

**ENVIRONMENTAL LAW  
LAW 7202  
SYLLABUS**

**Time/Location:** Monday/Wednesday 9:30am-10:50am; Room 207

**Course Description:** This course covers the principal federal environmental laws regulating toxic substances, hazardous wastes, air pollution, and water pollution. The course begins with an overview of the sources of environmental law and the different approaches to environmental regulation. This is followed by an exploration of modern approaches to risk assessment and risk management, with specific attention to the challenges associated with the regulation of toxic substances. We next examine the major federal environmental laws covering waste management and pollution prevention; namely, RCRA (treatment and disposal of hazardous waste) and CERCLA (clean-up of hazardous waste sites). The final two sections of the course examine the Clean Air Act and the Clean Water Act respectively. Administrative law is recommended, but not required, as preparation for this course.

**Reading Materials:**

- **Casebook:** Robert V. Percival et al., ENVIRONMENTAL REGULATION: LAW, SCIENCE, AND POLICY, Sixth Edition (Aspen 2009)
- **Statutory Supplement:** Robert V. Percival and Christopher H. Schroeder, ENVIRONMENTAL LAW: STATUTORY AND CASE SUPPLEMENT WITH INTERNET GUIDE, 2012-13 (Aspen 2012)
- **Supplementary Materials:** Posted on TWEN

**Attendance & Class Participation:** Students are expected to attend and participate in class. If you will not be able to attend class, please let me know in advance. Class discussion is very important, and you are encouraged to engage regularly in discussion. Attendance and class participation will be considered in deciding whether to adjust your grade.

**Grading:** Grades will be based upon a 3-hour exam subject to any adjustment for class participation and/or attendance. Final Exam is Monday April 29 at 8:15am in Room 207.

**Disability Issues:** If you qualify for accommodations because of a disability, please submit to me a letter from Disability Services in a timely manner so that your needs can be addressed. Disability Services determines accommodations based on documented

disabilities. Contact: 303-492-8671, Willard 322, and [www.Colorado.EDU/disability services](http://www.Colorado.EDU/disability_services). If you have any questions about accommodations for a disability, please contact Senior Assistant Dean Whiting Leary (303-492-8259, [whiting.leary@colorado.edu](mailto:whiting.leary@colorado.edu)).

**Religious Observances:** Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. See full details at [http://www.colorado.edu/policies/fac\\_relig.html](http://www.colorado.edu/policies/fac_relig.html). If you need accommodation for religious observances, please let me know in advance.

**The Honor Code:** Read it, understand it, and follow it. See <http://www.colorado.edu/Law/about/honorcode/index.htm>.

**Contact Information:** Office # 443 | 303.492.7320 | [william.boyd@colorado.edu](mailto:william.boyd@colorado.edu).

**Office Hours:** Mondays and Wednesdays 3:00pm to 4:00pm or by appointment.

ENVIRONMENTAL LAW: A STRUCTURAL OVERVIEW	
1 1/14	SOURCES OF ENVIRONMENTAL LAW – COMMON LAW ROOTS <ul style="list-style-type: none"> <li>• CASEBOOK, 61-88</li> </ul>
2 1/16	SOURCES OF ENVIRONMENTAL LAW – REGULATORY LEGISLATION <ul style="list-style-type: none"> <li>• CASEBOOK, 88-115</li> </ul>
1/21 - MARTIN LUTHER KING HOLIDAY – NO CLASS	
3 1/23	SOURCES OF ENVIRONMENTAL LAW – REGULATORY LEGISLATION (CONT.) <ul style="list-style-type: none"> <li>• CASEBOOK, 115-129</li> </ul> APPROACHES TO REGULATION – ASSESSING THE OPTIONS <ul style="list-style-type: none"> <li>• CASEBOOK, 129-139</li> </ul>
4 1/28	APPROACHES TO REGULATION – ASSESSING THE OPTIONS (CONT.) <ul style="list-style-type: none"> <li>• TWEN MATERIALS:               <ul style="list-style-type: none"> <li>○ OLIVER HOUCK, <i>WORST CASE AND THE DEEPWATER HORIZON BLOWOUT: THERE OUGHT TO BE A LAW</i>, 40 ELR 11033 (2010)</li> </ul> </li> <li>• CASEBOOK, 139-158</li> </ul>

