

ADMINISTRATIVE LAW

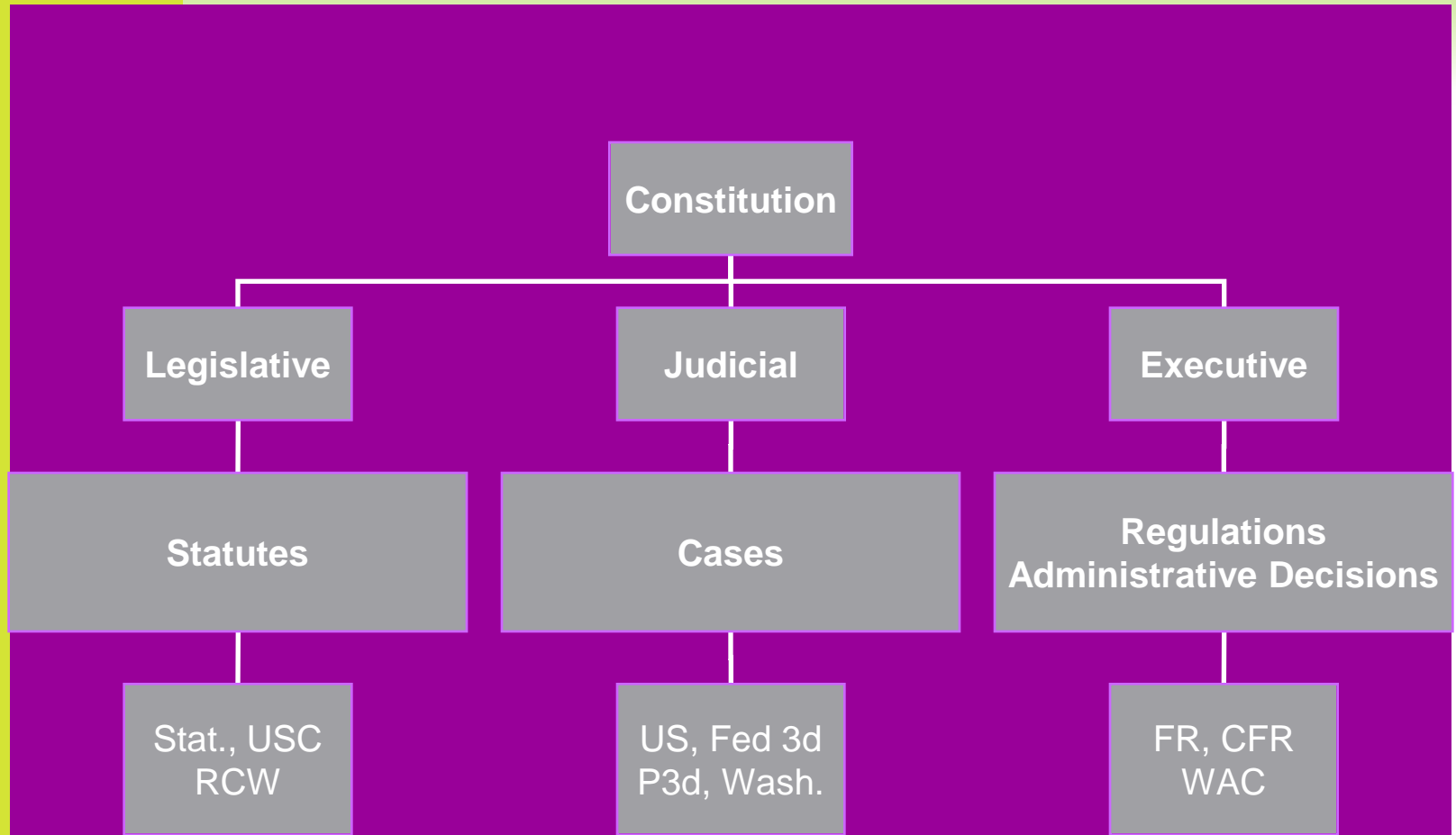
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Gallagher Law Library

