A. SOURCES OF ENVIRONMENTAL LAW
   1. Common Law Roots
      a. Private Nuisance
         *Madison v. Ducktown Sulphur, Copper & Iron Co.*
         Notes and Questions
         Harmonizing Conflicting Interests: To Balance or Not to Balance in Fashioning Remedies for Nuisances?
      b. Public Nuisance
         *Missouri v. Illinois*
         Notes and Questions
         *Georgia v. Tennessee Copper Co.*
         Notes and Questions
   2. Regulatory Legislation
      a. Environmental Statutes: A Historical Perspective
         Six Stages in the History of U.S. Environmental Law
         Chronology of Significant Federal Environmental Legislation
      b. The Impact of Regulatory Legislation on Common Law Actions
         *International Paper Co. v. Ouellette*
         Notes and Questions
         *American Electric Power Co. v. Connecticut*
         Notes and Questions
      c. Standing to Sue to Enforce the Environmental Laws
         *Sierra Club v. Morton*
         Notes and Questions
         Standing Doctrine in Environmental Cases After
         *Sierra Club v. Morton*
         *Massachusetts v. EPA*
         Notes and Questions
      d. Environmental Federalism: Three Models of Federal-State Relations
         *New York v. United States*
         Notes and Questions
2. Quantifying Risks Subject to Regulation 217

*Industrial Union Dep’t, AFL-CIO v. American Petroleum Institute* 218

A Note on Regulation of Benzene by OSHA Following the *Benzene* Decision 228

3. What We Know About Toxics Exposures 230

   a. Information About Chemical Risks 230
   b. Information about Environmental Releases of Toxic Substances 232

Notes and Questions 233

B. MODERN APPROACHES TO ASSESSING RISK 234

Hazard Identification Then and Now: Exploding Boilers versus Cancer-Causing Substances 234

Case Study: Mercury from Power Plants 247

*Michigan v. EPA* 253

Notes and Questions 261

C. HOW SAFE IS SAFE?—MODERN APPROACHES TO MANAGING RISK 262

1. Introduction: Remedial Approaches in *Reserve* and *Ethyl Corp.* 263
2. Statutory Authorities for Regulating Risks 265
3. Risk-Benefit Balancing Approaches 267
   a. Introduction 267
   b. Example: The Toxic Substances Control Act Prior to 2016 269

