

Environmental Law – Spring 2022 (rev01)

Course Description: This course will provide a survey of the field of environmental law covering the following 11 major environmental laws:

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| NEPA - National Environmental Policy Act of 1969 | ESA - Endangered Species Act |
| OPA -Oil Pollution Act of 1990 | RCRA - Resource Conservation and Recovery Act |
| TSCA - Toxic Substance Control Act | CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act |
| CAA - Clean Air Act | EPCRA - Emergency Planning & Community Right-to-Know Act |
| CWA - Clean Water Act | FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act |
| SDWA - Safe Drinking Water Act | |

The course will begin with a discussion of policy formulation, rulemaking, and the role of the courts in interpreting and enforcing environmental laws. Following an introduction to the history of environmental law, we will review the major environmental statutes above, beginning with the National Environmental Policy Act of 1969. We will examine the problems which gave rise to each statute, the structure and enforcement provisions established by Congress, the role of agencies in defining and implementing the statute, and the impact of judicial decisions on the law and its regulations. The course will conclude with a discussion of current topics such as climate change.

Student Learning Outcomes: Upon successful completion of this course:

1. students will be able to explain the fundamentals of the following major environmental laws: NEPA - National Environmental Policy Act of 1969; OPA - Oil Pollution Act; TSCA - Toxic Substance Control Act; CAA - Clean Air Act; CWA - Clean Water Act; SDWA - Safe Drinking Water Act; ESA - Endangered Species Act; RCRA - Resource Conservation and Recovery Act; CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act; EPCRA - Emergency Planning & Community Right-to-Know Act; and FIFRA - Federal Insecticide, Fungicide, and Rodenticide Act.
2. students will be able to communicate the principals of policy formulation, rulemaking, and the role of the courts in interpreting and enforcing these statutes.
3. students will be able interpret the history of environmental law in the U.S.
4. students will be able to evaluate the problems which gave rise to each statute, the structure and enforcement provisions established by Congress, the role of agencies in defining and implementing the statute, and the impact of judicial decisions on the statute and its regulations.
5. students will be able to assess the efficacy of the respective statutes by integrating knowledge from the assigned reading and information from the internet.
6. students will be able to apply the knowledge gained of these environmental laws to the current discussion of climate change and how future environmental law may need to be modified to combat climate change.

Course Requirements:

- 1. Lecture.** This course is lecture, discussion and activity oriented. Students are expected to attend class regularly and to be active participants in class lectures and discussions (including 20 Participation and Attendance Checks [PACs] WebCampus polls / activities / quizzes). Attendance is essential for student success. Students who miss a class session are responsible for finding out what they missed before the next class. Laptops and phones should only be used for specific class activities during class time. Arriving late, leaving early and talking to classmates during lecture disrupts the learning environment.
- 2. Assignments.** **Assignments are DUE AT 5:00 p.m. submitted to WebCampus on the due date indicated in attached Course Schedule. Late assignments will not be accepted (please see Class Absence Policy (UAM 3,020) for institutionally approved activities or other reasons allowed under institutional policy).**
- 3. Tests.** There will be two (2) online tests given (mid-term and Final). In this course, you will be required to complete one (1) proctored online exams using the remote proctoring service, **Proctorio**. Students will be required to show identification in order to enter the exam, and allow for the recording of the testing area via webcam and microphone. The Mid-term exam via Proctorio will take place during the period of March 8-22, 2022. The take-home Final exam will take place during the period of May 3-10, 2022. Students will be allowed 6 hours to complete each exam.

Proctored Examinations:

Requirements

At least one Identity Verification Assessment or experience per course, where students are required to present photo identification upon beginning the assessment is required of an accredited university. The Identity Verification Assessment for this course is at least one exam administered in a proctored / supervised setting. Students are required to take all proctored exams.

If you require DRC accommodations for your exam and have not already contacted the DRC, then please do so immediately. See the Office of Digital Learning's Testing Accommodations page for more information.

Examination Dates and Times

Unless otherwise stated or adjusted by your instructor, proctored exams are available based upon the below schedule. You may take the exam at any point during this examination window (between when it is available and when it is due). Please note that the remote proctoring option allows for testing 24 hours a day, but your exam must be started with enough time to complete it by the schedule due date and time.

