

Environmental Law Advisors Toolkit

Top 10 Tips for Environmental Law Advising¹

- 1. *Create/Use a Simple Career Guide.*** Many law students don't really understand the varied work they can do and settings they can work in as an "environmental lawyer". Working with environmental law faculty or practitioners or at your school or firm/organization create a basic Environmental Law Career Guide, or take advantage of one of the terrific public guides created by other schools, and walk through the Guide with students who express a strong interest in environmental law in their first-year advising meetings so they can explore experiences and courses that best align with their specific interests, strengths, and desired work environments. Putting the guide together is also a great exercise for career advisors.
- 2. *Promote Administrative Law Courses & Opportunities.*** Work with faculty partners to offer administrative law and other courses and clinical options that teach students about the federal regulatory and permitting processes and encourage students interested in environmental to take and gain experience in administrative law and regulatory work. Even students with demonstrated commitment to environmental causes or degrees in environmental science are often largely unfamiliar with the regulatory and administrative processes that govern most of our domestic environmental law.
- 3. *Help Students Play the Long Game.*** Support students in pursuing their "dream" environmental law entry level job, while also encouraging them that broadly pursuing a range of entry level jobs does not mean they can't get to their top desired positions over time. Reassure students that environmental law experience and demonstrated interest in law school is not wasted, and can be leveraged for the longer haul, even if their first job is not in environmental law. Pursuing a career in environmental law can take diligence and perseverance, but each experience builds on and contributes to the next. See Tip 4 for more on this.
- 4. *Provide Concrete Career Trajectory Examples.*** Building on Tip 3, put together and show students actual career trajectories for alumni or other environmental lawyers who landed their environmental law-focused jobs after doing something non-environmental law-focused. We know playing the "long game" works, but students need real world examples to trust that advice.

¹ This Advisor's Toolkit Top 10 Advising Tips was prepared by Elyse Diamond, Director, Public Interest Law Center & Adjunct Professor at the Elisabeth Haub School of Law at Pace University, for the 2022 NALP Annual Conference Presentation: Career Paths in a Changing Climate: Tips for Environmental Law Career Advising. ***This document is for educational purposes only and should not be duplicated or used for non-educational purposes or without attribution.***

5. ***Emphasize Broad Skills Development.*** Help and encourage environmental law students to develop the wide range of legal and professional skills used by environmental advocates, and to build a diverse resume, including acquiring both private and public sector internship experience, even if they have a strong preference for government or public service advocacy, environmental justice or “policy” – you won’t know in advance what that “best” entry level option available to them will be and they will want to be competitive for any work setting! Additionally, we know small organizations need lawyers with wide-ranging skills beyond traditional legal skills and knowledge.
6. ***Justice Work Requires Engaging with Underserved Communities.*** Educate students who want to work in environmental justice that they should demonstrate this commitment through experience working alongside marginalized and underserved community members, and not just through academic research and scholarship (this work is great as an addition to experiential work), and that this work need not always be related to environmental issues.
7. ***Collaborate Closely with Environmental Faculty & Practitioners.*** Engaging regularly with environmental law faculty and building an alumni and practitioner network in varied environmental law-related practice areas is incredibly important to generating experiential and career opportunities in this field for your students and graduates, particularly if your school does not have a robust environmental law-focused specialty focus, but even if it does! See Tip 9 for more on this.
8. ***Encourage Environmental Students to Consider Post-Graduate Clerkships.*** While students hoping to do environmental law-focused work upon graduation are sometimes reluctant to clerk with a court of general jurisdiction, a post-graduate clerkship year – at the federal or state level – almost always makes students more competitive for other federal and state agency attorney honors programs and environmental fellowships (along with most legal jobs).
9. ***Keep a Close Eye on LinkedIn and Reconnect with Alumni Who Work on Environmental Law Issues.*** Building on Tip 7, your school may already have, and almost certainly will increasingly have, alumni who – whether or not they pursued environmental law careers as a student - find themselves working on environmental law issues. Watch for them on LinkedIn and in alumni groups and reconnect; learn about the work they are doing and engage them in programming and mentoring current students – internship and job opportunities will come from these efforts.
10. ***Even Your “Strongest” Students Need Interview Preparation Help.*** While sometimes surprising, even those students with highly relevant practical experience, specialty coursework, and publication experience need help clearly and concisely connecting those experiences to a specific environmental job opportunities and postings at interviews. Interview preparation is where a strong advisor can really lend a hand.

