

Federal Administrative Law Research

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The Administrative Procedure Act

The federal Administrative Procedure Act (APA) is located in the U.S. Code at 5 U.S.C. §501 et seq. The Act details authority for rulemaking, regulatory power, publication, adjudication of regulatory issues, and more. Other material relating to administrative law is at 5 U.S.C. §701 et seq. (judicial review of administrative decisions) and then at various other places in Title 5 (relating to administrative law judges).

The administrative process and resources

Various federal agencies have the power to regulate an activity by creating rules, and adjudicating relevant issues before administrative panels in a quasi-court structure. Most agency power flows from the act (as amended) that created the Agency. The FCC, for example, was created by the Federal Communications Act of 1934, and that act defines its regulatory purview. The APA defines the standard procedures the Commission must use to carry out its oversight. This applies to all executive and administrative agencies.

Most agencies issue rules, and these are published in the *Federal Register* and the *Code of Federal Regulations* (discussed below). Their formal opinions in specific matters are documented in the reports they issue. The organization and scope of administrative reports of a commission or agency will vary with each government entity. The precedential value of these decisions will also vary as disputes can get to the federal courts through the appeals process, or by litigants challenging the validity of rules directly in federal court. Administrative decisions can be appealed to the federal courts under the authority of the APA.

A typical agency web site should contain the agency rules, a collection of formal and informal opinions, a docket of pending matters, reports and other publications, contact information, an FOIA reading room, and links to related sites. The coverage time for agency decisions varies, as does the interface for searching and browsing. Decisions also appear on databases in Lexis and Westlaw, usually in databases organized by legal subject.

In paper, the *Administrative Law* reporter from Pike and Fischer compiles court and agency decisions that cover the regulatory process. The set includes opinions, a digest, and a bulletin. The contents are updated every two weeks. Otherwise, the various *Federal Digests* will have index points to federal administrative law court decisions from

the federal courts. With the various agencies placing their decisions on the Internet, the need for the Pike and Fischer reporter has declined somewhat.

There is a *Shepards Administrative Citations* paper publication that gives subsequent citation history for decisions categorized by selected agency. Shepards online and KeyCite can also give citation reports for administrative decisions, just as they would for any court decision.

The United States Government Manual

The United States government is organized into three branches of Government. These branches are sub-categorized into department, agencies, offices, authorities, commissions, public corporations, and a host of other entities. The U.S. Government Manual identifies all of the parts of the United States government, and provides descriptions, physical addresses, web addresses, and other information for all of them. The Manual is issued every year and is a standard reference item within the reference collection of most libraries. There is a PDF version available on GPO Access at: <http://www.gpoaccess.gov/gmanual/index.html>. The current edition is 2004-2005. There are online copies back to the 1995-1996 edition.

There are two kinds of agencies: executive and independent. An example of a executive agency is the National Library of Medicine, which is a part of the Department of Health and Human Services. Thus, on an organizational chart of HHS, the NLM will appear as an entity which is under the supervision of the Secretary of Health and Human Services. The Social Security Administration, however, is an independent agency (as of March 31, 1995; prior to that time it was part of HHS, and its predecessor department, Health, Education, and Welfare). In another example, The National Labor Relations Board is an independent agency and is not part of the Department of Labor.

The manual is useful, as the government regularly reorganizes itself. The details are found in reorganization plans submitted by the executive to congress and passed (or not) as the case may be. The manual (and older versions of it) gives a portrait of the federal government as it adds, deletes, and consolidates operations within a given year. Appendix B identifies the agencies that have been terminated, transferred, or changed in name since March 4, 1933.

Code of Federal Regulations

The *Code of Federal Regulations* (CFR) is the codified general and permanent rules of the executive department and independent federal agencies of the United States. The code includes presidential proclamations and executive orders (Title 3). The Code is broken into 50 broad titles, which are divided into chapters that provide the rules of the issuing agency. These are further divided into parts that cover a specific regulatory area, and, for large parts, these may be divided into sub-parts. All parts are further divided into sections. Citation is usually to title and section, and year. Consult the Bluebook for correct citation format.

Only a few titles in the CFR correspond to titles in the U.S. Code by subject. For example, titles 7 in both sets cover the subject of agriculture; title 26 in both sets is based on the subject of revenue. Other titles do not necessarily correspond to their numerical counterpart in the U.S. Code.

