of contact person), Federal Highway Administration, 1200 New Jersey Avenue SE., Washington,

DC 20590.

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

(LaKisha Pearson), Federal Motor Carrier Safety Administration, 1200

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New Jersey Avenue SE., Washington, DC 20590.

*Federal Railroad Administration (FRA)*

Michelle Silva, Docket Clerk, Federal Railroad Administration, 1200 New Jersey Avenue SE., Room W31-109, Washington, DC 20590; telephone (202) 493-6030.

*National Highway Traffic Safety Administration (NHTSA)*

(Name of contact person), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Federal Transit Administration (FTA)*

(Name of contact person), Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Saint Lawrence Seaway Development Corporation (SLSDC)*

(Name of contact person), Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

(Name of contact person), Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE., Washington, DC 20590.

*Maritime Administration (MARAD)*

Kimberly Lewis, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366-5158.

*The Research and Innovative Technology Administration (RITA)*

(Name of contact person), The Research and Innovative Technology Administration (RITA), 1200 New Jersey Avenue SE., Washington, DC 20590.

*Federal Aviation Administration (FAA)*

To obtain a copy of a specific Federal Aviation Administration (FAA) regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address or telephone number listed; access the FAA's Regulations and Policies web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); call (202) 267-9680; or write to us at Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591.

*Office of the Secretary (OST)*

To obtain a copy of a specific regulatory document or to receive future copies of the Department's regulatory agenda write to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366-4723.

**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 - Theresa M. Rowlett, Regulatory Ombudsman, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0596.

NHTSA - Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-2992.

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

FTA - Linda Lasley, 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.

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

RITA - Robert Monniere, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-5498.

OST - Neil Eisner, Office of Regulation and Enforcement, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4723.

**Appendix C—Public Rulemaking Dockets**

All comments via the Internet are submitted through the Federal Docket Management System (FDMS) at the following address: <http://www.regulations.gov>. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced Internet address also allows the public to sign up to receive notification when certain documents 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. The Department initiated a 10-year review plan. We will begin a new 10-year review cycle with the fall 2008 agenda. 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

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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. FAA is using a different approach, which is described in part II to this appendix.

*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 Presidentially mandated 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 also will 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.

**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. Also, a Governmentwide list of section 610 reviews can be located through an online search at [www.reginfo.gov](http://www.reginfo.gov). For further information on the pending reviews, see the agenda entries.

**OFFICE OF THE SECRETARY  
SECTION 610 AND OTHER REVIEWS**

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 91 through 99 and 14 CFR parts 200 through 212 .....	2008	2009
2	48 CFR parts 1201 through 1253, and new parts and subparts .....	2009	2010
3	14 CFR parts 213 through 232 .....	2010	2011
4	14 CFR parts 234 through 254 .....	2011	2012
5	14 CFR parts 255 through 298 and 49 CFR part 40 .....	2012	2013
6	14 CFR parts 300 through 373 .....	2013	2014
7	14 CFR parts 374 through 398 .....	2014	2015
8	14 CFR part 399 and 49 CFR parts 1 through 11 .....	2015	2016
9	49 CFR parts 17 through 28 .....	2016	2017
10	49 CFR parts 29 through 39 and parts 41 through 89 .....	2017	2018

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

- 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

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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

**FEDERAL AVIATION ADMINISTRATION  
SECTION 610 REVIEW PLAN**

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 119 through 129 and parts 150 through 156 .....	2008	2009
2	14 CFR parts 133 through 139 and parts 157 through 169 .....	2009	2010
3	14 CFR parts 141 through 147 and parts 170 through 187 .....	2010	2011
4	14 CFR parts 189 through 198 and parts 1 through 16 .....	2011	2012
5	14 CFR parts 17 through 33 .....	2012	2013
6	14 CFR parts 34 through 39 and parts 400 through 405 .....	2013	2014
7	14 CFR parts 43 through 49 and parts 406 through 415 .....	2014	2015
8	14 CFR parts 60 through 77 .....	2015	2016
9	14 CFR parts 91 through 105 .....	2016	2017
10	14 CFR parts 417 through 460 .....	2017	2018

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 above. 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 10 (fall 2007) List of rules analyzed and summary of the results

14 CFR part 91 - General Operating and Flight Rules

- Section 610: The agency has conducted a 610 Review for this part and found three Amendments with SEIOSNOSE.

#### Amendment No. 91-203

- Amendment No. 91-203, pursuant to two legislative mandates, established requirements for an aircraft to have an operating transponder (basic transponder or Mode S transponder) with automatic altitude reporting equipment (Mode C transponder) when operating in the vicinity of certain primary airports for which a terminal radar approach control service area had been established, and in other airspace at and above 10,000 feet mean sea level. The Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100-223, December 30, 1987) required the FAA to issue regulations requiring the use of a transponder with Mode C capability in terminal airspace above a minimum altitude to be determined by the FAA. These revisions were intended to reduce the potential for midair collisions between aircraft under the control of air traffic control (ATC) and those that chose to operate without ATC assistance.

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*Original FAA finding:* Initially, the FAA found that this amendment would not have a SEIOSNOSE. However, during the NPRM phase of this rulemaking, the FAA received numerous comments suggesting that the proposed rules would significantly impact small businesses. The FAA received many comments from private airports, state aviation organizations, and private trade associations that indicated there would be a significant economic impact to private and public airports, as well as fixed based operators at those airports. Comments from businesses engaged in aerial agriculture and pest control, as well as aerial advertising, indicated that the proposed rules would have significant economic impact on these businesses also. Therefore, the FAA reconsidered its finding and agreed that the comments indicated that there would be a SEIOSNOSE.

To mitigate the impact on small entities, the FAA considered three alternative approaches to this rulemaking: (1) Delay implementation for a longer period; (2) establish different standards for small entities; and (3) design the airspace to minimize the impact. The FAA rejected the second and third approaches because it found them to be contrary to the legislative mandates, inequitable, and would result in a diminished safety benefit. The FAA recognized the economic benefit in delaying the implementation of this amendment for a longer period of time to allow for an increase in the supply of the required avionics that should lower the cost of this equipment. However, the FAA stated that the safety need was so great that it was necessary to move forward with the regulations. Therefore, instead of completely delaying the implementation date, the FAA implemented the regulations in two phases over a period of 18 months.

