

§ 5.33

§ 5.33 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the General Counsel. The rule is then submitted to the Secretary for his consideration. If the Secretary adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

§ 5.35 Procedures for direct final rulemaking.

(a) Rules that the Secretary judges to be noncontroversial and unlikely to result in adverse public comment may be published as direct final rules. These include noncontroversial rules that:

(1) Affect internal procedures of the Office of the Secretary, such as filing requirements and rules governing inspection and copying of documents,

(2) Are nonsubstantive clarifications or corrections to existing rules,

(3) Update existing forms,

(4) Make minor changes in the substantive rules regarding statistics and reporting requirements,

(5) Make changes to the rules implementing the Privacy Act, and

(6) Adopt technical standards set by outside organizations.

(b) The FEDERAL REGISTER document will state that any adverse comment or notice of intent to submit adverse comment must be received in writing by the Office of the Secretary within the specified time after the date of publication and that, if no written adverse comment or written notice of intent to submit adverse comment is received, the rule will become effective a specified number of days after the date of publication.

(c) If no written adverse comment or written notice of intent to submit adverse comment is received by the Office of the Secretary within the specified time of publication in the FEDERAL REGISTER, the Office of the Secretary will publish a notice in the FEDERAL REGISTER indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If the Office of the Secretary receives any written adverse comment or written notice of intent to submit ad-

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verse comment within the specified time of publication in the FEDERAL REGISTER, a notice withdrawing the direct final rule will be published in the final rule section of the FEDERAL REGISTER and, if the Office of the Secretary decides a rulemaking is warranted, a notice of proposed rulemaking will be published in the proposed rule section of the FEDERAL REGISTER.

(e) An “adverse” comment for the purpose of this subpart means any comment that the Office of the Secretary determines is critical of the rule, suggests that the rule should not be adopted, or suggests a change that should be made in the rule. A comment suggesting that the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule is not adverse.

[69 FR 4458, Jan. 30, 2004]

APPENDIX A TO PART 5

Pursuant to § 5.1(b), the following officials of the Office of the Secretary of Transportation are authorized to conduct rulemaking proceedings under this part, as specified in this appendix:

(1) The General Counsel is authorized to conduct all rule-making proceedings, except the issuance of final rules, under the Act of March 19, 1918, ch. 24, as amended (15 U.S.C. 261–264); the Uniform Time Act of 1966 (80 Stat. 107, 15 U.S.C. 260–267); and section 6(e)(5) of the Department of Transportation Act (80 Stat. 939, 49 U.S.C. 1655 (e)(5)).

(2) The General Counsel is authorized to determine the practicability of applying the standard time of any standard time zone to the movements of any common carrier engaged in interstate or foreign commerce, and, under section 2 of the Act of March 19, 1918, ch. 24, as amended (15 U.S.C. 262), to issue operating exceptions in any case in which he determines that it is impractical to apply the standard time.

[Amdt. 5–1, 32 FR 11473, Aug. 9, 1967]

PART 6—IMPLEMENTATION OF EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.

6.1 Purpose of these rules.

6.3 Applicability.

6.5 Proceedings covered.

6.7 Eligibility of applications.