

George Mason University School of Law
Course Syllabus
Law 300-001

Fall Term, 2006, 6:00-7:50 PM, Thursday
Room 431C
(Board Room next to library on 4th Floor)

Dr. Jerry Ellig
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Office Hours

Virtual: E-mail me anytime.
In person: By appointment.

Mentors

Jerry Brito, J.D.
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Dr. Don King, M.D., J.D.
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Carrie Conko
Communications Director, Mercatus Center at George Mason University
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Others may be added depending on student interests.

Goals of the Course

1. Learn how to perform regulatory analysis from a public interest perspective employing a “law and economics” approach.
2. Write a comment on a proposed federal regulation, based on this research.
3. Communicate the results of this research in a variety of other media, such as a newspaper op-ed column and mock testimony.

Students can work individually or in teams of two. Each student or team of students will be paired with a mentor who can offer suggestions, guidance, and feedback on their research.

Grading

Grades will be based on the public interest comment, op-ed column, performance in mock testimony, and class participation. Grades for each element will be weighted as follows:

- 50% public interest comment*
- 20% Op-ed column
- 20% oral testimony
- 10% class participation

*Adjusted for peer evaluation if the comment is a team effort.

This is a writing course. The separate writing grade will be based on the public interest comment.

Complementary Courses

Students will likely do better in the course if they have previously taken (or simultaneously take) Administrative Law (LAW 116) and/or Perspectives on Regulation (LAW 289). Mastery of the economic concepts taught in Economic Foundations of Legal Studies (LAW 108) will also likely be helpful.

Readings

Susan Dudley, *Primer on Regulation*, Mercatus Policy Series (Nov. 2005), available at http://www.mercatus.org/Publications/pubID.2331,cfilter.0/pub_detail.asp.

Office of Management and Budget, Circular A-4, "Regulatory Analysis" (Sept. 17, 2003), available at <http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf>.

Office of Management and Budget, Draft 2006 Report to Congress on the Costs and Benefits of Regulations, available at http://www.whitehouse.gov/omb/inforeg/reports/2006_draft_cost_benefit_report.pdf.

Regulatory agency proposals and supporting materials.

Other articles/materials to be assigned that support each week's subject.

Finding Your Regulation

To search for regulations, you may find it useful to subscribe to the Federal Register's daily Table of Contents listserv. To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

The Office of Information and Regulatory Affairs at OMB reviews major regulations. OIRA's web page is at <http://www.whitehouse.gov/omb/info/infreg/regpol.html>. You can search for regulations for which OIRA recently completed analyses at [Regulations under E.O. 12866 Review and Reviews Completed in last 30 days \(updated daily\)](#)

Federal agencies often put notices of regulations on their web sites prior to publication in the Federal Register. You can often find this kind of information by going to the home page of the particular agency you are interested in and looking for press releases.

Class schedule (as of August 2006)

Week 1 (Aug. 24) Introduction
Aims/scope of course
Meet the mentors
How to find regulations

Read: Dudley, *Primer on Regulation*, pp. 1-6.

Week 2 (Aug. 31) Regulatory intervention: public and private interests

Read: Dudley, *Primer on Regulation*, pp. 7-11.

Yandle, "Bootleggers and Baptists," and sequel (to be distributed electronically).

Cooper, Pautler, and Zywicki, "Theory and Practice of Competition Advocacy at the FTC," *72 Antitrust Law Journal* (2004-05), 1091-1112. (Available via Westlaw, Lexis-Nexis, Hein Online, etc.)

Week 3 (Sept. 7) Introduction to regulatory analysis (Susan Dudley)

Read: Dudley, *Primer on Regulation*, pp. 12-44.

Tim Muris, "Rules Without Reason: The Case of the FTC," *Regulation* (Sept.-Oct. 1982), to be distributed in class.

OMB Circular A-4.

Peruse OMB, *Draft 2006 Report to Congress on the Costs and Benefits of Federal Regulations*.

Week 4 (Sept. 14) Analyzing economic regulation (Jerry Ellig and Jerry Brito)

Read: Jerry Brito and Jerry Ellig, FCC video franchising comment, available at http://www.mercatus.org/Publications/pubID.1543,cfilter.5/pub_detail.asp.

Week 5 (Sept. 21) Analyzing health care regulation (Don King)

Read: Don King, *Federal Health Care Regulation*, Mercatus Policy Resource No. 2 (March 2006), available at

http://www.mercatus.org/Publications/pubID.2338,cfilter.5/pub_detail.asp.

Week 6 (Sept. 28) Analyzing health/safety regulation (Howard Beales)

Read: TBA.

Week 7 (Oct. 5) Meet with mentors to discuss regulations (during class period)

Week 8 (Oct. 12) Workshop: Elements of public interest comments

Read: Samples to be distributed in class.

Week 9 (Oct. 19) Turning your research into multiple products (Jerry Brito)

Eugene Volokh, "Writing a Student Article," 48 J. Legal Educ. 247 (1998).

Week 10 (Oct. 26) How to do live testimony

Week 11 (Nov. 2) Writing op-ed columns (Carrie Conko)

Week 12 (Nov. 9) Regulatory advocacy in government (Guest speakers)

Week 13 (Nov. 16): Mock testimony

Nov. 23: No class (Thanksgiving)

Week 14 (Nov. 30): Mock testimony

Comments and Op-Eds due: Thursday, December 19.