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DOT Regulations

Existing Regulations, Research, and the Rulemaking Process

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Regulatory Map

<http://hydrogen.gov/regulations>





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Federal Register Notice

- RITA-2006-26758
- Notice describes and indexes several statutory and regulatory provisions of each major Federal agency
- Discusses possible applications of these provisions to aspects of a hydrogen economy,
 - Construction and certification of transportation/ports infrastructure,
 - Use of fuel cells to power automobiles and generate electricity for homes and businesses
 - Effects on public safety and health.
- 3 comments
 - UTC - AAM - ASTM
 - No actionable items identified
- New content being added – meeting being scheduled



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Gap Analysis

- **Hydrogen Infrastructure Safety
Technical Assessment and Research
Results Gap Analysis**

DOT-T-06-01

April, 2006

- http://www.rita.dot.gov/publications/hydrogen_infrastructure_safety_analysis/
- Industry led
- Formal comments provided by NHA



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The Informal Rulemaking Process

Neil Eisner

Assistant General Counsel for Regulation and
Enforcement

U.S. Department of Transportation



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Basic APA Requirement for Informal Rulemaking

- NPRM
- Public Comments
- Final rule (with basis and purpose)
- Exceptions



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Why is a Rule Issued

- Binding Requirements
- Interpretations
- Policy Statements
- Management and procedural matters



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Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 14]

PART 101—ADMINISTRATION

Alteration of Seal

As a declaration of the dedication of the Small Business Administration to a cleaner environment for all, § 101.5-1 of Part 101 of Title 13 of the Code of Federal Regulations is hereby amended by removing the smoke from the smoke-stack on the seal of the Small Business Administration. The seal, as altered by this amendment, is:



Effective date: May 18, 1970.

HILARY SANDOVAL, JR.,
Administrator.



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Identification of a Need for a Rule

- Statutory Mandate/ Authority
 - General
 - Specific
 - Conflicting
 - Vague or Problematic
- Agency identification of a problem
 - Inspector reports/agency oversight
 - Accidents, environmental problems, or other problems
 - Enforcement issues/problems
 - Requests for interpretation/exemption Etc.
- Petitions from the public
- Changes in state of the art
- Policy initiatives
- NTSB, GAO, IG, or similar recommendations Etc.
- Role of risk assessments, cost-benefit analyses, etc.



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Notice of Proposed Rulemaking

- Contents:
 - Preamble
 - Rule text optional
- Comment period



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Preamble

- Explains need and authority for rule
- Explains rule text of subjects and issues involved
- May ask questions
- Generally summarizes or provides various analyses



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Final Rule

- Preamble
 - Response to public comment
 - Statement of basis and purpose
- Rule Text



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Extras

- ANPRM
- SNPRM
- IFR
- Request for comments
- Hearings
- Second round of comments
- Reply comments
- Negotiated rulemaking



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Some Other Requirements Affecting the Informal Rulemaking Process



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Paperwork Reduction Act

Requires agencies to:

- Analyze information collection burdens
- Provide opportunity for notice and comment
- Obtain OMB approval
- Prepare an Information Collection Budget
- Attain Reduction in ICB
- Allow electronic maintenance, submission and disclosure, and electronic signature, when practicable, by October 2003



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Quality Objectivity, Utility, and Integrity of Information (FY 2000 and General Government Appropriations Act)

Requires agencies to issue guidelines for “ensuring and maximizing the quality, objectivity, utility, and integrity of information” disseminated by the agency and to establish administrative mechanisms for affected persons to seek corrections



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Environmental Requirements

Various statutes, regulations, executive orders, and agency orders, including, the National Environmental Policy Act, impose requirements for considering environmental impacts of agency decisions



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Regulatory Planning and Review (EO 12866)

- Requires of agencies:
 - OMB review of significant regulations
 - Assessment of economically significant regulations



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Federalism (EO 13132)

Requires agencies to consult with state and local governments and consider the impacts of their rulemakings on them when the actions have federalism implications



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Indian Tribal Governments (EO 13175)

Requires agencies to consult with Indian tribal governments and consider the impact of their rulemakings on them when the actions have tribal implications



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Peer Review (OMB Bulletin)

Requires agencies to conduct peer reviews of all influential scientific information that the agency intends to disseminate to the public