

Climate and Environmental Sustainability
Vermont Law and Graduate School, Summer 2025
CLM 5901
(1 credit)

Karen McGaffey

Course Overview: This course will provide an in-depth look at current climate and sustainability regulation, as well as the issues arising from voluntary climate pledges and sustainability policies. Students will develop a strong understanding of current legal requirements, the factors driving companies to develop and implement climate and sustainability policies, best practices for complying with and anticipating legal requirements in this area, and laws governing greenwashing.

Class Sessions: This hybrid course includes two recorded lectures and four in-person classes. Schedule information is provided below.

Course Materials: This course does not have a required textbook. Instead, various required and optional readings will be available on the course website. You should read required readings before class.

Instructor Contact Information:

Mobile Phone: 206.353.5467

Email: kmcgaffey@perkinscoie.com

Office Hours: By appointment.

Course Requirements:

Class Attendance: Vermont Law and Graduate School (VLGS) requires you to attend class. We will circulate the roll at each class for your signature. Your signature without amendment on the roll indicates that you attended the entire class period. Anyone who is more than five minutes late for class without an acceptable excuse will be marked absent for the class

Preparation: You are expected to come to class fully prepared by reading all the required materials in advance. You will be held responsible for the contents of all non-optional reading materials on the final exam.

Final Exam: There will be a written final examination. This examination will be take-home, open book. It will require to prepare two short memoranda address hypothetical fact

patterns. The exam will be distributed on June 6th. Performance on the exam will be the primary determinant of your grade in the course.

Conduct/Honor Code: You are expected to conduct yourself in a professional manner throughout all aspects of the course. You are expected to abide fully by the VLGS Honor Code.

Class Participation: A portion of your grade will be based on your participation in class. Participation will be evaluated by quality, not quantity. Please be an active, but respectful, member of the class, contributing to the discussion, but also giving others a chance to participate.

Course Schedule and Readings

Remote Learning: Approaches to Climate Regulation

Pre-Class Video Recordings (available on Canvas)

Course Introduction (6 minutes)

Approaches to Climate Regulation, Part 1 (30 minutes)

Approaches to Climate Regulation, Part 2 (40 minutes)

Required Readings

Jeremy Gregory, Scope 1, 2 and 3 Emissions (Mar. 20, 2024), available at <https://climate.mit.edu/explainers/scope-1-2-and-3-emissions>. (2 pages)

Yale Experts Explain Scope 3 Emissions, available at <https://sustainability.yale.edu/explainers/yale-experts-explain-scope-3-emissions>. (9 pages)

Henry Jacoby, The Paris Agreement (Jan. 21, 2025) available at <https://climate.mit.edu/explainers/paris-agreement>. (2 pages)

K. Feldis and N. Cruz, California Enacts Broad Climate Disclosure Laws (Oct. 19, 2023) available at <https://perkinscoie.com/insights/update/california-enacts-broad-climate-disclosure-laws>. (3 pages)

California [SB-253](#) Climate Corporate Data Accountability Act (6 pages)

California [SB-261](#) Greenhouse gases: climate-related financial risk (4 pages)

Securities and Exchange Commission, Fact Sheet: The Enhancement and Standardization of Climate-Related Disclosures: Final Rules (2024) available at <https://www.sec.gov/files/33-11275-fact-sheet.pdf>. (4 pages)

Acting Chairman Statement on Climate-Related Disclosure Rules (Feb. 11, 2025), available at <https://www.sec.gov/newsroom/speeches-statements/uyeda-statement-climate-change-021025> . (4 pages)

Jennifer Morris, Carbon Pricing (Jan. 11, 2022), available at <https://climate.mit.edu/explainers/carbon-pricing>. (2 pages)

UN About Carbon Pricing, available at <https://unfccc.int/about-us/regional-collaboration-centres/the-ciaca/about-carbon-pricing#What-does-the-Paris-Agreement-say-on-carbon-pricing->. (4 pages)

Cap and Trade Basics available at <https://www.c2es.org/content/cap-and-trade-basics/> (3 pages).

