



Billing Code 4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST-2017-0057]

Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation

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

ACTION: Notice; request for input.

SUMMARY: The Department of Transportation (DOT) is reviewing its existing policy statements, guidance documents, and regulations to identify unnecessary obstacles to transportation infrastructure projects. As part of this review, the Department invites affected stakeholders and the public to identify non-statutory requirements that the Department imposes and that should be removed or revised.

DATES: Comments should be received on or before [45 DAYS AFTER PUBLICATION]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2017-0057 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* The Docket Management Facility is located on the West Building, Ground Floor, of the U.S. Department of Transportation, 1200 New Jersey Ave. SE, Room W12-140, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

-
- *Fax:* 202-493-2251.

Instructions: You must include the agency name and the Docket Number DOT-OST-2017-0057 at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read background documents or comments received, visit the Docket Management Facility described above or go to <http://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Michael A. Smith, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202-366-2917, michael.a.smith@dot.gov.

SUPPLEMENTARY INFORMATION:

Purpose.

The Department of Transportation recognizes that there are regulatory and administrative burdens that impede transportation infrastructure projects. The Department also recognizes that the stakeholders who deliver projects have direct experience with those burdens. Public and

private project sponsors, engineering and construction professionals, related organizations, and other stakeholders encounter and overcome these obstacles to project delivery on a daily basis. The purpose of this notice is to solicit input from those affected stakeholders to help the Department identify requirements that the Department imposes through rules, or interpretations found in policy statements or guidance, that unjustifiably delay or prevent completion of surface, maritime, and aviation transportation infrastructure projects. The Department's primary focus is on administrative items that it has the authority to change, but if there are critical changes that are achievable only through legislative action, please submit proposed legislative changes. Commenters should make legislative suggestions only if all non-statutory options have been exhausted.

The DOT's mission is to serve the United States by ensuring a safe, fast, efficient, accessible, and convenient transportation system that meets the nation's vital interests and enhances the quality of life of the American people, today and into the future. To advance that mission through financial assistance and regulatory activity, the Department imposes requirements that affect the delivery of transportation infrastructure projects. Under its financial assistance programs, DOT places conditions of the receipt and expenditure of Federal funds. Under its safety authorities, DOT directly regulates State, local, and individual activities. These assistance conditions and safety regulations are intended to satisfy statutory mandates and, when discretionary, properly balance public benefits against the burdens that they impose. However, imbalances can arise. The current benefits may not justify the current burdens due to changing circumstances, incomplete analyses, or other factors.

Request for Input.

The Department is requesting that affected stakeholders and the public submit comments identifying requirements that the Department imposes through rules, or interpretations found in

policy statements or guidance documents, that unjustifiably delay or prevent completion of surface, maritime, and aviation transportation infrastructure projects. In some circumstances, Federal statute requires the Department, without exercising discretion, to issue regulations implementing specific statutory requirements. Because the Department lacks authority to remove those requirements, the Department asks commenters responding to this notice to focus their comments on requirements that either lack statutory mandate or could be accomplished through reasonable alternatives. However, if non-statutory changes are insufficient to address a specific obstacle to transportation infrastructure projects, commenters may submit legislative solutions.

Content of Comments.

The Department will review all comments submitted to the docket associated with this notice, DOT-OST-2017-0057. To maximize the usefulness of comments, the Department encourages commenters to provide the following information:

1. *Specific reference.* A specific reference to the policy statement, guidance document, regulation, or statute that imposes the burden that the comment discusses. This should be a citation to the Code of Federal Regulations, a guidance document number, or an Internet link. A specific reference will assist the Department identify the requirement, the original source of the requirement, and relevant documentation that may describe the history and effects of the requirement.

2. *Description of burden.* A description of the burden that the identified policy statement, guidance document, regulation, or statute imposes on the completion of transportation infrastructure projects. A comment that describes how the policy statement, guidance document, regulation, or statute impedes efficient project delivery is more useful than a comment that merely asserts that it is burdensome. Comments that reflect experience with the requirement and

provide data describing that experience are more credible than comments that are not tied to direct experience. Verifiable, quantifiable data describing burdens are more useful than anecdotal descriptions.

3. *Description of less burdensome alternatives.* If the commenter believes that the objective that motivated the policy statement, guidance document, regulation, or statute may be achieved using a less burdensome alternative, the commenter should describe that alternative in detail. Likewise, if the commenter believes that there is not a less burdensome alternative or there is not a legitimate objective motivating the requirement, then that should be explained in the comment.

4. *Examples of affected projects.* Examples of projects that are, have been, or will be negatively affected by the identified policy statement, guidance document, regulation, or statute and examples of projects that will benefit if the requirement is removed or revised. A comment listing specific projects is more useful because it will assist the Department in investigating the burden and how it may be most effectively addressed.

Scope of Comments.

The Department is interested in comments on any DOT requirement that unjustifiably delays or prevents surface, maritime, and aviation transportation infrastructure projects, including requirements contained regulations, or interpretations found in policy statements or guidance documents, issued from the Office of the Secretary of Transportation (OST) and the following Operating Administrations: the Federal Aviation Administration (FAA); the Federal Highway Administration (FHWA); the Federal Railroad Administration (FRA); the Federal Transit Administration (FTA); the Maritime Administration (MARAD); and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Under this notice, the Department is not soliciting petitions for rulemaking.

Relationship to Other Review Activities.

Improvement of regulations is a continuous focus for the Department. For that reason, DOT regularly and deliberately reviews its rules in accordance with the Department's 1979 Regulatory Policies and Procedures (44 FR 11034), Executive Order (EO) 12866, EO 13563, and section 610 of the Regulatory Flexibility Act. That process is summarized in Appendix D of the Department's semi-annual regulatory agenda (*e.g.*, 81 FR 94784). In EO 13771 and EO 13777, President Trump directed agencies to further scrutinize their regulations. The review described in this notice will supplement the Department's periodic regulatory review and its activities under EO 13771 and EO 13777. Unlike those activities, this request for input is narrowly focused on identifying and addressing impediments to the completion of transportation infrastructure projects. The comments that DOT receives in response to this notice will inform those other, broader activities.

Issued on May 30, 2017.

James Ray

Senior Advisor for Infrastructure

[FR Doc. 2017-11791 Filed: 6/7/2017 8:45 am; Publication Date: 6/8/2017]