Testing Remotely (Proctorio)

In order to test remotely, you MUST have access to the following:

- Webcam and microphone (internal or external)
- Strong Internet connection
- Isolated testing area

Required Text:

Bell, Christopher L.; Boucher, Michael; Brownell, F. William; Cardwell, Ronald E.; Collins, Kevin; Davis, Andrew N.; Holmstead, Jeff; Hutt, Jason B.; King, Jessica O.; Landfair, Stanley W.; McCall, Duke K., III; Miller, Marshall Lee; Nardi, Karen J.; Olney, Austin P.; Otum, Peggy; Penry, Kathryn; Richichi, Thomas; Scagnelli, John M.; Spensley, James W.; Steinway, Daniel M.; and von Oppenfeld, Rolf R. 2019. *Environmental Law Handbook* (24th Edition). Bernan Press (Rowman & Littlefield, Lanham, Maryland. ISBN: 978-1-64143-350-1 [hardcopy only]. **Caution: You will need the page numbers from the textbook to answer exam questions and not all eTextbooks are paginated correctly - be warned that with many eTextbook formats there are no fixed pages.**



WebCampus Resources:

Course-related information and readings – <https://webcampus.unr.edu/login/canvas>

Library Resources – <https://guides.library.unr.edu/environment>

Course Reserves – <https://ares.library.unr.edu/ares/>

Grading:

| | Undergraduates NRES 412 / CEE 411 / PSC 403(E) | Graduates NRES 612 / CEE 611 / PSC 603(E) | |
|--|---|--|--|
| In-class Lecture Participation & Attendance Checks (PACs) | 20% | 20% | Student's final score will be converted to a letter grade as follows: 100 - 94 = A 93.9 - 90 = A- 89.9 - 87 = B+ 86.9 - 80 = B 79.9 - 70 = C 69.9 - 60 = D |
| Students will complete / participate in WebCampus polls / activities / quizzes in class (n=20) | | | |
| Weekly Assignments | 16% | 20% | |
| Undergraduates = complete 8 assignments Graduates = complete 10 assignments | | | |
| Mid-Term Exam | 30% | 30% | |
| 50 Fill-in-the-blanks, matching, and multiple choice (2 points each for 100 points total) Graduates = 1 additional essay question | | | |
| Final Exam | 34% | 30% | |
| 50 Fill-in-the-blank, matching, and multiple choice (2 points each for 100 points total) Graduates = 1 additional essay question | | | |

Statement on Safe Learning Environment: The University of Nevada, Reno is committed to providing a safe learning and work environment for all. If you believe you have experienced discrimination, sexual harassment, sexual assault, domestic/dating violence, or stalking, whether on or off campus, or need information related to immigration concerns, please contact the University's Equal Opportunity & Title IX office at 775-784-1547. Resources and interim measures are available to assist you. For more information, please visit the [Equal Opportunity and Title IX](#) page.

Statement on Absences: There are no official absences from any university class. It is the personal responsibility of the student to consult with the professor regarding absence from class. The instructor shall make the final determination on whether the missed work can be done at a time other than during the regularly scheduled class period.

Exceptions: Absence due to university approved extracurricular activity. It is the policy of NSHE to be sensitive to the religious obligations of its students. Any student missing classes because of observance of religious holy days will, whenever possible, be given an opportunity to make up the missed work. The make-up work will apply to the religious holy day absence only. It shall be the responsibility of the student to notify the instructor in advance in writing, if the student intends to participate in a religious holy day which does not fall on state holidays or periods of class recess.

Statement on Academic Dishonesty: Cheating, plagiarism or otherwise obtaining grades under false pretenses constitute academic dishonesty according to the code of this university (see the University Academic Standards policy: UAM 6,502). Academic dishonesty will not be tolerated and penalties can include canceling a student's enrollment without a grade, giving an F for the course or for the assignment. For more details, see the University of Nevada, Reno General Catalog. The definition of plagiarize is the following: "To steal and pass off as one's own (the ideas or words of another); Use (a created production) without crediting the source" Webster's Third New International Dictionary, Meridian Webster, Incorporated, 1981, page 1728.

