

L660: Seminar in Climate Change Law and Policy Syllabus

Class Time: Wednesdays 6:40-8:40 PM, Law 216
Instructor: Dr. Kenneth Richards
Office: SPEA Rm. 410
Telephone: 812-855-5971
Email: kenricha@indiana.edu
Office Hours: W 5:00 - 6:30pm
Web site: <http://classwebs.spea.indiana.edu/kenricha>

Introduction

This course will introduce students to many facets of the legal and policy issues related to climate change. For our legal analysis we will work our way from the global to the local, starting with a consideration of developments in international law, moving to the developing U.S. federal law, and then considering developments in state and local law. We will try to ensure that our consideration of legal and programmatic developments is steeped in an understanding of policy principles and climate science. Class members will have an opportunity to explore areas of specific interest in their own law papers. The class is a seminar in which we will be exploring this interesting topic together, so everyone will be encouraged to participate in class discussions.

Course Objectives

The course has a number of objectives:

- To introduce students to the developing field of climate change law at the international, national and local levels;
- To provide students with sufficient grounding in climate science to facilitate their understanding of the goals and constraints involved in the development of climate change law and policy;
- To encourage students to critically consider the policy implications of the many climate laws and initiatives;
- To provide students an opportunity to explore areas of special interest through their individual projects;
- To provide students an opportunity to further develop their research and writing skills via their papers;
- To expose students to influential experts in the field via guest lecturers.

About the Instructor

Kenneth Richards holds a PhD in Public Policy from the Wharton School and a JD from the Law School, University of Pennsylvania. He holds an MSCE in Urban and Regional Planning and a BSCE in Environmental Engineering from Northwestern University, and a BA in Botany and Chemistry from Duke University.

Richards serves as an associate professor at SPEA and adjunct professor at the Indiana University School of Law. He has taught courses in environmental economics, cost-benefit analysis,

governance, decision-making, public management and administration, public management economics, law and public policy, applied math, climate change science and policy, and energy law.

His research areas include environmental policy instrument choice, climate change law and policy, and forestry policy and management.

In addition to his teaching responsibilities Richards founded and directs the IU at Oxford study abroad program to provide undergraduate students with an opportunity to study at Oxford University's Said Business School. He is Associate Director of the Richard G. Lugar Center for Renewal Energy in Indianapolis and the Center for Research in Energy and Environment in Bloomington. He served as a member of the Environmental Commission for the City of Bloomington from 1999 to 2004.

Before he began his teaching career in 1996, Richards served as an economist at the Council of Economic Advisers, the U.S. Department of Agriculture's Economic Research Service, and the U.S. Department of Energy's Pacific Northwest National Laboratory. He also served in the U.S. Peace Corps as national energy planner for the Cook Islands from 1984 to 1986. During law school, he clerked at Perkins Coie's office in Washington, DC.

Richards made contributions to the Intergovernmental Panel on Climate Change's First and Second Assessment Reports, for which the IPCC was awarded the 2007 Nobel Peace Prize. He was the lead author on Working Group III's Chapter 8 on "Key Determinants of Abatement Costs" and Chapter 9 on "Estimates of Abatement Costs." His more recent climate change research has included articles on the opportunities and pitfalls of Joint Implementation; the economic, environmental, and legal implications of carbon sequestration; and an analysis of climate change bills in the U.S. Senate.

Readings and Materials

The textbook is central to the course:

Michael Gerrard. *Global Climate Change and U.S. Law* (2007).

There will also be required and suggested supplemental readings, which will be posted on the class Web site.

Course Grade

Your final grade for this course will be based upon the following areas:

Class Participation	15%
Paper Topic	5%
Paper Outline	10%
First Draft	15%
Oral Presentation ¹	15%
Final Paper	40%

¹ We may revisit this part of the course, depending upon enrollment. If we drop this requirement, then the percent of grade associated with the final paper will shift from 40 percent to 55 percent.

Class Participation

Since this is a seminar course, I assume that you are all highly motivated and interested in exploring the field of climate change law and policy. As such, we have to be able to count on each other to be prepared for class.

Students are expected to attend all class meetings. If you cannot be at class, email me *prior to the class meeting* to notify me of your absence. If a student misses more than three class meetings, the student will be administratively withdrawn from the class. If the withdrawal deadline has passed, I reserve the right to provide the student with a failing grade for the course.

