

July 23, 2020

**United States Department of Transportation
Plan for Processing Pre-Enforcement Regulatory Rulings Related to
Coronavirus (COVID-19)**

Background

The President issued Executive Order (E.O.) 13924, “Regulatory Relief to Support Economic Recovery,” on May 19, 2020 (85 Fed. Reg. 31,353 (May 22, 2020)). Pursuant to Section 1 of E.O. 13924, “[i]t is the policy of the United States to combat the economic consequences of COVID-19 with the same vigor and resourcefulness with which the fight against COVID-19 itself has been waged.” Section 1 directs agencies to address the COVID-19 economic emergency “by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery, consistent with applicable law and with protection of the public health and safety, with national and homeland security, and with budgetary priorities and operational feasibility.”

Consistent with this legal and policy framework, Section 5(a) of E.O. 13924 mandates that agencies “accelerate procedures by which a regulated person or entity may receive a pre-enforcement ruling under Executive Order 13892 with respect to whether proposed conduct in response to the COVID-19 public health emergency, including any response to legislative or executive economic stimulus actions, is consistent with statutes and regulations administered by the agency” The Office of Management and Budget has directed that agencies create a plan implementing Section 5(a) of E.O. 13924 that includes the expected amount of time within which the agency intends to respond to a request for a pre-enforcement ruling, as well as the office(s) within the agency that will be responsible for issuance of the ruling.

A “pre-enforcement ruling” has the meaning given it in section 2(f) of Executive Order 13892 of October 9, 2019 (84 Fed. Reg. 55,239 (October 15, 2019)). E.O. 13892 defines pre-enforcement ruling in Section 2(f) as follows:

[A] formal written communication from an agency in response to an inquiry from a person concerning compliance with legal requirements that interprets the law or applies the law to a specific set of facts supplied by the person. The term includes informal guidance under section 213 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121 (Title II), as amended (SBREFA), letter rulings, advisory opinions, and no-action letters.

In general, pre-enforcement rulings include requests for informal or formal written regulatory interpretations by the regulated industry.

Historically, regulated entities would contact either Departmental enforcement offices, offices of regulations, or Chief Counsel offices within the specific Department of Transportation (DOT or Department) Operating Administration (OA) or component of the Office of the Secretary (OST) with requests for pre-enforcement rulings. DOT OAs or components could respond to these requests informally via telephone, e-mail, or through a toll-free hotline established for these purposes. For example, the Pipeline and Hazardous Material Safety Administration, Office of Hazardous Materials Safety, maintains a toll-free hotline for the regulated industry to request quick regulatory clarifications during normal business hours. More formal written opinions could be issued by a specific enforcement office or Office of Chief Counsel, or after a notice and comment process when related to significant enforcement issues. In general, DOT has responded promptly to requests for pre-enforcement rulings from the regulated industry, and the Department would expect the same timely responses related to pre-enforcement rulings specific to situations involving the COVID-19 public health emergency.

Plan for Issuance of Pre-Enforcement COVID-19—Related Regulatory Rulings

This Plan is being issued in compliance with Executive Order 13924 and applies to requests for pre-enforcement rulings with respect to actions or conduct in response to the COVID-19 public health emergency. This Plan applies to the processing of requests for pre-enforcement rulings that are addressed to the Department of

Transportation, one of its OAs, or a component of the Office of the Secretary. The Plan does not apply to the Office of Inspector General.

