

## PPPA 6140 - Introduction to Environmental Law – Spring 2025

Syllabus as of January 2025

Wednesday, 7:10 - 9:40 p.m.

MPA 309

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### Course Description

Environmental law is uniquely a U.S. product, substantially created in the early 1970s by a virtually unanimous Congress. It dramatically reduced air and water pollution that had killed thousands of people and caused rivers to burn. Environmental law remains the central way we translate our societal goals for the environment into action, so it remains a critical part of the environmental solution. This class will help you understand modern environmental law – its genesis, its strengths, and its limitations – and how you can recognize legal issues as they arise.

This is a superb time to study environmental law and its impact on public policy. The **new Administration will usher** in new environmental priorities **stimulating** a wide array of regulatory action. **A new Congress will conduct oversight, consider necessary appropriations, and introduce and pass laws relevant to environmental matters. Finally, the US Supreme Court will continue to address cases with significant environmental cases and their decisions will have a considerable effect on future actions.** During this class we will discuss these changes as they emerge, as well as the key environmental cases being argued before the U.S. Supreme Court this term.

The goal of this class is to have you understand how environmental law works and how it can help to achieve your professional goals. You will learn important aspects of environmental law that you may encounter in your career - how laws are made, how regulations work, and how to read and understand a court decision. You will be able to understand the difference between environmental policy and environmental law. You will also become conversant in how government operates, the respective roles of the three branches of government, and the relative roles of the federal and state governments. Along the way, we will use group and class exercises to discuss an array of applicable

legislation, dissect leading court decisions, and identify complex political factors that shape environmental law. By the end of the class, you will have a good understanding of current law and the responsibility of the various federal, state, tribal and local governments to implement and enforce the law, and the judiciary's role in deciding contested issues.

### **Course Objectives**

The objective of this course is to have you become conversant in environmental law so you can understand how to use the law to meet your objectives and understand how the law may affect you and others. Our goal is that by the end of the course, you can:

- Understand the genesis of modern environmental law, the factors that shaped it, and the way today's political forces frustrate changing environmental law.
- Explain in broad terms major environmental laws, what it covers, and the primary tools it uses to achieve its objectives.
- Use the primary tools of environmental law (statutes, regulations, and court decisions) as well as other governance tools to craft solutions to existing and future environmental challenges.
- Appreciate the role that the rule of law plays in creating a stable society, economy, and environment and how this impacts people, particularly disadvantaged communities.
- Explain the various levels of government and their relative roles so that you can navigate legal hurdles and find legal opportunities to achieve environmental objectives; and
- Understand diverse perspectives about environmental issues and find ways to negotiate solutions.

### **Course Materials**

**We will be using Aagaard, Owen, and Picot's *Practicing Environmental Law* (2d Edition) and selected Supreme Court decisions. That case book is available in hard copy and an E-book option.** Additional readings

will be posted in Blackboard or distributed in class. The attached course schedule gives primary reading assignments, others will be assigned during class.

The readings and materials are central components of this course. We will expect you to have done the assigned reading before class. Our class lectures and exercises will build upon this material, not repeat it. If you do not do the readings, you are unlikely to succeed in this class and you will undermine the progress of your peers. It is also imperative that you come to class and fully participate.

### **Grading**

The assessment of how you perform in this class will be based upon the components summarized below. Any assignment associated with an assessment will be posted in Blackboard under “Assignments.” Please note that these activities are meant to help you learn and assimilate the material as well as to assess your class performance. In grading, we will weigh the class assessments discussed above, based upon 100 possible points:

- Class Attendance and Participation - 20%
- Case Presentation - 10%
- In-Class Exercise - 10%
- Midterm Writing Exercise - 20%
- Final Exam - 40%

### **Class Attendance and Participation (20%)**

“Showing up is 80% of life,” according to Woody Allen. Class participation will be based upon, 1) class attendance, in adherence to the class attendance policy below; 2) participation in class discussion and exercises; 3) demonstration of having prepared for class by performance on mini essays and quizzes; and 4) thoughtfulness of class participation. This score is not dependent on *quantity* of participation. Students who find themselves participating more than others should allow sufficient space in the class so that others may participate; and those students reticent to speak should prepare before class at least one observation that they gleaned from each reading that they are willing to share

with others. If, for some reason, you are unable to attend a particular class, please advise one of the professors as soon as possible.

### **Case Presentation (10%)**

The purpose of this assignment is to assess your ability to find, summarize, and analyze a significant court decision and present its key conclusions and implications to the class. Each student will need to select one the cases from a list that will be available on blackboard that covers many of the leading environmental supreme court decisions. You will prepare a short one-page summary of the case and its holding, a PowerPoint with facts and holding (not to exceed 4 slides), and then in a separate page write about what you consider to be the implications and impact of the decision. You should reach out to the professor who will lecture the day you are to present and coordinate your presentation with them. The Professor will give you additional guidance on what they would like you to emphasize.

