

Effective Strategies For Defending RCRA Citizen Suits

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There are a number of federal statutes that serve as the basis for pursuing those allegedly responsible for environmental contamination. With the Supreme Court's 2004 curtailment of a party's right to contribution for environmental contamination from liable parties under the Comprehensive Environmental Response, Compensation, and Liability Act² and political tension around regulation by government agencies, citizen suits brought under the Resource Conservation and Recovery Act ("RCRA") remain a viable option for plaintiffs. This article highlights numerous tools available to effectively defend against a citizen suit action under RCRA. In particular, this article analyzes how a defendant can use the "imminent and substantial endangerment" element to its advantage in defeating a citizen suit.