

**DEPARTMENT OF LEGAL STUDIES AND BUSINESS ETHICS
THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA**

**LGST 215/815
ENVIRONMENTAL MANAGEMENT, LAW AND POLICY**

**PROFESSOR SARAH E. LIGHT
Fall 2021**

I. INSTRUCTOR

Professor Sarah E. Light

Email: lightsa@wharton.upenn.edu (best method of contact)

Office Phone: 215-573-0575

Office: 661 Huntsman Hall

Student Drop-In/Office Hours: Tuesdays 1:45-3:15pm and by appointment

II. CLASS MEETING TIMES AND LOCATION

Tuesdays and Thursdays 10:15-11:45am

Location: TBD

III. CROSS-LISTING MBA/UNDERGRADUATE SCHEDULE DIFFERENCES

This course has 28 class sessions, consistent with the undergraduate schedule. MBA students taking this class are excused on 4 of those dates as noted below (October 12, 19, 21, and November 23).

IV. COURSE OBJECTIVES

The law and public policy shape the relationships between business firms and the environment, including the climate. The first part of the course will provide a grounding in the foundational concepts of environmental law and policy. As we address different topics in environmental law and policy, we will examine a series of case studies in which law, policy and business intersect. Examples include how informational regulation affects business strategy regarding climate change and how the law of municipal and hazardous waste management informs business practices about e-waste. We will also examine the emerging concept of private environmental governance. We will then focus on different approaches of incorporating environmental and climate strategy into business practices. The final part of the course will consist of student group presentations.

Students are not expected to have any previous experience with environmental law or policy.

IV. TEXT AND READINGS

The assigned texts for this course are:

- James Salzman and Barton H. Thompson, Jr., *Environmental Law and Policy* (5th ed., Foundation Press 2019) (“S&T”).
- Coursepack (available via Canvas through Study.net).

V. ASSIGNMENTS AND GRADING

Students will be required to complete the following assignments. There is no final exam in this course.

The final grade for the course will be determined as follows:

- **Class participation: 20%:**
 - Attendance and Participation in class discussions and exercises
- **Two Quizzes: 50%**
 - **Quiz 1 (25%)**
 - **Quiz 2 (25%)**
- **Timely Submission of Proposed Topic for Final Group Presentation: 5%**
 - Due **October 28, by 11:59pm EST** via Canvas
- **Final Group Presentation: 25%**
 - 12 minutes/12 slides/8 minutes Q&A
 - Slides & Bibliography due **Wednesday November 17, by 11:59pm EST**

Class Attendance and Participation:

Participation: Students are expected to attend class, to prepare for classes conscientiously, and to contribute to the class discussion. This means providing thoughtful commentary (not just many comments), engaging in analysis, and/or posing relevant questions. It also means being prepared to discuss the readings, including legal cases and other materials. For some classes, I may assign “panels” of students to be on-call/participate on a given day to ensure that everyone has the opportunity to participate.

Attendance: Each undergraduate student is permitted three “free” absences and each MBA student is permitted two “free” absences during the term for any reason without a penalty if you provide me with advance notice (an email before class is fine).¹ These can be used for minor illness, job interviews, sports or other extracurricular activities without penalty. Beyond those free absences, I mark absences either as excused or unexcused. **Reasons for excused absences** include: family or personal medical emergencies and religious holidays. Job interviews and extracurricular activities are *not* excused absences. A significant number of unexcused absences will have a negative impact on your grade.

¹ You may not use these excused absences for the final class or on the day of your Group Presentation.

General Guidelines for Assignments. I have intentionally given you plenty of time to complete all assignments, so all assignments must be handed in on time. If an assignment is late for any unexcused reason, it is penalized one grade level for each 24-hour period or portion thereof it is late (*i.e.*, A would become A-; an A- would become B+ etc.).

Extenuating Circumstances: If there are extenuating circumstances of which you are aware in advance that will affect your ability to complete an assignment on time (same as for an excused absence, and including mental health considerations), please contact me as soon as possible to discuss whether an accommodation is needed.

Please note: Assignments must be submitted via Canvas in word format (not .pdf) unless otherwise noted.

