

**Department of Transportation
Office of the Secretary
Washington, D.C.**

ORDER

DOT 2100.5

5-22-80

**SUBJECT: POLICIES AND PROCEDURES FOR SIMPLIFICATION, ANALYSIS,
AND REVIEW OF REGULATIONS**

1. PURPOSE. This Order establishes objectives to be pursued in reviewing existing regulations and in issuing new regulations; prescribes procedures and assigns responsibilities to meet those objectives; and establishes a Department Regulations Council to assist and advise the Secretary in achieving those objectives and improving the quality of regulations and the policies and practices which affect the formulation of regulations.

2. CANCELLATION. DOT 2050.4, Procedures for Considering Inflationary Impact, of 2/2/76. Policies to Improve Analysis and Review of Regulations, of 4/13/76. DOT 1100.60, Figure I-C, controls requiring the head of an operating administration to coordinate notices of proposed rulemaking and regulations with the Office of the Secretary and which are listed in the table of Control of Certain Powers and Duties, of 3/7/79 (originally published as DOT 1100.23A, 12/17/74).

3. SCOPE.

This Order applies to the Office of the Secretary (OST), the United States Coast Guard (USCG), the Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the National Highway Traffic Safety Administration (NHTSA), the Urban Mass Transportation Administration (UMTA), the St. Lawrence Seaway Development Corporation (SLSDC), and the Research and Special Programs Administration (RSPA).

4. EFFECTIVE DATE. 3/1/79.

5. REFERENCES.
 - a. Title 5, United States Code, section 552(a)(1) and 553 which prescribe general procedural requirements of law applicable to all Federal agencies regarding the formulation and issuance of regulations.

 - b. Executive Order 12044 of 3/23/78, "Improving Government Regulations", which prescribes general policy and procedural requirements applicable to all Federal executive agencies regarding the improvement of existing and future regulations.

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OPI: Assistant General
Counsel for Regulation and
Enforcement

- c. Presidential memoranda of 3/23/78, and 2/25/77, which prescribe general policy and procedural requirements applicable to all Federal executive agencies regarding State and local government participation in the development and promulgation of significant Federal regulations having a major intergovernmental impact.
 - d. "Improving Government Regulations; Regulatory Policies and Procedures," 44 FR 11034 of 3/1/79.
 - e. Amendment to "Improving Government Regulations; Regulatory Policy and Procedures," 44 FR 28126 of 5/14/79.
6. COVERAGE.
- a. Definitions.
 - (1) Initiating office means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.
 - (2) Significant regulation means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary:
 - (a) Requires a Regulatory Analysis under paragraph 10a of this Order or is otherwise costly;
 - (b) Concerns a matter on which there is substantial public interest or controversy;
 - (c) Has a major impact on another operating administration or other parts of the Department or another Federal agency;
 - (d) Has a substantial effect on state and local governments;
 - (e) Has a substantial impact on a major transportation safety problem;
 - (f) Initiates a substantial regulatory program or change in policy;

- (g) Is substantially different from international requirements or standards; or
- (h) Otherwise involves important Department policy.

(See paragraph 10a of this Order for factors to consider in applying this definition.)

(3) Emergency regulation means a regulation that:

- (a) In the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the Federal Register; or
- (b) Is governed by short-term statutory or judicial deadlines.

(4) Nonsignificant regulation means a regulation that in the judgement of the head of the initiating office is neither a significant nor an emergency regulation.

b. Applicability.

- (1) This Order applies to all rules and regulations of the Department, including those which establish conditions for financial assistance.
- (2) This Order does not apply to:
 - (a) Any rulemaking in which a notice of proposed rulemaking was issued before the effective date of this Order and which was still in progress on that date;
 - (b) Regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557):
 - (c) Regulations issued with respect to a military or foreign affairs function of the United States;
 - (d) Matters related to agency management or personnel; or
 - (e) Regulations related to Federal Government procurement.

