

# **POLITICAL SCIENCE 5/6965-001**

## **ENVIRONMENTAL LAW FOR NON-LAWYERS**

Instructor:

JARED C. BENNETT (office hours by appointment)

Work Tele.: 325-3259

Home Tele.: 501-0817 (no calls after 9:00 p.m.)

e-mail: jared.bennett@usdoj.gov

Objective: The objective of this course is to help the student understand the legal system so that he/she can navigate through the basics of environmental regulation at common law and under the modern-day administrative state. This understanding will help guide the student as to the risks and consequences of making decisions that affect the environment when the student acts as a decision-maker in either the public or private sector, or as a concerned citizen.

Introduction: Prior to the 1970s, the environment was, at best, an afterthought. However, beginning in the 1970s, many legislative reforms made the environment an issue of primary importance that demands the attention of decision makers in both the public and private sectors. With the advent of the environment as an issue of major concern, the field of law known as “environmental law” has become so vast that many practitioners spend their entire careers working with one environmental statute. Accordingly, to attempt to teach you everything about environmental law would be impossible and incredibly boring.

This course focuses on the basics of modern environmental law. In order to teach you effectively, this course is divided into three general sections. First, this course begins with the common law roots of modern day environmental law and shows how those roots are still plowing ground today. Second, this course introduces you to the fundamentals of the administrative state in which laws regarding the environment are implemented. Finally, this course will survey a few select environmental statutes and the judicial and administrative decisions interpreting them. Moreover, throughout this course, you will learn how to navigate the legal system.

Grading:

A =	100-94%	A- =	93-90%		
B+ =	89-86%	B =	85-82%	B- =	81-78%
C+ =	77-74%	C =	73-70%	C- =	69-66%
D+ =	65-62%	D =	62-59%	D- =	58-55%
F =	55 % >				

30%	Midterm Exam	(June 21, 2006)
30%	Term Paper	(Due July 12, 2006)
30%	Final Exam	(August 2, 2006)
10%	Attendance/Quality Participation	

The Midterm Exam will be an in class exam consisting of materials covered from week 1 to week 5.

The term paper will be a short writing assignment (approximately 5 pages in length) in which you will be asked to determine the best methods for regulating an environmental problem taking into consideration factors of health, safety, and the economy. More details will be provided at the appropriate time.

The final exam will focus mainly on the materials covered from week 7 to week 12, but will necessarily require you to remember what you learned in the first half of the semester, even though that will not be the main focus of the exam.

In terms of attendance and participation, I expect students to attend 10 out of 12 classes. During class, I expect students to have read the assigned materials each week and to be prepared to thoughtfully discuss them in class.

#### Academic Honesty:

Academic dishonesty will not be tolerated. The University of Utah and I expect students to adhere to generally accepted standards of academic conduct. Academic misconduct is defined in the University's student code as follows: "Academic dishonesty' includes, but is not limited to cheating, misrepresenting one's work, inappropriately collaborating, plagiarism, and fabrication or falsification of information." Each of the aforementioned terms is defined in the University's Student Code and is available on the University's web site. In academic writing, it is required that all sources from which ideas and words are drawn be fully acknowledged and cited.<sup>1</sup> Also, no student should represent someone else's work as his/her own. Therefore, make sure that you use quotation marks to indicate the use of someone else's writing or words in your own work, and provide a full citation that identifies the author(s), title, publisher, year published, and page(s) at which the quotation may be found. If you use sources from the World Wide Web, make sure to include the full web address for the specific work and the day on which you last accessed the information. When in doubt of the proper citation form, consult a style manual, and be sure to use one style consistently throughout any given paper.

Please be advised that because academic honesty is so important, severe sanctions exist to punish proven cases of academic dishonesty. Expectations of honesty are especially high for graduate students. If you have any concerns as to the proper standard of honesty, please consult the instructor prior to engaging in the questionable activity.

