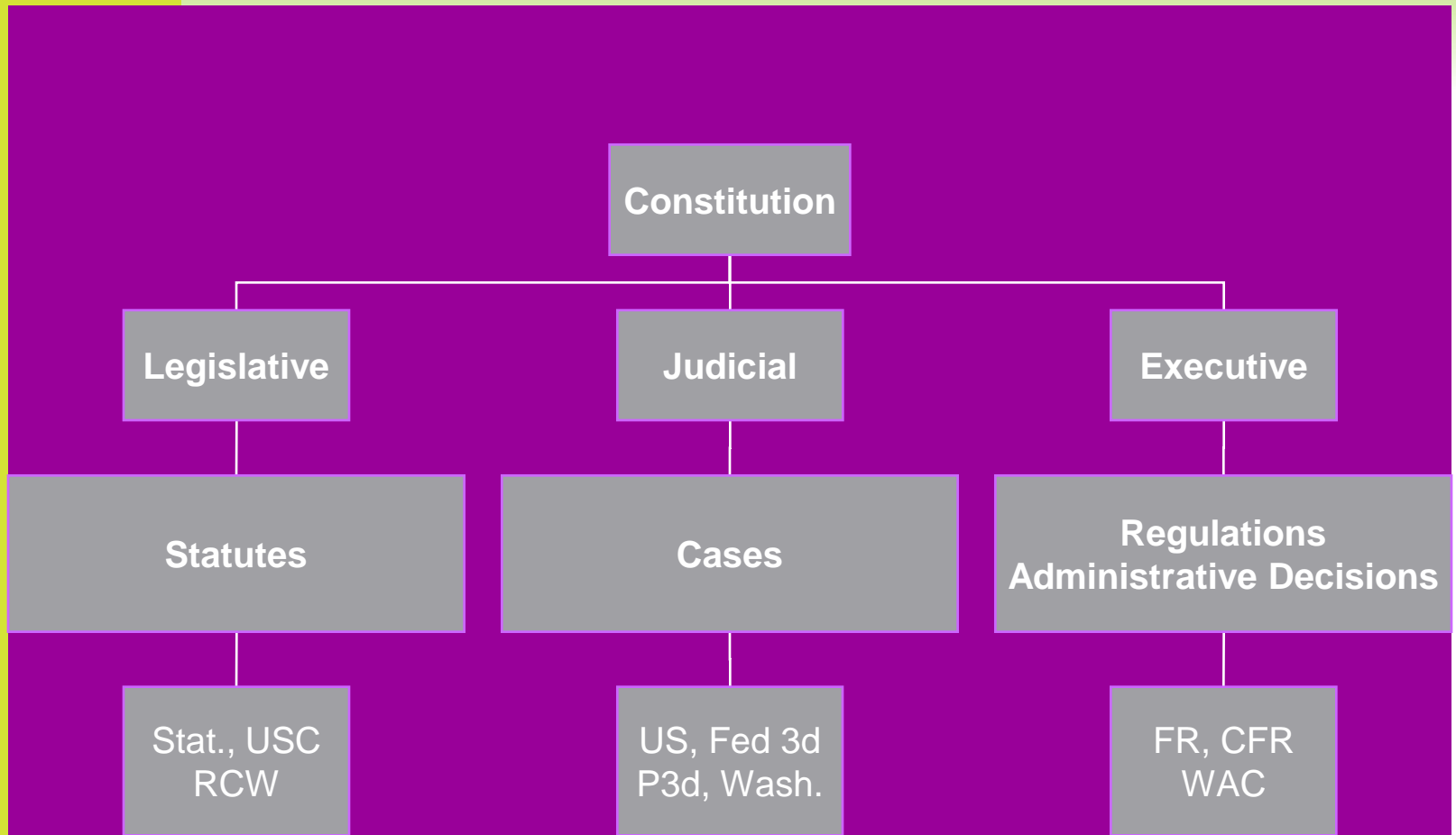


FINDING THE LAW: PRIMARY & SECONDARY SOURCES IN PRINT

Cheryl Nyberg
University of Washington
Gallagher Law Library

Introduction to Environmental Law & Process (SMA 476)
October 5, 2011

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

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

- 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 LAWS

- ③ Indexes to the U.S. Code
- ③ Footnotes in secondary sources

LEGAL CITATIONS: STATUTES

Endangered Species Act

- ⦿ Pub. L. No. 93-205
- ⦿ 87 Stat. 884
- ⦿ 16 U.S.C. § 1531 et seq. (2006)
 - 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

LEGAL CITATIONS: STATUTES

Endangered Species Act

- ◎ 87 Stat. 884
- ◎ 87 = volume 87
- ◎ Stat. = U.S. Statutes at Large
- ◎ 884 = first page number

LEGAL CITATIONS: STATUTES

Endangered Species Act

- ① 16 U.S.C. § § 1531 et seq. (2006)
- ① 16 = Title 16
- ① U.S.C. = United States Code
- ① § § = sections
- ① 1531 et seq. = 1531 & the following sections
- ① (2006) = publication year

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 ...

ADMINISTRATIVE LAW

- ⊙ Rules, regulations, and decisions
- ⊙ Specific subject jurisdiction
 - ⊙ *U.S. Government Manual*
- ⊙ Administrative Procedure Act, 5 U.S.C. §551 et seq.
 - ⊙ Notice of proposed rule
 - ⊙ Comment period
 - ⊙ Response to comments and final rule

CODE OF FEDERAL REGULATIONS

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

FEDERAL REGISTER

- ⊙ 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 C.F.R. Part 14 (2010)
- ◎ 50 = Title 50
- ◎ C.F.R. = Code of Federal Regulations
- ◎ Part 14 = part number
- ◎ (2010) = publication year

LEGAL CITATIONS: REGULATIONS

- ◎ Personally Owned Pet Birds,
 - ◎ 50 C.F.R. § 14.17 (2010)
- ◎ 50 = Title 50
- ◎ C.F.R. = Code of Federal Regulations
- ◎ § = section number
- ◎ (2010) = publication year



LEGAL CITATIONS: PROPOSED REGULATIONS

- ◎ Mandatory Reporting of Greenhouse Gases, 75 Fed. Reg. 48744 (Aug. 11, 2010).
- ◎ 75 = volume 75
- ◎ Fed. Reg. = Federal Register
- ◎ 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 and 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

- ③ Written opinions of judges deciding disputes
- ③ Interpret and apply relevant laws, regulations, and legal principles
- ③ Published by jurisdiction , court, and date
- ③ Gallagher guide on Reporters & Digests



FIND COURT OPINIONS USING AN ANNOTATED CODE

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

LEGAL CITATIONS: CASES

- ◎ Tennessee Valley Authority v. Hill,
437 U.S. 153, 98 S.Ct. 2279, 57
L.Ed.2d 117 (1978).
 - *Only need U.S.*
- ◎ San Carlos Apache Tribe v. U.S.,
272 F.Supp.2d 860 (D.Ariz. 2003).

LEGAL CITATIONS: CASES

Tennessee Valley Authority v. Hill,
437 U.S. 153 (1978).

- ⊙ 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?

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