Summary of Major Environmental Law Topics/Practice Areas, & Select Statutes and Regulations²

United States environmental law practice is based largely on federal statutes enacted over the last 60 to protect communities against pollution and hazardous materials and to preserve and protect the natural environment. Many environmental law statutes create a governmental regulatory enforcement scheme and a private right to sue. Many states, cities and local municipalities have likewise enacted their own environmental protection, regulatory schemes, climate, and land use laws, either formulated under or in addition to federal legislation, and a select few states have recently passed state constitutional amendments/legislation guaranteeing environmental rights. There are also international agreements setting goals for environmental protection and climate justice and binding signatories to specific emissions standards, along with many other significant international environmental efforts to promote environmental protection, justice and conservation on a global scale.

In a general sense, there is no such thing as “environmental law practice.” Rather, environmental lawyers can engage in virtually any variety of work – e.g. federal and state private sector plaintiff-side and defense litigation; government enforcement, legislation enactment and implementation, and policy formation; corporate regulatory compliance, ESG, litigation defense and transactional work; non-governmental advocacy organization litigation and policy advocacy; education; adjudicative administrative bodies’ review; direct not-for-profit legal services client representation; other environmental justice work – and in every variety of practice/office setting and sector (government at all levels, private law firms, corporations, not-for-profit legal services organization, court or administrative body, other NGO).

Although law school career office and public interest office advisors should not be expected to have practice-level expertise in each environmental law-related practice area, it is reasonable to expect – and certainly of great value to environmental law career advising, including career planning, application material and interview preparation assistance - for counselors to be aware of the administrative/regulatory scheme underlying much environmental practice and to acquire at least a general familiarity with major environmental law practice areas, settings, regulatory

² This Advisor’s Guide/Toolkit Environmental Practice Summary was prepared by the Public Interest Law Center Director/Adjunct Prof. Elyse Diamond, Elisabeth Haub School of Law (Haub Law) at Pace University (with thanks also to the broader Haub Law Environmental Law Program) for the 2022 NALP Annual Conference Presentation: Environmental Careers in a Changing Climate: Tips for Environmental Law Career Advising. ***This document is for educational purposes only and should not be duplicated or used for non-educational purposes or without proper attribution.***

Specific statute and regulation descriptions included were copied or adapted from and with links to: <https://www.findlaw.com/smallbusiness/business-laws-and-regulations/overview-key-federal-environmental-laws.html>; and <https://www.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>.

schemes, and law/regulations. There are numerous resources available that can provide students and law school or employer career and professional development advisors with an overview, so simply add this resource to those already available.

Broad Environmental Protection Laws

The National Environmental Policy Act (NEPA)

NEPA is one of the oldest federal environmental protection laws, having been passed in 1969. The overall purpose of NEPA is to ensure that the government researches and gives proper consideration to potential environmental effects before undertaking any major federal action, such as construction of a new highway. As part of this consideration, the government must complete Environmental Assessments (EAs) and Environmental Impact Statements (EISs) for any action they contemplate.

Constitution Right to a Healthy Environment

Although the UN has recognized a human right to a clean, healthy and sustainable environment of global environmental rights, there is no United States federal constitutional provision expressly guaranteeing the right to a healthy environment. A few states now have state constitutional provisions that either broadly, or to a more limited extent, recognize fundamental rights related to the environment (e.g. Montana, Pennsylvania, Illinois, Massachusetts, Hawaii, and New York). In force as of January 2022, New York has incorporated what is generally viewed as the broadest state “Environmental Rights” provision into its Constitution’s Bill of Rights, providing, “Each Person shall have a right to clean air and water, and a healthful environment.”

Clean Air/Clean Water/Natural Resources/Pollution Law

Much environmental law practice implicates the major federal statutes regulating pollution and promoting the protection of natural resources and the compliance, regulatory and approval processes promulgated under those statutes.

The Clean Air Act

The Clean Air Act was passed in 1970 and contains detailed provisions that regulate air emissions from various different sources. Ensuring compliance with the Act, as with most other federal environmental laws, is the responsibility of the U.S. Environmental Protection Agency (EPA). In that regard, the EPA was empowered by the Act to create National Ambient Air Quality Standards (NAAQS), which set acceptable levels of emissions from both stationary and mobile sources.

The Act was amended in 1990 to address areas of concern that had come to the forefront in the 20 since it was put into effect. For example, the initial version of the Act either did not address, or did not sufficiently address, issues such as acid rain, ozone depletion, and air toxins.