Quizzes:

- There will be two Quizzes on Canvas. You will have **90 minutes** to complete each Quiz once you begin, and a **24-hour period** during which to take each Quiz. These will be a way for you to demonstrate your mastery of the concepts we have discussed in class and in the readings. They will be a combination of multiple-choice and short answer questions.
- **Quiz #1: Opens Wednesday, September 29th at 9am; Closes Thursday, September 30th at 9am (covers material through Class 8).**
- **Quiz #2: Opens Monday, November 8th at 9am; Closes Tuesday, November 9th at 9am (covers material through Class 19; does not cover material from UG-only dates).**

Final Group Presentations and Proposed Topics:

- Each student must participate in a Group Presentation on a topic of the group's choosing. Students will present in groups of four, and will have an opportunity either to choose their group partners by a certain date, or to be assigned to a group. Each group will prepare a presentation of no more than **12 minutes and 12 slides**, with **8 minutes** of in-class Q&A after your presentation.
- A **Proposed Topic** for each group's presentation must be submitted via Canvas for approval on or before **October 28th at 11:59pm EST**. You are encouraged to submit as early as possible. Further detail about topic selection and expectations for the Final Group Presentation will be provided in class.
- Your **slides** and **bibliography** for the Final Group Presentation are due via Canvas on **November 17 by 11:59pm EST**. Presentations will take place on several dates during the final weeks of class.
 - Grades for the group projects will be based on the quality of the final presentation itself, how well the group's presentation coheres as a whole, as well as the quality of sources and research as cited in the bibliography. Students may use notes during their presentations, but should not read the presentation from a written document.

Citations, Collaboration and Plagiarism. Submissions must represent only the student's own creative work and effort. **I take plagiarism and cheating very seriously and will deal with such actions according to University policy.**

For your Group Presentation, you must use a consistent citation method for sources. Any source you quote or rely on must be footnoted in a bibliography, with source and page references, for example: Sax 1980 at p. 7, with the full citation provided in a bibliography (e.g., Joseph L. Sax, Mountains without Handrails: Reflections on the National Parks (University of Michigan Press 1980)). Please make reference to *all* sources used, including for charts and graphics in slides. No statement that relies on a source should fail to reference the source.

VI. CLASSROOM EXPECTATIONS

- We will start and end class on time.
- Electronic devices such as phones and laptops may not be used during class. Failure to adhere to this rule will negatively affect your attendance/participation.

VIII. COURSE OUTLINE

Please note: These assignments are subject to revision as the course progresses, depending upon changes in the law, other global events, and our progress.

Class 1: Tuesday August 31

Introduction to Sustainability, Environmental Management, Law and Policy

Readings for Today:

- [Banks' Arctic Financing Retreat Rattles Oil Industry](#) (WSJ, 2020)
- CERES, [Investors Seek Greater Climate Action in 2021 Proxy Season](#)
- [Walmart's Project Gigaton](#) and [Walmart's Project Gigaton \(FAQ\)](#)

Discussion Question: Why should firms care about climate change and the environment? What drives firm decision making regarding environmental and climate impacts? For which environmental and climate impacts are firms responsible?

Class 2: Thursday September 2

Introduction to the U.S. Legal System and Anatomy of a Lawsuit

Readings for Today:

- *Edmunds v. Duff*, 280 Pa. 355 (Apr. 28, 1924) [Coursepack #1]
- [Orin Kerr, How to Read a Legal Opinion](#)
- S&T, Chapters 1 & 2

Discussion Questions: Be prepared to answer all of the questions listed on “How to Brief a Case” which I have posted to the Files menu of Canvas.

Note: There will be no class on Tuesday September 7. A makeup class will take place on Friday September 10 from 10:15-11:45am. Class will be recorded if you are unable to attend the makeup. To receive credit for attendance, you must watch the video recording before the start of class on Tuesday, September 14.

