

# Code of Federal Regulations: Tracking Updated Regulations

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# Abstract

Are you perplexed by regulations? The Code of Federal Regulations, the codification of the general and permanent rules published in the Federal Register, is getting easier to use all the time with recent technology advances. We will review the function of the Code of Federal Regulations and the relationship with the Federal Register in the context of the federal rulemaking process. We will look at the traditional way of tracking changes to regulations, and then compare that with the new Electronic CFR (eCFR).

# Relationship of .gov web sites

**Reginfo.gov**

Regulatory Overview and Unified Agenda



**FEDERAL REGISTER**

The Daily Journal of the United States Government



Federalregister.gov  
Web version of FR, 1994+

Links out to

Links out to

**govinfo**

Official PDF version of FR, 1936+

**regulations.gov**

Public Commenting on Regs

# Rulemaking 101: register.gov

## The Reg Map® Informal Rulemaking

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### What is the Reg Map?

This Reg Map is a primer on the federal government agency "informal" rulemaking process. The Reg Map reflects general requirements that apply to most federal agency rulemakings. In rare cases, the APA requires trial-type, or "formal," procedures to develop a rule. Other statutes that apply to a specific agency program, or subject may impose or permit different procedural steps (e.g., mandating negotiated rulemaking to develop a proposed rule).

### Most all rulemakings follow all Reg Map steps?

In a typical case, a rulemaking action would proceed from Step 1 to Step 9, including OMB review at the proposed and final stages for certain kinds of significant regulatory actions, per E.O. 12866. As the Reg Map shows, however, Congress has exempted some rulemaking actions from APA notice requirements. In addition, when stakeholders have challenged regulatory actions, courts have interpreted APA requirements over time, influencing how agencies carry out "informal" rulemaking procedures at a practical level, some of which is explained in the Reg Map.

Are the requirements described in the Reg Map applicable to all federal agencies? Some of the procedures described in the Reg Map, such as OMB review, only apply to executive agencies (i.e., Cabinet departments and independent agencies that answer directly to the President), while others, such as APA public notice-and-comment requirements and the PRA, also apply to independent regulatory agencies (i.e., boards and commissions listed in 45 U.S.C. 350205). Following APA requirements and other applicable authorities that affect the rulemaking process is the best way for all agencies to develop final rules that will meet regulatory objectives and survive judicial review.

## Step 1 Consider Initiating Events

- Laws enacted by Congress
- Agency initiatives from various sources, including:
  - New data, technologies, or research
  - Agency plans and priorities
  - New data, technologies, or research
  - Patterns of accidents or violations
  - Public comments on RfIs
  - Retrospective analyses of existing regulations
- Recommendations from the President, CMB, other agencies, congressional committees, federal advisory committees, state, or external groups
- Changes in the regulated community
- Petitions for rulemaking, including petitions for reconsideration

See [www.regulations.gov](http://www.regulations.gov) and [www.reginfo.gov](http://www.reginfo.gov) for intended regulatory and delegatory actions and for other resources.

## Revising or Rescinding an Existing Rule

Agencies seeking to modify or repeal a rule must follow the same informal rulemaking process requirements as they would for promulgating a new rule. See 28 U.S.C. 551(5) (5 U.S.C. 551(5)).

## Reducing Regulatory Burden

Several administrations have undertaken efforts to reduce regulatory burdens by identifying and eliminating regulations that no longer serve their intended purposes or impose costs that cannot be justified. The reducing regulatory burden is an ongoing topic. Those

## Step 2 Decide Whether Public Notice Is Needed

Unless other exemptions apply, APA sec. 553 requires public notice and comment to promulgate a rule or a "finding of 'good cause'—an agency determination that notice and comment are 'impracticable, unnecessary, or contrary to the public interest' (see Steps 3 through 6). Generally, this exemption applies only to cases where the rule is a minor determination in which the public is not interested or that involves little to no agency discretion, advance notice would defeat the regulatory objective, immediate action is necessary to reduce imminent harm to people or property, or Congress implicitly waives notice-and-comment requirements. "Good cause" options:

- Emergency rules
- Interim final rules (only Steps 3 through 6 but provide comment period and final rule after Step 9)
- Rules that codify statutory language where agency has no discretion to change the provision
- Direct final rule (streamlined process for non-controversial rules that will be withdrawn if opposed)
- Technical corrections

## What Is Negotiated Rulemaking?

A negotiated rulemaking allows agency staff and stakeholders, or interested and affected parties, to develop a proposed rule together, facilitated by a mediator. See 5 U.S.C. 561-570.

