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BOOKS

THE PEOPLE'S AGENTS: REVITALIZING SAFETY, HEALTH AND ENVIRONMENTAL PROTECTION (forthcoming, 2010) (with Rena Steinzor)
ADMINISTRATIVE LAW AND PROCESS, 5th ed. (2009) (Foundation Press) (with Paul Verkuil & Richard Pierce)
ADMINISTRATIVE LAW AND PROCEDURE: A PROBLEM CASEBOOK (3d ed. 2006) (West Publishing Co.) (with William Funk & Russell Weaver)
SOPHISTICATED SABOTAGE: THE INTELLECTUAL GAMES THAT INDUSTRIES PLAY TO SUBVERT RESPONSIBLE REGULATION (ELI Press 2004) (with Thomas McGarity & David Bollier)
RISK REGULATION AT RISK: RESTORING A PRAGMATIC APPROACH (2003) (Stanford Press) (with Robert Glicksman)
REGULATORY LAW AND POLICY: CASES AND MATERIALS, 3d ed. (2003) (LexisNexis) (with Joseph Tomain)
WORKERS AT RISK: THE FAILED PROMISE OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (1993) (Praeger Press) (with Tom McGarity)

ARTICLES

- *The Social Costs of Dangerous Products: An Empirical Investigation*, 18 CORNELL J. OF LAW & PUB. POL. ___ (Summer 2009) (in press) (with J. Paul Leigh and Ruth Rutenberg)
- "Political Science": *Regulatory Science After the Bush Administration*, 4 DUKE JOURNAL OF CONSTITUTIONAL LAW AND PUBLIC POLICY 31 (2009)
- *Eight Things Americans Can't Figure Out About Controlling Administrative Power*, 61 AD. L. REV. 5 (2009) (special issue) (with Richard Murphy)
- *Capture, Accountability, and Regulatory Metrics*, 84 TEX. L. REV. 1741 (2008) (with Rena Steinzor).
- *Beyond Cost-Benefit Analysis: A Pragmatic Reorientation*, 32 HARV. ENV. L. REV. 433 (2008) (with Christopher Schroeder)
- *OMB and the Politicization of Risk Assessment*, 37 ENV. L. 1083 (2007)
- *United Church of Christ v. FCC: Private Attorney Generals and the Rule of Law*, 58 AD. L. REV. 939 (2007)
- *The People's Agent: Executive Branch Secrecy and Accountability in an Age of Terrorism*, 69 LAW & CONTEMP. PROBS. 99 (2006) (with Rena I. Steinzor)
- *A Standards-Based Theory of Judicial Review & The Rule of Law*, 57 AD. L. REV. 107 (2006) (with Richard Levy).
- *The Case Against the IQA*, ENV. FORUM, July/August 2005, at 26.
- *Rethinking Reform of Electricity Markets*, 40 WAKE FOREST L. REV. 497 (2005) (with Joseph P. Tomain).
- *Pragmatic Administrative Law*, ISSUES IN LEGAL SCHOLARSHIP, The Reformation of American Administration Law (2005): Article 1, <http://www.bepress.com/ils/iss6/art1/>.
- *Government Benefits and the Rule of Law: Toward A Standards-Based Theory of Due Process*, 57 AD. L. REV. 107 (2005) (with Richard Levy)

