
Office of Inspector General
Audit Report

**THE DEPARTMENT OF
TRANSPORTATION'S
RULEMAKING PROCESS**

Departmentwide

Report Number: MH-2000-109

Date Issued: July 20, 2000





**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: ACTION: Report on the Department of
Transportation's Rulemaking Process
MH-2000-109

Date: July 20, 2000

From: Kenneth M. Mead
Inspector General

Reply to
Attn. of: JA-40

To: The Secretary
Thru: The Deputy Secretary

This report presents the results of our review of the Department of Transportation's Rulemaking Process. This review was performed at the request of Congressman James L. Oberstar, ranking Democratic member of the House Committee on Transportation and Infrastructure. Congressman Oberstar, concerned that the Department of Transportation (DOT) was not completing rulemaking actions in a timely manner, specifically requested we: (1) evaluate whether the rulemaking process has improved or grown worse since 1993, when previous reviews by the Office of Inspector General (OIG) and the Office of General Counsel were completed; (2) assess the status of recommendations from the OIG and Office of General Counsel reports; (3) determine if delays are caused by the use of advisory or negotiated rulemaking committees; and (4) identify "best practices," both within the Department and in other Federal agencies, that could be used as models for improving the Department's rulemaking process. The scope of our audit and methodology used to achieve our objectives, as well as the acronyms used in the report are discussed in Exhibit B.

BACKGROUND

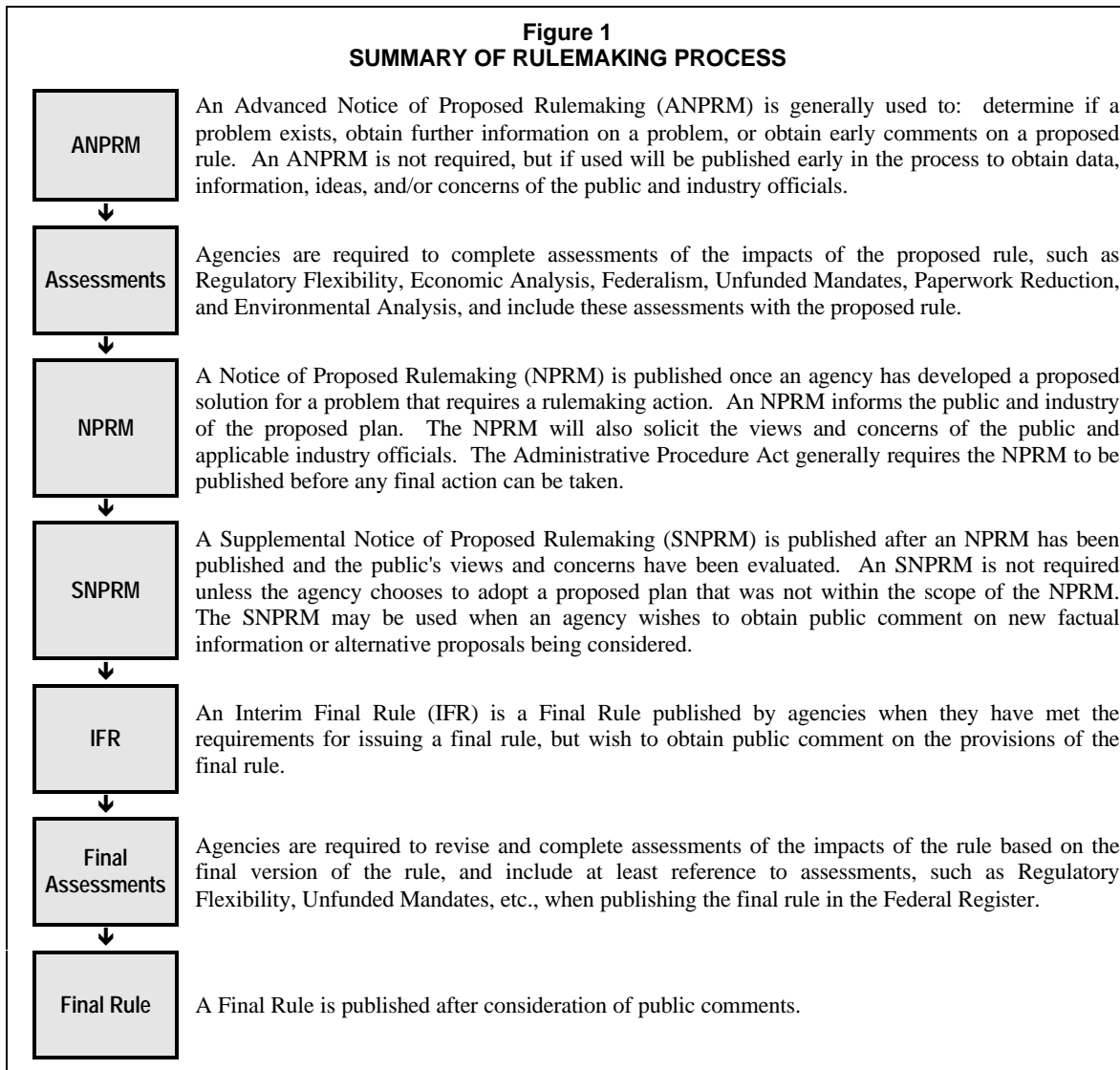
In response to congressional and Departmental concerns in 1993, we and DOT's Office of General Counsel conducted reviews of DOT's rulemaking process and made recommendations for improvement. Also in 1993, the National Performance Review recommended that agencies streamline their rulemaking procedures. Consequently, President Clinton signed Executive Order 12866, "Regulatory Planning and Review" (September 30, 1993), requiring that "each agency shall develop its regulatory actions in a timely fashion."

By issuing rules, the Department establishes transportation policy for the transportation industry in the areas of safety, mobility, economic growth,

environment, and national security. For example, to enhance safety and decrease highway fatalities, DOT recently proposed or issued rules on the following:

- Standards for motor vehicle airbags that will result in fewer injuries and deaths to small adults, children, and infants;
- Limits on the number of hours commercial drivers are permitted to drive to reduce the number of fatigue-related crashes; and
- Guidance on when and how train whistles must be sounded at highway-rail crossings to reduce the number of accidents.

The stages of the rulemaking process have generally remained unchanged since 1993. Agencies must publish their rules in the Federal Register and obtain and address comments from interested parties regarding the proposed rule. Figure 1 summarizes the rulemaking process from proposed to final rule.



Depending on the rule’s significance, offices both within and outside of DOT review the proposed rule and associated assessments at each stage of the process. For example, a significant rule, one that is costly, controversial, or of substantial public interest, is reviewed by the Office of the Secretary of Transportation (OST) and the Office of Management and Budget (OMB). However, as a result of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Federal Aviation Administration (FAA) does not have to submit all significant rules to OST for review.¹ The Assistant General Counsel for Regulation and Enforcement estimated that under this legislation, FAA would be required to submit at most one or two rules per year, but to date continues to forward all significant rules to OST for review. Neither Executive Order 12866 nor DOT procedures require that OMB and OST review nonsignificant rules.

RESULTS IN BRIEF

Despite the mandate by Congress and interest from the public to issue rules more quickly, DOT took more than twice as long and completed half as many significant rules in 1999 as it did in 1993. For the significant rules completed in 1999, DOT took an average of 3.8 years and a median of 2.8 years to issue a final rule. During 1999, DOT was working on 152 significant rules that were in various stages of development for an average of 3.1 years compared to 177 significant rules for an average of 2.1 years in 1993.² Table 1 compares the number of significant rules completed by OAs in 1993 and 1999 and the average time to complete these rules.

Table 1: Significant Rules Completed by OAs in 1993 and 1999

OA	Number of Completed Significant Rules		Average Time In Years to Complete Significant Rules	
	1993	1999	1993	1999
OST	3	3	4.4	6.6
USCG	5	0	2.1	N/A
FAA	17	3	0.7	3.0
FHWA/FMCSA	3	3	0.4	2.3
FRA	2	2	2.8	1.5
NHTSA	10	4	2.8	3.7
FTA	2	1	2.3	0.3
RSPA	3	3	1.6	5.9
BTS	0	1	N/A	3.6
TOTAL	45	20		
AVERAGE			1.8	3.8

¹ FAA must submit to OST rules that (1) may have more than a \$250 million annual effect on the economy (vs. \$100 million for other OAs) or (2) raise novel or significant legal or policy issues affecting other OAs.

² These significant rules represent a “snapshot” of ongoing rulemaking activities, as cited in the Semiannual Regulatory Agenda, Federal Register, October 25, 1993, and November 22, 1999.

Our analysis of significant rules completed in 1999 indicates that DOT has taken as long as 12 years to issue rules. Although overall DOT is taking longer to complete rules, it issued 7 of the 20 significant rules in less than 2 years: 5 were administrative in nature and 2 involved safety issues.

Congress, in an attempt to expedite the rulemaking process, sets statutory deadlines for initiating or completing selected rules. There are many instances where Congress sets a statutory deadline to issue a rule. While Congress, the issuing agency, and affected parties can all agree when a statutory deadline has not been met, these same parties may be in extreme disagreement on the content of a proposed rule. This disagreement on substance can in itself cause significant periods of delay in issuing the rule. However, we found that DOT met only 10 percent of these deadlines in 1999 as compared to 16 percent in 1993. In addition, for all rules with statutory deadlines, completed or open in 1999, DOT missed the statutory deadlines by an average of 3.8 years.

The Secretary, through annual performance agreements, has taken action to hold individual Operating Administrators accountable for the timely issuance of the Department's highest priority rules. This has helped to focus attention on important rulemakings, even if the actual completion dates exceed planned or statutory deadlines. However, OAs have not been required to establish priorities for **all** significant rules nor to establish schedules for meeting deadlines at each rulemaking stage.

We found that DOT's rulemaking process was being slowed by significant periods of downtime. Our analysis of 54 open and completed significant rules shows that OAs did not work on rules for an average of almost 2 years, which is even greater than the average time spent developing or reviewing rules. We found that OAs were not working on rules because they did not make timely decisions to advance the rules or did not consider the rules a priority. We also found that OAs could not fully account for 1 year spent on the rulemaking process in 39 percent of the rules. This unaccounted time was not included in the 2-year average spent not working on rules. Although all OAs have some form of rulemaking tracking system, the extent of their monitoring activities varies.

