

THE POLITICS OF ENVIRONMENTAL REGULATION

PUBPOL 563/SEAS 686/HMP 686

FALL TERM 2021

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Office Hours: Tuesday Noon to 2; Wednesday 10 to 11; Monday remote by appointment 8 to 9

INTRODUCTION AND COURSE OBJECTIVES

This course examines the political feasibility of adopting and implementing policies designed to promote environmental protection. It draws heavily from the discipline of political science in examining environmental politics and how this body of scholarship informs our understanding of policy adoption and implementation. The course will focus primarily on the experience of the United States at both federal and sub-federal levels of government but will periodically address experience beyond American boundaries. It will unfold as we observe the political transitions in environmental policy under way in the United States during our weeks in session.

Some version of this course was offered regularly prior to 2012, when the instructor agreed to put it on hold to become director of the Center for Local, State and Urban Policy at the Ford School. Consequently, this is an established course but was taught only twice in the last nine years, both impacted by the unique context of the COVID-19 pandemic. As a result, much of the content included this year remains quite new. This version will focus far more intensively on climate change, energy, and air quality politics and policy than many of its predecessors, mindful that it coincides with potentially far-reaching policy steps under consideration by the 117th Congress. Prior emphasis on water quality policy has been reduced in this offering, reflecting inclusion of some of this material in an MPP core course on performance management in the public sector.

Several units in this offering of 563/686 will weigh economic analysis of the most desirable policy based on efficiency grounds against questions addressing what is possible in political terms in large democratic systems such as the United States. It will routinely examine historic and enduring impediments to policy formation but also consider exceptional cases of adoption, endurance, and performance over time, including the arena of climate change. Consequently, it will consider both policy adoption and implementation, considering where possible longer-term impacts from the perspectives of policy durability and impact measures of environmental quality and equity. It will be divided into three primary units, each capped with the completion of a major writing assignment and class debates over key findings.

COURSE REQUIREMENTS

All students will be expected to complete three major written assignments during the term and contribute constructively to class deliberations. Take-home essay questions will be assigned for each of the major sections of the course. Each will involve completion of an essay of approximately six (double-spaced) pages in response to a memo that outlines a particular environmental politics and policy challenge or opportunity. Each essay will be worth 100 points toward the final grade. Essays that are not turned in at the required date will be reduced ten points for each day of delay in submission. Dates for receipt and submission of assignments are set forth in the syllabus.

In addition, 50 points toward the final grade will be based on contribution to class discourse. Despite the class size, there will be considerable opportunities to participate in class deliberation. These will include regular classes as well as a series of special sessions devoted to class debate over essay findings. Evaluation of class participation will be based on quality of discourse and overall contribution to our deliberations rather than sheer engagement frequency. Material will be regularly presented in class that is not available in assigned readings or any published form. Students are responsible for all material presented in class and assigned in required readings. Laptop computer use is allowed, with the expectation that any use is respectful of other students. The final grade will be determined on the total points acquired through the various opportunities noted below:

Three Papers: 100 points per paper for total of 300 points
Class Engagement: 50 points
Total: 350 points

The grade scale for the class is as follows:

98-100: A+
94-97: A

90-93: A-
87-89: B+
84-86: B
80-83: B-
77-79: C+
74-77: C
70-73: C-

All evaluation and grading will be completed by the instructor; there will not be a graduate student instructor, teaching assistant, or grader assigned in this course to evaluate student performance. The three primary grading criteria that each essay will be measured against include: 1) Presence of a structured argument that responds to the assignment; 2) Ability to include and apply relevant course concepts to the issues at hand; and 3) Ability to advance a compelling case for a particular policy proposal or political analysis. Eighty percent of the total grade will be based on substantive content and the remaining twenty percent on stylistic clarity and quality. Students are advised to make the case for their own understanding of the best approach to a particular issue, rather than attempt to assimilate any presumed position of the instructor.

