



Tips for Commenting Effectively on Proposed Rules

MEETING THE MOMENT 2026



The Most Important Tip: Every comment counts—don't underestimate the importance of yours!

Most federal agencies must publish proposed rules in the *Federal Register* for public comment. While a rule may be challenged in court after it is finalized, it is critical that concerned citizens participate in the commenting process. In the best case, your comment influences the rule, and in the event it doesn't, it can form an important basis for legal challenges.

Public comments on proposed rules make a difference. An agency typically specifies the number of comments it receives on a proposed rule, and the agency must address timely comments in developing the final rule and in a *Federal Register* notice for the final rule. Comments are publicly available, become part of the rulemaking record, and can be relied on in litigation challenging the final rule.

Commenting on proposed rules is especially important in this moment. The Trump Administration is acting lawlessly procedurally and substantively in the rulemaking process. Rulemaking is being used to overhaul all aspects of the federal government and radically redirect federal policy. Lawyers have the skills and knowledge to push back by providing effective input on proposed rules. Lawyers can analyze complex proposed rules and explain why they should not be adopted because they are unauthorized by law or would make things worse.

Even if you have never participated in something like this before, this is an important moment to get involved. Your voice and participation matter.

Watch out for LDAD Action Alerts on proposed rules that pose a threat to the rule of law and other pillars of our democracy.

Process: How to Submit a Comment

1. Check the comment period due date and submit on time.

As a first step, check the deadline for commenting. Your comment must be submitted before the comment period ends. If your comment is submitted after the comment period ends, it will not be considered by the agency, and it will not

become part of the rulemaking record.

Pro-tip: In the *Federal Register* notice, the deadline for submitting comments will appear after the heading “DATES,” for example:

“DATES:

Comments must be received on or before June 26, 2026.”

The deadline expires at midnight on the due date for submitting comments [in the example above, at midnight on June 26, 2026].

2. Mechanics of submitting a comment.

Proposed rules are published electronically in the *Federal Register*. A proposed rule can be located by searching for it by its docket identification number on the *Federal Register’s* website.

A proposed rule contains an explanation of the background and need for the proposed rule, called the preamble, followed by the text of the proposed rule.

The title of the proposed rule will appear at the top of the first page of the *Federal Register* notice.

To submit a comment, click on the button, “SUBMIT A PUBLIC COMMENT,” which appears below the title of the proposed rule and to the right.

Pro-tip: There is a character limit in the comment box, so if your comment is long, type “See the uploaded file” in the comment box and click on the “Add a file” icon to upload your full comment.

You can submit your comment anonymously. Select “Anonymous.” Otherwise, select “An Individual.” You will have to provide your first and last name, but not your home address or telephone number. Note that if you want to track your comment, you must provide your email address to create a MyFR account (see below for more information). Your email address will not be published.

Content: What to Include in Your Comment

1. The basics.

Do not cut and paste a standard or model comment. Personalize it. Petitions are the least effective.

This doesn’t mean you have to start at zero; it is very helpful to use a template or

shared talking points (like these that LDAD issued for the DOJ's proposed rule-change to shield lawyers from accountability) when drafting a comment. Just be sure to add your own arguments, voice or points. Relating your comment to your personal experience, background, skills, or knowledge is best practice.

Pro-tip: Write in the conditional tense, not in the future tense, i.e., "the proposed rule would," rather than "the proposed rule will." A proposed rule has not gone into effect.

2. Making procedural arguments.

Start your comment by pointing out any procedural flaws, such as an insufficient comment period, which has sadly become the new the norm now. Comment periods must be at least 60 days per the Administrative Procedure Act (APA, 5 U.S.C. §553(c)), and Executive Order (EO) 12866, *Regulatory Planning and Review*. See the table below for a sample procedural argument.

Pro-tip: Cite the APA and EO 12866 when making your arguments.

3. Making substantive arguments.

Start with your opposition to the substance of the proposed rule and a summary of what it would do, framed consistently with your position like:

"I strongly oppose the proposed rule, which would require applicants for federal funding to certify compliance with anti-diversity, equity, and exclusion Executive Order 14173 and DOJ's anti-diversity, equity, and inclusion memorandum."

