

**The George Washington University
Trachtenberg School of Public Policy and Public Administration**

PPPA 6056: Regulatory Comment Clinic

Spring 2019, Tuesdays 6:10 – 8:00 PM
805 21st St, MPA 601Z

Professor: Susan E. Dudley
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Office hours Tuesdays 4-6 PM, and by appointment

Summary: Regulation is one of the most important mechanisms by which the federal government sets policy. In this course, students engage in the federal regulatory process, analyzing an active regulation and filing public comments (from a public interest perspective) with a federal agency.

Readings: Susan E. Dudley & Jerry Brito, *Regulation: A Primer*. The George Washington University and Mercatus Center 2012. (Paperback copies available from professor.)

Other assigned readings will be made available on Blackboard or the Internet.

Students will also read – in their selected area of interest – agency regulatory proposals and supporting material, and public comments filed with agencies.

Learning objectives:

- **Understand** how regulations are developed.
- **Explore** how regulation can serve the public interest, and how to determine when a regulatory proposal might not.
- **Gather information** from government and other sources to evaluate a specific regulatory proposal in your area of interest.
- **Analyze**, quantitatively and qualitatively, the likely impacts of selected regulation.
- **File comments** from the perspective of the public interest on an active regulatory proposal.
- **Effectively present** your findings succinctly in a mock administrative hearing.
- **Draft a short newspaper commentary (op ed)** that communicates your analysis to a general audience.

Course format:

- **Practical lectures** on the regulatory development process and regulatory analysis.
- **Guest lectures** from faculty and practitioners involved in setting regulatory policy.
- **Workshops** on effectively communicating legal, economic, and policy ideas through different media.
- **Mock hearings** where students present their arguments regarding their selected regulation.
- Preparation of **public comments** on current regulatory proposals filed on the public record.
- **Op eds** based on student's analysis.

Grading:

Weekly Questions	5%
Memo	10%
Comment outline	10%
Mock hearing	15%
Op ed	15%
Public interest comment	45%

Attendance policy: It is important that you attend all classes, arrive on time, and read the assigned material before class so that you may contribute your insights to the class discussion and learn from the insights of other students. If you must miss a class, please send me an email in advance of the class to let me know that you will be absent. Attendance as such will not be graded but it is unlikely that you will do well in the graded assignments without regular attendance in class.

Course Effort: Across the 15-week semester, students should expect to devote 7.5 hours per week to this class. This total includes a two-hour class session each week, as well as an *average* of 5.5 hours of out-of-class time spent on assigned reading, class preparation, and assignments. Some weeks will entail less reading than others, and the major written assignments are due at the end of the semester, so getting ahead on assignments earlier in the semester will help you manage your time towards the end.

Class Schedule & Assignments

<p>1. Introduction: What is regulation, and why do we do it?</p> <ul style="list-style-type: none"> • <i>Regulation: A Primer</i>, Ch. 1-2 • Susan Dudley & Melinda Warren, Regulators' Budget, a joint report of the GW Regulatory Studies Center and the Weidenbaum Center at Washington University in St. Louis. May 201. • OMB, 2017 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act (February 23, 2018) • Neomi Rao, Introduction to the Fall 2018 Regulatory Plan (October 2018) • Susan Dudley, Exploring Regulatory Capture's Unanswered Questions, Penn RegBlog. July 4, 2016. • Buchanan, James, "Rent Seeking and Profit Seeking," in <i>The Collected Works of James M. Buchanan: Vol. 1</i>. Liberty Fund 1999. (Blackboard) • Bruce Yandle, "Bootleggers and Baptists in Retrospect," <i>Regulation</i>, Vol. 22, No. 3 (1999). 	1/15
<p>2. The Regulatory Process: How is the sausage made?</p> <ul style="list-style-type: none"> • <i>Regulation: A Primer</i>, Ch. 4-5 • Maeve Carey, <i>The Federal Rulemaking Process: An Overview</i>, CRS No. RL32240, June 17, 2013. (Blackboard) • Office of Federal Register, "Guide to the Rulemaking Process." • Susan Dudley, "Observations on OIRA's Thirtieth Anniversary," <i>Administrative Law Review</i>, 2011 (Blackboard & ALR volume available). • Sally Katzen, "OIRA at Thirty: Reflections and Recommendations," <i>Administrative Law Review</i>, 2011 (Blackboard & ALR volume available). • Susan Dudley, "Regulating Within a Budget," Penn Regulatory Review 	1/22
<p>3. Administrative Law Overview (Guest, Bridget Dooling)</p> <ul style="list-style-type: none"> • <i>Regulation: A Primer</i>, Ch. 3 • Congressional Research Service, <i>A Brief Overview of Rulemaking and Judicial Review</i>. https://fas.org/sgp/crs/misc/R41546.pdf • The Chevron Two-Step (video & lyrics on youtube) https://www.youtube.com/watch?v=uHKujqyktJc • CRS Report on Chevron: https://fas.org/sgp/crs/misc/R44954.pdf (selected pages: Summary (no page #), What is Chevron Deference? (pages 1-4), Issues to Consider (pages 22-26). • Cass R. Sunstein, Cost-Benefit Analysis and Arbitrariness Review, http://harvardelr.com/wp-content/uploads/2015/10/Sunstein.pdf (pages 1-19) 	1/29

