

# FOR 488/688: Natural Resource Administration Law

## Syllabus and Schedule – Spring 2005

**Instructor:** Dr. Robert W. Malmshemer – 305 Bray Hall (mailbox: 320 Bray Hall)  
Email: [rwmalmsh@esf.edu](mailto:rwmalmsh@esf.edu) Phone: 470-6909

**Teaching Assistant:** Ms. Kari Obrist ([klkulow@syr.edu](mailto:klkulow@syr.edu)) – 402 Bray Hall

**Class Time and Location:** 2:00 – 3:20 Tuesdays and Thursdays in 139 Baker Hall.

**Office Hours:** 8:30 – 10:30 Wednesdays and by appointment.

**Course Goal:** FOR 488/688 is an introduction to the law concerning the procedures, powers, and review of administrative agencies responsible for the management of natural resources. This course is designed for students who want to work for: 1) administrative agencies, 2) regulated industries, or 3) organizations that attempt to influence agency policies.

**Major Concepts or Methodologies:** This course uses lectures, classroom discussions of readings, and assignments to teach students how:

1. Administrative agencies function and how administrative law affects agencies and their personnel;
2. To apply administrative law concepts to natural resources management; and
3. Federal agencies can (and can not) manage natural resources.

**Course Objective:** After completing this course, students will be able to:

1. Describe and apply the major administrative law and natural resources law concepts; and
2. Explain how laws and the legal system affect natural resources and natural resources management.

**Prerequisites:** The course requires a *college* course in American government or American history. While the course teaches students about the American legal system, it is assumed that students understand basic concepts of American government. If students have questions about their ability to complete the course goals and objectives successfully, they should see Dr. Malmshemer.

**Course Structure:** The course is divided into two sections:

1. *Administrative Law:* An analysis of the constitutional context of agencies, rule-making, adjudication and enforcement, transparency, and legislative and judicial review of agency action.
2. *Natural Resource Law:* An examination of natural resource law topics including public lands, wildlife, preservation and recreation, mineral, timber, and water law.

**Required Textbooks:** All books are available at the Orange Bookstore in Marshall Square Mall.

Undergraduates **must** purchase the first two books; the last book is only for graduate students.

1. Rosenbloom, D.H., 2003. *Administrative Law for Public Managers*. Boulder, CO:Westview Press.
2. Laitos, J.G.. 2002. *Natural Resources Law* (Hornbook Series). West Group: St. Paul, MN.
3. Kerwin, C.M. 2003. *Rulemaking: How Government Agencies Write Law and Make Policy*. 3<sup>rd</sup> edition. Washington, DC: CQ Press.

**E-Mail Requirement:** It is a course requirement that *all* students have an **.syr.edu** e-mail account and that they check their .syr.edu e-mail account *regularly* for class announcements.

**Grades:** This course uses a modified contract grading system. Grades are based on the number of points students accumulate by the end of the semester:

**FOR 488 (Undergraduate Student) Grades:**

A = 291 or more points	B- = 225 to 201 points	D = 155 to 146 points
A- = 290 to 271 points	C+ = 200 to 181 points	F = 145 points or less
B+ = 270 to 251 points	C = 180 to 166 points	
B = 250 to 226 points	C- = 165 to 156 points	

**FOR 688 (Graduate Student) Grades:**

A = 376 or more points	B = 325 to 301 points	C = 250 to 226 points
A- = 375 to 351 points	B- = 300 to 276 points	F = 225 points or less
B+ = 350 to 326 points	C+ = 275 to 251 points	

Students accumulate points by completing assignments and two take home examinations. Students may lose points for failure to attend class. Undergraduate students **must** complete the two (2) take home examinations and two (2) assignments. Graduate students **must** complete the two (2) take home examinations and three (3) assignments. are required to complete six projects. Complete descriptions of the take home examinations and each assignment (in order due), and other important information about the assignments is below the table.

Assignment	Points	Assessment	Students	Class Due
1. Locating Regulations*	25	Graded	<b>Required</b> - All Students	8
2. Kerwin Book Review	70	Pass/Fail	<b>Required</b> - Graduate Students	10
3. Proposed ES Species Delisting Reg.*	50	Pass/Fail	<b>Required</b> - All Students	13
4. Adm. Law Take Home Exam.*	50	Graded	<b>Required</b> - All Students	15
5. FOIA Request	50	Pass/Fail	Optional - All Students	18
6. Public Hearing Review	50	Pass/Fail	Optional - All Students	20
7. Proposed Rule Comment	50	Pass/Fail	Optional - All Students	22
8. Annotated Bibliography Paper	50	Pass/Fail	Optional - Graduate. Students	24
9. Nat. Res. Law Take Home Exam.*	50	Graded	<b>Required</b> - All Students	26

\* Additional directions will be provided. Directions for all other assignments are in this syllabus.

