

TABLE OF CONTENTS

PREFACE TO THE FIFTH EDITION.....	V
ACKNOWLEDGMENTS	VII
TABLE OF CASES.....	XXV
Introduction.....	1
I. What <i>Is</i> the Environment, and What Motivated People to Protect It?....	1
II. A Starting Point: Three Legal Approaches to Protecting the Environment	4
A. Common Law	4
Marks v. Whitney	4
Chernaik v. Kitzhaber.....	9
Notes.....	14
B. Constitutional Law.....	18
Robinson Township, Washington County, PA v. Commonwealth of Pennsylvania.....	18
Notes.....	33
Juliana v. United States	34
Juliana v. United States	49
Notes.....	56
C. “Rights of Nature” Approaches	58
Colorado River Ecosystem v. State of Colorado.....	62
Notes.....	73
Toledo Municipal Code.....	74
Drewes Farms Partnership v. City of Toledo	78
Notes.....	82
D. So, Why Federal Statutes?.....	84
1. Why <i>Federal Law?</i>	84
2. Why <i>Federal Statutes?</i>	85
a. Federal Statutory Environmental Law and Constitutional Law	85
b. Federal Statutory Environmental Law and Common Law	89
III. A Few Introductory Practicalities to Federal Statute-Based Environmental Law	90
A. Federal Statutes	90
1. The United States Code (U.S.C.)	90
2. Studying Statutory Law: The Basics.....	91
B. Federal Regulations	92
C. Federal Court Decisions.....	94
IV. The Other Influences on Federal Environmental Law	94
A. Administrative Law.....	94

B.	International Law and Policy	95
C.	Statutory Interpretation	96
D.	Environmental Justice	98
E.	The Economics of Environmental Regulation and Cost-Benefit Analyses	101
F.	Risk Assessment.....	106
G.	Scientific and Technological Developments.....	110
V.	The Complexities of the Environment: Climate Change and Other Challenges for Regulators.....	111
 Chapter 1. Environmental Law and the Common Law: Hazardous Waste, RCRA, and CERCLA 113		
I.	Common Law Environmental Actions and Waste Disposal.....	113
A.	Common Law Environmental Actions	113
B.	Nuisance and Waste Disposal	114
	Oregon Department of Environmental Quality v. Chemical Waste Storage and Disposition, Inc.	115
	Notes.....	119
II.	The Federal Resource Conservation and Recovery Act (RCRA)	121
A.	Triggering RCRA: The Definition of “Solid Waste”	121
1.	When Is Material “Discarded”?.....	124
	No Spray Coalition, Inc. v. City of New York	125
	Notes.....	126
	Water Keeper Alliance v. United States Department of Defense	127
	Notes.....	131
	Cordiano v. Metacon Gun Club, Inc.	133
	Notes.....	138
2.	Recycling and RCRA.....	138
	American Mining Congress v. United States Environmental Protection Agency	141
	Notes.....	148
B.	Regulation of Non-Hazardous Solid Wastes: RCRA Subtitle D	154
1.	Basic Requirements and Liabilities	154
	Cox v. City of Dallas, Texas	156
	Notes.....	167
2.	Constitutional Limitations on States’ Handling of Solid Waste	176
	United Haulers Association, Inc. v. Oneida-Herkimer Solid Waste Management Authority.....	177
	Notes.....	184
C.	RCRA’s Regulation of Hazardous Wastes: Subtitle C.....	185
1.	What Is a “Hazardous Waste”?.....	185
2.	RCRA’s Cradle-to-Grave Regulation of Hazardous Wastes... ...	189
3.	Avoiding TSD Status	192
	City of Chicago v. Environmental Defense Fund	192
	Notes.....	200