7. OBJECTIVES.

To simplify and improve the quality of regulations, it is the policy of the Department that the following objectives be pursued in issuing new regulations and continuing existing regulations:

- a. Necessity. A regulation should not be issued or continue in effect unless it is based on a well-defined need to address a specific problem.
- b. Clarity. A regulation and any supplemental material explaining it should be clear, precise, and understandable to all who may be affected by it.
- c. Simplicity. A regulation should be as short and uncomplicated as possible; before issuance, it should be coordinated as required within the Department and between the Department and other Federal agencies to eliminate or minimize unnecessary duplication, inconsistency, and complexity; it should be issued only after compliance costs, paperwork and other burdens on the public are minimized.
- d. Timeliness. A regulation should be issued in time to respond to the circumstances that require it and should be modified or cancelled as those circumstances change.
- e. Reasonableness. A regulation should provide a feasible and effective means for producing the desired results; it should be developed giving adequate consideration to the alternatives, to anticipated safety, environmental, social, energy, economic, and legal consequences, and to anticipated indirect effects; it should not impose an unnecessary burden on the economy, on individuals, on public or private organizations, or on State and local governments.
- f. Fairness. Generally, a regulation should be issued only after a reasonable and timely opportunity has been provided for all interested persons to comment on it.

8. DEPARTMENT REGULATIONS COUNCIL.

- a. Membership; Chair and Vice-Chair. A Department Regulations Council is hereby established comprised as follows:

Regular a Members:

- (1) The Deputy Secretary -- Chair
- (2) General Counsel -- Vice-Chair
- (3) Assistant Secretary for Policy and International Affairs
- (4) Assistant secretary for Budget and Programs
- (5) Assistant Secretary for Administration
- (6) Assistant Secretary for Governmental Affairs
- (7) Director, Office of Public Affairs
- (8) Director, Departmental Office of Civil Rights

Ex Officio Members:

- (1) Commandant of the Coast Guard
- (2) Federal Aviation Administrator
- (3) Federal Highway Administrator
- (4) Federal Railroad Administrator
- (5) National Highway Traffic Safety Administrator
- (6) Urban Mass Transportation Administrator
- (7) Saint Lawrence Seaway Development Corporation Administrator
- (8) Research and Special Programs Administrator

b. Functions and responsibilities. The Council:

- (1) Monitors initiating offices' programs for reviewing and revising their existing regulations and makes recommendations to the heads of initiating offices and the Secretary when appropriate with regard to the conduct and effectiveness of those programs;

- (2) Considers each significant regulation referred to it and makes such recommendations as the members consider appropriate regarding the advisability of the Secretary's concurring in its issuance;
 - (3) On its own initiative or upon request, reviews, discusses, and makes such recommendations to the Secretary as the members consider appropriate regarding, Department regulatory policies and procedures; and
 - (4) In coordination with the initiating office(s) concerned, designates such task forces or requires the preparation of such reports, analyses, or options papers as it considers necessary for proper Council consideration of any regulatory matter or inquiry referred to or initiated by the Council.
- c. Staff support. The General Counsel provides regular staff support to the Council and designates an Assistant General Counsel to be responsible for performing the functions assigned to the General Counsel's office. These include the coordination of the staffing, analysis, and review of items coming before the Council or on which the Council requires additional information; the convening and management of task forces designed to review and improve major categories of existing regulations; and such additional duties as the Council may specify.
- d. Meetings; attendance of members. The Council meets on a regular bi-monthly basis. It also meets on special occasions, at the call of the Chair, either on his or her own initiative or at the request of the head of an initiating office. Attendance by ex officio members is optional. Any member who is unable to attend a meeting may be represented at the meeting only by the member's principal deputy or Chief Counsel. A member may be accompanied by supporting staff for purposes of briefing the Council or assisting the member with respect to an agenda item or a significant regulation scheduled for discussion.
- e. Agenda. The General Counsel's office prepares an agenda for each meeting and distributes it to the members in advance of the meeting, together with any documents to be discussed at the meeting. When the agenda includes consideration of a significant regulation, the General Counsel's office makes

such arrangements with the initiating office as may be appropriate for briefing the Council and responding to questions concerning the regulation.

- f. Minutes. The General Counsel's office prepares summary minutes following each meeting and distributes them to the members.

9. RESPONSIBILITIES OF INITIATING OFFICES.

- a. The head of each initiating office is primarily responsible for:
- (1) Reviewing proposed regulations to ensure that they meet the objectives set forth in paragraph 7 of this Order;
 - (2) Issuing regulations within the scope of his or her statutory or delegated authority;
 - (3) Coordinating proposed regulations with other Federal agencies and other operating administrations and organizational elements within the Department; and
 - (4) In conjunction with the Assistant Secretary for Governmental and Public Affairs, consulting with State and local governments as required under the memoranda referenced in paragraph 5c of this Order in the development of regulations to be issued by that office.
- b. To improve the quality of existing and future regulations in accordance with the purposes and policies set forth in this Order, the head of each initiating office:
- (1) Establishes and carries out a program for reviewing and revoking or revising existing regulations in accordance with paragraph 12 of this Order;
 - (2) Includes in the public docket for each proposed regulation a draft Regulatory Analysis or Evaluation as required under paragraph 11 of this Order;
 - (3) Includes in the public docket for each final regulation a final Regulatory Analysis or Evaluation as required under paragraph 11 of this Order;
 - (4) Submits Regulations Reports to the Department Regulations Council in accordance with paragraph 14a of this Order;

