

2026-2027 Edition Introduction

Thank you for subscribing to *Environmental Liability Allocation Law and Practice*. This year, we updated the following sections and more:

- § 1:25—What Constitutes a “Release” into the “Environment”?
- New § 3:19—Businesses Surrounding Contaminated Public Waterways Are CERCLA Facilities
- New § 3:24—CERCLA’s Four PRP Classes & Conflicting “Release” Definitions
- New § 3:26—“Disposal” ≠ “Release”
- New § 3:27—Causation Not Required, But “Into the Environment” Is
- New § 3:28—Circuit Split: Must Hazardous Waste Migrate Toward Plaintiff’s Site?
- New § 3:40—Mitigation Efforts Belong in Allocation Phase, Not Liability Phase
- § 3:79 (Updated)—2026 Requirements for BFPP Defense
- New § 3:133—Settlement Can Be <100% of Estimated Costs and Still Be Substantively Fair
- New § 3:138—Losing Argument: Consent Decree Will Prejudice Non-Settling Parties in Future Phases
- New § 3:164—No List Is Exhaustive
- New § 3:165—Seven Additional Factors Courts Have Considered
- New § 4:55—No Opposition = Presumption of Fairness
- New § 7:37—Direct Evidence of Contaminant Use Not Required
- New § 7:75—State CERCLA Counterparts & Divisibility
- New § 9:92—State Law Controls Indemnity Interpretation (Not Federal)
- New § 9:94—“As Is” Clauses: Circuit Survey
- New § 10:10—Common Law Recoupment Does Not Apply to CERCLA
- New § 10:49—Circuit Split: “Single Remediation Principle” & Statutes of Limitation
- New § 10:49—Single Remediation Principle May Apply Only to § 107(a), Not § 113(f)
- New § 10:187—Unconsented Magistrate Judge Cannot Perform Equitable Allocation