

Decision Writing

Created by Lacy Trapp

October 2010

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Introduction

Adjudication is the process of taking a set of facts, applying a set of laws and regulations, and then reaching a conclusion as to the action to be taken.

This material is designed to benefit anyone who writes or reviews administrative decisions or anyone who writes or reviews documents that involve pending actions.

Writing a decision takes skill, not talent. Therefore, this material provides the skills needed to write an effective decision.

The goal of this material is to provide you with a basic knowledge of the adjudicative decision writing process. You should be able to write administrative decisions that are clear, concise, well-reasoned, logical, and accurately address pertinent issues.

Objectives

1. Explain why decision documents prepared should be sensitive to the recipients of the documents.
2. Define and describe at least three purposes of administrative decisions.
3. Identify, categorize, and define the types of decision documents issued by BLM.
4. Define the Issue Rule Analysis Conclusion (IRAC) thought process.
5. Use plain language techniques when communicating in writing to customers.
6. Understand the difference between protests, contests, hearings and appeals.

The ultimate goal of the objectives shown above is to help prepare *defensible decisions*.

Purpose and Function

A decision is a written document, signed by a Bureau official under authority, which disposes of a stated issue or issues in a case situation.

Decision Alternatives

1. Silence. Do we need to say or write anything? For example, a geothermal lease expires and no request for steam act amendment extension has been filed. Would you write a decision? No. How about a land use permit where the permit's term has expired? No.
2. Telephone. Sometimes calling settles the matter. For example, is it possible to phone a mining claimant to obtain missing information? An important thing to remember with phone conversations is documentation. Appendix A is an example of a conversation record that may be used to document phone calls. It can be found electronically in the Shared Folder.
3. Informational Letter. Write a letter and tell the applicant what needs to be done. When writing an informational letter it is important to use a conversational tone. Avoid being blunt as this could create an adverse action.
4. Letter containing compliance period. This type of letter needs to be sent certified, return receipt request. It should also contain a time limitation and spell out exactly what is needed. Sometimes this is sent as a notice instead of a letter; the differences between these will be discussed later.
5. Meeting. Meetings are useful in that some people respond better to personal contact with those they are dealing with. A meeting allows everyone involved to participate in open discussion which cuts down on reaction time. When communication is solely through decisions, the process of getting a task accomplished can become lengthy. Like a telephone conversation, it is important to document meetings for a reference in the file.
6. E-mail. Always include a copy of the e-mail in the file.

Purpose

1. Takes action or sets a course for future action.
2. Notifies applicants of a Bureau action.
3. Meets requirements of Administrative Procedures Act.

4. Establishes a historical record. Disposes of a case by setting forth the facts, laws and reasoning which require that disposition.
5. Provides the record for consideration by the board, if appealed. BLM wins or loses appeals based on case file documentation.

Staples of a Well Written Decision

1. Use simple words. Write so as not to attract the reader's attention to your writing style and divert it from your message. Use concrete and specific words.
2. Don't be redundant. Should be easy to read and accurate. Don't use bureaucratic acronyms without explaining them.
3. Use appropriate legal citations.
4. Stick to the point. Write about one issue at a time so the reader does not get confused about what is required of them.
5. Decisions should be well reasoned. Applicant is more likely to accept a decision if you have given the case thorough consideration and the findings are based on the solid foundation of the law, regulations and precedent. If you merely relate the facts and conclusion more than likely you will have an appeal from the applicant or even numerous telephone calls from the applicant.
6. Know your audience. Keep in mind cultural barriers that may exist. Your decisions will go to a variety of people ranging from the CEO of a major corporation to a small miner living in a motor home.
7. Keep sentences and paragraphs short. Sentences of more than 20-30 words may be too confusing or have too many ideas for the reader to grasp. Most people will scan the first couple of sentences in each paragraph. By keeping paragraphs short, the decision will be easier to read.
8. Use strong active words. Write "they decided" rather than "they made a decision." Remember that an active voice tends to be more natural (the way people speak) and you are less likely to commit grammatical errors in active voice.
9. Serve all parties. Everyone affected by the decision should receive a copy.
10. If the decision is adverse, include appeals language.

Decisions

Decisions have a specific format that may vary between offices. They are usually sent certified mail, return receipt requested, state current Bureau policy/regulations/case law/ statutory law, and provide a historical/administrative record for appellate review.

There are two types of decisions: final and interlocutory/conditional.

Final Decisions

A final decision is just what it says, the last action BLM takes. Because a final decision requires no further action by BLM, it serves to close a case when no appeal is taken.

Final decisions are always appealable. They should include an appeals paragraph; although the right to appeal exists even if appeal language is omitted.

There are two types of final decisions. Adverse decisions (example at Appendix B) deny rights or privileges which someone seeks. Approval decisions (example at Appendix C) approve or grant documents or extend rights or privileges.

You may also do a combination of the two. Combination decisions approve in part and deny in part. If you do use this type, you should be aware that if an appeal is filed, this may prevent implementation of the approval action until the appeal is decided. It is Nevada's policy not to issue this type of decision.

Interlocutory/Conditional Decisions

These decisions are a bit more complex. They provide conditions that trigger specified actions. A decision is interlocutory/conditional if BLM may or must take further action. There are three types of these decisions (Appendix D).

Type 1 is comply or a second decision will be issued. This type directs the applicant to comply within a period of time and advises them that, if they fail to comply, a second decision rejecting their application will be issued.

An appeals paragraph is not included in the first decision, but a notice of the consequences of failure to comply is. An appeals paragraph is included in the second decision and the appeal period begins as specified in the second decision.

Some time periods for compliance are fixed by regulation or by law.

Type 2 is comply or rejection will occur without further notice. This type requires an appeals paragraph. Typically, the decision holds the application for rejection - the applicant is ordered to comply within a period of time and advised that, if they fail to comply, their application will be rejected without further notice.

The appeal period commences the day after the end of the compliance period. It is important to include an appeals paragraph since a second decision will not be issued. You must be sure to clearly distinguish the appeal period from the compliance period. Appeals filed within the compliance period may be rejected as "premature." In this type of conditional decision there is a risk that the applicant may believe they have complied when indeed they have not done so.

Type 3 is rejected unless revived by some action. You must include the appeals paragraph on this type. The compliance and appeals period run simultaneous.

With the effort to improve customer service, this type of decision has become rare. We try to make the decision as understandable and customer oriented as possible even though it may be an adverse action.