Americans with Disabilities Act Notice: Persons with disabilities requiring special accommodations to meet the expectations of this course should provide reasonable prior notice to the instructor and to the Center for Disability Services, 162 Olpin Union Building, 581-5020 (V/TDD) to make arrangements. Written material in this course can be made available in alternative format with prior notification.

---

<sup>1</sup> A citation should also be given when using someone else's idea(s) or concept(s), even if you are not quoting directly from their work.

Class Procedure: Since this is not a law school class, I will not torture you with the Socratic Method. With that said, law cannot be learned through reading and lecture alone. Law is learned as it is discussed from different points of view. Thus, although there will be some lecture, most of class will be spent discussing the reasoning of various legal and policy positions in a given case. Since, the topics of Environmental Law deal with some controversial topics, strong feelings for or against a particular legal position will be common during our class discussions. Students should feel free to respectfully voice their reasoned legal opinions without fear of being mocked or scorned. Accordingly, eye rolling, sighing loudly, or laughing out of disgust for another's legal position will NOT be tolerated, and if severe enough, may result in a partial or complete loss of participation points for the entire semester.

Instructor Evaluation: Forms for evaluating this course are located on the University of Utah's web site.

Texts:

1. Environmental Law: A Conceptual and Pragmatic Approach, Driesen et al., (Draft 1st ed., CD) (hereinafter "Casebook").
2. Processes of the Law: Understanding Courts and Their Alternatives, Resnik (Foundation Press, 2004) (hereinafter "Resnik").
3. Selected Environmental Law Statutes, 2005-2006 Educational Edition (Thompson-West, 2005) (hereinafter "Supplement").

Assigned Readings:

Class 1 (May 17, 2006): INTRODUCTION TO THE LEGAL SYSTEM AND ENVIRONMENTAL LAW

Classes 2 & 3 (May 24, May 31, 2006): COMMON LAW ENVIRONMENTAL TORTS (Nuisance, Trespass, Negligence, and Strict Liability)

Casebook pp. 5-98

Resnik pp. 71-88; 5-31 (Reads quickly)

Class 4 (June 8, 2006): ADMINISTRATIVE LAW AND MODERN ENVIRONMENTAL REGULATION

Casebook pp. 99-188

Resnik pp. 88-95

Supplement Administrative Procedure Act pp. 1403-1425

Class 5 (June 14, 2006): EFFECTS AND TECHNOLOGY BASED STANDARDS

Casebook pp. 188-90, 198-235, 240-341 (almost all pages are double-spaced)

Supplement 42 U.S.C. § 7412; 33 U.S.C. §§ 1311(b)(1)(A), 1313 (skim)

Class 6 (June 21, 2006)

MIDTERM EXAM

Class 7 (June 28, 2006): COST-BENEFIT APPROACHES AND TRADITIONAL  
REGULATION

Casebook pp. 342-425

Supplement 15 U.S.C. § 2605; 42 U.S.C. § 7411(h); 16 U.S.C. §§ 1531, 1532, 1533, 1536,  
1538, 1540

Class 8 (July 5, 2006): ECONOMIC INCENTIVES AND INFORMATION-BASED  
REGULATION

Casebook pp. 425-512

Supplement 42 U.S.C. § 4332; 40 C.F.R. §§ 1508.1 to 1508.28; 15 U.S.C. §§ 2603(a), 2607(e)

Class 9 (July 12, 2006): PRIVATE RESPONSIBILITY

Casebook pp. 545-609

Supplement 42 U.S.C. §§ 9601, 9607(a), 9613(f)

PAPER DUE

Class 10 (July 19, 2006): ALLOCATION OF GOVERNMENT RESPONSIBILITY

Casebook pp. 610-687

Classes 11 & 12 (July 26 and August 2, 2006): ENFORCEMENT

Casebook pp. 688-789

Supplement 33 U.S.C. § 1365; 16 U.S.C. § 1540(g); 15 U.S.C. § 2619; 42 U.S.C. § 7604; 42  
U.S.C. § 9659

FINAL DISTRIBUTED

FINAL DUE AUGUST 4 BY 3:00 p.m. in 212 OSH