



# Incorporation by Reference Handbook

---

## Chapter VI

Office of the Federal Register  
National Archives and Records Administration

## VI. Requesting IBR Approval

---

### A. When Do I Request Approval for an IBR?

Do **NOT** request approval for proposed rule documents. In cases where IBR is being proposed, we conduct a limited review after you send these documents in for publication but before our general editing process begins.

For final rules, you must send us the IBR request **at least 20 working days** before you intend to send the final rule for publication, **but as far in advance as possible** when the request is complete and further in advance if the rule is complex or there are numerous publications requested to be incorporated by reference. Before you send your final rule in for publication, you *must* request formal IBR approval if you are (see [Flowchart 1 in Appendix A.B of this handbook](#)):

1. Incorporating a new publication;
2. Incorporating a different version of a publication;
3. Adding a currently-approved publication to a new section;
4. Redesignating a section with already approved IBR material; or
5. Incorporating a publication already approved for another agency.

For items 3-5 (above), you do not have to give us another copy of the publication(s). You must state in your request letter that you are not including that specific publication, and you must specify the section and paragraph where the publication is currently approved. This will reduce questions we have about your IBR request.

For item 3 (above), you must summarize the publication in the current rule's preamble.

For item 4 (above), you may or may not need to summarize each publication in the current rule's preamble. Contact us for requirements specific to your rule.

You may not send us the final rule for publication before receiving the Director's approval to publish.

A document might publish in the *Federal Register* that contains reference(s) to incorporated material, since the Director does not review each document submitted for publication. However, without the Director's formal IBR approval, the material referenced is not incorporated by reference.

## B. How Do I Request Approval?

- For PROPOSED RULE documents (including ANPRMs), simply send in the document for publication.
- For FINAL RULE documents, follow these steps:

### 1. What do I send?

#### *a. IBR material*

i. Make sure all the IBR material is:

1. Legible with no extraneous marks, redactions, or annotations;
2. Complete; and
3. Clearly identified by:
  - a. Publisher,
  - b. Identification number of the publication (designation),
  - c. Title,
  - d. Edition (if any),
  - e. Author (if appropriate), and
  - f. Date.

(See Example 1-1 and Example 1-2 in Appendix A.D.1 of this handbook.)

ii. Include a complete copy of the material to be incorporated in the request package except as follows:

1. If the exact version of the material is already incorporated elsewhere in the CFR (i.e. the material is currently approved):
  - a. Include the full description in the letter along with the current approval location, but
  - b. Do not include a copy of the material in the package.
2. If the regulatory text of the draft rule includes references to material already approved for that section or appendix:
  - a. Add an explanation to the letter, but
  - b. Do not include the full description of the material in the letter, and
  - c. Do not include a copy of the material in the package.

### *b. IBR request letter and draft rule*

All Word files must be .docx files (we do not accept .doc files) and cannot include periods in the file name. (For example, “draft-rule\_12-01-22.docx” instead of “draft-rule\_12.01.22.docx”). Your package must include:

1. A digitally-signed letter requesting approval of the incorporation—
  - a. If you do not use the template provided (see [Template 1 in Appendix A.A of this handbook](#)), you must include information about the proposed rule;
  - b. If you transmit a signed PDF file (by either signing the PDF or by scanning a signed paper letter), also include a draft version as an unsigned MS Word file (in .docx file format);
  - c. If you transmit a signed MS Word file, do not include the unsigned version; and
2. The draft rule as a single MS Word file (in .docx file format). **The DRAFT rule must include:**
  - a. All preamble headings and captions;
  - b. An easily identifiable IBR section in the preamble;
  - c. The words of issuance; and
  - d. All amendatory instructions and regulatory text affected by the IBR material.

The draft rule does not have to be otherwise complete, final, or through the OMB review process. It should not be signed because if we require changes, it will need to be re-signed before it can be transmitted for publication.

#### **i. Letter Content**

Address the letter to the Director of the Federal Register specifically requesting IBR approval and including the following information (see [Example 1-1 and Example 1-2 in Appendix A.D.1 of this handbook](#)):

1. The designation, usually an alpha-numeric designation<sup>12</sup>, title, date, version, and author of each publication you wish to incorporate by reference, grouped by publisher;
2. The title and section where you wish to incorporate a publication, including any centralized IBR sections. Include references to the lowest paragraph level in the section that requires the use of the publication, **except** for the centralized IBR section references<sup>13</sup>; and
3. Who to contact at your agency regarding your IBR request along with their phone number and email address.