Notices

Another category of correspondence is notices that are used for a variety of purposes. Like decisions, notices have a specific format and are considered a formal document. Notices are generally used to communicate information. They don't normally take an action but may propose to take action if a specific condition is not met. A notice is not appealable because it does not usually take an action but a protest may be taken in response. Regulations require publication of some notices in the Federal Register or local newspaper.

Letters

The last category of correspondence is letters. They serve many of the same purposes as decisions and notices but they are a less formal way of notification. If an issue is being decided or an adverse action is being taken, an appeals paragraph must be included. The same right of appeal attaches to the applicant as if a formal decision has been rendered. Whenever a letter decides an issue or takes an adverse action, that letter must be sent certified mail, return receipt requested. Any letter containing a compliance timeframe must also be sent certified mail, return receipt requested.

There are three types of letters. Informational letters answer questions or request information. Letter decisions are used in place of the formal decision format. Demand letters request additional information or set a timeframe for compliance.

IRAC

Issue, Rule, Analysis, Conclusion (IRAC) focuses on the organization of a decision (Appendix E). We use the decision process multiple times a day without even thinking about it.

Crossing the street is an example of everyday decision making. The goal is to get across safely. This can be accomplished by evaluating traffic flow, assessing traffic signals, and then deciding when to move. This decision is made using an analytical process.

The analytical process used by BLM for decision writing is called IRAC. Writing decisions can take up valuable time. By using the basic guidelines of IRAC you are able to quickly write correspondence that is clear to the reader.

Issue

The first step in preparing to write a decision is to identify the issue. Why are you writing the decision? Do you need to take an adverse action? What needs to be

accomplished? What points do you need to get across to the receiver? What caused the conflict?

The issue should be a clear, concise statement of the facts in the case. Since the issue can be stated in more than one way, style and personal preference (what your boss wants) will determine how the decision is actually written. Office policy plays a large part here.

There can be multiple issues and the decision writer must prioritize these. However, if you have more than two issues you may want to write more than one letter.

As a writer, you will have to determine which defects in a case are fatal (can't be fixed) and those defects which are curable (can be fixed by some corrective action by the applicant).

Every piece of writing revolves around a subject (issue). The issue is usually specific and in our case, governed by law and regulations.

Rule

The rule is the applicable authority. Once you have identified the issues, the next step is to identify the rule that applies. Appendix F is the BLM Manual 1845-Legal Source and Research Materials. This manual gives examples of how to cite various rules in your decisions.

Analysis

The process of applying the applicable rule to the issue is the analysis. The analysis requires examining the issues and the rule and determining how the two relate. When writing the analysis it is important to be objective and apply the correct rule. You must also clearly explain and be aware of the relationship of the rule and issue. Make sure to include enough information so the reader understands, but not too much as to confuse them. Lastly, make sure you clearly communicate the relationship between the issue and rule.

Conclusion

The conclusion is a clear statement of the final determination based upon the analysis. Once the analysis is complete, the last step in the IRAC process will fall into place. Often times the conclusion writes itself. The conclusion ties things together and states the final determination.

If the correct issue has been identified, the appropriate rule applied, and a thorough analysis completed, the conclusion will write itself.

Plain Language

Simple words and short sentences and paragraphs are important for writing a well written decision. On June 1, 1998 President Bill Clinton issued a memorandum (Appendix G) stating that the Government's writing needed to be changed from its bureaucratic form to a simpler, easier to understand form of writing.

Using plain language saves the Government and private sector time, effort, and money. When correspondence is easy to understand the first time, we do not waste time later explaining ourselves or undoing unnecessary actions.

Our correspondence should use an active voice. It should also anticipate the reader's needs. When the main message is in the first paragraph, the reader does not have to search for the meaning of the correspondence. Correspondence should help the reader find information. By avoiding repetition, correspondence is shorter and easier to read. This can also be accomplished by using simple words and short sentences.

The website www.plainlanguage.gov is an excellent source for information and tools.

Next time you sit down to write a piece of correspondence, take a minute to determine if you have anticipated the reader's needs, avoided repetition, and written short concise sentences.

Protests

A protest is any objection raised by any person to any action proposed to be taken by BLM.

The test to be applied to determine the proper means for handling an objection is to determine if BLM, in fact, has made a decision in the matter. If the objection received concerns an action BLM proposes to take, then the objection should be treated as a protest and not as an appeal.

A protest cannot be ignored or tossed out regardless of how trivial you think its arguments appear. They can be adjudicated in many different ways and should be fully adjudicated when supported by some convincing evidence. Protests may be dismissed, but can be subject to appeal to IBLA. Protests preserve the status quo on an action with no final decision until BLM either dismisses or allows the protest.

As an adjudicator processing a protest you must review the protest in order to determine that the protestant's allegations substantiate the protest and that it is an acceptable form. The protest must allege a violation of law and be supported by acceptable evidentiary material. There are four different actions that can be taken.

1. Uphold the protest. Issue a decision to applicant rejecting the application with the right of appeal.
2. Dismiss, reject or deny the protest. Issue a decision dismissing the protest with the right of appeal. You could summarily dismiss a protest if:
 - a) the protest contains merely conclusory allegations that indicate no basis for changing BLM's proposed action, b) when protest is filed after the party has failed to appeal a BLM decision, c) when the protest is filed after the BLM decision has been issued (action already taken) since it would be considered an untimely protest.
3. Suspend or acknowledge the protest. Issue notice, letter or decision suspending action on the protest.
4. Fact finding hearing. BLM may order a hearing on a protest and the protestant must prove a charge specifically made and which is properly

substantiated. A hearing is required when there is a material fact at issue and the material fact is not of record with the BLM.

Pending the review and disposition of the protests, the adjudication of the application will be stayed until final action has been taken on the protest.

Handbook 3870-1 goes into a lot of specifics on protests on mining claims.

Contests

Some forms of administrative review may arise without a decision being issued by BLM. This review forms the basis of a contest. A contest is an administrative proceeding brought to invalidate a claim of title or interest in the public lands which is adverse to the interest of the contestant.

Contests may be private or government initiated. Private contests involve one private party contesting the claim of a second private party. A government contest is initiated by the government against a claim made by another party.

Contests are grounded on the constitutional theory that one may not be deprived of property rights without due process which includes: a hearing, presentation of evidence, and a decision.

Contests are most commonly used to determine the validity of mining claims and use administrative law judges to hold hearings and render decisions.

The following are a few examples of why a mining claim would be contested by the government.

