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United States Senate**

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Status of the Department of Transportation's Actions To Address Subtitle C of the Moving Ahead for Progress in the 21st Century Act

**Statement of
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Chairman Boxer, Ranking Member Vitter, and Members of the Committee:

Thank you for the opportunity to testify today on the Department of Transportation's (DOT) actions to carry out provisions in Subtitle C of the Moving Ahead for Progress in the 21st Century Act (MAP-21),¹ which calls for accelerating project delivery through increased innovation and efficient project planning, design, construction, and financing. MAP-21 requires our office to assess and report periodically to Congress on the steps the Department has taken to administer Subtitle C. Over the next 3 years, we plan to conduct a series of audits of the Department's project delivery reforms.² In a May 2013 letter to your Committee and the House Committee on Transportation and Infrastructure, we reported on the results of our first review.³ The focus of our initial review was to proactively provide status information to congressional and other stakeholders on (1) the Department's plans to carry out provisions of MAP-21, Subtitle C; (2) the status of planned actions; and (3) key challenges that could delay the Department's implementation of those plans. We also sought to create a baseline of planned actions to guide our future audit work, which will provide a more comprehensive assessment of DOT's actions.⁴

My statement today focuses on what we found in our initial review—recognizing that the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Office of the Secretary of Transportation (OST) continue to actively work on Subtitle C in real time and that our initial review reflected a snapshot in time.

IN SUMMARY

DOT developed a plan with 42 actions to implement all required sections of Subtitle C. At the time of our May 2013 letter, the Department had completed five actions, most of which address environmental issues that occur during the planning and design phase of highway and transit projects. However, the plan did not assign estimated completion dates for all actions unless the statute specified such milestones. Establishing target dates whenever feasible would provide a management tool to promote accountability for timely completion of these efforts, and allow Congress, States, and other stakeholders to gauge the Department's progress. Based on a status update that the Department provided us on September 11, 2013, the Department reports that two additional planned actions have been completed, and it established additional completion dates for four actions. Despite the Department's steady progress in meeting certain MAP-21 rulemaking milestones, we identified a number of delays that the Department had already encountered with issuing some Subtitle C rules. In its September 2013 update, the Department reported that it has

¹ Pub. L. No. 112-141 (2012), Division A, Title I, Subtitle C.

² OIG Audit Announcement, "Audit Initiated of DOT's Implementation of MAP-21 Acceleration of Project Delivery Provisions," Nov. 28, 2012.

³ "Letter to Congress on the Status of MAP-21, Subtitle C: Acceleration of Project Delivery," May 22, 2013.

⁴ Our May letter focused on actions completed as of March 27, 2013. We did not perform audit procedures to confirm the actual status of the planned actions or assess the effectiveness of actions taken, as this was beyond the scope of our initial review.

experienced delays in completing eight rulemakings. The attachment, from our May letter, shows the 42 actions planned to implement Subtitle C and the status of each one, as of March 27, 2013.

BACKGROUND

MAP-21 is the first long-term surface transportation authorization since 2005. The legislation was signed into law in July 2012 and effective as of October 1, 2012. MAP-21 provided \$105 billion for fiscal years 2013 and 2014. According to FHWA, complex federally funded highway projects can take approximately 13 years to complete (from planning to construction). Subtitle C directs the Department to identify and promote reforms that will reduce the time and funding needed to plan, design, and construct surface transportation projects. Most but not all of Subtitle C’s project delivery reforms relate to environmental issues during the planning and design phase of highway and transit projects.

DOT’s plans for implementing the Subtitle C sections range from developing and issuing regulations, some of which are required by law, to issuing guidance, developing memorandums of agreement, preparing congressional reports, or other initiatives. See table 1 for a list of Subtitle C sections.

