

Topical Research Guide: Environmental Law

Environmental law is the body of law that governs and advocates the protection of environment, natural resources and ecological sustainability. In Canada, environmental law is governed by federal and provincial legislation and is heavily regulated. The resources in this guide have been chosen to help you with your research. This guide contains resources not only at the Canadian level, but also at the national and international level.

Canada

Primary Sources:

1. Statutes and Regulations
2. Case Law

Secondary Sources:

1. Textbooks
2. Law Journals
3. Legal Encyclopedias
4. Case Law Digests

Internet Resources

United States

Primary Sources:

1. Statutes and Regulations
2. Case Law

Secondary Sources:

1. Law Journals
2. Research Guides

International

International Organizations and Treaties

Secondary Sources:

1. Textbooks
2. Law Journals
3. Internet Resources

Canada

Primary Sources:

1. Statutes and Regulations

Major statutes on Environmental Law include but are not limited to:

Canadian Environmental Assessment Act, S.C. 1992, c. 37.

Canadian Environmental Protection Act, 1999, S.C. 1999, c. 33.

Environmental Assessment Act, R.S.O. 1990, c. E.18.

Environmental Bill of Rights, 1993, S.O. 1993, c. 28.

Environmental Protection Act, R.S.O. 1990, c. E.19.
Environmental Review Tribunal Act, 2000, S.O. 2000, c. 26.

For a complete list of statutes and regulations, consult:

Ontario Environmental Legislation (Aurora, Ont.: Canada Law Book, 1994-). Call Number: KF 3775 O76 (current edition on reserve)

Franson, Robert T. and Alastair R. Lucas, *Canadian environmental law*, 2d ed. looseleaf (Scarborough, Ont.: Butterworths, 1991-). Call Number: KF 3775 A6 F73 CUR

To **search** statutes and regulations using **Electronic Resources**:

Legal databases such as Quicklaw and Westlaw Canada are good resources for searching statutes and regulations for all federal, provincial and territorial jurisdictions. The “Point-in-Time” search capability found in the legislative collection in Quicklaw is useful in knowing what statutory provision was in effect at a particular time.

To **search** statutes and regulations using **Internet Sources**:

Statutes, regulations and legislative information are also made available on the Web through the Canadian Legal Information Institute CANLII. For federal statutes and regulations, consult the Department of Justice Canada. For Ontario statutes and regulations, consult the E-laws website.

2. Case Law

To **look up** cases on Environmental Law using law reports and annotated statutes:

1. Use *Canadian Environmental Law Reports*, (New Series) (Toronto: Carswell, 1972-). Also available electronically through Westlaw Canada
2. Use annotated acts to look up relevant cases. For example, Duncan J. Cameron, Daniel C. Blasioli, Michel Ar`es, *Annotated guide to Canadian Environmental Protection Act*, (Aurora, Ont.: Canada Law Book, 2004). Call Number: KF3773 ZA2 C315 2004

To **search** cases using Electronic databases: (using keyword searches by subject or by case name)

1. Quicklaw has access to decisions from over 100 boards and tribunals across the country > Source Directory > Browse Sources
 - a. select by “Area of Law”,
 - b. filter by “Country” – choose “Canada”, by “All Regions”, by Publication Type – choose “Cases”
 - c. click on the link “Environmental Law”

- d. select “Group sources” for all Environmental Law Cases, select “Single sources” for provincial Appeal Board or Tribunal Decisions
2. Westlaw Canada > Law Source > Cases > Search Cases
 - a. enter search terms, for example, “ Oak Ridges Moraine” ,
 - b. choose “the results must contain ‘this phrase’” from the drop down menu of the search template
 - c. limit results by jurisdiction, by subject area and by Carswell law report

The meaning of a particular word or phrase is key to narrow your research and to look for relevant case law. Use *Words and Phrases: judicially defined in Canadian courts and tribunals* (Scarborough, Ont.: Carswell, 1993-), Call Number: DIG A285 to choose your keywords carefully for online case research. Available also electronically through Quicklaw > Search > General > Find a document, select “Find a definition” from the pull down menu, enter the search term.

Use *Sanagan’s Encyclopedia of Words and Phrases Legal Maxims* (Toronto: Thomson Carswell, 2005-), Call Number: DIG A28 to find out how words and phrases are interpreted in Canadian legal decisions.

