

# ***Federal Administrative Law***

University of Idaho

College of Law

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Administrative agencies are created by legislative action but operate under the control of the executive branch. A legislature passes an enabling statute defining the scope of the agency’s mission and granting it the power to perform its functions. Administrative law functions like the legislature (by creating regulations), like the executive branch (by enforcing regulations) and like courts (by adjudicating violations).

## **PUBLICATION OF FEDERAL REGULATIONS**

The Federal Register Act in 1936 established the publication of the *Federal Register*, the *Code of Federal Regulations (CFR)*, and an updating service called the *List of Sections Affected (LSA)*.

### ***Federal Register***

The *Federal Register*, published each weekday, contains the full text of new and amended regulations, proposed regulations, notices from federal agencies, executive orders and presidential proclamations. Each issue of the Register contains a daily subject index, a daily list of CFR Parts affected, and a cumulative list of CFR Parts affected from the first day of the month. The last issue published in a given month contains a cumulative list of CFR Parts affected during that month. A cumulative year-to-date index is issued at the end of each month. A full citation to the *Federal Register* includes the volume, page, and date: 69 FR 45632 (July 30, 2004). The table below provides a compilation of resources and coverage for the *Federal Register*.

<b>Web (Free)</b>	<ul style="list-style-type: none"><li>➤ <a href="#">GPO FDsys ( 1994- Current)</a></li><li>➤ <a href="#">National Archives and Records Administration (1993 - Current)</a></li></ul>
<b>Web (Subscription)</b>	<ul style="list-style-type: none"><li>➤ <a href="#">Hein Online (1936 – Current)</a></li><li>➤ <a href="#">Westlaw (1936 – Current)</a></li><li>➤ <a href="#">Lexis (1936-Current)</a></li><li>➤ <a href="#">ProQuest Congressional (1981 – Current)</a></li></ul>
<b>Paper</b>	<ul style="list-style-type: none"><li>➤ The Law Library has the current year of the Federal Register available in print on the main floor available at shelf 264.</li></ul>

### ***Code of Federal Regulations***

The *Code of Federal Regulations*, referred to as CFR, compiles currently effective regulations by agency and subject in a 50-title code set. Each quarter of each year, the government republishes approximately one-fourth of the CFR titles. The CFR set includes a one-volume index arranged by agency and subject

with references to the CFR Title and Part. An index volume contains a Table of Authorities and Rules providing cross-references from U.S. Code sections to corresponding CFR sections. A citation to the *Code of Federal Regulations* is made up of a Title, Part, Section number, and the year of the CFR volume. For example, 32 C.F.R. 842.2 (2006) means that the regulation is published in Title 32, Part 842, Section 842.2, of the 2006 CFR. The table below is a compilation of available resources and their respective coverage.

<p><b>Web (Free)</b></p>	<ul style="list-style-type: none"> <li>➤ <a href="#">FDsys (1996 – Current)</a></li> <li>➤ <a href="#">National Archives and Records Administration (Updated Daily)</a></li> <li>➤ <a href="#">Electronic Code of Federal Regulations (Current Year)</a></li> <li>➤ <a href="#">Legal Information Institute (Current Year)</a></li> </ul>
<p><b>Web (Subscription)</b></p>	<ul style="list-style-type: none"> <li>➤ <a href="#">Hein Online (1936 – Current)</a></li> <li>➤ <a href="#">Westlaw (1936 – Current)</a></li> <li>➤ <a href="#">Lexis (1936-Current)</a></li> <li>➤ <a href="#">ProQuest Congressional (1981 – Current)</a></li> </ul>
<p><b>Paper</b></p>	<ul style="list-style-type: none"> <li>➤ The Law Library has the current year of the CFR available in print on the main floor available at shelf 263.</li> <li>➤ The UI Main Library has the CFR available in print from 2008 to the current year available at AE 2.106/3-2.</li> </ul>

## FINDING FEDERAL REGULATIONS

Three methods of finding regulations include online searching, looseleaf services and print indexes to the *Code of Federal Regulations* and *Federal Register*. The National Archives and Records Administration web site includes detailed tutorials of how to find information in the [Federal Register and the CFR](#).

### Online Services

Full-text online searching of the *CFR* and *Federal Register* is available on free and fee-based resources listed in the tables above. The newest issues of the Federal Register are available online the day they are published.

### Looseleaf Services

Looseleaf services are commercial publications that combine statutes, regulations, cases, administrative decisions, commentary and all other relevant documents on a specific topic into one binder-type format. The binder format allows for the removal and insertion of new pages to reflect changes in the laws and new documentation.

Looseleaf publications may consist of one or many volumes. Some of the larger services have “transfer” binders for older cases and decisions. Large looseleaf publications have many finding aids, such as a current and cumulative index and tables of cases, statutes and decisions. The publication may also include reports of recent developments, editorial commentaries and newsletters. The looseleaves are located in the reference section on the main floor of the law library.

Increasingly, looseleaf publications are published online. Looseleaves on Lexis include publications from Matthew Bender and Bureau of National Affairs (BNA). Looseleaves on Westlaw include publications from Commerce Clearing House (CCH) and Research Institute of American (RIA). Some publishers, such as BNA, publish stand-alone products online. Check the law library research database list as well as the online library catalog for the availability of products on various subjects.

## **Indexes**

The print CFR is accompanied by a volume called *Index and Finding Aids*. This one volume index is arranged by Subject and Agency listings. Entries refer to Title and Parts, but not Section numbers. This index is also reproduced as part of the USCS annotated code.

