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CH 1: The Federal Register Is Your Friend 1

- **Topic:** Commenting on Proposed Regulations under the Toxic Substances Control Act (TSCA)
- **Skills:** Client counseling; keeping an eye on, communicating, and influencing developments that affect the client (client communications; preparing comments for submission in agency rulemakings; setting up the administrative record); considering which positions to advance in representing a client in administrative proceedings
- **Professional Responsibility:** Scope of representation (Rule 1.2); communication (Rule 1.4); Advisor (Rule 2.1); meritorious claims and contentions (Rule 3.1); candor toward the tribunal (Rule 3.3); truthfulness in statements to others (Rule 4.1)



CH 2: The Endangered Species Act (ESA) 15

- **Topic:** Bringing an ESA challenge to a federal action; applying ESA provisions on consultation, take, and exceptions
- **Skills:** Digging for information; understanding relevant statutory provisions; legal drafting (marshaling and communicating facts related to an ESA violation); writing a 60-day notice letter; preparing to bring a citizen suit
- **Professional Responsibility:** Providing pro bono services (Rule 6.1); competency and diligence (Rules 1.1, 1.3, and 1.16)



CH 3: The National Environmental Policy Act (NEPA)

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- **Topic:** Commenting on NEPA analyses for an agency proposal; assessing environmental impacts and alternatives
- **Skills:** Client counseling; parsing through regulations; intervening in judicial proceedings; assessing potential jurisdictional defects; drafting a motion to dismiss; drafting a memo to the client
- **Professional Responsibility:** Confidentiality (Rule 1.6); advisor (Rule 2.1); candor toward the tribunal (Rule 3.3)



CH 4: The Clean Water Act (CWA)

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- **Topic:** Sorting through the statutory/regulatory hierarchy of the CWA; ascertaining the facts and applying the law to a disputed property
- **Skills:** Client counseling; applying complex regulatory provisions to the facts and ascertaining what factual information you need but lack to advise a client; determining whether your client has a viable claim against a prospective defendant in a citizen suit
- **Professional Responsibility:** Meritorious claims and contentions (Rule 3.1); candor toward the tribunal (Rule 3.3); lawyer as witness (Rule 3.7); lawyer as advisor (Rule 2.1)



CH 5: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

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- **Topic:** Analyzing CERCLA liability and contribution claim issues arising from a

government response action at the site of a hazardous substance release

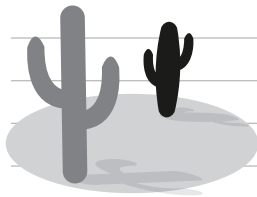
- **Skills:** Client counseling; case analysis; advocacy; conduct of discovery
- **Professional Responsibility:** Conflict of interest; current clients (Rule 1.7)



CH 6: The Resource Conservation and Recovery Act (RCRA)

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- **Topic:** Sorting through the statutory/regulatory hierarchy of RCRA; determining whether something is a solid and/or hazardous waste
- **Skills:** Client counseling; case analysis; advocacy; negotiating the terms of government enforcement actions; drafting a response to a motion for a preliminary injunction
- **Professional Responsibility:** Confidentiality (Rule 1.6); organization as client (Rule 1.13)



CH 7: The Clean Air Act

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- **Topic:** Finding the relevant provisions of a complex statute and applying it to a State Implementation Plan approval decision: New Source Review
- **Skills:** Client counseling; regulatory analysis; advocacy; drafting a petition for judicial review of agency action
- **Professional Responsibility:** Duties to former clients (Rule 1.9); special conflicts of interest for former and current government officers and employees (Rule 1.11)

**CH 8: Criminal Enforcement** 99

- **Topic:** Prosecution for material false statements on a permit application, knowing disposal without a permit, and “knowing endangerment” under RCRA
- **Skills:** Client counseling; advising the U.S. Attorney; research; advocacy; negotiating a plea agreement
- **Professional Responsibility:** Meritorious claims and contentions (Rule 3.1); special responsibilities of a prosecutor (Rule 3.8)

**CH 9: Toxic Torts** 109

- **Topic:** Mining waste; common law remedies for contaminated water and land
- **Skills:** Counseling; drafting; advocacy; identifying and dealing with experts; making a FOIA Request; discovery
- **Professional Responsibility:** Organization as client (Rule 1.13); ex parte communications (Rules 4.2 and 4.3)

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Federal Rules of Civil Procedure and the
Administrative Procedure Act (including
the Freedom of Information Act)**APPENDIX C—Client Time Sheets** 163