ESSENTIALS OF ENVIRONMENTAL LAW

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Overview of Environmental Law

– This presentation is based on Craig B. Simonsen’s, *Essentials of Environmental Law*, 3rd Ed. (Pearson Prentice Hall, 2007)
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– A corresponding Internet Website to this presentation has been made available to attendees

– This Website will allow attendees to link to, at any time, the many links shown during this presentation

– The Website, which is found at www.seyfarth.com/CraigSimonsen (under the “Presentations” tab), with all of its active links, will remain available to attendees indefinitely
Overview of Environmental Law

• The Major Environmental Laws
  – Clean Air Act (CAA)
  – Clean Water Act (CWA)
  – Resource Conservation & Recovery Act (RCRA)
  – Toxic Substances Control Act (TSCA)
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– Comprehensive Environmental Response, Compensation, And Liability Act (CERCLA)

– Emergency Planning And Community Right-To-Know Act (EPCRA)

– Endangered Species Act (ESA)

– National Environmental Policy Act (NEPA)
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- ENVIRONMENTAL LAW LINKS – GENERALLY

– U.S. EPA’s Homepage at: www.epa.gov
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- **ENVIRONMENTAL LAW LINKS – GENERALLY**

  – Federal **Environmental Laws**, generally at:
    
    [www.epa.gov/epahome/laws.htm](http://www.epa.gov/epahome/laws.htm)
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• ENVIRONMENTAL LAW LINKS – GENERALLY

– Federal Environmental Rules, generally at: www.epa.gov/epahome/cfr40.htm
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- ENVIRONMENTAL LAW LINKS – GENERALLY

- U.S. EPA’s EnviroFacts Warehouse at:
  www.epa.gov/enviro
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• **Clean Air Act (CAA)**
  – CAA protects and enhances the quality of the air --

    – Regulation Of criteria pollutants
      • NAAQS

    – State Implementation Plans

    – Prevention of Significant Deterioration (PSD)

    – New Source Review (NSR)
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• **CAA Continued**
  
  – New Source Performance Standards (NSPS)
  
  – Regulation Of Hazardous Air Pollutants (HAPs)
  
  – Operating Permits
    • Clean Air Act Permit Program (CAAPP) permits
    • State permit programs
  
  – Enforcement
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• CAA Links
  – U.S. EPA Office of Air Quality Planning and Standards
  – The NAAQS criteria pollutants are listed at www.epa.gov/air/criteria.html.
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• CAA Links
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• **CAA Links**
  - The NSPS are listed at: www.epa.gov/ttn/atw/nsps/nspstbl.html
  - The NESHAPS are listed at: www.epa.gov/ttn/atw/mactfnlalph.html
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• **CAA Links**
  - The list of HAPs is at: [www.epa.gov/ttn/atw/orig189.html](http://www.epa.gov/ttn/atw/orig189.html).
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• Clean Water Act (CWA)
  – Primary federal statute regulating water pollution
  – NPDES permit system
  – NPDES permit issuance procedure
  – NPDES permit conditions applied based on limits, standards, and prohibitions
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• CWA Continued
  – Oil and hazardous substances
  – Pretreatment programs
    • Publicly Owned Treatment Works (POTWs)
  – Section 404 (COE) permits
  – Enforcement
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• CWA Links
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• CWA Links
  – Currently, 45 states have approved NPDES permit programs -- cfpub.epa.gov/npdes/statestribes/astatus.cfm.
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• **Resource Conservation & Recovery Act (RCRA)**
  – “Cradle-to-grave” management of solid waste
    - State or Regional Solid Waste Plans
    - Hazardous Waste
    - Identification of hazardous waste
    - The permit program
    - Treatment, Storage, and Disposal (TSD) rules
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• **RCRA Continued**
  
  – Generator status
  
  – Waste manifests
  
  – Land Disposal Restrictions (LDRs)
  
  – Underground Storage Tank (UST) program
  
  – State program authority
  
  – Enforcement
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• **RCRA Links**
  

  

[Image of EPA website]
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• **RCRA Links**
  - Characteristic hazardous waste determination procedure, found at [40 C.F.R. § 261.3](http://www.epa.gov/).  
  - Region V’s [USTs Webpage](http://www.epa.gov/) with Checklist.
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• **RCRA Links**
  - U.S. EPA’s [RCRA Training Modules](http://www.epa.gov/epaoswer/radsafety/radtrng/).

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[Image of the RCRA State Authorization webpage]

[Image of the RCRA Training Modules webpage]
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• **Toxic Substances Control Act (TSCA)**
  – Regulates chemical substances and mixtures
  – Regulates both the distribution of existing chemicals and the manufacture of new chemicals based on their risks to health and the environment
  – TSCA Inventory
  – Premanufacture Notices (PMNs)
  – EPA review of PMNs
  – TSCA testing provisions
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• **TSCA Continued**
  - Significant New Use Rules (SNURs)
  - Regulation of unreasonable risk under § 6
  - Regulation of PCBs under TSCA
  - Regulation of asbestos under TSCA
  - Reporting and recordkeeping requirements
  - Enforcement
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• **TSCA Links**
  – EPA’s [Office of Pollution Prevention & Toxics](http://www.epa.gov/opptintr/) (OPPT).
  – The Agency’s “[PMN Instruction Manual](http://www.epa.gov/opptintr/newchems/pubs/tscaman2.pdf).”
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• **TSCA Links**
  - The “**Annotated PMN Form - Guide to PMN Submitters**”.
  - EPA’s **Consumer Factsheet** on: **Polychlorinated Biphenyls (PCBs)**.
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• **TSCA Links**
  - The ATSDR’s "**ToxFAQs™ for Polychlorinated Biphenyls (PCBs)**".
  - The EPA’s [asbestos Website](http://www.epa.gov/asbestos/).