4.	Permitting RCRA TSD Facilities: The Permit Process	201
5.	Permitting RCRA TSD Facilities: Facility Siting, Risk Assessment, and Environmental Justice	203
	Executive Order 12898 Federal Actions to Address Environmental Justice In Minority Populations and Low-Income Populations	206
	Notes.....	208
	In Re: Ash Grove Cement Co.	209
	Notes.....	217
6.	The RCRA Hazardous Waste “Land Ban”	218
7.	Enforcement of Subtitle C.....	219
	United States v. Hansen	221
	Notes.....	230
III.	The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	233
A.	Triggering CERCLA Liability.....	233
	United States v. Alcan Aluminum Corp.	236
	Notes.....	244
B.	PRPs and CERCLA Liability	246
1.	Reportable Quantities and the Duty of Notification	246
2.	Overview of PRPs	247
3.	Current Owner or Operator Liability.....	248
	United States v. Bestfoods	249
	Notes.....	254
4.	The Liability of Past Owners and Operators	257
a.	CERCLA’s Retroactive Liability	257
	Alliedsignal, Inc. v. Amcast International Corp.	257
	Notes	264
b.	Ownership or Operation “at the Time of Disposal”	267
	Carson Harbor Village, Ltd. v. Unocal Corporation	267
	Notes	278
5.	Arranger Liability.....	281
	Burlington Northern and Santa Fe Railway Company v. United States	281
	Notes.....	288
6.	Transporter Liability	290
	Tippins Incorporated v. USX Corporation	290
	Notes.....	296
C.	The CERCLA Cleanup Process.....	297
D.	The Four Categories of CERCLA Damages.....	301
1.	Response Costs.....	302
a.	Consistency with the NCP	302
	California v. Neville Chemical Company	302
	Notes	305
b.	Section 107 Cost Recovery Versus Section 113(f) Contribution	306
	Cooper Industries, Inc. v. Aviall Services, Inc.	306

	United States v. Atlantic Research Corporation	312
	Notes.....	318
2.	Natural Resources Damages.....	320
a.	Statutory Provisions	320
b.	The NRD Regulations.....	320
c.	Assessing NRDs in the Real World: The Exxon Valdez and Deepwater Horizon Oil Spills	323
3.	Health Assessments and Health Effects Studies	325
4.	CERCLA and Common-Law Remedies	326
	<i>Atlantic Richfield Co. v. Christian</i>	327
	Notes.....	343
	<i>CTS Corp. v. Waldburger</i>	346
	Notes.....	358
E.	Dividing CERCLA Liability: Joint and Several Liability, Contribution, Equitable Apportionment, and Settlement	361
	<i>Burlington Northern and Santa Fe Railway Company v. United States</i>	362
	Notes.....	367
	<i>Alliedsignal, Inc. v. Amcast International Corp.</i>	368
	Notes.....	379
F.	Orphan Sites and Superfund	379
G.	Progress in CERCLA Cleanups Under Superfund.....	381
Chapter 2. Environmental Procedures and Judicial Review:		
	NEPA and the APA	383
I.	NEPA and the APA: Basic Requirements and Judicial Review.....	383
A.	Introduction to the Federal Administrative Procedure Act (APA)	383
B.	Introduction to the National Environmental Policy Act (NEPA)	387
II.	Implementing NEPA.....	391
A.	The Timing of the NEPA Evaluation	391
	<i>Metcalf v. Daley</i>	392
	Notes.....	401
B.	Defining NEPA's Trigger: "Major Federal Actions"	406
	<i>Mayaguezanos Por La Salud Y El Ambiente v. United States</i>	409
	Notes.....	415
C.	Defining NEPA's Trigger: "Significantly Affecting the Quality of the Human Environment"	419
1.	Introduction: The CEQ's Regulations	419
2.	Non-Environmental Impacts	421
	<i>Metropolitan Edison Company v. People Against Nuclear Energy</i>	421
	Notes.....	426
3.	NEPA and Environmental Justice	427
	<i>Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers</i>	427

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers.....	445
Notes.....	452
4. NEPA and Climate Change	454
WildEarth Guardians v. Jewell	459
Notes.....	466
D. Categorical Exclusions	472
Utah Environmental Congress v. Bosworth	473
Notes.....	480
III. The EIS Process and the Adequacy of the EIS.....	481
A. Overview	481
B. Contents of the EIS	483
Robertson v. Methow Valley Citizens Council.....	485
Notes.....	494
C. Supplemental Environmental Impact Statements (SEISs).....	497
Marsh v. Oregon Natural Resources Council	498
Notes.....	506
IV. Remedies for NEPA Violations.....	508
Monsanto Co. v. Geertson Seed Farms	509
Notes	515

