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Frequently Asked Questions (FAQs)

Which laws give NARA regulatory authority?

Each regulation NARA issues includes an authority that tells which law authorizes that regulation.

Some examples of laws that give NARA authority to issue regulations include:

- The Federal Records Act
- The Freedom of Information Act
- The Presidential Records Act
- The Federal Register Act
- The Open Government Act

NARA's regulations affect both the public and Federal agencies. These regulations are published in the *Federal Register* then codified in the *Code of Federal Regulations*.

NARA develops regulations to tell people and organizations how they can follow these and other laws.

Some laws, such as the Federal Records Act, give NARA the responsibility to administer a program government-wide, and to issue the regulations for that program.

Other laws, such as the Freedom of Information Act, give all or many Federal agencies authority to issue regulations for how their agency will implement the law at that agency, even though they do not administer the program government-wide.

Where can I find NARA's regulations?

The *Code of Federal Regulations* (CFR) is the official record of all regulations created by the Federal government.

The CFR is divided into 50 volumes, called titles, each of which focuses on a particular area.

Most of NARA's regulations are found in the CFR in volume 36, or 36 CFR, in Chapter XII.

We also have regulations in:

1 CFR Chapters I and II, 2 CFR Part 2600, and 32 CFR Chapter XX.

The chapters are broken up into subchapters that focus on NARA's functions, programs we oversee, or on how you can access the records that we hold.

You can find our regulations and others online at the eCFR.

What is the difference between the *Federal Register* (FR) and the *Code of Federal Regulations* (CFR)?

The *Federal Register* (FR) is the official daily publication for Federal government rules, proposed rules, and notices, as well as executive orders and other Presidential documents. The FR announces ongoing activities of the agencies and notifies you when you can comment on a proposed regulation.

Once a rule is issued in the form of a final regulation, the regulation is then codified when it is incorporated into the *Code of Federal Regulations*. This is where you can look up any current Federal rule or regulation by number.

Are there any rules governing the development of NARA regulations?

Yes, like other Federal regulatory agencies, NARA creates regulations according to rules and processes defined by a law known as the Administrative Procedures Act (APA). The APA, among other things:

- Defines what a rule or regulation is, and what actions qualify as rulemaking
- Requires agencies to publish all proposed regulations or revisions in the *Federal Register*
- Requires a public comment period on those regulations

In addition, NARA and other regulatory agencies must follow requirements established by Executive Order 12866, issued on Sept. 30, 1993. Among other things, this Order requires agencies to perform a detailed cost-benefit analysis on each proposed regulation. The Executive Order also requires the agency to prepare and submit to OMB an annual regulatory plan.

NARA's development of regulations is also subject to other laws, rules, and orders, including the Paperwork Reduction Act, the Regulatory Flexibility Act, the Negotiated Rulemaking Act , Executive Order 13563, Improving Regulation and Regulatory Review, and OMB Circular A-4, Regulatory Analysis (increasing the transparency of both the benefits and costs of Federal

regulation).

What is a major rule?

Major rules are regulations with an estimated cost of \$100 million or more. An agency must complete a Regulatory Impact Analysis (RIA) for each major rule. The RIA:

- Is a very detailed examination of the impact of the regulation
- Explains the justification for the regulation compared to the cost
- Must be approved by the Office of Management and Budget (OMB) before a major rule can take effect

What are regulatory agendas and regulatory plans?

In the spring and the fall each year, Federal agencies jointly publish a comprehensive report describing regulations currently under development or recently completed. Each agency's portion is called a regulatory agenda. NARA's report describes its broad range of regulatory activities under development or review, or proposed for development soon. These reports are combined and published as the Unified Regulatory Agenda, or Unified Agenda.

Once a year, in the fall, NARA may also release a Regulatory Plan. The regulatory plan lists the most important regulations the agency reasonably expects to issue in proposed or final form during the coming fiscal year.

Are NARA's regulations reviewed during development?

Yes. There are several levels of review during development:

- Internal NARA review by subject matter experts and others impacted by the content
- Review by other Federal organizations, as relevant
- Office of Management and Budget (OMB) review of significant proposed rules (This review may also include review by other agencies that would be impacted by the proposed rule.)
- Second OMB review of significant rules before final rule is published in the *Federal Register*
- *Federal Register* review of proposed and final rules before publishing (for compliance with the Federal Register Act, APA, and other legal requirements)

Are NARA's regulations reviewed by Congress before they are official?

Yes. Like other Federal regulatory agencies, NARA's regulations are subject to review by both the President and the Congress under Executive Order 12866 before they are allowed to take effect.

In addition, under the Congressional Review Act (CRA), agencies are required to submit all new rules to the leaders of both the House and the Senate for review. The CRA allows Congress 30 days during a Congressional session in which to review new regulations. .

The General Accounting Office (GAO) also provides a detailed report on each new major rule to the Congressional committees related to the new regulation.

Would you like to learn more about:

- How to submit comments on proposed Federal rules and regulations?
- What NARA's process is for developing, reviewing, and approving regulations?
- Answers to frequently asked questions about regulations?
- Some other resources for information on laws and regulations?
- How to submit a suggestion or idea to NARA on any subject, including regulations?

The U.S. National Archives and Records Administration

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