Class 3: Thursday September 9

The Common Law Roots of Environmental Law: Public and Private Nuisance

Readings for Today:

- *Madison v. Ducktown Sulphur, Copper and Iron Co.* (Tenn. 1904) [Coursepack #2]
- *Missouri v. Illinois* (S. Ct. 1906) [Coursepack #3]
- *Georgia v. Tennessee Copper Co.* (S. Ct. 1907) [Coursepack #4]

Discussion Questions: Be prepared to answer the questions listed on “How to Brief a Case” which I have posted to the Files menu of Canvas. Are courts good at handling environmental disputes? Why or why not?

Class 4: Friday September 10 [Makeup class; will be recorded if you cannot attend in person]

Does the Common Law Still Matter?

Common law in the Climate Change Context

Readings for Today:

- *City of New York v. Chevron Corp.* [Coursepack #5]
- [Intergovernmental Panel on Climate Change, Summary for Policymakers, Global Warming of 1.5°C](#)

Note: At the end of Class, I will assign roles for the SHARC negotiation exercise to be conducted during Class #5

Discussion Question: Is nuisance law a good tool to address climate change? Why or why not?

Class 5: Tuesday September 14

Moving toward Regulation: What is its Purpose?

A Classic Paradigm from Economics: The Tragedy of the Commons

Readings for Today:

- Your instructions for the SHARC negotiation exercise
- Garrett Hardin, *The Tragedy of the Commons*, 162 Science 1243 (1968) [Coursepack #6]
- Elinor Ostrom, *Governing the Commons* (1990), Chapter 1 [Coursepack #7]

Discussion Questions: What is the tragedy of the commons? What role do law and regulation play in averting the tragedy of the commons?

Please Note: There will be no class on Thursday September 16. A makeup class will be held instead on Friday, Sept. 17 from 10:15-11:45am. Class will be recorded if you are unable to attend the makeup. To receive credit for attendance, you must watch the video recording before the start of class on Tuesday, September 21.

Class 6: Friday September 17 [Makeup; will be recorded if you cannot attend in person]
**The Rise of Modern Federal Environmental Law and the Regulatory State:
Regulatory Options, and the Regulatory Process**

Readings for Today:

- S&T, Chapter 3, Parts I & II
- *Chevron v. Natural Resources Defense Council* (S. Ct. 1984) [Coursepack #8]
 - Before you read *Chevron*, please read the “Chevron Guidance Questions” handout in the Files menu of Canvas. This will help to provide some context for the case.
 - The key legal rule we will focus on from *Chevron* appears in Part II of the Court’s opinion –be sure to focus your reading and attention on that rule. The remainder of the opinion is the Court’s application of that rule to the facts of a complex dispute under the Clean Air Act. I do not expect you to master all of the details of the Clean Air Act dispute beginning with Part III, and will explain them in class. Please do, however, be sure to skim Part VII, which contains the conclusions of the Court relating to text, legislative history, and policy.

Discussion Questions: Why should courts give deference to how agencies interpret statutes? What should the role of the administrative state be as compared to the role of the courts in addressing environmental challenges?

Class 7: Tuesday September 21
**Information Disclosure as Public Law and Private Environmental Governance:
The National Environmental Policy Act (NEPA), the TRI, and the Equator Principles**

Readings for Today:

- S&T, Chapter 12
- *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, March 25, 2020 [Coursepack #9]
 - *Read only the NEPA analysis through p. *16*
- [Reading TBD on revised NEPA Rule currently in progress]
- [EPA: What is the Toxics Release Inventory?](#)

Discussion Question: Is information disclosure an effective form of regulation?

Class 8: Thursday September 23

Superfund and RCRA

Readings for Today:

- S&T, Chapter 9
- **Today after class, I will open the sign-ups for Group Presentations (Groups of 4). Please feel free to use the Discussion Boards in Canvas to find others interested in similar topics. If you have not voluntarily formed a group by Thursday, October 7th, I will assign you to a group.**

Discussion Question: What purpose does strict liability under Superfund serve? Is it fair? How can firms address issues of non-hazardous waste? What more should business firms be doing to address waste?