During 1999, the Department was working on 152 significant rules on diverse transportation issues ranging from requiring the use of child safety seats in airplanes to the labeling of hazardous materials for cargo shipped internationally. The process for completing these rules involves a multiplicity of factors, such as developing, defining, and reviewing a rule; identifying alternative solutions to the problem the rule is attempting to address; analyzing the impacts of the proposed rule; and soliciting and considering public and industry comments. Also, the rulemaking process for a significant rule is complex, because the rule by definition

is either costly, controversial, or of substantial public interest. For example, several factors affected an FAA rule for enhancing airport security requirements, including terrorist activities in the United States and worldwide, and U.S. involvement in the Gulf War, which precipitated a reexamination of U.S. aviation security policy.

Although rulemaking can be a complicated process, key management actions, such as holding senior management accountable for setting rulemaking priorities and monitoring the progress of rules, expedites the rulemaking process. For example, once the FHWA Deputy Administrator designated a rule requiring the use of reflectors and lighting devices on trailers a priority, the rule was completed within 9 months. Similarly, a Coast Guard proposed rule on security for passenger vessels and terminals sat on an individual's desk for almost 1.5 years because he did not agree with the rulemaking approach and would not clear the rule to the next stage. Only after the Commandant became aware of the delay and directed the individual to process the rule did any action take place.

Individuals knowledgeable about the rulemaking process, such as administrative law experts and regulatory officials from other Federal agencies, told us that DOT is recognized as one of the better agencies for issuing rules. However, our analysis shows that opportunities exist to improve the efficiency and effectiveness of DOT's rulemaking process. The Department and OAs may be able to use initiatives such as technology and supplemental rulemaking methods, considered by other agencies as best practices, to improve the timeliness of the rulemaking process. One of the most cited initiatives was the involvement of senior agency leadership in setting and monitoring rulemaking priorities throughout the process.

While DOT has implemented the majority of recommendations from the OIG's and Office of General Counsel's 1993 reports, it has not implemented a key recommendation requiring Administrators to submit, for Secretarial approval, descriptions of rulemaking tracking systems and monthly reports for ensuring deadlines are met. The Office of Regulation and Enforcement, which is responsible for the Department's regulatory and enforcement policies, does not have the authority to ensure that OAs establish systems for setting priorities and monitoring rulemaking actions. Furthermore, the DOT Strategic Plan and Performance Plans and Reports do not include a strategy or measurable objective to achieve the goal of completing rulemakings in a timely manner.

The recently created Federal Motor Carrier Safety Administration (FMCSA) provides DOT with an immediate opportunity to implement accountability in the rulemaking process. To implement the safety initiatives of the Motor Carrier Safety Improvement Act of 1999, the Department must issue 7 of 10 mandated regulations by December 9, 2000. Since we found it takes DOT on average

3.8 years to complete a rule, it is highly unlikely that DOT, without making management accountable, will implement the safety initiatives in a timely manner as intended by the Act.

To address the above issues, we recommend that the Secretary of Transportation:

1. Establish the timely completion of significant rulemaking actions as a priority within the DOT Strategic Plan, develop measurable objectives for issuing quality rules in a timely manner in the annual Performance Plans, and report accomplishments in the Performance Report.
2. Set Departmentwide priorities for significant rulemaking actions; and include in Administrators' performance agreements, the requirement to establish priorities for issuing significant rules and establish schedules for meeting deadlines at each rulemaking stage.
3. Develop a training session on the rulemaking process and establish a requirement that incoming senior management officials in the OAs and OST attend the session.
4. Provide the authority to a senior management official, senior management team, or centralized office to ensure that Operating Administrations establish priorities and schedules by submitting quarterly reports on the status of OAs' rulemaking actions to the Secretary.
5. Create and manage a Departmentwide rulemaking tracking and monitoring system to identify problems occurring both Departmentwide and at the individual OAs and take corrective actions to streamline the rulemaking process.
6. Direct OAs to use best practices, such as the use of technology and supplemental rulemaking methods, to enhance the rulemaking process, as appropriate.

On July 6, 2000, we met with the Deputy Secretary to obtain his views on the draft report. We also met with the General Counsel, Deputy General Counsel, and Assistant General Counsel for Regulation and Enforcement to obtain their comments. The Deputy Secretary and General Counsel agreed with the findings and recommendations presented in the report. The General Counsel, however, suggested that to increase awareness of the rulemaking process Departmentwide, we consider recommending rulemaking training as a requirement for incoming Senior Management officials. The Deputy Secretary concurred with this suggestion. Accordingly, we added recommendation 3 to address this issue. The

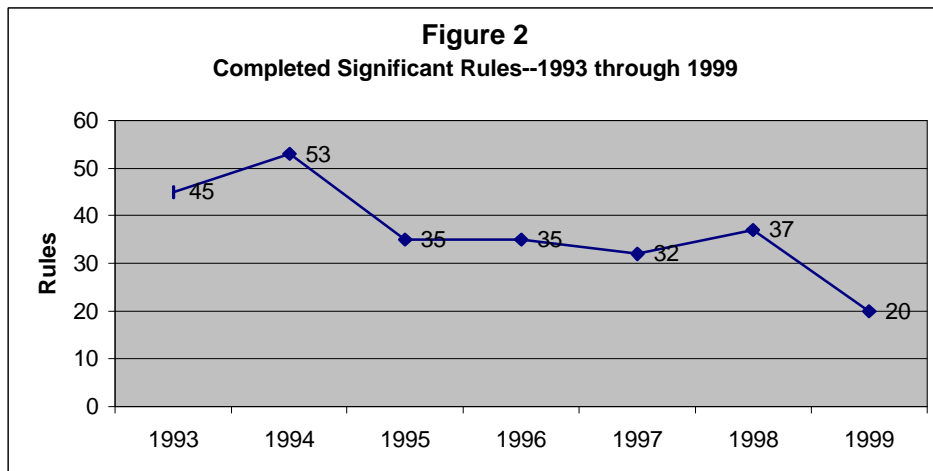
Deputy Secretary also suggested that we clarify the basis of our 1993 data from which we made comparisons with 1999. We included this clarification in our report.

FINDINGS

THE AMOUNT OF TIME DOT TAKES TO ISSUE A SIGNIFICANT RULE MORE THAN DOUBLED BETWEEN 1993 AND 1999

The time taken to complete a rule – from publishing the initial proposed rule to publishing the final rule – increased from an average of 1.8 years and a median of 10 months in 1993 to an average of 3.8 years and a median of 2.8 years in 1999.³ During 1999, the Department had not completed action on 152 rules that had been in development for an average of 3.1 years compared to 177 significant rules for an average of 2.1 years in 1993. These 1999 rules include important transportation issues such as (1) making the skies safer for children by requiring the use of child safety seats in airplanes, (2) keeping our waters and shorelines cleaner by requiring facilities that handle hazardous materials to develop a strategy to prepare for and respond to spills, and (3) improving security on airplanes through better screening of luggage and cargo for weapons. Exhibit C shows the 152 open significant rules as of November 1999.

DOT has not only taken longer to complete significant rules, it has also completed fewer significant rules than it did in 1993. The number of significant rules completed by DOT decreased by over 50 percent, from 45 completed in 1993 to only 20 in 1999. Figure 2 shows the number of significant rules completed from 1993 through 1999.



³ The total time taken to complete a rule may be even greater because the initial date the proposed rule was published does not include time spent developing the proposed rule.

Of the 20 significant rules completed by DOT in 1999, our analysis showed that DOT has taken as long as 12 years to complete a significant rule. However, we also found that DOT completed 7 of the 20 significant rules in less than 2 years: 5 were administrative in nature and 2 involved safety issues. We found that involving senior management early in the rulemaking process is key for expediting rules. For example, the National Highway Traffic Safety Administration (NHTSA) issued a rule in less than 1 year that involved a highly publicized safety issue -- providing grant funds to states if they enacted and enforced a law designating a blood alcohol level of 0.08 as the legal limit for drunk driving offenses. NHTSA Assistant Chief Counsel for General Law told us that the rule was issued in less than 1 year because NHTSA made this rule a priority and coordinated reviews of the rule with senior officials in OST and the program offices early in the process. Similarly, the other safety rule was issued quickly because the program office had worked extensively with OST when developing the proposed rule.

DOT ONLY MET 10 PERCENT OF CONGRESSIONALLY ESTABLISHED DEADLINES IN 1999

In an attempt to set rulemaking priorities and expedite the rulemaking process, Congress has set statutory deadlines for initiating or completing selected rules; however, the Department rarely met these deadlines. As shown in Figure 3, our analysis shows that DOT met only 4 (10 percent) of its 41 statutory deadlines in 1999, and 10 (16 percent) of 64 in 1993.

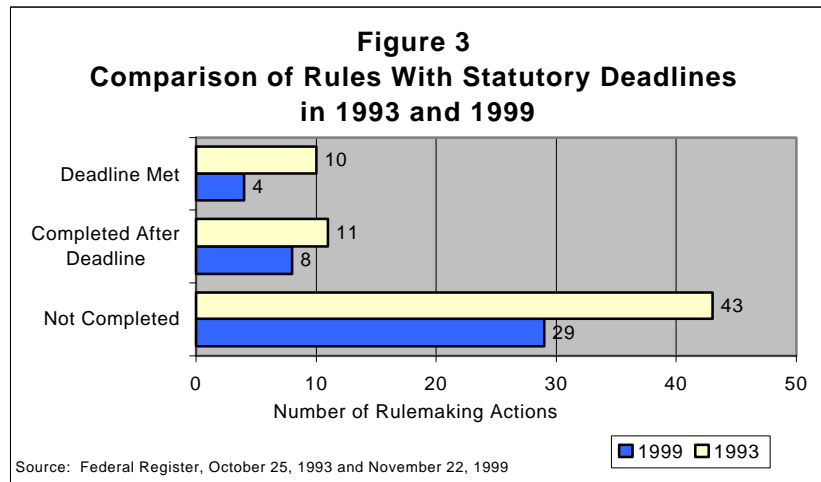


Table 2 provides examples of significant rules that have not met congressionally established deadlines. The status of all current rulemakings that have mandatory deadlines is in Exhibit D.

