


Environmental Health Policy & Practice

Lesson 6.
Legal Authority

6 April 2012

Chuck Treser
University of Washington
Dept. of Environmental & Occupational Health Sciences



ENV H 473: EH Policy & Practice 2

Announcement


❖ **DEOHS Seminar:**

- **Title:** *Air Pollution and Cardio-vascular Disease*
- **Speaker:** Nick Mills, MD, PhD
BHF Intermediate Clinical Research Fellow, University of Edinburgh
- **Date:** Thursday, 12 April 2012
- **Time:** 12:30-1:30 pm
- **Room:** T-435 Health Sciences Center

ENV H 473: EH Policy & Practice 3

Announcements

NATIONAL PUBLIC HEALTH WEEK
A Healthier America Begins Today. Join the Movement!
April 2-8, 2012



AMERICAN PUBLIC HEALTH ASSOCIATION
protect • prevent • live well

ENV H 473: EH Policy & Practice 4

Groups

❖ Group A:

- Balarezo, Maria
- Elston, Leslie
- Luong, Heide
- Zelkanovic, Dalila

❖ Group B:

- Estira, Martin
- Gautom, Abhay
- Huh, Michelle

❖ Group C:

- Frenkel, Hannah
- Jo, Ara
- Nebil, Simon

❖ Group D:

- Nakamura, Momoka
- Prescott, Victoria
- Saikaly, Phillip

❖ Group E:

- Larkin, Elizabeth
- Shakibaei, Nazila
- Ward, Matthew

❖ Group F:

- Peterson, Angela
- Turk, John
- Wang, Belinda

ENV H 473: EH Policy & Practice 5

Case Briefs

ENV H 473: ENVIRONMENTAL HEALTH POLICY & PRACTICE → CASE BRIEF

Student Name:

Group: Date:

Case (Reading #):

Title
Citation

FACTS:

1. Who did what to whom, when, where and why?
2. Who initiated the legal action? When? Why?

LEGAL ISSUES:

1. What are the legal arguments made by each side?
2. What (are) the basic legal doctrine(s) involved—e.g., Constitutional Law, Agency Authority, Powers of the State, Common Law issues like nuisance or trespass, etc.

COURT HISTORY:

1. Where was the original case tried (i.e., what court)? What was the outcome?
2. Who appealed and why? What was the outcome?
3. How was the case appealed?
4. Have the arguments of either party changed during the trial and appeal process?

COURT DECISION:

ENV H 473: EH Policy & Practice 6

ENV H 473: Environmental Health Policy & Practice

Spring Semester 2012
Schedule of Lectures & Assignments

Session No.	Day	Date	Topic / Lecturer	Readings	Assignments
1	Tue	01/24/12	Course Introduction	The Future of Public Health Summary & Recommendations	Reading #1
2	Tue	01/24/12	Health Inequities and Environmental Health	The Future of Public Health Partners & C.	Reading #2
3	Tue	01/30/12	Health and Public Policy	The Future of Public Health Partners & C.	Reading #3
4	Mon	04/02/12	Prevention Programs for Environmental Health Risks	The Future of Public Health Partners & C.	Reading #4
5	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #5
6	Tue	04/03/12	Legal Authority (Continued)	The Future of Public Health Partners & C.	Reading #6
7	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #7
8	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #8
9	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #9
10	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #10
11	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #11
12	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #12
13	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #13
14	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #14
15	Tue	04/03/12	Environmental Health and the Law	The Future of Public Health Partners & C.	Reading #15

Download a Case Brief Form For each case

ENV H 473: EH Policy & Practice 7

Case Briefs

Title: X v. Y
Citation

<ul style="list-style-type: none">❖ Facts & Arguments<ul style="list-style-type: none">➢ Who's suing whom, for what?❖ Court History<ul style="list-style-type: none">➢ Court of Original Jurisdiction➢ Appellate Court(s)	<ul style="list-style-type: none">❖ Legal Issues<ul style="list-style-type: none">➢ Why?❖ Decision❖ Concurrence and/or Dissent❖ Application
---	--

ENV H 473: EH Policy & Practice 8

Example

DEQ v. Chemical Waste, Storage & Disposal
Court of Appeals of Oregon
Decided Dec. 9, 1974
19 ORA 712