Please upload your one-page summary to Blackboard for distribution to the class as a reading assignment at least three days before you present in class. The class will then discuss the case, and the student will be called upon to answer clarifying questions. These presentations will take place over the course of the semester.

### **In-Class Assignment (10%)**

The purpose of this exercise is to have you work through legal issues to identify which factual issues are important and which are not; to understand other parties' arguments and perspectives; and to argue a perspective with which you may not agree. For the in-class exercise, you will represent a party concerning the adequacy of an Environmental Impact Statement completed under the requirements of the National Environmental Policy Act. The challenge will involve environmental justice matters. This is a graded exercise.

### **Mid Term Exercise (20%)**

The class will be asked to analyze an important Supreme Court case from this term. Your mid-term exercise will require you to write a paper than analyzes the oral argument for that case, predict the votes of the nine supreme court justices, and then to

comment on the significance of how you predict the court will rule. You will be given additional information, and the name of the case, during class.

### **Final Exam (40%)**

The purpose of the final exam is to assess your understanding of the material and critical thought about the course content. The exam typically has a number of short answer questions that are meant to test specific knowledge. These have short 1-2 sentence responses. The remainder of the exam utilizes detailed fact patterns, and you are asked how the various laws might apply. The exams are focused on spotting issues that trigger environmental law's applicability and requires basic knowledge about the ways the specific environmental laws work. In addition, the final exams will address issues associated with court jurisdiction and administrative law. The exams are open book, but require good, well-organized notes in order to be successful.

### **Additional Assignments**

- 1) Throughout the course, there may be some mini essays and pop quizzes. These will not be graded. The purpose of mini-writing assignments and quizzes is to verify that you are comprehending the material and to help you assimilate and process the course content.
- 2) We would like to meet individually with each student during the semester. You can arrange a separate meeting or request if a professor can come early to a class. You need not meet with all the Professors, but at least one meeting with one of the three professors is highly encouraged.

### **Grading Evaluation:**

Grades for the course as a whole will reflect the total points adjusted upward to reflect the total points achieved by the top performing student. These letter grades reflect the following philosophy:

- "A" Excellent: Exceptional work for a graduate student. Work is unusually thorough, well-reasoned, creative, methodologically sophisticated, and well written. Work is of exceptional, professional quality.

- “A-” Very Good: Very strong work for a graduate student. Shows signs of creativity and a strong understanding of appropriate analytical approaches, is thorough and well-reasoned, and meets professional standards.
- “B+” Good: Sound work for a graduate student; well-reasoned and thorough, without serious analytical shortcomings. Indicates the student has fully accomplished the basic objectives of this graduate course.
- “B” Adequate: Competent work for a graduate student with some evident weaknesses. Demonstrates competency in the key course objectives but the understanding or application of some important issues is less than complete.
- “B-” Borderline: Weak work for a graduate student but meets minimal expectations. Understanding of key issues is incomplete. (A “B-” average in all courses is not sufficient to sustain ‘good standing.’)
- “C+ /C / C-” Deficient: Inadequate work for a graduate student; rarely meets minimal expectations. Work is poorly developed or flawed by numerous errors and misunderstandings of important issues.
- “F” Unacceptable: Work fails to meet minimal expectations or course credit for a graduate student. Performance has consistently failed to meet minimum course requirements. Weaknesses and limitations are pervasive.

### **Attendance & Participation Policy**

As a master’s level class, students are expected to participate actively in class. While the professors will present material that is unfamiliar and help guide students through the material, students are active co-teachers by bringing their experiences and expertise to class and by discussing the material, exploring new ideas, and challenging each other on how environmental law works in practice as well as theory.

Please let all Professors know via email if you will not be able to attend class. Attendance at all classes is expected, and more than two absences will affect your grade as part of the Class Assessment policy above. We will follow GWU Covid policies and ask that students do not come to class if not feeling well. Professors will

hold office hours by appointment—do not hesitate to reach out via email to set a time to talk. We welcome talking about your future plans.

### **Credit Hours and Work Expectations**

Pursuant to University policy, 37.5 hours of work per semester is required for one credit hour. This course is three credit hours and as such will require 112.5 hours of work, divided between direct instruction (class time) and independent learning (completing reading and other assignments).

Time spent in class will be 2.5 hours per week (35 hours total) and time for class preparation will be an average of about 5 hours per week (78 hours total) with the understanding that some weeks will require more than 5 hours of independent work (when you prepare your case presentation and prepare for the midterm and final exams) and some weeks may require slightly less. Thus, the total hours of work will meet (and likely exceed) the 112.5 hours required.