To **find** how a word or phrase has been defined in Canadian Legislation, enter the word or phrase, for example, “greenbelt planning” in the “Defined Term” field on the Legislation search template available through LawSource on Westlaw Canada.

To **locate** cases using Digests and Indexes:

Use *Canadian Abridgement Vol 31: Environmental Law*. Call Number: DIG B35 3ed., also available electronically through Westlaw Canada.

Court decisions from various federal and provincial courts and jurisdictions are now available on the **Internet** through Supreme Court of Canada website and through CANLII.

Noting up cases, i.e. to find how the cases have been judicially considered, is an essential step in legal research. Use *Canadian Case Citations* Call Number: DIG B35 to note up Canadian case law. An electronic version is available on Westlaw Canada. QuickCITE is available on QuickLaw and this tool covers Canadian cases since 1940.

Secondary Sources:

Secondary resources include textbooks, law journal articles, encyclopedias and case law digests. Such sources provide not only a broad overview of the law, but also references to relevant legislation and case law.

1. Textbooks

Locate books in the Library Catalogue

Subject headings to try:

Environmental Law- Canada
Pollution -Law and Legislation -Canada
Environmental policy - Canada
Sustainable development- Law and legislation

Titles available in the Law Library:

Bruce R. Pardy, *Environmental law : a guide to concepts* (Toronto: Butterworths, 1996).
Call Number: KF 3775 P37 1996

Ciaran O'Faircheallaigh, *Environmental agreements in Canada: aboriginal participation, EIA follow-up and environmental management of major projects* (Calgary: Canadian Institute of Resources Law). Call Number: KF 3775 ZA2 O43 2006

David Estrin & John Swaigen, *Environment on trial : a guide to Ontario environmental law and policy* (Toronto: Emond Montgomery, 1993). Call Number: KF 3775 Z9 E88 1993 (on reserve)

David R. Boyd, *Unnatural law : rethinking Canadian environmental law and policy* (Vancouver: UBC Press, 2003). Call Number: KE 3619 B69 2003 (on reserve)

Debra L. VanNijnatten & Robert Boardman, eds., *Canadian environmental policy : context and cases* (Toronto: Oxford University Press, 2002). Call Number: HC 120 E5 C368 2002 (on reserve)

Dianne Saxe, *Environmental offences : corporate responsibility and executive liability* (Aurora, Ont.: Canada Law Book, 1990). Call Number: KF 1298 S39 1990

Dianne Saxe, *Ontario Environmental Protection Act annotated* (Aurora, Ont.: Canada Law Book, 1990). Call Number: KF 3775 A6 S38 1990 v 1-5 (on reserve)

Elaine L. Hughes, Alastair R. Lucas & William A. Tilleman, eds., *Environmental law and policy* (Toronto: Emond Montgomery, 2003). Call Number: KF 3775 ZA2 E55 2003 (on reserve)

Halsbury's laws of Canada: Environment (Markham, Ont.: LexisNexis, 2006). Call Number: DIG B56

Jack D. Coop & Rodney Northey, *Environmental advocacy : casebook and pleadings* (Toronto: Osgoode Hall Law School, 2005). Call Number: KF 3775 ZA2 E075 2005-06 (on reserve)

Jamie Benidickson, *Environmental Law* (Toronto: Irwin Law, 2009). Call Number: KF 3775 ZA2 B46 2009

John Swaigen, *Regulatory offences in Canada : liability & defences* (Scarborough, Ont.: Carswell, 1992). Call Number: KF 1292 S96 1992

Maureen Carter-Whitney, *Environmental regulation in Canada* (Markham, Ont.: LexisNexis Canada, 2008). Call Number: KF 5505 J442 2008

Meinhard Doelle, *Canadian Environmental Protection Act and commentary* (Markham, Ont.: LexisNexis Butterworths, 2005). Call Number: KF 3775 ZA2 D64 2005

Ontario environmental legislation (Aurora, Ont.: Canada Law Book, 2004-2005). Call Number: KF 3775 O76 (on reserve)

Paul Muldoon, Rick Lindgren & Pollution Probe, *The Environmental Bill of Rights : a practical guide* (Toronto: Emond Montgomery Publications, 1995). Call Number: KF 3775 M85 1995 (on reserve)