## Step 3 Develop a Proposed Rule

An NPRM proposes to add, revise, remove, or re-designate CFR provisions, and it must consist of a description or statement of the proposed regulatory text and a preamble to inform a not-appeal reader of the proposal's basis and purpose. See 1 CFR 18.12. The NPRM must include:

- Legal basis: The statutory authority to issue rules for the regulated entities and the subject area
- Proposed provisions: A presentation of the proposed rule text or a description of the rule
- Rationale for each proposed provision: An explanation of why a rule is needed; what it would accomplish; and what data, research, analyses, and assumptions were used to develop the rule
- Regulatory background and history
- Alternatives the agency is considering
- Analyses describing compliance with applicable statutes or executive orders

Analyses begin in Step 3 but are finalized in Step 7.

## What Is Incorporated by Reference?

A negotiated rulemaking allows agency staff and stakeholders, or interested and affected parties, to develop a proposed rule together, facilitated by a mediator. See 5 U.S.C. 561-570.

## Step 4 Send Proposed Rule to OMB for Review

OMB will review any rule an agency or CIA considers "significant" under E.O. 12866. See E.O. 12866 sec. 6. OMB is the OMB office responsible for coordinating executive branch review of agency rulemaking documents and reviewing agency ICRs under the PRA.

- 10-day OMB review for agency's preliminary "significant" determination
- 90-day OMB review for rule, assessments, and analyses (120 days if director of rule grants extension)
- OMB may waive review
- Agency head may request extension

## What Is Incorporation by Reference?

With the approval of the Director of the Federal Register, an agency may incorporate material into rules by simply referencing it. Such material must be:

- Published
- Reasonably available to and usable by affected individuals
- Not controlled by the agency

Originals and drafts the process to reduce the volume of language published in the Federal Register and CFR. The legal effect is that the rule is treated as if it were fully published in the Federal Register.

## Frequently Asked Questions

**How Should Agencies Draft Rulemaking Documents?**  
E.O. 12866 (Regulatory Planning and Review, E.O. 12958 (Civil Justice Reform), and the Presidential Memorandum on Plain Language (83 FR 21805) direct agencies to use plain language in drafting rulemaking documents. Rulemaking documents also must conform to publication requirements of CFR regulations (1 CFR title 1, part 1). The CFR provides additional drafting guidance in its Document Drafting Handbook.

**What Rules Are Agencies Planning to Issue?**  
A United Agency (formally the Unified Agenda of Federal Regulatory and Deregulatory Actions) is published in the Federal Register in the spring and fall of each year, as required by E.O. 12292. The Unified Agency provides information concerning agency rules under development and review, including the Regulatory Plan. Following the

## Step 5 Publish the NPRM

An agency must publish "either the terms or substance of the proposed rule or a description of the subjects and issues involved" in the Federal Register, the official daily publication for federal agency actions. See APA sec. 553. The NPRM also must include:

- Statement of the time, place, and nature of public listening proceedings
- Reference to the legal authority under which the rule is proposed
- Regulation Identifier Number (See [www.federalregister.gov](http://www.federalregister.gov)) for the daily Federal Register and for other resources.

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## Step 6 Analyze Public Comments

An agency must give the public a meaningful opportunity to submit written comments, in paper or electronic form, and it must consider all "relevant matter" presented. See APA sec. 553(6). E.O. 12866 recommends a comment period of at least 60 days. The E-Government Act of 2002 requires agencies to provide for electronic filing of comments and make dockets available online (PRA, L. 107-347 sec. 206(d)). See [www.regulations.gov](http://www.regulations.gov), the online portal for submitting public comments. Courts have interpreted the APA requirements noted above to mean that agencies must provide responses to significant issues raised in the comments. Significant issues are relevant points that, if adopted, would require a change to the agency's proposed rule.

