

Comment from Government Member Daniel Cohen (U.S. Department of Energy)
October 16, 2020

I think the legislative v. procedural rule question is an interesting one for the academics. We looked at it more pragmatically, and decided it was really a distinction without a difference given the purpose of the rule. Our recently published updated “process rule” final rule is available here: <https://www.govinfo.gov/content/pkg/FR-2020-02-14/pdf/2020-00023.pdf>

The discussion about the rule being binding on DOE starts on page 8632, in the right-hand column.