- Lands may be needed for another use such as a withdrawal for recreational purposes or exchanges.
- The claim is being used for non-mining purposes such as a vacation home site.
- The mineral claimed is subject to mineral leasing or material sale laws.

A hearing is not required when evidence shows that land was not open to location on the date a location was made. A hearing is required, however, if the date of location is in dispute.

Hearings

A hearing is a formal administrative proceeding to determine issues of fact in which evidence is presented and parties proceeded against are afforded the opportunity to be heard. The purpose of a hearing is to establish the material facts necessary to resolve the legal issues presented by a particular case.

Juries are not involved and the rules are more relaxed than those in a civil or criminal trial. Rules for the admissibility of evidence are very liberal. The rules and procedures vary depending on whether the hearing involves questions of fact, a contest, or grazing procedures. An administrative law judge presides over the hearing and a court reporter makes a verbatim transcript of the hearing. Both the federal government and the contestee present their cases. Each is allowed to cross-examine witnesses. The administrative law judge prepares a written decision which is appealable by one or both parties to IBLA.

An excellent summary of the hearing process is found in the BLM Handbook for Mineral Examiners H-3890-1.

Appeals

An appeal is the final administrative review to challenge a decision of the BLM. It can only be filed after a decision has been issued and only by affected parties of a decision. Any party, including the Government, adversely affected by the decision of an officer of the BLM or of an Administrative Law Judge may appeal to IBLA, unless the decision has been approved by the Secretary of the Interior.

The Secretary may take jurisdiction of any case at any level of the Department and render the final decision after holding any hearings required by law. A Secretarial decision is final for the Department and may not be appealed further within the Department. Also, the Secretary may review and decision made in the Department and order it reconsidered by the deciding party.

Failure to include an appeals paragraph does not prevent the decision from being appealed. The right of appeal is automatically granted by regulation. BLM has no

authority to deprive a party of their right to appeal. IBLA is the sole judge of matters it will entertain or summarily dismiss.

Final decisions are sent by certified mail, return receipt requested to the last address of record of each party to the case. The return receipt card constitutes proof of service of the decision on the party, showing the date when the party received notice of the decision.

If the decision is returned to BLM as undeliverable, this still constitutes the appellant to have been constructively served as of the date the decision is returned to BLM. Be sure to date stamp this. Additionally, if the decision is returned with the post office stamp of "forwarding order expired" this constitutes that the appellant has been served. Be sure to check carefully if the post office returned correspondence.

If the Government loses its case at IBLA it can go no further. If the non-government party loses at IBLA it can go to District Court. District Court decision is appealable to the appropriate U.S. Circuit court of appeals. The circuit court decision may be reviewed by the Supreme Court, at its discretion.

Cases that are not appealable include:

- Decisions approved by the Secretary.
- Decisions approved by an Assistant Secretary where such approval occurs prior to the filing of an appeal to the Board.
- Land Classifications decisions/notices under 43 CFR 2400. Must first be appealed to an administrative judge.
- Decisions of the Director, regarding protests of resource management plans, which decisions are final for the Department.
- Split estate coal leasing.

Where to File an Appeal and Contents

1. Appeal must be filed in the office of the officer who issued the decision from which the appeal is taken. It must include either the serial number or other identification of the case, and may include a statement of reasons and any

arguments the appellant wishes to make. If appeal doesn't contain statement of reasons, the appellant must file it with IBLA within 30 days after the notice of appeal was filed.

2. Appellant must notify all adverse parties named in BLM's decision, of the filing of the appeal. This notification is required so that adverse parties will have the right to participate in IBLA's consideration of the appeal.
3. Appeal must be filed within 30 days after the date the decision was served. The notice must be date-stamped upon receipt.

30 day period: The 30-day period is counted from the day after service, which is usually made to the claimant's last known address of record, and applies even if the claimant does not receive it. The 30th day after that date is the deadline unless it falls on a Saturday, Sunday, or holiday, in which case the next business day becomes the deadline. This date is evidenced by the date on the return receipt card.

Grace Period: If an appeal is transmitted within the initial 30 day period of filing an appeal, and the appeal is received within 10 days after the closing of the 3090 day appeal period, it will be forwarded to IBLA for consideration (the 10 calendar day grace period begins on the day after the 30 day initial filing period has expired). If the appeal is received after the end of the 10 day period, the Authorized Officer will not give any further consideration to the notice of appeal, and the case file will be closed.

Ex parte Communication: Communication that has a bearing on the issues in the case and is directed to the person hearing the case, without providing the opposing party with the same information. Appellant must be served with any document that is prepared for inclusion in the case file after the notice of appeal is filed and states facts or promotes the correctness of BLM's decision. Any such document sent to IBLA after the case file is transmitted must also be sent to the appellant.

Appendix A

Conversation Record

Date: _____ Time: _____

Telephone - (Incoming: /Outgoing:)

Visit - (Location: _____)

Name(s): _____ Organization: _____

Telephone: (_____) _____ - _____ ext: _____

Subject: _____

Summary:

Action Required: _____

Signature: _____

Date: _____

Appendix B

Appendix C



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147
<http://www.blm.gov/nv>

In Reply Refer To:
3809 (NV923z)

OCT 15 2012

Handwritten:
16-11-12
VW/att
10/12/12

DECISION

Obligor/Operator:	:		
Cantex Gold Corp./Discovery Consultants	:	BLM Bond Number:	NVB000405
PO Box 933	:	Bond Amount:	\$6,045
Vernon, BC V1T 5A6	:		

Obligation Under Bond Increased

The BLM Nevada State Office (NSO) currently holds BLM bond number NVB000405 with Cantex Gold Corp., as principal. The bond provides surface reclamation coverage for operations conducted by Discovery Consultants on N-79131, the Weepah South Project.

On October 1, 2012, the BLM Tonopah Field Office increased the reclamation cost estimate on N-79131 to \$5,921. Effective the date of this Decision, N-79131 is satisfactorily bonded under NVB00405 in the amount of \$5,921.

Considering the bond amounts accepted and obligated, \$124 is available under NVB000405 for future amendments to N-79131.

If you have any questions, please call Lacy Trapp at 775-861-6599, or send electronic mail to ltrapp@blm.gov.

