

Antonin Scalia Law School at George Mason University

**ENERGY LAW (746-001)**

**Spring 2023**

Mondays, 1:50 to 3:50 PM ET

2 credits

This course meets in person (with Zoom as a backup).

Read this syllabus carefully! It is your roadmap for all course assignments.

**Professor Caroline Cecot**

[ccecot@gmu.edu](mailto:ccecot@gmu.edu)

**Office hours:**

Open office hours: Thursdays, 2:30 to 3:30pm PM ET.

Office: Hazel Hall [omitted]

Virtual office hours: E-mail me to schedule a virtual meeting.

**Format Expectations:**

This course meets in person. It might become necessary, however, for us to meet remotely at some point during the semester. For those class sessions, we will meet in the Zoom classroom noted below. *I will try to give you as much advance notice as possible if a class session will meet remotely instead of in person.*

**Virtual Classroom:**

**Zoom:** <https://gmu.zoom.us/j/97066556987> (meeting ID: 970 6655 6987).

**Course Overview:**

This course will cover the basic law and policy surrounding the extraction and use of energy resources in the United States. Energy production is central to our economy, and we use energy in practically every activity we engage in, often without even knowing it or thinking about it. As you will see, managing the U.S. energy system is an incredibly complex physical, commercial, and legal challenge. Thus, the overarching goal in this two-credit survey course is to provide foundational knowledge about these aspects of managing the energy system. We will focus on building an understanding of the basic physical constraints under which energy systems operate, the fundamental legal principles and statutory

regimes at play in U.S. energy law and policy, and the enduring themes that have emerged in over a century of modern energy law and policy development. We will also explore the ways that energy law and policy is changing in response to market forces, technological development, and policy innovation.

**Learning Outcomes:** This course incorporates the general learning outcomes listed at <https://www.law.gmu.edu/academics/degrees/jd/>. More specifically, at the conclusion of the course, students are expected to describe attributes of energy systems, including the electric power and transportation sectors, and the natural resources used to power these systems; demonstrate familiarity with the many players involved in operating and regulating energy systems; appreciate the ways that federalism divides authority to regulate different energy systems among localities, states, and the federal government; understand models of regulation of energy systems, including public utility models and market-based models, and their economic foundations; and identify legal, policy, and practical challenges associated with the transition to climate-conscious energy systems.

**Casebook and Readings:** The casebook (CB) for this course is

**Alexandra B. Klass & Hannah J. Wiseman, Energy Law, 2d edition, 2020** (Concepts and Insights, Hornbook Treatises).

*Available for free for students here:*

<https://subscription.westacademic.com/Book/Detail?id=26708&goBackUrl=https%3A%2F%2Fsubscription.westacademic.com%2Fsearch%3FsubjectFilter%3D51%26sort%3Ddocument-views>

All other required reading (RR) or optional material (OM) will be posted on Blackboard.

Because this is a 2-credit course, we will not spend time on background issues related to energy economics or energy policy. For students interested in this background material, I recommend:

**Joseph P. Tomain, Energy Law in a Nutshell, 4th edition, 2022.**

This book should also be available for free. I will sometimes highlight relevant optional material from this book.

Sometimes I'll include additional material on Blackboard that is not mentioned in the syllabus; that material is *always* optional.

You can download a Blackboard app to access course material from your mobile device. Information on this option is here: <https://its.gmu.edu/service/blackboard-mobile-student-app/>

**Attendance:** This course adheres to the Law School's attendance policy. If a student is absent for any reason for more than 20% of the course (or, more than 2 class sessions), then the student is not eligible for credit. I appreciate advance notice of any absences.

**Assessments:**

- **Reading questions** must be posted before the associated class session.
- A **hot topic reflection essay** (the “midterm” for this course) must be completed before Sunday, April 2.
- The **final exam** will be held on **Saturday, May 6, at 12:00 PM ET**. It will be a 2-hour exam, open book but closed laptop and internet.

Assessment for this course is as follows:

- **Reading questions** will count for 10% of your grade;
- The **final exam** will count for 90% of your grade.
- Although your performance on the **hot topic reflection essay** will not be factored into your final grade, the failure to complete it will result in a downward adjustment to your final grade by one-half letter.

