

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 33-320

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(Ms Bao-Anh Trinh, GS-15)

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This instruction implements Air Force Policy Directive (AFPD) 33-3, *Information Management*, and Office of the Secretary of Defense (OSD) Administrative Instruction No. 102, *Office of the Secretary of Defense (OSD) Federal Register (FR) System*, August 6, 1999. It gives guidance on the overall *Federal Register* (FR) system and tells how to submit rules and notices' affecting the public for publication in the FR except as applies to Privacy Act of 1974, System of Records Notice (Air Force Instruction [AFI] 33-332, *Air Force Privacy and Civil Liberties Program*). It also establishes procedures for automatic distribution of the FR and the Code of Federal Regulations (CFR) to Air Force organizations. It explains which kinds of rules should be published in the FR after the Air Force has accepted them with change or no change. The *Federal Register Document Drafting Handbook* is accessible online for further help on FR submissions at <http://www.archives.gov/federal-register/write/handbook/>. The authorities to waive wing/unit level requirements in this publication are identified with a Tier ("T-0, T-1, T-2, T-3") number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, Table 1.1 for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of IAW the Air Force Records Disposition Schedule (RDS) in the Air Force Records Information Management System (AFRIMS).. Send recommended changes or comments to Secretary of the Air Force, Cyberspace Capabilities and Compliance (SAF/CIO A6X), 1800 AF Pentagon, Washington, DC 20330-1800; through appropriate channels, using AF Form 847, **Recommendation for Change of Publication**. See **Attachment 1** for a Glossary of References and Supporting Information.

SUMMARY OF CHANGES

This interim change (IC) revises AFI 33-320 by (1) updating the mandatory Records Management Statement, (2) adding tiering, IAW AFIS and AFI 33-360, *Publications and Forms Management*, and (3) updating office symbols to reflect current organizations, replace SAF/A6PP with SAF/CIO A6XA throughout the publication. A margin bar (|) indicates newly revised material.

1. The Department of the Air Force will:

- 1.1. Participate in the regulatory activities of the DoD and adhere to guidelines provided by the OSD and the Director of Administration and Management (DA&M).
- 1.2. Determine when it's appropriate to encourage maximum participation of the public in the formulation of its documents by allowing public comments on proposed rules or notices affecting them.
- 1.3. Participate in the regulatory process and adhere to Executive Order (E.O.) 12866, *Regulatory Planning and Review*; Title 5 U.S.C. 601, *Regulatory Flexibility Act*; and Title 44 U.S.C. 3501 et seq.
- 1.4. Publish an Air Force document in the FR for public comment if:
 - 1.4.1. It confers a right or privilege on a segment of the public or has a direct or substantial impact on the public or any significant portion of the public.
 - 1.4.2. It prescribes a course of conduct that is to be followed by persons outside the Government to avoid a penalty, or secure a right or privilege.
 - 1.4.3. It constitutes authority for persons outside the Government to act or to secure immunity from the consequences of not acting.
 - 1.4.4. It imposes an obligation on the general public or members of a class of persons outside the Government.
 - 1.4.5. It describes where the public may obtain information, instructions, and forms; make submittals or requests; take examinations; or obtain decisions.
 - 1.4.6. It describes procedures by which it conducts its business with the public.
- 1.5. Establish a Federal Register Liaison Office and designate an Air Force Federal Register Liaison Officer (AFFRLO) to conduct business directly with the Office of the Federal Register.

2. Exemptions. Documents are not usually published in the FR if the rule:

- 2.1. Is focused toward an individual in his or her capacity as an employee of a Federal agency or a member of the Armed Forces.
- 2.2. Pertains to a military or foreign affairs function of the United States, determined under the criteria of an E.O. or statute, to require a security classification in the interest of national defense or foreign policy.
- 2.3. Is limited to Air Force organization, management, or personnel matters.