- 1. Locating Regulations – Required for Undergraduate & Graduate Students (25 points).** This assignment teaches students how to locate federal and state regulation. Students will use these skills in the Proposed ES Delisting assignment. Students must complete a professor provided form for this *graded* assignment.
- 2. Kerwin Book Review – Required for Graduate Students (70 points).** Kerwin’s book provides an in-depth analysis of rulemaking, the most important administrative law topic for most graduate students. Read Cornelius Kerwin’s *Rulemaking: How Government Agencies Write Law and Make Policy*, 3<sup>rd</sup> ed. (Congressional Quarterly Press, 2003) and write a six (6) to eight (8) page book review that describes the book **and** critically analyzes it. See book reviews in *Science*, *Perspectives on Politics*, etc. for examples. Note: no more than one-half of the review should describe the book; most

of the review should critically analyze the book. This is a pass/fail assignment.

3. **Proposed Endangered Species Delisting Regulation – Required for Undergraduate & Graduate Students (50 points).** This *pass/fail* assignment teaches students how to write a federal regulation using skills they learned in the Locating Regulations assignment. Students will write a five (5) to seven (7) page proposed rule according the directions provided by the professor.
4. **Administrative Law Take Home Examination – Required for Undergraduate & Graduate Students (50 points).** Take-home examination tests students’ ability to apply the law to a factual scenario. Students review an “administrative law story” and write a three (3) page paper describing administrative law problems in the story. Students may, but are not required to, work with one (1) other student on the examination. Take Home Examinations are *graded* on a curve with the mean grade being a 40 (out of 50 points) for undergraduate students and a 45 for graduate students.
5. **Freedom of Information Act (FOIA) Request – Optional for Undergraduate & Graduate Students (50 points).** This *pass/fail* assignment teaches students how to write a FOIA request. Write a one (1) page single-spaced FOIA request letter requesting information from a federal agency (on any subject) **AND** write a two (2) to three (3) page paper describing what resources you used to write the letter, why these resources were or were not helpful, and how easy these resources were to find and use (i.e., are they useful to the “public”? Why? Why not?). Hint: Most agencies’ websites provide the public about how to make FOIA requests.
6. **Public Hearing Review – Optional for Undergraduate & Graduate Students (50 points).** This *pass/fail* assignment gives students the opportunity to attend a state or federal administrative agency hearing (note: a local government hearing is not sufficient). Write a three (3) page paper about the hearing. The first page should describe the hearing (i.e., who, what, where, when, why, etc.) and how you found out about it. The next two (2) pages should describe your feelings while you were at the hearing (i.e., how did you feel, what surprised you, what were you expecting, etc.)
7. **Proposed Rule Comment – Optional for Undergraduate & Graduate Students (50 points).** This *pass/fail* assignment gives students the opportunity to comment on a proposed state or federal administrative agency rule (note: a local government ordinance is not sufficient). Write a one (1) to two (2) page single-spaced comment to a proposed rule **AND** write a two (2) to three (3) page paper summarizing the proposed rule and describing: 1) how you found out about the proposed rule, 2) why you choose to comment on this proposal, **and** 3) how you educated yourself about the proposal so that you could comment on it.
8. **Annotated Bibliography Paper – Optional for Graduate Students (50 points possible).** Researchers and graduate students often study natural resources agencies and natural resources laws. This *pass/fail* assignment enables students to locate, review, and synthesize this literature. Conduct a literature review to locate **peer-reviewed research** articles analyzing **one** (and only one) state or federal natural resource agency or law. Write an annotated bibliography (approximately one page per article) describing the research question, methods, results, and the theoretical advancements described in the article **AND** write a three (3) to five (5) page paper synthesizing all of the articles. You **must** also provide a complete copy of **each** article with your annotated bibliography. Points will be allocated:
  - i. Four (4) articles reviewed = 30 points;
  - ii. Five (5) articles reviewed = 35 points;
  - iii. Six (6) articles reviewed = 40 points;
  - iv. Seven (7) articles reviewed = 45 points; and

- v. Eight (8) articles reviewed = 50 points.

9. **Natural Resources Law Take Home Examination – Required for Undergraduate & Graduate Students (50 points).** Take-home examinations test students' ability to apply the law to a factual scenario. Students review an "natural resources law story" and write a three (3) page paper describing administrative law problems in the story. Students may, but are not required to, work with one (1) other student on the examination. Take Home Examinations are *graded* on a curve with the mean grade being a 40 (out of 50 points) for undergraduate students and a 45 for graduate students.

**Class Attendance – Required for Undergraduate and Graduate Students (see below for points).** Since this course relies on class discussions to advance student's knowledge, attendance is critical. Students who miss class because of illness, conference attendance, or family death are excused from class **and must** email Ms. Obrist (klkulow@syr.edu) the reason for their excused absence within 10 days of missing class. Students failing to do so, will be deemed absent and will lose points accordingly:

- a. Students who miss four (4) classes will lose ten (10) points;
- b. Students who miss five (5) classes will lose twenty (20) points;
- c. Students who miss six (6) classes will lose forty (40) points; and
- d. Students who miss seven (7) or more classes will lose eighty (80) points.

