



CLM5212

Climate Change and the Law



☰ Course Description

Climate change, along with the biodiversity extinction crisis (for which climate change is one of several causes), are the environmental issues of the 21st century. Atmospheric concentrations of carbon dioxide and other greenhouse gases (GHGs) are at the highest levels they have been in Earth's history. With the Intergovernmental Panel on Climate Change (IPCC)'s 2013 and 2021 reports from Working Group 1 (the scientific group), there is strong consensus that human-made GHG emissions have caused the steady increase in average global temperature chronicled during the past century. Beyond models and predictions, we are already seeing evidence of this warming: melting polar ice caps, rising sea levels, changing ocean chemistry, increasing floods and storms, migration of diseases and pests, increasing droughts and wildfires, loss of habitat and species, increasing heat waves, and more air and water pollution.

Uncertainty about the pace and severity of climate change—not its existence—affects our legal and policy responses to it. Scientists warn that urgent action is needed to avoid dangerous "tipping points." Longer term climate change impacts vary across the globe. The rising sea level around island countries like Tuvalu spells disruption of human settlement and labors, while at the same time melting polar ice opens up new shipping lanes and economic opportunity. Within the United States, warming temperatures may lead to longer growing seasons in New England while decreasing rainfall in California puts pressure on competing drinking water and irrigation demands. Because climate change is global, successful mitigation and adaptation efforts require international cooperation. To achieve this mutual action, thorny questions of fairness and equity between developed and developing nations must be addressed. Fairness and equity must also be addressed at a more local level.

This class will provide a basic introduction to the science and economics of climate change, as well as the emerging laws and policies intended to control GHGs. We will assess the effectiveness of national and international efforts to date, in both developed and developing countries. Within the United States,

we will explore the ways in which the legislative, executive, and judicial branches of the federal government, as well as some states, have responded. Finally, we will conclude our study by learning about the ways nongovernmental actors factor into climate change policymaking

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Professor: Ross Jones (rjones@vermontlaw.edu (<mailto:rjones@vermontlaw.edu>))

Course Credits: 3

Required Textbook and Materials:

- **Climate Change Law 2nd edition**, Farber and Carlarne (2023), ISBN-13 9781634592949 (available as an [ebook from publisher](#)  (<https://www.westacademic.com/Farber-and-Carlarnes-Climate-Change-Law-2d-Concepts-and-Insights-Series-9781685618285>))

Course Objectives

Upon successful completion of this course, you will be able to:

1. Demonstrate a working knowledge of the basic science of climate change including sources, sinks, and threats.
2. Discuss the economics of climate change, including market behavior, carbon pricing, cost-benefit analysis, and discount rates.
3. Examine the ethical implications of climate change, both intragenerational and intergenerational.
4. Discuss international efforts to address climate change including distinctions between developed and developing countries.
5. Describe U.S. federal and state law, in the legislatures, regulatory agencies, and courts.
6. Examine the ways that non-governmental entities, whether NGOs, individuals, or corporations, can act to encourage climate change mitigation and adaptation

Instruction and Evaluation Activities

A variety of learning activities are designed to support the course objectives, facilitate different learning styles, and build a community of learners. Learning activities for each module include the following:

Methods of Instruction | Readings and Multimedia

A substantial amount of reading comes from the assigned text, Osofsky and McAllister's, *Climate Change Law and Policy*. In addition to this text, our course also uses web-based reports, articles, other publications, and blogs. This course also contains a variety of multimedia. To reinforce and sometimes expand on the readings, you will view videos and interactive tools.

Methods of Instruction | Interaction and Discussions

Creating an interactive online community will stimulate class participation, which is an essential part of this course. Students will interact with other students and the professor via regular discussion boards, cross-postings and comments on assigned and optional learning materials, and one-on-one feedback with me. While all of these discussions focus on answering questions that I post, you will see that their style changes from module to module, e.g., from multiple threads to a single thread and back again. Please take care to carefully read the instructions for each discussion in each module. Also, please know that you are welcome to bring additional examples and research from outside the course materials to these

discussions, but only in addition to (and not in lieu of) the assigned and optional materials. Students show their continued engagement in the discussion board activities by meeting or exceeding the required minimum number of posts.

A good discussion post is:

- Substantial (relates to the course material)
- Concise (one screen may be the ideal message length)
- Provocative (encourages others to respond)
- Hermeneutical (expands concepts or connects ideas in new ways)
- Timely (occurs in a reasonable time frame - when the topic is under discussion)
- Logical (supports point of view with reasons and evidence)
- Grammatical (is well written)

Only those comments that meet these criteria receive full credit.

The discussion forum is really the heart of the course, our conviction being that the way climate laws and policies are actually developed is through conversation and collaboration, whether written or oral. Additionally, it well-established as a matter of pedagogy that active engagement and interaction are what result in actual, deep learning.

Students' discussion posts and replies are not expected to be polished academic writing. In particular, you are encouraged to use this mode of expression to offer hypotheses and to seek the assistance of others in gaining clarification. However, you are encouraged in your discussion posts to use complete sentences, to observe the rules of grammar, capitalization, and punctuation, and generally to consider what you share in the discussion posts to be the equivalent of standing up in a hearing during an informal proceeding and stating your views. In other words, you don't have to be overly formal and polished, but do strive to be coherent and thoughtful. You are not required to support your assertions with Blue Book citations (i.e., the "Uniform System of Citation" for legal authorities, written by four Ivy League

law reviews), but you are encouraged to make references to the course materials (and anything else you have consulted) to support your points.

The professor will participate in discussion forums at their discretion to shape and direct the discussion. Corrections or comments to that may benefit the class more broadly will be posted directly in the discussion. However, if any concerns arise, or if it becomes necessary to correct or to question a student post seriously, the professor will do so privately.