I am mindful that this course takes place under extraordinary circumstances and regret that we will not be able to convene sessions in person. And I am saddened to realize that I will not be able to honor a long-standing tradition, hosting a dinner in my home for all students, due to the ongoing public health restrictions linked to the pandemic. However, I hope to replicate as much of the flavor and rigor of prior versions of the course as possible. All previous offerings have received very positive student evaluations and been recognized on the Ford School Dean's Honor Roll among annual course offerings. I am closely following the recommendations of the Ford School Resilient Teaching Committee in the design of this course, as was true for all my courses taught during the last academic year. Most of our class sessions will take place in person, albeit mindful of University and Ford School public health guidelines. Five of our sessions will take place solely in a remote format via Zoom. These will entail class discussion and debate sections that focus on key paper findings, taking advantage of the ability to dispense with masks for these exchanges. I intend to use Lecture Capture for all our sessions, with posting immediately thereafter via Canvas. Please let me know if you have any questions about any issues concerning the course.

UNIVERSITY OF MICHIGAN AND FORD SCHOOL POLICIES

This course has been designed through consultation with all applicable Ford School and University of Michigan policies, including those addressing diversity, inclusivity, accommodations for students with disabilities, and student mental health and well-being.

For a review of many of these policies, please see <http://fordschool.umich.edu/academics/expectations>.

Accommodations for Students with Disabilities. If you believe you need an accommodation for a disability, please reach out to the U-M Services for Students with Disabilities (SSD) office to help determine appropriate academic accommodations and how to communicate about your accommodations with your professor. Any information you provide will be treated as private and confidential.

Student Mental Health and Well-Being Resources. The University of Michigan is committed to advancing the mental health and wellbeing of its students. We acknowledged that a variety of issues, such as strained relationships, increased anxiety, alcohol/drug problems, and depression, directly impact students' academic performance. If you or someone you know is feeling overwhelmed, depressed, and/or in need of support, services are available.

Kristen Carney, LMSW, is an embedded counselor within the Ford School. She is available to meet with Ford School students in person or via remote access using Zoom. You may reach her at krisca@umich.edu. In addition, you may access other counselors and urgent services at Counseling and Psychological Services (CAPS) at 734.764.8312 and <https://caps.umich.edu/> or University Health Services (UHS) at 734.764.8320 and <https://www.uhs.umich.edu/mentalhealthsvcs>. Students may also use the Crisis Text Line (text '4UMICH' to 741741) to be connected to a trained crisis volunteer. You can find additional resources both on and off campus through CAPS or UHS.

Ford School Public Health Protection Policy. In order to participate in any in-person aspects of this course—including meeting with other students to study or work on a team project—you must follow all the public safety measures mandated by the State of Michigan, Washtenaw County, the University of Michigan, and the Ford School. It is expected that you will protect and enhance the health of everyone in the Ford School community by staying home and following self-isolation guidelines if you are experiencing any symptoms of COVID-19, have been exposed to someone with COVID-19, or are awaiting a test result because of symptoms. If you do not have a verified COVID-19 vaccine report in the U-M vaccination report system, you are required to participate in weekly testing if you intend to come to campus for any reasons.

Ford School Inclusivity Statement. Members of the Ford School community represent a rich variety of backgrounds and perspectives. We are committed to providing an atmosphere for learning that respects diversity. While working together to build this community, we ask all members to:

--Share their unique experiences, values, and beliefs

- Be open to the views of others
- Honor the uniqueness of their colleagues
- Appreciate the opportunity that we have to learn from each other
- Value one another's opinions and communicate in a respectful manner
- Use this opportunity together to discuss ways in which we can create an inclusive environment in Ford classes and across the UM community
- Keep confidential discussions that the community has of a personal or professional nature

Academic Integrity: The Ford School academic community, like all communities, functions best when its members treat one another with honesty, fairness, respect, and trust. We hold all members of our community to high standards of scholarship and integrity. To accomplish its mission of providing an optimal educational environment and developing leaders of society, the Ford School promotes the assumption of personal responsibility and integrity and prohibits all forms of academic dishonesty, plagiarism, and misconduct.

