

**REPORT OF THE
REGULATORY REFORM TASK FORCE
U.S. DEPARTMENT OF TRANSPORTATION**

May 25, 2017

On February 24, President Trump signed Executive Order (EO) 13777, titled “Enforcing the Regulatory Reform Agenda,” directing each Federal agency to take specific actions to alleviate unnecessary regulatory burdens and to provide a report to the agency head on progress within 90 days. This report documents the Department of Transportation’s (DOT or the Department) progress in implementing the President’s policy goals, as set forth in EO 13777.

Background

Through EO 13777, the President directed agency heads to designate a Regulatory Review Officer (RRO) to “oversee implementation of regulatory reform initiatives and policies to ensure that the agencies effectively carry out regulatory reforms, consistent with applicable law.” These initiatives and policies include: EO 13771 (Reducing Regulation and Controlling Regulatory Costs); EO 12866 (Regulatory Planning and Review), as amended; section 6 of EO 13563 (Improving Regulation and Regulatory Review); and the termination of programs and activities that derive from or implement EOs, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded.

The President also directed each agency to establish a Regulatory Reform Task Force (RRTF), with the RRO as the chair, to evaluate existing regulations and to make recommendations for their repeal, replacement, or modification. At a minimum, each RRTF is directed to identify regulations that: (i) eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are

insufficiently transparent to meet the standard for reproducibility; or (vi) derive from or implement EOs or other Presidential directives that have been subsequently rescinded or substantially modified. As a part of the evaluation process, each RRTF is directed to seek input from public and private stakeholders.

Pursuant to EO 13777, Secretary of Transportation Elaine L. Chao appointed Jeffrey Rosen, Deputy Secretary, to be the RRO and established the Department's RRTF. The Department's RRTF consists of two components: a working group and a leadership council. The working group coordinates with leadership in the Office of the Secretary (OST) and DOT operating administrations (OAs) to conduct reviews and develop recommendations for deregulatory action. The working group presents recommendations to the leadership council, which, in turn, submits recommendations to the Secretary. This framework allows the RRTF to effectively identify, assess, and execute the President's regulatory reform agenda.

Currently, the members of the working group are: James Owens (Chair), Daniel Elwell (Advisor to the Secretary), Matthew Kopko (Counselor to the Deputy Secretary), Loren Smith (Advisor to the Secretary), Maria Lefevre (Executive Director, Policy), Judy Kaleta (Acting General Counsel), and Jonathan Moss (Assistant General Counsel for Regulation). Members of the leadership council are: Jeffrey Rosen (Deputy Secretary), Jim Ray (Senior Advisor to the Secretary for Infrastructure), Marianne McInerney (Assistant to the Secretary and Director of Public Affairs), Kris Iverson (Advisor to the Secretary), and Laura Genero (Advisor to the Secretary).

The RRO and the RRTF have two principal reporting requirements under EO 13777. First, the RRO is charged with periodically reporting to the agency head. Second, the EO directed the RRTF, under the RRO's leadership, to report to the agency head no later than 90 days after the EO was issued, and on a schedule determined by the agency head thereafter. This report fulfills that 90-day reporting directive.

Implementation

The RRTF is pleased to report that it has already made significant progress in implementing EO 13777 and advancing the President's deregulatory priorities.

The RRTF's first task was to prepare the Department's submission for the Spring 2017 *Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified*

Agenda). The *Unified Agenda*, which OMB compiles twice annually, synthesizes the regulatory agenda of each Federal entity into one government-wide plan.¹ Typically, the Department's submission consists of those regulations it currently has under development or review; however, on January 30, 2017, President Trump signed EO 13771 titled, "Reducing Regulation and Controlling Regulatory Costs," which directed agencies to balance certain regulatory actions with deregulatory actions. Under that EO, agencies must identify at least two existing regulations for repeal for each new regulation promulgated. In addition, agencies must create a regulatory budget that offsets the incremental costs of any new regulations by eliminating costs associated with existing regulations.