*Finding of this 5 U.S.C. section 610 analysis and review:* Although the FAA attempted to mitigate the economic impact on small entities by delaying the implementation period, compliance with the amendment still imposes a SEIOSNOSE. Therefore, based on this periodic analysis of the current impact of amendment No. 91-203 on small entities, there continues to be a SEIOSNOSE. No changes are needed because these regulations are mandated by statute and impose the least burden.

**Amendment No. 91-263**

Amendment No. 91-263 required that certain airplanes be equipped with an FAA-approved terrain awareness and warning system (TAWS) (also referred to as an enhanced ground proximity warning system). It is an operating rule that affects all U.S.-registered turbine-powered airplanes with six or more passenger seats (exclusive of pilot and copilot seating). The rule promotes safety by increasing the warning times and situational awareness of flight crews to decrease the risk of controlled flight into terrain accidents.

*Original FAA finding:* The FAA determined that this amendment would have a SEIOSNOSE. The FAA noted that the types of entities potentially affected by this rule would include manufacturers of transport category airplanes, manufacturers of ground proximity warning equipment, scheduled air carriers, and nonscheduled air carriers. The small entities that operate under part 91 that were expected to be impacted by this rule would include corporate, business, personal, instruction, aerial application, and local governments. The FAA estimated that the fleet of aircraft to which the rule would apply would be approximately 6,000 turbojets and 6,000 turboprops. The small entities associated with this size fleet constituted a substantial number and the cost impact was considered to be potentially significant. Therefore, the FAA took measures to mitigate the economic impact on small entities.

The FAA made efforts to reduce the impact on these potentially affected small entities by requiring a substantially less expensive and easier to install TAWS for part 91 operators. The FAA determined that there are two classes of TAWS equipment that can provide the desired level of safety: Class A, which includes a terrain situational awareness display, and Class B, which includes only the basic TAWS safety features. The FAA allowed part 91 operators to achieve the desired safety levels by installing the less expensive Class B TAWS equipment. This approach significantly reduced the cost of compliance to small entities, and still met the rule's safety goals.

*Finding of this 5 U.S.C. section 610 analysis and review:* Although the FAA attempted to reduce the impact on the potentially affected small entities by requiring a substantially less expensive

and easier to install TAWS for part 91 operators, compliance with the amendment still imposes a SEIOSNOSE. Therefore, based on this periodic analysis of the current impact of amendment No. 91-263 on small entities, there continues to be a SEIOSNOSE. The benefits justify their costs and the regulations impose the least burden while still meeting the rule's safety goals.

**Amendment No. 91-276 (Reduced Vertical Separation Minimum in Domestic United States Airspace)**

Amendment No. 91-276, Reduced Vertical Separation Minimum in Domestic United States Airspace, expanded Reduced Vertical Separation Minimum (RVSM) operations to aircraft operating between 29,000 and 41,000 feet in the airspace of the contiguous 48 States of the United States and the District of Columbia, Alaska, that portion of the Gulf of Mexico where the FAA provides air traffic services, the San Juan Flight Information Region (FIR), and the airspace between Florida and the San Juan FIR. The amendment also required any aircraft that is equipped with TCAS II and flown in RVSM airspace to incorporate a version of TCAS II software that is compatible with RVSM operations. The goals of this amendment were to assist aircraft operators to save fuel and time, to enhance air traffic control flexibility, and to enhance airspace capacity.

*Original FAA finding:* The FAA initially determined that this amendment would have a SEIOSNOSE. The FAA found through analysis that approximately 380 small operators would be significantly impacted by this amendment. These small operators were expected to experience some disadvantages relative to large transport carriers, such as less flexibility for rotating their fleets through the RVSM approval process without a disruption in service, or suffering a significant fuel penalty by continuing to operate below 29,000 feet if electing to not upgrade or to delay aircraft upgrade plans. Therefore, the FAA considered alternatives to mitigate the economic impact on these small entities.

To reduce this economic impact, the FAA considered several alternative approaches to this rulemaking, including not enforcing the rule on small entities. Under this scenario, small operators would avoid \$285.5 million in upgrade costs and downtime

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costs, but safety would be compromised as a result of some 2,400 non-approved aircraft operating in the RVSM stratum. Therefore, the FAA rejected this alternative. The FAA also considered a phased implementation of RVSM alternative to give small entities greater flexibility. It considered implementation of RVSM for a smaller band such as 33,000 to 37,000 feet with eventual expansion to the full RVSM envelope of 29,000 to 41,000 feet. This alternative was rejected on the basis of simulations that revealed system safety and airspace management were negatively impacted when RVSM was applied in any altitude

band other than 29,000 to 41,000 feet. In addition, controller workload, the potential for controller error, and operational complexity all increased. The FAA rejected this alternative in favor of the rule, as well. The FAA concluded that the final rule represented the best balance of costs and benefits for airspace users and air traffic providers without a reduction in aviation safety.

Finding of this 5 U.S.C. section 610 analysis and review: Since promulgation of this rule, circumstances have remained such that there is a continued need for the rule as

implemented. Small entities retain the option of not upgrading their equipment to take advantage of RVSM operations and continuing to operate below 29,000 feet if they feel this is more to their advantage. However, based on this periodic analysis of the current impact of amendment No. 91-276, Reduced Vertical Separation Minimum in Domestic United States Airspace, on small entities, there continues to be a SEIOSNOSE. The FAA concludes that the final rule represents the best balance of costs and benefits for airspace users and air traffic providers without a reduction in aviation safety.

FEDERAL HIGHWAY ADMINISTRATION  
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	None .....	2008	2009
2	23 CFR parts 1 through 260 .....	2009	2010
3	23 CFR parts 420 through 470 .....	2010	2011
4	23 CFR part 500 .....	2011	2012
5	23 CFR parts 620 through 637 .....	2012	2013
6	23 CFR parts 645 through 669 .....	2013	2014
7	23 CFR parts 710 through 924 .....	2014	2015
8	23 CFR parts 940 through 973 .....	2015	2016
9	23 CFR parts 1200 through 1252 .....	2016	2017
10	New parts and subparts .....	2017	2018

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.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 372, subpart A, and 381 .....	2008	2009
2	49 CFR parts 386, 389, and 395 .....	2009	2010
3	49 CFR parts 325, 388, 350, and 355 .....	2010	2011
4	49 CFR parts 380 and 382 to 385 .....	2011	2012
5	49 CFR parts 390 to 393 and 396 to 399 .....	2012	2013
6	49 CFR parts 356, 367, 369 to 371, 372, subparts B-C .....	2013	2014
7	49 CFR parts 373, 374, 376, and 379 .....	2014	2015
8	49 CFR parts 360, 365, 366, and 368 .....	2015	2016
9	49 CFR parts 377, 378, and 387 .....	2016	2017
10	49 CFR parts 303, 375, and new parts and subparts .....	2017	2018

Year 1 (fall 2008) List of rules that will be analyzed during the next year

49 CFR part 372, subpart A - Exemptions



**DOT**

49 CFR part 381 - Waivers, exemptions, and pilot programs

**Year 10 (fall 2007) List of rules analyzed and a summary of results**

49 CFR part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection regulations

- Section 610: An ongoing review of the regulations indicates there is a SEIONOSE. This part applies to small household goods firms that are engaged in interstate operations.
- General: The Agency will assess the need for changes once the review of these regulations is complete. FMCSA's plain language review of these regulations indicates no need for substantial revision.