**Reading Questions:** You are required to post a brief question or comment on the reading for at least 5 class sessions out of 13 total class sessions. The submission should be related to the reading.

I will accept written questions or comments up until the start of a class session. To submit a question or comment, please go to the “Discussion Board” tab in Blackboard. Find the appropriate forum for that class session. Submit a question or comment by creating a new thread with an **informative title** or by replying to any thread that has already been posted for that class session by another student. (Interaction is encouraged!)

**Timely submission of a reading question or comment for 5 class sessions will count for 10% of your grade.** Credit for this portion of your grade will be based on *submission* and not on content. That is, if you timely submit questions or comments for at least 10 class sessions, you will obtain full credit for this portion of your grade. But if, for example, you submit a question or comment for 4 class sessions, then you will receive credit for 8% out of the available 10%.

For the first class session, please introduce yourself. (And if you prefer me to call you by a different first name than the one indicated in PatriotWeb, please let me know in your post or e-mail me.) This is also a great opportunity to provide a link to an energy-related chart (if a link is available); see assignment for the first class session.

**Hot Topic Reflection Essay** (the “midterm” for this course): The instructions and topics for the hot topic reflection essay will be available under Course Materials (Blackboard) on Friday, March 3. You will be able to choose from about five different suggested topics. The essay should be about 3 to 5 pages in length. You must complete the essay by Sunday, April 2.

This essay will take the place of a class session (Monday, March 20), and you are free to complete it during our usually scheduled class session that day. Because it is meant to replace a class session, I don’t expect you to spend more than 4 hours on the essay (2 hours research and preparation and 2 hours writing).

Please e-mail me the essay by Sunday, April 2. Although your performance on the essay will not be factored into your final grade, the failure to complete the essay will result in a downward adjustment to your final grade by one-half letter (A+ to A, A to A-, and so on).

**Class Sessions:**

- During portions of class sessions, I will “cold call” on students from one of two panels defined below.

Panel A	On call during <b>odd-numbered</b> class sessions: Class 3, Class 5, etc.	A to H
Panel B	On call during <b>even-numbered</b> class sessions: Class 2, Class 4, etc.	I to Z

- Notice that *every student* is on call during the first class session.
- I anticipate getting through at least half of a panel during each class session.
- Please note, however, that **I expect everyone to be prepared for each class session.** We will have group discussion components that will require all students to be prepared.

### **In-Person Class Session Rules:**

- Recorder: Each class session will have a recorder (as well as a backup recorder) from the Panel that is not on call. The recorder will take notes and e-mail them to me so that I can post them to Blackboard before the next class session.<sup>1</sup>
  - If you cannot take notes during your scheduled class session, you must contact the backup recorder.
- We will take at least one break during each class session.
- I expect everyone to contribute to a respectful and welcoming learning environment.

### **Additional Remote Class-Session Rules:**

*For class sessions that occur over Zoom, please adhere to the following rules:*

- Please mute your microphones when you are not speaking to avoid unnecessary background noise.
- I prefer for all students in the on-call Panel (A or B) to have their videos turned on, to the extent possible. (Please use your good judgment.) All other students may have their videos turned off, except when participating with other students in a breakout session.
- If you would like to ask a question, please use the “raise hand” feature in our virtual classroom. All students are encouraged to ask questions, although I may defer some questions to office hours in the interest of time or focus.

### **Feedback:**

I encourage constructive feedback at any time. Please provide such feedback either by emailing me or (if you prefer to be anonymous) by using the “Anonymous Feedback” option on Blackboard.

### **Additional School Policies and Resources:**

- I expect every student to adhere to the **Student Honor Code**.
  - Please be aware of the **Academic Regulations**.
  - University Life provides student support resources such as:
    - **Counseling and Psychological Services (<https://caps.gmu.edu/>)**
    - **Student Health Services (<https://shs.gmu.edu/>)**
    - **Student Support and Advocacy Center (<https://ssac.gmu.edu/>).**
- For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>.

