

KIRSTEN H. ENGEL
Curriculum Vitae

EDUCATION

Northwestern University School of Law, Chicago, IL, J.D., 1986.

Note & Comment editor, NW. U. L. REV.

Brown University, Providence, R.I., B.A., 1983, *magna cum laude*, Phi Beta Kappa.

EMPLOYMENT

2005 – present: Professor, University of Arizona James E. Rogers College of Law.

Courses: Environmental Law, Administrative Law, Property, Climate Change and the Law, Legislative Analysis, Economics, Law and Environment Workshop

Nov 2012 – June 2015: Associate Dean for Academic Affairs;

Jan – June 2012: Distinguished Visiting Professor and Fellow, Centre for Public International and Comparative Law, University of Queensland, T C Beirne School of Law, Brisbane, Australia.

2016 – present: Representative, Arizona House of Representatives, Legislative District 10 (53rd Legislature)

Ranking member, Energy and Environment Committee

Member, Judiciary Committee

2001 – 2004: Senior Counsel, Massachusetts Office of Attorney General.

2000 – 2001: Acting Chief, Environmental Protection Division, Massachusetts Office of Attorney General.

1992 – 2000: Associate Professor, Tulane Law School.

Fall 1999: Visiting Associate Professor, Harvard Law School.

Spring 1998: Visiting Associate Professor, Vanderbilt School of Law.

Spring 1996: Visiting Scholar, Boalt Hall, University of California School of Law.

1990 – 1992: Staff Attorney, Sierra Club Legal Defense Fund, Washington, D.C.

1987 – 1990: Staff Attorney, Office of General Counsel, United States Environmental Protection Agency, Washington, D.C.

1986 – 87: Judicial Clerk, Hon. Myron H. Bright, Senior Circuit Judge, United States Court of Appeals for the Eighth Circuit, Fargo, N.D.

SERVICE AND OUTREACH

University of Arizona

Director, Environmental Law Program, University of Arizona College of Law
Director, Environmental Certificate Program, University of Arizona College of Law
Faculty Advisor, *Arizona Journal of Environmental Law and Policy*, University of Arizona
Advisor, Environmental Law Society, College of Law, University of Arizona
Co-Coach, National Environmental Moot Court Team, University of Arizona
Faculty Advisory Board Member, Institute for Environment, University of Arizona
Advisory Board Member, Institute for Energy Solutions, University of Arizona

Professional Associations External to the University of Arizona

Scholar, Center for Progressive Reform, Washington, D.C.
Member, Board of Directors, Tulane Environmental Law Clinic

Community and School Organizations

Members, Friends of Himmel Park, Tucson, AZ

PUBLICATIONS

Books

ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH, 3d edition, ASPEN PUBLISHERS (Driesen, Adler and Engel, eds.) (2016).

ENVIRONMENTAL LAW: A CONCEPTUAL AND PRAGMATIC APPROACH, 2d edition, ASPEN PUBLISHERS (2011) (Driesen, Adler and Engel, eds.).

INTERNATIONAL ENVIRONMENTAL LAW ANTHOLOGY, ANDERSON PUBLISHING (1996) (D'Amato and Engel, eds.).

Book Chapters

Environmental Federalism: A View from the United States, in ENCYCLOPEDIA OF ENVIRONMENTAL LAW: ENVIRONMENTAL DECISIONMAKING, eds. Robert Glicksman et al. (Edward Elgar Publishing, 2016)

Climate Change Federalism, in ENCYCLOPEDIA OF ENVIRONMENTAL LAW: CLIMATE CHANGE, eds. Daniel Farber and Marjan Peeters (Edward Elgar Publishing, 2016).

The Enigma of State Climate Change Policy Innovation, in THE LAW AND POLICY OF ENVIRONMENTAL FEDERALISM: A COMPARATIVE ANALYSIS (Robbins ed., Edward Elgar Publishing (2015).

The Limits of National Climate Change Policymaking and the Courts, in CHANGING CLIMATE POLITICS: US POLICIES AND CIVIC ACTION, WOLINSKY-NAHMIAS, ED., CONGRESSIONAL QUARTERLY PRESS (2014).

When “Smoke isn’t Smoke”: Missteps in Air Quality Regulation of Wildfire Smoke, in WILDFIRE POLICY: LAW AND ECONOMICS PERSPECTIVES (TAYLOR AND FRANCIS PRESS 2011) (with Andrew Reeves).

