

Research for Practice of Environmental Law

Katy Stein Badeaux
Reference & Research Librarian

kastein@central.uh.edu
713-743-2324

O'Quinn Law Library homepage: <http://law.uh.edu/libraries/>

Statutes

FDsys.gov: Access U.S. Code through the government's website, FDsys, at <http://www.gpo.gov/fdsys/browse/collectionUSCode.action?collectionCode=USCODE>.

Westlaw: Access all major state and federal environmental law statutes by typing "environmental law statutes and court rules" in main page search box.

LexisNexis: In LexisAdvance, click on the "Browse" button at the top of the screen, and select "Practice Pages." Environmental Law is one of the options. In Lexis.com, choose "Environment" under "Area of Law—By Topic", select "Find Statutes and Legislative Material."

EPA.gov: The EPA website provides summaries, citations, and links to the full-text of all environmental laws administered by the EPA: <http://www.epa.gov/lawsregs/laws>

Major Federal Environmental Protection Statutes

National Environmental Policy Act of 1969 (NEPA)¹- establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and provides a process for implementing these goals within the federal agencies. The Act also establishes the Council on Environmental Quality (CEQ).

Endangered Species Act (ESA)²: The goal is first to prevent extinction of endangered plants and animals, and second to recover these populations by preventing threats to their survival. Primarily carried out by the Fish and Wildlife Service of the Department of the Interior.

Resource Conservation and Recovery Act (RCRA)³: A "cradle-to-grave" system of preventing pollution. This uses a manifest system to ensure that waste is properly disposed of, and thus not dumped into the environment. Administered by the EPA.

Comprehensive Environmental Response Compensation and Liability Act (CERCLA)⁴: Also known as the "superfund," this statute is aimed at cleaning up already polluted areas. This

¹ 42 U.S.C. § 4321 et seq. (1970).

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

³ 42 U.S.C. § 6901 et seq.

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

statute assigns liability to almost anyone associated with the improper disposal of hazardous waste, and is designed to provide funding for clean-up. Administered by the EPA.

Clean Air Act (CAA)⁵: The CAA is designed to protect air quality by regulating stationary and mobile sources of pollution. Administered by the EPA.

Clean Water Act (CWA)⁶: The CWA protects water by preventing discharge of pollutants into navigable waters from point sources. Administered by the EPA.

Legislative History

HeinOnline. The most comprehensive legislative history information for federal statutes can be found at **HeinOnline**. To access HeinOnline, go to the law library's website, (<http://law.uh.edu/libraries/>), and select HeinOnline from the Legal Databases dropdown menu, VPN required if off campus.⁷ From the main menu of libraries, select the "U.S. Federal Legislative History Library." Find the statute you are researching by public law number or popular name.

Administrative Regulations

Code of Federal Regulations (C.F.R.)

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>. Most environmental regulations are listed under Title 40, but check the index to locate regulations in other titles.

Federal Register (F.R.) <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>
Contains proposed, temporary, and final regulations announced by federal agencies.

The C.F.R. and Federal Register can also be accessed on Westlaw/LexisNexis/Bloomberg. If you are tracing the history of a C.F.R. section, try using the C.F.R. library on HeinOnline.

Administrative Decisions

EPA Office of Administrative Law Judges- An independent office in the Office of the Administrator of the EPA. Administrative Law Judges (ALJ) conduct hearings and render decisions in proceedings between the EPA and persons, businesses, and government entities that are regulated under environmental laws. All decisions issued by an ALJ are subject to review by

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

⁶ 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.

⁷ Note that if you are off campus, you must be connected to the Virtual Private Network (VPN) with the law library configuration file (see <http://law.uh.edu/lit/instructions/VPN/vpn.asp> for instructions) to access subscription databases that are not accessed through a username and password like Westlaw and LexisNexis. This applies to HeinOnline, BNA databases, greenwire, etc.)

the Environmental Appeals Board (EAB). Decisions and orders of the ALJ (1989-present) are available at <http://www.epa.gov/oalj/orders.htm>. ALJ decisions are also available on Westlaw and LexisNexis.

