Environmental Law & Policy

Spring 2021

Professor Blake Hudson

Monday and Wednesday – MLAC 106

10:30 a.m. to 11:55 a.m.

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Office Hours: Monday & Wednesday 1:00 p.m.-2:00 p.m.

Overview and Goals of the Course

Environmental Law is a relatively young body of law when compared with other legal regimes. As a result, today’s environmental lawyers and policymakers have an opportunity to practice in a dynamic field and to contribute to the development of environmental law on local, state, national, and—increasingly—global scales. Indeed, environmental issues are consistently moving to the forefront of modern legal and political controversies. Environmental law has also become incredibly specialized, with a wide range of issues falling under the broad heading of “environment.” Though we will discuss the common law origins of environmental law and related state and local laws, this course will be concerned primarily with select federal environmental statutes—ranging from those protecting the nation’s air, water, and biodiversity, to those protecting the environment from hazardous waste, to those curbing environmentally destructive federal government actions. While we will focus on federal statutes, the course will provide a framework for understanding the administration of environmental regulations at the state level, since state environmental statutes and agencies operate in a similar manner.

We will study environmental law and policy by reading scholarly articles, reviewing case law, and analyzing statutes and their implementing administrative regulations. While environmental law courses traditionally focus on the most significant laws and cases, this course will also emphasize the scientific, political and economic issues driving environmental conflicts. Furthermore, we will discuss the cross section of environmental law and policy with many other areas of law, including natural resources, administrative, property and land use, constitutional, and international law.

After completing this course, students should:

1. Understand the broader context within which environmental policy is created;
2. Understand the basic functioning of the major federal environmental statutes;
3. Understand the function of administrative agencies implementing environmental laws;
4. Be able to use the tools developed in class to master other environmental statutes;
5. Be familiar with the basic duties of an environmental lawyer.

**Required Text**

Ruhl, Nagle, Salzman and Klass, *The Practice and Policy of Environmental Law*

(4th ed. Foundation Press, 2017) ***Make sure you purchase the FOURTH edition***

***Optional* Study Guide**

Salzman and Thompson, Jr., *Environmental Law and Policy (Concepts and Insights)* (5th ed. 2019)

I may assign PDFs or other supplemental readings from time to time. These may be found under “supplemental reading materials” on Canvas. If you have trouble accessing Canvas for any reason, please let me know.

**Laptop and Technology Policy – *\*PLEASE NOTE\****

I do not allow laptop, smartphone, or other technology use in the classroom. While I appreciate that this is an inconvenience to those who prefer typing their notes during class, after having taught both ways I have found that a classroom without the distractions created by personal computing devices results in a much better learning environment.

Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**Attendance and Participation**

This is a vigorous course and attendance is mandatory. Students missing **6 or more** classes may be penalized up to one full grade point. Sick days, etc. ***must*** be utilized out of ***this*** allotment. In accord with ABA and UF rules, students missing **7 or more** classes may not be permitted to complete the course. Moreover, quality of attendance―including class participation―will be evaluated and students should be prepared to meet this requirement. To adequately meet these requirements, students should miss as few classes as possible, if any at all.

Class participation and preparation are required. All students are encouraged to volunteer comments and questions. I expect you to complete the assigned readings and that you are prepared to participate. ***I will be calling on students to summarize cases and others aspects of the reading***. Participation and preparation are not based upon *quantity* of comments, but rather *quality*. General level of interest demonstrated outside the classroom can count toward your participation score.

**Grading and Assessment**

The grade in the course will be based on participation and a final exam. As noted, participation includes attendance at out of class presentations, workshops, or field trips that may be assigned later in the semester (with exceptions granted for approved schedule conflicts, such as class or work conflicts). More details regarding the final exam will be forthcoming later in the semester. The law school policy on exam delays and accommodations can be found [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form).

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester.

This course follows the Levin College of Law’s grading policies found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies). The below chart describes the specific letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D | 1.0 |
| D- | 0.67 |
| E (Failure) |  |

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](https://gatorevals.aa.ufl.edu/students/) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via [ufl.bluera.com/ufl/](file:///C:\Users\nance\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\70WP0DTB\ufl.bluera.com\ufl\). Summaries of course evaluation results are available to students [here](https://gatorevals.aa.ufl.edu/public-results/).

Academic honesty and integrity are fundamental values of the University community. Students should understand the UF Student Honor Code located [here](https://sccr.dso.ufl.edu/process/student-conduct-code/).

**Class Rescheduling**

I may need to cancel classes from time to time for personal or professional reasons. I will let you know of any cancellations as we proceed through the semester. If any classes require make-up classes to cover the affected dates, we will schedule those accordingly. I will do my best to ensure that make-up classes do not conflict with any of your other classes. For anyone unable to attend a make-up class and with an unusual situation preventing attendance, please let me know and we will address it.

**Required Readings**

Rather than attempt to plan the day-to-day discussions months in advance, I will post assignment sheets on Canvas in two-week intervals to maintain flexibility in our approach (under “assignment sheets” on Canvas). You should receive each new assignment sheet on the Thursday prior to that assignment. This will allow you plenty of time to read and process the Monday assignment before class on that day.

Over the course of this semester, we will endeavor to read Ruhl, Nagle, Salzman and Klass chapters 1 and 9 (as foundational background material) and 2-6, although potentially skipping portions of certain chapters or jumping outside of those chapters for some material. We will try to cover between 15 and 25 pages of text in each class. The chart below represents what we plan to cover, but this is only meant as a general guideline for what we will attempt to accomplish this semester. We may not cover every topic listed below, and I may change the assignments or even dispense with entire topics if necessary. Also, I may add reading materials, although you will be given plenty of time to read these in advance.

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| --- |
| **Chapter 1: An Introduction to Environmental Law in Practice**  The Drivers of Environmental Conflicts  What do Environmental Lawyers Do? |
| **Chapter 9: Administrative Rulemaking and Permitting**  An Introduction to the Administrative State  Rulemaking Proceedings  Permitting Proceedings |
| **Chapter 2: Protecting Endangered Species**  The Endangered Species Act |
| **Chapter 3: The Clean Air Act**  NAAQS, SIPs, NSPS, PSD, NSR, and Title V  Alternative Regulatory Approaches |
| **Chapter 4: Protecting Water Resources**  Point and Nonpoint Source Water Pollution  Wetlands  The Public Trust Doctrine |
| **Chapter 5: Regulating and Remediating Hazardous Substances and Waste**  The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) |
| **Chapter 6: Information Disclosure**  The National Environmental Policy Act (NEPA)  Private Information Disclosure Statutes |

**Covid-19 Policies**

Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  (See <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.)
* Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work. (See <https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>).”

**Heath and Wellness Resources**

Law school can be a stressful time. Do not be afraid to get help when needed. We all go through difficulties, and here are some resources that can help:

* *U Matter, We Care*: If you or someone you know is in distress, please contact [umatter@ufl.edu,](mailto:umatter@ufl.edu) 352-392-1575, or visit [U Matter, We Care website](https://umatter.ufl.edu/) to refer or report a concern and a team member will reach out to the student in distress.
* *Counseling and Wellness Center*: [Visit the Counseling and Wellness Center website](https://counseling.ufl.edu/) or call 352-392-1575 for information on crisis services as well as non-crisis services.
* *Student Health Care Center*: Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](https://shcc.ufl.edu/).
* *University Police Department*: [Visit UF Police Department website](https://police.ufl.edu/) or call 352-392-1111 (or 9-1-1 for emergencies).
* *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](https://ufhealth.org/emergency-room-trauma-center).