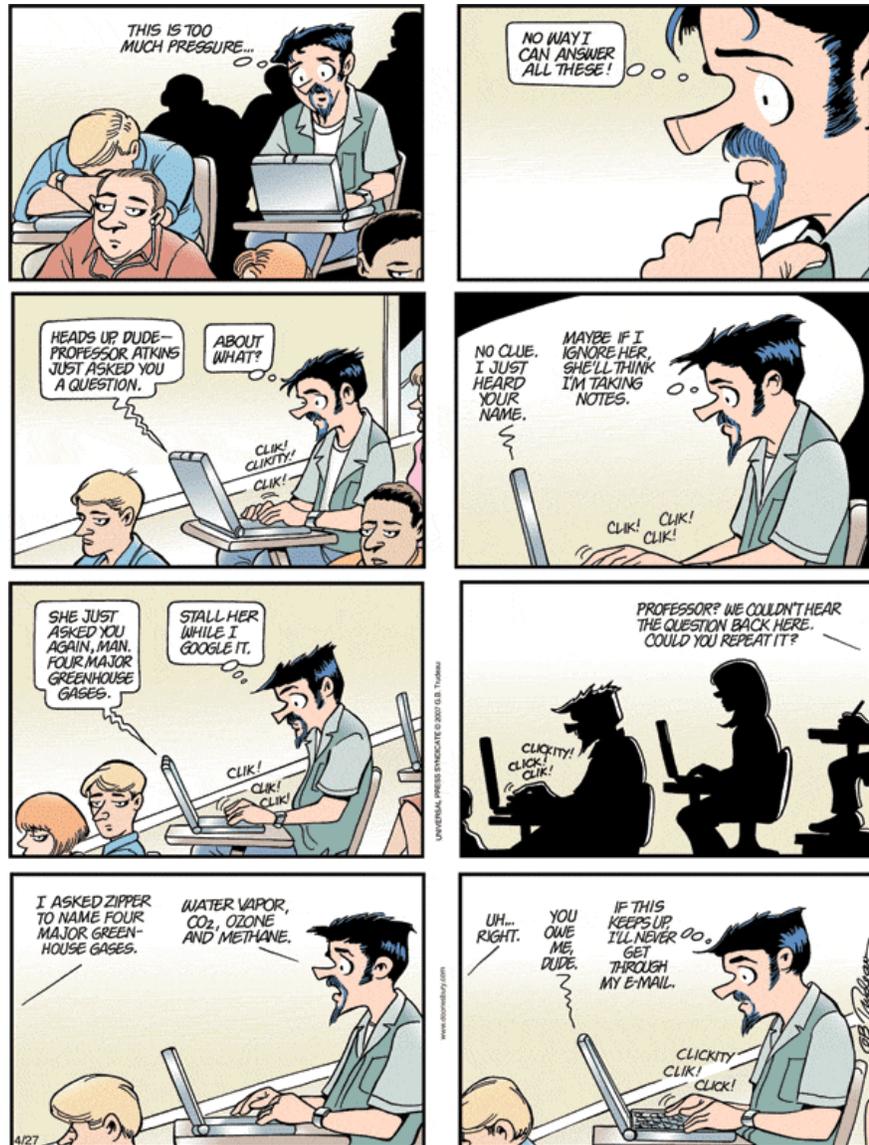
Students are also expected to be prepared to participate in the class discussions and exercises. This means that we each need to complete the reading assignments, review the study questions, if any, before class and make positive contributions to the class discussions.

I would like to discourage students who find themselves frequently distracted by an uncontrollable urge to perform tasks unrelated to the course during class time

(e.g., sending email, checking game scores, playing solitaire, checking financial aid status) from bringing a laptop to class. If you bring a computer to class, I expect it will be used only for taking class notes or performing the occasional Internet search to look up unfamiliar terms mentioned in class. It is much easier for the lecturer to identify improper Internet usage than one might think, and inappropriate computer use will have a negative impact on participation grades.

Class Paper

This is a research and writing course. You will choose a topic related to climate change law for your paper. Papers should be 20 to 30 pages in length, including footnotes and the table of contents.



Paper Topic (DUE: Wednesday, September 10)

The topic you choose must be discussed with and approved by Professor Richards by **Wednesday, September 10**. You will want to do a significant amount of reading before choosing your topic.