Rodney Northey, *The 1995 annotated Canadian environmental assessment act and EARP guidelines order* (Toronto: Carswell, 1994-1995). Call Number: KF 3775 ZA2 N67 1994

Shauna J Parr, *A Framework for environmental regulation by local government* (Toronto: York University, 2007). Call Number: KF3773 ZB3 P37 2007

2. Law Journals

Locate journal articles and commentary from **indexes and databases**:

Journal articles and commentary are good source of current information. Many of these journals are forums for critical discussion of policy and legal matters and developing ideas in environmental law. Use periodical indexes, for example, **Index to Canadian Legal Literature** to search for citations to full-text articles, case comments and book reviews. **ICLL** is available both in print and electronically through Quicklaw and through Westlaw Canada.

For a complete list of legal periodical indexes, click on Research Databases under Law Research Guide and Resources at the Law Library Website.

Locate journals in the Library Catalogue:

Use the keyword search and type in “environmental law periodicals”, limit library to Law Library.

3. Legal Encyclopedias

Legal encyclopedias are a good starting point because of their currency, narrative commentaries and broad overview of the topic. There are two legal encyclopedias in Canada:

Canadian Encyclopedic Digest, Ontario 3d ed. (Toronto: Carswell, 1973-). Call Number: DIG A242

The C.E.D. is published by Carswell in 39 volumes of loose-leaf binders that are organized alphabetically into subject “Titles”. These titles are kept updated using the grey-coloured border paper supplement inserted at the beginning of each Title. Always check to see if the paragraphs you are using have been updated. Environmental Law is in Title 54, Vol. 10 of the C.E.D. The C.E.D. is also available electronically through Westlaw Canada.

Halsbury’s laws of Canada: Environment (Markham, Ont.: LexisNexis, 2006). Call Number: DIG B56

Halsbury’s Laws of Canada follows the same format as their English counterpart, Halsbury’s Laws of England. Volumes are written in essay form with supporting references to legislation and case law. This resource is kept up to date through the cumulative supplement which notes the relevant changes in the law.

4. Case Law Digests

Case Law Digests contains summaries of court cases with access primarily by topic. Consult paper cumulative supplements and individual monthly supplements to update the research. The most comprehensive case law digest is:

- *Canadian Abridgement* Vol 31: Environmental Law. Call Number: DIG B35 3ed., also available electronically through Westlaw Canada

Use other digests to supplement your research:

- *All Canada Weekly Summaries*. Call Number: REP-CAN B2 W633
- *Digest of Environmental Law and Environmental Assessment*. Call Number: REP-CAN D34 D54

Internet Resources:

Canadian Environmental Law Association is a non-profit organization which promotes environmental law reforms. It also provides a free legal aid clinic for the public and represents clients from low income communities.

Environmental Law Centre is a charitable organization incorporated in Alberta. Funded by the Alberta Law Foundation, the site provides access to the online ELC publications catalogue. There are links to briefs and summaries on various legislations dealing with environmental issues.

Environmental Review Tribunal acts as a quasi-judicial body with its primary role in adjudicating application and appeals under various environmental protection statutes in Ontario.

Ontario Ministry of Environment addresses environmental issues and ensures environmental compliance and enforcement.

West Coast Environmental Law provides free legal services and education outreach in British Columbia to better protect the environment and build sustainability “locally, nationally, and internationally”.

United States

Up until the 1960s, environmental regulation in the United States was mainly left to individual states and local government. There was little, if any national control. Incredible commercial and industrial growth which resulted in large scale environmental damage caught the attention of the federal government to adopt a national strategy on environmental regulation with the first significant federal legislation *National Environmental Policy Act* (NEPA) passed in 1969.

Primary Sources:

1. Statutes and Regulations

For a comprehensive list of **major** U.S. environmental laws, consult the U.S. Environmental Protection Agency website. Quicklaw has access to full-text coverage of U.S. Environmental Statutes and Treaties through 2000 published by Environmental Law Institute.

2. Case Law

Selected full-text cases related to environmental law issues from the Federal Court and individual States Appeals Board and Commission available through Quicklaw > Source Directory > Find Sources by “keyword”, enter “environmental cases”.

