

School of Environmental and Biological Sciences, Rutgers University

**Environmental Law and Policy 1: Nature, Law and Society**

**11:374:460**

M, Th 10:55-12:15 – Loree 020.

Professor Cymie Payne

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Office hours: You may email me with questions or comments, or to arrange an office meeting to discuss what we are studying or anything else you want to talk about. Email to: [payne@sebs.rutgers.edu](mailto:payne@sebs.rutgers.edu)

**Course Book:**

PLATER, ABRAMS, GRAHAM, HEINZERLING, WIRTH AND HALL, ENVIRONMENTAL LAW & POLICY (5<sup>th</sup> ed., 2016) Note: this is a new edition of the book. Other assigned readings will be available on the internet or Sakai.

**Course Description:**

An upper level course covering US law and policy governing air, water and other natural resources, biodiversity and public health. We consider environmental law and policy at local, state, regional, national and transnational scales, with a primary focus on common law and US federal statutes: the Clean Air Act, Clean Water Act, National Environmental Policy Act, CERCLA (Superfund) and the Endangered Species Act. These statutes are representative of varied approaches to regulation and students who pursue a range of environmental and policy careers will most likely be working with them—many environmental professions exist because of these laws.

The class will examine sources of law, including the common law, the US Constitution, legislation, administrative rulemaking, formal and informal law and evolving negotiated and market-based approaches to regulation. You will develop basic skills in legal research, case analysis, statutory interpretation and regulatory design. The course is intended to prepare students entering environmental science, policy and law professions to understand the laws, regulations and court decisions they will encounter; introduce them to related history and regulatory theory; and for students interested in pursuing careers in the law, to introduce them to the profession.

**Learning objectives**

Students will:

- Identify appropriate governance tools to manage human-environment impacts and be capable of engaging with regulatory, legislative and other democratic processes.
- Identify different approaches to the governance and management of human activities that affect the environment in the US, including institutions, property relations, management regimes, politics, and policies
- Develop a basic knowledge of several key federal environmental laws, familiarity with state and local measures, and common law of toxic torts
- Know how law is made and enforced by legislatures, administrative agencies, courts and civil society
- Be able to apply this knowledge to determine what the governing law is in an area where the law is actively changing
- Find court decisions in free internet databases; learn to comment on federal rulemaking
- Analyze a judgment and report on the facts, the law applied by the court, and the judge's ruling (i.e., brief a case)
- Develop a basic understanding of regulatory design
- Analyze and interpret evidence.
- Improve writing, speaking and listening skills

### Basis for Evaluation

10% Class participation: Be prepared by reading the assignments and take the opportunity to make thoughtful contributions to class discussion. You should attend every class. I realize that sometimes circumstances arise that make this difficult. I will excuse absences for reasons recognized by University policy and supported by appropriate documentation. If you have more than two unexcused absences, you should consider whether you are overextended and should drop the class. More than two unexcused absences will result in points deducted from the final grade. The class participation grade will include several credit/no credit practice exercises. You will submit these via Sakai and we will discuss them in class. I am happy to provide individual feedback on your assignment if you send me an email to ask that we talk about it or for me to give you written comments.

15% 3 short written assignments graded credit/no credit which allow you to learn and practice skills.

75% 3 exams of equal weight.

### Prerequisite:

This course no longer has a prerequisite course. However, you will need to know, before the course starts, the basics of how the government of the United States works. This is essential knowledge for you to make sense of the law and policy that we will be studying. On the first day of class you will take a short, ungraded quiz, taken from the exam given to people who wish to become U.S. citizens so that we can assess your grasp of these basics. The material that you are expected to know can easily be reviewed (or learned) by spending thirty minutes with the 2016 New Jersey Citizen's Guide to Government by the League of Women Voters (at [http://lwvnj.org/images/CG/2016\\_CG.pdf](http://lwvnj.org/images/CG/2016_CG.pdf) or in Sakai: Resources for the class). Basic explanations of the function of the three branches of government, and local, state and federal government are given, along with the name and address of all elected NJ officials (you don't need to know who the NJ officials are).