### **University policies**

#### **Academic Integrity Code**

Academic integrity is an essential part of the educational process, and all members of the GW community take these matters very seriously. As the instructor of record for this course, my role is to provide clear expectations and uphold them in all assessments. Violations of academic integrity occur when students fail to cite research sources properly, engage in unauthorized collaboration, falsify data, and otherwise violate the [Code of Academic Integrity](#). If you have any questions about whether particular academic practices or resources are permitted, you should ask me for clarification. If you are reported for an academic integrity violation, you should contact Conflict Education and Student Accountability (CESA), formerly known as Student Rights and Responsibilities (SRR), to learn more about your rights and options in the process. Consequences can range from failure of assignment to expulsion from the University and may include a transcript notation. For more information, refer to the CESA website at [students.gwu.edu/code-academic-integrity](http://students.gwu.edu/code-academic-integrity) or contact CESA by email [cesa@gwu.edu](mailto:cesa@gwu.edu) or phone 202-994-6757.

### **University policy on observance of religious holidays**

Students must notify faculty during the first week of the semester in which they are enrolled in the course, or as early as possible, but no later than three weeks prior to the absence, of their intention to be absent from class on their day(s) of religious observance. If the holiday falls within the first three weeks of class, the student must inform faculty in the first week of the semester. For details and policy, see [provost.gwu.edu/policies-procedures-and-guidelines](http://provost.gwu.edu/policies-procedures-and-guidelines).

### **Use of Electronic Course Materials and Class Recordings**

Students are encouraged to use electronic course materials, including recorded class sessions, for private personal use in connection with their academic program of study. Electronic course materials and recorded class sessions should not be shared or used for non-course related purposes unless express permission has been granted by the instructor. Students who impermissibly share any electronic course materials are subject to discipline under the Student Code of Conduct. Contact the instructor if you have questions regarding what constitutes permissible or impermissible use of electronic course materials and/or recorded class sessions. Contact Disability Support Services at [disabilitysupport.gwu.edu](http://disabilitysupport.gwu.edu) if you have questions or need assistance in accessing electronic course materials.

### **Academic support**

#### Academic Commons

[Academic Commons](http://academiccommons.gwu.edu) is the central location for academic support resources for GW students. To schedule a peer tutoring session for a variety of courses visit [go.gwu.edu/tutoring](http://go.gwu.edu/tutoring). Visit [academiccommons.gwu.edu](http://academiccommons.gwu.edu) for study skills tips, finding help with research, and connecting with other campus resources. For questions email [academiccommons@gwu.edu](mailto:academiccommons@gwu.edu).

## GW Writing Center

GW Writing Center cultivates confident writers in the University community by facilitating collaborative, critical, and inclusive conversations at all stages of the writing process. Working alongside peer mentors, writers develop strategies to write independently in academic and public settings. Appointments can be booked online at [gwu.mywconline](http://gwu.mywconline).

## **Support for students in and outside the classroom**

### Disability Support Services (DSS) 202-994-8250

Any student who may need an accommodation based on the potential impact of a disability should contact Disability Support Services at [disabilitysupport.gwu.edu](http://disabilitysupport.gwu.edu) to establish eligibility and to coordinate reasonable accommodations.

### Student Health Center 202-994-5300, 24/7

The Student Health Center (SHC) offers [medical](#), [counseling/psychological](#), and [psychiatric](#) services to GW students. More information about the SHC is available at [healthcenter.gwu.edu](http://healthcenter.gwu.edu). Students experiencing a medical or mental health emergency on campus should contact GW Emergency Services at 202-994-6111, or off campus at 911.

## **GW Campus Emergency Information**

GW Emergency Services: 202-994-6111

For situation-specific instructions, refer to [GW's Emergency Procedures guide](#).

## **GW Alert**

GW Alert is an emergency notification system that sends alerts to the GW community. GW requests students, faculty, and staff maintain current contact information by logging on to [alert.gwu.edu](http://alert.gwu.edu). Alerts are sent via email, text, social media, and other means, including the Guardian app. The Guardian app is a safety app that allows you to communicate quickly with GW Emergency Services, 911, and other resources. Learn more at [safety.gwu.edu](http://safety.gwu.edu).

## **Protective Actions**

GW prescribes four protective actions that can be issued by university officials depending on the type of emergency. All GW community members are expected to follow directions according to the specified protective action. The protective actions are Shelter, Evacuate, Secure, and Lockdown (details below). Learn more at [safety.gwu.edu/gw-standard-emergency-statuses](https://safety.gwu.edu/gw-standard-emergency-statuses).

### Shelter

- Protection from a specific hazard
- The hazard could be a tornado, earthquake, hazardous material spill, or other environmental emergency.
- Specific safety guidance will be shared on a case-by-case basis.
- Action: Follow safety guidance for the hazard.

