

Environmental Law
NRM 407, 3 Credits
Fall Semester 2017
Tuesday and Thursday 5:30pm-7:00pm
Chapman 140

Instructor: Brittany K.A. Templeton
Email: TBD
Office Hours: By Appointment

This is a survey class that aims to cover the major federal environmental laws in place in the United States. The goals of the course are to gain a basic understanding of these laws and the major cases that interpret them.

Course Requirements and Grading

Textbook:

Environmental Regulation: Law, Science, and Policy, Seventh Edition, by Percival, Miller, Schroeder, & Leape, published by Little, Brown and Company. This book is available at the campus bookstore.

Exams:

There will be one mid-term exam and one final exam. The final exam is not cumulative. Each exam will account for 35% of your final grade. Exams will take place in class and will be **closed book**. Exam questions will be drawn from the required readings, lectures, and the course discussions. A close understanding of the course material is important as exam questions will require you to apply information you learned in class to new situations. Rote memorization will often not be enough to get an A. Exams will include multiple choice, essay, and short answer questions. Please make sure that you write legibly as illegible answers may not be graded. There will be no makeup exams. If you are unable to take the exam on the date scheduled and you have a good reason, please see me as soon as possible.

Quizzes:

There will be 4-6 quizzes over the course of the semester. The quizzes will be in class, **open note** (though NOT open book). The quizzes will all be pop quizzes and will take place during the first 15 minutes of a class period. The lowest quiz grade will be dropped. There will be no makeup quizzes, so make sure you always attend class and make sure you always arrive on time. The quizzes will account for a total of 20% of your final grade. You will not be allowed to access notes on a laptop during quizzes.

Attendance, Preparation, and Class Participation:

Attendance and proper preparation for each class session are mandatory. Students will regularly be called on to answer questions based on the reading material or lectures. If you feel you are

unable to properly answer questions on a given day please let me know at the start of the class and I will refrain from calling on you for that day. However, this greatly increases your chances of being called on during the following class sessions. Additionally, only two free passes will be tolerated per student. These three components will make up 10% of your final grade.

Grades:

This course is graded with a letter grade which corresponds to the numerical score you receive. This class uses +/- grades.

Extra Help:

If you find at any time during the semester that you are having trouble understanding the concepts discussed in class, please see me before you fall behind. I am happy to provide additional explanations and other help to any student who is interested.

If you have a physical or learning disability, please advise me in writing of any special consideration necessary by the beginning of the second class. I will do everything possible to accommodate you in accordance with the Americans with Disabilities Act.

Course Schedule

Tuesday, August 29 – Course Introduction

- Review of syllabus, course requirements and expectations
- Explanation of how to diagram a case
- Basic description of American Legal System
 - Common law v. statutory law
 - Federal courts v. state courts
 - Criminal cases v. civil cases

Thursday, August 31 – Origins of Environmental Law

pp. 62-89

- Private Nuisance: *Madison v. Ducktown Sulphur, Copper & Iron Co.*
- Public Nuisance: *Missouri v. Illinois* & *Georgia v. Tennessee Copper Co.*

Tuesday, September 5 – The Regulatory Process

pp. 136-141, 148-158, 161-174, 178-190

- Basic administrative law
- Regulatory approaches to environmental protection
- Congressional, Executive, and Judicial roles: *Sierra Club v. Costle* & *Chevron USA v. NRDC*

Thursday, September 7 – RCRA

pp. 349-384

- The Waste Problem
- What is Solid Waste? *American Mining Congress v. EPA*

Tuesday, September 12 – RCRA pp. 384-411

- What is hazardous waste under Subtitle C? *City of Chicago v. EDF*
- Subtitle D

Thursday, September 14 – CERCLA pp. 411-417, 420-449

- Owners: *NY v. Shore Realty Corp.*
- Operators: *U.S. v. Bestfoods*
- Arrangers: *Burlington Northern and Santa Fe Railway Co. v. US*

Tuesday, September 19 – CERCLA pp. 449-466, 472-488

- Type of Liability: *Burlington Northern and Santa Fe Railway Co. v. US*
- Contribution: *U.S. v. Vertac Chemical Corp.*
- Settlement: *AKZO Nobel Coatings Inc. v. Aigner Corp.*

