**COURSE SYLLABUS**

**Description:** This course presents an historically grounded, institutionally focused perspective on the development of American regulatory institutions and the challenges they currently face. The first portion of the course is focused on historic context, with an emphasis on the underlying economic, technological and political forces that led to the creation of regulatory agencies such as the Interstate Commerce Commission. The second portion focuses on understanding the nature of bureaucratic institutions and the factors that influence the outcome of bureaucratic processes. The third portion of the course focuses, from a legal and policy perspective, on the changing role of regulatory agencies in relation to the legislative and judicial branches in the modern administrative state, and then examines some case studies in the area of communications regulation by the FCC to illustrate specific regulatory issues.

**Grades:** Grades will be based on two papers, plus class participation.

- **First-Half Paper (35 percent; due October 9):** Explain how some major regulatory (or related) policy change during the Progressive era (1870-1940) was related to the Industrial Revolution and Progressive thought. Examples: The Sherman Act; the ICC; Hoover’s associationalism and the National Recovery Administration; Major labor legislation; etc. 10-12 pages, double-spaced (approx. 2,500-3,000 words).


- **Class Participation (30 percent; regular attendance expected):** Participate actively in class discussions showing evidence of having completed and understood the assigned readings, being able to offer constructive criticism and creative application of principles to the issues at hand.
Texts:


I. The Ideological Underpinnings of the Regulatory State

- McCraw, Chapter 1 (pp. 1-56)

II. The Progressive Movement, Taylorism and the New Deal

- McCraw, Chapters 2-4 (pp. 57-143)
- Joan Hoff Wilson, Herbert Hoover: Forgotten Progressive (Boston: Little, Brown & Company, 1975) (Chapter 4, pp. 79-121).

III. The Nature of Bureaucratic Government

- Wilson, Chapters 1-12

IV. Agency Discretion and Regulatory Initiatives—The Agencies, Courts, and Congress

- McGraw, Chapters 5 and 6
- Randolph J. May, “Finding the Right Words,” Legal Times, July 1, 2002
- FCC v. Sanders Brothers Radio Station, 309 U.S. 470 (1940)
- National Broadcasting Co., Inc. v U.S., 319 U.S. 190 (1943)
- FCC v. RCA Communications, Inc. (1953)
V. Agency Discretion and Deregulatory Initiatives—The Agencies, Courts, and Congress

- McGraw, Chapter 7

VI. Regulation and Deregulation After the Telecommunications Act of 1996—Case Studies

- *Fox Television Stations Inc. v. FCC*, 280 F. 3d 1027 (D.C. Cir. 2002), rehearing granted, 293 F. 3d 537 (D.C. Cir. 2002)
- *Sinclair Broadcast Group, Inc. v. FCC*, 284 F. 3d 148 (D.C. Cir. 2002)
- *United States Telecom Ass’n v. FCC*, 290 F. 3d 415 (D.C. Cir. 2002)
- Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, released August 21, 2003 [paragraphs 1-34 only required]
- Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, GN Docket No. 00-185, released March 15, 2002 [paragraphs 1-30 and 72-95 only required]
- Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket 02-33, released February 15, 2002 [paragraphs 1-16 and 30-53]
- Randolph J. May, “Calling the Court,” *Legal Times*, October 8, 2001

VII. Old and New Regulatory Tools and Models Reconsidered

- McGraw, Chapter 8
- Cost-Benefit Analysis Colloquy—“Squaring the Vicious Circle” by Hon. Stephen F. Williams and “Is Cost-Benefit Analysis for Everyone?” Cass Sunstein
- Review and Questions
## CLASS SCHEDULE

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
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<tbody>
<tr>
<td>August 21</td>
<td>No class</td>
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<tr>
<td>August 28</td>
<td>Ideological Underpinnings of the Regulatory State (E)</td>
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<td>September 4</td>
<td>Theories of Economic Regulation and the Administrative State;</td>
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<td>Discussion of two topics for second term paper (M)</td>
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<td>September 11</td>
<td>The Progressive Movement, Taylorism and the New Deal (E)</td>
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<td>September 18</td>
<td>Guest Lecture (E)</td>
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<td>September 25</td>
<td>The Progressive Movement, Taylorism, and the New Deal (E)</td>
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<td>October 2</td>
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<td>Agency Discretion and Regulatory Initiatives-The Agencies, Courts,</td>
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<td>October 30</td>
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<td>1996-Case Studies (M)</td>
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<td>November 20</td>
<td>Old and New Regulatory Tools and Models Reconsidered (M)</td>
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