

CWRU Climate and Energy Law and Policy
Spring 2020
Syllabus and Learning Objectives

Learning Objectives

This class is designed to provide students an overview of international efforts to address climate change as well as legislative, executive, and legal actions in the U.S. to reduce greenhouse gas emissions. We will explore the economic, psychological, and other hurdles that stand in the way of solutions to climate. Students will be asked to critically analyze a multitude of approaches that have been identified, and to select and describe in detail the one he/she believes is best suited to advance the goal of 80% greenhouse gas emissions reduction by 2050.

Syllabus

Week #1 (1.22.20): International efforts to address climate change, from Rio to Paris to Madrid

Overview and History of Climate Agreements: <https://www.c2es.org/content/history-of-un-climate-talks/>

IPCC 2018 Summary for Policymakers:
https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf

Three Major Developments in International Climate Change Law, Gerrard and McTiernan, NY Law: <http://columbiaclimatelaw.com/files/2016/09/070111614-Arnold.pdf>

Supplemental Reading: International Cooperation: Agreement and Instruments
https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_chapter13.pdf

Week #2 (1.29.20): Regulation of GHG emissions under the Clean Air Act

Massachusetts v. E.P.A., 127 S.Ct. 1438 (2007)

Goffman and McCoy, EPA's House of Cards: the Affordable Clean Energy Rule
<http://eelp.law.harvard.edu/wp-content/uploads/ACE-Paper-Final.pdf>

ROBERT V. PERCIVAL, ET AL., ENVIRONMENTAL REGULATION LAW SCIENCE & POLICY (2013) (7th ed.) update to Chapter 5 (p. 541 update ONLY) available at <http://erlsp.com/wp-content/uploads/2019/06/Chapter-5.pdf>

Class #3 (2.5.20): Regional, State and local laws and policies to reduce GHG emissions, from mandates to cap and trade

Regional Greenhouse Gas Initiative: <https://www.rggi.org/program-overview-and-design/elements>

NY Climate Leadership and Community Protection Act:
<https://legislation.nysenate.gov/pdf/bills/2019/S6599>

State RPS's

Overview of state RPS's: <http://www.ncsl.org/research/energy/renewable-portfolio-standards.aspx>

<https://www.forbes.com/sites/rogerpielke/2019/11/10/the-surprising-energy-math-behind-us-climate-policy-failure/#1d60241034b7>

Katherine A. Trisolini, *All Hands on Deck: Local Governments and the Potential for Bidirectional Climate Change Regulation*, 62 STAN. L. REV. 669 (2010)

Supplemental:

• David E. Adelman & Kirsten H. Engel, *Adaptive Federalism: The Case Against Reallocating Environmental Regulatory Authority*, 92 MINN. L. REV. 1796 (2008)

Class #4 (2.12.20): Congressional and executive level actions to address climate

Generally:

Overview of policy options toward deep decarbonization:
https://www.eli.org/sites/default/files/docs/books/deep_decarb_summary_booklet_online.pdf

Specific Attempts:

Obama's Climate Action Plan: <https://crsreports.congress.gov/product/pdf/R/R43120>

EPA's Repeal of Clean Power Plan and Replacement with Affordable Clean Energy Plan:
<https://crsreports.congress.gov/product/pdf/IN/IN11142>

Agencies valuation of carbon costs/benefits:
<https://crsreports.congress.gov/product/pdf/IF/IF10625>

Carbon pricing proposals: <https://www.eesi.org/articles/view/is-there-hope-for-carbon-pricing-legislation-in-the-united-states>

H.R. 2454, the Waxman-Markey Bill: <https://crsreports.congress.gov/product/pdf/R/R40643>

Carbon tax: https://www.jstor.org/stable/2233865?seq=1#page_scan_tab_contents

Class #5 (2.26.20): Common law theories used in litigation over climate, status of lawsuits that have been filed

Select legal challenges brought from Sabin Center database US Climate Change Litigation: <http://climatecasechart.com/us-climate-change-litigation/>

Class #6 (3.4.20): Why has the U.S. failed to address the gravest environmental threat facing us?

Polling on climate: <https://www.pewresearch.org/science/2019/11/25/u-s-public-views-on-climate-and-energy/>

Nathaniel Rich NYT piece: <https://www.nytimes.com/interactive/2018/08/01/magazine/climate-change-losing-earth.html>

Why it's so difficult: <https://energypost.eu/difficult-reduce-co2-emissions/>

https://www.nature.com/news/polopoly_fs/1.11166!/menu/main/topColumns/topLeftColumn/pdf/488255a.pdf

<https://www.motherjones.com/politics/2019/12/kevin-drum-climate-change-research/>

Students present outline of Papers, which will be due on 3.27.20, addressing the following question:

YY is elected president in November 2020. During the campaign she promised to rejoin the Paris Climate Accord on Day 1 of her presidency. She has named you her Secretary of State and asked you to analyze the policy options available to her Administration to drive reductions of greenhouse gas emissions 80% by 2050. (See, https://www.eli.org/sites/default/files/docs/books/deep_decarb_summary_booklet_online.pdf)

You have been asked to present the new Administration the one policy option (i.e., legislation, executive action, or legal action) that you believe is best designed to:

- 1) advance the goal of achieving the greenhouse gas emission reductions desired (80x50); and,
- 2) be implemented based on political realities. Please describe in detail the option you have selected, why you have selected it, and the legal and political strategy you would use to implement it.