The Clean Water Act

The Clean Water Act was passed in 1977 and is enforced by the EPA, with assistance in particular matters from state agencies or entities. The Act makes it unlawful for any person to discharge any pollutant from a source point into navigable waters of the United States unless they have obtained a special permit allowing such activity from the EPA. Ten years after its enactment, the Clean Water Act was amended to include provisions which focused on toxic pollutants, authorized citizen suits (as opposed to just government enforcement actions), and funded sewage treatment plants.

The Pollution Prevention Act

The Pollution Prevention Act, passed in 1990, includes provisions aimed at reducing the amount of pollution in the environment by making changes in production, operation, and use of raw materials by both private industry and the government. In other words, the Act is proactively focused on source reduction of pollution, rather than reactively focusing upon how to deal with pollution once it has entered the environment. An area of the Pollution Prevention Act which has had a dramatic and recognizable impact on the general public is the push towards recycling and reuse of materials.

Climate Change Law, Sustainability & ESG

Climate change has become perhaps the most-discussed area and ubiquitous field of environmental law. While previously, climate change legal careers were related primarily to the emissions trading markets, it is increasingly possible to find jobs related to climate change (as broadly defined to incorporate sustainability) in almost every sector of practice. There are jobs in private practice working for law firms that counsel clients on managing climate change and adaptation issues and with corporations that deal with emissions permitting and sustainable development.

Corporations increasingly need help to navigate permitting compliance and to handle securities and related disclosures to company investors, and federal agencies such as the Securities Exchange Commission are expected to propose and enact regulations related specifically to environmental, climate and sustainability disclosures. Governmental agencies at all levels are responsible for creating, implementing and overseeing (regulation and compliance) federal and state regulatory schemes; independent agencies such as the Securities Exchange Commission are expected to propose and enact regulations related specifically to environmental, climate and sustainability disclosures.

Likewise the federal as well as state and all local governments deal with climate change law the context of permitting, zoning, development and land use broadly, in the context of compliance and planning for climate change adaptation. Many established NGOs increasingly engage in significant litigation and other policy advocacy, education and environmental justice work related to climate change and its impacts on marginalized communities.

Climate change is also of huge interest and activity at the international sphere through the United Nations, and there are many annual international conferences that seek to establish international environmental rights and goals and existing treaties seeking setting out global standards to regulate greenhouse gases, carbon emissions, etc.

Energy Law

The Federal Energy Regulatory Commission (FERC) regulates the interstate transmission of electricity, natural gas, and oil, and hydropower projects, at the federal level and establishes “Independent System Operators” (ISOs) and Regional Transmission Operators (RTOs) throughout the United States to implement state and multi-state electric utilities. State utility or public commissions operate at the state level to regulate energy rates and services. Much work for environmental lawyers in the energy law sector is therefore transactional or regulatory work.

Increasingly, there are opportunities to engage in work in the private and public sector related to alternative energy. There is substantial development, advocacy, and legislative work and implementation related to wind, solar and non-utilities-focused electric energy sources, and also continuing work related to the regulation of atomic energy. There are several administrative bodies/courts/commissions established to review permitting or other issues related to nuclear energy and other energy plants) and opportunities may exist for newer attorneys to assist the work of these administrative bodies.

[Energy Policy Act](#)

[Energy Independence and Security Act \(EISA\)](#)

[Atomic Energy Act \(AEA\)](#)

Environmental Justice

Environmental justice work, like most human rights and racial and social justice work, is implicated by any law. There is no question that indigenous communities, other communities of color, and low-income communities face dramatically heightened risk and harm from climate change, pollution and other environmental health and related harm, dislocation, and dangers. Environmental justice is, in essence, the civil rights and justice work lawyers and others do with and on behalf of disadvantaged groups to try to mitigate the inequitable burden and harm these communities face.

Like almost all justice work, this can take the form of public sector litigation/enforcement and direct legal advocacy, policy advocacy, education, and so on, and is done through NGOs, government at all levels, movement lawyering and other plaintiffs’-side litigation (e.g. toxic torts), but can encompass other litigation advocacy (e.g. defense of arrested pipeline protesters).

Food Law

There are numerous laws and related regulations related to United States food production, processing and distribution. This area overlaps significantly with wide-ranging health law and other legal practice areas that implicate the quality of our food and drinking water. There are a variety of ways and settings in which lawyers practice “food law” – in industry, law firms, government, and NGOs. Some law schools have developed innovative Food Law Clinics, many advising and assisting cooperatives and other small farms and businesses needing transactional help or guidance in sustainable food and beverage production.

