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of Transportation. Redelelegation of this authority may only be made by the Chief Counsels to attorneys within their respective organizations.

If the organization does not have an attorney experienced and capable in the examination of title evidence, a Chief Counsel may, with the concurrence of the General Counsel, request the Attorney General to (1) furnish an opinion as to the validity of a title to real property or interest therein, or (2) provide advice or assistance in connection with determining the sufficiency of the title.

**PART 3—OFFICIAL SEAL**

AUTHORITY: 49 U.S.C. 102(e).

SOURCE: Amdt. 3-3, 45 FR 75666, Nov. 17, 1980, unless otherwise noted.

**§ 3.1 Description.**

The official seal of the Department of Transportation is described as follows: A white abstract triskelion figure signifying motion appears within a circular blue field. The figure is symmetrical. The three branches of the figure curve outward in a counter-clockwise direction, each tapering almost to a point at the edge of the field. Surrounding the blue circle is a circular ring of letters. The upper half of the ring shows the words “Department of Transportation”. The lower half of the ring shows the words “United States of America”. The letters may be shown in either black or medium gray. The official seal of the Department is modified when embossed. It appears below in black and white.



**49 CFR Subtitle A (10–1–23 Edition)**

**PART 5—ADMINISTRATIVE PROCEDURES**

**Subpart A—General**

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AUTHORITY: 49 U.S.C. 322(a).

SOURCE: 86 FR 17294, Apr. 2, 2021, unless otherwise noted.

**Subpart A—General**

**§ 5.1 Applicability.**

(a) This part prescribes general procedures that apply to rulemakings of the U.S. Department of Transportation (the Department or DOT), including each of its operating administrations (OAs) and all components of the Office of Secretary of Transportation (OST).

(b) For purposes of this part, *Administrative Procedure Act (APA)* is the Federal statute, codified in scattered sections of chapters 5 and 7 of title 5, United States Code, that governs procedures for agency rulemaking and adjudication and provides for judicial review of final agency actions.

**Subpart B—Rulemaking Procedures**

**§ 5.3 Petitions.**

(a) Any person may petition an OA or OST component with rulemaking authority to:

(1) Issue, amend, or repeal a rule, as defined in 5 U.S.C. 551; or

(2) Issue an exemption, either permanently or temporarily, from any requirements of a rule, consistent with applicable statutory or regulatory provisions.

(b) When an OA or OST component receives a petition under this section, the petition should be filed with the Docket Clerk in a timely manner. If a petition is filed directly with the Docket Clerk, the Docket Clerk will submit the petition in a timely manner to the

OA or component of OST with regulatory responsibility over the matter described in the petition.

(c) The OA or component of OST should provide clear instructions on its website to members of the public regarding how to submit petitions, including, but not limited to, an email address or Web portal where petitions can be submitted, a mailing address where hard copy requests can be submitted, and an office responsible for coordinating such requests.

(d) Unless otherwise provided by statute or in OA regulations or procedures, the following procedures apply to the processing of petitions for rulemaking or exemption:

(1) *Contents.* Each petition filed under this section must:

(i) Be submitted, either by paper submission to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, or electronically by emailing: *regulationC50.law@dot.gov*;

(ii) Describe the nature of the request and set forth the text or substance of the rule, or specify the rule that the petitioner seeks to have issued, amended, exempted, or repealed, as the case may be;

(iii) Explain the interest of the petitioner in the action requested, including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(iv) Contain any information and arguments available to the petitioner to support the action sought; and

(v) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 60 days before the proposed effective date of the exemption, as appropriate.

(2) *Processing.* Each petition received under this section is referred to the head of the office responsible for the subject matter of that petition, and the Office of Regulation.

(3) *Grants.* If the OA or component of OST with regulatory responsibility over the matter described in the petition determines that the petition contains adequate justification, it may request the initiation of a rulemaking

action in accordance with departmental procedures or grant the petition, as appropriate.

(4) *Denials.* If the OA or component of OST determines that the petition is not justified, the OA or component of OST denies the petition in coordination with the Office of Regulation.

(5) *Notification.* Whenever the OA or OST component determines that a petition should be granted or denied, and after consultation with the Office of Regulation in the case of denial, the office concerned prepares a notice of that grant or denial for issuance to the petitioner, and issues it to the petitioner.

#### § 5.5 Public contacts in informal rulemaking.

(a) *Agency contacts with the public during informal rulemakings conducted in accordance with 5 U.S.C. 553.* (1) DOT personnel may have meetings or other contacts with interested members of the public concerning an informal rulemaking under 5 U.S.C. 553 or similar procedures at any stage of the rulemaking process, provided the substance of material information submitted by the public that DOT relies on in proposing or finalizing the rule is adequately disclosed and described in the public rulemaking docket such that all interested parties have notice of the information and an opportunity to comment on its accuracy and relevance.

(2) During the pendency of a rulemaking proceeding, DOT personnel must avoid giving persons outside the executive branch information regarding the rulemaking that is not available generally to the public.

(3) If DOT receives an unusually large number of requests for meetings with interested members of the public during the comment period for a proposed rule or after the close of the comment period, the issuing OA or component of OST should consider whether there is a need to extend or reopen the comment period, to allow for submission of a second round of "reply comments," or to hold a public meeting on the proposed rule.

(4) If the issuing OA or OST component meets with interested persons on the rulemaking after the close of the comment period, it should be open to

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giving other interested persons a similar opportunity to meet.

(5) If DOT learns of significant new information, such as new studies or data, after the close of the comment period that the issuing OA or OST component wishes to rely upon in finalizing the rule, the OA or OST component should reopen the comment period to give the public an opportunity to comment on the new information. If the new information is likely to result in a change to the rule that is not within the scope of the notice of proposed rulemaking (NPRM), the OA or OST component should consider issuing a supplemental NPRM to ensure that the final rule represents a logical outgrowth of DOT's proposal.

(b) [Reserved]

### § 5.7 Policy updates and revisions.

This subpart shall be reviewed from time to time to reflect improvements in the rulemaking process or changes in Administration policy.

### § 5.9 Disclaimer.

This subpart is intended to improve the internal management of the Department. It 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 agencies or other entities, officers or employees, or any other person. In addition, this subpart shall not be construed to create any right to judicial review involving the compliance or noncompliance with this subpart by the Department, its OAs or OST components, its officers or employees, or any other person.

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

### Subpart A—General Provisions

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## 49 CFR Subtitle A (10–1–23 Edition)

### Subpart B—Information Required from Applicants

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### Subpart C—Procedures for Considering Applications

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- 6.39 Payment of award.

AUTHORITY: 5 U.S.C. 504; 28 U.S.C. 2412.

SOURCE: 48 FR 1070, Jan. 10, 1983, unless otherwise noted.

### Subpart A—General Provisions

#### § 6.1 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called “the Act” in this part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called “adversary adjudications”) before government agencies, such as the Department of Transportation or any of its operating administrations. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this agency will use to make them. The use of the term “Department”, in this rule, will be understood to mean the Department of Transportation or any of its operating administrations, unless otherwise specified. The term “agency counsel” will be understood to mean counsel for the Department of Transportation or any of its operating administrations.

[48 FR 1070, Jan. 10, 1983, as amended at 62 FR 19233, Apr. 21, 1997]

#### § 6.3 Applicability.

Section 6.9(a) applies to any adversary adjudication pending before the Department on or after October 1, 1981. In addition, applicants for awards must also meet the standards of § 6.9(b) for