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Trends in the Supply and Demand for Environmental Lawyers*

Michael B. Gerrard**

The boom times for environmental lawyers were the late 1980s and the early 1990s. The June 1990 issue of *Money* magazine called environmental law a “fast-track career.” Two or three years of experience with the U.S. Environmental Protection Agency (EPA), a state environmental agency, the environmental units of the Justice Department, or a state attorney general’s office were a ticket to a high-paying job in the private sector. Law students were clamoring to enter the field and law firms were scrambling to find experienced environmental lawyers, or to recycle newly underemployed antitrust lawyers into this burgeoning field.

In the past four or five years, however, the field has fallen into something of a funk. The June 1998 issue of *Legal Times* contained an article headlined, “The Future of Environmental Law: A Practice Area in Decline?” Other similar articles appeared in the trade press.¹ A 1999 survey of legal recruiters by the *National Law Journal* found environmental law to be “cool” or “cold” in all regions of the country.² Today’s glamour areas seem to be intellectual property, telecommunications, project finance, and health care, among others — not environmental law.

In an attempt to see if this subjective sense of the trends in environmental law could be verified by empirical data, I set out to collect statistical indicators of the supply and demand for environmental lawyers. On the supply side, I considered the number of lawyers in various bar associations’ environmental sections; the number of law school courses taught; the number of law journals published in the field; and the number of subscribers to the leading professional publications.

* This comment is based on a speech given by the author to the District of Columbia Bar Association on July 7, 1999.

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1. E.g., Laura Lang, *Environmental Law: A Lonely Field*, *Legal Times*, Feb. 1, 1999, at 1.

2. Margaret Cronin Fisk, *Who’s hot in job market? And who should be thinking about a change of specialty?* *National Law Journal*, Aug. 23, 1999, at 1.

On the demand side, I considered various indicators in a variety of categories:

- The number of EPA and state enforcement actions, including administrative, civil and criminal;
- The amount of litigation activity, including cases filed and decisions issued;
- Employment trends for attorneys in various government environmental units; and
- Other general indicators of environmental activity, such as the number of environmental impact statements prepared and the number of sites listed on the National Priorities List.

TRENDS

The results of this quest are presented in the accompanying tables (located at the end of the article). These numbers are subject to all kinds of irrelevant variables and to vagaries that have no bearing on the supply of and demand for environmental lawyers, but they are the best that I have been able to find.

The figures do tell a story. They seem to confirm what many of us had felt: the number of people practicing environmental law peaked around 1992. Many of the objective indicators of how much work there was for those people also peaked around that time. On the supply side, 1992 was the peak year for membership in the American Bar Association's environmental section and some state bar environmental sections. It was also the peak year (subject to one apparent aberration) for subscriptions to the *Environmental Law Reporter* (ELR).

On the demand side, other than a particularly busy year in 1989, the number of EPA administrative actions and civil referrals seem to have peaked in 1991. State administrative actions peaked in 1993, as did state judicial referrals. The year with the largest number of environmental cases filed in the federal courts was 1992, and the following year saw the largest number of both federal and state judicial decisions in the area.

Bar membership and ELR subscriptions are still declining. The good news, at least from an employment perspective, is that the numbers from 1997 showed a definite upswing in the demand indicators, and those gains held for the most part in 1998. (No numbers for 1999 were available at the time of this writing.) EPA administrative actions, EPA civil referrals, and state administrative actions were all up in 1997. The number of lawyers at the EPA, the Justice Department's environment and natural resources division, and the Interior Department were also up in

1997.

EXPLANATIONS

I cannot confidently account for all of the reasons behind these trends. However, I do have the subjective sense that the following are the major factors behind the fluctuations in the demand for environmental lawyers:

Superfund. There is no question that the single most important driver of the explosive growth of environmental law in the late 1980s was the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA", or the Superfund law). Each massive multi-party action kept dozens of lawyers busy. Banks, frightened by a tiny handful of lender liability cases, became the most diligent enforcers of environmental law. Today the number of new CERCLA cases seems to be down (and unlikely to rise again anytime soon), and many of the existing cases are settling. Each settlement of a large CERCLA case disbands several platoons, if not battalions, of lawyers.