- (A) All DOT OAs that operate toll-free hotlines or e-mail inboxes to assist the regulated industry shall continue to maintain those services but shall advise the person(s) requesting assistance that a written opinion can be obtained by contacting the appropriate agency offices listed below.
- (B) Responses to hotline telephone or e-mail requests for verbal pre-enforcement rulings related to actions or conduct in response to the COVID-19 public health emergency should be issued promptly, if possible during the initial incoming phone call or within 3 business days of its receipt. Responses to requests for written clarification or interpretations will be provided within 30 days of receipt unless the issue presents a novel regulatory or legal issue and the party is notified in writing of the delay. Any delay in meeting the 30-day deadline should be explained in detail with an anticipated timeline in which the response is expected to be issued. Where an agency determines that notice and comment is necessary prior to issuing a response, the Department shall publish a notice in the Federal Register and allow a minimum of 30 days for comments unless a shorter period is required for good cause or other such exigency. Upon the closing of the comment period, the OA or OST component shall issue its response within 30 days.
- (C) Requests for expedited written COVID-19-related pre-enforcement rulings should be made to the Office of Chief Counsel within the OAs, OST's Office of Aviation Consumer Protection, or to the Assistant General Counsel for Litigation and Enforcement in OST (unless otherwise noted herein). Each OA or OST component office shall post contact information for all COVID-19 pre-enforcement ruling requests prominently on their publicly available websites within 15 days of issuance of this plan.

Appropriate Agency Contacts for Pre-Enforcement COVID-19 Related Rulings

The safety of our transportation networks is vital to maintaining economic durability and the free flow of essential supplies, food, fuel, and medical equipment. COVID-19 response measures implemented by the Department to date have included stakeholder outreach and guidance, expanded Federal assistance, and regulatory relief. Information related to DOT's efforts can be found at: <https://www.transportation.gov/coronavirus>. This page is updated on a regular basis as new information and resources become available.

The Department's civil enforcement activities are primarily concentrated in the following components of the Department: Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety and Office of Hazardous Materials Safety, and OST Office of Aviation Consumer Protection. The contact information for these offices is shown below.

Federal Aviation Administration

Primary:

Office of the Chief Counsel
Acquisition and Fiscal Law Division (AGC-500)
Federal Aviation Administration
800 Independence Ave., SW, Office 918E
Washington, D.C. 20591
Direct Line: (202) 267-4749
Cell: (202) 316-7991
Carolyn.Mech@faa.gov

Backup:

Office of Acquisitions and Fiscal Law
2200 S 216th St
Des Moines, WA 98198

206.231.3020 (office)
206.966.2085 (cell)
Gina.Perez@faa.gov

The Federal Aviation Administration (FAA) is proactively taking steps to help address the widespread economic and health effects that the COVID-19 public health emergency is having on the aviation industry. The FAA continues to evaluate a large number of requests from across all aviation industry sectors to help address impacts of COVID-19. A general overview of FAA's efforts can be found at: <https://www.faa.gov/coronavirus/>. FAA has also developed a website with COVID-19 information specifically for airports at: https://www.faa.gov/airports/special_programs/covid-19-airports/.

Federal Motor Carrier Safety Administration

Office of Chief Counsel
1200 New Jersey Avenue, SE
MC-CC, 6th Floor
Washington, D.C. 20590
202-493-0349 Telephone
FMCSADeclaration@dot.gov
<https://www.fmcsa.dot.gov/mission/chief-counsel>

As part of its efforts to provide assistance and relief to the regulated community in response to the COVID-19 public health emergency, FMCSA set up an Outlook inbox, FMCSADeclaration@dot.gov, which it published on its COVID-19 website (<https://www.fmcsa.dot.gov/COVID-19>), to which motor carriers and individuals may send requests for interpretations or questions about how COVID-19 may impact their operations. Through this inbox, FMCSA responds to inquiries regarding, among other things, whether proposed conduct in response to the COVID-19 public health emergency is consistent with FMCSA's statutes and regulations. FMCSA monitors this inbox daily for the expeditious handling of inquiries from regulated entities relating to COVID-19.

Federal Railroad Administration

Office of the Chief Counsel
1200 New Jersey Avenue, SE,
Washington, D.C. 20590
(202) 366-4000 Telephone

<https://railroads.dot.gov/about-fra/program-offices/office-chief-counsel>

The FRA has issued extensive information related to COVID-19 which includes regulatory relief, emergency waivers and extensions, and enforcement related information.

This body of work is available at <https://railroads.dot.gov/coronavirus>.

