



Code of Federal Regulations

1

Revised as of January 1, 2002

General Provisions

2

(Reserved)

Containing a codification of documents
of general applicability and future effect

As of January 1, 2002

With Ancillaries

Published by
Office of the Federal Register
National Archives and Records
Administration

A Special Edition of the Federal Register

**U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2002**

For sale by the Superintendent of Documents, U.S. Government Printing Office
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Table of Contents

	<i>Page</i>
Explanation	v
Title 1:	
Chapter I—Administrative Committee of the Federal Register	3
Chapter II—Office of the Federal Register	35
Chapter IV—Miscellaneous Agencies	39
Title 2 [Reserved]	
Finding Aids:	
Chapter I—Index	67
Table of CFR Titles and Chapters	71
Alphabetical List of Agencies Appearing in the CFR	89
Redesignation Table	99
List of CFR Sections Affected	101

Cite this Code: CFR

*To cite the regulations in
this volume use title,
part and section num-
ber. Thus, 1 CFR 1.1
refers to title 1, part 1,
section 1.*

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

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 appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, January 1, 2002), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request.

Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1986, consult either the List of CFR Sections Affected, 1949–1963, 1964–1972, or 1973–1985, published in seven separate volumes. For the period beginning January 1, 1986, a “List of CFR Sections Affected” is published at the end of each CFR volume.

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of “Title 3—The President” is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the “Contents” entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES

For a legal interpretation or explanation of any regulation in this volume, contact the issuing agency. The issuing agency’s name appears at the top of odd-numbered pages.

For inquiries concerning CFR reference assistance, call 202–523–5227 or write to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

SALES

The Government Printing Office (GPO) processes all sales and distribution of the CFR. For payment by credit card, call 202–512–1800, M–F 8 a.m. to 4 p.m. e.s.t. or fax your order to 202–512–2250, 24 hours a day. For payment by check, write to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. For GPO Customer Service call 202–512–1803.

ELECTRONIC SERVICES

The full text of the Code of Federal Regulations, the LSA (List of CFR Sections Affected), The United States Government Manual, the Federal Register, Public Laws, Public Papers, Weekly Compilation of Presidential Documents and the Privacy Act Compilation are available in electronic format at www.access.gpo.gov/nara (“GPO Access”). For more information, contact Electronic Information Dissemination Services, U.S. Government Printing Office. Phone 202–512–1530, or 888–293–6498 (toll-free). E-mail, gpoaccess@gpo.gov.

The Office of the Federal Register also offers a free service on the National Archives and Records Administration's (NARA) World Wide Web site for public law numbers, Federal Register finding aids, and related information. Connect to NARA's web site at www.nara.gov/fedreg. The NARA site also contains links to GPO Access.

RAYMOND A. MOSLEY,
Director,
Office of the Federal Register.

January 1, 2002.

THIS TITLE

Title 1—GENERAL PROVISIONS is composed of one volume. This volume is comprised of Chapter I—Administrative Committee of the Federal Register, Chapter II—Office of the Federal Register, and Chapter IV—Miscellaneous Agencies. The contents of this volume represents all current regulations codified under this title of the CFR as of January 1, 2002.

Chapter IV contains the current Privacy Act, Freedom of Information Act, and Rehabilitation Act regulations issued by miscellaneous agencies.

An Index to chapter I appears in the Finding Aids section of this volume.

A redesignation table for chapter I appears in the Finding Aids section of this volume.

Would you like to know...

if any changes have been made to the *Code of Federal Regulations* or what documents have been published in the *Federal Register* without reading the *Federal Register* every day? If so, you may wish to subscribe to the *LSA* (List of CFR Sections Affected), the *Federal Register Index*, or both.



LSA

The *LSA* (List of CFR Sections Affected) is designed to lead users of the *Code of Federal Regulations* to amendatory actions published in the *Federal Register*. The *LSA* is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. **\$31 per year.**

Federal Register Index

The index, covering the contents of the daily *Federal Register*, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. **\$28 per year.**

A finding aid is included in each publication which lists *Federal Register* page numbers with the date of publication in the *Federal Register*.

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Title 1—General Provisions

	<i>Part</i>
CHAPTER I—Administrative Committee of the Federal Register	1
CHAPTER II—Office of the Federal Register	51
CHAPTER IV—Miscellaneous Agencies	425

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

EDITORIAL NOTE: An Index to chapter I appears in the Finding Aids section of the printed volume.

SUBCHAPTER A—GENERAL

<i>Part</i>		<i>Page</i>
1	Definitions	5
2	General information	5
3	Services to the public	6

SUBCHAPTER B—THE FEDERAL REGISTER

5	General	8
6	Indexes and ancillaries	9

SUBCHAPTER C—SPECIAL EDITIONS OF THE FEDERAL REGISTER

8	Code of Federal Regulations	11
9	The United States Government Manual	12
10	Presidential Papers	13

SUBCHAPTER D—AVAILABILITY OF OFFICE OF THE FEDERAL REGISTER PUBLICATIONS

11	Subscriptions	15
12	Official distribution within Federal Government ...	16

SUBCHAPTER E—PREPARATION, TRANSMITTAL, AND PROCESSING OF DOCUMENTS

15	Services to Federal agencies	19
16	Agency representatives	19
17	Filing for public inspection and publication schedules	20
18	Preparation and transmittal of documents generally	22
19	Executive orders and Presidential proclamations ..	25
20	Handling of The United States Government Manual statements	26
21	Preparation of documents subject to codification ..	28
22	Preparation of notices and proposed rules	32

SUBCHAPTER A—GENERAL

PART 1—DEFINITIONS

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p.189.

§ 1.1 Definitions.

As used in this chapter, unless the context requires otherwise—

Administrative Committee means the Administrative Committee of the Federal Register established under section 1506 of title 44, United States Code;

Agency means each authority, whether or not within or subject to review by another agency, of the United States, other than the Congress, the courts, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

Document includes any Presidential proclamation or Executive order, and any rule, regulation, order, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by an agency;

Document having general applicability and legal effect means any document issued under proper authority prescribing a penalty or course of conduct, conferring a right, privilege, authority, or immunity, or imposing an obligation, and relevant or applicable to the general public, members of a class, or persons in a locality, as distinguished from named individuals or organizations; and

Filing means making a document available for public inspection at the Office of the Federal Register during official business hours. A document is filed only after it has been received, processed and assigned a publication date according to the schedule in part 17 of this chapter.

Regulation and *rule* have the same meaning.

[37 FR 23603, Nov. 4, 1972, as amended at 50 FR 12466, Mar. 28, 1985]

PART 2—GENERAL INFORMATION

Sec.

2.1 Scope and purpose.

2.2 Administrative Committee of the Federal Register.

2.3 Office of the Federal Register; location; office hours.

2.4 General authority of Director.

2.5 Publication of statutes, regulations, and related documents.

2.6 Unrestricted use.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189; 1 U.S.C. 112; 1 U.S.C. 113.

SOURCE: 37 FR 23603, Nov. 4, 1972, unless otherwise noted.

§ 2.1 Scope and purpose.

(a) This chapter sets forth the policies, procedures, and delegations under which the Administrative Committee of the Federal Register carries out its general responsibilities under chapter 15 of title 44, United States Code.

(b) A primary purpose of this chapter is to inform the public of the nature and uses of Federal Register publications.

§ 2.2 Administrative Committee of the Federal Register.

(a) The Administrative Committee of the Federal Register is established by section 1506 of title 44, United States Code.

(b) The Committee consists of—

(1) The Archivist, or Acting Archivist, of the United States, who is the Chairman;

(2) An officer of the Department of Justice designated by the Attorney General; and

(3) The Public Printer or Acting Public Printer.

(c) The Director of the Federal Register is the Secretary of the Committee.

(d) Any material required by law to be filed with the Committee, and any correspondence, inquiries, or other material intended for the Committee or which relate to Federal Register publications shall be sent to the Director of the Federal Register.

§ 2.3

§ 2.3 Office of the Federal Register; location; office hours.

(a) The Office of the Federal Register is a component of the National Archives and Records Administration.

(b) The Office is located at 800 North Capitol, NW., suite 700, Washington, DC.

(c) The mailing address is: Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

(d) Office hours are 8:45 a.m. to 5:15 p.m., Monday through Friday, except for official Federal holidays.

[37 FR 23603, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989; 57 FR 40024, Sept. 1, 1992]

§ 2.4 General authority of Director.

(a) The Director of the Federal Register is delegated authority to administer generally this chapter, the related provisions of chapter 15 of title 44, United States Code, and the pertinent provisions of statutes and regulations contemplated by section 1505 of title 44, United States Code.

(b) The Director may return to the issuing agency any document submitted for publication in the FEDERAL REGISTER, or a special edition thereof, if in the Director's judgment the document does not meet the minimum requirements of this chapter.

[37 FR 23603, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989]

§ 2.5 Publication of statutes, regulations, and related documents.

(a) The Director of the Federal Register is responsible for the central filing of the original acts enacted by Congress and the original documents containing Executive orders and proclamations of the President, other Presidential documents, regulations, and notices of proposed rulemaking and other notices, submitted to the Director by officials of the executive branch of the Federal Government.

(b) Based on the acts and documents filed under paragraph (a) of this section, the Office of the Federal Register publishes the "slip laws," the "United States Statutes at Large," the daily

1 CFR Ch. I (1-1-02 Edition)

FEDERAL REGISTER and the "Code of Federal Regulations."

(c) Based on source materials that are officially related to the acts and documents filed under paragraph (a) of this section, the Office also publishes "The United States Government Manual," the "Public Papers of the Presidents of the United States," the "Weekly Compilation of Presidential Documents," the "Federal Register Index," and the "LSA (List of CFR Sections Affected)".

[37 FR 23603, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989]

§ 2.6 Unrestricted use.

Any person may reproduce or republish, without restriction, any material appearing in any regular or special edition of the FEDERAL REGISTER.

PART 3—SERVICES TO THE PUBLIC

Sec.

3.1 Information services.

3.2 Public inspection of documents.

3.3 Reproduction and certification of copies of acts and documents.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23604, Nov. 4, 1972, unless otherwise noted.

§ 3.1 Information services.

Except in cases where the time required would be excessive, information concerning the publications described in § 2.5 of this chapter and the original acts and documents filed with the Office of the Federal Register is provided by the staff of that Office. However, the staff may not summarize or interpret substantive text of any act or document.

§ 3.2 Public inspection of documents.

(a) Documents filed with the Office of the Federal Register pursuant to law are available for public inspection at 800 North Capitol Street, NW., suite 700, Washington, DC, during the Office of the Federal Register office hours. There are no formal inspection procedures or requirements.

Admin. Comm. of the Federal Register

§ 3.3

(b) The Director of the Federal Register shall cause each document received by the office to be filed for public inspection not later than the working day preceding the publication day for that document.

(c) The Director shall cause to be placed on the original and certified copies of each document a notation of the day and hour when it was filed and made available for public inspection.

(d) Photocopies of documents or excerpts may be made at the inspection desk.

[37 FR 23604, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989; 57 FR 40025, Sept. 1, 1992]

§ 3.3 Reproduction and certification of copies of acts and documents.

The regulations for the public use of records in the National Archives (36 CFR parts 1252-1258) govern the furnishing of reproductions of acts and documents and certificates of authentication for them. Section 1258.14 of those regulations provides for the advance payment of appropriate fees for reproduction services and for certifying reproductions.

[51 FR 27017, July 29, 1986, as amended at 54 FR 9676, Mar. 7, 1989]

SUBCHAPTER B—THE FEDERAL REGISTER

PART 5—GENERAL

- Sec.
- 5.1 Publication policy.
 - 5.2 Documents required to be filed for public inspection and published.
 - 5.3 Publication of other documents.
 - 5.4 Publication not authorized.
 - 5.5 Supplement to the Code of Federal Regulations.
 - 5.6 Daily publication.
 - 5.7 Delivery and mailing.
 - 5.8 Form of citation.
 - 5.9 Categories of documents.
 - 5.10 Forms of publication.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23604, Nov. 4, 1972, unless otherwise noted.

§ 5.1 Publication policy.

(a) Pursuant to chapter 15 of title 44, United States Code, and this chapter, the Director of the Federal Register shall publish a serial publication called the FEDERAL REGISTER to contain the following:

(1) Executive orders, proclamations, and other Presidential documents.

(2) Documents required to be published therein by law.

(3) Documents accepted for publication under § 5.3.

(b) Each document required or authorized to be filed for publication shall be published in the FEDERAL REGISTER as promptly as possible, within limitations imposed by considerations of accuracy, usability, and reasonable costs.

(c) In prescribing regulations governing headings, preambles, effective dates, authority citations, and similar matters of form, the Administrative Committee does not intend to affect the validity of any document that is filed and published under law.

§ 5.2 Documents required to be filed for public inspection and published.

The following documents are required to be filed for public inspection with the Office of the Federal Register and published in the FEDERAL REGISTER:

(a) Presidential proclamations and Executive orders in the numbered series, and each other document that the President submits for publication or orders to be published.

(b) Each document or class of documents required to be published by act of Congress.

(c) Each document having general applicability and legal effect.

[37 FR 23604, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989]

§ 5.3 Publication of other documents.

Whenever the Director of the Federal Register considers that publication of a document not covered by § 5.2 would be in the public interest, the Director may allow that document to be filed for public inspection with the Office of the Federal Register and published in the FEDERAL REGISTER.

[54 FR 9676, Mar. 7, 1989]

§ 5.4 Publication not authorized.

(a) Chapter 15 of title 44, United States Code, does not apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

(b) Chapter 15 of title 44, United States Code, prohibits the publication in the FEDERAL REGISTER of comments or news items.

(c) The Director of the Federal Register may not accept any document for filing and publication unless it is the official action of the agency concerned. Chapter 15 of title 44, United States Code, does not authorize or require the filing and publication of other papers from an agency.

§ 5.5 Supplement to the Code of Federal Regulations.

The FEDERAL REGISTER serves as a daily supplement to the Code of Federal Regulations. Each document that is subject to codification and published in a daily issue shall be keyed to the Code of Federal Regulations.

Admin. Comm. of the Federal Register

§ 6.3

§ 5.6 Daily publication.

There shall be an edition of the FEDERAL REGISTER published for each official Federal working day.

[54 FR 9676, Mar. 7, 1989]

§ 5.7 Delivery and mailing.

The Government Printing Office shall distribute the FEDERAL REGISTER by delivery or by deposit at a post office at or before 9 a.m. on the publication day, except that each FEDERAL REGISTER dated for a Monday shall be deposited at a post office at or before 9 a.m. on the preceding Saturday.

§ 5.8 Form of citation.

Without prejudice to any other form of citation, FEDERAL REGISTER material may be cited by volume and page number, and the short form "FR" may be used for "FEDERAL REGISTER". For example, "37 FR 6803" refers to material beginning on page 6803 of volume 37 of the daily issues.

§ 5.9 Categories of documents.

Each document published in the FEDERAL REGISTER shall be placed under one of the following categories, as indicated:

(a) *The President*. This category contains each Executive order or Presidential proclamation and each other Presidential document that the President submits for publication or orders to be published.

(b) *Rules and regulations*. This category contains each document having general applicability and legal effect, except those covered by paragraph (a) of this section. This category includes documents subject to codification, general policy statements concerning regulations, interpretations of agency regulations, statements of organization and function, and documents that affect other documents previously published in the rules and regulations section.

(c) *Proposed rules*. This category contains each notice of proposed rule-making submitted pursuant to section 553 of title 5, United States Code, or any other law, which if promulgated as a rule, would have general applicability and legal effect. This category includes documents that suggest

changes to regulations in the Code of Federal Regulations, begin a rule-making proceeding, and affect or relate to other documents previously published in the proposed rules section.

(d) *Notices*. This category contains miscellaneous documents applicable to the public and not covered by paragraphs (a), (b), and (c) of this section. This category includes announcements of meetings and other information of public interest.

[37 FR 23604, Nov. 4, 1972, as amended at 54 FR 9676, Mar. 7, 1989]

§ 5.10 Forms of publication.

Pursuant to section 1506 of title 44, United States Code, the Administrative Committee publishes the FEDERAL REGISTER in the following formats: paper; microfiche; and online on GPO Access (44 U.S.C. 4101).

[61 FR 68118, Dec. 27, 1996]

PART 6—INDEXES AND ANCILLARIES

Sec.

- 6.1 Index to daily issues.
- 6.2 Analytical subject indexes.
- 6.3 Daily lists of parts affected.
- 6.4 Monthly list of sections affected.
- 6.5 Indexes, digests, and guides.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23605, Nov. 4, 1972, unless otherwise noted.

§ 6.1 Index to daily issues.

Each daily issue of the FEDERAL REGISTER shall be appropriately indexed.

§ 6.2 Analytical subject indexes.

Analytical subject indexes covering the contents of the FEDERAL REGISTER shall be published as currently as practicable and shall be cumulated and separately published at least once each calendar year.

§ 6.3 Daily lists of parts affected.

(a) Each daily issue of the FEDERAL REGISTER shall carry a numerical list of the parts of the Code of Federal Regulations specifically affected by documents published in that issue.

(b) Beginning with the second issue of each month, each daily issue shall

§ 6.4

also carry a cumulated list of the parts affected by documents published during that month.

§ 6.4 Monthly list of sections affected.

A monthly list of sections of the Code of Federal Regulations affected shall be separately published on a cumulative basis during each calendar year. The list shall identify the sections of the Code specifically affected by documents published in the FEDERAL REGISTER during the period it covers.

§ 6.5 Indexes, digests, and guides.

(a) The Director of the Federal Register may order the preparation and

1 CFR Ch. I (1-1-02 Edition)

publication of indexes, digests, and similar guides, based on laws, Presidential documents, regulatory documents, and notice materials published by the Office, which will serve users of the FEDERAL REGISTER. Indexes, digests, and similar guides will be published yearly or at other intervals as necessary to keep them current and useful.

(b) Each index, digest, and guide is considered to be a special edition of the FEDERAL REGISTER whenever the public need requires special printing or special binding in substantial numbers.

[54 FR 9676, Mar. 7, 1989]

SUBCHAPTER C—SPECIAL EDITIONS OF THE FEDERAL REGISTER

PART 8—CODE OF FEDERAL REGULATIONS

Sec.

- 8.1 Policy.
- 8.2 Orderly development.
- 8.3 Periodic updating.
- 8.4 Indexes.
- 8.5 Ancillaries.
- 8.6 Forms of publication.
- 8.7 Agency cooperation.
- 8.9 Form of citation.

AUTHORITY: 44 U.S.C. 1506, 1510; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23605, Nov. 4, 1972, unless otherwise noted.

§ 8.1 Policy.

(a) Pursuant to chapter 15 of title 44, United States Code, the Director of the Federal Register shall publish periodically a special edition of the FEDERAL REGISTER to present a compact and practical code called the "Code of Federal Regulations", to contain each Federal regulation of general applicability and legal effect.

(b) The Administrative Committee intends that every practical means be used to keep the Code as current and readily usable as possible, within limitations imposed by dependability and reasonable costs.

[37 FR 23605, Nov. 4, 1972, as amended at 54 FR 9677, Mar. 7, 1989]

§ 8.2 Orderly development.

To assure orderly development of the Code of Federal Regulations along practical lines, the Director of the Federal Register may establish new titles in the Code and rearrange existing titles and subordinate assignments. However, before taking an action under this section, the Director shall consult with each agency directly affected by the proposed change.

§ 8.3 Periodic updating.

(a) *Criteria.* Each book of the Code shall be updated at least once each calendar year. If no change in its contents has occurred during the year, a simple

notation to that effect may serve as the supplement for that year. More frequent updating of any unit of the Code may be made whenever the Director of the Federal Register determines that the content of the unit has been substantially superseded or otherwise determines that such action would be consistent with the intent and purpose of the Administrative Committee as stated in § 8.1.

(b) *Staggered publication.* The Code will be produced over a 12-month period under a staggered publication system to be determined by the Director of the Federal Register.

(c) *Cutoff dates.* Each updated title of the Code will reflect each amendment to that title published as a codified regulation in the FEDERAL REGISTER on or before the "As of" date. Thus, each title updated as of July 1 each year will reflect all amendatory documents appearing in the daily FEDERAL REGISTER on or before July 1.

[37 FR 23605, Nov. 4, 1972, as amended at 54 FR 9677, Mar. 7, 1989]

§ 8.4 Indexes.

A subject index to the entire Code shall be annually revised and separately published. An agency-prepared index for any individual book may be published with the approval of the Director of the Federal Register.

§ 8.5 Ancillaries.

The Code shall provide, among others, the following-described finding aids:

(a) *Parallel tables of statutory authorities and rules.* In the Code of Federal Regulations Index or at such other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of title 5) which are cited by issuing agencies as rule-making authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with

§8.6

parallel citations to the pertinent titles and parts of the Code of Federal Regulations.

(b) *Parallel tables of Presidential documents and agency rules.* In the Code of Federal Regulations Index, or at such other place as the Director of the Federal Register considers appropriate, tables of proclamations, Executive orders, and similar Presidential documents which are cited as rulemaking authority in currently effective regulations in the Code of Federal Regulations.

(c) *List of CFR sections affected.* Following the text of each Code of Federal Regulations volume, a numerical list of sections which are affected by documents published in the FEDERAL REGISTER. (Separate volumes, “List of Sections Affected, 1949–1963” and “List of CFR Sections Affected, 1964–1972”, list all sections of the Code which have been affected by documents published during the period January 1, 1949, to December 31, 1963, and January 1, 1964, to December 31, 1972, respectively.)¹ Listings shall refer to FEDERAL REGISTER pages and shall be designed to enable the user of the Code to find the precise text that was in effect on a given date in the period covered.

[37 FR 23605, Nov. 4, 1972, as amended at 54 FR 9677, Mar. 7, 1989]

§8.6 Forms of publication.

(a) Under section 1506 of title 44, United States Code, the Administrative Committee authorizes publication of the Code of Federal Regulations in the following formats:

- (1) Paper;
- (2) Microfiche; and
- (3) Online on GPO Access (44 U.S.C. 4101).

(b) The Director of the Federal Register is authorized to regulate the format of the Code of Federal Regulations according to the needs of users and compatibility with the facilities of the Government Printing Office. The Director may provide for the Code of Federal Regulations to be printed in as many separately bound books as nec-

¹A three volume set, “List of CFR Sections Affected, 1973–1985”, lists all sections of the Code which have been affected during the period January 1, 1973 to December 31, 1985.

1 CFR Ch. I (1–1–02 Edition)

essary, set requirements for microfiche images, and oversee the organization and means of access to material in the online edition.

[65 FR 8843, Feb. 23, 2000]

§8.7 Agency cooperation.

Each agency shall cooperate in keeping publication of the Code current by complying promptly with deadlines set by the Director of the Federal Register and the Public Printer.

§8.9 Form of citation.

The Code of Federal Regulations may be cited by title and section, and the short form “CFR” may be used for “Code of Federal Regulations.” For example, “1 CFR 10.2” refers to title 1, Code of Federal Regulations, part 10, section 2.

PART 9—THE UNITED STATES GOVERNMENT MANUAL

Sec.

9.1 Publication required.

9.2 Scope.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23606, Nov. 4, 1972, unless otherwise noted.

§9.1 Publication required.