Environmental Appeals Board is the final agency decision-maker on administrative appeals under all major environmental statutes that EPA administers. Many of the Environmental Appeals Board's formal written opinions are available at http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf. EAB decisions are also accessible through Westlaw and LexisNexis.

Finding Environmental Protection Agency Documents- <http://www.epa.gov>

The EPA website is massive and full of information. It's a great starting place for almost any environmental topic.

Some highlights:

Enforcement and Compliance Policy and Guidance Documents:
<http://www2.epa.gov/enforcement/policy-guidance-publications>

Envirofacts Data Warehouse- <http://www.epa.gov/enviro/index.html> - Provides public with direct access to EPA data.

National Service Center for Environmental Publications (NSCEP)- <http://www.epa.gov/nscep> - A central repository for all EPA documents with more than 35,000 digital titles.

EnviroMapper for Envirofacts- <http://www.epa.gov/emefdata/em4ef.home>: Web site provides access to several EPA databases to provide you with information about environmental activities that may affect air, water, and land anywhere in the United States. With Envirofacts, you can learn more about these environmental activities in your area or you can generate maps of environmental information.

Record of Decisions System (RODS)- <http://cumulis.epa.gov/superrods>: The Record of Decision System (RODS) contains full-text Records of Decision (RODs), ROD Abstracts, ROD Amendments (AMDs) and Explanations of Significant Differences (ESDs). A ROD provides the justification for the remedial action (treatment) chosen at a Superfund site. It also contains site history, site description, site characteristics, community participation, enforcement activities, past and present activities, contaminated media, the contaminants present, scope and role of response action and the remedy selected for cleanup. Also available in LexisNexis

RCRA Online Database: <http://www.epa.gov/solidwaste/inforesources/online/index.htm>

RCRA Online is an electronic database of selected letters, memoranda, questions and answers, publications, and other outreach materials, written by the Environmental Protection Agency's

(EPA) Office of Solid Waste (OSW) since 1980. These documents cover the management of non-hazardous, hazardous, and medical waste regulated by the Resource Conservation and Recovery Act (RCRA). Updates occur on a monthly basis.

Environmental Impact Statements

The NEPA requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.

EPA Enforcement and Compliance- <http://www.epa.gov/compliance/nepa/index.html>- Includes detailed information about submitting Environmental Impact Statements.

EISs: Environmental Impact Statements Full-text and Digests:

<http://library.uh.edu/record=b4810239~S12> Available through ProQuest database, full text coverage from 2003 and digests from 1985, access through library catalog.

FOIA & EPA

EPA FOIA Reference Guide: <http://www.epa.gov/foia/guide.html>

Enforcement and Compliance Assurance FOIA Electronic Reading Room-

http://www.epa.gov/foia/reading_rooms.html The EPA's Reading Rooms contains final opinions made in the adjudication of administrative cases, Agency policy statements, frequently requested records and certain administrative staff manuals. There are separate Reading Rooms for each EPA region. Texas is a part of Region 6.

Enforcement and Compliance Docket and Information Center-

<http://cfpub.epa.gov/compliance/resources/policies/search/>. The ECDIC provides public access to regulatory, case settlement, and other policy related information supporting the Agency's enforcement and compliance activities. As the central archive for all documents related to enforcement and compliance activities, ECDIC provides access to internet accessible documentation and older hard copy documents.

Enforcement and Compliance History Online (ECHO)- <http://www.epa.gov/echo>

ECHO allows users to find permit, inspection, violation, enforcement action, and penalty information covering the past three years. The site includes facilities regulated as Clean Air Act stationary sources, Clean Water Act direct dischargers, and Resource Conservation and Recovery Act hazardous waste generators/handlers. The data in ECHO are updated monthly.