49 CFR part 395 - Hours of Service of Drivers

- Review of the Hours of Service regulations will be delayed until year 2 of the upcoming review cycle. The Agency issues an interim final rule on December 17, 2007 (72 FR 71247). FMCSA anticipates publishing a final rule at the end of 2008.

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

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR 571.223 through 571.500, and parts 575 and 579 .....	2008	2009
2	23 CFR parts 1200 and 1300 .....	2009	2010
3	49 CFR parts 501 through 526 and 571.213 .....	2010	2011
4	49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222 .....	2011	2012
5	49 CFR 571.101 through 571.110, and 571.135, 571.138 and 571.139 .....	2012	2013
6	49 CFR parts 529 through 578, except parts 571 and 575 .....	2013	2014
7	49 CFR 571.111 through 571.129 and parts 580 through 588 .....	2014	2015
8	49 CFR 571.201 through 571.212 .....	2015	2016
9	49 CFR 571.214 through 571.219, except 571.217 .....	2016	2017
10	49 CFR parts 591 through 595 and new parts and subparts .....	2017	2018

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

- 49 CFR part 571.223 - Standard No. 223; Rear impact guards
- 49 CFR part 571.224 - Standard No. 224; Rear impact protection
- 49 CFR part 571.225 - Standard No. 225; Child restraint anchorage systems
- 49 CFR part 571.301 - Standard No. 301; Fuel system integrity
- 49 CFR part 571.302 - Standard No. 302; Flammability of interior materials
- 49 CFR part 571.303 - Standard No. 303; Fuel system integrity of compressed natural gas vehicles
- 49 CFR part 571.304 - Standard No. 304; Compressed natural gas fuel container integrity
- 49 CFR part 571.305 - Standard No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection
- 49 CFR part 571.401 - Standard No. 401; Interior trunk release
- 49 CFR part 571.403 - Standard No. 403; Platform lift systems for motor vehicles
- 49 CFR part 571.404 - Standard No. 404; Platform lift installations in motor vehicles
- 49 CFR part 571.500 - Standard No. 500; Low-speed vehicles
- 49 CFR part 575 - Consumer information
- 49 CFR part 579 - Reporting of Information And Communications About Potential Defects

**Plan for Evaluating the Effectiveness of Vehicle and Behavioral Programs, 2008-2012**

In addition to reviewing its rules in accordance with the Section 610 Review Plan, NHTSA issued an *Evaluation Program Plan, 2008-2012*, on August 21, 2008. This document describes the Office of Regulatory Analysis and Evaluation's ongoing and planned evaluations of existing Federal Motor Vehicle Safety Standards and other vehicle-safety, behavioral-safety and

consumer programs. It also summarizes the results of completed program evaluations. On August 29, 2008, NHTSA also issued a notice in the **Federal Register** (page 51045) inviting public comment on the plan. You may review this plan at <http://www-nrd.nhtsa.dot.gov/Pubs/810983.PDF>. You may review the **Federal Register** notice at

<http://edocket.access.gpo.gov/2008/pdf/E8-20061.pdf> or in HTML format at <http://edocket.access.gpo.gov/2008/E8-20061.htm>.

You may comment until December 29, 2008, by accessing the FDMS at <http://www.regulations.gov>. Your comments should make reference to Docket No. NHTSA-2008-0143. The notice explains how to send comments.

**FEDERAL RAILROAD ADMINISTRATION  
SECTION 610 AND OTHER REVIEWS**

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 and 201 .....	2008	2009

## DOT

FEDERAL RAILROAD ADMINISTRATION (Continued)  
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
2	49 CFR parts 207, 209, 211, 215, 238, and 256 .....	2009	2010
3	49 CFR parts 210, 212, 214, 217, and 268 .....	2010	2011
4	49 CFR part 219 .....	2011	2012
5	49 CFR parts 218, 221, 241, and 244 .....	2012	2013
6	49 CFR parts 216, 228, and 229 .....	2013	2014
7	49 CFR parts 223 and 233 .....	2014	2015
8	49 CFR parts 224, 225, 231, and 234 .....	2015	2016
9	49 CFR parts 222, 227, 235, 236, 250, 260, and 266 .....	2016	2017
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265 .....	2017	2018

**Year 10 (fall 2007) List of rules analyzed and a summary of results**

## 49 CFR part 213 - Track Safety Standards

- Section 610: There is a SEIOSNOSE. These are minimum safety requirements for railroad track that is part of the general railroad system of transportation. The FRA will conduct a formal review to identify whether opportunities may exist to reduce the burden on small railroads without compromising safety standards.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum safety requirements for railroad track that is part of the general railroad system of transportation, it will enhance the safety of rail transportation, protecting both those traveling and working on the system and those off the system who might be adversely affected by a rail incident.

## 49 CFR part 220 - Railroad Communications

- Section 610: There is a SEIOSNOSE. These are minimum requirements governing the use of wireless communications in connection with railroad operations. The FRA will conduct a formal review to identify whether opportunities may exist to reduce the burden on small railroads without compromising safety standards.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum requirements governing the use of wireless communications in connection with railroad operations. Uniform standard communications procedures and requirements throughout the railroad industry are necessary to ensure the protection and safety of railroad employees and general public, and to minimize the number of casualties.

## 49 CFR part 230 - Steam Locomotive Inspection and Maintenance Standards

- Section 610: There is no SEIOSNOSE.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum Federal safety standards of inspection and maintenance for all steam locomotive operated on railroads, these requirements are necessary to ensure the protection and safety of railroad employees and general public, and to minimize the number of casualties.