Table 1. Sections in Subtitle C of MAP-21

Section	Title
1301	Declaration of Policy and Project Delivery Initiative
1302	Advance Acquisition of Real Property Interests
1303	Letting of Contracts—Construction Manager/General Contractor
1304	Innovative Project Delivery Methods
1305	Efficient Environmental Reviews for Project Decisionmaking
1306	Accelerated Decisionmaking
1307	Assistance to Affected Federal and State Agencies
1308	Limitations on Claims
1309	Accelerating Completion of Complex Projects Within 4 Years
1310	Integration of Planning and Environmental Review
1311	Development of Programmatic Mitigation Plans
1312	State Assumption of Responsibility for Categorical Exclusions
1313	Surface Transportation Project Delivery Program
1314	Application of Categorical Exclusions for Multimodal Projects
1315	Categorical Exclusions in Emergencies
1316	Categorical Exclusions for Projects Within the Right-of-Way
1317	Categorical Exclusion for Projects of Limited Federal Assistance
1318	Programmatic Agreements and Additional Categorical Exclusions
1319	Accelerated Decisionmaking in Environmental Reviews

Section	Title
1320	Memoranda of Agency Agreements for Early Coordination
1321	Environmental Procedures Initiative
1323	Review of Federal Project and Program Delivery

Source: MAP-21

To develop and issue regulations, the Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking (NPRM) in the Federal Register, allow a comment period, issue a final rule with a statement of its basis and purpose, and publish a final rule at least 30 days before it becomes effective. APA allows agencies to issue final rules without the use of an NPRM in certain cases, including when the agency determines for “good cause” that notice and comment procedures are “impracticable, unnecessary, or contrary to the public interest.” The Office of Management and Budget (OMB) reviews “significant” proposed and final rules,⁵ from agencies other than independent regulatory agencies, before they are published in the Federal Register.⁶ OMB ultimately determines whether a rule is significant—an action that can extend the time to complete a rulemaking.

THE DEPARTMENT COMPLETED SOME ACTIONS DEFINED IN ITS PLAN

To comply with MAP-21, which went into effect on October 1, 2012, DOT completed a plan with 42 actions for implementing Subtitle C requirements. As of March 27, 2013 (when we completed work on our initial audit), the Department had completed five of those actions:

- published an NPRM and final rule for Section 1315(a) on the use of categorical exclusions (CE) to expedite projects after a disaster or other emergency,
- issued guidance on innovations to improve project delivery identified in Section 1304,
- completed an initial report on the National Environmental Policy Act (NEPA) and projects for Section 1306
- surveyed and reported on the use of CEs for Section 1318, and
- completed interim guidance on accelerated decision making for environmental reviews for Section 1319.

⁵ Significant rulemakings are those that have an annual economic effect of \$100 million or more; could adversely affect the environment, public health or safety, actions of another agency, or a government program or policy; or create a legal issue or other material impact.

⁶ Executive Order 12866 (reaffirmed by Executive Order 13563).

According to the Department, 34 of the remaining 37 planned actions were under way at the time of our May letter.⁷ The Department also reported making substantial progress on many of them, even if final actions are not yet complete. For example, the Department met the statutory deadline for issuing an NPRM for Sections 1316 and 1317 on the use of CEs for projects within the right-of-way and projects with limited Federal assistance. The final rule has yet to be published. Rulemaking for Section 1318 on the use of additional types of CEs was also in progress but significantly behind schedule. In this instance, Department officials explained that an NPRM for Section 1318 cannot be completed until an analysis is performed on the survey results, which was still being conducted. The NPRM has yet to be published.

Department officials told us that they had not begun work on the remaining three planned actions: establishing a best practices clearing house related to accelerated project delivery, developing guidance on integrating planning and environmental reviews, and reporting on the types of and justification for additional CEs. The Department stated that it has not begun these three actions because other actions either have a higher priority or need to be completed before it can start these actions.

On September 11, 2013, the Department provided us a status update on its planned actions, which we have not yet verified. According to the Department, it has completed two additional planned actions—guidance for Section 1301 on the Relocation Streamlining Demonstration Project and guidance for Section 1302 on advance acquisition of real property interests. The Department also noted that it has made additional progress on several planned actions, including issuing an NPRM for Section 1313 on the Surface Transportation Project Delivery Program, and submitting to OMB an advanced notice of proposed rulemaking related to Section 1315 on using CEs for emergencies.