Elaine Guenaga

Elaine Guenaga
Supervisory Land Law Examiner
Branch of Minerals Adjudication

cc: NVB0200 (MEnnes)

Conditioniana



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.nv.blm.gov>

In Reply Refer To:
3809(NV923c)

DECISION

Obligor:
Barrick Gold Exploration Inc.
293 Spruce Road
Elko, NV 89801-4491

Surface Management Bond

Financial Institution:
Royal Bank of Canada (U.S.A. Headquarters)
Financial Square
New York, NY 10005-3531

Certificate of Deposit

Certificate of Deposit Returned as Unacceptable

The certificate of deposit which was filed in this office by or on behalf of Barrick Gold Exploration Inc. on January 2, 1998, in connection with an effort to bond NVN-9999999 is hereby returned as unacceptable for the following reason(s):

Insufficient amount; the certificate of deposit should be in the amount of \$_____ to provide the bond coverage required.

Insufficient proof was provided that the financial institution issuing the certificate of deposit has federally insured deposits.

The certificate of deposit is not properly payable to the Department of the Interior-BLM.

Insufficient evidence was provided that the issuing financial institution is aware of the assignment of the certificate to the Department of the Interior-BLM, and has no objection thereto.

The certificate of deposit fails to prevent redemption of the principal amount by the obligor without the consent of the BLM.

If the indicated deficiency(ies) is corrected, this office will process the bond toward acceptance. We will hold the original bond 60 days from the date you receive this decision. If an earlier request for return of the bond is received, or if the necessary corrections have not been furnished by that time, we will return the original bond to the obligor.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form NV 1840-2. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days beginning the first day after the above compliance period of 60 days has expired. The appellant has the burden of showing that the decision appealed from is in error. If you appeal this decision, please provide this office with a copy of your Statement of Reasons.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please call Mary Doe, Minerals Adjudication Team, (775) 861-6500.

Wayne M. Lowman
Minerals Adjudication Team Leader

conditional



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Nevada State Office
P.O. Box 12000 (1340 Financial Blvd.)
Reno, Nevada 89520-0006
<http://www.nso.blm.gov>

In Reply Refer To:
N-62322
3111
(NV-923g)

DEC 17 1998

Certified Mail
Return Receipt Requested

DECISION

Holmes P. McLish
633 the Street, Suite 1910
Denver, CO 80202

:
:
:
Oil and Gas

OFFER HELD FOR REJECTION ADDITIONAL RENTAL REQUIRED

The "total acres applied for and rental fee" reflected in item 2 of oil and gas lease offer N-62322, filed in this office on February 5, 1998, are incorrect. As a result, advance rental submitted with the offer is nominally deficient (43 CFR 3103.2-1(a)).

Acres listed
in offer: 3400.00

Actual acres of
land described: 3449.00

Due to the miscalculation of acreage, additional advance rental in the amount of \$73.50 must be paid. You are allowed 30 days from receipt of this notice to submit the additional rental to this office. Failure to do so will result in the rejection of your offer without further notice.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you decide to appeal this decision, please provide this office with a copy of your Statement of Reasons.

Questions may be directed to Margo Smith (775) 861-6500.

Wayne M. Lowman
Minerals Adjudication Team Leader

Enclosure
Form 1842-1

Appendix E

IRAC

Format for Decision Writing

- Issue** - Facts of the case and background information
- Rule** - Applicable authority (e.g., statute, Regulation, case law, precedent)
- Analysis** - Application of the rule to the issue
- Conclusion** - Clear statement of the final determination based on the analysis

Appendix F

1845 - LEGAL SOURCE AND RESEARCH MATERIALS

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Illustrations:

1. Form 1845-1, Guide to Frequently Used Legal Citations

1845 - LEGAL SOURCE AND
RESEARCH MATERIALS

1845.01 Purpose. This section contains a compilation of information concerning legal reference materials used in adjudication throughout the Bureau. It outlines the features and proper use of the materials, and provides a standard and systematic way of maintaining such materials. It also contains a guide to proper citation of legal references (See Illustration 1).

.02 Objectives.

A. To establish a standard and systematic way of maintaining legal reference materials so that they will be available when needed.

B. To achieve a uniform method of citing legal references to prevent confusion and misunderstanding within the Bureau and in our dealings with the public.

.03 Authority (Reserved).

.04 Responsibility.

A. Adjudicative Sources Clerk. The adjudicative sources clerk in each land office shall maintain legal source and research materials in accordance with instructions contained in this section.

B. All Employees. All employees shall follow the guidelines for legal citations, especially those engaged in writing decisions.

1845.1 STATUTORY MATERIAL IS MADE UP OF THE ACTS OF CONGRESS. IT EXPRESSES THE WILL OF THAT BODY THAT CERTAIN THINGS BE DONE, OR NOT BE DONE. THE DEPARTMENT OF THE INTERIOR HAS THE POWER TO DO ONLY THOSE THINGS AUTHORIZED BY CONGRESS; ACTIONS NOT SO AUTHORIZED ARE INVALID.

SOURCE

CITATION

MAINTENANCE & OTHER

1845.11 Slip Laws - When a law is enacted by Congress and approved by the President, it is usually printed in a temporary form on a sheet of paper approximately 9" x 6" in size, and designated as a slip law. Slip laws affecting the operation of the Bureau are frequently distributed to the Land Offices.

Each slip law bears a notation showing the volume of the United States Statutes at Large in which it will be printed, and the page on which it will appear. A slip law should therefore generally be cited in the same manner as the Statutes at Large.

The Adjudicative Sources Clerk should circulate slip laws among the adjudicative personnel, and then place them in a looseleaf binder, or a grip binder. After the newly enacted law appears in permanent form in the United States Code, the slip law may be removed from the binder and disposed of.

1845.12 United States Statutes at Large. Laws passed during a session of Congress are, at the end of the session, printed in a bound volume. The public laws and the private laws are printed in separate sections; within each section, the laws are arranged chronologically by the date of their approval.

The abbreviation for United States Statutes at Large is Stat. The volume number should precede the abbreviation; the page of the volume on which the statute appears should follow it. Thus, 68 Stat. 868 is a citation to a statute which may be found on page 868 of Volume 68 of the Statutes at Large.

The United States Statutes at Large are distributed on the basis of standing requisitions. The Adjudicative Sources Clerk is responsible for annually reviewing the requisition to insure it is adequate to meet current needs.

1845.13 Revised Statutes. In 1875, all of the general and permanent laws of the United States then in force were arranged by subject under 74 headings and enacted into laws by Congress. This codification is known as the Revised Statutes.

The abbreviation for Revised Statutes commonly used in the Bureau is Rev. Stat. The sections of the Revised Statutes are numbered consecutively. When cited, the section number should follow the abbreviation. Thus, Rev. Stat. § 2478 is a citation to section 2478 of the Revised Statutes.

