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Law, Science, and Policy

Sixth Edition

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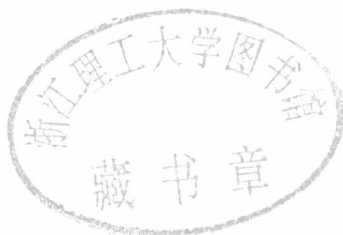
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To my international family,
Barbara, Marita, and Richard.

R.V.P.

To Kate, Emily, Ted, and Lily,
and to my parents, Jane and Herb,
for their unqualified support
and love.

C.H.S.

To Sue, Joanna, and my parents,
Ruth and Ralph Miller.

A.S.M.

To Suki, Benjamin, and Jonathan.

J.P.L.

|| Preface ||

Public concern for the environment has been a catalyst for profound changes in American law. During the past four decades, environmental law has grown from sparse common law roots into a vast system of public law that lies at the heart of the modern regulatory state. Environmental law has generated an immense and fiercely complex web of regulations that affects the way we live, work, and do business. Environmental regulation has profoundly affected other areas of legal practice, including real estate and commercial transactions, corporate law, criminal law, and bankruptcy. This book seeks to provide a comprehensive introduction to environmental law.

The sixth edition of this book goes to press at a time of considerable change in environmental policy. A new president is systematically reversing the prior administration's hostility to federal environmental regulation and seeking to reclaim the U.S.'s leadership role in confronting global environmental problems. Growing global environmental problems, including global warming and climate change, have spawned a fierce debate over how to develop a planetary response that is fair to developing countries whose emissions of greenhouse gases (GHGs) have been rising rapidly. Congress is considering legislation to create a national program to control GHG emissions while EPA is developing its own plan to employ the Clean Air Act to achieve the same end if Congress fails to act. The judiciary remains closely divided on many important issues of environmental law with a single Justice casting the decisive vote in many Supreme Court cases.

The sixth edition provides a comprehensive updating of the casebook while retaining the basic structure of the fifth edition. Climate change issues are now discussed in every chapter of the casebook with environmental standing (and the Supreme Court's *Massachusetts v. EPA* decision) now being introduced in Chapter 2. As in the previous editions, the text seeks to broaden students' vision by inviting them to explore how law relates to the larger problems society seeks to solve through collective action. It approaches environmental law through a regulatory policy focus that explores the full range of forces that shape the way law affects human behavior. By focusing on regulation—viewed expansively as embracing all forms of collective action to protect the environment—the text seeks to enhance understanding of the way law affects the behavior of institutions and individuals. This requires far more

than mastery of “black letter” law; it also demands an appreciation of the complex processes by which political, economic, and ethical concerns shape regulatory policy. Thus, the text consistently focuses not only on the substance of environmental statutes, but also on how they are translated into regulations and on the factors that affect how they influence real-world behavior.

Despite its comprehensiveness, the book seeks at every turn to make environmental law and policy accessible to the nonspecialist. Among the key features it employs to accomplish this goal are charts and diagrams mapping the structure of each of the major environmental statutes; problems and questions based largely on real-world environmental controversies; “pathfinders” explaining where to find crucial source materials for every major subject area; an extensive glossary of environmental terms; and a list of environmental acronyms. We continue to maintain the casebook’s website located at www.law.umaryland.edu/environment/casebook. The site provides chapter-by-chapter updates of material in the casebook and links to the rich array of environmental information available through the Internet. Each year a statutory and case supplement to the text is published (*Environmental Law: Statutory and Case Supplement with Internet Guide*), which provides both the updated text of the principal environmental statutes and recent judicial decisions in the field.

The chapters are organized in a manner that gives teachers considerable flexibility in deciding what to cover and in what order. Because each chapter is designed to be self-contained, the material may be covered in a variety of sequences, depending on the length of the course and the teacher’s desired areas of emphasis. The teacher’s manual identifies several alternative coverage options.

The authors appreciate the numerous comments received from faculty and students who have used the previous editions of this text. These comments and suggestions have been invaluable in helping us improve the sixth edition, as we hope you will notice. We hope you will continue to give us such useful feedback on this edition as well.

Robert V. Percival
Christopher H. Schroeder
Alan S. Miller
James P. Leape

July 2009

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|| *Environmental Regulation* ||

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