*Corrosion Proof Fittings v. EPA* 271

Notes and Questions 277

The Frank R. Lautenberg Chemical Safety for the 21st Century Act 280

Principal Provisions of the Toxic Substances Control Act 281

4. Technology-Based (Feasibility-Limited) Regulation 282
   a. First Example: The OSH Act 283

Notes and Questions 283
   b. Second Example: The Safe Drinking Water Act 284

Principal Provisions of the Safe Drinking Water Act 286

*American Water Works Ass’n v. EPA* 288

Notes and Questions 291

Percival, The Poison Poor Children Drink: Six Lessons from the Flint Tragedy 291

Notes and Questions 294

5. Health-Based Regulation 295
   a. De Minimis Risk and Comparative Risk Assessment 296

Notes and Questions 300
### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>b.</td>
<td>Acceptable Risk and Section 112 of the Clean Air Act</td>
<td>303</td>
</tr>
<tr>
<td></td>
<td>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</td>
<td>305</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>308</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td><em>Natural Resources Defense Council v. EPA</em></td>
<td>310</td>
</tr>
<tr>
<td>Problem Exercise: Regulation of Toxic Substances</td>
<td></td>
<td>315</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>The “Sound Science” Debates</td>
<td>316</td>
</tr>
<tr>
<td>Reducing Risk through Comparative Risk Assessment?: The Case of Radon</td>
<td></td>
<td>320</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>Regulation of Toxic Substances: A Pathfinder</td>
<td>323</td>
</tr>
<tr>
<td>D.</td>
<td>REGULATION THROUGH REVELATION</td>
<td>324</td>
</tr>
<tr>
<td>1.</td>
<td>California’s Proposition 65: A Burden-Shifting Approach to the Information Problem</td>
<td>327</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>Rechtschaffen, How to Reduce Lead Exposures with One Simple Statute: The Experience of Proposition 65</td>
<td>332</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>335</td>
</tr>
<tr>
<td>2.</td>
<td>The Emergency Planning and Community Right-to-Know Act (EPCRA)</td>
<td>336</td>
</tr>
<tr>
<td>Principal Provisions of the Emergency Planning and Community Right-to-Know Act</td>
<td>337</td>
<td></td>
</tr>
<tr>
<td>Hamilton, Regulation through Revelation</td>
<td></td>
<td>340</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>341</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>Waste Management and Pollution Prevention</td>
<td>345</td>
</tr>
<tr>
<td>A.</td>
<td>WASTE MANAGEMENT AND POLLUTION PROBLEMS</td>
<td>346</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>350</td>
</tr>
<tr>
<td>B.</td>
<td>STATUTORY AUTHORITIES AFFECTING WASTE MANAGEMENT</td>
<td>350</td>
</tr>
<tr>
<td>Regulation of Waste Management: A Pathfinder</td>
<td></td>
<td>354</td>
</tr>
<tr>
<td>C.</td>
<td>THE RCRA REGULATORY PROGRAM</td>
<td>356</td>
</tr>
<tr>
<td>1.</td>
<td>RCRA: An Introduction</td>
<td>356</td>
</tr>
<tr>
<td>a.</td>
<td>History of the RCRA Program</td>
<td>356</td>
</tr>
<tr>
<td>b.</td>
<td>Structure of the RCRA Program</td>
<td>361</td>
</tr>
<tr>
<td>Structure of the Resource Conservation and Recovery Act</td>
<td></td>
<td>361</td>
</tr>
<tr>
<td>2.</td>
<td>What Substances Are “Solid Wastes”?</td>
<td>367</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>American Mining Congress v. EPA</td>
<td>369</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td></td>
<td>375</td>
</tr>
<tr>
<td>3.</td>
<td>Distinguishing “Legitimate Recycling” from “Sham Recycling”</td>
<td>379</td>
</tr>
<tr>
<td>4.</td>
<td>Identifying “Hazardous Waste”</td>
<td>381</td>
</tr>
</tbody>
</table>
Notes and Questions 385
5. Incinerator Ash and the Household Waste Exclusion 386
   City of Chicago v. Environmental Defense Fund 388
   Notes and Questions 395
6. Avoiding TSD Status: A Historical Snapshot 396
   Stoll, Coping with the RCRA Hazardous Waste System: A Few Practical Points for Fun and Profit 396
   Notes and Questions 401
7. Subtitle D and the Regulation of “Nonhazardous” Waste Disposal 403
   Notes and Questions 406
8. RCRA’s “Imminent Hazard” Provisions 407
   Notes and Questions 408
D. CERCLA LIABILITY 409
1. CERCLA’s Basic Principles 409
   Principal Provisions of CERCLA 412
2. Liability Provisions of CERCLA 413
   General Electric Co. v. Jackson 415
   Notes and Questions 419
3. Responsible Parties 419
   a. Owners
      New York v. Shore Realty Corp. 420
      Notes and Questions 424
      A Note on Property Transfer Statutes 427
      Notes and Questions 429
   b. Operators
      United States v. Bestfoods 431
      Notes and Questions 435
   c. Arrangers
      Burlington Northern & Santa Fe Railway Co. v. United States 439
      Notes and Questions 444
      Shrinking the Net of CERCLA Liability 447
      Problem Exercise: CERCLA Liability 449
4. Strict, Joint, and Several Liability 449
   Burlington Northern & Santa Fe Railway Co. v. United States 451
   Notes and Questions 456
5. Liability: Amount and Allocation 458
   a. Standards and Costs of Removal and Remediation 458
   b. Allocation of Liability 463
      United States v. Atlantic Research Corp. 466
      Notes and Questions 470
      United States v. Vertac Chemical Corp. 472
      Notes and Questions 477
      Akzo Nobel Coatings, Inc. v. Aigner Corp. 480
      Problem Exercise: CERCLA Cost Allocation, Settlements, and Contribution 483
6. Has Superfund Worked? 484
   Notes and Questions 487