Statement on Disability Services: If you are a student who would normally seek accommodations in a traditional classroom, please contact me as soon as possible. You may also contact the Disability Resource Center for services for online courses by emailing drc@unr.edu or calling 775-784-6000. Academic accommodations for online courses may be different than those for seated classrooms; it is important that you contact us as soon as possible to discuss services. The University of Nevada, Reno supports equal access for students with disabilities. For more information, visit the [Disability Resource Center](#).

This course utilizes third-party web/multimedia content, if you experience any issues accessing this content, please notify me immediately. Any student with a disability needing academic adjustments or accommodations is requested to speak with me or the [Disability Resource Center](#) (Pennington Achievement Center Suite 230) as soon as possible to arrange for appropriate accommodations.

Statement on Academic Success Services: Your student fees cover usage of the [Math Center](#) (775) 784-4433, [Tutoring Center](#) (775) 784-6801, and [University Writing Center](#) (775) 784-6030. These centers support your classroom learning; it is your responsibility to take advantage of their services. Keep in mind that seeking help outside of class is the sign of a responsible and successful student.

Statement on Surreptitious Audio and Video Recording of Class Lectures: Surreptitious or covert video-taping of class or unauthorized audio recording of class is prohibited by law and by Board of Regents policy. This class may be videotaped or audio recorded only with the written permission of the instructor. In order to accommodate students with disabilities, some students may be given permission to record class lectures and discussions. Therefore, students should understand that their comments during class may be recorded.

Statement on COVID-19 Face Coverings: In response to COVID-19, and in alignment local, state, and U.S. Center for Disease Control guidelines, face coverings are required at all times in all UNR indoor public spaces, including classroom, laboratory, studio, creative space, or any type of in-person instructional activity, and public spaces. Furthermore, individuals who have not been fully vaccinated against COVID 19 are required to wear a face covering at all times while on campus, including all indoor and outdoor public spaces. A "face covering" is defined as a "covering that fully covers a person's nose and mouth, including without limitation, cloth face mask, surgical mask, towels, scarves, and bandanas" (State of Nevada Emergency Directive 024). Students that cannot wear a face covering due to a medical condition or disability, or who are unable to remove a mask without assistance may seek an accommodation through the Disability Resource Center.

Statement on COVID-19 Social Distancing: In alignment with State of Nevada guidelines, social distancing is no longer required.

Statement on COVID-19 Disinfecting Your Learning Space: Disinfecting supplies are provided for you to disinfect your learning space. You may also use your own disinfecting supplies.

Statement on COVID-19, COVID-19 Like Symptoms, and Contact with Someone Testing Positive for COVID-19: Students testing positive for COVID 19, exhibiting COVID 19 symptoms regardless of vaccination status will not be allowed to attend in-person instructional activities and must leave the venue immediately. Students should contact the [Student Health Center](#) or their health care provider to receive care and who can provide the latest direction on quarantine and self-isolation. Contact your instructor immediately to make instructional and learning arrangements.

Statement on Accommodation for COVID-19 Quarantined Students: For students who are required to quarantine or self-isolate due to 1) COVID 19 infection or 2) exposure while not vaccinated, instructors must provide opportunities to make-up missed course work, including assignments, quizzes or exams. In courses with mandatory attendance policies, instructors must not penalize students for missing classes while quarantined.

Statement on Failure to Comply with Policy (including as outlined in this Syllabus) or Directives of a University Employee: In accordance with section 6,502 of the University Administrative Manual, a student may receive academic and disciplinary sanctions for failure to comply with policy, including this syllabus, for failure to comply with the directions of a University Official, for disruptive behavior in the classroom, or any other prohibited action. "Disruptive behavior" is defined in part as behavior, including but not limited to failure to follow course, laboratory or safety rules, or endangering the health of others. A student may be dropped from class at any time for misconduct or disruptive behavior in the classroom upon recommendation of the instructor and with approval of the college dean. A student may also receive disciplinary sanctions through the Office of Student Conduct for misconduct or disruptive behavior, including endangering the health of others, in the classroom. The student shall not receive a refund for course fees or tuition.

Spring 2022 – Environmental Law – Course Schedule

#01 January 18

Distribution of course materials; discussion of class requirements; brief history of environmental law in the United States, the concept of "commons," and hot topics.

