Finding the Law: Primary & Secondary Sources in Print

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Introduction to Environmental Law & Process (SMA 476)
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**Federal**
- Legislative = US Congress
- Executive
  - President
  - Executive branch & independent agencies
- Judicial
  - US Supreme Court
  - US Courts of Appeals
  - US District Courts
  - Specialized courts

**State**
- Legislative = WA State Legislature
- Executive
  - Governor
  - Executive branch & independent agencies
- Judicial
  - WA Supreme Court
  - WA Court of Appeals
  - District, county & municipal courts
Legislature writes statute in response to a case

Court interprets a statute; may hold a statute unconstitutional

Agency proposes 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, and court opinions

- **Secondary**
  - Analyze, criticize, explain, interpret, and/or refer to primary law
    - Examples: books, government reports, law review articles, and 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 ...
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
Legal Citations: Statutes

Endangered Species Act

- Pub. L. No. 93-205
- 87 Stat. 884
  - 16 U.S.C. 1538 Prohibited Acts
Legal Citations: Statutes

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 = page 884
Endangered Species Act

  - 16 = Title 16
  - = sections
  - 1531 et seq. = 1531 & the following sections
  - (2006) = publication year
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 ...
ADMINISTRATIVE LAW

- Rules, regulations, and decisions
- Specific subject jurisdiction
  - U.S. Government Manual
  - Notice of proposed rule
  - Comment period
  - Response to comments and final rule
Rules and regulations in force
Organized by topic
Published annually
Updated by the Federal Register
Index and finding tables
Proposed rules and regulations
Updates the C.F.R.
Organized by agency
Published weekdays
Tables of contents, indexes, and finding tables
Legal Citations: Regulations

- Importation, Transportation and Exportation of Wildlife,
  - 50 = Title 50
  - C.F.R. = Code of Federal Regulations
  - Part 14 = part number
  - (2009) = publication year
**Legal Citations: Regulations**

- Personally Owned Pet Birds,
  - 50 = Title 50
  - C.F.R. = Code of Federal Regulations
  - = section number
  - (2009) = 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*
  - *West's CFR: General Index*

- Parallel Table of Authorities and Rules
  - In C.F.R. Index
  - U.S. Code > C.F.R.
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 and apply relevant laws, regulations, and legal principles
- Published by jurisdiction, court, and date

- Gallagher guide on Reporters & Digests
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 and government documents
  - Search library catalogs
- Law review articles
  - Cited in annotated codes (USCA and USCS)
  - Periodical indexes
- Legal encyclopedias (*AmJur* and *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?
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- [Ask Us link](#) on Law Library homepage
- Brief tour of the Law Library Reference Area