



Mirrored Storage, Inc.

Electronic Code of Federal Regulations – e-CFR

White Paper presented by:

Mirrored Storage, Inc.

ONLINE BACKUP SOFTWARE

<http://MirroredStorage.com>

Introduction

What is the e-CFR, and what is the legal status of this publication?

- The Electronic Code of Federal Regulations (e-CFR) is a current, daily updated version of the Code of Federal Regulations (CFR). It is not an official legal edition of the CFR. The e-CFR is an unofficial editorial compilation of CFR material and Federal Register amendments.
- The Administrative Committee of the Federal Register (ACFR) has authorized the [National Archives and Records Administration's](#) (NARA) [Office of the Federal Register](#) (OFR) and the [Government Printing Office](#) (GPO) to develop and maintain the e-CFR as an informational resource pending ACFR action to grant the e-CFR official legal status. The OFR/GPO partnership is committed to presenting accurate and reliable regulatory information in the e-CFR editorial compilation with the objective of establishing it as an ACFR sanctioned publication in the future. While every effort has been made to ensure that the e-CFR on GPO Access is accurate, those relying on it for legal research should verify their results against the official editions of the CFR, Federal Register and List of CFR Sections Affected (LSA), all available online at www.gpoaccess.gov. Until the ACFR grants it official status, the e-CFR editorial compilation does not provide legal notice to the public or judicial notice to the courts.
- The OFR updates the material in the e-CFR on a daily basis. Generally, the e-CFR is current within two business days. The current update status is displayed at the top of all e-CFR web pages.

How does the e-CFR function?

- The e-CFR consists of two linked databases: the "current Code" and "amendment files." The OFR updates the current Code database according to the effective dates of amendments published in the *Federal Register*.

- As amendments become effective, the OFR integrates the changes into the current Code database to display the full text of the currently updated CFR.
- For future-effective amendments, the OFR inserts hypertext links into the affected sections or parts of the current Code to take users to the pertinent amendment files. The amendment files contain amendatory instructions, the text of amendments (if any), the effective dates, the *Federal Register* date and page citation, and a link to *Federal Register* page where the amendment appeared.
- If the effective date of a regulation falls on a weekend or federal holiday, the amendments will be integrated into the current Code within two federal business days.

What special rules and procedures apply to display of future amendments and effective dates in the e-CFR?

- *Publication of amendments and editorial information.* The amendment files show each amendment as it appeared in the *Federal Register* with some additional information. The information provided includes the amendatory instruction, the text of the amendment (if any), the effective date, the *Federal Register* date and page citation, and a link to the *Federal Register* page (PDF format) where the amendment was published.
- *Historical information in amendment files.* The amendment files include some amendments that have already been integrated into the current Code database of e-CFR. Be sure to read the effective date information thoroughly.
- *Exercise caution in researching amendment files.* Future-effective amendments in the linked amendment files do not always become effective as originally stated in the *Federal Register*. Agencies may delay or withdraw future-effective amendments before the effective date of the regulations. We advise users to check the e-CFR on the day after a regulation is scheduled to go into effect to be certain that the agency did not publish a delay or withdrawal document in the *Federal Register*.
- *Temporary rules and other un-codified rulemaking actions.* The e-CFR (like the annual editions of the CFR) does not include, or link to "temporary rules" and other regulations that will be in effect for less than one year. The e-CFR also does not link to *Federal Register* documents that do not change the text or effective date of regulations. These include waivers, most interpretive rules, policy statements and clarifications, as well as documents that affect compliance dates and applicability dates. These types of documents are available in the [Federal Register](#) and are referenced in the [LSA \(List of CFR Sections Affected\)](#).
- *Amendments affected by the Paperwork Reduction Act.* Under the Paperwork Reduction Act, certain material related to information collections cannot become effective until approved by the Office of Management and Budget (OMB). For the convenience of users, an amendment published in the *Federal Register* with OMB approval pending is provisionally incorporated into the text of the current Code, along with an effective date note carried at the end of the section.
- *Partially effective CFR amendments.* A new regulation may contain units of text with different effective dates. If a unit of text has a later effective date than the text in surrounding parallel units, the e-CFR includes the later-effective text in the current Code for the convenience of users. An effective date note carried at the end of the section alerts readers to the later effective date.