Chapter 3. Protecting Endangered and Threatened Species in the United States and Globally	517
I. The Dual Focus of the Federal Endangered Species Act	517
A. The Interaction of International and Domestic Law in General...	517
B. The Endangered Species Act’s Dual Focus	520
II. The Endangered Species Act and the United States’s Domestic Regulation of Endangered and Threatened Species	522
A. An Overview of the Endangered Species Act (ESA).....	522
B. The Domestic Purposes of the Endangered Species Act	523
Tennessee Valley Authority v. Hill	524
Notes.....	536
C. Section 4 of the Endangered Species Act: The Listing Decision	542
1. Scientific Basis of the Listing Decision	542
a. What Counts as a “Species”?.....	542
b. What Listing Procedures Do the Services Use?.....	544
c. What Scientific Factors Do the Services Consider?.....	544
<i>Northern Spotted Owl (Strix Occidentalis Caurina) v. Hodel</i>	545
Notes	549
<i>Alaska Oil & Gas Association v. Pritzker</i>	553
Notes	566
2. Timing of Agency Listing Decisions	569
3. Timing of Citizen Petitions to List Species	569
4. Litigating Timing.....	572
<i>Idaho Farm Bureau Federation v. Babbitt</i>	572
Notes	577

D.	Section 4 of the Endangered Species Act: Establishing Critical Habitat	585
	Weyerhaeuser Company v. United States Fish & Wildlife Service	588
	Notes.....	597
E.	Section 7 of the Endangered Species Act	600
1.	Introduction and Overview	600
2.	Section 7(a)(1) and Conservation of Listed Species..... Carson-Truckee Water Conservancy District v. Clark	600
	Notes.....	603
3.	Section 7(a)(2) and the Jeopardy Determinations	606
a.	The Section 7 Consultation Process.....	606
b.	Section 7(a)(2) and Agency Discretion..... National Association of Home Builders v. Defenders of Wildlife.....	609
	Notes.....	610
F.	The Section 9 “Take” Prohibition	622
1.	Overview of Section 9	622
2.	The “Take” Prohibition..... a. Habitat Modification as “Harm”	624
	Babbitt v. Sweet Home Chapter of Communities for a Great Oregon	624
	Notes.....	635
b.	Causation and Section 9..... Strahan v. Coxe.....	637
	Notes.....	638
G.	Section 10 Exemptions from the Section 9 “Take” Prohibition	647
1.	Issuing the ITP	648
	Sierra Club v. Babbitt	648
	Notes.....	653
2.	The Scope of an ITP	656
	Loggerhead Turtle v. County Council of Volusia County, Florida	656
	Notes.....	663
III.	The Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	667
A.	Introduction to the Convention	667
	International Trade in Endangered Species of Wild Fauna and Flora	667
	Notes.....	674
B.	Implementation of CITES Through the Endangered Species Act.....	675
1.	Statutory Provisions Related to CITES	675
	Castlewood Products, L.L.C. v. Norton	677
	Notes.....	685

2. Coordinating CITES, the ESA, and State Species Protections.....	686
Man Hing Ivory and Imports, Inc. v. Deukmejian	686
Notes.....	693
IV. Other Intersections of Species Protection, International Law, and International Trade	694
A. Introduction to the GATT and the WTO	694
B. The GATT's Environmental Provisions	696
C. The ESA and the GATT: The Shrimp/Turtle Dispute	697
United States—Import Prohibition of Certain Shrimp and Shrimp Products	701
Notes.....	714
Chapter 4. The Clean Air Act, the Risks of Pollution, and the Costs and Benefits of Environmental Regulation 719	
I. Introduction to the Clean Air Act.....	719
A. Air Pollution Before the 1970 Amendments.....	719
Boomer v. Atlantic Cement Company, Inc.....	720
Notes.....	723
B. Air Pollution After 1970: The Federal Clean Air Act Amendments of 1970.....	725
II. Criteria Pollutants, NAAQS, SIPs, and the Clean Air Act's Cooperative Federalism	727
A. Establishing Criteria Pollutants	727
1. Regulatory Choices Under the Clean Air Act: Establishing Lead as a Criteria Air Pollutant.....	728
Natural Resources Defense Council, Inc. v. Train	730
Notes.....	735
2. The Current Criteria Pollutants.....	735
B. Setting NAAQS.....	737
Lead Industries Association, Inc. v. Environmental Protection Agency	738
Notes.....	752
C. SIPs	759
Union Electric Company v. Environmental Protection Agency	764
Notes.....	771
D. Federal Consistency Review	772
Department of Transportation v. Public Citizen.....	773
Notes.....	777
III. Regulating Criteria Pollutant Emissions: Mobile Sources	779
A. What Is a Mobile Source?.....	779
B. Motor Vehicle Emission and Fuel Standards	780
1. Motor Vehicle Emission Standards	780
International Harvester Company v. Ruckelshaus	783
Notes.....	798

