

Syllabus

ACE 406: Environmental Law

Fall 2018

A. Bryan Endres
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322 Mumford Hall

Teaching Assistant:
To be determined

3:00-4:20 pm, Tuesday & Thursday, 426 Mumford Hall

Objective: Provide an introduction to the legal and political dimensions of environmental law and policy. The course examines the history and evolution of major federal laws and regulations within the broad field of environmental law. Some of the specific topics covered in this class will include hazardous waste rules, air pollution prevention, water regulation, land use controls and endangered species preservation.

Format: This is a lecture-discussion course. Lectures will focus on the assigned reading materials and other relevant information. Attendance in each class is expected along with active and informed participation in class discussions. Students are expected to have completed the assigned readings prior to each class meeting.

Website: All quizzes and exams will be via the class website on Compass. If you are properly enrolled, you should have access. Please verify that you can access the ACE 406 Compass website immediately. If not, please notify our Teaching Assistant, [to be determined] to correct the situation.

Required Course Materials: Percival, Schroeder, Miller & Leape, *Environmental Regulation: Law, Science & Policy* (Aspen, 7th ed. 2013). You do not need to purchase the accompanying *Environmental Law: Statutory and Case Supplement and Internet Guide*. I will provide other materials, as needed, on Compass. There is also an e-version of the text book.

Coursework: For each topic you will complete three tasks: (1) read the required materials in the text or articles posted on Compass; (2) be prepared to discuss the material in class; (3) complete the weekly open-book, open-note online quiz that will be available Friday through Sunday of each week. In addition, students enrolled for honors or graduate credit must complete five essay assignments (400-600 words) throughout the semester based on a provided question/topic.

Class Attendance: Section 1-501 of the Student Code states that regular class attendance is expected of all students at the University. If your class attendance becomes irregular, I will follow the procedures outlined in the Student Code, which could result in a grade of Withdrawal or Failure. The Student Code describes situations that qualify as an excused absence. To the extent possible, explanations for excused absences should be provided in advance of class via email. Attendance will be considered in assessing class participation. In addition, I will distribute occasionally questions at

the end of class for each of you to turn in upon departing. These questions will be graded and also contribute to your overall class participation score.

Academic Integrity: According to University of Illinois policy, and the generally accepted standards of practice in higher education, academic integrity issues may take the form of (among other activities) cheating, fabrication, and plagiarism. Please consult the university's full policy at http://www.admin.illinois.edu/policy/code/article1_part4_1-401.html if you have any questions about the activities constituting academic integrity, the penalties and procedures for violations of the university's policy, and students' rights in the event they are accused of infractions. Violations of academic integrity of any kind will not be tolerated in this course and may result in a failing grade. Ignorance is not an excuse for academic dishonesty. It is your responsibility to read this policy to avoid any misunderstanding. Do not hesitate to ask me if you are ever in doubt about what constitutes plagiarism, cheating, or any other breach of academic integrity. Please note that although the quizzes and exams are open-book and open-note, these are individual assignments and collaboration with classmates during the actual quiz or exam is a form of cheating and will be dealt with in accordance with university policy. Moreover, I want to remind you that copy and pasting responses from on-line websites is considered a form of plagiarism.

Office Hours:

Professor Endres: I will hold office hours at the following times: Tuesdays: 1:30-2:30; Wednesday 11:00-12:00. I am available by appointment at other times. You are also welcome to just knock on my door (*except immediately before class*) to see if I am available. I encourage you to stop in during office hours to talk about the course; careers (especially graduate school or law school); or current environmental issues. If you wish to talk to me and have a conflict with the scheduled office hours, please contact me set up an appointment. I also recommend (but certainly do not require) emailing me in advance if you plan to stop by the scheduled office hours as on occasion I may have a conflicting appointment.

Teaching Assistant hours to be determined.

Grades: I assign letter grades, including plus or minus, on a standard scale of 10 percentage points, with the examples of A and B grades described below.

97.50 – 100 %: A+
92.50 – 97.49 %: A
90.00 – 92.49 %: A-
87.50 – 89.99 %: B+
82.50 – 87.49 %: B
80.00 – 82.49 %: B-

For undergraduate students, there are 1000 possible points for this course. Final grades will be comprised of the following tasks/assignments:

- Weekly quizzes: 300 points
- Midterm exam: 275 points
- Final Exam (cumulative): 325 points
- Class Participation: 100 points

For graduate/honors students, there are 1100 possible points for this course. Final grades will be comprised of the following tasks/assignments:

- Weekly quizzes: 300 points
- Midterm Exam: 275 points
- Final Exam: 325 points
- Class Participation: 100 points
- Essay Questions: 100 points

Optional Extra Credit: The Institute for Sustainability, Energy Environment (iSEE) hosts an annual fall congress. The theme this year is sustainable cities. I highly recommend attending as many of these sessions as your schedule will allow. There will be a sign-in sheet for ACE 406 at this event and for those attending a session I will award 20 extra credit points. You can register for the conference here: <https://sustainability.illinois.edu/outreach/isee-congress/isee-congress-2018/>

Student Assistance: For personal issues, please do not hesitate to contact the Counseling Center by calling (217) 333-3704. More information is available at <http://www.counselingcenter.illinois.edu/>.

