

## CHAPTER 6 ADMINISTRATIVE LAW RESEARCH

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### INTRODUCTION

Although administrative materials can seem intimidating, familiarity with them is essential to the expert legal researcher. If you work or practice in a highly regulated area such as environmental, tax, health, business, or securities law, you may find that you spend much more time dealing with administrative agency materials than you do with statutes or case law.

“Administrative law” is law made by executive branch agencies or independent administrative agencies. At least in theory, agencies can call upon specialized expertise from staff and regulated constituencies to fashion solutions to complex social, economic, or other problems that are difficult for a legislative body to effectively address. Administrative law exists at both federal and state levels, as well as at the local (county or municipal) level; thorough research often requires exploring administrative materials at each jurisdictional level.

Administrative agencies have different types of law making powers, often described as falling into three categories:

- \* Quasi-legislative (rulemaking) – authority to promulgate regulations governing the conduct of regulated entities
- \* Quasi-executive – authority to investigate potential violations of regulations and to prosecute violators
- \* Quasi-judicial – authority to hold hearings, subpoena witnesses, impose penalties, or order injunctive relief

An agency’s exercise of each of these law-making powers may result in documents to be discovered by the legal researcher. Generally, these documents are considered to be primary legal authorities, just as statutes and cases are.

## BACKGROUND RESEARCH ON AGENCIES

Background research on a topic will generally reveal which agencies are involved in a particular area of law. It is generally useful to obtain some background information to understand an agency's mandate, powers, and procedures, before diving into substantive research. Good sources include the following.

The United States Government Manual is available in print or in electronic format on the FDsys website (<http://www.gpo.gov/fdsys/>) as well as on its eventual replacement, Govinfo.gov (<https://www.govinfo.gov/>). The Manual covers both executive branch agencies and independent agencies. It is a good source of background information on a federal agency's powers, activities, and the types of documents it issues. In this source you may discover the popular names and citations for important statutes, as well as information about an agency's procedures. A pdf version of the U.S. Government Manual is also available on Hein Online.

Another very useful source for background on federal agencies is the Federal Regulatory Directory ("FRED".) Currently the Federal Regulatory Directory is available only as a print publication (TMLL Reference Stacks current edition only KF5407.C6). FRED supplies in-depth information about how each agency operates and what publications result from its activities.

Topical legal research guides, easily found on the internet by Googling the name of the topic (e.g., "food and drug law" and the words "legal research guide") are also very helpful in understanding the role of agencies and the sources where their publications can be located. Treatises and law review articles may also be useful.

Many states have publications similar to the U.S. Government Manual, such as the Maryland Manual, <http://msa.maryland.gov/msa/mdmanual/html/mmtoc.html>, which provide information about state level administrative agencies.

## SOURCES OF ADMINISTRATIVE LAW

### Enabling legislation

Agency lawmaking power is grounded in what is known as "enabling legislation." This term refers to legislative enactments that create an agency and empower it to promulgate regulations on topics within its mandated area of authority. The enabling statute also empowers other agency activity such as investigation or enforcement. The enabling statute must be part of administrative research for several reasons. First, the statutory language determines the scope of the agency's authority and provides the backdrop for interpreting the regulations. Further, regulations that arguably exceed the scope of the authorizing legislation may be challenged by affected parties and be held invalid by courts. Because of this, it's been said that the three rules of administrative research are "First, look to the (enabling) statute; then, look to the statute; third, look to the statute." Finally, from a research standpoint, published versions of the codified enabling statute

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may provide cross-references to specific regulations promulgated pursuant to its authority.

### **Administrative Procedure Acts**

The federal Administrative Procedure Act (APA) (5 U.S.C. § 551 et seq.) divides agency activity into two basic categories: rulemaking or adjudication. The APA sets forth a number of procedural requirements that apply to both executive and independent agencies.

Most states, including Maryland, have an Administrative Procedure Act, which establishes some agency procedures for rulemaking and adjudications. Some of these state APAs borrow from the original (1981) or revised (2010) Model State Administrative Procedure Act, which were drafted by the National Conference of Commissioners on Uniform State Laws.

For any given agency, APA requirements are only part of the picture; the enabling statute and internal rules may prescribe other procedures.

