

ENVIRONMENTAL LAW
SYLLABUS
ANTONIN SCALIA LAW SCHOOL

G. Tracy Mehan III, Adjunct Professor

Course No. 218-001

3 Credits

6:05-7:30pm, Tuesdays and Thursdays

Fall 2024 Semester

Required Texts:

Environmental Law in Context: Cases and Materials, Fifth Edition by Robin Kundis Craig (West Academic Publishing 2022)

The Making of Environmental Law by Richard J. Lazarus (The University of Chicago Press 2004) (If a paperback edition is available, that will be fine. GTM)

Recommended Text:

Environmental Law and Policy, Fifth Edition by James Salzman and Barton H. Thompson, Jr. (Foundation Press 2019)

Grading will be based on a 100-point basis allocated as follows: 25 points for a review essay of the Lazarus book and 75 points for the final exam.

The review essay will be due on Midnight, Sunday, November 3rd, with student presentations and discussion on Tuesday, November 12th. The review essay should be no more than 1,200 words using Times New Roman 12-point type, double-spaced, with the student's name on each numbered page.

Student Learning Outcomes include:

1. Learning the basics of the major environmental statutes on the books since the 1970s including consistency with and departure from common law principles;
2. Understanding fundamental legal concepts in environmental law including the difference between technology-based and results-based (e.g. health-based) standards as well as information-based approaches; cooperative federalism; and
3. Application of administrative law concepts to environmental regulation including notice and comment, deference, citizen suits and standards of review; and

4. A sense of the ongoing tension in environmental policy carried over into environmental law and regulation, e.g., benefit-cost analysis, trade-offs, disparate impacts and federal-state relations.

Class dates and assignments are below including pages in textbook to be read or skipped as indicated.

August 22

Chapter 2, Environmental Procedures and Judicial Review: NEPA and the APA

pp. 383-406

To be read for your own edification:

Chapter 6, Environmental Citizen Suits and the U.S. Constitution

pp. 1307-1327

August 27

Chapter 2, pp. 406-458

August 29

Chapter 2, pp. 459-508

Do NOT read pp. 508-516

September 3

Chapter 3, Protecting Endangered and Threatened Species in the United State and Globally

pp. 517-553

September 5

Chapter 3, pp. 553-599

September 10

Chapter 3, pp. 600-667

Students should NOT read, pp. 667-717 unless personally inclined. Will not be necessary for final exam.

September 12

Chapter 4, The Clean Air Act, the Risks of Pollution, and the Costs and Benefits of Environmental Regulation

pp. 719-772

September 17

Chapter 4, pp. 772-824

Chapter 4, pp. 863-887

September 19

Chapter 4, pp. 887-905

Do NOT read pp. 905-933

Chapter 4, pp. 933-946

Then read headnotes to *West Virginia v. Environmental Protection Agency*, 597 U.S. (2022) re “major question doctrine.”

September 24

Chapter 5, The Clean Water Act and Federalism.

pp. 999-1037

September 26

Chapter 5, pp. 1037-1069

Do NOT read pp. 1069-1091

Chapter 5, pp. 1091-1129

October 1

Chapter 5, pp. 1129-1155

Do NOT read pp. 1156-1191

Chapter 5, pp. 1191-1193

Do NOT read pp. 1193-1242

October 3

Chapter 5, pp. 1243-1286

Do NOT read, pp. 1287-1299

Chapter 5, pp. 1299-1305

(Friendly reminder: start reading *The Making of Environmental Law* if you have not started already.)

October 8

Chapter 1, Environmental Law and the Common Law: Hazardous Waste, RCRA, and CERCLA
pp. 113-154 (RCRA)

October 10

Chapter 1 pp. 154-205

Do NOT read pp. 206-218

October 15

CLASS CANCELLED. Make-class on Saturday, October 19, 9-10:30am. Room to be assigned.

October 22

Chapter 1, pp. 218-257

October 24

Chapter 1, pp. 257-297

October 31

Chapter 1, pp. 297-326

Book reviews due Midnight on Sunday, November 3rd.

November 5

CLASS CANCELLED FOR ELECTION DAY.

November 7

Chapter 1, pp. 326-361

November 12

Chapter 1, pp. 361-381

Class presentations and discussion of *The Making of Environmental Law*

Handout for next class discussion: Des Moines CWA lawsuit pleading for final exam question.

November 14

Discuss *The Making of Environmental Law*.

Discuss Des Moines CWA lawsuit pleading and final exam question.

Catch up on course assignments, guest speaker, etc.

November 16

NO CLASS-MONDAY SCHEDULE.

November 22-Friday (sic-Tuesday Schedule)

Last class! Discuss environmental law in light of course and knowledge acquired.

Discuss Final Exam.

Abraham Lincoln on the practice of law.

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