Environmental Law Seminar - Class 1

Reading Assignment


2. Read pages 1333-1351 of Bruce A. Ackerman & Richard B. Stewart, Reforming Environmental Law, available at: http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1143&context=fss_papers

3. Read EPA Journal handout.

Questions to Consider for Class

1. Command and Control Regulation
   a. Assume that Congress determines that the levels of lead in the nation’s waters are unsafe, and that those levels must be reduced. Using a “command and control” approach, how might Congress direct EPA to ensure that those lead levels are reduced?
   b. Uniform national standards often impose stricter requirements on new sources than existing sources. Why? Are there any disadvantages to that approach?
   c. What are the major criticisms to the uniform national standards approach?

2. Fine Tuning of environmental regulation
   a. How does the “fine tuning” approach to environmental regulation discussed in Howard Latin’s article differ from traditional “command and control” regulation?
   b. What is negotiated rulemaking, and how does Latin suggest it could reduce the government’s information collection burden in a “fine tuned” system and reduce legal challenges to the government’s standards?
c. Why does Latin feel that “fine tuning” environmental regulation will not work? Can he cite any instances in which it has been tried, and has failed?

3. Market-based alternatives to environmental regulation

a. Ackerman and Stewart discuss a marketable permit system as an alternative to traditional “command and control” regulation. What are the advantages of that approach? What administrative burdens are inherent in such an approach?

b. What are some examples of market-based alternatives discussed in the readings, other than marketable permits? What are their advantages and disadvantages?

4. Environmental Justice

a. Does the traditional “command and control” approach equitably distribute pollution? Would a market-based system equitably distribute pollution?