



**Tracy Hester**  
**Environmental Law**  
**LAW5390**  
**Fall 2014**

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## COURSE DESCRIPTION

Environmental law is one of the most dynamic and exciting areas of legal practice, and it plays a pivotal role in protecting our personal health and welfare, guiding economic development and business life, and shielding our most precious natural treasures and resources from misuse or harm. Environmental lawyers explore and apply a complex set of federal and state statutory protections, administrative regulatory prohibitions, and convoluted judicial interpretations. We will explore this broad field together with three goals: to acquaint you with the unique aspects of environmental law and how they present important challenges and opportunities, to help you hone the thinking and analytical skills that govern this area (as well as other legal fields with strong administrative or regulatory dimensions), and to give you a practical sense of the key tools and materials you would need to start handling environmental projects.

This course will use a combination of lectures, class discussions, case studies, in-class exercises and sample problems. Where possible, I will introduce real-life on-going matters and projects to provide an opportunity to wrestle with some of the most active questions in current environmental practice. We will also use role-playing exercises to give you experience in environmental negotiations and enforcement situations. Last, some of our classes will include guest lecturers prominent in environmental law, and we hopefully can schedule two class visits to sites with particular environmental interest (e.g., a refinery or chemical plant, a Superfund site, or an environmental justice orientation and tour).

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## COURSE MATERIALS

We will use the following course book:

R. Percival et al, *Environmental Regulation: Law, Science, and Policy* (7th ed. 2013). It was released in August 2013.

You will not need the statutory and case supplement because I will provide links or copies of background materials or new cases. This text is also available in electronic SmartBook format for a slightly lower price. You can find out more information on the electronic text at:

[www.aspenlaw.com/product.asp?catalog\\_name=LegalEd&product\\_id=1454806443](http://www.aspenlaw.com/product.asp?catalog_name=LegalEd&product_id=1454806443) .

In addition, I will provide a copy of the following book in the reference section of the library. It's a good overview of basic environmental law concepts that might help clarify some of the denser readings in the Percival coursebook:

J. Salzman and B. Thompson, Jr., *Environmental Law and Policy* (3d ed. 2010)

We'll also use class handouts and supplemental materials as needed. In addition to distributing them in class, I'll have these materials posted on the class website.

If you are interested in practicing in this area, I'll also point out additional supplemental reference materials for purchase or check-out at the Law Library.

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## ASSIGNMENTS

Our class reading assignments will follow the course syllabus listing. Of course, you should read each day's assigned materials in advance and be prepared to discuss them in class. If we need to adjust the reading assignments, I'll be sure to announce the changes in class and post them to the class website as quickly as possible. I will also ask three of you to serve as a reading bench for each class.

I will also provide short exercises that reflect the types of materials and analysis that you would be asked to provide in a typical environmental practice. I will only count your performance on these exercises as part of your class participation credit (i.e., I can adjust your graded upward or downward a half-grade based on overall class participation and performance). These exercises are not designed to increase your stress -- they hopefully will help you review the course materials and give you a preview of some aspects of legal practice.

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## ATTENDANCE

Pursuant to the Law Center's policies and ABA requirements, you will need to attend at least 80% of the classes to receive credit for this class. While I won't rigorously take daily attendance, I will periodically check and you will have to verify on your final examination that you have complied with the Law Center's rules and attended at least 80% of class sessions.

If we need to cancel any classes, we will reschedule a make-up class as soon as possible. According to the Law Center's policy, we will likely hold the make-up class on a Friday.

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## CLASS PARTICIPATION

Please be prepared to discuss the readings assigned for that day. I will call on students randomly and by row, and will expect that you have completed the assigned reading. Of course, you can also volunteer comments and questions. We'll also have a reading bench of three students for each class, and I will notify each member of the reading bench before the class.

I will adjust grades by one notch (i.e., a half-grade) based on class participation. It works both ways - you can raise your grade with energetic and insightful participation, or you can lower it by consistently failing to prepare adequately for class.

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## GRADING

Your grade in this class will be based on a final examination. This exam will last for three hours, and will consist solely of essay questions. You can bring your personal notes or outlines that you create, your text book for this class, and any handouts. No commercial outlines or briefs, please. We'll discuss the test format and other issues later in the semester.

As discussed above, I will also periodically give you short assignments designed to mirror the types of questions and tasks that you would face as an environmental lawyer. These exercises will hopefully help you review our class materials to that point as well as give you insight on the most successful approaches for answers.

Last, as per Law Center policy, I reserve the right to make adjustments to grades based on attendance and class participation. This adjustment can be upward or downward.

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## OFFICE HOURS

My office is located at Faculty Suites TUII in office 142. You can reach me during my regular office hours, and I'm also glad to meet with you at any time that you can stop by my office (assuming that I'm not otherwise busy). Please call or email me if you'd like to schedule a visit during any particular time. You can reach me at 713-743-1152 (office) or at [tdhese2@central.uh.edu](mailto:tdhese2@central.uh.edu) .

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