A background section may be helpful to put your comment in context, e.g., to explain the historical need for the existing regulatory framework or why the regulatory status quo is better.

Show why the proposed rule violates the APA, i.e., why the proposed rule is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. For example, show that the proposed rule is:

- Inconsistent with its governing statute;
- Not in compliance with another statute;
- Unconstitutional; or
- Otherwise arbitrary and capricious under the APA, for example, because:
 - It would not meet its stated objectives;
 - Its rationales are unsupported by the facts; or
 - It would make things worse, rather than better.

Sample Arguments

<p>Insufficient comment period</p>	<p>“The comment period for this proposed rule violates the Administrative Procedure Act (APA) and Executive Order (EO) 12866 on regulatory planning and review because the comment period does not afford the public a meaningful opportunity to comment, which should in most cases be not less than 60 days.”</p>
<p>Failure to Comply with the Governing Statute</p>	<p>“The proposed rule would violate the governing statute for the proposed rule. The McDade Amendment provides that attorneys for the federal government are bound by state ethics rules in the state where the attorney engages in that attorney’s duties, to the same extent and in the same manner as other attorneys in that state. 28 U.S.C. § 530B(a). The McDade Amendment subjects DOJ attorneys to state ethics rules, and DOJ has no basis for arguing that it can usurp that authority.”</p>
<p>Failure to Comply with Another Statute</p>	<p>“The proposed rule would have direct effects on the environment as it would authorize ground-disturbing use of federal lands. The agency has failed to conduct the requisite environmental analysis of the proposed rule, which violates the Environmental Policy Act.”</p>
<p>Unconstitutionality</p>	<p>“The proposed rule violates the Tenth Amendment to the United States Constitution, which provides that powers not specifically given to the federal government or withheld from the states are reserved to the states. U.S. Const. amend. X. The states and the District of Columbia (DC), not the federal government, have the authority to regulate licensure of professionals practicing in their jurisdiction, including the authority to license attorneys and rescind their licensure through disbarment for violation of state ethics rules. The proposed rule violates the Tenth Amendment by usurping the authority of state and DC officials to investigate and discipline DOJ attorneys.”</p>
<p>Arbitrary and Capricious, Abuse of Discretion, or Otherwise Not in Accordance with Law</p>	<p>“EPA’s proposed rule would not prevent chemical releases to the greatest extent practicable in violation of 42 U.S.C. § 7412(r)(7) and is therefore arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with law in violation of the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A).”</p>
<p>Failure to Meet Stated Objectives, Lack of Factual Support, and Producing Worse Outcomes</p>	<p>“People of color, low-income populations, and manufacturing workers are more likely to be located near the most hazardous polluting facilities. Providing information only in English would mean that non-English speakers, who are more likely to live near polluting facilities, would likely be unaware of the risks posed to their health from industrial chemical accidents close to their homes, schools, and public spaces.”</p>

After-the-Fact: Tracking Your Comment and Final Rules

1. Tracking your comment.

Tracking allows you to receive email notifications about your comment, including when it is received and when it is publicly posted. Tracking also allows you to be notified of any other proposed rules that cite a proposed rule you commented on.

You can also see all comments you've submitted by going to the Federal Registry's website, clicking on "MyFR" at the top and then logging in.

2. Final rules.

After the comment period closes, the agency must review timely comments and address them in developing the final rule.

The agency must publish a *Federal Register* notice for the final rule that addresses the timely comments in the preamble and includes the text of the final rule.

The final rule goes into effect 30 days from the date of its publication in the *Federal Register*. Once a final rule becomes effective, it has the legal effect of a law and is binding on the agency and the public.

After the final rule goes into effect, it can be challenged in court under the APA.

Remember the most important tip: Every comment counts.

"Meeting the Moment" requires us to stay engaged and keep commenting on proposed rules that would undermine our democracy and the rule of law.

Note: This document enables LDAD's Meeting the Moment (MTM) volunteers to comment effectively on proposed rules to push back against procedural and substantive abuses in the rulemaking process. We are deeply grateful to Ellen Hornstein, MTM Co-Lead for Maryland and DC, for serving as our resident expert on commenting by delivering LDAD's MTM Skill Session, Commenting Effectively on Proposed Rules (March 2026), and drafting this document.