### **Agency rulemaking – formal and informal**

Although agencies may have also internal procedural rules, the term “rule” is often used synonymously with “regulation”, and “rulemaking” means promulgation of regulations. Regulations resemble statutes, but are promulgated by agencies, not by legislative bodies. The federal and state APAs spell out some of the rulemaking procedures that agencies must follow in promulgating regulations. Many agency regulations are considered “legislative rules” that are subject to the APA's “notice and comment” requirements, which include publication of proposed new or amended regulations; provision of an opportunity for public comment; and publication of final adopted versions of regulations.

Agencies often also promulgate “non-legislative” rules, such as guidance documents, interpretive rules, or policy statements. These rules currently are not subject to APA requirements of notice and comment, but often are published in the Federal Register or its state counterpart, such as the Maryland Register. For detailed information on this topic, an excellent source is Mary Whisner, *Some Guidance about Federal Agencies and Guidance*, 105 Law Libr. J. 385 (2013).

### **Agency adjudications and court review of agency activity**

Two additional aspects of administrative research are agency adjudications, where the agency itself issues rulings and decisions; and cases where courts have reviewed challenges to agency regulations, rulings, and other actions.

Administrative agency decisions resemble case law, but emanate from agencies, not from courts. Agency decisions arise out of the agency’s quasi-judicial powers. Most agencies have the authority to adjudicate issues arising under applicable statutes and regulations.

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An agency may issue rulings on specific inquiries submitted to it, and may also conduct fact-finding and formal hearings as part of enforcement or other proceedings.

There are many types of agency decisions, e.g., declaratory orders, consent decisions, or APA formal or informal opinions. Other types of decisions are specific to a particular agency, such as SEC No-action letters or IRS Letter Rulings. Many agency hearings are conducted by administrative law judges (ALJs). The CALI Lesson "Agency Decisions and Orders" has a more detailed explanation of this topic.

Agency rulings and decisions can be located in a number of sources (see below under "Federal Administrative Materials" and "State and Local Administrative Materials").

Just as for court cases, a researcher needs to validate the precedential value of agency decisions. Although the APA requires federal agencies to publish final decisions, agencies are not generally strictly bound by their prior decisions under stare decisis in the same way that courts are, possibly because agencies need more flexibility to respond to changing conditions. However, it's often necessary to see whether a particular agency decision is still being followed. To do this, you can use Shepard's on Lexis or Key Cite on Westlaw to validate some agency decisions. Using this method, you can also locate later decisions that have cited the decision you started with.

If an agency decision does not have Shepard's or Key Cite available, you can use database searching using either the citation of the decision or names of the parties as search terms, in order to find later decisions that have cited it. Also, if an agency decision is published in a topical database such as Intelliconnect, that source may have a citator built in. Shepardizing, KeyCiting, or BCiting (Bloomberg Law) a CFR section that is construed in the decision is another option.

Agency decisions may also be subject to internal or external appellate review. Initial agency decisions may sometimes be appealed to a higher authority within the agency. The first level of review of an agency decision is known as an administrative appeal. Review of final agency decisions can generally be sought in appellate courts, when all internal agency procedures have been exhausted. On the federal level, appeal may be to a federal district court or to a circuit court of appeal. Again, agencies vary widely, and it's important to consult the enabling statute or a description of the agency's powers and procedures in order to conduct informed research. The precedential value of agency decisions depends on the level of deference given by a reviewing court. This complex topic is covered at greater length in the CALI Lesson "Scope of Judicial Review of Agency Decisions."

### **Federal Administrative Materials – Overview; Code of Federal Regulations and Federal Register – History**

The core sources of federal administrative materials got their start in the rapid expansion of executive and administrative law during the New Deal, triggered by the "Hot Oil" case (Panama Refining Company v. Ryan, 293 U.S. 388 (1935)). The case arose out of a

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dispute involving quotas placed on interstate shipment of petroleum products. The dispute was heard by the United States Supreme Court before anyone realized that the code section in controversy had already been altered by executive order (for a detailed explanation, see “*The Federal Register: Origins, Formulation, Realization and Heritage*,” at <http://www.sciencedirect.com/science/article/pii/S0740624X11000098>).

