

Researching Environmental Law SWALL Annual Meeting

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I. FEDERAL PRIMARY SOURCES

A. Statutes

- Federal statutes are codified in *United States Code*, *United States Code Annotated (U.S.C.A.)*, and *United States Code Service (U.S.C.S.)*.
 - Most environmental statutes are available in various chapters under the following titles:
 - Title 7: Agriculture
 - Title 15: Commerce and Trade
 - Title 16: Conservation
 - Title 33: Navigation and Navigable Waters
 - Title 42: The Public Health and Welfare
 - Check the subject index and popular names tables to retrieve environmental provisions located in other titles.
- Major Federal Acts
 - National Environmental Policy Act of 1969 (NEPA)¹
 - Clean Air Act of 1970 (CAA)²
 - Clean Water Act (CWA)³
 - Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)⁴
 - Endangered Species Act of 1973 (ESA)⁵
 - Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)⁶
 - Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA)⁷

¹ 42 U.S.C. § 4321 et seq. (1970).

² 42 U.S.C. § 7401 et seq. (1970), amended by 1977 and 1990 Clean Air Act Amendments.

³ 33 U.S.C. § 1251 et seq. (1972), also known as the 1972 Amendments to the Federal Water Pollution Control Act (FWPCA), was amended by the Clean Water Act Amendments of 1977 and 1987.

⁴ 42 U.S.C. § 9601 et seq. (1980). CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA).

⁵ 16 U.S.C. § 1531 et seq. (1973), amended by the Endangered Species Act Amendments in 1978 and 1982.

⁶ 7 U.S.C. § 136 et seq. (1948), amended by the Federal Environmental Pesticide Control Act of 1972 (FEPCA).

- Oil Pollution Act of 1990 (OPA)⁸
- Resource Conservation and Recovery Act of 1976 (RCRA)⁹
- Safe Drinking Water Act of 1974 (SDWA)¹⁰
- Toxic Substances Control Act of 1976 (TSCA)¹¹

B. Regulations

- Agencies
 - Environmental Protection Agency (<http://www.epa.gov/>)
 - Department of the Interior (<http://www.doi.gov/index.cfm>)
 - Bureau of Land Management (BLM) (<http://www.blm.gov/wo/st/en.html>)
 - Bureau of Indian Affairs (BIA) (<http://www.bia.gov/>)
 - Bureau of Ocean Energy Management (BOEM) (<http://www.boem.gov/>)
 - Bureau of Safety and Environmental Enforcement (BSEE) (<http://www.bsee.gov/>)
 - U.S. Fish and Wildlife Service (<http://www.fws.gov/>)
 - Council on Environmental Quality (CEQ) (<http://www.whitehouse.gov/administration/eop/ceq>)
 - National Oceanic and Atmospheric Administration (NOAA) (<http://www.noaa.gov/>)
 - Agency for Toxic Substances and Disease Registry (ATSDR) (<http://www.atsdr.cdc.gov/substances/index.asp>)
 - Occupational Safety & Health Review Commission (<http://www.oshrc.gov/>)
 - Department of Energy's Office of Environmental Management (<http://energy.gov/em/office-environmental-management>)
 - U.S. Justice Department, Environment and Natural Resources Division (<http://www.justice.gov/enrd/>)
- Federal regulations are available in the following publications:
 - *Code of Federal Regulations (C.F.R.)* (<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>)

Most environmental regulations are listed under the following:

 - Title 40, but check the index to locate regulations in other titles.

⁷ 16 U.S.C. § 1431 et seq. (1972) and 33 U.S.C. § 1401 (1988), also known as the “Ocean Dumping” act.

⁸ 33 U.S.C. § 2701 et seq. (1990).

⁹ 42 U.S.C. § 6901 et seq. (1976), this was amended by the Federal Hazardous and Solid Waste Amendments of 1984 (FHSWA).

¹⁰ 42 U.S.C. §300f et seq. (1974), this was amended by the Safe Drinking Water Act Amendments (SDWAA) of 1986 and 1996.

¹¹ 15 U.S.C. §2601 et seq. (1976).