Students need not feel as if their every word posted to the discussion board is being graded or evaluated; the professor understands that posts to a discussion forum are informal in character and will not be as polished or well-argued as assertions contained in a formal paper. In particular, students are encouraged to make points and/or to advance arguments that are tentative in nature, since the discussions are intended to test one's thinking and evolve it accordingly. However, posts that reflect a reasonable level of attentiveness to rudimentary principles of written communication, rather than the informal, telegraph style often seen in email, will be evaluated more favorably than students who are indifferent to the appearance of their words.

Methods of Evaluation | Writing Assignments, Projects, and Assessments

This course will require weekly discussion board participation, writing assignments ranging from policy and position papers to memos and fact sheets, and a group project intended to develop your research and collaboration skills. The common denominator to all of these assignments is writing. All written work product should be high-quality academic work. Poorly written, unedited assignments will not be awarded a top grade. It is vital at this stage in your career that you set high standards for your written work product.

The course features five writing assignments. When completing the five formal writing assignments, you should be somewhat more formal and employ the same standard you would apply to any paper submitted to a professor at the graduate level. In contrast to many courses in law school, this course does not require its students to adhere to the Blue Book or any other manual of citation or writing style. You are welcome to use any form of citation that is calculated to make it possible to find the referenced authority easily - and you are welcome to supply those citations in footnotes or in textual citations. The chief purpose of such citations is to demonstrate that you are crediting the work of others appropriately, thus avoiding questions of plagiarism. Outside research (i.e., the consultation of materials outside those assigned in the course) is not necessary to achieve an excellent grade on any of the writing assignments. Rather, these assignments are an opportunity to demonstrate familiarity with, and understanding of, the course materials. Students should cite outside sources in two situations:

1. When making a factual assertion that is not a matter of general knowledge. For example, it is not necessary to cite authority for the proposition that it is cold in Vermont during winter, or that the Vermont Yankee nuclear power plant is located in Vermont - but it would be necessary to cite authority for the proposition that Vermont's ratepayer-funded energy efficiency program is the most effective in the nation.

2. When failing to cite an outside source would constitute plagiarism.

There is not prescribed format for citing authorities; the citation should be sufficiently clear and precise to allow the person grading the paper to access the cited authority readily. The main purpose of such citations is to assure the reader that you have credited the work of others appropriately so as to avoid allegations of plagiarism.

Method of Evaluation | Grading and Feedback Method

The specific methods of evaluation for each of the discussions and assignments are within each module and in the grading rubric. Please note that all of the discussions require you to reply to your peers as a portion of the graded activity.

Discussions: For example, a student who receives 85 points in a discussion that is worth 100 points has, in effect, received a 'grade' of 85 percent, which typically translates to a B. In the same discussion, a point total below 65 would reflect inadequate performance which, if maintained at that level, would not result in a passing grade because it falls below the 65 percent required to receive at least a D. The evaluative benchmarks are as follows:

- Below 65 points = Inadequate participation, not consistent with a passing grade in the course.
- 65 to 69 points = Minimally adequate participation. The student has posted at least an initial response to each discussion topic, indicating a comprehension of the material that reflects an adequate mastery of a substantial portion of the material.
- 70 to 79 points = Adequate participation. The student has posted an initial response to each discussion topic, reflecting a working knowledge of the relevant materials. The student has responded to other students, making a meaningful contribution to the course dialogue.
- 80 to 89 points = Good participation. The student has posted an initial response to each discussion topic that reflects a thorough knowledge of the relevant materials and an ability to engage those materials actively. In addition, the student has responded to other students, making a meaningful contribution to the course dialogue.
- 90 to 100 points = Exemplary participation. The student has posted an initial response to each discussion topic that reflects a thorough knowledge of the relevant materials and an ability to engage those materials actively. In addition, the student has participated actively in discussions with other students and demonstrated an ability to assist others with their comprehension of and engagement with the materials. A student who receives a grade in this range for her/his participation in the discussions associated with a particular module will have, through her or his participation, advanced the overall dialogue of the class in a manner that furthers everyone's understanding of the materials under discussion. S/he will have not just responded to the posts of classmates but will have responded effectively to the reactions of others, in a way that demonstrates thinking that is evolving.

Writing Assignments: In the same way discussions are graded, writing assignments have benchmarks as well. The evaluative benchmarks are as follows:

- Below 65 points: A paper in this range does not meet the standard for creditworthy writing. A first range paper does not successfully communicate that the student has considered the relevant course materials and class discussions; it will raise doubts in the mind of the professor about whether the student has understood the subject(s) under discussion in the paper. A first range paper may not be graduate-level writing in the sense of containing multiple errors in grammar, spelling, punctuation or usage.
- 65 to 69 points: A paper in this range is considered minimally acceptable as a piece of writing - one that could, with some further reflection and re-writing, meet the standard for success in the course. A paper in the second range communicates that the student has some understanding of the subject and of the relevant materials - and reflects that the student has considered the course discussions as well. A paper in the second range may contain a small number of misstatements, as long as they reflect an earnest effort to grapple with the relevant concepts and issues.
- 70 to 79 points: A paper in this range is considered an acceptable piece of writing for the course. A paper in the third range would require substantial additional work before being suitable for "real world" settings, but nevertheless communicates that the student understands the subject as well as most of the relevant course materials - and has taken class discussions into account. A paper in this range will have a minimal amount of errors in grammar, usage, punctuation or spelling.
- 80 to 89 points: A paper in this range is considered a very good piece of writing, and of a quality that could, with some editing, be used in a "real" world setting or situation. Such papers demonstrate a good understanding of their subject, making use of course materials and the relevant class discussion in a manner suggesting that the student has mastered this information. A fourth range paper will acknowledge the existence of opposing views, describing them and addressing them somewhat. A paper in this range will adopt a writing style that is coherent, with few if any errors in grammar, usage, punctuation or spelling.
- 90 to 100 points: A paper in this range is considered exemplary and of a quality that could be submitted in a "real world" setting or situation. Such papers demonstrate a thorough understanding of the subject, the course materials and the relevant class discussion, not merely recapitulating this information but synthesizing it and adding additional ideas or theories of the student's own devising. A fifth range paper takes account of opposing viewpoint and successfully (and respectfully) addresses countervailing views. A paper in the fifth range adopts a writing style that is coherent and polished, with few if any errors in grammar, usage, punctuation or spelling. Such a paper is succinct, generally conforming to the suggested length, without containing digressions.