Secondary Sources:

1. Law Journals

To **search** for journal articles and updates on environmental law using:

- **Legaltrac** – eResources available through the Law Library website
- **HeinOnline: Subject Compilations of State Law** – searchable database that includes links to law review articles, Supreme Court decisions and state surveys on the Internet.

The following is a **sample list** of journals available electronically on HeinOnline

Environmental Affairs

Environmental Law

Environmental Law Journal

Environmental Lawyer

Environmental Practices News

Harvard Environmental Law Review

Hastings West-Northwest Journal of Environmental Law-Policy-Thought

New York University Environmental Law Journal

South Carolina Environmental Law Journal

2. Research Guides

Georgetown University Environmental Law Guide provides an overview of the federal environmental law resources, research strategies, legal databases and current awareness sources related to environmental law research.

Jurist: Environmental Law Guide is compiled by University of Pittsburgh School of Law which includes up-to-date news, legislation, journal articles and books on environmental law.

LLRX: Environmental Law on the Web Resource Guide highlights some of the best environmental law web site and electronic resources available on the Internet.

International

International Organizations and Treaties:

CIEL - The Centre for International Environmental Law is a non-profit organization that works to protect and promote environmental sustainability. The site includes a searchable North American Environmental Law Database that contains summaries of environmental law in Canada, Mexico and the U.S.. It provides links to full-text articles, case studies and reports on environmental issues.

CIESIN Environmental Treaties and Resource Indicators Project is a comprehensive online search service for locating information on multilateral environmental treaty data and national resource indicators.

NYU School of Law Guide provides one-stop linkages to time-series information, including legislation, research programmes and conventions related to environment and development.

United Nation Framework Convention on Climate Change (UNFCCC) is the official site for United Nation Climate Secretariat which provides access to documents of various conferences and technical reports. The site also provides quick links to projects and policies related to international environmental protection.

Secondary Sources:

1. Textbooks

Search Library Catalogue for comprehensive reference source on International environmental law. **Sample list** of titles available in the Law Library:

Anupam Goyal, *The WTO and international environmental law: towards conciliation* (New Delhi; New York: Oxford University Press, 2006). Call Number: K3943 G69 2006

Benjamin J. Richardson & Stepan Wood, *Environmental law for sustainability : a reader* (Oxford; Portland, OR: Hart Publishing, 2006). Call Number: K 3585 E579 2006

David Hunter, James Salzman & Durwood Zaelke, *International environmental law and policy* (New York: Foundation Press, 2002). Call Number: K3585.3 H86 2002
Elli Louka, *International environmental law: fairness, effectiveness, and world order* (New York: Cambridge University Press, 2006). Call Number: K3585 L68 2006

Meinhard Doelle, *From hot air to action? : climate change, compliance and the future of international environmental law* (Toronto: Thomson Carswell, 2005). Call Number: K3585 D64 2005

Scott Barrett, *Environmental and statecraft: the strategy of environmental treaty-making* (Oxford; New York: Oxford University Press, 1993). Call Number: KZ 1318 B37 2003
(On reserve)

2. Law Journals

Sample list of **Journals** available electronically and in the Law Library:

Asia Pacific Journal of Environmental Law (Call Number: PER AS63)

Duke Environmental Law and Policy Forum

Environmental Law and Management

Georgetown International Environmental Law Review (Call Number: PER G2813)

Journal of Land Resources and Environmental Law (Call Number: PER J277)

New Zealand Journal of Environmental Law

3. Internet Resources

Mega sites that contain comprehensive international environmental law content:

Guide to Electronic Resources for International Environmental Law prepared by ASIL, American Society of International Law, has an emphasis on English language electronic resources available on the Internet. Use of other resources, such as CD-Rom, library catalogue and on-line commercial services are also discussed.

International Environmental Law Research Guide prepared by Georgetown University School of Law, provides access to a collection of “the most useful web sites on 17 topics in international and foreign environmental law”.

ECOLEX: A Gateway to Environmental Law includes information on multilateral treaties; national legislation; European Union instruments; international "soft law" and related documents; law and policy literature; and judicial decisions.

GlobaLex Basic Guide to International Environmental Legal Research. Compiled by NYU School of Law, not only does this guide provides detailed discussions on indexes and finding aids for treaties and secondary resources, it also includes links to environmental law blogs, current awareness tools, and both IGO's and NGO's international organizations.

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