## Step 7 Develop a Final Rule

A final rule presents the CFR provisions adopted and must incorporate into the preamble a concise general statement of the basis and purpose for the agency decision. See APA, sec. 553(1). Final rule choices must not be "arbitrary and capricious" (i.e., fail to provide a rational basis for the decision). See 5 U.S.C. 706. A final rule must be within the scope and a "logical outgrowth" of the proposed rule. A final rule can be substantially different from the NPRM so long as the agency provided adequate notice to the public of the possibility of changes of the type that were adopted. Final rule documents:

- Explain the provisions adopted and the reasons for the agency's decisions, including a discussion of changes from the NPRM
- Discuss and respond to significant public comments
- Update and finalize analyses begun in Step 3
- Set an effective date and any applicable compliance date (see Step 9)

## Step 8 Send Final Rule to OMB for Review

OMB will review any rule deemed "significant" under E.O. 12866. Agencies must ensure that a rulemaking schedule accounts for at least a 90-day OMB review period for significant rules. OMB may permit a shorter period of review in exempt circumstances. The agency must revise the regulatory package to address OMB concerns and respond to any interagency review comments. E.O. 12866 also includes requirements relating to CIA communications with OMB that include the executive branch about the substance of a regulatory action under review. After publication of the regulatory action in the Federal Register, an agency must identify for the public the substantive changes between the draft submitted to OMB for review and the action subsequently announced plus the changes it made at OMB's recommendation or suggestion (E.O. 12866 sec. 6A)(3)(5)).

## Specific Analyses for Steps 3 and 7

Most Frequent Analyses	Regulatory Flexibility Act (5 U.S.C. ch. 6)
<p><b>E.O. 12866 and E.O. 13563, Regulatory Review</b></p> <p>Required for "significant regulatory actions," which include those that would:</p> <ul style="list-style-type: none"> <li>• Have a \$100 million or more annual effect on the economy (in current dollars)</li> <li>• Raise novel legal or policy issues</li> <li>• Have other significant impacts</li> <li>• If the annual effect is \$100 million or more, the rule is "economically significant" and requires:</li> <li>• Cost-benefit analysis of policy alternatives</li> <li>• Quantified and monetized costs and benefits</li> <li>• If there is a significant benefit that the annual effect is less than \$100 million, an agency must analyze costs and benefits of the selected approach. OMB may also require assessment of policy alternatives.</li> </ul>	<p>Applies to rules that may have a "significant economic impact on a substantial number of small entities." SEDENCE, an agency must estimate the number of small entities affected and the potential effects on them and consider alternatives to reduce the impacts</p> <p>If there is a SEDENCE, the agency may certify as such and provide the basis for the certification – this certification is subject to judicial review.</p>

**Paperwork Reduction Act**  
Applies to any agency "collection of information" imposed on 10 or more people and requires submitting an ICR to OMB for approval, which must detail the need for use, burdens (time and cost), and methodology of the information collection. An ICR must reflect any changing information collection burdens in the rule.

- A collection of information occurs when an agency requires recordkeeping or obtains, solicits, or reports the disclosure to that parties of information, regardless of form or format (e.g., reporting requirements, application forms, surveys)
- Public meetings and Federal Register solicitations for public comment are not collections of information under the PRA (see 5 CFR 200.308)
- The PRA applies broadly and is not limited to information collections in regulatory provisions – non-rule collections of information also must receive approval
- At least every 3 years, an agency must update, and OMB must approve, any collection

## Step 9 Publish Final Rule

**Effective date:** The APA specifies that agency rules generally may not take effect until at least 30 days after publication in the Federal Register, except for a substantive rule that grants an exemption or relieves a restriction or for other "good cause." See APA sec. 553(b). Agencies can set a more delayed effective date (state on which regulatory changes are implemented in CFR for some or all rule provisions and can set an even more delayed compliance date (state by which regulated persons must comply) for some or all of the rule requirements.