PREVENTING HARM IN THE FACE OF UNCERTAINTY	
5 1/30	<p>PRECURSORS OF MODERN REGULATORY APPROACHES</p> <ul style="list-style-type: none"> <li>CASEBOOK, 181-217</li> </ul>
6 2/4	<p>MODERN APPROACHES TO ASSESSING RISK</p> <ul style="list-style-type: none"> <li>CASEBOOK, 218-239</li> </ul> <p>HOW SAFE IS SAFE? – MODERN APPROACHES TO MANAGING RISK</p> <ul style="list-style-type: none"> <li>CASEBOOK, 239-246</li> </ul>
7 2/6	<p>MODERN APPROACHES TO MANAGING RISK (CONT.)</p> <ul style="list-style-type: none"> <li>CASEBOOK, 246-264</li> <li>STATUTORY SUPPLEMENT, TSCA §§ 2-6 (15 U.S.C. §§2601-2605)</li> </ul>
8 2/11	<p>MODERN APPROACHES TO MANAGING RISK (CONT.)</p> <ul style="list-style-type: none"> <li>CASEBOOK, 264-288</li> </ul>
9 2/13	<p>Modern Approaches to Managing Risk (cont.)</p> <ul style="list-style-type: none"> <li>Casebook, 288-311</li> <li>Statutory Supplement, CAA § 112 (42 U.S.C. §7412) (skim)</li> </ul>
10 2/18	<p>Regulation Through Revelation</p> <ul style="list-style-type: none"> <li>Casebook, 311-331</li> <li>Statutory Supplement, California's Proposition 65, at 288-292</li> <li>Statutory Supplement, Emergency Planning and Community Right-to-Know Act, at 267-280 (skim)</li> </ul>

WASTE MANAGEMENT & POLLUTION PREVENTION	
11 2/20	<p>WASTE MANAGEMENT AND POLLUTION PROBLEMS</p> <ul style="list-style-type: none"> <li>CASEBOOK, 333-338</li> </ul> <p>STATUTORY AUTHORITIES AFFECTING WASTE MANAGEMENT</p> <ul style="list-style-type: none"> <li>CASEBOOK, 338-344</li> </ul> <p>THE RCRA REGULATORY PROGRAM</p> <ul style="list-style-type: none"> <li>CASEBOOK, 344-354</li> </ul>
12 2/25	<p>THE RCRA REGULATORY PROGRAM (CONT.)</p> <ul style="list-style-type: none"> <li>CASEBOOK, 354-381</li> <li>STATUTORY SUPPLEMENT, RCRA §§ 1004, 3001 (42 U.S.C. §§ 6903, 6921)</li> </ul>
13 2/27	<p>THE RCRA REGULATORY PROGRAM (CONT.)</p> <ul style="list-style-type: none"> <li>CASEBOOK, 381-393</li> <li>STATUTORY SUPPLEMENT, RCRA §§ 3002 TO 3005, 7003 (42 U.S.C. §§ 6923-25, 6973)</li> </ul> <p>CERCLA LIABILITY</p> <ul style="list-style-type: none"> <li>CASEBOOK, 393-396</li> </ul>
14 3/4	<p>CERCLA LIABILITY (CONT.)</p> <ul style="list-style-type: none"> <li>CASEBOOK, 396-418</li> <li>STATUTORY SUPPLEMENT, CERCLA §§ 101, 107 (42 U.S.C. §§ 9601, 9607)</li> </ul>

15 3/6	<p>CERCLA LIABILITY (CONT.)</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 418-442</li> <li>• STATUTORY SUPPLEMENT, CERCLA §§ 104 (42 U.S.C. § 9604)</li> </ul>
16 3/11	<p>CERCLA LIABILITY (CONT.)</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 442-466</li> <li>• STATUTORY SUPPLEMENT, CERCLA §§ 113, 122 (42 U.S.C. §§ 9613, 9622)</li> </ul>
17 3/13	<p>DUMPSITE REGULATION, THE DORMANT COMMERCE CLAUSE, AND ENVIRONMENTAL JUSTICE CONCERNS</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 466-498</li> </ul>