Academic dishonesty may be understood as any action or attempted action that may result in creating an unfair academic advantage for oneself or any other members of the university community. Plagiarism involves representing the words, ideas, or work of others as one's own in writing or presentations and failing to give full and proper credit to the original source. Conduct, without regard to motive, that violates the academic integrity and ethical standards will result in serious consequences and disciplinary action. The Ford School's policy of academic integrity can be found in its MPP/MPA, BA, and PhD program handbooks. Additional information regarding academic dishonesty, plagiarism, and misconduct and their consequences is available at:

<http://www.rackham.umich.edu/current-students/policies/academic-policies/section11#112>

Use of Technology: Students should follow instructions from their instructor as to acceptable use of technology in the classroom, including laptops, in each course. All course materials (including slides, assignments, handouts, pre-recorded lectures, or recordings of class) are to be considered confidential material and are not to be shared in full or part with anyone outside of the course participants. Likewise, your own personal recording (audio or video) of your classes or office hour sessions is allowed only with the express written permission of your instructor. If you wish to post course materials or photographs/videos of classmates or your instructor to third-party sites (social media) you must have informed consent. *Without explicit permission from the instructor and in some cases your classmates, the public distribution or posting of any photos, audio/video recordings or pre-recordings from class, discussion section, or office hours, even if you have permission to record, is not allowed and could be considered academic misconduct.*

REQUIRED READINGS

Required readings should be completed, preferably in the order listed, before each designated session. Most of the readings are from the three required books, supplemented by materials that will be included on our class Canvas site. All required books have been published fairly recently, are in print, and may also be available at no charge through U-M library holdings or other sources. A few brief supplemental readings may be distributed prior to the relevant session, usually to add very current information to a particular discussion.

Barry Rabe, *Can We Price Carbon?* (Cambridge: MIT Press, 2018). Yes, you are required to read a book by your professor. It considers the political feasibility of carbon pricing, the climate policy strategy that has broad support from economists but often struggles politically in the United States and beyond. It examines two decades of experience of advancing carbon pricing proposals at federal and sub-federal levels, examining common political stumbling blocks but also common design features that increase the likelihood of adoption. This will be our primary book during the first section of the course. Any personal royalty proceeds will be donated to an environmental non-profit organization nominated by students, amounting to about \$3 per book purchased.

Ann Carlson and Dallas Burtraw, eds., *Lessons from the Clean Air Act: Building Durability and Adaptability into U.S. Climate and Energy Policy* (New York: Cambridge University Press, 2019). This book examines the Clean Air Act over a half-century period of evolution through a multi-disciplinary team assembled by the American Academy of Arts and Sciences. Its primary goal is to analyze each major title of this legislation and examine its durability and performance over time, leading to a range of questions as to its future adaptability for climate and other concerns. The project was designed to inform possible applications of the Clean Air Act to climate change mitigation. The collection reflects competing perspectives drawn from economics, political science, and law, including many scholars who also have very active policy engagement records. Carlson is a former UCLA law professor who currently serves the Biden Administration in the Department of Transportation; Burtraw is a U-M public policy alum and is a senior fellow at Resources for the Future.

Daniel Fiorino, *Can Democracy Handle Climate Change?* (Cambridge: Polity Books, 2019). It has long been assumed in environmental policy research that democratic governmental systems are most likely to be politically responsive to environmental challenges and design and implement effective policies. Recent decades have challenged that conventional wisdom, particularly in the arena of climate change. Fiorino is a political scientist at American University who served for decades in senior leadership roles at the Environmental Protection Agency and addresses this question, while also

examining some of the major differences in environmental politics and policy among various nations.

SCHEDULE OF SESSIONS

Section One: POLICY FROM THE TOP-DOWN: THE FEDERAL ROLE AND THE ISSUE OF CLIMATE CHANGE

August 30: Introduction to Environmental and Climate Politics and Policy

Jane Leggett, *Evolving Assessments of Human and Natural Contributions to Climate Change* (Congressional Research Service, 2021), 1-11.

September 1 & 8: Congressional Capacity to Adopt Environmental Legislation, 1970-2020

Paul Milazzo, "The Clean Water Act: A Congressional Achievement," *Extensions* (Summer 2016): 4-11.

