



NASA Policy Directive

NPD 1400.2EEffective Date: November 29, 2011
Expiration Date: November 29, 2021**COMPLIANCE IS MANDATORY**[Printable Format \(PDF\)](#)

Request Notification of Change (NASA Only)

Subject: Publishing NASA Documents in the Federal Register and Responding to Regulatory Actions

Responsible Office: Mission Support Directorate

Change History

Chg#	Approver	Date Approved	Description/Comments
1	Directives Management Team	08/03/2015	Administrative edits made to add responsibilities for the Office of the Chief Financial (OCFO) that are already being done, clarify responsibilities for the Office of Procurements, add responsibilities for the NASA Federal Register Liaison Officer that are already being done, and make directive compliant with NPR 1400.1G, NASA Directives and Charters Procedural Requirements.
2	DMT	10/31/2016	Update to reflect 1400 compliance and correct citations

1. POLICY

a. It is NASA's policy to publish its notices in the Federal Register (FR) to give the general public information on the Agency's activities, and where applicable, to give the general public an opportunity to comment. Notices and regulations are prepared in accordance with the FR Document Drafting Handbook (FRDDH) and certified as prescribed by the Administrative Committee of the Federal Register.

(1) NASA notices include, but are not limited to, notices of meetings for the NASA Advisory Council (NAC) or NAC subcommittees, prospective patent licenses, Government-owned inventions available for licensing, final environmental impact statements, and information collections. NASA notices are issued by the office of primary responsibility to achieve compliance with external requirements.

(2) NASA regulations, which are codified in Titles 2, 5, 14, and 48 of the Code of Federal Regulation (CFR) include proposed rules (i.e., notices of proposed rulemaking), preliminary rules (i.e., advance notices of proposed rulemaking), final rules, interim final rules, and direct final rules. See Attachment A for definitions. A regulation is amended or issued if an Official-in-Charge (OIC) and the General Counsel determines that it is required or is the best available method for achieving compliance with the Agency's objectives.

b. It is NASA's policy to submit its planned regulatory priorities to the Office of Management and Budget's (OMB) semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions and summarize its significant regulations under development in OMB's annual Regulatory Plan. As prescribed by Executive Order (EO) 12866 and EO 13563, NASA regulations will be proposed only upon a reasoned determination that its benefits justify its cost, and are tailored to impose the least burden on society.

2. APPLICABILITY

- a. This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers.
- b. In this NPD, all mandatory actions (i.e., requirements) are denoted by statements containing the term "shall." The terms: "may" or "can" denote discretionary privilege or permission, "should" denotes a good practice and is recommended, but not required, "will" denotes expected outcome, and "are/is" denotes descriptive material.

3. AUTHORITY

- a. The National Aeronautics and Space Act, as amended, 51 U.S.C. § 20113(a).
- b. The Privacy Act of 1974, 5 U.S.C. 552a.
- c. Administrative Committee of the Federal Register, 1 CFR pts. 1-12, 15-22, and 51.
- d. Regulatory Planning and Review, Executive Order (EO) 12866, 3 CFR 638 (1993), as amended.
- e. Improving Regulation and Regulatory Review, EO 13563.

4. APPLICABLE DOCUMENTS AND FORMS

- a. Federal Advisory Committee Act, 5 U.S.C. App., as amended.
- b. Inspector General Act of 1978, as amended, 5 U.S.C. App.
- c. Government in the Sunshine Act, 5 U.S.C. 552b(a).
- d. Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq.
- e. Congressional Review of Agency Rulemaking, 5 U.S.C. 801-808.
- f. National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., as amended.
- g. Paperwork Reduction Act of 1980, 44 U.S.C. 3501.
- h. E-Government Act of 2002, Pub. L. 107-347, 116 Stat. 2899 (2002), as amended.
- i. Civil Justice Reform, EO 12988, 3 CFR 157 (1996).
- j. Federalism, EO 13132, 3 CFR 206 (1999).
- k. NASA Grants and Cooperative Agreements Handbook, 14 CFR pt. 1260, et seq.
- l. Regulations Implementing the Government in the Sunshine Act, 29 CFR pt. 2203.
- m. Federal Advisory Committee Management, 41 CFR pts. 102-103.
- n. Federal Acquisitions Regulation, 48 CFR.
- o. Consultation and Coordination With Indian Tribal Governments, EO 13175 (2000).
- p. NPR 1441.1, NASA Records Retention Schedules.
- q. Standard Operating Procedures for Publishing NASA Documents in the Federal Register (Attachment B).
- r. NASA Headquarters (NHQ) Form 117, Action Document Summary.
- s. Federal Register Document Drafting Handbook, 1998 edition.
- t. Form 24722, Submission of Federal Rules Under the Congressional Review Act.
- u. Regulatory Information Data Form.