E. DUMPSITE REGULATION, THE DORMANT COMMERCE CLAUSE, AND ENVIRONMENTAL JUSTICE CONCERNS 489
   1. Commerce Clause Limitations 489
   Philadelphia v. New Jersey 490
   Notes and Questions 496
   C & A Carbone, Inc. v. Town of Clarkstown 500
   Notes and Questions 505

   2. Siting Controversies and the Environmental Justice Movement 507
   In the Matter of Louisiana Energy Services, L.P. 508
   Notes and Questions 514

   3. Factors Affecting Siting Decisions: The Yucca Mountain Case Study 515
   Problem Exercise: Should the Nation’s High-Level Radioactive Waste Be Deposited in Yucca Mountain? 516

5 — Air Pollution Control 521

A. AIR POLLUTION PROBLEMS 522
B. THE CLEAN AIR ACT: BASIC PRINCIPLES 524
   Air Pollution Control: A Pathfinder 528
   Major Provisions of the Clean Air Act 530

C. WHAT IS AN AIR POLLUTANT? GREENHOUSE GASES AND THE CLEAN AIR ACT 530
   1. What Is an “Air Pollutant” under the Clean Air Act? 531
      Massachusetts v. EPA 532
      Notes and Questions 538

   2. EPA’s Endangerment Finding and Regulation of Greenhouse Gases 539
      Utility Air Regulatory Group v. EPA 540
      Notes and Questions 551
      EPA’s Clean Power Plan: A Legal and Political Firestorm 553

D. MOBILE SOURCE CONTROLS: A TECHNOLOGY-FORCING VENTURE 557
   1. Emissions Standards 559
      Notes and Questions 562

   2. Fuel Content 563

   3. Alternative Vehicles 566
      Notes and Questions 568

   4. Greenhouse Gases and Mobile Sources: California’s Special Role 569
Contents

E. NATIONAL AMBIENT AIR QUALITY STANDARDS 571
   1. Establishing NAAQSs 571
      Lead Industries Association v. EPA 575
      Notes and Questions 577
      Problem Exercise: A NAAQS for CO₂? 580
   2. Revising NAAQSs 581
      Whitman v. American Trucking Ass’ns 584
      Notes and Questions 591
F. ATTAINING AND MAINTAINING THE NAAQSs 595
   1. Implementation and Compliance—The Basic Structure 595
      Union Electric Company v. EPA 597
      Notes and Questions 598
      Virginia v. EPA 601
      Notes and Questions 602
      Alaska Department of Environmental Conservation v. EPA 604
      Notes and Questions 610
   2. The Evolution of the Programs to Achieve and Maintain the NAAQS 610
      a. Nonattainment and Prevention of Significant Deterioration 610
      b. New Source Review 613
         Environmental Defense v. Duke Energy Corp. 620
         Notes and Questions 625
      c. Cap-and-Trade and Other Economic Incentive Programs 627
         Problem Exercise: Economic Incentive Programs 628
      d. Acid Deposition 630
         Notes and Questions 634
         Alliance for Clean Coal v. Bayh 637
         Notes and Questions 639
      e. Multi-State Air Quality Problems 640
         EPA v. EME Homer City Generation, L.P. 647
         Notes and Questions 655