**Congressional Review Act (5 U.S.C. ch. 8):** Under the CRA, before most final rules can take effect, an agency must submit them and supporting information to the House, the Senate, and the GAO. Rules defined as "major" under the CRA may not take effect for at least 60 days after the date of their major status with exceptions in some cases.

**Bases for legal challenges**

Arbitrary and capricious decision:

- Had no statutory authority to issue the rule
- Failed to address statutory criteria for issuing rules or considered factors not allowed by the statute
- Provided inadequate notice (e.g., final rule not a "logical outgrowth" of the proposal, no NPRM with adequate "good cause")
- Failed to consider public comments
- Reached an "arbitrary and capricious" decision (i.e., provided no rational basis for the action) (see 5 U.S.C. 706)

See [www.ecfr.gov](http://www.ecfr.gov) for the latest unofficial version of the CFR.

## Regulations with Legal Effect Must Be Published in CFR

Frequently Used Rulemaking Terms and Abbreviations	
NPRM	Advance Notice of Proposed Rulemaking
APA	Administrative Procedure Act
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CRA	Congressional Review Act
DDH	Document Drafting Handbook
E.O.	Executive Order

# Published Annually in Quarterly Installments

- A full set of the CFR consists of approximately 200 volumes. The approximately 200 CFR volumes are revised at least once a year on a quarterly basis as follows:
  - Titles 1 -- 16 as of January 1
  - Titles 17 -- 27 as of April 1
  - Titles 28 -- 41 as of July 1
  - Titles 42 -- 50 as of October 1

# CFR History

- A Research Guide to the Federal Register and the Code of Federal Regulations. From Law Librarian's Society of Washington, DC.

<https://www.llsdc.org/fr-cfr-research-guide>

“The *Federal Register*, faithfully prepared and published every workday since 1936, and the annual *Code of Federal Regulations* which it supplements, are considered to be the core documents of the Executive Branch of the U.S. Government, and as such have become indispensable to the Government's operations and to its communication to the public which it serves.”

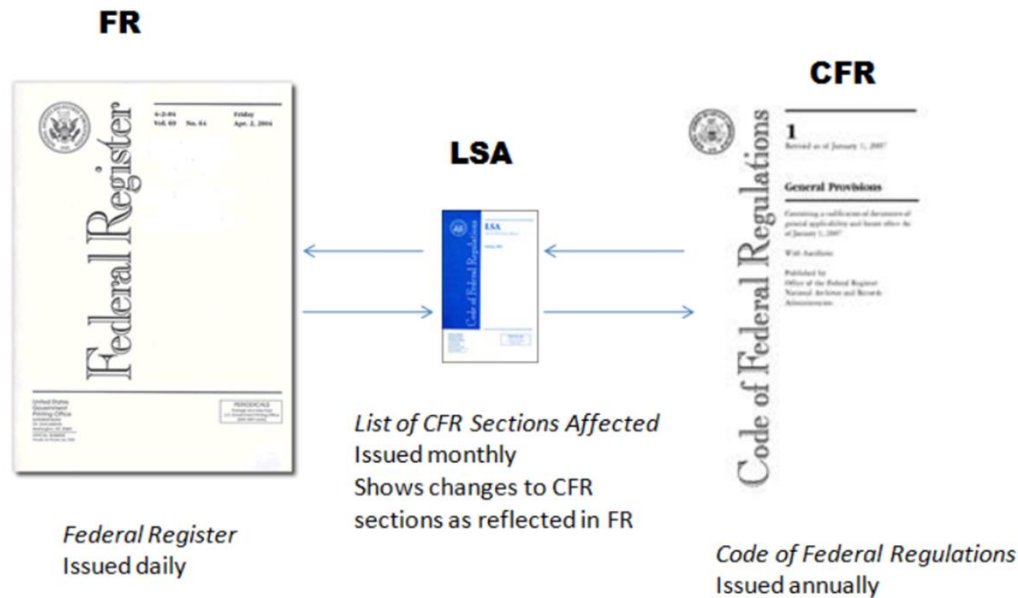
--Richard J. McKinney on the Law Librarian's Society of Washington, DC website at <https://www.llsdc.org/fr-cfr-research-guide>

# Code of Federal Regulations



# Traditional Way of Cross-walking from FR to CFR

Tedious  
Time-consuming  
Troublesome





# Traditional Way of CFR to FR Lookup

- Check current CFR
- Check any cumulations of LSA
- Check monthly LSA
- Check FR cumulated indexed
- Check daily FR indexes

# Traditional Way: Check Current CFR

- Check most recent CFR volume and see when it was published.

