

ENVIRONMENTAL LAW & POLICY
UNIVERSITY OF WISCONSIN OSHKOSH
Political Science 316 (Environmental Studies 316)
M–F 9:00–12:00 Sage Hall 3215

PROFESSOR INFO

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COURSE OVERVIEW

This course focuses on U.S. (federal) environmental law and policy, especially laws related to social behaviors and climate change. The course examines policymaking processes, particularly in administrative agencies. Specific policy areas include air, water, waste, and energy policy, but students have the opportunity to examine their own policy areas of interest. The course also probes philosophical and social underpinnings of environmental law, such as ecofeminism, capitalism, collectivism, and cost-benefit analyses. One of the main course themes is examining environmental law and policy through a sustainability lens. There are no pre-requisites for this course, but students are strongly encouraged to have prior coursework or an equivalent understanding of basic principles of American government (PS 105) and environmental studies (either ES 101 or PS/ES 261).

COURSE OBJECTIVES

This course has two sets of learning objectives.

UWO Essential Learning Outcomes

Essential Learning outcomes are learning objectives and skills that crosscut all disciplines and majors at UWO. In this course we focus on several ELOs. Throughout the course, students will:

- Identify and objectively evaluate theories and assumptions
- Think critically and creatively
- Communicate orally and in writing
- Develop knowledge of sustainability and its applications.

Knowledge of sustainability and its applications is the ability to understand local and global Earth systems, the qualities of ecological integrity and the means to restore and preserve it, and the interconnectedness of ecological integrity, economic well-being, and social justice, in order to analyze complex environmental, economic and social issues to respond effectively to them.

Environmental Law and Policy Learning Objectives

Throughout the course, students will:

- Understand major components of the environmental policymaking processes in the U.S., including major institutions of the political system.
- Critically evaluate environmental laws and policies through a lens of sustainability.
- Research and present to classmates issues related to environmental law and policy.
- Apply policymaking models and ethical models to specific environmental policies.
- Develop policy solutions that address environmental challenges.

CLASS GUIDELINES

I have four principles I ask students to observe in class. Be *honest, energetic, reliable, and respectful*.

COURSE REQUIREMENTS AND GRADING

I use the 93/90/87 grading scale for this course.

A	93–100	B+	87–89	C+	77–79	D+	67–69	F	0–59
A-	90–92	B	83–86	C	73–76	D	63–66		
		B-	80–82	C-	70–72	D-	60–62		

Your grade will be based on the following requirements, each weighted respectively.

Group Project: Presentation and Paper (40%)

Students collaborate to research and write a paper analyzing an environmental policy area. The project should incorporate many of the major topics covered during the course including sustainability, policymaking models, values (economic development, ecofeminism, etc.), climate change adaptation, climate change mitigation, politics, administrative state, or ethics. With this requirement, the paper serves as a comprehensive examination of sorts, since students will apply course concepts to a specific environmental policy. In addition to the paper, students formally present their work to the class and develop an activity to help the class better understand the environmental issue.

Participation (40%)

This class is highly participatory. There will be regular assignments and in-class activities that require students to actively engage the materials and topics and to take personal responsibility for their own learning. Examples include reflection papers, group problem solving, mini-research assignments, briefing cases, and presentations. A good participation grade is not given; it is earned. Students are expected (minimally) to read assigned material and contribute regularly to class discussions and activities. Quality of participation is also important. Students receive the best participation grades when they demonstrate critical thinking and when they assimilate complex ideas, including classmates' ideas. The last class periods are dedicated to student presentations of specific policy areas.

Exam (20%)

The final exam will assess student attentiveness to and mastery of material covered primarily during other students' presentations. Students will have the opportunity to structure questions they will be asked on the exam.

