

concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 26, 1996.

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST-96-1188]

Proposed Freight Transportation Policy

AGENCY: Office of the Secretary of Transportation, Department of Transportation.

ACTION: Notice of proposed policy.

SUMMARY: The Department of Transportation is publishing for comment a proposed policy statement on freight transportation that establishes the most important principles that will guide Federal decisions affecting freight transportation across all modes. These guiding principles will direct decisions to improve the Nation's freight transportation systems to serve its citizens better by supporting economic growth, enhancing international competitiveness and ensuring the system's continued safety, efficiency and reliability while protecting the environment.

DATES: Comments on this proposed policy will be received until May 31, 1996.

ADDRESSES: Submit written, signed comments to Docket No. OST-96-1188, the Docket Clerk, U. S. Department of Transportation, Room PL-401, C-55, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Swerdloff, Office of Economics, at (202) 366-5427, Office of the Secretary, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

Proposed Freight Transportation Policy Statement

I. Introduction

This statement of guiding principles for the Nation's freight transportation system sets forth a DOT policy framework that will shape important decisions affecting freight transportation across all modes. Our interest is to ensure the Nation has a safe, reliable, and efficient freight transportation system that supports economic growth and international competitiveness both now and in the future, while contributing to a healthy and secure environment. The goal of this statement is to provide guidance for making the Nation's transportation system serve its citizens better. To achieve this goal, new partnerships must be formed among public agencies, the freight transportation industries and shippers.

Highways, airports, rail facilities, ports, pipelines, waterways, intermodal transportation, and the freight carriers they serve all play a vital role in the Nation's economic health. An efficient transportation system results in lower production and logistics costs for U.S. firms and better prices for consumers. In order to compete successfully in international markets U.S. firms must be able to rely on an efficient domestic freight transportation system that is effectively managed. The freight transportation system must also support achievement of other national goals by fostering safe, effective, timely and environmentally sound freight transportation that improves the quality of life for all U.S. citizens.

Effective freight transportation policy and planning must consider that much of our transportation infrastructure is provided by the different levels of government while major portions are put in place by private capital. This fusion of public and private investment creates economic opportunities and regulatory conflicts, both of which must be considered in the development of a national freight policy.

II. Recent Trends in Freight Movements

Freight moves on systems of increasingly integrated supply chains and distribution networks operating in States and metropolitan areas, as well as regionally, nationally, and internationally. Reliance on just-in-time

production and inventory management practices has increased the demand for more efficient and reliable freight transportation that is fast and on time. Shippers are increasingly rationalizing the mix of transportation, inventory, handling, and loss and damage costs, striving to reduce their total logistics costs. They are increasingly using fast, reliable transportation in place of large inventories.

The productivity of freight transportation firms and their ability to provide timely and reliable service depends not only on the efficiency of individual modal systems and the effectiveness of the laws and regulations under which they operate, but also on the efficiency of intermodal facilities that govern the effectiveness of their connections to one another. U.S. intermodal freight transportation links the various modes to meet customers' market needs by providing integrated origin-to-destination service. It utilizes advanced technologies and operating systems designed to enhance productivity, reduce transportation costs, increase service speed and quality for shippers and lower prices for consumers.

International freight movement takes advantage of the latest innovations in the global marketplace that reduce cost and better serve the customer. Customers are establishing global supply chains. Innovations that are developed by individual carriers are copied by others when results in savings or service are seen. The use of real-time, interactive electronic data interchange, and vessel/asset sharing agreements all provide more efficient and rapid transportation of international freight movements.

Contractual regimes governing the movement of freight have been established by the private sector which sometime result in conflicts with public regulations and create impediments to the safe and efficient operation of freight transportation. Government typically regulates the safety, and environmental aspects of infrastructure and equipment. It also may be appropriate for Government to facilitate problem solving and provide technical assistance where private and public sector requirements create barriers to safe and efficient freight movement. Economic consequences are increasingly a matter of market decisions by the private sector.

III. Principles of Federal Freight Transportation Policy

The following eight principles provide the basis for a Federal freight transportation policy:

1. Provide a planning framework that establishes priorities for allocation of resources for Federal funding of cost-effective public infrastructure investments that support broad national goals.

2. Promote economic growth by removing unwise or unnecessary regulation and through the efficient pricing of public transportation infrastructure.