Due Dates

Due dates for all instructional and evaluation activities are provided in the **Course Schedule**.

Course Schedule

- **Module 1: Introduction to Climate Science**
 - Module 1 Discussion: Climate Change Science in the Face of Uncertainty
 - Module 1 Quiz: Climate Change Science

- **Module 2: The Impacts of Climate Change**
 - Module 2 Discussion: Local Climate Change Impacts
 - Module 2 Assignment: Global Climate Change Impacts Conference Presentation Paper
- **Module 3: The Economics of Climate Change**
 - Module 3 Discussion: Ethical Underpinnings and Implications of Economic Calculations
- **Module 4: International Law and Climate Change**
 - Module 4 Assignment: International Climate Change Negotiations Paper
 - Module 4 Discussion: International Climate Change Negotiations
- **Module 5: Climate Change Law in the United States**
 - Module 5 Discussion: U.S. Climate Change Policy Analysis
 - Module 5 Assignment: Federal Climate Change Legislation Paper
- **Module 6: Comparative Law of Climate Change**
 - Module 6 Discussion: Comparative Climate Change Law
 - Module 6 Assignment: Climate Commitment Fact Sheet
- **Module 7: Climate Change Policy by NGOs, Corporations, and Individuals**
 - Module 7 Discussion: Calculating Your Carbon Footprint



Grading Policy and Scale

Final Grades in this course are determined by the following criteria:

Grading Policy

Assignment Category	Weight of Category
Discussions	60%
Written Assignments	30%
Quiz	10%
Total	100%

Course Schedule

Assignments and Reading Overview

Module 1: Foundations of Climate Law & Policy: Science

Reading: Recent Advances in Climate Science

- M. A. Martin et al., Ten new insights in climate science 2021: a horizon scan (2021). (13 pages) A recent review of new findings in climate science.
- N. Pettoirelli, et al., Time to integrate global climate change and biodiversity science-policy agendas (2021). (7 pages) While climate change is but one of many causes of the current biodiversity

extinction crisis, it is one of growing importance. However, as the authors discuss, they currently treated separately - to the detriment of biodiversity. The authors propose ways to integrate these two global crises.

- IPCC "Summary for Policymakers." on the report "Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change." (40 pages). To understand the IPCC vocabulary used but not always fully explained, please consult this IPCC Glossary. Download IPCC Glossary. Also, peruse the IPCC website

Watch:

- The IPCC's Climate Change 2021: The Physical Science Basis (9:25 minutes)

Reading: U.S. Government & National Academy of Sciences: Climate Science

- U.S. Global Change Research Program Climate Science Special Report (CSSR) (2017) Executive Summary (~23 pages). This report is an authoritative assessment of the science of climate change, with a focus on the United States. It represents the first of two volumes of the Fourth National Climate Assessment, mandated by the Global Change Research Act of 1990.
- National Academy of Sciences (NAS), Abrupt Impacts of Climate Change: Anticipating Surprises, 2013. (14 pages)

Reading: Climate Science & Tipping Points

- T.M. Lenton et al., Tipping elements in the earth's climate system, 2007. (8 pages). Read this paper for a detailed description of the phenomena of "tipping points" and an examination of potential policy-relevant future tipping elements in the climate system.
- T.M. Lenton, et al., Climate tipping points - too risky to bet against (2019; 2020 correction) (5 pages) A comment by a group of climate scientists (including the same lead author and one of the co-authors of the previous 2007 article) expressing their conclusions on the current state of the climate science regarding tipping points. Be sure to read the "Correction" on page 5 and consider how it might impact the confidence of policy makers and the public in the authors' conclusions.

Reading: Climate Science & Uncertainty

- N. Meah, Climate uncertainty and policy making - what do policy makers want to know? (2019). (9 pages) A discussion of the issues that climate scientists face when communicating scientific uncertainty to policy makers.
- H. N. Adam, et al., Uncertainty in Climate Science: Extreme Weather Events in India (2018). (3 pages) A commentary on why climate scientists should embrace and use uncertainty.
- F. Pattyn & M. Morlighem, The uncertain future of the Antarctic Ice Sheet (2020). (6 pages) An example of climate science uncertainty regarding a critical issue regarding future climate change impacts.

Reading: Climate Science Data Resources

- **Review:** NOAA National Climatic Data Center, State of the Climate: Global Analysis

Deliverable(s): Discussion

1. Climate Change Science in the Face of Uncertainty **100 POINTS**

- Once you've mastered the language and concepts of climate change science, it's important to use them in informed debate. In this discussion, focus on what policy makers and decision makers should do with the current state of the science. Be specific and use specific examples from the readings. Participate in a threaded discussion of the topic outlined below. Posts eligible for participation credit will either substantively comment on, or ask probing questions about, the topics discussed in this assignment. ("Good point!" is not a substantive comment, and doesn't earn participation points.)

Module 2: Climate Change Impacts & Adaptation

Watch:

- My Module 2: Climate Change Impacts & Adaptation video at the bottom of the Module 2 Introduction Page.

Reading:

- Chapter 8: Impacts and Adaptation *in* D. A. Farber & C. P. Carlarne, Climate Change Law (2023). (30 pages)
- The Summary for Policymakers of Working Group II's (WGII) contribution to the 2022 Sixth Assessment Report on impacts, adaptation, and vulnerability. (34 pages)
- Climate Change Impacts on the U.S. Explore the Overview of the Fourth National Climate Assessment. The Regions section has chapters on different areas in the US that may be useful to you when researching your chosen area for the discussion thread.
 - **Review/peruse:** U.S. Global Change Research Program Climate Science Special Report (CSSR. This time, use the table of contents to focus your attention on climate change impacts and attribution studies.
 - National Research Council, Climate Change: Evidence, Impacts, and Choices(2013) (40 pages). This short, well-illustrated overview of climate change science, impacts (skewed toward the U.S.), and mitigation and adaptation decisions uses the scientific information already included in Modules 1 and 2, but presents it succinctly for a wide audience.
 - Pacala and Socolow, Stabilization Wedges: Solving the Climate Problem for the Next 50 Years with Current Technologies(5 pages).
 - L. Kemp, et. al., Climate Endgame: Exploring catastrophic climate change scenarios (2022) (8 pages). Discusses the worst case climate change impact possibilities and when, or if, they should be considered.