The Code is updated on an annual basis with one-fourth of the Code having a revision date at the beginning of a different quarter:

Title 1 through Title 16 ... as of January 1
Title 17 through Title 27 ... as of April 1
Title 28 through Title 41 ... as of July 1
Title 42 through Title 50 ... as of October 1

The annual revisions to the CFR incorporate the changes published in the *Federal Register* since the last revision of the specific Code volume. The *Federal Register* is discussed in more detail below.

The only title that isn't revised is Title 3, which corresponds to the President. Title 3 contains executive orders, proclamations, and other presidential material. Every year a new volume is issued that supplements the previous years' issue. Libraries keep all issues of Title 3 as part of their CFR collection even though they may not retain older yearly compilations.

The government provides the *CFR Index and Finding Aids* as a one-volume index to the entire CFR. The Index has limited utility, as it is very general in scope. The commercial publication *CFR Index* prepared by CIS is a four-volume set that indexes both the CFR and the *Federal Register*. The CIS edition is highly detailed and is a better resource than the volume issued by the government. The CIS set is updated with supplemental pamphlets at various times in the year, and is recompiled annually. The government publication is replaced annually.

The government edition of the *CFR Index* does contain a Parallel Table of Authority and Rules. This table cross-references the statutory authority to the rules put in place under that authority. This table is organized in several parts, utilizing several parallel citation forms:

U.S. Code Section to CFR Citation (Titles 1 – 50)
Statutes At Large Citation to CFR Citation (7 Stat. 491 to present)
Public Law Number to CFR Citation (P.L. 80-806 to present)
Presidential Notices (November 12, 1993 to present)
Presidential Proclamations (April 28, 1916 to present)
Executive Orders (1209 to present)
Presidential Directives (May 17, 1972 to present)
Presidential Memorandums (November 10, 1961)
Presidential Notices (August 3, 2000 to present)

Reorganization Plans (1940 Plan Number 4 to present)

The CFR is available in paper in most libraries. Libraries generally do not keep an archive past one or two years in paper. Microform is an alternative in this situation. There are online versions (text and PDF) at GPO Access (<http://www.gpoaccess.gov/cfr/index.html>) starting with the 1997 edition, and some volumes from the 1996 edition. Online versions of the CFR are on Lexis (archived back to 1980) and Westlaw (archived back to 1984) to the present. Lexis and Westlaw also have databases that combine the current *Federal Register* and the *Code of Federal Regulations*.

Federal Register

The *Federal Register* is an official daily publication of the United States Government (excluding weekends and federal holidays) containing the rules, proposed rules, notices of activity by federal agencies and organizations, and executive documents such as Presidential Proclamations, Executive Orders, and other miscellaneous documents. The combined yearly publication of the Federal Register can be 75,000 or more pages.

The *Register* issues are arranged by agency as organized in CFR title and section order. A table within each *Register* issue also contains a handy list of sections affected for that issue. Thus, revisions to the CFR are easy to track within individual issues of the *Register*. Each entry in the Register usually has contact information for an individual within the agency who can provide more information about the specific item. These usually provide name, address, phone number, and email address. An agency that has not contributed content to an issue will not be listed in that issue.

The *Register* is available in paper at most libraries for at least the past one or two years. Older issues are usually available on microform. There is an online version (both text and PDF) at GPO Access starting with Volume 60 (1995). The text is searchable by keyword and can be limited to year and document type. Both Lexis and Westlaw have versions of the Register back to 1980. A complete set of the *Federal Register* is available in PDF format from Hein Online (available through the DePaul Libraries database page).

List of Sections Affected

The *List of Sections Affected (LSA)* appears quarterly and gives a cumulative list of revisions made to the CFR by materials from the *Federal Register*. The book is organized by the quarterly revision dates of the CFR, then by title, section, and part. Entries in the list will correspond to pages in the current volume of the *Federal Register* where the changes were made.

There is an online version of the LSA at the Government Printing Office web site. The main database is a static copy of the text as it appears in the paper version. There is a second database called the Current List of CFR parts affected which will update the LSA until the next quarterly issue.

GPO Web Site Search Page describes the process:

To bring these regulations up to date by [Searching](#) or [Browsing](#) the online *LSA* Service: (1) consult the most recent issue of the *LSA* for any changes, additions, or removals published after the revision date of the *CFR* volume you are using; and (2) then access the [Current List of CFR Parts Affected](#) for less detailed but timely changes published after the final date included in the *LSA*. Though already incorporated in the *Current List of CFR Parts Affected*, the [List of CFR Parts Affected Today](#) is extracted from each issue of the daily *Federal Register* to assist those monitoring changes on a daily basis.