- *Improving Regulation Through Incremental Adjustment*, 52 K.U.L. REV. 1179 (2005) (with Robert Glicksman) (2004) (with Robert Glicksman)
- *The APA and the Back-End of Regulation: Procedures for Informal Adjudication*, 56 AD. L. REV. 1159
- *Outsourcing Government Regulation*, 53 DUKE L. REV. 389 (2004).
- *The Information Quality Act and Environmental Protection: The Perils of Reform By Appropriations Rider*, 28 WM. & MARY ENV. L. & POL. REV. 339 (2004).
- *OMB's Dubious Peer Review Proposals*, 34 ENV. L. REP. 10064 (2004)
- *Administrative Procedure and the Decline of the Trial*, 51 KANSAS L. REV. 473 (2003) (with Richard Levy)
- *The Missing Perspective*, THE ENVIRONMENTAL LAW FORUM, March/April 2003 (with Rob Glicksman).
- *Book Review: Regulatory Encounters and American Adversarial Legalism*, 50 AM. J. COMPARATIVE LAW 229 (2002)
- *Matching Public Ends and Private Means: Insights from the New Institutional Economics*, 6 J. SMALL & EMERGING BUSINESS L. 43 (2002)
- *Two Cheers For HBO: The Problem of the Nonpublic Record*, 54 AD. L. REV. 853 (2002)
- *The New GATT Trade Regime, Regulatory Protection, and Public Accountability*, 54 AD. L. REV. 435 (2002)
- *Goals, Instruments, and Environmental Policy Choice*, 10 DUKE ENV. L. & POL. FORUM 297 (2001) (with RobGlicksman)
- *Top Ten Reasons That Law Students Dislike Administrative Law and What Can (or Should) Be Done About Them?*, 38 BRANDEIS L.J. 351 (2000).
- *Administrative Law After the Counter-Reformation: Restoring Faith in Pragmatic Government*, 48 KANSAS L. REV. 689 (2000)
- *Voluntary Regulatory Compliance in Theory and Practice: The Case of OSHA*, 52 ADMINISTRATIVE L. REV. 1249 (2000)(with Randy Rabinowitz)
- *The Necessity of OSHA*, 8 KANSAS J. LAW & PUBLIC POLICY 22 (1999)
- *OSHA Reform: Cooperation Versus Punishment*, 49 ADMINISTRATIVE L. REV. 713 (1997) (with Randy Rabinowitz)
- *Substantive Reform, Judicial Review, and Agency Resources: OSHA As An Case Study*, 49 ADMINISTRATIVE L. REV. 645 (1997)
- *Analyzing Government Regulation*, 49 ADMINISTRATIVE L. REV. 377 (1997) (with Joe Tomain)
- *OSHA's Critics and Regulatory Reform*, 31 WAKE FOREST L. REV. 587 (1996) (with Tom McGarity)
- *Agency Priority Setting and Review of Existing Rules*, 48 ADMINISTRATIVE L. REV. 370 (1996)
- *A Delegation Theory of the APA*, 10 ADMINISTRATIVE L.J. 89 (1996)
- *Judicial Incentives and Indeterminacy in Substantive Review of Administrative Decisions*, 44 Duke L.J. 1051 (1995) (with Richard Levy)
- *Keeping The Baby and Throwing Out The Bathwater: Justice Breyer's Critique of Regulation*, 8 ADMINISTRATIVE L.J. 713 (1995)
- *The Resolution of Technological Controversies In Regulatory Agencies*, 6 RISK: ISSUES IN HEALTH AND SAFETY 127 (1995)
- *Occupational Safety & Health: Policy Options and Political Reality*, 31 HOUSTON L. REV. 13 (1994)
- *Political Oversight and the Deterioration of Regulatory Policy*, 46 ADMINISTRATIVE L. REV. 1 (1994)
- *Rejoining the Battle Against Noise Pollution*, 9 ISSUES IN SCIENCE AND TECHNOLOGY 73 (Spring 1993)
- *Lessons From A Public Policy Failure: EPA and Noise Abatement*, 19 ECOLOGY L.Q. 1 (1992), reprinted in part in ENVIRONMENTAL VIEWPOINTS (M. Lazzari ed. 1994)
- *Not So Paradoxical: The Rational For OSHA*, 1991 DUKE L.J. 729 (with Tom McGarity), reprinted in part in LAW AND THE ENVIRONMENT: A MULTIDISCIPLINARY READER (R. Percivil & D. Alevizatos eds. 1997)
- *Poverty and the Politics of Occupational Safety and Health*, 1 KANSAS J. L. & P. 127 (1991) (with Tom McGarity)
- *Reflections On Teaching Administrative Law: Time For A Sequel*, 43 ADMINISTRATIVE L. REV. 501 (1991)