## 49 CFR part 232 - Brake System Safety Standards for Freight and Other Non-Passenger Train and Equipment; End-of-Train Devices

- Section 610: There is a SEIOSNOSE. These are minimum Federal safety standards for freight and other non-passenger train track systems and equipment as well as for freight and other non-passenger train brake systems. The FRA will conduct a formal review to identify whether opportunities may exist to reduce the burden on small railroads without compromising safety standards.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum Federal safety standards for freight and other non-passenger train track systems and equipment as well as for freight and other non-passenger train brake systems, it will enhance the safety of rail transportation, protecting both those traveling and working on the system and those off the system who might be adversely affected by a rail incident.

## 49 CFR part 239 - Passenger Train Emergency Preparedness

- Section 610: There is no SEIOSNOSE.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum Federal safety standards for the preparation, adoption and implementation of emergency preparedness plans by railroads, these requirements are necessary to ensure the protection and safety of railroad passengers and employees as well as the general public, and to minimize the number of casualties.

## 49 CFR part 240 - Qualification and Certification of Locomotive Engineers

- Section 610: There is no SEIOSNOSE.
- Plain Language: FRA's plain language review of this rule indicates no need for substantial revision.
- General: Since the rule prescribes minimum Federal safety standards and guidelines for the eligibility, training, testing, certification and monitoring of all locomotive engineers, it will ensure and enhance the protection and safety of railroad employees and general public and minimize the number of casualties.

## 49 CFR part 265 - Nondiscrimination in Federally Assisted Railroad Programs

- Section 610: There is no SEIOSNOSE.

**DOT**

- Plain Language: FRA’s plain language review of this rule indicates no need for substantial revision.
- General: The purpose of the rule is to ensure that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any project, program or activity funded in part through financial assistance under the Railroad Revitalization and Regulatory Reform Act of 1976, or any provision of law amended by the Act.

**Year 1 (fall 2008) List of rule(s) that will be analyzed during next year**

49 CFR part 200 - Informal Rules of Practice for Passenger Safety  
 49 CFR part 201 - Formal Rules of Practice for Passenger Service

**FEDERAL TRANSIT ADMINISTRATION  
 SECTION 610 AND OTHER REVIEWS**

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 604, 605, and 633 .....	2008	2009
2	49 CFR parts 661 and 665 .....	2009	2010
3	49 CFR part 633 .....	2010	2011
4	49 CFR parts 609 and 611 .....	2011	2012
5	49 CFR parts 613 and 614 .....	2012	2013
6	49 CFR part 622 .....	2013	2014
7	49 CFR part 630 .....	2014	2015
8	49 CFR part 639 .....	2015	2016
9	49 CFR parts 659 and 663 .....	2016	2017
10	49 CFR part 665 .....	2017	2018

**Year 10 (fall 2007) List of rules analyzed and summary of results**

49 CFR part 624 - Clean Fuels Program

- Section 610: The Agency has determined that the rule will not have a significant effect on a substantial number of small entities. This rule imposes no new costs because it merely modifies the application procedures for an existing grant program.
- Plain Language: The rule was drafted using plain language techniques.
- General: No changes are necessary since the benefits of the rule justify its costs and the regulation imposes the least burden.

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

49 CFR part 604 - Charter Services  
 49 CFR part 605 - School Bus Operations  
 49 CFR part 633 - Project Management Oversight

**MARITIME ADMINISTRATION  
 SECTION 610 AND OTHER REVIEWS**

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 205 .....	2008	2009
2	46 CFR parts 221 through 232 .....	2009	2010
3	46 CFR parts 249 through 296 .....	2010	2011
4	46 CFR part 298 .....	2011	2012
5	46 CFR parts 307 through 309 .....	2012	2013
6	46 CFR part 310 .....	2013	2014
7	46 CFR parts 315 through 340 .....	2014	2015
8	46 CFR parts 345 through 381 .....	2015	2016
9	46 CFR parts 382 through 389 .....	2016	2017
10	46 CFR parts 390 through 393 .....	2017	2018

**Year 10 (fall 2007) List of rules analyzed and a summary of the results**

46 CFR part 390 - Capital Construction Fund

- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No overall revision of the rule is needed at this time; however, technical amendments were made to the rule so that it correctly referenced sections in the United States Code. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 391 - Federal Income Tax Aspects of the Capital Construction Fund

- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.

**DOT**

- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

- 46 CFR part 201 - Rules of Practice and Procedure
- 46 CFR part 202 - Procedures Relating to Review by Secretary of Transportation of Actions by Maritime Subsidy Board
- 46 CFR part 203 - Procedures Relating to Conduct of Certain Hearings Under the Merchant Marine Act, 1936
- 46 CFR part 204 - Claims Against the Maritime Administration Under the Federal Tort Claim Act
- 46 CFR part 205 - Audit Appeals; Policy and Procedure

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

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	Part 178 .....	2008	2009
2	Parts 178, 179, 180 .....	2009	2010
3	Parts 172 and 175 .....	2010	2011
4	Sections 171.15 and 171.16 .....	2011	2012
5	Parts 106, 107, 171, 190, 195 .....	2012	2013
6	Parts 174, 177, 191, 192 .....	2013	2014
7	Parts 176, 199 .....	2014	2015
8	Parts 172, 173, 174, 175, 176, 177, 178 .....	2015	2016
9	Parts 172, 173, 174, 176, 177, 193 .....	2016	2017
10	Parts 173, 194 .....	2017	2018

**Year 8 (fall 2005) List of rules analyzed and a summary of the results**

- 49 CFR part 110 - Hazardous Materials Public Sector Training and Planning Grants
- Section 610: No SEIOSNOSE. The vast majority of grant applicants are not considered small entities as SBA defines that term. In the past 10 years, only eight entities meeting the small business definition have applied for and received HMEP grants. Further, the grant application process is specifically designed to minimize the burden on all grantees, including those that meet the definition of small entity.
- Plain Language: Where confusing or wordy language has been identified, we will make revisions.
- General: No changes are necessary since the benefits of the rule justify its costs and the regulation imposes the least burden.
- 49 CFR part 195 - Transportation of Hazardous Liquids by Pipeline
- Section 610: NO SEIOSNOSE. The vast majority of hazardous liquid operators are not small entities as defined by the SBA.
- Plain Language: We will make revisions where wordy or confusing language is identified.
- General: No changes are necessary since the benefits of the rule justify its costs and the regulation imposes the least burden.

