

Trump's First 100 Days: Transportation

Analysis of New Administration

12.09.2024

We anticipate the federal funding tap for transportation infrastructure projects to be turned off, or at least significantly tightened, early on in the new administration.

AT A GLANCE

- We expect to see a shift away from antitrust enforcement for potential airline consolidation and a less aggressive enforcement posture for consumer protection matters.
- We expect a rollback of Biden regulatory efforts in the first 100 days will have significant implications for the railroad industry. Early action is likely on the two-person crew rule, which is currently under review before the U.S. Court of Appeals for the Eleventh Circuit.

We expect the Trump administration to return to the Trump-era "rule of rules" and require withdrawal of existing regulations for every new regulation.

AVIATION

We expect to see a shift away from antitrust enforcement for potential airline consolidation. We also expect a less aggressive enforcement posture, particularly for consumer protection and other non-safety related matters. We do not expect the Department of Transportation to progress pending rulemakings—at least not in their current forms—such as the proposed rulemaking on wheelchair accessibility and on family seating (banning fees to sit together and requiring adjacent seating when available).

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RAIL

We expect a decrease in rail infrastructure funding, including for Amtrak and high speed rail projects; a rollback on Biden's rail safety regulatory initiatives, including the two-person minimum crew rule and several recent proposed rules; and a shift in focus at the Surface Transportation Board away from using forced switching as a tool to create more competition.

Federal Rail Administration. We expect regulatory efforts from the Biden administration to be rolled back in the first 100 days, including the recently announced proposals regarding changes to the waiver process and to track geometry inspection rules.

We also expect action on other existing rules, such as the two-person crew rule currently under review before the U.S. Court of Appeals for the Eleventh Circuit. Additionally, we expect the new administration to undo or at least significantly loosen the existing rule, though the mechanism by which it acts may depend on the outcome of the court challenge.

We expect the new administration and a Republican-controlled Congress to cut spending and taxes and to target early federal funding of high speed rail and Amtrak, as well as other Consolidated Rail Infrastructure and Safety Improvement-funded rail projects.

Surface Transportation Board. The Surface Transportation Board (STB) currently has two Republican and two Democratic members with one seat vacant. Until the vacant seat is filled by the new administration, the new chair will need the vote of at least one of the two Democratic-appointed members to advance their agenda. Filling STB vacancies typically is not high on the list of priorities for a new administration, so it may be some time before we see much change at the agency.

We expect STB member Patrick Fuchs to be named chair and for him to focus on areas where there is likely to be consensus. This may include commencing a new effort to establish a simplified methodology or alternative dispute resolution mechanism for small rate cases in light of the Eighth Circuit's recent rejection of Final Offer Rate Review.

MOTOR CARRIER

We expect the Trump administration to roll back the Biden administration's vehicle emission standards, including the third-phase heavy-duty greenhouse gas emissions standards.

We do not expect the proposed rule on speed limiters to progress under the new administration. If the Federal Motor Carrier Safety Administration finalizes it before January 20, 2025, then we expect Congress to undo it under the Congressional Review Act.

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This article is part of a broader analysis examining the anticipated challenges and opportunities created by an administration change. Attorneys from several different practice areas contributed to this series of article across multiple legal areas.

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