

Environmental Law and Regulatory Policy

EVSS-PUBA 534

SPRING 2022

EDUCATION CENTER 202

5:30PM - 8:15PM R

👤 Dr. Matthew Nowlin

🔗 matthewcnowlin.com

✉ nowlinmc@cofc.edu

🗨 Office hours: [By appointment](#) (on Zoom)

COVID-19

The COVID-19 pandemic is still ongoing. **The College of Charleston requires that masks be worn while indoors and you must wear a mask at all times while in class.** Although vaccinations are currently not required, *I ask you to be respectful of the health and safety of others.* If you have not received the **COVID-19 vaccine (as well as the booster), which is safe, free, and effective, please consider doing so immediately.** Information about the vaccine is available from the [SCDHEC website](#) and information about where and when to obtain a vaccine is also available on the SCDHEC website [vaccine locator page](#).

Course Description

Environmental law in the United States is a complex thicket of legislation, agency regulations, and court decisions that shapes how the US approaches environmental issues. This course will provide an overview of several major topics within environmental law as well as the regulatory instruments used to address environmental problems. The aim of this course is for students in the MES, MPA, or concurrent MES/MPA programs to gain an understanding of the development and scope of environmental law in the US.

The course is divided into four sections, 1) **Foundations**: includes some of the foundational aspects of environmental law including environmental risks, enforcement, key actors, sources of environmental laws, administrative law, and rulemaking; 2) **Pollution**: covers legal and regulatory approaches for air pollution, climate change, water pollution, drinking water, toxic substances, and waste management; 3) **Ecosystem Services**: discusses management of natural resources and includes the public trust doctrine, wetlands, land use, biodiversity, and endangered species; and 4) **Environmental Impact Statements**: examines the National Environmental Policy Act (NEPA).

Laptops are allowed, but should only be used to access the readings and for in-class group assignments. Phones should be put away during class. *I encourage you to take notes by hand, with pen and paper.* [You learn better that way.](#) I recommend taking notes using the [Cornell Method](#).

NASPAA Competencies and Course Learning Objectives

Students who graduate from NASPAA accredited MPA programs should develop the ability to: lead and manage in public governance, participate in and contribute to the policy process, apply skills in analysis and critical thinking to solve problems and make decisions, articulate and apply a public service perspective, and communicate and interact productively with a diverse and changing workforce and citizenry. **This course is designed with a special emphasis on applying skills in analysis and critical thinking to solve problems and make decisions.** To that end, learning objectives include:

- Develop an understanding of key environmental statutes
- Evaluate the various regulatory instruments used to address environmental problems
- Analyze a specific environmental problem and the legal and regulatory approaches used to address it
- Display oral, written, and group communication skills

These objectives will be achieved through critically reading the course readings; by writing several short reflection papers; and by completing a paper about a specific environmental regulation.

Required Readings

There are no required books to purchase. All the readings will be made available on [OAKS](#) for each week. Readings should be read prior to class and you should come to class prepared to discuss the readings.

Attendance Policy

Attendance will be taken for each class session, and will be part of your course engagement grade. You are allowed to miss *one class without penalty*. **However, do not come to class if you feel ill. Additionally, if you have been exposed to or tested positive for COVID-19, do not come to class regardless of how you feel. In those cases, I am happy to meet with you on Zoom to discuss material you missed and wave the attendance requirement. Just let me know.**

Course Requirements and Grading

Performance in this course will be evaluated on the basis of 10 reflection papers, a paper, a presentation, in-class group assignments, and course engagement including attendance. *Instructions for each assignment will be placed on OAKS.* Due dates are in the schedule below. Points will be distributed as follows:

Assignment	Possible Points
Reflection Papers (10 at 20 points each)	200 points total
Paper	150 points
Presentation	50 points
In-class Assignments	50 points
Engagement	50 points
Total	500 points

There are 500 possible points for this course. Grades will be allocated based on your earned points and calculated as a percentage of 500: A = 90 to 100%; B+ = 87 to 89%; B = 80 to 86%; C+ = 77 to 79%; C = 70 to 76%; F = 69% and below

Assignments

Specific instructions for the following assignments are posted on [OAKS](#). All work must be turned in through the Assignment folder on OAKS, and is due at class time: Thursday, 5:30 PM Eastern.

