

ARE 309  
EXAM III  
MAY 5, 1998

Instructions: This exam consists of eighty multiple-choice, true/false and short answer questions and one twenty-point essay question. You may use 1 3x5 card of notes (front and back); no other notes, materials or other assistance may be used on the exam. Remember that more than one answer to multiple choice questions may be correct; you must pick the best answer. Mark only one answer.

1. (a) Define retroactive liability in the context of CERCLA. (no more than 2 sentences)  
(2 points)

(b) Define strict liability in the context of CERCLA. (no more than 2 sentences)  
(2 points)

(c) Define "joint and several liability" in the context of CERCLA. (no more than 2 sentences) (2 points)

2. Why do local governments wish to enact flow control ordinances? (2 points) What is the primary difficulty faced by local governments that wish to enact flow control ordinances? (2 points)(4 sentences or less)

3. Who is entitled to notice prior to the filing of a citizen under RCRA? (2 sentences or less)  
(3 points)

4. True or False. (Circle one.) The 1996 amendment of the CERCLA lender liability exemption means that banks will be more likely to lend money to developers of real property.
5. True or False. Under the 1996 amendment of the CERCLA lender liability rule, banks may now be liable for CERCLA cleanup as a result of their normal lending practices.
6. How can a purchaser of real property avoid liability under CERCLA? (2 points.)  
Even if cleanup liability under CERCLA is avoided, can the purchaser protect his or her investment in the property? (3 points) (7 sentences or less)
7. List 3 sources of law. (3 points)
8. True or False. Federal statutes, arranged by subject matter, are codified in the Code of Federal Regulations.
9. True or False. Laws enacted by the General Assembly of North Carolina are codified in the General Statutes of North Carolina.
10. True or False. If a conflict exists between a federal statute and a federal regulation, a court should follow the regulation.
11. Compare and contrast the standard of proof in a civil case with the standard of proof in a criminal case. (5 sentences or less, 5 points)

12. When does a hazardous substance become hazardous waste regulated by the Resource Conservation Recovery Act? (2 points)
13. EPA has set goals for solid waste handling. List two. (2 points)
14. Name two features of the 1996 Farm Bill conservation provisions that will make it easier for farmers to adopt conservation practices. (2 points)
15. Name the primary means by which solid waste is disposed in the United States.
16. True or False. Flow control is used to ensure an adequate stream of revenue to municipal and other governmentally operated landfills.
- 17.
18. True or False. Joint and several liability means that, where multiple potential defendants exist, a plaintiff may sue any one, all, or any subgroup of the potential defendants, and recover the entire amount due from any one without regard to that
19. If EPA recovers the entire cost of cleanup from a responsible party (prp), the prp may recover a proportionate share of the cleanup costs from the other prp's by suing for \_\_\_\_\_.
- 20.
- Hazardous waste may be defined by EPA by listing specific hazardous substances in its regulations, or by the characteristics of the waste. There are four characteristics, the three of those four characteristics. (3 points)
21. Name two types of cleanup actions under CERCLA related to the same site.

22. True or False. Liability under CERCLA is a form of common law tort liability.
23. True or False. A buyer of real property may protect herself from CERCLA liability by causing a preliminary environmental site assessment to be conducted prior to closing on the property.
24. If the preliminary environmental site assessment shows that a property is severely contaminated, and the buyer goes ahead and purchases it anyway, will the buyer be liable under CERCLA? Yes or No.
25. The duties of administrative agencies include (choose the one best answer):
- a. Rule making.
  - b. Adjudication of individual cases.
  - c. Administrative activities.
  - d. All of the above.
26. True or False. The head of an executive federal agency may be removed from office by the President, without cause.
27. True or False. The Administrator of the Environmental Protection Agency (EPA) may be removed by the President without cause, even though the EPA is an independent agency.
28. List the five steps in hybrid rule making (5 points):
29. Explain the difference between formal, informal and hybrid rule making. (3 points)
30. Are administrative agencies a co-equal, fourth branch of the federal government? (1 point) Why? (2 points)

31. How do administrative agencies act as legislative (lawmaking) bodies? (2 points)
32. How do administrative agencies act in an executive role? (2 points)
33. How do administrative agencies act in a judicial role? (2 points)
34. Give two examples of exempted rule making (2 points):
35. True or False. The EPA was created by executive order.
36. True or False. Presidential nominees to head administrative agencies must be approved by the House.
37. True or False. Local governments may be a source of law.
38. True or False. Under the principal of *stare decisis* a court is bound to follow the published opinion of itself or an appellate court above it.
39. Appellate courts decide only issues of \_\_\_\_\_.
40. Trial courts decide issues of \_\_\_\_\_ and \_\_\_\_\_.  
(2 points)
41. What must an appellate court do if it determines that there was no factual basis to support the findings of fact made by the trial court?
42. Define “case of first impression”.