- *Biotechnology and the Design of Regulation*, 17 *ECOLOGY L.Q.* 1 (1990)
- *Public Accountability of Advisory Committees*, 1 *RISK: ISSUES IN HEALTH AND SAFETY* 189 (1990)
- *Rethinking OSHA: Rulemaking Reforms and Legislative Changes*, 6 *YALE J. REGULATION* 1 (1989) (with Tom McGarity)
- *Congress, the Supreme Court, and the Quiet Revolution In Administrative Law*, 1988 *DUKE L.J.* 819 (with R. Glicksman)
- *Lab Safety and the Law*, 18 *CHEMTECH* 267 (1988) (with Michael Burns & Robert Foster)
- *Heightened Scrutiny of the Fourth Branch: Separation of Powers and The Requirement of Adequate Reasons for Agency Decisions*, 1987 *DUKE L.J.* 387 (with Richard Levy); reprinted in part in *ADMINISTRATIVE LAW ANTHOLOGY* (Thomas Sargentich ed. 1994)
- *Scientific Issues and The Function of Hearing Procedures: An Evaluation of FDA's Public Board of Inquiry*, 1986 *DUKE* 288
- *Utility Regulation and the Political Process*, 33 *KANSAS L. REV.* 491 (1985)
- *Responses to Occupational Disease: The Role of Markets, Regulation, and Information*, 72 *Georgetown L.J.* 601 (1984) (with Elinor Schroeder)
- *Political and Judicial Review of Agency Action*, 60 *TEXAS L. REV.* 1175 (1982) (with Richard Pierce)
- *Public Regulation of DNA Gene Therapy*, 3 *J. LEGAL MEDICINE* 185 (1982) (with Tom McGarity)
- *The Trade Secret Status of Health and Safety Testing Information: Reforming Agency Disclosure Policies*, 93 *HARVARD L. REV.* 837 (1980) (with Tom McGarity), reprinted in part in *INTERNATIONAL LIBRARY OF ESSAYS IN LAW AND LEGAL THEORY* (2d Series 2001).
- *Rethinking Kansas Administrative Procedure*, 28 *KANSAS L. REV.* 419 (1980) (with Marilyn Ainsworth)
- *Limiting Physician Freedom to Prescribe a Drug for Any Purpose: The Need for FDA Regulation*, 73 *NORTHWESTERN L. REV.* 801 (1978)
- *Divorcing Profit Motivation From New Drug Research: A Consideration of Proposals to Provide FDA with More Reliable Test Data*, 1978 *DUKE L.J.* 154; reprinted in part in *PUBLIC HEALTH AND THE LAW: ISSUES AND TRENDS* 389 (L. Hogue ed. 1980)
- *Abstention and Primary Jurisdiction: Two Chips Off the Same Block? -- A Comparative Analysis*, 60 *CORNEL L. REV.* 75 (1974)

