

# Environmental Law

## NRM 407, 3 Credits

UAF Spring Semester 2020  
Tuesday and Thursday 5:30pm-7:00pm  
Arctic Health & Research Building Room 183

**Instructor:** Brittany Templeton  
**Email:** bktempleton@alaska.edu  
**Office Hours:** By appointment  
**Prerequisites:** Junior or senior class standing

### Course Description

This is a survey class that aims to cover the role of common law theory in regulatory, statutory, and constitutional interpretation in the field of environmental protection, including air and water pollution, toxic/hazardous substances, and land-use regulation.

### Course Objectives

Upon completion of this course, you should be able to:

- Have a basic understanding of the major federal environmental laws in place in the United States;
- Interpret case law and how it applies to the environmental legal framework;
- Have an understanding of the foundations of environmental law; and,
- Demonstrate how environmental laws effects land management.

### Textbook

Percival, Robert V., Christopher Schroeder, Alan Miller, James Leape. *Environmental Regulation*, 8th Edition. Aspen Publishers, 2017. This book is available at the campus bookstore.

### Course Format

This course will be a combination of lecture and small group work. You are expected to read the text, attend the course, participate in the small groups and in class discussions, in addition to taking the quizzes, mid-term exam, and final exam.

### Course Policies

#### 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.

### 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.

### Grades:

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

The grade scale is as follows:

Grades scored between	97%	and	100%	will earn an	A+
Grades scored between	93%	but less than	97%	will earn an	A
Grades scored between	90%	but less than	93%	will earn an	A-
Grades scored between	87%	but less than	90%	will earn a	B+
Grades scored between	83%	but less than	87%	will earn a	B
Grades scored between	80%	but less than	83%	will earn a	B-
Grades scored between	77%	but less than	80%	will earn a	C+
Grades scored between	73%	but less than	77%	will earn a	C
Grades scored between	70%	but less than	73%	Will earn a	C-
Grades scored between	67%	but less than	70%	will earn a	D+
Grades scored between	63%	but less than	67%	will earn a	D
Grades scored between	60%	but less than	63%	will earn a	D-
Grades scored between	0%	but less than	60%	will earn an	F

### Academic Integrity:

As described by UAF, scholastic dishonesty constitutes a violation of the university rules and regulations and is punishable according to the procedures outlined by UAF. Scholastic dishonesty includes, but is not limited to, cheating on an exam, plagiarism, and collusion. Cheating includes providing answers to or taking answers from another student. Plagiarism includes use of another

author's words or arguments without attribution. Collusion includes unauthorized collaboration with another person in preparing written work for fulfillment of any course requirement. Scholastic dishonesty is punishable by removal from the course and a grade of "F." For more information go to [Student Code of Conduct](#).

#### Explanation of NB/I/W Grades:

This course adheres to the UAF policies regarding the granting of NB Grades. The NB grade is for use only in situations in which the instructor has No Basis upon which to assign a grade. In general, the NB grade will not be granted.

#### This course follows the University of Alaska Fairbanks Incomplete Grade Policy:

"The letter "I" (Incomplete) is a temporary grade used to indicate that the student has satisfactorily completed (C or better) the majority of work in a course but for personal reasons beyond the student's control, such as sickness, they has not been able to complete the course during the regular semester. Negligence or indifference are not acceptable reasons for an "I" grade."

Successful, timely completion of this course depends on committing yourself early and maintaining your effort. Failure to submit assignments in a timely manner may result in faculty-initiated Withdrawal from the course, which can result in a **W** on your transcript.

#### 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.

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### **Course Schedule**

Tuesday, January 14 – 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, January 16 – Origins of Environmental Law pp. 65-93
- Private Nuisance: *Madison v. Ducktown Sulphur, Copper & Iron Co.*
  - Public Nuisance: *Missouri v. Illinois*, *Georgia v. Tennessee Copper Co.*
- Tuesday, January 21– The Regulatory Process pp. 142-147, 154-164, 167-181, 185-198
- Basic administrative law
  - Regulatory approaches to environmental protection
  - Congressional, Executive, and Judicial roles: *Sierra Club v. Costle*, *Chevron USA v. NRDC*
- Thursday, January 23 – RCRA pp. 345-381
- The Waste Problem
  - What is Solid Waste? *American Mining Congress v. EPA*
- Tuesday, January 28 – RCRA pp. 381-409
- What is hazardous waste under Subtitle C? *City of Chicago v. EDF*
  - Subtitle D
- Thursday, January 30 – CERCLA pp. 409-415, 419-449
- Owners: *NY v. Shore Realty Corp.*
  - Operators: *U.S. v. Bestfoods*
  - Arrangers: *Burlington Northern and Santa Fe Railway Co. v. US*
- Tuesday, February 4 – CERCLA pp. 449-466, 472-489
- 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, February 6 – Toxics and Uncertainty pp.199-217
- *Reserve Mining Co. v. EPA*
  - *Ethyl Corp. v. EPA*
- Tuesday, February 11 – TSCA pp. 262-282
- *Corrosion Proof Fittings v. EPA*
- Thursday, February 13 – FIFRA, Food Safety pp. 295-303
- Health Based Standards
  - Delaney Clause: *Public Citizen v. Young*
- Tuesday, February 18 – Alternative Approaches to Toxics pp. 324-344
- California's Proposition 65
  - Emergency Planning and Community Right to Know

