

**George Mason University School of Law  
Regulatory Clinic - LAW 300-001**

**Spring Term 2009, Tuesdays 6:00 – 7:50 PM**

**Course Syllabus**

**Professors:** Jerry Brito  
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**Summary:** Students engage in the federal regulatory process, analyzing an active regulation and filing public comments (from a public interest perspective) with a federal agency. The course combines practical lectures with workshops on how to analyze regulations and effectively communicate ideas. Students will work with a Mercatus Center mentor and present their analysis through a mock hearing and op-ed, as well as the public comment.

**Grading:** Grades for the course will be based on performance on an oral testimony (15%), op-ed (15%), and public comment (50%), as well as participation in class (including ability to discuss the readings and listenings) and group activities (20%). This is a writing course.

**Readings:** Readings are listed below, but a few more not listed might be assigned via e-mail. The required texts are *Government's End* by Jonathan Rauch, available in paperback from Amazon.com for \$10, and *Primer on Regulation* by Susan Dudley, available free online. A hard copy of the Dudley primer will also be distributed on the first class, so you don't have to print it out.

**Jan. 13**     **Introduction, aims and scope of the course, grading and policies.  
What is the public interest? What is rent seeking?**

Jonathan Rauch, *Government's End*, Ch. 1.

Susan E. Dudley, *Primer on Regulation*, pgs. 1 – 6.  
Available at: <http://tinyurl.com/2pjj45>

Listen to interview with Bruce Yandle on Econtalk.  
Available at: <http://tinyurl.com/5fjvdg>

**Jan. 20**     **Class cancelled. Enjoy Inauguration Day.**

**Jan. 27      What is rulemaking? The regulatory process.**

Curtis Copeland, *The Federal Rulemaking Process: An Overview*, CRS Report for Congress No. RL32240, Feb. 7, 2005. Pages: 1-17, 27-30, 33-34.  
Available at: <http://tinyurl.com/6rosew>

Dudley, pgs. 17-24.

Rauch, Ch. 2.

Administrative Procedures Act, 5 U.S.C. § 551, 553 (definitions, rulemaking).

**Feb. 3      Why should we regulate and why do we regulate? Theories of regulation.**

Dudley pgs. 7 – 11.

Listen to interview with Don Boudreaux on EconTalk. Available at:  
<http://tinyurl.com/6dpabq>

**Feb. 10      What is Executive Order 12866 & OIRA?**

Guest Speaker: Susan Dudley, former administrator of OIRA.

Timothy J. Muris, *Rules Without Reason: The Case of the FTC, Regulation*, Sept./Oct. 1982. Available at: <http://tinyurl.com/6jtz3k>

Executive Order 12866, as amended by E.O. 13258 & E.O. 13422.  
Available at: <http://tinyurl.com/5thgp7>

OMB Circular A-4 (skim). Available at: <http://tinyurl.com/63p9j5>

*By today you should have selected the regulation on which you will write a comment.*

**Feb. 17      Public choice**

Rauch, Chs. 3 & 5.

Listen to interview with Mike Munger on EconTalk.  
Available at: <http://tinyurl.com/6z3fxh>

*Today you must turn in a briefing memo explaining your selected regulation.  
Mentors will be assigned.*

**Feb. 24**

**Analysis of economic regulation**

Guest speaker: Dr. Jerry Ellig, senior research fellow, Mercatus Center at GMU

Dudley, pages 28-32

Jerry Brito & Jerry Ellig, *Video Killed the Franchise Star: The Consumer Cost of Cable Franchising and Policy Alternatives*, 5 J. Telecomm. & High Tech. Law 199 (2006). Available at: <http://tinyurl.com/5mcwr5>

Summaries of the FCC final order on cable franchising. Available at: <http://tinyurl.com/62b5wf> & <http://tinyurl.com/5dxe8v>

**Mar. 3**

**Analysis of social regulation**

Guest speaker: TBA

Listen to interview with Sam Pelzman on EconTalk.  
Available at: <http://tinyurl.com/649oyn>

Dudley, pages 32-37.

**Mar. 10**

**Spring Break. Don't have too much fun.**

**Mar. 17**

**Elements of a public interest comment / Workshop: Student projects**

Jerry Brito & Jerry Ellig, Public Interest Comment on Video Franchising, submitted to the FCC, February 13, 2006. (You don't have to read this for the content; you can skim it. Read it for the structure and to see how the arguments are laid out and how the regulation is analyzed.) Available at: <http://tinyurl.com/5tf6me>

*Come prepared to discuss your regulation and your comment.*

**Mar. 24**

**Turning your comment into a law review article**

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

**Mar. 31**

**Communicating complex ideas: Giving live testimony and writing an op-ed**

Guest speakers: Eileen Norcross, senior research fellow, Mercatus Center at GMU and Catherine Behan, communications manager, Mercatus Center at GMU

William Zinsser, *On Writing Well*, pgs. 3 – 46.  
Available at: <http://tinyurl.com/5mglha>

Eileen Norcross, *Testifying Before Congress*. Available at: <http://tinyurl.com/6dzcse>

Read the Washington Post's op-ed page for the week leading up to this class.

**Apr. 7**      **Deregulation: What happened?**  
Guest speakers: Patrick McLaughlin and Houman Shadab, senior research fellows,  
Mercatus Center at GMU

Readings TBA.

**Apr. 14**      **Midnight Regulations; Judicial, Statutory, and Executive Review of Final  
Regulations**

Jerry Brito & Veronique DeRugy, *Midnight Regulations and Regulatory Review*, 61  
Admin. L.R. (forthcoming 2009).

Memorandum of Joshua Bolton, *Issuance of Agency Regulations at the End of the  
Administration*, May 8, 2008.

Available at: <http://tinyurl.com/6xg9sw>

**Apr. 21**      **Mock Testimony**