Interagency Environmental Cooperation is a class that examines and solves real problems that agencies and the public have in coordinating on environmental issues. It is the only environmental law class in the country that offers a chance to apply problem solving to environmental agency administration. Among other issues, this year the class will examine issues in the coordination of hazardous air pollution control between the city of Houston and the state of Texas, the Corps of Engineers Katrina disposal issues or implementation of new wetlands rules, and possibly, the EPA coordination with the city of New Orleans and the state of Louisiana on Katrina toxic residue (and possibly related issue of disaster response and environmental rules)

Professor Victor B. Flatt
Weds: 5-7:45 (depending on breaks)

This class is a capstone class. That is, it is meant to be a class that puts your knowledge of kinds of law (in this case, enviro, administrative) with practice skills (drafting, client counseling, negotiation) into action. Though you do not have to have completed all of these classes to take this class, you should know that this mimics a sophisticated kind of practice. As such, much of it will be self-motivated and self-learning (i.e. it own’t be a class where I tell you what to do or tell you the answers.) The members of this class will form teams to study and address problems associated with agency implementation of environmental and related laws and policies, with particular attention to barriers and problems associated with interagency cooperation.

The class will consist of three main parts. Initially, you will examine examples of regulated interagency cooperation, such as the determination of lead agency status under CEQ regulations. You will then review federal and state environmental administrative actions that are currently open to public input or noticed to the public. The aim of this review is to identify issues in which the students feel there could be a need for input into the administrative process or assistance to persons participating in the administrative process.

Second, and for about one third of the class meetings, representatives from several agencies (at least one state and one federal) and at least one non-governmental entity affected by regulation (i.e. citizen’s group or business interest) will make a presentation to the class concerning an issue about which the agency has concerns, (either because of the procedure, interaction with another agency, or stakeholder response). These presentations would include a description of the agency representative’s general job within the agency and a description of the particular issue of concern at the time. The class will be meeting once a week to allow for a two hour presentation by these representatives.

After each of these presentations, each member of the class will do a summary sheet of the presentation in which the student will attempt to distill the issues presented that the student feels are important and could be addressed. These will be turned
in weekly, and will jointly be distilled into one classroom document which will not only detail the problem but also discuss follow-up questions or concerns by the students. This document will be circulated to the speaker. At this point, depending upon the issue, the students may decide that they want to hear from another speaker concerning the same issue. All documents generated from speakers on the same topic will be circulated to all speakers involved.

After the initial presentations (there will be space for about 4-5 speakers), the class will decide to address up to two of the raised issues in groups. This decision will be based on the amenability of the problem to actions by this and future classes. The rest of the class meetings will be utilized in this process and for open discussion. At this time the class may hear from experts within other parts of the university (such as atmospheric modelers, environmental chemists, or hydrogeologists).

Each group will create an action plan and do weekly reports which will be circulated to the original speakers (and other interested parties) if so desired.

Each group will then issue a final report on the project or an interlocutory summary if the project will be continued in future classes. These two will be circulated to the original speaker if desired.

Your grade will be based on the thoroughness and analysis of your weekly summary of speaker issues (30%), and on your work input and product on the project (40%) (including participation and independence) as detailed by you in your self report and by Professor’s independent analysis, and a short final examination on issues we have covered (30%).

**August 23, 2006 – Week 1**

What is Interagency cooperation?

Agencies and the Law

Address by Tom Sansonetti, from Holland and Hart. Mr. Sansonetti will discuss how the justice department interacted with federal environmental agencies on legal issues and specify problems presented. This topic will become important as we address any interagency problems that deal with litigation or enforcement.

Mr. Sansonetti served as the Assistant Attorney General for the Environment and Natural Resources Division (ENRD) of the Department of Justice from December 2001-April 2005. As Assistant Attorney General, Mr. Sansonetti supervised all federal district court civil litigation and criminal prosecutions on environmental issues for the Departments of Interior, Agriculture, Energy, Transportation and the Environmental Protection Agency. Mr. Sansonetti also supervised Alternative Dispute Resolution (ADR) actives when deemed appropriate to resolve any of the 7100 cases under his jurisdiction. He has
personally been part of five ADR negotiations. Mr. Sansonetti rejoined Holland & Hart’s Cheyenne, Wyoming office on May 1, 2005.

Mr. Sansonetti is a recognized expert in air quality, water rights, water quality, port security, the Endangered Species Act, surface mining, Indian law, natural resource damage assessments, takings, public lands management, Superfund, and many other areas of natural resources law. He has argued before the U.S. Supreme Court and in the Federal Circuit Courts of Appeal, and served as a federal prosecutor in environmental crimes cases.

**August 30, 2006, Sept. 6, 2006 – week 2 and week 3**

(Exercise in lead agency)

Assignment: read – 42 U.S.C. Secs. 4333, 4342, and 4344. Find implementing regulations (these will be in the Code of Federal Regulations – ask a librarian or search online) that deal with “lead agency status” general rules under NEPA.

**September 13, 2006 – week 4**

Harris County, Environmental enforcement- Clarissa Bauer – Issue and assignment – TBA

**Sept. 20, 2006 – week 5**

Commenting on agency action – other ways of working with agencies

Assignment: read – Administrative Procedures Act (5 U.S.C. Secs. 553 et seq.); read Flatt, O’Hear, Squillace, and Verchick, “Let the People Speak . . .” – to be handed out in class August 30 Environmental Law Reporter (ELR) 10115; in class exercise – find issue to make comment on – class works on actual comments in groups.

**Sept. 27, 2006 – week 6**

City of Houston – Paulette Wolfson and Lauren Raun – addressing health risks from air toxics, working with companies given primary state enforcement. (city independent authority? Working with TCEQ?)

**Oct. 4, 2006 – week 7**

Air Toxics continued– TCEQ actions and issues – Rebecca Rentz, TCEQ
Oct. 11, 2006– week 9/POSSIBLE

EPA, Region VI, - POSSIBLE - working with state and local government and other federal agencies on toxic concerns for Katrina aftermath.

Oct. 18, 2006 – week 9/

U.S. Army Corps of Engineers – Attorney Lance Wood, Chief Environmental counsel, headquarters
   - Corps implementation of guidance in response to Rapanos
   - OR – Corps permitting of landfills for Katrina debris

Oct. 25, Nov. 1, Nov. 8, Nov. 15, Nov. 29 (NOV. 22 is Thanksgiving holiday)

Class selection of issues, brainstorming, teams, work plan, status reports, work product, presentation, discussion. (ON Nov. 29, prepare individual summary of your work input and product and circulate to other members of your group for discussion, hand these in)
Template for Interagency Solution:

1) Project Goal of the Speaker
2) Desirability/ our project goal
3) Work product?
4) How do we get there?
5) What do we need (other docs/products) to get there?