Watch:

- IPCC, Climate Change, 2022: Impacts, Adaptation, and Vulnerability (13:45).
- Bill McKibben, Author and Activist. (90 minutes) Start at 14:00 for McKibben's main presentation. This lecture describes many of the climate change impacts that you have read about. McKibben argues for how we must organize ourselves politically to respond. Transcript available via YouTube.
- **Peruse:** Climate Compass Blog by Center for Climate and Energy Solutions (C2ES) (formerly the Pew Center on Global Climate Change).

Deliverable(s): Discussion

1. Local Climate Change Impacts **100 POINTS**

- "Global climate change" sounds like a big, huge, dissociated problem—after all, it's global. Still, the effects of climate change will ultimately be felt in hundreds and thousands of local communities, and feel very, very immediate for millions of people. Yet, are individual communities ready for climate change-related impacts? The Hazards and Vulnerability Research Institute at the University of South Carolina reports that 91% of Americans live in places at a moderate-to-high risk of earthquakes, volcanoes, tornadoes, wildfires, hurricanes, flooding, high-wind damage, or terrorism. Yet less than 16% of people who have already been through a disaster feel "very well prepared" for a second disaster. Dennis Mileti ran the Natural Hazards Center at University of Colorado for 10 years and puts it bluntly: "Individuals under-perceive risk." (See "Why We Don't Prepare for Disaster," Time, April 20, 2006.)
- In this assignment, you will address the way climate change impacts are perceived in a specific region of your choosing, and what (if anything) local policy makers are preparing to do.

Deliverable(s): Assignment

1. Global Climate Change Impacts Conference Presentation Paper **100 POINTS**

- One of the biggest challenges of climate change for governments and nongovernmental actors is the push–pull desire to stop predicted impacts while also preparing for them. In this assignment, you will demonstrate that you understand mitigation efforts, as well as the ways in which natural and human systems may need to adapt over the coming decades.

Module 3: The Economics of Climate Change

Reading: Climate Change Mitigation, Adaptation and Economics - Foundational Material

- Chapter 2 - Part II. Climate Economics in D. A. Farber & C. P. Carlarne, Climate Change Law (2023). (17 pages) Pay particular attention to discussion of discount rates/discounting and the social cost of carbon.
- The Summary for Policymakers of Working Group III's (WGIII) contribution to the Sixth Assessment Report on mitigation of climate change. The entire summary is worth reading, however only Parts A: Introduction and Framing, B: Recent Developments and Current Trends and E: Strengthening the Response are required. (25 pages)

- A. J. Oswald & N. Stern, *Why does the economics of climate change matter so much, and why has the engagement of economists been so weak?* (2019) (13 pages) An essay by two prominent economists - including Nicholas Stern (see below) - that, as you can tell from the title makes two points: 1) Economics is important for dealing with climate change and, 2) Despite that, economists are not doing enough.

Explore

- Resources for the Future's Social Cost of Carbon 101 **Note:** For those who want additional background on climate change economics, see Chapter 2 from the Stern Review in the Optional material below.

Reading: Cost-Benefit versus Precautionary approaches to Climate Change Economics

- D. A. Farber, *Coping with Uncertainty: Cost-Benefit Analysis, the Precautionary Principle, and Climate Change* (2015) (37 pages, not counting end notes). A comprehensive review of the two main economic schools of thought for dealing with climate change with an attempt, at the end, of providing a way to link the two approaches. The article also provides important background on discounting and the social cost of carbon.
- September 1, 2022 Washington Post news story - *Costs of climate change far surpass government estimates*
- Rennert, K., et al., *Comprehensive Evidence Implies a Higher Social Cost of CO₂*
- Recalculating the Costs of Global Climate Change (2 pages), *New York Times*, which explores the importance of both the *Stern Review* and several of its critics' views.

Watch:

- Sir Nicholas Stern speaking at Stockholm University on the costs and damages of climate change and what we can do to prevent them. (60 minutes). See Stern Review Executive Summary in Optional material below for additional details.
- William Nordhaus critiques the *Stern Review*. Professor Nordhaus discusses the Stern Review and provides a blistering critique. (22:30 minutes).

Reading: Climate Justice & Economics

- P. E. Perkins, *Climate justice, commons, and de-growth* (2019) (6 pages) The adverse impacts of economic inequality in dealing with climate change.

Explore:

- MIT Climate Portal website on **Climate Justice** the site contains links to other sites and useful sources that may be of interest.

Reading: Carbon taxes, Cap-and-Trade and other economic tools for Climate Change Mitigation

- The Climate Leadership Council's February, 2017 white paper, [The Conservative Case for Carbon Dividends](#), which lays out the case for a carbon tax in the United States. Also read [this site](#) to learn more about this group.

- C2ES, Climate Policy Memo #1: [Cap and Trade vs. Taxes](#) (3 pages). This oldie but goodie explains key similarities and differences of these two methods for putting a price on carbon.
- **Review:** Visit Citizens' Climate Lobby article [Energy Innovation and Carbon Dividend Act](#) and learn about the basics of the new carbon fee and citizen dividend legislation.

Deliverable(s): Discussion

1. Ethical Underpinnings and Implications of Economic Calculations **100 POINTS**

- In this discussion, you will explore one of the most complex but important concepts in the economic debate over modeling climate change solutions. Take this opportunity to demonstrate your understanding of the role that discount rates and the social cost of carbon play, and explore how these very technical economic calculations reflects and affects larger conversations of ethical obligations to future generations.