The Director of the Federal Register shall separately publish annually or at times designated by the Administrative Committee of the Federal Register a special edition of the FEDERAL REGISTER called “The United States Government Manual” or any other title that the Administrative Committee of the Federal Register considers appropriate. The Director of the Federal Register may issue special supplements to the Manual when such supplementation is considered to be in the public interest.

[54 FR 9677, Mar. 7, 1989]

§9.2 Scope.

(a) The Manual shall contain appropriate information about the Executive, Legislative, and Judicial branches of the Federal Government, which for the major Executive agencies shall include—

(1) Descriptions of the agency's public purposes, programs and functions;

(2) Established places and methods whereby the public may obtain information and make submittals or requests; and

(3) Lists of officials heading major operating units.

(b) Brief information about quasiofficial agencies and supplemental information that in the opinion of the Director of the Federal Register is of enough public interest to warrant inclusion shall also be published in the Manual.

(6) Formal executive documents promulgated in accordance with law.

(b) In addition, each publication includes selections, either in full text or ancillary form, from the following groups of documents, when issued by the Press Office.

(1) Announcements of Presidential appointments and nominations;

(2) White House statements and announcements on miscellaneous subjects;

(3) Statements by the Press Secretary or Deputy Press Secretary;

(4) Statements and news conferences by senior administration officials; and

(5) Fact sheets.

PART 10—PRESIDENTIAL PAPERS

Subpart A—Weekly Publication

Sec.

10.1 Publication required.

10.2 Scope and sources.

10.3 Format, indexes, and ancillaries.

Subpart B—Annual Publication

10.10 Publication required.

10.11 Scope and sources.

10.12 Format, indexes, and ancillaries.

10.13 Coverage of prior years.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 50 FR 12467, Mar. 28, 1985, unless otherwise noted.

Subpart A—Weekly Publication

§ 10.1 Publication required.

The Director of the Federal Register shall publish a special edition of the FEDERAL REGISTER called the "Weekly Compilation of Presidential Documents".

§ 10.2 Scope and sources.

(a) The basic text of each publication consists of oral statements by the President or of writing subscribed by the President, and selected from transcripts or text issued by the Office of the White House Press Secretary, including—

(1) Communications to Congress;

(2) Public addresses and remarks;

(3) News conferences and interviews;

(4) Public messages and letters;

(5) Statements released on miscellaneous subjects; and

§ 10.3 Format, indexes, and ancillaries.

(a) The Administrative Committee publishes the paper edition of the Weekly Compilation of Presidential Documents in the binding and style it considers suitable for public and official use.

(b) The Administrative Committee publishes the online edition of the Weekly Compilation of Presidential Documents on GPO Access (44 U.S.C. 4101).

(c) The Weekly Compilation of Presidential Documents is appropriately indexed and contains ancillary information on Presidential activities and documents not carried in full text. In general, ancillary texts, notes and tables are derived from official sources.

[65 FR 8843, Feb. 23, 2000]

Subpart B—Annual Publication

§ 10.10 Publication required.

The Director of the Federal Register shall publish annually a special edition of the FEDERAL REGISTER called the "Public Papers of the Presidents of the United States".

§ 10.11 Scope and sources.

The basic text of the Public Papers consists of the documents printed in the "Weekly Compilation of Presidential Documents".

§ 10.12 Format, indexes, and ancillaries.

(a) Each publication covers one calendar year, unless procedures require

§ 10.13

otherwise, and is divided into books according to the amount of material to be included. The publication is published in the binding and style that the Administrative Committee of the Federal Register considers suitable to the dignity of the Office of the President of the United States.

(b) Each publication is appropriately indexed and contains additional ancillary information and illustrative mate-

1 CFR Ch. I (1-1-02 Edition)

rial respecting significant Presidential documents and activities.

§ 10.13 Coverage of prior years.

The Administrative Committee may authorize the publication of volumes of papers of the Presidents covering specified years before 1945 after consulting with the National Historical Publications and Records Commission.

SUBCHAPTER D—AVAILABILITY OF OFFICE OF THE FEDERAL REGISTER PUBLICATIONS

PART 11—SUBSCRIPTIONS

Sec.

- 11.1 Subscription by the public.
- 11.2 Federal Register.
- 11.3 Code of Federal Regulations.
- 11.4 The United States Government Manual.
- 11.5 Public Papers of the Presidents of the United States.
- 11.6 Weekly Compilation of Presidential Documents.
- 11.7 Federal Register Index.
- 11.8 LSA (List of CFR Sections Affected).

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 54 FR 9677, Mar. 7, 1989, unless otherwise noted.

§ 11.1 Subscription by the public.

The Government Printing Office produces the paper and microfiche editions of the publications described in § 2.5 of this chapter, and the Superintendent of Documents, Government Printing Office, Washington, DC 20402, makes them available for sale to the public. All fees are payable in advance to the Superintendent of Documents, Government Printing Office. They are not available for free distribution to the public.

[54 FR 9677, Mar. 7, 1989, as amended at 61 FR 68118, Dec. 27, 1996]

§ 11.2 Federal Register.

(a) The subscription price for the paper edition of the daily FEDERAL REGISTER, including postage, is \$699 per year. A combined subscription to the daily FEDERAL REGISTER, the monthly FEDERAL REGISTER Index, and the monthly LSA (List of CFR Sections Affected), including postage, is \$764 per year for the paper edition, or \$264 per year for the microfiche edition. Six-month subscriptions to the paper and microfiche editions are also available at one-half the annual rate. Limited quantities of current or recent issues may be purchased for \$10 per copy for the paper edition, or \$2 per copy for the microfiche edition.

(b) The online edition of the FEDERAL REGISTER, issued under the authority

of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

[61 FR 68119, Dec. 27, 1996, as amended at 65 FR 8843, Feb. 23, 2000; 66 FR 44524, Aug. 24, 2001]

§ 11.3 Code of Federal Regulations.

(a) The subscription price for a complete set of the Code of Federal Regulations, including postage, is \$1195 per year for the bound, paper edition, or \$298 per year for the microfiche edition. The Government Printing Office sells individual volumes of the paper edition of the Code of Federal Regulations at prices determined by the Superintendent of Documents under the general direction of the Administrative Committee. The price of a single volume of the microfiche edition is \$2 per copy.

(b) The online edition of the Code of Federal Regulations, issued under the authority of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

[65 FR 8843, Feb. 23, 2000, as amended at 66 FR 44524, Aug. 24, 2001]

§ 11.4 The United States Government Manual.

Copies of the bound, paper edition of the Manual are sold at a price determined by the Superintendent of Documents under the general direction of the Administrative Committee. The online edition of the Manual, issued under the authority of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

[54 FR 9677, Mar. 7, 1989, as amended at 58 FR 64872, Dec. 10, 1993; 61 FR 68119, Dec. 27, 1996]

§ 11.5 Public Papers of the Presidents of the United States.

Copies of annual clothbound volumes are sold at a price determined by the Superintendent of Documents under the general direction of the Administrative Committee.

§ 11.6

1 CFR Ch. I (1–1–02 Edition)

§ 11.6 Weekly Compilation of Presidential Documents.

(a) The subscription price for the paper edition of the Weekly Compilation of Presidential Documents is \$103 per year for delivery by non-priority mail, or \$169 per year for delivery by first-class mail. The price of an individual copy is \$4.

(b) The online edition of the Weekly Compilation of Presidential Documents, issued under the authority of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

[65 FR 8843, Feb. 23, 2000, as amended at 66 FR 44524, Aug. 24, 2001]

§ 11.7 Federal Register Index.

The annual subscription price for the monthly FEDERAL REGISTER Index, purchased separately, in paper form, is \$30.

[66 FR 44524, Aug. 24, 2001]

§ 11.8 LSA (List of CFR Sections Affected).

The annual subscription price for the monthly LSA (List of CFR Sections Affected), purchased separately, in paper form, is \$35.

[66 FR 44524, Aug. 24, 2001]

PART 12—OFFICIAL DISTRIBUTION WITHIN FEDERAL GOVERNMENT

Sec.

- 12.1 Federal Register.
- 12.2 Code of Federal Regulations.
- 12.3 The United States Government Manual.
- 12.4 Weekly Compilation of Presidential Documents.
- 12.5 Public Papers of the Presidents of the United States.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 54 FR 9678, Mar. 7, 1989.

§ 12.1 Federal Register.

(a) Copies of the daily FEDERAL REGISTER in paper or microfiche form shall be made available to the following without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives will be provided with not more than five copies of each daily

issue based on a written request to the Director of the Federal Register.

(2) *Congressional committees.* Each committee of the Senate and the House of Representatives will be provided with the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* The Supreme Court will be provided with the number of copies needed for official use based on a written request to the Director of the Federal Register.

(4) *Other courts.* Other constitutional or legislative courts of the United States will be provided with the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* Each Federal executive agency will be provided with the number of copies needed for official use based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under §16.1 of this chapter, to the Director of the Federal Register.

(b) Requisitions for quantity overruns of specific issues to be paid for by the agency are available as follows:

(1) To meet its needs for special distribution of the FEDERAL REGISTER in substantial quantity, any agency may request an overrun of a specific issue.

(2) An advance printing and binding requisition on Standard Form 1 must be submitted by the agency directly to the Government Printing Office, to be received not later than 12 noon on the working day before publication.

(c) Requisitions for quantity overruns of separate part issues to be paid for by the agency are available as follows:

(1) Whenever it is determined by the Director of the Federal Register to be in the public interest, one or more documents may be published as a separate part (e.g., part II, part III) of the FEDERAL REGISTER.

(2) Advance arrangements for this service must be made with the Office of the Federal Register.

Admin. Comm. of the Federal Register

§ 12.4

(3) Any agency may request an over-run of such a separate part by submitting an advance printing and binding requisition on Standard Form 1 directly to the Government Printing Office, to be received not later than 12 noon on the working day before the publication date.

(d) An agency may order limited quantities of extra copies of a specific issue of the FEDERAL REGISTER for official use, from the Superintendent of Documents, to be paid for by that agency.

(e) Copies of the Federal Register Index and LSA (List of CFR Sections Affected) are included with each FEDERAL REGISTER official distribution.

§ 12.2 Code of Federal Regulations.

(a) Copies of the Code of Federal Regulations in paper or microfiche form shall be made available to the following without charge:

(1) *Congressional committees.* Each committee of the Senate and House of Representatives will be provided with the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(2) *Supreme Court.* The Supreme Court will be provided with the number of copies needed for official use based on a written request to the Director of the Federal Register.

(3) *Other courts.* Other constitutional and legislative courts of the United States will be provided with the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(4) *Executive agencies.* Each Federal executive agency will be provided with the number of copies needed for official use, not to exceed 300 copies of individual titles per agency, based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under §16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of selected units of the Code, at cost, for official use, by submission, before the

press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1.

(c) After the press run, each request for extra copies of selected units of the Code must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.3 The United States Government Manual.

(a) Copies of The United States Government Manual shall be made available to the following without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives will be provided with twelve copies.

(2) *Congressional committees.* Each committee of the Senate and House of Representatives will be provided with the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* The Supreme Court will be provided with not more than 18 copies based on a written request to the Director of the Federal Register.

(4) *Other courts.* Other constitutional and legislative courts of the United States will be provided with one copy based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* Each head of a Federal executive agency and each liaison officer designated under §16.1 or 20.1 of this chapter will be provided with one copy.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of the Manual, at cost, for official use, by submission, before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1.

(c) After the press run, each request for extra copies of the Manual must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.4 Weekly Compilation of Presidential Documents.

(a) Copies of the Weekly Compilation of Presidential Documents shall be

§ 12.5

made available to the following without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives will be provided with the number of copies needed for official use based on a written request to the Director of the Federal Register.

(2) *Congressional committees.* Each committee of the Senate and the House of Representatives will be provided with the number of copies needed for official use based on a written request from the chairperson, or authorized delegate, to the Director of the Federal Register.

(3) *Supreme Court.* The Supreme Court will be provided with the number of copies needed for official use based on a written request to the Director of the Federal Register.

(4) *Other courts.* Other constitutional and legislative courts of the United States will be provided with the number of copies needed for official use based on a written request from the Director of the Administrative Office of the U.S. Courts, or authorized delegate, to the Director of the Federal Register.

(5) *Executive agencies.* Each Federal executive agency will be provided with the number of copies needed for official use based on a written request from the agency Federal Register authorizing officer, or the alternate designated under §16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of selected issues of the Weekly Compilation of Presidential Documents, at cost, for official use, by submission, before the press run, of a printing and binding requisition to the Government Printing Office on a Standard Form 1.

1 CFR Ch. I (1-1-02 Edition)

(c) After the press run, each request for extra copies of selected issues must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

§ 12.5 Public Papers of the Presidents of the United States.

(a) Copies of the Public Papers of the Presidents of the United States shall be made available to the following without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives will be provided with one copy of each annual publication published during the Member's term in office based on a written request to the Director of the Federal Register.

(2) *Supreme Court.* The Supreme Court will be provided with not more than 12 copies of each publication based on a written request to the Director of the Federal Register.

(3) *Executive agencies.* Each head of a Federal executive agency will be provided with one copy of each annual publication based on a written request from the agency Federal Register authorizing officer, or the alternate, designated under §16.1 of this chapter, to the Director of the Federal Register.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies, at cost, for official use, by submission before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1.

(c) After the press run, each request for extra copies must be addressed to the Superintendent of Documents, to be paid for by the agency making the request.

SUBCHAPTER E—PREPARATION, TRANSMITTAL, AND PROCESSING OF DOCUMENTS

PART 15—SERVICES TO FEDERAL AGENCIES

Subpart A—General

Sec.

- 15.1 Cooperation.
- 15.2 Information services.
- 15.3 Staff assistance.
- 15.4 Reproduction and certification of copies of acts and documents.

Subpart B—Special Assistance

- 15.10 Information on drafting and publication.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23607, Nov. 4, 1972, unless otherwise noted.

Subpart A—General

§ 15.1 Cooperation.

The Director of the Federal Register shall assist each agency in complying with the pertinent publication laws to assure efficient public service in promulgating administrative documents having the effect of legal notice or of law.

§ 15.2 Information services.

The Director of the Federal Register shall provide for the answering of each appropriate inquiry presented in person, by telephone, or in writing. Each written communication and each matter involving the Administrative Committee shall be sent to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

[50 FR 12468, Mar. 28, 1985]

§ 15.3 Staff assistance.

The staff of the Office of the Federal Register shall provide informal assistance and advice to officials of the various agencies with respect to general or specific programs of regulatory drafting, procedures, and promulgation practices.

§ 15.4 Reproduction and certification of copies of acts and documents.

The Director of the Federal Register shall furnish to requesting agencies, at cost, reproductions or certified copies of original acts and documents filed with that Office that are needed for official use unless funds are appropriated for that purpose.

[50 FR 12468, Mar. 28, 1985, as amended at 54 FR 9679, Mar. 7, 1989]

Subpart B—Special Assistance

§ 15.10 Information on drafting and publication.

The Director of the Federal Register may prepare, and distribute to agencies, information and instructions designed to promote effective compliance with the purposes of chapter 15 of title 44, United States Code, sections 552–553 of title 5, United States Code, related statutes, and this chapter. The Director may also develop and conduct programs of technical instruction.

PART 16—AGENCY REPRESENTATIVES

Sec.

- 16.1 Designation.
- 16.2 Liaison duties.
- 16.3 Certifying duties.
- 16.4 Authorizing duties.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23608, Nov. 4, 1972, unless otherwise noted.

§ 16.1 Designation.

(a) Each agency shall designate, from its officers or employees, persons to serve in the following capacities with relation to the Office of the Federal Register:

- (1) A liaison officer and an alternate.
- (2) A certifying officer and an alternate.
- (3) An authorizing officer and an alternate.

The same person may be designated to serve in one or more of these positions.

§ 16.2

(b) In choosing its liaison officer, each agency should consider that this officer will be the main contact between that agency and the Office of the Federal Register and that the liaison officer will be charged with the duties set forth in §16.2. Therefore, the agency should choose a person who is directly involved in the agency's regulatory program.

(c) Each agency shall notify the Director of the name, title, address, and telephone number of each person it designates under this section and shall promptly notify the Director of any changes.

§ 16.2 Liaison duties.

Each agency liaison officer shall—

(a) Represent the agency in all matters relating to the submission of documents to the Office of the Federal Register, and respecting general compliance with this chapter;

(b) Be responsible for the effective distribution and use within the agency of Federal Register information on document drafting and publication assistance authorized by §15.10 of this chapter;

(c) Promote the agency's participation in the technical instruction authorized by §15.10 of this chapter; and

(d) Be available to discuss documents submitted for publication with the editors of the FEDERAL REGISTER.

[54 FR 9679, Mar. 7, 1989]

§ 16.3 Certifying duties.

The agency certifying officer is responsible for attaching the required number of true copies of each original document submitted by the agency to the Office of the Federal Register and for making the certification required by §§ 18.5 and 18.6 of this chapter.

[54 FR 9679, Mar. 7, 1989]

§ 16.4 Authorizing duties.

The agency authorizing officer is responsible for furnishing, to the Director of the Federal Register, a current mailing list of officers or employees of the agency who are authorized to receive the FEDERAL REGISTER, the Code of Federal Regulations, and the Weekly

1 CFR Ch. I (1–1–02 Edition)

Compilation of Presidential Documents for official use.

[54 FR 9679, Mar. 7, 1989]

PART 17—FILING FOR PUBLIC INSPECTION AND PUBLICATION SCHEDULES

Sec.

Subpart A—Receipt and Processing

17.1 Receipt and processing.

Subpart B—Regular Schedule

17.2 Procedure and timing for regular schedule.

Subpart C—Emergency Schedule

17.3 Criteria for emergency publication.

17.4 Procedure and timing for emergency publication.

17.5 Criteria for emergency filing for public inspection.

17.6 Procedure and timing for emergency filing for public inspection.

Subpart D—Deferred Schedule

17.7 Criteria for deferred schedule.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23608, Nov. 4, 1972, unless otherwise noted.

Subpart A—Receipt and Processing

§ 17.1 Receipt and processing.

Unless special arrangements are made with the Director of the Federal Register, the Office of the Federal Register receives documents only during official working hours. Upon receipt, each document shall be held for confidential processing until it is filed for public inspection.

Subpart B—Regular Schedule

§ 17.2 Procedure and timing for regular schedule.

(a) Each document received shall be filed for public inspection only after it has been received, processed and assigned a publication date.

(b) Except as provided in paragraph (d) of this section, each document received by 2:00 p.m. which meets the requirements of this chapter shall be assigned to the regular schedule. Unless the issuing agency makes special arrangements otherwise, or the Office determines that the document requires a deferred schedule (see 1 CFR 17.7), receipt of a document by 2:00 p.m. is considered to be a request for filing for public inspection and publication on the regular schedule. Documents received after 2:00 p.m. which meet the requirements of this chapter shall be assigned to the next working day's regular schedule.

(c) The regular schedule for filing for public inspection and publication is as follows:

Received before 2:00 p.m.	Filed for public in- spection	Published
Monday	Wednesday	Thursday
Tuesday	Thursday	Friday
Wednesday	Friday	Monday
Thursday	Monday	Tuesday
Friday	Tuesday	Wednesday

Where a legal Federal holiday intervenes, one additional work day is added.

(d) Each notice of meeting issued under the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)) is placed on immediate public inspection after it has been received, processed, and assigned a publication date.

(1) Each notice received before 4:00 p.m. is scheduled to be published 2 working days later.

(2) Each notice received after 4:00 p.m. is scheduled to be published 3 working days later.

[54 FR 9680, Mar. 7, 1989]

Subpart C—Emergency Schedule

§ 17.3 Criteria for emergency publication.

The emergency schedule is designed to provide the fastest possible publication of a document involving the prevention, alleviation, control, or relief of an emergency situation.

[37 FR 23608, Nov. 4, 1972, as amended at 54 FR 9680, Mar. 7, 1989]

§ 17.4 Procedure and timing for emergency publication.

(a) Each agency requesting publication on the emergency schedule shall briefly describe the emergency and the benefits to be attributed to immediate publication in the FEDERAL REGISTER. The request must be made by letter.

(b) The Director of the Federal Register shall assign a document to the emergency schedule whenever the Director concurs with a request for that action and it is feasible.

(c) Each document assigned to the emergency schedule shall be published as soon as possible.

(d) Each document assigned to the emergency schedule for publication will be filed for public inspection on the working day before publication unless emergency filing for public inspection is also requested.

[37 FR 23608, Nov. 4, 1972, as amended at 54 FR 9680, Mar. 7, 1989]

§ 17.5 Criteria for emergency filing for public inspection.

An agency may request emergency filing for public inspection for documents to be published under the regular, emergency or deferred publication schedules. Emergency filing for public inspection provides for the fastest possible public access to a document after it has been received, processed and assigned a publication date. Emergency filing for public inspection is considered a special arrangement under §17.2 of this part that results in deviation from the regular schedule for filing for public inspection. A document receiving emergency filing for public inspection remains on public inspection until it is published according to the schedule for publication.

[54 FR 9680, Mar. 7, 1989]

§ 17.6 Procedure and timing for emergency filing for public inspection.

(a) Each agency requesting emergency filing for public inspection shall briefly describe the emergency and the benefits to be attributed to immediate public access. The request must be made by letter.

(b) The Director of the Federal Register shall approve an emergency filing for public inspection request whenever

the Director concurs with a request for that action and it is feasible.

(c) Each document approved for emergency filing for public inspection shall be filed as soon as possible following processing and scheduling.

[54 FR 9680, Mar. 7, 1989]

Subpart D—Deferred Schedule

§ 17.7 Criteria for deferred schedule.

(a) A document may be assigned to the deferred schedule under the following conditions:

(1) There are technical problems, unusual or lengthy tables, or illustrations, or the document is of such size as to require extraordinary processing time.

(2) The agency concerned requests a deferred publication date.

(b) The Office of the Federal Register staff will notify the agency if its documents must be assigned to a deferred schedule.

[37 FR 23608, Nov. 4, 1972, as amended at 54 FR 9680, Mar. 7, 1989; 54 FR 23343, May 31, 1989]

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

Sec.

- 18.1 Original and copies required.
- 18.2 Prohibition on combined category documents.
- 18.3 Submission of documents and letters of transmittal.
- 18.4 Form of document.
- 18.5 Certified copies.
- 18.6 Form of certification.
- 18.7 Signature.
- 18.8 Seal.
- 18.9 Style.
- 18.10 Illustrations, tabular material, and forms.
- 18.12 Preamble requirements.
- 18.13 Withdrawal or correction of filed documents.
- 18.15 Correction of errors in printing.
- 18.16 Reinstatement of expired regulations.
- 18.17 Effective dates and time periods.
- 18.20 Identification of subjects in agency regulations.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23609, Nov. 4, 1972, unless otherwise noted.

§ 18.1 Original and copies required.

Except as provided in §19.2 of this subchapter for Executive orders and proclamations, each agency submitting a document to be filed and published in the FEDERAL REGISTER shall send an original and two duplicate originals or certified copies.¹ However, if the document is printed or processed on both sides, one of the copies sent by the agency must be a collated, single-sided copy.

