

Department of the Interior

How to Prepare

Regulations and Federal Register Notices

Handbook

(318 DM)



September 23, 2013

FOREWORD

This is a new handbook entitled: *How to Prepare Regulations and Federal Register Notices*. It supplements 318 DM 1 through 3 and provides detailed procedures for developing rulemaking or notice documents along with required forms. The guidance previously provided in 318 DM 1 through 9 has been completely revised and reorganized into 3 policy chapters and this handbook. The procedures in this new handbook will replace chapters 4 through 9 in 318 DM. Questions about the handbook may be directed to the Office of the Executive Secretariat and Regulatory Affairs. A copy will be available on the Department's Electronic Library of Interior Policies (ELIPS): <http://elips.doi.gov>.

Approved

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Date: September 23, 2013_____

New 9/23/13

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Chapter 1 - Overview of the Rulemaking Process

1.1 What does this chapter do? This chapter is an overview of the rulemaking process and serves as a guide to the detailed material in the other chapters in this handbook. Throughout this handbook, “you” refers to the bureau or office that wishes to publish a rule and “we” or “us” refers to the Office of the Executive Secretariat and Regulatory Affairs.

1.2 What is a rule? A rule is a general statement issued by an agency that has the force and effect of law and is designed to implement, interpret, or prescribe law or policy. This does not include nonbinding guidance or most policy documents.

A. Agencies generally publish a rule in the Federal Register in two stages, first as a proposed rule (also called a notice of proposed rulemaking, or NPRM) and then as a final rule. An agency may occasionally add a third stage to the process by publishing an advance notice of proposed rulemaking (ANPRM) before publishing a proposed rule. Once a rule is published in final, it is usually codified in the Code of Federal Regulations and remains in effect until it is rescinded or modified by publication of another rule.

B. In most of Part 318 DM we use the term “rule” rather than “regulation.” The two terms have exactly the same meaning. (See 1 CFR 1.1.)

1.3 What are the steps in the Department’s rulemaking process? To publish a rule, you must take the steps in the table below. The table also tells you where in this handbook you can find more complete guidance.

Required rulemaking step	Where to find guidance
Prepare a Regulatory Action Alert and obtain a regulation identifier number (RIN) ¹	Chapter 2
Include the rule in the semiannual agenda	Chapter 2
Include the rule in the Office of Management and Budget (OMB) regulatory report (90-day list)	Chapter 2
Prepare and circulate any additional documents required by law or Executive Order	Chapter 3
Write or revise the rule	Chapters 3, 4, 5
Circulate the rule for approval and signature	Chapter 6
Obtain Secretary’s Office approval	Chapter 6
Obtain OMB approval ²	Chapter 6
Send the rule to the Federal Register	Chapter 7

Required rulemaking step	Where to find guidance
Send copies of the rule to Congress and the Government Accountability Office ³	Chapter 6

¹ Required only once for each rulemaking.

² Required only if OMB has asked to review the rule.

³ Required only for final rules.

1.4 What is the difference between a proposed rule and a final rule? In most cases, you must publish a proposed rule (also called a notice of proposed rulemaking or NPRM) before you can publish a final rule. A proposed rule sets forth the proposed text of the rule and solicits public comment. After you evaluate the public's comments and modify the proposal if necessary, you may then publish a final rule. The final rule will generally be codified in the Code of Federal Regulations.

1.5 Can I combine a proposed rule and a final rule in the same document? No. The Federal Register prohibits combining different categories of documents (e.g., a proposed rule and a final rule) in the same document. (See 1 CFR 18.2)

1.6 How long does it take to publish a rule? Because the rulemaking process is complicated, it is impossible to accurately estimate the time required to publish a rule. Review periods in originating bureaus and other offices are difficult to predict, but they may be extensive and account for many delays. The best way to expedite publication is to keep reviewers fully informed as the rule develops and provide them with advance copies or briefings whenever possible.

1.7 What is an advance notice of proposed rulemaking? An advance notice of proposed rulemaking (ANPRM) is an announcement that you are considering developing a rule. If you expect a rule to be unusually complex or controversial, you may choose to publish an ANPRM. An ANPRM differs from an NPRM in the following ways:

A. An ANPRM will normally include a request for comments on issues that the rule should address, possible approaches to important issues, the need for particular provisions, and similar issues. It is not a draft of the rule.

B. An ANPRM is not a required step in the rulemaking process. It is an optional step designed to increase public participation in the rulemaking process and to provide you with more complete guidance as you begin to develop the rule.

1.8 Where can I get additional guidance on the rulemaking process? Your bureau regulatory contact can answer your questions about how to develop and publish a rule. For information about formatting rulemaking documents and submitting them for publication, consult the Federal Register Document Drafting Handbook at the Federal Register Web site.

1.9 Who is the bureau regulatory contact? Chapter 318 DM 1.6 E requires each bureau head to appoint a regulatory contact and alternate. Duties of the contact and alternate are specified in 318 DM 1.6 G.

1.10 Who is the bureau certifying officer? Chapter 318 DM 1.6 E requires each bureau head to appoint a certifying officer and an alternate. The certifying officer certifies that copies of a Federal Register document exactly match the signed original. Only a designated certifying officer may perform this function. The certifying officer and the regulatory contact may be the same person. For a more complete description of the duties of the certifying officer, see section 7.8 of this Handbook.

Chapter 2 - Regulatory Planning

2.1 What does this chapter do? This chapter contains requirements for the rulemaking planning process required by 318 DM 2.

2.2 What planning must I do if I want to publish a rule? To publish a rule, you must take all of these planning steps:

A. Prepare a Regulatory Action Alert and obtain a Regulation Identifier Number (RIN) from us;

B. Include the rule in the semiannual agenda;

C. Include the rule on the periodic OMB regulatory report (90-day list); and

D. Allow time for analysis, consultation, and revisions necessary to meet the requirements of all applicable laws and Executive Orders.

2.3 What is the purpose of the Regulatory Action Alert? The Regulatory Action Alert notifies interested parties within the Department that a rulemaking will occur so that they can participate in developing the rule if appropriate. We circulate the Regulatory Action Alert to all bureau regulatory contacts, who in turn distribute it internally to potentially interested parties. Illustration 1 to this Chapter is a sample Regulatory Action Alert form. (Form DI 3460 – Regulatory Action Alert Form is available on the DOI forms Web site and can be completed online.)

2.4 When do I complete the Regulatory Action Alert? Complete a Regulatory Action Alert form as soon as you decide to begin a rulemaking. Email the completed form to your regulatory contact, who will send it to us. We circulate the Regulatory Action Alert once for each rulemaking, as early as possible in the rulemaking process.