Module 4: International Law and Climate Change

Reading:

- Chapter 3: The International Climate Change Regime *in* D. A. Farber & C. P. Carlarne, Climate Change Law (2023). (33 pages)
- The text of the UNFCCC, Kyoto Protocol and Paris Agreement (75 pages). The framework convention is the first international treaty to regulate climate change. The protocol adds to it by setting specific emissions limits. The Paris Agreement entered force in November 2016 and is intended to require all Parties (not just developed country Parties) to make nationally determined contributions (NDCs) to climate change mitigation and adaptation.
- Documenting COP21 and Paris Agreement, Past & Future. These resource materials were created by VLS's COP21 delegation to help explain the Paris Agreement's legal language and "back story." They are a useful secondary source for understanding the PA.
- Earth Negotiations Bulletin (33 pages). This bulletin provides an excellent summary of COP23 in Bonn.
- **Review:** UNFCCC website The UNFCCC website provides a plethora of resources for understanding the Framework Convention and its development, including short descriptions of each recent COP, texts of COP and sub-body decisions, and numerous reports and publications.
- What is COP26, who will attend it and why does it matter?
- Explained: The negotiating blocs that will steer COP26
- The Law Society, Reflecting on COP26: what were the key outcomes?
- UNFCCC, The Glasgow Climate Pact – Key Outcomes from COP26, UNFCCC
- UN, COP26 closes with 'compromise' deal on climate, but it's not enough, says UN chief.
- COP27 Reaches Breakthrough Agreement on New "Loss and Damage" Fund for Vulnerable Countries. Nov. 20, 2022
- World Resources Institute, COP27: Key Outcomes from the UN Climate Talks in Egypt, December 8, 2022

- **Review:** 2023 UN Climate Change Conference (UNFCCC COP 28), International Institute of Sustainable Development This site both looks back at previous negotiations and forward to the COP 28 in Fall, 2023 - it contains links with useful information.

Deliverable(s): Discussion

1. International Climate Change Negotiations **100 POINTS**

- In this assignment, you and your teammates will defend the position paper you crafted in the first assignment for this module and challenge positions held by other teams. Use your understanding of the strengths and weaknesses of the Paris Agreement, Kyoto Protocol, the UNFCCC, and the progression of conversations in climate change conferences over time to frame your responses to other teams' position papers and defend your own.

Deliverable(s): Assignment

1. International Climate Change Negotiations Paper **100 POINTS**

- As you can see from the readings, position papers, and subsequent fallout from previous COPs, it is one thing to gather to negotiate a treaty and quite another to get all the parties to agree to specific terms. In this assignment, you will explore the arguments made by parties to international climate negotiations. To successfully participate in this assignment, you will need to have a good understanding of the UNFCCC, Kyoto Protocol, and Paris Agreement, their key provisions, and the issues addressed in the most recent climate change negotiations. With this understanding, work with your team to negotiate on behalf of your assigned client.

Module 5: Climate Change Law in the United States

Reading: Climate Change regulation at the Federal and State levels - Introduction

- Chapter 6: Federal Climate Regulation *in* D. A. Farber & C. P. Carlarne, Climate Change Law (2023). (32 pages) This reading introduces you to U.S. federal regulatory policy on climate change by examining prospective climate change legislation. The reading also examines the Clean Air Act and litigation to force agency regulation of greenhouse gases.
- Chapter 7: Federalism and Climate Change *in* D.A. Farber & C.P. Carlarne, Climate Change Law (2018) (26 pages). Deals with the division of climate change regulatory authority between state and federal government.

Watch:

- Justice Stephen Breyer, Federalism and Climate Change (40 minutes). In this video, Justice Breyer examines the relationship between the federal government and the states in addressing climate change. Breyer's federalism discussion starts at around 17:00, but I encourage you to watch this video in its entirety.

Reading: Federal Approaches to Climate Change regulation - 2022/2023

- *Summary of the Energy Security and Climate Change Investments in the Inflation Reduction Act of 2022*. A summary, developed by the Democratic wing of the U.S. Senate, of the various strategies, in the Inflation Reduction Act, to combat climate change. (4 pages)
 - Review the news articles about the Inflation Reduction Act posted in an earlier class Announcement.
- *West Virginia v. Environmental Protection Agency*, 597 U.S. ____ (2022). Decided on June 30, 2022, this is the major recent Supreme Court case on how much authority the Environmental Protection Agency has to regulate greenhouse gas emissions. Read the Syllabus and the Chief Justice Robert's main opinion (37 pages). The concurring and dissenting opinions are optional.
- Dan Farber, Does the New Climate Law Expand Regulatory Authority? (August 29, 2022). A short article by the author of your textbook on federal regulatory authority over climate change the Inflation Reduction Act does, and does not, permit given the *West Virginia v. EPA decision*.
- Marlo Lewis, Jr., The Inflation Reduction Act's Implications for *West Virginia v. EPA*: A Response to Professor Dan Farber (September 6, 2022). A short response to Dan Farber's article that argues that the EPA's authority to regulate climate change remains limited post-*West Virginia v. EPA*.

Watch:

- Dan Farber, *West Virginia v. EPA* explained (8:55)

Reading: Pre-2022 Federal Approaches to Climate Change regulation & Litigation

- The Trump Administration's efforts to undo any federal action on climate change were well-documented. Read this short piece from the Environmental Defense Fund on rollback efforts for the CPP.
- L. Tsang, Congressional Research Service, *U.S. Climate Change Regulation and Litigation: Selected Legal Issues* (2017). Only the Summary and pages 33-39 (Threshold Barriers to Litigation) are required (8 pages), although the remainder is a useful supplemental resource for the discussion and paper assignment. This report provides a good review of federal climate change legislation and litigation up to 2017. Much has changed in federal legislation (see previous section), but federal litigation remains much where it is outlined in this report.
- **Read/skim:** Columbia Law School, Sabin Center for Climate Change Law's Climate Deregulation Tracker, which follows specific actions taken by the Trump administration and Congress to reduce federal climate mitigation and adaptation measures. Please read at least two of the links under **Key Updates** and two of the links under **Related News**.
- White House Fact Sheet on the Clean Power Plan (CPP), which overviews the then-proposed regulation and highlights its benefits.
- Ryan Lizza, *As The World Burns* (10 pages). This *New Yorker* article will provide you with detailed analysis of why Congress' first attempt to pass a Climate Change-specific statute (the American Clean Energy and Security Act of 2009) failed and provides interesting insights into the political challenges of passing comprehensive climate change legislation.