Courts and Climate Policy: Now and in the Future in GREENHOUSE GOVERNANCE: ADDRESSING CLIMATE CHANGE IN AMERICA, Barry G. Rabe, ed., BROOKINGS PRESS (2010).

State Governance: Leadership on Climate Change, in AGENDA FOR A SUSTAINABLE AMERICA, John C. Dernbach ed., ENVTL. LAW INST. (2009) (with Marc Miller).

Adaptive Environmental Federalism in PREEMPTION CHOICE: THE THEORY, LAW, AND REALITY OF FEDERALISM’S CORE QUESTION, William W. Buzbee, ed., CAMBRIDGE UNIV. PRESS (2009) (with David Adelman).

Environmental Federalism: A Framework for Federal Regulation in REGULATORY COMPETITION AND ECONOMIC INTEGRATION: COMPARATIVE PERSPECTIVES, Daniel C. Esty and Damien Geradin, eds., OXFORD UNIV. PRESS (2000) (with Susan Rose Ackerman)

Articles

Democratic Environmental Experimentalism, 35 UCLA J. Env'tl. L. & Pol'y 57 (2017).

EPA’s Clean Power Plan: An Emerging New Cooperative Federalism? *Publius* Annual Review of Federalism, 45 (3): 452-474 (Summer 2015).

Perverse Incentives: The Case of Wildfire Smoke Regulation, 40 Ecology L. Q. 623 (2013).

Adaptation and the Courtroom: Judging Climate Science, 3 Mich. J. Env'tl. & Admin. L. 1 (2013) (with Jonathan Overpeck).

The Potential and Power of Renewable Energy Credits to Enhance Air Quality and Economic Development in Arizona, 43 ARIZ. STATE L.J. 809 (2011) (with Matthew McDonnell and Ardeth Barnhart).

Why not a “Renewables RGGI”?, 3 SAN DIEGO J. CLIMATE & ENERGY L. 79 (2011).

State Standing in Climate Change Lawsuits, 28 J. LAND USE & ENVTL L. 217 (2011).

Damages, Injunctions and Climate Justice: A Reply to Professor Zasloff, 58 UCLA L. REV. DISCOURSE 189 (2011).

How to Take Climate Change into Account: A Guidance Document for Judges Adjudicating Water Disputes, 40 ENVTL. L. REP. (NEWS & ANALYSIS) 11215 (2010) (with Carolyn

Brickey Katharine Jacobs, Julia Jolley, Marc Miller, Daniel F. Luecke and Jonathan Overpeck).

Whither Subnational Climate Change Initiatives in the Wake of Federal Climate Legislation?, 39 PUBLIUS: THE JOURNAL OF FEDERALISM 432 (2009).

Reorienting State Climate Change Policies to Induce Technological Change, 50 ARIZ. L. REV. 835 (2008) (with David Adelman).

Micro-Motives and State and Local Climate Initiatives, 2 HARV. L. & POL'Y REV. 119 (2008) (with Barak Y. Orbach).

Adaptive Federalism: The Case Against Reallocating Environmental Regulatory Authority, 92 MINN. L. REV. 1796 (2008) (with David Adelman).

Harmonizing Regulatory and Litigation Approaches to Climate Change Mitigation: Incorporating Tradable Emissions Offsets into Common Law Remedies, 155 U. PA. L. REV. 1563 (2007).

Harnessing the Benefits of Dynamic Federalism in Environmental Law, 56 EMORY L. J. 159 (2006).

Mitigating Global Climate Change in the United States: A Regional Approach, 14 N. Y. U. ENVTL. L. J. 54 (2005).

Subglobal Regulation of the Global Commons: The Case of Global Climate Change, 32 ECOLOGY L.Q. 183 (2005) (with Scott Saleska).

Facts are Stubborn Things: An Empirical Reality Check in the Theoretical Debate Over the Race-to-the-Bottom in State Environmental Standard-Setting, 8 CORNELL J. L. & PUB. POL'Y 55 (1998) (with Scott Saleska).

State Environmental Standard-Setting: Is There a "Race" and Is It "to-the-Bottom"? 48 HASTINGS L.J. 271 (1997).

The Dormant Commerce Clause Threat to State Market-Based Environmental Regulation: The Case of Electricity Deregulation, 26 ECOLOGY L. Q. 243 (1999).

