

A Research Guide to the Federal Register and the Code of Federal Regulations

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Historical Development of the Federal Register

In earlier times U.S. Executive branch agencies and the Office of the President would each publish their own regulations in various separate publications, be they gazettes, bulletins, rulings, digests, pamphlets, notices, codes, certificates, orders, and the like. This profusion of authoritative documents, especially as agency regulations began to mushroom in the 1930's, made it extremely difficult for the public to determine where a U.S. regulation could be found, when it was issued and whether it had been altered or revoked.¹ The U.S. Department of Justice itself had a difficult time determining the status of regulations as became embarrassingly apparent when the Department had to acknowledge before the Supreme Court that an Executive order it was trying to enforce had been inadvertently revoked.² To remedy this situation Congress, in 1935, passed the Federal Register Act, which empowered the Archivist of the United States to establish a division within the National Archives to be responsible, with the Government Printing Office, for the publication of a daily *Federal Register* under the authority of a newly established Administrative Committee of the Federal Register.³

The Federal Register Act requires that the *Federal Register*, begun on March 14, 1936, be the Federal government's comprehensive vehicle to publish all agency promulgated rules and regulations as well as all Presidential proclamations and executive orders or other such documents that the President determines has general applicability and legal effect or as may be required by Act of Congress. Other documents, such as notices of meetings, agency collection activities, applications, and policy statements may be included as well. However, the law does not permit the publication of comments or news items in the Federal Register.⁴ After the enactment of the Administrative Procedures Act in 1946, notices of proposed rulemaking are now also required to be published.⁵ The proposed rules are to be accompanied by a description of the subject and issues involved and from 1947 to 1972 these descriptions in the preamble to the proposed rules were about the only place to find an explanation or rationale for a rule.

Beginning in the 1960's finalized rules began to be accompanied in the *Federal Register* by brief explanations, usually just after the text of the rule, but it was not until 1973 that final rules were required by the Administrative Committee of the Federal Register to have in their preamble to the rule a statement summarizing the general subject matter of the rule.⁶ A rule effective on April 1, 1977, requires that comments to proposed rules and answers to them be summarized in the preamble before the rule and it also

requires that agencies submit their final and proposed rules with specific preamble heading material.⁷

Historical Development of the Code of Federal Regulations

The Federal Register Act originally provided, within six months, for a complete compilation of all existing regulations promulgated prior to the first publication of the *Federal Register*. However, this was deemed inefficient, and so instead of a "compilation" of existing regulations, the Federal Register Act was amended in 1937 to provide a "codification" of all regulations every five years.⁸ A six member Codification Board was established which determined the precise structure of the new *Code of Federal Regulations* (CFR). A similar organization to the *United States Code* (USC) was followed by the Board so that a majority of the 50 titles to the CFR (some held in reserve) have similar alphabetically arranged subject categories and title numbers to that of the 50 titles in the USC.⁹

The first edition of the CFR was published in 1938 and included all finalized regulations that were published in the *Federal Register* from March 14, 1936 to June 1, 1938, as well as those agency regulations deposited with the Archivist, and still in effect, that may have been published by the agencies before March 14, 1936. Source notes in the first edition of the CFR are to pages in the rebound edition (1936-1938) of the *Federal Register*, not to the original pages in the daily edition.

Supplements to the first edition of the CFR were published for the period beginning on June 1, 1938, to the end of 1938 (in 1 vol.), and for the years 1939 (in 2 vols.), 1940 (in 4 vols.), and 1941 (in 4 vols.). Due to the war effort there was no 1942 supplement and the new CFR edition that was suppose to come out in 1943 was instead replaced with a cumulative supplement (in 10 vols.) that covered regulations still in force and published in the *Federal Register* from June 1, 1938 to June 1, 1943. Thus this publication was an adjunct to the original 1938 edition, not a replacement. Supplements were again published for the period to the end of 1943 (in 2 vols.), for 1944 (in 3 vols.), for 1945 (in 4 vols.), for 1946 (in 6 vols.) and for 1947 (in 5 vols.). A supplement was not published for 1948, "because preparations were being made for the second edition of the CFR to replace the 1938 codification and the 1943 update."¹⁰