Legal Research Methods (A 599)
December 1, 2015

REVIEW

- ① Print and online sources
- ① Free and commercial sources
- ① Rombauer method
- ① Query formation
- ① Patterns

ORGANIZATION OF GOVERNMENT



PARALLEL SYSTEMS

Federal

- ⊙ Legislative = US Congress
- ⊙ Executive
 - ⊙ President
 - ⊙ Executive branch & independent agencies
- ⊙ Judicial
 - ⊙ US Supreme Court
 - ⊙ US Courts of Appeals
 - ⊙ US District Courts
 - ⊙ Specialized courts

Washington

- ⊙ Legislative = WA State Legislature
- ⊙ Executive
 - ⊙ Governor
 - ⊙ Executive branch & independent agencies
- ⊙ Judicial
 - ⊙ WA Supreme Court
 - ⊙ WA Court of Appeals
 - ⊙ District, county & municipal courts

SOURCES OF LAW INTERACT

- ① Legislature writes statute in response to a case
- ① Court interprets a statute; may hold a statute unconstitutional
- ① Agency proposes and adopts regulations as directed by statute
- ① A higher court overrules a lower court decision

ADMINISTRATIVE LAW

- ⊙ Origins in the 1930s, New Deal
- ⊙ Landmark cases based on a rule that had been revoked before the lawsuits began
 - ⊙ U.S. v. Smith, 293 U.S. 633 (1934)
 - ⊙ Panama Refining Co. v. Ryan, 293 U.S. 388 (1935)
- ⊙ Federal Register Act, 49 Stat. 500 (1935)

FEDERAL REGISTER



Volume I

Nos. 1-121

Saturday, March 14, 1936

No. 1

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

ENLARGING CAPE ROMAIN MIGRATORY BIRD REFUGE

South Carolina

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purpose of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described area, acquired by the United States, in Charleston County, South Carolina, with all buildings thereon, be, and it is hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the Cape Romain Migratory Bird Refuge, established under the said Migratory Bird Conservation Act:

Being all of what is known as Bull Island, lying on the southwest side of Bull Bay, between Price Creek and Bull Creek, and the Atlantic Ocean, and about three miles off the mainland of South Carolina, and about fourteen miles southwest of McClellanville, South Carolina. The following survey was executed under the direction of the Bureau of Biological Survey, Department of Agriculture, in June and July 1935. All bearings in this description were turned from the true meridian as determined by altitude observations on the sun during the progress of the survey, and all distances are expressed in chains.

Beginning at corner No. 1, a point at the edge of the marsh on the north side of Bull Island, on the west side of Jacks Creek which bears S. 40°30' E., at the junction of Jacks Creek with Bull Harbor; from this corner a U. S. B. S. standard concrete post marked "1 WC COR 1 BULLS ISLAND 1935", set 18 in. in the ground for a witness corner on a small grassy sand ridge, bears S. 16°57' E., 8.01 chs. distant; from which witness corner a 10 in. white oak blazed and scribed "BT WC COR 1" bears N. 56° W., 0.23 ch. distant; an 8 in. white oak blazed and scribed "BT WC COR 1" bears S. 3° E., 0.24 ch. distant;

Thence from said initial point, with the north side of Bull Island, along the edge of the marsh with the meanders thereof, in part with the south shore of Bull Harbor and in part with Bull Bay,

N. 51°28' E., 12.27 chs. to a point across Jacks Creek, at its mouth, on the edge of the salt marsh on Bull Bay; thence,
N. 21°19' E., 4.43 chs.;
N. 1°54' E., 0.45 chs.;
S. 68°57' E., 18.50 chs.;
S. 75°39' E., 15.66 chs.;
N. 85°24' E., 15.98 chs. to a point at the edge of salt marsh and grass on Bull Bay;