3. The Federal Register Liaison Office. SAF/CIO A6XA (Information Access Branch) is designated to perform Federal Register duties and support the duties required of the AFFRLO. The AFFRLO will:

- 3.1. Act as the single point of contact with the Office of the Federal Register (OFR).
- 3.2. Coordinate on draft Air Force documents (i.e., proposed or final rules, interim rules) requiring publication in the FR (see AFI 33-360, *Publications and Forms Management*).
- 3.3. Provide advice and guidance to Air Force personnel on publishing rules and notices in the FR.
- 3.4. Coordinate with the Secretary of the Air Force Office of General Counsel (SAF/GC) when necessary to determine whether or not a document (proposed/final rule/notice) should be published in the FR.
- 3.5. Ensure that rules prepared by Air Force organizations include certification (signed by designated officials) and statements of determination (rule is/is not significant) in compliance with executive, legislative, and FR requirements.
- 3.6. Prepare "Submission of Federal Rules Under the Congressional Review Act" for new and revised rules and submit to both Houses of Congress and General Accounting Office in accordance with Title 5 U.S.C. 801, *Congressional Review Act*.
- 3.7. Authorize, certify, validate, obtain regulatory identifier number (RIN), assign billing code, and send rules and notices to the OFR for publication in the FR.
- 3.8. Maintain original certifications and statements of determination.
- 3.9. Send description of rules under development to OMB, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503, for review in compliance with E.O. 12866.
- 3.10. Coordinate recommended OMB changes with the originating office.
- 3.11. Review, update, revise, and submit the Air Force portion of the Unified Agenda of Federal Regulations to OSD/DA&M, 1215 Jefferson Davis Highway, Arlington VA 22202-4302.
- 3.12. Provide a Statement of Regulatory Priorities (i.e., Presidential, Agency) and summaries of significant regulatory actions to the OSD/DA&M for the annual Regulatory Plan in accordance with E.O. 12866.
- 3.13. Provide negotiated rulemaking procedures in accordance with Title 5 U.S.C. 561-570, *Negotiated Rulemaking Act*.
- 3.14. Provide a copy of the published rule or notice to Office of Primary Responsibility (OPR), if requested.
- 3.15. Maintain distribution lists of and approve requests for FR and CFR (see paragraph 8).
- 3.16. Maintain distribution lists of and approve requests for FR and CFR (see paragraph 8).

4. Major Command (MAJCOM), Field Operating Agency (FOA), Direct Reporting Unit (DRU) Records Manager (RM) and Headquarters United States Air Force [HQ USAF] Designated OPR. As liaison between the originating office and AFFRLO, the OPR will:

4.1. Participate in the regulatory activities of the Department of the Air Force.

4.1.1. Prepare and submit to the AFFRLO, SAF/CIO A6XA (Information Access Branch), Air Force Pentagon, Washington DC 20330-1155, the description of rules under development by their organizations for AFFRLO and OMB review.

4.2. Send the final rule to the AFFRLO within 30 calendar days after printing or electronic distribution of the publication. Also include . (T-0).

4.3. Send notices required in paragraph 6.3 to the AFFRLO. (T-1).

4.4. Review, approve, and send requests, with justification, for printed copies of the FR and CFR (complete sets only) to the AFFRLO if electronic access (<https://www.federalregister.gov/>) is unavailable, or if paper/microfiche media is required. (T-1).

5. Rules with a Substantial and Direct Impact. When a rule has a substantial and direct impact on the general public, and therefore requires publication in the FR, the originating office:

5.1. Prepare the rule in compliance with E.O. 12866, Title 5 U.S.C. 601 et seq., and Title 44 U.S.C., 3501 et seq., and notices with Title 5 U.S.C. 551-559 and 701-706, *Administrative Procedure Act*, using the FR format in the National Archives and Records Administration *Federal Register Document Drafting Handbook* at <http://www.archives.gov/federal-register/write/handbook/>