2.5 What will OES do with the Regulatory Action Alert? We will do all of the following:

A. Ensure that the rule you are proposing is included on the next semiannual agenda and has a regulation identifier number (RIN);

B. Distribute the Regulatory Action Alert to the regulatory contacts in each bureau and office; and

C. If necessary, schedule a meeting to discuss the rule with other affected bureaus or offices.

2.6 What will happen if the Executive Secretariat convenes a meeting on the rule? The meeting will identify major issues that cross bureau jurisdictional lines and attempt to reach consensus on how the rule should be developed.

2.7 How do I submit information for the semiannual agenda? Every 6 months we will request data for the semiannual agenda. At that time, we will provide specific instructions and forms to the regulatory contacts to use in preparing the agenda.

2.8 What is the OMB regulatory report (90-day list)? To comply with the requirements of E.O. 12866, we must periodically submit to OMB a list of regulations that we expect to be ready to publish in the following 90 days. We will provide regulatory contacts with specific instructions and forms to use in preparing this list. OMB will review the list and may make changes or request additional information.

2.9 When is a rule significant? E.O. 12866 defines a rule as significant if it meets any of four criteria. The criteria are summarized in five bullets in Appendix 1 to Chapter 3, item 1. (Full details are in E.O. 12866 section 3, paragraph (f).) OMB determines if a rule meets the criteria based upon information that we supply. If a rule is significant, it requires approval by OMB before publication.

2.10 When is a rule major? The Small Business Regulatory Enforcement Fairness Act (SBREFA) defines a rule as major if it meets any of three criteria. The three criteria are listed in Appendix 1 to Chapter 3, items 3 (a) through (c). OMB determines if a rule meets the criteria based upon information that we supply. If a rule is major, it requires approval by OMB before publication.

Chapter 3 - Required Statements and Analyses for Rule Preambles

3.1 What does this chapter do? This chapter and its appendices tell you what standard elements and supporting analyses you must include in the preamble of each rule. Use this chapter together with the Federal Register Document Drafting Handbook, which contains the basic format requirements for preambles. Appendix 1 to this chapter provides language for required compliance statements in rulemaking document preambles.

3.2 What is the preamble? The preamble gives the background of the rule and explains its provisions. Each rulemaking document must have a preamble that:

A. Meets the formatting requirements of the Federal Register Document Drafting Handbook and 1 CFR 18.12;

B. Includes the compliance statements and analyses required by Appendix 1 to this chapter; and

C. Meets the plain language standards in section 4.2 of this Handbook.

3.3 What codes must I include in the heading of the preamble? You must include in each document both a billing code and an accounting code. These will ensure that you are properly billed for publication costs. Obtain the billing code from your bureau regulatory contact and the accounting code from your budget office.

3.4 What must I include in the “ACTION” heading of the preamble? Provide a brief phrase indicating the nature of the document, which must include one, and only one, of the following terms: proposed rule, final rule, or notice. Do not include in the “ACTION” heading information that belongs in the document title or in the “SUMMARY” heading.

3.5 What dates must I include in the “DATES” heading of the preamble? This item must not include lengthy text. If you wish to specify a date relative to the document publication date (e.g., 60 days after the date of publication), the Office of the Federal Register can calculate this date for you. See the Federal Register Document Drafting Handbook for details.

A. Proposed rule. Give the deadline for submitting comments. You may also provide dates for public meetings or other appropriate dates. Include in the “SUPPLEMENTARY INFORMATION” section a statement that requests comments on the rule. You must also include the following, if appropriate:

If...	Then you must...
You give the public less than 60 calendar days to comment on the NPRM	explain the reasons for the shorter comment period in the “SUPPLEMENTARY INFORMATION” section.
The proposed rule contains information collection requirements requiring OMB approval	include the following statement in the “DATES” section: “Submit comments on the information collection burden in this rulemaking to the Office of Management and Budget by <u>[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]</u> .”

B. Final rule. Give the rule’s effective date in the “DATES” heading. The effective date must be at least 30 days after the publication date unless one of the following exceptions applies:

If...	Then...
The rule grants an exemption, relieves a restriction, makes a technical change, or corrects an error	the rule may become effective less than 30 days after publication and you must explain in the “SUPPLEMENTARY INFORMATION” section the reason for the earlier effective date. (See 5 U.S.C. 553(d)(1).)
The rule is an interpretive rule or statement of policy	the rule may become effective less than 30 days after publication and you must explain in the “SUPPLEMENTARY INFORMATION” section the reason for the earlier effective date. (See 5 U.S.C. 553(d)(2).)
There is a good cause for the rule to become effective less than 30 days after publication	the rule may become effective less than 30 days after publication and you must explain in the “SUPPLEMENTARY INFORMATION” section why there is a good cause for the earlier effective date. (See 5 U.S.C. 553(d)(3).)
The rule is major under the Small Business Regulatory Enforcement Fairness Act	the effective date must be at least 60 days after publication.

3.6 What information should I include in the “ADDRESSES” section of the preamble?

A. For each proposed or final rule that solicits comments, use the following wording in the “ADDRESSES” section:

You may submit comments, identified by the number [insert RIN], by any of the following methods:

- Federal rulemaking portal: <http://www.regulations.gov>. Follow the instruction for

submitting comments

- Mail: [insert mailing address]
- Hand delivery: [insert address for hand delivery]

B. For each proposed rule that contains an information collection, add the following to the statement in paragraph A:

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395-5806 or email to the OMB Desk Officer for the Department of the Interior at OIRA_Submission@omb.eop.gov. Send a copy of your comments to the Department as directed in the ADDRESSES section.

3.7 What compliance statements must I include in the SUPPLEMENTARY

INFORMATION section of the preamble? Rulemaking preambles must include in the SUPPLEMENTARY INFORMATION heading the compliance statements from Appendix 1 to this chapter. Additionally, if the rule meets one of the criteria in section 3.8, the preamble must include the information required in that section for the criterion that the rule meets.

3.8 What information must I include in the SUPPLEMENTARY INFORMATION heading of the preamble only in selected cases? Some statements are required only if a rule meets certain criteria. The table below lists these statements and when they are required. For further information, consult the requiring document.