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<sup>1</sup> Some of you will prefer to take handwritten notes during the semester. In that case, please e-mail me a photo/scan of your notes when you are the recorder.

## Assigned Reading

***Please note that assigned readings are subject to change based on class pacing or other considerations.*** You are required to refer to the **Course Material for each class session on Blackboard**, which will include specific reading assignments for several class sessions.

Key:

- **CB** = required casebook reading
- **RR** = required reading outside of casebook (case, book, or article excerpts)
- **OM** = optional but recommended material

Although it is not always possible, I try to assign no more than 30 pages of reading per class session.

Please note that two class sessions have been cancelled, and one has been rescheduled to another day:

<b>Cancelled Class</b>	<b>Rescheduled Class</b>
Monday, January 30	<b>Friday, February 10</b> 1:50 to 3:50 PM ET, room [omitted] (recorded)  For attendance credit: Participate <b>in person</b> or <b>via Zoom</b> —or <b>by viewing the recording by Friday, February 17.</b>
Monday, March 20	<b>Hot Topic Reflection Essay</b> Complete between March 3 and April 2

1. Monday, January 23 (everyone is on call)

**Introduction, themes of the course (Keystone XL case study)**

**CB:** pp. 1-12, 13-18 (facility siting), 24-30 (skim)

**RR:** Keystone XL material (see Blackboard)

**Assignment:** Find a chart or figure related to energy law and be prepared to discuss it.

Monday, January 30 – **NO CLASS**

## ***Section 1: Generation***

### 2. Monday, February 6

#### **Oil and gas production, especially fracking**

**CB:** pp. 47-53; 60-65; 69-80

**RR:** Book excerpts Raimi, Yergin (Blackboard)

**RR:** Case excerpt *City of Longmont* (Blackboard)

**Reflection question:** Who should decide whether fracking is allowed or prohibited? Why?

### 3. Friday, February 10 – **RESCHEDULED CLASS**

#### **Coal production**

**CB:** pp. 109-117

**RR:** See additional required material on Blackboard

**Reflection question:** What is the future of coal?

For attendance credit: Participate **in person** or **via Zoom**—or **by viewing the recording by Friday, February 17**

### 4. Monday, February 13

#### **Controlling the externalities of fossil-fuel powered power plants**

**CB:** pp. 135-44

**RR:** See additional required material on Blackboard

### 5. Monday, February 20

#### **Hydropower**

**CB:** pp. 149-54

**RR:** See additional required material on Blackboard

6. Monday, February 27

**Nuclear energy**

**CB:** pp. 15 (bottom)-16, 155-61

**RR:** See additional required material on Blackboard

*\*Instructions and topics for the **hot topic reflection essay** will be available on Friday, March 3.*

7. Monday, March 6

**Renewable energy (incentives and challenges)**

**CB:** pp. 144-48, 167-81, 184-91 (skim)

**RR:** See additional required material on Blackboard

**SPRING RECESS – NO CLASS Monday, March 13**

8. Monday, March 20 – **NO CLASS**, Hot Topic Reflection Essay

The “midterm exam” for this class is the **Hot Topic Reflection Essay**. You must email me your essay by Sunday, April 3.

Failure to complete the essay will result in an adjustment to your final grade by one-half letter grade.

***Section 2: Transmission and Energy Markets***

9. Monday, March 27

**Oil and gas pipelines**

**CB:** pp. 23-33, 101-05

**RR:** See additional required material on Blackboard

10. Monday, April 3

**Rate regulation, principles, changes**

**CB:** pp. 193-214

**RR:** See required material on Blackboard



11. Monday, April 10

**Energy markets, jurisdictional issues**

**CB:** pp. 217-22; 223-29 (skim)

**RR:** See additional required material on Blackboard

***Section 3: Demand and the Future***

12. Monday, April 17

**Transportation sector**

**CB:** pp. 123-35; 256-262

**RR:** See additional required material on Blackboard

*Prepare a 5-minute presentation on your hot topic with your group.*

13. Monday, April 24

**Transforming the energy grid, presentations of hot topic essays**

**CB:** pp. 245-256; 262-65

**RR:** See additional required material on Blackboard