



Research Guide

FEDERAL ADMINISTRATIVE LAW RESEARCH

While Congress wields great legislative power, federal administrative agencies often have the most direct influence over the lives and actions of citizens. By promulgating rules and regulations which have the force of law, these agencies exercise far-reaching authority.

The controls placed on federal agencies are found in the Federal Register Act [44 U.S.C. 15 § (1934)] and the Administrative Procedure Act [5 U.S.C. § 551 et seq. (1946)]. These two statutes define the basic functions of the Federal Register system, and establish a uniform procedure to be followed in developing binding rules and regulations.

Agencies first publish a "Notice of Proposed Rulemaking," to give interested parties an opportunity to participate in the rulemaking function. The notice includes the proposed rule, methods by which comments may be offered, persons to contact for further information, and reference to the authority under which the agency is promulgating the rule. At a later date (often years later), the agency will publish the final rule at least 30 days before the rule is to take effect. Printed with the final rule is information on changes made by the agency during the rule-making process. This information is often useful to researchers trying to interpret a rule.

Notices and first publication of rules are contained in the *Federal Register* (Fed. Reg.), which is published daily. Adopted rules and regulations are annually codified in the *Code of Federal Regulations* (C.F.R.). Absent a specific citation to one of these sources, administrative law researchers usually begin with a subject search in the C.F.R., then use the *Federal Register* to bring their research up to date.

FEDERAL REGISTER [KF 70 .A2]:

The *Federal Register* is published daily, Monday through Friday, except on federal holidays. It is the official source of public information on federal regulations and legal notices, and includes Presidential Proclamations and Executive Orders. The Legal Research Center has 1936 - 2004 on microfiche in the Lower Level. The LRC also retains the last two years of the original paper copy in the Reading Room stacks.

SAMPLE *FEDERAL REGISTER* CITATION: 47 Fed. Reg. 2880 (1982) = page 2,880 of volume 47 of the *Federal Register*.

FEDERAL REGISTER INDEX AND USER GUIDES

The Office of the Federal Register provides the following finding aids to locate needed documents in the *Federal Register*:

1. Table of Contents: Each daily issue includes a list (arranged by agency) of rules, proposed rules, and notices contained in that issue.

2. Index: The *Federal Register Index* is a separate monthly publication. Each monthly issue cumulates the previous issues. The January-December issue (KF 70 .A2) serves as the Annual Index. Because items are listed under the issuing agency, with only occasional subject cross-references, the *Index* is difficult to use.
3. C.F.R. Parts Affected During (current month): At the end of each *Federal Register* issue is a list of C.F.R. sections altered or added by new items in the *Register* (KF 70 .A2). This feature is discussed below in the section on "Updating the C.F.R."
4. List of C.F.R. Sections Affected (L.S.A.): For the convenience of researchers, the daily *Federal Register* lists of parts affected are cumulated into this separately issued pamphlet. It is also discussed below in the section on "Updating the C.F.R." It is located in the Reading Room at KF 70 .A32.

The LRC also has a commercial index to the *Federal Register*: The *CIS Federal Register Index* (KF 70 .A21). This comprehensive index provides good subject access, as well as indexing by agency docket number and C.F.R. Sections Affected. Also included is a helpful calendar of effective dates and comment deadlines. Each entry lists the issuing agency, month and day, *Federal Register* page number, document type (notice, proposed rule), and gives a short descriptive annotation. This source is published weekly. The weekly indexes are cumulated every five weeks into pamphlet form, which are replaced semi-annually with a permanent bound volume. The LRC has the *Index* from 1990 - present.

CODE OF FEDERAL REGULATIONS [KF 70 .A3] :

Because of the difficulty of locating specific regulations in the chronologically arranged *Federal Register*, research must often begin in the codified regulations. The *Code of Federal Regulations* provides a subject arrangement of rules and regulations currently in force. The C.F.R. is divided into fifty broad subject areas called "titles," roughly corresponding to the titles in the U.S. Code, and then into "parts," or sections.