If the rule...	you must...
Is lengthy or complex	include as the first item in the SUPPLEMENTARY INFORMATION heading a plain-language summary of the rule and its intended consequences, to comply with the OMB memo of January 4, 2012, titled, <i>Clarifying Regulatory Requirements: Executive Summaries</i> .
Is an interim final rule	explain why publishing a proposed rule is unfeasible, unnecessary, or contrary to the public interest, to comply with 5 U.S.C. 553(b).
Is a direct final rule	include a statement that you will withdraw the rule before it becomes effective if you receive even one significant adverse comment.
Allows less than 60 days for public comment	include a statement explaining why it is not possible or is not in the public interest to allow more time for comments, to comply with DOI policy implementing E.O. 12866, section 6(a).
Contains recordkeeping requirements subject to the Privacy Act	ensure that the records are part of an approved Privacy Act System of Records and add a statement to the preamble citing the system of records designation, to comply with 383 DM 1 - 7.

If the rule...	you must...
Includes an incorporation by reference of outside material	in the NPRM, discuss and solicit comments on the proposed incorporation; in the final rule, discuss comments on the incorporation and indicate approval by the Office of the Federal Register, to comply with 1 CFR part 51. See Chapter 6 of the Federal Register Document Drafting Handbook.
Refers to a Federal assistance program	give the official program number and title of any Federal assistance program (as listed in the Catalog of Federal Domestic Assistance), to comply with OMB Circular A-89.

3.9 What analyses must I document in the preamble? Many of the compliance statements required by Appendix 1 require you to perform underlying analyses, which you must summarize or include in the preamble. The statements and analyses may be subject to judicial review if challenged. In developing the analyses, you may need to collaborate with other offices.

3.10 How should I develop compliance statements and analyses? In preparing compliance statements for your rule's preamble, work with your regulatory contact, your Information Collection Clearance Officer, the Office of Policy Analysis, the Office of the Solicitor, and us to ensure that your statements and any required analyses are adequate.

Appendix 1 to Chapter 3

Compliance Statements Required in Rulemaking Document Preambles

- For additional information on complying with the laws and Executive Orders referenced below, consult the documents themselves.
- The language and terms used in the statements are based upon the respective laws and Executive Orders. **Material italicized and in brackets contains two choices, one of which you should use to complete the statement.** Note that you **must explain the basis** for each statement where required.
- There are different requirements for compliance statements for endangered species listings and de-listings. See the U.S. Fish and Wildlife Service manual for details.

1. Regulatory Planning and Review (Executive Orders 12866 and 13563).

[Choose the appropriate statement based upon whether the rule is significant or not significant.]

Use this statement for each rule that is not significant:

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Use this statement for each rule that is significant:

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it will *[enter here one of the criteria from the list below]*.

- *Have an annual effect of \$100 million or more on the economy.*
- *Raise novel legal or policy issues.*
- *Adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.*

- *Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.*
- *Alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.*

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act.

This rule *[will not / will]* have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). (Explain why the rule does or does not have a significant effect on a substantial number of small entities.)

3. Small Business Regulatory Enforcement Fairness Act (SBREFA).

This rule *[is not / is]* a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) *[Does not have/ has]* an annual effect on the economy of \$100 million or more. (Explain the basis for this statement, including the estimated effect that the rule will have on the economy.)

(b) *[Will not cause/ will cause]* a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. (Explain the basis for this statement, including the extent to which you estimate the rule will affect costs or prices.)

(c) *[Does not have/ has]* significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. (Explain the basis for this statement. This can include a statement that OMB made the determination.)

4. Unfunded Mandates Reform Act.

This rule *[does not impose / imposes]* an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule *[does not have/has]* a significant or unique effect on State, local, or tribal governments or the private sector. (Explain the basis for these statements.) A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) *(is not required/has been prepared and is summarized below)*.

5. Takings (EO 12630).

This rule *[does/does not]* affect a taking of private property or otherwise have taking implications under Executive Order 12630. (Explain the basis for this statement.) A takings implication assessment *[is not required / has been prepared and is available at [give the address of the Web site where the document is available]]*.

6. Federalism (EO 13132).

Under the criteria in section 1 of Executive Order 13132, this rule *[does not have/has]* sufficient federalism implications to warrant the preparation of a federalism summary impact statement. (Explain the basis for this statement.) A federalism summary impact statement *[is not required /has been prepared. You may request a copy by writing to the person listed in the "FOR FURTHER INFORMATION CONTACT" section]*.

7. Civil Justice Reform (E.O. 12988).

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

8. Consultation with Indian tribes (E. O. 13175 and Departmental policy).

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. *[Give the basis for the determination here.]*

OR

The Department strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified substantial direct effects on federally-recognized Indian tribes that will result from this rule.

This rule will *[explain here the effects that you have identified.]* Accordingly:

(a) We *[have consulted with/will consult with]* the affected tribe(s) on a government-to-government basis.

(b) We *[have fully considered tribal views/will fully consider tribal views]* in the final rule.

9. Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule *[contains/does not contain]* information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (PRA) *[is/is not]* required.

If the rule contains information collection requirements that already have OMB approval and are not being revised, add the following: The Office of Management and Budget has approved the information collections in this rule and has assigned control number *[give number]*, expiring on *[give expiration date]*. We estimate the annual burden associated with this information collection to be *[give estimated burden of the collection in hours per year]*.

If the rule contains new or revised information collection requirements and is a proposed rule, supply all of the following:

- If you are adding new information collection requirements to a previously approved collection, give the existing OMB Control Number, expiration date, and number of hours approved.
- Explain how to submit comments to OMB and to you. Include a timetable for OMB consideration of comments.
- Give the title of the collection of information for the rule, a summary of the collection, a brief description why you need and how you will use the information.
- Provide an estimate of the annual number of likely respondents, the proposed frequency of response, and an estimate of the burden on respondents in hours and dollars (in table format, if possible).
- State that you cannot require a response to the information collection you are proposing without a valid OMB Control Number.
- Request that the public send comments on the information collection requirements to OMB and specifically ask for comments on: the need for the information, its practical utility, the accuracy of the agency's burden estimate, and on ways to minimize the burden.

If the rule contains new or revised information collection requirements and is a final rule, supply all of the following:

- A statement that OMB has approved the information collection for the rule.
- The OMB Control Number, expiration date, and number of hours approved.
- A summary of any comments received on the information collection along with your responses.
- A statement of the purpose of the collection, including how the information supports your bureau's goals.
- An estimate of the annual burden hours and dollar cost of the information collection.
- The extent of confidentiality provided.
- Whether responses are voluntary, required to obtain benefits, or mandatory.
- A request to submit comments on the information collection directly to you.

- A statement that you cannot require a response to the information collection without a valid OMB Control Number.

10. National Environmental Policy Act.

Choose the appropriate statement from one of the following tables.