3. Ensure a safe transportation system.

4. Protect the environment and conserve energy.

5. Use advances in transportation technology to promote transportation efficiency, safety and speed.

6. Effectively meet our defense and emergency transportation requirements.

7. Facilitate international trade and commerce.

8. Promote effective and equitable joint utilization of transportation infrastructure for freight and passenger service.

1. Provide a Planning Framework That Establishes Priorities for Allocation of Resources for Federal funding of Cost-Effective Public Infrastructure Investments That Support Broad National Goals

Enactment of ISTEA, with its requirement for greater emphasis on intermodal and freight policy issues, marked a new era in transportation investment decision-making. The transportation planning process has become increasingly important. Metropolitan and state officials are now required to identify major freight distribution corridors; they are also urged to work with carriers and industry to find ways for improving the efficiency of freight movements. The transportation planning procedures adopted in ISTEA resulted in an improved approach to developing freight transportation policy at all levels of government.

While much of the surface transportation infrastructure is provided by the private sector (e.g., rail freight facilities, waterside and truck terminals, oil and gas pipelines), a greater portion of it would not be built or maintained without public financial support, and all of it is affected by Federal policies. Private facilities are often dependant on public investment for their effectiveness, (e.g. waterside terminals that require public channels, etc.). Federal participation may be appropriate when infrastructure investment projects have a national or regional significance or when Federal involvement may facilitate the resolution of a freight transportation problem. The value of a particular

transportation facility is often dependent on the existence and effectiveness of a regional or national network which is often a Federal concern and responsibility.

In cooperation with DOT and other Federal agencies, the Office of Management and Budget (OMB) has established guidelines for the economic analysis of Federal infrastructure investments.¹ The guidelines apply rigorous cost-benefit standards to all proposed investments, including a provision that requires the measurement of costs and benefits over a project's life-cycle. The OMB guidelines also seek to encourage, when appropriate, private sector participation in infrastructure projects and more cost-effective State and local infrastructure investment programs.

2. Promote Economic Growth by Removing Unwise or Unnecessary Regulation and Through the Efficient Pricing of Public Transportation Infrastructure

Although freight transportation services are provided almost exclusively by the private sector, the Federal Government plays an essential role in maintaining competition in the transportation marketplace and in protecting the public from unsafe and environmentally damaging transportation operations. By promoting competition, Federal policies can help to foster an environment that encourages improvements and changes that reduce transportation and logistics costs. National objectives for the freight transportation system can be addressed through Federal activities such as deregulation of entry and ratemaking in the trucking and air cargo industries, in order to foster an effective, competitive freight transportation environment.

As the logistical requirements of businesses become more complex, some shippers and transportation providers will rely increasingly on intermodal services. Such services should not be hindered by artificial constraints. Physical and institutional barriers that impede the flow of freight from one mode of transportation to another should be eliminated. The elimination of physical, and operational barriers to freight intermodal operations is primarily the responsibility of transportation carriers, shippers, and state and local government. The Federal Government, however, may take action to improve public infrastructure that is inadequate to support essential freight

intermodal operations or to reduce legal and regulatory barriers such as those that until 1996 impeded railroad ownership of barge and trucking companies. The Federal Government may also encourage state and local governments to take necessary action, or in extreme cases even preempt them, in order to reduce statutory impediments to intermodal transportation.

The prices charged for public sector transportation facilities and services determine whether they are used efficiently. Public facilities costs that are not included in the transportation rates paid by shippers may lead to inefficient use of the Nation's limited transportation resources. Whenever feasible, fees and taxes adequate to cover the cost of building, operating, and maintaining public infrastructure facilities should be recovered from the parties that use and benefit from them.

Federal actions must be evaluated not only for their short-term impacts but for their longer-term consequences for maintaining viable, competitive, multimodal freight transportation to serve the Nation. Therefore, freight regulatory and investment policies must be evaluated in the context of likely future changes in the linkages between freight transportation performance and economic performance at the local, regional, national and international levels. The DOT has recently completed a comprehensive assessment of its regulations as part of the National Performance Review. It will reexamine its policies, programs and regulations periodically to assess their effectiveness and whether they should be continued.

3. Ensure a Safe Transportation System

Making the transportation system safer is a critical Federal policy objective. Because the marketplace alone may not be effective in producing an acceptable level of public safety, the Federal Government will continue to promote transportation safety through regulation and enforcement, education, and support of voluntary compliance efforts by industry. Responsibility for maintaining and improving the safety of our freight transportation networks requires the cooperation of each level of government and the private sector.

The Federal Government will continue to support safety research and the dissemination of information related to safety. The DOT will continue to support activities to improve the information base needed to monitor the safety performance of all freight transportation modes including the full social costs of accidents. Federal research will focus on the causes of transportation accidents: the role of

¹ Executive Order 12893, "Principles for Federal Infrastructure Investments," Federal Register, Volume 59, No. 20, January 31, 1994.

truck, rail, aircraft, and vessel design and performance in accidents and their solutions, as well as the contribution of human factors and infrastructure design. The Federal Government will also continue to work with the private sector on a cooperative basis, to ensure that proven safety advances are rapidly incorporated into practice, especially when substantial public benefits will result from their adoption.