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

- 49 CFR part 178 - Specifications for packagings

**RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION (RITA)  
SECTION 610 AND OTHER REVIEWS**

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	14 CFR part 241, form 41 .....	2008	2009
2	14 CFR part 241, schedule T-100, and part 217 .....	2009	2010
3	14 CFR part 298, 49 CFR 1420 .....	2010	2011
4	14 CFR part 241, section 19-7 .....	2011	2012
5	14 CFR part 291 .....	2012	2013
6	14 CFR part 234 .....	2013	2014
7	14 CFR part 249 .....	2014	2015
8	14 CFR part 248 .....	2015	2016
9	14 CFR part 250 .....	2016	2017
10	14 CFR part 374a, ICAO .....	2017	2018

**Year 6 (fall 2003) List of rule(s) analyzed and a summary of results**

- 14 CFR part 234 - Airline Service Quality Performance Reports
- Section 610: No SEIOSNOSE.
- Plain Language: This rule is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.
- General: This rule is being reviewed as part of an overall aviation data requirements review and modernization program.

**DOT**

**Year 7 (fall 2004) List of rule(s) analyzed and a summary of results**

14 CFR part 249 - Preservation of Air Carrier Records

- Section 610: No SEIOSNOSE.
- Plain Language: This rule is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.
- General: This rule is being reviewed as part of an overall aviation data requirements review and modernization program.

**Year 8 (fall 2005) List of rule(s) analyzed and a summary of results**

14 CFR part 248 - Submission of Audit Reports

- Section 610: No SEIOSNOSE.
- Plain Language: This rule is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.
- General: This rule is being reviewed as part of an overall aviation data requirements review and modernization program.

**Year 1 (fall 2008) List of rules that will be analyzed during the next year**

14 CFR part 241 — Uniform System of Accounts and Reports for Large Certificated Air Carriers, Form 41

**SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION  
SECTION 610 AND OTHER REVIEWS**

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403 .....	2008	2009

**Year 1 (fall 2008) List of Rules that will be analyzed during the next year**

- 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

**Office of the Secretary—Completed Actions**

Sequence Number	Title	Regulation Identifier Number
382	+Nondiscrimination on the Basis of Disability in Air Travel .....	2105-AC97

+ DOT-designated significant regulation

**Federal Aviation Administration—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
383	+Automatic Dependent Surveillance—Broadcast (ADS-B) Equipage Mandate To Support Air Traffic Control Service ( <b>Reg Plan Seq No. 91</b> ) .....	2120-AI92
384	+Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers .....	2120-AJ00

+ DOT-designated significant regulation

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

**Federal Aviation Administration—Final Rule Stage**

Sequence Number	Title	Regulation Identifier Number
385	+Washington, DC, Metropolitan Area Special Flight Rules Area .....	2120-AI17
386	Production and Airworthiness Approvals .....	2120-AI78

+ DOT-designated significant regulation

## DOT

## Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
387	+Flight Crewmember Duty Limitations and Rest Requirements .....	2120-AI93

+ DOT-designated significant regulation

## Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
388	+Transport Airplane Fuel Tank Flammability Reduction .....	2120-AI23
389	+General Operating and Flight Rules ( <b>Completion of a Section 610 Review</b> ) .....	2120-AJ13
390	Extended Operations (ETOPS) of Multi-Engine Airplanes .....	2120-AJ26

+ DOT-designated significant regulation

## Federal Motor Carrier Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
391	+Unified Registration System .....	2126-AA22
392	+National Registry of Certified Medical Examiners ( <b>Reg Plan Seq No. 92</b> ) .....	2126-AA97

+ DOT-designated significant regulation

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Federal Motor Carrier Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
393	+New Entrant Safety Assurance Process .....	2126-AA59
394	+Requirements for Intermodal Equipment Providers and Motor Carriers and Drivers Operating Intermodal Equipment .....	2126-AA86
395	Interstate Van Operations .....	2126-AA98
396	+Commercial Driver's License Testing and Commercial Learner's Permit Standards ( <b>Reg Plan Seq No. 94</b> ) .....	2126-AB02

+ DOT-designated significant regulation

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Federal Motor Carrier Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
397	+Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States .....	2126-AA35

+ DOT-designated significant regulation

## National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
398	Early Warning Reporting Information .....	2127-AK28

DOT

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
399	Upgrade of School Bus Passenger Protection .....	2127-AK09

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
400	Bus Testing: Phase-In of Brake Performance and Emissions Testing, and Program Updates ( <b>Section 610 Review</b> ) .....	2132-AA95
401	Buy America; Petition for Rulemaking ( <b>Section 610 Review</b> ) .....	2132-AA99
402	School Bus Operations ( <b>Section 610 Review</b> ) .....	2132-AB00

Federal Transit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
403	+Major Capital Investment Projects—New/Small Starts .....	2132-AA81

+ DOT-designated significant regulation

Pipeline and Hazardous Materials Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
404	+Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments .....	2137-AE02

+ DOT-designated significant regulation

Department of Transportation (DOT)  
Office of the Secretary (OST)

Completed Actions

**382. +NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL**

**Legal Authority:** 14 USC 41702; 14 USC 41705; 14 USC 41712

**Abstract:** This final rule would consolidate three notices of proposed rulemaking (NPRMs) to update and expand coverage under the Air Carrier Access Act (ACAA). The ACAA prohibits discrimination on the basis of disability in air travel. The final rule would amend the ACAA rules to apply to foreign air carriers. It would also add new provisions concerning passengers who use electronic respiratory assistive devices (including portable oxygen concentrators) and passengers who are

deaf or hard of hearing. In addition, the rule would reorganize and update the entire ACAA rule. Rulemaking actions under RINs 2105-AC29 and 2105-AD41 are being incorporated into this rulemaking.