Political mood. The 104th Congress of 1995 and 1996 was as hostile to environmental regulation as any in many years, and environmental enforcement activity was noticeably down.

New programs. The introduction of a new environmental regulatory program always generates work as clients struggle to figure out what is required of them. No major federal environmental statutes have been enacted since 1990, the year that saw both the Oil Pollution Act and the Clean Air Act Amendments. Much day-to-day compliance with these and the older environmental statutes has become largely a matter of routine, with increasing amounts of work being done by consultants. Many in-house departments have developed lawyers with tremendous expertise in particular programs, greatly increasing efficiency and reducing the amount of money that is paid to lawyers to learn unfamiliar areas. Non-environmental specialists in fields like real estate and personal injury have seen enough environmental matters to feel competent to handle some themselves. (Whether this feeling is justified is another subject entirely.)

Related litigation. Several kinds of litigation in closely related areas expanded tremendously during the environmental boom years. Most important were insurance coverage litigation and asbestos injury litigation. Many of these cases have been resolved. Rapidly gaining now is lead paint litigation; whether it will grow to the levels of insurance and asbestos litigation remains to be seen. (Another kind of litigation that a few years ago many thought would join this pantheon, litigation over

EMF radiation, has largely fizzled with a string of defendants' victories.)

Citizen suits. A fertile area for litigation in the late 1980s and early 1990s was citizen suits brought by environmental groups against corporations and municipalities that released pollution, especially to the water, in excess of their permit limits. These cases induced many facilities to clean up, and, through the attorney's fees provisions of the relevant statutes, provided healthy incomes to the attorneys who brought them. Now, however, most of the low-hanging fruit of this sort has already been picked, and the remaining cases are much harder, and therefore more expensive and risky.³ In addition, the recent restrictions on standing may discourage future lawsuits, though it is not yet clear whether these restrictions actually reduce the number of suits brought or only their likelihood of success.

Economic activity. Transactional environmental work is heavily influenced by the overall level of economic activity, such as the numbers of mergers and acquisitions; the number of housing starts; and the construction of new industrial facilities. The recent strength in these areas appears to have kept the amount of transactional environmental work relatively high in the last few years.

FUTURE GROWTH AREAS

There are several areas where I anticipate increased activity in the coming years:

Transactional litigation. Many environmental indemnification agreements were drafted, and site assessments performed, in the late 1980s and early 1990s, when people knew environmental problems existed but for the most part did not know enough to draft an agreement or prepare an assessment properly. As a result, litigation has developed over ambiguous contracts and property that turns out to be dirtier than expected. I think much more of this is on the way. Some of it is already being accompanied by malpractice claims against consultants and lawyers.

As a related matter, the pace of corporate transactions today is so fast that many large deals are closing with only the most perfunctory of environmental due diligence. It seems inevitable that some serious liabilities are sneaking through unnoticed. A \$20 million liability that is not enough to hold up a \$1 billion transaction in 2000 may well be enough to

3. A notable exception occurs in California, where Proposition 65 (Safe Drinking Water and Toxic Enforcement Act, Cal. Health & Safety Code § 25249.6 (West 1999)), a statute that requires public notice of certain toxic releases, has spawned a great deal of litigation and an even larger number of preemptive settlements.

merit litigating in 2005.