As a result of the controversy involving the Hot Oil case and its “hidden regulations,” and the clear need for a publication that informed both government and the public of the growing body of administrative materials, Congress leapt into action and in 1935 passed the Federal Register Act, which authorized and directed the publication of the Federal Register.

Because the Federal Register is essentially a notice publication, which publishes agency materials chronologically as they appear, it provides no subject access to the body of federal regulations. Therefore, in 1937 Congress authorized the creation of the Code of Federal Regulations, or C.F.R., which mandated the publication of a subject matter compilation of regulations currently in force.

There are print as well as multiple electronic versions of both C.F.R. and Federal Register. Electronic versions of one or both include licensed sources such as Lexis, Westlaw, Bloomberg Law, and Hein Online; free versions include FDsys (the U.S. Government Publishing Office source for authenticated government publications) <http://www.gpo.gov/fdsys/> (soon to be replaced by Govinfo.gov) <https://www.govinfo.gov/> and other government and agency websites (for selected parts of C.F.R.).

C.F.R. and Federal Register can be searched or browsed by keyword or topic via these electronic sources. Also, cross-references in annotated versions of the U.S. Code, or statute-regulation correlation tables, can be useful in identifying regulations on a topic.

### State and Local Administrative Materials – Overview

In general, the 50 states have administrative agencies and publications roughly similar to those on the federal level.

“Incorporation by reference” is a means by which an agency takes a standard published by another entity and makes it an enforceable part of the agency's rule. State and local regulatory codes often “incorporate by reference” the federal regulations on a topic, and add additional provisions of their own.

As previously noted, many states have a resource such as the Maryland Manual for background on state agencies and links to their websites and other materials. Background info on state agencies may also be found on a state's official website.

Generally, states have codified sets of agency regulations as well as a publication analogous to the Federal Register for notice and updating purposes. In Maryland, the

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Code of Maryland Regulations or COMAR is the codified source for administrative agency regulations; the Maryland Register is a biweekly updating publication.

Bloomberg Law, Lexis, and Westlaw provide versions of most state administrative codes, including COMAR. Some state agency websites also provide versions of their regulations. On the Maryland Division of State Documents website, COMAR and the most recent issues of the Maryland Register may be searched or browsed <http://www.dsd.state.md.us/>. Some state agency websites also provide versions of their regulations.

### Local agency materials

Many counties and municipalities have websites that provide access to the full text of their regulations as well as their county codes. Law libraries and some public libraries keep copies of the print versions. The Maryland State Law Library's Gateway to Maryland Law at <http://www.lawlib.state.md.us/researchtools/sourcesmdlaw.html> provides a comprehensive linked list of Maryland county and municipal materials.

For in depth information on topical research and updating of Maryland regulations, consult the CALI Lesson "Maryland Primary Sources"; "[Maryland Administrative Materials](#)" in Chapter 9 of this Guide; or "[Maryland Local Law](#)" in Chapter 9 of this Guide.

## EXECUTIVE ORDERS AND OTHER PRESIDENTIAL DOCUMENTS

Presidential documents include Executive Orders, Presidential Proclamations, and Presidential Directives, as well as determinations, letters, and memoranda.

An invaluable free resource for learning about and finding presidential documents is the Law Librarians' Society of Washington, D.C., [\*Executive Orders and Other Presidential Documents: Sources and Explanations\*](#).

Additional history and background information regarding presidential materials is available at John Contrubis, Congressional Research Serv., Executive Orders and Proclamations (1999). <http://www.llsdc.org/executive-orders-and-other-presidential-documents>.

### Executive Orders

An Executive Order (EO) is a directive issued by the President under Article II of the United States Constitution. Every president since George Washington has issued executive orders. Orders usually concern government officials and agencies. They bypass the legislative process and need no Congressional approval. Any executive order can be revoked, amended or superseded by either the incumbent president or any of his/her predecessors. Any executive order can be revoked or modified by Congress by

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enacting a statute that states that the executive order “shall not have any legal effect.” Congress can also effectively stop an executive order by cutting off funding. For detailed information see Vivian S. Chu & Todd Garvey, Cong. Research Serv., RS20846, *Executive Orders: Issuance, Modification, and Revocation* (2014).

