

# Regulatory Drafting

## COURSE OUTLINE: 2-DAY COURSE



### I. Administrative Procedure Act (APA)

- To understand informal rulemaking, one must understand the APA. This segment covers the APA principles that provide the framework for drafting rulemaking documents and answers the following questions:
- What is a rule? Can a rule be established without Federal Register publication? When do the “notice and comment” provisions apply? What are the sanctions for failure to comply with the APA?

### II. Types of rulemaking documents

- This segment covers the different types of rulemaking documents and the circumstances for their appropriate use.

### III. Rulemaking text

- This segment covers the basic principles of drafting rulemaking text, including the study of “good and bad” text from previously published rulemaking documents.

### IV. Rulemaking basis and purpose statement

- This segment covers the basic principles of drafting the basis and purpose statement for rulemaking documents, including the study of “good and bad” statements from previously published rulemaking documents. It also covers formulas designed to ensure that rulemaking documents gain approval from agency and Office of Management and Budget reviewers; different types of approaches for different types of rules; and a discussion of some of the common special analyses that may be required, including analyses under Executive Order 12866, the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Unfunded Mandates Reform Act.

**Note:** This is a 2-day course that includes class participation in exercises that are helpful for understanding concepts. It can also be delivered as a 1-day course if significantly less time is spent on such exercises or as a 4-hour course for participants who are primarily interested in learning how to review rulemaking documents.