Water Pollution Control 657

A. WATER POLLUTION PROBLEMS 658
   Andreen, Success and Backlash: The Remarkable (Continuing) Story of the Clean Water Act 658
   Notes and Questions 660
B. STATUTORY AUTHORITIES FOR PROTECTING WATER QUALITY 663
   1. Water Pollution Control: A Historical Perspective 663
   2. Statutory Authorities 665
      Principal Federal Laws Addressing Water Pollution 667
3. The Structure of the Clean Water Act
   - Major Provisions of the Clean Water Act
   - Notes and Questions
4. The Scope of Federal Authority to Regulate Water Pollution
   - United States v. Riverside Bayview Homes, Inc.
   - Notes and Questions
   - Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers
   - Notes and Questions
   - Rapanos v. United States
   - Notes and Questions
   - The “Waters of the U.S.” (WOTUS) or Clean Water Rule
   - Notes and Questions
C. REGULATION OF DISCHARGES FROM POINT SOURCES
   1. Defining the “Addition of Any Pollutant”
      - National Mining Association v. Army Corps of Engineers
      - Notes and Questions
      - Can a Water Transfer Qualify as the “Discharge of a Pollutant”? 
      - South Florida Water Management District v. Miccosukee Tribe of Indians
      - Notes and Questions
      - Los Angeles County Flood Control District v. Natural Resources Defense Council, Inc.
      - Notes and Questions
   2. Defining “Point Sources” Subject to Permit Requirements
      - NRDC v. Costle
      - Notes and Questions
      - United States v. Plaza Health Laboratories, Inc.
      - Notes and Questions
   3. Technology-Based Effluent Limitations
      a. Application to Industrial Discharges
         i. The Development of Effluent Limitations
         ii. Effluent Standards for Toxic Water Pollutants
         iii. Variances
            - Chemical Manufacturers Association v. NRDC
            - Notes and Questions
         iv. Effluent Limitations: The State of the Art
            - Notes and Questions
      b. POTWs and the Pretreatment Program
         Notes and Questions
         Water Pollution Control: A Pathfinder
D. WATER QUALITY–BASED CONTROLS: THE REGULATORY “SAFETY NET”? 
   1. Water Quality Standards
      a. Designated Uses and Antidegradation
      b. Water Quality Criteria
         Notes and Questions
2. Federal Programs Affecting Private Land Use 815
   Notes and Questions 819
   Land Use Regulation: A Pathfinder 820
C. LAND USE REGULATION BY STATE AND LOCAL GOVERNMENTS 822
1. Zoning and State Authority to Regulate Land Use 822
   Village of Euclid v. Ambler Realty Co. 822
   Notes and Questions 824
   “Public Use” and the Kelo Decision 825
2. State Growth Management and Critical Area Protection Programs 827
   Liberty, Planned Growth: The Oregon Model 828
   Notes and Questions 830
D. LAND USE CONTROLS AND REGULATORY TAKINGS 832
1. The Evolution of Regulatory Takings Doctrine 832
   Penn Central Transportation Co. v. City of New York 834
   Notes and Questions 837
2. The Modern Revival of Regulatory Takings Jurisprudence 838
   Lucas v. South Carolina Coastal Council 840
   Notes and Questions 849
   The Impact of Post-Regulation Acquisition of Property: The Palazzolo Case 854
   Palazzolo v. Rhode Island 855
   Notes and Questions 862
   Are Development Moratoria Temporary Takings?: The Tahoe-Sierra Decision 864
   The “Relevant Parcel” Issue: Murr v. Wisconsin 866
   Murr v. Wisconsin 866
   Notes and Questions 874
3. Regulatory Exactions 874
   Dolan v. City of Tigard 875
   Notes and Questions 884
   Lingle v. Chevron U.S.A., Inc. 887
   Notes and Questions 889
   Problem Exercise: Environmental Remediation and the Takings Clause 890
4. Evolving Conceptions of Property Rights: The Public Trust, Climate Change, and Judicial Takings 891
   Titus, Rising Seas, Coastal Erosion, and the Takings Clause: How to Save Wetlands and Beaches Without Hurting Property Owners 893
   Notes and Questions 896
   Stop the Beach Renourishment, Inc. v. Florida Dep’t of Environmental Protection 899
   Notes and Questions 909
A. THE NATIONAL ENVIRONMENTAL POLICY ACT: AN OVERVIEW 912

Structure of the National Environmental Policy Act 912

Calvert Cliffs Coordinating Committee v. United States Atomic Energy Commission 914
Notes and Questions 917
Strycker’s Bay Neighborhood Council, Inc. v. Karlen 918
Notes and Questions 920

