

# Administrative Law Research Guide

Lee Peoples © 2005

Associate Director

**Last Revised 1/12/10**

Oklahoma City University Law Library

## Background Information

Louisiana State University Library's Federal Agency Directory, accessible from:

<http://www.lib.lsu.edu/gov/index.html>

McKinney, Richard (Federal Reserve Board Law Librarian), *A Research Guide to the Federal Register and the Code of Federal Regulations*:

<http://www.llsdc.org/sourcebook/docs/fed-reg-cfr.pdf>

*United States Government Manual*, OCU Call # JK421 .A3 date (most recent copy kept in reference) and accessible online at: <http://www.gpoaccess.gov/gmanual/index.html>

*Washington Information Directory* (Washington: Congressional Quarterly, 1975 - ) Dulaney Browne Call # 328.73 W277 (circulating storage area)

## Substantive Administrative Law

Administrative Procedure Act of 1946 c. 324, 60 Stat. 237

Freedom of Information Act, Pub. L. No. 89-554, 80 Stat. 378

Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1896

Government in the Sunshine Act, Pub L. No. 94-409, 90 Stat 1241

Administrative Dispute Resolution Act, Pub. L. No. 101-552, 104 Stat. 2736

Negotiated Rule Making Act of 1990, Pub. L. No. 101-648, 104 Stat. 4969

Administrative Procedures Technical Amendments Act of 1991, Pub. L. No. 102-354, 106 Stat. 944

All codified at 5 U.S.C. §§ 551 and at other sections throughout title 5.

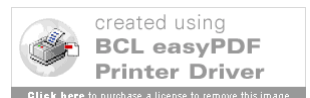
(Legislative histories from the Privacy Act to date are available electronically via the subscription database [LexisNexis Congressional](#) and [THOMAS](#). Legislative histories for all acts are also available in Pike and Fischer's *Administrative Law Desk Book*, OCU Call # KF 5401.A52 P5 date).

The Administrative Procedures Act controls many aspects of agency procedure. Researchers should also be aware of the enabling act an agency is operating under as it may prescribe specific procedures to be followed. Some agencies also maintain their own internal manual of policies and procedures. These documents often do not appear in the U.S.C. or C.F.R. A discussion of using the Freedom of Information Act to obtain copies of agency manuals is found at: FEDERAL PROCEDURE LAWYERS EDITION § 38:40, OCU Call # KF8719 .F4 (Reference).

This guide is part of the OCU Law Library series of Research Guides and Pathfinders.

Additional copies and future updated versions are available at:

[http://www.okcu.edu/law/lib/library\\_researchguides.html](http://www.okcu.edu/law/lib/library_researchguides.html)



## Federal Regulations

*Federal Register*-Administrative regulations are first published in the *Federal Register*. OCU Call # KF 70 .A2 (past year – present in reference, 1936 – one year ago in fiche, LLS, (B 1 & AA 87)

1) Online at GPO Access (1994-present) <http://www.gpoaccess.gov/fr/index.html>

This has a browsing feature that allows you to browse table of contents by day, keyword search and narrow your search to a specific section and date.

2) [Hein Online](#) (1936-Present)

3) [Westlaw](#) (FR) (1981 – Present)

4) [LexisNexis](#) (FEDREG) (July 1980 – Present)

Electronic Dockets- The E-Government Act of 2002 requires all rulemaking agencies to install electronic docket rooms to promote “access, accountability and transparency.” At <http://www.regulations.gov/> you can search and view regulations open for comment and view previous comments. The second generation of the Web site will provide online access to agency dockets and other background documents. Currently only a few agency dockets are available online.

*Code of Federal Regulations*- Codification of administrative regulations into fifty titles that correspond with the *United States Code*. Includes an annual index with the following access points: a) subject entries and names of administrative agencies with references to CFR Title and Part; b) Parallel Table of Authorities and Rules-indicates where administrative regulations are found in the CFR.

1) OCU Call # KF 70 .A3 date The Law Library has the current year in reference and 1949-1999 and 2006-2007 at Microfiche AA 4.

2) GPO Access: <http://www.gpoaccess.gov/cfr/index.html> (1996 – Present)

Allows you to search entire set by keyword, retrieve by citation (year, title, part, section, subpart), browse by date, and has a list of sections affected. Access eCFR (continually updated with changes instead of quarterly updates) at: <http://www.gpoaccess.gov/ecfr/>.