Watch:

- This short video from CNN takes a broader look at the Trump Administration's efforts to deny climate chaos and muzzle the science produced by the government.

Reading: State approaches to Climate Change regulation

- **Review:** The following websites that address efforts by state governments to put a price on carbon or otherwise regulate it. The goal here is for you to be generally familiar with the workings of California's AB 32 and the Regional Greenhouse Gas Initiative, as well as on-going efforts by other states.
 - State Actions - Price on Carbon
- 8 Charts to Understand US State Greenhouse Gas Emissions
- **Review:** Current (2022) California state legislative measures related to climate change and a more comprehensive collection of California's Climate Policy
<https://www.law.berkeley.edu/research/clee/research/climate/climate-policy-dashboard>

Deliverable(s): Discussion

1. U.S. Climate Change Policy Analysis **100 POINTS**

- In this module, you read about two landmark U.S. Supreme Court cases concerning climate change—and a number of other tactics taken up by government, civil society, and regulators. Stepping back, consider the Massachusetts v. EPA Links to an external site. and West Virginia v. EPA cases as dealing with how much independent authority federal agencies should have to develop federal strategies for climate change mitigation and adaptation. And how should climate change regulation be divided between the Executive and Legislative branches of the federal government? And what should be left for states?

Deliverable(s): Assignment

1. Federal Climate Change Legislation Paper **100 POINTS**

- In this module, you read about the demise of several bills aimed addressing climate change impacts. For this assignment, I want you to think about the challenge of passing climate change legislation by outlining what you think a successful piece of climate change legislation would look like, and how best to ensure its passage.

Module 6: Comparative Law of Climate Change

Reading: Background

- Osofsky and McAllister, *Climate Change Law and Policy*, Ch. 4, (2012). This chapter explains key principles of comparative law, and introduces you to the climate change law and policy of the European Union, Canada, China, and Brazil.
 - **Read:** Sections A. Comparative Law Approaches & F. Toward Global Climate Law. The first section provides background on comparative law that is still useful and the last section provides

thoughts, from ten years ago, on how global climate change law may change: Have those predictions been coming true?

- **Skim/Use as Reference:** Sections B thru E that summarizes the state of climate change law and policy in the European Union, Canada, China, and Brazil as of 2012. Compare the state of climate change law in those countries then with now: How have things things and/or stayed the same in the light of increasing knowledge of climate change impacts and changes in the international climate change legal regime

Reading: Comparative Climate Change Law Today

- *Sabin Center for Climate Change Law: Comparative Law*. This is an importance source of information on national climate change laws and litigation from around the world. It includes publications and searchable sources of national climate change laws, as well as national climate change litigation. Among other research, you should use the national climate change laws database to find out if/how climate change laws in the E.U., Canada, China, and Brazil have changed since 2012.
- G. Iacobuta, et al., *National Climate Change Mitigation Legislation, Strategy, and Targets: A Global Update* (2018) (18 pages). A comparative study of how national climate change laws and policy have changes post-Copenhagen Accord and post-Paris Agreement.
- S. Eskander, et al., *Global Lessons from Climate Change Legislation and Litigation* (2021) (35 pages). Provides a recent review of how international climate change agreement and national politics and economics influence changes in climate change laws.
- E. Rhodes, et al., *Designing Flexible Regulations to Mitigate Climate Change: A Cross-Country Comparative Policy Analysis* (2021) (10 pages). A study of the linkage between climate change law and energy policy among U.S. states and non-U.S. nations.
- C. Hui, *The Global Governance: A Comparative Study Between the EU and China* (2020) (8 pages - not including references). You can compare the information here with the discussion of these two regions approaches as of 2012 in the background material.
- J. Setzer & C. Higham, *Global Trends in Climate Change Litigation: 2021 Snapshot* (2021) (36 pages - not including references and appendices). A review of U.S. and non-U.S. climate change cases and how the issues have changed over time.

Deliverable(s): Discussion

1. Comparative Climate Change Law **100 POINTS**

- Now that you have explored climate change mitigation regimes, the legal and international frameworks for cooperation, and the tools used by developed and developing counties, it is time to carefully analyze and evaluate the different approaches.

Deliverable(s): Assignment

1. Climate Commitment Fact Sheet **100 POINTS**

- We can learn a great deal from the successes and failures of national mitigation and adaptation policies. For this research assignment, you will expand your knowledge of international and comparative climate change law by examining more closely how an individual country's pledges under the Copenhagen Accord and the Kyoto Protocol's Second Commitment Period—usually incorporated in their NDCs under the Paris Agreement—are reflected in their national laws. Perhaps this is an example of global environmental law in action?

Module 7: Climate Change Policy making by NGOs, Corporations, and Individuals

Reading:

- M. Rajavuori, *The Role of Non-State Actors in Climate Law* (2021) (13 pages). An analysis of the role that three types of non-state actors (companies, cities, and civil-society organizations) can play in climate change mitigation and climate change governance.
- C. Streck, *Filling in for Governments? The Role of the Private Actors in the International Climate Regime* (2020) (24 pages). A review the changing roles of private actors in the climate regime that has been happening post-Paris Agreement.
- A. Dietzel, *Non-state Climate Change Action: Hope for Just Response to Climate Change?* (2022) (6 pages). A discussion of the potential role of non-state actors in enhancing climate justice in mitigation and adaptation activities.
- J. Mark, Yes, Actually, *Individual Responsibility Is Essential to Solving the Climate Crisis* (2019) and K. Buse, et al., *Individual Responsibility: A Red Herring That Lets the Fossil Fuel Industry Off the Climate Catastrophe Hook* (2022) for two differing opinions on individual responsibility to deal with climate change.
- Business Leaders React to President Trump's Withdrawal from Paris, ABC News, June 2017
- Low Carbon USA letters by business, cities, and high education pledges to take action on climate change.