In 1949, the second edition of the *Code of Federal Regulations* was finally published. It included all the regulations still in effect as of January 1, 1949, and was largely taken from the 1938 edition, the supplements, and the regulations issued in the *Federal Register* in 1948. However, there were some additional regulations added that were not published in the *Federal Register*. These were generally either rules of procedure or rules received by the Division of the Federal Register and considered as officially promulgated and applicable to the general public or a class of the public and effective on or after January 1, 1949.¹¹ Each book of the 1949 CFR, containing one or more titles, also had a subject index and a place at the back to fit a cumulative pocket supplement. Cumulative pocket supplements were issued annually for each book until it was deemed appropriate that a new edition of a particular book should be published with space in the back for subsequent pocket supplements. Each supplement also contained

various finding aids, including a "Codification Guide" or "List of Sections Affected" as it was later called.

After considerable discussion on the best way to proceed, beginning in 1963 for some titles and for all titles in 1967, the Office of the Federal Register (OFR)¹² began publishing yearly revisions to the titles of the CFR, effective on January 1 of each year. The new books were bound in soft covered, dark blue paper stock, but beginning in 1970 each annual edition of the CFR has a different color on its outside binding. If there are no changes to regulations in certain books then a colored paper stock is issued so it can be used to cover the older edition. Although ponderous in size, an annual republication of the CFR in softbound books, instead of a through cumulative supplements or loose-leaves allows the researcher to determine how a regulation read on any given date.¹³

Soon, however, it became apparent to the OFR that revising the entire *Code of Federal Regulations*, at the same time, was administratively unmanageable. So beginning on October 1, 1972, the OFR has divided the titles of the CFR into four groups with each group being revised in staggered quarters of the year. Titles 1-16 are revised effectively on January 1 of each year. Titles 17-27 are revised effectively on April 1 of each year. Titles 28-41 are revised effectively on July 1 of each year, and titles 42-50 are revised effectively on October 1 of each year.

Contents and Organization of the Federal Register and CFR

The daily *Federal Register* is generally divided into three large sections consisting of "Rules and Regulations", "Proposed Rules", and "Notices". These three groups are sandwiched between a title page and table of contents in the front (with pages numbered in uppercase Roman numerals) and certain reader aids in the back (with pages numbered as lower case Roman numerals). Frequently, major proposed and final rules, are published with their own title page and published as various parts (starting at Part II) in the back of an issue after the "Notices" section. Presidential proclamations and Executive orders are generally published just before the "Rules and Regulations" section unless a Presidential Documents section is assigned its own part in which case it will be published in the back, just before the "Reader Aids" section.¹⁴

Since 1977 preambles to final and proposed rules have been required to contain certain headings and related material including the name of the agency, a brief line on the action being taken, a summary of the rule, the effective date of the rule (or date when comments are due), contact information, and supplementary information.¹⁵ The supplementary information frequently provides a discussion of the background and need for the regulation, and in case of a final rule how it differs from the proposed rule as well as responses to comments made on the proposed rule.

Unless there are certain problems with a document, it is generally published three working days after it is received by the OFR,¹⁶ which is normally about a week to ten days after an agency releases the document (the approval date may be even earlier). You can usually find a newly approved regulation on an agency's public Web site before it is published in the *Federal Register*. However, the effective date of a rule, which is required, with some exceptions, to be not less than 30 days after publication, is generally based on when it is published in the *Federal Register*.¹⁷

The Administrative Procedure Act, as amended by the Freedom of Information Act, requires that certain documents be published in the *Federal Register*.¹⁸ These include substantive rules and interpretations of general applicability, statements of general policy, rules of practice and procedure, descriptions of agency forms, rules of organization, descriptions of an agency's central and field organization, and amendments or revisions to the foregoing.¹⁹ Matters of national secrecy or those relating to an agency's internal management have always been exempted from publication.²⁰ The Administrative Procedure Act also requires notice of proposed rulemaking to be published in the *Federal Register* with the exception of 1) a substantive rule which grants or recognizes an exemption or relieves a restriction; 2) interpretive rules and statements of policy; or 3) as otherwise provided by the agency for good cause found and published with the rule.²¹