[Food Quality Protection Act \(FQPA\)](#) - See also [FFDCA](#) and [FIFRA](#)

[Federal Food, Drug, and Cosmetic Act \(FFDCA\)](#)

Federal Insecticide, Fungicide & Rodenticide Act (FIFRA)

FIFRA was passed by Congress in 1972 and is enforced by the EPA, which has the power to prohibit the sale, distribution, or use of pesticides such as insecticides, fungicides, and rodenticides under the Act. If a threatened or endangered species will be adversely affected, the EPA can also issue an emergency suspension of certain pesticides.

The Safe Drinking Water Act (SDWA)

This 1974 law, as the name implies, addresses issues relating to the quality and safety of drinking water in the United States. Under [SDWA](#), the EPA is authorized to establish purity standards for both aboveground and underground sources of water that are either designated for, or potentially designated for, human consumption. SDWA contains both health-related standards and nuisance-related standards. Both are enforced with the cooperation of state governments.

Hazardous Materials and Waste

There are numerous federal statutes enacted to regulate and provide remedy for environmental hazards and waste collection and disposal.

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In 1980, Congress passed [CERCLA](#) for the purpose of addressing how uncontrolled or abandoned [hazardous waste](#) sites, accidents, spills, and other emergency releases of pollutants or contaminants should be handled. The Act creates a federal "Superfund" to clean up, contain, or remove pollutants and hazardous materials in these situations.

Under the Act, the EPA has the power to track down the parties responsible for the unsafe abandonment, spill, or release and require their participation in clean-up efforts. If the releaser cannot be found, or refuses to cooperate, the Act gives the EPA responsibility for cleaning up

orphaned sites or situations. Once a "response action" to a situation is completed, CERCLA allows for the EPA to recover the costs of the action from financially solvent individuals and companies who were involved.

See also the "Superfund Amendments and Reauthorization Act (SARA)," below.

The Emergency Planning & Community Right-to-Know Act (EPCRA)

In 1986, Congress enacted the EPCRA, which is also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The EPCRA is designed to provide assistance to local communities in protecting the public health, safety, and environment from chemical hazards.

Under the EPCRA, each state is required to create and maintain a State Emergency Response Commission (SERC), which is divided into Emergency Planning Districts. Each district must have a Local Emergency Planning Committee (LEPC). The SERCs and LEPCs are responsible for providing the community with information on chemical hazards that may affect the public and the dissemination of procedures to be followed in the event there is an emergency hazardous situation.

The Resource Conservation and Recovery Act (RCRA)

This Act allows the EPA to control the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also contains provisions for the management of nonhazardous solid wastes. In practice, RCRA complements CERCLA and the two, together, provide mechanisms for controlling all hazardous waste situations. While RCRA focuses upon active and future facilities, CERCLA deals with abandoned or historical sites and emergency situations.

In 1984, the federal Hazardous and Solid Waste Amendments (HSWA) were passed by Congress, amending RCRA to require the phasing out of land disposal of hazardous waste. To accomplish this goal, and to respond to other insufficiencies in RCRA, HSWA also created greater enforcement authority for the EPA and more stringent hazardous waste management standards.

With the phasing out of land disposal of hazardous waste, the EPA soon discovered that new storage issues were coming to the forefront. Therefore, in 1986 an amendment to RCRA was passed which allowed the EPA to focus upon and address specific issues and concerns related to the underground storage of petroleum and other products.

The Superfund Amendments and Reauthorization Act (SARA)

This 1986 federal act reauthorized CERCLA to continue efforts to clean-up hazardous waste abandonments, spills, and releases. Some provisions of SARA specifically address problems or concerns that arose at specific CERCLA involved sites.

Title III of SARA also created the Emergency Planning and Community Right-to-Know Act (EPCRA), as described above.

International Environmental Law

Environmental law knows no real boundaries, and global movements related to climate change and other environmental issues gain significant publicity and public attention. In addition to the general references to international environmental law throughout, there are numerous global bodies and conferences engaged in establishing goals, protocols, pacts and agreements related to human environmental rights protection, climate, energy, sustainability etc. While too many to mention, the World Conservation Congress of the International Union for the Conservation of Nature (IUCN) adopted a Declaration setting out 13 principles that characterize the environmental “Rule of Law” for sustainable development, and a number of nations are signatories on major climate pacts and emissions standard treaties. Broader international laws, regulations and treaties – governing trade, related to international waterways, international human rights law, etc. - naturally overlap with those agreements, standards and goals relating specifically seeking to address climate impacts and other global environmental issues.