Thursday, September 21 – Toxics and Uncertainty pp.191-209

- *Reserve Mining Co. v. EPA*
- *Ethyl Corp. v. EPA*

Tuesday, September 26 – TSCA pp. 251-277

- *Corrosion Proof Fittings v. EPA*

Thursday, September 28 – FIFRA, Food Safety pp. 295-303

- Health Based Standards
- Delaney Clause: *Public Citizen v. Young*

Tuesday, October 3 – Alternative Approaches to Toxics pp. 327-347

- California's Proposition 65
- Emergency Planning and Community Right to Know

Thursday, October 5 – Questions About Distribution pp. 15-23, 509-521

- NIMBY, LULU
- Environmental Justice: *In the Matter of Louisiana Energy Services*

Tuesday, October 10 – In-Class Review for Midterm

Thursday, October 12 – Midterm

Tuesday, October 17 – Water Pollution pp. 663-672, 694, 710-730, 735-741

- Point Source Limitations: *NRDC v. Costle & U.S. v. Plaza Health Laboratories*
- POTWs

- Thursday, October 19 – Water Pollution pp. 742-778, 702-707
- Review of CWA
 - Water Quality Based Controls: *AR v. OK, PUD No.1 of Jefferson County v. WA. Dept. of Ecology, Pronsolino v. Nastri, South Florida Water Mgmt District v. Miccosukee Tribe of Indians*
- Tuesday, October 24 – Wetlands pp. 779-793, 694-701
- Quick review of CWA
 - Intro to §404 of CWA: *Coeur Alaska Inc v. SE AK Conserv. Council*
 - § 404 Permits: *National Mining Assc. v. ACE*
- Thursday, October 26 – Wetlands pp. 672-693
- What is a wetland? *US v. Riverside Bayview Homes, SWANCC v. ACE, & Rapanos v. U.S.*
- Tuesday, October 31 – Air Pollution pp. 523-532, 569-592
- Clean Air Act
 - NAAQS: *Lead Industries Assc. v. EPA & Whitman v. American Trucking Asscs.*
- Thursday, November 2 – Air Pollution pp. 592-617
- Role of the State: *Union Electric v. EPA*
 - Role of the Federal Government: *Virginia v. EPA*
 - Other issues in implementation: *AK Dept. of Environment Conservation v. EPA*
- Tuesday, November 7 – Air Pollution pp. 533-555
- What is an Air Pollutant? *Mass. v. EPA*
 - CO2 Endangerment Finding: *Coalition for Responsible Regulation v. EPA*
- Thursday, November 9 – Air Pollution pp. 624-651, 555-569
- Transboundary pollutants: *Alliance for Clean Coal v. Bayh, Michigan v. EPA*
 - Mobile Sources
 - California's Role in Mobile Source Mgmt
- Tuesday, November 14 – NEPA pp. 895-905, 927-953
- Structure: *Calvert Cliffs v. U.S. AEC & Stryker's Bay Neighborhood Council v. Karlen*
 - When must an EIS be prepared? *Hanly v. Kleindienst, Dept. of Transportation v. Public Citizen, Center for Biological Diversity v. NHTSA*
- Thursday, November 16 – NEPA pp. 911-918, 922-927
- Timing and Scope: *Kleppe v. Sierra Club, Sierra Club v. Peterson*

Tuesday, November 21 – NEPA

pp. 918-922, 953-978

- Is the EIS adequate? *Thomas v. Peterson*, *Vermont Yankee v. NRDC*, *Sierra Club v. U.S. ACE*, *Marsh v. OR Natural Resources Council*
- Does NEPA work?

Thursday, November 23 – THANKSGIVING

Tuesday, November 28 – Endangered Species

pp. 984-993, 1009-1028

- God Squad: *TVA v. Hill*
- Delisting and Recovery Plans: *Friends of Blackwater v. Salazar*

Thursday, November 30 – Endangered Species

pp. 1029-1034, 1044-1064

- Federal Actions: *Thomas v. Peterson*, *Carson-Truckee Water Conservancy v. Clark*
- Private Action: *Babbitt v. Sweet Home Chapter Communities for a Great OR*

Tuesday, December 5 – In-Class Review for Final

Thursday, December 7 – FINAL EXAM In-Class