Toxic torts. There seems to be no end to discoveries that familiar products or substances cause injury, or at least can be portrayed as causing injury. Each such discovery may give birth to a mini-litigation industry, keeping lawyers busy on both sides. The recent tobacco settlements have created legions of extremely well-financed plaintiffs' firms that are aggressively looking for the next score.⁴ They have already announced that lead paint is high on their list; looming ahead may be a rash of cases about methyl tertiary butyl ether (MTBE), a gasoline additive. These cases will spread around the country and will create a need for practitioners in every state. They will be further aided by the rapidly increasing sophistication of the plaintiffs' bar in using computers and electronic communication to bring, manage and coordinate nationwide cases.⁵

Criminal prosecutions. Though most of the numbers in the accompanying charts had their ups and downs, one has been going steadily up: criminal prosecutions. Nothing captures the attention of a corporate executive more thoroughly than a possible criminal prosecution — that is, after all, much of the point of bringing them. Criminal prosecutions also tend to require a great deal of legal work, especially since numerous targets and witnesses need their own lawyers. The erosion of the *mens rea* requirement in criminal environmental law is also making more and more people and companies vulnerable.

Brownfields/land use. As unused vacant land in our cities dwindles, much land use development must take place on formerly used land. This leads both to concerns about contamination from the prior uses and the brownfields problem (the drag on redevelopment caused by environmental liability concerns), as well as to disputes with neighbors about the new use. These problems can only increase as development pressures continue. The current buzz about the regulation of sprawl is really old-fashioned zoning with a few environmental overlays. Lately, I have seen an increase in zoning work and I think that will continue. This is the most local of all environmentally related practices; with all the neighborhood politics and evening meetings, it is hard to handle cases that are more than a county or two from home.

Natural Resource Damages. CERCLA and the Oil Pollution Act allow federal and state governments to sue dischargers of hazardous substances and petroleum for damage to natural resources. How these resources

4. See, e.g., Richard A. Oppel Jr., *Rhode Island Sues Makers of Lead Paint*, N.Y. TIMES, Oct. 14, 1999, at A18 (toxic tort suit brought by attorneys who won large fee awards in tobacco litigation).

5. See Richard B. Schmitt, *The Cybersuit: How Computers Aided Lawyers in Diet-Pill Case*, WALL ST. J., Oct. 8, 1999, at B1.

(such as a bird, a fish, or the ability to swim or hike) are valued is extremely controversial. It has become apparent, however, that some of these cases are worth hundreds of millions or even billions of dollars, especially when the suit concerns the contamination of a large river, bay, or other ecosystem.⁶ Such cases are proving irresistible to many state attorneys general.

Power plants. The deregulation of the electric power industry is leading, for the first time in decades, to a rash of proposals to build new electric generating plants that can replace or supplement older, less-efficient units. Such plants are highly regulated from an environmental perspective, and each proposal will lead to considerable work. This is especially true in states that fund intervenors who challenge these plants at the judicial and administrative levels.

AREAS OF POSSIBLE DECLINE

The darkest cloud hanging over the field right now is the same as that over just about all of the legal profession (except for the bankruptcy bar) — the knowledge that the boom times of the '90s will end some day and that another recession will take hold. Some work, such as toxic tort and natural resource damages litigation, is probably recession-proof; many other matters, especially development of new projects, are quite vulnerable to economic downturns.

Beyond that, a threat that is more distinctive to environmental law is competition from consultants, accountants, and private investigation firms, among others. This threat stems in large part from the nature of much regulatory compliance, project development, and transactional work in a field where many of the rules embody complex scientific and engineering concepts and vocabularies. In such a context it is often difficult to tell where the practice of law ends and the practice of other professions begins. Filling out a permit application, deciding how a given waste stream should be handled, and appearing before a technical tribunal all fall within a gray area. Engineers and other experts have grown accustomed to advising clients on the application of many environmental rules, and their billing rates are often much lower than those of lawyers. (A cynic might say that the bright side for lawyers is that engineers often give the wrong regulatory advice, and thus do not eliminate the need for

6. For example, Exxon was assessed natural resource damage claims of more than \$3 billion after the Exxon Valdez spill in Alaska, and settled for \$1.1 billion. See Danielle Marie Stager, *From Kepone to Exxon Valdez Oil and Beyond: An Overview of Natural Resource Damage Assessment*, 29 U. RICH. L. REV. 751, 775 (1995).

lawyers but rather defer and expand it as lawyers are brought in to clean up the mess.)