3) Westlaw database ([CFR](#)) contains the current year. When viewing a CFR section in Westlaw the RegulationsPlus feature in the left hand side of the screen provides links to prior versions of the CFR section, cases and administrative agency decisions citing to the CFR section, references to relevant Federal Register sections, a citation to the enabling statute and references to secondary sources. The researcher should note that this feature only includes links to documents available on Westlaw. It is likely that other sources cite the CFR section you are viewing but do not appear in the RegulationsPlus list because they are not contained in Westlaw.

4) LexisNexis ([CFR](#)) covers the present year and ([ALLCFR](#)) has an archive from 1981 – present.

5) [Hein Online](#) (1938 – Present)

### **Finding Regulations**

*Federal Register Index*- Arranged alphabetically by agency and issued semi-annually. Difficult to use unless you know the agency involved. It is at OCU Call # KF 70.A24 F433 date (reference) and available from 1939 – present in [Hein Online](#).

*CIS Federal Register Index*- Indexes every issue of the Federal Register. Issued weekly and monthly with monthly cumulative indexes and permanent semi-annual bound volumes. Indexes by subject, name, CFR section affected, federal agency docket number and calendar of effective dates and comment deadlines. OCU Call # KF 70.A24 C55 (compact shelving) ('84 – '98)

*CIS Index to the Code of Federal Regulations*- Provides access by subject and geographic location with references to CFR Title and Part. OCU Call # KF 70.A34 I46 date (reference and compact shelving)

*CFR Index and Finding Aids Volume*- This is part of the CFR set and includes an annual index with the following access points: a) subject entries and names of administrative agencies; b) Parallel Table of Authorities and Rules- if a statutory citation is known that authorizes administrative action this table indicates where administrative regulations promulgated under that statutory authority are found in the CFR.

*United States Code Service Index and Finding Aids to Code of Federal Regulations*- Published each year along with the full USCS set this volume includes an extensive subject index, list of agency prepared indexes appearing in individual CFR volumes, and a parallel table of authorities for USCS to CFR and vice-versa.

Westlaw's [RegulationsPlus index](#) to the CFR.

### **Updating & Tracking Regulations- View the Current CFR Electronically**

If you simply want the most up to date version of a regulation use an online source that continually updates the content of regulations. These sources include: [GPO's eCFR](#), [LexisNexis](#), and [Westlaw](#). All three list citations to *Federal Register* pages where amendments to the specific CFR section are located.

### **Updating & Tracking Regulations- KeyCite and Shepard's**

To see what changes have been made to a regulation or to view citations to primary and secondary sources citing to a regulation, enter a CFR citation into [KeyCite](#) or [Shepard's](#). They both display references to the *Federal Register* where changes to the specific CFR section are located. In my experience KeyCite provides more complete results than Shepard's. KeyCite includes citations to administrative decisions, additional *Federal Register* citations, more citations to secondary authority, and court filings. Not all of these citations are returned in Shepard's.

## Updating & Tracking Regulations- Print Sources

If you want to track changes to regulations or need to obtain the text of a regulation as of a specific date use the resources below:

- 1) Consult the CFR closest to the date you are interested in.
- 2) Consult the most recent *List of Sections Affected* (LSA). The LSA lists all titles of the CFR, indicates the nature of any final or proposed changes, and provides references to the *Federal Register* where the change appears. The LSA is issued monthly and cumulates all changes from prior months editions of LSA and from the most recently issued sections of the CFR according to the following schedule: December for titles 1-16; March for 17-27; June for 28-41; and September for 42-50. OCU Call # KF 70.A3 (reference) and online from 1986 – 2000 at <http://www.access.gpo.gov/nara/lssa/lscamp.html>. It is also available from 1949 – 2000 from Hein Online. Each volume of the CFR contains a list of sections affected that goes back about 10 years.
- 3) To update to the day between publication of the LSA, check the List of CFR Parts Affected printed daily in the front of each *Federal Register* volume and cumulating for the month in the back of the last *Federal Register* issued each month. The List of CFR Parts Affected indicates final and proposed changes appearing in the *Federal Register*. See OCU holdings for *Federal Register*.

## Administrative Decisions and Rulings – Federal

The OCU Law Library receives the text of some federal administrative decisions and rulings on a regular basis. Agency decisions are also available in the [Hein Online Federal Agency Library](#) (accessible from the law library's databases page), from agency websites, from [LexisNexis](#) and [Westlaw](#), from [LLMC Digital](#), and from looseleaves the law library subscribes to.