THE DEPARTMENT DID NOT ASSIGN COMPLETION DATES FOR SEVERAL ACTIONS IN ITS MAP-21 PLANS

While the Department developed plans to implement all required sections within Subtitle C (Sections 1301-1323),⁸ it did not assign estimated completion dates to a number of planned actions, including final rulemakings, new guidance, and other program initiatives. Without estimated completion dates, the Department is missing an opportunity to effectively track these efforts and gauge the Department's progress. In its September 2013 update, the Department stated that it has established four additional completion dates for planned actions. For example, the Department reported that it established some additional target dates related to guidance and rulemakings.

⁷ The Department provided information on the status of its 34 actions shown as "in progress." We did not verify the status of the planned actions or assess the effectiveness of actions taken, as this was beyond the scope of our initial review.

⁸ Section 1322 requires actions from the Government Accountability Office (GAO), so we have not included this section in our summary of DOT's action plans.

OST, FHWA, and FTA are coordinating the Department's Subtitle C plans, which fall within the following five general categories:

- **Congressionally Required Rulemakings:** According to the Department, it plans to issue eight congressionally required rules to streamline the environmental review process used on Federal highway and transit projects. To meet the statutory deadlines, the Department prioritized rules that were congressionally required. For example, the Department issued a congressionally required NPRM and a final rule for Section 1315, which qualified emergency repair projects to be eligible for categorical exclusions. In its September 2013 update, the Department reported that it established additional completion dates for two final rules.
- **Department-Initiated Rulemakings:** The Department planned to develop three additional rules to implement certain sections of Subtitle C, including early acquisition of right-of-way, contract letting, and environmental planning. For example, the Department plans to issue a new rule to implement Section 1303, which will permit a newer type of contracting method called construction manager/general contractor.⁹ The Department estimated NPRM completion dates for all three planned rules but did not set estimated dates for publishing the final rules.
- **Congressionally Mandated Reports:** The Department's plans call for five categories of reports to inform Congress or other interested parties of the status of environmental actions taken. Four of the five report types have congressionally mandated due dates. For example, Section 1306 directs the Department to issue a report to Congress at least every 120 days on the NEPA status of projects. The Department issued an initial report in March 2013. The next one will be due in October 2013. However, the Department did not have a planned completion date for the remaining report type, which will convey the results of a Departmental review to assess and develop consistent environmental permit and procurement procedures, as required by Section 1321.
- **Guidance:** The Department identified 16 planned actions to issue new or modify existing guidance to assist States and others managing Federal projects. As of March 2013, the Department had issued guidance for 2 of these 16 actions. However, the Department did not have estimated completion dates for the remaining 14 actions. In its September 2013 update, the Department reported that it established dates for two planned actions related to guidance.
- **Other Initiatives:** The Department included three other initiatives in its plan— one covering Section 1318 on programmatic agreements and additional CEs, and two to address Section 1301 on the declaration of policy and project delivery. While the

⁹ The construction manager/general contractor project delivery method allows an owner to engage a construction manager during the design process to provide input that helps the owner design a more constructible project.

Department completed the Section 1318 initiative, it had not formalized a schedule for the 1301 initiatives at the time of our May 2013 letter.

Department officials stated that their first priority was to publish statutorily required rules, focusing on those with congressionally mandated deadlines, and to prepare required reports with deadlines. The Department would then focus on self-initiated rulemakings for sections that add new provisions or alter existing regulations. After that, the Department would develop and publish guidance while working on other initiatives identified in its plans. Department officials noted that given the high priority placed on rulemakings, they did not set milestones for other planned actions. They also noted that legal requirements in the rulemaking process, the inability to predict the time needed to complete the various rulemaking stages, and OMB's designation of a rule as "significant"¹⁰ influenced their decision to defer setting milestones for some final rules.

While we agree that the Department's decision to focus first on rulemakings and required reports was reasonable, establishing milestone dates whenever feasible would provide useful information to key stakeholders and a management tool to promote accountability for timely completion of these efforts. Further, the legal requirements of the rulemaking process do not preclude estimating completion dates. Establishing such dates for final rules and for guidance and reporting requirements is important to help the Department better manage the rulemaking and guidance process and allow its stakeholders to effectively plan to implement the new rulemakings and guidance. For example, if States can better gauge when FHWA plans to complete a certain action, they can more readily incorporate new legislative provisions in their project plans and specifications.