Table 2 Selected Open Rulemaking Actions Not Meeting Congressionally Established Deadlines			
OA	Rulemaking Action	Congressional Deadline	Years Past Deadline
FAA	Assist law enforcement agencies in efforts to stop drug trafficking by aircraft.	09/18/89	10.6
FMCSA	Establish safety permits for vehicles carrying hazardous materials.	11/15/91	8.4
USCG	Reduce potential for oil spill pollution by ensuring availability of emergency equipment on oil carrying vessels.	08/18/92	7.7
FRA	Establish design standards for locomotive cabs to ensure worker safety.	03/03/95	5.1

In addition, for all rules with statutory deadlines, completed or open in 1999, DOT missed the statutory deadlines by an average of 3.8 years and a median of 3.1 years. In comparison, DOT missed the statutory deadlines by an average of 1.2 years and a median of 1.0 year in 1993. One statutory deadline that was not met in 1999 was a requirement for RSPA to issue a final rule defining different types of pipelines by October 1994. Congress and OST considered the rule important, since their intent was to include previously exempt pipelines under pipeline safety and inspection standards. Although RSPA published a proposed rule in September 1991, RSPA is still revising the proposed rule, having postponed and suspended efforts on the rule on several occasions. A RSPA Assistant Chief Counsel reported that this rulemaking action is not a priority at RSPA because it does not address a major problem. Regardless, RSPA must still comply with the statutory requirement to define different types of pipelines.

There are many instances where Congress sets a statutory deadline to issue a rule. While Congress, the issuing agency, and affected parties can all agree when a statutory deadline has not been met, these same parties may be in extreme disagreement on the content of a proposed rule. This disagreement on substance can in itself cause significant periods of delay in issuing the rule. A contemporary example of this is the proposed rule concerning the hours of service for commercial motor vehicle drivers. While we express no view on the proposed rule's content, there is much controversy that surrounds the publication of this proposed rule. The Senate Committee on Appropriations has included a provision in the Fiscal Year 2001 Appropriations Bill that prohibits funds from being used to finalize this rule, even though there is a statutory mandate to issue the final rule by November 1999.

SIGNIFICANT PERIODS OF DOWNTIME SLOWED DOT'S RULEMAKING PROCESS

We analyzed 54 significant rulemakings, open and completed, from the initial publication of the rule to the last action taken on the rule, and determined for each rule how 6 OAs and OST spent their time during the rulemaking process.⁴ These 54 rules are listed in Exhibit E.

We found OAs spent their time on a multiplicity of factors, such as developing, defining, and reviewing a rule; identifying alternative solutions to the problem the rule addresses; analyzing the impacts of the proposed rule; and soliciting and considering public and industry comments. The rulemaking process for a significant rule is particularly complex because the rule by definition is costly, controversial, or of substantial public interest.

While we found that OAs spent time developing and reviewing rules, we also found that for significant periods of time, OAs were not working on rules because they did not make timely decisions to advance the rules or did not consider the rules a priority. OAs have not been held accountable to move rules through the rulemaking process and eliminate time when rules are not being worked on. Although rulemaking can be a complicated process, we found that several key management actions, such as holding senior management accountable for setting rulemaking priorities and monitoring the progress of rules, expedite the rulemaking process.

Almost 2 Years Passed Without OAs Performing Work on Rules

Our analysis of 54 rules shows that, on average, the amount of time spent **not** working on rules was greater than time spent developing or reviewing rules. The average amount of time that passed without work being performed on rules was almost 2 years. Senior management involvement is essential in ensuring that rulemaking becomes a Departmental and OA priority, so that it receives adequate resources and attention. Exhibit F shows the average periods of inactivity by OA.

We determined that OAs were not working on rules because they:

- Did not decide whether to terminate or advance a rule,

⁴ The six OAs were: Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), Research and Special Programs Administration (RSPA), and United States Coast Guard (USCG).

- Did not take action to terminate a rule once a decision was made,
- Did not consider the rule a priority, and
- Expected that future events, such as advances in technology, would affect the rule.

With the exception of the Department's highest priority rules which are included in each Operating Administrator's performance agreement with the Secretary, OAs have not been held accountable to move rules through the rulemaking process and eliminate time when rules are not being worked on. Furthermore, in the semiannual listing of all DOT rules published in the Federal Register, the status of several of these rules is shown as "next step undetermined," which indicates the OAs did not have plans for completing these rules. The following examples show the need for senior management involvement to process rules in a timely manner.

- For over 3 years, FAA did not take action to advance a rule regulating night flying in mountainous areas. FAA determined that this rule was unnecessary because current training for pilots already included information necessary to fly at night in mountainous areas. Action was not taken because FAA could not decide whether to terminate the rule or not since the rule was mandated by Congress. FAA eventually terminated the proposed rule.
- During 6 of the 11 years that NHTSA's rule on the flammability of materials on school buses has been open, NHTSA has not worked on the rule. NHTSA has attempted to terminate the proposed rule three times, but the Federal Transit Administration (FTA) which issued guidelines concerning flammability of materials in transit buses, and the Deputy Secretary nonconcurred with terminating the rule. In addition, according to officials in OST's Office of Regulation and Enforcement, the Deputy Secretary charged NHTSA to work with FTA on the points of nonconcurrence. However, the NHTSA Safety Standard Engineer has not acted on the rule for the past 3 years.
- A Coast Guard proposed rule on security for passenger vessels and terminals sat on an individual's desk for almost 1.5 years because he did not agree with the rulemaking approach and would not clear the rule to the next stage. Only after the Commandant became aware of the delay and directed the individual to process the rule did any action take place.

- An OST rule concerning smoking aboard airplanes was open for over 10 years. Although OST issued the interim rule within 3 months from the time President Bush signed the law banning smoking on U.S. flights, a final rule was not issued until June 2000. Officials in the Office of Regulation and Enforcement told us that the rule was not a priority since the public comments on the interim rule supported the rulemaking, and the interim rule was enforceable as a final rule. However, because the rule was an interim final rule, OST still needed to issue a final rule.
- For more than 6 years, FAA did not move forward with a series of rules to substantially restore the natural quiet in the Grand Canyon National Park. During that time, FAA was waiting for a National Park Service report on the Grand Canyon's airspace management plan.
- FHWA's Office of Motor Carrier and Highway Safety, now FMCSA, has not taken any action for more than 8 years on a rule to improve a national identification system for truck and bus drivers. After numerous studies during the 11 years the rule has been open, it was determined that a cost-effective nationwide identification system was not possible. However, the rule has not been terminated, as additional studies are being completed on alternative technologies for such a system.

In addition to the 2 years spent not working on rules, we also identified periods of time that could not be accounted for by the OAs. Specifically, OAs could not fully account for 1 year spent on the rulemaking process in 39 percent of the rules. This unaccounted time was not included in the 2-year average spent not working on rules. Exhibit G summarizes rules where OAs could not account for time spent on the rulemaking process. We found that during the time that rules remained open, generally several years, rulemaking and program personnel knowledgeable of the rule retired, resigned, or were reassigned. Further compounding this loss of personnel and associated knowledge base is that OAs have generally not maintained centralized files nor kept rulemaking tracking systems up to date.

For example, FMCSA's rule on replacing current DOT and state registration and licensing systems with a single Federal system illustrates the loss of personnel and the lack of rulemaking documentation. This rule has been open almost 4 years, and FMCSA's predecessor, FHWA's Office of Motor Carrier and Highway Safety, could account for any activity taken during a 2-year period. FHWA's rulemaking tracking system did not reflect any activity since 1996 when the proposed rule was first issued nor could FHWA's Office of Chief Counsel provide a file on this rule. Further complicating the matter, key personnel involved in developing the rule left the agency, and the rule was transferred from FHWA to FMCSA. New FMCSA staff assigned to the rule, such as the Acting Office

Director, Bus and Truck Standards and Operations, and Acting Chief, Regulatory Development Division, told us they were unable to obtain information regarding the rule's history, and even resorted to digging in a box of papers from a former employee; however, this effort also proved futile.

Furthermore, FHWA could not account for 5.5 of the 9 years spent on a rulemaking concerning safety permits for motor carriers handling hazardous materials. FHWA's Office of Motor Carrier and Highway Safety, now FMCSA, Acting Division Chief of Driver and Carrier Operations did not know how FHWA spent its time on this rule, such as whether this time was spent preparing an economic analysis or coordinating with other agencies. FHWA's tracking system showed only three entries over the 9 years the rule was open. For example, one entry only cited "next action undetermined" and did not explain why action could not be taken to complete the rule.

DOT DOES NOT HAVE AN EFFECTIVE PROCESS FOR MONITORING THE PROGRESS OF RULES

DOT has implemented the recommendations from our and the Office of General Counsel 1993 reports that addressed administrative issues, such as the need for DOT regulatory officials to meet regularly to share information on rulemaking issues. *However, DOT has not implemented a key recommendation to improve the management of the rulemaking process that required Administrators to submit, for Secretarial approval, descriptions of rulemaking tracking systems and monthly reports for ensuring deadlines are met.*

All OAs have rulemaking tracking systems, ranging from manual reports to automated systems, but the extent of monitoring activities varies. For example, FAA has an automated rulemaking tracking system that is used to manage rulemaking documents and track projects and schedules, but FAA does not use the system to identify where problems, such as delays, are occurring, nor is the system updated to reflect why action was not taken on a rule. For example, FAA could not account for 8 months of time spent on a rule to assist enforcement agencies in their efforts to stop drug trafficking in airplanes. Similarly, OST has an automated tracking system, but the Assistant General Counsel for Regulation and Enforcement told us the system has not been recently updated and summary reports have not been generated because of staffing shortages.

OST's Office of Regulation and Enforcement, which is responsible for the Department's regulatory and enforcement policies, does not have the authority to ensure that OAs establish systems for setting priorities and monitoring rulemaking

actions. The Office of Regulation and Enforcement has encouraged the OAs to identify the stages of the internal rulemaking process for each rule, indicate who is responsible for completing each stage, establish deadlines for completing each stage, identify actions taken on the rule, and identify offices that must concur or with whom coordination must occur. However, OAs are not required to implement these steps for managing the rulemaking process.

DOT STRATEGIC AND PERFORMANCE PLANS DO NOT ADDRESS TIMELY RULEMAKING AS A PRIORITY

The DOT Strategic and Performance Plans do not include a strategy or measurable objectives to achieve the goal of completing rulemakings in a timely manner. While the current DOT Strategic Plan says that DOT “will ensure that [rules] are comprehensive, timely, outcome oriented, and written in clear and simple English,” it does not cite how timeliness will be ensured. Furthermore, rulemaking is not addressed in DOT’s revised Draft Strategic Plan 2000 – 2005.

The Secretary, through annual performance agreements, has taken action to hold individual Operating Administrators accountable for the timely issuance of selected rules. Each Operating Administrator’s Fiscal Year 2000 performance agreement includes objectives for completing selected rulemaking actions. These selected rulemaking actions include the Department’s most important significant rules, as defined by the annual DOT Regulatory Plan. For example, the National Highway Traffic Safety Administrator’s Fiscal Year 2000 performance agreement includes issuing a final rule by March 31, 2000, to require advanced air bags that will protect occupants of different sizes and minimize risks to infants and children. NHTSA published this rule on May 12, 2000. The performance agreements have helped to focus attention on important rulemakings, even if the actual completion dates exceed planned or statutory deadlines. However, OAs have not been required to establish priorities for **all** significant rules nor establish schedules for meeting deadlines at each rulemaking stage.