BOOK CHAPTERS

- *Occupational Safety and Health*, in *LABOR AND EMPLOYMENT LAW AND ECONOMICS* (Kenneth G. Dau-Schmidt, Seth D. Harris & Orly Lobel eds. 2009) (Edward Elgar Publishing)
- *Data Protection in the EU*, in *ADMINISTRATIVE LAW IN THE EU* (George A. Bermann, Charles H. Koch, Jr. & James T. O'Reilly eds. 2008).
- *Peer Review in Regulatory Science*, in *RESCUING SCIENCE FROM POLITICS* (Rena Steinzor & Wendy Wagner eds. 2006)
- *Procedural Issues and Judicial Review*, in *Occupational Safety & Health Law* 149 (Randy Rabinowitz ed., 2008 Cumulative Supplement)
- *Procedural Issues and Judicial Review*, in *Occupational Safety & Health Law* 477 (Randy Rabinowitz ed., 2d ed. 2002)
- *Regulatory Initiatives*, in *DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 2000-2001* (Jeffrey S. Lubbers ed., 2002)
- *Regulatory Initiatives*, in *DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 1999-2000* (Jeffrey S. Lubbers ed., 2001)
- *Regulatory Initiatives*, in *DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 1998-1999* (Jeffrey S. Lubbers ed., 2000)
- *Occupational Safety and Health Regulation*, *VOL. III ENCYCLOPEDIA OF LAW & ECONOMICS* (Boudewijn Bouckaert & Gerrit De Geest eds. 2000) (Edward Elgar Publishing), published

at <http://encyclo.findlaw.com/tablebib.html>

● *Regulatory Alternatives*, in BLOOD BANKING & REGULATION: PROCEDURES, PROBLEMS, AND ALTERNATIVES (Edward Dauer, ed. 1996) (National Academy Press, Washington)

AWARDS and HONORS

Arthur Kulp Memorial Award, American Risk and Insurance Association, Contribution to Risk Management and Insurance Literature, Sept., 1995, for WORKERS AT RISK: THE FAILED PROMISE OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Chair, Administrative Law Section, American Association of Law Schools (AALS) (1995)

TESTIMONY

Hearing on the Federal Advisory Committee Act of 2008 Before the Subcommittee on Information Policy, Census, and National Archives of the Committee on Oversight and Government Reform, United States House of Representatives, Apr. 2, 2008

Hearing on Impact of Regulations on U.S. Manufacturing Before the Subcommittee on Regulatory Affairs of the Committee on Government Reform, United States House of Representatives, April 12, 2005

Hearing on Regulator Reform and Regulatory Accounting Before the Committee on Government Operations, United States Senate, April 22, 1999

Hearing on Occupational Safety and Health Reform Before the Committee on Education and Labor, United States House of Representatives, July 21, 1993.

Hearing on Occupational Safety and Health Reform Before the Committee On Labor and Human Resources and the Subcommittee on Labor, United States Senate, Oct. 29, 1991.

FUNDED RESEARCH

Administrative Conference of the United States (ACUS):

Agency Review of Existing Rules (1994)

EPA Regulation of Noise Pollution (1991)

The Regulation of Biotechnology (1990)

OSHA Rulemaking Reforms (1989)

OSHA Management of Rulemaking (1987)

Scientific Issues and The Function of Hearing Procedures (1985)

Occupational Safety and Health Administration (OSHA):

Voluntary Regulatory Compliance (1999)

The Relationship of EPA and OSHA Regulation (1997)

Cooperative Enforcement Policies (1995)

OSHA Priority Setting Process (1994)

Regulatory versus Nonregulatory Priorities (1994)

Office of Technology Assessment (OTA):

Environmental Abatement Tools and Changing Circumstances (1994)

Program Group on Society & Technology, Julich, West Germany:

American Administrative Process (1985)

FELLOWSHIPS AND VISITING POSITIONS

Visiting Scholar, School of Public and Environmental Affairs, University of Indiana, 1998-99
Visiting Professor of Law, Lewis & Clark, Summer 1995
Visiting Professor of Law, Lewis & Clark Law School, Summer 1993
Visiting Professor of Law, University of North Carolina, 1990-91
Humanities Fellow, Freedom's Soil II Project, Hall Center for the Humanities, 1986-87
Exxon Fellow, Foundations of American Business Colloquium, University of Kansas, Fall, 1985
Visiting Professor of Law, Georgetown University, Summer, 1984, 1980
Fellowship, Economics Institute for Law Professors, Dartmouth College, Summer, 1983, sponsored by the Law and Economics Center, Emory University
Visiting Professor of Law, University of Texas, 1981-82
Consultant, Department of Health, Education, and Welfare, Secretary's Review Panel on New Drug Regulation, 1976-77