While “international environmental law” is a popularly scholarly pursuit for law faculty, and there is significant global activity, and internships are available with organizations working on international law advocacy and policy, opportunities for new attorneys to “practice” in international environmental are very limited. Language skills and eligibility to work international can be major assets as they are in any international law practice fields.

Land Use Law

Land Use is another very broad field related to land development as well as conservation. Much of Land Use law is most actively practiced at the local level, where local governments plan and manage development, but operates at the intersection of federal, state, and local law. Within guidelines from and when not preempted by federal, state and regional governing laws, local governments set zoning and policies for review and approval/permitting for development. Overarching federal state and regional laws protecting natural resources, health and human rights, may well limit local authority, but local municipalities nevertheless have substantial ability to regulate and control many land use decisions in their area. Additionally, land use law is increasingly deeply interconnected with all of the broad issues related to sustainable development and climate law that may be regulated at all levels.

Naturally, along with its intersection with environmental laws related to pollution, natural resources, protection, etc., Land Use Law intersects and overlaps (or is at times synonymous) with numerous other legal practice areas including property, development and construction, commercial and residential real estate, landlord tenant and housing law and practice, to name just a few. For all of these reasons, Land Use Law practice is also deeply and increasingly connected to environmental justice concerns.

Wildlife Protection & Animal Law

Animal law is another rapidly growing practice area. Although there are specific contexts in which traditional law practice areas overlap with Animal Law, much of the work in this area is related to animal rights and prevention of cruel treatment (in farming, research, etc.), wildlife protection, and policy advocacy through major animal rights and humane society NGOs. Many students come to law school with a stated interest in “Animal Law” and some law schools have developed clinics that may engage in advocacy and scholarship in this field. There can be significant overlap between Animal Law and other specialty fields such as Food Law and Wildlife Protection, etc.

The Endangered Species Act

The Endangered Species Act is a unique piece of legislation that was passed in 1973. The purpose of the Act is to protect, and hopefully repopulate, threatened or endangered plants, animals, and animal habitats. Many species of plants and animals are in danger of extinction due to the impact of humans and pollutants, irritants, and toxins released into their environments.

The U.S. Fish and Wildlife Service of the Department of the Interior maintains a list of over 600 endangered plant and animal species, and almost 200 threatened species. Under the Endangered Species Act, anyone can petition to prohibit activities that may have an adverse effect on either endangered or threatened species.

Federal Insecticide, Fungicide & Rodenticide Act (FIFRA)

FIFRA was passed by Congress in 1972 and is enforced by the EPA, which has the power to prohibit the sale, distribution, or use of pesticides such as insecticides, fungicides, and rodenticides under the Act. If a threatened or endangered species will be adversely affected, the EPA can also issue an emergency suspension of certain pesticides.

Toxic Tort & Other Environmental Health Laws

Federal Insecticide, Fungicide & Rodenticide Act (FIFRA)

FIFRA was passed by Congress in 1972 and is enforced by the EPA, which has the power to prohibit the sale, distribution, or use of pesticides such as insecticides, fungicides, and rodenticides under the Act. If a threatened or endangered species will be adversely affected, the EPA can also issue an emergency suspension of certain pesticides.

FIFRA requires that farmers, utility companies, and other users of pesticides register when they purchase pesticides. These individuals are also required by the Act to take and pass a certification examination in order to apply pesticides. FIFRA also contains provisions which require that all pesticides used in the United States be approved and licensed by the EPA.

The Occupational Safety & Health Act (OSHA)

In 1970, concerned with the increasing lack of worker and workplace safety, Congress passed OSHA. The main thrust of OSHA is to require employers to provide their workers with a safe workplace. While some OSHA requirements do not directly affect the environment (such as the requirements concerning safety for workers on elevated sites), other provisions specifically address environmental issues (such as the use of toxic or hazardous substances in the workplace).

OSHA is one of the few federal laws that relate to the environment that is not controlled by the EPA. Instead, OSHA is enforced by the U.S. Department of Labor in concert with the National Institute for Occupational Safety and Health (NIOSH), which was specifically created to deal with OSHA issues. In addition, many states have their own workplace safety and health acts. The state acts must have provisions in place which meet, if not exceed, the federal OSHA requirements.

The Toxic Substances Control Act (TSCA)

The purpose of TSCA, a 1976 Act of Congress, is to allow for the testing, regulation, and screening of all chemicals produced or imported into the U.S. before they reach the consumer market place.

TSCA also allows for the tracking of all existing chemicals that pose health or environmental hazards and for the implementation of cleanup procedures in the case of toxic material contamination. TSCA supplements other federal laws, such as the Clean Air Act and the Toxic Release Inventory under EPCRA.