By conducting an annual assessment of its rulemaking process using measurable objectives and by holding senior management accountable for achieving these objectives through their performance agreements, DOT could identify where and why rules have been delayed and take corrective action. As a result, DOT would establish rulemaking as a departmental priority and increase the visibility of the process to senior management.

IMPLEMENTING THE RULEMAKING REQUIREMENTS OF THE MOTOR CARRIER SAFETY IMPROVEMENT ACT WILL PRESENT CHALLENGES FOR DOT

The Department and the recently created FMCSA have an opportunity to immediately hold senior managers accountable for completing rules in a timely manner, with the implementation of the safety initiatives of the Motor Carrier Safety Improvement Act of 1999. However, the Department and FMCSA face challenges in implementing the Act because of the number of rulemakings proposed by FMCSA or mandated by Congress.

FMCSA officials have identified 28 provisions of the new Act that they claim cannot be implemented without a rulemaking, including 10 congressionally established rulemaking actions. The Department must issue 7 of the 10 mandated regulations by December 9, 2000, including, for example, a rule that establishes criteria for disqualifying commercial drivers convicted of any serious vehicular offense that resulted in the loss of the individual's license.

Since we found it takes DOT on average 3.8 years to complete a rule, it is highly unlikely that DOT, without making management accountable, will implement the safety initiatives in a timely manner as intended by the Act. Therefore, it is imperative that DOT set rulemaking priorities, establish milestones for completing each rule, and hold senior managers accountable for their performance in implementing the important safety provisions of the Act.

SEVERAL BEST PRACTICES IDENTIFIED BY AGENCIES MAY IMPROVE DOT'S RULEMAKING PROCESS

Individuals knowledgeable about the rulemaking process, such as administrative law experts and regulatory officials from other Federal agencies, told us that DOT is recognized as one of the better agencies for issuing rules. However, our analysis indicates that opportunities still exist to improve the timeliness of the rulemaking process as shown by initiatives considered as best practices by OAs as well as other Federal agencies. One of the most cited initiatives included the involvement of senior agency leadership in setting and monitoring rulemaking priorities throughout the process. Agencies have also used advances in technology, such as storing and retrieving rulemaking procedures on their Intranets, to improve the rulemaking process. Although these technology initiatives may not necessarily improve the timeliness of the rules, they may make the rulemaking process less burdensome for agencies' rulemaking staff. Lastly,

OAs have used two supplemental rulemaking methods, negotiated rulemaking and advisory committees, which may enhance the effectiveness of rules.

Involving Senior Management in Setting Rulemaking Priorities May Expedite the Rulemaking Process

In 1994, the Administrative Conference of the United States⁵ recommended that, to improve their internal rulemaking environments, agencies develop management techniques to ensure the efficient and effective administration of rulemaking. For example, one recommended technique was to systematically set priorities at the highest agency levels and track rulemaking initiatives, including who has the authority to ensure agency schedules and policies are followed.

The following examples illustrate the range of methods used by agencies outside of DOT to involve senior management in the rulemaking process.

- **Food and Drug Administration (FDA), Center for Devices and Radiological Health.** The Center created a process whereby senior managers meet monthly to establish and monitor rulemaking priorities. Furthermore, for each new rulemaking, the Center designates a senior official as the “Senior Champion.” The role of the “Senior Champion” is to form a rulemaking team, set deadlines and priorities, obtain input from the public and industry, monitor deadlines and intervene when necessary, and reach closure on the rulemaking.
- **Department of Commerce, National Marine Fisheries Service (NMFS).** A senior management team including, for example, the Deputy Undersecretary, Assistant Secretary, General Counsel, and Assistant Administrator meet weekly via teleconference to discuss the status of significant and controversial rules and actions needed. Furthermore, NMFS assigns all rules a priority status ranging from “A” for significant or controversial rules, which require full Department review, to “D” for rules or related notices where rulemaking approval authority has been delegated to the NMFS.
- **Environmental Protection Agency.** Rules are assigned to one of three “tiers” based on the level of cross-agency and Administrator involvement. For

⁵ The Administrative Conference of the United States, an independent Federal advisory agency in administrative law and procedures, was established in 1968 and terminated in 1995. This agency conducted studies and made recommendations to Congress and agencies for improving the efficiency, adequacy, and fairness of administrative procedures.

example, Tier 1 rules are the Administrator's Priority Actions and include top actions that have ongoing involvement of the Administrator's office. The lead Assistant Administrator is responsible for ensuring that senior management participates in key rulemaking steps. In contrast, Tier 3 rules have little or no need for cross-agency participation and the lead office has the flexibility to design its own rulemaking process.

Agency officials could not quantify how much time was saved by routinely including senior management in the rulemaking process; however, they agreed that rules have generally become easier to promulgate. For example, the Department of Commerce's Chief Counsel for Regulation reported that one purpose of the weekly senior management meeting is to obtain concurrence and sign-off on specific rules, and that this goal is fulfilled on a weekly basis.

Using Technology May Result in a Less Burdensome Rulemaking Process

Agencies have undertaken a variety of actions that may not necessarily improve the timeliness of the rulemaking process, but may result in a less burdensome process. Many of these actions use technology to provide the public with greater access to information and streamline the rulemaking process. For example, RSPA and the Department of Agriculture have used electronic public meetings or virtual conferences to obtain public comments on rules. Furthermore, the Department of Labor has used its Intranet for storing and retrieving rulemaking procedures. FAA also developed and implemented an automated Integrated Rulemaking Management Information System, which is used to manage rulemaking documents.

DOT is the only Federal entity that maintains its rulemaking docket through a centralized, Internet-accessible, electronic storage system. Rulemaking dockets contain all information on each rule, such as economic or environmental analyses, as well as all public comments. DOT's electronic system combined nine previous docket systems into one system that allows for easier public access and the ability for more than one person to review the same materials at the same time. The Assistant General Counsel for Regulation and Enforcement said that although the electronic system cost about \$3.8 million for hardware, software, and development, it saves DOT over \$1 million per year through reduced space and a reduction in staff from 24 to 14 individuals. In addition, DOT was awarded a 1997 Vice Presidential Hammer Award and a 1999 Government Technology Leadership Award for its electronic docket system.

Other examples of the use of technology in the rulemaking process include FDA's Federal Register Document Tracking System, which enables staff to determine the location and status of a rulemaking document. FDA also typesets its own rules and transmits the rule for publication in the Federal Register via disk. FDA's Director of Regulations Policy and Management Staff reported that this process resulted in printing cost savings of 20 to 30 percent. OST's Assistant General Counsel for Regulation and Enforcement told us that his office, in coordination with the OAs, is exploring a similar process. In addition, FDA has placed templates for standard rulemaking documents, such as notices, on its Intranet. FDA officials estimated they saved about \$34,000 in one program area in 1998 in personnel expenses and a reduction in staff time by automating these documents so that lower graded employees can successfully process them. FDA estimates that similar savings will occur in other program areas as this technology is more widely used.

Supplemental Rulemaking Methods May Enhance the Effectiveness of Rules

Negotiated rulemaking and advisory committees are supplemental rulemaking methods that agencies use to gain input from those affected by, or having special expertise in, an issue subject to rulemaking. These two methods may enhance a rule's effectiveness because they increase the rule's acceptance by including individuals and groups in the early development of the proposed rule. Furthermore, one purpose specific to negotiated rulemaking is to reach consensus on the rule.

Not all rules are appropriate for negotiated rulemaking. Those that may be appropriate include, for example, rules that have deadlines, room for compromise, and limited affected parties, and are well defined. OAs reported that negotiated rulemaking was infrequently used because the process is labor intensive and costly. For example, a RSPA Assistant Chief Counsel reported that the time spent for planning a negotiated rulemaking included determining who will be affected by the rule, identifying potential committee members, selecting a facilitator, arranging for a meeting site, and selecting dates for the negotiations. OST's Assistant General Counsel for Regulation and Enforcement reported that the Department's recent negotiated rulemaking costs ranged from \$50,000 to \$80,000. Despite these resource requirements, OAs told us that negotiated rulemaking results in a better and more acceptable final rule, and that the rulemaking process may have taken even longer without using the negotiated process.

Consistent with the OAs' statements regarding the infrequent use of negotiated rulemaking, we found that only 5 of 257 or 2 percent of DOT rules completed

since 1993 used negotiated rulemaking. For example, the Federal Railroad Administration (FRA) used negotiated rulemaking for a rule regarding roadway worker protection. Once FRA made the decision to use negotiated rulemaking, the rule was completed in approximately 2.5 years. In a report to Congress, the FRA Administrator stated that the negotiated rulemaking process was successful and was the impetus for their current advisory committee.

FRA and FAA are the primary users of advisory committees. Our analysis of 54 rules showed that FRA and FAA completed 8 rules using advisory committees. These rules took almost 2 years longer to issue than rules completed without an advisory committee. However, the FRA Administrator and FAA Manager of Rulemaking reported that the rulemaking process may have taken even longer without the committee process. They also reported that the use of advisory committees results in more time being spent on planning for the proposed rule. However, due to this up-front planning, less time is spent revising the proposed rule and issuing the final rule. In addition, advisory committees can resolve controversial issues before publishing proposed rules and result in fewer adverse public comments.

RECOMMENDATIONS

We recommend that the Secretary of Transportation:

1. Establish the timely completion of significant rulemaking actions as a priority within the DOT Strategic Plan, develop measurable objectives for issuing quality rules in a timely manner in the annual Performance Plans, and report accomplishments in the Performance Report.
2. Set Departmentwide priorities for significant rulemaking actions; and include in Administrators' performance agreements, the requirement to establish priorities for issuing significant rules and establish schedules for meeting deadlines at each rulemaking stage.
3. Develop a training session on the rulemaking process and establish a requirement that incoming senior management officials in the OAs and OST attend the session.
4. Provide the authority to a senior management official, senior management team, or centralized office to ensure that Operating Administrations establish priorities and schedules by submitting quarterly reports on the status of OAs' rulemaking actions to the Secretary.

5. Create and manage a Departmentwide rulemaking tracking and monitoring system to identify problems occurring both Departmentwide and at the individual OAs and take corrective actions to streamline the rulemaking process.
6. Direct OAs to use best practices, such as the use of technology and supplemental rulemaking methods, to enhance the rulemaking process, as appropriate.

