FINDING THE LAW: PRIMARY & SECONDARY SOURCES IN PRINT

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Gallagher Law Library

Introduction to Environmental Law & Process (SMEA 476)
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Organization of Government

- Constitution
  - Legislative
    - Statutes
      - Stat., USC
      - RCW
  - Judicial
    - Cases
      - US, Fed 3d
      - P3d, Wash.
  - Executive
    - Regulations
      - Administrative Decisions
      - FR, CFR
      - WAC
**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

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

- **Primary**
  - Statement of "the law" from bodies with law-making authority
  - Examples: laws, regulations & court opinions

- **Secondary**
  - Analyze, criticize, explain, interpret & refer to primary law
  - Examples: books, government reports, law review articles & legal encyclopedias
Agency Purpose

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

- Indexes to the U.S. Code
- Footnotes in secondary sources
Endangered Species Act

- Pub. L. No. 93-205
- 87 Stat. 884
Endangered Species Act

- Pub. L. No. 93-205
- Pub. L. No. = Public Law Number
- 93 = 93rd Congress
- 205 = 205th law enacted during the 93rd Congress
Endangered Species Act

- 87 Stat. 884
- 87 = volume 87
- Stat. = U.S. Statutes at Large
- 884 = first page number
Endangered Species Act

  - 16 = Title 16
  - §§ = sections
  - 1531 et seq. = 1531 & the following sections
  - (2012) = publication year
DELEGATION OF AUTHORITY

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......

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16 U.S.C. § 1533
Administrative Law

- Rules, regulations & decisions
- Specific subject jurisdiction
  - *U.S. Government Manual*
  - Notice of proposed rule
  - Comment period
  - Response to comments & final rule
Rules & regulations in force
Organized by topic
Published annually
Updated by the Federal Register
Index & finding tables
FEDERAL REGISTER

- Proposed rules & regulations
- Updates the C.F.R.
- Organized by agency
- Published weekdays
- Tables of contents, indexes & finding tables
Importation, Transportation & Exportation of Wildlife

- 50 = Title 50
- C.F.R. = Code of Federal Regulations
- Part 14 = part number
- (2014) = publication year
Personally Owned Pet Birds,

- 50 = Title 50
- C.F.R. = Code of Federal Regulations
- § = section number
- (2014) = publication year
LEGAL CITATIONS: PROPOSED REGULATIONS

  - 75 = volume 75
  - 48744 = first page number
  - (Aug. 11, 2010) = publication date
Find Regulations Using the CFR

- Indexes
  - Last volume of the C.F.R.
  - CFR Index volume of the *U.S. Code Service*

- Parallel Table of Authorities & Rules
  - In C.F.R. Index
  - U.S. Code > C.F.R.
Find Regulations Using an Annotated Code

1. Find the law
   a. U.S. Code Annotated OR U.S. Code Service
   b. Popular names table or index

2. Find the section authorizing regulations
   a. Browse table of contents

3. Look in footnotes for references to C.F.R.
Court Opinions

- Written opinions of judges deciding disputes
- Interpret & apply relevant laws, regulations & legal principles
- Published by jurisdiction, court & date
  - Gallagher guide on Court Reporters
1. Find the law  
   a. Use the popular names table or index 
2. Find the section of interest  
   a. Browse the table of contents 
3. Find case citations  
   a. Browse the notes 
4. Find the case
Find Court Opinions Using Secondary Sources

- Books & government documents
  - Search library catalogs
- Law review articles
  - Cited in annotated codes (USCA and USCS)
  - Periodical indexes
- Legal encyclopedias (*AmJur & CJS*)
  - Start with indexes

*Only need U.S.*


- Tennessee . . . = parties
- 437 = volume number
- U.S. = U.S. Reports
- 153 = first page number
- (1978) = year of decision
Starting Questions

- What type of law governs this issue? (Hint: may be more than one)
  - Statutes — regulations — cases
- Which jurisdiction?
  - federal and/or state
- What secondary sources cover this topic?
SECONDARY SOURCES

- Articles
  - 10 – 100+ pages
  - Footnotes cite to primary & other secondary sources
  - Cited in annotations to laws
- Books
- Government reports & studies
Elizabeth Lewis = author

*Whale Wars* . . . = title of the article

66 = volume number

*Admin. L. Rev.* = Abbreviated title of the journal

861 = first page of the article

(2014) = year of publication
Books & Government

- From general overviews to in-depth examination of specific topics
- Cite to primary sources & other secondary sources
- Use library catalogs
Help!

- Ask a Reference Librarian!
  - Gallagher Law Library Reference Office
  - 543-6794
  - [Ask Us link](#) on Law Library homepage
- Brief tour of the Law Library Reference Area