Students with Disabilities: In accordance with University of Illinois guidelines, students with disabilities who need an accommodation are responsible for contacting their instructors to notify them of this need by means of presenting them with a Request for Accommodations letter. Disability Resources and Education Services encourages students to present this letter as soon as possible, preferably within the first week of classes. Instructors are not expected to provide accommodations until the student notifies them. Please consult <http://www.disability.illinois.edu> for more information and policy guidance. I am committed to making every effort to accommodate all students throughout this course. Please do not hesitate to contact me to discuss any needs or concerns you may have relating to a disability. Any such discussions will be kept confidential.

Reading and Lecture Schedule

Tuesday, August 28

Course Introduction and Overview:

1. PERCIVAL, pp. 1-7
2. Brian Herbert Wilson, Jr., *Case Briefing—The Cornerstone of Legal Education* (available on Compass)
3. Excerpt on US Law Background (optional, but helpful for those unfamiliar with the US legal system) (available on Compass)
4. Lynn Grayson—*Environmental Lawyer*, Super Lawyers Magazine (2016) (available on Compass) (optional, but interesting background information on the practice of environmental law)

Thursday, August 30

Environmental Common Law

5. PERCIVAL, pp. 63-70

6. PERCIVAL, pp. 71-72 (note 8)
 7. PERCIVAL, pp. 75-85
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Tuesday, September 4

Statutory Environmental Law

8. PERCIVAL, pp. 89-100 [Graduate only; Optional for Undergraduate]
 9. PERCIVAL, pp. 93-94
 10. PERCIVAL, p. 96 (Figure 2.1)
 11. PERCIVAL, pp. 102-103; 110-115; 117-120; 122-124
 12. PERCIVAL, pp. 131-132 (Section E. Commerce Clause)
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Thursday, September 6

The Regulatory Process

13. PERCIVAL, pp. 136-141;
14. PERCIVAL, pp. 148-158 [Graduate Only]
15. PERCIVAL, pp. 168-174; 178; 183-190
16. *Michigan v. EPA*, 135 S. Ct. 2699 (2015) (edited case available on Compass)

Environmental Justice

17. PERCIVAL, pp. 15-20
 18. The Editorial Board, THE NY TIMES, *Michigan's Failure to Protect Flint* (Jan. 15, 2016) (available on Compass)
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Tuesday, September 11

Waste Management & Pollution Prevention

19. PERCIVAL, pp. 191-204
 20. PERCIVAL, pp. 223-225
 21. PERCIVAL, p. 227 (note 4)
 22. PERCIVAL, pp. 227-228 (EPCRA discussion)
 23. PERCIVAL, p. 279 (notes 5-6) [Graduate only]
 24. PERCIVAL, pp. 318-323
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Thursday, September 13: NO CLASS MEETING---Even though there we will not meet as a class, there will be a quiz this week.

Tuesday, September 18

Waste Management & Pollution Prevention II

25. PERCIVAL, pp. 349-354; 360-367; 371-378

- 26. PERCIVAL, p. 383 (note 10)
 - 27. PERCIVAL, pp. 384-387; 389-395; 406-409 (thru note 1)
 - 28. Lisa Black, *Metal Detectors, Aerial Photos Reveal More Trash at Hawk Hollow*, CHICAGO TRIBUNE (July 17, 1998) (available on Compass)
 - 29. Stacey Venek Smith, *Low Oil Prices Interfere With What Recyclers Are Paid For Plastic*, NPR Morning Edition, (Jan. 14, 2016) (podcast available on Compass)
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Thursday, September 20

Waste Management & Pollution Prevention III

- 30. PERCIVAL, pp. 411-426; 431-436; 440-445

YouTube Video: https://www.youtube.com/watch?v=h2_CT_cb3ls

YouTube Video: <https://www.youtube.com/watch?v=I1VzX5MvjXY>

Tuesday, September 25

Waste Management & Pollution Prevention IV

- 31. PERCIVAL, pp. 488-503; 506-516
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Thursday, September 27

Air Pollution Control

- 32. PERCIVAL, pp. 523-525; 526-529
 - 33. PERCIVAL, p. 532 (Major Provisions of The Clean Air Act)
 - 34. PERCIVAL, pp. 533-554
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Tuesday, October 2