A copy of the Revised Statutes, although desirable, is not necessary for use in the Land Offices. Sections of the Revised Statutes which are still in effect can be found in the United States Code by the use of Table 1a, which follows Title 50.

1845.14 The United States Code is a compilation, under 50 subjects, or titles, of the general and permanent laws of the United States in force as of an indicated date. Most of the statutes governing the operations of the Bureau of Land Management appear in Title 43, "Public Lands". Many laws relating to Alaska are found in Title 48, "Territories and Insular Possessions". New editions of the United States Code are issued approximately every six years. The 1958 edition contains the laws in force as of January 6, 1959.

The abbreviation for United States Code is U.S.C. The title number precedes the abbreviation; the section number follows it. Thus, 30 U.S.C. § 226 (1958) is a citation to section 226 of Title 30 of the 1958 edition of the United States Code. A statute enacted after the 1958 edition and therefore appearing in the supplement to the Code, is cited: 43 U.S.C. § 141 (Supp. II, 1961), this being a citation to section 141 of Title 43 which appears in Supplement II (published in 1961) to the 1958 edition of the United States Code.

The United States Code and supplements thereto are distributed on the basis of a standing requisition. Every office should possess the latest edition of the code and its most recent supplement, if any.

- 1845.15 The United States Code Annotated is a privately printed edition of the United States Code. It is arranged by titles and section numbers exactly like the United States Code. Annotations following each section give brief summaries of judicial opinions which have construed those sections. Annual cumulative pocket supplements supply information on new laws and court decisions.
- Although the United States Code Annotated is with minor exceptions, identical with the United States Code, and has the advantage of appearing in a convenient form with good annotations, it is a private, unofficial publication, and therefore ordinarily should not be cited in a Land Office decision. However, if it is deemed necessary to refer to a statute as it appears in this publication, an adjudicator may use the abbreviation U.S.C.A. preceding the abbreviation by the title number, and following it with the section number of the statute. Thus, 43 U.S.C.A. sec. 161 is a citation to section 161 of Volume 43 of the United States Code Annotated.
- The Adjudicative Sources Clerk shall insert in the volumes of the United States Code Annotated the most recent cumulative annual pocket part.
- 1845.2 REGULATIONS ARE RULES AND PROCEDURES PROMULGATED BY THE SECRETARY OF THE INTERIOR TO IMPLEMENT THE ACTS OF CONGRESS.
- 1845.21 Regulations are compiled and published in the Code of Federal Regulations. Like the United States Code, the Code of Federal Regulations is divided into 50 titles. Title 43 of the Code of Federal Regulations is designated as "Public Lands: Interior", and contains most of the regulations governing procedures in the Bureau. Titles 25, Indian Affairs and 30, Mineral Resources contain regulations that sometimes affect Bureau activities.
- The abbreviation for Code of Federal Regulations is CFR. The title of the Code should precede the abbreviation, the section number of the regulation should follow it. Thus, 43 CFR 1840.0-9(a) is a citation to section 1840.0-9(a) of Title 43 of the Code of Federal Regulations. A regulation which appears in the current, cumulative pocket supplement may be cited as 43 CFR, 1965 Supp., 1853.3.
- The Adjudicative Sources Clerk should requisition a copy of Title 43 of the Code of Federal Regulations for each adjudicator. Each adjudicator is responsible for keeping his copy of the Code of Federal Regulations up to date.
- 1845.22 Changes in and additions to the Regulations are published in the Federal Register, which is printed daily (except on Sundays, Mondays, and days following holidays) by the Government Printing Office. Various notices and other material is also contained in each issue.
- The abbreviation for Federal Register is F.R. A regulation which is too new to have appeared either in the bound volume of the Code of Federal Regulations, or in the most recent annual supplement, will be identified in parentheses by the volume, page number and date of issue of the Federal Register in which it was printed, the volume number preceding the abbreviation, and the page number and date following it. Thus, the citation 43 CFR 1842.2 (29 F.R. 4327, March 31, 1964) indicates that the text of the regulation may be found on page 4327 of Volume 29 of the Federal Register, printed on March 31, 1964.
- All State Offices receive copies of the Federal Register, as do many of the Land Offices. Wherever possible, the copies of the Federal Register sent to the State Office shall be available to both Land Office and State Office personnel. Where this is impractical, however, the Manager of any Land Office not currently receiving the Federal Register may submit a requisition for this publication. The Adjudicative Sources Clerk shall inspect the daily issues of the Federal Register, and inform the adjudicative personnel of changes in or additions to the regulations by circulating a notice of the change or addition, and the page number and date of the issue of the Federal Register on which the text of the change or addition appears. Each adjudicator shall note in his copy of the Code of Federal Regulations the fact that a regulation has been changed or added, and shall indicate where in the Federal Register the new regulation may be found. The Adjudicative Sources

(continued)

1845.3 CIRCULARS - AFTER A NEW REGULATION HAS BEEN PRINTED IN THE FEDERAL REGISTER, IT IS REPRODUCED BY THE BUREAU AND DISTRIBUTED TO THE LAND OFFICES; THESE COPIES OF THE REGULATIONS ARE KNOWN AS CIRCULARS.

Circulars are numbered consecutively. Since they are merely reprints of regulations appearing in the Federal Register, adjudicators ordinarily should not cite Circulars in their decisions, but should instead cite the volume and page of the Federal Register on which the regulation originally appeared. An exception to this is where a copy of a Circular is attached to a decision; in such case, the citation may be the number of the Circular. An example of such a citation is "43 CFR 1842.2 (See Circular 2137, attached hereto)."

1845.4 A DECISION IS THE REDUCTION TO WRITING OF THE ADJUDICATIVE PROCESS: A DECISION ORDERS THE DISPOSITION OF A CASE IN A CERTAIN WAY, AND SETS FORTH THE FACTS, LAWS, AND REASONING WHICH REQUIRE THAT DISPOSITION.

1845.41 Decision of the Director - The Office of the Director renders decisions on all appeals taken from decisions of Land Office Managers, Hearing Examiners and other subordinate officials of the Bureau. These decisions are mimeographed, and copies of each decision sent to all Land Offices. Attached to each decision is a headnote page, on which appears a brief summary of the holding of the decision. A separate topic heading is used for each headnote which is stated in a single paragraph. The topic heading(s) contain a "key" number(s) which serve as an index guide to the Regulations, BLM manual, or other important paperwork guidelines used in the Bureau.