Reconsidering The National Market in Solid Waste: Trade-offs In Equity, Efficiency, Environmental Protection and State Autonomy, 73 N. C. L. REV. 1481 (1995).

Notable Legal Briefs

Brief of *Amici Curiae* Climate Scientists David Battisti, William E. Easterling, Christopher Field, Inez Fung, James E. Hansen, John Harte, Eugenia Kalnay, Daniel Kirk-Davidoff, Pamela A. Matson, James C. McWilliams, Mario J. Molina, Jonathan T. Overpeck, F. Sherwood Rowland, Joellen Russell, Scott R. Saleska, Edward Sarachik, John M. Wallace, and Steven C. Wofsy in Support of Petitioners, *Massachusetts v. EPA*, 415 F.3d 50 (D.C. Cir. 2005) (Aug. 31,

2006) (co-author, with John C. Dernbach, Robert B. McKinstry, Jr., & Stephanie Tai) (resulting U.S. Supreme Court decision: *Massachusetts v. EPA*, 549 U.S. 497 (2007)).

Draft Legislation

Bills introduced in the Arizona Legislature. During the 53rd Legislature, I was the prime sponsor of 21 bills covering such topics as environmental protection, energy conservation and technology, and education policy.

Working Papers

Alice Kaswan and Kirsten Engel, *Uniformity under EPA's Clean Power Plan: Enhancing Achievability at the Cost of Stringency* (Center for Progressive Reform Policy Brief, forthcoming 2016)

Blog entries

The Merits of the Clean Power Plan Challenge: It all Depends on Chevron, CPRBlog, April 27, 2015, <http://www.progressivereform.org/CPRBlog.cfm?fkScholar=65>.

The Stuff of an 'Extraordinary Writ' or a Hum-drum Administrative Law Case: Reflections on the April 16th Oral Argument in Murray v. EPA and West Virginia v. EPA, CPRBlog, April 20, 2015, <http://www.progressivereform.org/CPRBlog.cfm?idBlog=688E613C-CA5C-1626-5FCE32B0615629E8>.

EPA's Standing Argument: A Sleeping Giant in the Tailoring Rule Litigation?, CPRBlog, Feb. 21, 2012, <http://www.progressivereform.org/CPRBlog.cfm?idBlog=A0D46B85-0F01-D793-A9EB02579067D3A1> - discussed the standing law barrier confronting industry's challenge to EPA climate rules.

States' Proposal for Meeting Federal Climate Change Rules an Opportunity to Think Seriously about Regional RPS, CPRBlog, May 5, 2011, <http://www.progressivereform.org/CPRBlog.cfm?idBlog=C054F880-9D09-2C69-784A9222008BC92D> - discussed the drawbacks of state renewable portfolio standards, and the potential benefit to creating regional RPS's, following the example of regional climate change programs already in place.

States Go to Bat for Improving Climate Change Legislation, CPRBlog, September 11, 2009, <http://www.progressivereform.org/CPRBlog.cfm?idBlog=A9AC6848-9E14-76CD-470C5528E0515E51> – described the letter from the Attorneys General from California, Arizona, Connecticut, Delaware and New Jersey pushing for more stringent federal climate change legislation

Waxman-Markey: State and Regional Cap-and-Trade Regimes, CPRBlog, April 2, 2009, <http://www.progressivereform.org/CPRBlog.cfm?fkScholar=65> - discussed the preemption issues arising from Waxman-Markey, which will establish a five year federal ban on state level cap-and-trade programs and will ensure that businesses already involved in state programs will receive a federal allowance

GRANTS

Received

Water, Environmental and Energy Solutions (WEES) Initiative, Technology and Research Initiative Fund (TRIF), University of Arizona, grant for \$13,487 (with Ardeth Barnhart) (2011)

PRESENTATIONS (2008 – present)

2016-present: In my capacity as a legislator and a candidate for elected office, I frequently make presentations before governmental authorities, public interest groups and party-affiliated organizations.

Presenter, 2018 Court Leadership Conference, Criminal Code: Sentencing Reform Panel, Flagstaff, AZ, Oct. 24, 2018.

Presenter, Pima County Courts Training Course, The Arizona Legislature, Aug. 15, 2018.

Presenter, “Threats to Arizona’s Groundwater Protections,” **Southern Arizona Green Chamber of Commerce**, March 9, 2016.