Readings:

Hardin, Garrett. "The Tragedy of the Commons," *Science, New Series*, Vol. 162, No. 3859, pages 1243-1248 (Dec. 13, 1968).

Handouts:

HO00 Syllabus.rev1
HO01.1 Summary of Environmental Statutes Format
HO01.2 History of Environmental Law

#02 January 25

Introduction to legal systems; definitions of law and environmental law; the policy cycle; rulemaking; the role of the courts in interpreting and enforcing law; federal, state, and administrative legal systems; life cycle of a legal action; jurisdiction, standing, and ripeness; the four-dog defense; legal nomenclature; nuisance law; negligence; joint, several, and strict liability.

Readings:

Environmental Law Handbook: Chapters 1 & 2

Eagle, Josh, Salzman, James and Thompson, Barton H., Jr. "An Introduction to Natural Resources Law and Policy" from Natural Resources Law and Policy (2017), Chapter 1, pages 1-13.

Eagle, Josh, Salzman, James and Thompson, Barton H., Jr. "Perspective on Natural Resource Law and Policy" from Natural Resources Law and Policy (2017), Chapter 2, pages 15-39.

Kraft, Michael E. "The Policy-Making Process and the Environment" from Environmental Policy and Politics (2d Ed.) (2000), Chapter 3, pages 58-80.

Fesler, James W. and Ketti, Donald F. "Regulation and the Courts" from The Politics of the Administrative Process (1996), Chapter 13, pages 340-366.

Rothman, Rick R. and Stiles, Michael J. "Standing in the Wake of Laidlaw," *Environmental Law News*, Vol. 9, No.2 (Spring 2000).

Dowie, Mark. "The Public Trust Doctrine: In Defense of the Commons," *Environmental Law News*, Vol. 11, No.2 (Summer 2002).

Edwards, Sally. "A History of the U. S. Environmental Movement" from Environmental Crime (1998), Chapter 2, pages 31-56.

Matthiessen, Peter. "Rachel Carson" from Time Vol. 153, Issues 12, (March 29, 1999), page 187.

Carson, Rachel. "The Human Price" from Silent Spring (1962), Chapter 12, pages 187-198.

Handouts:

HO02.0 U.S. Legal Systems
HO02.1 Judicial Review of Administrative Decisions and Rulemaking
HO02.2 Life Cycle of a Civil Lawsuit
HO02.3 Environmental Law Legalese

#03 February 1

NEPA - National Environmental Policy Act of 1969; history and purpose.

Readings:

Environmental Law Handbook: Chapter 10

Handouts:

HO03.0 Statutes
HO03.1 ECR Basics

Assignment #00 due February 1: Summary of NEPA (see HO01.1 Summary of Environmental Statutes for format requirements)

#04 February 8

NEPA - National Environmental Policy Act of 1969; preparation of Environmental Impact Statements; agency decision making based upon EISs; Supreme Court challenges.

Handouts:

HO04.0 Complete EIS Outline

HO04.1 Resources Master Listing

HO04.2 Lazarus – The National Environmental Policy Act in the U.S. Supreme Court: A reappraisal and a Peek Behind the Curtains.

HO04.3 Supreme Court Cases on NEPA

#05 February 15

OPA - Oil Pollution Act; oil spill prevention, response, and liability.

Readings:

[Environmental Law Handbook: Chapter 7](#)

Handouts:

HO05.0 Summary of OPA 90

HO05.1 Oil Pollution Act Liability Limits in 2016

Assignment #01 due February 15: Summary of OPA

#06 February 22

TSCA - Toxic Substance Control Act; toxicology; risk assessment; when is "clean" clean enough? Acceptable levels of mortality.

Readings:

[Environmental Law Handbook: Chapter 12](#)

Handouts:

HO06.0 TSCA Death Rates – Lifetime Risks

HO06.1 TSCA Incinerator

HO06.2 An Abbreviated Guide to The Frank R. Lautenberg Chemical Safety for the 21st Century Act

HO06.3 TSCA Progress

Assignment #02 due February 22: Summary of TSCA

#07 March 1

CAA - Clean Air Act; history and purpose; NAAQS; state implementation plans; types of pollutants; enforcement mechanisms; continuing problems; health v. economics.