43. Define “precedent” in the context of the judicial system.
44. True or False. The principal of *stare decisis* requires that the N.C. Supreme Court follow the decision of the S.C. Supreme Court.
45. True or False. The principal of *stare decisis* does not require that a N.C. Superior court follow the decision of the N.C. Supreme Court, when the facts in the case before the superior court are not the same as the facts in the case decided by the N.C. Supreme Court.
46. True or False. The principal of *stare decisis* requires that the N.C. Supreme Court follow decisions of the U. S. Supreme Court.
47. True or False. The N.C. Supreme Court is a unit of the federal court system.
48. True or False. Assuming similar facts, the U.S. District Court for the Middle District of North Carolina must, under the principal of *stare decisis*, follow a decision by the U.S. Fourth Circuit Court of Appeals.
49. If a court chooses not to follow one of its own prior decisions, it is said to \_\_\_\_\_ the decision.
2. Laws of eastern states treat nonnavigable surface water in accord with:
- The doctrine of riparian rights.
  - The doctrine of appropriate rights.
  - The common law.
  - None of the above.
3. In western states, who owns nonnavigable surface water?
- The landowner.
  - The state.
  - The federal government.
  - The owner of the appropriative right to the water.
4. Who owns the land under nonnavigable waters?
- The state.
  - The federal government
  - The landowners bordering the water.
  - The purchaser of the water.

5. Who owns the land under navigable waters in North Carolina?
  - The federal government.
  - The State of North Carolina under the public trust doctrine.
  - The landowners bordering the water.
  - The purchaser of the water.
  
6. Public trust land in North Carolina may:
  - Be sold.
  - Be leased.
  - Be acquired by adverse possessions.
  - None of the above.
  
7. Name the common law doctrine that governs landowners' use of surface water in North Carolina:
  - Appropriative rights.
  - Riparian rights.
  - Reasonable use variant of riparian doctrine.
  - None of the above.
  
8. Which category of tort is a nuisance?
  - Intentional.
  - Strict.
  - Negligent.
  - All of the above.
  
9. Which category of tort is a trespass?
  - Intentional.
  - Strict.
  - Negligent.
  - All of the above.
  
10. A public nuisance is:
  - A tort.
  - A contract.
  - A crime.
  - None of the above.
  
11. A private nuisance:
  - Affects many people.
  - Cannot be a public nuisance.
  - Involves particularized injury to one or more individuals.
  - None of the above.
  
12. Which is not an element of a tort in negligence?

- Duty.
  - Intent.
  - Proximate cause.
  - Actual damages.
13. A court may grant a plaintiff in a nuisance suit the following relief:
- Abatement only.
  - Damages only.
  - Both abatement and damages.
  - All of the above.
14. A nuisance is a (n):
- Unreasonable interference with a landowner's right to use and quiet enjoyment.
  - Invasion of a landowner's land, interfering with the right of the possession.
  - Neither of the first two answers.
  - Both of the first two answers.
15. A trespass is a(n):
- Unreasonable interference with a landowner's right to use and quiet enjoyment.
  - Invasion of a landowner's land, interfering with the right of the possession.
  - Neither of the first two answers.
  - Both of the first two answers.
16. By the point that a nuisance case goes to trial, most nuisances are:
- Intentional torts.
  - Negligent torts.
  - Strict liability torts.
  - All of the above
17. After North Carolina State University completes remediation at its Superfund site, it will be required to monitor groundwater at the site for:
- 20 years
  - 10 years
  - 30 years
  - 15 years
18. Hazardous waste is defined by:
- Ignitability
  - Corrosivity
  - Toxicity
  - All of the above

