

# Environmental Law

## NRM 407, 3 Credits

UAF Spring Semester 2023  
Tuesday and Thursday 5:30pm-7:00pm  
In-Person Location: O'Neill 201  
Synchronous Online Course via Zoom and Canvas

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Office hours [by appointment](#)

### Course Description

This is a survey class that will 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.

### Student Learning Outcomes

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

- Understand the major federal environmental laws in the United States
- Interpret case law and applications to the environmental legal framework
- Understand the foundations of environmental law
- Demonstrate how environmental law impacts land management practices

### Course Readings/Materials

Additional course readings will include legal cases, research articles, and news articles posted on Canvas under Modules for each week. These readings will comprise most of the content discussed in class.

Readings from the textbook are supplemental. The book is available at the campus bookstore: Ewing, Kevin A., et al., *Environmental Law Handbook*, 24th Edition, Bernan Press, 2019.

### Instructional Method and Course Format

This course is an interactive seminar course, offered both in-person and synchronous via Zoom. Students are expected to read the text before class, prepare and participate in in-class discussions, in addition to taking the mid-term and final exam.

### Technology Requirements

This course is offered both in-person and online. Students must have regular access to a computer and the internet to access readings and upload assignments. For online participants, consistent internet access and a computer with the ability to record and broadcast sound via a built-in or external mic or a headset are required. Students will need to be able to access the internet and will use the following programs: Zoom, Canvas, PowerPoint, YouTube videos, and web browsers (Chrome, Firefox, Safari, etc.).

## **Evaluation**

### *Attendance, Preparation, and Class Participation:*

Attendance and proper preparation for each class session are highly recommended for you to get the most out of this course. These three components will make up 5% of your final grade.

### *Case Presentations:*

Students will be grouped together to present at least two cases to the class that describe the issues, rules, analysis, facts, and decision for the case. During the first week of the course, I will send a sign up to the class to determine when you and your group partners will present your cases. Please submit your presentations on Canvas by 7p the night before the class.

Your case presentations must be interactive and imaginatively engage the class in the material. Examples of this include facilitating a class debate, a Jeopardy-style trivia game on the case content, a rap battle between the two parties, etc... Your case presentations will make up 30% of your final grade and will be graded on content and creativity.

### *Class Reflections:*

By both Wednesday evening at 5p and Friday evening at 5p, students are expected to have made three posts (total) on the Canvas Discussion page for the week, reflecting on the in-class discussions and more importantly, responding to other student posts. Each post should be roughly 150 words. These discussion posts will account for a total of 25% of your final grade.

### *Exams:*

There will be one mid-term exam and one final exam. Each exam will account for 20% of your final grade. Exams will take place on Canvas, must be completed within two hours, and will be open note and open 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. Exams will include multiple choice, essay, and short answer questions. 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.

### *Grades:*

This course is graded with a letter grade which corresponds to the numerical score you receive. No items are graded on a curve. This class uses +/- grades.

## **Course Schedule**

## Week 1

### Tuesday, January 17 – Course Introduction

- Introductions
- Review of syllabus, course requirements and expectations
- Basic description of American Legal System
  - Federal courts v. state courts
  - Criminal cases v. civil cases
- How to read a court decision
  - What is the claim being brought before the court?
  - What is the argument the plaintiff is making in support of their claim?
  - What is the argument the defendant is making to defend their actions?
  - What did the judge (or justices) decide?

### Thursday, January 19 – Origins of Environmental Law

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

#### Required Readings:

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

## Week 2

### Tuesday, January 24 – The Regulatory Process

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

#### Required Readings:

- *Sierra Club v. Costle*
- *Chevron USA v. NRDC*

Optional: Environmental Law Handbook, pp. 57-59

### Thursday, January 26 – Resource Conservation and Recovery Act (RCRA)

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

Required Readings:

- *American Mining Congress v. EPA*

Optional: Environmental Law Handbook pp. 165-172

### Week 3

Tuesday, January 31 – Resource Conservation and Recovery Act (RCRA)

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

Required Readings:

- *City of Chicago v. EDF*

Optional: Environmental Law Handbook pp. 172-203

Thursday, February 2 – Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

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

Required Readings:

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

Optional: Environmental Law Handbook pp. 603-621

### Week 4

Tuesday, February 7 – Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

- 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.*

Required Readings:

- *U.S. v. Vertac Chemical Corp.*
- *AKZO Nobel Coatings Inc. v. Aigner Corp.*

Optional: Environmental Law Handbook pp. 621-653

Thursday, February 9 – Toxic Substances Control Act of 1976

- *Reserve Mining Co. v. EPA*
- *Ethyl Corp. v. EPA*
- *Corrosion Proof Fittings v. EPA*

Required Readings:

- *Reserve Mining Co. v. EPA*
- *Ethyl Corp. v. EPA*
- *Corrosion Proof Fittings v. EPA*

Optional: Environmental Law Handbook pp. pp. 791-799, 801-804, 813-817, 824, 827

Week 5

Tuesday, February 14 – NO CLASS

Thursday, February 16 – Federal Insecticide, Fungicide, and Rodenticide Act

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

Required Readings:

