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Law, Science, and Policy

*Fifth  
Edition*

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# ***Environmental Regulation***

**Law, Science, and Policy**

***Fifth Edition***

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# || *Environmental Regulation* ||

Environmental regulation is a complex and multifaceted issue that has gained significant attention in recent years. The primary goal of environmental regulation is to protect the natural environment from human activities that cause pollution and degradation. This is achieved through a variety of measures, including the establishment of standards for air and water quality, the regulation of land use, and the control of hazardous waste.

One of the most common forms of environmental regulation is the issuance of permits. These permits are required for activities that have the potential to cause environmental harm, such as the construction of new facilities or the discharge of pollutants. The permitting process typically involves a thorough review of the proposed activity and its potential impacts on the environment. This review is often conducted by a government agency, such as the Environmental Protection Agency (EPA) in the United States.

In addition to permits, environmental regulation also includes the establishment of standards for air and water quality. These standards are designed to protect public health and the environment from the harmful effects of pollution. For example, the Clean Air Act in the United States sets standards for the levels of various pollutants in the air, such as particulate matter and ozone. Similarly, the Clean Water Act sets standards for the quality of water in rivers, lakes, and streams.

Another important aspect of environmental regulation is the control of hazardous waste. Hazardous waste is defined as any waste that is dangerous or harmful to human health or the environment. Examples of hazardous waste include chemicals, pesticides, and radioactive materials. The control of hazardous waste involves the regulation of its production, use, and disposal. This is typically done through a system of permits and standards that govern the handling and disposal of these materials.

Finally, environmental regulation also includes the regulation of land use. Land use regulation is designed to protect the environment from the impacts of development and land use changes. This is typically done through the establishment of zoning laws and the creation of protected areas, such as national parks and wildlife refuges. Land use regulation also includes the control of activities that are likely to cause environmental harm, such as logging and mining.

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## || *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 now affects many 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 fifth edition of this book goes to press at a time of considerable introspection in the environmental field. After decades of rapid growth, environmental regulation now faces serious challenges from those who believe it has gone too far, become too intrusive, or accomplished too little. Others believe that burgeoning global environmental problems require much more aggressive action than taken to date. Congress remains in gridlock on most environmental legislation and some members of the judiciary are highly critical of federal regulation. In a decision issued just before this edition goes to press, the U.S. Supreme Court split 4-1-4 with four Justices joining an opinion harshly critical of federal wetlands regulation, while four dissenters and a Justice concurring in the judgment extolled its importance (see *Rapanos v. United States* in Chapter 6).

The fifth edition provides a comprehensive updating of the casebook, which retains most of the basic structure of the fourth edition. The only significant organizational change is that the order of appearance of Chapters 3 and 4 has been reversed. In this fifth edition, Chapter 3 (formerly called “Regulation of Toxic Substances”) is now called “Preventing Harm in the Face of Uncertainty.” Material on “Waste Management and Pollution Prevention,” which previously was in Chapter 3, now appears as Chapter 4.

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. The book also has its own website located at [www.law.umaryland.edu/environment/casebook](http://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. Teachers using the text also will have access to the most detailed Teacher’s Manual in the field. 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 new 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 fifth 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 2006



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# || *Environmental Regulation* ||

# || *Summary of Contents* ||

<i>Contents</i>	<i>xi</i>
<i>Preface</i>	<i>xxvii</i>
<i>Acknowledgments</i>	<i>xxix</i>
1. <i>Environmental Values and Policies: An Introduction</i>	<i>1</i>
2. <i>Environmental Law: A Structural Overview</i>	<i>61</i>
3. <i>Preventing Harm in the Face of Uncertainty</i>	<i>165</i>
4. <i>Waste Management and Pollution Prevention</i>	<i>309</i>
5. <i>Air Pollution Control</i>	<i>467</i>
6. <i>Water Pollution Control</i>	<i>581</i>
7. <i>Land Use Regulation and Regulatory Takings</i>	<i>709</i>
8. <i>Environmental Impact Assessment</i>	<i>795</i>
9. <i>Preservation of Biodiversity</i>	<i>863</i>
10. <i>Environmental Enforcement</i>	<i>937</i>
11. <i>Protection of the Global Environment</i>	<i>1039</i>
12. <i>Environmental Progress and Prospects</i>	<i>1127</i>
<b>Appendix A: Glossary</b>	<i>1155</i>
<b>Appendix B: List of Acronyms</b>	<i>1175</i>
<i>Table of Cases</i>	<i>1181</i>
<i>Index</i>	<i>1187</i>

# || Contents ||

*Preface*

xxvii

*Acknowledgments*

xxix

## — 1 —

	<b><i>Environmental Values and Policies:</i></b>		
	<b><i>An Introduction</i></b>		<b><i>1</i></b>
A.	ENVIRONMENTAL PROBLEMS AND PROGRESS		3
B.	AMERICAN ENVIRONMENTALISM: SOURCES AND VALUES		8
	Environmental Philosophy: A Pathfinder		14
	Center for Progressive Reform: Perspective on Environmental Justice		16
	Notes and Questions		18
	Environmental Justice: A Pathfinder		23
	Problem Exercise: Mercury Contamination		24
C.	ECONOMICS AND THE ENVIRONMENT		26
1.	The Role of Prices and Markets		27
	Goodstein, Economics and the Environment		27
	Notes and Questions		28
2.	Cost-Benefit Analysis		30
	Notes and Questions		31
3.	Valuing Ecosystem Services		34
	Salzman, Creating Markets for Ecosystem Services		35
	Notes and Questions		37
D.	ECOLOGICAL PERSPECTIVES		38
	Paehlke, Environmentalism and the Future of Progressive Politics		40
	Botkin, Adjusting Law to Nature's Discordant Harmonies		43
	Notes and Questions		47
E.	COMMON POOL RESOURCES		49
	Hardin, The Tragedy of the Commons		49
	Notes and Questions		51