B. UNDER WHAT CIRCUMSTANCES MUST AN ENVIRONMENTAL IMPACT STATEMENT BE PREPARED? 921

1. "Proposals for Legislation and Other Major Federal Actions” 921
   a. "Proposals for Legislation” 922
      Implementing NEPA: A Pathfinder 923
   b. "Major Federal Action” 924
   c. Problems of Timing and Scope 927
      Kleppe v. Sierra Club 927
      Notes and Questions 931
      Thomas v. Peterson 935
      Notes and Questions 937
      Sierra Club v. Peterson 938
      Notes and Questions 941

2. "Significantly Affecting the Quality of the Human Environment” 943
   Hanly v. Kleindienst 944
   Notes and Questions 948
   a. Procedure for Determining Whether or Not to Prepare an EIS 948
   b. Determining the “Significance” of Action 952
      Notes and Questions 954
   c. What “Effects” Must Be Considered 955
      Department of Transportation v. Public Citizen 955
      Notes and Questions 960
      Sierra Club v. Federal Energy Regulation Commission 962
      Notes and Questions 968
      Problem Exercise: To What Extent Should a Project’s Impact on Greenhouse Gas Emissions and Climate Change Be Considered in an EIS? 969

C. IS THE EIS ADEQUATE? 971

1. Alternatives 971
   Vermont Yankee Nuclear Power Corp. v. NRDC 972
   Notes and Questions 976

2. Analysis 977
   a. Quality of the Analysis in an EIS 978
      Sierra Club v. United States Army Corps of Engineers 978
      Notes and Questions 981
### 9

#### Preservation of Biodiversity

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>WHY SHOULD WE PRESERVE BIODIVERSITY?</td>
<td>1000</td>
</tr>
<tr>
<td></td>
<td>E.O. Wilson, <em>Biophilia</em></td>
<td>1000</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1002</td>
</tr>
<tr>
<td>B.</td>
<td>THE ENDANGERED SPECIES ACT: AN OVERVIEW</td>
<td>1004</td>
</tr>
<tr>
<td></td>
<td>Major Provisions of the Endangered Species Act</td>
<td>1004</td>
</tr>
<tr>
<td></td>
<td><em>TVA v. Hill</em></td>
<td>1007</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1011</td>
</tr>
<tr>
<td>C.</td>
<td>FEDERAL AUTHORITY TO PRESERVE BIODIVERSITY</td>
<td>1013</td>
</tr>
<tr>
<td></td>
<td><em>National Association of Home Builders v. Babbitt</em></td>
<td>1014</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1021</td>
</tr>
<tr>
<td></td>
<td><em>Gibbs v. Babbitt</em></td>
<td>1022</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1026</td>
</tr>
<tr>
<td>D.</td>
<td>WHICH SPECIES ARE PROTECTED: SECTION 4</td>
<td>1029</td>
</tr>
<tr>
<td></td>
<td>1. The Listing Process</td>
<td>1030</td>
</tr>
<tr>
<td></td>
<td>2. Critical Habitat Designations</td>
<td>1034</td>
</tr>
<tr>
<td></td>
<td>3. Climate-Threatened Species</td>
<td>1036</td>
</tr>
<tr>
<td></td>
<td>4. Delisting Decisions and Species Recovery Plans</td>
<td>1058</td>
</tr>
<tr>
<td></td>
<td>Protection of Biodiversity: A Pathfinder</td>
<td>1039</td>
</tr>
<tr>
<td>E.</td>
<td>REVIEW OF FEDERAL ACTIONS: SECTION 7</td>
<td>1040</td>
</tr>
<tr>
<td></td>
<td><em>Thomas v. Peterson</em></td>
<td>1040</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1042</td>
</tr>
<tr>
<td></td>
<td><em>National Ass’n of Home Builders v. Defenders of Wildlife</em></td>
<td>1045</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1053</td>
</tr>
<tr>
<td></td>
<td><em>Carson-Truckee Water Conservancy District v. Clark</em></td>
<td>1055</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1057</td>
</tr>
<tr>
<td></td>
<td>Clarifying the Section 7 Consultation Process:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Defining Adverse Modification and Dealing with</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Species Threatened by Climate Change</td>
<td>1058</td>
</tr>
<tr>
<td>F.</td>
<td>PROTECTION AGAINST PRIVATE ACTION: SECTION 9</td>
<td>1059</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1060</td>
</tr>
<tr>
<td></td>
<td>Private Actions, Incidental Takings, and Habitat Conservation Plans</td>
<td>1061</td>
</tr>
</tbody>
</table>
Habitat Degradation and Section 9’s “Take” Prohibition 1062