19. The philosophy behind hazardous waste regulation under RCRA is one of
- Remediation
  - Prevention
  - Management
  - Storage
20. The philosophy behind the regulation of underground storage tanks is one of
- Remediation
  - Prevention
  - Management
  - Storage
21. In order to bring a citizen suit under RCRA, a potential plaintiff must
- Give notice to the Administrator of EPA
  - Give notice to the alleged violator
  - Give notice to the state where the violation occurred
  - All of the above
22. Under which circumstance might a citizen suit be brought under RCRA?
- EPA is suing the alleged violator
  - The violation is continuous
  - The state has assessed a civil penalty against the violator
  - The alleged violator is subject to a proceeding under CERCLA
23. The most commonly used method of solid waste disposal in the United States is
- The midden heap
  - Open burning
  - Lined & capped sanitary landfills
  - Incineration in a modern incinerator
24. The most commonly used method of solid waste disposal in Western Europe is
- The midden heap
  - Open burning
  - Lined & capped sanitary landfills
  - Incineration in a modern incinerator
25. Mistakes made in dealing with regulatory agencies at the outset of an investigation are
- easily corrected
  - difficult to correct

- no big deal
  - impossible to correct
26. Open dumping is
- Beneficial to the public health
  - Beneficial to groundwater quality
  - A source of disease and vermin
  - An acceptable method of solid waste disposal
27. Ash from incineration of solid waste
- Can be used for fertilizer
  - Can be spread on playgrounds
  - Is often used in organic food production
  - Must generally be disposed of as hazardous waste under RCRA
28. Standards for the production of organically grown foods
- Are a matter of general agreement
  - Are a matter of much disagreement
  - Are unimportant to our balance of trade
  - Have been established by the U.S. Department of Agriculture
29. A vegetable produced by certified organic methods
- Has never had an artificial pesticide applied to it
  - Meets proposed USDA standards
  - Has never had a pesticide applied to it
  - None of the above
30. Proposed USDA guidelines for certified organic foods permit the use of
- irradiation
  - biosolids
  - genetically engineered organisms
  - all of the above
31. The Codex Alimentarius Commission
- Sets international standards for pesticide residues in food
  - Publishes a restaurant guide
  - Sets standards for pesticide residues in food in the United States
  - None of the above
32. EPA's use of international standards for setting pesticide tolerances in food
- Makes EPA's job easier

- Avoids the need for domestic research
  - Opens export opportunities for U.S. agricultural products
  - All of the above
33. EPA's use of Codex Alimentarius Commission tolerances is
- Mandatory
  - Discretionary
  - Discretionary subject to public notice
  - Irrelevant
34. State standards for pesticide tolerances in food are
- pre-empted
  - pre-empted subject to a right to petition EPA
  - permitted with reservation
  - not something that states do
35. Pesticide registrations are reviewed on a
- 3-year cycle
  - 10 year cycle
  - 15 year cycle
  - 20 year cycle
36. A minor use pesticide
- is one that is used on a relatively small crop acreage
  - is one that is uneconomical for a manufacturer to register
  - is one for which the law contains incentives for development and maintenance of registration
  - all of the above
37. Pesticide residues in foods are regulated under the
- Federal Food, Drug, and Cosmetic Act
  - Federal Insecticide, Fungicide, and Rodenticide Act
  - Clean Water Act
  - Solid Waste Disposal Act
38. Registration of pesticides is required under the
- Federal Food, Drug, and Cosmetic Act
  - Federal Insecticide, Fungicide, and Rodenticide Act
  - Clean Water Act
  - Solid Waste Disposal Act
39. The "Delaney Clause" effectively
- prohibited any carcinogenic pesticide residues in food

- did not prohibit residues of non-carcinogenic pesticides that carried higher risks
- was repealed in 1996
- all of the above

40. A general use pesticide may
- be used without applicator certification
  - only with applicator certification
  - is not dangerous
  - be used on certified organic products
41. A restricted use pesticide may
- be used without applicator certification
  - only with applicator certification
  - is not dangerous
  - be used on certified organic products
42. Restricted use pesticides must
- always be used under the supervision of a certified operator
  - be used in conformity with the label
  - be applied at night
  - none of the above
43. To qualify for registration a pesticide must
- perform its intended function
  - be deadlier than other pesticides
  - provided extended coverage
  - be safe to eat
44. Factors that EPA considers when evaluating a pesticide registration application include
- impact on groundwater
  - carcinogenicity
  - immunological effects
  - all of the above
45. FIFRA requires that certain pesticide registration data be kept confidential because
- the public might protest if it knew how deadly the pesticide was
  - to protect trade secrets
  - to hinder competition
  - none of the above
46. Under FIFRA pesticides include
- herbicides
  - insecticides