David E. Price, "Congressional-Executive Balance in an Era of Congressional Dysfunction," *PS* (July 2016): 485-489. doi:10.1017/S1049096516000755

Rabe, *Can We Price Carbon?*, Chapters 1 and 2.

September 13 & 15: Alternative Paths to Environmental Policy Formation (Receive first paper assignment on September 15)

James Curry and Frances Lee, "Non-Party Government: Bipartisan Lawmaking and Party Power in Congress," *Perspectives on Politics*, vol. 17, no. 1 (March 2019): 47-65.

David Karol, "Party Polarization on Environmental Issues: Toward Prospects for Change," Niskanen Center Research Paper (May 2018): 1-24.

Rabe, *Can We Price Carbon?*, chapter 3.

September 20 & 22: The Politics of Carbon Pricing and Policy Durability

Rabe, *Can We Price Carbon?*, chapters 4, 5, and 7.

Liam Beiser-McGrath and Thomas Bernauer, “Could revenue recycling make effective carbon taxation politically feasible?” *Science Advances*, vol. 5 (September 2019): 1-8.

Torben Mideska, “Pricing for a Cooler Planet: An Empirical Analysis of the Effect of Taxing Carbon,” CESIFO Working Papers (June 2021): 1-15.

September 27 & 29: Class Debates over First Paper Assignments. All papers due by beginning of the September 27 session. Remote sessions.

SECTION TWO: FEDERAL POLICY WITHOUT CONGRESS: THE ADMINISTRATIVE PRESIDENCY AND THE CLEAN AIR ACT

October 4 & 6: Environmental Policy in the Era of the Administrative Presidency

Suzanne Mettler, “The Polycscape and the Challenges of Contemporary Politics to Policy Maintenance,” *Perspectives on Politics*, vol. 14, no. 2 (June 2016): 369-390.

Frank Thompson, Kenneth Wong & Barry Rabe, “Policy Transformation through Executive Branch Action,” in *Trump, the Administrative Presidency, and Federalism* (Brookings Institution Press, 2020): 1-18.

Manjana Milkoret, “The Paris Agreement on Climate Change—Made in USA?” *Perspectives on Politics*, vol. 17, no. 4 (December 2019): 1019-1037.

Ann Carlson and Dallas Burtraw, “Introduction,” *Lessons from the Clean Air Act*, chapter 1.

October 11: Mobile Sources Under the Clean Air Act: Applying the California Vehicle Emissions Waiver to Greenhouse Gas Emissions (Receive second paper assignment)

Barry Rabe, “Leveraged Federalism and the Clean Air Act: The Case of Vehicle Emissions Control,” in *Lessons from the Clean Air Act*, chapter 4.

October 13: Stationary Sources Under the Clean Air Act: Possible Extensions to Climate Change

On National Ambient Air Quality Standards and a proposed National Pollution Cap, see William Boyd, “The Clean Air Act’s National Ambient Air Quality Standards: A Case Study of Durability and Flexibility in Program Design and Implementation,” in *Lessons from the Clean Air Act*, chapter 2.

On Stationary Sources and the Clean Power Plan, see Hannah J. Wiseman, “Stationary Sources, Movable Rules: Intransigence under the Clean Air Act,” in *Lessons from the Clean Air Act*, chapter 3.

October 18: No Class Due to Fall Break. Enjoy!

October 20: Flexible Regulations: The Promotion of Alternative Fuels and Using Markets in the Clean Air Act

On renewable fuels development, see Joseph E. Aldy, “Promoting Environmental Quality through Fuels Regulations: Lessons for a Durable Energy and Climate Policy,” in *Lessons from the Clean Air Act*, chapter 5.

On cap-and-trade and market-oriented options, see Eric M. Patashnik, “The Clean Air Act’s Use of Market Mechanisms,” in *Lessons from the Clean Air Act*, chapter 6.

On the future of the Clean Air Act, see Ann Carlson and Dallas Burtraw, “Conclusion,” in *Lessons from the Clean Air Act*, chapter 7.

E. Donald Elliott, “EPA’s Existing Authority to Impose a Carbon ‘Tax’” *Environmental Law Review* (October 2019): 10919-10924.