<sup>12</sup> Even if the publication’s designation contains a partial date, for example ASTM F1234-12, this is not the same as the date of the document. You must include the date in addition to the designation.

<sup>13</sup> For example, 40 CFR 63.17(b)(1)(iii)(A). This is more detailed than what you include in a centralized IBR section. You do not need to include the paragraph level for the centralized IBR section in the request letter; the title and section are sufficient.

## ii. Letter Signature

We will accept signatures from Federal Register liaison officers, program staff, or agency attorneys, among others, so the request letter does not necessarily have to be signed by the head of your agency. To determine the Federal employee(s) in your agency who may sign an IBR request letter, ask your agency's attorneys.

We accept:

- A digitally signed PDF;
- A wet signature hard copy scanned as a PDF; or
- An invisible signature Word document.

## 2. How do I send my IBR request package for approval?

Under [OMB/NARA Memorandum M-19-21 \(updated by OMB/NARA Memorandum M-23-07\)](#), the OFR can no longer accept hard copies of IBR material (except under extremely limited circumstances<sup>14</sup>). In May 2021, we opened our eIBR pilot to all agencies and began providing secure ftp accounts to each agency that uses IBR in its regulations. Check with your Federal Register liaison officer for your internal procedures regarding use of this account – even if you have not gone through your liaison officer in the past. If you do not yet have an account, contact us.

### *a. IBR request package with IBR material*

If you are transmitting at least one publication as part of the request package—

1. Log into the GPO server using your agency's account (we will provide the account information).
2. Navigate to your office's folder on the GPO server (or create one, if necessary).
3. Create a new folder for this IBR request, making sure that the folder name adequately reflects the rulemaking.
4. Upload the signed letter (and unsigned Word file, if applicable), IBR material, and draft rule to the new folder.
5. Send us an email saying that you have uploaded a new IBR request.

### *b. IBR request package with no IBR material*

If the IBR request includes material that has already been incorporated elsewhere, such that you are not required to send copies of the material to the OFR—

Email us the signed letter (and unsigned Word file, if applicable) and draft rule.

### *c. IBR request package pre-approved for paper IBR material*

If we have not pre-approved your request to send paper, do NOT send paper with any IBR request. If we have pre-approved your request to send paper IBR material—

---

<sup>14</sup> Contact us for pre-approval to send paper as soon as possible if you encounter difficulty obtaining electronic files.

1. Send the IBR material to the attention of OFR, Legal Affairs and Policy Division, 7 G Street, NW, Suite A-734, Washington, DC 20401. Do NOT include the draft rule. You may (but are not required to) include an unsigned request letter. Do not use USPS to send material to this address.
2. Send us an email with the signed letter (and unsigned Word file, if applicable) and draft rule attached in the body of the email and state that you have sent (or are sending) the paper material. Include the date you sent the paper material, the address used for the destination, and any tracking information.

**Warning:** If you send the IBR request by U.S. mail, you must use the address found in [Template 1 in Appendix A.A of this handbook](#). However, U.S. mail is irradiated before it comes to us, which can damage the documents and delay delivery of the package. If there is too much damage, you will have to resend the IBR material. The preferred method is hand-delivery or courier (including UPS and FedEx) to our street address listed above. If you send a paper IBR request without pre-approval, we will NOT accept it.

### 3. How long will it take to process my request?

OFR Legal has 20 working days to review a request after transmission of a complete request package. We will notify you within that period that:

1. No edits are required and the request is approved;
2. Edits are required, along with appropriate red-line changes; or
3. The required edits are too extensive and the request is denied.

We will not notify or remind you to complete a package if we only receive a partial request.

- The 20-day period begins when we receive legally-sufficient material for all elements of the request.
- Failure to follow this procedure will delay the processing of your request.
- **We do not offer expedited or emergency review of IBR requests.**

You have 2 years from the date of the approval letter to send in the final rule for publication, unless you ask for an extension before that date. After 2 years, your approval will expire and we will dispose of any material that you have given us. To refer to the material after that time, you will need to send in a new request for IBR approval.