MANAGEMENT COMMENTS

On July 6, 2000, we met with the Deputy Secretary to obtain his views on the draft report. We also met with the General Counsel, Deputy General Counsel, and Assistant General Counsel for Regulation and Enforcement to obtain their comments. The Deputy Secretary and General Counsel agreed with the findings and recommendations presented in the report. The General Counsel, however, suggested that to increase awareness of the rulemaking process Departmentwide, we consider recommending rulemaking training as a requirement for incoming Senior Management officials. The Deputy Secretary concurred with this suggestion. Accordingly, we added recommendation 3 to address this issue. The Deputy Secretary also suggested that we clarify the basis of our 1993 data from which we made comparisons with 1999. We included this clarification in our report.

ACTION REQUIRED

In accordance with Department of Transportation Order 8000.1C, we would appreciate receiving your written comments within 30 days. If you concur with our findings and recommendations, please indicate for each recommendation the specific action taken or planned and the target dates for completion. If you do not concur, please provide your rationale. Furthermore, you may provide alternative courses of action that you believe would resolve the issues.

We appreciate the courtesies and cooperation of the Department's representatives, including the Operating Administrations, during this review. If I can answer any questions or be of further assistance, please feel free to contact me at (202) 366-1959, or my Acting Deputy, Todd J. Zinser, at (202) 366-6767.

Attachments (7)

Major Contributors to This Report

THE FOLLOWING INDIVIDUALS CONTRIBUTED TO THIS REPORT

<u>Name</u>	<u>Title</u>
Ronald H. Hoogenboom	Program Director
Mike Sivi	Project Manager
Sara Ancona	Evaluator
Kari Beitel	Evaluator
Madeline Chulumovich	Evaluator
Wendy Harris	Auditor
William Obinger	Auditor
Danielle Roeber	Evaluator

Objectives, Scope, and Methodology

Congressman James L. Oberstar, ranking Democratic member on the House Committee on Transportation and Infrastructure, concerned that DOT was not completing rulemaking actions in a timely manner, requested that the Office of Inspector General (OIG) review the Department of Transportation (DOT) rulemaking process. Congressman Oberstar requested that the OIG: (1) evaluate whether the timeliness of the rulemaking process has improved since 1993, when previous reviews by OIG and the Office of General Counsel were completed, (2) assess the status of recommendations from the OIG and Office of General Counsel reports, (3) determine if delays are caused by the use of advisory or negotiated rulemaking committees, and (4) identify “best practices,” both within the Department and in other Federal agencies, that could be used as models for improving the Department's rulemaking process.

To compare the timeliness of DOT rules in 1993 with those in 1999 and to identify whether DOT’s rulemaking process improved since 1993, we obtained and analyzed data for all DOT rules in process in 1993 and 1999. Data were obtained from the Regulatory Information Service Center (RISC), as cited in the Semiannual Regulatory Agenda, Federal Register, October 25, 1993, and November 22, 1999. Specifically, for 1993 and 1999, we compared: (1) total DOT rulemaking actions; (2) completed rulemaking actions¹ for significant rules (costly, controversial, or of substantial public interest) and nonsignificant rules; and (3) completed and open rules with statutory deadlines. We also documented the rulemaking process for DOT and selected Operating Administrations (OAs), and identified the number of requirements added to or modified in the rulemaking process since 1993.

To further focus on DOT’s rulemaking process, we took a random sample of significant rules completed in 1998 and 1999,² as well as a separate sample of open significant rulemakings – rules open in both 1993 and 1999. Rules for the random sample were selected from the Office of the Secretary (OST) and the following six OAs:³

¹ We analyzed completed rules as cited in the two Semiannual Regulatory Agendas for 1993 and 1999.

² Completed rules from 1998 were included in our sample because not all OAs had rules completed in 1999.

³ We did not include rules from the Bureau of Transportation Statistics (BTS), Federal Transit Administration (FTA), Maritime Administration (MARAD) or the Saint Lawrence Seaway Development Corporation (SLSDC) because these OAs had two or less significant rulemakings during the time period.

- Federal Aviation Administration (FAA),
- Federal Highway Administration (FHWA),
- Federal Railroad Administration (FRA),
- National Highway Traffic Safety Administration (NHTSA),
- Research and Special Programs Administration (RSPA), and
- United States Coast Guard (USCG).

In addition to the random sample, we included rules of interest to Congressman Oberstar – together these 54 rules are considered our sample.⁴ Exhibit E is a summary of the 54 rules in our sample.

To determine how OAs incurred time in the rulemaking process and the amount of time spent in the process, we analyzed our sample of 54 rules. Specifically, for each rule we obtained and analyzed data from: OST's rulemaking database, DOT's Docket Management System, related documents in the Federal Register, and OA rulemaking tracking systems. For each rule, we also identified rulemaking activities that contributed to OAs spending time on specific steps in the rulemaking process and calculated the time spent per activity. In addition, for rules as an aggregate, we calculated the average time spent per activity. We clarified information by interviewing regulation and program officials, and analyzing individual rulemaking files at each OA.

To assess the status of the recommendations from the 1993 OIG and Office of General Counsel reports, we interviewed DOT's Assistant General Counsel for Regulation and Enforcement to identify the corrective actions taken to implement each recommendation.

To determine whether the use of advisory or negotiated rulemaking committees causes delays, we compared time spent on rules from our sample where advisory or negotiated rulemaking committees were used with time spent on rules that did not use committees. In addition, we interviewed regulation and program officials at each OA regarding their use of advisory and negotiated rulemaking committees as well as the advantages and disadvantages of using these committees.

⁴ Although our review focused on significant rules, 8 nonsignificant rules were included in our sample of 54 rules because they were of interest to Congressman Oberstar. In addition, two rules that were significant in 1993 were redesignated as nonsignificant at the time our sample was selected.

Lastly, to identify best practices within DOT and other Federal agencies, we interviewed regulation and program officials at OST, six OAs, and the following Federal agencies: Departments of Agriculture, Commerce, Education, Energy, Justice, and Labor; the Environmental Protection Agency; and the Food and Drug Administration. Furthermore, we talked with regulatory officials from OMB's Office of Information and Regulatory Affairs, and administrative law experts, such as professors of administrative law and former members of the Administrative Conference of the United States.

Our work was performed in Washington, D.C., from January to May 2000, in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States.

Prior Audit Coverage

Reviews by the Office of Inspector General and the General Counsel.

Due to congressional concerns expressed at former Secretary Pena's confirmation hearing in 1993, the OIG initiated a review of the Department's rulemaking process. In addition, the General Counsel concurrently conducted a review in response to a request by the Secretary.

Both the OIG report, "Report on the Department of Transportation Rulemaking Process," March 23, 1993, and the Office of General Counsel report, "Delay in Rulemaking," March 24, 1993, identified several rulemaking problem areas ranging from the enforcement of deadlines to the updating of directives. In addition, the reports' recommendations focused on improving the efficiency, effectiveness, and timeliness of the rulemaking process, as well as improving administrative procedures, such as rescinding DOT directives and Executive Orders.

General Accounting Office Review. While the General Accounting Office (GAO) has completed several reviews on specific rulemaking requirements, such as Federalism, it has not reviewed the Department's rulemaking process. However, GAO is currently conducting an evaluation of FAA's rulemaking process at the request of the House Committee on Transportation and Infrastructure, Subcommittee on Aviation.

DOT Open Significant Rules
As Published in the Semiannual Regulatory Agenda, November 22, 1999

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
1	OST	2105-AC49	Update of Drug and Alcohol Procedural Rules	Developing Proposed Rule
2	OST	2105-AC65	Computer Reservations System Regulations Comprehensive Review	Developing Proposed Rule
3	OST	2105-AC71	Aviation Data Requirements Review and Modernization Program	Developing Proposed Rule
4	OST	2105-AB50	Price Advertising	Preparing To Withdraw
5	OST	2105-AB71	Procedures for Transportation Workplace Drug-Testing Programs	Preparing To Withdraw
6	OST	2105-AC76	Participation by Disadvantaged Business Enterprises in Airport Concessions	Preparing Final Rule
7	OST	2105-AB39	Statement of Enforcement Policy on Rebating	Next Action Undetermined
8	OST	2105-AB87	Accessibility of Passenger Vessels to Individuals With Disabilities	Next Action Undetermined
9	OST	2105-AC06	Transportation for Individuals With Disabilities (Accessibility Guidelines)	Next Action Undetermined
10	OST	2105-AC62	Domestic Passenger Manifest Information	Next Action Undetermined
11	OST	2105-AC72	Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry	Next Action Undetermined
12	USCG	2115-AE87	Marine Transportation-Related Facility Response Plans for Hazardous Substances	Developing Proposed Rule
13	USCG	2115-AF53	Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels)	Developing Proposed Rule
14	USCG	2115-AF60	Salvage and Firefighting Equipment; Vessel Response Plans	Developing Proposed Rule
15	USCG	2115-AF72	Revised Blood Alcohol Concentration (BAC) Limit	Developing Proposed Rule
16	USCG	2115-AF75	Vessel Traffic Service Lower Mississippi/ Automatic Identification System Carriage Requirement	Developing Proposed Rule
17	USCG	2115-AE19	State Access to the Oil Spill Liability Trust Fund	Preparing Final Rule
18	USCG	2115-AE88	Tank Vessel Response Plans for Hazardous Substances	Preparing Final Rule
19	USCG	2115-AF66	Fire Protection Measures for Towing Vessels	Preparing Final Rule
20	USCG	2115-AF79	Response Plans for Marine Transportation-Related Facilities Handling Non-Petroleum Oils	Preparing Final Rule

