

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Aviation Rulemaking Advisory Committee (ARAC)—ARAC Input To Support Regulatory Reform of Aviation Regulations—New Task**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of a new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

**SUMMARY:** The FAA assigned the Aviation Rulemaking Advisory Committee (ARAC) a new task to consider (1) recommendations on existing regulations that are good candidates for repeal, replacement, or modification and (2) recommendations on regulatory action identified in FAA's regulatory agenda. Pursuant to the February 24, 2017, Executive Order titled "Enforcing the Regulatory Reform Agenda," each agency is required to establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. As part of this process, the RRTF is required to seek input/ assistance from entities significantly affected by its regulations. Since the ARAC's membership represents a broad spectrum of entities significantly affected the FAA's regulations, the Department, through the FAA, assigned this task to ARAC. This notice informs the public of the new ARAC activity.

**FOR FURTHER INFORMATION CONTACT:** Nikeita Johnson, Management and Program Analyst, Federal Aviation Administration, Room 810, 800 Independence Avenue SW., Washington, DC 20591, [Nikeita.Johnson@faa.gov](mailto:Nikeita.Johnson@faa.gov), (202) 267-4977.

**SUPPLEMENTARY INFORMATION:****ARAC Acceptance of Task**

At the April 20, 2017, ARAC meeting, the FAA assigned and ARAC accepted this task to evaluate the FAA's regulations in Title 14 of the Code of Federal Regulations to determine any and all regulations that should be repealed, replaced or modified, and to provide feedback on the regulatory actions identified in the FAA's regulatory agenda. ARAC will then provide advice and recommendations on the assigned task and submit a recommendation report to the FAA.

**Background**

The FAA established ARAC to provide information, advice, and

recommendations on aviation related issues that could result in rulemaking to the FAA Administrator, through the Associate Administrator of Aviation Safety.

Improvement of regulations is a continuous focus for the Department. Accordingly, the Department regularly makes a conscientious effort to review its rules in accordance with the Department's 1979 Regulatory Policies and Procedures (44 FR 11034, 2/26/1979), Executive Order 12866, Executive Order 13563, and section 610 of the Regulatory Flexibility Act. Through two new Executive Orders, President Trump directed agencies to further scrutinize its regulations. On January 30, 2017, President Trump signed an Executive Order titled "Reducing Regulation and Controlling Regulatory Costs (EO)." Under Section 2a of that Executive Order, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.

In addition, on February 24, 2017, President Trump signed Executive Order 13777 titled "Enforcing the Regulatory Reform Agenda." Under this Executive Order, each agency is required to establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. As part of this process, the Department is directed to seek input/assistance from entities significantly affected by its regulations.

Accordingly, the Department, through the FAA, tasked ARAC to consider (1) recommendations on existing regulations that are good candidates for repeal, replacement, or modification and (2) recommendations on regulatory action identified in FAA's regulatory agenda.

**The Task**

The ARAC is tasked to:

1. Evaluate the FAA's regulations in Title 14 of the Code of Federal Regulations to determine any and all regulations that should be repealed, replaced or modified. This evaluation will attempt to identify regulations that:
  - a. Eliminate jobs, or inhibit job creation;
  - b. Are outdated, unnecessary, or ineffective;
  - c. Impose costs that exceed benefits; or
  - d. Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies.
 For purposes of this evaluation, a regulation means any regulatory

provision and could include a regulatory section (e.g., § 121.xxx), paragraph (e.g., § 121.xxx(y)), or subparagraph (e.g., § 121.xxx(y)(z)).

2. Provide a detailed explanation for recommending the repeal, replacement or modification of each regulation. This explanation will include any examples of why the regulation falls into one or more of the categories listed in paragraph 1.

3. Provide quantitative data on the costs and benefits of either repealing, replacing or modifying each regulation in the recommendation report.

4. Review the FAA's current regulatory actions identified in the regulatory agenda, and provide feedback on the current program as appropriate.

5. Develop both an initial report and an addendum report containing recommendations on the findings and results of the tasks explained above. This data will be provided in two recommendation reports. In the first recommendation report, ARAC will provide a list of regulations that are considered to address the criteria of paragraph 1 of this tasking. A second addendum recommendation report will provide details to supplement the first submittal by ARAC to the FAA, and will provide the additional and detailed data as described in paragraph 2, 3 and 4 of this tasking.

a. The recommendation report should document both majority and dissenting positions on the findings and the rationale for each position.

b. Any disagreements should be documented, including the rationale for each position and the reasons for the disagreement.

**Schedule**

This tasking notice requires two recommendation reports.

- The initial recommendation report must be submitted to the FAA no later than June 1, 2017, to allow for consideration of ARAC approval at the June 15, 2017 meeting.

After the initial recommendation report is submitted, the addendum recommendation report must be submitted to the FAA no later August 31, 2017, to allow for consideration of ARAC approval at the September 14, 2017, meeting. The Secretary of Transportation determined the formation and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law. ARAC meetings are open to the public.