A citation to a decision of the Director should contain the name of the party involved, the Land Office in which the case originated, the Land Office serial number, and in parentheses, the date of the decision. The name of the party should be underlined; where more than one party was involved in the decision, the phrase "et al." ("and another" or "and others" - et al. is both singular and plural) may be used. Thus, Kenneth J. Kadow, et al., Anchorage 033642, etc. (April 26, 1963) is a citation to the Director's decision of April 26, 1963, disposing of the cases of Kenneth J. Kadow, and others, originating in the Anchorage Land Office.

Clerk shall file the pages of the Federal Register containing the new regulations in a looseleaf notebook, which shall be placed with other adjudicative materials in a place where it may be conveniently consulted. After a regulation appears in permanent form either in a pocket supplement to the Code of Federal Regulations, or in a new edition of the Code of Federal Regulations, the pages of the Federal Register containing that regulation may be removed from the looseleaf folder, and discarded.

Upon the receipt of Circulars, the Adjudicative Sources Clerk shall distribute one Circular to each adjudicator possessing a copy of the Code of Federal Regulations.

The Adjudicative Sources Clerk shall establish a permanent file of Bureau of Land Management decisions. The decisions shall be arranged in order by date, without regard to subject matter or other distinctions. All of the decisions issued during the course of a month shall be bound together. An expandable Accobind Folder (GSA stock No. 7530-634-1785) is most suitable for this purpose. Upon receipt of the Director's decisions, the Adjudicative Sources Clerk shall place one copy of each decision in the date file, and shall circulate the balance of the copies among the adjudicators. In order that the date file be complete, no decision, after having been placed therein, shall be removed from its binder. At its option, any office or individual adjudicator may, in addition, maintain a file of decisions by subject matter or otherwise.

1845.42 Unpublished Decisions and Opinions of the Secretary - The Secretary of the Interior renders decisions on appeals which are taken from the Director's decisions. The Secretary's decisions are often referred to as Departmental decisions. Most of the Secretary's decisions are not published, but are distributed throughout the Land Offices only in mimeographed form. Occasionally, the Secretary will prepare and distribute a Memorandum Opinion. A Memorandum Opinion differs from a decision in that it interprets a law or regulation generally, without reference to the facts presented by a specific case. These opinions are often prepared in response to questions from Bureau officials. Where applicable, a Memorandum Opinion may be cited as authority for a Land Office decision.

1845.43 Published Decisions of the Secretary - Some particularly significant decisions and opinions are selected for publication, and are printed in a bound volume entitled Decisions of the Department of the Interior, which is now published annually. Decisions selected for publication are not mimeographed, but, at frequent intervals during the year, are printed and distributed in the same format in which they will appear when published. These advance copies of published decisions are called pre-prints.

The Office of the Solicitor numbers serially every case which is appealed to it from the Director. The serial numbers are prefixed by the letter A. A citation to a Departmental decision contains the name of the party involved (underlined), the serial number of the case and, in parentheses, the date of the decision. Thus, George W. Wilkinson, A-29315 (May 2, 1963) is a citation to the Decision of the Secretary of the Interior, dated May 2, 1963, which disposed of the appeal of George W. Wilkinson. Memorandum Opinions are also numbered serially. The serial numbers are prefixed by the letter M. A citation to a Memorandum Opinion shows the name of the opinion, its serial number, and in parentheses, its date. An example of such a citation is: Emergency Salvage Operations on Unpatented Mining Claims, M-36636 (April 5, 1962).

Prior to 1930, the volumes containing the published decisions of the Department of the Interior consisted almost exclusively of cases arising under the public land laws of the United States. These volumes were referred to as "Land Decisions", for which the proper abbreviation is L. D. Beginning with Volume 53 the scope of the published decisions was enlarged to contain cases relating to Indian Affairs, Reclamation, the Geological Survey, etc. Because of this, the published decisions were thereafter referred to as "Decisions of the Department of the Interior", for which the abbreviation is I. D. A citation to a decision published in the L. D.'s or I. D.'s should contain the underlined name of the party involved, the volume in which the decision is reported, the page of the volume on which the decision may be found, and in parentheses the year in which the decision was rendered. Sample citations are: James W. Bell, 52 L.D. 197 (1927); Shale Oil Company, 53 I.D. 572 (1931).

The Adjudicative Sources Clerk shall establish and maintain by date a permanent file for mimeographed decisions and opinions of the Secretary. (The decisions and opinions should be filed together).

Copies of the Decisions of the Department of the Interior are distributed to the Land Office on the basis of their standing requisitions, and require no special maintenance. Copies of the pre-prints may be inserted in a grip binder. Pre-prints may be disposed of upon receipt of the printed volume of the Decisions of the Department of the Interior.

1845.44 Court Decisions - Occasionally, after a case has been decided by the Secretary of the Interior, an adversely affected party will take his case to a Federal District Court. The decision of the District Court may be appealed to the respective United States Court of Appeals. After its decision is rendered one of the parties may attempt to have the case considered by the Supreme Court of the United States. Decisions of the District Courts, when published, appear in the Federal Supplement. Decisions of the Courts of Appeals are published in the Federal Reporter, and decisions of the Supreme Court are published in the official United States Report.

The abbreviation for Federal Supplement is F. Supp. The abbreviation for Federal Reporter is Fed. After 300 volumes of the Federal Reporter were issued, the publisher started renumbering the volumes in a second series; the abbreviation for Federal Reporter Second Series is F. 2d. The abbreviation for the official publication of the decisions of the Supreme Court is U. S. A citation to court cases must show the names of the parties involved (underlined), and the standard abbreviation for the volume containing the case - the abbreviation to be preceded by the number of the volume, and followed by the number of the page on which the case appears, and, in parentheses, the year in which the decision was rendered. Sample citations are: Walling v. Sanders, 48 F. Supp. 9 (1942); Chaplin v. United States, 193 Fed. 879 (1912); McKay v. Wahlermaier, 226 F.2d 35 (1955); Cameron v. United States, 252 U.S. 450 (1920).

Although Land Offices do not have, and seldom need, copies of court decisions, libraries containing published court reports are usually available to Land Office personnel. The Adjudicative Sources Clerk shall prepare for the information of adjudicators in his Land Office a brief memorandum setting forth the location of the nearest law library, and the arrangements which may have been made for the use of its facilities.

