

CHAPTER ONE UPDATES

Coronavirus Statistics (page 2)

When Chapter One went to press at the beginning of April 2021, COVID-19 had infected more than 160 million people worldwide, causing three million deaths. As the more infectious Delta variant of the virus sweeps the world, in just the four months to August 2021, global infections have risen to more than 200 million and global deaths have risen to nearly 4.3 million. The U.S. now accounts for one-sixth of all infections and one-seventh of all global deaths. COVID-19 Dashboard, Johns Hopkins University Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html>

Legal Responses to Environmental Justice Problems (pp. 24-26)

Because of the need to prove intentional discrimination to establish constitutional violations, most legal responses to environmental justice problems rely on agencies' exercise of discretion in implementing Executive Order 12,898 and complying with Title VI of the Civil Rights Act of 1964. The book notes the abysmal record of EPA in responding to Title VI complaints. EPA's External Civil Rights Compliance Office made its first finding of a Title VI violation for a permit only on the last day of the Obama administration and it involved a complaint concerning a permit hearing that took place a quarter century before!

New state environmental justice laws may provide a more promising avenue for vindicating environmental justice concerns. In the *Friends of Buckingham County* decision discussed on p. 26, the Fourth Circuit held that the Virginia State Air Pollution Control Board had failed to comply with a state law requiring consideration of the potential for disproportionate health impact when it granted a permit for a compressor station for a pipeline. The environmental justice legislation enacted in New Jersey in September 2020 requires permit applicants to prepare environmental justice impact statements for projects that affect "burdened communities," defined as census tracts in the lowest third of median income or with a 40 percent or more non-English-speaking population. The proposed Environmental Justice for All Act, H.R. 5986, cosponsored by Congress members Raul M. Grijalva and A. Donald McEachin would codify Executive Order 12898 and reverse *Alexander v. Sandoval* to authorize a private right of action to enforce Title VI.

The Dakota Access Pipeline (pages 54-55)

Energy Transfer Partners, the owners of the Dakota Access Pipeline, have indicated that they will seek Supreme Court review of the D.C. Circuit's decision, *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 985 F.3d 1032 (2021), upholding the invalidation of their easement pending completion of an environmental impact statement.