2.	State Emissions Standards for Motor Vehicles	801
	Engine Manufacturers Association v. South Coast Air	
	Quality Management District.....	802
	Notes.....	806
3.	Motor Vehicle Fuel Standards	807
C.	Nonroad Engines and Vehicles.....	812
IV.	Regulating Criteria Pollutant Emissions: Stationary Sources	813
A.	Stationary Sources, the “Bubble” Concept, and Deference to the	
	EPA.....	814
	Chevron U.S.A., Inc. v. Natural Resources Defense Council,	
	Inc.	814
	Notes.....	822
B.	Regulation of Stationary Sources Emitting Criteria Pollutants	
	in Nonattainment Areas	824
	Southwestern Pennsylvania Growth Alliance v. Browner	828
	Notes.....	836
C.	Regulation of Stationary Sources’ Emissions of Criteria	
	Pollutants in Attainment Areas	838
1.	The PSD Program.....	838
	Alaska Department of Environmental Conservation v.	
	Environmental Protection Agency.....	841
	Notes.....	853
	In re: Shell Gulf of Mexico, Inc., Shell Offshore, Inc.	
	(Frontier Discovery Drilling Unit)	854
	Notes.....	862
2.	Regional Haze	863
D.	New Source Review and Modified Stationary Sources	866
	Environmental Defense v. Duke Energy Corporation	868
	Notes.....	874
V.	Regulation of Hazardous Air Pollutants (HAPs).....	878
A.	Hazardous Air Pollutants	878
1.	Introduction	878
2.	Establishing the HAP List	879
	American Forest and Paper Association, Inc. v.	
	Environmental Protection Agency	882
	Notes.....	886
B.	Regulation of Mobile Sources of HAPs.....	887
C.	Regulation of Stationary Sources of HAPs	887
1.	Major Stationary Sources and MACT	887
2.	Minor Stationary Sources of HAPs and the Urban Air	
	Toxics Strategy	890
3.	The Role of Costs in Setting the NESHAPs.....	891
	Michigan v. Environmental Protection Agency	891
	Notes.....	901
4.	The Clean Air Act Emissions Standards Chart for	
	Stationary Sources.....	904

VI. Transboundary Air Pollution, Including Climate Change	905
A. Introduction	905
B. The Clean Air Act's Interstate Air Pollution Provisions.....	905
1. Addressing Interstate Air Pollution Through SIPs	905
North Carolina v. Environmental Protection Agency	906
Notes.....	917
2. Ozone-Specific Provisions	919
3. Nitrogen Oxides, Sulfur Dioxide, and Acid Rain.....	920
State of Georgia v. Tennessee Copper Company	920
Notes.....	922
4. Other Interstate Trading Programs	926
a. Clean Air Visibility Rule (CAVR)	926
b. Clean Air Mercury Rule (CAMR).....	927
C. International Air Pollution: Section 115 of the Clean Air Act	927
Her Majesty the Queen in Right of Ontario v. United States Environmental Protection Agency.....	928
Notes.....	932
D. Using the Clean Air Act to Address Climate Change and Greenhouse Gas Emissions.....	933
1. Are Greenhouse Gases "Pollutants" Under the Clean Air Act?	934
Massachusetts v. Environmental Protection Agency	935
Note	946
2. The Impact of <i>Massachusetts v. EPA</i> on Federal Interstate Nuisance Law in Climate Change Cases	947
American Electric Power Co., Inc. v. Connecticut	947
Notes.....	956
3. Regulation of Greenhouse Gas Emissions from Mobile Sources	957
a. State Efforts Prior to Massachusetts v. EPA to Regulate Mobile Source Greenhouse Gas Emissions	957
b. The EPA's 2009 Mobile Source Endangerment Finding	960
c. Mobile Source Greenhouse Gas Emissions Standards... i. The Obama Administration's Emissions Standards for Light-Duty Cars and Trucks	961
ii. The Obama Administration's Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles	964
iii. Regulating Greenhouse Gas Emissions from Aircraft.....	964
iv. The Trump Administration and Non-Aircraft Mobile Source Greenhouse Gas Regulation	966
4. Regulation of Greenhouse Gas Emissions from Stationary Sources	973
a. The Lack of a Section 108 Endangerment Finding and Greenhouse Gas Criteria Pollutants	973