To assist Federal agencies in preparing documents to be published in the *Federal Register* the OFR has published a *Document Drafting Handbook*. The *Handbook* makes no distinctions between the word "rule" from the word "regulation", but, pursuant to the Administrative Procedure Act, it does make a clear distinction between a final rule and a proposed rule and also attempts to clarify the kinds of documents that are considered rules and regulations, proposed rules, and notices.²² The *Handbook* also allows for the publication of interim or temporary rules that are effective immediately for a short period or for a definable period of time with comments solicited for later consideration.²³ Because U.S. courts generally defer to Federal agency rules that have gone through notice-and-comment rulemaking requirements, it makes a difference in the authority of an interim rule, policy statement, or interpretation, if they have not gone through such a process.²⁴

Unlike the *Federal Register*, the *Code of Federal Regulations* does not contain preambles, proposed rules, notices, or even general policy statements. It contains just the finalized and effective rules of Federal agencies as well as any related official interpretations or supplements to those rules. These rules are organized by subject matter into CFR titles, chapters, parts, and sections. Generally an agency's rules are all placed under one title or chapter. However, unlike most of the *United States Code*, sections or parts of the CFR that have been rescinded are frequently reused as a publishing vehicle for new unrelated regulations. CFR titles are published annually according to a staggered schedule (see above) and finalized rules in the *Federal Register* update the annual rules published in the CFR.

Title 3 of the CFR contains all the Presidential proclamations and Executive orders issued that year and as such, it is not updated like agency rules. Libraries are wise to retain this Title indefinitely. A one volume *Codification of Presidential Proclamations and Executive Orders* was last issued in 1990 and covered the period 1945-1989. The OFR on its Web site now maintains an online disposition table for executive orders issued from 1937 to the present. Beginning with Clinton Administration the Executive orders on that Web site are also available in full text.²⁵

Electronic Sources of the Federal Register and CFR

There are a number of electronic sources to the *Federal Register* and CFR. GPO Access, for instance, has the *Federal Register* from 1994 forward with portable document format (PDF) copies from 1995 forward, and it has annual CFR issues with PDF copies from 1997 forward. Both LexisNexis and Westlaw have the *Federal Register* online from July 1 of 1980, with citation retrieval capability and with all pages noted in versions after 1992. Lexis has the CFR editions back to 1981 and Westlaw has them back to 1984. They both have citation retrieval capability for sections in the current CFR. Dialog has the *Federal Register* from 1985 forward, OnCongress.CQ.com has it from 1990 forward and GalleryWatch.com has it from 1999 forward.

For an up to date CFR, GPO Access has an unofficial "Electronic Code of Federal Regulations (e-CFR)" service which gives you CFR sections in their current form with any recent amendments from the *Federal Register* already incorporated.²⁶ The e-CFR service is updated daily and also allows you to separately view appendices and supplements to CFR parts, instead of having them tacked together onto the concluding final section of a part of the CFR.

Since January of 2003, a new citizen friendly Web site called "regulations.gov" was launched by the Bush Administration to provide the public with a one stop place to make public comments on proposed agency rules that have been published in the Federal Register and whose comment period are still open.

Commercial electronic CFR updating services include LexisNexis and Westlaw (both updated within a week or two after promulgation) as well as LoisLaw.com, VersusLaw.com, TheLaw.net, and RegScan.com. Portions of the CFR may also available from other commercial vendors in selected subject areas. In addition, LoisLaw.com has the FR from 1999 to the present.

The William S. Hein & Co., Inc., in its HeinOnline service, has optically scanned all older issues of the *Federal Register*.²⁷ The service has browse capability, citation retrieval capability, and even word search capability of the unedited optically scanned text. It also has the annual *Federal Register Index* and the "List of CFR Sections Affected". The site is nearly current and contains all *Federal Register* issues from 1936 to within one or two months of the present. Recently, HeinOnline has also made available in its Federal Register Library past editions of the *Code of Federal Regulations* from 1936 through 1983.