The C.F.R. is revised and reprinted in rotating quarterly segments each year. (For example, titles 1 - 16 are revised as of Jan. 1.) It appears in small paperbound volumes, with each year's cover in a different color for easy reference. The rotating revision scheme results in some volumes of the set being current while others may be almost a year old. It is very important to note the date on the cover of the C.F.R. volume being used. The LRC has the entire collection (1937 - present) on microfiche in the Lower Level. The volumes from the last two years may be found in the Reading Room stacks.

SAMPLE *CODE OF FEDERAL REGULATIONS* CITATION: 47 C.F.R. § 73.609 (1990) = section 73.609 of title 47 of the 1990 C.F.R.

C.F.R. INDEX AND USER GUIDES

There are several ways to find materials in the C.F.R. Often, researchers will find direct citations in an annotated version of the *United States Code* or other source. Other finding aids include:

1. C.F.R. Index and Finding Aids: This volume, re-issued each year as part of the C.F.R., can be used to locate current regulations through the subject index, but it has several drawbacks. Many items are listed by agency with subject headings that tend to be inadequate. This official index is best bypassed unless the researcher is tracing regulations from a *United States Code* section number. The table linking *United States Code* sections to regulations promulgated under those statutes is very useful.
2. Index to the Code of Federal Regulations (1980-2001): Published by Congressional Information Service, the *Index* (KF 70 .A33) is revised annually, and provides a comprehensive subject index to the C.F.R. While the official index is contained in only one volume, this set has four very complete volumes. It lists under each subject entry the year of the C.F.R. volume indexed, the title number, and the part number within the title. A limitation: the *Index* might not include references to new regulations in recently revised C.F.R. volumes, since the *Index* is issued annually, and the C.F.R. is revised quarterly.

UPDATING C.F.R. RESEARCH:

Once the researcher has located the relevant regulations in the C.F.R., it is vital to check the *Federal Register* to see if the regulation has been changed or removed since publication of the C.F.R. volume.

Start with the *List of C.F.R. Sections Affected* (L.S.A.) pamphlets shelved with the C.F.R. volumes. Noting the date on the front cover of the C.F.R. volume being used, refer to the cumulative LSA pamphlet covering issues of the *Federal Register* from the date on the C.F.R. volume you are using. L.S.A. pamphlet entries are arranged by C.F.R. title and section numbers. Using a C.F.R. citation, look for references to any new materials appearing in the *Federal Register*. L.S.A. pamphlets are issued monthly. Researchers must update regulations through each successive month, to the most current issue, and then continue in the *Federal Register*, using the table of "C.F.R. Parts Affected" found at the end of each issue. These tables are cumulated each day, through the end of each month, so researchers need only check the last monthly issue of the *Register* and the most recent daily issue for the period not covered by the L.S.A. pamphlets.

EXAMPLE: A researcher wants to know if there have been any changes made to the regulation found at 16 C.F.R. § 1.12 (1991). The C.F.R. volume containing that regulation was published on January 1, 1991. Assume it is now September 20, 1991. The researcher locates the L.S.A. pamphlet covering the period from January 2 through July 31, 1991, and finds no references to changes published in the *Federal Register* during that time. The researcher then must check the cumulative tables of "C.F.R. Parts Affected" in the daily issues of the *Federal Register* for August 31, 1991 and the most recently received September issue.

NOTE: Issues of the *Federal Register* are frequently delayed in the mail and may be received a week or two behind the date of publication.

SEARCHING THE C.F.R. AND FEDERAL REGISTER ONLINE

The Federal Register is available from 1936 - present on Hein-Online and from 1994 - present at www.gpoaccess.gov/fr/index.html.

The *C.F.R.* is available electronically (1996 - present) at www.gpoaccess.gov/cfr/index.html.

Both are for full-text searching. LEXIS and WESTLAW also provide access to both sources.

NOTE: The LRC's educational contract with LEXIS and WESTLAW prohibits use of the systems by anyone other than a currently enrolled USD law student or USD law faculty member.

CONTACT A REFERENCE LIBRARIAN FOR FURTHER ASSISTANCE