



Environmental Civil Litigation:

Procedures, Priorities and Results

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USEPA's National Enforcement Initiatives 2011-2013

- **Discharges of raw sewage and contaminated stormwater**
- **Concentrated animal feeding operation ("CAFO") waste**
- **Widespread Air Pollution from Largest Sources**
 - Coal-fired utilities
 - Cement manufacturing sector
 - Glass manufacturing sector
 - Sulfuric and nitric acid manufacturing sector

USEPA's National Enforcement Initiatives 2011-2013

- **Air Pollution affecting Community Health**
- **Mining and Mineral Processing Operations**
 - Pollution reduction - hazardous waste
- **Energy Extraction Sector Environmental Compliance**
 - Air
 - Water
 - Land

Approaches to Civil Environmental Claims

- **Enforcement by Regulatory Authorities**
- **Private Party Litigation**
- **Use of Class Action**
- **Use of Non-Environmental Laws**
- **Citizen Suits**

Types of Citizen Suits

- **Two basic types of "citizen suits" authorized under US federal law:**
 - Mandatory Duty Suits
 - Citizen Enforcement Actions
- **Other related statutory rights of citizens:**
 - Petitions for Review of Agency Actions
 - Petitions for Objections to Title V Permits
 - Citizen suits under state law (not all states)

Mandatory Duty Suits

- **Potential for affecting EPA's rulemaking agenda through mandatory duty suits**
- **EPA actions under court-mandated deadlines:**
 - NAAQS
 - NSPS
 - MACT

Dramatic Increase in Citizen Enforcement Suits

- **Increased access to compliance information**
 - Self-reporting mechanisms
 - Technological advancements
- **Enhanced coordination**
 - Coordinated strategies around certain issues: coal-fired power generation, emissions events
- **Litigation barriers reduced**
 - Legal organizations partnering with grass roots groups.
 - Threshold resources have been reduced
 - Stable of experts developed for litigation purposes

Recent Citizen Suit Trends

- **Common plaintiffs**
- **Common claims:**
 - Federal Clean Air Act and Clean Water Act
 - Emissions violations and emissions events
 - Legacy permits and permit representations
- **Common demands:**
 - Emissions reductions and controls
 - Enhanced monitoring
 - Civil penalties
 - Funding for environmental projects
 - Attorneys fees



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