1845.5 RESEARCH DEVICES - A LAND OFFICE ADJUDICATOR WHO IS CONFRONTED BY AN ISSUE ALREADY DECIDED BY THE DIRECTOR, OR BY THE SECRETARY, IS REQUIRED TO DISPOSE OF HIS CASE IN THE SAME WAY THAT THE DIRECTOR OR THE SECRETARY DISPOSED OF THE CASE ORIGINALLY PRESENTING THE ISSUE. LEGAL RESEARCH IN THE LAND OFFICE ORDINARILY IS DIRECTED PRIMARILY TOWARD FINDING DECISIONS AND OPINIONS WHICH HAVE CONSTRUED OR APPLIED A LAW OR REGULATION IN A SITUATION SIMILAR TO THAT PRESENTED BY THE SPECIFIC CASE ON WHICH THE ADJUDICATOR IS WORKING. THE BUREAU OF LAND MANAGEMENT AND THE DEPARTMENT OF THE INTERIOR HAVE PREPARED AND MAINTAIN RESEARCH DEVICES WHICH ENABLE SUCH CASES TO BE FOUND.

1845.51 The Digest-Index of Bureau Decisions is a system consisting of digests of important rules or principles of law found in Bureau decisions decided between April 1955 and December 1963 which are final administrative rulings as to the pertinent issues. The subject matter together with the case citation is arranged alphabetically to follow the order of the topical index to decisions of the Office of Appeals and Hearings. Where more than one general topic heading is represented by the same digest the digested material will be found under all appropriate headings. Following each

(continued)

The Land Office adjudicator, after analyzing the case on which he is working, and isolating the issues, may consult the Bureau Digest-Index. An adjudicator should never write a decision on the basis only of what is contained in the digest of any case selected as precedent. After he has found a reference to a Bureau of Land Management case, the adjudicator should locate the case in the date file and read it carefully to make sure that it is applicable. If the case is "on point", the adjudicator may then cite the case as a final administrative ruling and controlling on the particular rule or principle of law.

The Adjudicative Sources Clerk should request from the Office of Appeals and Hearings a copy of the Digest-Index and supplements for each adjudicator. Each adjudicator is responsible for keeping his copy up to date.

digest heading is a "key" number which will serve as an index guide to the Regulations, ELM Manual, or other important paperwork guidelines used in the Bureau. A supplement will issue annually.

1845.52 "Subsequent Action on Bureau of Land Management Decisions" is a monthly report issued by the Office of the Director. This report contains a list of Bureau decisions which, during the course of the preceding month, were appealed to the Secretary of the Interior. The report also contains a list of Bureau decisions which have been acted upon by the Department, and shows the action taken - that is, whether the Director's decision was affirmed, reversed, or modified. The report indicates, by reference to headings of the Digest Index, the subjects covered by the Director's decisions.

Before using a Bureau of Land Management decision as authority for his action, the adjudicator should ascertain whether or not that decision has been appealed, and, if appealed, whether affirmed or reversed. This information will appear on the headnote page of the decision in the date file. If a Bureau decision has been reversed, it should not be used as authority for a Land Office decision; if a Bureau decision has been affirmed, the Departmental decision affirming the Bureau's decision should be consulted, and, if applicable, the Departmental decision should be cited as authority for the Land Office action. Thus, in a properly maintained system, an adjudicator, after finding a pertinent case in the date file of Bureau decisions, can, by glancing at the headnote page of that decision, immediately ascertain whether the Director's decision has been appealed, and if appealed, whether affirmed or reversed, and the name, number, and date of the Departmental decision effecting that action. The affirming or reversing decision, in turn, can quickly be found in the date file of Departmental decisions.

After receiving this monthly report, the Adjudicative Sources Clerk shall note in the date file on the headnote page of each affected Bureau of Land Management decision whether that decision was appealed, affirmed, reversed or remanded. The date of the action shall also be noted, and where that action is affected by a Departmental decision, the name and number of the Departmental decision shall be written underneath the statement of the action taken. After these notations are made, the monthly report shall be placed in a looseleaf binder, and preserved for future reference.

1845.53 The Department of the Interior also publishes an Index-Digest of all Decisions and Opinions rendered by the Secretary. The summaries of the Departmental decisions are arranged by subject headings, and printed in 8" x 10½" paperback booklet form. The Index-Digest is issued quarterly, and each issue, during a year, is cumulative: the last issue of the year contains digest of all decisions promulgated during the year. This is one of the most useful and necessary tools available to the adjudicator. It is most essential for adequate research. The Department's Index-Digest has been issued only since 1955. There is currently no convenient way to locate unpublished decisions issued prior to 1955. However, there is in the preparation stage an Index-Digest of unpublished decisions of the Department for the years 1943 through 1954. It is anticipated that this volume will be available for use sometime in late 1965.

Upon finding in the Index-Digest a reference to a pertinent decision, the adjudicator should consult that decision in the date file of Departmental decisions, and, if the decision is applicable, the adjudicator should cite that decision in the Land Office decision which he prepares.

The Adjudicative Sources Clerk shall insert the issues of the Department Index-Digest in a grip binder, and place the binder with the other adjudicative materials, in an easily accessible place. During the course of the year, the quarterly issues which are superseded by later quarterly issues should be removed from the binder.

- 1845.54 The Digest of Decisions of the Department of the Interior in Cases Relating to Public Lands is a published work containing under subject headings arranged in alphabetical order digests of decisions which have been published in Volumes 1 through 61 of the Decisions of the Department of the Interior. The Digest of Decisions is in three volumes: the first issued in 1913, contains a digest of the decisions in the first 40 volumes of the published decisions; the second volume, issued in 1928, continues the digest through 51; the third volume, issued in 1962, continues the digest through 61.
- The Digest should be used in the same way as the Index-Digest. It should be noted that summaries of decisions published after the issuance of the Digest, and before the issuance of the Index Digest (that is, decisions appearing in volumes 62 through 71 of the published decisions) have not been collected or indexed; the only way to find pertinent decisions in these volumes is to check the index of each volume.
- The Adjudicative Sources Clerk shall place the Digest of Decisions of the Department on the same shelves as are placed the published decisions. No special maintenance is required except that, since some of the Digests are rather old, and much used, loose pages should be carefully taped in place.
- 1845.55 A reference work of tables of Volumes 1 through 61 of the Digest of Decisions of the Department of the Interior is published in two volumes. The first volume, published in 1927, contains, in tabular form, much useful information concerning the first 50 volumes of the published decisions. The most important tables are of Cases Cited, Cases Overruled and Modified, Acts of Congress Cited and Construed, and Revised Statutes Cited and Construed. Volume 2, published in 1962, continues the reference work through 61.
- The tables in these books greatly expedite legal research. After an adjudicator has found, by use of a digest, a case which has been published by the Department in any of the first 61 volumes of the published decisions, he can, by looking at the table of cases cited, immediately determine in what subsequent cases (still within the first 61 volumes of the published decisions) that case was referred to, or used as authority for a holding. Similarly, an adjudicator can quickly ascertain from the tables of Acts of Congress and Revised Statutes Cited and Construed, the names of decisions in which particular statutes have been interpreted or applied. Similar tables appear in each volume of the published decisions but these tables are of the cumulative. The only cumulative table in the published decisions is the table of Overruled and Modified cases. No published decision should be cited as authority for a proposition until it has been determined, by consulting in the latest published volume of Departmental decisions the table of Cases Overruled and Modified, that that decision still represents the law on the subject.
- These reference books require no special maintenance. There is an earlier edition of part of this work, published in 1913, which contains information only for the first 40 volumes. The Adjudicative Sources Clerk should attempt to make the later edition of this particular reference book available to the adjudicators.
- 1845.56 Interior Grazing Decisions is a printed compilation of all Departmental decisions rendered from 1936 through 1958 relating to Section 3 grazing leases.
- An index to this volume enables the adjudicator quickly to find pertinent cases.
- The book requires no special maintenance.