A. Proposed Rule Statements.

If...	Use the following statement...
(1) A categorical exclusion applies and there are no extraordinary circumstances	This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. <i>[Cite the Departmental categorical exclusion listed in 43 CFR 46.210 or quote the bureau-specific categorical exclusion from the Department Manual (516 DM). See the note following these tables for examples of language to use.]</i> We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.
(2) You have prepared an environmental assessment	We have prepared an environmental assessment to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969.
(3) You have prepared a draft environmental impact statement	This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared a draft Environmental Impact Statement (DEIS) under the National Environmental Policy Act of 1969. <i>[If you made the DEIS available to the public before publishing this proposed rule, cite the notice of availability and state when the public comment period started. Otherwise, explain that this proposed rule serves to announce the availability of the DEIS. State how the public can obtain or access a copy of the DEIS, how the public should submit comments, and the deadline for submitting comments.]</i>

B. Final Rule Statements.

If...	Use the following statement...
(1) A categorical exclusion applies and there are no extraordinary circumstances	<i>[Same as the categorical exclusion statement for a proposed rule.]</i>
(2) You have prepared an environmental assessment and finding of no significant impact	This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because we reached a Finding of No Significant Impact. <i>[State how the public can obtain or access a copy of this finding and the accompanying environmental assessment.]</i>
(3) You have prepared a final environmental impact statement	This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared a final Environmental Impact Statement (FEIS) under the National Environmental Policy Act of 1969. The FEIS is summarized below. <i>[Also state how the public can obtain or access a copy of the FEIS.]</i>

C. Examples of categorical exclusion citations.

When a categorical exclusion applies and you use statements A(1) or B(1) from the tables, the following are some examples of language to use in citing the specific categorical exclusion:

(1) *Example 1:* “This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).)”

(2) *Example 2:* “This rule is excluded from the requirement to prepare a detailed statement because its environmental effects are too *[broad/speculative/conjectural]* to lend themselves to meaningful analysis and will later be subject to the NEPA process. (For further information see 43 CFR 46.210(i).)”

(3) *Example 3:* “This rule is excluded from the requirement to prepare a detailed statement because it falls within the BLM categorical exclusion covering ‘[a]pproval of unitization agreements, communitization agreements, drainage agreements, geothermal unit or participating area agreements.’ BLM National Environmental Policy Act Handbook H-1790-1, Appendix 4 at 147 (Jan. 2008).” *[You must quote the Handbook, and not merely cite it, because the Handbook is not readily available to the public.]*

11. Effects on the Energy Supply (E.O. 13211).

This rule *[is not /is]* a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects *[is not required / has been prepared and sent to the Office of Management and Budget. Copies of the statement can be obtained by writing to the address given in the FOR FURTHER INFORMATION CONTACT section.]*

Note: The following two statements are required only for proposed rules or for direct final rules for which you solicit comments.

12. Clarity of this regulation.

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the "ADDRESSES" section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

13. Public availability of comments.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Chapter 4 - Requirements for Rulemaking Text

4.1 What does this chapter do? This chapter explains what standards the text of rulemaking documents must meet. Use this chapter together with the Federal Register Document Drafting Handbook, which contains the basic format requirements for rulemaking documents. Appendix 1 to this chapter is a checklist for reviewing completed rulemaking documents.

4.2 What language standards must a rule meet? You must write each rulemaking document in plain language. This means that wherever possible you should:

- A. Write your rule in the active voice;
- B. Avoid legalistic language and unnecessarily complicated provisions;
- C. Organize your rule to serve the reader's needs, with information that a reader is most likely to need at the beginning;
- D. Use short sections and sentences;
- E. Speak directly to the reader by using pronouns such as *I, we, and you*;
- F. Use tables and lists;
- G. Write in a question-and-answer format; and
- H. Use the word *must* (not *shall*) to convey requirements.

If you believe that circumstances warrant diverging from the above plain language standards, contact us early in the process.

4.3 What other sources can I consult for information about rulemaking documents?

Additional information on required contents for rulemaking documents is in the sources listed in Appendix 1 to 318 DM 1. Format requirements for rulemaking documents are in the Federal Register Document Drafting Handbook, available online at the Federal Register Web site.

4.4 What statements must I include in the text of the rule? You must include the following information in the text of the rule when applicable. Note that the Paperwork Reduction Act statement required for rulemaking text is in addition to the statement required in the preamble by Appendix 1 to Chapter 3 of this Handbook.

If the rule includes...	You must include...	For further information see...
A collection of information as defined by 44 U.S.C. 3501	the Paperwork Reduction Act statement required by law.	section 4.5 of this chapter and 381 DM 11,12, and 13.
An incorporation by reference	specific information about the incorporation.	the Federal Register Document Drafting Handbook and 1 CFR part 51, and section 6.20 of this Handbook.

4.5 What must the Paperwork Reduction Act statement in the text of the final rule contain? The Paperwork Reduction Act statement in the text of a final rule that contains an information collection must:

A. Identify each OMB control number and the specific section or part of the regulations to which it applies; and

B. Include the following words: “A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.”

Appendix 1 to Chapter 4

CHECKLIST FOR REVIEWING RULEMAKING DOCUMENTS

- _____ Billing code. Include at the top of the first page.
- _____ Headings. Use the prescribed preamble format. Use the proper agency, CFR citation, and subject headings. Include the accounting code and RIN.
- _____ Summary. Must be brief (3 - 4 sentences) and descriptive. Legal citations are not allowed.
- _____ Dates. Include as appropriate effective date, comment due date, public hearing date, etc.
- _____ Addresses. Include required language for submitting comments using regulations.gov. If the rule includes an information collection, include the address for comments related to information collections.
- _____ For Further Information Contact. Include an address and phone number.
- _____ Executive Summary. Required in the SUPPLEMENTARY INFORMATION section if the rule is long or complex.
- _____ Compliance statements. Include all statements required by sections 3.7 and 3.8.
- _____ Public comment period or effective date. If the comment period is less than 60 days, state why. If a final rule effective date is less than 30 days after publication, state why.
- _____ List of subjects. List terms for each CFR part affected at the end of the preamble.
- _____ Signature and title. Must be signed by an Assistant Secretary. Include typed or printed name and title of signer.
- _____ Amendatory language. Must meet Federal Register Document Drafting Handbook standards. Use asterisks to indicate intentional omissions.
- _____ Table of contents. Required if adding or revising an entire subpart or part. Entries must agree with part, subpart, and section headings in the text.
- _____ Authority citation. Must be included in each rule (even if it doesn't change).
- _____ Paragraph numbers. All paragraphs must be designated correctly.
- _____ Page numbers. All pages must be consecutively numbered.
- _____ Matching copies and certification. All copies must be identical, all pages included, all ink changes printed and initialed on all copies, all copies signed or certified. Electronic copy on disk must exactly match the hard copy (including the name and title of the signer).