DOT MAY NOT COMPLETE REQUIRED RULEMAKINGS BY THE STATUTORILY SET DATES

The Department may not complete required rulemakings by the statutorily set dates, due in part to the nature of rulemaking. Completing parts of the rulemaking process and coordinating steps that involve other Federal agencies can take considerable time. Despite the Department's progress in meeting certain MAP-21 rulemaking milestones, our initial review showed that the Department was already experiencing delays with implementing some mandated rules. In its September 2013 update, the Department reported that it has experienced additional delays in completing eight rulemakings. Highway and transit industry associations and State officials also noted that a lack of early, interactive communication with them may increase the number of formal comments and the time to complete rulemakings.

¹⁰ OMB may define a rule as "significant," which, according to the Department, would add 3 to 6 months of review time.

Completing Rulemakings Can Take Considerable Time, and Some Subtitle C Rules Have Been Delayed

A 2009 GAO case study reviewed 16 Federal rulemakings at various agencies and found that they took approximately 4 years on average to complete.¹¹ DOT's four rules averaged just over 3 years from initiation to final publication. We also reviewed three other rules issued by FHWA and FTA under previous surface transportation authorization, which had similar results. These three rules took an average of just over 5 years from initiation to final publication. Given the time periods involved in the Department's prior rulemakings, it may be optimistic to assume that the Department can complete the remaining required Subtitle C rulemaking milestones established within the 2 year legislative life of MAP-21.

We also identified a number of delays that the Department was already encountering with issuing some Subtitle C rules. For example, the Department missed the congressionally mandated requirement to issue an NPRM by January 2013 for Section 1318 on additional CEs suggested by stakeholders—and publication continues to be delayed. Department officials explained that there were many challenges to issuing this NPRM, including the requirement to complete the survey and publish a report after soliciting ideas for new CEs from stakeholders. These actions must be completed before it can issue a rule to further expand the types of CEs that can be used on Federal projects. In addition, this section may be designated as “significant” by OMB, which would require additional reviews and further impact the timeframe for both the NPRM and the final rule.

In its September 2013 status update, the Department stated that eight of its rulemakings have been delayed. For example, the Department has submitted to OMB an advanced notice of proposed rulemaking related to Section 1315 on using CEs for emergencies, but the publication date for the NPRM is planned for later this month—a delay of about 3 months.

Transportation Industry Stakeholders Believe That Interactive Dialogue With the Department Could Help Expedite Rulemakings

According to DOT officials, the Department made considerable outreach efforts related to MAP-21 implementation, including webinars, question and answer sessions, and other presentations conducted by FHWA and FTA. However, highway and transit industry associations¹² and State officials told us that outreach efforts tended to be Web-based, public forums that did not allow for sufficient informal, peer-to-peer dialogue prior to the NPRM. They indicated that—similar to prior transportation authorizations—early, interactive dialogue with the Department might reduce the time to respond to formal

¹¹ GAO Report, *Federal Rulemaking: Improvements Needed to Monitoring and Evaluation of Rules Development as Well as to the Transparency of OMB Regulatory Reviews* (GAO-09-205), Apr. 20, 2009. The case study included DOT and other agencies such as the Environmental Protection Agency, Food and Drug Administration, and Securities and Exchange Commission.

¹² The highway and transit organizations we spoke with are the American Association of State Highway and Transportation Officials (AASHTO) and the American Public Transportation Association (APTA).

comments. State officials also noted a lack of notification from the Department concerning upcoming NPRMs as well as guidance and other relevant documents on FHWA's MAP-21 Web site.

CONCLUSION

The Department developed a plan that addresses all MAP-21 Subtitle C provisions. However, as our initial assessment reveals, timely completion of planned actions could advance States' and other stakeholders' management of Federal projects and better achieve the intended benefits of MAP-21's innovation and streamlining provisions. Efforts by the Department to ensure the timely completion of rulemakings, guidance, program initiatives, and reports to Congress will be key to successful implementation of MAP-21. Accordingly, we will continue to assess the Department's actions to implement Subtitle C and carry out our statutory mandate to audit the Department's efforts over time.

That concludes my testimony. I will be happy to answer any questions you may have.