Issued in Washington, DC, on April 21, 2017.

**Dale Bouffiu,**

*Alternate Designated Federal Officer,  
Aviation Rulemaking Advisory Committee.*

[FR Doc. 2017-08564 Filed 4-27-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2017-0006]

#### Fixing America's Surface Transportation Act (FAST Act); Equal Access for Over-the-Road Buses

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice; request for comment.

**SUMMARY:** The FHWA invites interested parties to review and comment on definitions and applicable facilities related to requirements contained in Section 1411(a) and (b) of the Fixing America's Surface Transportation (FAST) Act regarding the treatment of over-the-road buses (OTRBs). In addition, FHWA invites interested parties to review and comment on a listing of covered Section 129 Federal-aid toll facilities in the United States.

**DATES:** Comments must be received by May 30, 2017.

**ADDRESSES:** To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Ave. SE., Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., between 9 a.m. 5p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

All comments must include the docket number DOT-FHWA-2017-0006 at the beginning of the submission.

*Electronic Access:* This document may be viewed online through the Federal eRulemaking portal at: <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded

from the Office of the Federal Register's Web site at: <http://www.archives.gov/federalregister> and the Government Publishing Office's Web site at: <http://www.gpo.gov/fdsys>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia Essenmacher, Federal Tolling Program Manager, Center for Innovative Finance Support, Office of Innovative Program Delivery, Federal Highway Administration, 315 W. Allegan St., Room 201, Lansing, MI 48933, (517) 702-1856. For legal questions: Mr. Steven Rochlis, Office of the Chief Counsel, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366-1395. Office hours are from 8:00 a.m. to 4:30 p.m. E.T., Monday through Friday, except for Federal holidays.

#### SUPPLEMENTARY INFORMATION:

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##### A. Background

The FAST Act includes a number of provisions that modify Federal requirements related to high-occupancy vehicle (HOV) facilities and the tolling of highways. Sections 1411(a) and (b) of the FAST Act contained new requirements regarding the treatment of over-the-road buses (OTRBs) that access toll highways and HOV facilities. Specifically, the FAST Act amended 23 U.S.C. 129 and 23 U.S.C. 166 to address access to toll or HOV facilities for OTRBs.

For HOV facilities, 23 U.S.C. 166(b)(3) was amended by the FAST Act, adding subparagraph (C) to grant HOV authorities an exception to allow public transportation vehicles (which FHWA interprets to include all public transportation vehicles, including public transportation buses) that do not meet the minimum occupancy requirements to use HOV lanes, but only if the HOV authority also gives equal access to OTRBs that serve the public. Under this exception provided in 23 U.S.C. 166(b), HOV authorities may allow all public transportation vehicles to use HOV lanes, whether they meet the minimum occupancy requirements, as long as they provide equal access to OTRBs serving the public, under the same rates, terms, and conditions as all other public transportation vehicles.

Additionally, 23 U.S.C. 166(b)(4)(C) was also amended by the FAST Act,

adding subparagraph (iii), to grant HOV authorities the alternative to toll vehicles not meeting the minimum occupancy requirements in HOV lanes. In that case, HOV authorities are required to provide access to OTRBs that serve the public under the same rates, terms, and conditions as public transportation buses (which FHWA interprets to exclude other types of public transportation vehicles, which may be treated differently by the HOV authority). Similarly, on toll facilities subject to 23 U.S.C. 129, the FAST Act amended 23 U.S.C. 129(a) by adding paragraph (9) to also require that OTRBs that serve the public be provided access to the toll facility under the same rates, terms, and conditions as public transportation buses.

In preparing guidance to assist in the implementation of Section 1411 of the FAST Act, FHWA considered how to define key terms in Section 1411 as well as which facilities are governed by the new requirements. The FHWA is seeking comment on implementation of these terms as they relate to FAST Act Section 1411 amendments to 23 U.S.C. 129 and 166.

##### B. Applicable Definitions for Implementing Section 1411 of the FAST Act

For the purposes of implementing FAST Act Section 1411 amendments to 23 U.S.C. 129 and 166, FHWA intends to use definitions where they exist in relevant statutes and regulations. Where FHWA found no existing definition, such as for the term "public transportation bus," FHWA developed a definition based on its interpretation of Congress's intent. The definitions for the key terms, are:

"*Over-the-road bus*" is defined as a bus characterized by an elevated passenger deck located over a baggage compartment. *Source:* As amended by FAST Act Section 1411, 23 U.S.C. 129(a)(10)(C) and 23 U.S.C. 166(f)(4) define this term, giving it the same meaning as in Section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

"*Public Transportation Bus*" is a category of public transportation vehicle (as defined in 23 U.S.C. 166(f)(6)), consisting of a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons. *Source:* The FHWA developed this definition by drawing upon definitions of similar or related terms. The FHWA incorporated the definition of "public transportation vehicle" in 23 U.S.C. 166(f)(6), and the definition of "bus" in 49 CFR 571.3.