GOALS OF THIS ASSIGNMENT:
1) To develop your ability to locate printed federal agency regulations on a specific topic;
2) To give you experience in determining whether a regulation that you find in the C.F.R. has been modified or eliminated;
3) To introduce you to sources of administrative agency decisions.

STEPS IN UPDATING A REGULATION TO DETERMINE IF IT HAS BEEN AMENDED, REPEALED OR SUPERSEDED (PRINT SOURCES):

A. Examine the regulation in the most current C.F.R. volume. Note the date of revision on the front cover.

B. Consult the monthly List of C.F.R. Sections Affected (LSA) pamphlet to see if your section is listed. If there has been a change, there will be reference to page numbers in the Federal Register. You will need to cover the time period from Step A to the most recent LSA pamphlet. Note that the December, March, June and September issues cumulate changes for one entire year for particular titles, so you should only have to check a few pamphlets.

C. Consult the last issue of the month of the Federal Register for each complete month since the month on the cover of the LSA pamphlet. Check the CFR PARTS AFFECTED [month] table near the back of the issue. (Note: DO NOT make the mistake of consulting the CFR PARTS AFFECTED IN THIS ISSUE table located near the front of each Federal Register issue).

D. Finally, consult the most recent issue of the Federal Register available and check the CFR PARTS AFFECTED DURING [month] table, located at the end of the issue. This table cumulates through the month. Note the date of the issue.

F.Y.I. Additional information on federal administrative law research can be found through Gallagher’s home page at http://lib.law.washington.edu/research/research.html#fedrules.

While this process is complicated, it should be followed each time you use a federal regulation. Use this process to answer the following questions employing only print tools for questions 1-7.
1. Using the subject and agency index in the Index volume of the present C.F.R., find the title and part of the C.F.R. pertaining to the Bureau of Alcohol, Tobacco and Firearms exemption from taxes on tobacco products. Cite the applicable part in Bluebook form.

   **ANSWER:**

2. Now, consult the regulation in the most current C.F.R. volume. What is the date of revision on the volume’s front cover?

   **ANSWER:**

3. Within the applicable part of the C.F.R., find the sub-part that specifically approves American viticultural areas. What is the number of this section?

   **ANSWER:**

Now, following the updating process outlined in the beginning of this assignment, update the applicable sub-section.

4. Which of the monthly LSA pamphlets will you need to consult in order to cover the time period from the date of revision of the applicable C.F.R. volume to the most recent LSA pamphlet?

   **ANSWER:**

5. Does consulting the LSA provide you with relevant citations in the Federal Register concerning any revisions to the section you found in Question 3? If so, list the citation(s).

   **ANSWER:**

6. Look up this citation in the Federal Register. What does this addition do?

   **ANSWER:**

7. How current does this consultation of the appropriate LSA pamphlets bring your research?

   **ANSWER:**
8. Typically, Gallagher Law Library’s print collection of daily issues of the [Federal Register] is more current than its collection of List of CFR Sections Affected, which are published monthly. When that’s the case you would use the library’s print resources to update the regulation you cited in question 3, following the steps described in C and D on page one.

To complete your updating process you’ll need instead to use the Internet. Log-on to [http://www.gpo.gov]; then click Code of Federal Regulations under the Executive Resources heading; finally, click on the List of CFR Sections Affected link on the left. The Last Month’s List is compiled from the most recent complete month of the Federal Register, and can be used to perform step C of the updating process. Using this list, are there any relevant citations in the Federal Register concerning the section you listed in question 1? If so, cite the relevant Federal Register citation in Bluebook form. If no relevant citations are listed, what Bluebook rule would you use to cite a section of the Federal Register?

**ANSWER:**

9. The Current List of CFR Parts Affected is compiled from the current month’s issues of the [Federal Register], and can be used to perform step D. Using this list, are there any relevant citations in the Federal Register concerning the section you listed in question 3? If so, cite the relevant Federal Register citation in Bluebook form.

**ANSWER:**

10. How current does this final updating process bring your research?

**ANSWER:**

11. If you did not have access to WESTLAW or LEXIS and were not close to a library that subscribed to the print resources, describe in detail how you would search the GPO site for a current regulation by subject.

**ANSWER:**
DIFFERENCES BETWEEN THE C.F.R. AND FEDERAL REGISTER

As you may have realized, the C.F.R. is the codification of regulations first published in the Federal Register. The C.F.R. arranges the regulations into fifty subject titles, grouped by agency. Thus, all of an agency’s rules and regulations are kept together. The Federal Register, however, contains federal proclamations, orders, regulations, notices, and other documents of general legal applicability. These documents are published chronologically rather than by subject or by agency. Moreover, there are many things in the Federal Register that are not later codified in the C.F.R. The following exercise will illustrate one example of this distinction.