Chapter 5 - Public Participation in the Rulemaking Process

5.1 What does this chapter do? This chapter describes the steps you must take to facilitate full public participation in developing rules.

5.2 What public participation does the Administrative Procedure Act require? When you develop, amend, or repeal a rule, the Administrative Procedure Act requires you to publish a notice of proposed rulemaking (NPRM) in the Federal Register and solicit public comment on the NPRM before final adoption. You must publish a proposed rule in all cases, unless an exemption in section 5.3 applies.

5.3 When may I skip the proposed rule stage?

A. Generally, you may skip the proposed rule stage only if you determine that the rule is an interpretive rule, a general statement of policy, or a rule of agency organization, procedure, or practice or you determine that notice and public comment are “impracticable, unnecessary, or contrary to the public interest.” (5 U.S.C. 553) In these cases, you must explain the reasons for your determination in the preamble to the rule. Ask the Office of the Solicitor and your regulatory contact for guidance on whether you may skip the proposed rulemaking stage.

B. 5 U.S.C. 553(a)(2) exempts rules relating to agency management or personnel, or public property, loans, grants, benefits, or contracts from the requirement to issue a proposed rule. Departmental policy is to waive these exemptions. Any deviation from this policy would require careful consideration and policy and legal approval.

C. If you publish a final rule under this section, you must solicit comments on the rule and publish a revised rule if comments warrant. You must also include in the preamble a statement explaining that either:

(1) The rule is an interpretive rule; a general statement of policy; or a rule of agency organization, procedure, or practice; or

(2) Publishing a proposed rule is “impracticable, unnecessary, or contrary to the public interest.”

5.4 How long must I allow for public comment? When you publish a proposed rule, you should allow at least 60 calendar days for public comments.

A. You should use a shorter period only in special cases requiring more timely action; in these cases, you must explain in the preamble the reasons for the shorter comment period.

B. For rules involving complex issues, or where the affected public is likely to have limited access to the *Federal Register*, you should consider allowing a comment period longer than 60 days.

5.5 How can the public submit comments? In most cases, you should use the language required by section 3.6 of this Handbook to specify in the preamble that the public can submit comments by only two methods:

- A. Online submission using the regulations.gov Web site; and
- B. By mail or hand delivery at an address that you specify.

5.6 How must I process comments on a proposed rule? OMB requires all agencies to use an electronic rulemaking comment system. The system has two parts: regulations.gov, which the public can use to comment on Federal Register documents, and the Federal Document Management System (FDMS), which agencies must use to post all rulemaking documents.

A. To comply with OMB requirements, you must create and maintain a docket in FDMS for each rulemaking that you publish. You must post to this docket:

- (1) All electronic comments that the public submits to you using the regulations.gov Web site;
- (2) All other written public submissions that you receive; and
- (3) Any appropriate supporting materials (e.g., environmental assessments or impact statements, economic analyses, or regulatory flexibility analyses).

B. Your bureau regulatory contact can supply more information about FDMS and regulations.gov.

5.7 Can I provide confidentiality to commenters? Generally, you cannot guarantee confidentiality to commenters. Consult with the Office of the Solicitor to determine if you can do this in a particular instance. You must include in the preamble of your rule the statement on public availability of comments from Appendix 1 to Chapter 3 of this Handbook.

5.8 Can I accept late comments? In deciding whether to accept late comments, the important consideration is whether all interested parties have a full and fair opportunity to comment on all significant issues in the rule. The safest approach is to not accept any comments on the substance of the rule that are postmarked or electronically dated after the close of the comment period.

A. If you do accept comments after the close of the comment period, you must enter them promptly into the public record and consider reopening the comment period.

- (1) If the comments are critical to the rulemaking and you are likely to give them substantial weight in formulating the final rule, you should reopen the comment period.
- (2) If the comments only provide background information or data on which you are not likely to rely, you may not need to reopen the comment period.

B. If you receive important information near the end of the comment period, consider extending the comment period to allow the public an opportunity to comment on the information.

C. If you accept one late comment, you must accept all late comments that you receive.

D. For *ex parte* communications, follow the requirements in Sections 5.9 through 5.12 below:

5.9 What is *ex parte* communication? The Administrative Procedure Act defines *ex parte* communication as “an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given...” (5 U.S.C. 551 (14))

5.10 Should I accept an *ex parte* communication? You should generally accept only comments submitted during the designated comment period and submitted through or posted to the regulations.gov Web site, delivered by mail, or delivered in person. If you think that you have received an *ex parte* communication about a rulemaking, consult with the Division of General Law in the Office of the Solicitor about whether the communication is acceptable.

5.11 When should I publish a notice of intent or an advance notice? If a proposed rule is likely to be complex or controversial or to make major changes in an existing rule, it may be helpful to publish a notice of intent to propose a rule or an advance notice of proposed rulemaking (ANPRM). A notice of intent or ANPRM must:

A. State the need for and subject of the rule;

B. Summarize the key issues related to the anticipated rulemaking; and

C. Tell the public where to get further information; provide for a comment period, similar to a proposed rule; and include the due date and an address for submitting comments.

5.12 What additional actions should I consider before publishing a rule? Additional actions that you should consider taking include:

A. Holding public meetings or hearings (see 455 DM 1); note that some of these meetings may require you to follow the Federal Advisory Committee Act (5 U.S.C. App. 2);

B. Sending press releases to newspapers of general circulation and other publications likely to be read by those affected;

C. Directly notifying interested parties, including State and local governments and small entities (both business and government); and

D. Posting a notice on your Web site or in your blog or placing paid advertisements in publications that those affected are likely to read.

5.13 What additional actions should I take if a rulemaking significantly affects small entities? Under the Regulatory Flexibility Act, if a rule will have a significant economic effect on a substantial number of small entities, you should make special efforts to involve interested small entities in developing the rule. To help small entities participate in the rulemaking process, you may use the measures listed in section 5.12 above.

5.14 What additional actions should I take if a rulemaking affects Indian tribes? If a rulemaking may affect Indian tribes, contact your bureau Tribal Liaison Officer as early as possible in the rulemaking process to ensure consultation with appropriate tribal groups.

Chapter 6 - Clearance Procedures for Rules

6.1 What does this chapter do? This chapter tells you how to get the approvals you need before you can publish your Federal Register document.