Thence with mean high water along sandy beach and sand dunes,

N. 31°29' E., 17.10 chs.;
N. 65°02' E., 5.81 chs. to the northeasterly point of Bull Island; thence,
S. 37°27' E., 8.12 chs.;
S. 22°28' E., 19.25 chs. to corner No. 2, a point on the northeasterly end of the coarser of Bull Island, facing the Atlantic Ocean; from this corner a U. S. B. S. standard concrete post marked "2 WC COR 2 BULLS ISLAND 1935", set 18 in. in the ground for a witness corner on the west slope of a grassy sand dune about 2.00 chs. northeast of a dense growth of cedar, myrtle, and palmetto, bears S. 71°39' W., 0.59 ch. distant; from which witness corner a U. S. C. & G. S. concrete monument marked "BULL 1934" bears N. 67°48' W., 3.18 chs. distant; an 18 in. cedar blazed and scribed "BT WC COR 2" bears S. 13°30' W., 2.23 chs. distant; and palmetto were blazed for witness trees;

Thence, with mean high water along the east shore of Bull Island, with the meanders thereof, between the beach and a thicket growth of pine, cedar, and palmetto,

S. 23°04' E., 8.83 chs.;
S. 1°07' E., 0.15 chs.;
S. 18°31' W., 19.17 chs.;
S. 14°49' W., 17.21 chs.;
S. 18°07' W., 4.02 chs.;
S. 18°25' W., 9.97 chs.;
S. 18°11' W., 12.25 chs.;
S. 18°42' W., 21.56 chs.;
S. 13°31' W., 12.76 chs.;
S. 25°31' W., 9.19 chs. to corner No. 3, a point at mean high water at the northeast end of a strip of sand dunes lying between the beach and a heavy growth of palmetto, oak, and cedar, at the edge of beach and sand dunes; from this corner a U. S. B. S. standard concrete post marked "3 WC COR 3 BULLS ISLAND 1935", set 18 in. in the ground for a witness corner in grassy sand dunes and scattered palmetto, bears N. 75°23' W., 0.79 ch. distant; and palmetto were blazed for witness trees;

Thence, continuing with the southerly shore of Bull Island, with the meanders thereof, along mean high water,

S. 38°15' W., 12.40 chs.;
S. 69°42' W., 12.58 chs.;
S. 71°09' W., 16.63 chs.;
S. 74°32' W., 14.30 chs.;
S. 75°49' W., 14.76 chs. to a point at mean high water at the edge of beach and sand dunes; from this point a U. S. B. S. standard concrete post marked "3A WC MP 3-B BULLS ISLAND 1935", set 18 in. in the ground for a witness corner in grassy sand dunes, bears N. 21° E., 0.77 ch. distant; thence,
S. 75°22' W., 14.55 chs.;
S. 75°21' W., 15.10 chs.;
S. 75°23' W., 14.46 chs.;
S. 75°21' W., 14.12 chs.;
S. 71°52' W., 14.35 chs. to a point at mean high water at the edge of beach and sand dunes; from this point the northeast corner of a bathhouse bears N. 76°45' W., 4.24 chs. distant; and a U. S. B. S. standard concrete post marked "4 WC MP 3-10 BULLS ISLAND 1935", set 18 in. in the ground for a witness corner in grassy sand dunes, bears N. 76°45' W., 4.69 chs. distant;

Thence with mean high water along the edge of beach and sand dunes,

S. 69°57' W., 15.15 chs.;
S. 69°27' W., 17.28 chs.;
S. 68°09' W., 15.23 chs.;

CODE OF FEDERAL REGULATIONS

THE CODE OF FEDERAL REGULATIONS

OF THE
UNITED STATES OF AMERICA

*Having General Applicability and Legal Effect
in Force June 1, 1938*



FIRST EDITION

Published by the Division of the Federal Register, the National
Archives, Pursuant to Section 11 of the Federal Register
Act as Amended June 19, 1937

TITLE 1—GENERAL PROVISIONS

TITLE 2—THE CONGRESS

TITLE 3—THE PRESIDENT

TITLE 4—ACCOUNTS

TITLE 5—ADMINISTRATIVE PERSONNEL

TITLE 6—AGRICULTURAL CREDIT

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1939

PUBLIC'S RIGHT TO PARTICIPATE IN RULEMAKING

- ⊙ Administrative Procedure Act, 60 Stat. 237 (1946)
 - ⊙ Notice of proposed rulemaking to be published in the Federal Register
 - ⊙ Procedures for public participation
 - ⊙ Agency hearings and adjudication
 - ⊙ Judicial review

WHAT DO YOU SEE?