_Babbitt v. Sweet Home Chapter of Communities for a Great Oregon_ 1062

Notes and Questions 1070

The Impact of Section 9 on Incentives to Preserve Habitat on Private Property 1074

Protection for Endangered Plants 1075

Ignoring Pleas of Environmentalists, Kansas Man Digs Up Virgin Prairie 1075

Notes and Questions 1076

Problem Exercise: The Endangered Species Act 1077

G. THE FUTURE OF BIODIVERSITY PROTECTION 1077

1. The Northwest Forest Plan: An Ecosystem Approach 1077

2. Reauthorizing the Endangered Species Act 1080

--- 10 ---

_Engironmental Enforcement_ 1085

A. MONITORING AND DETECTING VIOLATIONS 1086

_EPA, Final Policy Statement on Incentives for Self-Policing of Violations_ 1091

Notes and Questions 1095

B. ENFORCEMENT AUTHORITIES AND POLICIES 1098

1. Enforcement Authorities 1098

_Enforcement Provisions of the Clean Water Act_ 1099

_Sackett v. EPA_ 1102

Notes and Questions 1105

2. Penalty Policies 1107

_Sierra Club v. Cedar Point Oil Co._ 1108

Notes and Questions 1110

3. The Federal-State Enforcement Relationship 1112

_Harmon Industries v. Browner_ 1113

Notes and Questions 1117

C. CRIMINAL ENFORCEMENT 1120

_United States v. Weitzenhoff_ 1124

Notes and Questions 1134

Problem Exercise: Who Should Be Prosecuted Criminally? 1138

D. CITIZEN SUITS 1139


_Norton v. Southern Utah Wilderness Alliance_ 1141

Notes and Questions 1147

2. Citizen Enforcement Actions and the _Gwaltney_ Problem 1147

_Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation_ 1148

Notes and Questions 1153
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intergovernmental Panel on Climate Change,</td>
<td>1230</td>
</tr>
<tr>
<td>Climate Change 2014: Synthesis Report</td>
<td></td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1232</td>
</tr>
<tr>
<td>b. Legal and Policy Responses to Global Warming and Climate Change</td>
<td>1234</td>
</tr>
<tr>
<td>UN Framework Convention on Climate Change</td>
<td>1234</td>
</tr>
<tr>
<td>Kyoto Protocol to the Convention on Climate Change</td>
<td>1235</td>
</tr>
<tr>
<td>The Copenhagen Accord</td>
<td>1237</td>
</tr>
<tr>
<td>Bodansky, The Durban Platform: Issues and Options for a 2015 Agreement</td>
<td>1240</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1242</td>
</tr>
<tr>
<td>The Road to Paris</td>
<td>1243</td>
</tr>
<tr>
<td>COP-21 and the Paris Agreement</td>
<td>1244</td>
</tr>
<tr>
<td>Paris Agreement (2015)</td>
<td>1245</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1248</td>
</tr>
<tr>
<td>C. INTERNATIONAL TRADE AND THE ENVIRONMENT</td>
<td>1250</td>
</tr>
<tr>
<td>1. Overview</td>
<td>1250</td>
</tr>
<tr>
<td>Fredriksson, Trade, Global Policy, and the Environment: New Evidence and Issues</td>
<td>1252</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1254</td>
</tr>
<tr>
<td>2. The GATT and WTO</td>
<td>1255</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1260</td>
</tr>
<tr>
<td>The Tuna/Dolphin II Decision</td>
<td>1261</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1262</td>
</tr>
<tr>
<td>The Shrimp/Turtle Decision</td>
<td>1265</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1266</td>
</tr>
<tr>
<td>Regulation of GHG Emissions from Aviation</td>
<td>1268</td>
</tr>
<tr>
<td>Air Transportation Association of America v. Secretary of State for Energy and Climate Change</td>
<td>1269</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1272</td>
</tr>
<tr>
<td>3. The North American Free Trade Agreement (NAFTA) and the Environment</td>
<td>1273</td>
</tr>
<tr>
<td>4. International Trade in Hazardous Substances</td>
<td>1276</td>
</tr>
<tr>
<td>a. Policy Issues</td>
<td>1276</td>
</tr>
<tr>
<td>b. Regulation of International Trade in Hazardous Substances</td>
<td>1278</td>
</tr>
<tr>
<td>Tort Litigation in the United States for Actions Abroad by U.S. Multinationals</td>
<td>1280</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1282</td>
</tr>
<tr>
<td>Beanal v. Freeport-McMoran, Inc.</td>
<td>1284</td>
</tr>
<tr>
<td>Notes and Questions</td>
<td>1286</td>
</tr>
<tr>
<td>The Chevron/Ecuador Litigation, Kiobel, and the Alien Tort Statute</td>
<td>1288</td>
</tr>
</tbody>
</table>
### Contents