LATE ASSIGNMENTS AND MAKE-UP WORK

Students are expected to turn in assignments on the due dates. I accept late assignments (with a stiff penalty) only if I have not returned graded assignments or discussed the answers in class. Students who miss in-class assignments will be excused only if they have bona-fide excuses according to university policy (e.g., documented illness, family death). Make-up exams will be given only if the student contacts me in advance. In short, turn in assignments on time. If you are unable to do so, please contact me to discuss your individual situation.

ATTENDANCE

Regular attendance is expected, but there is no strict attendance policy. I take attendance at the beginning of each class, mainly to learn student names. Remember, participation is 40% of the

grade. Obviously, you cannot participate if you are not in class. It is unnecessary to e-mail or contact me if you are absent. When absent, it is your responsibility to contact a classmate for missed notes or assignments. I do not supply notes, nor do I provide one-on-one lectures. I am always happy to meet with students to review material that may be unclear.

ACADEMIC HONESTY

The University of Wisconsin Oshkosh is committed to a standard of academic integrity for all students. The system guidelines state, “Students are responsible for the honest completion and representation of their work, for the appropriate citation of sources, and for respect of others’ academic endeavors.” Students are subject to disciplinary action for academic misconduct. Students on the UW Oshkosh campus have been suspended from the university for academic misconduct.

Students are encouraged to review the procedures related to violations of academic honesty as outlined in Chapter UWS 14, Wisconsin Administrative Code, which can be found on the Dean of Students website at www.uwosh.edu/stuaff/dean/student-conduct. Specific questions regarding the provisions in the code (and institutional procedures approved to implement the code) should be directed to the Dean of Students Office.

READING AND STUDY SKILLS CENTER

www.uwosh.edu/readingstudycenter • Nursing/Education Bldg., Room 201.

The Reading/Study Center offers students at all stages of academic development an opportunity to acquire more sophisticated reading and study techniques. Students can schedule an individual consultation for topics such as note-taking, learning and memory enhancement, textbook reading strategies, test preparation, time management, and test-taking techniques. Learning specialists will work with students to assess individual strengths, target areas for improvement, and apply new strategies directly to their courses. Other forms of assistance include a walk-in reading skills lab, one-credit classes, workshops, and self-help resources.

THE WRITING CENTER

www.uwosh.edu/wcenter • 424-1152 • wcenter@uwosh.edu • Student Success Center, Suite 102

All UW Oshkosh students are eligible for free, one-to-one conferencing at the Writing Center. All writers can benefit from talking with engaged, interested readers about their work. Trained peer consultants help writers of all ability levels understand an assignment, envision possibilities for a draft, and improve their writing process. They also can help writers learn to identify and correct their own proofreading errors. Students can make an appointment or stop by to see whether a consultant is available.

CENTER FOR ACADEMIC RESOURCES

www.uwosh.edu/car • 424-2290 • car@uwosh.edu • Student Success Center, Suite 102

The Center for Academic Resources (CAR) provides free tutoring for students in most undergraduate courses. Check the Tutor List page on CAR’s website for a current list of available tutors. To schedule a tutoring session, simply email the Tutor, let him/her know what class you are seeking assistance in, and schedule a time to meet. If your course is not listed, click on a link to request a tutor. The Center for Academic Resources also provides support to students through Supplemental Instruction and the Peer Educator program.

D2L

Students use D2L in this course. For questions about training or for technical assistance, call the UW help desk at (888) 435-7589.

TEXT & READINGS

Students should obtain a copy of the primary text. It will be used extensively in the course.

- Ferrey, Steven. ENVIRONMENTAL LAW, Fifth Edition (2010). ISBN: 978-0-7355-8873-8.

The following readings are also assigned and will be available electronically at no cost to students.