Executive Orders first appear in the [Federal Register](#) and since 1936 also appear in Title 3 of the *Code of Federal Regulations (C.F.R.)*

### Presidential Proclamations

Presidential Proclamations often commemorate an event, social cause, or individual. Other Proclamations address substantive issues of economic or domestic policy. Proclamations are published in the *Federal Register* in the “Presidential Documents” section, as well as on the White House website. Substantive proclamations are codified in Title 3 of the *Code of Federal Regulations (C.F.R.)*.

### Presidential Directives

A Presidential Directive is a form of executive order issued by the President of the United States, with input from the National Security Council, related to national security policies. These Directives have been called by various names by different administrations (e.g., Presidential Decision Directives ((PDDs)) by the Clinton administration and National Security Presidential Directives ((NSPDs)) by the G.W. Bush administration.) Some remain classified. A useful resource for locating these documents is The Library of Congress, [Presidential Directives and Where to Find Them](#).

### 1936 to Current Sources

Under the Federal Register Act of 1935 (44 U.S.C. Chapter 15) Executive Orders must first be published in the *Federal Register* and then in the annual compilation of the *Code of Federal Regulations (C.F.R.)*. Since 1936, Executive Orders of the President have been published in Title 3 of the *C.F.R.* Executive Orders take effect 30 days after publication in the *Federal Register* and have the full force of the law.

[Code of Federal Regulations \(CFR\) Title 3](#). Coverage begins March 13, 1936 for this annual compilation. Title 3 is also part of the HeinOnline Code of Federal Regulations Library and includes 1936 to the present [password required]. Westlaw, Lexis Advance, and Bloomberg Law also contain access to the Code of Federal Regulations [password required]

[Federal Register](#). HeinOnline [Password required] has 1936 to present coverage in the Federal Register Library. Bloomberg Law, Lexis, and Westlaw also provide access to the Federal Register [password required for all three databases]. The [Library of Congress](#) has scanned the Federal Register from 1936 – 1993. This is a free source. Free online access is also available from [FDsys](#). Coverage includes the years 1996 to the present. [Govinfo.gov](#) is another free resource and coverage is from 1990 to date.

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Public Papers of the Presidents. The [National Archives](#) offers a free searchable database of the Public Papers of the Presidents from Ronald Reagan to Barack Obama. The [University of Michigan Digital Library](#) has created a free searchable database for the Public Papers of Presidents from Hoover to Clinton with subsequent updates. The [American Presidency Project](#) contains the papers of all of the Presidents. The [White House website](#) also lists the Executive Orders and Proclamations of the current President. In addition, HeinOnline – U.S. Presidential Library – contains the Public Papers of Presidents Herbert Hoover through Barack Obama [password required]. Lexis Advance Contains the Public Papers of the Presidents from March 24, 1979 through current [password required.]

U.S. Code Congressional and Administrative News (USCCAN). This resource is available online via Westlaw and in paper format [KF48.U5 – on Level 3].

### Finding Aids

[Codification of Presidential Proclamations and Executive Orders, 1945 – 1989](#). This free resource produced by the National Archives offers searching by alphabetical, chapter and numeric indices. Coverage is April 13, 1945 to January 20, 1989.

[Executive Orders Disposition Tables Index](#). Produced by the National Archives. Information on this free-source database includes the Executive Order number, signing date, Federal Citation, the title of the Executive Order, amendments (if any), and the current status.

List and Index of Presidential Executive Orders: Unnumbered Series (Clifford L. Lord, editor, Historical Records Survey, 1943). This title is available in the HeinOnline U.S. Presidential Library. [password required]

Presidential Executive Orders Numbered 1-8031 (1862-1938), Clifford L. Lord, Editor [and] Joseph E. Vaughn and Joseph E. Baket, Associate Editors. Distributed by Archives Pub. Co. A Division of Hastings House, Publishers, New York: [1944]. This is a two-volume set. The first volume contains a title list of executive orders. Each entry includes the location of full-text of the documents. The second volume is an index to Volume I. The paper edition is located on Level 1 of the Library [J80.A73]. This title is also available in HeinOnline – the U.S. Presidential Library [password required].