5. RESPONSIBILITY

- a. The NASA Administrator signs all regulations prior to publication in the FR, except as provided in paragraph 5e. This signature serves as approval to submit digitally-signed regulations to the Federal Register for publication.
- b. The NASA Senior Advisor for Policy and Strategy Implementation, as NASA's Regulatory Policy Officer, in accordance with EO 12866, approves NASA's statement of regulatory priorities included in OMB's annual

Regulatory Plan.

c. The Deputy Associate Administrator for the Mission Support Directorate is responsible for:

- (1) Managing the Agency's review of draft regulations from other agencies and proposed presidential documents (e.g., proclamations, memorandums, executive orders).
- (2) Implementing all external requirements for preparation and submission of Agency notices and regulations.
- (3) Approving NASA's submission to OMB's semiannual Unified Agenda.
- (4) Designating an FR liaison officer, certifying officer, and authorizing officer.

d. The FR liaison officer, certifying officer, and authorizing officer is responsible for coordinating and submitting the Agency's response to proposed regulations, executive orders, presidential memorandums, and proclamations to OMB, to include identifying actions generating from these documents and collaborating with the Executive Secretariat for appropriate tracking, assignment, and response. The FR liaison officer shall:

- (1) Coordinate and submit NASA's regulatory priorities and regulations under development to OMB for inclusion in the annual Regulatory Plan submission and the semiannual Unified Agenda submission using the Regulatory Information Service Center and Office of Information and Regulatory Affairs Consolidated Information System.
- (2) Ensure that all NASA notices and regulations are properly prepared in accordance with the FRDDH and that corrective actions are complete.
- (3) Ensure that regulations are internally coordinated, approved, and published within established timelines, as reported in OMB's semiannual Unified Agenda.
- (4) Obtain the Office of Information and Regulatory Affairs' (OIRA) clearance on regulations prior to publication, in accordance with EO 12866, except as provided in paragraph 5e.
- (4) Process and digitally sign regulations approved by the NASA Administrator and transmit digitally-signed regulations to the FR for publication via its Web Portal, except as provided in paragraph 5e.
- (5) Ensure that published NASA regulations are posted in the Federal Docket Management System (FDMS) to receive public comment, as prescribed by the Pub. L. 107-347, 116 Stat. 2899, EO 12866, and EO 13563.
- (6) Ensure that public comments are forwarded to the responsible office for disposition and that dispositions are entered in the FDMS.
- (7) Ensure that regulations are forwarded to the Congress and the General Accountability Office (GAO) for a Congressional review before they take effect, in accordance with 5 U.S.C. 801-808 using Form 24722, except as provided in paragraph 5e.
- (8) Ensure that responsible offices are notified when regulations under their authority approach the 5-year required review, six months in advance, and request that regulations be reviewed to determine if any should be amended, repealed, or retained as is.
- (9) Process and transmit all NASA notices digitally signed by the responsible office to the FR for publication via its Web Portal, except as provided in paragraph 5e.
- (10) Maintain all records pertaining to NASA notices and regulations and the Agency's submission to OMB's Regulatory Plan and the Unified Agenda, in accordance with NPR 1441.1, NASA Records Retention Schedules.

e. The Assistant Administrator for Procurement is responsible for:

- (1) Preparing and signing all notices and regulations in the 14 CFR pt. 1260 and 48 CFR, in accordance with the FRDDH.
- (2) Processing and transmitting all procurement-related notices and regulations to the FR for publication, via its Web Portal.
- (3) Posting all procurement-related regulations in the FDMS to receive and responding to public comments, in accordance with the Pub. L. 107-347, 116 Stat. 2899, EO 12866, and EO 13563.
- (4) Submitting regulatory priorities and regulations under development to the FR Liaison Officer for inclusion in the Regulatory Plan and the Unified Agenda.
- (5) Reviewing and concurring on all other NASA regulations to determine acquisition law or regulation impact or information collection requirements.

f. The NASA General Counsel is responsible for:

- (1) Preparing and signing all notices announcing the availability of patents for licensing and notices of intent to grant

a specific patent license.