- *Reflection Papers:* You will write 10 short, about 2-3 pages, reflection papers that summarize and integrate the readings. Prompts will be given for each paper in [OAKS](#). Note that 12 are assigned, but only 10 will be graded. **When assigned, reflection papers are due at class time.**
- *Paper:* You will write a 10-12 page paper that covers a major state or federal environmental regulation. In the paper you will describe the regulation, discuss the environmental problem it is meant to address, discuss the legislative authority for the regulation, and court decisions that are relevant to the regulation. **The paper is due on the last day of classes, April 21, at class time.**
- *Presentation:* You will give a short, 5 to 7 minute, presentation about the regulation you wrote about for your paper. **Presentations will be given on the last day of classes, April 21.**
- *In-class Assignments:* There will be several in-class assignments, both individual and group that will be given through-out the semester. You need to in-class to receive credit for the in-class assignment. **However, do not come to class if you have been exposed to or tested positive for COVID. In that case, I will make arraignments with you to make-up the in-class assignment.**
- *Course Engagement:* Students are expected to participate in the course by asking questions, providing thoughtful comments, and through making contributions to the group discussion portion of class. **Class discussion should be better than it would have been had you not attended.** Note that the professor has final say over what does or does not count as adequate participation.

A Note on Feedback

Each of your reflection papers will be graded in a holistic fashion. I will examine and grade the document as whole, I am therefore not likely to make specific comments on multiple aspects of each

of your papers. Any feedback will be provided on [OAKS](#). If you adequately address what is asked for in each of the papers, you will likely get all of most of the points. Any major issues with the assignments or your writing in general (such as grammar) that results in a significant loss of points (below 90%) will be addressed with feedback. Finally, I am happy to meet with you to discuss any individual paper or your writing as a whole.

Late Work Policy

Late work is subject to a 48-hour grace period, and after that will be penalized 10% each day (24 hr period) it is late, up to 3 days. After 5 days beyond the due date the assignment will not be accepted unless you have contacted me to let me know you need more time. For example, if an assignment is due Thursday at 5:30 PM, the grace period ends on Saturday at 5:30 PM and it is late as of 5:31 PM and you lose 10%. After Sunday at 5:31 PM you lose another 10%, after Monday at 5:31 PM another 10%, and no work will be accepted after Tuesday at 5:30 PM.

Course Schedule

Subject To Change. All changes will be announced in-class, through email, and on the [OAKS](#) course page.

All readings listed under *Readings* below are required. The readings listed below will be available on [OAKS](#) as a pdf or as an external link. Readings for each week can be found under Content. I recommend doing the readings in the order listed below.

Part I: Foundations

Jan 13: Introduction and Course Overview

- *Readings (skim after class):*
 - **Nowlin**, Chapter 2: *A Framework for Environmental Policymaking*, from Nowlin, Matthew C. 2019. *Environmental Policymaking in an Era of Climate Change*. New York, NY: Routledge.

Jan 20: Environmental Risks, Law, and Enforcement

- *Readings:*
 - **Lazarus**, Chapter 2: *The Implications of Ecological Injury for Environmental Protection Law*, from Lazarus, Richard J. 2004. *The Making of Environmental Law*. Chicago, IL: University of Chicago Press.
 - Shaffer, Rachel M. 2021. “Environmental Health Risk Assessment in the Federal Government: A Visual Overview and a Renewed Call for Coordination.” *Environmental Science & Technology* 55(16): 10923–27.
 - **Salzman and Thompson**, Chapter 2, pgs. 31-49: *Four Analytical Frameworks*

- **Salzman and Thompson**, Chapter 4: *Enforcement*, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.