- *Federal Register (F.R.)*
(<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>)
Contains proposed, temporary, and final regulations announced by federal agencies.
- Administrative Materials- Many of these documents are available on Westlaw/Westlaw Next and Lexis/Lexis Advance as well as the agencies' websites.
 - Agency/Administrative Law Judge (A.L.J.) Decisions
 - General Counsel Memoranda/Opinions
 - Public Guidance
 - Staff/Administrative Manuals

C. Case Law

- Researching federal and state cases on environmental law.
 - Search for cases utilizing the West Digest system (either with the print digests or on Westlaw/Westlaw Next) using the topic, “149E Environmental Law.”
 - Search for cases with the BNA headnote system, using the subject heading “Environmental Law”.
 - Search for cases by headnotes on Lexis using the subject heading “Environmental Law”.
 - *Environment Reporter-Cases (Bound Volumes)*, Arlington, VA: Bloomberg BNA, 1970-current. This multi-volume set contains environmental law related court cases. This has a cumulative digest.

D. Validating Your Research

Researching environmental law, as with any area of law, requires the most current and reliable information. As such, it is important to ensure that the primary sources including statutes, regulations, cases, and even administrative decisions that you are relying upon are valid. Use the following tools to validate your research:

- KeyCite (Westlaw/Westlaw Next)
- Shepard’s (Lexis/Lexis Advance)
- BCite Analysis (Bloomberg Law)

II. STATE PRIMARY SOURCES

A. Statutes

Note: Use the subject index (available for the different state codes below) to locate environmental statutes that may be located in other titles besides those listed below.

- *Arizona Revised Statutes*
 - Title 49: The Environment

- *Arkansas Code of 1987*
 - Title 8: Environmental Law
- *Colorado Revised Statutes Annotated*
 - Title 25: Health, Articles 6.5-19
- *Kansas Statutes Annotated*
 - Chapter 65: Public Health
- *Vernon's Annotated Missouri Statutes*
 - Title XVI: Conservation, Resources, and Development, Chapter 260: Environmental Control
- *New Mexico Statutes 1978 Annotated*
 - Chapter 74: Environmental Improvement
- *Oklahoma Statutes Annotated*
 - Title 27a: Environment and Natural Resources
- *Vernon's Texas Codes Annotated*
 - Texas Health and Safety Code, Title 5: Sanitation and Environmental Quality

B. Regulations

- **State Agencies**
 - Arizona Department of Environmental Quality
(<http://www.azdeq.gov/>)
 - Arizona Fish & Game Department
(<http://www.azgfd.gov/>)
 - Arkansas Department of Environmental Quality
(<http://www.adeq.state.ar.us/>)
 - Colorado Department of Public Health and Environment
(<http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251583470000>)
 - Kansas Department of Health and Environment
(<http://www.kdheks.gov/>)
 - Missouri Department of Conservation
(<http://mdc.mo.gov/>)
 - Missouri Department of Natural Resources
(<http://www.dnr.mo.gov/>)
 - New Mexico Environment Department
(<http://www.nmenv.state.nm.us/>)
 - Oklahoma Conservation Commission
(<http://www.ok.gov/conservation/>)
 - Oklahoma Department of Environmental Quality
(<http://www.deq.state.ok.us/>)
 - Texas Commission on Environmental Quality
(<http://www.tceq.state.tx.us/>)

- **Sources for State Regulations**

Note: Use the subject index (available for each of the state codified regulations listed below) to locate environmental regulations that may be located in other titles besides those listed below.

- *Arizona Administrative Code*
 - Title 18: Environmental Quality
- *Code of Arkansas Rules and Regulations*
 - Title 14: Department of Environmental Quality
- *Code of Colorado Regulations*
 - Title 1000: Department of Public Health and Environment
- *Kansas Administrative Regulations*
 - Agency 28: Department of Health and Environment
- *Missouri Code of State Regulations*
 - Title 10: Department of Natural Resources
- *New Mexico Administrative Code*
 - Title 20: Environmental Protection
- *Oklahoma Administrative Code*
 - Title 252: Department of Environmental Quality
- *Texas Administrative Code*
 - Title 30: Environmental Quality

C. Case Law

See the discussion in Section I.C regarding researching environmental law cases.