- rodenticides
- all of the above

47. Rodenticides are designed to kill

- coyotes
- rats and mice
- voles
- cockroaches

48. Under FIFRA most enforcement is conducted by

- EPA
- FDA
- the states
- local governments

49. Under FIFRA, states may

- register additional uses
- add additional labeling requirements
- approve pesticides for which the registration has been revoked by EPA
- setting more stringent tolerances than those set by EPA

50. A point source of water pollution is

- concentrated
- diffuse
- harmless
- all of the above

51. A nonpoint source of water pollution is

- concentrated
- diffuse
- harmless
- all of the above

52. A point source of water pollution is

- generally easy to identify
- generally hard to identify
- harmless
- all of the above

53. A nonpoint source of water pollution is

- generally easy to identify
- generally hard to identify
- harmless

- all of the above
- 
54. Measured by volume which is the biggest surface water pollutant
- pathogens
  - nutrients
  - sediment
  - heavy metals
55. Water law in most eastern states is governed by the doctrine of
- riparian rights
  - appropriative rights
  - reasonable rights
  - domestic rights
56. Water law in most western states is governed by the doctrine of
- riparian rights
  - appropriative rights
  - reasonable rights
  - domestic rights
57. In which type of state would a lender prefer to lend money for building an irrigation system?
- riparian rights state
  - domestic rights state
  - appropriative rights state
  - none of the above
58. If you were a fish (assuming that you are a fish capable of reasoning) in which state would you prefer to swim?
- riparian rights state
  - domestic rights state
  - appropriative rights state
  - none of the above
59. NPDES stands for
- Natural Pollutant Discharge Elimination System
  - Natural Pollutant Disposal Elimination System
  - National Pollutant Discharge Elimination System
  - None of the above
60. An NPDES permit is
- a nondischarge permit

- an expensive permit
- a discharge permit
- all of the above

61. Which is not a surface water monitoring method?

- benthic macroinvertebrates
- fish community structure assessment
- ambient monitoring
- MRI

62. A conservation easement is

- a type of cost-share program
- an interest in real property
- an interest in personal property
- all of the above

63. North Carolina's surface water classification system is based upon

- water characteristics
- EPA mandate
- uses the water is expected to support
- current uses of the water

64. TMDL stands for

- total microbial development level
- tentative maximum daily load
- total maximum daily limit
- total maximum daily load

65. A TMDL is

- the total daily permissible pollutant loading from all sources
- the total daily permissible pollutant loading from point sources
- the total daily permissible pollutant loading from nonpoint sources
- the total daily permissible pollutant loading from land-based sources

66. EPA now emphasizes a basinwide management approach to protecting surface waters because

- it is cheaper
- watersheds are indivisible
- it is easier to monitor
- discharge permitting has not worked

67. Point and nonpoint source programs are tied together through

- state law
- international treaty

- the basinwide management approach and TMDLs
  - none of the above
68. A public water supply system supplies drinking water and is
- owned by a municipality
  - owned by a private landlord
  - owned by a state
  - all of the above
69. The Safe Drinking Water Act defines a public water supply system as one that has
- 25 service connections or regularly serves 15 people
  - 25 service connections or regularly serves 25 people
  - 15 service connections or regularly serves 15 people
  - 15 service connections or regularly serves 25 people
70. Coliform bacteria in water indicate the presence of
- human or animal waste
  - heavy metals
  - sediment
  - nutrients
71. Where a public water supply system relies on surface waters it must
- adopt a well head protection program
  - adopt a public information program
  - adopt a water supply watershed protection program
  - none of the above
72. Where a public water supply system relies on ground water it must
- adopt a well head protection program
  - adopt a public information program
  - adopt a water supply watershed protection program
  - none of the above
73. Land may be defined as wetland based upon
- hydric soils
  - hydrophilic vegetation
  - hydrology
  - all of the above
74. Wetlands are regulated under
- the Federal Wetlands Protection Act
  - section 404 of the Clean Water Act
  - section 401 of the Clean Water Act

all of the above

75. State wetland protection programs are authorized under

- the Federal Wetlands protection Act
- section 404 of the Clean Water Act
- section 401 of the Clean Water Act
- all of the above