5.2. Coordinate the rule with the appropriate OPR (paragraph 4) for compliance with this instruction.

5.3. Submit the rule to the AFFRLO using AF Form 1768, **Staff Summary Sheet**, or memorandum, requesting publication of the document in the FR. (T-1). The originating office should coordinate the AF Form 1768 or memorandum through his/her functional counterpart at HQ USAF. The package is coordinated by SAF/GC, signed by an official appointed by the President and confirmed by the Senate (Presidential Appointments with Senate Confirmation [PAS]) and contain the following information:

5.3.1. A certification as to whether the document is a major rule that has an annual effect on the economy of \$100 million or more, or certain other specified effects under E.O. 12866.

5.3.2. A certification explaining an economic analysis is determined if a rule has significant economic impact on a substantial number of small entities as a regulatory flexibility analysis required by Title 5 U.S.C. 601, et seq. A PAS must sign a Title 5 U.S.C. 601 et seq. certification explaining that determination if such an analysis is not needed. (T-0).

5.3.3. A supporting statement for a rule containing a collection of information that includes reporting and record keeping requirements under the provisions of Title 44 U.S.C. 3501, et seq.

5.4. Send the proposed rules in editable format (e.g., MS Word) to the AFFRLO that contain the following preamble information:

5.4.1. Agency. Identify the originating agency.

5.4.2. Action. Identify the type of document. Do not summarize the substance of a document (proposed rule [i.e., advance notice of proposed rule], extension of comment period, notice of proposed rulemaking; final rule [i.e., delay of effective date], confirmation of effective date, interim rule, adopted rule, etc.).

5.4.3. Summary. Explain briefly the “what,” “why,” and “effect” of the document.

5.4.4. Dates. Include the dates essential to the document (e.g., effective date, comment deadlines, public hearings, and other dates) that would concern the public’s knowledge of rulemaking proceedings. A period of not less than 60 days from the date the proposed rule is published in the FR is allowed for accepting comments.

5.4.5. Addresses. Include any address that the public needs to know (e.g., mailing or hand-delivering public comments, attending public hearings or meetings, and any material available for public inspection).

5.4.6. For Further Information Contact. Include the name, address, telephone number, and e-mail of a person within the Air Force who can answer questions about the document.

5.4.7. Supplementary Information. Include the regulatory history of the rulemaking document. Present background information and detail necessary to give adequate notice of the issues to be commented on as mandated by Title 5 U.S.C. 551-559 and 701-706. If appropriate, state briefly why inviting public comment on a proposed rule is impractical, unnecessary, or contrary to the public interest.

5.4.7.1. If the rule is a major rule under the requirements of E.O. 12866, so state and include details. If it is not a major rule, include a statement, e.g., “The Department of the Air Force has determined that this proposed rule is not a major rule because it does not have an annual effect on the economy of \$100 million or more,” or other rationale that applies.

5.4.7.2. If Title 5 U.S.C. 601 et seq. applies, so state, accomplish a regulatory analysis, and provide details of that analysis. If such an analysis is not required or is exempt, a Title 5 U.S.C. 601 et seq. certification explaining that determination needs to be signed by an official appointed by the President and confirmed by the PAS and submitted.

5.4.7.3. If the provisions of Title 44 U.S.C. 3501 et seq. apply, so state and provide details. If an analysis is not required or is exempt, include a statement, e.g., “This rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, amended in 1995 (Title 44 U.S.C. 3501 et seq).”

5.4.8. Authority Citation. Cites the authority that authorizes the Air Force to change the CFR. Give the authority citation in the shortest form. There are two types of authority:

5.4.8.1. Statutory (Public Law or U.S.C.).

5.4.8.2. Nonstatutory (Presidential Executive Order; Presidential Administrative Order; Presidential Memorandum; Agency delegation, policy, or directive; OMB circular, or CFR regulations).

5.5. Review the comments received from the public on a proposed rule and decides what changes, if any, should be made. Obtains proper coordination. (T-1).

