

Illustration IV - Regulatory Problem-

I. Contexts & Objectives:

- A. What do you want the student to learn? This problem is regulatory with an intent to introduce the federal regulatory system, the *Code of Federal Regulation* and generally how to conduct regulatory research using the C.F.R. regardless of format. The skill level is introductory level meaning students require no prior knowledge to be successful in completing this assignment.

Objective(s) and Outcome(s) intended:

1. To use the C.F.R. to locate a current regulation in force.
2. To navigate the C.F.R.; understand why you would start this search with primary authority; use preliminary answer to inform final answer; learn how working within the specific legal information environment may constrain work; learn resource and time efficiency; create roadmap (metacognition).

- B. Why do you want the student to learn this skill?

The modern administrative state is central to legal practice. The ability of the student to conduct cost-effective regulatory research is a fundamental skill required of all lawyers. In order to efficiently and effectively conduct regulatory research students require an understanding of the C.F.R. and the *Federal Register*. Minimum competence requires knowledge of the information contained in the C.F.R. and the Fed. Reg., where the C.F.R. and Fed. Reg. are located and the process required to update research.

- C. How does the instructor know the students have mastered the material?

Initial feedback should be provided at the five-minute mark, and additionally as the problem continues, if students are having difficulty. Final feedback should be provided to the class as a whole, with a visual example (e.g., the Maker's Mark label, as the recipe is for straight bourbon whisky), with the various labeling requirements noted, as well as a list of the C.F.R. titles and sections where the relevant information is contained. Finally, feedback can be provided by asking students such questions as how they determined that it was straight bourbon whisky.

Students engage in their own self-assessment when they create their own research roadmap. The roadmap represents the student's own guide to doing legal research. For this part of the assignment, the actual activity (looking for a C.F.R. section) is only there as an illustration. The students create the roadmap in order to assess their own research skills and make a plan for how they would research in the future.

The roadmap promotes the idea of teaching legal research as an iterative process because the roadmap is intended to be generic enough to use later in a similar problem. Having evaluated his or her research once, the student will be able to build on that research experience to do better the next time.

D. When will this be introduced?

This problem should follow an introductory reading or lecture on Federal Administrative Law and/or the C.F.R. on one or more formats or platforms. The problem is designed to be run in-class, online with GPO Access/FDSys or LexisNexis or Westlaw, but can be run in print if desired. Students should be assigned an introductory reading on the federal regulatory system prior to class. The instructor should provide an introduction to the concept of regulations, the C.F.R. and the Fed. Reg. prior to assigning the problem in class.

E. How will students learn it? (discussion, problem, etc.)

1. Context: This problem is an in-class, federal regulatory problem. Students learn through discussion, creation of the road-map and interaction with the print and online materials.
2. Resources/materials needed
In addition to the problem, students require access to the C.F.R. and Fed. Reg. in print or online access. Internet access is required for any online use. Westlaw and Lexis passwords are required for access to such systems.
3. Student Activities
 - a. Prior to class, decide:
 - i. whether to split the class into groups that will work together;
 - ii. whether to assign specific platforms/formats to groups; and
 - iii. whether to allow everyone to work on the format/platform of their choice.

- b. In class:
 - i. Introduce the problem and provide students copies of the problem.
 - ii. Provide a clear time frame for completion of the assignment. Make it clear the problem is to be completed in class.
 - iii. Approximately five minutes into the problem, begin asking questions.
 - (a.) What Title of the C.F.R should this answer be in?
 - (b.) How could we find out which agency is responsible for regulating this activity?"

Optional modifications to the problem:

To encourage metacognition, students can pair up and report their findings to each other, including an explanation of how they arrived at their answer; this could be combined with a second exercise in which the students switch roles.

4. Legal information environment (where is student situated):
Small firm, Westlaw only with a budget of \$1,000
5. Student work product(s)
Student work product options include: (a) preliminary answer, (b) final answer; and (d) research roadmap.

II. The Activity

Your client is a liquor manufacturer with a recipe for an alcoholic beverage (provide recipe here). Under applicable Federal law, what are you required to a) call the product, and; b) include on its label?

Your budget is \$X. You must spend it in a real-world way (i.e. non-academic pricing). For example, Westlaw costs what it would at a firm, not in law school.¹

You must come up with an answer for the client, and you must develop a personal “Research Roadmap.”² This roadmap can take any form you wish, from a bulleted list to a drawing or PowerPoint slide show.

III. Checklists: Teacher’s Notes and Reflections:

A. Checklist of Boulder Statement of Boulder Statement Pedagogical Principles Furthered:

1. Does this lesson provide an opportunity for:
 - iterative and analytical process;
 - identification of significant facts;
 - determination of legal issues and problems;
 - location, evaluation and manipulation of research authorities;
 - understanding of legal system in which question arises;

¹ practical apprenticeship; evaluating available legal resources

² re-evaluate their progress and results to arrive at the optimal answer to the legal problem

- evaluation of available legal resources;
 - synthesis of information about legal system and resources to identify research plan;
 - continual re-evaluation of progress and results;
 - application of professional and ethical norms implicated by research;
 - ongoing examination of professional standards, including ethical responsibilities; and
 - fulfillment of ethical duty to conduct adequate and thorough research?
2. Does this lesson:
- use a range of teaching methodologies;
 - use a mix of realistic problem types;
 - show relationship of legal structure to legal tools;
 - allow students to evaluate the appropriate use of the tools; and
 - provide opportunity to model professional duties and obligations?