- *Assignments:*

- **Reflection paper 1**

Jan 27: Actors, Administrative Law, and the Environment

- *Readings:*

- **Rowell and van Zeben**, Chapter 2: *Key Actors* and Chapter 3: *Types of Laws*, from Rowell, Arden, and Josephine van Zeben. 2021. *A Guide to U.S. Environmental Law*. Oakland, CA: University of California Press.
- **Rosenbloom**, Chapter 1: *What is Administrative Law?*, from Rosenbloom, David H. 2015. *Administrative Law for Public Managers*. Boulder, CO: Westview Press.
- **SKIM**: Tatel, David S. 2010. “The Administrative Process and the Rule of Environmental Law.” *Harvard Environmental Law Review* 34: 1–8.

- *Assignments:*

- **Reflection paper 2**

Feb 3: Environmental Regulation and Rulemaking

- *Readings:*

- **Dudley and Brito**, Chapter 2: *Theories of Regulation: Why Do We Regulate?*, from Dudley, Susan E., and Jerry Brito. 2012. *Regulation: A Primer*. 2nd Edition. Arlington, VA: Mercatus Center at George Mason University.
- **Rowell and van Zeben**, Chapter 4: *Regulatory Instruments*, from Rowell, Arden, and Josephine van Zeben. 2021. *A Guide to U.S. Environmental Law*. Oakland, CA: University of California Press.
- **Rosenbloom**, Chapter 3: *Administrative Rulemaking*, from Rosenbloom, David H. 2015. *Administrative Law for Public Managers*. Boulder, CO: Westview Press.
- [Regulations \(EPA Website\)](#)

- *Assignments:*

- **Reflection paper 3**

Part II: Legal and Regulatory Applications to Pollution

Feb 10: Air Pollution: I

- *Readings:*
 - [Summary of the Clean Air Act](#)
 - **Bearden et al.**, *Clean Air Act*, pgs. 3-24, from Bearden, David M. et al. 2013. *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*. Washington D.C.: Congressional Research Service.
 - Boyd, William. 2019. “The Clean Air Act’s National Ambient Air Quality Standards: A Case Study of Durability and Flexibility in Program Design and Implementation.” In *Lessons from the Clean Air Act: Building Durability and Adaptability into U.S. Climate and Energy Policy*, eds. Ann Carlson and Dallas Burtraw. Cambridge University Press, 15–56.
 - **SKIM**: Liu, Jiawen et al. 2021. “Disparities in Air Pollution Exposure in the United States by Race/Ethnicity and Income, 1990–2010.” *Environmental Health Perspectives* 129(12).
- *Assignments:*
 - **Reflection paper 4 due**

Feb 17: Air Pollution: II

- *Readings:*
 - Rabe, Barry G. 2019. “Leveraged Federalism and the Clean Air Act: The Case of Vehicle Emissions Control.” In *Lessons from the Clean Air Act: Building Durability and Adaptability into US Climate and Energy Policy*, eds. Ann Carlson and Dallas Burtraw. Cambridge: Cambridge University Press, 113–58.
 - Patashnik, Eric M. 2019. “The Clean Air Act’s Use of Market Mechanisms.” In *Lessons from the Clean Air Act: Building Durability and Adaptability into US Climate and Energy Policy*, eds. Ann Carlson and Dallas Burtraw. Cambridge: Cambridge University Press, 201–24.
- *Assignments:*
 - **Reflection paper 5 due**

Feb 24: Climate Change

- *Readings:*
 - Crystal, Howard M., Kassie Siegel, Maya Golden-Krasner, and Clare Lakewood. 2019. “Returning to Clean Air Act Fundamentals: A Renewed Call to Regulate Greenhouse Gases Under the National Ambient Air Quality Standards (NAAQS) Program.” *The Georgetown Environmental Law Review* 31(2): 233–84.