5.6. Send the final rule to the AFFRLO within 120 calendar days after publishing the proposed rule in the FR. (T-1). Addresses the public comments received and gives the changes, or the reasons for not making changes, in the Supplementary Information section of the preamble.

5.7. Notify the AFFRLO if a rule previously printed in the FR becomes obsolete, requires revision, or when another office assumes responsibility from the originating office. (T-1).

5.7.1. Uses amendatory language to identify changes to the rule in the CFR. The only acceptable terms used in an amendment are “add, amend, correct, nomenclature change, redesignate, remove, republish, reserve, revise, stay, suspend, and withdraw.”

5.7.2. Amendments to proposed and final rules are published in the FR to change the CFR or to address public comments.

6. Rules with Federalism Impacts. When a rule is determined to have any Federalism implications, as defined in E.O. 13132, *Federalism*, and prior to formal promulgation of said regulation, the originating office shall:

6.1. Afford adequate time for meaningful discussions and consideration of issues of concern expressed by state and local officials.

6.2. Document any such issues of concern and the extent to which they have been met. (T-1).

6.3. Send the AFFRLO a notice for publication in the *Federal Register*. In a separately identified portion of the preamble to the regulation, prepare a Federalism summary impact statement consisting of a written description of: (T-1).

6.3.1. The extent of prior consultation with state and local officials.

6.3.2. The extent to which the concerns of state and local officials have been met.

6.3.3. The Air Force’s position supporting the need to issue the regulation.

6.4. Provide a copy of the *Federal Register* rule including the above statement to all participants in the consultation process. (T-1).

7. Notices of Hearings and Advisory Committee Meetings. See DoDD 5105.4, *DoD Federal Advisory Committee Management Program*, September 5, 1989, for specific requirements and procedures applicable to the Air Force Committee Management Program. The originating office shall:

7.1. Send the notice, in editable format (e.g., MS Word), under the cover of a memorandum signed at least at the colonel-level, through the MAJCOM, FOA, or DRU designated OPR to the AFFRLO. (T-1). Notice documents include the following items:

7.1.1. Headings. Agency Name (DoD)/Subagency Name (Department of the Air Force).

7.1.2. Subject Heading (Name of the meeting or intent of the notice).

7.1.3. Authority Citation. Cite the authority that authorizes the Air Force to issue the notice (see paragraph [5.4.8](#)).

7.1.4. Text. The originating office should present the text of the notice in any organized and logical format; or use the same preamble format required for a rule or proposed rule omitting preamble captions that are not applicable (see paragraph 5.4).

7.2. Notify the AFFRLO of any change in the content or status of a notice (i.e., canceled, date changed) that would affect the public. Publish notices in the FR 15 days prior to the date of the hearing/meeting. (T-0). The originating office must submit the notice not later than 30 days prior to the date of the hearing/meeting, to the AFFRLO, to allow the AFFRLO and OFR sufficient processing time. (T-1).

7.2.1. If the notice does not meet the publication criteria of 15 days prior, postpone the hearing/meeting or cancel. A notice is not submitted for publication without advance approval from OSD and Air Force Committee Management Offices, and coordination with the Office of the Air Force General Counsel (SAF/GC).

7.2.2. Publication of notices for hearings/meetings closed to the public needs to also be coordinated with SAF/GC prior to submitting the notice to the AFFRLO.

8. Distribution.

8.1. Federal Register. The *Federal Register* is accessible, free, online through the Government Printing Office (GPO) Access Service at www.gpo.gov/fdsys. Hard copy subscriptions are no longer available.

8.2. Code of Federal Regulations. The CFRs are accessible, free, online through GPO Access Service at www.gpo.gov/fdsys.

8.3. DELETED.

8.4. DELETED.

9. Information Collections, Records, and Forms.

9.1. Information Collections. No information collections are created by this publication.

9.2. Records. Retain and dispose of records created as a result of this instruction according to AFI 33-322, *Records Management Program*.