- ① Identify the sections of your issue of the Federal Register
- ① Identify the content of your volume of the Code of Federal Regulations

FEDERAL REGISTER

- ⊙ Proposed rules & regulations
- ⊙ Updates the C.F.R.
- ⊙ Organized by agency
- ⊙ Published weekdays
- ⊙ Tables of contents, indexes, and finding aids (tables)



CODE OF FEDERAL REGULATIONS

- ⊙ Rules & regulations in force
- ⊙ Organized by topic
- ⊙ Published annually
- ⊙ Updated by the Federal Register
- ⊙ Index & finding tables

PATTERN

◎ By date

- ◎ U.S. Statutes at Large
- ◎ Laws of Washington
- ◎ Federal Register
- ◎ Washington State Register

◎ By subject

- ◎ U.S. Code
- ◎ Revised Code of Washington
- ◎ Code of Federal Regulations
- ◎ Washington Administrative Code

See also [Washington State Administrative Law](#)



AGENCY PURPOSE

- ③ Environmental Protection Agency
 - ③ Coordinates government action on behalf of the environment
 - ③ Serves as the public's advocate for a livable environment

CONGRESSIONAL FINDINGS

16 U.S.C. § 1531: Congressional findings and declarations of purposes and policy

The Congress finds and declares that –

- (a)(1) Various species of fish, wildlife, and plants in the U.S. have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation...
- (b) The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species ... may be conserved ...

DELEGATION OF AUTHORITY

The Secretary shall by **regulation** . . . Determine whether any species is an endangered species or a threatened species because of . . .

- (A) the present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) overutilization for commercial, recreational, scientific, or educational purposes;
- (C) disease or predation

.....

(b)(3)(c)(iii) The **Secretary shall implement a system to monitor** effectively the status of all species with respect to which a finding is made under ...

FINDING REGULATIONS

- ◎ Indexes and tables ([example](#))
- ◎ Cross-references in annotated U.S. Code ([Lexis example](#))
- ◎ Footnotes in secondary sources
- ◎ Looseleaf services and databases (BNA, CCH, etc.)
- ◎ Agency websites ([example](#))

UPDATING REGULATIONS

- ◎ [e-CFR](#)
- ◎ Bloomberg Law, Lexis Advance, and WestlawNext
- ◎ Updating in print, see Gallagher guide on [U.S. Administrative Law Research](#)

REGULATORY FORECAST

- ◎ Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY DECISIONS

- ⊙ Governed by Administrative Procedure Act
- ⊙ Procedural rules published in the Code of Federal Regulations
- ⊙ Preliminary list in Bluebook (20th ed., 2010), Table 1.2, Federal Administrative and Executive Materials (nearly 40 agencies)
- ⊙ Extensive list of current sources on the Internet
- ⊙ KeyCite, Shepardize, or “use the system as a citator”

T1.2 Federal Administrative and Executive Materials (p. 236)

The following is a non-exclusive table of administrative agency and executive materials, with an emphasis on citation forms that vary from [rule 14](#). Where an agency entry only lists that agency's official publications, no unique citation format is used and agency materials can be cited following [rule 14](#).

Armed Services Board of Contract Appeals (ASBCA) Decisions: Cite decisions as: <case name>, ASBCA No. <decision number>, <citation to service>. Note that in citations to the *Board of Contract Appeals Decisions* (BCA), published by Commerce Clearing House, the publisher is not indicated and the volume number serves to indicate the year of the decision.

- ▶ KAMP Sys., Inc., ASBCA No. 55317, 08-1 BCA ¶ 33,748.