Example of potential paper topics include:

1. Legal implications of geological carbon sequestration
2. Climate Change and the Clean Air Act
3. International development assistance
4. Joint Implementation
5. Clean Development Mechanism
6. Climate change as a public nuisance
7. Public international law claims
8. Developments in corporate law
9. LULUCF
10. Offset projects
11. EU ETS
12. How current U.S. energy law helps/hinders climate change policy
13. Legal issues of renewable energy
14. Implications of federal transportation law
15. Impact of federal agricultural laws
16. Recommendations for your home state in light of anticipated regional impacts of climate change
17. International trade implications

Paper Outline (DUE: Wednesday, October 1)

Your paper outline should reflect substantial research on your topic. It should highlight the major topics and subtopics you plan to address in your paper. The outline should be typed, double-spaced, and traditionally formatted with topics listed as I, II, III and so forth (and subtopics labeled A, B, C, etc.). Please include a reference list of at least 10 books, scholarly journals, or legal publications you intend to cite in your final paper.

First Draft (DUE: Wednesday, October 29)

A good rule of thumb for your first draft is that you should be about 75 percent done with your final paper. You should present a clear and compelling argument, though some of the language may still need to be polished. You should have done exhaustive research and documented your references in footnotes, though you may still need to recheck, reorganize, or supplement some footnotes. Your paper should be typed double-spaced and have footnotes and a reference list at the end. Keep in mind that the more complete your first draft, the less work you will have to do to produce your final paper.

Oral Presentations (Wednesday, November 19 and Wednesday, December 3)

Oral presentations should be 10 to 15 minutes, and will be followed by 5 to 10 minutes of questions. When preparing for your presentation, pretend you are addressing an interdisciplinary team of colleagues who need to be briefed on a particular legal issue. During your presentation, begin by introducing your thesis statement. Then, use a variety of information, including existing laws and recent legal research (and possibly scientific consensus and economic concepts) to support your argument.

A sign-up sheet will be passed out on **Wednesday, October 29** (the same day that first drafts are due). Be sure you come to class a little early that day to get your first choice for

placement. Five presentations will be given on November 19 and four presentations will be given on December 3. This may mean that class may run over a few minutes on November 19. Out of courtesy for your classmates (and to maintain your participation grade), I ask that everyone stay until all presentations are completed. Since we will not have class on October 15 and will likely adjourn a little early some evenings, I think we can agree that the time spent in the classroom will not only be a worthwhile learning experience but will also “equal itself out.”

Final Paper (DUE: Friday, December 5)

The final paper counts for at least 40 percent of your grade, so I would encourage you to devote a significant amount of time to this project. I expect everyone will turn in a paper that is professional and well-polished, including a clear and concise argument; meticulously researched and documented footnotes; and a solid command of the English language. Your paper should include the following parts:

- Title Page
- Table of Contents
- Paper Text
- Footnotes including references

For examples of such well-written papers, please refer to Indiana University’s Law Review as well as those of other universities.

Academic Misconduct

I will not tolerate academic misconduct. The Indiana University Code of Student Rights, Responsibilities and Conduct, Section III A discusses student academic misconduct. You can find this information at <http://dsa.indiana.edu/Code/index1.html>. You are also governed by the law school's academic regulations. Any student found cheating will receive a failing grade for the course and will be reported to the Dean of Student Affairs. Other sanctions are possible. On average, I have had to fail one student per semester for the past several semesters due to academic misconduct. I hate to do this, but I am strongly committed to maintaining the credibility of degrees awarded by Indiana University.

Class Schedule and Assignments

The class schedule should be considered flexible, subject to change as I learn more about your interests and the speed with which we can move through the material. The following will help you plan your readings and schedule times for the assignments and exams, but should not be considered fixed.

Date	Topics for Discussion	Required Reading Assignment	Recommended Reading Assignment (Optional)
<p>Week 1: August 27</p>	<p><i>International Framework</i> Syllabus Review Introduction to Climate Change Law Framework Convention Kyoto Protocol Marrakesh Accords Joint Implementation Clean Development Mechanism Life after Kyoto Bali/Major Economies Meeting</p>	<p>Syllabus Gerrard – Chapter 1: Introduction and Overview, pg. 1 – 27 Gerrard – Chapter 2: The International Regime, p. 31 – 56 Gerrard – U.S. Participation (or Not) in Major International Agreements, p. 62 – 65</p> <p>Lightfoot, Paul. “Kyoto Protocol Achievements: The Partial Control of Greenhouse Gas Emissions.” 28 March 2008.http://climate-change.suite101.com/article.cfm/kyoto_protocol_achievements</p> <p>Jeffrey Ball, “U.N. Effort to Curtail Emissions in Turmoil,” Wall Street Journal, 12 April 2008 - http://online.wsj.com/article/SB120796372237309757.html</p>	
<p>Week 2: September 3</p>	<p>The Greenhouse Effect Sources of Greenhouse Gases Potential Impacts of Global Warming Unique Characteristics of Carbon Dioxide Emissions</p> <p><i>Guest Speaker:</i> Ben Brabson</p>	<p>IPCC Fourth Assessment Report (Synthesis Report) - http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf, p. 1 - 52</p>	<p>IPCC Fourth Assessment Report (Complete Report) http://www.ipcc.ch/ipccreports/assessments-reports.htm</p>
<p>Week 3: September 10</p>	<p><i>International Framework (cont.)</i> Impacts on U.S. Businesses International Trade Human Rights Claims Alien Tort Statute</p>	<p>Gerrard – Chapter 4: The Impact of the Kyoto Protocol on U.S. Business, p. 101 – 126. Gerrard – Chapter 8: International Trade and Development, p. 277 - 311 Gerrard – Human Rights Claims, p. 221 – 224 Gerrard – Alien Tort Statute, p. 224 – 236</p> <p>Due: Paper Topic Email to kenricha@indiana.edu by 4 pm</p>	