9.3. Forms (Adopted and Prescribed).

9.3.1. Adopted Forms. AF Form 847, **Recommendation for Change of Publication**; and AF Form 1768, **Staff Summary Sheet**.

9.3.2. Prescribed Forms. No forms are prescribed by this publication.

WILLIAM J. BENDER, Lt Gen, USAF
Chief of Information Dominance
and Chief Information Officer

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

E.O. 12866, *Regulatory Planning and Review*

E.O. 13132, *Federalism*

Title 3, CFR, *The President*

Title 5, CFR, *Administrative Personnel*

Title 5 U.S.C. 551-559 and 701-706, *Administrative Procedure Act*

Title 5 U.S.C. 561-570 et seq., *Negotiated Rulemaking Act*

Title 5 U.S.C. 601 et seq., *Regulatory Flexibility Act*

Title 5 U.S.C. 801, *Congressional Review Act*

Title 44 U.S.C. 3501 et seq., *Paperwork Reduction Act*

National Defense Act

Federal Register

Federal Register Document Drafting Handbook

DoDI 5025.01, *DoD Directives System*, October 28, 2007

DoD 5025.1-M, *DoD Directives System Procedures*, October 1, 2001 (Draft)

DoDI 5105.4, *DoD Federal Advisory Committee Management Program*, August 6, 2007

OSD Administrative Instruction No. 102, *Office of the Secretary of Defense (OSD) Federal Register (FR) System*, November 6, 2006

AFPD 33-3, *Information Management*

AFI 33-332, *Air Force Privacy Act Program*

AFI 33-360, *Publications and Forms Management Program*

AFMAN 33-322, *Records Management Program*

Abbreviations and Acronyms

AFFRLO—Air Force Federal Register Liaison Officer

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

CFR—Code of Federal Regulations

DA&M—Director of Administration and Management

DoD—Department of Defense

DoDD—Department of Defense Directive
DRU—Direct Reporting Unit
E.O.—Executive Order
FOA—Field Operating Agency
FR—Federal Register
GPO—Government Printing Office
HQ AFNIC—Headquarters Air Force Network Integration Center
HQ USAF—Headquarters United States Air Force
MAJCOM—Major Command
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPR—Office of Primary Responsibility
OSD—Office of the Secretary of Defense
PAS—Presidential Appointments with Senate Confirmation
RIN—Regulation Identifier Number
RM—Records Manager
SAF—Secretary of the Air Force
U.S.C.—United States Code

Terms

Advisory Committee—Any committee, board, commission, council, conference, panel, task force, or other similar group, or their subcommittees that the Air Force forms or uses that has any members who are not full-time officers or employees of the government, established by statute. The committee is also established or utilized by the President or an agency official (see DoDD 5105.4 and DoDD 5105.18, *DoD Committee Management Program*, January 18, 1990).

Amendatory Language—Specific terms must be used to identify a change to the rule in the CFR. The only acceptable terms used in an amendment are “add, amend, correct, nomenclature change, redesignate, remove, republish, reserve, revise, stay, suspend, and withdraw.”

Amendments to Rules—Amendments to proposed and final rules are published in the FR to change the CFR or to address public comments.

Code of Federal Regulations (CFR)—The CFR is the foundation of the *Federal Register* publication system. The CFR is an annual codification of the rules of each Federal agency. It is divided into 50 titles representing broad subject areas of Federal agencies; e.g., *National Defense Act*, contains the Air Force rules. Each title of the CFR is divided as follows:

(1) Chapter and Subchapter. The division of a title assigned to a Federal agency or one of its components. Chapters are identified by Roman numerals; e.g., I, II, III, etc. The subchapter is used to group related parts within the chapter and are usually identified by capital letters; e.g., A,

B, C, etc.

(2) Part and Subpart. The division of a chapter that consists of a unified body of rules applying to a single function of the issuing agency or is devoted to a specific subject matter under the control of that agency. A part is identified by Arabic numerals through each title; e.g., 1, 2, 3, etc. A subpart is issued to group related sections within a part and identified by capital letters.