Finally, the National Archives, through its Office of the Federal Register, maintains a Web site on the Federal Register and CFR with a number of helpful publications, including links to GPO Access sites, some on Executive Orders and Presidential proclamations (noted above) and a "Public Inspection List" of documents to be published in the next day's Federal Register (see http://www.archives.gov/federal_register/index.html).

Finding Older Issues of the Federal Register and CFR

The *Federal Register* has been published daily each federal working day²⁸ since 1936 on newspaper quality paper. Only the earliest issues, from March 14, 1936 to June 1, 1938, were republished on better quality paper and repaginated in a bound form much like the bound form of the *Congressional Record*. A few libraries hold the entire *Federal Register* set in paper form and continue to bind the daily editions like other periodicals,²⁹ but most have discarded their paper copies in favor of microfilm or microfiche. The annual *Federal Register Index*, is generally retained by libraries having microform copies. Federal depository libraries, academic law libraries, and Federal agency libraries are all good sources for finding older issues of the *Federal Register* and the *Code of Federal Regulations*, but they may not have complete sets. Searching for the titles on OCLC may help you locate libraries that have the years and titles that you are interested in obtaining.

The William S. Hein & Co., Inc. and LexisNexis Academic and Library Solutions (LNALS, formerly known as CIS - the Congressional Information Service) both sell microfiche copies of the Federal Register from 1936 to the present. With the Hein subscription comes a hard copy of the annual *Federal Register Index* (albeit somewhat reduced in size). LNALS also sells the annual CFR (or its annual supplements) in microfiche from 1938 to the present. In addition, as noted above, Hein OnLine has recently made available, by optical scan method, nearly the entire *Federal Register* series in electronic format (currently 1936-2000) and is working on digitizing all past issuances of the *Code of Federal Regulations*.

Citations, ID Numbers, and the Unified Agenda

The Office of the Federal Register cites to the *Federal Register* by employing the volume number, the publication abbreviation "FR", and the beginning page number on which the document or the regulation within the document begins, as well as the date of publication. An example would be "67 FR 49264, July 30, 2002." *The Bluebook*³⁰ uses more detail, including the name of the regulation, the volume number, the abbreviation "Fed. Reg.", as well as the publication date and where the document is to be codified, as in "National Coastal Wetlands Conservation Grant Program, 67 Fed. Reg. 49264 (July 30, 2002) (to be codified at 50 C.F.R. pt. 84)." You can obtain a document by citation method on either Lexis or Westlaw by using an FR cite method without reference to a date or codified cite.

Citations to the CFR are cited in the *Federal Register* with the title number, the abbreviation CFR, the word "part" or the symbol "§" for section and the number of the part or section, as in 12 CFR part 220 or 12 CFR §220.1. The *Bluebook* citation method is similar to the above, but it requires you use periods in "C.F.R." and the issue year of the C.F.R. title as well, as in 12 C.F.R. pt. 220 (1999). By just using a simple CFR part or section citation, a current year's CFR document can be obtained on Westlaw. Although the C.F.R. is only "prima facie" evidence of a regulation (44 USC §1510), the courts generally do not require you to list the underlying citations to a CFR part or section. Indeed, according to 44 USC §1507 documents in the *Federal Register* themselves have

only a "rebuttable presumption" that they are duly issued, prescribed and promulgated and are true copies of the originals approved by a regulatory agency. But it does not appear that discrepancies between the original documents, the *Federal Register* documents, and CFR documents have ever been litigated. In part, this may be because Federal regulatory agencies can and regularly do make technical corrections to their regulations published in the *Federal Register*. However, the Office of the Federal Register will not certify the accuracy of a particular regulation in the CFR and thus for safety sake, it "may" be advisable for litigants to note the FR citation history to sections in the CFR pertinent to the litigation. This could be especially important if there is some question about the regulation because only in the documents published in the *Federal Register*, and not the CFR, is there any accompanying explanation to a proposed or final rule. In some sections of the CFR it may be hard to trace its FR citation history and you may need to perform an online search or search the annual index or *List of CFR Sections Affected* (see below).

Besides citations, there are several identification numbers to *Federal Register* documents. These include the agency docket number found at the beginning of the regulation (the same number is used for the proposed and final rule) or the *Federal Register* document number found at the end of the regulation (unique for each document published, including notices). The Web version of the *Federal Register* on GPO Access uses the unique FR Document number for its URLs and well as one that utilizes the date.