[54 FR 9680, Mar. 7, 1989]

§ 18.2 Prohibition on combined category documents.

(a) The Director of the Federal Register will not accept a document for filing and publication if it combines material that must appear under more than one category in the FEDERAL REGISTER. For example, a document may not contain both rulemaking and notice of proposed rulemaking material.

(b) Where two related documents are to be published in the same FEDERAL REGISTER issue, the agency may insert a cross-reference in each document.

[54 FR 9680, Mar. 7, 1989]

§ 18.3 Submission of documents and letters of transmittal.

(a) Each document authorized or required by law to be filed for public inspection with the Office of the Federal Register and published in the FEDERAL REGISTER shall be sent to the Director of the Federal Register.

(b) Except for cases involving special handling or treatment, there is no need for a letter of transmittal for a document submitted for filing and FEDERAL REGISTER publication.

(c) Receipt dates are determined at the time a signed original and clear and legible copies are received.

[37 FR 23609, Nov. 4, 1972, as amended at 54 FR 9680, Mar. 7, 1989]

§ 18.4 Form of document.

(a) A printed or processed document may be accepted for filing for public inspection and publication if it is on

¹Agencies with computer processed data are urged to consult with the Office of the Federal Register staff about possible use of the data in the publication process.

Admin. Comm. of the Federal Register

§ 18.12

bond or similar quality paper, legible, and free of adhesive or correction tape.²

(b) A document in the form of a letter or press release may not be accepted for filing for public inspection or publication in the rules and regulations, proposed rules, or notices categories of the FEDERAL REGISTER.

(c) Original documents submitted by telecommunication and authenticated by digital signatures consistent with applicable Federal standards and Office of the Federal Register technical specifications may be accepted for publication.³

[54 FR 9681, Mar. 7, 1989, as amended at 61 FR 68119, Dec. 27, 1996]

§ 18.5 Certified copies.

The certified copies or duplicate originals of each document must be submitted with the original. Each copy or duplicate must be entirely clear and legible.

[54 FR 9681, Mar. 7, 1989]

§ 18.6 Form of certification.

Each copy of each document submitted for filing and publication, except a Presidential document or a duplicate original, must be certified as follows:

(Certified to be a true copy of the original)

The certification must be signed by a certifying officer designated under §16.1 of this chapter.

[54 FR 9681, Mar. 7, 1989]

§ 18.7 Signature.

The original and each duplicate original document must be signed in ink, with the name and title of the official signing the document typed or stamped beneath the signature. Initialed or impressed signatures will not be accepted. Documents submitted under §18.4(c) may be authenticated as

²Agencies with computer processed data are urged to consult with the Office of the Federal Register staff about possible use of the data in the publication process.

³At present, submission of documents by telecommunication is limited to selected pilot projects.

original documents by digital signatures.

[37 FR 23609, Nov. 4, 1972, as amended at 54 FR 9681, Mar. 7, 1989; 61 FR 68119, Dec. 27, 1996]

§ 18.8 Seal.

Use of a seal on an original document or certified copy is optional with the issuing agency.

§ 18.9 Style.

Each document submitted by an agency for filing and publication shall conform to the current edition of the U.S. Government Printing Office Style Manual in punctuation, capitalization, spelling, and other matters of style.

[54 FR 9681, Mar. 7, 1989]

§ 18.10 Illustrations, tabular material, and forms.

(a) If it is necessary to publish a form or illustration, a clear and legible original form or illustration, or a clear and completely legible reproduction approximately 8 ½ by 11 inches, shall be included in the original document and each certified copy.

(b) A document that includes tabular material may be assigned to the deferred publication schedule. See §17.7.

[54 FR 9681, Mar. 7, 1989]

§ 18.12 Preamble requirements.

(a) Each agency submitting a proposed or final rule document for publication shall prepare a preamble which will inform the reader, who is not an expert in the subject area, of the basis and purpose for the rule or proposal.

(b) The preamble shall be in the following format and contain the following information:

AGENCY: _____
(Name of issuing agency)

ACTION: _____
(Notice of Intent), (Advance Notice of Proposed Rulemaking), (Proposed Rule), (Final Rule), (Other).

SUMMARY: _____
(Brief statements, in simple language, of: (i) the action being taken; (ii) the circumstances which created the need for the action; and (iii) the intended effect of the action.)

DATES: _____

§ 18.13

1 CFR Ch. I (1-1-02 Edition)

(Comments must be received on or before: _____.) (Proposed effective date: _____.) (Effective date: _____.) (Hearing: _____.) (Other: _____.)

ADDRESSES: _____ (Any relevant addresses.)

FOR FURTHER INFORMATION CONTACT: _____

(For Executive departments and agencies, the name and telephone number of a person in the agency to contact for additional information about the document [Presidential Memorandum, 41 FR 42764, September 28, 1976].)

SUPPLEMENTARY INFORMATION: _____

(See paragraph (c) of this section.)

(c) The agency may include the following information in the preamble, as applicable:

- (1) A discussion of the background and major issues involved;
- (2) In the case of a final rule, any significant differences between it and the proposed rule;
- (3) A response to substantive public comments received; and
- (4) Any other information the agency considers appropriate.

[41 FR 56624, Dec. 29, 1976, as amended at 54 FR 9681, Mar. 7, 1989]

§ 18.13 Withdrawal or correction of filed documents.

(a) A document that has been filed for public inspection with the Office of the Federal Register but not yet published, may be withdrawn from publication or corrected by the submitting agency. Withdrawals or minor corrections may be made with a timely letter, signed by a duly authorized representative of the agency. Extensive corrections may require agency withdrawal of the document from publication.

(b) Both the originally filed document and the withdrawing or correcting letter shall remain on file. The original document and the withdrawing or correcting letter will be retained by the Office of the Federal Register after the public inspection period expires.

[54 FR 9681, Mar. 7, 1989]

§ 18.15 Correction of errors in printing.

(a) Typographical or clerical errors made in the printing of the FEDERAL

REGISTER shall be corrected by insertion of an appropriate notation or a re-printing in the FEDERAL REGISTER published without further agency documentation, if the Director of the Federal Register determines that—

(1) The error would tend to confuse or mislead the reader; or

(2) The error would affect text subject to codification.

(b) The issuing agency shall review published documents and notify the Office of the Federal Register of printing errors found in published documents.

(c) If the error was in the document as submitted by the agency, the issuing agency must prepare and submit for publication a correction document.

[50 FR 12468, Mar. 28, 1985]

§ 18.16 Reinstatement of expired regulations.

Agencies may reinstate regulations removed from the Code of Federal Regulations data base which have expired by their own terms only by republishing the regulations in full text in the FEDERAL REGISTER.

[54 FR 9681, Mar. 7, 1989]

§ 18.17 Effective dates and time periods.

(a) Each document submitted for publication in the FEDERAL REGISTER that includes an effective date or time period should either set forth a date certain or a time period measured by a certain number of days after publication in the FEDERAL REGISTER. When a document sets forth a time period measured by a certain number of days after publication, Office of the Federal Register staff will compute the date to be inserted in the document as set forth in paragraph (b) of this section.

(b) Dates certain will be computed by counting the day after the publication day as one, and by counting each succeeding day, including Saturdays, Sundays, and holidays. However, where the final count would fall on a Saturday, Sunday, or holiday, the date certain will be the next succeeding Federal business day.

(c) In the event an effective date is dependent upon Congressional action, or an act of Congress or a dispositive Federal court decision establishes or

changes the effective date of an agency's regulation, the issuing agency shall promptly publish a document in the FEDERAL REGISTER announcing the effective date.

[37 FR 23609, Nov. 4, 1972, as amended at 54 FR 9681, Mar. 7, 1989]

§ 18.20 Identification of subjects in agency regulations.

(a) *Federal Register documents.* Each agency that submits a document that is published in the Rules and Regulations section or the Proposed Rules section of the FEDERAL REGISTER shall—

(1) Include a list of index terms for each Code of Federal Regulations part affected by the document; and

(2) Place the list of index terms as the last item in the Supplementary Information portion of the preamble for the document.

(b) *Federal Register Thesaurus.* To prepare its list of index terms, each agency shall use terms contained in the Federal Register Thesaurus of Indexing Terms. Agencies may include additional terms not contained in the Thesaurus as long as the appropriate Thesaurus terms are also used. Copies of the Federal Register Thesaurus of Indexing Terms are available from the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408.

[46 FR 7163, Jan. 22, 1981, as amended at 54 FR 9681, Mar. 7, 1989]

PART 19—EXECUTIVE ORDERS AND PRESIDENTIAL PROCLAMATIONS

Sec.

19.1 Form.

19.2 Routing and approval of drafts.

19.3 Routing and certification of originals and copies.

19.4 Proclamations calling for the observance of special days or events.

19.5 Proclamations of treaties excluded.

19.6 Definition.

AUTHORITY: Secs. 1 to 6 of E.O. 11030, 27 FR 5847, 3 CFR, 1959-1963 Comp., p. 610; E.O. 11354, 32 FR 7695, 3 CFR, 1966-1970 Comp., p. 652; and E.O. 12080, 43 FR 42235, 3 CFR, 1978 Comp., p. 224.

SOURCE: 37 FR 23610, Nov. 4, 1972, unless otherwise noted.

§ 19.1 Form.

Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

(a) The order or proclamation shall be given a suitable title.

(b) The order or proclamation shall contain a citation of the authority under which it is issued.

(c) Punctuation, capitalization, spelling, and other matters of style shall, in general, conform to the most recent edition of the U.S. Government Printing Office Style Manual.

(d) The spelling of geographic names shall conform to the decisions of the Board on Geographic Names, established by section 2 of the Act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations,"¹ prepared by the Bureau of Land Management, Department of the Interior.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 13 inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced except that quotations, tabulations, and descriptions of land may be single-spaced.

(g) Proclamations issued by the President shall conclude with the following-described recitation:

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, in the year of our Lord _____, and of the Independence of the United States of America the _____.

[37 FR 23610, Nov. 4, 1972, as amended at 54 FR 9681, Mar. 7, 1989]

§ 19.2 Routing and approval of drafts.

(a) A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Office of Management and Budget, together with a letter, signed

¹Agencies with computer processed data are urged to consult with the Office of the Federal Register staff about possible use of the data in the publication process.

§ 19.3

by the head or other properly authorized officer of the originating Federal agency, explaining the nature, purpose, background, and effect of the proposed Executive order or proclamation and its relationship, if any, to pertinent laws and other Executive orders or proclamations.

(b) If the Director of the Office of Management and Budget approves the proposed Executive order or proclamation, he shall transmit it to the Attorney General for his consideration as to both form and legality.

(c) If the Attorney General approves the proposed Executive order or proclamation, he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Administration: *Provided*, That in cases involving sufficient urgency the Attorney General may transmit it directly to the President: *And provided further*, That the authority vested in the Attorney General by this section may be delegated by him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.

(d) After determining that the proposed Executive order or proclamation conforms to the requirements of §19.1 and is free from typographical or clerical error, the Director of the Office of the Federal Register shall transmit it and three copies thereof to the President.

(e) If the proposed Executive order or proclamation is disapproved by the Director of the Office of Management and Budget or by the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

§ 19.3 Routing and certification of originals and copies.

(a) If the order or proclamation is signed by the President, the original and two copies shall be forwarded to the Director of the Federal Register for publication in the FEDERAL REGISTER.

(b) The Office of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations forwarded as provided in paragraph (a) of this section the following notation, to be signed by the Director

1 CFR Ch. I (1-1-02 Edition)

or by some person authorized by him to sign such notation: "Certified to be a true copy of the original."

§ 19.4 Proclamations calling for the observance of special days or events.

Except as may be otherwise provided by law, responsibility for the preparation and presentation of proposed proclamations calling for the observance of special days, or other periods of time, or events, shall be assigned by the Director of the Office of Management and Budget to such agencies as he may consider appropriate. Such proposed proclamations shall be submitted to the Director at least 60 days before the date of the specified observance. Notwithstanding the provisions of §19.2, the Director shall transmit any approved commemorative proclamations to the President.

[37 FR 23610, Nov. 4, 1972, as amended at 54 FR 9681, Mar. 7, 1989]

§ 19.5 Proclamations of treaties excluded.

Consonant with the provisions of chapter 15 of title 44 of the United States Code (44 U.S.C. 1511), nothing in these regulations shall be construed to apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

§ 19.6 Definition.

The term "Presidential proclamations and Executive orders," as used in chapter 15 of title 44 of the United States Code (44 U.S.C. 1505(a)), shall, except as the President or his representative may hereafter otherwise direct, be deemed to include such attachments thereto as are referred to in the respective proclamations or orders.

PART 20—HANDLING OF THE UNITED STATES GOVERNMENT MANUAL STATEMENTS

- Sec.
- 20.1 Liaison officers.
- 20.2 Preparation of agency statements.
- 20.3 Organization.
- 20.4 Description of program activities.
- 20.5 Sources of information.
- 20.6 Form, style, arrangement and apportionment of space.

Admin. Comm. of the Federal Register

§ 20.7

20.7 Deadline dates.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23611, Nov. 4, 1972, unless otherwise noted.

§ 20.1 Liaison officers.

(a) Each of the following shall appoint an officer to maintain liaison with the Office on matters relating to The United States Government Manual:

(1) Agencies of the legislative and judicial branches.

(2) Executive agencies that do not have a liaison officer designated under § 16.1 of this chapter or who wish to appoint a liaison officer for Manual matters other than the one designated under such § 16.1.

(3) Quasi-official agencies represented in the Manual.

(4) Any other agency that the Director believes should be included in the Manual.

(b) Each liaison officer will insure agency compliance with part 9 of this chapter and this part 20.

[37 FR 23611, Nov. 4, 1972, as amended at 50 FR 12468, Mar. 28, 1985; 54 FR 9682, Mar. 7, 1989]

§ 20.2 Preparation of agency statements.

In accordance with schedules established under § 20.7 each agency shall submit for publication in the Manual an official draft of the information required by § 9.2 of this chapter and this part 20.

§ 20.3 Organization.

(a) Information about lines of authority and organization may be reflected in a chart if the chart clearly delineates the agency's organizational structure. Charts must be prepared so as to be perfectly legible when reduced to the size of a Manual page. Charts that do not meet this requirement will not be included in the Manual.

(b) Listings of heads of operating units should be arranged whenever possible to reflect relationships between units.

(c) Narrative descriptions of organizational structure or hierarchy that duplicate information conveyed by

charts or by lists of officials will not be published in the Manual.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

§ 20.4 Description of program activities.

(a) Descriptions should clearly state the public purposes that the agency serves, and the programs that carry out those purposes.

(b) Descriptions of the responsibilities of individuals or of administrative units common to most agencies will not be accepted for publication in the Manual.

[54 FR 9682, Mar. 7, 1989]

§ 20.5 Sources of information.

Pertinent sources of information useful to the public, in areas of public interest such as employment, consumer activities, contracts, services to small business, and other topics of public interest should be provided with each agency statement. These sources of information shall plainly identify the places at which the public may obtain information or make submittals or requests.

§ 20.6 Form, style, arrangement and apportionment of space.

The form, style, and arrangement of agency statements and other materials included in the Manual and the apportionment of space therein shall be determined by the Director of the Federal Register. The U.S. Government Printing Office Style Manual is the applicable reference work in determining style.

§ 20.7 Deadline dates.

The Manual is published on a schedule designed to provide the public with information about their Government on a timely basis. Therefore, agencies must comply with the deadline dates established by the Director of the Federal Register for transmittal of statements and charts and for the verification of proofs. Failure to do so may result in publication of an outdated statement or the omission of important material, thus depriving members of the public of information they

have a right to expect in a particular edition of the Manual.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954–1958 Comp., p. 189.

SOURCE: 37 FR 23611, Nov. 4, 1972, unless otherwise noted.

PART 21—PREPARATION OF DOCUMENTS SUBJECT TO CODIFICATION

Subpart A—General

Subpart A—General

Sec.

21.1 Drafting.

21.6 Notice of expiration of codified material.

CODE STRUCTURE

21.7 Titles and subtitles.

21.8 Chapters and subchapters.

21.9 Parts, subparts, and undesignated center heads.

21.10 Sections.

NUMBERING

21.11 Standard organization of the Code of Federal Regulations.

21.12 Reservation of numbers.

21.14 Deviations from standard organization of the Code of Federal Regulations.

HEADINGS

21.16 Required document headings.

21.18 Tables of contents.

21.19 Composition of part headings.

AMENDMENTS

21.20 General requirements.

REFERENCES

21.21 General requirements: References.

21.23 Parallel citations of Code and FEDERAL REGISTER.

21.24 References to 1938 edition of Code.

EFFECTIVE DATE STATEMENT

21.30 General.

OMB CONTROL NUMBERS

21.35 OMB control numbers.

Subpart B—Citations of Authority

21.40 General requirements: Authority citations.

21.41 Agency responsibility.

21.42 Exceptions.

PLACEMENT

21.43 Placing and amending authority citations.

21.45 Nonstatutory authority.

FORM

21.51 General.

21.52 Statutory material.

21.53 Nonstatutory materials.

§ 21.1 Drafting.

(a) Each agency that prepares a document that is subject to codification shall draft it as an amendment to the Code of Federal Regulations, in accordance with this subchapter, before submitting it to the Office of the Federal Register.

(b) Each agency that prepares a document that is subject to codification shall include words of issuance and amendatory language that precisely describes the relationship of the new provisions to the Code.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

§ 21.6 Notice of expiration of codified material.

Whenever a codified regulation expires after a specified period by its own terms or by law, the issuing agency shall submit a notification by document for publication in the FEDERAL REGISTER.

[54 FR 9682, Mar. 7, 1989]

CODE STRUCTURE

§ 21.7 Titles and subtitles.

(a) The major divisions of the Code are titles, each of which brings together broadly related Government functions.

(b) Subtitles may be used to distinguish between materials emanating from an overall agency and the material issued by its various components. Subtitles may also be used to group chapters within a title.

§ 21.8 Chapters and subchapters.

(a) The normal divisions of a title are chapters, assigned to the various agencies within a title descriptive of the subject matter covered by the agencies' regulations.

(b) Subchapters may be used to group related parts within a chapter.

(c) Chapter and subchapter assignments are made by the Office of the

Admin. Comm. of the Federal Register

§21.16

Federal Register after agency consultation.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

§21.9 Parts, subparts, and undesignated center heads.

(a) The normal divisions of a chapter are parts, consisting of a unified body of regulations applying to a specific function of an issuing agency or devoted to specific subject matter under the control of that agency.

(b) Subparts or undesignated center heads may be used to group related sections within a part. Undesignated center heads may also be used to group sections within a subpart.

§21.10 Sections.

(a) The normal divisions of a part are sections. Sections are the basic units of the Code.

(b) When internal division is necessary, a section may be divided into paragraphs, and paragraphs may be further subdivided using the lettering indicated in §21.11.

NUMBERING

§21.11 Standard organization of the Code of Federal Regulations.

The standard organization consists of the following structural units:

(a) Titles, which are numbered consecutively in Arabic throughout the Code;

(b) Subtitles, which are lettered consecutively in capitals throughout the title;

(c) Chapters, which are numbered consecutively in Roman capitals throughout each title;

(d) Subchapters, which are lettered consecutively in capitals throughout the chapter;

(e) Parts, which are numbered in Arabic throughout each title;

(f) Subparts, which are lettered in capitals;

(g) Sections, which are numbered in Arabic throughout each part. A section number includes the number of the part followed by a period and the number of the section. For example, the section number for section 15 of part 21 is “§21.15”; and

(h) Paragraphs, which are designated as follows:

level 1 (a), (b), (c), etc.

level 2 (1), (2), (3), etc.

level 3 (i), (ii), (iii), etc.

level 4 (A), (B), (C), etc.

level 5 (1), (2), (3), etc.

level 6 (i), (ii), (iii), etc.

[54 FR 9682, Mar. 7, 1989; 54 FR 23343, May 31, 1989]

§21.12 Reservation of numbers.

In a case where related parts or related sections are grouped under a heading, numbers may be reserved at the end of each group to allow for expansion.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

§21.14 Deviations from standard organization of the Code of Federal Regulations.

(a) Any deviation from standard Code of Federal Regulations designations must be approved in advance by the Office of the Federal Register. Requests for approval must be submitted in writing at least five working days before the agency intends to submit the final rule document for publication and include a copy of the final rule document.

(b) The Director of the Federal Register may allow the keying of section numbers to correspond to a particular numbering system used by an agency only when the keying will benefit both that agency and the public.

[54 FR 9682, Mar. 7, 1989]

HEADINGS

§21.16 Required document headings.

(a) Each rule and proposed rule document submitted to the Office of the Federal Register shall contain the following headings, when appropriate, on separate lines in the following order:

- (1) Agency name;
- (2) Subagency name;
- (3) Numerical references to the CFR title and parts affected;
- (4) Agency numbers of identifying symbol in brackets, if used;
- (5) Brief subject heading describing the document.

(b) Each CFR section in the regulatory text of the document shall have

§21.18

a brief descriptive heading, preceding the text, on a separate line.

[50 FR 12468, Mar. 28, 1985]

§21.18 Tables of contents.

A table of contents shall be used at the beginning of the part whenever a new part is introduced, an existing part is completely revised, or a group of sections is revised or added and set forth as a subpart or otherwise separately grouped under a center head. The table shall follow the part heading and precede the text of the regulations in that part. It shall also list the headings for the subparts, undesignated center headings, sections in the part, and appendix headings to the part or subpart.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

§21.19 Composition of part headings.

Each part heading shall indicate briefly the general subject matter of the part. Phrases such as "Regulations under the Act of July 28, 1955" or other expressions that are not descriptive of the subject matter may not be used. Introductory expressions such as "Regulations governing" and "Rules applicable to" may not be used.

AMENDMENTS

§21.20 General requirements.

(a) Each amendatory document shall identify in specific terms the unit amended, and the extent of the changes made.

(b) The number and heading of each section amended shall be set forth in full on a separate line.

REFERENCES

§21.21 General requirements: References.

(a) Each reference to the Code of Federal Regulations shall be in terms of the specific titles, chapters, parts, sections, and paragraphs involved. Ambiguous references such as "herein", "above", "below", and similar expressions may not be used.

(b) Each document that contains a reference to material published in the Code shall include the Code citation as a part of the reference.

(c) Each agency shall publish its own regulations in full text. Cross-references to the regulations of another agency may not be used as a substitute for publication in full text, unless the Office of the Federal Register finds that the regulation meets any of the following exceptions:

(1) The reference is required by court order, statute, Executive order or reorganization plan.

(2) The reference is to regulations promulgated by an agency with the exclusive legal authority to regulate in a subject matter area, but the referencing agency needs to apply those regulations in its own programs.

(3) The reference is informational or improves clarity rather than being regulatory.

(4) The reference is to test methods or consensus standards produced by a Federal agency that have replaced or preempted private or voluntary test methods or consensus standards in a subject matter area.

(5) The reference is to the Department level from a subagency.

[37 FR 23611, Nov. 4, 1972, as amended at 50 FR 12468, Mar. 28, 1985]

§21.23 Parallel citations of Code and Federal Register.