Exhibit C
Page 2 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
21	USCG	2115-AD66	Discharge-Removal Equipment for Vessels Carrying Oil	Preparing Final Rule
22	USCG	2115-AE10	Escort Vessels for Certain Tankers	Next Action Undetermined
23	USCG	2115-AE56	Escort Vessels in Certain U.S. Waters	Next Action Undetermined
24	USCG	2115-AF26	Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)	Preparing Final Rule
25	USCG	2115-AF61	Emergency Response Plans for Passenger Vessels	Next Action Undetermined
26	USCG	2115-AF65	Emergency Control Measures for Tank Barges	Next Action Undetermined
27	USCG	2115-AF68	Improvements to Maritime Safety Puget Sound-Area Waters	Next Action Undetermined
28	FAA	2120-AG93	Certification Procedures for Products and Parts	Planning/ Pre-Rule
29	FAA	2120-AC38	Part 145 Review: Repair Stations	Preparing Final Rule
30	FAA	2120-AC72	Improved Survival Equipment for Inadvertent Water Landings	Developing Proposed Rule
31	FAA	2120-AC84	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	Developing Proposed Rule
32	FAA	2120-AE92	Corrosion Control Program	Developing Proposed Rule
33	FAA	2120-AF04	Flight Operational Quality Assurance Program	Developing Proposed Rule
34	FAA	2120-AF07	Air Tour Standards	Developing Proposed Rule
35	FAA	2120-AF46	Overflights of Units of the National Park System	Developing Proposed Rule
36	FAA	2120-AF63	Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements	Developing Proposed Rule
37	FAA	2120-AF64	Submission to Drug Tests	Developing Proposed Rule
38	FAA	2120-AF69	Passenger Facility Charges	Developing Proposed Rule
39	FAA	2120-AG06	Duration Between Examinations for First- and Second-Airman Medical Certificates	Developing Proposed Rule
40	FAA	2120-AG08	False and Misleading Statements Regarding Aircraft Parts	Developing Proposed Rule
41	FAA	2120-AG43	Child Restraint Systems	Developing Proposed Rule
42	FAA	2120-AG62	Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction; and Maintenance and Inspection Requirements	Preparing Final Rule

Exhibit C
Page 3 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
43	FAA	2120-AG84	Certification of Screening Companies	Developing Proposed Rule
44	FAA	2120-AG87	Additional Flight Data Recorder Improvements for Certain B-737 Airplanes	Developing Proposed Rule
45	FAA	2120-AG89	Emergency Medical Equipment	Developing Proposed Rule
46	FAA	2120-AG90	Traffic Alert and Collision Avoidance Systems - Cargo Airplanes	Developing Proposed Rule
47	FAA	2120-AG91	Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes	Developing Proposed Rule
48	FAA	2120-AD45	Revision of Part 108, Airplane Operator Security	Preparing Final Rule
49	FAA	2120-AD46	Revision of Part 107, Airport Security	Preparing Final Rule
50	FAA	2120-AE42	Aging Aircraft Safety	Preparing Final Rule
51	FAA	2120-AE70	Aircraft Ground Deicing and Anti-Icing Program	Preparing Final Rule
52	FAA	2120-AF01	Revised Access to Type III Exits	Preparing Final Rule
53	FAA	2120-AF09	Training and Checking in Ground Icing Conditions	Preparing Final Rule
54	FAA	2120-AF30	Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	Preparing To Withdraw
55	FAA	2120-AF68	Type Certification Procedures for Changed Products	Preparing Final Rule
56	FAA	2120-AG13	Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	Preparing Final Rule
57	FAA	2120-AG17	Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies	Preparing Final Rule
58	FAA	2120-AG35	Prohibition of the Transport of Devices Designed as Chemical Generators as Cargo in Aircraft	Preparing Final Rule
59	FAA	2120-AG36	Protection of Voluntarily Submitted Information	Preparing Final Rule
60	FAA	2120-AG44	Air Tour Operations in the State of Hawaii	Preparing Final Rule
61	FAA	2120-AG46	Terrain Awareness and Warning System	Preparing Final Rule
62	FAA	2120-AG50	High Density Airports; Allocation of Slots	Preparing Final Rule
63	FAA	2120-AG51	Screening of Checked Baggage on Flights Within the United States	Preparing Final Rule
64	FAA	2120-AG58	Policy Regarding Airport Rates and Charges	Preparing Final Rule

Exhibit C
Page 4 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
65	FAA	2120-AG73	Grand Canyon National Park; Limits on Air Tour Operations	Preparing Final Rule
66	FAA	2120-AG74	Modification of the Airspace for Grand Canyon National Park	Preparing Final Rule
67	FAA	2120-AA49	Fuel System Vent Fire Protection	Next Action Undetermined
68	FAA	2120-AD16	Drug Enforcement Assistance	Next Action Undetermined
69	FAA	2120-AD26	Sole Radio Navigation System; Minimum Standards for Certification	Developing Proposed Rule
70	FAA	2120-AD91	Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	Next Action Undetermined
71	FAA	2120-AE64	Airport Noise Compatibility Planning	Next Action Undetermined
72	FAA	2120-AE79	Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	Next Action Undetermined
73	FAA	2120-AF21	Revision of Emergency Evacuation Demonstration Procedures to Improve Participant Safety	Next Action Undetermined
74	FAA	2120-AF54	Controlled Rest on the Flight Deck	Next Action Undetermined
75	FAA	2120-AG34	Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	Next Action Undetermined
76	FAA	2120-AG37	Licensing and Safety Requirements for Launch From a Non-Federal Launch Site	Developing Proposed Rule
77	FAA	2120-AG42	Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	Next Action Undetermined
78	FHWA	2125-AC92	Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	Developing Proposed Rule
79	FHWA	2125-AD05	Training for Entry-Level Drivers of Commercial Motor Vehicles	Developing Proposed Rule
80	FHWA	2125-AD20	Commercial Driver Physical Fitness as Part of the Commercial Driver's License Process	Developing Proposed Rule
81	FHWA	2125-AD32	Department of Transportation NEPA and Related Procedures for Transportation Decisionmaking	Developing Proposed Rule
82	FHWA	2125-AD91	Motor Carrier Replacement Information/Registration System	Developing Proposed Rule
83	FHWA	2125-AD93	Hours of Service of Drivers	Developing Proposed Rule
84	FHWA	2125-AE05	Development of a North American Standard for Protection Against Shifting and Falling Cargo	Developing Proposed Rule
85	FHWA	2125-AE09	Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	Developing Proposed Rule
86	FHWA	2125-AE31	Revision of Application Form for Mexican Motor Carriers: Commercial Zones	Developing Proposed Rule

Exhibit C
Page 5 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
87	FHWA	2125-AE32	Revision of Application Form for Mexican Motor Carriers: NAFTA	Developing Proposed Rule
88	FHWA	2125-AE33	Accelerated Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	Developing Proposed Rule
89	FHWA	2125-AE42	Federal Motor Carrier Safety Regulations; Zero-Base Revision	Developing Proposed Rule
90	FHWA	2125-AE52	Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Program	Developing Proposed Rule
91	FHWA	2125-AE53	Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Bureau of Indian Affairs, Including the Indian Reservations Road Program	Developing Proposed Rule
92	FHWA	2125-AE54	Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Fish and Wildlife Service, Including the Refuge Roads Program	Developing Proposed Rule
93	FHWA	2125-AE55	Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Forest Highways Program	Developing Proposed Rule
94	FHWA	2125-AE60	Federal Motor Carrier Safety Regulations; Requirements for Operators of Small Passenger Carrying Commercial Motor Vehicles	Preparing Final Rule
95	FHWA	2125-AE62	Statewide Metropolitan Planning	Developing Proposed Rule
96	FHWA	2125-AE64	NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Parks, Wildlife and Waterfowl Refuges and Historic Sites	Developing Proposed Rule
97	FHWA	2125-AE67	Revision of Color Specifications for Signs and Pavement Marking Retroreflective Materials	Developing Proposed Rule
98	FHWA	2125-AC28	Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	Preparing To Withdraw
99	FHWA	2125-AD49	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	Preparing Final Rule
100	FHWA	2125-AD75	Railroad Grade Crossing Safety	Preparing Final Rule
101	FHWA	2125-AE06	Qualifications of Motor Carriers to Self-Insure Their Operations and Fees to Support the Approval and Compliance Process	Preparing Final Rule
102	FHWA	2125-AE22	Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	Preparing Final Rule
103	FHWA	2125-AE56	Safety Fitness Procedures - Unsatisfactory Safety Ratings	Preparing Final Rule
104	FHWA	2125-AB91	Qualification of Drivers; Diabetes	Next Action Undetermined
105	FHWA	2125-AC24	Commercial Driver's License Standards; Biometric Identifier	Next Action Undetermined
106	FHWA	2125-AC62	Qualification of Drivers; Vision	Next Action Undetermined
107	FHWA	2125-AC78	Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	Next Action Undetermined

Exhibit C
Page 6 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
108	FHWA	2125-AD22	Qualifications of Drivers: Hearing Deficiencies	Next Action Undetermined
109	FHWA	2125-AD52	Hours of Service of Drivers; Supporting Document Recordkeeping	Next Action Undetermined
110	FHWA	2125-AD65	Advanced Technology in Commercial Motor Vehicle Operations	Next Action Undetermined
111	FHWA	2125-AD81	Transportation of Migrant Workers	Next Action Undetermined
112	FHWA	2125-AE19	English Language Requirement; Qualifications of Drivers	Next Action Undetermined
113	FHWA	2125-AE21	Application of the National Transportation Communications for ITS Protocol (NTCIP) Standards in ITS Projects	Next Action Undetermined
114	FHWA	2125-AE40	General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	Next Action Undetermined
115	NHTSA	2127-AD50	Wheelchair Lifts	Developing Proposed Rule
116	NHTSA	2127-AG97	Allocation of Fuel Economy Credits	Developing Proposed Rule
117	NHTSA	2127-AC64	Rollover Protection (Reg Plan Seq. No. 94)	Deciding Agency Action
118	NHTSA	2127-AG70	Advanced Air Bags	Preparing Final Rule
119	NHTSA	2127-AH38	Safety Incentive Grants for Use of Seat Belts	Preparing Final Rule
120	NHTSA	2127-AH46	Uniform Criteria for State Observational Surveys of Seat Belt Use	Preparing Final Rule
121	NHTSA	2127-AA03	Crashworthiness Ratings	Next Action Not Cited
122	NHTSA	2127-AA44	Flammability of Interior Materials-School Buses	Next Action Undetermined
123	NHTSA	2127-AF54	Review: Side Impact Protection	Preparing a Study
124	FRA	2130-AB04	Hours of Service Electronic Recordkeeping Project	Planning/ Pre-Rule
125	FRA	2130-AA71	Whistle Bans at Highway-Rail Grade Crossings	Developing Proposed Rule
126	FRA	2130-AA89	Locomotive Cab Working Conditions	Developing Proposed Rule
127	FRA	2130-AA94	Positive Train Control	Developing Proposed Rule
128	FRA	2130-AB23	Locomotive Crashworthiness	Developing Proposed Rule
129	FRA	2130-AB33	Joint Statement of Safety Policy for Shared Use of General Railroad System Trackage by Conventional Railroad and Rail Transit Trains	Developing Proposed Rule
130	FRA	2130-AA68	Freight Car Safety Standards: Maintenance-of-Way Equipment	Preparing Final Rule