b.	The Lack of Greenhouse Gas NAAQS	973
c.	Mandatory Reporting of Greenhouse Gas Emissions.....	974
d.	The Tailoring Rule	974
	Utility Air Regulatory Group v. Environmental Protection Agency	975
	Notes	994
e.	The Clean Power Plan and the Affordable Clean Energy Rule.....	995
Chapter 5. The Clean Water Act and Federalism		999
I.	Introduction to the Clean Water Act.....	999
II.	Triggering Federal Jurisdiction Under the Clean Water Act	1001
A.	The Clean Water Act's Basic Prohibition.....	1001
B.	“Addition”	1003
1.	Additions in General	1003
	<i>Dubois v. United States Department of Agriculture</i>	1003
	Notes.....	1010
2.	The “Addition” Issue and Channeled Stormwater	1016
	<i>Los Angeles County Flood Control District v. Natural Resources Defense Council, Inc.</i>	1017
	Notes.....	1020
3.	Additions of Dredged Material: The Redeposit Issue.....	1021
	<i>United States v. Deaton</i>	1021
	Notes.....	1026
C.	“Pollutant”	1028
	<i>Association to Protect Hammersley, Eld, and Totten Inlets v. Taylor Resources, Inc.</i>	1029
	Notes.....	1035
D.	Jurisdictional Waters	1037
1.	“Navigable Waters”: The Statutory Framework and the Consensus EPA and Army Corps Regulations from the 1980s.....	1037
2.	“Navigable Waters”: The U.S. Supreme Court Trilogy Interpreting “Waters of the United States”	1040
a.	<i>Riverside Bayview Homes</i>	1040
b.	The Army Corps’ Migratory Bird Rule	1042
c.	<i>SWANCC</i>	1043
d.	The Aftermath of SWANCC	1045
e.	The U.S. Supreme Court’s Fracture Opinion in <i>Rapanos</i>	1047
	<i>Rapanos v. United States</i>	1048
	Notes	1064
f.	The Aftermath of Rapanos	1069
	<i>United States v. Robison</i>	1069
	Notes	1079

3.	The Struggle to Promulgate a New Regulatory Definition of “Waters of the United States”	1083
a.	Procedural History: The 2015 (Obama) and 2020 (Trump) Regulations Defining “Waters of the United States”.....	1083
b.	A Substantive Comparison of the Three Rules.....	1087
4.	The “Contiguous Zone” and the “Ocean”	1089
E.	From a Point Source.....	1091
	County of Maui, Hawaii v. Hawaii Wildlife Fund.....	1092
	Notes.....	1104
	United States v. Plaza Health Laboratories, Inc.	1105
	Notes.....	1114
	Decker v. Northwest Environmental Defense Center.....	1117
	Notes.....	1126
III.	NPDES Permits.....	1129
A.	Section 1311: Technology-Based Effluent Limitations	1130
1.	Effluent Limitations in General	1130
2.	Variances from the EPA-Set Effluent Limitations.....	1132
B.	Section 1312: Water-Quality-Related Effluent Limitations	1134
1.	Section 1313: Water Quality Standards.....	1134
	Natural Resources Defense Council, Inc. v. United States Environmental Protection Agency	1135
	Notes.....	1142
2.	Water Quality Related Effluent Limitations	1144
3.	Translating Water Quality Standards into Permit Limitations.....	1145
	American Paper Institute, Inc. v. United States Environmental Protection Agency	1146
	Notes.....	1150
C.	Section 1316: National Standards of Performance for New Sources	1151
D.	Section 1317: Toxic and Pretreatment Effluent Standards.....	1151
1.	Toxic Pollutants: Effluent Limitations and Effluent Standards	1151
2.	Pretreatment Standards	1152
E.	Section 1318: Monitoring, Reporting, and Inspection Requirements.....	1153
F.	Section 1343: Ocean Discharge Criteria	1154
G.	Water Intake Regulation	1155
	Entergy Corporation v. Riverkeeper, Inc.	1156
	Notes.....	1167
H.	State Variations in SPDES Programs.....	1169
	Maple Leaf Farms, Inc. v. Wisconsin Department of Natural Resources.....	1170
	Notes.....	1178
I.	Tribal Regulatory Jurisdiction Under the Clean Water Act	1181
	Wisconsin v. Environmental Protection Agency	1182

