

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

SUBCHAPTER C—THE FEDERAL REGISTER

PART 20—INCORPORATION BY REFERENCE

Standards and Procedures Prescribed by the Secretary of the Administrative Committee (Director of the Federal Register)

Section 3(a) of the act to amend section 3 of the Administrative Procedure Act (Public Law 89-487, approved July 4, 1966) provides in part as follows:

For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register.

Legislative history references to the amendment are: (1) House Report No. 1497, Committee on Government Operations; (2) Senate Report No. 813, Committee on the Judiciary; (3) Congressional Record Vol. 111 (1965) October 13, considered and passed Senate; Vol. 112 (1966) June 20, considered and passed House.

In accordance with the amendment, the Director of the Federal Register hereby establishes standards and procedures governing his approval of instances of incorporation by reference submitted to the FEDERAL REGISTER for filing and publication.

The standards and procedures are set forth below in the form of a new Part 20 that is hereby added to Title 1, Chapter I, Code of Federal Regulations.

Notice of proposed rule making was published in the FEDERAL REGISTER of November 30, 1966 (31 F.R. 15023). The proposed standards and procedures, and the opportunity for comment, were approved in principle by the Administrative Committee of the Federal Register at its meeting of November 16, 1966.

Comment was received from over 20 agencies, from the Administrative Law Section of the American Bar Association, and from various attorneys as individuals. These comments were carefully evaluated. The measures suggested led to a complete revision of the proposed rule on incorporation by reference. As a result of these suggestions, the rule provides more detailed guidance as to standards to be followed, and provides for simplified procedures on the part of agencies submitting documents under these standards.

The text of the new Part 20 follows:

PART 20—INCORPORATION BY REFERENCE

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AUTHORITY: The provisions of this Part 20 issued under sec. 3(a), Public Law 89-487, 80 Stat. 250.

Subpart A—General Standards

§ 20.1 Scope and purpose.

The provisions of this Part 20 establish the standards and procedures under which the Director of the Federal Register shall decide to approve or deny use of incorporation by reference as contemplated by section 3(a) of the Administrative Procedure Act as amended July 4, 1966 (Public Law 89-487, 80 Stat. 250).

§ 20.2 Strict interpretation.

(a) *General.* The provisions of the last sentence of section 3(a) will be strictly interpreted by the Director in order to afford fairness and uniformity in administrative procedures involving publication in the FEDERAL REGISTER.

(b) *Basic instruments and publication system.* The Director will interpret and apply the provisions with full regard to the significance of related instruments governing publication in the daily FEDERAL REGISTER, and in supplemental editions thereof, including the Code of Federal Regulations, the U.S. Government Organization Manual and the Public Papers of the Presidents. Among others, the related instruments include:

(1) The Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.);

(2) The Federal Register Act, as amended (44 U.S.C. Ch. 8B);

(3) The regulations of the Administrative Committee of the Federal Register prescribed pursuant to the Federal Register Act (1 CFR Ch. I); and

(4) Special statutory provisions requiring publication in the FEDERAL REGISTER (see 1 CFR, Ch. I, App. B).

(c) *Primary assumption.* The Director will assume that the provisions of the last sentence of section 3(a) are: (1) Designed to cover the limited purposes of section 3(a), (2) intended to benefit both

the Government and the members of the classes affected by reducing the volume of matter actually printed in the FEDERAL REGISTER, and (3) not intended to detract from the legal or practical attributes of the system established under the basic instruments referred to in paragraph (b) of this § 20.2.

§ 20.3 Matter eligible.

In order to be eligible for incorporation by reference, the matter must be in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information reasonably available to the members of the class affected thereby.

§ 20.4 Distinctions.

(a) *Ordinary references.* The use of ordinary, informational references and cross references should be continued as usual. Such references are to be distinguished from instances of legal incorporation by reference under section 3(a).

(b) *Rules of availability of agency issuances.* Rules regarding the availability of agency issuances serve a different purpose and are to be distinguished from instances of legal incorporation by reference.

(c) *Promulgation.* The legal promulgation of a document in the FEDERAL REGISTER is to be distinguished from the use of legal incorporation by reference within such a document. Incorporation by reference is not acceptable as a substitute for promulgating in full text a proposition required to be published by section 3(a). Incorporation by reference is acceptable as a means of avoiding within the promulgated document an unnecessary repetition of published information already reasonably available to the class affected.

§ 20.5 Basic elements bearing on approval by Director.

The use of incorporation by reference will be approved by the Director when all of the following considerations are favorable and reasonably stable:

(a) The matter is eligible.

(b) Incorporation will substantially reduce the volume of materials published in the FEDERAL REGISTER.

(c) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(d) The incorporating document is drafted and submitted for publication in accordance with the provisions of this Part 20.

Subpart B—Drafting Standards

§ 20.10 Language of incorporation.

The language whereby a matter is incorporated by reference in the FEDERAL REGISTER shall be both precise and unequivocal on the face of the document

making the reference. The words expressing the incorporation shall make it clear that incorporation by reference is both intended and completed by the instant document.

§ 20.11 Identification and description.

Each incorporation by reference shall include an identification and a subject description of the matter incorporated. These shall be as precise and as useful as practicable within the limits of reasonable brevity.

(a) *Identification.* Titles, dates, editions, numbers, authors, and publishers shall be used where they contribute substantially to clear identification.

(b) *Subject description.* A brief subject description also shall be included, designed to inform the user regarding his potential need to obtain the matter incorporated.