- Dye, Thomas. UNDERSTANDING PUBLIC POLICY, Twelfth Edition. Prentice Hall Publisher. 2008 (Ch. 2). (D2L)
- Farber, Daniel. *Rethinking the Role of Cost-benefit Analysis*. 76 UNIVERSITY OF CHICAGO LAW REVIEW 1355 (2009). (online)
- Flournoy, Alyson C. *Building an Environmental Ethic from the Ground Up*. 37 U.C. DAVIS LAW REVIEW 53 (November 2003). Keynote address from *Symposium: Environmental Ethics and Policy: Bringing Philosophy Down to Earth*. (online)
- Kraft, Michael E. *Making Environmental Policy* in ENVIRONMENTAL POLICY AND POLITICS 59–87 (2011) (Ch. 3). (D2L)
- Mallory, Chaone. *What Is Ecofeminist Political Philosophy? Gender, Nature, and the Political*. 32 ENVIRONMENTAL ETHICS 3, 305–322 (2010). (online)
- Osofsky, Hari M. and Lesley K. McAllister. *The Challenge to Climate Change: Scientific, Legal and Political Elements* in CLIMATE CHANGE LAW AND POLICY, 1–62 (Ch. 1) (2012). (D2L)

CLASS SCHEDULE AND ACTIVITIES

Day 1: Introductions

- Course Overview & Objectives
- Introductions and Participation Exercise
- Overview of institutions of government and the American Political System
- Homework: Research environmental and climate change issues. Identify (1) an environmental issue you believe everyone knows, and (2) an environmental issue that you recently learned and/or an issue that not many people know but should know. Write one paragraph about each issue. You will turn this in for a grade. Be prepared to present and discuss these issues during class. Students should bring to class an artifact (art, dirt, picture, recycling label, examples of wasteful consumer packaging, extinct butterfly specimen, fossil, etc. be creative) video clip (2-3 minutes max), or a brief reading (e.g., poem, religious passage, policy statement) that can be used to enhance the class discussion.

Day 2: Environmental Issues and Climate Change

- Student Discussions and Mini-Presentations: Overview of environ issues and climate change
- Writing Activity: What did you know, what did you learn
- Activity: Watch *An Inconvenient Truth* available at <http://vimeo.com/16335777>
- Homework: Write a one-page reaction paper (double-spaced) to turn in for a grade. Reaction papers “react” to something you watched.
 - Do you agree or disagree with Vice President Gore’s core arguments? Why?
 - Did the video spark a question/idea? Say something about this question or idea.
 - Is the video overly political or partisan?
 - Does the video inspire you to take personal responsibility or action?
 - Is the video over-used, uninspiring, or off-putting?

Day 3: Sustainability

- Reactions: *An Inconvenient Truth*
- Discussion: Sustainability (pillars, lens of inquiry)
- Activity: Write 10-minute paper summarizing your view and understanding of sustainability.

Day 4: Environmental Values

- Discussion: Environmental Values
 - Mallory, Chaone. *What Is Ecofeminist Political Philosophy? Gender, Nature, and the Political*. 32 ENVIRONMENTAL ETHICS 3, 305–322 (2010).
 - Flournoy, Alyson C. *Building an Environmental Ethic from the Ground Up*. 37 U.C. DAVIS LAW REVIEW 53 (November 2003). Keynote Address from Symposium: Environmental Ethics and Policy: Bringing Philosophy Down to Earth.
 - Ferrey, Steven. *Environmental Ethics, Standards, Markets, and the Common Law in ENVIRONMENTAL LAW*, 1–39 (ch.1) (2010).
- Video: *The Business Logic of Sustainability*, Ray Anderson (TED Talks)
- Activity: Make a list of values that should be sustained locally, nationally, and internationally.
- Discussion: What values should be sustained? What approaches can we use to create environmental policies that sustain our values?

Day 5: Challenges to Climate Change

- Discussion: Challenges to Climate Change
Osofsky, Hari M. and Lesley K. McAllister. *The Challenge to Climate Change: Scientific, Legal and Political Elements in CLIMATE CHANGE LAW AND POLICY*, 1–62 (chapter 1) (2012).
- Discussion: Climate Change—Adaptation and Mitigation
 - Compare policies that support adaptation and policies that support mitigation. Are these policies sustainable?
 - Center for Law, Environment, Adaptation and Resources (CLEAR)
Univ of North Carolina School of Law. www.law.unc.edu/centers/clear/default.aspx
- Presentation: Future Cities (Adaptation)
- Activity: Write 10-minute paper discussing *one* challenge to climate change policy. What elements of this challenge deserve the greatest attention? Can you recommend a solution?
- Homework: Write a one-page summary (double-spaced) of the environmental issues you intend to research for your final project.