ATTACHMENT. THE DEPARTMENT'S PLANNED ACTIONS TO IMPLEMENT MAP-21 SUBTITLE C, AS OF MARCH 27, 2013

This table from our May 2013 letter provides the status of the Department's planned actions as of March 27, 2013. We did not verify the Department's progress since our May letter, as it was not within the scope of our initial review.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1301: Declaration of Policy and Project Delivery Initiative	1-OST	FHWA, FTA	Initiative: Best Practices	Identify and advance the use of best practices.	None at this time	Not started. FHWA's Every Day Counts 2 creates inventory of best practices. OST may establish a "dashboard" site for posting best practices. FTA has not taken any action to implement this section.
	2-FHWA		Guidance	Guidance on Relocation Streamlining Demonstration Project to address 1301(b)(4).	None at this time	In progress. Initiating drafting of demonstration project in FHWA.
	3-FHWA		Initiative: MOAs	Solicitation / Memorandums of Agreement (MOAs) for Relocation Streamlining Demonstration Project to address 1301(b)(4).	None at this time	In progress.
1302: Advance Acquisition of Real Property Interests	4-FHWA		Guidance	Guidance on advance acquisition of real property interests.	None at this time	In progress. Draft under coordination in FHWA.
	5-FHWA		Rulemaking	Regulation on advance acquisition of ROW.	NPRM 10/13 FR None at this time	In progress. Early draft in coordination in FHWA.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1303: Letting of Contracts - Construction Manager / General Contractor	6-FHWA		Rulemaking	Regulation on Construction Manager / General Contractor contracting.	NPRM 8/13 FR None at this time	In progress. Draft NPRM and rulemaking schedule under development.
1304: Innovative Project Delivery Methods	7-FHWA		Guidance	Guidance on increased Federal share for innovation.	10/1/2012	Complete. Guidance issued on 10/1/12 as a Q&A document.
1305: Efficient Environmental Reviews for Project Decisionmaking	8-FHWA	FTA, OST	Required Rulemaking	Rulemaking to allow for the use of programmatic approaches to conduct environmental reviews.	NPRM 6/14 FR None at this time	In progress. A future decision is pending to determine whether Section 1305 rulemaking will be initiated as separate rule, or incorporated into the "clean-up" rulemaking in connection with other MAP-21 provisions.
	9-FHWA	FTA	Guidance	Guidance on designation of lead agency for multimodal projects to address 1305(a).	None at this time	In progress. Guidance being developed to address multiple changes to 23 U.S.C. 139, including this section. Guidance drafted and in review by program offices.
	10-FHWA	FTA	Guidance	Guidance on efficient environmental reviews / Federal lead agency to address 1305(b).	None at this time	In progress. Guidance on lead agency designation is expected as part of DOT NEPA Order that is in development. Guidance drafted and in review by program offices.
	11-FHWA	FTA	Guidance	Guidance on efficient environmental reviews to address 1305(c),(d), and (e).	None at this time	In progress. Guidance drafted and in review by program offices.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1306: Accelerated Decisionmaking	12-FHWA, OST		Congressional Report	Report to Congress at least every 120 days on NEPA status and projects of (1) projects requiring a financial plan and (2) sampling of at least 5% of projects requiring an EIS or EA in each State.	Every 120 days. Initial report due: 2/1/13. Next due: 8/1/13.	Complete. Initial report issued on March 14, 2013.
	13-FHWA, OST	FTA	Guidance	Guidance on dispute resolution referrals and time limits.	None at this time	In progress. Guidance drafted and in review by program offices. Coordination with affected Federal agencies is underway. Part of Section 1305 guidance effort.
	14-FHWA, OST	FTA	Potential Rulemaking	Rulemaking on dispute resolution referrals and time limits.	NPRM 6/14 FR None at this time	In progress. This is a potential rulemaking and may be addressed as part of the "clean-up" rulemaking as referenced in Section 1305 rulemaking effort.
1307: Assistance to Affected Federal and State Agencies	15-FHWA	FTA	Guidance	Guidance on MOA with Federal and State agency that establishes the projects and priorities to be addressed by the use of the funds.	None at this time	In progress. Guidance issued 9/25/12 as Q&A document. Determination on whether further guidance needed not yet made. Part of Section 1305 guidance effort.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1308: Limitations on Claims	16-FHWA	FTA	Rulemaking	Rulemaking on revising the deadline for filing a claim for judicial review to 150 days from 180 days.	NPRM 6/14 FR None at this time	In progress. This is part of a 23 CFR 771 “clean-up” rulemaking as referenced in Section 1305 rulemaking effort.
	17-FHWA	FTA	Guidance	Guidance on revising the deadline for filing a claim for judicial review to 150 days rather than 180 days.	None at this time	In progress. This section will be included in the Section 1305 guidance effort.
1309: Accelerating Completion of Complex Projects Within 4 Years	18-FHWA	FTA	Potential Rulemaking	Rulemaking on enhanced technical assistance for complex projects within 4 years.	NPRM 6/14 FR None at this time	In progress. This is a potential rulemaking at this time, and it may be addressed as part of the “clean-up” rulemaking as referenced in the Section 1305 rulemaking effort.
	19-FHWA	FTA	Guidance	Guidance on enhanced technical assistance for complex projects within 4 years.	None at this time	In progress. Part of Section 1305 guidance effort.
1310: Integration of Planning and Environmental Review	20-FHWA	FTA	Potential Guidance	Guidance on integration of planning and environmental review.	None at this time	Not started. Potential for further guidance.
