

**RISK AND REGULATION
DEBATES IN AMERICAN ENVIRONMENTAL PROTECTION
POLITICAL SCIENCE 261
SPRING 2006**

- 1-9 Introduction: get acquainted; brief overview of the four normative rationales
Cass Sunstein, *After the Rights Revolution*, 32-73

PART ONE: THE BIG PICTURE

A: RISK IN THE CONTEXT OF THE COMMUNITY (WOBURN, MASSACHUSETTS)

- 1-11 A town, an industry, a disease, a lawyer, and a rule
Jonathan Harr, *A Civil Action*, 3-119
Atul Gawande, "The Cancer-Cluster Myth," 34-37 *The New Yorker* February 8, 1999
- 1-16 *SPECIAL EVENT* Martin Luther King jr. Day Teach-in Hansen Center 2 PM
- 1-17 *Special evening class at 6 PM in Shaw 105*
Discovery and causation: the Grace landfill, TCE, and leukemia
Jonathan Harr, *A Civil Action*, 123-232
Inge F. Goldstein and Martin Goldstein, *How Much Risk?*, 3-12; 235-268
- 1-18 *Special evening class at 6 PM in Shaw 105*
The trial and the town in turmoil
Jonathan Harr, *A Civil Action*, skim 235-290; 293-376
Phil Brown and Edwin J. Mikkelsen, *No Safe Place*, 1-42
THREE QUESTIONS CLASS
- 1-23 The community organizes: FACE and the scientific, governmental, and corporate system
Phil Brown and Edwin J. Mikkelsen, *No Safe Place*, 43-163
Jonathan Harr, *A Civil Action*, 379-401
- 1-25 ***class debate: what place does popular epidemiology have in the law of a democracy?***
Phil Brown and Edwin J. Mikkelsen, *No Safe Place*, 164-199
Phil Brown, "Popular Epidemiology and Toxic Waste Contamination," *Illness and the Environment*, 364-383
Cass Sunstein, *Risk and Reason*, 28-52
- 1-27 Micro-essay #1 due in CLA 251 by 4pm

B: RISK IN CONTEXT OF THE POLICY SYSTEM (PESTICIDES)

- 1-30 DDT as a success story
John Wargo, *Our Children's Toxic Legacy*, 3-42
Christopher Bosso, *Pesticides and Politics*, 21-71
- 2-1 Pesticides as a problem: Delaney and the regulatory response
Christopher Bosso, *Pesticides and Politics*, 71-142
John Wargo, *Our Children's Toxic Legacy*, 43-85
- 2-6 The rise of the environmental movement and the EPA
Christopher Bosso, *Pesticides and Politics*, 143-177
John Wargo, *Our Children's Toxic Legacy*, 86-171
THREE QUESTIONS CLASS
- 2-8 ***class debate: should DDT be used?***
Cass Sunstein, *Risk and Reason*, 10-15
George M. Gray and John D. Graham "Regulating Pesticides," 173-192 in *Risk vs. Risk*
William Baxter, "The Case for Optimal Pollution," 360-364 in Kaufman, *Foundations*

Sheldon Krimsky, "Environmental Endocrine Hypothesis and Public Policy," *Illness and the Environment*, 95-107

- 2-10 Micro-essay #2 due in CLA 251 by 4pm
- 2-13 Delaney paradox and the Reagan revolution
Christopher Bosso, *Pesticides and Politics*, 178-206
Breyer, *Breaking the Vicious Cycle*, 3-29
- 2-15.1 An overview of contemporary regulation of toxic substances
James Salzman and Barton H. Thompson, Jr., *Environmental Law and Policy* 148-169
Breyer, *Breaking the Vicious Cycle*, 33-81
- 2-20 Delaney and PVC: protection from damn liars?
Gerald Markowitz and David Rosner, *Deceit and Denial*, 139-233
THREE QUESTIONS CLASS
- 2-22 **class debate: how should the Delaney clause be reformed?**
Tom Holt, "Modernize our Food Service Laws: Delete the Delaney Clause," 1-24
Donna U. Vogt, "The Delaney Clause Effects on Pesticide Policy," 1-6
John Wargo, *Our Children's Toxic Legacy*, 251-288
- 2-24 Micro-essay #3 due in CLA 251 by 4pm