Another identification number to many regulations is the RIN or regulation identification number found at the top of the document right underneath the agency docket number. RIN numbers are assigned to description/status reports of agency proposed and final rules under development and published twice a year in the *Federal Register* during months of April and October pursuant to the Regulatory Flexibility Act and Executive Order 12866. Sometimes, however, this semiannual regulatory agenda for all Federal agencies is one or two months late in being published in the FR and the information contained in it may be somewhat outdated as well. When GPO does publish the agenda it requires some three additional books to the daily *Federal Register*. GPO Access does not include the agenda in its online version of the FR, but places it separately in its multi-database search facility under the term *Unified Agenda*.

Indexing to the Federal Register and CFR

Since its inception in 1936, the *Federal Register* has always been accompanied by an annual *Federal Register Index*. The *Index* is organized by agency (or subsidiary agency) and then within the agency index there are three groups -- rules and regulations, proposed rules, and notices, which is then broken down into alphabetically arranged subjects. Within the main index are scattered subjects referring you to the appropriate agency or agencies dealing with those particular subjects. Cites in the *Index* are to page numbers only, but in the back of the publication there is table with corresponding dates. A cumulative monthly issue is also published, with the final January-December issue of each year becoming the annual index. From 1984-1998 the Congressional Information Service (CIS - now called LexisNexis Academic and Library Solutions) published a more detailed annual index entitled *CIS Federal Register Index*.

The Office of the Federal Register also prepares and publishes an annual *CFR Index and Finding Aids*. The "Index" portion of the publication is organized by detailed subjects with references to CFR parts. The "Findings Aids" portion is divided into four sections including the following titles: "List of Agency-Prepared Indexes Appearing in Individual CFR Volumes;" "Parallel Table of Authorities and Rules;" "List of CFR Titles, Chapters, Subchapters, and Parts;" and "Alphabetical List of Agencies Appearing in the CFR." Particularly helpful is the parallel authorities section, which provides CFR cites to regulations from various legal authorities that are organized by U.S.C. section, U.S. statute page number, Presidential proclamation number, and Executive order number. From 1949 to 1963 a specialized index was published in the back of each book of the CFR, which sometimes covered one or multiple titles of the CFR, and since 1975 a few agencies (see list in the *Index*) have prepared an agency index that is published along with their regulations in the CFR.

The *Index and Finding Aids* is also reproduced annually as part of the *United States Code Service: Lawyer's Edition* published by Lexis Publishing, and a more detailed *Index to the Code of Federal Regulations* is published quarterly by LexisNexis Academic and Library Solutions.³¹

Another related index is *Shepard's Code of Federal Regulations Citations*. Published by Lexis Publishing and organized by CFR section, it includes citations to judicial interpretations and treatments of regulations in federal courts since about 1949. It also cites to state court decisions and law reviews since 1977 and provides related cites to ALR annotations as well. Reference notes to sections in both the *United States Code Service* and the *United States Code Annotated* also cite to related CFR sections. However, it is important to note that authorities cited in sections of the CFR itself are often to broad policies and laws that may or may not appear in any index or reference note.

List of CFR Sections Affected

Finally, no article on the *Federal Register* and CFR would be complete without making reference to the *List of CFR Sections Affected* (LSA).³² Begun in 1950 by being placed in the cumulative pocket supplements to the 1949 edition of the CFR, the LSA is organized by CFR title and part and contains page references to the annual *Federal Register* volumes that publish changes to final and proposed rules in the CFR. The changes referenced include final and proposed amendments, revocations, or newly established regulations published in the *Federal Register*. The LSA makes it easier for researchers to track the development and ascertain the currency of particular regulations. This kind of regulatory history tracking is more difficult for early documents published in the *Federal Register* before 1949, as those did not note what were the corresponding CFR citations. Before 1964 LSA was simply called *List of Sections Affected* and contained little information on how a CFR was affected. Since 1964 LSA has provided section-by-section information on how CFR parts were affected. However, LSA provides minimal details on proposed rules (and IRS final rules), and just notes that a certain part is affected.