6.2 What internal approvals must I get before a rulemaking document is signed? Except as provided in 6.5, the following reviewers must approve and surname rulemaking documents before signature:

- A. Office of the Solicitor (SOL). (You should begin consulting informally with SOL early in the rulemaking process.)
- B. OES. (Begin consulting informally with us early in the rulemaking process.)
- C. Office of Policy Analysis (PPA) when your rule will have an annual effect of \$100 million or more. (Begin consulting with PPA early in the rulemaking process and reach a general understanding on analytical requirements and approaches. Early consultation with PPA for other significant rules is recommended. PPA is also available to consult on rules not identified as significant.)
- D. Bureau regulatory contact.
- E. Bureau information collection clearance officer.
- F. Bureau Director.
- G. Other bureaus or offices that have been involved in the planning and development of the document or that we determine to be necessary.

6.3 How much time should I allow for review by OES? At the surname stage, we will generally complete review of each rule within 10 working days of receipt. (Note that any time required to make changes we request is *not* included in this 10-day review period.). If you need Departmental review in less than 10 working days, notify us and explain why you need expedited review (e.g., if there is a statutory or judicial deadline). You should discuss with each reviewing office the time required for review.

6.4 How can I expedite the approval process? You can expedite approval by ensuring that the rule meets all requirements of this chapter, sending the rule to the proper reviewers, and working early on with each reviewer (by providing briefings, advance copies, etc.) so that they are familiar with the rule when it arrives for surname.

6.5 Are there any exceptions to the approval requirements of section 6.2? Yes. Actions by the Office of Surface Mining to approve, disapprove, or supersede amendments to State and tribal programs are reviewed in the field by SOL and signed by an OSM official.

6.6 Who signs rules? Only a Secretarial Officer (the Secretary, the Deputy Secretary, the Solicitor, or an Assistant Secretary) may sign rulemaking documents. There are three exceptions to this general rule:

A. Officials in the Office of Surface Mining may sign rules approving, disapproving, 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 Fish and Wildlife Service may sign listing, delisting, and reclassification rules; and

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

6.7 What additional documentation do I need? You must prepare additional documents and send them for review with your rule as required by Appendix 1 to Chapter 3 of this Handbook.

6.8 Do I have to prepare a briefing paper? You must prepare a briefing paper that provides additional information summarizing the main effects of the rule, who will be affected, expected controversy, and related issues of interest to management. Consult your bureau regulatory contact for guidance.

6.9 When must I prepare a press release or communications plan? Your bureau public affairs office should consult with the Office of Communications to determine whether a press release or communications plan is necessary. If you prepare a press release or communications plan, you must circulate it with the rule, and you must send the Office of Communications a file copy of the rule.

6.10 What is the last step before I send a rule out of the Department? After a rule is signed, you must send us a paper copy of the rule for final review by the Secretary's Office. If your bureau uses the Department's electronic Document Tracking System, you must also submit an electronic copy using the system.

A. For most rules, Secretary's Office review will be the last step before you send the rule to the Federal Register. For significant rules, Secretary's Office review will occur both before and after OES sends the rule to OMB for review. You must not send a rule to either OMB or the Federal Register until the Secretary's Office has completed this final review.

B. You must include with the OES copy a briefing memo and a copy of the surname record for the rule showing approval by the Office of the Solicitor and by your Assistant Secretary's office. (Do not send OES the original signed rule; send the original signed rule and required copies to the Federal Register after you receive approval under this section. Be sure to retain copies for your files.)

6.11 How do I send a rule to the Office of Management and Budget for review? If your rule is significant (see section 2.9 of this handbook), you must first submit the rule through us to obtain Secretary's Office approval under section 6.10 and then resubmit the rule through us to

OMB as required by section 6.15. After approval by the Secretary’s office, send us an electronic copy of the document and any analytical material prepared under section 6.7. We will submit this material electronically to OMB.

6.12 How long will OMB take to review a rule? If OMB reviews your rule, it has the following time frames to complete the review under E.O. 12866:

For a ...	OMB review may take up to...
Notice of intent, advance notice of proposed rulemaking, or other preliminary action	10 work days
Regulatory action that OMB has not previously reviewed	90 calendar days (extendable by a further 30 days)
Regulatory action that OMB has previously reviewed and that you have not changed materially	45 calendar days

6.13 Will OMB expedite review of a rule in an emergency? You must schedule development of each rule to allow enough time for OMB review. If, due to unforeseen circumstances, you need OMB approval before the deadlines in section 6.12, call your bureau regulatory contact as soon as possible.

6.14 How does OMB approval of collections of information under the Paperwork Reduction Act affect approval of a rule? OMB must review each collection of information in a proposed rule. (This approval process is separate from the approval process described in this chapter for the rule itself.) For guidance on how to obtain OMB approval, consult your bureau information collection clearance officer. You cannot publish a final rule without OMB approval of all information collections in the rule.

6.15 How do I send a rule to OMB for review? If a rule is significant and requires OMB review under E.O. 12866, we will notify the bureau regulatory contact after the Secretary’s Office has approved the rule. The regulatory contact will then work with us to submit a copy of the rule to OMB electronically. After obtaining OMB approval, the regulatory contact must resubmit the rule to us for a final Secretary’s Office approval before publication.

6.16 What other copies of final rules must I distribute? To comply with 5 U.S.C. 801 (known as the Congressional Review Act), you must deliver copies of each final rule to Congress and the Government Accountability Office (GAO). You must deliver these copies by hand, except as indicated in paragraph B, below, on or before the rule’s publication date. You must also obtain a receipt for each copy delivered. *If these copies are received late, it will delay the effective date of the rule.* (See section 6.19.)

A. The following table shows content and delivery requirements for each submission.

You must deliver to...	at the following address...	the following material...
The Speaker of the House of Representatives	The Capitol, Room H-209	<ul style="list-style-type: none"> • A completed submission form signed by an appropriate official* • A copy of the rule
The President of the Senate	The Capitol, Room S-212	<ul style="list-style-type: none"> • A completed submission form signed by an appropriate official* • A copy of the rule
The General Counsel of the Government Accountability Office**	Attention Rules Room 7182 441 G Street NW	<ul style="list-style-type: none"> • A completed submission form signed by an appropriate official* • A copy of the rule • A copy of each analysis (e.g., cost/benefit, regulatory flexibility, unfunded mandates) prepared for the rule

* The submission form is available on line at this address:
<http://www.gao.gov/decisions/majrule/submit.html>

** You may deliver the GAO copy by email as shown in paragraph B.

B. If you prefer, you may send the GAO copy by email. The following procedures apply to email submissions:

(1) Use the following address: RulesC@gao.gov.