Presenter, “Democratic Experimentalism under American Federalism,” Environmental Regulation: Experimenting Across Scales,” **Tel Aviv University**, Nov. 29-Dec. 1, 2015.

Presenter, “Cooperative Federalism and Climate Change: Rethinking Traditional State and Federal Roles,” Gerald R. Ford School of Public Policy, **University of Michigan**, Sept. 24, 2014.

Presenter, “Climate Change Regulation and the Emerging New Cooperative Federalism,” 2014 **Annual Meeting of the American Political Science Association**, Washington, D.C., Aug. 29, 2014.

Presenter, “Perverse Incentives: The Case of Wildfire Smoke Regulation,” School of Natural Resources and Environment, **University of Arizona**, Feb. 5, 2014.

Paper Presenter, Faculty and Student Forum, “Perverse Incentives: The Case of Wildfire Smoke Regulation,” **Syracuse University School of Law**, Syracuse, New York, Oct. 11, 2013.

Presenter, Humanities Seminar, “Courts and Climate Change,” **University of Arizona**, Tucson, AZ, May 16, 2013.

Presenter, Environmental Breakfast Club, “Anachronistic Pollution Policy: The Case of Wildfire Smoke Regulation,” **University of Arizona James E. Rogers College of Law**, Tucson, AZ, Sept. 7, 2012.

Work-in-progress presenter, Faculty Enrichment Series, “*Daubert* and Expert Extrapolations: Redrawing the Boundaries between Scientific and Judicial Expertise,” **University of Arizona James E. Rogers College of Law**, Tucson, AZ, Oct. 25, 2012.

Paper Presenter, Research Seminar Series, Centre for Public International and Comparative Law, “Climate Science and the Courts,” **University of Queensland T C Beirne School of Law**, Brisbane, AU, May 4, 2012.

Paper presenter, Progress Without Agreement: Climate and Other Regulatory Challenges in a Time of Dissensus, An Emory Center on Federalism and Intersystemic Governance (CFIG) Roundtable, **Emory Law School**, Atlanta, GA, October 28-29, 2011.

Paper presenter, Symposium: Environmental Law for a Clean Energy Future, **University of San Diego School of Law**, April 15, 2011.

Moderator, Plenary Panel, Climate Change Responses by the Three Branches of Government, **ABA Environment & Energy Resources Section**, Spring Meeting Mar. 17, 2011, Salt Lake City, UT.

Paper Presenter, Symposium: The Law and Economics of Wildfire Protection, Program on Economics, Law and Environment, **University of Arizona**, Nov. 12, 2010 (co-sponsored by the Economics Law and Environment Program, University of Arizona and the University of Chicago School of Law).

Distinguished Environmental Lecturer for Fall 2010, Program in Land Use and Environmental Law, **Florida State University School of Law**, Tallahassee, FL, Sept. 22, 2010.

Paper Commentator, The Environment, Climate Change, and Land Policies, The 5th Annual Land Policy Conference of the **Lincoln Institute, Cambridge, MA**, May 24-25, 2010.

Conference Moderator, Adaptation to Climate Change in the Desert Southwest: Impacts and Opportunities, **University of Arizona**, Tucson, AZ, Jan. 22-23, 2009.

Speaker, A State Summit on Preemption, **Center for Progressive Reform**, Hall of States, Washington, D.C., March 25, 2009.

Participant, Searle Center on Constitutional Choices Roundtable, **Northwestern University School of Law**, April 16-17, 2009.

Paper Presenter, *Can the Courts Govern the Climate?*, University of Virginia National Conference on Climate Governance, **Miller Center, University of Virginia**, Dec. 11-12, 2008

Speaker, *Climate Change Litigation*, Conf. on California and the Future of Environmental Law & Policy, California Center for Environmental Law & Policy, **Boalt Hall, University of California at Berkeley**, Apr. 10-11, 2008.

Speaker, Conference on Green Buildings: Promises and Pitfalls, Seventh Annual Richard E. Nelson Symposium, **University of Florida School of Law**, Feb. 15, 2008.

Paper Presenter, *Rethinking the Role of States in National Climate Change Policy*, National Conference on Federalism and Climate Change, Rehnquist Center on the Constitutional Structures of Government, **University of Arizona**, Feb. 11, 2008.