The raging debate within the organized bar concerning “multidisciplinary practice” largely stems from perceived encroachment into the legal domain by accountants and other professionals. Though no statistics are available on this point, it appears that more and more environmental lawyers are being employed by consulting firms that wish to offer full services to their clients. The current lawyers’ codes of professional conduct theoretically inhibit this kind of practice arrangement, but many of the inhibitions can be circumvented by calling the work performed something other than “practicing law.”

CONCLUSION

Any decline in work means that there are fewer new jobs and that there is less mobility in existing jobs, as incumbents retain their positions. Furthermore, employers of all kinds can be quite selective, making it even more difficult for students from the lower-ranked schools, or those lower in the class in a given school, to get jobs. Moreover, the field is so young that few environmental lawyers have reached retirement age and even fewer have become so wealthy that they can retire early. Therefore, not many spaces are opening up at the top.

Adding all of this up, I come to the tentative conclusion that the marketplace can handle a few more environmental lawyers, but not a lot. The demand trends are back on a slight upward incline, but only a slight one. The top graduates of the top schools will always get jobs, and will continue to dominate in the competition for the highly desirable but extremely rare slots in the public interest sector and the international environmental law field. But the production of large numbers of law school graduates who want to enter environmental law is going to generate a lot of disappointment. The practice of environmental law will continue to be a very exciting, intellectually and spiritually fulfilling enterprise, as many of us feel today, but it will become less satisfactory for everyone if the supply grows much faster than the demand. The one area where I see steadily increasing job growth — both on the plaintiffs’ and defendants’ sides — is toxic torts, and if that were my cup of tea that is where I’d try to make a niche if I were starting out today.

SUPPLY INDICATORS*

YEAR	ABA SEER ¹	NYSBA Section ²	Env. Law Courses ³	Env. Law Journals ⁴	ELR Subscribers ⁵	BNA Subscribers ⁶
1970				2		
1971			111	4		
1972			132	4		
1973			138	4		3,922
1974			149	5	927	4,461
1975			169	5	915	4,679
1976			161	6	885	4,687
1977			156	6	903	4,791
1978			161	7	927	4,692
1979			182	7	964	5,248
1980			174	10	973	5,618
1981	7,068		176	10	908	5,967
1982	7,024		171	10	824	5,919
1983	6,960		169	12	787	5,537
1984	6,681		171	12	763	5,026
1985	7,772	768	162	14	749	4,259
1986	8,133	825	156	15	775	4,217
1987	7,810	980	160	15	800	3,946
1988	8,718	1,155	172	19	825	3,246
1989	10,722	1,371	178	19	916	3,631
1990	12,367	1,874	192	21	1,016	3,577
1991	12,871	1,920	230	24	1,064	3,480
1992	14,305	1,925	264	26	1,078	4,679
1993	14,947	1,914	285	29	1,029	5,746
1994	14,673	1,808	290	36	1,060	6,993
1995	14,288	1,668	296	38	1,245	7,361
1996	13,521	1,518	337	39	1,060	4,910
1997	12,931	1,443	324	39	910	3,544
1998	12,427	1,396		39	1,073	
1999	11,325	1,291			955	

*See endnotes for source information.