Air Pollution Control II

- 35. PERCIVAL, pp. 555-561; 562-566; 568-569
 - 36. PERCIVAL, pp. 570-575; 578-579; 582-585 (Stop before section III of the case)
 - 37. PERCIVAL, pp. 590-591 (notes 7 & 8)
 - 38. PERCIVAL, pp. 594-596
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Thursday, October 4

Air Pollution Control III

- 39. PERCIVAL, pp. 602-607
- 40. PERCIVAL, pp. 612-622

- 41. PERCIVAL, p. 623 (notes 1 & 2)
 - 42. PERCIVAL, pp. 628-631; 634-636
 - 43. PERCIVAL, p. 636 (note 2)
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Tuesday, October 9

Review and catch-up and test preparation

Midterm Exam: October 11 – October 14

The midterm exam will be available on Compass starting at 7:00 am Thursday, October 11. The exam will close at 11:59 pm on Sunday, October 14. You may start the exam at any time, but once started you will have 1.5 hours to complete the test. You may only make one attempt. If you experience any technical problems while taking the exam, please email our Teaching Assistant and copy me explaining the situation. We will do our best to respond quickly and make any necessary adjustments, such as resetting your access to the exam. More details will be available before the exam

Tuesday, October 16

Water Pollution Control

- 44. PERCIVAL, pp. 657-659
 - 45. PERCIVAL, p. 661 (Figure 6.2)
 - 46. PERCIVAL, p. 662 (Figure 6.4)
 - 47. PERCIVAL, pp. 663-668
 - 48. PERCIVAL, pp. 671-672 (Notes 1 & 4)
 - 49. PERCIVAL, pp. 672-676
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Thursday, October 18

Water Pollution Control II

- 50. PERCIVAL, pp. 678-690
 - 51. PERCIVAL, p. 693 (Figure 6.6)
 - 52. EPA, *Factsheet, Clean Water Rule* (available on Compass)
 - 53. PERCIVAL, pp. 694-705
 - 54. PERCIVAL, p. 706 (Notes 5 & 6)
 - 55. PERCIVAL, pp. 707-709
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Tuesday, October 23

Water Pollution Control III

- 56. PERCIVAL, pp. 710-715; 716 (Note 6); 717-723 (thru Note 5); 737-741; 742-746; 748-753; 757-762 (stop reading at bottom of page 762)

57. PERCIVAL, p. 767 (Notes 5, 6 & 7)

Thursday, October 25

Water Pollution Control IV

58. PERCIVAL, pp. 767-772 (stop reading at III. Analysis of the *Pronsolino* case); continue reading the case at page 775 (C. Federalism Concerns) through the end on page 776.

Tuesday, October 30

Wetlands

59. PERCIVAL, pp. 779-785; 786-790

60. *Downer v. US*, 97 F.3d 999 (1996) (edited) (available on Compass)

61. PERCIVAL, pp. 796-799

Thursday, November 1

Land Use Regulation & Regulatory Takings I

62. PERCIVAL, pp. 801-804 (thru note 3); 814-820; 826-831 (thru note 1); 831 (note 4)

Tuesday, November 6

Land Use Regulation & Regulatory Takings II

63. PERCIVAL, pp. 832-855

Thursday, November 8

Land Use Regulation & Regulatory Takings III

64. PERCIVAL, pp. 857 (Development Moratoria) – 868

Tuesday, November 13

Environmental Assessment I

65. PERCIVAL, pp. 895-905; 918-921; 922-925; 938-943

Thursday, November 15

Environmental Assessment II

66. PERCIVAL, pp. 953-967

Tuesday, November 27

Endangered Species

67. PERCIVAL, pp. 979-982; 984-991; 991 (note 3); 992 (note 5); 993 (notes 7 & 8); 993-1001

Thursday, November 29

Endangered Species II

68. PERCIVAL, pp. 1017-1021; 1029-1031; 1049-1057; 1061-1062

Tuesday, December 4

Environmental Enforcement

69. PERCIVAL, pp. 1071-1075; 1085-1090; 1091 (note 4); 1092-1094; 1123; 1130-1136

Thursday, December 6

Environmental Enforcement II

70. PERCIVAL, pp. 1142-1150; 1152; 1155-1160; 1174-1178

Tuesday, December 11

Review and catch-up and test preparation

Final Exam: Date to be Determined

The final exam will be available on Compass on the date determined by the university. The exam will open at 6:00 am on the assigned date and close at 11:59 pm that day. You may start the exam at any time, but once started you will have 3.0 hours to complete the test. You may only make one attempt. If you experience any technical problems while taking the exam, please email our Teaching Assistant and copy me explaining the situation. We will do our best to respond quickly and make any necessary adjustments, such as resetting your access the exam. More details will be available before the exam.