- [A new Supreme Court case could gut the government’s power to fight climate change](#)
- [SCOTUSblog: West Virginia v. Environmental Protection Agency](#)

- *Assignments:*

- **Reflection paper 6 due**

Mar 3: Water Pollution

- *Readings:*

- [Summary of the Clean Water Act](#)
- **Bearden et al.**, *Clean Water Act*, pgs. 25-33, from Bearden, David M. et al. 2013. *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency*. Washington D.C.: Congressional Research Service.
- **Salzman and Thompson**, Chapter 7: *Water Pollution*, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.

- *Assignments:*

- **Reflection paper 7 due**

Mar 10: Spring Break

Mar 17: Drinking Water

- *Readings:*

- [Safe Drinking Water Act \(SDWA\) EPA Website](#)
- Tiemann, Mary. 2017. Safe Drinking Water Act (SDWA): A Summary of the Act and Its Major Requirements. Washington, D.C.: *Congressional Research Service*.
- Switzer, David, and Manuel P. Teodoro. 2017. “The Color of Drinking Water: Class, Race, Ethnicity, and Safe Drinking Water Act Compliance.” *Journal AWWA* 109(9): 40–45.

- *Assignments:*

- **Reflection paper 8 due**

Mar 24: Toxic Substances and Waste Management

- *Readings:*
 - **Salzman and Thompson**, Chapter 8: *Regulating Toxic Substances*
 - **Salzman and Thompson**, Chapter 9: *Waste Management*, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.
 - *Assignments:*
 - **Reflection paper 9 due**
-

Part III: Legal and Regulatory Applications to Ecosystem Services

Mar 31: Public Trust, Wetlands, and Waters of the United States

- *Readings:*
 - **Salzman and Thompson**, Chapter 10: *Wetlands, Endangered Species, and the Public Trust*, **pgs. 271-287**, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.
 - Finney, Brad. 2018. “One WOTUS, Two POTUS: The Clean Water Act and the Economic Impact.” *Tennessee Law Review* 86(4): 895–964.
- *Assignments:*
 - **Reflection paper 10 due**

Apr 7: Public Lands and Endangered Species

- *Readings:*
 - **Andrews**, Chapter 13: *Public Lands and Wildlife Conservation*, from Andrews, Richard N. L. 2020. *Managing the Environment, Managing Ourselves: A History of American Environmental Policy*. Third Edition. New Haven, CT: Yale University Press
 - **Salzman and Thompson**, Chapter 10: *Wetlands, Endangered Species, and the Public Trust*, **pgs. 287-310**, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.
 - *Assignments:*
 - **Reflection paper 11**
-

Part IV: Environmental Impact Statements

Apr 14: The National Environmental Policy Act

- *Readings:*
 - [Summary of the National Environmental Policy Act](#)
 - **Salzman and Thompson**, Chapter 12: *The National Environmental Policy Act*, from Salzman, James, and Barton H. Thompson Jr. 2014. *Environmental Law and Policy*. 4th ed. St. Paul, MN: Foundation Press.
 - Scott, Tyler Andrew, Nicola Ulibarri, and Omar Perez Figueroa. 2020. “NEPA and National Trends in Federal Infrastructure Siting in the United States.” *Review of Policy Research* 37(5): 605–33.
 - *Assignments:*
 - **Reflection paper 12**
-

Apr 21: Conclusion

- *Assignments:*
 - **Paper**
 - **Presentation**

Important Information

Academic Integrity Statement

Lying, cheating, attempted cheating, and plagiarism are violations of our Honor Code that, when identified, are investigated. Each incident will be examined to determine the degree of deception involved.

Incidents where the instructor determines the student's actions are related more to a misunderstanding will be handled by the instructor. A written intervention designed to help prevent the student from repeating the error will be given to the student. The intervention, submitted by form and signed both by the instructor and the student, will be forwarded to the Dean of Students and placed in the student's file.