Class 9: Tuesday September 28

Current issues: E-Waste, Extended Producer Responsibility, and the Circular Economy

Readings for Today:

- Maine Will Make Companies Pay for Recycling. Here's How It Works, <https://www.nytimes.com/2021/07/21/climate/maine-recycling-law-EPR.html?referringSource=articleShare>
- [Cal Recycle, Product Stewardship and Extended Producer Responsibility](#) (EPR)
- MacArthur Foundation, Upstream Innovation Guide (Skim), <https://emf.thirdlight.com/link/agy3es34k2qe8a/@/preview/1?o>

Quiz #1: Opens Wednesday, September 29th at 9am; Closes Thursday, September 30th at 9am (covers material through the end of Class 8).

Class 10: Thursday September 30

Clean Air: Common Law, the Clean Air Act, and Climate Change

Readings for Today:

- S&T, Chapter 5
- *Massachusetts v. EPA* (S. Ct. 2007) [Coursepack #10]

Discussion Question: Does the Clean Air Act apply to greenhouse gas emissions? Should it?

Class 11: Tuesday October 5

Clean Air and Climate Change in the Transportation and Electricity Generation Sectors

Readings for Today:

- Readings will be posted to Canvas [regulatory changes in progress]

Class 12: Thursday October 7

Clean Air, Climate Change, and International Law: Montreal and the Paris Agreement

Readings for Today:

- S&T, Chapter 6
- [Paris Agreement on Climate Change](#), Articles 2, 4, 5, 6, 14, 20, 21
- **After class today, I will assign you to a Group for presentations if you have not already signed up.**

Optional reading:

- Jean Gailbraith, [The Legal Structure of the Paris Agreement, RegBlog.org](#) (Dec. 21, 2015)

Discussion Question: Is the Montreal Protocol a good model for an international agreement on climate change?

Class 13: Tuesday October 12 (UGs only, MBA Exam Period)

Corporate Engagement with Climate Policy

Guest Speaker: Victoria Mills, Managing Director EDF+Business

Readings for Today:

- What Congress Needs to Hear from Businesses Right Now, <https://business.edf.org/insights/what-congress-needs-to-hear-from-businesses-right-now-more-climate-action/>

**** UG Fall Break October 14-17 ****
**** MBA Extended Fall Break October 14-23 ****

Class 14: Tuesday October 19 (UGs only; MBAs on Fall Break)

Environmental and Climate Justice

**Guest Speaker: Rebecca M. Bratspies, Professor of Law, City University of New York
 Director, Center for Urban Environmental Reform**

Readings for Today:

- Readings to be posted to Canvas

Discussion questions: What are environmental and climate justice? How can environmental/climate justice considerations be prioritized in public and private decision making?

Class 15: Thursday October 21 (UGs only, MBAs on Fall Break)

Energy Systems and Policy

Guest Speaker: Hannah Wiseman, Professor of Law

**Professor and Wilson Faculty Fellow, College of Earth and Mineral Sciences
Pennsylvania State University**

Readings for Today:

- S&T, Chapter 11
- Readings to be posted to Canvas

Class 16: Tuesday October 26

**Market-Leveraging Instruments for Climate Change:
Taxes and Tradable Permits**

Readings for Today:

- Ronald Coase, *The Problem of Social Cost* (1960) [Coursepack # 11] -- pp. 1-19
- Sarah E. Light, [The New Insider Trading: Environmental Markets within the Firm](#) (2015)
- [Regional Greenhouse Gas Initiative \(RGGI\) Program Overview](#)

Discussion Question: Why use market-leveraging instruments to address greenhouse gas emissions rather than prescriptive rules, information disclosure, or some other form of regulation?

Class 17: Thursday October 28

The SEC, Investors, and Banks as Climate Regulators

Readings for Today:

- [US Securities and Exchange Commission Guidance Regarding Disclosure Related to Climate Change](#) (Feb. 2, 2010)
- Sarah E. Light, [The Law of the Corporation as Environmental Law](#) (2019)
- **Proposed Topic for Final Group Presentation is due on October 28th, by 11:59pm EST via Canvas**

Discussion Question: What kinds of climate risks should publicly traded firms be required to disclose? Should financial regulators and firms be addressing climate risk at all? Are investors and banks a reliable source of private governance?