Exhibit C
Page 7 of 7

No.	OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Status as of 11/22/99
131	FRA	2130-AB16	Power Brake Regulations: Freight Power Brake Revisions	Preparing Final Rule
132	FRA	2130-AB24	Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations	Preparing Final Rule
133	FRA	2130-AB26	Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing	Preparing Final Rule
134	FTA	2132-AA43	Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking	Developing Proposed Rule
135	FTA	2132-AA64	Clean Fuels Formula Grant Program	Developing Proposed Rule
136	FTA	2132-AA66	Statewide Metropolitan Planning	Developing Proposed Rule
137	FTA	2132-AA30	Bus Testing	Preparing Final Rule
138	FTA	2132-AA63	Major Capital Investment Projects	Preparing Final Rule
139	FTA	2132-AA73	Joint Statement of Safety Policy for Shared Use of General Railroad System Trackage by Conventional Railroad and Rail Transit Systems	Preparing Final Rule
140	RSPA	2137-AC39	Emergency Flow Restricting Devices	Developing Proposed Rule
141	RSPA	2137-AC68	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage	Developing Proposed Rule
142	RSPA	2137-AD10	Pipeline Safety: Recommendations to Change Hazardous Liquid Pipeline Safety Standards	Developing Proposed Rule
143	RSPA	2137-AD17	Hazardous Materials Transportation: Registration and Fee Assessment Program	Preparing Final Rule
144	RSPA	2137-AD33	Hazardous Materials Safety: Transportation of Oxygen Cylinders on Aircraft	Developing Proposed Rule
145	RSPA	2137-AA92	Requirements for Cylinders	Preparing Final Rule
146	RSPA	2137-AB48	Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	Preparing To Withdraw
147	RSPA	2137-AC30	Response Plans for Onshore Oil Pipelines	Preparing Final Rule
148	RSPA	2137-AC00	Safeguarding Food From Contamination During Transportation	Next Action Undetermined
149	RSPA	2137-AC38	Increased Inspection Requirements	Developing Proposed Rule
150	RSPA	2137-AD07	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	Preparing Final Rule
151	MARAD	2133-AB37	Cargo Preference Regulations--Carriage of Agricultural Exports	Developing Proposed Rule
152	MARAD	2133-AB38	Eligibility of U.S.-Flag Vessels of 100 Feet or Greater to Obtain Commercial Fisheries Documents	Developing Proposed Rule

Status of Statutory Rulemaking Deadlines¹

OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Action Due	Deadline	Status	Years Past Deadline
Deadline Not Due						
FMCSA	2126-AA52	Federal Motor Carrier Safety Regulations; Commercial Van Operations That Transport Nine to Fifteen Passengers Across the U.S. - Mexico Border	Final Rule	12/09/2000	Deadline Not Due	N/A
Deadline Met						
USCG	2115-AF53	Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels)	NPRM	10/01/1997	Deadline Met	0.0
USCG	2115-AF65	Emergency Control Measures for Tank Barges	NPRM	10/01/1997	Deadline Met	0.0
USCG	2115-AF66	Fire Protection Measures for Towing Vessels	NPRM	10/01/1997	Deadline Met	0.0
USCG	2115-AF79	Response Plans for Marine Transportation-Related Facilities Handling Non-Petroleum Oils	NPRM	03/31/1999	Deadline Met	0.0
Completed After Deadline						
USCG	2115-AE19	State Access to the Oil Spill Liability Trust Fund	NPRM	02/18/1991	Completed After Deadline	1.7
USCG	2115-AF55	Implementation of the National Invasive Species Act of 1996	NPRM	10/26/1997	Completed After Deadline	0.5
FAA	2120-AC84	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	NPRM	04/28/1988	Completed After Deadline	0.1
FAA	2120-AE42	Aging Aircraft Safety	Initiate	04/24/1992	Completed After Deadline	1.4
FHWA	2125-AD52	Hours of Service of Drivers; Supporting Document Recordkeeping	NPRM	08/26/1995	Completed After Deadline	2.7
FMCSA (FHWA) ²	2126-AA23 (2125-AD93)	Hours of Service of Drivers	ANPRM	03/01/1996	Completed After Deadline	0.7
NHTSA	2127-AH46	Uniform Criteria for State Observational Surveys of Seat Belt Use	Final Rule	12/08/1998	Completed After Deadline	1.3
NHTSA	2127-AG91	State-Issued Identification Documents	NPRM	09/30/1997	Completed After Deadline	0.7
FTA	2132-AA63	Major Capital Investment Projects	NPRM	10/07/1998	Completed After Deadline	0.5

¹ Statutory deadlines as listed in the Semiannual Regulatory Agenda, April 24, 2000. This is not a comprehensive list of rules with deadlines because OAs did not submit their own comprehensive list for the Agenda.

² 47 of 85 FHWA rulemaking actions were transferred to the newly created FMCSA.

Exhibit D
Page 2 of 4

OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Action Due	Deadline	Status	Years Past Deadline
Not Completed						
OST	2105-AC65	Computer Reservations System Regulations Comprehensive Review	Final Rule	12/31/1997	Not Completed	2.3
USCG	2115-AD23	Permits for the Transportation of Municipal and Commercial Wastes	Final Rule	06/15/1989	Not Completed	10.9
USCG	2115-AD66	Discharge-Removal Equipment for Vessels Carrying Oil	Final Rule	08/18/1992	Not Completed	7.7
USCG	2115-AF88	Eligibility of U.S.-Flag Vessels Measuring Less Than 100 Feet to Obtain Commercial Fisheries Documents	NPRM	04/01/2000	Not Completed	0.1
FAA	2120-AC87	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	NPRM	02/03/1989	Not Completed	11.2
FAA	2120-AD16	Drug Enforcement Assistance	Final Rule	09/18/1989	Not Completed	10.6
FAA	2120-AD26	Sole Radio Navigation System; Minimum Standards for Certification	Final Rule	09/30/1989	Not Completed	10.6
FHWA	2125-AE22	Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	Final Rule	06/09/1999	Not Completed	0.9
FMCSA (FHWA)	2126-AA01 (2125-AC24)	Commercial Driver's License Standards; Biometric Identifier	Final Rule	12/31/1990	Not Completed	9.3
FMCSA (FHWA)	2126-AA07 (2125-AC78)	Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	Final Rule	11/15/1991	Not Completed	8.4
FMCSA (FHWA)	2126-AA08 (2125-AC92)	Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	Final Rule	12/18/1993	Not Completed	6.4
FMCSA (FHWA)	2126-AA09 (2125-AD05)	Training for Entry-Level Drivers of Commercial Motor Vehicles	NPRM	12/18/1992	Not Completed	7.4
FMCSA (FHWA)	2126-AA09 (2125-AD05)	Training for Entry-Level Drivers of Commercial Motor Vehicles	Final Rule	12/18/1993	Not Completed	6.4
FMCSA (FHWA)	2126-AA17 (2120-AD66)	Safety Performance History of New Drivers	NPRM	01/31/1999	Not Completed	1.2
FMCSA (FHWA)	2126-AA18 (2125-AD75)	Railroad Grade Crossing Safety	Final Rule	02/26/1995	Not Completed	5.2
FMCSA (FHWA)	2126-AA22 (2125-AD91)	Motor Carrier Replacement Information/Registration System	Final Rule	01/01/1998	Not Completed	2.3
FMCSA (FHWA)	2126-AA23 (2125-AD93)	Hours of Service of Drivers	NPRM	11/05/1997	Not Completed	2.5
FMCSA (FHWA)	2126-AA23 (2125-AD93)	Hours of Service of Drivers	Final Rule	11/05/1999	Not Completed	0.5
FMCSA	2126-AA40	Motor Carrier Safety Assistance Program (MCSAP)	Final Rule	10/01/1999	Not Completed	0.6

Exhibit D
Page 3 of 4

OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Action Due	Deadline	Status	Years Past Deadline
FMCSA	2126-AA41	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures	Final Rule	12/09/1998	Not Completed	1.4
FMCSA	2126-AA51	Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	Final Rule	06/30/1999	Not Completed	0.8
NHTSA	2127-AG68	Transition Procedures From Current to New National Driver Register	Final Rule	02/06/1997	Not Completed	3.2
NHTSA	2127-AG70	Advanced Air Bags	Final Rule	03/01/2000	Not Completed	0.1
FRA	2130-AA71	Whistle Bans at Highway-Rail Grade Crossings	Final Rule	11/02/1996	Not Completed	3.5
FRA	2130-AA89	Locomotive Cab Working Conditions	Final Rule	03/03/1995	Not Completed	5.1
FRA	2130-AA97	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	Final Rule	06/22/1989	Not Completed	10.8
FRA	2130-AB15	Small Railroads; Policy Statement on Enforcement Program	Final Rule	03/29/1997	Not Completed	3.1
FRA	2130-AB16	Power Brake Regulations: Freight Power Brake Revisions	Final Rule	12/31/1993	Not Completed	6.3
FRA	2130-AB23	Locomotive Crashworthiness	Final Rule	03/03/1995	Not Completed	5.1
FTA	2132-AA58	Charter Services Demonstration Program	Final Rule	09/18/1992	Not Completed	7.6
FTA	2132-AA63	Major Capital Investment Projects	Final Rule	12/07/1998	Not Completed	1.4
MARAD	2133-AB38	Eligibility of U.S.-Flag Vessels of 100 Feet or Greater to Obtain Commercial Fisheries Documents	Final Rule	04/01/2000	Not Completed	0.1
RSPA	2137-AB15	Pipeline Safety: Gas Gathering Line Definition	Final Rule	10/24/1994	Not Completed	5.5
RSPA	2137-AB48	Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	Final Rule	11/01/1989	Not Completed	10.5
RSPA	2137-AC00	Safeguarding Food From Contamination During Transportation	Final Rule	08/01/1991	Not Completed	8.7
RSPA	2137-AC30	Response Plans for Onshore Oil Pipelines	Final Rule	08/18/1992	Not Completed	7.7
RSPA	2137-AC33	Pipeline Safety; Underwater Abandoned Pipeline Facilities	Final Rule	04/24/1994	Not Completed	6.0
RSPA	2137-AC34	Areas Unusually Sensitive to Environmental Damage (USAs)	Final Rule	10/24/1994	Not Completed	5.5