From a research strategy standpoint, the best opportunity to research the Code of Federal Regulations is through the databases on Lexis and Westlaw. Both of these can provide up to date versions of the current code along with historical snapshots of prior versions. For historical research, the likely alternative is *CFR* editions on microforms or the HeinOnline *Federal Register* PDF library.

SuDoc Numbers

Federal government publications have a catalog number provided by the Superintendent of Documents (SuDoc). The cataloging scheme organizes government documents by issuing entity, sub-entity, and then chronologically. Many libraries use SuDoc classification numbers to organize their document collections. However, these collections do not always appear in the library's general online catalog. There is usually a secondary database of government documents holdings to locate these items within a collection. Libraries sometimes do integrate documents into their main classification scheme, so it's possible to locate a document by searching for it in the online catalog. Check at the individual library to learn how it tracks government documents.

The example below shows how a Superintendent of Documents classification number is constructed using the *FBI Law Enforcement Bulletin* as a sample: (J 1.14/8: 48/983)

J	1.14/8	48/	983
Justice Department (issuing agency)	FBI (subordinate bureau within the agency)	Number designating the volume	Year of publication (1983)

Catalog of Government Publications

As the name implies, this is a catalog issued by the Government Printing Office of documents generated by various parts of the United States government. This publication was formerly known as the *Monthly Catalog of Government Publications*.

GPO Access has a search page for the Catalog of U.S. publications:

<http://www.gpoaccess.gov/cgp/index.html>

Coverage begins with 1994 publications. Searching is by keyword, keyword for online titles, title word, SuDoc class number, depository item number, GPO stock number, and publication date. New publications are added daily.

Another database of government publications is available through WorldCat. The database is called GPO. Coverage begins with 1976, and there are approximately more than 522,000 records in the database. There are 30 different search categories, with the ability to search 3 at one time. There are limits available for date and material type. This database is updated monthly. The GPO database through WorldCat is a commercial database and is not maintained or provided by the Government Printing Office.

Agency Reports and Miscellaneous Documents

Various federal entities issue single documents which stand alone as an agency publication. These reports are sometimes found in libraries depending on the nature and importance of the document. Even libraries who act as a Government Depository might not receive these documents if they do not select them as an item type. Lexis and Westlaw do not usually add these types of documents to their databases. The best place to find this material is by searching the agency's own web site.

Administrative Web Research Links

This is a list of selected online resources that cover administrative law. To expand and update this list, search the phrases “federal administrative law” and “research guide” in Google, or any other search engine. Quite a few law libraries have posted commentary with links on administrative law research, and these type of sites should show up in the results list.

Government agencies links through GPO Access. Regulatory information links are at http://www.access.gpo.gov/su_docs/regulatory.html.

An extensive list of links to federal agencies from Louisiana State University Libraries. <http://www.lib.lsu.edu/gov/fedgov.html>.

Agency index from Washburn University School of Law. This is another extensive set of web links to federal agencies. <http://www.washlaw.edu/doclaw/executive5m.html>.

U.S. agency links from Duke University. This page features a comprehensive set of web links to all federal agencies, using the listings from the *U.S. Government Manual* as the guide. <http://www.lib.duke.edu/txis/searchdb/uslinks/uslinks#Browsing>.

Administrative law research guide, from the Georgetown University Law Library. This page is a description of major administrative law documents, and their uses. There are also links to government document collection sites on the web. <http://www.ll.georgetown.edu/lib/guides/admin.html>

A FAQ style administrative law research guide from the New England School of Law, <http://www.nesl.edu/research/RSGUIDES/FEDAM.HTM>

A short research guide on administrative law with links to many agencies, from the University of Miami Law Library. <http://library.law.miami.edu/fedadminguide.html>

Research web links, from Roger Williams University School of Law. <http://law.rwu.edu/LawLib/legalws4.htm>

The site has a large number of legal research guides on a variety of topics, including administrative law, from the Wisconsin State Law Library.. <http://wsll.state.wi.us/legalresearch.html>

Illinois administrative law web links from Southern Illinois School of Law Library. <http://www.law.siu.edu/lawlib/guides/IIIAdminCode.pdf>
<http://www.law.siu.edu/lawlib/guides/IIIadmin.pdf>

Federal Agency Administrative Links from LexNotes. LexNotes is a legal portal with categorized links to many subjects. Go to their home page for more information.

<http://www.lexnotes.com/sources/fed/admncases.shtml>

Comments on pending regulatory matters can be made and reviewed at

<http://www.regulations.gov>.