

INDIAN AFFAIRS MANUAL

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2.1 Purpose. The purpose of publication of documents in the Federal Register is to inform and guide the public with respect to the policies, organization, functions, and rules of Indian Affairs which affect the public. This chapter provides guidance for the preparation and clearance of Federal Register documents.

2.2 Requirements. These procedures implement the requirements of the Administrative Procedure Act (5 U.S.C. §552 and §553); Executive Orders 12044 (March 23, 1988) and 12866 (October 4, 1993); and Title 43 of the Code of Federal Regulations, Part 14, regarding public information and rulemaking.

2.3 Authority. The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. §301 and §463 and §465 of the Revised Statutes (25 U.S.C. §2 and §9) and redelegated to the Assistant Secretary - Indian Affairs by 209 DM 8.

2.4 Federal Register Documents.

A. Type of Federal Register Documents.

(1) General Notices. General notices are issued to advise the public of an event or information that may be of public interest or concern including, but not limited to, notices of tribal consultation meetings, notices of hearings of record, notices of Federal Acknowledgment, notices of distribution plans of judgment funds awarded by the Court of Claims to any Indian tribe, etc. The material in general notices usually is not regulatory or procedural and does not set requirements to be followed. Some notices are required by law or regulation to be published in the Federal Register.

(2) Notices of Intent. Notices of intent to propose rulemaking give the public an opportunity to comment before proposed rules are issued.

(3) Proposed Rules. Proposed rules are published in the Federal Register to give the public an opportunity to comment on them before they become final rules.

(4) Final Rules. Final rules are general and permanent rules that are incorporated in the Code of Federal Regulations (CFR).

B. Guidance and Assistance. Guidance and requirements for rulemaking and publication of Federal Register documents are contained in 318 DM and the Federal Register Document Drafting Handbook. Specific assistance may be obtained from the Federal Register Liaison.

C. Information Collection Requirements. Information collection or record keeping requirements contained in Federal Register documents are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 as amended (44 U.S.C. §§ 3501-3520) and 5 CFR 1320.

(1) An Information Collection Clearance Package is required for each collection of information from the public or record keeping requirement imposed on the public which is contained in a Federal Register document.

(2) Requirements for OMB approval and guidance for the preparation of clearance packages and submission to OMB are contained in 318 DM 11 and 318 DM 12.

2.5 Responsibilities.

A. Assistant Secretary - Indian Affairs and Deputy Assistant Secretary- Indian Affairs are responsible for ensuring that Federal Register documents that add to, amend, or delete rules or regulations affecting Indian programs are reviewed in compliance with 318 DM.

B. Commissioner and Deputy Commissioner of Indian Affairs are responsible for ensuring that rules are written in plain English, that reviews are made on a continuing basis, that rules required by statute are developed, and that a regulatory analysis is prepared when required. The Commissioner and Deputy Commissioner of Indian Affairs are responsible for designating a Federal Register Liaison, as well as a Certifying Officer and an alternate.

C. Director and Deputy Director, Office of Indian Education Programs, are responsible for ensuring that rules are written in plain English, that reviews are made on a continuing basis, that rules required by statute are developed, and that a regulatory analysis is prepared when required for all programs under the jurisdiction of that Office. This responsibility includes preparing all reports, forms, determinations, justifications, and clearance packages incident to rulemaking or publishing a notice in the Federal Register and, when appropriate or required, conducting tribal consultation on the documents.

D. All Other Central Office Directors are responsible for preparing notices and regulations, when needed, to ensure that their programs comply with the requirements of the Administrative Procedure Act and any special statutory requirements. This responsibility includes preparing all reports, forms, determinations, justifications, and clearance packages incident to rulemaking or publishing a notice in the Federal Register and, when appropriate or required, conducting tribal consultation on the documents.

E. Regional Directors are responsible for preparing Federal Register notices, when appropriate, to ensure that their programs comply with the requirements of the Administrative Procedure Act and/or any special statutory or regulatory requirement.

F. Director, Congressional and Legislative Affairs is responsible for the development, coordination, and managerial control of Federal Register requirements for Indian Affairs. The Office is responsible for performing the following:

(1) **Federal Register Liaison** functions which include:

(a) Serving as the contact point for the Departmental Liaison on all matters pertaining to Federal Register documents and issuances;

(b) Providing advice and assistance to Indian Affairs employees on the preparation of documents;

(c) Ensuring that the determination of significance and the decision on preparation of a regulatory analysis are approved by the Assistant Secretary and that, when required, work plans for proposed rules are prepared and approved as required by 318 DM 3.

(d) Reviewing all documents for format and compliance with the provisions of 318 DM 1, 1 CFR 1-22, the Federal Register Document Drafting Handbook, and any other applicable instructions;

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(e) Ensuring that appropriate offices are included in the review and clearance of all documents as required by 318 DM 2. Review by the Office of the Solicitor is required for all Federal Register documents to determine if they are legally proper and complete;

(f) Coordinating the review of rules and the preparation of the semiannual agenda as required in 318 DM 6.(g); and

(g) Maintaining a resource file of published Federal Register documents pertaining to Indian Affairs, and reproducing and distributing copies when needed.

(2) **Certifying Officer** and **Alternate** function which includes:

(a) Ensuring that an original and two copies of each document are submitted for publication to the Federal Register.

(b) Certifying the two copies.

(c) Ensuring the date of signature and the name and title of the signing official are typed or stamped on the original and the two copies.

(d) Listing the billing code on the copies sent to the Federal Register.

2.6 Signatory Authority.

A. The Assistant Secretary and Deputy Assistant Secretary - Indian Affairs may sign all Federal Register documents including those issuing proposed and final rules and the supporting documentation for material published in Chapter I, Title 25 of the Code of Federal Regulations.

B. The Commissioner and Deputy Commissioner of Indian Affairs may sign Federal Register notices relating to Indian Affairs except those relating to Indian education;

C. Regional Directors may sign only those Federal Register notices not involving rulemaking. Notices signed by Regional Directors are subject to headquarters review and coordination of their publication in the Federal Register.

D. The Director of the Office of Indian Education Programs may sign those Federal Register notices relating only to Indian education.