PART TWO: THE DEVIL IN THE DETAILS

A. THE SCIENCE OF ASSESSING AND MANAGING ENVIRONMENTAL RISK

- 2-27 Which risks?: uncertainty, risk assessment, and risk management
Carl F. Cranor, *Regulating Toxic Substances*, 3-48
K. S. Shrader-Frechette, *Risk and Rationality*, 27-65
- 3-1 Tort law regulation: not scientific truth but balance of interest
Carl F. Cranor, *Regulating Toxic Substances*, 49-102
K. S. Shrader-Frechette, *Risk and Rationality*, 66-74
- 3-6 The debate over risk assessment
Carl F. Cranor, *Regulating Toxic Substances*, 103-151
Mary H. O'Brien, "When Harm is Not Necessary: Risk Assessment as Diversion," 113-134 in *Reclaiming the Environmental Debate*
THREE QUESTIONS CLASS
- 3-8 **class debate: should we prefer false negatives to false positives?**
Carl F. Cranor, *Regulating Toxic Substances*, 152-178
Cass Sunstein, *Risk and Reason*, 53-102
- 3-10 Micro-essay #4 due in CLA 251 by 4pm

B. IMPLEMENTING RISK MANAGEMENT: COST/BENEFIT ANALYSIS (CBA)

- 3-13 1970s environmentalism and an example of CBA
Cass Sunstein, *Risk and Reason*, 1-9; 15-27; 106-128
Albert L. Nichols, "Lead in Gasoline," 49-86 in *Economic Analyses at EPA*
- 3-15 **class debate: is cost-benefit analysis a good tool for environmental regulation?**
Cass Sunstein, *Risk and Reason*, 153-190
Steven Kelman, "Cost-Benefit Analysis: An Ethical Critique," 153-164 in *The Moral Dimensions of Public Policy Choice*

3-17 Micro-essay #5 due in CLA 251 by 4pm

3-17-3-26 SPRING BREAK

C. MANAGING YESTERDAY'S RISKS TODAY

3-27 The lead story

Gerald Markowitz and David Rosner, *Deceit and Denial*, xi-xv; 1-35; 108-138

3-29 Louisiana's cancer alley: a legacy of Jim Crow?

Gerald Markowitz and David Rosner, *Deceit and Denial*, 234-286

4-3 The Comprehensive Environmental Response, Compensation, and Liability Act (CARCLA)

Richard Revesz and Richard B. Stewart, *Analyzing Superfund*, 3-21; 25-50; 55-80

THREE QUESTIONS CLASS

4-5 ***class debate: does Superfund mismanage risk?***

Richard Revesz and Richard B. Stewart, *Analyzing Superfund*, 83-111

Bruce Yandle, "Superfund and Risky Risk Reduction," 27-57 in *Cutting Green Tape*

4-7 Micro-essay #6 due in CLA 251 by 4pm

4-10 Introduction to the precautionary principle

Gerald Markowitz and David Rosner, *Deceit and Denial*, 287-306

4-12 Debating the precautionary principle: pro

John Martin Gillroy, *Justice and Nature*, 38-78; 391-398

4-17 Debating the precautionary principle: con

Cass Sunstein, *Risk and Reason*, 102-105

Indur M. Goklany, *The Precautionary Principle*, 1-27

THREE QUESTIONS CLASS

4-19 ***class debate: should we adopt the precautionary principle in regulatory policy?***

Cass Sunstein, *Risk and Reason*, 133-152

4-21 Micro-essay #7 due in CLA 251 by 4pm

4-25 FINAL EXAM 10:15 AM-12:15

Course reading

Each student must purchase the following books available at the IWU Bookstore.