Day 6: Policymakers and Policymaking Models

- Exercise: Tragedy of the Commons
Percival et al., ENV. REGULATION: LAW, SCIENCE, AND POLICY, 49–60, manual 23–25.
- Discussion: Policymakers and Policymaking Models
 - Dye, Thomas. 2008. UNDERSTANDING PUBLIC POLICY (Ch. 2) (D2L)
 - Kraft, Michael E. *Making Environmental Policy in ENVIRONMENTAL POLICY AND POLITICS* 59–87 (Ch. 3) (2011)(D2L)

Day 7: Environmental Regulation and Administrative Procedure

- Discussion: Environmental Regulation and Administrative Procedure
Ferrey, Steven. *Administrative Procedure for Environmental Regulation in ENVIRONMENTAL LAW*, 39–80 (ch.2).
- Activity: Write a 10-minute paper discussing what's right/wrong with agencies making environmental policy. Are there better alternatives?

Day 8: Constitutional Issues; Research Workshop

- Discussion: Constitutional Issues in Environmental Law
Ferrey, Steven. *Constitutional Issues: The Commerce Clause and Environmental Preemption in ENVIRONMENTAL LAW*, 145–173 (Ch.4).
- Research Workshop
 - Case Citations, Common Law, Statutes, Legal Journals
 - LexisNexis and Other Search Engines

- Environmental Law Journals, Other Environmental Journals, Environmental News
- Activity: Research laws and legal sources you will use in your research paper/presentation

Day 9: NEPA, Environmental Impact Statements, Risk Analysis, and Cost-Benefit Analysis

- Discussion: National Environmental Policy Act (NEPA)
Ferrety, Steven. *National Environmental Policy Act* in ENVIRONMENTAL LAW, 81–143 (Ch.3).
- Discussion: Cost-Benefit Analysis and Risk Assessment
Farber, Daniel. *Rethinking the Role of Cost-benefit Analysis*. 76 UNIVERSITY OF CHICAGO LAW REVIEW 1355 (2009), available at lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/76.3/76_3_Farber.pdf

Day 10: Air Quality

- Discussion: Ferrey, Steven. *Air Quality Regulation* in ENVIRONMENTAL LAW, 175–246 (Ch.5).
- Student Presentations and Activity

Day 11: Water Pollution and Water Rights

- Discussion: Water Pollution and Water Rights
 - Ferrey, Steven. *Water Pollution* in ENVIRONMENTAL LAW, 247–290 (Ch.6).
 - Ferrey, Steven. *Rights to Use Water* in ENVIRONMENTAL LAW, 291–316 (Ch.7).
- Student Presentations and Activity

Day 12: Land Use, Property Rights, & Zoning (Local Controls and Environmental Law)

- Discussion: Land Use, Property Rights, & Zoning
Ferrety, Steven. *Local Environmental Controls* in ENVIRONMENTAL LAW, 463–504 (Ch.10).
- Student Presentations and Activity

Day 13: Energy; Endangered Species Act

- Discussion: Energy and the Environment
 - Ferrey, Steven. *Energy and the Environment* in ENVIRONMENTAL LAW, 537–579 (Ch.12).
- Discussion: Endangered Species
 - Ferrey, Steven. *Endangered Species Act* in ENVIRONMENTAL LAW, 581–600 (Ch.13).
 - What values should we sustain for endangered species? How does ecofeminism inform the way we think about non-human species?
- Student Presentations and Activity

Day 14: Final Assessments

- Student Assessment (Exam)
- Instructor Assessment (Student Opinion Surveys)