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Research Guide : Researching Federal Regulations

Introduction

Legislatures delegate the power to promulgate regulations, sometimes referred to as rules, to administrative agencies. Typically, the delegation of the power to make rules or regulations about a particular subject occurs when there is a high degree of complexity or a need for expert or specialized knowledge. When properly promulgated by an agency within the agency's authority and according to the appropriate procedure, regulations have the force and effect of law and are therefore an important part of legal research. This guide discusses finding regulations in both the *Code of Federal Regulations* and the *Federal Register*.

Publication of Regulations

Regulations are published both chronologically in the *Federal Register* and topically in the *Code of Federal Regulations*. Regulations are first published as a proposed rule. A thirty-day comment period on the proposed regulation follows. At the conclusion of the comment period the regulation may be revised and re-issued for additional comment or issued in its final state. Proposed, temporary, and final regulations all appear for the first time in the *Federal Register*. Final regulations are ultimately codified in the *Code of Federal Regulation*, also commonly referred to as the C.F.R. The C.F.R. is revised annually in quarterly installments:

Titles 1-16 – January 1
Titles 17-27 – April 1
Titles 28-41 – July 1
Titles 42-50 – October 1.

Locating Federal Regulations

There are two ways to locate regulations:

With a citation, go directly to either the C.F.R. or the *Federal Register*.

- A typical citation to the *Federal Register*: **21 Fed. Reg. 15698 (2003)**.
- A typical citation to the C.F.R.: **26 C.F. R. § 13.1 (2003)**.

In the absence of a citation,

— The *United States Code Service* is an annotated statutory code that contains cross-references to the C.F.R. and the *Federal Register*; journal articles and cases may likewise provide a direct reference to a regulation.

— Both the *Federal Register* and the C.F.R. contain general indexes.

— GPO Access <http://www.gpoaccess.gov/index.html> has both the *Federal Register* and C.F.R. available on line for full text searching. The full text of the *Federal Register* is only available from 1994 forward; however, Hein Online (available via the library home page) provides full-text coverage from 1936 to 1987.

The *Federal Register* and Locating Regulations in the *Federal Register*

The *Federal Register* is the official publication for rules and proposed rules issued by the government agencies. It is published daily Monday through Friday except for holidays. Publication of a document in the *Federal Register* is sufficient to provide notice of the contents of the documents to a person subject to or affected by it.

Each issue of the *Federal Register* contains the following pages or sections:

Contents and Preliminary Pages: alphabetical listing by agency name of all documents in the issue; the documents are arranged by type: rules, proposed rules, and notices.

C.F.R. Parts Affected in this Issue: parts affected by the rules and proposed rules in the issue are listed along with the page numbers where relevant documents begin.

Final Rules & Regulations: each document has a heading that includes the name of the issuing agency (and sub-agency as applicable), the C.F.R. title and part(s) affected, and a brief description of the specific subject of the document; also contains interim rules that are issued without prior notice and are effective immediately; may also include documents that have no regulatory text and do not amend the C.F.R., but either affect the agency's handling of its regulations or are of continuing interest to the public in dealing with an agency such as general policy statements and interpretations of agency regulations.

Proposed rules: notices of proposed rules, requests for public comment, and documents relating to previously published proposed rules

Notices: announcements of hearings and investigations, committee meetings, agency decisions and rulings, issuances or revocation of licenses, filing of petitions and applications, and notices of meetings as required to be published under the Government in the Sunshine Act.

Presidential Documents: proclamations and executive orders; compiled annually in title 3 of the C.F.R.

Reader Aids: "Federal Register Pages and Dates," a table of the inclusive page numbers and corresponding dates for the current month's *Federal Register* and C.F.R. Parts Affected During the Current Month, a cumulative list of C.F.R. parts affected by rules and proposed rules published in the *Federal Register* during the current month.