1845 - LEGAL SOURCE AND RESEARCH MATERIALS

Form 1845-1
(July 1965)
(formerly 4-1420)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GUIDE TO FREQUENTLY USED LEGAL CITATIONS

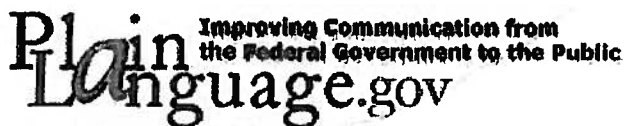
SYMBOL	EXAMPLE	EXPLANATION
CFR	43 CFR 1111.3-1(a) (See Circular 2137, attached hereto)	CODE OF FEDERAL REGULATIONS * 1 Title 43, Section 4111.3-1(a) CIRCULARS
CFR	43 CFR, 1965 Supp., 1853.3	SUPPLEMENT TO CODE OF FEDERAL REGULATIONS
Fed.	198 Fed. 125 (1912)	FEDERAL REPORTER * Volume 198, page 125 (Decision rendered in 1912)
F.2d	101 F.2d 85 (1939)	FEDERAL REPORTER, Second Series * Volume 101, page 85
F. Supp.	48 F. Supp. 9 (1942)	FEDERAL SUPPLEMENT * Volume 48, page 9
F.R.	23 F.R. 8609 (November 4, 1958)	FEDERAL REGISTER * Volume 23, page 8609
I.D.	63 I.D. 82 (1956)	DECISIONS OF THE DEPARTMENT OF THE INTERIOR (Beginning with bound Volume 53) * Volume 63, page 82
L.D.	36 L.D. 455 (1909)	DECISIONS OF THE DEPARTMENT OF THE INTERIOR (Bound Volumes 1-52) * Volume 36, page 455
Rev. Stat.	Rev. Stat. § 2478 (1875)	REVISED STATUTES OF THE UNITED STATES * Section 2478
Stat.	68 Stat. 868	UNITED STATES STATUTES-AT-LARGE * 1 Volume 68, page 868
U.S.	357 U.S. 275 (1958)	UNITED STATES REPORTS * Volume 357, page 275
U.S.C.	30 U.S.C. § 226	UNITED STATES CODE * 1 Title 30, Section 226 (1958 Edition)
U.S.C., Supp. V	43 U.S.C. § 315g-1 (Supp. V, 1964)	SUPPLEMENT TO UNITED STATES CODE (1964 supplement to the 1958 Edition) Title 43, Section 315g-1
U.S.C.A.	18 U.S.C.A. § 1860	UNITED STATES CODE ANNOTATED * Title 18, Section 1860
A-	A-25748 (January 10, 1950)	DECISIONS OF THE DEPARTMENT OF THE INTERIOR (Unbound, numbered consecutively)
M-	M-36528 (September 24, 1958)	MEMORANDUM OPINIONS OF THE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR (Unbound, numbered consecutively)

* Generally available for reference in most sizeable state, county, or law libraries

1 Generally available for reference in State and Land Offices of the Bureau of Land Management and the Offices of the Field and Regional Solicitors of the Department of the Interior.

COPIES: Single copies of individual Departmental decisions or Solicitor's opinions may be obtained free of charge, if available, by writing to the Office of the Solicitor, Department of the Interior, Washington, D.C. 20240. Subscriptions to receive copies of all Departmental decisions by mail are available at a cost of \$45 per year. Other Government publications may be purchased through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20240.

Appendix G



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[Resources](#)

[What is Plain Language?](#) > [Government Mandates](#) > President Clinton's memorandum

President Clinton's memorandum on Plain Language in Government Writing

Related Topics:
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[History of Plain Language](#)

[Definitions of Plain Language](#)

[Government Mandates](#)

THE WHITE HOUSE WASHINGTON

JUNE 1, 1998

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Plain Language in Government Writing

The Vice President and I have made reinventing the Federal Government a top priority of my Administration. We are determined to make the Government more responsive, accessible, and understandable in its communications with the public.

The Federal Government's writing must be in plain language. By using plain language, we send a clear message about what the Government is doing, what it requires, and what services it offers. Plain language saves the Government and the private sector time, effort, and money.

Plain language requirements vary from one document to another, depending on the intended audience. Plain language documents have logical organization, easy-to-read design features, and use:

- common, everyday words, except for necessary technical terms:
- "you" and other pronouns:
- the active voice; and
- short sentences.

To ensure the use of plain language, I direct you to do the following:

- By October 1, 1998, use plain language in all new documents, other than regulations, that explain how to obtain a benefit or service or how to comply with a requirement you administer or enforce. For example, these documents may include letters, forms, notices, and instructions. By January 1, 2002, all such documents created prior to October 1, 1998 must also be in plain language.
- By January 1, 1999, use plain language in all proposed and final rulemakings published in the Federal Register, unless you proposed the rule before that date. You should consider rewriting existing regulations in plain language when you have the opportunity and resources to do so.

The National Partnership for Reinventing Government will issue guidance to help you comply with these directives and to explain more fully the elements of plain

language. You should also use customer feedback and common sense to guide your plain language efforts.

I ask the independent agencies to comply with these directives. This memorandum does not confer any right or benefit enforceable by law against the United States or its representatives. The Director of the Office of Management and Budget will publish this memorandum in the *Federal Register*.

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