DEMAND INDICATORS: EPA AND STATE ACTIONS

YR.	EPA Administrative Actions ⁷	EPA Criminal Referrals ⁸	EPA Civil Referrals ⁹	State Administrative Actions ¹⁰	State Judicial Referrals ¹¹	Federal Register Notices ¹²	EPA Superfund Enforcement Budget ¹³
70							
71							
72							
73							
74	1,387		3				
75	2,352		25				
76	3,613		82				
77	2,644		143				
78	1,622		262				
79	1,185		242				
80	901		210			2,125	
81	1,107		118			3,140	2.5
82	864		112			2,669	8.4
83	1,848	26	165			2,514	17.7
84	3,124	31	251			2,630	26.7
85	2,609	40	276			2,410	48.7
86	2,626	41	342			2,400	52.1
87	3,194	41	304	9,105	723	2,257	100.3
88	3,085	59	372	9,363	904	2,308	122.9
89	4,136	60	364	12,126	714	2,296	132.6
90	3,804	65	375	10,105	649	2,201	121.9
91	3,925	83	393	9,607	544	2,313	174.9
92	3,667	107	361	8,643	574	2,462	182.0
93	3,808	140	338	11,881	690	2,824	175.3
94	3,544	220	430	11,250	578	3,129	180.3
95	2,969	256	214	9,785	397	3,123	177.3
96	2,171	262	295	9,306	433	3,108	203.2
97	3,427	228	426	10,515	379	3,015	177.2
98	3,381	266	411	11,260	352	3,111	174.9

DEMAND INDICATORS: LITIGATION

YEAR	Federal Civil Cases ¹⁴	Federal Decisions ¹⁵	State Decisions ¹⁶	NEPA Lawsuits ¹⁷
1970		17	74	
1971		67	85	
1972		127	128	
1973		210	176	
1974		243	180	189
1975		256	232	152
1976		271	274	119
1977		246	265	108
1978		260	297	114
1979		316	309	139
1980	557	371	307	140
1981		398	345	114
1982		340	317	117
1983		350	360	146
1984		446	363	89
1985	652	491	394	77
1986	641	500	440	71
1987	703	520	413	69
1988	889	604	432	91
1989	938	641	493	57
1990	958	699	584	85
1991	1,075	786	628	
1992	1,252	837	744	
1993	1,077	847	786	
1994	1,059	811	763	
1995	1,136	818	785	
1996		788	715	
1997		722	676	
1998		705		

DEMAND INDICATORS: EMPLOYMENT

YR.	EPA Attorneys. ¹⁸	Total EPA Employees ¹⁹	EPA Outlays (1970 \$ Billions) ²⁰	Dept. of Interior Attorneys ²¹	DOJ ENRD Attorneys ²²	AEC, ERDA, Energy Attys. ²³	Environmental Law Professors ²⁴
70		5,400	0.38				
71	52		0.67	248		106	109
72		9,200	0.70				125
73	135		0.96	215		131	132
74		10,900	1.61				141
75	179		1.84	273		93	160
76		11,800	2.14				151
77	278		2.82	315		250	145
78		12,800	2.44				146
79	376		2.66	299	159	646	172
80		14,790	2.84		196		165
81	445		2.44	303	177	710	167
82		12,198	2.22		165		166
83	342		1.81	284	193	626	163
84		12,800	1.64		199		164
85	491		1.75	287	208	539	158
86		13,978	1.85		222		149
87	585		1.81	264	261	517	153
88		15,373	1.73		293		166
89	645		1.67	289	305	485	170
90		17,171	1.67		329		184
91	853		1.82	281	373	494	211
92		18,398	1.82		381		238
93	930		1.77	301	385	507	251
94		18,262	1.71		391		255
95	877	17,974	1.81	319	428	514	276
96		17,287	1.68		429		289
97	895	18,047		328	411	481	271
98					417		

DEMAND INDICATORS: ENVIRONMENTAL ACTIVITIES

YEAR	Federal EISs ²⁵	New York EISs ²⁶	NPL Sites ²⁷	Banks Start Audits ²⁸
1970	315			
1971	1,949			
1972	1,371			
1973	1,148			
1974	1,900			
1975	1,800			
1976	1,600			
1977	1,530			
1978	1,355			
1979	1,273			
1980	966			
1981	1,033			
1982	808		160	
1983	677		551	
1984	577	196	547	4
1985	549	186	864	5
1986	521	210	906	8
1987	455	314	967	16
1988	428	372	1,195	18
1989	392	385	1,254	38
1990	477	317	1,236	30
1991	456	267	1,245	16
1992	513	197	1,275	1
1993	465	201	1,321	
1994	532	168	1,360	
1995	675	168	1,374	
1996	670	145		
1997	500	145		
1998		183		