For parallel reference, the Code of Federal Regulations and the FEDERAL REGISTER may be cited in the following forms, as appropriate:

_____ CFR _____ (_____ FR _____). § _____ of this chapter (_____ FR _____).

§21.24 References to 1938 edition of Code.

When reference is made to material codified in the 1938 edition of the Code of Federal Regulations, or a supplement thereto, the following forms may be used, as appropriate:

_____ CFR, 1938 Ed., _____.
_____ CFR, 1943, Cum. Supp., _____.
_____ CFR, 1946 Supp., _____.

EFFECTIVE DATE STATEMENT

§21.30 General.

Each document subject to codification shall include a clear statement as to the date or dates upon which its contents become effective.

OMB CONTROL NUMBERS

§ 21.35 OMB control numbers.

To display OMB control numbers in agency regulations, those numbers shall be placed parenthetically at the end of the section or displayed in a table or codified section.

[50 FR 12468, Mar. 28, 1985]

Subpart B—Citations of Authority**§ 21.40 General requirements: Authority citations.**

Each section in a document subject to codification must include, or be covered by, a complete citation of the authority under which the section is issued, including—

(a) General or specific authority delegated by statute; and

(b) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

[50 FR 12468, Mar. 28, 1985]

§ 21.41 Agency responsibility.

(a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues.

(b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes therein.

§ 21.42 Exceptions.

The Director of the Federal Register may make exceptions to the requirements of this subpart relating to placement and form of citations of authority whenever the Director determines that strict application would impair the practical use of the citations.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

PLACEMENT

§ 21.43 Placing and amending authority citations.

(a) The requirements for placing authority citations vary with the type of amendment the agency is making in a document. The agency shall set out the full text of the authority citation for each part affected by the document.

(1) If a document sets out an entire CFR part, the agency shall place the complete authority citation directly after the table of contents and before the regulatory text.

(2) If a document amends only certain sections within a CFR part, the agency shall present the complete authority citation to this part as the first item in the list of amendments.

(i) If the authority for issuing an amendment is the same as the authority listed for the whole CFR part, the agency shall simply restate the authority.

(ii) If the authority for issuing an amendment changes the authority citation for the whole CFR part, the agency shall revise the authority citation in its entirety. The agency may specify the particular authority under which certain sections are amended in the revised authority citation.

(b) The agency shall present a centralized authority citation. The authority citation shall appear at the end of the table of contents for a part or after each subpart heading within the text of a part. Citations of authority for particular sections may be specified within the centralized authority citation.

[50 FR 12469, Mar. 28, 1985, as amended at 54 FR 9682, Mar. 7, 1989]

§ 21.45 Nonstatutory authority.

Citation to a nonstatutory document as authority shall be placed after the statutory citations. For example:

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 944 (49 U.S.C. 1657), E.O. 11222, 30 FR 6469, 3 CFR, 1965 Comp., p. 10.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9682, Mar. 7, 1989]

FORM

§ 21.51 General.

(a) Formal citations of authority shall be in the shortest form compatible with positive identification and ready reference.

(b) The Office of the Federal Register shall assist agencies in developing model citations.

§ 21.52 Statutory material.

(a) *United States Code*. All citations to statutory authority shall include a

§ 21.53

United States Code citation, where available. Citations to titles of the United States Code, whether or not enacted into positive law, may be cited without Public Law or U.S. Statutes at Large citation. For example:

AUTHORITY: 10 U.S.C. 501.

(b) *Public Laws and U.S. Statutes at Large.* Citations to Public Laws and U.S. Statutes at Large are optional when the United States Code is cited. Citations to current public laws and to the U.S. Statutes at Large shall refer to the section of the public law and the volume and page of the U.S. Statutes at Large to which they have been assigned. The page number shall refer to the page on which the section cited begins. For example:

AUTHORITY: Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85-726, 72 Stat. 752 (49 U.S.C. 1354).

[54 FR 9682, Mar. 7, 1989]

§ 21.53 Nonstatutory materials.

Nonstatutory documents shall be cited by document designation and by FEDERAL REGISTER volume and page, followed, if possible, by the parallel citation to the Code of Federal Regulations. For example:

AUTHORITY: Special Civil Air Reg. SR-422A, 28 FR 6703, 14 CFR part 4b. E.O. 11130, 28 FR 12789; 3 CFR 1959-1963 Comp.

[37 FR 23611, Nov. 4, 1972, as amended at 54 FR 9683, Mar. 7, 1989]

PART 22—PREPARATION OF NOTICES AND PROPOSED RULES

Subpart A—Notices

Sec.

22.1 Name of issuing agency and subdivision.

22.2 Authority citation.

Subpart B—Proposed Rules

22.5 General requirements.

22.6 Code designation.

22.7 Codification.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR, 1954-1958 Comp., p. 189.

SOURCE: 37 FR 23614, Nov. 4, 1972, unless otherwise noted.

1 CFR Ch. I (1-1-02 Edition)

Subpart A—Notices

§ 22.1 Name of issuing agency and subdivision.

(a) The name of the agency issuing a notice shall be placed at the beginning of the document.

(b) Whenever a specific bureau, service, or similar unit within an agency issues a notice, the name of that bureau, service, or unit shall be placed on a separate line below the name of the agency.

(c) An agency that uses file numbers, docket numbers, or similar identifying symbols shall place them in brackets immediately below the other headings required by this section.

(d) A suitable short title identifying the subject shall be provided beginning on a separate line immediately after the other required caption or captions. Whenever appropriate, an additional brief caption indicating the nature of the document shall be used.

§ 22.2 Authority citation.

The authority under which an agency issues a notice shall be cited in narrative form within text or in parentheses on a separate line following text.

Subpart B—Proposed Rules

§ 22.5 General requirements.

Each proposed rule required by section 553 of title 5, United States Code, or any other statute, and any similar document voluntarily issued by an agency shall include a statement of—

(a) The time, place, and nature of public rulemaking proceedings; and

(b) Reference to the authority under which the regulatory action is proposed.

[37 FR 23614, Nov. 4, 1972, as amended at 54 FR 9683, Mar. 7, 1989]

§ 22.6 Code designation.

The area of the Code of Federal Regulations directly affected by a proposed regulatory action shall be identified by placing the appropriate CFR citation

Admin. Comm. of the Federal Register

§ 22.7

immediately below the name of the issuing agency. For example:

1 CFR part 22

[37 FR 23614, Nov. 4, 1972, as amended at 54 FR 9683, Mar. 7, 1989]

§ 22.7 Codification.

Any part of a proposed rule document that contains the full text of a proposed regulation shall also conform to the pertinent provisions of part 21 of this chapter.

[37 FR 23614, Nov. 4, 1972, as amended at 54 FR 9683, Mar. 7, 1989]

CHAPTER II—OFFICE OF THE FEDERAL REGISTER

<i>Part</i>		<i>Page</i>
51	Incorporation by reference	37

PART 51—INCORPORATION BY REFERENCE

Sec.

51.1 Policy.

51.3 When will the Director approve a publication?

51.5 How does an agency request approval?

51.7 What publications are eligible?

51.9 What is the proper language of incorporation?

51.11 How does an agency change or remove an approved incorporation?

AUTHORITY: 5 U.S.C. 552(a).

SOURCE: 47 FR 34108, Aug. 6, 1982, unless otherwise noted.

§ 51.1 Policy.

(a) Section 552(a) of title 5, United States Code, provides, in part, that “matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register.”

(b) The Director will interpret and apply the language of section 552(a) together with other requirements which govern publication in the FEDERAL REGISTER and the Code of Federal Regulations. Those requirements which govern publication include—

(1) The Federal Register Act (44 U.S.C. 1501 *et seq.*)

(2) The Administrative Procedure Act (5 U.S.C. 551 *et seq.*);

(3) The regulations of the Administrative Committee of the Federal Register under the Federal Register Act (1 CFR Ch. I); and

(4) The acts which require publication in the FEDERAL REGISTER (See CFR volume entitled “CFR Index and Finding Aids.”)

(c) The Director will assume in carrying out the responsibilities for incorporation by reference that incorporation by reference—

(1) Is intended to benefit both the Federal Government and the members of the class affected; and

(2) Is not intended to detract from the legal or practical attributes of the system established by the Federal Register Act, the Administrative Procedure Act, the regulations of the Administrative Committee of the Federal

Register, and the acts which require publication in the FEDERAL REGISTER.

(d) The Director will carry out the responsibilities by applying the standards of part 51 fairly and uniformly.

(e) Publication in the FEDERAL REGISTER of a document containing an incorporation by reference does not of itself constitute an approval of the incorporation by reference by the Director.

(f) Incorporation by reference of a publication is limited to the edition of the publication that is approved. Future amendments or revisions of the publication are not included.

§ 51.3 When will the Director approve a publication?

(a) The Director will approve the incorporation by reference of a publication when the following requirements are met:

(1) The publication is eligible for incorporation by reference (See § 51.7).

(2) The language of incorporation meets the requirements of this part (See § 51.9).

(3) The publication is on file with the Office of the Federal Register.

(4) The Director has received a written request from the agency to approve the incorporation by reference of the publication.

(b) The Director will notify the agency of the approval or disapproval of an incorporation by reference within 20 working days after the agency has met all the requirements for requesting approvals (See § 51.5).

§ 51.5 How does an agency request approval?

(a) Formal approval of a publication for incorporation by reference applies to a final rule document. For timely approval by the Director of the Federal Register, the agency must—

(1) Make a written request for approval at least 20 working days before the agency intends to submit the final rule document for publication;

(2) Send with the written request a copy of the final rule document that uses the proper language of incorporation; and

(3) Ensure that a copy of the publication is on file at the Office of the Federal Register.

§51.7

(b) Agencies may consult with the Office of the Federal Register at any time with respect to the requirements of this part.

§51.7 What publications are eligible?

(a) A publication is eligible for incorporation by reference under 5 U.S.C. 552(a) if it—

(1) Conforms to the policy stated in §51.1;

(2) Is published data, criteria, standards, specifications, techniques, illustrations, or similar material;

(3) Substantially reduces the volume of material published in the FEDERAL REGISTER; and

(4) Is reasonably available to and usable by the class of persons affected by the publication. In determining whether a publication is usable, the Director will consider—

(i) The completeness and ease of handling of the publication; and

(ii) Whether it is bound, numbered, and organized.

(b) The Director will assume that a publication produced by the same agency that is seeking its approval is inappropriate for incorporation by reference. A publication produced by the agency may be approved, if, in the judgment of the Director, it meets the requirements of paragraph (a) and possesses other unique or highly unusual qualities. A publication may be approved if it cannot be printed using the FEDERAL REGISTER/Code of Federal Regulations printing system.

(c) The following materials are not appropriate for incorporation by reference:

(1) Material published previously in the FEDERAL REGISTER.

(2) Material published in the *United States Code*.

§51.9 What is the proper language of incorporation?

(a) The language incorporating a publication by reference shall be as precise and complete as possible and shall make it clear that the incorporation by reference is intended and completed by the final rule document in which it appears.

1 CFR Ch. II (1–1–02 Edition)

(b) The language incorporating a publication by reference is precise and complete if it—

(1) Uses the words “incorporated by reference;”

(2) States the title, date, edition, author, publisher, and identification number of the publication;

(3) Informs the user that the incorporated publication is a requirement;

(4) Makes an official showing that the publication is in fact available by stating where and how copies may be examined and readily obtained with maximum convenience to the user; and

(5) Refers to 5 U.S.C. 552(a).

(c) If the Director approves a publication for incorporation by reference, the agency must—

(1) Include the following under the DATES caption of the preamble to the final rule document (See 1 CFR 18.12 *Preamble requirements*):

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of _____.

(2) Includes the term “incorporation by reference” in the list of index terms (See 1 CFR 18.20 *Identification of subjects in agency regulations*).

§51.11 How does an agency change or remove an approved incorporation?

(a) An agency that seeks approval for a change to a publication that is approved for incorporation by reference must—

(1) Publish notice of the change in the FEDERAL REGISTER and amend the Code of Federal Regulations;

(2) Ensure that a copy of the amendment or revision is on file at the Office of the Federal Register; and

(3) Notify the Director of the Federal Register in writing that the change is being made.

(b) If a regulation containing an incorporation by reference fails to become effective or is removed from the Code of Federal Regulations, the agency must notify the Director of the Federal Register in writing of that fact within 5 working days of the occurrence.

CHAPTER IV—MISCELLANEOUS AGENCIES

EDITORIAL NOTE: Federal agencies are required to publish regulations implementing the provisions of the Freedom of Information Act (5 U.S.C. 552(a)), the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a), the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552b), and section 504 of the Rehabilitation Act of 1973, as amended by section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (29 U.S.C. 794). While most agencies have existing chapter assignments in the Code of Federal Regulations, a few agencies do not. Since certain of these agencies are unlikely to be issuing regulations other than those relating to the acts mentioned above, the Director of the Office of the Federal Register has grouped these miscellaneous agencies into this chapter as an efficient means of administering the CFR system.

<i>Part</i>		<i>Page</i>
425	President's Commission on White House Fellowships	41
455	National Capital Planning Commission (Privacy Act regulations)	43
456	National Capital Planning Commission (Freedom of Information Act regulations)	45
457	Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the National Capital Planning Commission	50
500	Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the National Commission for Employment Policy	56

PART 425—PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Sec.

425.1 Purpose and scope.

425.2 Procedures for notification of existence of records pertaining to individuals.

425.3 Procedure for requests for access to or disclosure of records pertaining to individuals.

425.4 Correction of records.

425.5 Disclosure of records to agencies or persons other than the individual to whom the record pertains.

AUTHORITY: 5 U.S.C. 552a(f).

SOURCE: 40 FR 52416, Nov. 10, 1975; 40 FR 56651, Dec. 4, 1975, unless otherwise noted.

§ 425.1 Purpose and scope.

This part sets forth the President's Commission on White House Fellowships procedures under the Privacy Act of 1974 as required by 5 U.S.C. 552a(f). Information to applicants regarding the implementation of this Act is contained in the White House Fellowships Application Instructions.

§ 425.2 Procedures for notification of existence of records pertaining to individuals.

(a) The system of records, as defined in the Privacy Act of 1974, maintained by the President's Commission on White House Fellowships is listed annually in the FEDERAL REGISTER as required by that Act. Any person who wishes to know whether a system of records contains a record pertaining to him or her may either appear in person at Room 1308, 1900 E Street, NW., on work days between the hours of 8:30 a.m. and 5 p.m. or may write to the President's Commission on White House Fellowships Administrative Officer, Washington, DC 20415 (Phone 202-382-4661). It is recommended that requests be made in writing.

(b) Requests for notification of the existence of a record should state, if the requester is other than the individual to whom the record pertains, the relationship of the requester to that individual. (Note that requests will not be honored by the Commission pursuant to the Privacy Act unless made: (1) By the individual to whom the record pertains or (2) by such indi-

vidual's legal guardian if the individual has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.)

(c) The Commission will acknowledge requests for the existence of records within 10 working days from the time it receives the request and will normally notify the requester of the existence or non-existence of records within 30 working days from receipt of request.

(d) No special identity verification is required for individuals who wish to know whether a specific system of records pertains to them.

[40 FR 52416, Nov. 10, 1975; 40 FR 56651, Dec. 4, 1975, as amended at 40 FR 59187, Dec. 22, 1975]

§ 425.3 Procedure for requests for access to or disclosure of records pertaining to individuals.

(a) Any person may request review of records pertaining to him by appearing at Room 1308, 1900 E Street, NW., Washington, DC on work days between the hours of 8:30 a.m. and 5 p.m. or by writing to the Commission on White House Fellowships Administrative Officer, Washington, DC 20415. (See paragraph (b) of this section for identification requirements.) The Commission will strive either to make the record available within 15 working days of the request or to inform the requester of the need for additional identification.

(b) In the case of persons making requests by appearing at the Commission, reasonable identification such as employment identification cards, drivers licenses, or credit cards will normally be accepted as sufficient evidence of identity in the absence of any indications to the contrary.

(c) Charges for copies of records will be at the rate of \$0.10 per photocopy of each page. No charge will be made unless the charge as computed above would exceed \$3 for each request or related series of requests. If a fee in excess of \$25 would be required, the requester shall be notified and the fee must be tendered before the records will be copied. Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the

§ 425.4

1 CFR Ch. IV (1-1-02 Edition)

United States, or a money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Administrative Officer, President's Commission on White House Fellowships, 1900 E Street, NW., Washington, DC 20415.

(d) Individuals will not be denied access to records pertaining to them.

[40 FR 52416, Nov. 10, 1975; 40 FR 56651, Dec. 4, 1975, as amended at 40 FR 59187, Dec. 22, 1975]

§ 425.4 Correction of records.

(a) An individual may request that a record or records pertaining to him or her be amended or corrected. Such requests shall be submitted in writing to the Administrative Officer at the Commission's business address.

(b) The signature of the requester will be sufficient identification for requesting correction of records.

(c) A request for amendment shall contain an exact description of the item or items sought to be amended and specific reasons for the requested amendment, as well as the individual's birthdate for purposes of verification of records.

(d) Within 10 working days after receipt of a request to amend a record, the Administrative Officer shall transmit to the requester a written acknowledgement of receipt of request. No acknowledgement is required if the request can be reviewed and processed with notification to the individual of compliance or denial within the ten-day period. Requester will be notified within 30 days whether or not his or her request has been granted.

(e) If the Administrative Officer determines that the requested amendment is appropriate to insure that the record is:

(1) Relevant and necessary to accomplish the purposes for which the records were collected; and

(2) As accurate, timely, and complete as are reasonably necessary to assure fairness to the requester, the Administrative Officer shall:

(i) Change the record accordingly;

(ii) Advise the requester that the change has been made, thirty days from receipt of written request;

(iii) After an accounting of disclosures has been kept pursuant to 5 U.S.C. 552a(c), advise all previous recipients of the record, who, the Commission believes, still retain a copy thereof, of the fact that the amendment was made and the substance of the amendment.

(f) If, after review of the record, the Administrative Officer determines that the requested amendment is not in conformity with the requirements of the Act, he shall:

(1) Advise the requester in writing within thirty days of written request of such determination together with specific reasons therefor; and

(2) Inform the requester that further review of the request by the Director of the Commission is available if a written request therefor is made within 30 days after date of denial.

(g) Within 30 working days of receipt of a written request for review pursuant to § 425.4(f)(2) the Director shall make an independent review of the record, using the criteria of § 425.4(e) (1) and (2).

(1) If the Director determines that the record should be amended in accordance with the request, the Administrative Officer shall take the actions listed in § 425.4(e)(2) (i), (ii), and (iii).

(2) If the Director, after independent review, determines that the record should not be amended in accordance with the request, the Administrative Officer shall advise the requester:

(i) Of the determination and the reasons therefor;

(ii) Of his or her right to file with the Administrative Officer a concise statement of his or her reasons for disagreeing with the refusal to amend the record;

(iii) That the record will be annotated to indicate to anyone subsequently having access to it that a statement of disagreement has been filed, and that the statement will be made available to anyone to whom the record is disclosed;

(iv) That the Director and the Administrative Officer may, in their discretion, include a brief summary of their reasons for refusing to amend the record whenever such disclosure is made;

Miscellaneous Agencies

§ 455.3

(v) That any prior recipients of this disputed record, who, the Commission believes, still retain a copy thereof, will be sent a copy of the statement of disagreement, after an accounting of disclosures has been kept pursuant to 5 U.S.C. 552a(c);

(vi) Of his or her right to seek judicial review of the refusal to amend the record, pursuant to 5 U.S.C. 552a(g)(1)(A).

[40 FR 59187, Dec. 22, 1975]

§ 425.5 Disclosure of records to agencies or persons other than the individual to whom the record pertains.

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(a) Records may be circulated to appropriate officials incident to placing Fellows in work assignments for the Fellowship year.

(b) An accounting of the date, nature, and purpose of each disclosure of a record as well as the name and address of the person and agency to whom the disclosure was made will be indicated on the record. This accounting is available to the individual to whom the records pertain on written request to the Commission.

[40 FR 52416, Nov. 10, 1975; 40 FR 56651, Dec. 4, 1975, as amended at 40 FR 59187, Dec. 22, 1975]

PART 455—NATIONAL CAPITAL PLANNING COMMISSION (PRIVACY ACT REGULATIONS)

Sec.

455.1 Purpose and scope.

455.2 Definitions.

455.3 Procedures for requests pertaining to individual records in a record system.

455.4 Times, places, and requirements for identification of individuals making requests.

455.5 Disclosure of requested information to individuals.

455.6 Request for correction or amendment to the record.

455.7 Agency review of request for correction or amendment of the record.

455.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

455.9 Disclosure of record to a person other than the individual to whom the record pertains.

455.10 Fees.

455.11 Penalties.

455.12 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 42 FR 7921, Feb. 8, 1977, unless otherwise noted.

§ 455.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is under the control of the National Capital Planning Commission (hereafter, the "Commission").

§ 455.2 Definitions.

For the purpose of these procedures:

(a) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term *maintain* includes maintain, collect, use, or disseminate;

(c) The term *record* means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her payroll information and mailing address and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term *system of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term *routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 455.3 Procedures for requests pertaining to individual records in a record system.

(a) An individual who wishes to know whether a system of records maintained by the Commission contains a

§ 455.4

record pertaining to him or her shall submit a written request to that effect to the appropriate System Manager at the Commission. The System Manager shall, within 10 days of the receipt of such submission, inform the individual whether a system of records maintained by the Commission contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor, addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 455.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 455.3(b) of this part indicated that he or she would appear personally shall do so at the Commission's offices, 1325 G Street NW., Washington, DC, between the hours of 8:30 A.M. and 5:00 P.M., Monday through Friday (legal holidays excluded) and present a form of identification, such as a valid driver's license or employee identification card, which will permit the System Manager to verify that the individual is the same individual as contained in the record requested.

(b) An individual who, in accord with § 455.3(b) of this part indicated that he or she desired mail delivery of a copy of the record shall include in the request the date and location of birth of the individual as suitable proof of identity.

(c) Where the above mentioned forms of identification are not feasible or appropriate, the Commission shall request a signed statement from the individual asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to \$5,000.

§ 455.5 Disclosure of requested information to individuals.

Upon verification of identity, the System Manager shall disclose to the individual: (a) The information con-

1 CFR Ch. IV (1-1-02 Edition)

tained in the record which pertains to that individual; and (b) the accounting of disclosures of the record, if any, required by 5 U.S.C. 552a(c).

§ 455.6 Request for correction or amendment to the record.

An individual may request that a record pertaining to him or her be amended or corrected. The individual shall submit any such request in accord with § 455.3 of this part and shall state therein the item sought to be amended and specific reasons therefor.

§ 455.7 Agency review of request for correction or amendment of the record.

Within ten days of the receipt of the request to correct or to amend the record, the System Manager will acknowledge in writing such receipt and promptly either: (a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete and inform the individual of same; or (b) inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 455.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the System Manager to correct or to amend his or her record may submit a request for a review of such refusal to the Chairman of the Commission, 1325 G Street NW., Washington, DC 20576. The Chairman will, not later than thirty days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review

Miscellaneous Agencies

§ 456.2

of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

§ 455.9 Disclosure of record to a person other than the individual to whom the record pertains.