Thursday, February 20 – Questions About Distribution pp. 17-26, 507-519

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

Tuesday, February 25 – In-Class Review for Midterm

### Thursday, February 27 – Midterm

Tuesday, March 3 – Water Pollution pp. 663-673, 696-697, 714-734, 739-745

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

Thursday, March 5 – Water Pollution pp. 746-785, 704-710

- Review of CWA
- Water Quality Based Controls: *AR v. OK*, *PUD No.1 of Jefferson County v. WA*, *Dept. of Ecology*, *American Farm Bureau Federation v. EPA*, *South Florida Water Mgmt District v. Miccosukee Tribe of Indians*

### Monday-Friday, March 9-13 – Spring Break

Tuesday, March 17 – Wetlands pp. 786-801, 673-704

- Quick review of CWA
- What is a wetland? *US v. Riverside Bayview Homes*, *SWANCC v. ACE*, *Rapanos v. U.S.*
- Intro to §404 of CWA: *Coeur Alaska Inc v. SE AK Conserv. Council*
- §404 Permits: *National Mining Assc. v. ACE*

Thursday, March 19 – Air Pollution pp. 521-530, 571-595

- Clean Air Act
- NAAQS: *Lead Industries Assc. v. EPA*, *Whitman v. American Trucking Asscs.*

Tuesday, March 24 – Air Pollution pp. 595-619

- 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*

Thursday, March 26 – Air Pollution pp. 530-556

- What is an Air Pollutant? *Mass. v. EPA*
- CO<sub>2</sub> Endangerment Finding: *Utility Air Regulatory Group v. EPA*

Tuesday, March 31 – Air Pollution pp. 627-647, 557-571

- Transboundary pollutants: *Alliance for Clean Coal v. Bayh*, *Michigan v. EPA*
- Mobile Sources
- California's Role in Mobile Source Mgmt

Thursday, April 2 – NEPA pp. 911-921, 943-971

- 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*

Tuesday, April 7 – NEPA pp. 927-934, 938-943

- Timing and Scope: *Kleppe v. Sierra Club, Sierra Club v. Peterson*

Thursday, April 9 – NEPA pp. 935-938, 971-997

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

Tuesday, April 14 – Endangered Species pp. 1004-1013, 1029-1040

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

Thursday, April 16 – Endangered Species pp. 1040-1045, 1055-1077

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

Tuesday, April 21– In-Class Review for Final

**Thursday, April 23 – FINAL EXAM In-Class**

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### **Student Protections and Services Statement**

Every qualified student is welcome in my classroom. As needed, I am happy to work with you, disability services, veterans' services, rural student services, etc to find reasonable accommodations. Students at this university are protected against sexual harassment and discrimination (Title IX), and minors have additional protections. As required, if I notice or am informed of certain types of misconduct, then I am required to report it to the appropriate authorities. For more information on your rights as a student and the resources available to you to resolve problems, please go the following site: [www.uaf.edu/handbook](http://www.uaf.edu/handbook).

### **Support Services**

Go to the Student Handbook ([www.uaf.edu/handbook](http://www.uaf.edu/handbook)) for things like: academic advising, tutoring, library and academic support, disability services, computing and technology, veteran and military support, academic complaint and appeals, late withdrawals, “classroom” behavior expectations, and more.

## UAF Help Desk

Go to <http://www.alaska.edu/oit/> to see about current network outages and technology news. For technical questions, contact the Help Desk at:

- e-mail at [helpdesk@alaska.edu](mailto:helpdesk@alaska.edu)
- phone: 450.8300 (in the Fairbanks area) or 1.800.478.8226 (outside of Fairbanks)

## Effective Communication

Students who have difficulties with oral presentations and/or writing are strongly encouraged to get help from:

- [UAF Department of Communication's Speaking Center](#) (907.474.5470, [speak@uaf.edu](mailto:speak@uaf.edu))
- [UAF English's Department's Writing Center](#) (907.474.5314, Gruening 8th floor)
- [CTC's Learning Center](#) (604 Barnette St, 907.455.2860)

## Notice of Nondiscrimination

UA is an AA/EO employer and educational institution and prohibits illegal discrimination against any individual: [www.alaska.edu/titleIXcompliance/nondiscrimination](http://www.alaska.edu/titleIXcompliance/nondiscrimination).

**Note:** I, as the instructor, reserve the right to make changes in the syllabus and class schedule. All changes will be announced in class and it is the student's responsibility to learn of these changes.

If anybody has any questions or concerns about the syllabus, please bring them to my attention as soon as possible.

I am excited to teach this course and am looking forward to having an engaging and productive semester with you!