76. Placing a navigation aid (buoy, etc.) requires a section 404

- general permit
- individual permit
- no permit
- none of the above

77. Which section 404 permit application is least likely to be granted?

- a golf course
- a marina
- a temporary waterslide
- a navigation aid

78. If mitigation is required as the condition of a section 404 permit which is the least likely mitigation ratio?

- 1:2
- 1:1.5
- 1:3
- 1:1

79. Which is the lead agency for delineating agricultural wetlands?

- NRCS
- EPA
- FWS
- Corps

80. Which is the lead agency for granting section 404 permits?

- NRCS
- EPA
- FWS
- Corps

Essay Question

20 points

Assume that Mr. John Doe owned 40 acres was too wet to allow the use of normal timber harvesting techniques. Assume that Mr. Doe therefore built a road between the 40 acres and an adjacent creek. In addition to providing better access to the timber, the road also served as a dike preventing water from the creek from flooding the 40 acres, with the result that the 40 acres became sufficiently dry for timbering activities. After having clearcut the property Mr. Doe decided that the land would be ideal for growing blackberries, which he could then use as an ingredient for producing brandy for sale in his non-taxed liquor business. Mr. Doe built his distillery near his blackberry field where the wastewater from the distillery could flow into the creek. While experimenting in his laboratory Mr. Doe discovered a substance that kills all of the insects on his blackberries. he has been selling it to his neighbors and is making so much money he is wondering if he really needs the liquor business (especially with the trouble that ATF is giving him). While discussing his ATF troubles with his Raleigh criminal defense attorney, his defense attorney suggested that he retain you to discuss some of the environmental issues raised by his activities. Please identify the issues for Mr. Doe and recommend a course of action.

3. The Endangered Species Act (ESA) protects endangered species through
  - a. Habitat protection.
  - b. Prohibition of hunting.
  - c. Purchase of critical habitat.
  - d. All of the above.
  
4. The most controversial part of the ESA is
  - a. The research authorized by it.
  - b. Restrictions placed on the use of privately-owned property.
  - c. Land purchase decisions made by the Fish and Wildlife Service.
  - d. The species listing and delisting procedure.
  
5. Sulfur dioxide is
  - a. Implicated in acid rain.
  - b. Endangers human health.
  - c. Erodes building facades.
  - d. All of the above.
  
6. True or False. Sulfur dioxide comes from only human sources.
  
7. Which is not a major air pollutant?
  - a. Ozone.
  - b. Sulfur dioxide.
  - c. Pathogen.
  - d. Particulates.

8. Depletion of the ozone layer results in
  - a. Increased cases of skin cancer.
  - b. More water vapor in the air.
  - c. Global warming.
  - d. Rising sea levels.
  
9. Radon may cause
  - a. Seizures.
  - b. Lung cancer.
  - c. Skin cancer.
  - d. Asthma.
  
10. Which is not covered under the Clean Air Act?
  - a. Ozone layer depletion.
  - b. Global warming.
  - c. Radon.
  - d. All of the above.
  
11. The North Carolina state agency responsible for protecting air quality is
  - a. The Division of Water Quality.
  - b. The Division of Air Quality.
  - c. The Environmental Protection Agency.
  - d. The Natural Resources Conservation Service.
  
12. Pick the organism that may not be listed under the ESA.
  - a. a type of fish.
  - b. the smallpox virus.
  - c. the western spotted owl.
  - d. the red cockaded woodpecker.
  
13. True or False. Protecting endangered species under the ESA is a responsibility of the U.S. Fish and Wildlife Service.
  
14. True or False. The habitat protection features of the ESA are similar to provisions contained in the laws of many other countries.
  
15. True or False. A species need not be threatened with extinction over its entire range for it to be listed under the ESA.
  
16. True or False. The threat to a species listed under the ESA may be man-made, natural or both.

17. True or False. Economic costs and benefits are not considered when making a decision to list a species under the ESA.
18. True or False. Economic impacts may be considered when designating critical habitat under the ESA.
19. True or False. The ESA definition of "Harm" excludes habitat modification or destruction.
20. True or False. Red cockaded woodpecker numbers have decreased since the species was listed under the ESA.
21. In the context of pesticide regulation the term: "the label is the law" means
- all pesticide labels must be incorporated into statutes.
  - all pesticide labels must be incorporated into regulations.
  - a pesticide label must be followed without any deviation from the directions for storage, distribution and use.
  - a pesticide label must be followed, except for minor deviations.
22. Which category of pesticide may be purchased in garden stores
- general use
  - restricted use
  - special use
  - unregistered
23. For which category of pesticide must the purchaser be licensed
- general use
  - restricted use
  - special use
  - unregistered
24. As part of the pesticide registration process various factors considered in evaluating the risks associated with manufacture, distribution and use of the pesticide.
- reproductive effects.
  - immunological effects.
  - available alternatives.
  - all of the above.