**Timetable:**

Action	Date	FR Cite
NPRM	11/04/04	69 FR 64364
NPRM Comment Period Extended	01/28/05	70 FR 4058
NPRM Comment Period End	02/02/05	
Second NPRM Comment Period End	03/04/05	

Action	Date	FR Cite
Final Rule	05/13/08	73 FR 27614
Final Rule Effective	05/13/08	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Blaine A. Workie, Supervisory Trial Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590  
Phone: 202 366-9342  
Fax: 202 366-7153  
Email: blane.workie@dot.gov

**RIN:** 2105-AC97  
**BILLING CODE** 4910-9X-S

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

## Proposed Rule Stage

**383. +AUTOMATIC DEPENDENT SURVEILLANCE—BROADCAST (ADS-B) EQUIPAGE MANDATE TO SUPPORT AIR TRAFFIC CONTROL SERVICE**

**Regulatory Plan:** This entry is Seq. No. 91 in part II of this issue of the **Federal Register**.

**RIN:** 2120-AI92

**384. +QUALIFICATION, SERVICE, AND USE OF CREWMEMBERS AND AIRCRAFT DISPATCHERS**

**Legal Authority:** 49 USC 106(g), 40119, 40113, 44101; 49 USC 44701 and 44702, 44705; 49 USC 44709 to 44711;

49 USC 44713, 44716 and 44717; 49 USC 44722, 44901, 44903 and 44904, 44912, and 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.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/08	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Edward Cook, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 100 Hartsfield Centre Parkway, Suite 400, Atlanta, GA 30354  
Phone: 404 832-4700  
Email: edward.cook@faa.gov

**RIN:** 2120-AJ00

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

## Final Rule Stage

**385. +WASHINGTON, DC, METROPOLITAN AREA SPECIAL FLIGHT RULES AREA**

**Legal Authority:** 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; ...

**Abstract:** This rulemaking would codify restrictions for certain aircraft operations in the Washington, DC, Metropolitan Area. This action is necessary because of the ongoing threat of terrorist attacks. The FAA intends by this action to help the Department of Homeland Security and the Department of Defense protect national assets in the National Capital region. We are developing the rule in conjunction with the Department of Defense and Department of Homeland Security.

**Timetable:**

Action	Date	FR Cite
NPRM	08/04/05	70 FR 45250
NPRM Comment Period End	11/02/05	
NPRM Comment Period Extended	11/07/05	70 FR 67388
NPRM Comment Period Extended to	02/06/06	
Final Rule	01/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Ellen Crum, Air Traffic Systems Operations, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591  
Phone: 202 267-8783  
Email: ellen.crum@faa.gov

**RIN:** 2120-AI17

**386. PRODUCTION AND AIRWORTHINESS APPROVALS**

**Legal Authority:** 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 and 44702; 49 USC 44704; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

**Abstract:** This rulemaking would change certification procedures and identification requirements for aeronautical products and parts. The changes would address standardizing requirements for production approval holders; requiring production approval holders to issue airworthiness approvals for aircraft engines, propellers, and other aviation parts; requiring manufacturers to mark all parts and components; and revising export airworthiness approval requirements to facilitate global manufacturing. The intent of these changes is to promote safety by ensuring that aircraft, and parts

designed specifically for use in aircraft, wherever manufactured, meet applicable standards. This action is also necessary to update our regulations to reflect the current global aircraft and aircraft parts manufacturing environment.

**Timetable:**

Action	Date	FR Cite
NPRM	10/05/06	71 FR 58914
NPRM Comment Period Extended	12/20/06	71 FR 76224
NPRM Comment Period End	01/03/07	
Comment Period Extended to	02/05/07	
Notice of Availability and Request for Comments	02/14/07	72 FR 6968
Comment Period End	04/02/07	
Final Rule	11/13/07	72 FR 63797
Final Rule Effective	01/14/08	
Final Rule	04/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Barbara Capron, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591  
Phone: 202 267-3343  
Email: barbara.capron@faa.gov

**RIN:** 2120-AI78



**Department of Transportation (DOT)**  
**Federal Aviation Administration (FAA)**
**Long-Term Actions**
**387. +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 to 44703; 49 USC 44705; 49 USC 44709 to 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 and 44904; 49 USC 44912

**Abstract:** This rulemaking would amend the regulations on duty period limitations, flight time limitations, and rest requirements for flight

crewmembers engaged in air transportation. The changes would respond to the need to ensure that the rules will continue to provide the minimum level of safety. This rulemaking responds to public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. This action is considered significant because of substantial public interest. The FAA is considering proposing additional changes in

response to comments received on the NPRM.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20951  
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**RIN:** 2120-AI93

**Department of Transportation (DOT)**  
**Federal Aviation Administration (FAA)**
**Completed Actions**
**388. +TRANSPORT AIRPLANE FUEL TANK FLAMMABILITY REDUCTION**

**Legal Authority:** 49 USC 106(g); 49 USC 40113; 49 USC 44701 and 44702; 49 USC 44704

**Abstract:** This rulemaking would require that flammability reduction means be incorporated into existing airplanes, newly manufactured airplanes, and new designs. It establishes new design standards for future and pending applications for type certification as well as new operating rules for retrofitting existing airplanes.

**Timetable:**

Action	Date	FR Cite
NPRM	11/23/05	70 FR 70922
Notice of Availability and Request for Comments	02/15/06	71 FR 8045
NPRM Comment Period Extended	03/21/06	71 FR 14122
NPRM Comment Period End	03/23/06	
Notice of Availability and Request for Comments	04/03/06	71 FR 16611
Notice of Public Meeting	04/03/06	71 FR 16611
Notice Comment Period End	05/08/06	
NPRM Extended Comment Period End	05/08/06	
Notice Comment Period End	03/23/08	
Final Rule; Request for Comments	07/21/08	73 FR 42444
Final Rule Effective	09/19/08	
Final Rule Comment Period End	01/20/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Mike Dostert, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056  
Phone: 425 227-2132  
Fax: 425 227-1320  
Email: mike.dostert@faa.gov

**RIN:** 2120-AI23

**389. +GENERAL OPERATING AND FLIGHT RULES (COMPLETION OF A SECTION 610 REVIEW)**

**Legal Authority:** 49 USC 106(g); 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44704; 49 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 and 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531; 61 Stat 1180 articles 12 and 29

**Abstract:** The FAA conducted a review under section 610 of the Regulatory Flexibility Act for part 91, and RIN 2120-AJ13 has been added to the Agenda to reflect this review. Part 91 governs the operation of aircraft within the United States, including the waters within 3 nautical miles of the U.S. coast.

**Timetable:**

Action	Date	FR Cite
End Review	10/02/06	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Thomas C. Smith, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591  
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Email: thomas.c.smith@faa.gov

**RIN:** 2120-AJ13

**390. • EXTENDED OPERATIONS (ETOPS) OF MULTI-ENGINE AIRPLANES**

**Legal Authority:** 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 41706; 49 USC 44101; 49 USC 44701 and 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 and 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 and 44904; 49 USC 44912; 49 USC 45101 to 45105; 49 USC 46105; 49 USC 46301

**Abstract:** This rule would amend the rule language applicable to the qualifications required by a person who must certify by signature the pre-departure service check for ETOPS flights.