## AIR POLLUTION CONTROL

18 3/18	<p>THE AIR POLLUTION PROBLEM</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 499-502</li> </ul> <p>CLEAN AIR ACT – BASIC PRINCIPLES</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 502-508</li> </ul> <p>WHAT IS AN AIR POLLUTANT?</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 508-517</li> <li>• STATUTORY SUPPLEMENT, CAA §§ 302(g) and 202(a)(1) (42 U.S.C. §§ 7602(g) and 7521(a)(1))</li> </ul> <p>MOBILE SOURCE CONTROLS – A TECHNOLOGY FORCING VENTURE</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 517-523</li> </ul>

19 3/20	MOBILE SOURCE CONTROLS – A TECHNOLOGY FORCING VENTURE (CONT.) <ul style="list-style-type: none"> <li>CASEBOOK, 523-546</li> <li>STATUTORY SUPPLEMENT, CAA §§ 209, 211(a), 211(b), 211(c) (42 U.S.C. §§ 7543; 7545(a)-(c))</li> </ul>
3/25 TO 3/29 - SPRING BREAK – NO CLASS	
20 4/1	MOBILE SOURCE CONTROLS – A TECHNOLOGY FORCING VENTURE (CONT.) <ul style="list-style-type: none"> <li>CASEBOOK, 546-547</li> <li>SELECTIONS FROM FINAL ENDANGERMENT FINDING (POSTED ON TWEN)</li> <li>STATUTORY SUPPLEMENT, CAA § 202(a)(1) (42 U.S.C. § 7521(a)(1))</li> </ul> NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) <ul style="list-style-type: none"> <li>CASEBOOK, 551-573</li> <li>STATUTORY SUPPLEMENT, CAA § 109 (42 U.S.C. § 7409)</li> </ul>
21 4/3	ATTAINING AND MAINTAINING THE NAAQS <ul style="list-style-type: none"> <li>CASEBOOK, 573-603</li> <li>STATUTORY SUPPLEMENT, CAA §§ 110, 111 (42 U.S.C. §§ 7410-11)</li> </ul>
22 4/8	ATTAINING AND MAINTAINING THE NAAQS (CONT.) <ul style="list-style-type: none"> <li>CASEBOOK, 603-635</li> <li>TWEN MATERIALS:               <ul style="list-style-type: none"> <li>EME HOMER CITY GENERATION V. EPA, D.C. CIRCUIT, No. 11-1302 (AUG 21, 2012) (SELECTIONS).</li> </ul> </li> </ul>
WATER POLLUTION CONTROL	
23 4/10	WATER POLLUTION PROBLEMS <ul style="list-style-type: none"> <li>CASEBOOK, 637-643</li> </ul>

	<p>STATUTORY AUTHORITIES FOR PROTECTING WATER QUALITY</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 643-670</li> <li>• STATUTORY SUPPLEMENT, CWA §§ 101, 502 (33 U.S.C. §§ 1251, 1362)</li> </ul>
<p>24 4/15</p>	<p>REGULATION OF DISCHARGES FROM POINT SOURCES</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 670-698</li> <li>• STATUTORY SUPPLEMENT, CWA §§ 301, 402 (33 U.S.C. §§ 1311, 1342)</li> </ul>
<p>25 4/17</p>	<p>REGULATION OF DISCHARGES FROM POINT SOURCES (CONT.)</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 698-714</li> <li>• STATUTORY SUPPLEMENT, CWA §§ 301, 307(a) (33 U.S.C. §§ 1311, 1317(a))</li> </ul>
<p>26 4/22</p>	<p>WATER QUALITY-BASED CONTROLS: THE REGULATORY SAFETY NET?</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 714-739</li> <li>• STATUTORY SUPPLEMENT, CWA §§ 303, 304(l), 401 (33 U.S.C. §§ 1313, 1314(l), 1341)</li> </ul>
<p>27 4/24</p>	<p>WATER QUALITY-BASED CONTROLS: THE REGULATORY SAFETY NET? (CONT.)</p> <ul style="list-style-type: none"> <li>• CASEBOOK, 739-749</li> <li>• STATUTORY SUPPLEMENT, CWA § 303 (33 U.S.C. § 1313)</li> </ul> <p>COURSE WRAP UP</p>
<p>EXAM REVIEW – DATE/TIME TBA</p>	