<p>4. Market Processes & Regulation</p> <ul style="list-style-type: none"> • Michael Munger, <i>Analyzing Policy</i>, pp. 54-72 (Blackboard) • Brian Mannix, Benefit-Cost Analysis as a Check on Administrative Discretion, Supreme Court Economic Review. Vol 24, No. 1 (2016) • OIRA Regulatory Impact Analysis Checklist (2010) (Blackboard) • <i>Regulation: A Primer</i>, Ch. 6-7 • Begin to look for your regulation (We'll spend part of this class and next navigating resources to identify the rules you'll select for comment): <ul style="list-style-type: none"> ○ www.Regulations.gov ○ https://www.reginfo.gov/public/do/eAgendaMain ○ https://www.reginfo.gov/public/do/eoPackageMain 	2/05
<p>5. Regulatory Analysis I: Need for Regulation & Alternatives</p> <ul style="list-style-type: none"> • <i>Regulation: A Primer</i>, Ch. 8 • OIRA Regulatory Impact Analysis: A Primer (2011) (Blackboard) • OIRA Regulatory Impact Analysis FAQs (2011) (Blackboard) • OMB Circular A-4, "Regulatory Analysis" (Blackboard) (through section C) • Dudley et al, "Consumer's Guide to Regulatory Impact Analysis: Ten Tips for Being an Informed Policymaker," <i>Journal of Benefit-Cost Analysis</i> (2017) 	2/12
<p>MEMO DUE</p>	2/19
<p>6. Regulatory Analysis II: Benefit-Cost Analysis</p> <ul style="list-style-type: none"> • OMB Circular A-4, "Regulatory Analysis" (Blackboard) (Sections D-G) • Scott Farrow, "How (Not) to Lie with Benefit-Cost Analysis," <i>The Economists' Voice</i> 2013; 10(1): 45–50 (Blackboard) • "Point-Counterpoint: Valuing Internalities in Regulatory Impact Analysis" Allcott, Sunstein, Mannix, Dudley. <i>Journal of Policy Analysis and Management</i>. (Blackboard) and http://onlinelibrary.wiley.com/doi/10.1002/pam.2015.34.issue-3/issuetoc#group6 	2/19
<p><i>Classes 7-9 will focus on specific categories of regulation, depending on class interests and regulations chosen. The following are illustrative (based on previous students' choices). Guest lecturers may assign readings. Start reading the editorial pages of your favorite newspaper and bring in op eds on regulation to share in class.</i></p>	