PAPER PRESENTATIONS

Padua University, *The Fiscal Crisis and American Political Values*, June, 2009, Padua, Italy
American Bar Association, *Regulatory Metrics*, Administrative Law & Regulatory Practice Section, October, 2008, Washington, D.C.
Duke University, *The Bush Administration and Science: Lessons Learned*, October, 2008, Durham, N.C.
American Bar Association, *Regulatory Impact Assessment in the United States and in the European Union*, International Law Section, September, 2008, Brussels, Belgium
University of Montpellier, *Eight Things Americans Can't Figure Out About Controlling Administrative Power*, Comparative Administrative Law Conference, May, 2008, Montpellier, France (with Richard Murphy)
Padua University, *George Bush and the Politicization of American Administrative Law*, June, 2008, Padua, Italy
American Bar Association, *An Alternative to Cost-Benefit Analysis*, Administrative Law & Regulatory Practice Section, July, 2007, San Francisco, California
Lewis & Clark University, *OMB and the Politicization of Science*, April, 2007, Portland, Oregon
American Bar Association, *Federal Preemption of State Tort Remedies*, Administrative Law & Regulatory Practice Section, February 2007, Miami, Florida
American University, *Judicial Review of Information Quality Act*, May, 2006, Washington, DC.
American Bar Association, Administrative Law & Regulatory Practice Section, *OMB's Risk Assessment Guidelines*, April, 2006, Hamilton, Bermuda
Boston University Law School, *Owning Standards: Private Standards, Government Regulation, and the New Governance*, Boston, Massachusetts, March, 2006.
American Bar Association, Administrative Law & Regulatory Practice Section, *OMB's Guidelines for Peer Review*, February, 2005, Washington, D.C.
North Carolina Academy of Trial Lawyers, *The Last Progressive Force in America*, Asheville, N.C., October, 2005
National Academy of Sciences, *Integration of Peer Review Mechanisms with the Requirements of the Federal Advisory Committee Act and the Administrative Procedure Act*, Washington, D.C., November, 2004
Institute Of Law and Economic Policy, *Outsourcing Regulation*, San Diego, California, April 2003
William and Mary School of Law, *Data Quality and Environmental Protection: The Perils of Regulatory Reform By Appropriations Rider*, Williamsburgh, Virginia., April 2003
Administrative Law and Regulatory Practice Section, *Rulemaking and the Data Quality Act*, Washington, D.C., October 2002.
University of Limerick, Limerick, Ireland, *Trade Agreements, International Regulatory Standards, and Public Accountability*, April 2002.

University of Arkansas School of Law, *Developing A Scholarly Persona: An Institutional Perspective*, Fayetteville, Arkansas, April, 2002

Society for Risk Analysis, *Harmonization of Risk Regulation: Decision Pathways and Public Accountability*, Seattle, Washington, December 2002.

Hall Center for the Humanities, Faculty Seminar, University of Kansas, *International Regulatory Standards, and Public Accountability*, November 2001.

Discussion Club, University of Kansas, *International Regulatory Standards, and Public Accountability*, November 2001.

Administrative Law and Regulatory Practice Section, American Bar Association, *Global Regulatory Standards: Decision Pathways and Public Accountability*, Sanibel Island, Florida, April, 2001

U.S./European Biotechnology Initiative Workshop, *Regulation and Political Culture*, Florence, Italy, Dec. 2000

Annual Meeting of the OSHA Committee of the Labor Law Section of the American Bar Association, *Judicial Review Issues*, Laguna Beach, California, March 2000.