Date	Topics for Discussion	Required Reading Assignment	Recommended Reading Assignment (Optional)
Week 4: September 17	<i>U.S. Policy</i> Clean Air Act Energy Policy and Conservation Act Facility Permitting	Gerrard – Chapter 3: U.S. Policy, p. 61 – 99 Gerrard – Chapter 5: Clean Air Regulation, p. 133 – 182. Gerrard – Chapter 7: Consideration of Climate Change in Facility Permitting, p. 259 – 276	
Week 5: September 24	<i>U.S. Policy (cont.)</i> Tax Incentives Voluntary Programs	Gerrard – Chapter 16: Subsidies, Tax Policy, and Technological Innovation, p. 565 – 587 Gerrard – Chapter 17: Voluntary Climate Change Efforts, p. 591 – 626	
Week 6: October 1	<i>U.S. Policy (cont.)</i> Emissions Trading Carbon Sequestration	Gerrard – Chapter 18: Emissions Trading – Practical Aspects, p. 627 – 689 Gerrard – Chapter 19: Carbon Sequestration, p. 691 – 739 Due: Paper Outline Email to kenricha@indiana.edu by 4 pm	
Week 7: October 8	<i>U.S. Policy (cont.)</i> Civil Remedies Proposed Legislation	Gerrard – Chapter 6: Civil Remedies, p. 183 – 220 Kenneth Robert Richards and Stephanie Hayes Richards, “An Analysis of the Two Major Climate Change Bills in the U.S. Senate”	

Date	Topics for Discussion	Required Reading Assignment	Recommended Reading Assignment (Optional)
Week 8: October 14 (Tuesday)	Guest Speaker: Steve Schneider Climatologist, Stanford Univ.	http://stephenschneider.stanford.edu/	
Week 8: October 15	<i>No class</i>	<i>No class</i>	<i>No class</i>
Week 9: October 22	<i>Fall Break</i>		
Week 10: October 29	<i>Corporate Actions</i>	<p>Gerrard – Chapter 13: Disclosure Issues, p. 453 – 496 Gerrard – Chapter 14: The Fiduciary Duties of Officers and Directors, p. 497 – 540 Gerrard – Chapter 15: Insurance and Climate Change, p. 541 – 564</p> <p>Due: First Draft Paper Email to kenricha@indiana.edu by 4 pm Presentation Sign-ups</p>	
Week 12: November 5	<i>Regional, State and Local Initiatives</i>	<p>Gerrard – Chapter 9: Regional Initiatives to Reduce Greenhouse Gas Emissions, p. 313 – 342 Gerrard – Chapter 10: State Initiatives, p. 343 – 370</p>	

Date	Topics for Discussion	Required Reading Assignment	Recommended Reading Assignment (Optional)
Week 13: November 12	<i>Regional, State and Local Initiatives (cont.)</i> Guest Speaker: David Ziegner, Indiana Utility Regulatory Commission	Gerrard – Chapter 11: The State Response to Climate Change, p. 371 – 420 Gerrard – Chapter 12: Local Initiatives, p. 442 – 449	
Week 14: November 19	<i>Presentations</i> 10 -15 minute presentations 5 - 10 minutes Q &A	<i>Please note: Class may run a few minutes late this evening due to the number of presentations planned. Please plan accordingly so you will have the opportunity to listen to all the presentations and avoid deductions from your participation grade.</i>	
Thanksgiving Recess: November 26 – 30 Classes resume December 1			
Week 15: December 3	<i>Presentations</i> 10 - 15 minute presentations 5 -10 minutes Q &A		
December 5 (Friday)	<i>Final Paper Deadline</i>	Due: Final Paper Email to kenricha@indiana.edu by 4 pm	