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 455.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual), the Commission will charge a fee of \$0.25 per page (maximum per page dimension of 8½×13 inches) to the extent that the request exceeds \$5.00 in cost to the Commission. Requests not exceeding \$5.00 in cost to the Commission will be met without cost to the requester.

§ 455.11 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of \$10,000 or imprisonment for not more than five years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 455.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a (j) and (k).

PART 456—NATIONAL CAPITAL PLANNING COMMISSION (FREEDOM OF INFORMATION ACT REGULATIONS)

Sec.

456.1 Introduction.

456.2 Organization.

456.3 Definitions.

456.4 Public access to information.

AUTHORITY: 5 U.S.C. 552, as amended.

SOURCE: 47 FR 44229, Oct. 7, 1982, unless otherwise noted.

§ 456.1 Introduction.

The following regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552 (hereinafter the "Act"), and provide procedures by which information may be obtained from the National Capital Planning Commission (hereinafter the "Commission"). Official records made available pursuant to the Act shall be furnished to members of the public as prescribed herein.

§ 456.2 Organization.

The Commission is the central planning agency for the Federal Government in the National Capital. The Commission is composed of ex-officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, and the Chairman of the Committees on the District of Columbia of the Senate and the House of Representatives, or their alternates; and five citizens, three of whom are appointed by the President, and two of whom are appointed by the Mayor of the District of Columbia. The Commission is assisted by a staff headed by an Executive Director. The staff is organized functionally as follows:

- (a) Office of the Executive Director;
- (b) Legal Section;
- (c) Secretariat Section;
- (d) Management Services Section;

§ 456.3

- (e) Planning and Programming Division;
- (f) Review and Implementation Division;
- (g) Planning Services Division;
- (h) Carto/Graphics Division; and,
- (i) Public Affairs Division.

[47 FR 44229, Oct. 7, 1982, as amended at 52 FR 34373, Sept. 11, 1987]

§ 456.3 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) *Direct costs.* This term means those expenditures which the Commission actually incurs in searching for, duplicating and reviewing records.

(b) *Search.* This term includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

(c) *Duplication.* This term refers to the process of making a copy of a document necessary to respond to a Freedom of Information Act request.

(d) *Review.* This term refers to the process of examining documents located in response to a request that is for commercial use to determine whether any portion of any document located is permitted to be withheld, and includes processing any documents for disclosure.

(e) *Commercial use request.* This term refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(f) *Educational institution.* This term refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(g) *Non-commercial scientific institution.* This term refers to a non-profit institution which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

1 CFR Ch. IV (1-1-02 Edition)

(h) *Representative of the news media.* This term refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

[52 FR 34373, Sept. 11, 1987]

§ 456.4 Public access to information.

(a) *General policy.* It is the Commission's general policy to facilitate the broadest possible availability and dissemination of information to the public. The Commission's staff is available to assist the public in obtaining information formally by using the procedures herein or informally by discussions with the staff. The Commission's staff may, therefore, continue to furnish informally to the public information, which, prior to the amendments to the Act contained in Public Law 93-502, enacted November 21, 1974, was customarily furnished in the regular performance of their duties, provided the staff do so in a manner not inconsistent with these regulations. In addition, to the extent permitted by other laws, the Commission will make available records which it is authorized to withhold under the Act when it determines that such disclosure is in the public interest.

(b) *Established place of obtaining information.* Information may be obtained only from the Commission's offices, which are located at 1325 G Street, NW., Washington, DC 20576. Its official hours are 8:00 a.m. to 6:00 p.m., Monday

Miscellaneous Agencies

§ 456.4

through Friday, excluding legal holidays.

(c) *Information sources within the Commission.* Requests for Commission publications, offered for sale or informal requests for general information on the Commission should be directed to the Public Affairs Officer. All formal requests for agency records pursuant to the Act must be directed to the Freedom of Information Officer.

Any request directed initially to the wrong information source will be correctly routed by the Commission's staff and the requesting party will be so notified. The ten-day time period within which the Commission is required to determine whether to comply with a request shall not begin to run until the request reaches, or with the exercise of due diligence should have reached, the appropriate information source.

(d) *Information routinely available.* The following types of information shall be routinely available (subject to the fee schedule, *infra*) for public dissemination without recourse to the Commission's formal information request procedures unless such information falls within one of the exemptions to agency disclosure listed in 5 U.S.C. 552(b):

- (1) Correspondence between the Commission and the public;
- (2) Executive Director's Recommendations;
- (3) Committee Reports;
- (4) Commission Memorandums of Actions; and
- (5) Maps.

Requests for information, other than maps, shall be directed to the Freedom of Information Officer; map requests shall be directed to the Public Affairs Officer.

(e) *Formal requests for information.* All formal requests for information pursuant to the Act shall be made in writing to the Freedom of Information Officer. To expedite internal handling of such requests, the words "Freedom of Information Request" shall appear on the face of the envelope bearing such request. The request shall state that the request is made pursuant to the Freedom of Information Act; shall reasonably describe the information sought, including the date the Commission received or produced the requested information, if known; shall state, pursuant

to the fee schedule set forth *infra*, the maximum fee the party making the request would be willing to pay for the duplication of the requested records without further approval; and shall, if possible, provide a telephone number at which the requesting party can be contacted to facilitate handling of the request.

(f) *Commission response to formal requests.* The Freedom of Information Officer, upon request for information made in compliance with these regulations, shall determine within ten days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor and of the right of such person to appeal to the head of the agency any adverse determination. In unusual circumstances as specified *infra*, the ten-day time limit may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from establishments that are separate from the Commission's offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(g) *Determination to grant request.* If the Freedom of Information Officer makes a determination to grant a request in whole or in part, the person making such request will be so notified

§ 456.4

1 CFR Ch. IV (1-1-02 Edition)

in writing. The notice shall also include a description of the information to be made available, a statement of the time when and the place where such information may be inspected or alternatively, the procedure for duplication and delivery (by mail or other means) of the information to the requesting party and a statement of the total fees chargeable to the requesting person pursuant to the fee schedule *infra*.

(h) *Determination to deny request-appeal procedure.* If the Freedom of Information Officer makes a determination to deny, in whole or in part, a request for information, he shall so notify the party making the request in writing. Any appeal of such determination shall be made in writing to the Chairman of the Commission and shall include a brief statement of the legal, factual, or other basis for the party's objection to the initial decision. The Chairman shall, within twenty days (excepting Saturdays, Sundays, and legal holidays) of the receipt of any such appeal determine whether to grant or deny the appeal and shall, immediately upon making his decision, give written notice of the decision to the party, including a brief statement of the reasons therefor.

(i) *Waiver.* Whenever a waiver of any of the procedures set forth herein would further the purpose of the Act by causing the public disclosure of non-confidential information within the time period required by the Act, the Freedom of Information Officer may, in the context of individual requests for information, waive any of the procedural requirements herein.

(j) *Schedule of fees.* (1) The Commission may charge the following fees for the production of information pursuant to the Act:

(i) Publications offered for sale—as marked.

(ii) Commission reports—\$0.25/page.

(iii) Committee reports—\$0.25/page.

(iv) Commission Memorandums of Actions—\$0.25/page.

(v) Transcripts of Commission meetings and Committee meetings—\$0.25/page.

(vi) Other records—\$0.25/page.

(vii) Map publications—microfilm printout—\$1.00/each; ozalid maps—\$0.30/linear foot.

(viii) Manual record research: \$2.25 per quarter hour if conducted by a clerical employee; \$5.00 per quarter hour if conducted by a professional or managerial employee. The Commission may charge for search costs, where applicable, even if there is ultimately no disclosure of records.

(ix) Review charges: \$5.00 per quarter hour. The Commission may charge for review costs, where applicable, even if there is ultimately no disclosure of records.

(2) The Commission may charge the above-stated fees for the production of information pursuant to the Act, based upon the following requester classifications:

(i) *Commercial use requester.* The Commission may charge requesters in this category for all the direct costs of searching for, reviewing for release, and duplicating the records sought. In determining whether a request is for commercial use, the Commission will look to the use to which a requester will put the documents requested. Where a requester does not explain the use or where the explanation is insufficient, the Commission may draw reasonable inferences from the requester's identity.

(ii) *Educational and non-commercial scientific institution requesters.* The Commission shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. Requesters must show that the request is being made as authorized by or under the auspices of a qualifying institution and that the records sought are not for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or non-commercial scientific research (if the request is from a non-commercial scientific institution).

(iii) *Representatives of the news media.* The Commission shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages.

(iv) *All other requesters.* The Commission may charge requesters who do not fit into any of the categories above fees

Miscellaneous Agencies

§ 456.4

which recover the full reasonable direct costs of searching for and reproducing records that are responsive to the request, excluding the first 100 pages and first two hours of search time. Requests from record subjects for records about themselves filed in the Commission's system of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.

(3) The Commission keeps on file a limited quantity of back copies of Executive Director's Recommendations, Committee Reports, and Commission Memorandums of Actions. The Commission will first attempt to fill specific requests for these documents from its supply of back copies and until the supply is exhausted, the Commission will provide the documents at no charge. Once the supply is exhausted, the requested documents will be provided in accord with the fee schedule.

(4) The Commission may not charge fees to any requester if the cost of collecting the fee would be equal to or greater than the fee itself. The minimum fee for the production of information will be \$2.00 (over and above the first free 100 pages and 2 hours search time, where applicable). The Commission's Freedom of Information Officer shall provide documents furnished under the Act without any charge or at a charge reduced below the fees established under § 456.3(j)(1) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and it is not primarily in the commercial interest of the requester.

(5) In deciding whether a fee waiver or reduction under § 456.4(j)(4) is justified, the Commission will consider the following factors:

(i) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the Government";

(ii) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding"; and

(iv) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(v) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(vi) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest disclosure, that disclosure is "primarily in the commercial interest of the requester."

(k) *Prior approval or advance deposit of fees.* (1) Where the agency estimates that duplication, review or search charges are likely to exceed \$25.00, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those estimated. Where the fees anticipated to result from a request are substantially greater than the amount estimated in the written request, the persons requesting the information shall be immediately notified of the estimated fees and his approval of such fees requested. Such person shall also be afforded the opportunity to revise his or her request to reduce the fees but satisfy his or her needs for information.

(2) Where the Freedom of Information Officer determines that fees are likely to exceed \$250.00, the Commission may require advance payment of the fee in whole or in part. Where a requester has previously failed to pay a fee charged in a timely manner or is presently in arrears, the Commission may require the requester to pay the full amount owed and to make an advance payment of the full amount of the estimated fees before the agency begins to process a new request or completes a pending request.

(3) The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Freedom of Information Officer, the period pursuant to 5 U.S.C., 552 and paragraph (f) supra within which the Freedom of Information Officer must respond to a written request for information.

(4) A requester may not file multiple requests at the same time, each seeking portions of a document(s), solely in order to avoid payment of fees. When the Commission reasonably believes a requester(s) is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission may aggregate any such requests and charge accordingly.

(1) *Payment of fees.* Fees charged a person for the production of information must be paid in full prior to release of the information. Payment of fees shall be made by a personal check, postal money order or bank draft on a bank in the United States, made payable to the order of the Treasurer of the United States.

[47 FR 44229, Oct. 7, 1982. Redesignated and amended at 52 FR 34373-34374, Sept. 11, 1987]

PART 457—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CAPITAL PLANNING COMMISSION

Sec.

- 457.101 Purpose.
- 457.102 Application.
- 457.103 Definitions.
- 457.104—457.109 [Reserved]
- 457.110 Self-evaluation.
- 457.111 Notice.
- 457.112—457.129 [Reserved]
- 457.130 General prohibitions against discrimination.
- 457.131—457.139 [Reserved]
- 457.140 Employment.
- 457.141—457.148 [Reserved]
- 457.149 Program accessibility: Discrimination prohibited.
- 457.150 Program accessibility: Existing facilities.
- 457.151 Program accessibility: New construction and alterations.
- 457.152—457.159 [Reserved]
- 457.160 Communications.
- 457.161—457.169 [Reserved]

457.170 Compliance procedures.
457.171—457.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 22887 and 22896, June 23, 1986, unless otherwise noted.

§ 457.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 457.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 457.103 Definitions.

For purposes of this part, the term—
Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe

Miscellaneous Agencies

§ 457.103

or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major

life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Qualified handicapped person means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 457.140.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies

§§ 457.104–457.109

1 CFR Ch. IV (1–1–02 Edition)

only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 457.104–457.109 [Reserved]

§ 457.110 Self-evaluation.

(a) The agency shall, by August 24, 1987, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspection:

- (1) A description of areas examined and any problems identified, and
- (2) A description of any modifications made.

§ 457.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 457.112–457.129 [Reserved]

§ 457.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied

the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a

Miscellaneous Agencies

§ 457.150

program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 457.131–457.139 [Reserved]

§ 457.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of

1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

§§ 457.141–457.148 [Reserved]

§ 457.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 457.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 457.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 457.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by

a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General*. The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of § 457.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of § 457.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

- (i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;
- (ii) Assigning persons to guide handicapped persons into or through por-

tions of historic properties that cannot otherwise be made accessible; or

- (iii) Adopting other innovative methods.

(c) *Time period for compliance*. The agency shall comply with the obligations established under this section by October 21, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by August 22, 1989, but in any event as expeditiously as possible.

(d) *Transition plan*. In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by February 23, 1987 a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

- (1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;
- (2) Describe in detail the methods that will be used to make the facilities accessible;
- (3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
- (4) Indicate the official responsible for implementation of the plan.

§ 457.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

Miscellaneous Agencies

§ 457.170

§§ 457.152–457.159 [Reserved]

§ 457.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf person (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 457.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her

designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 457.161–457.169 [Reserved]

§ 457.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Equal Employment Opportunity Director, National Capital Planning Commission, 1325 G Street NW., Washington, DC 20576.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended

§§ 457.171–457.999

(42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by §457.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[51 FR 22887 and 22896, June 23, 1986, as amended at 51 FR 22888, June 23, 1986]

§§ 457.171–457.999 [Reserved]

1 CFR Ch. IV (1–1–02 Edition)

PART 500—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Sec.	
500.101	Purpose.
500.102	Application.
500.103	Definitions.
500.104–500.109	[Reserved]
500.110	Self-evaluation.
500.111	Notice.
500.112–500.129	[Reserved]
500.130	General prohibitions against discrimination.
500.131–500.139	[Reserved]
500.140	Employment.
500.141–500.148	[Reserved]
500.149	Program accessibility: Discrimination prohibited.
500.150	Program accessibility: Existing facilities.
500.151	Program accessibility: New construction and alterations.
500.152–500.159	[Reserved]
500.160	Communications.
500.161–500.169	[Reserved]
500.170	Compliance procedures.
500.171–500.999	[Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 22888 and 22896, June 23, 1986, unless otherwise noted.

§ 500.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 500.102 Application.

This part applies to all programs or activities conducted by the agency.

Miscellaneous Agencies

§ 500.103

§ 500.103 Definitions.

For purposes of this part, the term—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense

organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Qualified handicapped person means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, a handicapped person who is a member of a class of

§§ 500.104–500.109

1 CFR Ch. IV (1–1–02 Edition)

persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by §500.140.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 500.104–500.109 [Reserved]

§500.110 Self-evaluation.

(a) The agency shall, by August 24, 1987, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including handicapped persons or organiza-

tions representing handicapped persons, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspection:

(1) a description of areas examined and any problems identified, and

(2) a description of any modifications made.

§500.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 500.112–500.129 [Reserved]

§500.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to

Miscellaneous Agencies

§ 500.150

reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified handi-

capped persons to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 500.131-500.139 [Reserved]

§ 500.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

§§ 500.141-500.148 [Reserved]

§ 500.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 500.150, no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 500.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the

§ 500.150

1 CFR Ch. IV (1-1-02 Edition)

program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 500.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General*. The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not re-

quired to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(2) *Historic preservation programs*. In meeting the requirements of § 500.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to handicapped persons. In cases where a physical alteration to an historic property is not required because of § 500.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide handicapped persons into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance*. The agency shall comply with the obligations established under this section by October 21, 1986, except that where structural changes in facilities are undertaken, such changes shall be made by August 22, 1989, but in any event as expeditiously as possible.

(d) *Transition plan*. In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by February 23, 1987 a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including handicapped persons or organizations representing handicapped persons, to participate in the development of the transition plan by submitting comments (both oral and

Miscellaneous Agencies

§ 500.170

written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ 500.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

§§ 500.152-500.159 [Reserved]

§ 500.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by

telephone, telecommunication devices for deaf person (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 500.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 500.161-500.169 [Reserved]

§ 500.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on

§§ 500.171–500.999

1 CFR Ch. IV (1–1–02 Edition)

the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Director, National Commission for Employment Policy, Suite 300, 1522 K Street NW., Washington, DC 20005.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has ju-

risdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by §500.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[51 FR 22888 and 22896, June 23, 1986, as amended at 51 FR 22888, June 23, 1986]

§§ 500.171–500.999 [Reserved]

Title 2 [Reserved]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Chapter I—Index
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
Redesignation Table
List of CFR Sections Affected

CHAPTER I—INDEX

EDITORIAL NOTE: This listing is provided for information purposes only. It is compiled and kept up-to-date by the Office of the Federal Register.

- Action, preamble caption, §18.12
- Addresses, preamble caption, §18.12
- Administrative Committee of the Federal Register, §§1.1, 2.2
- Agency
 - Definition, §1.1
 - Preamble caption, §18.12
- Agency representatives
 - Code of Federal Regulations, §16.4
 - Federal Register, Part 16
 - United States Government Manual, §20.1
 - Weekly Compilation of Presidential Documents, §16.4
- Agency services, Part 15
- Amendatory language, §§21.1, 21.20
- Authority citations, §§21.40—21.53, 22.2, 22.5
 - Parallel table of authorities and rules, §8.5
- Authorizing officers
 - See* Agency representatives.
- Capitalization, §§18.9, 19.1
- Categories of documents, §5.9
- Certification of reproductions of acts and documents, §§3.3, 15.4
- Certified copies of agency documents, §§18.1, 18.5, 18.6
- Certifying officers
 - See* Agency representatives.
- Citation format
 - Code of Federal Regulations, §§8.9, 21.23, 21.24
 - Federal Register, §5.8
- Classification of documents, §5.9
- Code of Federal Regulations
 - Authority citations, §§21.40—21.53
 - Citation format, §§8.9, 21.23, 21.24
 - Codification system, §8.2, Part 21, §22.7
 - Cutoff dates for amendments, §8.3
 - Distribution, §12.2
 - Editorial assistance, Part 15
- Code of Federal Regulations—Continued
 - Expired material, reinstatement, §18.16
 - Expired material, removal, §21.6
 - Incorporation by reference. *See* Part 51, Ch. II.
 - Indexes, §§8.4, 8.5
 - OMB control numbers, §21.35
 - Part headings, §§21.18, 21.19
 - Publication policy, Part 8
 - References, §§21.21, 21.23, 21.24
 - Subscriptions, §11.3
 - Updating of volumes, §8.3
- Codification system, §8.2, Part 21, §22.7
- Combined documents, prohibition, §18.2
- Congressional laws
 - See* Public Laws.
- Consultation services
 - See* Agency services.
- Corrections, §§18.13, 18.15
- Cross references
 - See* References in documents subject to codification.
- Dates, preamble caption, §18.12
 - See also* Effective dates
- Deadlines
 - Code of Federal Regulations amendments, §8.3
 - United States Government Manual, §20.7
- Definitions, §1.1
- Distribution
 - See also* Subscriptions
 - Agency representatives, responsibility, §16.4
 - Code of Federal Regulations, §12.2
 - Federal Register, §§5.7, 12.1
 - Presidential papers, §§12.4, 12.5
 - United States Government Manual, §12.3
- Documents
 - Authority citations, §§21.40—21.53, 22.2, 22.5

1 CFR (1–1–02 Edition)

- Documents—Continued
- Categories, § 5.9
 - Certified copies, §§ 18.1, 18.5, 18.6
 - Code of Federal Regulations references, §§ 21.21, 21.23, 21.24
 - Codification system, § 8.2, Part 21, § 22.7
 - Combined documents, prohibition, § 18.2
 - Corrections, §§ 18.13, 18.15
 - Definition, § 1.1
 - Editorial assistance, Part 15
 - Effective dates, §§ 18.12, 18.17, 21.30
 - Filing for public inspection, §§ 1.1, 3.2, 5.2, Part 17, Part 18
 - Format, Part 18
 - Headings, §§ 21.16—21.19
 - Illustrations, tables, and forms, § 18.10
 - Legibility, §§ 18.4, 18.5, 18.10
 - Notices, format, Part 22
 - OMB control numbers, § 21.35
 - Preamble requirements, § 18.12
 - Preparation and transmittal, Part 18
 - Proposed rules, format, Part 22
 - Public inspection, § 3.2
 - Publication not authorized, § 5.4
 - Publication policy, Part 5
 - Reproduction and certification of copies, §§ 3.3, 15.4
 - Rules and regulations, format, Part 21
 - Scheduling, Part 17
 - Signatures, § 18.7
 - Style, § 18.9
 - Thesaurus terms, identification, § 18.20
 - Withdrawal or correction of material filed with Federal Register Office, § 18.13
- Editorial assistance, Part 15
- Effective dates, §§ 18.12, 18.17, 21.30
- Emergency requests
- Filing for public inspection, §§ 17.5, 17.6
 - Publication, §§ 17.3, 17.4
- Errors
- See* Corrections.
- Executive Orders
- See* Presidential documents.
- Expiration of regulations, §§ 18.16, 21.6
- Extra copies, Part 12
- See also* Overruns
- Federal Register
- Agency representatives, Part 16
 - Categories of documents, § 5.9
 - Citation format, § 5.8
 - Codification system, Part 21
 - Corrections, §§ 18.13, 18.15
 - Distribution, §§ 5.7, 12.1
 - Documents, publication not authorized, § 5.4
 - Documents, publication policy, Part 5
 - Editorial assistance, Part 15
 - Emergency filing requests, §§ 17.5, 17.6
 - Emergency publication requests, §§ 17.3, 17.4
 - Incorporation by reference. *See* Part 51, Ch. II.
 - Indexes, Part 6
 - Overruns and extra copies, § 12.1
 - Preparation and transmittal of documents, Part 18
 - Public inspection of documents, § 3.2
 - Publication policy, Part 5
 - Publication schedules, Part 17
 - Subscriptions, §§ 11.1, 11.2
 - Thesaurus terms, identification, § 18.20
 - Unrestricted use of materials, § 2.6
 - Withdrawal or correction of documents on file, § 18.13
- Federal Register Office
- Agency services, Part 15
 - Authority of Director, §§ 2.4, 5.3
 - Certification of reproductions of acts and documents, §§ 3.3, 15.4
 - Information services, Part 3
 - Location and office hours, § 2.3
- Filing of documents for public inspection, §§ 1.1, 3.2, 5.2, Part 17, Part 18
- Final rules
- See* Rules and regulations.
- Finding aids
- See* Indexes.
- For Further Information Contact, preamble caption, § 18.12
- Forms, publication, § 18.10
- Government Manual
- See* United States Government Manual.
- Government Printing Office