- (5) Submits for the Secretary's concurrence, before issuance, regulatory documents pertaining to significant regulations, together with such supporting documentation as may be required by paragraph 10 of this Order;
- (6) Advises the Secretary by memorandum, before issuance if possible, of the circumstances requiring emergency issuance of an otherwise significant regulation;
- (7) Names a Regulations Officers to coordinate the review of regulations and act as principal staff liaison with the Council; and
- (8) Informs the Deputy Secretary or the General Counsel of any regulatory matter that should be reviewed by or coordinated with the Council.

10. REVIEW OF SIGNIFICANT REGULATIONS.

- a. In determining whether a regulation is significant, the following things, among others, are considered:
 - (1) The type and number of individuals, businesses, organizations, and State and local governments affected;
 - (2) The compliance and reporting requirements likely to be involved;
 - (3) Direct and indirect effects of the regulation including the effect on competition; and
 - (4) The relationship of the regulations to those of other programs and agencies.

Proposed and final regulations that are not considered significant under this Order are accompanied by a statement in the Federal Register to that effect.
- b. Before an initiating office proceeds to develop a significant regulation, the head of the initiating office considers the need for the regulation, the major issues involved and the alternative approaches to be explored. If he or she determines that further action is warranted, the initiating office then prepares a Work Plan. The Work Plan states or describes:

- (1) The need for the regulation;
- (2) The objective(s) of the regulation;
- (3) The legal authority for the regulation;
- (4) The names of the individual or organizational unit primarily responsible for developing the regulation and of the accountable official;
- (5) Whether a Regulatory Analysis is likely to be required and how and where it will be produced;
- (6) The probable reporting requirements (direct or indirect) that may be involved;
- (7) A tentative plan for how and when the Congress, interest groups, other agencies, and the general public will have opportunities to participate in the regulatory process; and
- (8) The tentative target dates for completing each step in the development of the regulation.

If the Work Plan is approved by the head of the initiating office, the development of the significant regulation may proceed.

- c. As soon as it is approved, the Work Plan is submitted to the General Counsel for his or her information.
- d. Before issuing for publication in the Federal Register any regulatory document of substantive significance (e.g., advance notice of proposed rulemaking, notice of withdrawal, supplemental notice or final rule) or a notice of an exclusively procedural nature (e.g., extending time for comments or scheduling a public hearing) pertaining to a significant regulation, the initiating office submits it to the Secretary for concurrence.
- e. To receive Secretarial concurrence for the issuance of any regulatory document of substantive significance pertaining to a significant regulation, the initiating office submits it to the General Counsel's office at least 30 days before the proposed date of issuance; included with this submission

is (1) an approved Work Plan, (2) a draft or final Regulatory Analysis or Evaluation, and (3) a summary of the results of any coordination outside the initiating office. Once a Work Plan and Regulatory Analysis or Evaluation is developed for a particular significant regulation, they are only updated and supplemented for successive regulatory documents pertaining to that significant regulation. In the case of a final rule submitted for Secretarial concurrence, there is an accompanying summary of meaningful public comments received.

- f. Before submitting a final rule for Secretarial concurrence, the head of the initiating office reviews all the documents required to be submitted and determines that, at a minimum:
- (1) The regulation is needed;
 - (2) The direct and indirect effects of the regulation have been adequately considered;
 - (3) Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;
 - (4) Public comments have been considered and an adequate response has been prepared;
 - (5) The regulation is written in plain English and is understandable to those who must comply with it;
 - (6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;
 - (7) The name, address and telephone number of a knowledgeable agency official is included in the publication; and
 - (8) A plan for evaluating the regulation after its issuance has been developed.
- g. The General Counsel's office distributes each regulatory document and accompanying supporting documents received from an initiating office under paragraph 10d of this Order to all appropriate Secretarial Officers for review and coordinates their comments and recommendations for transmittal, together with a staff analysis, to the Secretary through the Deputy Secretary.