Carl F. Cranor, *Regulating Toxic Substances: A Philosophy of Science and the Law* (New York: Oxford University Press, 1993)

Phil Brown and Edwin J. Mikkelsen, *No Safe Place: Toxic Waste, Leukemia, and Community Action* (Berkeley: University of California Press, 1997)

Jonathan Harr, *A Civil Action* (New York: Vintage Books, 1995)

Gerald Markowitz and David Rosner, *Deceit and Denial: The Deadly Politics of Industrial Pollution* (Berkeley: University of California Press, 2002)

Cass R. Sunstein, *Risk and Reason: Safety, Law, and the Environment* (Cambridge: Cambridge University Press, 2002)

John Wargo, *Our Children's Toxic Legacy: How Science and Law Fail to Protect us from Pesticides* (New Haven: Yale University Press, 1996)

The following books or articles will be kept on e-reserve at Ames Library. The password is “DDT”—all upper case letters.

- Christopher J. Bosso, *Pesticides and Politics: The Life Cycle of a Public Issue* (Pittsburgh: University of Pittsburgh Press, 1987)
- Stephen G. Bryer, *Breaking the Vicious Circle: Toward Effective Risk Regulation* (Cambridge, Ma.: Harvard University Press, 1993)
- Atul Gawande, “The Cancer-Cluster Myth,” 34-37 *The New Yorker* February 8, 1999
- John Martin Gillroy, *Justice and Nature: Kantian Philosophy, Environmental Policy, and the Law* (Washington, D.C.: Georgetown University Press, 2000)
- Indur M. Goklany, *The Precautionary Principle: A Critical Appraisal of Environmental Risk Assessment* (Washington, D.C.: The Cato Institute)
- Inge F. and Martin Goldstein, *How Much Risk?: A Guide to Understanding Environmental Health Hazards* (Oxford: Oxford University Press, 2002)
- John D. Graham and Jonathan Baert Wiener, eds. *Risk vs. Risk Tradeoffs in Protecting Health and the Environment* (Cambridge, Ma.: Harvard University Press, 1995)
- Richard Hofrichter, ed. *Reclaiming the Environmental Debate: The Politics of Health in a Toxic Culture* (Cambridge, Ma.: MIT Press, 2000)
- Steven Kelman, "Cost-Benefit Analysis: An Ethical Critique," 153-164 in *The Moral Dimensions of Public Policy Choice* (Pittsburgh: University of Pittsburgh Press, 1992)
- Steve Kroll-Smith, Phil Brown, and Valerie J. Gunter, *Illness and the Environment: A Reader in Contested Medicine* (New York: New York University Press, 2000)
- Albert L. Nichols, "Lead in Gasoline," 49-86 in *Economic Analyses at EPA* Edited by Richard D. Morgenstern (Washington, D.C.: Resources for the Future, 1997)
- Richard Revesz and Richard B. Stewart, *Analyzing Superfund: Economics, Science, and the Law* (Washington, D.C.: Resources for the Future, 1995)
- James Salzman and Barton H. Thompson, Jr., *Environmental Law and Policy* (New York: Foundation Press, 2003)
- K.S. Shrader-Frechette, *Risk and Rationality: Philosophical Foundations for Populist Reforms* (Berkeley: University of California Press, 1991)
- Richard L. Stroup and Roger E. Meinert, eds. *Cutting Green Tape: Toxic Pollutants, Environmental Regulation, and the Law* (New Brunswick, N.J.: Transaction Publishers)
- Cass R. Sunstein, *After the Rights Revolution: Reconceiving the Regulatory State* (Cambridge, Ma.: Harvard University Press)

Social contract

Students are required to complete seven micro-essays (750-850 words each)—with the lowest grade dropped. Help conserve paper by single-spacing your essay and printing on both sides of a sheet of paper. All assignments and the final exam will be posted on my homepage. Go to the menu page and click on the ASSIGNMENTS tab.

60% micro-essays (10% each)

25% final exam

15% class participation (including six class debates)

No student who misses as many as eight class sessions, for whatever reasons, shall receive a passing grade.

Office hours

CLA 251

556-3126

TTH 4-5; W 9-11; 1-2

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