(2) Advising the FR Liaison Officer on the legal requirements for publishing in the FR.

(3) Reviewing and concurring on all NASA regulations and NASA's annual statement of regulatory priorities and semiannual Unified Agenda, as prescribed by EO 12988.

g. The NASA Chief Financial Officer is responsible for reviewing all regulations to ensure proper financial, resource (including budget, strategic planning, and performance), and acquisition consideration, and commenting and concurring on all regulations during the coordination process prior to signature by the NASA Administrator.

h. The Assistant Administrator for Strategic Infrastructure, or designee, is responsible for:

(1) Preparing and coordinating notices that have the potential to adversely affect the environment, or cause public controversy due to environmental impacts, to ensure compliance with the 42 U.S.C. 4321 et seq, as amended.

(2) Designating a Federalism Officer.

(3) Designating an Indian Tribal Governments Liaison Officer.

i. The Federalism Officer reviews the Agency's consolidation of regulations under development, prior to submission to OMB's Unified Agenda, in order to:

(1) Determine the impact of each NASA regulation on State and local government, pursuant to EO 13232.

(2) Ensure appropriate consultation with State and local officials when NASA regulations preempt State law.

(3) Submit a Federalism summary impact statement to OMB prior to the promulgation of a NASA regulation that preempts State law.

(4) Make available to OMB any written communications submitted to NASA by State and local officials, prior to the promulgation of a NASA regulation that preempts State law.

j. The Indian Tribal Governments Liaison Officer reviews the Agency's consolidation of regulations under development, prior to submission to OMB's Unified Agenda, in order to:

(1) Determine the impact on Indian Tribal Governments for each NASA regulation, pursuant to EO 13175.

(2) Ensure appropriate consultation with Indian Tribal Government officials when NASA regulations preempt tribal law.

(3) Submit an Indian Tribal Government impact statement to OMB prior to the promulgation of a NASA regulation preempting Indian tribal law.

k. The Associate Administrator for International and Interagency Relations, or designee:

(1) Reviews all international and export control-related notices and regulations to ensure compliance with appropriate international agreements, U.S. foreign policies, and export control regulations.

(2) Designates a NASA Federal Advisory Committee Management Officer (ACMO).

l. The ACMO signs all notices announcing NASA Federal advisory committee meetings, including meetings of the NASA Advisory Council and its committees, the Aerospace Safety Advisory Panel, and other NASA Federal advisory committee meetings. Such meeting notices are published in the FR at least 15 calendar days prior to the date of the meeting, as prescribed by 5 U.S.C. App., 5 U.S.C. 552b, and 29 CFR 2203.

m. The Chief Information Officer, or designee:

(1) Prepares and signs all notices dealing with information collections under OMB review as part of NASA's continuing effort to reduce paperwork and respondent burden, in accordance with the 44 U.S.C. 3501 and the 5 U.S.C 601 et seq., as well as notices dealing with NASA systems of records subject 5 U.S.C. 552a.

(2) Coordinates NASA's current memorandum of agreement with the Environmental Protection Agency (EPA) to support the maintenance and operations of the FDMS, as well as transfer funding to EPA that reasonably reflect NASA's allocable share of calendar year costs for implementation, use, operations, and management of the FDMS.

n. The Assistant Administrator for Small Business Programs reviews and concurs on all NASA regulations prior to publication in the FR, and NASA's annual statement of regulatory priorities and semiannual unified agenda, to determine whether the regulations are likely to have a significant economic impact on a substantial number of small entities, in accordance with the 5 U.S.C. 601 et seq.

o. The Executive Director for Headquarters Operations, or designee, maintains tracking of all notices and regulations published under the Agency's assigned billing code.

p. The Assistant Administrator for Human Capital Management coordinates the consultation of NASA regulations, except as provided in paragraph 5e, with labor organizations granted National consultation rights at NASA, in addition to conducting its own review and submitting a concurrence on these documents.

q. OICs of Headquarters Offices, or their designees, are responsible for:

(1) Ensuring that all notices and regulations under their authority comply with the provisions of this NPD. See Attachment B for Standard Operating Procedures.