- h. The Deputy Secretary or the General Counsel may refer a significant regulation to the Department Regulations Council for its consideration at its next regular or special meeting. This is done if, in the judgment of the Deputy Secretary or the General Counsel, the views of the Council on that regulation are desirable or likely to assist the Secretary in determining whether to concur in its issuance. Council consideration of a significant regulation is in addition to and not in lieu of Secretarial staff review; both are scheduled and coordinated so as to minimize delay in transmitting the resulting recommendations to the Secretary.
- i. To receive Secretarial concurrence for the issuance of any notice of an exclusively procedural nature pertaining to a significant regulation, the initiating office submits a copy of the notice to the General Counsel's office at least 3 days before the intended date of issuance; included with this submission is a memorandum which specifies the intended date of issuance, states why the notice is required and describes any changes that it will cause in the previously anticipated schedule of action dates on the significant regulation concerned.
- j. The General Counsel may concur for the Secretary in the issuance of a procedural regulatory document received from an initiating office under paragraph 10i of this Order, when warranted. The General Counsel advises the Secretary through the Deputy Secretary of such actions as soon as possible. For all other such documents, the General Counsel's office advises the Secretary through the Deputy Secretary of each document received. Unless otherwise notified before the intended date of issuance, Secretarial concurrence may be presumed.
- k. For an emergency regulation that otherwise would be significant, the initiating office includes with the regulation when published in the Federal Register, a statement of the reasons why it is impracticable or contrary to the public interest for the initiating office to follow the procedures of this Order and Executive Order 12044. Such a statement includes the name of the policy official responsible for this determination.
- i. If, at any time during its development, the head of the initiating office determines that a regulation classified as significant should be reclassified as nonsignificant, he or

she submits a memorandum providing the basis for the recommended change to nonsignificant to the Secretary for concurrence. The regulation continues to be handled as significant unless the Secretary concurs in the change.

11. REGULATORY ANALYSES AND EVALUATIONS.

- a. Except as indicated in paragraph IIg of this Order, an initiating office prepares and places in the public docket a draft Regulatory Analysis for each of its proposed regulations that:
- (1) Will result in an annual effect on the economy of \$100 million or more
 - (2) Will result in a major effect on the general economy in terms of costs, consumer prices, or production;
 - (3) Will result in a major increase in costs or prices for individual industries, levels of government, or geographic regions;
 - (4) Will have a substantial impact on the United States balance of trade; or
 - (5) The Secretary or head of the initiating office determines deserves such analysis.
- b. Each draft Regulatory Analysis contains:
- (1) A succinct statement of the problem and the issues that make the regulation significant;
 - (2) A description of the major alternative ways of dealing with the problem that were considered by the initiating office;
 - (3) An analysis of the economic and any other relevant consequences of each of these alternatives; and
 - (4) A detailed explanation of the reasons for choosing one alternative over the others.
- c. A draft Regulatory Analysis addresses all salient points to the maximum extent possible. If data are lacking or there are questions about how to determine or analyze points of interest,

the problem is noted in the draft Regulatory Analysis; to help elicit the necessary information during the public comment period on the advance notice or notice of proposed rulemaking, the appropriate questions are included in the advance notice or notice of proposed rulemaking.

- d. The initiating office includes in each advance notice or notice of proposed rulemaking on a proposal requiring a Regulatory Analysis, an explanation of the regulatory approach being considered or proposed, a short description of the alternative approaches, and a statement of how the public may obtain a copy of the draft Regulatory Analysis for review and comment.
- e. An initiating office prepares and places in the public docket for each of its proposed regulations not requiring a draft Regulatory Analysis, a draft Evaluation. This Evaluation includes an analysis of the economic consequences of the proposed regulation, quantifying, to the extent practicable, its estimated cost to the private sector, consumers, Federal, State and local governments, as well as its anticipated benefits and impacts. Judgment is exercised by the head of the initiating office so that resources and time devoted to the Evaluation reflect the importance of the proposal. The initiating office includes in each advance notice or notice of proposed rulemaking requiring an Evaluation a statement of how the public may obtain a copy of the draft Evaluation for review and comment. If the head of the initiating office determines that the expected impact is so minimal that the proposal does not warrant a full Evaluation, a statement to that effect and, the basis for it is included in the proposed regulation; a separate statement is not placed in the public docket. For a significant regulation, the Evaluation also includes a succinct statement of the issues which make the regulation significant and an analysis of any other relevant consequences.
- f. The initiating office prepares a final Regulatory Analysis for each final regulation that meets the criteria of paragraph 11a of this Order; otherwise, a final Evaluation, in accordance with the requirements of paragraph 11e of this Order, is prepared. The Regulatory Analysis or the Evaluation is placed in the public docket at the time of or before issuing the final regulation and the regulation is accompanied by a statement of how the public may obtain a copy of the Regulatory Analysis or the Evaluation for review.