The best strategy for locating agency decisions and rulings is to first look at the [Hein Online Federal Agency Library](#) to determine if it contains decisions from the agency you are researching.

If you do not find decisions in the Hein Online Federal Agency Library the next place to look is the OCU Law Library Catalog. Search by the name of the publication where an agency publishes its decisions or the name of the agency. A list of agencies and the corresponding name of the publications containing their decisions is available at: <http://www.law.asu.edu/?id=8564#List>. The library catalog includes print reporters found in the library, links to decisions available on Westlaw, from agency websites, and in LLMC Digital.

## Attorneys General Opinions

United States Attorneys General are the legal advisors to the executive branch and they render formal advice by writing opinions. The recommendations and conclusions of an opinion may be persuasive upon a court but they are not legally binding.

## Sources

Opinions were first published in: *Opinions of the Attorneys General of the United States* (Washington: GPO, 1791 – 1982) OCU Call # KF 5406.A6 (Compact Shelf 5.2)

*Opinions of the Office of Legal Counsel* (Washington: GPO, 1977 - ) OCU Call # KF 5107.A55.  
The library does no longer subscribes to this.

Opinions of the Office of Legal Council are available from 1992 – present from:  
<http://www.usdoj.gov/olc/opinions.htm>

[LexisNexis](#) has them from 1791 – present in the library (USAG)

[Westlaw](#) has them from 1791 – present in the database (USAG)

## Presidential Documents

*Codification of Presidential Proclamations*- Provides Proclamations and Executive Orders in one source arranged by subject incorporating amendments. Arranged into 50 titles corresponding to those of the CFR covering '45- '89. OCU Call # KF 70.A73 date (reference)

Ashmore, Ann R., *Presidential Proclamations Concerning Public Lands, January 24, 1791 – March 19, 1936, A Numerical Index* (Washington D.C. : Law Library of Congress, 1981) OCU Call # KF 5602.28.A77 (3<sup>rd</sup> Floor S).

*Public Papers of the Presidents*- Begins with the Hoover administration published annually with a cumulative index. OCU has '74, '83- present. OCU Call # J80.A283 date (2<sup>nd</sup> Floor)

[Weekly Compilation of Presidential Documents](#), 1964 – present available from Hein Online.

White House Internet Site has Executive Orders: <http://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders>  
and Proclamations: <http://www.whitehouse.gov/briefing-room/presidential-actions/proclamations>

GPO Access- allows you to search compiled presidential papers (1991 - )  
<http://www.gpoaccess.gov/pubpapers/search.html>  
or search (1993) or browse ('01-'02) weekly compilations:  
<http://www.gpoaccess.gov/wcomp/index.html>

OCU has Weekly Compilations from '65 - present in microforms (AA192)

Yale's Avalon Project has select presidential papers:  
[http://avalon.law.yale.edu/subject\\_menus/presiden.asp](http://avalon.law.yale.edu/subject_menus/presiden.asp)

## Treatises and Scholarly Works

*Federal Procedure: Lawyers Edition* OCU Call # KF 8719.F4 (reference). An encyclopedic reference which treats all three parts of the federal adjudicatory system: traditional courts,

specialized courts, and administrative agencies and their tribunals, in 80 individual chapters contained in 33 volumes. The 80 chapters are divided into two types of coverage; core coverage encompassing general principles of procedure in all three levels of the federal court system; and topical coverage encompassing the application of general and specific procedural rules in specific types of actions or proceedings, e.g., banking and financing, bankruptcy, civil rights, environmental protection, and employment discrimination. Description from: Svengalis, Ken, *Legal Information Buyers Guide and Reference Manual* (Rhode Island Law Press: Providence, 2003) OCU Call # KF 1.S84 (not circulating)(hereinafter Svengalis).

Available in the Westlaw database ([FEDPROC](#))

Davis, Kenneth Culp, *Discretionary Justice: A Preliminary Inquiry* (Baton Rouge: LSU Press, 1969) OCU Call # KF 5407.D3. The author is the “father” of administrative law in the United States.