**Standards for Assignments.** Grades on *graded* assignments will be based on criteria specified in the assignments. Pass/Fail assignments **must** meet minimum standards appropriate for advanced undergraduate and graduate standards (see next paragraph). Assignments failing to meet these minimal standards will be returned to the student. The student will then have five (5) days to rework the assignment. Students will lose ten (10) points for **each** returned assignment. If the student fails to hand in the assignment after five (5) days, it will no longer be accepted. Note: The professor **not** review drafts of assignments.

Unless otherwise noted, all assignments **must** be double-spaced with one inch margins and use 12 point Times or Times New Roman fonts. All assignments **must** meet minimum standards for advanced undergraduate and graduate assignments (see *The Chicago Manual of Style*). Assignments **must**: 1) **be clear, concise and appropriate for an advanced undergraduate or graduate course**, 2) use headings and subheadings, 3) use standardized citations for **all** cited literature,<sup>1</sup> and 4) include page numbers. Student's names should appear on the first page of all assignments; do **not** put cover sheets on assignments. All page number requirements in this syllabus do **not** include the literature cited section of the assignment (if needed).

Unless otherwise noted, students **must** complete assignments without any assistance from classmates or others. In other words, students are **strictly prohibited** from substantively discussing assignments with classmates. Students **may** discuss the assignment's procedural aspects (e.g., due dates, assignment requirements, etc.) with classmates. Any students found to be interacting with classmates on assignments will **automatically receive an "F"** for the final course grade and be reported to ESF student affairs.

All assignments **must** be turned in time. Late assignments will be penalized five (5) points per day, commencing at the end of class on the day the assignment is due. Late assignments **must** be delivered to 305 Bray Hall or placed in Dr. Malmshiemer's mailbox in 320 Bray Hall. Ms. Obrist **cannot** accept late assignment.

---

<sup>1</sup>Plagiarism will **not** be tolerated. All papers **must** contain original thoughts or contain complete **and** correct citations to other's work. Note: If you quote someone's work, you **must** provide the page number for the quotation.

**Classroom Learning Environment:** To maintain the best possible environment for learning, all students in this class **will**:

- Be on time for class and not leave early,
- Not have conversations among themselves during class that distract other students or the instructor,
- Not read the newspaper or other non-classroom materials during class,
- Turn off all cell phones and pagers before entering the class, and
- Not taunt or belittle other students or use vulgarity or profanity in class.

Students who violate these standards will be given one warning. Another violation of these rules will result in the student being dropped from the class *and* being reported to the ESF Office of Student Affairs for disciplinary action.

**Accommodations for Students with Disabilities:** If you have an identified disability and will need accommodations, you should first contact Mr. Slocum in the Office of Student Life in 110 Bray Hall. He will discuss the ESF's disability policy with you and work with you to access supportive services. If you have a learning disability, the College will require you to provide supportive documentation and will develop an approved accommodation sheet for you. I can not provide accommodations until you provide me with the accommodation sheet *and* we meet to discuss its applicability to this course. I will not provide accommodations retroactively. If you have any questions about disabilities, please contact me and/or Mr. Slocum as soon as possible. All conversations will be confidential.

## Course Schedule

Class Number and Topic	Reading	Assignment Due
1. Introduction to Course		
2. Administrative Law: Introduction	R - 1	
3. Administrative Law: Const. Context - Separation of Powers	R - 2	
4. Administrative Law: Const. Context - Federalism		
5. Administrative Law: Const. Context - Individual's Rights		
6. Administrative Law: Rulemaking - Types	R - 3	
7. Administrative Law: Rulemaking - Process		
8. Administrative Law: Adjudication & Enforcement - Types	R - 4	<b>Locating Regulations (Required: U+G)</b>
9. Administrative Law: Adjudication & Enforcement - Process		
10. Administrative Law: Transparency - FOIA	R - 5	<b>Kerwin Book Review (Required: G)</b>
11. Administrative Law: Transparency - Meetings		
12. Administrative Law: Legislative Review	R - 6	
13. Administrative Law: Judicial Review - Reviewability		<b>Proposed ES Delisting Reg. (Required: U+G)</b>
14. Administrative Law: Judicial Review - Scope of Review		
15. Natural Resources Law: Introduction to Public Lands	L - 5	<b>Adm. Law Take Home Exam (Required: U+G)</b>
16. Natural Resources Law: NEPA	L - 4	
17. Natural Resources Law: Wildlife Law - Legal Framework	L - 6	
18. Natural Resources Law: Wildlife Law - Endangered Species		FOIA Request (Optional: U+G)
19. Natural Resources Law: Preservation Law	L - 7	
20. Natural Resources Law: Recreation Law		Public Hearing Review (Optional: U+G)
21. Natural Resources Law: Rangeland Law	L - 8	
22. Natural Resources Law: Minerals Law - Hardrock Minerals	L - 9	Proposed Rule Comment (Optional: U+G)
23. Natural Resources Law: Minerals Law - Leasable Minerals		
24. Natural Resources Law: Timber Law	L - 10	Annotated Bibliography (Optional: G)
25. Natural Resources Law: Water Law	L - 11	
26. Course Conclusion and Evaluation		<b>NR Take Home Exam. (Required: U+G)</b>