→ TOPICS AND ASSIGNMENTS ARE SUBJECT TO CHANGE - CHECK ON SAKAI ←

1	9/8	Class introduction: Why environmental law? League of Women Voters of New Jersey, 2016 New Jersey Citizen's Guide to Government Plater, et al. Introduction and Chapter 1 (read before first class)
If you are a US citizen and eligible to vote you can register to vote, request a mail-in ballot, and vote in the November election. If you aren't a NJ resident, you will need to register in your state and request a mail-in ballot. Most states require mail-in registration be received by 30 days before the election. New Hampshire town and city clerks will accept the national application only as a request for their own absentee voter mail-in registration form. North Dakota does not have voter registration. Wyoming law does not permit mail registration. For information about all this: RU VOTING: <a href="http://yppp.rutgers.edu/ru-voting/">http://yppp.rutgers.edu/ru-voting/</a>		
2	9/12	Chapter 2
3	9/15	Common law: Environmental torts, causes of action Chapter 3 pp 75-108
4	9/19	Common law: Toxic tort remedies Chapter 3 pp 108-144
5	9/22	Common Law: Science in the courtroom, <i>A Civil Action</i> Chapter 4 pp 145-166 Review reading to this point and bring questions to class
6	9/26	Introduction to regulation Chapter 5 – pp 173-198 Problems of delegation to agencies; Regulatory strategies
7	9/29	Timed take home exam on common law, experts and evidence and regulatory strategy

		Class will not meet
8	10/3	Administrative law: rulemaking, judicial review, agency dysfunction, due process Chapter 6, 199-222 New Yorker article: Executive Authority [Sakai]
9	10/6	Admin Law (cont.) National Environmental Policy Act (NEPA) – environmental assessment, public participation Chapter 8 – pp 313-342
10	10/10	NEPA (cont.) – Chapter 8 U.S. Constitutional & Federalism Chapter 7 – pp 257-278
11	10/13	Clean Water Act Reading for classes 11 & 12: Chapter 12 – pp 519-569
12	10/17	Clean Water Act (continued)
Oct 18 – last day to register to vote in NJ		
13	10/20	NO CLASS - In place of class today, attend: Elizabeth Kolbert The Sixth Extinction on October 26, 8-9:45 PM College Avenue Student Center Multipurpose Room
14	10/24	Wetlands protection pp 359-365, 519, 526-529
	10/26	Elizabeth Kolbert The Sixth Extinction on October 26, <b>8-9:45 PM</b> College Avenue Student Center Multipurpose Room – THIS IS IN PLACE OF CLASS 13 – ATTENDANCE IS MANDATORY
15	10/27	Biodiversity, Endangered Species Act Chapter 10 – pp 419-458
	10/28	<i>If you were unable to attend the Kolbert talk due to a schedule conflict, you may instead attend: Taking Chances: The Coast After Hurricane Sandy - 1 pm - Livingston Student Center, Piscataway, NJ</i>
16	10/31	Cost Benefit Analysis in Agency Rulemaking and Review of Regulations Chapter 13 – pp 571-606
Nov 1 – last day to request NJ mail-in ballot		
17	11/3	MIDTERM – in-class
18	11/7	Introduction to the Clean Air Act Reading for classes 18-21: Chapter 11 – pp 459-518
8 - VOTING DAY		
19	11/10	Clean Air Act (continued)
20	11/14	Clean Air Act (continued)
21	11/17	Clean Air Act (continued)
22	11/21	Environmental justice – readings are posted on Sakai-Resources
23	11/22	CERCLA Reading for Classes 20-22: Chapter 16 – 687-754
24	11/28	CERCLA (continued) Neil Wise guest lecture
25	12/1	CERCLA (continued)
26	12/5	CERCLA (continued) David Singer guest - simulation
27	12/8	Public Trust Chapter 20 – pp 881-914
28	12/12	No reading assignment
	12/20 12:00-3:00	FINAL EXAM

**Disability Services Statement:**

If you have a disability and require instructional and/or examination accommodation, please inform me early in the semester of accommodations you need. If you have not already done so, register with the Office of Disability Services, the designated office on campus to provide services and administer exams with accommodations for students with disabilities. The Office of Disability Services is located in the Kreeger Learning Center, 151 College Ave, Suite 123, New Brunswick phone number 732-932-2848.

**Academic Integrity:**

In my experience, the norm is for students in my classes to behave with deep respect for their own honor and integrity and for each other. The rare exceptions violate the mutual trust between students, and between students and faculty, and will not be tolerated. You can find a description of Rutgers academic integrity policy here: <http://academicintegrity.rutgers.edu/>. Please read it carefully so that you do not inadvertently engage in behavior that is a violation of the policy.

**Studying Together:**

Studying together is particularly helpful in this class. You will learn more by getting together with others to work through questions posed in the assigned reading and to create hypotheticals testing your understanding and applying the class material to environmental pollution, environmental justice and resource use issues that you encounter in the world. However, the written assignments and exams are not group work unless you are instructed by me that they are. This means that if you do collaborate on a written assignment or an examination, it will be treated as a violation of academic integrity. Please do not be confused. Ask me if you have a question about this.