Beginning in 1963, monthly and annual issues of the LSA were published instead of being inserted into cumulative pocket supplements. The cumulative January-December issue of the LSA would then be designated as the annual issue for the volume. In 1972 the titles of the CFR began to be published with staggered effective dates and after that time certain monthly issues of the LSA would be designated as the annual issue for certain titles of the CFR (December issue for Titles 1-16, March issue for Titles 17-27, June issue for Titles 28-41, and September issue for Titles 42-50). Subscribers are instructed to save the four annual LSA issues and sometimes other months as well.

Four compilations of the LSA have been published by the Government Printing Office encompassing the years 1949 to 1963, 1964 to 1972 (2 vols.), 1973 to 1985 (4 vols.), and 1986 to 2000 (4 vols.). The volumes are organized by CFR title and then by year within each title. Only finalized rules to CFR sections are included, which note the actions taken and the corresponding page numbers in the *Federal Register*. The 1986-2000 LSA compilation is available electronically on GPO Access (<http://www.access.gpo.gov/nara/lisa/lisacmp.html>).

LSA is also available on GPO Access from 1997 to the present.³² and GPO Access now as an prototype electronic service, called e-CFR, that actually updates the regulatory text on a daily basis. Similar electronic updated text services are available commercially (see above). Some libraries continue to retain all four of the LSA's that complete a year's cumulative listings. Other libraries now rely on the multi-volume LSA as well as the LSA on GPO Access, the annual *Federal Register Index*, and electronic searching of the *Federal Register*.

In the "Readers Aids" section of each issue of the daily *Federal Register* there is a cumulative list of CFR parts affected that month. A current cumulative list for the month can be found in the most recent issue of the *Federal Register* and earlier monthly cumulative lists can be found on the last day of the month that a *Federal Register* was issued. Thus it is possible to determine the currency of a CFR part by reviewing the annual CFR together with the most recent monthly LSA supplemented by the most recent *Federal Register*.

A final caution in conducting research using the LSA is to note that parts to the CFR which have been rescinded by a Federal agency may be reused by an agency at a latter time for any newly established regulation on a totally different subject matter. Also, certain CFR Titles have been reassigned or removed, including titles 2, 6, 10, 11, 34, 40, 44, and 48.

Concluding Statement

Although not perfect, the *Federal Register* and the CFR appear to have met their original purpose of providing the public with a comprehensive publication vehicle for all the regulations issued by Federal agencies and the President. The *Federal Register*, faithfully prepared and published every workday since 1936,²⁸ and the annual *Code of Federal Regulations* which it supplements, are considered to be the core documents of the Executive Branch of the U.S. Government, and as such have become indispensable to the Government's operations and to its communication to the public which it serves.

Notes

¹ See generally Griswold, E.N. *Government in ignorance of the law; a plea for better publication of executive legislation*. 48 Harv. L. Rev. 198-215 (1934).

² *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935).

³ Act of July 26, 1935; ch. 417, 49 Stat. 500-503, (current version at 44 U.S.C. §§1501-1511 (2000)).

⁴ 44 U.S.C. §1505.

⁵ Act of June 11, 1946, ch. 324, §4, 60 Stat. 237, 239 (current version at 5 U.S.C. §553 (2000)).

⁶ 37 Fed. Reg. 23602 (Nov. 4, 1972) (codified at 1 C.F.R. pts. 1-22).

⁷ 41 Fed. Reg. 56624 (Dec. 29, 1976) (codified at C.F.R. §18.2).

⁸ Act of June 19, 1937, ch. 369, 50 Stat. 304-305.

⁹ Similar subject categories and title numbers between the CFR and the USC include titles 1, 3, 5, 7, 8, 12, 15, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 33, 38, 39, 41, 42, 43, 46, 47, and 49. Also, certain CFR titles have been reassigned or removed, including titles 2, 6, 10, 11, 34, 40, 44, and 48.

¹⁰ Jablonski, Sandra. *The Federal Register and the Code of Federal Regulations*, p. 1. Draft paper prepared for an LLSDC Legislative SIS presentation on February 29, 1996 (published on the LLSDC Web site at <http://www.llsdc.org/sis/legislative/fr-cfr-1996.pdf>).

