



SPRING 2026 COURSE SYLLABUS

Course Number: Law 289

Course Title: Perspectives on Regulation

Credit Hours: 2.0

Grading Mode: Letter graded

Meeting Time(s): Wednesdays 8:10-10:10 pm

Meeting Mode: Online - Zoom

Exam Time(s): Full exam period

Exam Mode: Take home exam

Prerequisite(s): None

Corequisite(s): None

Instructor(s):

Jennifer Huddleston

Contact Information and Office Hours:

jhuddle@gmu.edu; office hours by appointment

Reading(s) & Supplement(s):

Susan Dudley and Jerry Brito, [Regulation: A Primer](#) (2nd Ed. 2012), available for free.

Adam Thierer, *Evasive Entrepreneurs & the Future of Governance: How Innovation Improves Economies and Governments*.

Adam Thierer, [Permissionless Innovation](#), available for free online.

Most assignments can be found online or in the library

Course Overview:

This course will enable students to gain a deeper understanding of 1) how the federal regulatory process and regulatory agencies work; 2) how to engage in the regulatory process; 3) how different interest groups affect the process; and 4) and how to analyze the effects of regulations from an economic point of view.

Course Learning Outcomes:

- Develop a practical, ground-level perspective on the federal regulatory process and the struggles that shape it;
- Develop presentation and advocacy skills;
- Learn to look at regulatory issues through the lens of economic analysis and important court cases.

Grading Policies:

Participation %: 10

Final Exam/ Paper %: 75

Additional Content %: 15

(Additional Content consists of class presentations and regulatory comment exercise)

Classroom Policies:

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Participation & Preparation:

Attendance and participation are expected in a professional manner. You are allowed a set number of absences by the law school policies and there are no distinctions made excused or unexcused. Please note you are allowed a maximum of **3** absences in this class in accordance with law school policies.

Students are expected to have their camera on during class unless they have otherwise notified the professor of extenuating circumstances.

Slides are regularly posted to the class TWEN page; however, recordings of the class are not. If you need to have class recorded due to an absence, please communicate

such with the professor in advance. If recording is a needed accommodation, please follow university procedures for such.

In the event of technical difficulties or other disruptions, the professor will notify students as soon as possible via their GMU email and if needed provide information about an anticipated start time or other alternatives.

Use of Technology & AI:

Generative AI tools may be used in this course for the following purposes, and with the following guidelines. Students may use AI in this course to brainstorm, outline, format or prepare slides for presentations, study, explore, and edit but may not use AI as the primary source for research, the primary source for text of written assignments, or during the final exam. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create course work product, properly cite any AI tools utilized, and should be prepared to produce the transcript of prompts and responses upon request. Misuse will be treated as a violation of academic standards.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's *written* exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e-book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

Week 1:

Date: January 14

Topic: Why Regulate?

Assignment(s):

Susan Dudley and Jerry Brito. 2012.

Regulation: A Primer: 1 – 10.

Robert Litan, "[Regulation](#)," The Concise Encyclopedia of Economics*

Week 2:

Date: January 28

Topic: **20th Century History of Regulation**

Assignment(s):

Susan Dudley and Jerry Brito. 2012. Regulation: A Primer: 23 – 55.*;

Mathew D. Mccubbins, Roger G. Noll, Barry R. Weingast. 1999.;

"The Political Origins of the Administrative Procedure Act," *The Journal of Law, Economics, and Organization* (15)1: 180-217.

Elena Kagan, "Presidential Administration," *Harvard Law Review* 114, no. 8 (2001): 2245–2385.

Week 3:

Date: February 4

Topic: Who Regulates?

Assignment(s):

Jeff Kosseff, Hamiltonian Cybersecurity, [Wake Forest Law Review](#), Volume 54, Forthcoming; Clyde Wayne Crews, [Ten Thousand Commandments 2025: An Annual Snapshot of the Federal Regulatory State](#);

Susan Dudley and Jerry Brito. 2012. Regulation: A Primer: 57-64.*

Adam Thierer, *Evasive Entrepreneurs*, Chapter 5: Innovation as Checks and Balances*

Week 4:

Date: February 11

Topic: **What are Regulators Maximizing?**

Assignment(s):

William A. Niskanen, Jr., "Bureaucracy: A Final Perspective," 189-207, in *REFLECTIONS OF A POLITICAL ECONOMIST: SELECTED ARTICLES ON*

GOVERNMENT POLICIES AND POLITICAL PROCESSES (Chapter 19) (2008);
James Q. Wilson, *Bureaucracy: What Government Agencies Do and Why They Do it* 30-110 (1989);
Barry R. Weingast & Mark J. Moran, "Bureaucratic Discretion or Congressional Control? Regulatory Policymaking by the Federal Trade Commission," 91 J. Pol. Econ. 765 (1983);
Timothy J. Muris, "Regulatory Policymaking at the Federal Trade Commission: The Extent of Congressional Control," 94 J. Pol. Econ. 884 (1986)

Week 5:

Date: February 18 - Class cancelled this week

Week 6:

Date: February 25

Topic: Theories of Regulation

Assignment(s):

Susan Dudley and Jerry Brito. 2012. Regulation: A Primer: 11 – 22.*

Lambert, How to Regulate, 23-90*

Paul A. Samuelson. 1954. "The Pure Theory of Public Expenditure," *The Review of Economic and Statistics* (36)4: 387–389.