Endnotes

¹ Facsimile from Doug Orr, ABA, to Michael Gerrard, Partner, Arnold & Porter (Jun. 10, 1999) (on file with the author) (members of the American Bar Association's Section on Environment, Energy and Resources. From 1989 to 1999, known as Section on Natural Resources, Energy and Environmental Law (SONREEL); prior to 1989, had been called Section of Natural Resources).

² Facsimile from Lisa J. Bataille, Administrative Liason, NYSBA, to Mike Gerrard, Partner, Arnold and Porter (Jul. 6, 1999) (on file with the author) (members of the New York State Bar Association's Environmental Law Section).

³ Robert V. Percival, How the Environment Has Changed Legal Education, Address Before the SONREEL conference (Oct. 10, 1998) (transcript on file with author) (number of environmental courses in U.S. law schools taught by full-time professors in an academic year).

⁴ Richard J. Lazarus, Environmental Scholarship and the Harvard Difference, 22 HARV. ENVL. L. REV. 327, 357 (1999).

⁵ See Env'tl. L. Rep. (Env'tl. L. Inst.), (various years) (statement of ownership, management, and circulation by year. Paid distribution of Environmental Law Reporter; does not include electronic distribution).

⁶ See Env't Rep. (BNA) (various years), (statement of ownership, management, and circulation by year. Paid distribution of BNA Reporter; does not include electronic distribution).

⁷ EPA, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE, ENFORCEMENT AND COMPLIANCE ASSURANCE ACCOMPLISHMENTS REPORT, FY 1998 (DEC. 1, 1999) <<http://es.epa.gov/oeca/98accomp.html>> (EPA administrative actions initiated in a fiscal year).

⁸ *Id.*, EPA Criminal Referrals to U.S. Department of Justice (EPA Criminal Referrals to U.S. Department of Justice in a fiscal year).

⁹ *Id.*, EPA Civil Referrals to U.S. Department of Justice (EPA Civil Referrals to U.S. Department of Justice in a fiscal year).

¹⁰ *Id.* (administrative actions by state environmental agencies in a fiscal year).

¹¹ *Id.* (judicial referrals by state environmental agencies in a fiscal year).

¹² Search of LEXIS (Sept. 1998) (search for number of federal register documents referring to EPA).

¹³ *Superfund Fact Book*, (visited Nov. 8, 1999) <<http://www.cnie.org/nle/waste-1a.html>> (millions of dollars per federal fiscal year).

¹⁴ Federal Civil Cases: Civil cases commenced in U.S. district court on environmental matters. Source: Administrative Office of the U.S. Courts, *IN STATISTICAL ABSTRACT OF THE UNITED STATES* (various years).

¹⁵ Search of LEXIS (Sept. 1998) (search for reported decisions of U.S. federal courts at all levels, by year, referring to any of the major codified domestic environmental statutes, policies and agencies, including: Clean Air Act, Clean Water Act, National Environmental Policy Act [NEPA], Comprehensive Environ-

mental Response, Compensation and Liability Act [CERCLA], Resource Conservation and Recovery Act [RCRA], Safe Drinking Water Act, Toxic Substances Control Act [TSCA], National Historic Preservation Act, Low-Level Radioactive Waste Policy Amendments Act, Environmental Protection Agency [EPA], Federal Insecticide, Fungicide and Rodenticide Act, Coastal Zone Management Act [CZMA], Endangered Species Act [ESA], Surface Mining Control and Reclamation Act, Ocean Dumping Act, Oil Pollution Act, Solid Waste Disposal Act, Emergency Planning and Community Right-to-Know Act [EPCRA], Pollution Prevention Act, and environmental impact statements [EIS]).