### Pre-1936 Sources

There are both numbered and unnumbered Executive Orders – with the earliest orders among the unnumbered. The Department of State began the numbering system in 1907 by arranging the Orders on file in the Department chronologically.

It was not until 1935 that the Federal Register Act was passed and publication of the documents promulgated by the President became mandatory. Presidential documents



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created before this time are available in both paper and electronic formats. To find these early documents, search the following sources:

[The American Presidency Project](#). Contains the full text of Executive Orders and Proclamations from John Quincy Adams (July 11, 1826) to Donald Trump (2017).

[Avalon Project – Papers of the Presidents](#). Includes the papers of George Washington, John Adams, Thomas Jefferson, James Madison, Andrew Jackson, Dwight D. Eisenhower, William Clinton and George W. Bush.

[Compilation of the Messages and Papers of the Presidents \(new series\)](#), compiled by James D. Richardson. Covers the years 1789-1929 –. This title is part of the U.S. Presidential Library in HeinOnline [password needed]. There is also a paper edition on Level 1 of the Library [J81.B96g].

[Founders Online](#). Access to the correspondence and other writings of George Washington, John Adams, Thomas Jefferson and James Madison has been made available through a joint effort of the National Archives and the University of Virginia Press. Searchable free database.

[Public Papers of the Presidents of the United States](#). A project of the University of Michigan. Coverage includes presidential papers from Hoover (1929-1933) to William Clinton (1993 – 2001).

U.S. Statutes at Large. Presidential Proclamations and selected Executive Orders are published in the Statutes at Large. Coverage is 1791 to the present. The Statutes are available in the databases HeinOnline, Bloomberg Law, Lexis Advance, and Westlaw [password required for all four databases]; at the [U.S Government Publishing Office](#) (v. 65 – 125, 1951-2011) and the [Library of Congress](#) (v. 1 – 84, 1789 – 1950); and in paper format on Level 1 [KF 50].

## STRATEGIES FOR RESEARCHING ADMINISTRATIVE MATERIALS

### Undertake background research

Before attempting in-depth research, get an overview of the structure and sources of the area of law. The following background research is essential to efficient and comprehensive administrative research:

- \* Identify the enabling act or other relevant legislation. Often statutes are referred to by a section number ("a 10b5 action") or other shorthand, such as "the '34 Act" when referring to the Securities Exchange Act of 1934. A basic knowledge of the statutory scheme is essential.
- \* Determine what administrative agency or agencies are involved in rulemaking

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and/or adjudication, and their relationship if more than one is involved.

- \* Identify the types of pronouncements/documents the relevant agency or agencies issue.
- \* Try to determine whether the judiciary is actively involved in lawmaking in the particular area, i.e., reviewing the validity of regulations or rulings, or whether the area is one in which great deference is granted to agencies and the courts play a limited role.
- \* Develop a sense of the interrelationship between federal and state (and sometimes local) authorities. Both federal and state agencies may play a role in your subject area and your research will need to cover both.

For both state and federal administrative agencies, directories exist that may serve as a guide to organization and a source of general information. For the federal government, the *United States Government Manual* (Reference JK421.A3) and *The Federal Regulatory Directory* (Reference KF5407.C6) may be helpful. Most states have similar guides. In Maryland, a valuable source is *The Maryland Manual*, which is available on the internet at: <http://msa.maryland.gov/msa/mdmanual/html/mmtoc.html>.

One good source for more in-depth background information is Penny A. Hazelton, *Specialized Legal Research* (REFERENCE OFFICE KF240.S64; see a librarian for details) which contains chapters on a number of topics such as securities law, environmental law, and banking. Among other helpful sources may be treatises on a topic. An introductory chapter may include much of this type of information. Other potentially helpful sources include: relevant looseleaf service (many include in the "How to Use this Service" section some background material); a recent law review article (some provide a brief history as a preface to a discussion of more specific topics); or even a nutshell, hornbook, or other student-oriented source.

### **Take note of procedural rules**

Determine whether the relevant agency or agencies have their own sets of procedural rules (in addition to the requirements under the federal or state Administrative Procedure Act and other general statutes affecting agency procedure) that must be followed and whether these will play a role in your research.