§ 20.12 Statement of availability.

(a) *Information.* Each incorporation by reference shall also include a statement covering the availability of the matter incorporated, including current information as to where and how copies may be examined and readily obtained with maximum convenience to the inquirer.

(b) *Official showing.* Such statements also shall be tantamount to an official showing by the issuing agency that the matter incorporated is in fact reasonably available to the class of persons affected thereby.

(c) *Continued availability.* Where incorporated matter is subject to change, such statements shall clearly indicate: (1) The applicability and the availability of such changes; and (2) the availability of an official, historic file of such changes.

Subpart C—Publication Procedures

§ 20.20 Advance consultation.

In order to avoid delay in publication, the issuing agency shall, in advance of submission, consult with the Director regarding the acceptability of any given document involving incorporation by reference. This consultation should be completed at least 20 working days prior to the desired date of submission of the document for publication.

§ 20.21 Notification to issuing agency.

After completion of advance consultation, the Director shall notify the issuing agency of his decision regarding publication. Notification shall be given at least 5 working days before the proposed date of submission.

§ 20.22 Letter transmitting final document.

All documents submitted for publication under the provisions of this Part 20 shall be covered and accompanied by a letter of transmittal primarily con-

cerned with the matter of incorporation by reference and referring specifically to the required advance consultation.

§ 20.23 Stamp of approval.

All documents accepted under the provisions of this Part 20 shall bear a legend in substantially the following style: "Incorporation by reference provisions approved by the Director of the Federal Register _____." This legend

(date)

shall be affixed by the Director or his delegate and shall be printed in the FEDERAL REGISTER as part of the document.

Effective date. The provisions of this Part 20 are effective as to all documents published in the FEDERAL REGISTER after July 4, 1967.

DAVID C. EBERHART,

Director of the Federal Register.

MAY 29, 1967.

[F.R. Doc. 67-6128, Filed, May 31, 1967;
8:49 a.m.]

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

1967 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes and supplements of the Code of Federal Regulations issued to date during 1967. New units issued during the month are announced on the inside cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (as of Jan. 1, 1967):	Price
3 1966 Compilation	\$1.00
4 (Rev.)	.40
5 (Supp.)	1.00
7 Parts:	
53-209 (Rev.)	2.00
900-944 (Rev.)	1.00
945-980 (Rev.)	.65
981-999 (Rev.)	.65
1000-1029 (Rev.)	1.00
1030-1059 (Rev.)	1.00
1060-1089 (Rev.)	.75
1090-1119 (Rev.)	.70
1120-1199 (Rev.)	1.00
8 (Rev.)	.60
9 (Rev.)	1.25
14 Parts:	
1-59 (Rev.)	1.75
60-199 (Rev.)	1.50
200-end (Rev.)	1.75
16 Parts:	
0-149 (Rev.)	1.75
150-end (Rev.)	1.25
21 Parts:	
1-119 (Rev.)	1.00
120-129 (Rev.)	1.00
130-146e (Rev.)	1.75
147-end (Rev.)	1.00

CFR Unit (as of Jan. 1, 1967):	Price
22 (Rev.)	\$1.00
23 (Rev.)	.25
26 Parts:	
1 (§§ 1.0-1-1.300) (Rev.)	2.00
1 (§§ 1.301-1.400) (Rev.)	.65
1 (§§ 1.401-1.500) (Rev.)	1.00
1 (§§ 1.501-1.640) (Rev.)	.70
1 (§§ 1.641-1.850) (Rev.)	1.00
1 (§§ 1.851-1.1200) (Rev.)	1.25
1 (§§ 1.6001-end) to Part 19 (Rev.)	.70
20-29	(*)
30-39 (Rev.)	.75
40-169 (Rev.)	1.75
300-499 (Supp.)	.50
500-599 (Supp.)	.35
600-end (Supp.)	.45
27 (Supp.)	.30
28 (Rev.)	.65
29 Parts:	
0-499 (Rev.)	.70
500-899 (Rev.)	2.00
900-end (Rev.)	.75
30 (Rev.)	1.00
31 (Rev.)	1.75
32 Parts:	
40-399 (Rev.)	1.25
400-589 (Rev.)	1.50
590-699 (Supp.)	.50
800-999 (Rev.)	1.25
1200-1599 (Rev.)	1.25
1600-end (Rev.)	.55
32A (Rev.)	1.00
33 Parts:	
1-199 (Rev.)	1.00
200-end (Rev.)	1.75
34 [Reserved]	
36 (Rev.)	.75
37 (Rev.)	4.00
41 Chapters:	
1 (Rev.)	2.00
2-4 (Rev.)	1.00
5-5D (Rev.)	.60
6-17 (Rev.)	2.00
18 (Rev.)	2.00
19-100 (Rev.)	.60
101-end (Rev.)	1.25
42 (Supp.)	1.00
44 (Rev.)	.40
45 (Rev.)	1.75
46 Parts:	
146-149 (Rev.)	2.50
150-199 (Rev.)	1.25
47 Parts:	
0-19 (Rev.)	1.00
20-69 (Rev.)	1.50
70-79 (Rev.)	1.00
80-end (Rev.)	1.50
49 Parts:	
71-90 (Rev.)	2.25
91-164 (Rev.)	1.50
165-end (Supp.)	.65
50 (Rev.)	.75

*NOTE: No amendments to this volume were promulgated during 1966. The cumulative pocket supplement issued as of Jan. 1, 1966, should be retained.