Civilian Board of Contract Appeals (CBCA) Decisions: Cite in the same manner as decisions of the Armed Services Board of Contract Appeals, but include the opposing agency in the case name. Cite decisions of its predecessors, the Board of Contract Appeals for the Department of Agriculture, Energy, Housing and Urban Development, Interior, Labor, Transportation, Veteran Affairs, and the General Services Administration, in the same manner.

- ▶ Flathead Contractors, LLC v. Dep't of Agric., CBCA 118-R, 07-2 BCA ¶ 33,688.

Commodity Futures Trading Commission (CFTC) Decisions: Cite as: <case name>, CFTC No. <docket number>, <citation to a secondary source if available> (<date>).

- ▶ Conway Family Trust v. Dorman Trading, LLC, CFTC No. 12-R002, 2014 WL 2001047 (May 9, 2014).
- ▶ *In re* J.P. Morgan Sec. LLC, CFTC No. 14-19, 2014 WL 3817865 (July 29, 2014).

Interpretive Letters, No-Action Letters, and Exemptive Letters: Cite a service ([rule 19](#)) or an electronic database ([rule 18.3](#)), if therein. Include the full name of the correspondent, if available, the CFTC docket number, and the full date on which the letter became publically available.

- ▶ Kenneth M. Rosenzweig, CFTC No-Action Letter, CFTCLTR No. 13-54, 2013 WL 5488947 (Sept. 27, 2013).
- ▶ CFTC No-Action Letter, CFTCLTR No. 94-70, *Comm. Fut. L. Rep. (CCH)* ¶ 26,159 (May 23, 1994).

Consumer Financial Protection Bureau (CFPB) Decisions: Cite decisions as: <case name>, CFPB No. <decision number>, <citation to secondary source if available> (<date>).

- ▶ ACE Cash Express, Inc., CFPB No. 2014-CFPB-0008 (July 08, 2014).

Department of Agriculture (USDA) Decisions: Cite to the *Agriculture Decisions* (Agric. Dec.).

- ▶ Western Cattle Co., 47 Agric. Dec. 992, 1052 (U.S.D.A. 1988).

Directives: Numerous organizations within the USDA issue directives. These should be cited as: <issuing agency abbreviated according to table below> Directive <directive number>, <directive title> (U.S.D.A. <year>).

Home > Administrative Decisions & Guidance

Federal Administrative Decisions & Guidance

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Search all Federal Administrative Decisions & Guidance above or navigate to specific content below. [i](#)

Executive Branch Agencies and Offices

Department of Agriculture

Department of Commerce

Department of Defense

Department of Education

Department of Energy

Department of Health & Human Services

Department of Homeland Security

Department of Housing & Urban Development

Department of Justice

Department of Labor

Department of the Interior

Department of State

Department of the Treasury

Department of Transportation

Department of Veterans' Affairs

Executive Office of the President

Independent Agencies and Offices

Board of Contract Appeals

Commodity Futures Trading Commission

Congressional Accountability Office of Compliance

Consumer Financial Protection Bureau

Consumer Product Safety Commission

Contract Adjustment Board

Environmental Protection Agency

Equal Employment Opportunity Commission

Farm Credit Administration Informational Memoranda

Federal Communications Commission

Federal Deposit Insurance Corporation

Federal Election Commission

Federal Govt Accounting Standards Advisory Bd

Federal Housing Finance Agency

Federal Labor Relations Authority

Federal Maritime Commission

Federal Mine Safety & Health Review Commission

Federal Reserve Board

Federal Trade Commission

Foreign Service Grievance Board

Government Accountability Office

International Trade Administration

International Trade Commission Decisions

Merit Systems Protection Board

National Credit Union Administration

National Labor Relations Board

National Mediation Board

Nuclear Regulatory Commission

Occupational Safety & Health Review Commission

Office of Financial Institution Adjudication

Office of Government Ethics

Office of Personnel Management

Pension Benefit Guaranty Corporation

Securities & Exchange Commission

Small Business Administration

Social Security Administration

Surface Transportation Board