- *Public Citizen v. Young*

Optional: Environmental Law Handbook pp. 883-892, 897-904, 906-908, 923-928

Week 6

Tuesday, February 21– Alternative Approaches to Toxics

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

Thursday, February 23 – Questions About Distribution

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

Week 7

Tuesday, February 28 – In-Class Review for Midterm

Thursday, March 2 – Midterm

### **Week 8**

Tuesday, March 7 – Water Pollution

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

Required Readings:

- *NRDC v. Costle*
- *U.S. v. Plaza Health Laboratories*

Optional: Environmental Law Handbook pp. 353-361, 364-368

Thursday, March 9 – Clean Water Act

- Review of Clean Water Act
- 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*
- Wetland Protection and Clean Air Act §404

Required Readings:

- *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*

Optional: Environmental Law Handbook pp. 368-372, 380-383

### **Week 9 - Spring Break: Monday-Friday, March 13-17**

### **Week 10**

Tuesday, March 21 (Zoom Lecture; no in-person class) – The Clean Air Act

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

Required Readings:

- *Lead Industries Assc. v. EPA, Whitman v. American Trucking Asscs.*
- *Union Electric v. EPA*
- *Virginia v. EPA*
- *AK Dept. of Environment Conservation v. EPA*

Optional: Environmental Law Handbook pp. 263-270, 279-293

Thursday, March 23 (Zoom Lecture; no in-person class) – The Clean Air Act

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

Required Readings:

- *Mass. v. EPA*
- *Utility Air Regulatory Group v. EPA*

Optional: Environmental Law Handbook 305-306, 314-320, 336-338

**Week 11**

Tuesday, March 28 – Air Pollution

- Transboundary pollutants: *Alliance for Clean Coal v. Bayh, Michigan v. EPA*
- Mobile Sources
- California's Role in Mobile Source Management
  - EPA "waiver of preemption"

Required Readings:

- *Alliance for Clean Coal v. Bayh*
- *Michigan v. EPA*

Optional: Environmental Law Handbook pp. 320-322

Thursday, March 30 – NO CLASS

**Week 12**

Tuesday, April 4 – National Environmental Policy Act (NEPA)

- Structure: *Calvert Cliffs v. U.S. AEC & Stryker's Bay Neighborhood Council v. Karlen*
- When must an EIS be prepared? *Hanley v. Kleindienst, Dept. of Transportation v. Public Citizen, Center for Biological Diversity v. NHTSA*

Required Readings:

- *Calvert Cliffs v. U.S. AEC*
- *Stryker's Bay Neighborhood Council v. Karlen*
- *Hanley v. Kleindienst*
- *Dept. of Transportation v. Public Citizen*
- *Center for Biological Diversity v. NHTSA*

Optional: Environmental Law Handbook pp. 681-696

Thursday, April 6 – National Environmental Policy Act (NEPA)

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

Required Readings:

- *Kleppe v. Sierra Club*
- *Sierra Club v. Peterson*

Optional: Environmental Law Handbook pp. 696-706

### **Week 13**

Tuesday, April 11 – National Environmental Policy Act

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

Required Readings:

- *Thomas v. Peterson*
- *Vermont Yankee v. NRDC*
- *Sierra Club v. USACE*
- *Marsh v. OR Natural Resources Council*

Optional: Environmental Law Handbook pp. 713-717, 724-730

Thursday, April 13 – Endangered Species



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

Required Readings:

- *TVA v. Hill*
- *Friends of Blackwater v. Salazar*

## **Week 14**

Tuesday, April 18– Endangered Species

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

Required Readings:

- *Thomas v. Peterson*
- *Carson-Truckee Water Conservancy v. Clark*
- *Babbitt v. Sweet Home Chapter Communities for a Great OR*

Thursday, April 20 – Climate Law

- Atmospheric Trust Litigation
- Guest Speaker: Juliana v. United States Plaintiff, Nathaniel Baring

## **Week 15**

Tuesday, April 25– Exxon-Valdez and Oil Spill Clean-up

- Oil Pollution Act of 1990
- Guest Speaker: Rachel Kallander, JD (pending)

Thursday, April 27 – In-Class Review for Final

## **Finals Week**

Tuesday, May 2 -- FINAL EXAM

## **Course Policies**

### *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, 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.

### *Title IX*

University of Alaska Board of Regents have clearly stated in BOR Policy that discrimination, harassment and violence will not be tolerated on any campus of the University of Alaska. If you believe you are experiencing discrimination or any form of harassment including sexual harassment/misconduct/assault, you are encouraged to report that behavior. If you report to a faculty member or any university employee, they must notify the UAF Title IX Coordinator about the basic facts of the incident.

Your choices for reporting include:

- You may access confidential counseling by contacting the UAF Health & Counseling Center at 907-474-7043;
- You may access support and file a Title IX report by contacting the UAF Title IX Coordinator at 907-474-6600;
- You may file a criminal complaint by contacting the University Police Department at 907- 474-7721. <https://uaf.edu/oeo/civil-rights/aa-eo/>

Any UAF employee or volunteer who reasonably suspects or observes minor abuse or maltreatment is required to report the incident. Reporting procedures are available on the UAF Protection of Minors. Violation of this policy by employees shall be reported as well.

### *Student 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: 907-450-8300 (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).