California Air Resources Board, Cap-and-Trade Regulation Instructional Guidance, Chapter 1: How Does The Cap-and-Trade Program Work? (Sept. 2012) available at <https://ww2.arb.ca.gov/sites/default/files/cap-and-trade/guidance/chapter1.pdf>. (7 pages)

The Cap-and-Trade Program: Issues for Legislative Consideration available at <https://lao.ca.gov/handouts/resources/2024/Cap-and-Trade-Issues-021324.pdf> (12 pages)

Reforming California's Cap and Trade Program Policy Brief available at <https://theclimatecenter.org/wp-content/uploads/2023/11/Reforming-Californias-Cap-and-Trade-Program-Policy-Brief-The-Climate-Center.pdf> (12 pages)

Washington, Focus on the Cap-and-Invest Program available at <https://apps.ecology.wa.gov/publications/documents/2414007.pdf> (2 pages)

Climate Commitment Act 101, available at <https://apps.ecology.wa.gov/publications/documents/2414065.pdf> (2 pages)

Optional Materials

Kerry Emanuel, Climate Science, Risks and Solutions: Climate Knowledge for Everyone, available at <https://climate.mit.edu/primer> (55 pages)

Podcast: TIL about Carbon Pricing (Apr. 24, 2019), available at <https://climate.mit.edu/podcasts/e7-til-about-carbon-pricing> (11 minutes)

NPR, Planet Money, Can cap and trade work in the U.S.? (Oct. 9, 2024), available at: <https://www.npr.org/2024/10/09/1210935827/washington-carbon-tax-credit-cap-and-trade-2117> (25-minute listen)

In-Person Session #1: Sustainability Commitments and Policies

Friday June 6, 2025, 11 a.m. to 1 p.m. (Burlington Campus)

Required Readings

MIT Management Sloan School, Strategies for Sustainable Business, available at <https://mitsloan.mit.edu/sites/default/files/2022-06/MITSloan-SustainabilityArticlePublication-F.pdf> (28 pages)

Lindsay Hooper and Paul Gilding, Survival of the Fittest: From ESG to Competitive Sustainability (2024) at https://www.cisl.cam.ac.uk/files/from_esg_to_competitive_sustainability.pdf (17 pages)

Assignment

Pick a company and spend 30-60 minutes reviewing the sustainability information available on the company's website. Be prepared to discuss the primary areas on which the company's sustainability program focuses as well as other interesting things you have learned about the company's efforts.

Optional Readings

United Nations Global Compact, Leadership for a Decade of Action (2020), available for download at <https://unglobalcompact.org/library/5745>

G. Kell, M. Reeves & H. Fox, Corporate Sustainability Is in Crisis. What Should Companies Do Now?, Harvard Business Review (Apr. 22, 2025) available at <https://hbr.org/2025/04/corporate-sustainability-is-in-crisis-what-should-companies-do-now?giftToken=1921341771745498929444>

C. Pagitsas, Chief Sustainability Officers At Work: How CSOs Build Successful Sustainability and ESG Strategies (2022).

Paul Polman & Andrew Winston, Net Positive: How Courageous Companies Thrive by Giving More Than They Take (2021).

In-Person Session #2: Voluntary Carbon Pledges and Carbon Offsets

Friday June 6, 2025, 3 p.m. to 5 p.m. (Burlington Campus)

Required Readings

I. Ko, A. Prakash, Stock markets, corporate climate pledges, and the Science-Based Target Initiative, npj Climate Action (2024) (6 pages)

<https://www.nature.com/articles/s44168-024-00148-8>

Angelo Gurgel, Carbon Offsets (Nov. 8, 2022), available at

<https://climate.mit.edu/explainers/carbon-offsets> (1 page)

V. Battocletti, L. Enriques, and A. Romano, The Voluntary Carbon Market: Market Failures and Policy Implications, 95 Univ. of Colo. L. Rev 519 (Summer 2024), available at

<https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=1615&context=lawreview> (56 pages)

Gregory Trencher, Sascha Nick, Jordan Carlson & Matthew Johnson, Demand for low-quality offsets by major companies undermines climate integrity of the voluntary carbon market (2024), available at

<https://www.nature.com/articles/s41467-024-51151-w> . (15 pages) (focus on the conclusions and analysis, not the detailed data).