12. Using WESTLAW’s Federal Register database (“FR”), run a search to find out whether a Notice of Inventory Completion has been filed detailing the Native American remains and associated funerary objects of the Paiute Tribe in possession of the Utah Museum of Natural History.

   a. What is the Federal Register cite of the underlying relevant document?

      ANSWER:

   b. Read the notice. Pursuant to what federal statute is this notice made?

      ANSWER:

   c. Look up the full-text of the title, part, and section pursuant to which Notices of Inventory Completion are made. In general, what does this section require?

      ANSWER:


   a. What C.F.R. sections are listed?

      ANSWER:

   b. Do any of these sections contain the determination that the San Juan Southern Paiute Tribe exists as an Indian tribe? If not, what do the regulations address?

      ANSWER:
c. Now using “Natural Language”, run a search in the C.F.R. database, again using the term “Paiute Tribe”. How many documents does your search return? Briefly scan these documents to get a feel for their content. What’s your assessment of the results of this search versus the same search you performed with “Terms and Connectors”?

FINDING ADMINISTRATIVE AGENCY DECISIONS

As you may have learned in your readings, most federal agencies write formal opinions which are often published in both official and unofficial sources. While most agencies do not consider themselves to be strictly bound to their prior decisions under the doctrine of stare decisis, the decisions do carry considerable precedential weight and are considered an important primary legal source.

14. Official Reports - Locate an Official Reporter for a federal agency in the Law Library (e.g., Federal Trade Commission Decisions, Decisions of the Employees’ Compensation Appeals Board, Decisions & Orders of the National Labor Relations Board, etc). It is “official” if it is published by the government or by the agency itself. Please give the name of the reporter and describe the set in terms of coverage, indexing tools, contents, tables, ease of use, etc.

NAME OF REPORTER/ SOURCE and DESCRIPTION:

15. Unofficial Reports - WESTLAW, LEXIS and looseleaf services and bound volumes published commercially by BNA, CCH, and others are considered unofficial sources of agency decisions. Looseleaf services have several advantages over official sources in that they are issued more quickly, are better indexed, and are often supplemented by editorial discussion and other relevant material. The following questions utilize such an unofficial reporter.

a. Suppose you need to find out about an environmental law topic in Washington. Specifically, determine whether the Columbia River Gorge National Scenic Area Act was constitutionally upheld. Consult the subject matter index (covering vols. XXII - present)
of the Indexes, Tables, and Bibliographies binder within the Environmental Law Reporter (as published by the Environmental Law Institute). What entry does this index offer?

ANSWER:

b. Using the same volume containing the subject matter index, where would you go to find the names of the parties in the action cited in 15(a), above?

ANSWER:

c. Who were the parties?

ANSWER:

d. Suppose you research on the Columbia required you to do some more reading on water law generally. Suppose you want to find the most recent scholarly article you could on the scope of the Clean Water Act’s jurisdiction. Where in the Environmental Law Reporter would you look for the most recent (2004) article on the subject?

ANSWER:

e. List the author and title of the article you would use in (d).

ANSWER:

f. Let’s assume that you are working on another topic within water law, specifically, instream flow protection as it pertains to the Snake River water flow reduction plan in Idaho. Assume further that you want to look at how other parties have briefed and pleaded this topic. Where in the Environmental Law Reporter would you find such a reference? Give a numerical reference that answers this question.

ANSWER:

g. What is the name of the binder in which would you find the actual Briefings and Pleadings for this reference? Look up the numerical reference you provided in 15(e). Who represented the appellants?

ANSWER:
16. Many administrative decisions can be found within on-line commercial and government databases.

Using either WESTLAW itself or the print edition of WESTLAW Database Directory, provide the database identifier and coverage information for the following agency decisions (e.g. Health and Human Services Decisions = FHTH-HHS):

a. Board of Immigration Appeals’ Administrative Decisions

   ANSWER:

b. Federal Communications Commission Decisions

   ANSWER:


   ANSWER:

17. Now log-on to the Internet and find the website for each of these agencies. Spend about ten minutes on each site navigating and assessing what is available. Describe the types of materials, especially legal materials, available on each site. Provide the URL for each website. If you were doing research on one of these sites for the senior partner in your firm, what would you find most useful about the site? What was most frustrating?

a. Securities and Exchange Commission

   URL:

   ANSWER:
b. Department of Education

**ANSWER:**

c. Food and Drug Administration

**ANSWER:**