	21-FHWA	FTA	Rulemaking	Rulemaking on integration of planning and environmental review.	NPRM 11/20/13 FR None at this time	In progress. Coordinating timing with performance measure rulemaking. This schedule may change as a result of further discussion within the Department.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1311: Development of Programmatic Mitigation Plans	22-FHWA	FTA	Rulemaking	Rulemaking on integration of planning and environmental review.	NPRM 11/20/13 FR None at this time	In progress. This section will be incorporated into the rulemaking discussed in Section 1310. This schedule may change as a result of further discussion within the Department.
1312: State Assumption of Responsibility for Categorical Exclusions (CEs)	23-FHWA	FTA	Guidance	Update guidance on state assumption of responsibility for categorical exclusions.	None at this time	In progress. Under development by program offices.
1313: Surface Transportation Project Delivery Program	24-FHWA	FTA	Required Rulemaking	Rulemaking to update regulations.	NPRM 5/24/13 FR 6/28/13	In progress; behind schedule. The Department is determining whether additional modes (e.g., FAA, MARAD, NHTSA) will participate in this rulemaking. Final rule deadline will not be met; they anticipate a final rule on 9/28/13.
	25-FHWA	FTA	Guidance	Update guidance on state assumption of responsibility for categorical exclusions.	None at this time	In progress.
1314: Application of CEs for Multimodal Projects	26-OST	FTA, FHWA	Guidance	Q&A guidance document(s) on the application of CEs for multimodal projects.	None at this time.	In progress. Q&A document(s) have been drafted and shared with modes for comment.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1315: CEs in Emergencies	27- FHWA	FTA, OST	Required Rulemaking	Rulemaking to qualify 'emergency repair' projects as CEs.	NPRM 10/30/12 FR 2/19/13	Complete. NPRM was published on 10/1/12. Final rule was published in Federal Register, effective as of 2/19/13.
	28- FHWA	OST	Required Rulemaking	Regulation on evaluation of alternatives to facilities repeatedly requiring repair or reconstruction.	NPRM 11/20/13 FR None at this time	In progress. Agencies solicited comments on regulatory approach in NPRM for Section 1315(a). FHWA and FTA will be issuing rules separately. FHWA plans to implement the requirement in its Asset Management rulemaking, with an NPRM scheduled to publish 11/20/13.
	29- FTA	OST	Required Rulemaking	Regulation on evaluation of alternatives to facilities repeatedly requiring repair or reconstruction.	IFR 4/1/13	In progress. FTA is implementing the requirement through rulemakings for new Emergency Relief program (49 USC 5324). They will issue an Interim Final Rule (IFR) in place of a final rule.
	30- FTA	OST	Required Rulemaking	Regulation on evaluation of alternatives to facilities repeatedly requiring repair or reconstruction.	ANPRM 6/20/13 FR 10/1/14	In progress. Will be incorporated into the new Transit Asset Management program (49 USC 5326). Program office drafting ANPRM for Transit Asset Management Program.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1316: CEs for Projects Within the Right-of-Way	31- FHWA	FTA	Required Rulemaking	Promulgate regulations defining as CE projects in operational right-of-way.	NPRM 2/28/13 Implement 3/30/13	In progress; behind schedule. Combined rulemaking with Section 1317. NPRM published on 2/28/13. No schedule for final rulemaking.
1317: CE for Projects of Limited Federal Assistance	32- FHWA	FTA	Required Rulemaking	Promulgate regulations to designate projects of limited Federal assistance as CEs within 180 days of enactment.	NPRM 2/28/13 Implement 3/30/13	In progress; behind schedule. Combined rulemaking with 1316. NPRM published on 2/28/13. No schedule for final rulemaking.
1318: Programmatic Agreements and Additional Categorical Exclusions	33- FHWA	FTA, OST	Initiative: Survey & Solicitation	Survey uses of CEs by DOT since 2005, publish review of survey, and solicit requests for new CEs.	11/30/12	Complete. Survey conducted and review/report posted on 12/7/2012. Federal Register notice of availability of report published 12/13/2012.
	34- FHWA	FTA, OST	Required Rulemaking	Rulemaking to add new CEs suggested by others and as listed in statute.	NPRM 1/29/13 FR 10/1/14	In progress; behind schedule. The Department now expects to publish the NPRM in August 2013. Program offices drafting rule.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1319: Accelerated Decisionmaking in Environmental Reviews	35- FHWA	FTA	Guidance	Interim guidance on accelerated decisionmaking on environmental reviews.	1/14/13	Complete. Internal interim guidance jointly issued by FHWA & FTA on 1/14/13.
	36- FHWA	FTA	Potential Rulemaking	Regulation on accelerated decisionmaking on environmental reviews.	NPRM 6/14 FR None at this time	In progress. This may be addressed as part of the "clean-up" rulemaking as referenced in Section 1305 rulemaking effort.
1320: Memoranda of Agency Agreements for Early Coordination	37- FHWA	FTA	Guidance	Guidance on memoranda of agency agreements for early coordination.	None at this time	In progress. No additional details provided by the Department.
	38- FHWA	FTA	Potential Rulemaking	Rulemaking on memoranda of agency agreements for early coordination.	NPRM 11/20/13 FR None at this time	In progress. Potential to be combined with rule for MAP-21 Sections 1310 and 1311. This schedule may change as a result of further discussion within the Department.
1321: Environmental Procedures Initiative	39- OST	FHWA, FTA	Report	For formula grant funds distributed, the Secretary shall establish an initiative to review and develop consistent procedures for environmental permitting and report results.	None at this time	In progress. No additional details provided by the Department.