III. SECONDARY SOURCES

A. Books

- Eggen, Jean Macchiaroli. *Toxic Torts in a Nutshell*, 4th ed. St Paul, MN: Thomson Reuters, 2010.
- Farber, Daniel A. *Environmental Law in a Nutshell*, 8th ed. St. Paul, MN: Thomson Reuters, 2010.
- *Federal Environmental Laws*. Eagan, MN: West, 2012.
- Ferrey, Steven. *Environmental Law: Examples & Explanations*, 5th ed. New York: Aspen Publishers, 2010.
- Rodgers, William H. *Environmental Law*, 2d ed. Hornbook Series. St. Paul, MN: Thomson Reuters, 1994.
- Salzman, James & Thompson, Jr., Barton H. *Environmental Law and Policy*, 3d ed. New York, NY: Foundation Press; St. Paul, MN: Thomson Reuters, 2010.

- Weinberg, Philip & Reilly, Kevin A. *Understanding Environmental Law*, 2d ed. Newark, NJ: LexisNexis, 2008.

B. Legal Encyclopedias

- *American Jurisprudence*, 2d. St Paul, MN: Thomson Reuters, 1962-current.
- *Corpus Juris Secundum*. St. Paul, MN: Thomson Reuters, 1936-current.

C. Treatises/Practice Guides

- *The Clean Air Act Handbook*, 3rd ed. Domike, Julie R & Zacaroli, Alec C., eds. Chicago: Section of Environment, Energy, and Resources, American Bar Association, 2011.
- *The Clean Water Act Handbook*, 3rd ed. Ryan, Mark A., ed. Chicago: Section of Environment, Energy, and Resources, American Bar Association, 2011.
- *Environmental Science Deskbook*. Conrad, Jr., James J., ed. St. Paul, MN: Thomson Reuters, 1998-current.
- Grad, Frank. *Treatise on Environmental Law*. New York: Matthew Bender, 1973-current.
- *Law of Environmental Protection*, 2nd ed. Novick, Sheldon M., Stever, Donald W. & Mellon, Margaret G., eds., (Environmental Law Series), New York: Clark Boardman Callaghan (Thomson Reuters), 2013.
- Mandelker, Daniel R. *NEPA Law and Litigation*, 2nd ed. New York: Clark Boardman Callaghan (Thomson Reuters), 1992-current.
- Randle, Russell V. *Oil Pollution Deskbook*, 2nd ed. Washington, DC: Environmental Law Institute, 2012.
- Riesel, Daniel. *Environmental Enforcement: Civil and Criminal*. New York: Law Journal Seminars-Press, 1997-current.
- Rodgers, William H. *Rodgers' Environmental Law*. St Paul, MN: Thomson Reuters, 1986-current.
- Selmi, Daniel P. & Manaster, Kenneth A. *State Environmental Law*. New York: Clark Boardman Callaghan (Thomson Reuters), 1999-current.
- Steinway, Daniel M., Ewing, Kevin A., Case, David R., Nardi, Karen J. & Brownell, William F. *Environmental Law Handbook*, 21st ed. Lanham, MD: Government Institutes, 2011.

D. Dictionaries

- Robinson, Nicolas A. *Environmental Law Lexicon*. New York: Law Journals Seminar Press, 1992-current.
- *The Environmental Regulatory Dictionary*, 4th ed., King, James J., ed. Hoboken, NJ: Wiley & Sons, 2005.

E. Law Journals/Periodicals

- Law Journals and Periodicals Indexes
 - LegalTrac database
 - Index to Foreign Legal Periodicals database
 - Current Index to Legal Periodicals database
 - The HeinOnline database will have the full text of most law journal articles, but the law library has recent print issues for most legal periodicals as well.
 - JSTOR, available will have some legal journal titles.

F. News/Current Awareness

- *The Environmental Law Reporter: News & Analysis*. Washington, DC: Environmental Law Institute, 1971-current. This contains articles, commentary, and recent developments in environmental law.
- *Environment Reporter*. Washington, DC: Bloomberg BNA, 1970-current. This is a part of a comprehensive multi-volume set that includes the full text of primary sources pertaining to environmental law, but it also includes news that covers topics such as air pollution, climate & energy, waste control & cleanup, water pollution, and state news. There is also a special report section and currently, a section covering the gulf oil spill. The journal section provides an overview of recent environmental legislation, regulations, case law, executive orders, and agency decisions.