Chapter I Index

- Government Printing Office—Continued
- See also* Distribution; Subscriptions.
 - Style manual, §§18.9, 19.1, 20.6
- Headings, §§21.16—21.19
- Illustrations, tables, and forms, §18.10
- Incorporation by reference. *See* Part 51, Ch. II.
- Indexes
- Code of Federal Regulations, §§8.4, 8.5
 - Federal Register, Part 6, §§11.2, 11.7
 - List of CFR Sections Affected, §§6.4, 8.5, 11.2, 11.8, 12.1
 - Parallel table of authorities and rules, §8.5
 - Public Papers of the Presidents, §10.12
 - Subscriptions, §§11.2, 11.7, 11.8
 - Thesaurus terms, identification, §18.20
 - Weekly Compilation of Presidential Documents, §10.3
- Information services, Part 3
- See also* Agency services
- Inspection of documents
- See* Public inspection of documents.
- Internal references
- See* References in documents subject to codification.
- Land descriptions, format, §19.1
- Laws
- See* Public Laws.
- Legibility, §§18.4, 18.5, 18.10
- Letters of transmittal, §§18.3, 18.4, 18.13
- Liaison officers
- See* Agency representatives.
- List of CFR Sections Affected, §§6.4, 8.5, 11.2, 11.8, 12.1
- Mailing
- See* Distribution; Subscriptions.
- Notices
- See also* Documents.
- Notices—Continued
- Authority of Federal Register Office Director, §5.3
 - Format, Part 22
 - Publication category, §5.9
 - Sunshine Act meetings notices, §17.2
- Numbering in Code of Federal Regulations
- See* Codification system.
- Official distribution within Federal Government
- See* Distribution.
- OMB control numbers, §21.35
- Overruns, §12.1
- Parallel table of authorities and rules, §8.5
- Preamble requirements, §18.12
- Presidential documents, Part 19
- See also* Presidential papers
 - Definitions, §19.6
 - Format, §19.1
 - Parallel table of authorities and rules, §8.5
 - Publication in Federal Register, §§5.1, 5.2, 5.9
 - Publication responsibility, §2.5
 - Routing and approval, §§19.2, 19.3
- Presidential papers
- Distribution, §§12.4, 12.5
 - Public Papers of the Presidents, §§2.5, 10.10—10.13, 12.5
 - Subscriptions, §§11.5, 11.6
 - Weekly Compilation of Presidential Documents, §§2.5, 10.1—10.3, 12.4
- Proclamations
- See* Presidential documents
- Proposed rules
- See also* Documents.
 - Format, Part 22
 - Publication category, §5.9
- Public inspection of documents, §3.2
- See also* Filing of documents for public inspection.
- Public Laws
- Publication responsibility, §2.5
 - Reproductions and certification of copies, §§3.3, 15.4
 - Subscriptions, §11.1

1 CFR (1-1-02 Edition)

- Public Papers of the Presidents
See Presidential papers.
- Publication schedules of the Federal Register, Part 17
- Punctuation, §§ 18.9, 19.1
- References in documents subject to codification, §§ 21.21, 21.23, 21.24
- Reprints
See Overruns.
- Reproductions and certification of copies of acts and documents, §§ 3.3, 15.4
- Rules and regulations
See also Documents.
Expiration, §§ 18.16, 21.6
Format, Part 21
Publication category, § 5.9
- Scheduling of documents, Part 17
- Seals on original documents or certified copies, § 18.8
- Separate parts, requests for overruns, § 12.1
- Signatures, § 18.7
- Slip Laws
See Public Laws.
- Spelling, §§ 18.9, 19.1
- Statutes
See United States Statutes at Large.
- Statutory authorities
See Parallel table of authorities and rules; Authority citations.
- Style, §§ 18.9, 19.1, 20.6
- Subject indexes
See Indexes.
- Subscriptions, Part 11
See also Distribution.
- Summary, preamble caption, § 18.12
- Sunshine Act meetings notices, § 17.2
- Supplementary Information, preamble caption, § 18.12
- Tables, § 18.10
- Thesaurus terms, identification, § 18.20
- Training programs
See Agency services.
- Transmittal of documents, Part 18
- United States Government Manual, Part 20
Distribution, § 12.3
Publication policy, Part 9
Publication responsibility, § 2.5
Subscriptions, § 11.4
- United States Statutes at Large
Publication responsibility, § 2.5
Subscriptions, § 11.1
- Unrestricted use of materials, § 2.6
- Weekly Compilation of Presidential Documents
See Presidential papers.
- Withdrawal of documents filed with Federal Register Office, § 18.13

Table of CFR Titles and Chapters

(Revised as of January 1, 2002)

Title 1—General Provisions

- I Administrative Committee of the Federal Register (Parts 1—49)
- II Office of the Federal Register (Parts 50—299)
- IV Miscellaneous Agencies (Parts 400—500)

Title 2—[Reserved]

Title 3—The President

- I Executive Office of the President (Parts 100—199)

Title 4—Accounts

- I General Accounting Office (Parts 1—99)

Title 5—Administrative Personnel

- I Office of Personnel Management (Parts 1—1199)
- II Merit Systems Protection Board (Parts 1200—1299)
- III Office of Management and Budget (Parts 1300—1399)
- V The International Organizations Employees Loyalty Board (Parts 1500—1599)
- VI Federal Retirement Thrift Investment Board (Parts 1600—1699)
- VII Advisory Commission on Intergovernmental Relations (Parts 1700—1799)
- VIII Office of Special Counsel (Parts 1800—1899)
- IX Appalachian Regional Commission (Parts 1900—1999)
- XI Armed Forces Retirement Home (Part 2100)
- XIV Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)
- XV Office of Administration, Executive Office of the President (Parts 2500—2599)
- XVI Office of Government Ethics (Parts 2600—2699)
- XXI Department of the Treasury (Parts 3100—3199)
- XXII Federal Deposit Insurance Corporation (Part 3201)

Title 5—Administrative Personnel—Continued

Chap.	
XXIII	Department of Energy (Part 3301)
XXIV	Federal Energy Regulatory Commission (Part 3401)
XXV	Department of the Interior (Part 3501)
XXVI	Department of Defense (Part 3601)
XXVIII	Department of Justice (Part 3801)
XXIX	Federal Communications Commission (Parts 3900—3999)
XXX	Farm Credit System Insurance Corporation (Parts 4000—4099)
XXXI	Farm Credit Administration (Parts 4100—4199)
XXXIII	Overseas Private Investment Corporation (Part 4301)
XXXV	Office of Personnel Management (Part 4501)
XL	Interstate Commerce Commission (Part 5001)
XLI	Commodity Futures Trading Commission (Part 5101)
XLII	Department of Labor (Part 5201)
XLIII	National Science Foundation (Part 5301)
XLV	Department of Health and Human Services (Part 5501)
XLVI	Postal Rate Commission (Part 5601)
XLVII	Federal Trade Commission (Part 5701)
XLVIII	Nuclear Regulatory Commission (Part 5801)
L	Department of Transportation (Part 6001)
LII	Export-Import Bank of the United States (Part 6201)
LIII	Department of Education (Parts 6300—6399)
LIV	Environmental Protection Agency (Part 6401)
LVII	General Services Administration (Part 6701)
LVIII	Board of Governors of the Federal Reserve System (Part 6801)
LIX	National Aeronautics and Space Administration (Part 6901)
LX	United States Postal Service (Part 7001)
LXI	National Labor Relations Board (Part 7101)
LXII	Equal Employment Opportunity Commission (Part 7201)
LXIII	Inter-American Foundation (Part 7301)
LXV	Department of Housing and Urban Development (Part 7501)
LXVI	National Archives and Records Administration (Part 7601)
LXIX	Tennessee Valley Authority (Part 7901)
LXXI	Consumer Product Safety Commission (Part 8101)
LXXIII	Department of Agriculture (Part 8301)
LXXIV	Federal Mine Safety and Health Review Commission (Part 8401)
LXXVI	Federal Retirement Thrift Investment Board (Part 8601)
LXXVII	Office of Management and Budget (Part 8701)

Title 6—[Reserved]

Title 7—Agriculture

Chap.	
	SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE (PARTS 0—26)
	SUBTITLE B—REGULATIONS OF THE DEPARTMENT OF AGRICULTURE
I	Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)
II	Food and Nutrition Service, Department of Agriculture (Parts 210—299)
III	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)
IV	Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)
V	Agricultural Research Service, Department of Agriculture (Parts 500—599)
VI	Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)
VII	Farm Service Agency, Department of Agriculture (Parts 700—799)
VIII	Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)
IX	Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)
X	Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)
XI	Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)
XIII	Northeast Dairy Compact Commission (Parts 1300—1399)
XIV	Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)
XV	Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)
XVI	Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)
XVII	Rural Utilities Service, Department of Agriculture (Parts 1700—1799)
XVIII	Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)
XXVI	Office of Inspector General, Department of Agriculture (Parts 2600—2699)
XXVII	Office of Information Resources Management, Department of Agriculture (Parts 2700—2799)
XXVIII	Office of Operations, Department of Agriculture (Parts 2800—2899)
XXIX	Office of Energy, Department of Agriculture (Parts 2900—2999)
XXX	Office of the Chief Financial Officer, Department of Agriculture (Parts 3000—3099)

Title 7—Agriculture—Continued

Chap.	
XXXI	Office of Environmental Quality, Department of Agriculture (Parts 3100—3199)
XXXII	Office of Procurement and Property Management, Department of Agriculture (Parts 3200—3299)
XXXIII	Office of Transportation, Department of Agriculture (Parts 3300—3399)
XXXIV	Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)
XXXV	Rural Housing Service, Department of Agriculture (Parts 3500—3599)
XXXVI	National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699)
XXXVII	Economic Research Service, Department of Agriculture (Parts 3700—3799)
XXXVIII	World Agricultural Outlook Board, Department of Agriculture (Parts 3800—3899)
XLI	[Reserved]
XLII	Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Parts 4200—4299)

Title 8—Aliens and Nationality

I	Immigration and Naturalization Service, Department of Justice (Parts 1—599)
---	---

Title 9—Animals and Animal Products

I	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)
II	Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299)
III	Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Title 10—Energy

I	Nuclear Regulatory Commission (Parts 0—199)
II	Department of Energy (Parts 200—699)
III	Department of Energy (Parts 700—999)
X	Department of Energy (General Provisions) (Parts 1000—1099)
XVII	Defense Nuclear Facilities Safety Board (Parts 1700—1799)
XVIII	Northeast Interstate Low-Level Radioactive Waste Commission (Part 1800)

Title 11—Federal Elections

I	Federal Election Commission (Parts 1—9099)
---	--

Title 12—Banks and Banking

- Chap.
- I Comptroller of the Currency, Department of the Treasury (Parts 1—199)
 - II Federal Reserve System (Parts 200—299)
 - III Federal Deposit Insurance Corporation (Parts 300—399)
 - IV Export-Import Bank of the United States (Parts 400—499)
 - V Office of Thrift Supervision, Department of the Treasury (Parts 500—599)
 - VI Farm Credit Administration (Parts 600—699)
 - VII National Credit Union Administration (Parts 700—799)
 - VIII Federal Financing Bank (Parts 800—899)
 - IX Federal Housing Finance Board (Parts 900—999)
 - XI Federal Financial Institutions Examination Council (Parts 1100—1199)
 - XIV Farm Credit System Insurance Corporation (Parts 1400—1499)
 - XV Department of the Treasury (Parts 1500—1599)
 - XVII Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)
 - XVIII Community Development Financial Institutions Fund, Department of the Treasury (Parts 1800—1899)

Title 13—Business Credit and Assistance

- I Small Business Administration (Parts 1—199)
- III Economic Development Administration, Department of Commerce (Parts 300—399)
- IV Emergency Steel Guarantee Loan Board (Parts 400—499)
- V Emergency Oil and Gas Guaranteed Loan Board (Parts 500—599)

Title 14—Aeronautics and Space

- I Federal Aviation Administration, Department of Transportation (Parts 1—199)
- II Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)
- III Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)
- V National Aeronautics and Space Administration (Parts 1200—1299)
- VI Office of Management and Budget (Parts 1300—1399)

Title 15—Commerce and Foreign Trade

- SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE (PARTS 0—29)
- SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE
- I Bureau of the Census, Department of Commerce (Parts 30—199)

Title 15—Commerce and Foreign Trade—Continued

Chap.

- II National Institute of Standards and Technology, Department of Commerce (Parts 200—299)
- III International Trade Administration, Department of Commerce (Parts 300—399)
- IV Foreign-Trade Zones Board, Department of Commerce (Parts 400—499)
- VII Bureau of Export Administration, Department of Commerce (Parts 700—799)
- VIII Bureau of Economic Analysis, Department of Commerce (Parts 800—899)
- IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)
- XI Technology Administration, Department of Commerce (Parts 1100—1199)
- XIII East-West Foreign Trade Board (Parts 1300—1399)
- XIV Minority Business Development Agency (Parts 1400—1499)
SUBTITLE C—REGULATIONS RELATING TO FOREIGN TRADE AGREEMENTS
- XX Office of the United States Trade Representative (Parts 2000—2099)
SUBTITLE D—REGULATIONS RELATING TO TELECOMMUNICATIONS AND INFORMATION
- XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)

Title 16—Commercial Practices

- I Federal Trade Commission (Parts 0—999)
- II Consumer Product Safety Commission (Parts 1000—1799)

Title 17—Commodity and Securities Exchanges

- I Commodity Futures Trading Commission (Parts 1—199)
- II Securities and Exchange Commission (Parts 200—399)
- IV Department of the Treasury (Parts 400—499)

Title 18—Conservation of Power and Water Resources

- I Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)
- III Delaware River Basin Commission (Parts 400—499)
- VI Water Resources Council (Parts 700—799)
- VIII Susquehanna River Basin Commission (Parts 800—899)
- XIII Tennessee Valley Authority (Parts 1300—1399)

Title 19—Customs Duties

- I United States Customs Service, Department of the Treasury (Parts 1—199)

Title 19—Customs Duties—Continued

Chap.

- II United States International Trade Commission (Parts 200—299)
- III International Trade Administration, Department of Commerce (Parts 300—399)

Title 20—Employees' Benefits

- I Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)
- II Railroad Retirement Board (Parts 200—399)
- III Social Security Administration (Parts 400—499)
- IV Employees' Compensation Appeals Board, Department of Labor (Parts 500—599)
- V Employment and Training Administration, Department of Labor (Parts 600—699)
- VI Employment Standards Administration, Department of Labor (Parts 700—799)
- VII Benefits Review Board, Department of Labor (Parts 800—899)
- VIII Joint Board for the Enrollment of Actuaries (Parts 900—999)
- IX Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor (Parts 1000—1099)

Title 21—Food and Drugs

- I Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)
- II Drug Enforcement Administration, Department of Justice (Parts 1300—1399)
- III Office of National Drug Control Policy (Parts 1400—1499)

Title 22—Foreign Relations

- I Department of State (Parts 1—199)
- II Agency for International Development (Parts 200—299)
- III Peace Corps (Parts 300—399)
- IV International Joint Commission, United States and Canada (Parts 400—499)
- V Broadcasting Board of Governors (Parts 500—599)
- VII Overseas Private Investment Corporation (Parts 700—799)
- IX Foreign Service Grievance Board Regulations (Parts 900—999)
- X Inter-American Foundation (Parts 1000—1099)
- XI International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100—1199)
- XII United States International Development Cooperation Agency (Parts 1200—1299)
- XIV Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400—1499)

Title 22—Foreign Relations—Continued

Chap.

- XV African Development Foundation (Parts 1500—1599)
- XVI Japan-United States Friendship Commission (Parts 1600—1699)
- XVII United States Institute of Peace (Parts 1700—1799)

Title 23—Highways

- I Federal Highway Administration, Department of Transportation (Parts 1—999)
- II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)
- III National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT

- I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)
- II Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)
- III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)
- IV Office of Housing and Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)
- V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)
- VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699) [Reserved]
- VII Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)
- VIII Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs, Section 202 Direct Loan Program, Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons With Disabilities Program) (Parts 800—899)
- IX Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)
- X Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

Title 24—Housing and Urban Development—Continued

Chap.

- XII Office of Inspector General, Department of Housing and Urban Development (Parts 2000—2099)
- XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)
- XXV Neighborhood Reinvestment Corporation (Parts 4100—4199)

Title 25—Indians

- I Bureau of Indian Affairs, Department of the Interior (Parts 1—299)
- II Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)
- III National Indian Gaming Commission, Department of the Interior (Parts 500—599)
- IV Office of Navajo and Hopi Indian Relocation (Parts 700—799)
- V Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Part 900)
- VI Office of the Assistant Secretary-Indian Affairs, Department of the Interior (Parts 1000—1199)
- VII Office of the Special Trustee for American Indians, Department of the Interior (Part 1200)

Title 26—Internal Revenue

- I Internal Revenue Service, Department of the Treasury (Parts 1—899)

Title 27—Alcohol, Tobacco Products and Firearms

- I Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

Title 28—Judicial Administration

- I Department of Justice (Parts 0—199)
- III Federal Prison Industries, Inc., Department of Justice (Parts 300—399)
- V Bureau of Prisons, Department of Justice (Parts 500—599)
- VI Offices of Independent Counsel, Department of Justice (Parts 600—699)
- VII Office of Independent Counsel (Parts 700—799)
- VIII Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)
- IX National Crime Prevention and Privacy Compact Council (Parts 900—999)
- XI Department of Justice and Department of State (Parts 1100—1199)

Title 29—Labor

- Chap.
- SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR (PARTS 0—99)
 - SUBTITLE B—REGULATIONS RELATING TO LABOR
 - I National Labor Relations Board (Parts 100—199)
 - II Office of Labor-Management Standards, Department of Labor (Parts 200—299)
 - III National Railroad Adjustment Board (Parts 300—399)
 - IV Office of Labor-Management Standards, Department of Labor (Parts 400—499)
 - V Wage and Hour Division, Department of Labor (Parts 500—899)
 - IX Construction Industry Collective Bargaining Commission (Parts 900—999)
 - X National Mediation Board (Parts 1200—1299)
 - XII Federal Mediation and Conciliation Service (Parts 1400—1499)
 - XIV Equal Employment Opportunity Commission (Parts 1600—1699)
 - XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)
 - XX Occupational Safety and Health Review Commission (Parts 2200—2499)
 - XXV Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)
 - XXVII Federal Mine Safety and Health Review Commission (Parts 2700—2799)
 - XL Pension Benefit Guaranty Corporation (Parts 4000—4999)

Title 30—Mineral Resources

- I Mine Safety and Health Administration, Department of Labor (Parts 1—199)
- II Minerals Management Service, Department of the Interior (Parts 200—299)
- III Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300—399)
- IV Geological Survey, Department of the Interior (Parts 400—499)
- VI Bureau of Mines, Department of the Interior (Parts 600—699)
- VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

Title 31—Money and Finance: Treasury

- SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY (PARTS 0—50)
- SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE
- I Monetary Offices, Department of the Treasury (Parts 51—199)
- II Fiscal Service, Department of the Treasury (Parts 200—399)
- IV Secret Service, Department of the Treasury (Parts 400—499)
- V Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

Title 31—Money and Finance: Treasury—Continued

Chap.

- VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)
- VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700—799)
- VIII Office of International Investment, Department of the Treasury (Parts 800—899)
- IX Federal Claims Collection Standards (Department of the Treasury—Department of Justice) (Parts 900—999)

Title 32—National Defense

SUBTITLE A—DEPARTMENT OF DEFENSE

- I Office of the Secretary of Defense (Parts 1—399)
 - V Department of the Army (Parts 400—699)
 - VI Department of the Navy (Parts 700—799)
 - VII Department of the Air Force (Parts 800—1099)
- ### SUBTITLE B—OTHER REGULATIONS RELATING TO NATIONAL DEFENSE
- XII Defense Logistics Agency (Parts 1200—1299)
 - XVI Selective Service System (Parts 1600—1699)
 - XXVIII National Counterintelligence Center (Parts 1800—1899)
 - XIX Central Intelligence Agency (Parts 1900—1999)
 - XX Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)
 - XXI National Security Council (Parts 2100—2199)
 - XXIV Office of Science and Technology Policy (Parts 2400—2499)
 - XXVII Office for Micronesian Status Negotiations (Parts 2700—2799)
 - XXVIII Office of the Vice President of the United States (Parts 2800—2899)

Title 33—Navigation and Navigable Waters

- I Coast Guard, Department of Transportation (Parts 1—199)
- II Corps of Engineers, Department of the Army (Parts 200—399)
- IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

Title 34—Education

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION (PARTS 1—99)

SUBTITLE B—REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION

- I Office for Civil Rights, Department of Education (Parts 100—199)
- II Office of Elementary and Secondary Education, Department of Education (Parts 200—299)
- III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)

Title 34—Education—Continued

Chap.

- IV Office of Vocational and Adult Education, Department of Education (Parts 400—499)
 - V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)
 - VI Office of Postsecondary Education, Department of Education (Parts 600—699)
 - VII Office of Educational Research and Improvement, Department of Education (Parts 700—799)
 - XI National Institute for Literacy (Parts 1100—1199)
- SUBTITLE C—REGULATIONS RELATING TO EDUCATION
- XII National Council on Disability (Parts 1200—1299)

Title 35—Panama Canal

- I Panama Canal Regulations (Parts 1—299)

Title 36—Parks, Forests, and Public Property

- I National Park Service, Department of the Interior (Parts 1—199)
- II Forest Service, Department of Agriculture (Parts 200—299)
- III Corps of Engineers, Department of the Army (Parts 300—399)
- IV American Battle Monuments Commission (Parts 400—499)
- V Smithsonian Institution (Parts 500—599)
- VII Library of Congress (Parts 700—799)
- VIII Advisory Council on Historic Preservation (Parts 800—899)
- IX Pennsylvania Avenue Development Corporation (Parts 900—999)
- X Presidio Trust (Parts 1000—1099)
- XI Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)
- XII National Archives and Records Administration (Parts 1200—1299)
- XV Oklahoma City National Memorial Trust (Part 1501)
- XVI Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Parts 1600—1699)

Title 37—Patents, Trademarks, and Copyrights

- I United States Patent and Trademark Office, Department of Commerce (Parts 1—199)
- II Copyright Office, Library of Congress (Parts 200—299)
- IV Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)
- V Under Secretary for Technology, Department of Commerce (Parts 500—599)

Title 38—Pensions, Bonuses, and Veterans' Relief

- I Department of Veterans Affairs (Parts 0—99)

Title 39—Postal Service

Chap.