Problem Exercise: Should the Arctic National Wildlife Refuge Be Opened to Oil Exploration and Development?	53
Risks Worth Taking for Oil	54
The Missing Energy Strategy	57
Rolf, Stick with the Science and Keep the Emotionalism Out of ANWR	58

— 2 —

|| **Environmental Law: A Structural Overview** || **61**

A. SOURCES OF ENVIRONMENTAL LAW	62
1. Common Law Roots	63
a. Private Nuisance	64
<i>Madison v. Ducktown Sulphur, Copper &amp;         Iron Co.</i>	67
Notes and Questions	69
Harmonizing Conflicting Interests: To Balance or Not to Balance in Fashioning Remedies for Nuisances?	72
b. Public Nuisance	75
<i>Missouri v. Illinois</i>	77
Notes and Questions	80
<i>Georgia v. Tennessee Copper Co.</i>	82
Notes and Questions	84
2. Regulatory Legislation	88
a. Environmental Statutes: A Historical Perspective	88
Six Stages in the History of U.S. Environmental Law	88
Chronology of Significant Federal Environmental Legislation	91
b. The Impact of Regulatory Legislation on Common Law Actions	98
<i>International Paper Co. v. Ouellette</i>	100
Notes and Questions	101
c. Environmental Federalism: Three Models of Federal-State Relations	103
<i>New York v. United States</i>	107
Notes and Questions	110
The Commerce Clause and Congressional Authority to Protect the Environment	112
Notes and Questions	115
B. APPROACHES TO REGULATION: ASSESSING THE OPTIONS	116
1. Regulation and Its Alternatives	116
Case Study: Liability, Regulation, and the Prevention and Remediation of Oil Spills	121
Provisions of the Oil Pollution Prevention, Response, Liability, and Compensation Act of 1990 (OPA 90)	124
Notes and Questions	124

2. The Regulatory Options	126
a. Regulatory Targets	127
b. Bases for Controls	130
c. Types of Regulation	132
3. Comparing Regulatory Strategies	135
Case Study: Oil Spill Liability and Section 311 of the Clean Water Act	137
Notes and Questions	138
Assessing Regulatory Strategies and Their Effect on Technological Innovation	139
Notes and Questions	141
C. THE REGULATORY PROCESS	144
1. Law, Policy, and Agency Decision Making	144
2. Rulemaking Procedures	146
The Regulatory Process: A Pathfinder	147
3. Reforming Rulemaking	150
a. Negotiated Rulemaking	150
b. Generic Approaches to Rulemaking	151
c. Reinventing Regulation	152
4. Presidential Oversight of Rulemaking	153
<i>Sierra Club v. Costle</i>	154
Notes and Questions	156
5. Judicial Review and the Regulatory Process	157
<i>Chevron U.S.A. v. Natural Resources Defense         Council</i>	160
Notes and Questions	162

— 3 —

|| *Preventing Harm in the Face of Uncertainty* || 165

A. PRECURSORS OF MODERN REGULATORY APPROACHES	167
1. Identifying Activities Subject to Regulation	167
<i>Reserve Mining Company v. EPA</i>	169
Notes and Questions	174
<i>Ethyl Corp. v. EPA</i>	176
Notes and Questions	177
2. Quantifying Risks Subject to Regulation	182
<i>Industrial Union Dept., AFL-CIO v. American         Petroleum Institute</i>	183
Notes and Questions	193
A Note on Regulation of Benzene by OSHA Following the <i>Benzene</i> Decision	195
3. What We Know about Toxics Exposures	196
a. Information about Chemical Risks	197
<i>EPA, Chemical Hazard Data Availability Study</i>	198
Notes and Questions	199
b. Information about Environmental Releases of Toxic Substances	200
Notes and Questions	201



B. MODERN APPROACHES TO ASSESSING RISK	201
Hazard Identification Then and Now:	
Exploding Boilers versus Cancer-Causing Substances	202
Notes and Questions	208
<i>Chlorine Chemistry Council v. EPA</i>	211
Notes and Questions	213
Case Study: Mercury from Power Plants	216
C. HOW SAFE IS SAFE?—MODERN APPROACHES TO MANAGING RISK	223
1. Introduction: Remedial Approaches in <i>Reserve</i> and <i>Ethyl Corp.</i>	224
2. Statutory Authorities for Regulating Risks	226
3. Risk-Benefit Balancing Approaches	230
a. Introduction	230
b. Example: The Toxic Substances Control Act	230
Principal Provisions of the Toxic Substances Control Act	231
EPA, Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions	232
<i>Corrosion Proof Fittings v. EPA</i>	235
Notes and Questions	242
4. (Technology-Based) Feasibility-Limited Regulation	247
a. First Example: The OSH Act	248
Notes and Questions	248
b. Second Example: The Safe Drinking Water Act	249
Principal Provisions of the Safe Drinking Water Act	250
Case Study: Regulation of Arsenic in Drinking Water	253
Notes and Questions	262
5. Health-Based Regulation	264
a. De Minimis Risk and Comparative Risk Assessment	264
Notes and Questions	269
b. Acceptable Risk and Section 112 of the Clean Air Act	271
EPA, National Emission Standards for Hazardous Air Pollutants; Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants	273
Notes and Questions	276
Problem Exercise: Regulation of Toxic Substances	280
The “Sound Science” Debates	280
Reducing Risk through Comparative Risk Assessment?: The Case of Radon	284
Regulation of Toxic Substances: A Pathfinder	287
D. REGULATION THROUGH REVELATION	288
1. California’s Proposition 65: A Burden-Shifting Approach to the Information Problem	291