¹¹ *Id.*, p. 2.

¹² The Division of the Federal Register was renamed the Office of the Federal Register on February 6, 1959.

¹³ For past discussions on the proper way to publish the CFR see Factor, *Modernizing federal regulations publications*, 21 Fed. B. J. 219 (1961); Eberhart, *A modern approach to making federal regulations available*, 22 Fed. B. J. 32 (1962); and *Federal register and the Code of federal regulations - a reappraisal*, 80 Harv. L. Rev. 439 (1966).

¹⁴ From May 1, 1971 to February 19, 1982, a highlights section preceded the daily table of contents section. Currently a section on "CFR Parts Affected in this Issue" follows the table of contents section and the "Reader Aids" section in the back includes customer service and electronic information, pages covered during the month, CFR parts affected during the month, a list of rules going into effect during the month, a list of comments due during the next week, a list of new public laws, and a notice on how to receive information about new public laws electronically. A good overview of the *Federal Register* can be found in the OFR publication, *The federal register: what it is and how to use it*; last revised in 1992.

¹⁵ 1 C.F.R. §18.2.

¹⁶ See publishing schedule at 1 C.F.R. §17.2.

¹⁷ 5 U.S.C. §553(d) and 1 C.F.R. §18.17.

¹⁸ The Administrative Procedure Act (1946) was amended by the Freedom of Information Act (FOIA, Pub. L. No. 89-487, July 4, 1966, 80 Stat. 250) with an effective date of July 4, 1967. However, on September 6, 1966, Title 5 of the U.S. Code was codified into positive law by Pub. L. No. 89-554 without the FOIA amendments. Consequently on June 5, 1967, Pub. L. No. 90-23 was enacted to codify the Freedom of Information Act as section 552 of Title 5 of the U.S. Code. Note that unlike some codifications, which utilize unused sections of the U.S. Code, sections 501-559 of Title 5, which was assigned to the Administrative Procedure Act, had been assigned to unrelated subjects before the Title was codified into positive law.

¹⁹ 5 U.S.C. §552(a)(1).

²⁰ 5 U.S.C. §552(b)(1) & (2). Between 1965 and 1988, secret federal regulations were promulgated known as the Code of Emergency Federal Regulations. They were to be triggered automatically in the event of national emergency. These regulations are available by written request from the Office of the Federal Register and also from the William S. Hein Company (<http://wshein.com>).

²¹ 5 U.S.C. §553(b).

²² Office of the Federal Register, *Document Drafting Handbook*, Oct. 1998 revision, available electronically at http://www.archives.gov/federal_register/document_drafting_handbook/read.html. See particularly sections 1.1, 2.1, and 3.1.

²³ *Id.*, sec. 2.1.

²⁴ For discussion of these issues see the Spring 2002 (v. 54, No. 2) issue of *Administrative Law Review*; particularly noteworthy is the article by William Funk, *When is a "rule" a regulation? Marking a clear line between nonlegislative rules and legislative rules*, 54 Admin. L. Rev. 639-671 (2002).

²⁵ See http://www.archives.gov/federal_register/codification/codification.html and http://www.archives.gov/federal_register/executive_orders/disposition_tables.html.

²⁶ See <http://www.access.gpo.gov/ecfr/>.

²⁷ See <http://www.HeinOnline.org/>.

²⁸ From 1936 through 1972 publication of the *Federal Register* occurred on the day after it was prepared, including Saturdays, but not Sundays and Mondays or the day after federal holidays. Since 1973 publication has occurred Mondays through Fridays, but not on holidays.

²⁹ Libraries with a complete set and known by the author to bind the paper edition of the *Federal Register* include Office of the Federal Register Library, the Department of Interior Library, and the Law Library of Congress.

³⁰ *The bluebook: a uniform system of citation, seventeenth edition*, 2000, p. 96, Harvard Law Review Association.

³¹ See <http://www.lexisnexis.com/academic/3cis/cise/IndexCodeFederalRegulations.htm>.

³² Before 1964 the LSA was just called "List of Sections Affected". See <http://access.gpo.gov/nara/lssa/browselsa.html>.