- I United States Postal Service (Parts 1—999)
- III Postal Rate Commission (Parts 3000—3099)

Title 40—Protection of Environment

- I Environmental Protection Agency (Parts 1—799)
- IV Environmental Protection Agency and Department of Justice (Parts 1400—1499)
- V Council on Environmental Quality (Parts 1500—1599)
- VI Chemical Safety and Hazard Investigation Board (Parts 1600—1699)
- VII Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces (Parts 1700—1799)

Title 41—Public Contracts and Property Management

SUBTITLE B—OTHER PROVISIONS RELATING TO PUBLIC CONTRACTS

- 50 Public Contracts, Department of Labor (Parts 50-1—50-999)
- 51 Committee for Purchase From People Who Are Blind or Severely Disabled (Parts 51-1—51-99)
- 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-999)
- 61 Office of the Assistant Secretary for Veterans' Employment and Training Service, Department of Labor (Parts 61-1—61-999)

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM

- 101 Federal Property Management Regulations (Parts 101-1—101-99)
- 102 Federal Management Regulation (Parts 102-1—102-299)
- 105 General Services Administration (Parts 105-1—105-999)
- 109 Department of Energy Property Management Regulations (Parts 109-1—109-99)
- 114 Department of the Interior (Parts 114-1—114-99)
- 115 Environmental Protection Agency (Parts 115-1—115-99)
- 128 Department of Justice (Parts 128-1—128-99)

SUBTITLE D—OTHER PROVISIONS RELATING TO PROPERTY MANAGEMENT [RESERVED]

SUBTITLE E—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATIONS SYSTEM

- 201 Federal Information Resources Management Regulation (Parts 201-1—201-99) [Reserved]

SUBTITLE F—FEDERAL TRAVEL REGULATION SYSTEM

- 300 General (Parts 300-1—300-99)
- 301 Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)
- 302 Relocation Allowances (Parts 302-1—302-99)
- 303 Payment of Expenses Connected with the Death of Certain Employees (Part 303-70)

Title 41—Public Contracts and Property Management—Continued

Chap.

- 304 Payment from a Non-Federal Source for Travel Expenses (Parts 304-1—304-99)

Title 42—Public Health

- I Public Health Service, Department of Health and Human Services (Parts 1—199)
- IV Centers for Medicare & Medicaid Services, Department of Health and Human Services (Parts 400—499)
- V Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR (PARTS 1—199)

SUBTITLE B—REGULATIONS RELATING TO PUBLIC LANDS

- I Bureau of Reclamation, Department of the Interior (Parts 200—499)
- II Bureau of Land Management, Department of the Interior (Parts 1000—9999)
- III Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10005)

Title 44—Emergency Management and Assistance

- I Federal Emergency Management Agency (Parts 0—399)
- IV Department of Commerce and Department of Transportation (Parts 400—499)

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES (PARTS 1—199)

SUBTITLE B—REGULATIONS RELATING TO PUBLIC WELFARE

- II Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)
- III Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)
- IV Office of Refugee Resettlement, Administration for Children and Families Department of Health and Human Services (Parts 400—499)
- V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)
- VI National Science Foundation (Parts 600—699)
- VII Commission on Civil Rights (Parts 700—799)
- VIII Office of Personnel Management (Parts 800—899)

Title 45—Public Welfare—Continued

Chap.	
X	Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)
XI	National Foundation on the Arts and the Humanities (Parts 1100—1199)
XII	Corporation for National and Community Service (Parts 1200—1299)
XIII	Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)
XVI	Legal Services Corporation (Parts 1600—1699)
XVII	National Commission on Libraries and Information Science (Parts 1700—1799)
XVIII	Harry S. Truman Scholarship Foundation (Parts 1800—1899)
XXI	Commission on Fine Arts (Parts 2100—2199)
XXIII	Arctic Research Commission (Part 2301)
XXIV	James Madison Memorial Fellowship Foundation (Parts 2400—2499)
XXV	Corporation for National and Community Service (Parts 2500—2599)

Title 46—Shipping

I	Coast Guard, Department of Transportation (Parts 1—199)
II	Maritime Administration, Department of Transportation (Parts 200—399)
III	Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400—499)
IV	Federal Maritime Commission (Parts 500—599)

Title 47—Telecommunication

I	Federal Communications Commission (Parts 0—199)
II	Office of Science and Technology Policy and National Security Council (Parts 200—299)
III	National Telecommunications and Information Administration, Department of Commerce (Parts 300—399)

Title 48—Federal Acquisition Regulations System

1	Federal Acquisition Regulation (Parts 1—99)
2	Department of Defense (Parts 200—299)
3	Department of Health and Human Services (Parts 300—399)
4	Department of Agriculture (Parts 400—499)
5	General Services Administration (Parts 500—599)
6	Department of State (Parts 600—699)
7	United States Agency for International Development (Parts 700—799)
8	Department of Veterans Affairs (Parts 800—899)

Title 48—Federal Acquisition Regulations System—Continued

Chap.

- 9 Department of Energy (Parts 900—999)
- 10 Department of the Treasury (Parts 1000—1099)
- 12 Department of Transportation (Parts 1200—1299)
- 13 Department of Commerce (Parts 1300—1399)
- 14 Department of the Interior (Parts 1400—1499)
- 15 Environmental Protection Agency (Parts 1500—1599)
- 16 Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)
- 17 Office of Personnel Management (Parts 1700—1799)
- 18 National Aeronautics and Space Administration (Parts 1800—1899)
- 19 Broadcasting Board of Governors (Parts 1900—1999)
- 20 Nuclear Regulatory Commission (Parts 2000—2099)
- 21 Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)
- 23 Social Security Administration (Parts 2300—2399)
- 24 Department of Housing and Urban Development (Parts 2400—2499)
- 25 National Science Foundation (Parts 2500—2599)
- 28 Department of Justice (Parts 2800—2899)
- 29 Department of Labor (Parts 2900—2999)
- 34 Department of Education Acquisition Regulation (Parts 3400—3499)
- 35 Panama Canal Commission (Parts 3500—3599)
- 44 Federal Emergency Management Agency (Parts 4400—4499)
- 51 Department of the Army Acquisition Regulations (Parts 5100—5199)
- 52 Department of the Navy Acquisition Regulations (Parts 5200—5299)
- 53 Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)
- 54 Defense Logistics Agency, Department of Defense (Part 5452)
- 57 African Development Foundation (Parts 5700—5799)
- 61 General Services Administration Board of Contract Appeals (Parts 6100—6199)
- 63 Department of Transportation Board of Contract Appeals (Parts 6300—6399)
- 99 Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION
(PARTS 1—99)

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

- I Research and Special Programs Administration, Department of Transportation (Parts 100—199)

Title 49—Transportation—Continued

Chap.

- II Federal Railroad Administration, Department of Transportation (Parts 200—299)
- III Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)
- IV Coast Guard, Department of Transportation (Parts 400—499)
- V National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)
- VI Federal Transit Administration, Department of Transportation (Parts 600—699)
- VII National Railroad Passenger Corporation (AMTRAK) (Parts 700—799)
- VIII National Transportation Safety Board (Parts 800—999)
- X Surface Transportation Board, Department of Transportation (Parts 1000—1399)
- XI Bureau of Transportation Statistics, Department of Transportation (Parts 1400—1499)
- XII Transportation Security Administration, Department of Transportation (Parts 1500—1599)

Title 50—Wildlife and Fisheries

- I United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)
- II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)
- III International Fishing and Related Activities (Parts 300—399)
- IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400—499)
- V Marine Mammal Commission (Parts 500—599)
- VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

CFR Index and Finding Aids

Subject/Agency Index

List of Agency Prepared Indexes

Parallel Tables of Statutory Authorities and Rules

List of CFR Titles, Chapters, Subchapters, and Parts

Alphabetical List of Agencies Appearing in the CFR

Alphabetical List of Agencies Appearing in the CFR

(Revised as of January 1, 2002)

Agency	CFR Title, Subtitle or Chapter
Administrative Committee of the Federal Register	1, I
Advanced Research Projects Agency	32, I
Advisory Commission on Intergovernmental Relations	5, VII
Advisory Council on Historic Preservation	36, VIII
African Development Foundation	22, XV
Federal Acquisition Regulation	48, 57
Agency for International Development, United States	22, II
Federal Acquisition Regulation	48, 7
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agriculture Department	5, LXXXIII
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Animal and Plant Health Inspection Service	7, III; 9, I
Chief Financial Officer, Office of	7, XXX
Commodity Credit Corporation	7, XIV
Cooperative State Research, Education, and Extension Service	7, XXXIV
Economic Research Service	7, XXXVII
Energy, Office of	7, XXIX
Environmental Quality, Office of	7, XXXI
Farm Service Agency	7, VII, XVIII
Federal Acquisition Regulation	48, 4
Federal Crop Insurance Corporation	7, IV
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Forest Service	36, II
Grain Inspection, Packers and Stockyards Administration	7, VIII; 9, II
Information Resources Management, Office of	7, XXVII
Inspector General, Office of	7, XXVI
National Agricultural Library	7, XLI
National Agricultural Statistics Service	7, XXXVI
Natural Resources Conservation Service	7, VI
Operations, Office of	7, XXXVIII
Procurement and Property Management, Office of	7, XXXII
Rural Business-Cooperative Service	7, XVIII, XLII
Rural Development Administration	7, XLII
Rural Housing Service	7, XVIII, XXXV
Rural Telephone Bank	7, XVI
Rural Utilities Service	7, XVII, XVIII, XLII
Secretary of Agriculture, Office of	7, Subtitle A
Transportation, Office of	7, XXXIII
World Agricultural Outlook Board	7, XXXVIII
Air Force Department	32, VII
Federal Acquisition Regulation Supplement	48, 53
Alcohol, Tobacco and Firearms, Bureau of	27, I
AMTRAK	49, VII
American Battle Monuments Commission	36, IV
American Indians, Office of the Special Trustee	25, VII
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX
Architectural and Transportation Barriers Compliance Board	36, XI

Agency	CFR Title, Subtitle or Chapter
Arctic Research Commission	45, XXIII
Armed Forces Retirement Home	5, XI
Army Department	32, V
Engineers, Corps of	33, II; 36, III
Federal Acquisition Regulation	48, 51
Benefits Review Board	20, VII
Bilingual Education and Minority Languages Affairs, Office of	34, V
Blind or Severely Disabled, Committee for Purchase From People Who Are	41, 51
Broadcasting Board of Governors	22, V
Federal Acquisition Regulation	48, 19
Census Bureau	15, I
Central Intelligence Agency	32, XIX
Chief Financial Officer, Office of	7, XXX
Child Support Enforcement, Office of	45, III
Children and Families, Administration for	45, II, III, IV, X
Civil Rights, Commission on	45, VII
Civil Rights, Office for	34, I
Coast Guard	33, I; 46, I; 49, IV
Coast Guard (Great Lakes Pilotage)	46, III
Commerce Department	44, IV
Census Bureau	15, I
Economic Affairs, Under Secretary	37, V
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Emergency Management and Assistance	44, IV
Export Administration, Bureau of	15, VII
Federal Acquisition Regulation	48, 13
Fishery Conservation and Management	50, VI
Foreign-Trade Zones Board	15, IV
International Trade Administration	15, III; 19, III
National Institute of Standards and Technology	15, II
National Marine Fisheries Service	50, II, IV, VI
National Oceanic and Atmospheric Administration	15, IX; 50, II, III, IV, VI
National Telecommunications and Information Administration	15, XXIII; 47, III
National Weather Service	15, IX
Patent and Trademark Office, United States	37, I
Productivity, Technology and Innovation, Assistant Secretary for	37, IV
Secretary of Commerce, Office of	15, Subtitle A
Technology, Under Secretary for	37, V
Technology Administration	15, XI
Technology Policy, Assistant Secretary for	37, IV
Commercial Space Transportation	14, III
Commodity Credit Corporation	7, XIV
Commodity Futures Trading Commission	5, XLI; 17, I
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Community Services, Office of	45, X
Comptroller of the Currency	12, I
Construction Industry Collective Bargaining Commission	29, IX
Consumer Product Safety Commission	5, LXXI; 16, II
Cooperative State Research, Education, and Extension Service	7, XXXIV
Copyright Office	37, II
Corporation for National and Community Service	45, XII, XXV
Cost Accounting Standards Board	48, 99
Council on Environmental Quality	40, V
Court Services and Offender Supervision Agency for the District of Columbia	28, VIII
Customs Service, United States	19, I
Defense Contract Audit Agency	32, I
Defense Department	5, XXVI; 32, Subtitle A;
	40, VII
Advanced Research Projects Agency	32, I
Air Force Department	32, VII

Agency	CFR Title, Subtitle or Chapter
Army Department	32, V; 33, II; 36, III, 48, 51
Defense Intelligence Agency	32, I
Defense Logistics Agency	32, I, XII; 48, 54
Engineers, Corps of	33, II; 36, III
Federal Acquisition Regulation	48, 2
National Imagery and Mapping Agency	32, I
Navy Department	32, VI; 48, 52
Secretary of Defense, Office of	32, I
Defense Contract Audit Agency	32, I
Defense Intelligence Agency	32, I
Defense Logistics Agency	32, XII; 48, 54
Defense Nuclear Facilities Safety Board	10, XVII
Delaware River Basin Commission	18, III
District of Columbia, Court Services and Offender Supervision Agency for the	28, VIII
Drug Enforcement Administration	21, II
East-West Foreign Trade Board	15, XIII
Economic Affairs, Under Secretary	37, V
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Economic Research Service	7, XXXVII
Education, Department of	5, LIII
Bilingual Education and Minority Languages Affairs, Office of	34, V
Civil Rights, Office for	34, I
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Federal Acquisition Regulation	48, 34
Postsecondary Education, Office of	34, VI
Secretary of Education, Office of	34, Subtitle A
Special Education and Rehabilitative Services, Office of	34, III
Vocational and Adult Education, Office of	34, IV
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Emergency Oil and Gas Guaranteed Loan Board	13, V
Emergency Steel Guarantee Loan Board	13, IV
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board	5, V
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Endangered Species Committee	50, IV
Energy, Department of	5, XXIII; 10, II, III, X
Federal Acquisition Regulation	48, 9
Federal Energy Regulatory Commission	5, XXIV; 18, I
Property Management Regulations	41, 109
Energy, Office of	7, XXIX
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	5, LIV; 40, I, IV, VII
Federal Acquisition Regulation	48, 15
Property Management Regulations	41, 115
Environmental Quality, Office of	7, XXXI
Equal Employment Opportunity Commission	5, LXII; 29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, I
Administration, Office of	5, XV
Environmental Quality, Council on	40, V
Management and Budget, Office of	5, III, LXXVII; 14, VI; 48, 99
National Drug Control Policy, Office of	21, III
National Security Council	32, XXI; 47, 2
Presidential Documents	3
Science and Technology Policy, Office of	32, XXIV; 47, II
Trade Representative, Office of the United States	15, XX
Export Administration, Bureau of	15, VII
Export-Import Bank of the United States	5, LII; 12, IV

Agency	CFR Title, Subtitle or Chapter
Family Assistance, Office of	45, II
Farm Credit Administration	5, XXXI; 12, VI
Farm Credit System Insurance Corporation	5, XXX; 12, XIV
Farm Service Agency	7, VII, XVIII
Federal Acquisition Regulation	48, I
Federal Aviation Administration	14, I
Commercial Space Transportation	14, III
Federal Claims Collection Standards	31, IX
Federal Communications Commission	5, XXIX; 47, I
Federal Contract Compliance Programs, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	5, XXII; 12, III
Federal Election Commission	11, I
Federal Emergency Management Agency	44, I
Federal Acquisition Regulation	48, 44
Federal Employees Group Life Insurance Federal Acquisition Regulation	48, 21
Federal Employees Health Benefits Acquisition Regulation	48, 16
Federal Energy Regulatory Commission	5, XXIV; 18, I
Federal Financial Institutions Examination Council	12, XI
Federal Financing Bank	12, VIII
Federal Highway Administration	23, I, II
Federal Home Loan Mortgage Corporation	1, IV
Federal Housing Enterprise Oversight Office	12, XVII
Federal Housing Finance Board	12, IX
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority	5, XIV; 22, XIV
Federal Law Enforcement Training Center	31, VII
Federal Management Regulation	41, 102
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Mine Safety and Health Review Commission	5, LXXIV; 29, XXVII
Federal Motor Carrier Safety Administration	49, III
Federal Prison Industries, Inc.	28, III
Federal Procurement Policy Office	48, 99
Federal Property Management Regulations	41, 101
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II
Board of Governors	5, LVIII
Federal Retirement Thrift Investment Board	5, VI, LXXVI
Federal Service Impasses Panel	5, XIV
Federal Trade Commission	5, XLVII; 16, I
Federal Transit Administration	49, VI
Federal Travel Regulation System	41, Subtitle F
Fine Arts, Commission on	45, XXI
Fiscal Service	31, II
Fish and Wildlife Service, United States	50, I, IV
Fishery Conservation and Management	50, VI
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of the United States	45, V
Foreign Service Grievance Board	22, IX
Foreign Service Impasse Disputes Panel	22, XIV
Foreign Service Labor Relations Board	22, XIV
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I
General Services Administration	5, LVII; 41, 105
Contract Appeals, Board of	48, 61
Federal Acquisition Regulation	48, 5
Federal Management Regulation	41, 102
Federal Property Management Regulation	41, 101

Agency	CFR Title, Subtitle or Chapter
Federal Travel Regulation System	41, Subtitle F
General	41, 300
Payment From a Non-Federal Source for Travel Expenses	41, 304
Payment of Expenses Connected With the Death of Certain Employees	41, 303
Relocation Allowances	41, 302
Temporary Duty (TDY) Travel Allowances	41, 301
Geological Survey	30, IV
Government Ethics, Office of	5, XVI
Government National Mortgage Association	24, III
Grain Inspection, Packers and Stockyards Administration	7, VIII; 9, II
Harry S. Truman Scholarship Foundation	45, XVIII
Health and Human Services, Department of	5, XLV; 45, Subtitle A
Child Support Enforcement, Office of	45, III
Children and Families, Administration for	45, II, III, IV, X
Community Services, Office of	45, X
Family Assistance, Office of	45, II
Federal Acquisition Regulation	48, 3
Food and Drug Administration	21, I
Centers for Medicare & Medicaid Services	42, IV
Human Development Services, Office of	45, XIII
Indian Health Service	25, V
Inspector General (Health Care), Office of	42, V
Public Health Service	42, I
Refugee Resettlement, Office of	45, IV
Centers for Medicare & Medicaid Services	42, IV
Housing and Urban Development, Department of	5, LXV; 24, Subtitle B
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Acquisition Regulation	48, 24
Federal Housing Enterprise Oversight, Office of	12, XXVII
Government National Mortgage Association	24, III
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, VIII, X, XX
Housing, Office of, and Multifamily Housing Assistance	24, IV
Restructuring, Office of	
Inspector General, Office of	24, XII
Public and Indian Housing, Office of Assistant Secretary for Secretary, Office of	24, IX 24, Subtitle A, VII
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, VIII, X, XX
Housing, Office of, and Multifamily Housing Assistance	24, IV
Restructuring, Office of	
Human Development Services, Office of	45, XIII
Immigration and Naturalization Service	8, I
Independent Counsel, Office of	28, VII
Indian Affairs, Bureau of	25, I, V
Indian Affairs, Office of the Assistant Secretary	25, VI
Indian Arts and Crafts Board	25, II
Indian Health Service	25, V
Information Resources Management, Office of	7, XXVII
Information Security Oversight Office, National Archives and Records Administration	32, XX
Inspector General	
Agriculture Department	7, XXVI
Health and Human Services Department	42, V
Housing and Urban Development Department	24, XII
Institute of Peace, United States	22, XXVII
Inter-American Foundation	5, LXIII; 22, X
Intergovernmental Relations, Advisory Commission on	5, VII
Interior Department	
American Indians, Office of the Special Trustee	25, VII
Endangered Species Committee	50, IV
Federal Acquisition Regulation	48, 14
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service, United States	50, I, IV

Agency	CFR Title, Subtitle or Chapter
Geological Survey	30, IV
Indian Affairs, Bureau of	25, I, V
Indian Affairs, Office of the Assistant Secretary	25, VI
Indian Arts and Crafts Board	25, II
Land Management, Bureau of	43, II
Minerals Management Service	30, II
Mines, Bureau of	30, VI
National Indian Gaming Commission	25, III
National Park Service	36, I
Reclamation, Bureau of	43, I
Secretary of the Interior, Office of	43, Subtitle A
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
Internal Revenue Service	26, I
International Boundary and Water Commission, United States and Mexico, United States Section	22, XI
International Development, United States Agency for	22, II
Federal Acquisition Regulation	48, 7
International Development Cooperation Agency, United States	22, XII
International Fishing and Related Activities	50, III
International Investment, Office of	31, VIII
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V
International Trade Administration	15, III; 19, III
International Trade Commission, United States	19, II
Interstate Commerce Commission	5, XL
James Madison Memorial Fellowship Foundation	45, XXIV
Japan–United States Friendship Commission	22, XVI
Joint Board for the Enrollment of Actuaries	20, VIII
Justice Department	5, XXVIII; 28, I, XI; 40, IV
Drug Enforcement Administration	21, II
Federal Acquisition Regulation	48, 28
Federal Claims Collection Standards	31, IX
Federal Prison Industries, Inc.	28, III
Foreign Claims Settlement Commission of the United States	45, V
Immigration and Naturalization Service	8, I
Offices of Independent Counsel	28, VI
Prisons, Bureau of	28, V
Property Management Regulations	41, 128
Labor Department	5, XLII
Benefits Review Board	20, VII
Employees' Compensation Appeals Board	20, IV
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Federal Acquisition Regulation	48, 29
Federal Contract Compliance Programs, Office of	41, 60
Federal Procurement Regulations System	41, 50
Labor-Management Standards, Office of	29, II, IV
Mine Safety and Health Administration	30, I
Occupational Safety and Health Administration	29, XXVII
Pension and Welfare Benefits Administration	29, XXV
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A
Veterans' Employment and Training Service, Office of the Assistant Secretary for	41, 61; 20, IX
Wage and Hour Division	29, V
Workers' Compensation Programs, Office of	20, I
Labor-Management Standards, Office of	29, II, IV
Land Management, Bureau of	43, II
Legal Services Corporation	45, XVI
Library of Congress	36, VII
Copyright Office	37, II
Management and Budget, Office of	5, III, LXXVII; 14, VI; 48, 99

Agency	CFR Title, Subtitle or Chapter
Marine Mammal Commission	50, V
Maritime Administration	46, II
Merit Systems Protection Board	5, II
Micronesian Status Negotiations, Office for	32, XXVII
Mine Safety and Health Administration	30, I
Minerals Management Service	30, II
Mines, Bureau of	30, VI
Minority Business Development Agency	15, XIV
Miscellaneous Agencies	1, IV
Monetary Offices	31, I
Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	36, XVI
National Aeronautics and Space Administration	5, LIX; 14, V
Federal Acquisition Regulation	48, 18
National Agricultural Library	7, XLI
National Agricultural Statistics Service	7, XXXVI
National and Community Service, Corporation for	45, XII, XXV
National Archives and Records Administration	5, LXVI; 36, XII
Information Security Oversight Office	32, XX
National Bureau of Standards	15, II
National Capital Planning Commission	1, IV
National Commission for Employment Policy	1, IV
National Commission on Libraries and Information Science	45, XVII
National Council on Disability	34, XII
National Counterintelligence Center	32, XXVIII
National Credit Union Administration	12, VII
National Crime Prevention and Privacy Compact Council	28, IX
National Drug Control Policy, Office of	21, III
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	23, II, III; 49, V
National Imagery and Mapping Agency	32, I
National Indian Gaming Commission	25, III
National Institute for Literacy	34, XI
National Institute of Standards and Technology	15, II
National Labor Relations Board	5, LXI; 29, I
National Marine Fisheries Service	50, II, IV, VI
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II, III, IV, VI
National Park Service	36, I
National Railroad Adjustment Board	29, III
National Railroad Passenger Corporation (AMTRAK)	49, VII
National Science Foundation	5, XLIII; 45, VI
Federal Acquisition Regulation	48, 25
National Security Council	32, XXI
National Security Council and Office of Science and Technology Policy	47, II
National Telecommunications and Information Administration	15, XXIII; 47, III
National Transportation Safety Board	49, VIII
National Weather Service	15, IX
Natural Resources Conservation Service	7, VI
Navajo and Hopi Indian Relocation, Office of	25, IV
Navy Department	32, VI
Federal Acquisition Regulation	48, 52
Neighborhood Reinvestment Corporation	24, XXV
Northeast Dairy Compact Commission	7, XIII
Northeast Interstate Low-Level Radioactive Waste Commission	10, XVIII
Nuclear Regulatory Commission	5, XLVIII; 10, I
Federal Acquisition Regulation	48, 20
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Offices of Independent Counsel	28, VI
Oklahoma City National Memorial Trust	36, XV
Operations Office	7, XXVIII
Overseas Private Investment Corporation	5, XXXIII; 22, VII
Panama Canal Commission	48, 35

