

**University of Houston Law Center**

**Hazardous Waste Law:  
Management, Remediation and Corporate Sustainability  
Course #5397**

**SYLLABUS**

**Scott A. Sherman  
Adjunct Professor**

**Fall 2019**

# **Hazardous Waste Law: Management, Remediation and Corporate Sustainability**

## **Instructor**

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## **Class Time**

Tuesday and Thursday, 9:00 am – 10:30 am

## **Course Description**

This class will focus on the two primary federal statutes that regulate the management of hazardous wastes and the remediation of hazardous substances - the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). RCRA and CERCLA each aim to protect human health and the environment from exposures to and impacts of releases of hazardous substances. RCRA is a regulatory program that seeks to ensure the proper management of hazardous and non-hazardous waste (often referred to as 'cradle-to-grave' regulation). CERCLA primarily is a response program that focuses on the cleanup of hazardous substances that have been released to the environment.

Throughout the course of the semester, we will explore contemporary hazardous waste issues facing the consumer electronics industry, pharmaceutical companies, Big Box retailers, the chemical industry, and oil & gas companies. Additionally, we will highlight opportunities to enhance environmental performance through recycling, beneficial reuse, and corporate sustainability programs. The CERCLA portion of the course will cover the cleanup and redevelopment of Brownfield properties and the role of local governments in advancing community revitalization.

## **Text and Materials**

Applegate, Laitos, Gaba, and Sachs, [The Regulation of Toxic Substances and Hazardous Wastes](#) (3<sup>rd</sup> ed. 2018) (Foundation Press). Additional course materials will be posted on the Blackboard course page.

## **Evaluation and Grading**

Course grades will be based on a final examination.

In accordance with Law Center policy, grades may be raised or lowered one-third of a letter grade (e.g., from a B to a B+) on the basis of class participation.

## **Counseling and Psychological Services (CAPS)**

CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. See: [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html).

# **Hazardous Waste Law: Management, Remediation and Corporate Sustainability**

## **Course Schedule**

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### **COURSE OVERVIEW: RCRA AND CERCLA**

**Week 1** Introduction  
Goals and Topics  
Syllabus Review  
Lecture, "Blurred Lines: RCRA - Cradle-to-Grave vs. Resource Recovery;  
CERCLA - Private Property Cleanup vs. Public Works Project"

### **THE RESOURCE CONSERVATION AND RECOVERY ACT**

**Week 1** RCRA OVERVIEW  
Defining the waste "problem"  
Legislative History  
Subtitle C and Subtitle D  
State Authorization  
  
Text, pp. 365-371  
Materials on Blackboard course page

**Weeks 2-3** RCRA: WHAT IS REGULATED?  
Defining "hazardous waste"  
    The Statutory Definition  
    The Regulatory Definition  
Defining "solid waste"  
Regulating solid wastes that are "hazardous wastes"  
  
Exclusions and Exemptions; Contingent Management  
    Household Hazardous Waste  
    Special Wastes (Oil and Gas Waste, Cement Kiln Dust)  
    Mixed Waste  
    Universal Waste  
    Military Munitions  
  
Text, pp. 372-417  
Materials on Blackboard course page

**Weeks 4-5** RCRA: WHO IS REGULATED?  
Generators  
Transporters  
Treatment, Storage and Disposal Facilities (TSDFs)  
    Corrective Action

Recycling, Reclamation and Take Back Programs  
Consumer Electronics  
Pharmaceuticals  
Beneficial Reuse of Industrial Materials (“Industrial Ecology”)

Text, pp. 417-449  
Materials on Blackboard course page

**Week 6**      RCRA: ENFORCEMENT AND CITIZEN SUITS

Administrative Orders  
Civil Actions  
Criminal Enforcement  
Citizen Suits

Text, pp. 449-469; pp. 469-490

**BRIDGE WEEK**

**Week 7**      CONTEMPORARY RCRA AND CERCLA ISSUES

Comparing RCRA and CERCLA  
Emergency Response/Homeland Security  
Open Class Discussion

Guest Speakers: Government, Industry, and Community Advocacy/NGOs

**THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT**

**Week 8**      CERCLA Overview

Legislative History  
National Priorities List (NPL)  
National Contingency Plan (NCP)

Scope of CERCLA Actions  
Exclusions and Limitations on Response Actions

Text, pp. 527-563  
Materials on Blackboard course page

**Week 9**      CERCLA: Response Actions

Removal Actions and Remedial Actions  
Approaches  
EPA-Lead Cleanup  
Civil Abatement Action  
Unilateral Administrative Order (UAO)  
Administrative Settlement and Order on Consent (ASAOC)  
Consent Decrees

Text, pp. 563-577; pp. 665-681

- Week 10**      CERCLA: Standard of Liability  
Strict Liability  
Joint and Several Liability  
Retroactive Liability  
  
Triggers for Liability  
  
Text, pp. 582-594; pp. 632-643
- Week 11**      CERCLA: Who is Liable?  
Potentially Liable Parties (PRPs)  
    Current Owner/Operator  
    Past Owner/Operator  
    Arranger Liability (Generators)  
    Transporters  
  
CERCLA Liability in Corporate Context  
Lender Liability  
Local Governments  
  
Text, pp. 595-632  
Materials on Blackboard course page
- Week 12**      CERCLA: Who is Liable?  
Defenses  
Exclusions  
  
Recoverable Costs  
  
Text, pp. 643-664
- Week 13**      CERCLA: Cost Recovery and Contribution Actions  
CERCLA 107 vs. CERCLA 113  
Divisibility of Harm; Apportionment of Liability  
Equitable Allocation of Response Costs  
  
Text, pp. 681-697  
Materials on Blackboard course page
- Week 14**      CERCLA: The Cleanup Process; Brownfield Sites  
Preliminary Assessment and Site Investigation  
Remedial Investigation and Feasibility Study  
Remedy Selection: Proposed Plan, Record of Decision (ROD)  
Post-ROD Changes: Amendments, ESDs, Five-Year Reviews  
  
Redevelopment of Brownfield Sites  
State Voluntary Cleanup Programs  
  
Materials on Blackboard course page