



NATIONAL TRANSPORTATION SAFETY BOARD (NTSB)

Guidance on Referrals for Potential Criminal Enforcement

ACTION: Notice.

SUMMARY: This notice describes the NTSB’s plans to address criminally liable regulatory offenses under the recent executive order on Fighting Overcriminalization in Federal Regulations. The NTSB is “an independent establishment of the United States Government.” 49 USC §1111(a). It is not a regulatory agency.

ADDRESSES: NTSB Office of General Counsel, 490 L’Enfant Plaza East, SW, Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: Denise D’Avella, (202) 314 6080, rulemaking@ntsb.gov.

SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order (“E.O.”) 14294, Fighting Overcriminalization in Federal Regulations, 90 FR 20363 (published May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan to address criminally liable regulatory offenses.

Consistent with that requirement, the NTSB advises the public that by May 9, 2026, the NTSB, in consultation with the Attorney General, will provide to the Director of the Office of Management and Budget (“OMB”) a report containing: (1) a list of all criminal regulatory offenses (meaning a Federal regulation that is enforceable by a criminal penalty) enforceable by the NTSB or the Department of Justice (“DOJ”); and (2) for each such criminal regulatory offense, the range of potential criminal penalties for a violation and the applicable *mens rea* standard (meaning the state of mind that by law must be proven to convict a particular defendant of a particular crime) for the criminal regulatory offense. At the same time, per the E.O. 14294,

the NTSB will publicly post the report on its agency website, <http://www.nts.gov>, and update the report periodically, but not less than once a year.

Also as required by Section 7 of E.O. 14294, this notice announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when the NTSB is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of the NTSB should consider, among other factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the rule or regulation at issue; and
- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his knowledge or lack thereof of the regulation at issue.

This general policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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