4. Protect the Environment and Conserve Energy

Responsible environmental protection is another important Federal policy objective and, like transportation safety, environmental protection requires the cooperation of all levels of government and the private sector. The total social costs of environmental degradation are not borne by the transportation users, e.g., the social costs associated with pollution are not reflected in the costs incurred by the users or prices charged for transportation services. Thus, the Federal Government plays and must continue to play an important role in reducing these social costs and ensuring that they are more accurately reflected in the price of transportation services through appropriate regulation or modifications to existing programs. In addition, the Federal Government will continue to support research and technology development that is directed at increasing transportation productivity while maintaining environmental protection.

In pursuing its environmental protection objective, the Federal Government needs to continue to assess the impacts of environmental regulation on the performance of transportation operations and will work with the private sector to implement appropriate environmental protection measures and technologies in a cost effective and environmentally sound manner. The Federal Government will seek to develop regulations that contain performance-based rather than technology specific standards or criteria so as to permit industry flexibility and innovation in meeting regulatory requirements. DOT will continue working to develop techniques for conserving energy and for better quantifying the social costs of environmental and community degradation.

5. Use Advances in Transportation Technology To Promote Transportation Efficiency, Safety and Speed

Application of advanced technology in the transportation system offers significant opportunities to improve its

safety, efficiency, capacity and productivity.

Private firms invest in advanced communication, navigation, surveillance, and information technologies which improve the efficiency of their operations. These advanced technologies facilitate the movement and tracking of goods and vehicles as well as the exchange of information among carriers and their customers in the intermodal transportation system. They also offer tools for strengthening intermodal connections. Public and private investments for applying these advanced technologies to the air, highway, marine, and rail infrastructures have improved the overall efficiency of the transportation system.

DOT's Federal role in research and development of technologies is to promote the efficiency and safety of the national transportation system and to support the application of technologies in the movement of freight. Specifically, DOT provides leadership for the interagency coordination of Federal transportation research. This includes maintaining close dialogue with the private sector and state and local governments to ensure that DOT research funding reflects priorities of freight transportation users and providers. DOT will maintain a leadership role in development of an intermodal research framework.

Advances in information technology are having a dramatic effect on transportation requirements and the planning of future capacity investments. DOT works with the private sector to facilitate communications across modes for intermodal compatibility of technology applications, such as Global Positioning Systems (GPS) and Geographic Information Systems (GIS). DOT coordinates with other federal agencies, such as the Department of Defense and the National Oceanic and Atmospheric Administration, to ensure that underlying data (such as weather and positioning information) required as input to these various systems continue to be available.

DOT will continue to work closely with the freight industry to ensure that the United States is well represented in international transportation technology and standards forums.

6. Effectively Meet Defense and Emergency Transportation Requirements

Recent changes in our Nation—s defense strategy and the downsizing of the U.S. military establishment have increased the need for effective

deployment of those forces in times of a national emergency. They have emphasized the need for rapid deployment of large numbers of people and large amounts of material on short notice. Similarly, when natural disaster strikes, a high-quality, multimodal transportation system is critical to ensuring the safety of the affected population and the ability of local, State and Federal officials to start rebuilding devastated communities. Deploying personnel, equipment, and supplies through the air, over land or on the seas, requires well-planned and maintained transportation systems and facilities for both the military mission and disaster relief operations.

The Department of Defense has adopted policies that will require greater use of civilian transportation resources in meeting its transportation needs. The Nation's freight transportation operators, therefore, have an essential role to play in the mobilization and deployment of personnel, equipment and supplies in the event of a national emergency or a natural disaster. The DOT will continue to work with the Department of Defense, other Federal agencies, and the transportation community to identify short- and long-term national defense and emergency transportation requirements and to ensure that the transportation system can meet those requirements.

7. Facilitate International Trade and Commerce

To retain and enhance the Nation's competitive position and its economic vitality, domestic firms must have access to foreign markets through an efficient transportation system. A competitive international transportation industry requires highly efficient connections to and within the domestic transportation system. Where international trade agreements have been negotiated, as in the case of NAFTA and the GATT, regulatory policy decisions that primarily affect international freight movements should also consider their implications for domestic freight operations and competition. Government can provide new opportunities for American exporters by leading negotiations with countries in the European Economic Community and with emerging markets, such as those in East Asia and Latin America, and by providing technical assistance programs to promote American transportation and infrastructure technologies.