Class 18: Tuesday November 2

Land Use Law, Zoning, and Eminent Domain as a Form of Environmental Control

Readings for Today:

- *Village of Euclid v. Ambler Realty Co.* (S. Ct. 1926) [Coursepack # 12]
- *Penn Central Transp. Co. v. New York*, 438 U.S. 104 (1978) [Coursepack # 13]
- *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) [Coursepack # 14]

Discussion Question: Should governments be allowed to regulate how private property owners use their oceanfront property in light of climate change?

Class 19: Thursday November 4

The Role of Insurance in Climate Change Adaptation and Resilience: Flooding and Sea Level Rise

Readings for Today:

- Carolyn Kousky & Sarah E. Light, [Insuring Nature](#), Duke Law Journal (2019)

Discussion Questions: What role can insurance play in climate mitigation, adaptation, and/or resilience? Should it be public or private?

Quiz #2: Opens Monday November 8th at 9am; Closes Tuesday November 9th at 9am (covers material through Class 19, not including Guest Speaker content/UG-only class dates).

Class 20: Tuesday November 9

Moving From Pollution Prevention to Sustainability: Clean Water

Readings for Today:

- S&T, Chapter 7
- [Coca-Cola Water Stewardship Report](#)

Discussion Questions: How can the law encourage business firms to think about sustainability, rather than merely pollution prevention? Should the law do this?

Class 21: Thursday November 11

Pulling it all together: Product Stewardship & Lifecycle Analysis: Bottled Water

Readings for today:

- FIJI Water and Corporate Social Responsibility: Green Makeover or Greenwashing? [Coursepack # 15]

Discussion Questions: Imagine that you are the Chief Sustainability Officer for FIJI Water. What is your strategy to improve the firm's environmental performance moving forward? How will you present this strategy to the CFO?

Class 22: Tuesday November 16

Green Marketing and Greenwashing

Readings for today:

- [FTC Green Guides](#) (Press Release, 2012)
- [Chevron "Greenwashing" Targeted in Complaint Filed with FTC](#) (Bloomberg Green)
- **All Student Presentation Slides and Bibliography Due on Wednesday, November 17th by 11:59pm via Canvas.**

Discussion Questions: What legal limits should there be on claims by firms about their "green" business practices and products? Should such limits apply only to claims about specific products, or to claims about firms' overall climate/ESG programs?

Class 23: Thursday November 18

Student Project Presentations

Readings for today:

- No readings.

**** UG Thanksgiving Break November 25-28 ****
**** MBA Extended Thanksgiving Break: November 22-26 ****

Class 24: Tuesday November 23 (UG Only, MBAs on Thanksgiving Break)

Student Project Presentations (UG groups only)

Readings for today:

- No readings.

Class 25: Tuesday November 30
Student Project Presentations

Readings for today:

- No readings.

Class 26: Thursday December 2
Student Project Presentations

Readings for today:

- No readings.

Class 27: Tuesday December 7
Student Project Presentations

Readings for today:

- No readings.

Class 28: Thursday December 9
Final Class: Wrap Up

IX. INSTRUCTOR BIO

Sarah E. Light is an Assistant Professor of Legal Studies and Business Ethics at the Wharton School of Business at the University of Pennsylvania, where she teaches Environmental Management, Law and Policy. Light earned her A.B. in Social Studies from Harvard College, where she graduated *magna cum laude*, Phi Beta Kappa, and was awarded the John Harvard Scholarship and Elizabeth Cary Agassiz Scholarship for highest academic achievement. Professor Light subsequently earned an M. Phil in Politics from Oxford University where she was a Rhodes Scholar. She received her J.D. from Yale Law School. Prior to joining the Wharton faculty, Professor Light served for ten years as an Assistant United States Attorney for the Southern District of New York, Civil Division, and for four of those years as the Chief of the Office's Environmental Protection Unit.

Professor Light has been awarded the Excellence in Teaching Award at Wharton. In 2016, Professor Light was one of ten faculty nominated by the MBA student body for the Helen Kardon Moss Anvil Award for Outstanding MBA Teaching.