

INSIGHTS

DOT Requests Comments on Regulatory Review

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The Department of Transportation formally [requested](#) public comment on existing rules and “other agency actions,” including but not limited to guidance documents and policy statements, that are good candidates for repeal, replacement, suspension, or modification without compromising safety. This request covers all DOT modal agencies, including PHMSA, the FAA, the FRA, NHTSA, among others. In addition to requesting comments, DOT indicated that it may hold a public meeting on these issues. Comments are due November 1, 2017.

DOT is among many other federal agencies who are responding to the Trump administration’s [executive orders](#) regarding [deregulation](#) (E.O. 13771), [regulatory reform](#) (E.O. 13777), and promoting energy independence and economic growth (E.O. 13783). With this notice, DOT has requested input on regulations, guidance documents or policy statements that:

- Eliminate jobs or inhibit job creation;
- Are outdated, unnecessary, or ineffective;
- Impose costs that exceed benefits;
- Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- Could be revised to use performance standards in lieu of design standards; or potentially burden the development or use of domestically produced energy resources.

DOT also included an Appendix summarizing what it considered to be the economically significant rulemakings issued over the past several years. Notably the following PHMSA rulemakings are included: (1) standards for increasing MAOP for gas transmission pipelines (published in 2008); (2) gas distribution integrity management program (DIMP) rulemaking; and (3) the Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains (published in 2015).

This is a rare opportunity for industry to seek improvements to the rules and practices of DOT and its various modes, and we urge you to consider submitting comments. We understand that PHMSA is already rethinking gas pipeline class locations under 49 CFR Part 192 in a forthcoming [Advanced Notice of Proposed Rulemaking](#). In addition [comments](#) from recent PHMSA Deputy Administrator appointee, Drue Pearce, (Daily Gas Report, Vol.11 Issue

190, Oct.4, 2017), highlight continued support for “the least prescriptive possible” to ensure that the regulations are “flexible enough to be able to accept new technologies and new ways of doing things that are safer.” Further, DOT’s request for comments on “other agency actions” would cover broad PHMSA rulemakings for both liquid and gas pipelines that are currently pending and implementation of the Agency’s existing statutory and regulatory authority. The request for comments encourages stakeholders to provide: (1) specific reference to the “policy statement, guidance document, regulation, or other agency action” that imposes the burden that the comment discusses; (2) description of the burden that the action imposes; (3) description of less burdensome alternatives or that there is not a legitimate objective motivating the requirement; and (4) examples of affected entities or projects.

We are available to assist in the development of comments on these issues. As noted above, comments are due November 1, 2017.