<ul style="list-style-type: none">❖ Facts & Arguments<ul style="list-style-type: none">✓ Who's DEQ✓ Who's Chemical Waste➢ Who's suing who?➢ Why?❖ Court History<ul style="list-style-type: none">➢ Where?	<ul style="list-style-type: none">❖ Legal Issues<ul style="list-style-type: none">➢ What are they➢ Why?❖ Decision<ul style="list-style-type: none">➢ Why? (Rationale)❖ Concurrence and/or Dissent❖ Application
---	--

ENV H 473: EH Policy & Practice 9

Questions

?

ENV H 473: EH Policy & Practice 10

Constitutional Governments

- ❖ **From Parliament to Congress**
 - Declaration of Independence
 - Articles of Confederation
 - U.S. Constitution



© 1997 The Learning Company, Inc.

ENV H 473: EH Policy & Practice 11

Institutionalization

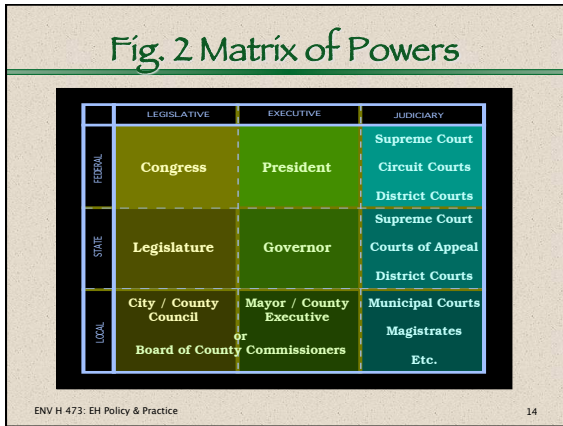
- ❖ **Federal Government**
 - Division of powers
 - Separation of Powers
 - System of Checks and Balances
- ❖ **State Governments**
- ❖ **Local Governments**

ENV H 473: EH Policy & Practice 12

Fig. 1 Matrix of Powers

		Separation on Powers		
		LEGISLATIVE	EXECUTIVE	JUDICIARY
Division of Powers	FEDERAL	THE SO CALLED CONSTITUTIONALLY STIPULATED MATRIX OF GOVERNMENTAL POWERS: THAT IS, THE STRUCTURE OF GOVERNMENT IS FRAGMENTED, IN A SYSTEMATIC WAY, AGAINST THE TWO GREAT PRINCIPLES OF THE CONSTITUTION — THE SEPARATION OF POWERS AND THE DIVISION OF POWERS. THE PROCESSES OF GOVERNMENT ARE DICTATED BY THE "MATRIXING" OF ITS POWERS: INSTRUMENTAL VALUES (such as protection against tyranny) ARE GIVEN HIGHER PRIORITY THAN SUBSTANTIVE ONES (such as a maximally efficient postal system).		
	STATE			
	LOCAL			

ENV H 473: EH Policy & Practice 13

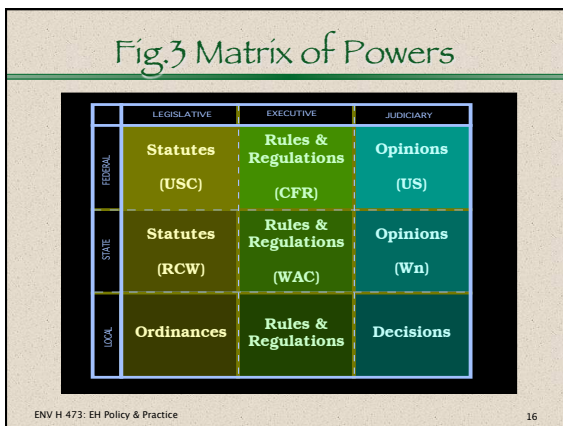


U.S. Laws



- ❖ Statutes
- ❖ Ordinances
- ❖ Rules
- ❖ Regulations
- ❖ Judicial Opinions
- ❖ Standards
- ❖ Policies & Procedures

ENV H 473: EH Policy & Practice 15



Delegation of Powers

- ❖ Nature of Government Powers
- ❖ Sources of Government Powers
- ❖ Delegation: Process and Effect