Watch:

- Story behind the figures: how non-state actors bolstered climate action through pandemic times (2021) (1:17:20) A multi-speaker event - this video is divided into chapters. Watch the entire video or focus on the chapters of particular interest to you.

Deliverable(s): Discussion

1. Calculating Your Carbon Footprint **100 POINTS**

- In this threaded discussion, we will explore the role individuals can play in mitigating climate change - and how other non-state actors (NGOs, corporations, etc) can help or hinder individual efforts. I want you to consider your own impact by calculating your carbon footprint, then analyzing where and how your individual decisions affect U.S. GHG emissions. Given this self-assessment, what can you, as a nongovernmental actor, do to influence the climate change debate?

Each student's academic standing is determined at the end of each semester and at the end of the academic year in accordance with the following grading system and in accordance with the Academic Standards in the [Student Handbook](https://www.vermontlaw.edu/student-handbook)  (<https://www.vermontlaw.edu/student-handbook>):

Grading Scale

Letter Grade	Grade Point Average (GPA)	Percentage
A	4.00	94-100%
A-	3.66	90-93%
B+	3.33	87-89%
B	3.00	84-86%
B-	2.66	80-83%
C+	2.33	77-79%
C	2.00	74-76%
C-	1.66	70-73%
D+	1.33	67-69%
D	1.00	64-66%
F	0.00	<64%



Course Expectations

Student Expectations

You are expected to log on to the course at least five days each week, and to spend approximately 20 hours each week reviewing assigned material, studying and considering that material on your own, and participating in activities and assignments presented in each module. You are expected to post all assignments by the stated deadlines, and to exhibit significant effort and professionalism in all work. You are expected to participate in a timely and responsive manner in group projects, which may include multiple posts and exchanges prior to an assignment deadline.

Faculty Expectations

I will be online and available to answer e-mails, posts to the **Ask Your Professor** page, and other asynchronous inquiries at least five days each week and will endeavor to answer questions within **48 hours at least**. However, I will endeavor to answer questions as quickly as possible.

Office Hours: I am happy to offer office hours by appointment. Just send me some optional meeting times (days/times) - at least one day before you would like to meet - that works for you and we will book a Microsoft Teams meeting.

I will provide feedback on assignments and will be available to answer questions about that feedback. I will post timely announcements as appropriate to this course, including any changes to the schedule or assignments. **I will not actively monitor the Hallway Discussions**, but I will post messages there occasionally, and welcome your discussion.

Academic Support

The Academic Success Program (ASP) is empowering, individualized, and available to every Vermont Law student. ASP offers skill-building through workshops, one-on-one consultation, and mentoring by upper-level students. If you are looking for ways to shrink the learning curve, ASP can connect you with study aids and supplemental materials (i.e., CALI, TWEN, and Kaplan Kick Start) that fit your specific needs. Whether you are preparing for the Bar Examination or your first 1L exam, ASP exists to help you.

You can visit ASP virtually through the ASP Portal ➞

<https://www.vermontlaw.edu/community/students/academic-success> (VLGS Login Required) and clicking the link to the right of the **ASP Student Portal** heading.



Academic Policies

Participation

You will engage in several whole class discussions. Your participation and engagement in these forums will be assessed based on the quality and accuracy of your answers to the assigned questions as well as your interaction and engagement with your peers. Failure to participate in the assigned discussion forums will significantly impact your grade as it reflects your level of effort in the course's learning community.

Of note, the readings and other materials presented in this course build upon each other so it is critical that you complete the initial assignments early in the module/week so that you may proceed to the next set of materials and assignments. Additionally, it is imperative that you post early so that the class may benefit from your discussion and that you have opportunities to reply to and engage in meaningful dialogue with your peers in the discussion forums as well.

Please keep all modules' topical, subject-related discussions in the assigned module discussion forums. Discussions posted in the **Hallway Discussions** and **Ask Your Professor** discussion forums will not count toward weekly participation.

Attendance

You are expected to participate in all course activities except where religious observance, serious illness, personal emergency, or a reason that is adequate in my judgment that prevents such participation.

Attendance means posting answers to discussion questions, participating in the online community, and submitting all assignments in a timely fashion.

Late Work

Your activities in this course must be completed by the identified deadlines in the **Course Schedule**. If you do not submit an assignment, complete a discussion, or participate as outlined in the **Learning Modules** and **Course Schedule**, it will not be accepted, and you will earn a zero as the grade.

This late policy does not apply if I approve an extension. If you have an emergency or some other extenuating personal circumstance, it is important that you inform me as soon as possible. It is only with notification that I will be able to discuss a possible extension.

If there is a medical or family emergency or other extraordinary or extenuating circumstance, you should contact both me and the administration to make alternative arrangements. Again, prompt communication is key, and that is your responsibility.


Professor Comments

I will provide substantive comments on each of your deliverables. I may provide additional comments during general discussions. If you have questions about the course or assignment instructions, please let me know and we can discuss over email or Teams.


Add/Drop and Incomplete Policy

Please refer to the [Student Handbook](https://www.vermontlaw.edu/student-handbook)  (<https://www.vermontlaw.edu/student-handbook>) to review these policies. The handbook can be found on the [Online Resources page](https://vermontlaw.instructure.com/courses/3107/pages/online-learning-program-olp-resources-2) (<https://vermontlaw.instructure.com/courses/3107/pages/online-learning-program-olp-resources-2>).