### Evacuate:

- Need to move people from one location to another.
- Students and staff should be prepared to follow specific instructions given by first responders and University officials.
- Action:
  - Evacuate to a designated location.
  - Leave belongings behind.
  - Follow additional instructions from first responders.

### Secure:

- Threat or hazard outside of buildings or around campus.
- Increased security, secured building perimeter, increased situational awareness, and restricted access to entry doors.
- Action:
  - Go inside and stay inside.
  - Activities inside may continue.

### Lockdown

- Threat or hazard with the potential to impact individuals inside buildings.
- Room-based protocol that requires locking interior doors, turning off lights, and

staying out of sight of corridor window.

- Action:
  - Locks, lights, out of sight
  - Consider Run, Hide, Fight

#### Classroom emergency lockdown buttons

Some classrooms have been equipped with classroom emergency lockdown buttons. If the button is pushed, GWorld Card access to the room will be disabled, and GW Dispatch will be alerted. The door must be manually closed if it is not closed when the button is pushed. Anyone in the classroom will be able to exit, but no one will be able to get in.

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Syllabus as of November 2024

Wednesday, 7:10 - 9:40 p.m.

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<b>Class and Date</b>	<b>Topic</b>	<b>Readings</b>
Class 1 January 15	Introduction to Environmental Governance: Overview of the creation and application of US Environmental Law	Read class syllabus, purchase Aagaard book and skim table of contents and the book's introduction.  Select case study on blackboard from list of supreme court cases (to be presented in future classes).
Class 2 January 22	Courts and Access to Justice	Aagaard (2d) pp. 61-66, 88-97
Class 3 January 29	Administrative Law	Aagaard (2d) pp. 97-128  Skim Chevron v. NRDC (1984) and read at least one online commentary of your choosing concerning the so-called Chevron doctrine.
Class 4 February 5	National Environmental Procedure Act (NEPA)	Aagaard (2d) pp. 659-675; 695-699  Additional Readings on BB
Class 5 February 12	Clean Water Act (CWA)	Aagaard (2d) pp. 277-284 (skim 279-284), 286-292 (skip <i>Rapanos</i> and instead read <i>Sackett</i> excerpt on BB), 315-328, 338-350, 359-361, 365-368, 375-377, 379-388  Read <i>Sackett</i> and Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers excerpts on Blackboard  Skim DOJ Press releases in Deepwater Horizon oil spill (on blackboard)

Class 6 February 19	In-class Exercise	Read NEPA/EJ hypothetical in advance and prepare with your team the assigned role for class exercise. This is a graded exercise.
Class 7 February 26	Clean Air Act: Stationary Sources	Aagaard (2d) pp. 159-179 (skip boxes on 176-177), 188-192, 206-231 (skim 212-222 and 224-229) (read up until “Mobile Sources”)  Read <i>West Virginia v EPA</i> and <i>Whitman v. American Truckman</i> on Blackboard
Midterm Assignment will be distributed on February 26 and due March 19		
Class 8 March 5	Climate Change	Aagaard (2d) 254-276  Read excerpts for <i>American Electric Power v. Conn</i> ; <i>West Virginia v. EPA</i> ; <i>Mass v EPA</i> on BB
SPRING BREAK		
Class 9 March 19	Clean Air Act: Mobile Sources	Aagaard (2d) pp. 231-235, 246-254  Skim John Cruden et al., <i>Dieselgate: How the Investigation, Prosecution, and Settlement of Volkswagen’s Emissions Cheating Scandal Illustrates the Need for Robust Environmental Enforcement</i> , 36 VELJ 118–84 (2018), <a href="https://www.jstor.org/stable/26478180">https://www.jstor.org/stable/26478180</a> . Available on blackboard.
Class 10 March 26	Endangered Species Act	Aagaard (2d) pp. 745; 752-756; 759-761; 773-778; 796-815  Read <i>TVA v. Hill</i> and <i>Babbitt v. Sweet Home</i> and other readings on BB
Class 11 April 2	Hazardous Waste: CERCLA/RCRA	Aagaard (2d) pp. 559-579, 598-602, 612-613, 614-633

Class 12 April 9	Chemicals and Pesticides: TSCA/FIFRA	Aagaard (2d) pp. 407-426  Read <i>Center for Biological Diversity v. EPA</i> excerpt on blackboard
Class 13 April 16	Enforcement	Aagaard (2d) pp. 24-26, 508-511  Other reading information to be assigned including recent guidance by EPA office of enforcement and compliance assurance on blackboard
Class 14 April 23	Wrap up, Review, and Current Events	Current Events and Course Wrap Up. Reading assignment to be distributed.
Final Exam		