Optional Materials

Podcast, TIL About Carbon Offsets (Nov. 15, 2022), available at

<https://climate.mit.edu/podcasts/e6-til-about-carbon-offsets> (14 minutes)

In-Person Session #3: Greenwashing

Saturday June 7, 2025, 11 a.m. to 1 p.m. (South Royalton Campus)

Required Readings

FTC, Guides for the Use of Environmental Marketing Claims (Green Guides) (Oct. 11, 2012), available at

https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf

U.S. v. Walmart Inc., Complaint (Apr. 8, 2022) available at

https://www.ftc.gov/system/files/ftc_gov/pdf/2023173WalmartComplaint.pdf (23 pages)

Press Release: FTC Uses Penalty Offense Authority to Seek Largest-Ever Civil Penalty for Bogus Bamboo Marketing from Kohl's and Walmart (Apr. 8, 2022) available at <https://www.ftc.gov/news-events/news/press-releases/2022/04/ftc-uses-penalty-offense-authority-seek-largest-ever-civil-penalty-bogus-bamboo-marketing-kohls>

Dwyer v. Allbirds, Inc., Order on Motion to Dismiss (25 pages) https://climatecasechart.com/wp-content/uploads/case-documents/2022/20220418_docket-721-cv-05238_opinion-and-order.pdf

Gyani v. Lululemon Athletica, Inc., Order on Motion to Dismiss (14 pages) <https://cases.justia.com/federal/district-courts/florida/flsdce/1:2024cv22651/670977/54/0.pdf?ts=1740048891>

Earth Island Institute v. The Coca-Cola Co., Order on Appeal of Dismissal (37 pages) https://climatecasechart.com/wp-content/uploads/case-documents/2024/20240829_docket-22-CV-0895_opinion.pdf

Environmental Working Group v. Tyson Foods, Inc., Order Denying Motion to Dismiss (16 pages). https://climatecasechart.com/wp-content/uploads/case-documents/2025/20250203_docket-2024-CAB-005935_order.pdf

Optional Readings

B. Ballan and J. Czarnecki, "Disclosure, Greenwashing, and the Future of ESG Litigation," 81 Wash. & Lee L. Rev. 545 (2024), available at <https://scholarlycommons.law.wlu.edu/wlulr/vol81/iss2/4/>

In-Person Session #4: Sustainable Investing, ESG Backlash & Future of ESG

Saturday June 7, 2025, 3 p.m. to 5 p.m. (South Royalton Campus).

Required Readings

MIT Explainer, Investing and Climate Change, available at <https://climate.mit.edu/explainers/investing-and-climate-change>

Morgan Stanley, Individual Investor Interest in Sustainable Investing Remains Strong (Apr. 30, 2025) (1 page), available at <https://www.morganstanley.com/insights/articles/sustainable-investing-interest-2025>

Alison Plaut, What is Sustainable Investing (Apr. 9, 2025), (6 pages) available at <https://www.fool.com/terms/s/sustainable-investing/>

ESG Working Group, House Committee on Financial Services, The Failure of ESG: An Examination of Environmental, Social, and Governance Factors in the American Boardroom and Needed Reforms, Executive Summary, Background & Introduction (Aug. 1, 2024), (8 pages) available at https://financialservices.house.gov/uploadedfiles/hfsc_esg_working_group_staff_report.pdf

Optional Readings

The Sustainability Finance Podcast with Paul Ellis at <https://www.paulellisconsulting.com/the-sustainable-finance-podcast/>