The screenshot shows the govinfo website interface. At the top, there is a navigation bar with the govinfo logo, a 'Browse' link, and other menu items: 'About', 'Developers', 'Features', 'Help', and 'Feedback'. A search bar is located on the right side. Below the navigation bar, there is a list of CFR titles. Each title is displayed in a grey box with a plus sign icon on the left. The titles and their corresponding parts and effective dates are: Title 4 - Accounts (Parts 1 - 199, January 1, 2020), Title 5 - Administrative Personnel (Parts 1 - 10101, January 1, 2020), Title 6 - Domestic Security (Parts 1 - 1099, January 1, 2020), Title 7 - Agriculture (Parts 1 - 4299, January 1, 2020), Title 8 - Aliens and Nationality (Parts 1 - 1399, January 1, 2020), and Title 9 - Animals and Animal Products (Parts 1 - 599, January 1, 2020). To the right of each title, there are buttons for 'PDF', 'TEXT', 'XML', 'DETAILS', and 'SHARE' (for titles 4, 6, and 8), or a 'DOWNLOAD VOLUMES' button (for titles 5, 7, and 9). The 'Title 8 - Aliens and Nationality' entry is highlighted with a red rectangular box.

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Parts 100 - 102. January 1, 2020

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Parts 1 - 199. January 1, 2020 [PDF](#) [TEXT](#) [XML](#) [DETAILS](#) [SHARE](#)

⊕ Title 5 - Administrative Personnel  
Parts 1 - 10101. January 1, 2020 [DOWNLOAD VOLUMES](#)

⊕ Title 6 - Domestic Security  
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⊕ Title 7 - Agriculture  
Parts 1 - 4299. January 1, 2020 [DOWNLOAD VOLUMES](#)

⊕ Title 8 - Aliens and Nationality  
Parts 1 - 1399. January 1, 2020 [PDF](#) [TEXT](#) [XML](#) [DETAILS](#) [SHARE](#)

⊕ Title 9 - Animals and Animal Products  
Parts 1 - 599. January 1, 2020 [DOWNLOAD VOLUMES](#)

# Traditional Way: Check Any LSA Compilations

- Check LSA Compilations (but there haven't been any published since April 2002)

The screenshot shows the govinfo website interface. At the top, there is a navigation bar with the govinfo logo and links for Browse, About, Developers, Features, Help, and Feedback. Below the navigation bar, there is a search and filter area. A box highlights the year '2002' and the month 'April' in the filter area. The main content area displays a list of CFR sections affected by LSA compilations. The list includes titles 1 through 10, each with a title and a set of buttons for PDF, TEXT, DETAILS, and SHARE. A box highlights 'Title 8' in the list.

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2002

April

List of CFR Sections Affected (LSA), 1986-2000, Volume I (Titles 1 through 16) [PDF](#) [DETAILS](#) [SHARE](#)

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# Traditional Way: Check Monthly LSA

- Check LSA Monthly since last CFR, in this case, every month since January, 2020. But you can look for the Annual Edition, if it exists:

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December (Annual Edition for Titles 1-16)

List of CFR Sections Affected (LSA), December 2020

List of CFR Sections Affected

Title 1 - General Provisions

Title 2 - Grants and Agreements

Title 3 - The President

Title 4 - Accounts

Title 5 - Administrative Personnel

Title 6 - Domestic Security

Title 7 - Agriculture

**Title 8 - Aliens and Nationality**

Title 9 - Animals and Animal Products

Title 10 - Energy

Title 11 - Federal Elections

Title 12 - Banks and Banking

28 LSA—LIST OF CFR SECTIONS AFFECTED

CHANGES JANUARY 2, 2020 THROUGH DECEMBER 31, 2020

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**TITLE 8—ALIENS AND NATIONALITY**