### **Find out what published sources are available**

Valuable sources will differ depending on the subject and the particular agency or agencies:

- \* If there is a looseleaf service or equivalent topical database in the field, consult it early in the process. Either of these can be an invaluable resource for primary source material as well as useful background and/or commentary. Take the time

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upfront to understand the organization and structure of any looseleaf or topical database you use. This will save you time in the long run.

- \* If a relevant agency has its own official reporter, find out whether the hard copy format is available or whether it is on Lexis, Westlaw, or the internet.
- \* Treatises sometimes contain sections that reprint primary source materials, such as the text of relevant statutes or legislative history documents, or regulations or other agency materials.

### **Make use of electronic sources**

Because many print collections may not include extensive specialized materials (unless you are working at an agency itself), electronic sources are apt to be particularly useful in heavily regulated specialties.

Bloomberg Law, Lexis, Westlaw, and CCH's Intelliconnect have extensive specialized materials for various areas of law practice. Consult the practice area and topic in one of these databases to determine what types of materials are included.

In addition to containing specific agency documents and materials, these "area of practice" databases may include subsections of statutory and regulatory materials that are more efficient to search than the larger inclusive statutory and regulatory databases.

In Westlaw or Lexis searching, increase your efficiency by making use of the applicable fields/segments. These differ from those available for case or statutory law.

### **Make use of the internet**

One of the most useful areas of legal research on the internet is for federal administrative materials. For example, FDsys, the Government Publishing Office's Federal Digital System, at <http://www.gpo.gov/fdsys/>, contains free versions of the Code of Federal Regulations, the Federal Register, and accompanying research tools. FDsys will be replaced in 2017 by Govinfo.gov (<https://www.govinfo.gov/>, currently in beta.)

Also, many of the major agencies have home pages that are kept up to date and may include regulations as well as other agency materials. An extensive and valuable list of federal agencies with materials on the internet is the Washburn University Law Library Agency Index at <http://www.washlaw.edu/doclaw/executive5m.html>. State agencies often provide free versions of their regulatory codes and other agency materials on the internet. For Maryland, consult the Maryland government homepage [http://www.maryland.gov/pages/agency\\_directory.aspx?view=agencies](http://www.maryland.gov/pages/agency_directory.aspx?view=agencies)

### **Update thoroughly**

Be aware that precise updating is especially important with administrative materials, which may change more frequently and more quickly than statutory or case law.

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Familiarize yourself with the updating tools peculiar to an area of law or its sources. For example, some looseleaf services and topical databases contain their own citators or citator-type tools, such as updating tables. On the federal level, online sources such as [www.federalregister.gov](http://www.federalregister.gov) and [www.regulations.gov](http://www.regulations.gov) will also alert you to proposed regulations.

### **Use informal sources**

Be aware of the "informal" nature of much agency practice. On both the federal and, especially, the state level, personal contact by telephone or e-mail with individuals involved in rulemaking or adjudicatory activity may be essential to obtaining complete and accurate information on the topic being researched. Many of the print or electronic sources of documents will provide names of contact persons whose help and advice may be invaluable.

## **USING LOOSELEAF SERVICES: BASIC POINTERS**

### **What is a looseleaf service?**

Generally speaking, a looseleaf service is a consolidated source that contains the full text of primary sources such as statutes, regulations, and both judicial and administrative decisions, all related to a specialized area of law. Most services also contain commentary supplied by the editors to help clarify the primary source material, as well as to assist in locating additional materials on a topic. While often helpful, this commentary is not part of the primary source material so should not be considered authoritative.

Though they vary in format depending on the publisher, looseleaves have a number of features in common. The term "looseleaf service" is used to describe these publications because they usually appear in the form of binders that are frequently updated by the removal of old pages and the interfiling of new pages containing current material. Often a component of the looseleaf service is a weekly, biweekly, or monthly newsletter that calls attention to important new legislation, regulations, or cases. Older materials, particularly cases, may be removed from the binders and placed in soft or hard covered "Transfer Binders," or may be re-issued in hardbound reporter volumes.