Notes.....	1190
J. Enforcing the NPDES Permit Program	1191
IV. Section 404 “Dredge and Fill” Permits	1193
A. Introduction and Overview	1193
1. Federal Agency Administration of the Act.....	1193
2. Navigable Waters	1195
3. Discharges of Dredged or Fill Material.....	1195
4. Choosing Between Section 402 and Section 404 Permitting	1199
Coeur Alaska, Inc. v. Southeast Alaska Conservation Council	1199
Notes.....	1215
B. The Terms of Section 404 “Dredge and Fill” Permits	1216
1. The EPA’s Section 404(b)(1) Guidelines.....	1217
a. The EPA’s Basic Approach	1217
b. Special Aquatic Sites and Practicable Alternatives	1218
c. When Is an Alternative “Available”?	1220
Bersani v. United States Environmental Protection Agency	1220
Notes	1227
2. The Army Corps’ Public Interest Review	1228
C. General Permits.....	1231
D. Effect of a Section 404 Permit	1233
E. Section 404 Permits and Regulatory Takings	1233
Jentgen v. United States.....	1234
Notes.....	1238
V. Other Provisions for Protecting Water Quality.....	1240
A. Nonpoint Source Pollution Regulation.....	1240
B. TMDLs.....	1243
1. TMDLs in General	1243
2. Setting TMDLs	1244
Natural Resources Defense Council, Inc. v. Muszynski.....	1245
Notes.....	1254
3. TMDLs and Nonpoint Source Pollution	1255
Pronsolino v. Nastri.....	1257
Notes.....	1266
C. Section 401 Certifications	1268
1. Introduction to Section 401 Certifications	1268
PUD No. 1 of Jefferson County v. Washington Department of Ecology	1269
Notes	1278
2. Section 401 and Nonpoint Sources	1280
Oregon Natural Desert Association v. Dombeck	1280
Notes	1285
VI. Transboundary Water Pollution.....	1286
A. Interstate Nuisance Suits Regarding Water Quality.....	1286
B. Interstate Compacts	1287

C.	Sections 401 and 402 of the Clean Water Act.....	1288
	Arkansas v. Oklahoma.....	1289
	Notes.....	1296
D.	International Water Pollution	1298
VII.	Future Directions for the Clean Water Act	1299
	A. How Effective Has the Clean Water Act Been?.....	1299
	B. Future Directions in Water Quality Protection: Watershed Management	1301
	C. Future Directions in Water Quality Management: Pollution Trading.....	1302
 Chapter 6. Environmental Citizen Suits and the U.S.		
	Constitution	1307
I.	Introduction to Citizen Environmental Litigation.....	1307
II.	Notice	1308
	A. The Basic Notice Requirement	1308
	Hallstrom v. Tillamook County	1309
	Notes.....	1314
	B. The Contents and Scope of Citizen Suit Notice Letters.....	1315
	Public Interest Research Group of New Jersey, Inc. v. Hercules, Inc.	1315
	Notes.....	1325
III.	Standing and Article III.....	1327
	A. The Elements of Constitutional Standing in Environmental Lawsuits.....	1328
	1. The Basic Constitutional Standing Test.....	1328
	Sierra Club v. Morton.....	1328
	Notes.....	1337
	Lujan v. Defenders of Wildlife	1339
	Notes.....	1345
	Summers v. Earth Island Institute	1345
	Notes.....	1354
	2. Standing for States.....	1355
	Massachusetts v. Environmental Protection Agency	1356
	Notes.....	1367
	B. The Zone of Interests Test	1369
	Bennett v. Spear.....	1369
	Notes.....	1378
IV.	The <i>Gwaltney</i> Issue	1379
	<i>Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation, Inc.</i>	1379
	Notes	1385
	<i>Chesapeake Bay Foundation, Inc. v. Gwaltney of Smithfield, Ltd.</i>	1386
	Notes	1393
V.	Standing, Part 2: <i>Gwaltney</i> and the Standing Analysis	1395
	Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.....	1397
	Notes	1407

VI.	Citizen Suits and Government Enforcement	1408
VII.	Citizen Suits Against States: The Eleventh Amendment Hurdle	1411
A.	States' Eleventh Amendment Sovereign Immunity and Environmental Citizen Suits.....	1411
B.	The "Arm of the State" Doctrine	1412
C.	The <i>Ex Parte Young</i> Doctrine	1414
	Natural Resources Defense Council v. California Department of Transportation.....	1414
	Notes	1417
VIII.	Suits Against the Federal Government: Federal Facilities and Federal Sovereign Immunity	1419
	United States Department of Energy v. Ohio	1420
	Notes	1429
IX.	The Importance of Citizen Suit Enforcement	1431
	INDEX.....	1433