Section Title	Lead	Other Modes Involved	Type of Deliverable/ Action*	Deliverable According to the Department	Anticipated Completion Date (Bold = Statutory Deadline)	Status According to the Department
1323: Review of Federal Project and Program Delivery	40- FHWA		Congressional Report	Report to Congress on results of review of Federal project and program delivery, pre-2005 projects.	10/1/13	In progress. No additional details provided by the Department.
	41- FHWA		Congressional Report	Report to Congress on results of review of Federal project and program delivery, post-2005 projects.	10/1/17	In progress. No additional details provided by the Department.
	42- FHWA	FTA	Congressional Report	Report to Congress on types and justifications for additional categorical exclusions under sections 1316-1317.	10/1/14	Not started. Awaiting rulemaking for Sections 1316 and 1317.

Source: OIG compilation of information provided and confirmed by U.S. Department of Transportation agencies including OST, FHWA, and FTA.

Key: NPRM = Notice of Proposed Rulemaking. ANPRM = Advanced Notice of Proposed Rulemaking. FR = Final Rule. IFR= Interim Final Rule.

Note: Statutory deadlines are in bold; all other deadlines are the Department's estimated completion dates.

Note: There are 42 actions included in the Department's current plans; however, some of the sections with anticipated rulemakings may eventually be consolidated. For example, the Department plans to issue one rule to cover Sections 1316 and 1317.