**Timetable:**

Action	Date	FR Cite
Final Rule: Immediately Adopted	06/16/08	73 FR 33879
Final Rule Effective	06/16/08	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Robert Reich, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591

## DOT—FAA

## Completed Actions

Phone: 202 267-7262

Email: robert.reich@faa.gov

RIN: 2120-AJ26

BILLING CODE 4910-13-S

**Department of Transportation (DOT)**  
**Federal Motor Carrier Safety Administration (FMCSA)**

## Proposed Rule Stage

**391. +UNIFIED REGISTRATION SYSTEM**

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

**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. 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 SAFETEA-LU. The replacement system for the Single State Registration System, which the ICC Termination Act originally directed be merged under URS, will be addressed separately.

**Timetable:**

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
NPRM	05/19/05	70 FR 28990
NPRM Comment Period End	08/17/05	
Supplemental NPRM	09/00/09	

**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  
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Email: valerie.height@dot.gov

RIN: 2126-AA22

**392. +NATIONAL REGISTRY OF CERTIFIED MEDICAL EXAMINERS**

**Regulatory Plan:** This entry is Seq. No. 92 in part II of this issue of the **Federal Register**.

RIN: 2126-AA97

**Department of Transportation (DOT)**  
**Federal Motor Carrier Safety Administration (FMCSA)**

## Final Rule Stage

**393. +NEW ENTRANT SAFETY ASSURANCE PROCESS**

**Legal Authority:** 49 USC 31144; PL 106-159, sec 210; 113 Stat 1748 (1999); PL 107-87, sec 350

**Abstract:** This rulemaking would change the New Entrant Safety Assurance Process by raising the standard of compliance for passing the new entrant safety audit. It also would make clarifying changes to some of the existing new entrant regulations. The rule also proposes a separate application procedure and safety oversight system for non-North America-domiciled motor carriers. The proposed rule would improve the Agency's ability to identify at-risk new entrant carriers and would ensure deficiencies in basic safety management controls are corrected before the new entrant is granted permanent registration. These changes would not impose additional operational requirements on any new entrant carrier. All new entrants would continue to receive educational information on how to comply with the safety regulations and be given an

opportunity to correct any deficiencies found. FMCSA recognizes many new entrants are small businesses that are unaware of these requirements and continue to need our assistance.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule (IFR)	05/13/02	67 FR 31978
IFR Comment Period End	07/12/02	
IFR Effective	01/01/03	
NPRM	12/21/06	71 FR 76730
NPRM Comment Period End	02/20/07	
Final Rule	12/00/08	

**Regulatory Flexibility Analysis Required:** Yes

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Email: stephanie.haller@dot.gov

RIN: 2126-AA59

**394. +REQUIREMENTS FOR INTERMODAL EQUIPMENT PROVIDERS AND MOTOR CARRIERS AND DRIVERS OPERATING INTERMODAL EQUIPMENT**

**Legal Authority:** 49 USC 31136; 49 USC 31151; 49 USC 31502; sec 4118, PL 109-59 (2005)

**Abstract:** This rulemaking would require entities that offer intermodal container chassis for transportation in interstate commerce to: file a Motor Carrier Identification Report (Form MCS-150); display a USDOT identification number on each chassis offered for such transportation; establish a systematic inspection, repair, and maintenance program to ensure the safe operating condition of each chassis offered for transportation and maintain documentation of the program; and provide a means for effectively responding to driver and motor carrier complaints about the condition of intermodal container chassis. The rulemaking is considered significant because of substantial industry and congressional interest and

## DOT—FMCSA

## Final Rule Stage

because it involves other departmental modes. It is required by SAFETEA-LU.

**Timetable:**

Action	Date	FR Cite
NPRM	12/21/06	71 FR 76796
NPRM Comment Period End	03/21/07	
Comment Period Extended	04/13/07	72 FR 18615
End Extended Comment Period	05/21/07	
Final Rule	12/00/08	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Deborah M. Freund, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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Email: deborah.freund@dot.gov

**RIN:** 2126-AA86

**395. INTERSTATE VAN OPERATIONS**

**Legal Authority:** sec 4136 of PL 109-59 (2005)

**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:**

Action	Date	FR Cite
Final Rule	03/00/09	

**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  
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**RIN:** 2126-AA98

**396. +COMMERCIAL DRIVER'S LICENSE TESTING AND COMMERCIAL LEARNER'S PERMIT STANDARDS**

**Regulatory Plan:** This entry is Seq. No. 94 in part II of this issue of the **Federal Register**.

**RIN:** 2126-AB02

## Department of Transportation (DOT)

## Federal Motor Carrier Safety Administration (FMCSA)

## Long-Term Actions

**397. +SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICO-DOMICILED MOTOR CARRIERS OPERATING IN THE UNITED STATES**

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

**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 remanded 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 is waiting for Interim Final Rule experience after the border opens before deciding what to do next on this rulemaking. FMCSA originally planned to publish a final rule by November 28, 2003.

**Timetable:**

Action	Date	FR Cite
NPRM	05/03/01	66 FR 22415

Action	Date	FR Cite
NPRM Comment Period End	07/02/01	
Interim Final Rule	03/19/02	67 FR 12758
IFR Comment Period End	04/18/02	
IFR Effective*	05/03/02	
Notice of Intent To Prepare an EIS	08/26/03	68 FR 51322
EIS Public Scoping Meetings	10/08/03	68 FR 58162
Next Action	Undetermined	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Milt Schmidt, Chief, North American Borders Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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**RIN:** 2126-AA35

**BILLING CODE** 4910-EX-S

## Department of Transportation (DOT)

## Proposed Rule Stage

## National Highway Traffic Safety Administration (NHTSA)

**398. EARLY WARNING REPORTING INFORMATION****Legal Authority:** 49 USC 30166

**Abstract:** This rulemaking would amend certain provisions of the early warning reporting (EWR) rule published pursuant to the Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act. This rulemaking would modify the threshold for submitting

quarterly EWR reports for some manufacturers and add new requirements to maintain the consistency of the EWR data from quarter to quarter.

