

Why study it? Begin discussion of the Environmental Decade. *Students will sign up for group case discussion leader assignments.*

Reading: Salzman, ch. 1 (pp 1-15); Richard J. Lazarus, *The Making of Environmental Law* (The University of Chicago Press, 2004), pp. 47-66.

Sept. 5 The dawn of the modern environmental era – the 1970s/The Environmental Decade: Why the Environmental Decade? (passage of comprehensive suite of federal environmental laws, birth of EPA, the environmental movement, CEQ). Why?

Reading: Salzman, ch.2 (pp 17-47)

II. Endangered Species Act (ESA)

Sept. 7 Historical underpinnings, purpose, and scope of ESA – listing process for

Sept. 19 ESA & Climate Change: Is the ESA a good tool to address climate change mitigation or adaptation? Population loss v. species extinction; 6th Wave of Extinction, Bush Administration polar bear listing. How does/should climate models impact listings? How should ESA recovery plans, habitat range, tools evolve?

In class group discussion: “Saving Species as the Climate Changes” debate

Reading: Read comments from all six debaters in “Saving Species as the Climate Changes” (New York Times, April 22, 2011); Olivia Bensinger, “The Endangered Species Act to the Rescue? Climate Change Mitigation and Adaptation under the ESA” (Vermont Journal of Environmental Law)

Sept. 21 “Modernizing” the ESA, “Repeal and Replace” the ESA, or ??? – What’s Happening in Congress? The ESA’s track record. Analyzing ESA bills in Congress – what would they do? Role of States? Attorneys general letter; California Environmental Defense Act (SB 49).

Reading: Darryl Fears, “The Endangered Species Act may be headed for the threatened list. This hearing confirmed it.” (The Washington Post, Feb. 15, 2017); Christopher Ketcham, “Inside the Effort to Kill Protections for Endangered Animals” (National Geographic, May 19, 2017); “ESA Is Under Attack. But How Much Trouble Is It In?” (Audubon, Feb. 8, 2017)

III. National Environmental Policy Act

Sept. 26 Context, purpose and structure of NEPA: The need for comprehensive consideration of environmental impacts in *all* aspects of federal agency action, the role of CEQ, and the importance of the action forcing provisions of NEPA and the terms: EA, EIS, FONSI and categorical exclusion.

Reading: Salzman, pp 333-349; NEPA statute

Oct. 3 NEPA implementation, challenges, track record and climate change: Is NEPA a success story? How is NEPA responding to climate change considerations? Assessing the complicated legacy of this simplest of

Oct. 26 NPDES – the primary regulatory strategy of the Clean Water Act: Events triggering passage of CWA, ambitious CWA goals, the broad prohibition on discharges to WOTUS without NPDES permits, “point sources,” Publicly Owned Sewage Treatment Works (POTWs) & indirect dischargers.

Reading: Salzman, ch. 7, pp. 173-188; CWA Sections 101, 301, and 402.

Oct. 31 Clean Water Act – Enforcement: CWA as a strict liability statute with criminal and civil penalties. Enforcement role of EPA, states and citizens. Discharge Monitoring Reports (DMRs), citizen suits, and constraints.

Reading: *Environmental Law Stories: The Story of Laidlaw: Standing and Citizen Enforcement*, pp 200-236; CWA Sections 309, 505.

In class: Group discussion of *Laidlaw* case study

Nov. 2 Clean Water Act, Waterbody Health, Stormwater & Climate Change: How are the water quality standards and TMDL process supposed to work to protect the health of waterbodies? Loopholes and failure to address polluted runoff from nonpoint sources, like farm fields. Agricultural exemptions. Aging sewage treatment and drinking water infrastructure. CSOs and green infrastructure. Dead zones, algae blooms, ocean acidification. Who suffers? Who pays? How about climate change considerations?

Reading: Salzman, ch. 7, pp. 189-202; “Aging Pipes Are Poisoning America’s Tap Water” (The Atlantic Monthly, July 29, 2015); “What’s in Your Water? Flint and Beyond” (NRDC Report, June 2016); “Toxic Waters: As Sewers Fill, Waste Poisons Waterways” (New York Times, Nov. 22, 2009); “Toxic Waters: Saving U.S. Water and Sewer Systems Would Be Costly” (New York Times, March 15, 2010); Robin Craig, “Climate Change Comes to the Clean Water Act: Now What?,” 1 Wash. & Lee J. Energy, Climate & Env’t 9 (2010).

V. Clean Air Act

Nov. 7 Context, purpose and regulatory strategy of the Clean Air Act: Historical air quality and public health concerns, the ambitious goals and regulatory strategy of the CAA, Uniform National Ambient Air Quality Standards (NAAQs), state implementation

including the regulatory compliance & human health costs, the CAA statutory language, and environmental policy goals re NAAQs for ozone & particulate matter.

Reading: *Environmental Law Stories: The Story of American Trucking: The Blockbuster Case that Misfired*

Reading: Salzman, ch. 9, pp. 231-247.

VII. Climate change

Dec. 5 U.S. and climate change – The 2015 UN Paris Climate Change Agreement, 2018 National Climate Assessment report & the Intergovernmental Panel on Climate Change scientific assessments, continued discussion of Trump executive order. What is the current status?

Reading: “No, The Paris Agreement Isn’t Binding. Here’s Why That Doesn’t Matter” (ThinkProgress, Dec. 14, 2015); Robinson Meyer, “A Reader’s Guide to the Paris Agreement” (The Atlantic, Dec. 16, 2015); Camila Domonoshe, “So What Exactly is in the Paris Climate Accord?” (NPR, June 1, 2017); Jon Greenberg, “Fact-checking Donald Trump’s statement withdrawing from the Paris climate agreement” (Politifact, June 1, 2017)