- *Changes to authority citations.* If an authority citation is revised after publication of an amendment with future effectiveness, the e-CFR amendment file links to the changed authority citation until the amendment is incorporated into the current Code.
- *Inconsistent or erroneous amendments.* An amendment that was stated erroneously or that is clearly inconsistent with the codification structure or effectiveness of the current Code or pending amendments is cited in an editorial note, either within the text of the section where the amendment would appear, or at the end of the section.

How are editorial errors accounted for in the e-CFR?

- The [e-CFR Corrections Compilation](#) lists editorial errors made by the OFR in processing e-CFR amendments. The Corrections Compilation cites the CFR title and section affected, the corrective action taken, the "current as of" date the error occurred, and the "current as of" date the error was corrected.
- Errors made by issuing agencies are not reflected in the Corrections Compilation table. Agencies correct their errors by publishing CFR amendment documents in the *Federal Register*. Those changes are integrated into e-CFR in the same manner as other amendments. Agency correction documents are generally styled as "final rule corrections" or "technical amendments."

What is incorporation by reference?

- Incorporation by reference is a legal process established under the Freedom of Information Act that permits Federal agencies to grant legally enforceable status to certain national consensus standards and other published materials. If agencies receive the approval of the OFR, the referenced material has the same legal status that it would have if it were published in full text in the *Federal Register* and CFR. Agencies must ensure that the referenced material is specifically identified by date and edition, and that it is reasonably available to the public.

Title 17: Commodity and Securities Exchanges:

§ 1.31 Books and records; keeping and inspection.

All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the United States Department of Justice. A copy of any book or record required to be kept by the Act or by these regulations shall be provided, at the expense of the person required to keep the book or record, to a Commission representative upon the representative's request. Instead of furnishing a copy, such person may provide the original book or record for reproduction, which the representative may temporarily remove from such person's premises for this purpose. All copies or originals shall be provided promptly. Upon request, the Commission representative shall issue a receipt provided by such person for any copy or original book or record received. At the request of the Commission representative, such person shall, upon the return thereof, issue a receipt for any copy or original book or record returned by the representative.

This regulation, updated March 2009 requires the following:

- Verifiable backup of data
- Preserves the records exclusively in a non-rewritable, non-erasable format

- Verifies automatically the quality and accuracy of the storage media recording process
- Have available at all times, for examination by representatives of the Commission or the Department of Justice, facilities for immediate, easily readable projection or production of micrographic media or electronic storage media images
- Keep only Commission-require records on the individual medium employed (e.g., a disk or sheets of microfiche)
- Store a duplicate of the record, in any medium acceptable under this regulation, at a location separate from the original for the period of time required for maintenance of the original; and Organize and maintain an accurate index of all information maintained on both the original and duplicate storage media.
 - The location of any particular record stored on the media may be immediately ascertained;
 - The index is available at all times for immediate examination by representatives of the Commission or the Department of Justice;
 - A duplicate of the index is stored at a location separate from the original index; and
 - Both the original index and the duplicate index are preserved for the time period required for the records included in the index.
- In addition to the foregoing conditions, persons using electronic storage media must:
 - Be ready at all times to provide, and immediately provide at the expense of the person required to keep such records, copies of such records on such approved machine-readable media
 - Develop and maintain written operational procedures and controls (an "audit system") designed to provide accountability over both the initial entry of required records to the electronic storage media
 - The results of such audit system are available at all times for immediate examination by representatives of the Commission or the Department of Justice;
 - The results of such audit system are preserved for the time period required for the records maintained on the electronic storage media; and
 - The written operational procedures and controls are available at all times for immediate examination by representatives of the Commission or the Department of Justice.
- Place in escrow and keep current a copy of the physical and logical format of the electronic storage media, the file format of all different information types maintained on the electronic storage media and the source code, documentation, and information necessary to access the records and indexes maintained on the electronic storage media.

Since files are required to be backed up in an electronic medium [MirroredStorage.com's](https://www.MirroredStorage.com) approach eliminates the issue for digital media (CD/DVD) degradation over the time period required for backups. Also the use of the [Mirrored Storage](https://www.MirroredStorage.com) appliance strengthens the case be backing up files from laptop, desktop and server platforms automatically with no access to those backups by the end-user. This is also strengthened by the fact that files that are deleted on the device level do not result in the backup being deleted. You will have access to all the files required for an audit and compliant with the regulations.

Acknowledgements and Sources:

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Sources: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1afd66ba87d462ab9f69ccff68ab5718&rgn=div8&view=text&node=17:1.0.1.1.1.0.5.26&idno=17>

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