See also the following links to the EPA site, with summaries of environmental laws and Executive Orders (EOs) related to environmental protection and human health, and regulations impacting the United States regulatory process <https://www.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>:

The following laws and EOs help to protect human health and the environment. EPA is charged with administering all or a part of each.

- [Atomic Energy Act \(AEA\)](#)
- [Beaches Environmental Assessment and Coastal Health \(BEACH\) Act](#)
- [Chemical Safety Information, Site Security and Fuels Regulatory Relief Act](#)
- [Clean Air Act \(CAA\)](#)
- [Clean Water Act \(CWA\)](#) (original title: Federal Water Pollution Control Amendments of 1972)
- [Comprehensive Environmental Response, Compensation and Liability Act \(CERCLA, or Superfund\)](#)
- [Emergency Planning and Community Right-to-Know Act \(EPCRA\)](#)
- [Endangered Species Act \(ESA\)](#)
- [Energy Independence and Security Act \(EISA\)](#)
- [Energy Policy Act](#)
- [EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations](#)
- [EO 13045: Protection of Children From Environmental Health Risks and Safety Risks](#)
- [EO 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use](#)
- [Federal Food, Drug, and Cosmetic Act \(FFDCA\)](#)
- [Federal Insecticide, Fungicide, and Rodenticide Act \(FIFRA\)](#)
- Federal Water Pollution Control Amendments - See [Clean Water Act](#)
- [Food Quality Protection Act \(FQPA\)](#) - See also [FFDCA](#) and [FIFRA](#)
- [Marine Protection, Research, and Sanctuaries Act \(MPRSA, also known as the Ocean Dumping Act\)](#)
- [National Environmental Policy Act \(NEPA\)](#)
- [National Technology Transfer and Advancement Act \(NTTAA\)](#)
- [Noise Control Act](#)
- [Nuclear Waste Policy Act \(NWPA\)](#)
- [Occupational Safety and Health \(OSHA\)](#)
- Ocean Dumping Act - See [Marine Protection, Research, and Sanctuaries Act](#)
- [Oil Pollution Act \(OPA\)](#)
- Pesticide Registration Improvement Act (PRIA) - See [FIFRA](#)
- [Pollution Prevention Act \(PPA\)](#)
- [Resource Conservation and Recovery Act \(RCRA\)](#)
- [Safe Drinking Water Act \(SDWA\)](#)

- [Shore Protection Act \(SPA\)](#)
- Superfund - See [Comprehensive Environmental Response, Compensation, and Liability Act](#)
- Superfund Amendments and Reauthorization Act (SARA) - See [Comprehensive Environmental Response, Compensation, and Liability Act](#)
- [Toxic Substances Control Act \(TSCA\)](#)

Summaries of laws and EOs that influence the regulatory process

The following laws and EOs help to protect human health and the environment. EPA is charged with administering all or a part of each.

- [Administrative Procedure Act \(APA\)](#)
- [Congressional Review Act \(CRA\)](#)
- [EO 12866: Regulatory Planning and Review](#)
- [EO 13132: Federalism](#)
- [EO 13175: Consultation and Coordination with Indian Tribal Governments](#)
- EO 13563: Improving Regulation and Regulatory Review - See [EO 12866: Regulatory Planning and Review](#)
- [EO 13859: Maintaining American Leadership in Artificial Intelligence](#)
- [Federal Advisory Committee Act \(FACA\)](#)
- [Freedom of Information Act \(FOIA\)](#)
- [Paperwork Reduction Act \(PRA\)](#)
- [Privacy Act](#)
- [Regulatory Flexibility Act \(RFA\)](#)
- Small Business Regulatory Enforcement Fairness Act (SBREFA) - See [Regulatory Flexibility Act](#)
- [Unfunded Mandates Reform Act \(UMRA\)](#)

Environmental Law Advisors Toolkit:

³The Canadian Perspective

Canadian Environmental Law Advising Tips

All of the top advising tips in the wider Toolkit generally apply equally to advising Canadian law students interested in an environmental law career. However, below are additional tips intended to address the significant difference in the Canadian regulatory and professional education and licensing landscape.

Law Schools: There are 24 law schools in Canada with only 7 schools offering environmental law experiential learning programs, concentrations, or certificates of specialization. Only 2 law schools have specialized public interest career advisors. As such, most law students will be seeking career advice from non-specialized advisors.