D. INTERNATIONAL DEVELOPMENT POLICY AND THE ENVIRONMENT

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Multilateral Development Banks</td>
<td>1293</td>
</tr>
<tr>
<td></td>
<td>Seymour &amp; Dubash, World Bank’s Environmental Reform, Agenda</td>
<td>1294</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1297</td>
</tr>
<tr>
<td>2.</td>
<td>The Global Environment Facility</td>
<td>1299</td>
</tr>
<tr>
<td></td>
<td>Horta, In Focus: Global Environment Facility</td>
<td>1300</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1302</td>
</tr>
<tr>
<td></td>
<td>Financing and the Global Environment Facility</td>
<td>1303</td>
</tr>
<tr>
<td>E.</td>
<td>COMPLIANCE AND ENFORCEMENT</td>
<td>1303</td>
</tr>
<tr>
<td></td>
<td>Weiss &amp; Jacobson, Getting Countries to Comply with International Agreements</td>
<td>1304</td>
</tr>
<tr>
<td></td>
<td>Zaelke, Stilwell &amp; Young, What Reason Demands: Making Laws Work for Sustainable Development</td>
<td>1306</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1308</td>
</tr>
</tbody>
</table>

#### 12

Environmental Progress and Prospects

A. ENVIRONMENTAL PROGRESS

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Council on Environmental Quality, Environmental Quality, 25th Anniversary Report</td>
<td>1310</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1311</td>
</tr>
<tr>
<td></td>
<td>Graham, The Morning After Earth Day</td>
<td>1312</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1313</td>
</tr>
<tr>
<td>B.</td>
<td>ENVIRONMENTAL PROSPECTS</td>
<td>1316</td>
</tr>
<tr>
<td></td>
<td>A New Way of Living with Nature</td>
<td>1317</td>
</tr>
<tr>
<td></td>
<td>Gregg Easterbrook’s “Ecorealism” and Bjorn Lomborg’s “Skeptical Environmentalism”</td>
<td>1318</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1321</td>
</tr>
<tr>
<td></td>
<td>Percival, Looking Backward, Looking Forward: The Next 40 Years of Environmental Law</td>
<td>1324</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1328</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1332</td>
</tr>
<tr>
<td></td>
<td>Robert V. Percival, Nature’s Law</td>
<td>1333</td>
</tr>
<tr>
<td></td>
<td>The Rise of Private Environmental Governance</td>
<td>1335</td>
</tr>
<tr>
<td></td>
<td>Notes and Questions</td>
<td>1340</td>
</tr>
<tr>
<td>C.</td>
<td>SOME CONCLUDING THOUGHTS</td>
<td>1341</td>
</tr>
</tbody>
</table>
— APPENDIX A —

| Glossary | 1343 |

— APPENDIX B —

| List of Acronyms | 1367 |

Table of Cases 1373
Index 1385