7. Issues in Environmental Regulation (possible guest) <ul style="list-style-type: none"> • <i>Regulation: A Primer</i>, Ch. 9 • Huber, Gatekeepers and Exorcists • Susan Dudley and Sharon Hays, “Updated Principles for Risk Analysis,” Memorandum for the Heads of Executive Departments and Agencies, Office of Management and Budget, September 19, 2007. • Readings may be assigned. 	2/26
8. Issues in Food & Health Care Regulation (possible guest) <ul style="list-style-type: none"> • Readings may be assigned. • Keep reading about your selected rule! 	3/05
9. Issues in Financial and Economic Regulation (possible guest) <ul style="list-style-type: none"> • Readings may be assigned. 	3/19
10. Workshop – Writing public comments <ul style="list-style-type: none"> • Regulations.gov, “Tips for Submitting Effective Comments.” (Blackboard) • Environmental Law Institute, “Step-by-Step Tips for Writing Effective Comments.” December 2013. (Blackboard) • Jerry Ellig, “A Guide to Writing Public Interest Comments Using Economic Analysis” (Blackboard) • Come with questions about your comment and be prepared to discuss your RIA 	3/26
COMMENT OUTLINE DUE	3/29
11. Workshop – Working with the media (Guest, Amber Palmer-Halma) <ul style="list-style-type: none"> • Read the newspapers for op eds and articles on regulation • Reading packet on writing op eds (Blackboard) 	4/02
12. Legislators’ Perspective (Guests,) <ul style="list-style-type: none"> • Dudley Testimony before the U.S. Senate Committee on Homeland Security and Government Affairs: A Review of Regulatory Reform Proposals. (September 17, 2015) 	4/09
TESTIMONY DUE	4/14
13. Mock hearing	4/16
14. Mock hearing & Course wrap up	4/23
OP ED AND COMMENT DUE	5/08

APPENDIX: UNIVERSITY & TRACHTENBERG SCHOOL CLASS POLICIES

1. Incompletes: A student must consult with the instructor to obtain a grade of I (incomplete) no later than the last day of classes in a semester. At that time, the student and instructor will both sign the CCAS contract for incompletes and submit a copy to the School Director. Please consult the TSPPPA Student Handbook or visit http://www.gwu.edu/~ccas/faculty/files/Incomplete_poli0.pdf for the complete CCAS policy on incompletes.
2. Submission of Written Work Products Outside of the Classroom: It is the responsibility of the student to ensure that an instructor receives each written assignment. Students can submit written work electronically only with the express permission of the instructor.
3. Submission of Written Work Products after Due Date: Policy on Late Work: All work must be turned in by the assigned due date in order to receive full credit for that assignment, unless an exception is expressly made by the instructor.
4. Academic Honesty: All examinations, papers, and other graded work products and assignments are to be completed in conformance with the George Washington University Code of Academic Integrity. (see <http://www.studentconduct.gwu.edu/code-academic-integrity>) Academic dishonesty is defined as cheating of any kind, including misrepresenting one's own work, taking credit for the work of others without crediting them and without appropriate authorization, and the fabrication of information. Note especially the definition of plagiarism: "intentionally representing the words, ideas, or sequence of ideas of another as one's own in any academic exercise; failure to attribute any of the following: quotations, paraphrases, or borrowed information."
5. Changing Grades After Completion of Course: No changes can be made in grades after the conclusion of the semester, other than in cases of clerical error.
6. The Syllabus: This syllabus is a guide to the course for the student. Sound educational practice requires flexibility and the instructor may therefore, at her/his discretion, revise content and requirements during the semester.
7. Safety and Security: In the case of an emergency, if at all possible, the class should shelter in place. If the building that the class is in is affected, follow the evacuation procedures for the building. After evacuation, seek shelter at a predetermined rendezvous location.
8. University policy on observance of religious holidays: In accordance with University policy, students should notify faculty during the first week of the semester of their intention to be absent from class on their day(s) of religious observance. For details and policy, see: students.gwu.edu/accommodations-religious-holidays.
9. Accommodation for Students with Disabilities: Any student who may need an accommodation based on the potential impact of a disability should contact the Disability Support Services office at 202-994-8250 in the Rome Hall, Suite 102, to establish eligibility and to coordinate reasonable accommodations. For additional information see: disabilitysupport.gwu.edu/
10. University Mental Health Services Center: The University's Mental Health Services (202-994-5300) offers 24/7 assistance and referral to address students' personal, social, career, and study skills problems. Services for students include: crisis and emergency mental health consultations confidential assessment, counseling services (individual and small group), and referrals. For additional information see: counselingcenter.gwu.edu/