National Highway Traffic Safety Administration

Office of the Chief Counsel

National Highway Traffic Safety Administration

1200 New Jersey Avenue, SE

Washington, D.C. 20590

(888) 327-4236 Telephone

(800) 424-9153 (TTY)

<https://isearch.nhtsa.gov/> (formal interpretations)

<https://www.nhtsa.gov/laws-regulations/compliance-assistance-program-cap>

(informal compliance assistance)

To request a formal interpretation, contact:

<https://www.nhtsa.gov/about-nhtsa/contact-us> (general contact information).

NHTSA's COVID-19 webpage contains useful information related to innovative automobile technologies; Labeling Act reports; grants and waiver of grant requirements; and Defect Investigations, Compliance, Enforcement, and Emergency Medical Services. (<https://www.nhtsa.gov/coronavirus>).

Pipeline and Hazardous Materials Safety Administration

Office of the Chief Counsel

1200 New Jersey Avenue, SE

Washington, D.C. 20590

Email: phmsachiefcounsel@dot.gov

(202) 366-4400 Telephone

(202) 366-7041 Fax

PHMSA has a webpage with all its [COVID-19—related regulatory relief efforts](#), which includes notices of enforcement discretion, FAQs, emergency special permits, and other outreach.

<https://www.phmsa.dot.gov/news/assistance-public-during-covid-19>.

Hazardous Materials Information Center:

(800) HMR-4922

(800) 467-4922

(202) 366-4488

infocntr@dot.gov

Hazmat Emergency Special Permits can be found here:

<https://www.phmsa.dot.gov/news/phmsa-covid-19-emergency-special-permits>.

Pipeline Safety Requests:

Office of Pipeline Safety (PHP-30)

1200 New Jersey Avenue, SE

Washington, D.C. 20590-0001

(202) 366-4595

phmsa.pipelinesafety@dot.gov

<https://www.phmsa.dot.gov/about-phmsa/offices/office-pipeline-safety>

Specific inquiries related to COVID-19 should be directed as follows:

- For operators regulated by PHMSA: Please contact PHMSA’s Office of Pipeline Safety by email at Pipeline-COVID-19-notices@dot.gov; and
- For intrastate operators regulated by State authorities: Please contact your State Program Manager – State Program Manager contacts available at: <http://www.napsr.org/state-program-managers.html>.

PHMSA also has a website and a telephone line to Office of Pipeline Safety (OPS) headquarters where information on and advice about compliance with the pipeline safety regulations specified in 49 CFR parts 190-199 is available. The website and telephone line are staffed by personnel from PHMSA's OPS from 9:00 a.m. through 5:00 p.m., Eastern Time, Monday through Friday, with the exception of Federal holidays. When the lines are not staffed, individuals may leave a voicemail message or post a message on the OPS website. The telephone number

for the OPS information line is (202) 366-4595 and the OPS Web site can be accessed via the Internet at <http://phmsa.dot.gov/pipeline>.

A written regulatory interpretation, response to a question, or an opinion concerning a pipeline safety issue may also be obtained by submitting a written request to the Office of Pipeline Safety (PHP-30), PHMSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. See 49 C.F.R. § 190.11 for more information.

OST's Office of Aviation Consumer Protection

Assistant General Counsel for Aviation Consumer Protection
1200 New Jersey Ave, SE
Washington, D.C. 20590
(202) 366-9342 Telephone
C70notice@dot.gov
<https://www.transportation.gov/airconsumer>

The Department's Office of Aviation Consumer Protection is a unit within the Office of the General Counsel. The office provides answers to some of the most common questions about refunds to help consumers understand their rights and to ensure airlines and ticket agents are complying with aviation consumer protection requirements, especially during the COVID-19 pandemic. Extensive and up-to-date information related to all consumer protection issues can be found at <https://www.transportation.gov/airconsumer/latest-news>.

OST's Office of General Counsel

Assistant General Counsel for Litigation and Enforcement
1200 New Jersey Avenue
Washington, D.C. 20590
(202) 366-4731 Telephone