25. In North Carolina, which agency is responsible for licensing pesticide applicators?
- The Division of Water Quality.
  - The Division of Air Quality.
  - The Environmental Protection Agency.
  - N.C. Department of Agriculture
26. Which type of pesticide applicators license is required to apply a restricted use pesticide to one's own farm?
- a private applicators license.
  - a commercial applicators license.
  - an individual license.
  - none.
27. Which type of pesticide applicators license is required to apply restricted use pesticides to other farmers' farms in return for a fee?
- a private applicators license.
  - a commercial applicators license.
  - an individual license.
  - none.
28. Which type of pesticide applicators license is required to apply a pesticide, purchased at the local lawn and garden shop, to one's own yard?
- a private applicators license.
  - a commercial applicators license.
  - an individual license.
  - none.
29. Which type of pesticide applicators license is required to apply pesticides, purchased at the local lawn and garden shop, to others yards for a fee?
- a private applicators license.
  - a commercial applicators license.
  - an individual license.
  - none.
30. True or False. Organic pesticides are harmless to humans and animals.
31. True or False. Toxic substances are all regulated under FIFRA.
32. True or False. Prior to importation or manufacture of a chemical not previously registered with EPA, anyone proposing to import or manufacture such a chemical must register it.

33. True or False. A state may use information released by a company under the EPA audit policy as the basis for a criminal prosecution of that company in state court.
34. True or False. The Emergency Planning and Community Right-to-Know Act (EPCRTKA) requires that emergency responders be notified of hazardous materials stored within or transported through their jurisdiction.
35. What is MSDS an acronym for?  
a. Missile Silo Defense Shield.  
b. Material Safety Data Statistics.  
c. Material Safety Data Sheet.  
d. None of the above.
36. MSDSs are required under the terms of  
a. Occupational Safety and Health Act (OSHA )  
b. Emergency Planning and Community Right To Know Act (EPCRTKA)  
c. Local and state regulation pursuant to EPCRTKA.  
d. All of the above.
37. True or False. EPCRTKA provides for protection of trade secrets.
38. True or False. The Endangered Species Act (ESA) protects habitat.
39. True or False. The Fifth Amendment Takings Clause provides no restriction on the power of state government to take private property.
40. Conventional international law is created by  
a. Governments.  
b. Individuals.  
c. Multinational corporations.  
d. None of the above.
41. Customary international law is created by  
a. Governments.  
b. Individuals.  
c. Multinational corporations.  
d. All of the above.
42. True or False. Public international law governs relationships between nations.
- 42a. True or False. Private international law governs relationships between nations.
43. Sovereign States are the only international actors that can

- a. tax.
  - b. conscript.
  - c. raise armies.
  - d. all of the above.
44. True or False. The International Standards Organization is a private organization.
45. True or False. ISO 14000 is an attempt to establish broad international environmental standards for business.
46. True or False. Application of ISO 14000 is mandatory.
47. True or False. There are currently over 900 international legal instruments with one or more important provisions affecting the environment.
48. International law may be enforced through
- a. economic sanctions.
  - b. military action.
  - c. a county's own internal law.
  - d. all of the above.
49. True or False. A governmental invasion of private property is always a taking under the Fifth Amendment.
50. True or False. "Just compensation" is interpreted to mean "fair market value".
51. True or False. An Environmental Impact Statement (EIS) may be required for state activities.
52. The draft of an EIS will be published in
- a. Code of Federal Regulations.
  - b. United States Code
  - c. U.S. Statutes at large.
  - d. Federal Register
53. True or False A properly prepared EIS which indicates that a proposed project is bad for the environment and economically dubious does not necessarily require that the agency proposing the project withdraw the project.
54. A major category of water pollutant is
- a. pathogen.
  - b. sulfur dioxide.
  - c. ozone.
  - d. none of these.