Agency	CFR Title, Subtitle or Chapter
Panama Canal Regulations	35, I
Patent and Trademark Office, United States	37, I
Payment From a Non-Federal Source for Travel Expenses	41, 304
Payment of Expenses Connected With the Death of Certain Employees	41, 303
Peace Corps	22, III
Pennsylvania Avenue Development Corporation	36, IX
Pension and Welfare Benefits Administration	29, XXV
Pension Benefit Guaranty Corporation	29, XL
Personnel Management, Office of	5, I, XXXV; 45, VIII
Federal Acquisition Regulation	48, 17
Federal Employees Group Life Insurance Federal Acquisition Regulation	48, 21
Federal Employees Health Benefits Acquisition Regulation	48, 16
Postal Rate Commission	5, XLVI; 39, III
Postal Service, United States	5, LX; 39, I
Postsecondary Education, Office of	34, VI
President's Commission on White House Fellowships	1, IV
Presidential Documents	3
Presidio Trust	36, X
Prisons, Bureau of	28, V
Procurement and Property Management, Office of	7, XXXII
Productivity, Technology and Innovation, Assistant Secretary	37, IV
Public Contracts, Department of Labor	41, 50
Public and Indian Housing, Office of Assistant Secretary for	24, IX
Public Health Service	42, I
Railroad Retirement Board	20, II
Reclamation, Bureau of	43, I
Refugee Resettlement, Office of	45, IV
Regional Action Planning Commissions	13, V
Relocation Allowances	41, 302
Research and Special Programs Administration	49, I
Rural Business-Cooperative Service	7, XVIII, XLII
Rural Development Administration	7, XLII
Rural Housing Service	7, XVIII, XXXV
Rural Telephone Bank	7, XVI
Rural Utilities Service	7, XVII, XVIII, XLII
Saint Lawrence Seaway Development Corporation	33, IV
Science and Technology Policy, Office of	32, XXIV
Science and Technology Policy, Office of, and National Security Council	47, II
Secret Service	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III; 48, 23
Soldiers' and Airmen's Home, United States	5, XI
Special Counsel, Office of	5, VIII
Special Education and Rehabilitative Services, Office of	34, III
State Department	22, I; 28, XI
Federal Acquisition Regulation	48, 6
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
Surface Transportation Board	49, X
Susquehanna River Basin Commission	18, VIII
Technology Administration	15, XI
Technology Policy, Assistant Secretary for	37, IV
Technology, Under Secretary for	37, V
Tennessee Valley Authority	5, LXIX; 18, XIII
Thrift Supervision Office, Department of the Treasury	12, V
Trade Representative, United States, Office of	15, XX
Transportation, Department of	5, L
Coast Guard	33, I; 46, I; 49, IV
Coast Guard (Great Lakes Pilotage)	46, III
Commercial Space Transportation	14, III

Agency	CFR Title, Subtitle or Chapter
Contract Appeals, Board of	48, 63
Emergency Management and Assistance	44, IV
Federal Acquisition Regulation	48, 12
Federal Aviation Administration	14, I
Federal Highway Administration	23, I, II
Federal Motor Carrier Safety Administration	49, III
Federal Railroad Administration	49, II
Federal Transit Administration	49, VI
Maritime Administration	46, II
National Highway Traffic Safety Administration	23, II, III; 49, V
Research and Special Programs Administration	49, I
Saint Lawrence Seaway Development Corporation	33, IV
Secretary of Transportation, Office of	14, II; 49, Subtitle A
Surface Transportation Board	49, X
Transportation Security Administration	49, XII
Transportation Statistics Bureau	49, XI
Transportation, Office of	7, XXXIII
Transportation Security Administration	49, XII
Transportation Statistics Bureau	49, XI
Travel Allowances, Temporary Duty (TDY)	41, 301
Treasury Department	5, XXI; 12, XV; 17, IV; 31, IX
Alcohol, Tobacco and Firearms, Bureau of	27, I
Community Development Financial Institutions Fund	12, XVIII
Comptroller of the Currency	12, I
Customs Service, United States	19, I
Engraving and Printing, Bureau of	31, VI
Federal Acquisition Regulation	48, 10
Federal Law Enforcement Training Center	31, VII
Fiscal Service	31, II
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
International Investment, Office of	31, VIII
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
Thrift Supervision, Office of	12, V
Truman, Harry S. Scholarship Foundation	45, XVIII
United States and Canada, International Joint Commission	22, IV
United States and Mexico, International Boundary and Water Commission, United States Section	22, XI
Utah Reclamation Mitigation and Conservation Commission	43, III
Veterans Affairs Department	38, I
Federal Acquisition Regulation	48, 8
Veterans' Employment and Training Service, Office of the Assistant Secretary for	41, 61; 20, IX
Vice President of the United States, Office of	32, XXVIII
Vocational and Adult Education, Office of	34, IV
Wage and Hour Division	29, V
Water Resources Council	18, VI
Workers' Compensation Programs, Office of	20, I
World Agricultural Outlook Board	7, XXXVIII

Redesignation Table

At 54 FR 9676, March 7, 1989, various sections of Chapter I of Title 1 were updated and consolidated. For the convenience of the user, the following distribution table shows the relationship of former section numbers to the new section numbers.

Old section	New section	Old section	New section
	Parts 11–12 (Subchapter D)	18.5(c)	18.3(c)
3.4(a)	11.1	18.9 introductory text and (a)	18.9
3.4(b) introductory text	Removed	18.9(b)	Removed
3.4(b)(1)	Removed	18.9(c)	Removed
3.4(b)(2)	Removed	18.10(a)	Removed
3.4(b)(3)	11.2	18.10(b)	18.10(a)
3.4(b)(4)	11.3	18.10(c)	Removed
3.4(b)(5)	11.4	18.11	Removed
3.4(b)(6)	11.5	18.14	Removed
3.4(b)(7)	11.6	18.20(a)	Removed
3.4(b)(8)	11.7	18.20(b)	18.20(a)
7.1	12.1(a)	18.20(c)	18.20(b)
7.4	12.1(b)	20.1 introductory text	20.1(a)
7.5	12.1(c)	20.1(a)	20.1(a)(1)
7.6	12.1(d)	20.1(b)	20.1(a)(2)
8.8	12.2	20.1(c)	20.1(a)(3)
9.3(a)	12.3(a)	20.1(d)	20.1(a)(4)
9.3(b)	12.3 (b) and (c)	20.1 final undesignated paragraph.	20.1(b)
10.4	12.4	20.4	20.4 (a) and (b)
10.14	12.5	21.4	Removed
Parts 15–22 (Subchapter D)	Parts 15–22 (Subchapter E)	21.5	Removed
15.5	Removed	21.13	Removed
17.6	17.7	21.15	Removed
18.1(a)	18.1	21.22	Removed
18.1(b)	Removed		
18.5(a)	18.5		
18.5(b)	Removed		

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1986, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1986, see the "List of CFR Sections Affected, 1949-1963, 1964-1972, and 1973-1985" published in seven separate volumes.

1 CFR	1986	51 FR Page
Chapter I		
3.3 Revised		27017
Technical correction		28509
3.4 (b)(3) revised		27017
Technical correction		28509
Chapter III		
302.2 (b) revised		46986
305.86-1 Added		25641
305.86-2 Added		25642
305.86-3 Added		25643
305.86-4 Added		46986
305.86-5 Added		46987
305.86-6 Added		46988
305.86-7 Added		46989
305.86-8 Added		46990
315 Added		16665
326 Added		4573, 4579
326.103 Corrected		7543
326.150 (c) corrected		7543
326.170 (c) revised		4573
Chapter IV		
457 Added		22887, 22896
457.170 (c) revised		22888
500 Added		22888, 22896
500.170 (c) revised		22888

1 CFR	1987	52 FR Page
Chapter III		
304.1-304.6 (Subpart A) Authority citation revised		22753

1 CFR—Continued	52 FR Page
Chapter III—Continued	
304.3 (a) revised; (b) and (c) amended; (d) removed; (e) redesignated as (d) and revised; interim	22753
(c) correctly designated	23627
(a) revision, (b) and (c) amendment, (d) removal, (e) redesignation as (d) confirmed; (d) revised	29498
304.6 Revised; interim	22753
Revision confirmed; (h) introductory text added; (i)(1) and (2) amended	29498
305.87-1 Added	23629
305.87-2 Added	23631
305.87-3 Added	23632
305.87-4 Added	23634
305.87-5 Added	23635
305.87-6 Added	49142
305.87-7 Added	49143
305.87-8 Added	49144
305.87-9 Added	49146
305.87-10 Added	49147
305.87-11 Added	49148
305.87-12 Added	49151
310.12 Added	23636
Chapter IV	
456 Authority citation revised; nomenclature changes	34373
456.2 (a) through (f) revised; (g), (h), and (i) added	34373
456.3 Redesignated as 456.4; new 456.3 added	34373
456.4 Redesignated from 456.3	34373

1 CFR (1-1-02 Edition)

1 CFR—Continued

Chapter IV—Continued	52 FR Page
(j)(1)(vii) and (k)(2) revised; (j)(1)(viii), (k)(1) and (l) amended; (j)(1)(ix) and (5) and (k)(4) added; (j)(2) and (3) re- designated as (j)(3) and (4); new (j)(2) added; new (j)(4) re- vised	34374

1988

1 CFR

Chapter I	53 FR Page
3.4 (b)(3), (4), (7), and (8) revised; (b)(9) added	28627
Chapter III	
305.88-1 Added	26026
305.88-2 Added	26027
Section and footnote corrected	39588
305.88-3 Added	26028
305.88-4 Added	26029
305.88-5 Added	26030
305.88-6 Added	39585
305.88-7 Added	39586
305.88-8 Added	39587
310.13 Added	26032

1989

1 CFR

Chapter I	54 FR Page
2.3 (a) and (c) amended; eff. 4-6- 89	9676
2.4 (b) amended; eff. 4-6-89	9676
2.5 (c) revised; eff. 4-6-89	9676
3.2 (a) and (d) amended; eff. 4-6- 89	9676
3.3 Heading revised; eff. 4-6-89	9676
3.4 Removed; eff. 4-6-89	9676
5.2 Heading and introductory text revised; eff. 4-6-89	9676
5.3 Revised; eff. 4-6-89	9676
5.6 Revised; eff. 4-6-89	9676
5.9 (a) through (d) revised; eff. 4-6- 89	9676
6.5 Revised; eff. 4-6-89	9676
7 Removed; eff. 4-6-89	9677
8.1 (a) amended; eff. 4-6-89	9677
8.3 (c) amended; eff. 4-6-89	9677
8.5 (a), (b), and (c) revised; eff. 4-6- 89	9677
8.8 Removed; eff. 4-6-89	9677
9 Heading revised; eff. 4-6-89	9677
9.1 Revised; eff. 4-6-89	9677

1 CFR—Continued

Chapter I—Continued	54 FR Page
9.3 Removed; eff. 4-6-89	9677
10 Authority citation revised; eff. 4-6-89	9677
10.4 Removed; eff. 4-6-89	9677
10.14 Removed; eff. 4-6-89	9677
11-12 (Subchapter D) Added; eff. 4-6-89	9677
11 Added; eff. 4-6-89	9677
12 Added; eff. 4-6-89	9678
15-22 (Subchapter D) Redesignated as Subchapter E; eff. 4-6- 89	9677
15-22 (Subchapter E) Redesignated from Subchapter D; eff. 4-6-89	9677
15.4 Heading revised; eff. 4-6- 89	9679
15.5 Removed; eff. 4-6-89	9679
16.2 Revised; eff. 4-6-89	9679
16.3 Revised; eff. 4-6-89	9679
16.4 Revised; eff. 4-6-89	9679
17 Heading revised; eff. 4-6-89	9679
17.1 (Subpart A) Heading added; eff. 4-6-89	9679
17.2 Undesignated center heading designated as Subpart B; eff. 4- 6-89	9679
Revised; eff. 4-6-89	9680
17.3-17.6 Undesignated center heading designated as Subpart C; eff. 4-6-89	9679
17.3 Heading revised; eff. 4-6- 89	9680
17.4 Heading, (a) and (b) revised; (d) added; eff. 4-6-89	9680
17.5 Revised; eff. 4-6-89	9680
17.6 Redesignated as 17.7; new 17.6 added; eff. 4-6-89	9680
17.7 Undesignated center heading designated as Subpart D; eff. 4- 6-89	9679
Redesignated from 17.6; heading revised; (a) amended; (c) added; eff. 4-6-89	9680
Introductory text, (a), and (b) correctly redesignated as (a), (1), and (2); new (a)(1) cor- rected; new (b) correctly added; eff. 4-6-89	23343
18.1 Revised; eff. 4-6-89	9680
18.2 Revised; eff. 4-6-89	9680
18.3 (a) revised; (c) added; eff. 4-6- 89	9680
18.4 Revised; eff. 4-6-89	9681
18.5 Revised; eff. 4-6-89	9681
18.6 Revised; eff. 4-6-89	9681

List of CFR Sections Affected

1 CFR—Continued

54 FR
Page

Chapter I—Continued	
18.7 Amended; eff. 4-6-89	9681
18.9 Revised; eff. 4-6-89	9681
18.10 Revised; eff. 4-6-89	9681
18.11 Removed; eff. 4-6-89	9681
18.12 (b) amended; (c) introductory text revised; eff. 4-6-89	9681
18.13 Revised; eff. 4-6-89	9681
18.14 Removed; eff. 4-6-89	9681
18.16 Added; eff. 4-6-89	9681
18.17 (a) revised; (c) added; eff. 4-6-89	9681
18.20 (a) removed; (b) and (c) redesignated as (a) and (b); new (a) introductory text amended; eff. 4-6-89	9681
19 Authority citation revised; eff. 4-6-89	9681
19.1 (e) amended; footnote 1 added; eff. 4-6-89	9681
19.4 Amended; eff. 4-6-89	9681
20 Heading revised; eff. 4-6-89	9681
20.1 Introductory text and (a) through (d) redesignated as (a) introductory text and (1) through (4); final undesignated text designated as (b); new (a) introductory text and (b) amended; eff. 4-6-89	9682
20.3 (a) and (c) revised; eff. 4-6-89	9682
20.4 Revised; eff. 4-6-89	9682
21.1 (b) revised; eff. 4-6-89	9682
21.4 Removed; eff. 4-6-89	9682
21.5 Removed; eff. 4-6-89	9682
21.6 Revised; eff. 4-6-89	9682
21.8 (c) added; eff. 4-6-89	9682
21.11 Revised; eff. 4-6-89	9682
(a) introductory text, and (1) through (8) correctly designated as introductory text and (a) through (h); eff. 4-6-89	23343
21.12 Amended; eff. 4-6-89	9682
21.13 Removed; eff. 4-6-89	9682
21.14 Revised; eff. 4-6-89	9682
21.15 Removed; eff. 4-6-89	9682
21.18 Amended; eff. 4-6-89	9682
21.22 Removed; eff. 4-6-89	9682
21.42 Amended; eff. 4-6-89	9682
21.43 (b) amended; eff. 4-6-89	9682
21.45 Amended; eff. 4-6-89	9682
21.52 Revised; eff. 4-6-89	9682
21.53 Amended; eff. 4-6-89	9683
22 Heading revised; eff. 4-6-89	9683

1 CFR—Continued

54 FR
Page

Chapter I—Continued	
22.1—22.2 Undesignated center heading designated as Subpart A and revised; eff. 4-6-89	9683
22.5—22.7 Undesignated center heading designated as Subpart B and revised; eff. 4-6-89	9683
22.5 Introductory text and (a) amended; eff. 4-6-89	9683
22.6 Amended; eff. 4-6-89	9683
22.7 Amended; eff. 4-6-89	9683
Chapter III	
302.2 (e) revised and (f) added	28965
302.4 Revised	28965
305.68-1 Text removed; eff. 4-6-89	6861
305.69-9 Text removed; eff. 4-6-89	6861
305.70-4 Text removed; eff. 4-6-89	6861
305.71-4 Text removed; eff. 4-6-89	6861
305.71-9 Text removed; eff. 4-6-89	6861
305.73-3 Text removed; eff. 4-6-89	6861
305.73-6 Text removed; eff. 4-6-89	6861
305.74-3 Text removed; eff. 4-6-89	6861
305.75-1 Text removed; eff. 4-6-89	6861
305.75-2 Text removed; eff. 4-6-89	6861
305.76-4 Text removed; eff. 4-6-89	6861
305.77-1 Text removed; note added; eff. 4-6-89	6861
305.78-1 Text removed; eff. 4-6-89	6861
305.79-1 Text removed; eff. 4-6-89	6861
305.79-5 Text removed; eff. 4-6-89	6861
305.79-6 Text removed; note added; eff. 4-6-89	6861
305.80-1 Text removed; eff. 4-6-89	6861
305.80-5 Text removed; note added; eff. 4-6-89	6861
305.81-1 Text removed; note added; eff. 4-6-89	6861
305.81-2 Text removed; note added; eff. 4-6-89	6861
305.82-1 Text removed; note added; eff. 4-6-89	6862

1 CFR (1-1-02 Edition)

1 CFR—Continued

	54 FR Page
Chapter III—Continued	
305.82-3 Text removed; note added; eff. 4-6-89	6862
305.88-9 Added; eff. 4-6-89	5207
305.88-10 Added; eff. 4-6-89	5209
305.88-11 Added; eff. 4-6-89	5212
305.89-1 Added	28965
305.89-2 Added	28967
305.89-3 Added	28969
305.89-4 Added	28970
305.89-5 Added	28972
305.89-6 Added	28973
305.89-7 Added	53494
305.89-8 Added	53495
305.89-9 Added	53496
305.89-10 Added	53496
310.4 Text removed; eff. 4-6-89	6862
310.10 Text removed; eff. 4-6-89	6862
310.14 Added	28975
310.15 Added	53498
316 Added	39724

1990

1 CFR

	55 FR Page
Chapter III	
305.89-10 Heading corrected	1665
305.90-1 Added	34209
305.90-2 Added	34211
305.90-3 Added	34212
305.90-4 Added	34213
305.90-5 Added	53270
305.90-6 Added	53271
305.90-7 Added	53272
305.90-8 Added	53273
Chapter IV	
460 Removed	27633
461 Removed	27633

1991

1 CFR

	56 FR Page
Chapter III	
305.91-1 Added	33842
305.91-2 Added	33844
305.91-3 Added	33847
305.91-4 Added	33850
305.91-5 Added	33851
305.91-6 Added	33852
305.91-7 Added	67140
305.91-8 Added	67141
305.91-9 Added	67143
305.91-10 Added	67144

1992

1 CFR

	57 FR Page
Chapter I	
2.3 (b) amended	40024
3.2 (a) amended	40025
11.2 Revised	40025
11.3 Revised	40025
11.6 Revised	40025
Chapter II	
51 Technical amendment; incor- poration by reference	31947
Chapter III	
305 Authority citation revised	61760
Editorial note revised	61768
305.79-7 Text removed; note added	61768
305.83-1 Text removed; note added	61768
305.84-4 Text removed; note added	61769
305.84-6 Text removed	61769
305.87-1 Text removed; note amended	61769
305.87-12 Text removed; note added	61769
305.88-4 Text removed; note added	61769
305.88-8 Text removed; note added	61769
305.89-6 Text removed; note added	61769
305.92-1 Added	30102
305.92-2 Added	30103
305.92-3 Added	30104
305.92-4 Added	30106
305.92-5 Added	30108
Corrected	32881
305.92-6 Added	30110
Corrected	44791
305.92-7 Added	61760
305.92-8 Added	61765
305.92-9 Added	61766
310 Authority citation revised	61769
310.14 Text removed	61769

1993

1 CFR

	58 FR Page
Chapter I	
11.2 Revised; eff. 1-10-94	64872
11.3 Revised	64872
11.4 Amended; eff. 1-10-94	64872
11.6 Revised; eff. 1-10-94	64872
11.7 Revised; eff. 1-10-94	64872
11.8 Revised; eff. 1-10-94	64872

List of CFR Sections Affected

1 CFR—Continued 58 FR
Page

Chapter III

303 Authority citation revised 58935

303.101 Revised 58935

303.102 Revised 58935

303.103 Removed 58935

303.104 Removed 58935

303.105 Removed 58935

303.106 Removed 58935

303.107 Removed 58935

303.108 Removed 58935

303.109 Removed 58935

305 Removed in part; note
added..... 54271

305.79-7 Correctly designated 4295

305.93-1 Added..... 45409

305.93-2 Added..... 45410

305.93-3 Added..... 45412

310 Removed in part; note
added..... 54271

1994

1 CFR 59 FR
Page

Chapter I

11.2 Revised 48990

11.3 Revised 48990

11.6 Revised 48990

11.7 Revised 48990

11.8 Revised 48990

Chapter III

305 Amended 6213

310 Amended 6213

1995

(No regulations published)

1996

1 CFR 61 FR
Page

Chapter I

5.10 Added; eff. 1-27-97 68118

11.1 Amended; eff. 1-27-97 68118

11.2 Revised; eff. 1-27-97 68119

11.3 Revised; eff. 1-27-97 68119

11.4 Amended; eff. 1-27-97 68119

11.6 Revised; eff. 1-27-97 68119

1 CFR—Continued 61 FR
Page

Chapter I—Continued

11.7 Revised; eff. 1-27-97 68119

11.8 Revised; eff. 1-27-97 68119

18.4 (c) added; eff. 1-27-97 68119

18.7 Amended; eff. 1-27-97 68119

Chapter III

Chapter III Removed..... 3539

Chapter IV

462 Removed; interim 63947

1997

(No regulations published)

1998

(No regulations published)

1999

(No regulations published)

2000

1 CFR 65 FR
Page

Chapter I

8 Authority citation revised 8843

8.6 Revised 8843

10 Authority citation revised 8843

10.3 Revised 8843

11 Authority citation revised 8843

11.2 (a) revised 8843

11.3 Revised 8843

11.6 Revised 8843

11.7 Revised 8844

11.8 Revised 8844

2001

1 CFR 66 FR
Page

Chapter I

11.2 (a) revised 44524

11.3 (a) revised 44524

11.6 (a) revised 44524

11.7 Revised 44524

11.8 Revised 44524