Document—Specific categories are Rules, Proposed Rules, Notices, Meetings, Executive Orders, and Proclamations.

Federal Register (FR)—The daily FR contains four categories of documents: regulations (rules), proposed rules, notices, and Presidential documents. Rules published in the FR keep the CFR current. Proposed rules solicit public comment on an agency's rules and encourage public participation in the rulemaking process. Notices provide information of interest to the public but are not part of the regulatory process.

Federal Register/Code of Federal Regulations Publication System—The Federal Register system is composed of two major publications, the annual revised Code of Federal Regulations and the daily *Federal Register*. Together, the two publications provide a current version of each Federal agency's regulations.

Negotiated Rulemaking Procedures—A process of drafting regulations (rules) bringing parties together that would be affected by the rule to include Government (as an advisory committee) to reach consensus (in all or part) before the rule is published.

Notice—A document that announces information of public interest. It will not contain regulatory text, impose requirements with general applicability and legal effect, or affect a rulemaking proceeding. Some notices are required to be published in compliance with legislation. Typical notice documents announce: meetings; availability of applications; issuance or revocation of a license; grant application deadlines; availability of certain environmental impact statements; certain petitions; and orders or decisions affecting named parties.

Preamble Requirements—Each agency document published in the proposed rules category of the FR must contain a preamble. The preamble follows the subject heading of the document. It explains the basis and purpose of the regulatory text. The preamble contains no regulatory text. It arranges basic information on the “who, what, where, when, and why” of a document for the reader's convenience. See paragraph 5.4.3.

Regulation—A document of general application designed to implement, interpret, or prescribe procedural requirements.

Regulation Identifier Number (RIN)—A document number assigned by OMB to each regulatory action published in the United Agenda of Federal Regulatory and Deregulatory Actions.

Regulatory Action—A decision making process that affects the general public.

Regulatory Plan—A Statement of Regulatory Priorities that identifies the most significant regulatory actions that the Air Force expects to issue in the next fiscal year in accordance with E.O. 12866.

Rule—A regulatory document, such as an AFPD, AFI, AFMAN, that has general applicability to and legal effect on the public, that is published in the FR, and most of which is codified in the CFR.

(1) **Adopted Rule.** An Interim Rule that has been published in the FR, that has been accepted as a final rule with change or a final rule without change.

(2) **Proposed Rule.** A draft document, such as a proposed AFPD or AFI, published in the FR to allow 60 days for public comments. A proposed rule is followed up with a final rule.

(3) **Interim Final Rule.** A document that is published in the FR and CFR without prior notice of a proposed rule, usually to respond to an emergency situation or in response to a legislative or executive requirement. The interim rule may include requests for public comment, which may contain expiration dates for responses. An interim final rule is followed by a final rule.

(4) Direct Rule. A rule that has not been preceded by a proposed rule. Used for routine and noncontroversial regulations that will not generate adverse comment. A direct final rule becomes effective on a specific future date, unless adverse comments are received within a specified period of time, generally before the effective date. If adverse comments are received, the rule is withdrawn. A confirmation document is optional, unless stated rule confirmed follow—up confirmation document.

(5) **Final Rule.** A concluding document published in the FR and CFR that presents decision of the Air Force and addresses public comments.

(6) **Significant Rule** A proposed, interim final, or final rule may be a “significant rule” if it: (a) has an annual effect on the economy of \$100 million or more, or adversely affects in a material way, the economy: a sector of the economy productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (b) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency; (c) materially alters the budgetary impact of entitlements, grants, user fees, or load programs or the rights and obligations of recipients thereof; or (d) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or principles of E.O. 12866.

Unified Agenda of Federal Regulations—Consolidated OMB documents published in the FR consisting of published rules that have significant public impact and interest.

Unit—The OFR format for text in the FR and CFR.