Cases of suspected academic dishonesty will be reported directly by the instructor and/or others having knowledge of the incident to the Dean of Students. A student found responsible by the Honor Board for academic dishonesty will receive a XXF in the course, indicating failure of the course due to academic dishonesty. This status indicator will appear on the student's transcript for two years after which the student may petition for the XX to be expunged. The F is permanent.

Students should be aware that unauthorized collaboration – working together without permission – is a form of cheating. Unless the instructor specifies that students can work together on an assignment, quiz and/or test, no collaboration during the completion of the assignment is permitted. Other forms of cheating include possessing or using an unauthorized study aid (which could include accessing information via a cell phone or computer), copying from others' exams, fabricating data, and giving unauthorized assistance.

Research conducted and/or papers written for other classes cannot be used in whole or in part for any assignment in this class without obtaining prior permission from the instructor.

Students can find the complete Honor Code and all related processes in the [Student Handbook](#)

Students with Disabilities

The College will make reasonable accommodations for persons with documented disabilities. Students should apply at the [Center for Disability Services](#) located on the first floor of the Lightsey Center, Suite 104. Students approved for accommodations are responsible for notifying me as soon as possible and for contacting me at least one week before any accommodation is needed.

Inclement Weather, Pandemic or Substantial Interruption of Instruction

If in-person classes are suspended, faculty will announce to their students a detailed plan for a change in modality to ensure the continuity of learning. All students must have access to a computer equipped with a web camera, microphone, and Internet access. Resources are available to provide students with these essential tools.

Mental and Physical Wellbeing

At the college, we take every students' mental and physical wellbeing seriously. If you find yourself experiencing physical illnesses, please reach out to student health services (843.953.5520). And if you find yourself experiencing any mental health challenges (for example, anxiety, depression, stressful life events, sleep deprivation, and/or loneliness/homesickness) please consider contacting either the Counseling Center ([professional counselors](#) or 843.953.5640 3rd Robert Scott Small Building) or the Students 4 Support (certified volunteers through texting "4support" to 839863, visit: <http://counseling.cofc.edu/cct/index.php>, or meet with them in person 3rd Floor Stern Center). These services are there for you to help you cope with difficulties you may be experiencing and to maintain optimal physical and mental health.

Food and Housing Resources

Many CofC students report experiencing food and housing insecurity. If you are facing challenges in securing food (such as not being able to afford groceries or get sufficient food to eat every day) and housing (such as lacking a safe and stable place to live), please contact the [Dean of Students](#) for support. Also, you can go to: <http://studentaffairs.cofc.edu/student-food-housing-insecurity/index.php> to learn about food and housing assistance that is available to you. In addition, there are several resources on and off campus to help. You can visit the Cougar Pantry in the Stern Center (2nd floor), a student-run food pantry that provides dry-goods and hygiene products at no charge to any student in need. Please also consider reaching out to Professor ABC if you are comfortable in doing so.

Center for Student Learning

I encourage you to utilize the Center for Student Learning's (CSL) academic support services for assistance in study strategies and course content. They offer tutoring, Supplemental Instruction, study skills appointments, and workshops. Students of all abilities have become more successful using these programs throughout their academic career and the services are available to you at no additional cost. For more information regarding these services please visit the [CSL](#) or call (843) 953-5635.

I encourage you to take advantage of the Writing Lab in the Center for Student Learning (Addlestone Library, first floor). Trained writing consultants can help with writing for all courses; they offer one-to-one consultations that address everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. For more information, please call 843.953.5635 or visit: <http://csl.cofc.edu/labs/writing-lab/>.

Religious Accommodation for Students

It is the policy of the College to excuse absences of students that result from religious observances and to provide without penalty for the rescheduling of examinations and additional required class work that may fall on religious holidays. Please see me immediately if you will need to miss class any time during this semester.