(2) Preparing notices of upcoming meetings for Federal advisory committee meetings under their authority and coordinate such notices with the NASA Federal ACMO for approval with sufficient lead time to ensure that notices are published in the FR not less than 15 calendar days prior to the meeting.

(3) E-mailing draft notices to FR Liaison Officer for review and processing, and ,digitally-signed processed notices for publication in the FR.

(4) Obtaining concurrence from the Office of the General Counsel and written approval from the NASA Federal ACMO for any NASA Federal advisory committee meetings that:

(a) Are of an administrative, preparatory, or fact-finding nature not subject to the Federal Advisory Committee Act (FACA); or

(b) Require Agency written approval to formally close the meeting to the public, in accordance with FACA, the Government in the Sunshine Act, and other implementing regulations.

(5) Consulting the Office of the General Counsel to determine the need to amend or issue regulations.

(6) Ensuring that regulations under their authority do not replicate existing internal or external requirements. However, cross referencing may be used to cite existing requirements.

(7) Reviewing the currency and appropriateness of their regulations at least once every five years and each time the underlying statutory authority is amended, in order to determine if action is needed to amend or repeal regulations.

(8) Responding to public comments on regulations under their authority by submitting those responses to the FR Liaison Officer for posting in the FDMS.

(9) Ensuring that material is properly prepared, coordinated, and editorially correct, with emphasis on brevity and clarity.

(10) Coordinating all notices and regulations with the FR Liaison Officer.

(11) Submitting regulatory priorities and regulations under development to the FR Liaison Officer for inclusion in the Regulatory Plan and the Unified Agenda.

r. NASA Center Directors, or their designee proposing notices, are responsible for:

(1) Ensuring that all notices under their authority comply with the provisions of this NPD.

(2) Coordinating all notices under their authority with their respective Office of the Chief Counsel for concurrence, the Headquarters (HQ) Office of the General Counsel for concurrence, the HQ Office of the Associate Administrator for approval, and the FR Liaison Officer for review.

s. The Inspector General, in accordance with the Inspector General Act, reviews all regulations prior to publication in the FR. Notices signed by the Inspector General will be reviewed by legal counsel to the Inspector General and processed through the NASA FR Liaison Officer for publication.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENT/VERIFICATION

The Mission Support Directorate will verify compliance with this directive by reviewing each NASA notice, regulation, and unified agenda input to confirm that requirements are met and corrective actions are completed in accordance with EO 12866, and the FRDDH.

8. CANCELLATION

NPD 1400.2D, Publishing NASA Documents in the Federal Register and Responding to Regulatory Actions, dated

July 21, 2008.

REVALIDATED W/CHANGE 2, 10/31/15, ORIGINAL SIGNED BY:

/s/ Charles F. Bolden, Jr.
Administrator

ATTACHMENT A: Definitions

Direct Final Rule - A direct final rule is issued to expedite rulemaking for a noncontroversial action not expected to generate adverse comments. It is generally not preceded by a proposed rule, but can be issued concurrently. The comment period for a direct final rule usually runs 30 or 45 days from the date of publication.

Final Rule - A final rule finalizes a previously issued proposed rule or takes final action with a prior proposed rule (for good cause). It is generally issued to amend the CFR and is effective in 30 days from the date of publication in most cases, 60 days from the date of publication for major rules, or on the date of publication in response to an emergency or for other good causes shown.

Information collection - Can occur in any form or format, including the use of report forms; application forms; schedules; questionnaires; surveys; reporting or recordkeeping requirements; contracts; agreements; policy statements; plans; rules or regulations; planning requirements; circulars; directives; instructions; bulletins; requests for proposal or other procurement requirements; interview guides; oral communications; posting, notification, labeling, or similar disclosure requirements; telegraphic or telephonic requests; automated, electronic, mechanical, or other technological collection techniques; standard questionnaires used to monitor compliance with agency requirements; or any other techniques or technological methods used to monitor compliance with agency requirements.

