

SUPPLEMENTAL RULEMAKING

A supplemental notice of proposed rulemaking is a notice and request for comment published in the [Federal Register](#) when an agency has made significant substantive changes to a rule between the [Notice of Proposed Rulemaking](#) and the [final rule](#). The SNPRM allows the public to comment on the changes. A "significant substantive change" is any new requirement in the rule that goes beyond the scope of the requirements in the NPRM. The agency may enact the other requirements of the final rule while accepting comments on the SNPRM. <https://www.foreffectivegov.org/node/2535>

§ 1.05-40 Supplemental notice of proposed rulemaking (SNPRM).

An **SNPRM** may be issued if a proposed rule has been substantially changed from the original notice of proposed rulemaking. The supplemental notice advises the public of the revised proposal and provides an opportunity for additional comment. To give the public a reasonable opportunity to become reacquainted with a rulemaking, a supplemental notice may also be issued if considerable time has elapsed since publication of a notice of proposed rulemaking. An SNPRM contains the same type of information generally included in an NPRM. <https://www.law.cornell.edu/cfr/text/33/1.05-40>

FMCSA Sets Schedule for Safety Fitness Determination - Supplemental Notice of Proposed Rulemaking January 12, 2017

On January 21, 2016, the Federal Motor Carrier Safety Administration (FMCSA) published a [Notice of Proposed Rulemaking](#) to update its present Safety Fitness Determination (SFD) methodology and enhance the Agency's ability to identify non-compliant motor carriers. The NPRM public comment period ended June 23, 2016.

In order to thoroughly evaluate and possibly incorporate comments received, and to allow the Agency to address any recommendations that result from the [National Academy of Sciences \(NAS\) study](#)[\[external link\]](#) on the [Compliance, Safety, Accountability \(CSA\) program](#), FMCSA has determined that a Supplemental Notice of Proposed Rulemaking (SNPRM) is the appropriate next step in the rulemaking process.

§ 11.7 What is a supplemental notice of proposed rulemaking?

On occasion, [FAA](#) may decide that it needs more information on an issue, or that we should take a different [approach](#) than we proposed. Also, we may want to follow a commenter's suggestion that goes beyond the scope of the original proposed rule. In these cases, [FAA](#) may issue a supplemental notice of proposed rulemaking (SNPRM) to give the public an opportunity to comment further or to give us more information. <https://www.law.cornell.edu/cfr/text/14/11.7>

The theory of American administrative law is that only Congress may make laws. The President and the agencies that make rules only have the power Congress has delegated to them to enforce the law. Thus, when an agency acts, its power is derived from a statutory command. Agencies are most often authorized to craft regulations because Congress has "delegated" them the power to do so. But as part of that delegation, Congress enacted the APA, to ensure that the exercise of that delegated power is only done pursuant to procedures that ensure that it is rational and lawful. These procedures require all agencies to provide public notice and seek comment prior to issuing new subordinate regulations or revising existing ones. . .

On the basis of information and comments received, agencies may conclude that the proposed solution will help accomplish the goals or solve the problems identified, and that changes to the proposed rule on the basis of comments received are minor, and proceed to a final rule. Alternatively, **agencies may also decide to revise the proposed rule and publish an updated proposed rule** for comment.

Generally, a **supplemental NPRM is used when a change is needed from the proposed to final rule that was unanticipated at the time of the NPRM publication**, or when responding to a comment brings in new information and there would not be a "logical outgrowth." <https://www.oecd.org/gov/regulatory-policy/USA-Public-Notice-and-Comment.pdf>

REQUEST FOR Supplemental Comprehensive Override Rulemaking:

Ms. Karth

As requested in your April 4th email, the agency has posted both documents you provided (cover letter and signatures spreadsheet) to Docket ID: NHTSA-2015-0118 "NPRM Upgrade Override." They can be found under the "Primary Documents" section. The documents were posted on 5/7/18 as "Cover Letter re: STOP Overrides Petition signatures spreadsheet April 4": <https://www.regulations.gov/document?D=NHTSA-2015-0118-0058>.

Robert Mazurowski, General Engineer, Department of Transportation