Koch, Charles H., *Administrative Law and Practice* (St. Paul: West, 1997 - ) OCU Call # KF 5407.K63 1997. The author is a professor at the Marshall-Wythe School of Law and a former member of the Federal Trade Commission. Coverage includes internal processes of the administrative system, agency rulemaking, elements of adjudication, due process rights, informal adjudication, judicial action, standards of review, and public information. (description adapted from Svengalis at 160)

Lubbers, Jeffrey S., *A Guide to Federal Agency Rulemaking, 4th ed.* (Chicago: ABA, 1998 - ) OCU Call # KF 5411.A84 2006. Originally published by the Administrative Conference of the United States (ACUS), it provides a complete review of the historical development of rulemaking, the statutory structure of rulemaking under the Administrative Procedures Act and other relevant statutes, and a step-by-step description of the informal rulemaking process, from preliminary considerations to the adoption of the final rule. (description adapted from Svengalis at 161)

Pierce, Richard J., *Administrative Law Treatise, 5<sup>th</sup> ed.* (New York: Aspen Law and Business (2002 - ) OCU Call # KF 5402.D32 2010. The previous editions of this work have been ranked among the most authoritative and significant of all scholarly treatises and were heavily cited in judicial opinions. Professor Davis is universally considered to be the greatest living authority on the subject of administrative law. (description adapted from Svengalis at 161-62)

*West's Federal Administrative Practice, 3<sup>rd</sup> ed.* (St. Paul: West, 1999 - ) OCU Call # KF 8840.V62 1996 (reference). This multi-volume treatise addresses the structure and functioning of executive agencies with entire chapters devoted to specific agencies. The set also includes material on the intricacies of bringing claims against the government, and the recovery of attorney fees in such actions. The set is written for government attorneys and private practitioners.

## Loose Leafs

*Pike and Fischer Administrative Law 3<sup>rd</sup> Series* (Silver Spring, MD: Pike and Fischer, 1989 - ) OCU Call # KF 5401.A52 P5 date.

The features of this loose leaf set include:

**Decisions volumes** report significant administrative procedure and judicial review decisions of courts and administrative agencies every two weeks.

**Digest volumes** organize all cases reported in the decisions volumes under 14 broad topics and then subdivide those topics into smaller sections.

The **Desk Book** contains the full text of the major administrative law statutes, full reprints of all legislative history documents for the statutes, and the principle memorandum of the Attorney General and other government officials regarding the statutes.

The **Newsletter** summarizes decisions contained in the loose leaf and updates of Supreme Court cases related to administrative law. Publication of the Newsletter began in April 1993.

The Law Library has the *First Series* which combines decisions and digests and contains cases from 1941-1951. The Law Library also has a consolidated digest referring to cases from 1941-64. These sets are located next to the current third series.

Stein, Jacob A, *et al*, *Administrative Law* (New York: Matthew Bender & Co., 1977 - ) OCU Call # KF 5402.M4 (not updated since 2001). An exhaustive examination of administrative law with an emphasis on federal procedural principles rather than substantive law. (description adapted from Svengalis at 161-62)

## Internet Resources

American Bar Association Section of Administrative Law and Regulatory Practice. Contains the publications: *Administrative Law and Regulatory Review*, *Administrative Law Review*, and *Developments in Administrative and Regulatory Law Review* (ABA Members Only): <http://www.abanet.org/adminlaw/home.html>

American Bar Association Government and Public Sector Lawyers Division:  
<http://www.abanet.org/govpub/home.html>

American Bar Associations Administrative Procedures Database. This site is designed to facilitate the exchange of information about federal and state administrative law among legislators, lawyers, hearing officers, judges, and citizens. This site contains links to federal and state Administrative Procedure Acts (APA), reform proposals, and organizational and other resources. (description taken from the site):  
<http://www.law.fsu.edu/library/admin/>

Findlaw's page of administrative law resources:

<http://www.findlaw.com/01topics/00administrative/index.html>

### **State Administrative Law**

Consult *The Bluebook* for the official name of each State's Administrative Code.

*BNA's Directory of State Administrative Codes and Registers*, A State by State Listing. OCU Call # KF 85.M55 (1995) (reference).

*Guide to State Legislative and Administrative Materials*- OCU Call # KF 1.M28 (2002) (reference).