ENV H 473: EH Policy & Practice 17

Constitutional Law

- ❖ Definition
- ❖ Source
- ❖ Application


ENV H 473: EH Policy & Practice 20

U.S. Laws

- ❖ Statutes
- ❖ Ordinances
- ❖ Rules
- ❖ Regulations
- ❖ Judicial Opinions
- ❖ Standards
- ❖ Policies & Procedures


ENV H 473: EH Policy & Practice 21

Statutes



- ❖ Definition
- ❖ Sources
- ❖ Nomenclature:
 - Federal Level
 - ✓ Bills:
 - ❑ H. xxxx
 - ❑ S. xxxx
 - ✓ Statutes:
 - ❑ PL 92-500 (FWPCA)
 - ❑ 33 USC §§ 1251-1387 (CWA)
 - §1362(7) (Navigable Waters)

Statutes



- State Level (Washington)
 - ✓ Bills:
 - ❑ HR xxxx or SR xxxx
 - ❑ SHR xxxx or SSR xxxx
 - ✓ Statutes:
 - ❑ 70.05 RCW

State PH Statutes

- ❖ 70.93 Waste reduction, recycling, and model litter control act.
- ❖ 70.94 Washington clean air act.
- ❖ 70.95 Solid waste management -- Reduction and recycling.
- ❖ 70.95A Pollution control -- Municipal bonding authority.
- ❖ 70.95B Domestic waste treatment plants -- Operators.
- ❖ 70.95C Waste reduction.
- ❖ 70.95D Solid waste incinerator and landfill operators.
- ❖ 70.95E Hazardous waste fees.
- ❖ 70.95F Labeling of plastics.
- ❖ 70.95G Packages containing met

RCW 70.05.060

Powers and duties of local boards of health.

- Each local board of health shall have supervision over all matters pertaining to the preservation of the life and health of the people within its jurisdiction and shall:

ENV H 473: EH Policy & Practice 25

RCW 70.05.060 (Continued)

- (1) Enforce . . . the public health statutes of the state . . .
- (2) Supervise the maintenance of all health and sanitary measures
- (3) Enact such local rules and regulations . . . to preserve, promote and improve the public health . . .
- (4) Provide for the control and prevention of any dangerous, contagious, infectious disease . . .

ENV H 473: EH Policy & Practice 26

RCW 70.05.060 (Continued)

- (5) Provide for the prevention, control, and abatement of nuisances . . .
- (6) Make such reports to the state board of health as may [be] require[d]; and . . .
- (7) Establish fee schedules for issuing or renewing licenses or permits . . .

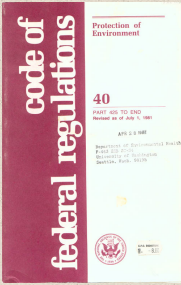
ENV H 473: EH Policy & Practice 27

Limits to Delegated Powers

- ❖ **Constitutional**
 - Due Process
 - Equal Protection
- ❖ **Statutory**
- ❖ **Common Law**
- ❖ **Judicial Review**

ENV H 473: EH Policy & Practice 28


Administrative Law



- ❖ **Definition**
- ❖ **Sources**
- ❖ **Application**
 - Rules
 - Regulations
 - Policy & Procedures

ENV H 473: EH Policy & Practice 29

Police Power



- ❖ **Definition**
- ❖ **Source**
- ❖ **Application**

ENV H 473: EH Policy & Practice 30

EH Practice & the Law

- ❖ **Specific Legislation**
 - Statutes
 - Ordinances
 - Rules & Regulations
- ❖ **Procedural Requirements**
 - Statutes
 - Common Law
 - Court Rules

ENV H 473: EH Policy & Practice 31

Next Lesson

Legal Authority
(continued)

ENV H 473: EH Policy & Practice 33

For Monday

- ❖ **Group A:**
 - City of Huntington v. State Water Commission (Reading #5)
- ❖ **Group B:**
 - City of Philadelphia v. New Jersey (Reading #6)
- ❖ **Group C:**
 - Department of Environmental Quality v. Chemical Waste, Storage and Disposal, Inc. (Reading #7)

ENV H 473: EH Policy & Practice 34