October 25 & 27: Class Debates over Second Paper Assignments. All papers due by beginning of October 25 session. Remote sessions.

**SECTION THREE: POLICY WITHOUT THE FEDERAL GOVERNMENT:
STATES AND BOTTOM-UP ENVIRONMENTAL PROTECTION**

November 1: The Evolving State Government Role in Environmental Policy

Luke Fowler, “Intergovernmental Relations and Energy Policy: What We Know and What We Still Need to Learn,” *State and Local Government Review*, vol. 50, no. 3 (2018): 203-212.

Diana Forster and Daniel A. Smith, “Environmental Policies on the Ballot,” in *Climate Change Politics: U.S. Policies and Civic Action*, Yael Wolinsky-Nahmias ed. (Washington, D.C.: Sage, 2015), 171-196.

“Some Assembly Required,” *Economist* (September 19, 2020): 57-58.

John Dinan, “State Constitutional Amendment Processes and Practices,” in *State Constitutional Politics* (University of Chicago Press, 2018), chapter one.

November 3 & 8: States and Climate Policy Development

Srinivas C. Parinandi, “Policy Inventing and Borrowing among State Legislatures,” *American Journal of Political Science*, vol. 64 (October 2020): 852-868.

Bloomberg Philanthropies, *Delivering on America’s Pledge: Achieving Climate Progress in 2020* (2020): 16-66.

Barry Rabe, *Statehouse and Greenhouse: The Emerging Politics of American Climate Policy* (Brookings Institution Press, 2004): 29-37.

November 10: First-Mover on Steroids: The California Case and the Question of Environmental Justice

David Vogel, *California Greenin’: How the Golden State Became an Environmental Leader* (Princeton University Press, 2018): 1-21.

Meredith Fowlie, Reed Walker, and David Wooley, “Climate Policy, Environmental Justice, and Local Air Pollution,” *Economics Studies at Brookings Institution* (October 2020): 4-22.

November 15: Cities and Climate Change

Samuel A. Markoff, Inés M.L. Azevedo, Mark Muro & David Victor, “Pledges and Progress: Steps Toward Greenhouse Gas Emissions Reductions in the 100 Largest Cities Across the United States,” *Brookings Institution* (2020).

November 17: The Un-Politics of Methane Emission Reductions

Global Gas Flaring Reduction Partnership, World Bank Group, *Global Gas Flaring Tracker Report* (July 2020).

Raphael Calel and Paasha Mahdavi, “Capture the Flare,” *Proceedings of the National Academy of Sciences* (July 8, 2019).

Daniel Fiorino, *Can Democracy Handle Climate Change?*, chapter 1.

November 22: Lessons from Norway and the European Union

Barry Rabe, Claire Kaliban and Isabel Englehart, “Taxing Flaring and the Politics of State Methane Flaring Release Policy,” *Review of Policy Research* (2020): **But only** read section on “International Taxation of Methane Releases,” pp. 11-13, unless you want to take a deep dive into why states have largely failed to emulate the Norway model in their own severance tax regimes.

Guri Bang and Bard Lahn, “From Oil as Welfare to Oil as Risk? Norwegian Petroleum Resource Governance and Climate Policy,” *Climate Policy* (2019): 1-12.

Fiorino, *Can Democracy Handle Climate Change?*, chapters 2 and 3.

November 24: Thanksgiving Break.

November 29: Lessons from Canada

Douglas Macdonald, “The Pan-Canadian Framework, 2015-2019,” in *Carbon Province, Hydro Province: The Challenge of Canadian Energy and Climate Federalism* (University of Toronto Press, 2020), chapter 9.

December 1: Pulling Together or Coming Apart? Contested Federalism in the U.S. and Beyond

Fiorino, *Can Democracy Handle Climate Change?*, chapter 4.

David Vogel, “The Politics of Preemption: American Federalism and Risk Regulation,” *Regulation & Governance* (2021): 1-12.

New material may be added on US, Canada and Mexico methane policy in context of contested federalism.

December 6: Submit final essay by the beginning of class session and participate in final class debate. Remote session.