Looseleaf services are widely used in practice, particularly in heavily regulated areas such as banking, securities, environment, and tax. They are often seen in their print format, though some publishers are making them available in internet-based subscription versions. This format is popular with firms because it eliminates the need to file new pages each week. Some services are also available on Lexis and Westlaw.

### **How can I get help in using looseleaf services?**

Almost every looseleaf service contains a section entitled "How To Use This Service" or similar heading. Look for this section which often, but not always, appears in the first volume of the set. Spending a few minutes reading it can save you time and frustration

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later. These sections may also offer background information on the subject area such as administrative structure and important legislation.

### **How do I know if there is a looseleaf service for a particular topic?**

- \* Consult Penny A. Hazelton, *Specialized Legal Research* (KF240.S64). The chapters in this text on various subject areas provide a great deal of helpful information as to where particular types of primary sources may be found. Often the text will direct you to a particular looseleaf service.
- \* Ask for help. Ask a librarian if one is available to you. If you are working in an area of the law in which looseleafs are heavily used, you will soon become familiar with which looseleafs pertain to your practice area.

### **How can I find out whether the text of a particular type of document is published in a looseleaf?**

Most services contain a section called "Finding Lists" or other similar name. This refers to lists, usually chronological, of documents by number, e.g. Rev. Rul. 72-575, with the paragraph numbers where the text of each document can be found within the service.

### **How do I find the index? Why is there more than one index?**

Services tend to have multiple "indexes," some of which are traditional subject indexes and some of which are really cross-reference tables that may list cases, statutes, or other materials. Every service has a subject index. If that is what you need, look for a "Topical Index" or "Index" near the beginning of the set. Usually the spine of the binder will show where the Index appears. Often, however, there will be more than one subject index - one "cumulative" and one or more others that update the cumulative one. Sometimes it is adjacent to the main index and sometimes the updating index is in a volume entitled "New Developments" or "Recent Developments" or similar title.

### **What do the references in the index mean?**

Note whether the references are to **page** numbers or **paragraph** (symbol ¶) numbers. A note at the top of the index page often tells you. Usually they are to paragraph numbers, which may be listed at the top **or** at the bottom of the page depending on the publisher. This system is used because of the looseleaf format. A paragraph number is assigned to a particular topic. Each paragraph number may cover as little as part of a page, or dozens of pages. Replacement or additional pages may be added as needed to that paragraph number without replacing the entire volume and its indexes.

### **How can I update looseleaf materials or how can I tell how up-to-date they are?**

You should always use any tables or "indexes" that provide "supplemental" or "recent" cross-references. These are usually organized by paragraph number; that is, look up the

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paragraph number where you found a primary source to see if more current material appears anywhere in the service. If in doubt, check with a librarian.

### **I have a paragraph number but the number doesn't seem to appear in the volumes. What am I doing wrong?**

First, double-check to make sure your number is a paragraph number and not a page number. If it is a paragraph number, there are two possibilities. The first is that if the item you seek is a bit older, the pages containing it may have been moved out of the main binders in the set into the "Transfer Binders." Look at the date of the item you need and try to find a transfer binder for that period, then look for your paragraph therein. Transfer Binders are usually labeled as such and should be adjacent on the shelves to the main set; they are sometimes in soft covers, sometimes hardbound. Another possibility, particularly if the cite is quite recent, is that it appears in a special binder or section of a binder entitled "Current Developments," "Recent Reports," or something similar. Look for this section near the end or near the beginning of the set. If in doubt, consult the "How to Use This Service" section.

## **TOPICAL DATABASES AND ONLINE LOOSELEAFS**

As noted, many publishers have made the information included in print looseleaf services available in keyword searchable electronic databases, and some libraries have elected to provide electronic access only in order to avoid the constant interfiling needed to keep print looseleaf services up to date. Many of these databases contain the same wealth of both background information and analysis along with the full text of primary legal materials as was traditionally found in print looseleafs. Many such databases feature both Google-style default keyword searching across types of materials as well as advanced searching options that allow Boolean and field restricted searching. Though these topical databases may seem daunting at first, they tend to include tutorials and help features that can assist a beginner in learning to use them effectively.