**Chapter I—Department of Homeland Security (Immigration and Naturalization) (Parts 1—499)**

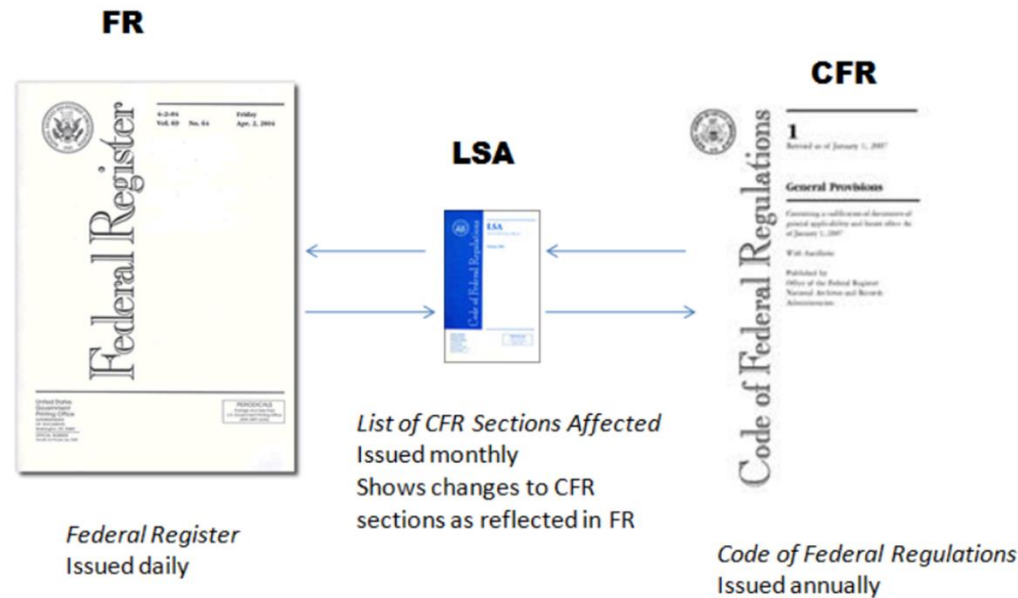
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# Traditional Way: Check Federal Register (Indexes first, then each day)

- Look for the section of CFR you are interested in, then go to the relevant page in the Federal Register

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# That's Time-Consuming and Painful



**And now it is unnecessary!**

# Current eCFR Version



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Electronic Code of Federal Regulations  
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Title 1 - General Provisions

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### § 483.80 Infection control.

Title 42 Chapter IV Part 483

basis. (d) Influenza, pneumococcal, and COVID-19 immunizations - (1) Influenza. The facility... medical contraindication or refusal. (3) COVID-19 immunizations. The LTC facility must develop...to ensure all the following: (i) When COVID-19 vaccine is available to the facility, each

### § 35.6 Eligible uses.

Title 31 Part 35

or more of the following purposes: (1) COVID-19 response and prevention. Expenditures for... and prevention of COVID-19, including: (i) Expenses related to COVID-19 vaccination programs...or other administrative expenses; (ii) COVID-19-related expenses of outlie hospitals, clinics

# See example of changes for 40 CFR 1601

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You are comparing 9/29/2017 to how it previously appeared on 9/28/2017. Changes are highlighted in the text below. [view current version](#)

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**PART 1601 - PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT**

**Authority:** 5 U.S.C. 552-563, 42 U.S.C. 7412 et seq.

**Source:** 66-82 FR 70499, 45502, Nov/Sept 24/29, 2000/2017, unless otherwise noted.

**Subpart A - Purpose, Scope, and Applicability**

**§ 1601.1 Purpose and scope.**

(a) **In general.** This part contains the regulations of the United States Chemical Safety and Hazard Investigation Board ("CSB" or "Board" or "agency") regulations implementing the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. These regulations provide the procedures by which members of the public may obtain access to records compiled, created, and maintained by the CSB, along with procedures it must follow in response to such requests for records. The CSB procedures for responding to such requests. The rules in this subpart are to be read in conjunction with the FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the White House Office of Management and Budget (OMB Guidelines).