8. Promote Effective and Equitable Joint Utilization of Transportation Infrastructure for Freight and Passenger Service

The efficient use of the Nation's transportation infrastructure may require the joint use of facilities by freight and passenger transport operators. When appropriate, the Federal Government, in conjunction with State and local agencies and the private sector, will support the equitable sharing of transportation facilities and infrastructure and reasonable compensation for their use.

Potential safety problems and reduced freight transportation operations efficiency may arise from the sharing of facilities. These concerns should be taken into account in policy initiatives that address the joint use of facilities. The DOT will continue to support research in this area and will encourage transportation firms to adopt new technologies and operating practices that would reduce the adverse consequences that may arise from the joint use of facilities.

Issued in Washington, DC on March 26, 1996.

Federico Peña,

Secretary of Transportation.

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Coast Guard

[CGD 95-066]

National Environmental Policy Act Draft Environmental Impact Statement: Living Marine Resource Protection Plan for U.S. Coast Guard Activities Along the U.S. Atlantic Coast

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent of prepare a draft environmental impact statement and notice of scoping.

SUMMARY: The Coast Guard announces its intent to prepare and circulate a draft Environmental Impact Statement (DEIS) for the Protected Living Marine Resource Program that it is developing for the Atlantic Coast of the United States. In preparing the Protected Living Marine Resource Program, the Coast Guard plans to review the measures it develops during its formal Endangered Species Act consultation with the national Marine Fisheries Service (NMFS) to protect threatened or endangered species.

DATES: Comments must be received on or before May 2, 1996.

ADDRESSES: Comments may be mailed to Commandant (G-OCU), U.S. Coast

Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593-0001, or may be delivered to room 3216 at the same address between 8 a.m. and 3 p.m. Monday through Friday except Federal holidays. Comments will be available for inspection or copying at room 3216, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Captain J. A. Creech at (202) 267-1965 or by fax at (202) 267-4674.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data, views or arguments. Persons submitting comments should include their names and addresses and identify this notice (CGD 95-066). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard invites comments and suggestions on the proposed scope of the DEIS. Scoping will help the Coast Guard ensure that a full range of issues related to this proposal are addressed, and will help identify potentially significant impacts.

The Coast Guard will consider all comments received during the comment period. The DEIS and comments received will be received during the formal consultation between the U.S. Coast Guard and the National Marine Fisheries Service.

Background Information

On August 9, 1995, the Coast Guard published in the Federal Register (60 FR 40631) a notice of availability and request for comments announcing the availability of an Environmental Assessment (EA) and a proposed Finding of No Significant Impact (FONSI) on Coast Guard activities along the U.S. Atlantic Coast. On October 11, 1995, the Coast Guard published in the Federal Register (60 FR 52949) a notice reopening and extending the comment period for the EA and FONSI.

The EA focused on the six whale, and five turtle species listed as threatened or endangered found along the Atlantic coast. The Coast Guard received comments from Federal, State and local agencies and the public.

As a result of new information concerning the October 1995 interaction between a Coast Guard vessel and a suspected Humpback whale, and recent Northern Right Whale fatalities; and as a result of comments received in

response to the EA and FONSI, the Coast Guard has determined that an EIS is the appropriate document to assess the impacts of the proposed project under Section 102(2)(C) of the National Environmental Policy Act of 1969. All known or proposed alternatives will be evaluated and considered.

Proposed Action

The Coast Guard's DEIS will examine alternative measures contributing to protection and recovery of species currently listed as threatened or endangered. The measures proposed in the EA and by commenters to the EA include:

1. Reviewing vessel documentation and inspection programs.
2. Training programs for vessel lookouts.
3. Distributing notices of species locations via the NAVTEX program.
4. Regulating minimum distances between protected species and vessels or aircraft.
5. Surveying critical habitat areas, noting presence and activities of protected species.
6. Increasing enforcement of existing laws.
7. Participating in regional whale recovery implementation groups.
8. Establishing or modifying vessel traffic routes.
9. Developing Coast Guard-wide and regional procedures to alert employees of seasonally-heightened potentials for interaction with protected species.
10. Including protected species awareness information in basic boating safety training provided to the public.
11. Notifying the National Marine Fisheries Service regional office when a significant incident is brought to attention of the Coast Guard.
12. Participating in regional species stranding networks.
13. Surveying lighting options for Coast Guard stations in the vicinity of turtle nesting beaches.

Significant areas to be explored include: identification of endangered or threatened species, and their habits; review of all present operational requirements for Coast Guard vessels and aircraft; identification of designated critical habitat areas and species high-density areas; and evaluation of the potential occurrence of multiple activities combining to produce beneficial or harmful effects not otherwise likely.

The Coast Guard will evaluate the latest data on the habits of protected species; and will consider the location of Coast Guard stations and vessels; the navigational capabilities of Coast Guard vessels; the training of Coast Guard