IV. ONLINE RESEARCH

A. Databases

1. Environment and Energy (E&E) Daily Publications:

- *Climatewire*
- *EnergyWire*
- *Environment and Energy Daily*
- *Environment and Energy PM*
- *Greenwire*

2. Bloomberg Law

- Contains primary law such as statutes, regulations, and case law at the federal and state level
- Bloomberg BNA Publications listed above are available
- Use Bloomberg BNA Headnotes for Case Law Research
 - First, click “Litigation & Dockets” from the top of the page
 - Second, from the drop-down window, click “BNA Headnotes”
 - Third, click “Environment” from the list of subjects
 - Finally, choose from the environment cases classification outline, to obtain a list of cases, related to a particular environmental law subject.

3. Lexis/Lexis Advance

- On Lexis’ search page, click “Area of Law-By Topic” and then click “Environment” from the list of subjects to utilize a page that will list all primary and major secondary sources related to this field.
- On Lexis Advance’s main page, click the “browse subjects” link above the search box, click “Environmental Law” from the list of practice areas, and then select from the list of environmental law related topics, and choose “Get topics documents”. Select from the tabs at the top or use the search box on the left side of the page to locate materials.
- Secondary Sources available:
 - News/Current Awareness
 - *Carbon Control News*
 - *Climate Spectator*
 - *ELR News and Analysis*
 - *Lloyd's Environmental Litigation Reporter*
 - *Mealey's News*

- Select Treatises/Practice Guides
 - *Environmental Law Practice Guide*
 - *Environmental Enforcement: Civil and Criminal*
 - *Green Buildings: Law, Contract and Regulation*
 - *The Law of Hazardous Waste*
 - *Marine Oil Pollution*
 - *Treatise on Environmental Law*

4. Westlaw/Westlaw Next

- On Westlaw Next’s main page, click the “topics” tab and then select “Environmental Law” from the list. This will display primary and secondary sources related to “Environmental Law.”
- On Westlaw (Classic), create an “environmental law” page by clicking the small “add a tab” link at the top right, click the “Add Westlaw Tabs” link, check off the box next to “Environmental Law Practitioner,” and then click “Add to my Tab Set” link at the bottom of the page. This will compile a list of primary and secondary sources related to environmental law.
- Select list of secondary sources available:
 - News/Current Awareness
 - *Aboveground Storage Tank Guide Newsletter*
 - *Clean Air Permits: Managers Guide to the 1990 Clean Air Act Newsletter*
 - *Environmental Counselor*
 - *Planning & Environmental Law*
 - *Real Estate/Environmental Liability News*
 - *Stormwater Permit Manual Newsletter*
 - *Underground Storage Tank Guide Newsletter*
 - *Westlaw Journal Environmental*
 - Select Treatises/Practice Guides
 - *Clean Air Act Handbook*
 - *Corporate Compliance Series: Environmental*
 - *Environmental Insurance Litigation: Law & Practice*
 - *Environmental Law in Indian Country*
 - *Environmental Liability Allocation: Law & Practice*
 - *Environmental Liability & Real Property Transactions*
 - *Environmental Regulation of Land Use*

- *Environmental Science Deskbook*
- *Environmental Spill Reporting Handbook*
- *Law of Chemical Regulation & Hazardous Waste*
- *Rodger's Environmental Law*

B. Other Helpful Websites

- Government Accountability Office (GAO) (<http://www.gao.gov/>)
- Government Printing Office-Federal Digital System (FDsys)(<http://www.gpo.gov/fdsys/search/home.action>)
- Congress.gov (<http://congress.gov/>)

V. RESEARCH GUIDES

- Georgetown Law Library Environmental Law Research Guide (<http://www.law.georgetown.edu/library/research/guides/environmental.cfm>)
- Duke Law Library Environmental Law Research Guide (<http://law.duke.edu/lib/researchguides/env>)