GENERAL COURSE INFORMATION

1. Required Reading Materials:
   - West, SELECTED ENVIRONMENTAL LAW STATUTES ("Statutes") – or any environmental law statutory supplement since 2002
   - “Handouts” – in Room 301 and on the TWEN site. To access our TWEN site, log on at http://lawschool.westlaw.com and go to TWEN. Our course (Lipeles, Environmental Law, at Washington University) has its own site. The TWEN site is described more fully below. Handouts are noted on the Syllabus with an *.

2. Classroom Participation: To supplement your voluntary questions and comments during class – which I strongly encourage, I will ask approx. 3 people each day to take the lead in explaining and discussing the assigned material. Each Thursday, I will announce (and post on our TWEN site) the names of those assigned for each day the following week. I would be happy to meet with you in advance of your “on” day, and I welcome creative and thought-provoking approaches. Please note that I reserve the right to ask questions of students in addition to those “on” for the day.

3. Use of Problems: We will use Problems for review purposes at the end of each statute.

4. Oral Arguments: The Supreme Court has been taking an unusual interest in environmental cases. Last term, the Court decided three key Clean Water Act cases (among others of environmental significance). This year, the Court has already taken three important Clean Air Act cases. We will use part of three class sessions to conduct mock arguments of two of the pending Clean Air Act cases, and of one hypothetical case involving issues arising from one of the Clean Water Act decisions. I will divide the class in thirds for each argument. One third will argue for petitioners, one third will argue for respondents, and one third will serve as the Court.

5. Exam: The final exam will be a floating exam, so that you may take the exam on any day that you choose within a designated period. You may not discuss the contents of the exam with any other student until the end of the exam period. Any discussion of the exam prior to that time will constitute a violation of the honor code. The exam will be closed book, except that you may (should) use the Statutes book and any outline that you personally prepare. Copies of prior exams in this course are on the TWEN site.
6. Office Hours, Etc.: I encourage you to contact me at any time by e-mail at milipele@wulaw.wustl.edu or by telephone at 935-5837 to set up an appointment. I cannot set regular office hours because my Clinic commitments vary from day to day. However, I am often in my office, Room 102, and can meet with you on a drop-in basis if I am free when you drop in. As a supplement to but not substitute for office hours, I encourage you to use the TWEN site for questions and discussion.

7. Attendance Policy: I expect you to attend and to be prepared for all classes. Your name must be on the seating chart in order to receive credit for the course. I view attendance as your personal responsibility. You are preparing to become professionals where you will be fully accountable for your own actions, omissions, and decisions.

8. TWEN Site: This course has a web site on TWEN (The West Education Network - accessible from http://lawschool.westlaw.com). Our TWEN site has several sections – see list at left of screen on course home page. The sections of particular note, and their functions, are as follows:

* Syllabus
  - posting of syllabus (in 3 installments)
* Handouts
  - assigned readings (included as attached files or web links) outside of Environmental Regulation casebook and Statutes book
* Problems: Problems assigned for each unit, when outside of casebook
* Past Exams: final exams in this course from Fall 1995 through Fall 2004
* Discussion: This offers a cyberspace version of (nearly) round-the-clock office hours, with the additional advantages that (1) you may post questions or comments on an anonymous basis and (2) everyone can benefit from everyone else’s questions and comments. Anyone may post questions or comments and anyone may respond. I promise to respond to all questions, but I also invite others to do so as well. You may use the site anonymously if you prefer; my contributions will always be identified as such. The Discussion section is subdivided according to the main topics on the syllabus, plus environmental law career issues, previous exams, and miscellaneous.