Interim Final Rule - An interim final rule is issued to react to an emergency situation, relieves unnecessary restrictions on the public, and take public comments on interim action. An interim final rule takes effect generally on the date of publication or less than 30 days from the date of publication. The comment period for interim final rules usually runs 30, 60, or 90 days from the date of publication.

Preliminary Rule - A preliminary rule (also known as "Advanced Notice of Proposed Rulemaking") also announces possible changes to the CFR and solicits public comments on proposed regulatory text.

Proposed Rule - A proposed rule (also known as "Notice of Proposed Rulemaking") announces possible changes to the CFR and solicits public comments on proposed regulatory text. Comments on these rules must be considered and decisions to finalize justified. If proposed rules are impracticable, unnecessary, or contrary to the public interest, agencies may invoke a "good cause" exception.

Attachment B: Publishing NASA Documents in the Federal Register Standard Operating Procedures

B.1 Preparation of notices signed by the designated official

- a. Prepare a notice using the guidelines outlined in the FRDDH. Once the notice is finalized, e-mail the final draft notice to the FR Liaison Officer for review and processing.
- b. After receiving the processed notice back from the FR Liaison Officer, obtain the authorized signer's digital signature on the notice and forward the digitally-signed notice to the FR Liaison Officer for transmission to the FR for publication.

Note: The person whose name appears in the signature block of the notice is the only one that can digitally sign the notice. Therefore, when forwarding a digitally-signed notice on behalf of the authorized signer, do not open the document, as it will compromise the digital signature.

B.2 Preparation of regulations approved by the NASA Administrator

- a. Prepare a regulation using the guidelines outlined in the FRDDH. Once the regulation is finalized, perform the

following to coordinate for the NASA Administrator's approval:

Note: Download the Handbook at: <http://www.archives.gov/federal-register/write/handbook/ddh.pdf>

(1) Request a Regulatory Identification Number using the Regulatory Information Data (RID) form, and submit it to the FR Liaison Officer.

*Note: Download the RID form and instructions for completing the form at:
<http://www.reginfo.gov/public/jsp/regform/download.jsp>*

(2) In the Preamble of the regulation, include language that instructs the public to submit comments to <http://www.regulations.gov/>.

(3) Prepare an NHQ Form 117, listing the organizations that will review and concur, allowing two weeks for coordination.

Note: At a minimum, obtain concurrences from the Office of the Chief Financial Officer, the Office of the General Counsel, the Office of Human Capital Management, the Office of International and Interagency Affairs, the Office of Procurement, the Office of Small Business Programs, the Office of the Inspector General, and the Mission Support Directorate.

(4) Make the appropriate number of copies of the NHQ Form 117 and rule, and distribute the packages to the reviewing organizations for simultaneous concurrence.

b. After receiving all concurrences, assemble the regulation in an Administrator's signature package, email the final draft regulation, and submit its signature package to the FR Liaison Officer. Assemble the signature package as follows:

(1) Outside of folder, front:

(a) Executive Correspondence (clear plastic) cover.

(b) NHQ Form 117 with concurrences from the reviewing organizations attached.

(2) Inside of folder, left side:

(a) Executive Correspondence (clear plastic) cover.

(b) NHQ Form 117 Executive Summary.

(c) White Divider Tab labeled "Redline."

(d) Redline of current regulation as published in the CFR.

(3) Inside of folder, right side:

(a) Executive Correspondence (clear plastic) cover.

(b) The Regulation

Note 1: The FR Liaison Officer will forward the signature package to OGC for concurrence, the Office of Information Regulatory Affairs (OIRA) for the interagency review and clearance, and the Executive Secretariat for review prior to the Administrator's approval.

Note 2: OGC and the Executive Secretariat will coordinate corrections directly with the responsible office, and the FR Liaison Officer will forward edits from OIRA to the responsible office for corrective action.

(URL for Graphic)

None.

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