**Timetable:**

Action	Date	FR Cite
NPRM	01/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Christina Morgan, Chief, Early Warning Reporting, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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**RIN:** 2127-AK28

## Department of Transportation (DOT)

## Completed Actions

## National Highway Traffic Safety Administration (NHTSA)

**399. UPGRADE OF SCHOOL BUS PASSENGER PROTECTION****Legal Authority:** 15 USC 1392

**Abstract:** This rulemaking would address issues to improve passenger protection on school buses. The Transportation Equity Act for the 21st Century (TEA-21) directed a study be conducted to assess occupant safety on school buses. The National Highway Traffic Safety Administration described their findings in an April 2002 Report to Congress. As a result of this study, NHTSA stated that it was considering changes to the existing Federal motor vehicle safety standards, including

increasing the seat back height to reduce the potential for passenger override in the event of a crash; requiring small school buses to have lap/shoulder belt restraints; assuring proper lap/shoulder belt fit for all school bus passenger sizes; and developing standardized test procedures for voluntarily installed lap/shoulder belts.

**Timetable:**

Action	Date	FR Cite
NPRM	11/21/07	72 FR 65509
NPRM Comment Period End	01/22/08	

Action	Date	FR Cite
Final Action	10/21/08	73 FR 62744
Final Action Effective	04/10/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Charles Hott, Safety Standards Engineer, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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**RIN:** 2127-AK09**BILLING CODE** 4910-59-S

## Department of Transportation (DOT)

## Proposed Rule Stage

## Federal Transit Administration (FTA)

**400. BUS TESTING: PHASE-IN OF BRAKE PERFORMANCE AND EMISSIONS TESTING, AND PROGRAM UPDATES (SECTION 610 REVIEW)****Legal Authority:** 49 USC 5318(a)

**Abstract:** This rulemaking would modify the Bus Testing rule to incorporate tests for brake performance and emissions. This rulemaking would also update and clarify the existing regulation found at 49 CFR 665.

**Timetable:**

Action	Date	FR Cite
NPRM	09/30/08	73 FR 56781
NPRM Comment Period End	12/01/08	

**Regulatory Flexibility Analysis Required:** No

**Agency Contact:** Richard Wong, Attorney Advisor, Department of Transportation, Federal Transit

Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
Phone: 202 366-6067  
Fax: 202 366-3809  
Email: richard.wong@dot.gov

**RIN:** 2132-AA95**401. BUY AMERICA; PETITION FOR RULEMAKING (SECTION 610 REVIEW)****Legal Authority:** 49 USC 5323(j)

**Abstract:** This rulemaking would address the treatment of bi-metallic aluminum rail under FTA's Buy America rule. Presently, both running rail (carrying the weight of the train) and power rail (carrying the electric power supply) are treated alike under the Buy America regulation, i.e., all rail products must be produced in the United States, including all manufacturing processes, except metallurgical processes involving refinement of steel additives. During its

recent Buy America rulemaking, FTA received several requests to classify bi-metallic aluminum rail as "traction power equipment." Such a move would subject bi-metallic aluminum rail to a 60/40 percent domestic/non-domestic content requirement, provided that final assembly takes place in the United States.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/08	

**Regulatory Flexibility Analysis Required:** No

**Agency Contact:** Richard Wong, Attorney Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
Phone: 202 366-6067  
Fax: 202 366-3809

## DOT—FTA

## Proposed Rule Stage

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RIN: 2132-AA99

**402. SCHOOL BUS OPERATIONS  
(SECTION 610 REVIEW)****Legal Authority:** 49 USC 5323(f)**Abstract:** This rulemaking would amend the regulations that govern the provision of services to school students and personnel by recipients of Federal funds from the Federal Transit

Administration for consistency with the statutory provisions enacted by SAFETEA-LU regarding penalties for violations of the regulations. This rulemaking would also clarify the existing requirements for differentiating permissible services from prohibited services to school students and personnel.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/08	

**Regulatory Flexibility Analysis  
Required:** No**Agency Contact:** Elizabeth S Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE, Washington, DC 20590

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RIN: 2132-AB00

**Department of Transportation (DOT)  
Federal Transit Administration (FTA)**

## Long-Term Actions

**403. +MAJOR CAPITAL INVESTMENT  
PROJECTS—NEW/SMALL STARTS****Legal Authority:** PL 109-59, sec 3011**Abstract:** This rulemaking would establish a simplified evaluation process for projects seeking less than \$75 million in New Starts funds. The rule will set out FTA's evaluation and rating process for proposed projects based on the results of project justification and local financial commitment. This action is mandated

by SAFETEA-LU. At this time, the 2008 Appropriations Act prohibits a Final Rule.

**Timetable:**

Action	Date	FR Cite
ANPRM	01/30/06	71 FR 4864
ANPRM Comment Period End	03/10/06	
NPRM	08/03/07	72 FR 43328
NPRM Comment Period End	11/01/07	
Next Action Undetermined		

**Regulatory Flexibility Analysis  
Required:** Yes**Agency Contact:** Christopher VanWyk, Attorney Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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RIN: 2132-AA81

BILLING CODE 4910-57-S

**Department of Transportation (DOT)  
Pipeline and Hazardous Materials Safety Administration (PHMSA)**

## Final Rule Stage

**404. +HAZARDOUS MATERIALS:  
ENHANCING RAIL TRANSPORTATION  
SAFETY AND SECURITY FOR  
HAZARDOUS MATERIALS  
SHIPMENTS****Legal Authority:** 49 USC 5101 to 5127**Abstract:** In consultation with the Federal Railroad Administration (FRA), PHMSA would revise the current requirements on the safe and secure transportation of hazardous materials transported in commerce by rail. It may require rail carriers to (1) compile annual data on certain shipments of hazardous materials and use the data to analyze safety and security risks along rail transportation routes where those materials are transported; (2) assess alternative routing options and make routing decisions based on those

assessments; and (3) clarify the current security plan requirements to address en route storage and delays in transit.

This rulemaking was scheduled to have a final rule published by 12/24/2007. However, to address matters raised by the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub.L110-53, 121 Stat. 266), PHMSA will first issue the rule as an IFR.

**Timetable:**

Action	Date	FR Cite
Request for Comments	08/10/04	69 FR 50987
Comment Period End	10/18/04	
NPRM	12/21/06	71 FR 76834
NPRM Comment Period End	02/20/07	
Interim Final Rule	04/16/08	73 FR 20751

Action	Date	FR Cite
Interim Final Rule Effective	06/01/08	
Final Rule	11/00/08	

**Regulatory Flexibility Analysis  
Required:** Yes**Agency Contact:** Susan Gorsky, Senior Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590  
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RIN: 2137-AE02

[FR Doc. E8-21238 Filed 11-21-08; 8:45 am]

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