Academic Honesty

The Vermont Law and Graduate School Honor Code and the Code of Ethics applies to all activities, assignment submissions, and conduct in this course. You are required to be familiar with the Honor Code. Student conduct in this course may not violate the Prohibited Conduct classes of violations recognized in the Honor Code (located in the [Student Handbook](https://www.vermontlaw.edu/student-handbook)  (<https://www.vermontlaw.edu/student-handbook>)).

Plagiarism is a class one violation of Vermont Law and Graduate School's Honor Code. The school uses various software programs to detect plagiarism in all of its forms. Any suspected cases of plagiarism will be reported to the Vice Dean for Students.

Read the Vermont Law and Graduate School Student Handbook section on plagiarism and the article, [What You Don't Know Can Hurt You: How to Recognize Plagiarism and Avoid Committing It](https://www.vermontlaw.edu/sites/default/files/2022-07/Plagiarism%20Presentation%20AFC%202022.pdf)  (<https://www.vermontlaw.edu/sites/default/files/2022-07/Plagiarism%20Presentation%20AFC%202022.pdf>), prior to submitting your first assignment.

Netiquette

All communications in this course (email, discussion boards, and assignments) should use good netiquette. For an overview and explanation of this, visit the [Netiquette Home Page](#) .

(<http://www.albion.com/netiquette>) and follow the [Core Rules of Netiquette](http://www.albion.com/netiquette/corerules.html) (<http://www.albion.com/netiquette/corerules.html>).

Accessibility

We encourage students with disabilities, visible or hidden, to seek appropriate accommodations. Discussions regarding accommodations are confidential. The VLGS student handbook authorizes me to make some accommodations, but others may require an additional request. Please visit the accommodations page within the [Academic Success Program](https://www.vermontlaw.edu/community/students/academic-success/accommodations) (<https://www.vermontlaw.edu/community/students/academic-success/accommodations>) to seek more information and contact the Vice Dean for Students. Accommodation resources are not retroactive, so please inform us as early as possible if you need accommodations. We will provide reasonable access in line with the [Disability Policy](https://www.vermontlaw.edu/sites/default/files/2018-10/2018-2019DISABILITYPOLICYANDPROCEDURES.pdf). (<https://www.vermontlaw.edu/sites/default/files/2018-10/2018-2019DISABILITYPOLICYANDPROCEDURES.pdf>).

Title IX

Vermont Law and Graduate School (VLGS) is committed to fostering a safe, productive learning environment. Title IX and VLGS policy prohibit discrimination based on sex. Sexual misconduct – including harassment, domestic and dating violence, sexual assault, and stalking – is also prohibited at VLGS.

VLGS encourages anyone experiencing sexual misconduct to talk to someone about what happened, so they can get the support they need, and VLGS can respond appropriately.

If a student wishes to speak confidentially about an incident of sexual misconduct, wants more information about filing a report, or has questions about school policies and procedures, please contact VLGS's [Title IX Coordinator](https://www.vermontlaw.edu/title-ix) (<https://www.vermontlaw.edu/title-ix>).

VLGS is legally obligated to investigate reports of sexual misconduct. Therefore, VLGS cannot guarantee the confidentiality of a report, but VLGS will consider a request for confidentiality and respect it to the extent possible.

Professors are also required to report incidents of sexual misconduct and thus cannot guarantee confidentiality. This policy includes any mention of sexual misconduct that a student might make in their written work. A professor must provide VLGS's Title IX coordinator with relevant details, such as the names of those involved in the incident.















Other Policies

All student handbook policies and procedures apply to this course. For more information about student academic and institutional policies, read the [Student Handbook](https://www.vermontlaw.edu/student-handbook) (<https://www.vermontlaw.edu/student-handbook>).

Last modified: 05/14/25

Course Summary:

Date	Details	Due
Tue Aug 26, 2025	 <u>Module 1 Quiz: Climate Change Science Copy</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39007)	due by 11:59pm
Fri Aug 29, 2025	 <u>Module 1 Discussion: Climate Change Science in the Face of Uncertainty</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39005)	due by 11:59pm
Sun Aug 31, 2025	 <u>Module 1 Quiz: Climate Change Science</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39006)	due by 11:59pm
Fri Sep 5, 2025	 <u>Module 2 Discussion: Local Climate Change Impacts</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39004)	due by 11:59pm
Sun Sep 7, 2025	 <u>Module 2 Assignment: Global Climate Change Impacts Conference Presentation Paper</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39008)	due by 11:59pm
Fri Sep 12, 2025	 <u>Module 3 Discussion: Ethical Underpinnings and Implications of Economic Calculations</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39003)	due by 11:59pm
Fri Sep 19, 2025	 <u>Module 4 Assignment: International Climate Change Negotiations Paper</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39009)	due by 11:59pm
	 <u>Module 4 Discussion 2: International Climate Change Negotiations - Whole Class</u> (https://vermontlaw.instructure.com/courses/3107/assignments/39002)	due by 11:59pm

Date	Details	Due
Fri Sep 26, 2025	 <u>Module 5 Discussion: U.S. Climate Change Policy Analysis</u> https://vermontlaw.instructure.com/courses/3107/assignments/39001	due by 11:59pm
Sun Sep 28, 2025	 <u>Module 5 Assignment: Federal Climate Change Legislation Paper</u> https://vermontlaw.instructure.com/courses/3107/assignments/39010	due by 11:59pm
Fri Oct 3, 2025	 <u>Module 6 Discussion: Comparative Climate Change Law</u> https://vermontlaw.instructure.com/courses/3107/assignments/39000	due by 11:59pm
Sun Oct 5, 2025	 <u>Module 6 Assignment: Climate Commitment Fact Sheet</u> https://vermontlaw.instructure.com/courses/3107/assignments/39011	due by 11:59pm
Fri Oct 10, 2025	 <u>Module 7 Discussion: Calculating Your Carbon Footprint</u> https://vermontlaw.instructure.com/courses/3107/assignments/38999	due by 11:59pm