Readings:

[Environmental Law Handbook: Chapter 5](#)

[Raloff, Janet. "Air Sickness: How Microscopic Dust Particles Cause Subtle but Serious Harm," Science News, Vol. 164, pages 72-74 \(August 2, 2003\).](#)

Handouts:

HO07.0 CAA NAAQS

HO07.1.1 EPA Factsheet on Federal Preemption (One National Program)

HO07.1.2 EPA Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule (One National Program)

Assignment #03 due March 1: Summary of CAA

#08 March 8

CWA - Clean Water Act; history and purpose; **SDWA** - Safe Drinking Water Act; history and purpose; NPDES system; storm water discharge; future trends in federal and state environmental law.

Readings:

[Environmental Law Handbook: Chapters 6 and 8](#)

[Bazel, Lawrence S. "The Clean Water Act at Thirty: A Failure after All These Years?" Natural Resources & Environment, Vol. 18, No.2 \(Fall 2003\).](#)

Handouts:

HO08.0 SDWA Standards

HO08.1 NPDWS – National Primary Drinking Water Regulations Complete Table

Assignment #04 due March 8: Summary of CWA

Assignment #05 due March 8: Summary of SDWA

Important Note: Midterm Exam answer key will be distributed in class only to students who are present.

#09: March 15: No Class – Spring Break

#10 March 22: Midterm exam due 9:00 p.m.

#11 March 29

ESA - Endangered Species Act; history and purpose; controversies involving the ESA; current status of Nevada species.

Readings:

[Musgrave, Ruth S. Endangered Species Act of 1973 from Federal Wildlife Laws Handbook with Related Laws \(1998\), pages 196- 208.](#)

[Brooks, David K. "Regulatory Takings -- Where Environmental Protection and Private Property Collide," Natural Resources & Environment, Vol. 17, No.1 \(Summer 2002\).](#)

[Wilson, Edward O. "Threats to Biodiversity," Scientific American \(Sep. 1989\).](#)

Handouts:

HO11.0 ESA Definitions

HO11.1 Federal Endangered Species in NV

HO11.2 Greater Sage Grouse Approved Resource Management Plan Amendment

Assignment #06 due March 29: Summary of ESA

#12 April 5

RCRA - Resource Conservation and Recovery Act; history and purpose; "cradle to grave" waste management controls; enforcement.

Readings:

[Environmental Law Handbook: Chapter 3](#)

Assignment #07 due April 5: Summary of RCRA

#13 April 12

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act; history and purpose; Brownfields restoration, the evolving EPA policy for restoring contaminated property to productive use.

Readings:

[Environmental Law Handbook: Chapter 9](#)

Caretsky, Steven O. "Turning Brownfields into Homes: A Case Study," *Journal of Environmental Practice*, Vol. 2, No. 5 (Mar/Apr 1996).

Handouts:

HO13.0 Environmental Cleanup & Restoration

Assignment #08 due April 12: Summary of CERCLA

#14 April 19

EPCRA - Emergency Planning & Community Right-to-Know Act; history and purpose; **FIFRA** - Federal Insecticide, Fungicide, and Rodenticide Act; history and purpose.

Readings:

[Environmental Law Handbook: Chapters 15 and 13](#)

Handouts:

HO14.1 List of List

Assignment #09 due April 19: Summary of EPCRA

Assignment #10 due April 19: Summary of FIFRA

#15 April 26

Politics, Climate Change, and its potential effects on Environmental Policy.

Readings:

[Environmental Law Handbook: Chapter 11](#)

Handouts:

HO15.0 Climate Change and Environmental Law

HO 15.1 IPCC, 2021 AR6 Summary for Policymakers (SPM) (42 pages)

HO 15.2 IPCC, 2021 AR6 Technical Summary (TS) (159 pages)

HO 15.3 IPCC, 2021 AR6 Full report (3949 pages)

#16 May 3

Renewable energy and its potential effects on Environmental Policy. Course review and commentary; question and answer session.

Important Note: The Final Exam answer key will be distributed in class only to students who are present.

#17 May 10: Final examination due 10:30 p.m.