(2) The subject line should include the name and RIN of the rule you are sending. Do not use a generic heading such as “CRA submission.”

(3) GAO will send you an email acknowledgement of receipt. You must print this acknowledgement and keep it as proof that you made the required submission.

6.17 When does a final rule become effective? Final rule effective dates are normally as shown in the following table. Rules meeting the criteria in sections 6.18 or 6.19 may have earlier or later effective dates.

Type of rule	Effective date in most cases
Non-major rule*	30 days after publication or later
Major rule	60 days after publication or later

* Most rules are non-major. A major rule is one that meets any of four criteria in the Small Business Regulatory Enforcement Fairness Act. (See Appendix 1 to Chapter 3 of this Handbook .)

6.18 Can a final rule ever become effective sooner than 30 days after publication? A non-major final rule can become effective sooner than 30 days after publication. To have an earlier effective date, you must explain in the preamble that you have established an earlier effective date because the rule meets one of the criteria below, and you must cite the Administrative Procedure Act (5 U.S.C. 553 (d)):

- A. The rule grants an exception or relieves a restriction;
- B. The rule is an interpretation or policy statement; or
- C. You have a good cause for the rule to become effective earlier.

6.19 What factors can delay or change the effective date of a rule?

A. If the copies you deliver under section 6.16 arrive late, the effective date of your rule will be affected as shown in the following table:

For a ...	if the copy required by 6.16 is received after...	then the rule becomes effective ...
Non-major rule*	the rule's published <i>effective</i> date	on the day the last copy is received.
Major rule	the rule's <i>publication</i> date	60 days after the last copy is received (not counting days that Congress is not in session).

* Most rules are non-major. A major rule is one that meets any of four criteria in the Small Business Regulatory Enforcement Fairness Act. (See Appendix 1 to Chapter 3 of this Handbook.)

B. When the effective date of a rule changes due to late receipt of a required copy, you must publish a notice in the Federal Register informing the public of the new effective date.

6.20 How do I incorporate material by reference? Incorporation by reference allows you to refer to materials, such as technical standards or detailed maps, that are already published elsewhere or are readily available. By using incorporation by reference, you make this material part of your rule without actually printing it in the CFR. The Director of the Federal Register must approve each incorporation by reference; this approval process requires at least 20 days. See the Document Drafting Handbook and 1 CFR 51 for instructions on how to incorporate material by reference.

Chapter 7 - Certification and Publication

7.1 What does this chapter do? This chapter contains the requirements for certifying and publishing Federal Register documents.

7.2 How should I format my rule? In preparing a preamble and rule, follow the requirements in the Federal Register Document Drafting Handbook, available online at federalregister.gov. Your document must be double spaced and single sided on plain paper (not letterhead).

7.3 How many copies do I need? Prepare the following copies:

A. Three copies that meet the requirements in section 7.6 for transmittal to the Office of the Federal Register;

B. Surname copy; and

C. Copy for the Office of Communications, if you prepared a press release.

7.4 How do I get billing and accounting codes? Your bureau regulatory contact can supply you with the appropriate billing code and your budget office can supply you with the appropriate accounting code for your document. You must include these codes in the appropriate places on the first page of your document. For information on the placement of these codes, see the Federal Register Document Drafting Handbook.

7.5 What do I do after OES and OMB review? After we have obtained Secretary's Office approval for your signed document (and after OMB approval if necessary), deliver or mail the copies required by section 7.3 and the disk required by section 7.7 to the Office of the Federal Register for publication.

7.6 When do I need to have my document certified?

A. If all three documents that you send to the Federal Register have original signatures, you do not need to have your document certified. (If you are including a disk, you must still have the disk certified as required by section 7.7.)

B. If any of the three documents that you send to the Federal Register does not have an original signature (signed in blue ink), you must have your bureau certifying officer certify it. If you do not know who your certifying officer is, see your bureau regulatory contact. At least one of the documents that you send to the Federal Register must have an original signature.

7.7 Should I submit my document on a computer disk? You must submit each document on a computer disk in MicroSoft Word file format in addition to the hard copies required by section 7.3 above. You must include a letter from the certifying officer certifying that the disk is a true copy of the original document.

7.8 What does the certifying officer check for? In this section, “you” means a certifying officer.

A. If you are a certifying officer, you must check to see that:

- (1) The name and title of the signing official are typed or printed on each copy;
- (2) At least one of the three copies has an original signature;
- (3) Each of the copies is identical to the original document; and

(4) If the document is also submitted on a computer disk, the disk is a true copy of the original signed document and includes the name and title of the signer.

B. Once you are sure that the documents meet the requirements of paragraph A, certify any copies that do not include an original signature by adding and signing the certification statement, which should read as follows: "Certified to be a true copy of the original." If there is a computer disk, sign the certification letter that accompanies the disk. See the Federal Register Document Drafting Handbook for an example of a certification letter.

7.9 When do I need a transmittal letter? You must prepare a transmittal letter if you need to publish a document in less than 3 days, if the document includes an incorporation by reference, if you are submitting your document on a computer disk, or if your document requires other special handling. The Federal Register Document Drafting Handbook contains model letters.

7.10 Where do I send my document? You can personally deliver Federal Register documents to the Office of the Federal Register at 800 North Capitol Street. If you mail the documents, there are two addresses to use, as shown in the following table:

For delivery by hand or by commercial delivery service (but NOT by US mail)...	For delivery by US mail ONLY...
Office of the Federal Register 800 North Capitol Street NW Suite 700 Washington, DC 20001	Office of the Federal Register 8601 Adelphi Road College Park, MD 20740-6001

7.11 When will my document be published? The Federal Register will publish your document according to the schedule in 1 CFR 17.2(c), generally 3 work days after receipt for documents less than 100 pages long. Note that:

A. Documents over 100 pages long require at least one extra day for processing.

B. At periods of high activity, the Federal Register may require more than the normal processing period to process and publish your document.

C. The Federal Register considers a document received after 2:00 p.m. to be received on the next business day.

7.12 How can I get extra copies of a rule? The easiest way to get extra copies of a rule is to print the document as a pdf from the Federal Register Web site and reproduce the copies yourself. You can also have the Government Printing Office (GPO) print extra copies (called overruns) of a rulemaking document. To find out how to do this, consult the Federal Register Document Drafting Handbook.

Chapter 8 - Requirements for Federal Register Notices

8.1 What does this chapter do? This chapter tells you how to prepare, get approval for, and publish notices in the Federal Register.