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.

Court Filings- Federal court filings can be found, free of charge, through Bloomberglaw.com⁸. After entering Bloomberg Law, click on “dockets” under the “Getting Started” menu. Then, you can search for dockets by docket number, party name, etc. If the document is available on PACER, Bloomberg will download it for you free of charge.

Looseleaf Services

Looseleaf services bring together statutes, regulations, cases, rulings, and editorial commentary on specific areas of law. Now looseleaf services have largely morphed into online subscription services with small print components.

Environmental Law Reporter (Environmental Law Institute): Provides updates on recent decisions, legislative developments, and agency actions, at both the federal and state levels. Service covers recent developments in the courts, Congress, and agencies and contains primary law sources and articles and analysis of environmental law issues. ELR includes the full text of important federal environmental statutes and major treaties and agreements, as well as state and international materials.

Access Points:

Print: News and Analysis only. Call number: KF 3775 .A6 E634

Westlaw: News and Analysis only

LexisNexis: News and Analysis, Litigation Materials, Administrative Materials

Direct Website: Search library catalog for “ELR: the environmental law reporter.” (<http://library.uh.edu/record=b3670175~S8>), then link directly from catalog. Note you must be on campus or connected via VPN elsewhere.

⁸ If you do not have a Bloomberg Law account, visit <http://www.bloomberglaw.com/activate> . You do not need an activation code.

Environment Reporter: Weekly report of the latest legislative, administrative, judicial, regulatory, industrial, and technological developments affecting pollution control and environmental protection. Note that the online version of Environment Reporter includes just the current reports. For other analysis, compliance tools, and the full text of judicial decisions, federal statutes, and administrative regulations, use [Bloomberg BNA's Environment and Safety Resource Center](#). Primary and secondary material covering federal environmental laws, regulations, all significant federal and state court cases relevant to environmental law, policies, executive orders, and current developments. Online subscription available.

Online Access: <http://law.uh.edu/libraries/BNASubject.asp>

<http://www.bloomberglaw.com> – On “getting started” menu, select BNA Law Reports, select environment from the drop-down menu.

Print Access: KF3775 A6 E49

Other Bloomberg/BNA databases relating to Environmental Law:

[Chemical Regulation Reporter](#)

[Daily Environment Report](#)

[Environment & Safety Resource Center](#)

[Environment Reporter](#)

[Environmental Due Diligence Report](#)

[International Environment Reporter](#)

[State Environment Daily](#)

[Toxics Law Reporter](#)

[Water Law & Policy Monitor](#)

Environment & Energy (E&E) Daily Publications: Access via law library website database drop-down menu, select “Environment and Energy Daily”

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

Practice Guides/Forms/Deskbooks/Litigation Guides

Environmental Law Handbook, KF 3775.E55.

Select Practice Materials & Treatises Available on Westlaw:

Clean Air Act Handbook: Excellent resource for information regarding the Title V Operating Permit Program. Also available in print at KF 3812 .C554 2011(on reserve).

Environmental Law (Rodgers): Comprehensive treatise and guide to environmental statutes, court decisions, and administrative regulations governing air and water pollution, land management, toxic and hazardous wastes, and pesticides. Available in print at KF 3812 .R63.

Environmental Law Forms Guide- Forms for litigation (petitions, answers, discovery, etc.) relating to environmental law, organized by major federal statute (RCRA, CWA, CAA, etc.).

NEPA Law and Litigation- Overview of NEPA and NEPA litigation.

RCRA and Superfund: A Practice Guide- Comprehensive discussion of RCRA and CERCLA requirements, statutes, and insurance coverage for hazardous waste liabilities. Includes tips on accessing and using information about hazardous waste regulation and trial strategies.