  In addition to conversation-type discussion, I use the Discussion section of the site to post items of potential interest (but not assigned), such as links to regulations at issue in an assigned case, newspaper articles of interest, photo of area at issue in assigned case, etc.
* Web Links: Handy links to sites of potential interest (USEPA, web site for casebook, NEPAnet)

Let me know if you would like a handout with instructions for accessing TWEN.
SYLLABUS OVERVIEW

Part I: INTRODUCTION and NATIONAL ENVIRONMENTAL POLICY ACT – Regulation by Disclosure

Part II: POLLUTION CONTROL REGULATORY PROGRAMS – “Command and Control” Regulation Using Detailed Rules, Requirements, and Permits
A. Clean Water Act  
B. Clean Air Act  
C. Enforcement

Part III: CLEANUP PROGRAM – Regulation by Liability Rules  
Comprehensive Environmental Response, Compensation, and Liability Act (a/k/a Superfund)

Part IV: BIGGER PICTURE ISSUES
A. Environmental Justice
B. Global Environmental Concerns

Syllabus for Part I: Introduction and National Environmental Policy Act

A. INTRODUCTION

Aug. 22 Introduction and Overview of Environmental Law  
Environmental Regulation, pages 1-8, 61-63, 88-98  
K. Choo, Feeling the Heat, July 2006 ABA Journal online at http://www.abanet.org/journal/redesign/07fwarm.html – Read this article for thoughts concerning some of the challenges inherent in environmental law. (We will return to the more substantive aspects of global warming “regulation” later in the semester.)

Aug. 24 Need for Environmental Statutes (i.e. The Limitations of Common Law)  
Environmental Regulation, pages 63-70 n.4, 72-77, 82 n.10-84 n.1, 85 n.6-87, 98-107  
Prepare to discuss Case Study in Environmental Regulation, pp. 121-124

Aug. 29 The Regulatory Process  
Environmental Regulation, pages 144-156, 157-164, 362 n.4 (re guidance documents), 126-135 (skim)
B. NATIONAL ENVIRONMENTAL POLICY ACT ("NEPA")

Aug. 31  NEPA Overview and Requirement to Prepare EIS
        Statutes, NEPA Subchapter I (focus on NEPA §§ 101 and 102)
        Environmental Regulation, pages 795-810, 823-836

Sept. 5  Content and Adequacy of EIS
        Environmental Regulation, pages 838-851

        NEPA Wrap-Up
        Environmental Regulation, pages 857-861
        Discuss NEPA Problem pp. 837-838 (consult applicable CEQ regulations in
        Statutes book)

Syllabus for Part II: Pollution Control Regulatory Programs

A. CLEAN WATER ACT

Sept. 7  Clean Water Act Overview
        Environmental Regulation, pages 590-599, 616-617, 629-634, Notes 1-2 and 5-6
        pp. 634-636, Notes 6-8 pp. 643-644 (Skim pages 581-590 for general
        background information)
        Statutes, Clean Water Act, §§ 301(a) and 502(6)-(7), (11)-(12), (14)

Sept. 12 Technology-Based Limits on Point Source Discharges
        Environmental Regulation, pages 644-649 and 654-655
        * E.I. du Pont de Nemours & Co. v. Train
        * BP Exploration & Oil, Inc. v. EPA
        Statutes, Clean Water Act §§ 301(b)(1)(A), (b)(2)(A)-(F), and (d), 304(b), 306,
        and 402(a)(1)

        Variances from Technology-Based Limits
        Environmental Regulation, pages 649 (excluding case) and Notes 3-5 p. 653
        Statutes, Clean Water Act §§ 301(c), (g), and (n)

Sept. 14  Water Quality Standards
        Environmental Regulation, pages 660-684
        * S.D. Warren Co. V. Maine Board of Environmental Protection
        Statutes, Clean Water Act, §§ 303(a)-(c)(skim), 301(b)(1)(C), 401(a)(1) and (d)

Sept. 19  Challenges to Achieving Water Quality Standards
Total Maximum Daily Loads (TMDLs)
Environmental Regulation, pp. 684-686 and Notes 2-5 pp. 693-694
Statutes, Clean Water Act § 303(d)

Nonpoint Source Pollution and Watershed Protection
Environmental Regulation, pp. 703-707 and 686-693 (Note 1)
Statutes, Clean Water Act, § 319 (skim)

* Oral Argument #1: Are Nonpoint Sources Subject to § 401 Certification?

Sept. 21
Wetlands Protection
Environmental Regulation, pages 695-697, 698-702 (omit notes1 and 3 p. 700), and 599-616
Statutes, Clean Water Act, § 404(a)-(b). Review §§ 301(a) and 502(12) and (7)

Clean Water Act Wrap-up
* Clean Water Act Problem