Locating regulatory history

The *Federal Register* also contains the history of the rule-making process for a regulation. The customary process for the promulgation of a regulation includes the publication of a notice of intent to produce regulations, proposed regulations, comments, and final rules. Explanations of intent and summaries of comments received during the comment period as well as how the comments affected the regulations are also included in the *Federal Register* under the heading “Supplementary Information.”

C.F.R. and Locating Regulations in the C.F.R.

The C.F.R. is a codification of the final rules published in the *Federal Register* by executive departments and agencies of the federal government. The C.F.R. is organized into fifty titles representing broad areas subject to regulation. The fifty titles are similar to, but not the same as, the titles in the *U.S. Code*. Each title is divided into chapters usually bearing the name of the issuing agency. At the back of each C.F.R. volume is an *Alphabetical List of Agencies Appearing in the C.F.R.*, showing the title and chapter where an agency’s regulations are codified. Each chapter is further subdivided into parts which covering specific regulatory areas. Large parts may be subdivided into subparts; all parts are organized in sections, and most citations to the C.F.R. will be provided at the section level.

Much of the information published in the *Final Rules & Regulations* section of the *Federal Register* is not printed in the C.F.R. but may still be of great importance. Specifically, information such as summary, effective date, address for further information contact and supplementary information are only available in the *Federal Register*.

Each C.F.R. contains the following aids:

Cover and title page: title topic and number, the parts contained in the pamphlet, and the revision date of the pamphlet

Table of Contents: chapters and finding aids contained in the pamphlet

This Title: brief description of how the title is organized

Table of contents: at the beginning of each part showing the sections contained in the part

Authority note: at the beginning of each part providing a citation for the statutory or executive authority under which the regulations in the part were promulgated

Source Note: at the beginning of each part providing the *Federal Register* cite and date where the part was last published in full (a separate source note will follow a section if it is based on a different authority or was added or amended later)

Cross Reference Note: citations to related C.F.R. parts and sections

Finding Aids: at the end of the pamphlet which includes: Material Approved for Incorporation by Reference; Table of C.F.R. Titles and Chapters; Alphabetical List of Agencies Appearing in the C.F.R.; Re-designation Tables; List of C.F.R. Sections Affected

Updating Regulations in the C.F.R.

As with any legal research, it is important to verify that one has the most recent text of the regulation. In order to update a regulation the following steps should be taken.

— Look up the relevant section in the most recent C.F.R. volume. Determine the date of revision on the cover of the C.F.R. volume.

— Find the most recent monthly *List of Sections Affected* (“LSA”) volume shelved at the end of the C.F.R.. The LSA’s are cumulative so only one LSA for each year is necessary. Check for changes to the regulation in question. References in the LSA are to the page of the *Federal Register* containing the change. Note the dates of the LSA pamphlet coverage.

— Check the *Federal Register* for changes between the date of the most recent LSA and the present date. The last *Federal Register* of each month has a cumulative index for that month at the back of the issue. Find the date on the cover of the most recent LSA that deals with the C.F.R. title and code section in question. Check the last *Federal Register* issue of each complete month since the LSA publication date. Be sure to check the “C.F.R. Parts Affected During [Month]” table near the back, not the “C.F.R. Parts Affected In This Issue” table near the front of each *Federal Register* issue.

— Check the “List of C.F.R. Parts Affected During [month]” in the back of the most recent issue of the *Federal Register* available.

— If at any point in the process in either or both the LSA or the *Federal Register* changes are indicated, such changes must then be located and updated using the same process.

— Call the agency to determine if any additional changes have occurred or are about to be implemented. Check with an online source to determine if any changes have been implemented. A list of agencies and corresponding links is located at <http://lcweb.loc.gov/global/executive/fed.html>.

— *Shepard’s Code of Federal Regulations Citations* [Ref. KF 78 .S54 2004]

As with statutes and cases, it is important to verify that the regulation is good law. *Shepard’s Code of Federal Regulations Citations* indicates if the regulation has had any negative treatment and provide additional references to other sources interpreting the regulation. This set is shelved following the C.F.R.

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