State Environmental Law- Explains common law roots of environmental law and state and local implementation of federal environmental law. Available in print at: KF 3775 .S45

Select Practice Materials & Treatises Available on LexisNexis:

Environmental Enforcement Civil and Criminal: Addresses complex system of civil and criminal enforcement of federal and state environmental law. Available in print at: KF 3775 .R53.

Environmental Law & Climate Change Transactional Advisor: Resources for disclosures and compliance, due diligence, and document drafting sourced from LexisNexis resources. To access, log in to LexisAdvance, select lexis.com from red research tab. Once in Lexis.com, click on the "More" tab and select Lexis Transactional Advisor. Click on "environmental" to begin.

Environmental Law Practice Guide: State and Federal Law: Contains topical chapters covering environmental subjects and a 50 state reference guide covering environmental laws and regulations from all the states. Chapter 86 provides complete bibliography of Texas environmental law resources.

Law of Hazardous Waste: Management, Cleanup, Liability, and Litigation: treatise on the management of hazardous waste, whether newly generated or the result of past dumping. Available in print at: KF 3946 .L39.

Treatise on Environmental Law- Multi-volume treatise provides analysis of statutes, regulations and agency court decisions in every area of environmental law.

Journals & Law Reviews

Though many law reviews and journals can be found on Westlaw and LexisNexis, often these databases will not have complete coverage or all titles. The best resource for finding full coverage of journals and law reviews is found in HeinOnline, in the Law Journal Library. To connect, select HeinOnline from the database drop-down menu on the [law library website](#).

Texas Environmental Law

Statutes

Texas Solid Waste Disposal Act⁹ --implements RCRA subtitle C.

Texas Clean Air Act¹⁰

Injection Well Act¹¹

Texas Water Quality Control Act¹²

Texas “Superfund” Statute¹³

State Regulations

Texas Register- Texas equivalent to the Federal Register. Published daily, available at <http://www.sos.state.tx.us/texreg/index.shtml>. Also available on Westlaw and LexisNexis.

Texas Administrative Code- Texas equivalent to the CFR. Available at <http://www.sos.state.tx.us/tac/index.shtml>, Westlaw and LexisNexis.

- o [Title 30 Environmental Quality](#)
- o [Title 31 Natural Resources and Conservation](#)

Agencies

Texas Commission on Environmental Quality- <http://www.tceq.state.tx.us/>

Includes information on licenses, permits (from air permits to waste management), Superfund sites, forms, [TCEQ Commissioners' Integrated Database](#), [Status of Permits and Registrations](#).

⁹ Tex. Health & Safety Code Ann. Ch. 361. *See, generally, §§10:1 et seq.*

¹⁰ Tex. Health & Safety Code Ann. Ch. 382. *See, generally, §§ 5:1 et seq.*

¹¹ Tex. Water Code Ann. Ch. 27. *See, generally, §9.1 et seq.*

¹² Tex. Water Code Ann. Ch. 26. *See, generally, §6.1 et seq.*

¹³ Tex. Health and Safety Code Ann. §§ 361.181 to 361.202

Texas Railroad Commission- <http://www.rrc.state.tx.us/>

Texas Attorney General: Environmental Protection and Administrative Law Division:
<https://www.oag.state.tx.us/agency/civil.shtml#EPAL>

Texas General Land Office: <http://www.glo.texas.gov/>

Texas Parks and Wildlife: <http://www.tpwd.state.tx.us/business/about/divisions/legal/>

Secondary Sources:

Texas Environmental Law (part of Texas Practice Series)- Provides overview of Texas environmental programs, state agencies, and federal/state interaction. The two volumes cover civil and criminal enforcement issues, air and water quality, solid waste, and Texas Superfund. Available on Westlaw, or in print at KFT 1280 T4 volumes 45 and 46.

Essentials of Texas Water Resources- Published by the State Bar of Texas Environmental & Natural Resources Law Section, provides a complete overview of all aspects of Texas water law. In print (reserve) at KFT 1646 .A75 E87 2012.