NELMCC Rules and Problems
Questions and Answers 2026
October 22, 2025

Q1. My team and I have a clarifying question as to the parties:

On the second page, the Plaintiff-Appellee-Cross-Appellant is identified as the Environmental Protection Agency (EPA), but subsequent references describe the United States as the party. Could you please clarify whether the EPA itself is bringing the action, or if the United States—through the Department of Justice—is representing the EPA as the plaintiff?

A1. It is intended that the United Sates is bringing the action, not the EPA. The problem has been amended.

Q2. Question regarding Page 3 of the Competition Problem. Page 3 states: "The Problem assumes no other climate superfund litigation exists in other states, and *briefs, memoranda, or other decisions from climate superfund litigation in other states cannot be cited or used in any way.*"

It seems that this language can fairly be interpreted as prohibiting any citation to climate superfund litigation in *state courts*.

1. However, can we still cite *federal cases* that have dealt with state superfund legislation, if those exist?

2. Notwithstanding case law, can we cite any state superfund statutes, legislative materials, and other similar materials?

Context: We ask this question specifically in terms of the Federal Preemption Issue. Our team is currently doing research into whether federal courts have dealt with similar state legislation as the State of New Union's and whether those courts have held that the Clean Air Act preempts their respective state statutes.

A2. The rule refers to challenges to other state climate superfund laws, regardless of whether those are in state or federal court. Teams should not rely on or cite to any papers filed in challenges to state climate superfund laws.

Q3. Could we get approximate dates (year is fine) for Hurricanes Peter and Gilda?

A3. This evidence is not in the record beyond that both occurred in the past 5 years. The record will not be supplemented beyond this.

Q.4. On Pg. 11: The second sentence in Section III says "The US's three substantive challenges in its motion to dismiss are..." Should this be motion for summary judgment? We do not see where the US moved for dismissal.

A.4. We have removed the "to dismiss" language (see attached at p. 11).

Q.5. In the district court's discussion of standing, the court says it will rule on the motion to dismiss for lack of standing after ruling on summary judgment. Obviously, since the court granted SJ, they found standing and simply failed to formally deny the motion to dismiss. Should the lack of a formal disposition be a point of advocacy in the briefs/arguments?

A.5. The record will not be altered beyond what is in the opinion. The parties are free to argue standing in the context of either motion.

Q6. First, we are seeking clarification on the restriction on existing superfund cases from other states: Does this restriction apply to both state and federal challenges, meaning would challenges or case law related to CERCLA be acceptable to use under the rule? Further, does this restriction apply to any statutes at the core of these superfund lawsuits, or only to the listed materials of "briefs, memoranda, or decisions"?

Second, we are seeking clarification on the listing of issues on page 2 of the problem document: IPOH and the State are listed as arguing against the district court's reasoning for issues 3 and 4, while the United States is arguing alongside the district court's reasoning for issues 3 and 4. In the remainder of the problem document, the stances are reversed. IPOH and the State argue alongside the reasoning in the district court's order on issues 3 and 4, while the United States argues against the district court's reasoning on issues 3 and 4.

For the brief itself, are IPOH and the State expected to argue for or against the district court's order on issues 3 and 4?

A.6. The first issue is clearly addressed in the problem It only applies to state CLIMATE superfund cases.

The second issue has already been resolved.