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**ATSDR - ToxFAQs™ Polychlorinated Biphenyls (PCBs)**

**ATSDR Home**
- Toxic Substances & Health
- ToxFAQs™
- Quick Links

**Quick Links**
- A-Z Index
- Search
- Printer-friendly version

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**EPA/OPT/Asbestos Home**

**Asbestos**
- Asbestos is the name given to a number of naturally occurring, fibrous silicate minerals mined for their useful properties such as thermal insulation, chemical and thermal stability, and high tensile strength. Asbestos is commonly used as an acoustic insulator, thermal insulation, fireproofing, and in other building materials. Many products are in use today that contain asbestos.
- Asbestos is made up of microscopic bundles of fibers that may become airborne when asbestos-containing materials are damaged or disturbed. When these fibers get into the air they may be inhaled into the lungs, where they can cause significant health problems.

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**Asbestos Highlights**

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• Comprehensive Environmental Response, Compensation, And Liability Act (CERCLA)
  – First emergency cleanup response statute
  – Removal and remedial programs
  – National Contingency Plan (NCP)
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• CERCLA Continued
  – Uncontrolled Hazardous Waste Site Ranking System (HRS)
  – National Priorities List (NPL)
  – Superfund site process
  – Cleanup actions
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• CERCLA Continued
  – Selecting the appropriate remedy
  – Small Business Liability Relief and Brownfields Revitalization Act
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• CERCLA Links
  – U.S. EPA’s [Guidance Memorandum on Use and Issuance of Administrative Orders](http://www.epa.gov/compliance/resources/notices/cleanup/supfund/useiss.sec106.mom.pdf) Under Section 106(a) of CERCLA.
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• CERCLA Links
  – An example of an actual 104(e) information request letter.
  – Region 10’s Section 106 UOA for RI/FS.
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• CERCLA Links
  – The Comprehensive Remedial Investigation Feasibility Study For Tan Ou 1-10 At Ineel.
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• Emergency Planning And Community Right-To-Know Act (EPCRA)
  – Expanded the federal role in emergency planning
  – Gave citizens right to get information about potential chemical hazards in their communities
  – Emergency planning
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• EPCRA Continued
  – Reporting - materials handling
  – Reporting - releases
  – Enforcement
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- **EPCRA Links**
  - U.S. EPA’s [Chemical Emergency Preparedness and Prevention Office (CEPPO)](http://www.epa.gov/ceppo/)
  - U.S. EPA’s [Title III List of Lists](http://www.epa.gov/ceppo/listoflists/)

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[Image of EPCRA Links]

[Image of Title III List of Lists]
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• EPCRA Links
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• **EPCRA Links**
  
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• **Endangered Species Act (ESA)**
  – Purposes of the ESA are:
    – To conserve the ecosystem
    – To provide for conservation of endangered and threatened species
    – To implement existing treaties and conventions affecting wildlife, fish, and plants
  – The federal agencies involved:
    • U.S. Fish and Wildlife Service
    • National Marine Fisheries Service
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• ESA Continued

  – Defining a species

  – An endangered species is one that is in danger of extinction throughout its range

  – A threatened species is one likely to become endangered within the foreseeable future
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• **ESA Continued**

  – Listing of species and designation of critical habitat

  – Takings—civil and criminal Sanctions

  – Incidental “takes” and Habitat Conservation Plans (HCPs)

  – Implementation of CITES

  – Freedom of religion exemptions
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- **ESA Links**
  - The [U.S. Fish and Wildlife Service](http://www.fws.gov).

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• **ESA Links**
  
  – The Endangered Species Section 7 *Consultation Handbook*.
  
  ![Section 7 Consultation Handbook](http://www.fws.gov/endangered/consultations/ctndbk/ctndbk.htm)

  – Application for an *incidental take permit*, generally known as a “Habitat Conservation Plan”

  ![Incidental Take Permit Application Form](http://www.fws.gov/forms/3-200-55.pdf)
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• National Environmental Policy Act (NEPA)
  – Applies solely to the federal government
  – Requires federal agencies to act as stewards for national resources
  – Environmental assessment
  – Finding of No Significant Impact (FONSI)
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• NEPA Continued

  – Environmental Impact Statement (EIS)

  – EPA review of the draft EIS

  – The final EIS
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• NEPA Links
  – Council on Environmental Quality.
  – Environmental Assessment for DOE Interim Final Rule, 10 CFR Part 433.
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• NEPA Links
  – DOE’s FONSI for a Navel Reactor Fuel Materials Facility.
  – DOE’s Supplement to the Draft EIS for a Coal-to-Clean Fuels Project.
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• NEPA Links
  – Record of Decision (ROD) for the Hood River Fisheries Program.
OVERVIEW OF ENVIRONMENTAL LAW

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