Licensing: The legal profession in Canada is self-regulated in each province by a body, usually referred to as a law society, that is enabled by individual provincial statutes to govern the licensing, conduct and competence of the legal profession. With the exception of a few emerging alternative paths to licensing, in addition to passing the bar exam(s), law students are required in all provinces and territories to successfully complete a one-year apprenticeship program called “articles” where they gain practical experience under the supervision of a qualified lawyer, known as a principal. Law students who want to practice law must generally focus on securing an articling position in addition to the kinds of career considerations that US law graduates face.

³ This Environmental Law Advisor’s Toolkit: The Canadian Perspective was prepared by Tracy Wachmann, Public Interest Law Coordinator, Career Services, Peter Allard School of Law (Allard Law) at the University of British Columbia (Canada) for the 2022 NALP Annual Conference Presentation: Environmental Careers in a Changing Climate. [This document is for educational purposes only and should not be duplicated or used for non-educational purposes or without proper attribution.](#)

Additional Tips:

- As with US students seeking an entry level position, Canadian law students do not need to secure an articling position that is a perfect fit. Choosing an articling position will not close the door on any environmental career opportunities down the road. The student will be moving ahead on their career path if they are developing skills that will be useful in their longer-term career objectives. ENGOs often do not have the supervisory and financial capacity to hire an articling student and will look to hire staff with at least a year of legal experience as well as a demonstrated commitment to public interest and a good understanding of the issues related to the ENGO's mission statement.
- Encourage students to think outside the box in developing unposted articling positions such as shared articles with an ENGO and a law firm.
- Encourage students to undertake self-assessment as a means of clarifying their career objectives, interests and values. This is a helpful step in focusing many students' more general interest in pursuing environmental law as well as building a search strategy and understanding which compromises are acceptable if required to obtain articles or that initial associate/staff lawyer position.
- While it is important that students seek careers that align with their values, encourage students to avoid a ridged "White Hat vs. Black Hat" perspective in determining the scope of articling opportunities that they will consider. The opportunity to work towards improving environmental protection exists in most practice settings.
- Encourage students to volunteer with the Pro Bono Students Canada chapter at your law school. Students may be able to work with the Chapter's Student Program Coordinators to develop their own environmental law projects with a preferred organization.
- Where a school has no environmental law program, encourage students to develop a relationship with an ENGO or other environmental law employer by dovetailing a course paper with a topic of use to the particular ENGO/employer. Encourage students to work with their course professor to develop the paper into publishable quality.
- Highlight the value of networking efforts in creating or finding an unposted environmental law articling position. The environmental law community of public and private practitioners is relatively small in most Canadian geographic and practice areas. There is strong power in weak ties: often, some of our most valuable and promising career opportunities come from contacts that we don't know very well, and may only have met or interacted with casually.

Major Canadian Environmental Law Topics/Practice Areas

Regulatory Regime:

The power to pass laws relating to the environment in Canada is divided between the federal and the 10 provincial/3 territorial governments, with the provincial/territorial governments holding jurisdiction over all matters of a local nature as well as most natural resources. The power of both levels of government to enact legislation can overlap in several areas of practice such as environmental impact assessment, wildlife conservation and management, and water/air pollution.

The key federal environmental statutes are:

- [Canadian Environmental Protection Act, 1999](#)
- [Arctic Waters Pollution Prevention Act](#)
- [Canada Shipping Act, 2001](#)
- [Fisheries Act](#)
- [Impact Assessment Act](#)
- [Migratory Birds Conservation Act, 1994](#)
- [Nuclear Safety and Control Act](#)
- [Pest Control Act](#)
- [Species at Risk Act](#)
- [Transportation of Dangerous Goods Act](#)

Each province and territory has enacted their own laws to protect the environment, with no two regulatory regimes being identical.

Practice Areas:

As stated in the general Toolkit, there is effectively no such thing as “environmental law practice” in Canada because there are opportunities to develop an environmental law career in almost all areas of practice and types of work. The practice areas set out in the general Toolkit are applicable to the Canadian practice landscape, though the governing legislation and legal practice may be distinct. However, there are a few practice areas that are quite unique to Canada, including the following:

Aboriginal Law:

The intersection of Aboriginal law and environmental law is an evolving practice area. The Aboriginal rights of First Nations are protected by Canada’s Constitution. They are the rights that flow from a First Nation’s continued use and enjoyment of land. Aboriginal title refers to

the inherent Aboriginal right to land or a territory; it is a unique, collective right to the use of and jurisdiction over a group's ancestral territories. It includes the right to decide the uses to which the title area will be put, to benefit from the title area, and to proactively manage the title area. Once an Aboriginal right has been "established" in Canadian law through treaty or Court declaration, the Crown cannot infringe that right unless it passes a stringent justification test. Where the rights of a First Nation have not yet been "established" in Canadian law through a treaty or court declaration, the Crown nonetheless owes a duty to consult and, where appropriate, accommodate a First Nation regarding Crown conduct that may negatively impact its asserted Aboriginal rights. These requirements have been the basis of many court challenges to environmental impacts of proposed uses of lands and resources, such as pipelines, resource extraction and foreshore activities. Aboriginal law intersects with environmental law in areas outside of litigation; for example, in assisting First Nations with negotiating benefit agreements for uses that impact their Aboriginal rights, which may include environmental protection measures.

In addition, the federal government and several provincial governments have stated their full support for the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) which requires the government to consult and cooperate in good faith with the goal of obtaining the free, prior, and informed consent of Indigenous peoples before adopting or implementing legislation or administrative measures such as projects affecting their lands/territories. This is an emerging environmental law practice area as governments seek to implement the UNDRIP guidelines.

Indigenous Law:

Another emerging area of practice in Canada is supporting the codification and implementation of Indigenous legal orders by First Nations that are contained in their oral traditions and stories. Indigenous environmental laws, when codified and approved by individual First Nations through consensus, can provide guidance in managing and protecting their traditional territories, lands and rights, particularly during government consultation and negotiation processes or developing joint venture partnerships.

Practice Settings

For many law students and lawyers, one of the most significant factors in making career choices is the type of organization or employer they would like to work for. Environmental lawyers can engage in virtually any work in any practice setting. As with more traditional private, government, and corporate environmental practice areas, public interest environmental practice takes place in a vast array of settings. Below are the most common settings:

- **Public interest environmental advocacy organizations:** focus on law reform efforts in one or more specialty areas or advocate on behalf of a particular group/geographic area.
 - Work of Lawyers includes:
 - lobbying various levels of government for legislation increasing environmental protections and/or systems change;
 - raising public awareness to injustices or environmental abuses;
 - providing public legal education materials and workshops;
 - facilitating community groups and local governments in finding solutions to local environmental problems;
 - serving as a “**clearinghouse**” for the collection, classification, and distribution especially of information on current developments in specialty areas; and
 - assisting other public interest and citizens groups.
 - Reform advocacy of organizations can involve:
 - **impact or “test case” litigation** to affect broad social impact through legal precedents that benefit the environment and often marginalized groups or individuals.
 - Broader “**systems change**” campaigns.
 - Performing **clearinghouse of information** function to generating reports and studies to support **law reform initiatives**. (These organizations often provide a rich source of volunteer or paid work for students during the academic year and summer months.)

- **Marginalized Collectives/Social Justice Movements:** employ “**movement lawyers**” as staff or outside counsel to provide integrated legal and political advocacy to assist collectives in gaining the power to change structural conditions of inequality, deepen participation in democratic decision-making, and change social attitudes and cultural norms. Movement

lawyers often spend their early career developing the necessary hard and soft skills before transitioning into this type of practice working with mobilized clients⁴.

- **Private practice firms:** are firms that a) define a major portion of their work as serving the public interest (public interest law firms); or b) have a more traditional business model, but individual lawyers are able/encouraged to provide significant environmental law services on a *pro bono* basis to a limited number of public interest clients.

- **Social Justice Solo Practices:** Lawyers work on their own or in loose associations/shared office space in a sustainable legal practice that devotes all or a portion to providing legal services to clients of moderate means or community groups (sometimes referred to as “Low Bono” services). This practice model is expanding to public interest practice areas for a number of reasons such as availability of technological and practice innovations, gig economy opportunities, increased desire of younger lawyers for greater autonomy and/or prioritization of aligning a private practice career with their environmental career values.

- **In-house counsel:** usually involves counsel to public interest organizations, charities, or public interest-focused business enterprises. The work can run the gamut from self-governance advice, litigation management, innovative advocacy and regulatory reform to factual investigation.

⁴ **Mobilized clients** are organizations, collectives, or individuals who lead a loosely organized effort by a large group of people to achieve a particular social or political goal - usually to carry out, resist or undue a social change. Social justice movements have also been described as "organizational structures and strategies that may empower oppressed populations to mount effective challenges and resist the more powerful and advantaged elites". They represent a method of social change from the bottom within nations. (Deric., Shannon (2011-01-01) *Political sociology: oppression, resistance, and the state*. Pine Forge Press. P. 150)