To prepare the Department's *Unified Agenda* consistent with the President's regulatory reform priorities, the RRTF began a comprehensive review of all current and projected regulatory actions. As a part of this extensive, Department-wide review, the RRTF directed the OAs and Office of the Secretary Offices (OST) with regulatory authority to provide background information for each regulatory and deregulatory action. Following review of these materials, the RRTF conducted a series of meetings with career and non-career OST and OA staff to discuss regulatory priorities and prepare balanced regulatory budgets for Fiscal Years 2017 and 2018. After considerable deliberation, the RRTF prepared a regulatory agenda that reflected the President's regulatory reform objectives, which was approved by Secretary Chao and submitted to the Office of Management and Budget (OMB).

Concurrent with the development of the regulatory agenda, the RRTF directed the OAs to identify regulations and policies that impose unnecessary regulatory burdens on stakeholders and that could be repealed, replaced, or modified without compromising the safety of the nation's transportation system. In addition, the RRTF directed the OAs and OST with regulatory authority to provide background information on rules that OST leadership identified for review as well as potential deregulatory actions. The RRTF has already held a series of meetings at both the working group and leadership council level to discuss options with OST and OA staff and to make recommendations.

On May 24, 2017, the RRTF submitted its first round recommendations to Secretary Chao. This first round included 14 rules that were extended, withdrawn, or put on hold consistent with the "regulatory freeze" memorandum dated January

¹ For more information on the Unified Agenda, see: www.reginfo.gov/public/jsp/eAgenda/StaticContent/UA_About.jsp.

20, 2017 from White House Chief of Staff Reince Priebus. That memorandum directed Federal agencies to withdraw documents at the *Federal Register* awaiting publication and to postpone the effective date of regulations that were not in effect by January 20. The purpose of the regulatory freeze was to give the President's new leadership team an opportunity to review the legal and policy implications of these "midnight" regulations. To comply with the spirit in which the regulatory freeze was intended, the Department withdrew documents pending publication at the *Federal Register*, extended effective dates on rules that had already been published but were not yet in effect, extended compliance dates for rules that were already in effect, and withdrew rules that were under review with OMB.

NEXT STEPS

The RRTF remains focused on alleviating unnecessary burdens to spur economic activity and encourage innovation. Although it has made tremendous progress in just a few months, a significant amount of work remains. The RRTF will continue evaluating the potential deregulatory actions that the OAs and OST offices with regulatory authority, OST leadership, and OMB have already identified, and remains committed to working with the OAs and OST offices with regulatory authority to identify additional ways to provide relief from regulatory burdens. In addition, the RRTF will meet with each OA and OST offices with regulatory authority on a monthly basis to monitor progress on existing deregulatory initiatives and to continue to develop recommendations for future action.

The RRTF will also be engaging with stakeholders on both a formal and informal basis. In the coming weeks, the Department plans to announce a series of initiatives soliciting public input on existing rules and other agency actions that are good candidates for repeal, replacement, suspension, or modification. The OAs and OST offices with regulatory authority will also be encouraged to solicit additional input from their stakeholders. For example, the Federal Aviation Administration has already tasked one of its advisory bodies, the Aviation Rulemaking Advisory Committee, with identifying potential deregulatory actions.

Finally, the RRTF is cognizant that its work is intrinsically intertwined with other Presidential priorities. For example, the Department is currently reviewing its existing policy statements, guidance documents, and regulations to identify unnecessary obstacles to transportation infrastructure projects. The RRTF will partner with the team leading this review to make recommendations to the Secretary. The RRTF will also partner with a team working to identify actions that

the Department may take to alleviate or eliminate regulatory burdens or burdens on domestically produced energy resources, in accordance with EO 13783 (“Promoting Energy Independence and Economic Growth”).

CONCLUSION

The RRTF is working diligently to implement the President’s regulatory reform priorities. Although the RRTF’s initial focus has been on the urgencies of preparing the *Unified Agenda* and addressing midnight rules issued during the previous administration, it will now begin shifting its focus to public engagement, prospective deregulatory action, and cross-cutting Administration priorities. In accordance with EO 13777, the RRTF will continue to prepare periodic reports on this progress.