(b) **Definitions.**


(1) **Chairman** means the Chairman of the CSB.

<https://ecfr.federalregister.gov/compare/2017-09-29/to/2017-09-28/title-40/chapter-VI/part-1601>

# Three Views for Beta eCFR

- Table of Contents View
- Agency View
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# Table of Contents View (from Home Page or Browse by Title)

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<a href="#">Title 6 :: Domestic Security</a>	May 03, 2021	<a href="#">view changes</a>
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<a href="#">Title 9 :: Animals and Animal Products</a>	Mar 11, 2021	<a href="#">view changes</a>
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<a href="#">Title 11 :: Federal Elections</a>	Jan 11, 2021	<a href="#">view changes</a>
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<a href="#">Title 15 :: Commerce and Foreign Trade</a>	Jun 16, 2021	<a href="#">view changes</a>
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NATIONAL ARCHIVES

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# Changes View – From TOC



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Displaying changes to Title 12 introduced between 5/21/2021 and 6/04/2021.

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Hierarchy display:

Displaying full hierarchy

Display limited hierarchy

6/04/2021

▼ Title 12 - Banks and Banking (2 sections changed)

Chapter II - Federal Reserve System

Subchapter A - Board of Governors of the Federal Reserve System

Part 204 - Reserve Requirements of Depository Institutions (Regulation D)

§ 204.2 Definitions.

§ 204.10 Payment of interest on balances.

6/03/2021

▼ Title 12 - Banks and Banking (1 section changed)

Chapter X - Bureau of Consumer Financial Protection

Part 1026 - Truth in Lending (Regulation Z)

Supplement I to Part 1026 Official Interpretations

5/26/2021


▶ Title 12 - Banks and Banking (6 sections changed)

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Hierarchy display:

- 6/21/2021
- ▶ Title 13 - Business Credit and Assistance (1 section changed)
  - ▶ Title 28 - Judicial Administration (1 section changed)
  - ▶ Title 29 - Labor (4 sections changed)


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- 6/17/2021
- ▶ Title 26 - Internal Revenue (7 sections changed)
  - ▶ Title 40 - Protection of Environment (5 sections changed)
  - ▶ Title 47 - Telecommunication (3 sections changed)
- 6/16/2021
- ▶ Title 10 - Energy (16 sections changed)
  - ▶ Title 15 - Commerce and Foreign Trade (1 section changed)
  - ▶ Title 19 - Customs Duties (1 section changed)
  - ▶ Title 32 - National Defense (1 section changed)
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- ▶ Title 7 - Agriculture (22 sections changed)



# Changes View – Between any two points in time



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Title 8

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Title 8 / Chapter I / Subchapter B / Part 204 / Subpart A / § 204.6

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ECFR CONTENT

### § 204.6 Petitions for employment creation immigrants.

**ENHANCED CONTENT - TIMELINE**

Date	Action	View Change
10/02/2020		<a href="#">view change introduced</a>
8/03/2020	<a href="#">view on this date</a>	<a href="#">view change introduced</a>
11/21/2019	<a href="#">view on this date</a>	<a href="#">view change introduced</a>
7/24/2019	<a href="#">view on this date</a>	<a href="#">view change introduced</a>

**(1)** Fraud or a willful misrepresentation of a material fact by the petitioner, or

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; 571.305 Standard No. 305; **Electric-powered vehicles:** electrolyte spillage and electrical shock protection.

Title 49 Chapter V Part 571

electrolyte spillage and retention of **electric** energy storage/conversion devices during...from harmful **electric** shock during and after a crash and during normal **vehicle** operation...electrolyte spillage from **electric** energy storage devices, intrusion of **electric** energy storage/conversion

; 600.116-12 Special procedures related to **electric vehicles** and hybrid **electric vehicles**

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