Additionally, West publishes a *General Index to the CFR*. This four volume index is much more detailed and allows for more precise searching than the official *CFR Index*. Entries refer to Title, Part, and Section numbers. It also includes a Words and Phrases index for locating definitions in the CFR.

Both indexes are located with the rest of the CFR sections on the main floor of the library on shelf 263.

The official *Federal Register Index* is published monthly and cumulated annually. It consists of a consolidation of the entries in each issue's table of contents. Entries are arranged by agency instead of subject. Within each agency's listing, rules, proposed rules, and notices are listed alphabetically by subject. The *Federal Register* index is also available online at <http://www.archives.gov/federal-register/the-federal-register/indexes.html>.

## **UPDATING REGULATIONS**

Unlike statutes that are promulgated each year, regulations can be proposed by a rulemaking agency at any time of year. Thus, even though there are print resources for updating it is a good idea to check for regulation updates using an online resource that is up-to-date.

### **Online Services**

The quarterly publication schedule for the printed volumes is followed on the FDsys site. To update these regulations, search the Federal Register site from the date of the last revision of the title to the present.

Additionally there is the [e-CFR](#) from the National Archives and Records Administration. Here the regulations are updated regularly with information from the Federal Register. The text is the most current version available. As amendments become effective, the changes are integrated directly into the e-CFR database. For amendments that have not yet become effective, there are links in the e-CFR database to the relevant amendments. However it should be noted that the e-CFR is not an official legal edition of the CFR and should be relied on only for research purposes and not for citations.

[Regulations.gov](http://Regulations.gov) is also a valuable resource for searching for proposed and final rules/regulations that are open for comment. Rules can be searched by keyword or agency. Users can also submit comments online.

If you are viewing a regulation through Westlaw or Lexis each service will have indications at the top of the screen as to its currency. However the update schedule for the text of the CFR on Lexis and Westlaw is not the same quarterly revision schedule as the printed CFR. If you are citing to a CFR section, you must use the date of the printed volumes.

### **Looseleaf Services**

If the subject matter of a regulation is covered by a looseleaf service, the current language is available from the looseleaf reporter. Most reporters are updated weekly, biweekly or monthly, and they usually indicate whether there are any proposed changes or final changes that have not yet taken effect.

### **CFR List of Sections Affected (LSA)**

The List of CFR Sections Affected (LSA) lists proposed, new, and amended Federal regulations that have been published in the Federal Register since the most recent revision date of a CFR title. It is published by the Office of the Federal Register, National Archives and Records Administration.

Each LSA issue is cumulative and contains the CFR part and section numbers, a description of its status and the Federal Register page number where the changes may be found. The LSA is issued monthly, but FDsys also features browsing of the [CFR Parts Affected from the Federal Register](#) to find final and proposed rules that affect the CFR and have been published in the Federal Register within the past 24 hours, week, month, or within a specific date range.

The currency (revision date) of each CFR volume is noted on the front cover. To find new regulations and revisions published after the latest CFR volume was issued, refer to the monthly *List of Sections Affected (LSA)* and to the daily *Federal Register*.

To update the CFR with the LSA:

1. Check the revision date on the cover of the CFR title you are updating.
2. The March, June, September, and December issues of the *LSA* each list a full year's regulatory changes for a portion of the CFR and provide *Federal Register* page citations to those changes. Find the issue of the *LSA* containing the annual revision to the CFR title you want to update. If the annual revision has not been issued for the title of the CFR you are updating, then proceed to step 3.
3. Consult the most recent issue of the *LSA* and check to see if it contains any changes subsequent to those listed in the most recent annual *LSA* compilation covering the CFR title you are updating
4. Look for further changes in the cumulative list of CFR Parts Affected in the last issue of the *Federal Register* issued for each month after the most recent *LSA* issue. This is a cumulative list of Parts affected, not Sections. If your part is listed you must check the appropriate page(s) in the *Federal Register* to see if the specific Section has been updated.

5. Finally, check the cumulative list of CFR Parts affected in the most recent issue of the current month's *Federal Register*. As in Step 3, you must check the appropriate page(s) in the *Federal Register* to see if your Section has been updated.

## **ADMINISTRATIVE DECISIONS**

Publication of administrative decisions is more disparate than the rules and regulations they interpret. There is no singular location where all administrative cases are located and many agencies have no official publication system at all.

### **Online Services**

Many agencies have taken advantage the internet to provide public access to administrative decision. However, the organization, search capability and dates covered vary from agency to agency. [The University of Virginia Library](#) compiled a list of federal agency decisions that is an excellent place to start research if restricted to free resources.

Both Lexis and Westlaw have specialized databases corresponding to areas of law subject to agency regulation. To determine what is available online for a particular agency, check the database guides or the online indexes.

### **Looseleaf Services**

Looseleaf services publish administrative decisions in their subject areas. Loosleaves are helpful because decisions are usually available quickly and provide more comprehensive indexing and other annotations than their official publication counterpart. Looseleaves are available in the reference section on the main floor of the library and many are available online. Check the law library research database list as well as the online library catalog for the availability of products on various subjects.

## **CITATORS FOR ADMINISTRATIVE MATERIALS**

The CFR and some administrative decisions can be Shepardized or KeyCited to find cases citing specific regulations and decisions.

### ***Code of Federal Regulations***

To find out if there are any cases discussing a *CFR* section, use Shepard's on [Lexis](#) or KeyCite on [Westlaw](#).

### **Administrative Decisions**

Some administrative decisions can be updated using Shepard's on [Lexis](#) or KeyCite on [Westlaw](#).

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