George J. Stigler, "The Theory of Economic Regulation," *The Bell Journal of Economics and Management Science* 2, no. 1 (1971): 3–21.

Bruce Yandle, "[Bootleggers and Baptists - The Education of a Regulatory Economist](#)," *Regulation* 7 (1983): 12-16.

Ted Gayer and W. Kip Viscusi. "[Behavioral Public Choice: The Behavioral Paradox of Government Policy](#)." *Harvard Journal of Law & Public Policy* 38(3): 973-1007

Week 7:

Date: March 4

Topic: **OIRA Review and Regulatory Impact Analysis**

Assignment(s):

Jim Tozzi, "OIRA'S Formative Years: The Historical Record of Centralized Regulatory Review Preceding OIRA's Founding," *Administrative Law Review* 63 (2011): 37–69.

Don Arbuckle. 2011. "The role of analysis on the 17 most political acres on the face of the earth."

Risk Analysis 31(6):884-92. Executive Order 12,866 (1993).*

Week 8:

Date: March 18

Topic: Agency Structure

Assignment(s):

Rachel E. Barkow, Insulating Agencies: Avoiding Capture Through Institutional Design, 89 TEX. L. REV. 15 (201)

PHH Corporation v. CFPB,* 839 F.3d 1 (2016) FOCUS ON SECTIONS
DISCUSSION CFPB STRUCTURE

Adam White, [*Is Humphrey's Executor Headed for Slaughter?*](#)

Neil Chilson, [Does Big Tech Need Its Own Regulator?](#)

Week 9:

Date: March 25

Topic: Limits of Regulation

Assignment(s):

West Virginia v. EPA 597 U.S. ____ (2021)*; [majority opinion available here](#).

Loper-Bright Enterprises v. Raimondo 603 U.S. ____ (2024)*; [majority opinion available here](#).

Antonin Scalia, Judicial Deference to Administrative Interpretations of Law, 1989 Duke L.J. 511 (1989)

Christopher J. Walker, [What Kisor Means for the Future of Auer Deference?](#)

Kristin E. Hickman, [Gundy, Non-Delegation, and the Never-Ending Hope](#).

Week 10:

Date: April 1

Topic: Regulating without Regulation

Assignment(s):

Ryan Haggeman, Jennifer Huddleston Skees, and Adam Thierer, [Soft Law for Hard Problems](#), Colorado Law and Technology Journal (2019): 40-53, 119-128.

Adam Thierer, Evasive Entrepreneurship, Chapter 7* Huddleston, Thierer, Haggeman, "[Soft Law is Eating the World.](#)"

Week 11:

Date: April 8

Topic: Regulation and the Future

Assignment(s):

Thierer, Koopman, Hobson, and Kuiper, "How the Internet, the Sharing Economy, and Reputational Feedback Mechanisms Solve the 'Lemons

Problem,” 70 University of Miami Law Review 830 (2016).

Adam Thierer, [Permissionless Innovation, Preface and Chapter V](#).

Adam Thierer, Evasive Entrepreneurship, Chapters 1, 4, and post-script Adam Thierer, [The Pacing Problem, The Collingridge Dilemma, & Technological Determinism](#).

Liya Palagashvili and Paola A. Suarez, [Women as Independent Workers in the Gig Economy](#).

Week 12:

Date: April 15

Topic: **State and Local Level Regulation and Regulatory Reforms**

Assignment(s):

Adam Millsap, [A State and Local Federalist Relationship Must Be Market Preserving](#).

James Broughel, [Idaho Repeals Its Regulatory Code](#).

James Madison, [Federalist No. 10](#), The Federalist Papers*

James Czernaski, [How Utah Aims to Help Businesses Flourish after the Pandemic](#).

Andrea O’Sullivan, [Expanding Regulatory Sandboxes to Fast-Track Innovation](#).

Week 13:

Date: April 22

Topic: **Regulators, regulation, and regulated entities in 2025**

Assignment(s): TBD based on topics arising over the course of the semester

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-991-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[Student Conduct](#)

[University Life](#)