

Department of the Interior Departmental Manual

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Series: Administrative Procedure

Part 318: Federal Register Documents

Chapter 1: Promulgating Regulations

Originating Office: Office of the Executive Secretariat and Regulatory Affairs

318 DM 1

1.1 **Purpose.** This chapter contains policy and requirements governing promulgation of regulations in the Department of the Interior (Department).

1.2 **Scope.** The policy and requirements in this chapter apply to all rulemaking documents prepared for publication in the Federal Register.

1.3 **Authority.** The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) governs the rulemaking process. Appendix 1 to this chapter contains a list of other relevant rulemaking authorities.

1.4 Definitions.

A. **Regulation.** A statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency. The terms *regulation* and *rule* are synonymous and may be used interchangeably.

B. **Rulemaking Document.** Any agency statement of future effect designed to (1) implement, interpret or prescribe law or policy; or (2) describe the agency's organization, procedure or practice requirements drafted to be published in the Federal Register. The term includes advance notices of proposed rulemaking, proposed rules, final rules, and other similar documents. The term does not include supplementary analyses that may be required by law or Executive Order.

1.5 **Policy.** The Department's policy is to draft and promulgate clear and concise regulations as required to carry out its mission consistent with applicable statutes and other authorities.

1.6 Responsibilities.

A. **Office of the Executive Secretariat and Regulatory Affairs (OES).**

- (1) Develops policies, regulations, and other written procedures related to drafting and promulgating regulations.
- (2) Manages the Department's rulemaking process and coordinates publication of all rulemaking documents.
- (3) Works with the Office of the Secretary, the Office of the Solicitor, Bureau management, and Bureau regulatory contacts to ensure that rulemaking documents are drafted in accordance with applicable statutes, Executive Orders, regulations, and policies.
- (4) Reviews and clears all rulemaking documents and ensures that they are vetted before publication by the appropriate Departmental officials.
- (5) Performs any other functions required to manage the Department's rulemaking process.

B. Office of the Solicitor. Provides legal advice on drafting rulemaking documents and reviews and surnames all rulemaking documents.

C. Office of Policy Analysis. Provides guidance for preparing economic or other analyses that may be required for rulemaking documents and reviews and surnames rules that will have an annual economic effect of \$100 million or more. The Office of Policy Analysis may also review the economic analysis for other significant or non-significant rules.

D. Assistant Secretaries. Review and surname all rulemaking documents published by the Bureaus they oversee and sign proposed and final rules.

E. Heads of Bureaus and Offices.

- (1) Ensure compliance with statutes, Executive Orders, regulations, and other authorities governing the promulgation of regulations.
- (2) Ensure that all necessary coordination with other Bureaus and Federal agencies occurs during the review process. Refer to [318 DM HB](#)
- (3) Review and surname all rulemaking documents.
- (4) Designate in writing:
 - (a) A regulatory contact and an alternate who have responsibility for day-to-day management of rulemaking documents, and
 - (b) A certifying officer and alternate with responsibility for certifying copies of Federal Register documents.

F. Managers. Managers of offices that draft regulations ensure that rulemaking documents are properly drafted and reviewed; and that they comply with the requirements of this chapter. Managers should ensure that all necessary coordination with other Bureaus and Federal agencies occurs from the beginning of the drafting process.

G. Bureau/Office Regulatory Contacts and Alternates.

(1) Serve as the primary contact for the Bureau for all matters related to rulemaking.

(2) Provide guidance and assistance to drafters.

(3) Ensure that all necessary coordination with other Bureaus and Federal agencies occurs from the beginning of the drafting process.

(4) Ensure that the Bureau Information Collection Clearance Officer reviews the rule to identify any concerns related to the Paperwork Reduction Act.

(5) Work with OES to implement Departmental policy and directives relating to rulemaking.

(6) Review and surname all rulemaking documents to ensure completeness and to ensure compliance with statutes, Executive Orders, regulations, and policies.

(7) Coordinate review, surnaming, and publication of rulemaking documents on behalf of the Bureau head.

1.7 **Signatory Authority.** Only a Secretarial Officer (the Secretary, the Deputy Secretary, the Solicitor, an Assistant Secretary, or a person acting in one of those capacities) may sign rulemaking documents (see 200 DM 1). There are four exceptions to this general rule:

A. Officials in the Office of Surface Mining may sign rules approving, not approving, or superseding amendments to State and Tribal programs under 30 U.S.C. 1231-1279 (the Surface Mining Control and Reclamation Act of 1977).

B. The Director of the U.S. Fish and Wildlife Service may sign listing, delisting, and reclassification rules.

C. Bureau of Land Management State Directors may sign supplementary rules issued under the authority in 43 CFR 8365.1-6.

D. The Director, Office of Natural Resources Revenue may sign rulemaking documents issued by the Office of Natural Resources Revenue.

1.8 Secretary's Office Approval Required. After surname, the originating office must submit a copy of each rulemaking document to OES for approval by the Secretary's Office.

1.9 Requirements Applicable to Rulemaking Documents. The documents listed in Appendix 1 to this chapter apply to drafting and publication of rulemaking documents. Additionally, drafters and reviewers must comply with the requirements of the Departmental handbook, *How to Prepare Regulations and Federal Register Notices*.

1.10 Language Standards Applicable to Rulemaking Documents. Each rulemaking document must meet the plain language standards in the Federal Register Document Drafting Handbook and in the Departmental handbook, *How to Prepare Regulations and Federal Register Notices*.

Appendix 1

**Laws and Directives
Applicable to Rulemaking Documents**

Statutes

Administrative Procedure Act (5 U.S.C. 551 *et seq.*)
National Environmental Policy Act (42 U.S.C. 4321-4347)
Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)
Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)
Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*)
Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 *et seq.* and 804(2))
Congressional Review Act 5 U.S.C. §§ 801-808.)

Executive Orders

Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*, March 15, 1988
Executive Order 12866, *Regulatory Planning and Review*, September 30, 1993, as amended.
Executive Order 12988, *Civil Justice Reform*, February 5, 1996
Executive Order 13132, *Federalism*, August 4, 1999
Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, November 6, 2000
Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*, May 18, 2001
Executive Order 13563, *Improving Regulation and Regulatory Review*, January 18, 2011, as amended.
Executive Order 13610, *Identifying and Reducing Regulatory Burdens*, May 10, 2012

Regulations

1 CFR Part 17 - Filing for public inspection and publication schedules
1 CFR Part 18 - Preparation and transmittal of documents generally
1 CFR Part 21 - Preparation of documents subject to codification
1 CFR Part 22 - Preparation of notices and proposed rules
1 CFR Part 51 - Incorporation by reference
5 CFR Part 1320 - Controlling paperwork burdens on the public

Other Directives

200 DM - Delegations of Authority