Exhibit D
Page 4 of 4

OA	Rulemaking Identification Number (RIN)	Rulemaking Action	Action Due	Deadline	Status	Years Past Deadline
RSPA	2137-AC38	Increased Inspection Requirements	Final Rule	10/24/1995	Not Completed	4.5
RSPA	2137-AC39	Emergency Flow Restricting Devices	Final Rule	10/24/1996	Not Completed	3.5
RSPA	2137-AC53	Regulated Gas and Hazardous Liquid Gathering Lines	Final Rule	10/24/1995	Not Completed	4.5
RSPA	2137-AC54	Pipeline Safety: Periodic Underwater Inspections	Final Rule	10/24/1995	Not Completed	4.5

Rules in OIG Sample

No.	OA	Rulemaking Identification Number (RIN)	Source ¹	Rulemaking Action	Legal Deadline	Initiated	Last Action
1	FAA	2120-AC38	Cong.	Repair Station and Repairmen Certification	None	09/18/86	NPRM 06/21/99
2	FAA	2120-AC84	Cong.	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	NPRM 04/28/88	12/30/87	NPRM 05/17/88
3	FAA	2120-AD16	Random	Drug Enforcement Assistance Program	Final Rule 09/18/89	11/18/88	NPRM 03/12/90
4	FAA	2120-AD46	Cong.	Revision of Part 107, Airport Security	None	03/10/87	NPRM 08/01/97
5	FAA	2120-AE42	Cong.	Aging Aircraft Safety	Initiate Rulemaking Proceeding 04/24/92	07/08/91	NPRM 10/05/93 04/02/99
6	FAA	2120-AF04	Cong. & Random	Flight Operational Quality Assurance Program	None	01/11/93	Awaiting NPRM 04/24/00
7	FAA	2120-AF63	Cong.	Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements	None	05/24/94	NPRM 12/20/95
8	FAA	2120-AF67	Random	Mountain Flying	None	08/23/94	Terminated 03/26/98
9	FAA	2120-AG04	Cong.	Revision of Certification Requirements: Aircraft Dispatchers ²	None	01/20/94	Final Rule 12/08/99
10	FAA	2120-AG17	Cong.	Fees for Air Traffic Services for Certain Flights through U.S. Controlled Airspace and for Aeronautical Studies	None	12/31/95	IFR 03/20/97 07/24/98
11	FAA	2120-AG36	Cong.	Protection of Voluntarily Submitted Information	None	10/09/96	NPRM 07/26/99
12	FAA	2120-AG43	Cong.	Child Restraint Systems	None	09/05/96	ANPRM 02/18/98

¹ Rules were selected due to congressional interest, or were selected at random. Four rules were included in both categories.

² Nonsignificant rule. Although our review focused on significant rules, eight nonsignificant rules were included in our sample because they were of interest to Congressman Oberstar.

Exhibit E
Page 2 of 4

No.	OA	Rulemaking Identification Number (RIN)	Source ¹	Rulemaking Action	Legal Deadline	Initiated	Last Action
13	FAA	2120-AG46	Cong.	Terrain Awareness and Warning System	None	09/05/96	Final Rule 03/29/00
14	FAA	2120-AG56	Random	Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan	None	03/06/98	Final Rule 05/13/98 Final Action 08/26/98
15	FAA	2120-AG57	Cong.	Revision of Air Carrier Crewmember and Training Regulations. ²	None	06/04/97	Awaiting NPRM 04/24/00
16	FAA	2120-AG73	Cong.	Grand Canyon National Park; Limits on Air Tour Operations	None	08/18/87	Final Rule 04/04/00
17	FAA	2120-AG74	Cong.	Modification of the Airspace for Grand Canyon National Park	None	08/18/87	Final Rule 04/04/00
18	FAA	2120-AG84	Cong.	Certification of Screening Companies	None	09/05/96	NPRM 01/05/00
19	FAA	2120-AG90	Cong.	Traffic Alert and Collision Avoidance Systems – Cargo Airplanes	None	09/01/96	Awaiting NPRM 04/24/00
20	FAA	2120-AG96	Cong.	Certification of Airports	None	05/02/95	Awaiting NPRM 04/24/00
21	FHWA FMCSA	2125-AC24 2126-AA01	Random	Standards – Biometrics Identification System – Identification of Commercial Motor Vehicles (CMVs)	Final Rule 12/31/90	11/18/88	ANPRM 05/15/89
22	FHWA FMCSA	2125-AC78 2126-AA07	Cong.	Permits - Motor Carriers Transporting Hazardous Materials	Final Rule 11/15/91	11/16/90	NPRM 06/17/93
23	FHWA FMCSA	2125-AD05 2126-AA09	Cong.	Training Requirement – Entry-Level Drivers of CMVs	Final Rule 12/18/93	12/18/91	ANPRM 06/21/93
24	FHWA FMCSA	2125-AD20 2126-AA10	Cong.	Commercial Driver Physical Fitness – Part of Commercial Driver's License Process	None	10/27/86	ANPRM 07/15/94
25	FHWA FMCSA	2125-AD22 2126-AA11	Cong.	Hearing Standards - CMV Drivers	None	05/01/90	Withdrawn 02/02/00
26	FHWA	2125-AD27	Random	Retrofit Reflective Material on Trailers	Final Rule 06/09/99	07/01/93	Final Rule 03/31/99

Exhibit E
Page 3 of 4

No.	OA	Rulemaking Identification Number (RIN)	Source ¹	Rulemaking Action	Legal Deadline	Initiated	Last Action
27	FHWA FMCSA	2125-AD75 2126-AA18	Cong.	Railroad Grade Crossing Safety	Final Rule 02/26/95	08/26/94	NPRM 07/30/98
28	FHWA FMCSA	2125-AD91 2126-AA22	Cong.	Replacement Registration System	Final Rule 01/01/98	12/29/95	ANPRM 08/26/96
29	FHWA FMCSA	2125-AD93 2126-AA23	Cong.	Hours of Service – Commercial Motor Vehicle (CMV) Drivers	Final Rule ³ 11/05/99	08/26/94	NPRM 05/02/00
30	FHWA FMCSA	2125-AE35 2126-AA36	Cong.	Out-of-Service Criteria ²	None	04/20/95	ANPRM 07/20/98
31	FRA	2130-AA68	Cong.	Freight Car Safety Standards: Maintenance of Equipment	None	04/14/93	NPRM 03/10/94
32	FRA	2130-AA71	Cong. & Random	Whistle Bans at Highway-Rail Grade Crossings	Final Rule 11/02/96	11/02/94	NPRM 01/13/00
33	FRA	2130-AA73	Cong.	Power Brake Regulations: 2-Way End-of-Train Telemetry Device	Final Rule 12/31/93	12/15/95	Final Rule 01/02/97
34	FRA	2130-AA74	Cong.	Qualification and Certification of Locomotive Engineers – Phase 1 ²	None	06/22/88	Final Rule 06/19/91
35	FRA	2130-AA74	Cong.	Qualification and Certification of Locomotive Engineers – Phase 2 ²	None	06/19/91	Final Rule 11/08/99
36	FRA	2130-AA75	Cong.	Track Safety Standards	Final rule 09/03/94	05/01/90	Final Rule 06/22/98
37	FRA	2130-AA86	Cong.	Roadway Worker Protection	None	05/01/90	Final Rule 12/16/96
38	FRA	2130-AA89	Cong.	Locomotive Cab Working Conditions	Final Rule 03/03/95	09/03/92	Awaiting NPRM 04/24/00
39	FRA	2130-AA95	Cong. & Random	Passenger Equipment Safety Standards – Existing Technology (Phase 1)	Final Rule (Phase 1) 11/02/97	11/02/94	Final Rule 05/12/99
40	FRA	2130-AA95	Cong. & Random	Passenger Equipment Safety Standards – New Technology (Phase 2)	Final Rule (Phase 2) 11/02/99	11/02/94	Expected Start Date Late 2000

³ Prior deadlines included issuing an ANPRM by March 1, 1996, and an NPRM by November 5, 1997.

Exhibit E
Page 4 of 4

No.	OA	Rulemaking Identification Number (RIN)	Source ¹	Rulemaking Action	Legal Deadline	Initiated	Last Action
41	FRA	2130-AB07	Cong.	Reinvention of Steam Locomotive Inspection ²	None	07/24/96	Final Rule 11/17/99
42	FRA	2130-AB16	Cong.	Railroad Power Brake	Final Rule 12/31/93	09/03/92	Action Split 12/15/95
43	FRA	2130-AB16	Cong.	Power Brake Regulations: Freight Power Brake Revisions	Final Rule 12/31/93	12/15/95	NPRM 09/09/98
44	FRA	2130-AB23	Cong.	Locomotive Crashworthiness	Final Rule 03/03/95	09/03/92	Awaiting NPRM 04/24/00
45	FRA	2130-AB28	Cong.	Roadway Equipment Safety ²	None	05/01/90	Awaiting NPRM 04/24/00
46	FRA	2130-AB34	Cong.	Event Recorder Crashworthiness ²	None	12/07/95	Awaiting NPRM 04/24/00
47	NHTSA	2127-AA44	Random	Flammability of Interior Materials--School Buses	None	05/14/88	ANPRM 11/04/88
48	NHTSA	2127-AH52	Random	Light Truck Fuel Economy Standards – Model Year 2001	None	03/24/99	Final Rule 04/07/99
49	OST	2105-AB58	Random	Smoking Aboard Aircraft ⁴	None	11/21/89	Final Rule 06/09/00
50	OST	2105-AC35	Random	CRS Parity Clauses	None	10/05/94	Final Rule 11/05/97
51	RSPA	2137-AB15	Random	Pipeline Safety: Gas Gathering Line Definition ⁴	Final Rule 10/24/94	11/02/89 10/24/92	Awaiting SNPRM 04/24/00
52	RSPA	2137-AC97	Random	Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	None	09/08/96	Final Rule 08/18/97
53	USCG	2115-AD75	Random	Security for Passenger Vessels and Passenger Terminals	None	01/04/91	Final Rule 10/06/98
54	USCG	2115-AE19	Random	State Access to Oil Spill Liability Trust Fund	NPRM 02/18/91	08/18/90	IFR 11/13/92

⁴ Originally significant rule, but redesignated nonsignificant at the time sample was selected.

***Summary of Rules With
Periods of Inactivity***

OA	Number of Rules	Average Time With No Work Being Performed (Years)
OST	2	5.8
USCG	2	4.7
FAA	20	1.7
FHWA	10	2.0
FRA	16	0.8
NHTSA	2	3.0
RSPA	2	3.0
TOTAL	54	
AVERAGE		1.8

***Summary of Rules With
Unaccounted Time***

OA	Number of Rules	Average Unaccounted Time (Years)
FAA	11	0.3
FHWA	6	2.2
FRA	4	0.7
TOTAL	21	
AVERAGE		1.0