55. All point sources of surface water pollution must obtain a \_\_\_\_\_ permit prior to discharging.
56. What does TMDL stand for?
57. True or False. A conservation easement involves a transfer of an interest in personal property.
58. Wetlands are regulated under section \_\_\_\_\_ of the Clean Water Act.
59. States may veto proposed wetlands permits under section \_\_\_\_\_ of the Clean Water Act.
60. True or False. In contrast to a general permit, a landowner who needs an individual permit in the context of the regulation of activities that occur on wetlands must make an individual application for that permit.
61. True or False. In arbitration a neutral, third party meets with the parties to help them reach an agreement. That party does not decide the case.
62. True or False. In mediation a neutral, third party meets with the parties to help them reach an agreement. That party does not decide the case.
63. Define the term tort (in the context of law).
64. True or False. An example of a "point source of surface water pollution" is a field in which crops are growing.
65. True or False. An example of a the term "nonpoint source of surface water pollution" is a field in which crops are growing.
66. A public water system is one that has \_\_\_\_\_ or more service connections or regularly serves at least \_\_\_\_\_ people.
67. True or False. Under the Safe Drinking Water Act definition of a public water system, such a system may be either publicly or privately owned.
68. True or False. Nationwide Permits allow activities to occur in wetlands without the necessity of applying for an individual section 404 permit (Clean Water Act).
69. True or False. Another advantage of coming within the terms of a section 404 nationwide permit is that public notification of your proposed activities is never required.

70. True or False. Nationwide permits are published in the *Federal Register*.
71. True or False. Nationwide permits are published in the *Code of Federal Regulations*, effective February 11, 1997.
72. True or False. Each U.S. Army Corps of Engineers regional office has authority to modify the terms of nationwide permits to fit local conditions.
73. True or False. The term, wetland, appears in the text of section 404 of the Clean Water Act.
74. True or False. Under NWP 26, fills of less than 1/3 acre need not be reported to the Corps.
75. True or False. In the context of section 404 permits, it is presumed that there are practicable alternatives for all non-water based activities.
76. True or False. The states play no role in issuing section 404 permits.
77. True or False. Normal farming or forestry activities do not require a section 404 permit.
78. True or False. A wetland which is not used by migratory birds and which has no hydrological connection to any other water is not within the jurisdiction of section 404 of the Clean Water Act.
79. True or False. States lack the power to regulate wetlands such as those described in question 78 because those wetlands do not affect interstate commerce.
80. True or False. The commerce clause is the constitutional authority for the Clean Water Act.
81. True or False. Hydric soils are often found in wetlands.
82. True or False. The 1996 amendment of the CERCLA lender liability exemption means that banks will be more likely to lend money to developers of real property.
83. True or False. Federal statutes, arranged by subject matter, are codified in the Code of Federal Regulations.

84. True or False. Laws enacted by the General Assembly of North Carolina are codified in the General Statutes of North Carolina.
85. True or False. If a conflict exists between a federal statute and a federal regulation, a court should follow the regulation.
86. True or False. Flow control is used to ensure an adequate stream of revenue to municipal and other governmentally operated landfills.
87. True or False. Strict liability is based upon the defendant's fault.
88. True or False. Joint and several liability means that, where multiple potential defendants exist, a plaintiff may sue any one, all, or any subgroup of the potential defendants, and recover the entire amount due from any one without regard to that defendant's or defendants' proportionate share.
89. True or False. CERCLA permits citizen suits only if EPA is also bringing an action under CERCLA related to the same site.
90. True or False. Liability under CERCLA is a form of common law tort liability.
91. True or False. A buyer of real property may protect herself from CERCLA liability by causing a preliminary environmental site assessment to be conducted prior to closing on the property.
92. The duties of administrative agencies include (choose the one best answer):
- a. Rule making.
  - b. Adjudication of individual cases.
  - c. Administrative activities.
  - d. All of the above.
93. True or False. The head of an executive federal agency may be removed from office by the President, without cause.
94. True or False. Local governments may be a source of law.
95. True or False. Under the principal of *stare decisis* a court is bound to follow the published opinion of itself or an appellate court above it.
96. Trial courts decide issues of \_\_\_\_\_ and \_\_\_\_\_.
97. True or False. The N.C. Supreme Court is a unit of the federal court system.
98. True or False. The federal government has only that power which was granted to it by the states when the Constitution was ratified.

99. True or False. The power of states is limited only by their respective constitutions and limits established in the U.S. Constitution.
100. Does the U.S. Constitution provide for environmental protection? Yes or No.