The National Association of Secretaries of State has a website that links to the SOS office in each state. Many have placed their administrative codes on line:

<http://www.nass.org/>

### **Gubernatorial Papers**

Some state governors place their executive orders on their websites. The National Governors Association website links to each State Governor's page:

<http://www.nga.org/portal/site/nga/menuitem.5dbb9333fc52447ae8ebb856a11010a0/>

### **Decisions and Rulings of State Agencies**

Consult *Guide to State Legislative Administrative Materials*. It lists what administrative decisions are published. Many are published online and available from the website of the agency. OCU Call # KF 1.M28 (2008) (reference)

### **State Attorneys General Opinions**

Search the Library Catalog to see if we have individual opinions in print. We have a collection of Attorney General's Opinions in microforms that have been cataloged.

National Association of Attorneys General Website has links to websites of Attorneys General which often post opinions on their websites: <http://www.naag.org>

### **Local Ordinances**

Municipal Code Corporation: <http://www.municode.com>

### **Oklahoma Administrative Law**

Administrative rule making and adjudication in Oklahoma are governed by the Oklahoma Administrative Procedures Act (APA) 75 O.S. §250 et seq. The Act can be divided into two sections. Section I deals with rulemaking and Section II deals with adjudication.

*ABC Oklahoma State Agencies, Boards and Commissions*, OCU Call # KFO 1270.O41date (reference)

Listing of Oklahoma State Agencies: <http://www.ok.gov/genthree/agency.php>

Oklahoma Secretary of State's website has many useful guides to the rulemaking process:  
[http://www.sos.state.ok.us/oar/oar\\_info.htm](http://www.sos.state.ok.us/oar/oar_info.htm)

*User's Guide to the Oklahoma Administrative Code* (Oklahoma City: Oklahoma Secretary of State, 2001) OCU Call # KFO 1235.A22 (reference)

*The Oklahoma Register*

1) OCU Call # KFO 1236.O451 (reference)

2) Accessible in Lexis ([OKREGS](#)) and Westlaw ([OK-REGTXT](#)). To track regulations consult the Westlaw database ([OK-REGTRK](#))

3) The unofficial version is available online for browsing and searching at:  
[http://www.sos.state.ok.us/oar/oar\\_welcome.htm](http://www.sos.state.ok.us/oar/oar_welcome.htm) (11/01 - present)

*Oklahoma Administrative Code*

1) OCU Call # KFO 1236 2006.A22 (reference)

2) Accessible in LoisLaw

3) Accessible in Westlaw ([OK-ADC](#)) and Lexis ([OKREGS](#))

4) The unofficial version may be viewed and searched online at:  
[http://www.sos.state.ok.us/oar/oar\\_welcome.htm](http://www.sos.state.ok.us/oar/oar_welcome.htm)

### **Decisions and Rulings of State Agencies**

Public Utilities Reporter has Oklahoma Corporation Commission Rulings. OCU Call # KF 2085.A2 (3<sup>rd</sup> Floor S)

Listing of Oklahoma State Agencies: <http://www.ok.gov/genthree/agency.php>  
Some may have the text of their decisions online.

Department of Labor Decisions and Merit Protection Commission Decisions – Attorney General's website: <http://oklegal.onenet.net/ok.agency.decisions.basic.html>

Department of Securities Orders and Letters- Westlaw ([OKSEC-ADMIN](#)) and Lexis ([OKSEC](#))  
Tax Commission Orders; Lexis ([OKTAX](#)); Westlaw ([OKTX-ADMIN](#))

Consult the most recent Lexis and Westlaw directories for coverage of Oklahoma Administrative Decisions.

### **Oklahoma Gubernatorial Executive Orders**

[http://www.sos.state.ok.us/exec\\_legis/execSelect.asp](http://www.sos.state.ok.us/exec_legis/execSelect.asp)

## **Oklahoma Attorney General Opinions**

These opinions result from requests of state officials for clarification of Oklahoma law. The opinions are binding upon state officials until a court of competent jurisdiction holds otherwise. *Branch Trucking v. Oklahoma Tax Comm'n*, 801 P.2d 686, 690 (Okla. 1990).

### *Opinions of the Oklahoma Attorney General*

- 1) OCU Call # KFO 1640.A5 (LL South)
- 2) Available from 1977 – present online from OSCN at <http://www.oscn.net>
- 3) Accessible in LoisLaw
- 4) Accessible in Westlaw ([OK-AG](#)) and Lexis ([OKAG](#))
- 5) Unofficial source for published opinions from 1948 – present and unpublished opinions from 1969 – present available from: <http://oklegal.onenet.net/agopinions.basic.html>

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