

§ 305.7 Issuance of investigation subpoenas.

(a) The Deputy General Counsel, the DOT decisionmaker, the chief administrative law judge or the administrative law judge designated to preside at the reception of evidence, may issue a subpoena directing the person named therein to appear before a designated administrative law judge at a designated time and place to testify or to produce documentary evidence relating to any matter under investigation, or both. Each such subpoena shall briefly advise the person required to testify or submit documentary evidence of the purpose and scope of the investigation, and a copy of the order initiating the investigation shall be attached to the subpoena.

(b) Witnesses subpoenaed to appear shall be paid the fees and mileage prescribed in § 302.7 of the Rules of Practice (14 CFR 302.7). Service of such subpoenas shall be made in accordance with the provisions of § 302.27(c) of the Rules of Practice (14 CFR 302.27(c)).

[Docket No. 82, 50 FR 2421, Jan. 16, 1985, as amended at 65 FR 6456, Feb. 9, 2000]

§ 305.8 [Reserved]**§ 305.9 Rights of witnesses.**

Any person required to testify or to submit documentary evidence shall be entitled to procure, on payment of lawfully prescribed costs, a copy of any document produced by such person and of his or her own testimony as stenographically reported. Any person compelled to testify or to produce documentary evidence may be accompanied, represented, and advised by counsel.

§ 305.10 Nonpublic character of proceedings.

Investigations shall be attended only by the witnesses and their counsel, the administrative law judge, the Investigation Attorney, other DOT personnel concerned with the conduct of the proceeding and the official stenographer. All orders initiating investigations, motions to quash or modify investigation subpoenas, orders disposing of such motions, documents, and transcripts of testimony shall be part of the record in the investigation. Unless

DOT determines otherwise, all orders initiating investigations which do not disclose the identity of the particular persons of firms under investigation shall be published in the FEDERAL REGISTER. Except as otherwise required by law, the remainder of the record of such proceedings shall constitute internal DOT documents which shall not be available to the general public. The use of such records in DOT proceedings subject to part 302 of the Rules of Practice shall be governed by §§ 302.25(g) and 302.12 and by the law of evidence applicable to DOT proceedings.

[Docket No. 82, 50 FR 2421, Jan. 16, 1985, as amended at 65 FR 6456, Feb. 9, 2000]

§ 305.11 Procedures after investigation.

Upon completion of the investigation, where the Deputy General Counsel, determines that no corrective action is warranted, the investigation will be closed, and any documentary evidence obtained in the investigation will be returned to the persons who produced it. Where remedial action is indicated by the investigation, the Deputy General Counsel will proceed pursuant to subpart D of part 302 of the Rules of Practice or will take such other action as may be appropriate.

[Docket No. 82, 50 FR 2421, Jan. 16, 1985, as amended at 65 FR 6456, Feb. 9, 2000]

§ 305.12 Motions to quash or modify an investigation subpoena.

Any person upon whom an investigation subpoena is served may, within seven (7) days after such service or at any time prior to the return date thereof, whichever is earlier, file a motion to quash or modify such subpoena with the administrative law judge who issued such subpoena, or in the event the administrative law judge is not available, with the chief administrative law judge for action by himself or herself or by the DOT decisionmaker. Such motions shall be made in writing in conformity with Rules 3 and 4 of the Rules of Practice (part 302 of this subchapter); shall state with particularity the grounds therefor and the relief sought; shall be accompanied by the evidence relied upon and all such factual matter shall be verified in accordance with the provisions of Rule 4(b) of

the aforesaid Rules of Practice. Written memoranda or briefs may be filed with the motions, stating the points and authorities relied upon. No oral argument will be heard on such motions unless the chief administrative law judge, the administrative law judge or the DOT decisionmaker directs otherwise. A subpoena will be quashed or modified if the evidence whose production is required is not reasonably relevant to the matter under investigation, or the demand made does not describe with sufficient particularity the information sought, or the subpoena is unlawful or unduly burdensome. The filing of a motion to quash or modify an investigation subpoena shall stay the return date of such subpoena until such motion is granted or denied. The DOT decisionmaker may at any time review, upon his or her own initiative, the ruling of an administrative law judge or the chief administrative law judge denying a motion to quash a subpoena. In such cases, the DOT decisionmaker may order that the return date of a subpoena which he or she has elected to review be stayed pending DOT action thereon.

[Docket No. 82, 50 FR 2421, Jan. 16, 1985, as amended at 65 FR 6457, Feb. 9, 2000]

PART 313—IMPLEMENTATION OF THE ENERGY POLICY AND CONSERVATION ACT

Sec.

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AUTHORITY: 42 U.S.C. 6362(b), 49 U.S.C. Chapter 401.

SOURCE: Docket No. 82, 50 FR 2425, Jan. 16, 1985, unless otherwise noted.

§ 313.1 Purpose, scope, and authority.

(a) Chapter 77 (Energy Conservation) of Title 42 (The Public Health and Welfare), authorizes and directs certain actions to conserve energy supplies through energy conservation programs and where necessary, the regulation of certain energy uses, and to provide for

improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. In furtherance of these purposes, 42 U.S.C. 6362 requires several transportation regulatory agencies, including DOT, to submit a number of reports to the Congress with respect to energy conservation and efficiency, and where practicable and consistent with the exercise of DOT's authority under other law, to include in any major regulatory action a statement of its probable impact on energy efficiency and energy conservation. 42 U.S.C. 6362(b) directs DOT to define the term "major regulatory action" by rule.

(b) Section 40113 of Subtitle VII of Title 49 of the United States Code (Transportation) ("the Statute"), authorizes DOT to establish such rules, regulations, and procedures as are necessary to the exercise of its functions and are consistent with the purposes of the Statute.

(c) The purpose of these regulations is to establish procedures and guidelines for the implementation of DOT's responsibility under 42 U.S.C. 6362 to include in any major regulatory action taken by DOT a statement of the probable impact on energy efficiency and energy conservation.

(d) These regulations apply to all proceedings before DOT, as provided herein.

[Docket No. 82, 50 FR 2425, Jan. 16, 1985, as amended at 60 FR 43528, 43529, Aug. 22, 1995]

§ 313.2 Policy.

(a) *General.* It is the policy of DOT to view the conservation of energy and the energy efficiency improvement goals of Chapter 77 of Title 42 as part of DOT's overall mandate, to be considered along with the several public interest and public convenience and necessity factors enumerated in section 40101 of the Statute. To the extent practicable and consistent with DOT's authority under the Statute and other law, energy conservation and efficiency are to be weighed in the decision-making process just as are DOT's traditional policies and missions.

(b) *Implementation.* Implementation of this policy is through the integration of energy findings and conclusions into