¹⁶ Search of LEXIS (Sept. 1998) (search for reported decisions of state courts at all levels, by year, referring to environmental issues. Key search terms included: air pollution, water pollution, environmental impact, hazardous waste, solid waste, toxic substances, Environmental Protection Agency [EPA], Comprehensive Environmental Response, Compensation and Liability Act [CERCLA], oil spill, endangered species).

¹⁷ ROBERT B. PERCIVAL ET AL., ENVIRONMENTAL REGULATION: LAW, SCIENCE, AND POLICY 1179 (2d ed. 1996), *citing* CEQ, Environmental Quality: 24th Annual Report 368-69 (1994).

¹⁸ Facsimile from Christine Stule, Statistician, Office of Workforce Information, U.S. Office of Personnel Management to Ben Simmons, Research Assistant for Michael Gerrard, (Oct. 2, 1998) (on file with author).

¹⁹ Facsimile from Paulette Ellison, EPA, to Ben Simmons, Research Assistant for Michael Gerrard (Oct. 2, 1998) (on file with author).

²⁰ Rena I. Steinzor & William F. Piermattei, *Reinventing Environmental Regulation Via the Government Performance and Results Act: Where's the Money?*, 28 *Env'tl. L. Rep. (Env'tl. L. Inst.)* 10563 (1998); Facsimile from William Piermattei, Office of the U.S. Attorney, District of Maryland, Department of Justice, to Michael Gerrard, Partner, Arnold & Porter (Oct. 8, 1998) (on file with author).

²¹ Stule, *supra* note 18 (total number of attorneys employed full-time by U.S. Department of the Interior).

²² Facsimile from John C. Cruden, Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, to Michael Gerrard, Partner, Arnold and Porter (Oct. 1, 1998) (on file with author) (total number of attorneys, including part-time attorneys, employed by the Environment and Natural Resources Division, U.S. Department of Justice).

²³ Stule, *supra* note 18 (total number of attorneys employed full-time by U.S. Atomic Energy Commission (1971 – 1973), Energy Research and Development Administration (1975), and U.S. Department of Energy (1977 – 1997)).

²⁴ Percival, *supra* note 3 (total number of full-time professors teaching environmental law in U.S. law schools).

²⁵ COUNCIL ON ENVIRONMENTAL QUALITY, CEQ TWENTY-FIFTH ANNIVERSARY REPORT 513 (visited Nov. 8, 1999) <<http://www.whitehouse.gov/CEQ/>> (total number of environmental impact statements prepared under National Environ-

mental Policy Act); Office of Federal Activities, U.S. EPA (visited Dec. 1, 1999) <<http://es.epa.gov/oeca/ofa/actl.html>>.

²⁶ Charles Lockrow and Jack Nasca, New York State Department of Environmental Conservation (various dates, beginning in 1990) (on file with author) (draft environmental impact statements prepared under New York State Environmental Quality Review Act). These numbers have been reprinted in MICHAEL B. GERRARD, DANIEL A. RUZOW & PHILIP WEINBERG, ENVIRONMENTAL IMPACT REVIEW IN NEW YORK (1990 & 1999 supp.), § 1.03[1].

²⁷ NPL Sites, 1980 – 1995. Source: U.S. Environmental Protection Agency, in COUNCIL ON ENVIRONMENTAL QUALITY, CEQ TWENTY-FIFTH ANNIVERSARY REPORT 485 (visited Nov. 8, 1999) <<http://www.whitehouse.gov/CEQ/>> (Number of sites listed on the National Priorities List).

²⁸ Alfred Mukatis & James F. Nielsen, *Real Estate Lending Activities of Commercial Banks Under Superfund*, 24 REAL ESTATE L. J. 358 (1996) (number of commercial banks that, indicated in year, started conducting environmental audits).