- g. An Emergency regulation that otherwise would be nonsignificant is excepted from the requirements for any Evaluation. For an emergency regulation that otherwise would be significant, the initiating office prepares and places in the public docket as soon as possible after issuance of the notice or final regulation a Regulatory Analysis or Evaluation, whichever is appropriate, unless an exception is granted by the Secretary.

12. REVIEW AND REVISION OF EXISTING REGULATIONS.

- a. Each initiating office establishes a program for reviewing its existing regulations and revoking or revising those regulations that it determines are not achieving their intended purposes. This review follows the same procedural steps for the development of new regulations.
- b. In identifying existing regulations for review and possible revocation or revision and in determining the order in which they are to be reviewed, an initiating office considers:
 - (1) The nature and extent of complaints or suggestions (including petitions for rulemaking) received, especially ones received from those directly or indirectly affected by the regulations;
 - (2) The need to simplify or clarify language; consideration should especially be given to the number of requests received for interpretations or the problems evidenced in the enforcement of the regulation;
 - (3) The need to eliminate overlapping and duplicative regulations;
 - (4) The need to eliminate conflicts and inconsistencies in its own regulations or those of other initiating offices or other agencies;
 - (5) The length of time since the regulations were last reviewed or evaluated;
 - (6) The importance and continued relevance of the problem the regulations were originally intended to solve;
 - (7) The burdens imposed on those directly or indirectly affected by the regulations;

- (8) The degree to which technology, economic conditions or other factors have changed in the area affected by the regulation; and
 - (9) The number of requests received for exemption from a regulation and the number granted.
- c. Each initiating office prepares a list of the existing regulations it has selected for review and possible revocation or revision. It includes (1) a brief description of the reasons for each selection, (2) a target date for completing the review and determining the course of corrective action to be taken, and (3) the name and telephone number of a knowledgeable initiating office official who can provide additional information. The list of existing regulations selected is submitted to the Department Regulations Council through the General Counsel. It is updated as part of the initiating office's semi-annual Regulations Report and the supplements required under paragraph 14 of this Order. The semi-annual report includes any final action taken or determination made since the last list.
- d. The General Counsel's office consolidates the initiating offices' lists of existing regulations selected for review for the Council and from that consolidation prepares a semiannual list for publication in the Federal Register as part of the Department Regulations Agenda. Federal Register publication is for the stated purpose of sharing information with interested members of the public. Choosing to review a regulation does not indicate that it will be discarded or that it will not be enforced while under review.

13. OPPORTUNITY FOR PUBLIC PARTICIPATION.

- a. Initiating offices should take appropriate steps, including the following, to increase the opportunity for public participation:
- (1) In addition to publishing proposals and notices of regulatory actions in the Federal Register, an initiating office should, in appropriate circumstances, provide a clear, concise notice to publications likely to be read by those affected, and, to the extent practical, notify interested parties directly.

- (2) If the subject is unusually complex, or if there is a considerable potential for adverse effects from a failure to provide an opportunity for early public participation, the initiating office should consider supplementing the minimum rulemaking steps required by section 553 of Title 5, United States Code. For example, an advance notice of proposed rulemaking may be employed to solicit comments and suggestions on an upcoming notice of proposed rulemaking or an open conference may be held at which a discussion between all interested parties would help narrow or clarify issues. However, such supplementary procedures should be used only when they will serve to clarify the issues and enhance effective public participation. They should not be used if they would delay the process of developing the regulations unless significant additional information is to be gained by the initiating office or the public.
- (3) When appropriate, an initiating office may solicit views through surveys or panels.
- (4) When the issues involved warrant it and time permits, an Initiating office should allow time for the public to submit rebuttal to comments submitted in response to proposals.
- (5) To the extent permissible, an initiating office may consider providing financial assistance to persons who lack the resources to participate meaningfully in its regulatory proceedings.
- (6) An initiating office should identify, in a statement accompanying a proposed or final regulation, the nature of the research relied on to support a particular regulatory approach; the statement should clearly indicate the importance of the research in the development of the regulation; and the source material should be made available for public review by placing a copy in the public docket.
- (7) As necessary, the Department, and its initiating offices, provides information and instruction through public meetings and publications, in the use of its regulatory policies and procedures, especially with respect to public participation.