8.2 How do I publish a notice in the Federal Register? To publish a notice you must:

- A. If the notice is a significant policy statement, include it on the 90-day list (see section 2.8 of this handbook);
- B. Draft the notice in Federal Register format as specified in the Federal Register Document Drafting Handbook;
- C. Obtain all approvals required by your bureau;
- D. Obtain Office of the Solicitor and your Assistant Secretary's approval for each notice requiring Secretary's Office approval;¹
- E. Have the notice signed in blue ink at the appropriate level;
- F. Submit a copy of the signed notice, surname record, and briefing paper to the Secretary's Office for final approval, if required by section 8.5; and
- G. Deliver the notice to the Federal Register for publication.

8.3 What kinds of documents can I publish as notices? There are few limits on what you can publish as a notice of official Federal agency action in the Federal Register. You should use notices to inform the public of nonregulatory policies, upcoming public meetings or hearings, and other items of interest. You generally should publish internal guidelines or directives in the Federal Register only if they directly affect the public.

8.4 Who approves and signs Federal Register notices? In the interest of efficient administration, Federal Register notices should be signed at the lowest level possible. Each bureau should have its own policies for the appropriate signature and approval level for various types of notices. Most notices that require approval under section 8.5 (i.e., most notices) must be surnamed by both the Assistant Secretary's office and the Solicitor's Office.

8.5 Which notices require approval by the Secretary's Office? You must submit a copy of your signed notice, together with a copy of the Solicitor's surname, to OES for approval by the Secretary's Office before publication. The only exceptions to this requirement are:

- A. Notices of meetings, including advisory committee meetings;

¹ Certain limited categories of notices do not require approval by an Assistant Secretary. Consult your bureau regulatory contact for details.

B. Requests for comment on information collections (60-day notices) and requests for comment on submission of information collections (30-day notices) to OMB under the Paperwork Reduction Act;

C. Survey or plat designations; and

D. Other notices that may be exempted by OES.

8.6 What documents must accompany a Federal Register notice that I submit for Secretary's Office approval? All documents required by this section are copies. You should retain the originals for your files.

A. When you submit a Federal Register notice for approval under section 8.5, you must in all cases include a surname record signed by the Solicitor's Office and your Assistant Secretary's Office.

B. You must include a cover sheet that contains the following information for the document:

(1) The name of the document;

(2) A paragraph describing the purpose of the document;

(3) A list of the senior management officials and Solicitor's Office officials who reviewed the document; and

(4) Whether the notice will be of great public interest and, if so, why.

C. If there is a chance that the notice will be of great public interest, you must include a communications plan developed by your bureau's Office of Communications.

8.7 Which notices must I include on the 90-day list? The only Federal Register notices that you must include on the OMB regulatory report (90-day list) required by 318 DM 2 are those that establish policy. If you have questions about whether to include a notice on the report, ask your bureau regulatory contact.

8.8 How should I format a Federal Register notice? In preparing a Federal Register notice, you should follow the preamble format for notices in the Federal Register Document Drafting Handbook. Some of the requirements of the preamble format may not apply to your notice; work with your bureau regulatory contact to make necessary changes.

8.9 What are the requirements for copies, certification, etc.? The provisions of Chapter 7 of this Handbook relating to certification and publication also apply to Federal Register notices.

8.10 Can I combine a Federal Register notice and a proposed or final rule in the same document? No. The Office of the Federal Register prohibits combining a rule and a notice in the same document. (See 1 CFR 18.2) If you need to announce the availability of a document or the dates of public meetings in connection with a proposed rule, you may either:

A. Publish a separate notice in the Federal Register and refer to the notice in the preamble of the proposed rule; or

B. Announce the availability of the document or the dates of the meetings in the preamble of the proposed rule, but in this case you must not include the word “notice” in the “ACTION” heading or anywhere else in the document heading. (An example of a heading that meets this criterion would be: “Proposed rule; availability of draft environmental impact statement.”)

Chapter 9 - Post-Publication Requirements

9.1 What does this chapter do? This chapter tells you what reviews you must perform and what files you must maintain to document actions and decisions that you publish in the Federal Register.

9.2 What do I have to post to the Federal Document Management System (FDMS) Web site? After a final rule is published, you must update the FDMS docket that you created under section 5.6 of this Handbook to include the final rule.

9.3 What must I include in the file for a rulemaking document? You must establish for each rulemaking document a file that provides a chronological history of all activity related to the rule. You should include in each file at least the following material:

- A. Original Regulatory Action Alert form.
- B. Copies of signed and dated documents submitted for publication in the Federal Register.
- C. Official correspondence, including emails and letters to and from the Office of Management and Budget and the Office of the Federal Register.
- D. Copies of all analyses, including environmental assessments, environmental impact statements, regulatory impact analyses, and small entity flexibility analyses.
- E. Lists of documents incorporated by reference, together with copies of the documents, if feasible.
- F. Public comments, original internal comments, and documented oral comments.
- G. Transcripts of public hearings, if available.
- H. Minutes of meetings, if available.
- I. Printed documents as published in the Federal Register.
- J. Copies of the Congressional Review Act Forms and receipts indicating that the final rule has been filed as required by law.
- K. Other records and materials pertinent to the chronological or historical development of the document (e.g., press releases, maps, photographs, articles, publications, statutes, regulations, etc.).
- L. The results of any periodic review that you conduct under E.O. 12866 or the Regulatory Flexibility Act, as required by section 9.6.

9.4 How must I treat public comments? You must separate public comments from the internal comments in the file. This will facilitate public inspection of these comments. Internal comments are comments received by your bureau or another bureau, agency, or entity within the U.S. Government.

9.5 How long must I keep the file for a rule? The General Records Schedule does not provide specific disposition authority for files related to Federal Register documents.

A. You should apply your bureau comprehensive records schedules to ensure adequate and consistent disposition of the files.

B. If possible, use compact disks to store and archive your official files. They must be compliant with Section 508 of the Rehabilitation Act, 29 U.S.C. 794d, as amended.

9.6 How often must I review my rules after they're published?

A. To comply with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and EO 13563, you must periodically review each existing CFR part (or, if appropriate, subpart) if it either:

- (1) Is significant under E.O. 12866; or
- (2) Has a significant economic effect on a substantial number of small businesses.

B. Your periodic review must meet the following requirements:

- (1) The review should occur at least once every 10 years;
- (2) The review must determine if the rule is still necessary or can be revised to be less burdensome;
- (3) You must inform the public of each review that you conduct by including the rule in the semiannual agenda; and
- (4) You must document the results of the review and include them in the official file for the rule as required by this chapter.