- b. The public is provided at least 60 days to comment on proposed significant regulations. In the few instances where the initiating office determines this is not possible, the proposal is accompanied by a brief statement of the reasons for a shorter time period.
- c. The public is generally provided at least 45 days to comment on proposed nonsignificant regulations. When at least 45 days are not provided, the proposal or the regulation is accompanied by a brief statement of the reasons.
- d. To the maximum extent possible, notice and an opportunity to comment on regulations should be provided to the public, even when not required by statute, if such action could reasonably be anticipated to result in the receipt of useful information. When an initiating office does not provide notice and an opportunity for the public to comment, (1) a statement of the reasons is included with the final regulation when it is published in the Federal Register and (2) when reasonable, the initiating office should provide notice and opportunity to comment subsequent to the final regulation. This action can be taken in conjunction with a plan for evaluating the regulation after its issuance.
- e. If any of the national organizations representing general purpose State and local governments (including the National Governor's Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the United States Conference of Mayors, the National Association of Counties, and the International City Management Association) notifies the department, including any of its initiating offices, that it believes a regulation included on the Department's Regulations Agenda would have major intergovernmental impact, the initiating office develops a specific plan, in conjunction with the Assistant Secretary for Governmental and Public Affairs, for consultation with the State and local governments in the development of that regulation. Such consultation includes the solicitation of comments from the above named groups, from other representative organizations and from individual State and local governments as appropriate. In determining appropriate action, to help ensure the practicability and effectiveness of the programs, the initiating office considers the following:

- (1) State and local sectors constitute the delivery mechanisms for most of the actual services the Federal Government provides;
- (2) State and local sectors have concerns and expertise;
- (3) Early participation by State and local officials in the planning process helps ensure broad-based support for the proposals that are eventually developed; and
- (4) Early participation also ensures that priorities developed at the Federal level will work in conjunction with and not at cross-purposes to priorities at the State and local level.

Whenever a significant proposed regulation identified as having a major intergovernmental impact, is submitted to the Office of Management and Budget for review or is published in the Federal Register, it is accompanied by a brief description of (1) how State and local governments have been consulted, (2) what the nature of the State and local comments was and (3) how the agency dealt with such comments.

14. DEPARTMENT REGULATIONS AGENDA.

- a. Each initiating office prepares a Semiannual Regulations Report summarizing each proposed and each final regulation that office is considering for issuance and publication in the Federal Register during the succeeding 12 months or such longer period as may be anticipated. The Report is submitted to the Department Regulations Council, through the General Counsel, not later than the last working days of June and December each year and supplemented with an updating report not later than the last working days of March and September each year.
- b. The Report specifies for each proposed and final regulation being considered for issuance and publication:
 - (1) A title;

- (2) A description (including information on how any referenced document may be obtained);
- (3) The earliest expected date for a decision on whether to issue the proposed or final regulation;
- (4) The name and telephone number of a knowledgeable initiating office official who can provide additional information; and
- (5) Whether it is a significant or a nonsignificant regulation.

The Semi-Annual Regulations Report includes any final action taken since the last report.

- c. For a significant regulation, the Report also briefly states:
 - (1) Why it is considered significant;
 - (2) The past and anticipated chronology of the development of the regulation;
 - (3) The need for the regulation;
 - (4) The legal basis for the action being taken; and
 - (5) Whether a Regulatory Analysis is required.
- d. For non-significant regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, the Report only states:
 - (1) The general category of the regulations;
 - (2) The identity of a contact office or official; and
 - (3) An indication of the expected volume of issuance; individual regulations are not listed.

- e. The General Counsel's Office consolidates the initiating offices' Regulations Reports for the Council and from that consolidation prepares a semi-annual Department Regulations Agenda for publication in the Federal Register. Federal Register publication is for the stated purpose of sharing with interested members of the public the Department's preliminary expectations regarding its future regulatory actions and does not impose any binding obligation on the Department or initiating offices with regard to any specific item in the Agenda or preclude regulatory action on any unspecified item.

FOR THE SECRETARY OF TRANSPORTATION:

Robert L. Fairman
Deputy Assistant Secretary for Administration