Annual Meeting of the Western Economics Association, *Regulatory Risks, Goals and Instruments*, San Diego, California, July, 1999

Annual Meeting of the OSHA Committee of the Labor Law Section of the American Bar Association, *Judicial Review Issues of Regulatory Compliance*, Miami, Florida, February, 1999

Semi-Annual Meeting of the Risk Analysis and Policy Association (RAPA), *Pending Legislation to Establish Risk Review Procedures: Introduction*, Washington, D.C., March, 1999

Fourth Annual Conference: Managing Ergonomics in the 1990s, *Administrative Procedure and Risk Regulation: Should There Be Peer Review?*, Cincinnati, Ohio, June, 1997

American Bar Association, Section of Administrative Law & Regulatory Practice, *Priority Setting and the Review of Existing Rules*, Washington, D.C., Oct., 1995

National Academy of Sciences, Institute of Medicine Blood Safety Forum, *The Reform of Regulation*, Washington, D.C., Jan. 1995

Franklin Pierce School of Law, *The Resolution of Technological Controversies In Regulatory Agencies*, Oct. 1994

Southeastern Association of Law Schools, *The McCrate Report and Law School Clinics*, Charleston, S.C., July, 1994

National Hearing Conservation Association, *Does Noise Regulation Have A Future?*, Feb. 1994, Atlanta, Georgia

New Challenges in Occupational Health, *Conference Summary*, March 1993, Houston, Texas

Labor and Employment Law Committee, Administrative Law Section, American Bar Association, *Generic Rulemaking and the Occupational Safety and Health Act*, Boston, Massachusetts, Feb. 1993

Acoustical Society of America, *Noise Regulation in the United States*, St. Lake City, Utah, May 1992

Section of Administrative Law and Regulatory Practice, *Comments: Ossification of the Rulemaking Process*, Dallas, Texas, February, 1992

Chamber of Commerce of the United States, Luncheon Speaker Series, *Presidential Oversight of Agency Rulemaking*, Washington, D.C., May 1991

Section of Administrative Law and Regulatory Practice, American Bar Association, *Benefit-Cost Analysis*, Phoenix, Arizona, May 1991

Department of Occupational Medicine, Duke University School of Medicine, *OSHA Regulation of Toxic Chemicals*, Raleigh, N.C., Dec. 1990

American Society Safety Engineers, *The Future of OSHA*, Kansas City Chapter, Kansas City, Missouri, Oct. 1988.

Conference on OSHA Reform, General Accounting Office, *Legislative Reform of OSHA*, Washington, D.C.,

Sept 1988

American Industrial Hygienists Association, Heart of America *What Is Wrong With OSHA*, Chapter, Kansas City, Missouri, Sept. 1988

Administrative Law Section, American Bar Association, *Reforming Rulemaking At OSHA*, Clearwater, Florida, 1988

Occupational Safety and Health Law Subcommittee, Labor Law Section, American Bar Association, *Is Legislative Reform Necessary For OSHA?*, St. Thomas, V.I., April 1988

Administrative Law Section, American Bar Association, *The Prospects of Internal Reform At OSHA*, San Diego, California, February 1988

Kansas Trial Lawyers, *Update On Constitutional Issues: H.B. 2661 and S.B. 110*, Lake of the Ozarks, Missouri, June 1986

36th Annual Government's Industrial Safety and Health Conference, *Federal Worker and Community Right To Know Statutes*, Topeka, Kansas, November 1985

Exxon Colloquium on the Foundations of American Business, *Capitalism and Community Values: The Role of the Consumer Movement*, Lawrence, Kansas, September, 1985

American Industrial Hygiene Conference, *The Constitutionality of Required Disclosure of Trade Secrets*, Las Vegas, Nevada, May, 1985

EDUCATION

University of Pennsylvania Law School
Philadelphia, Pennsylvania
Degree: J.D. (May 1973)

Honors: Graduated Cum Laude; Editor,
University of Pennsylvania Law Review;
Class Standing: Top 10%

Wharton School of Finance and Commerce
University of Pennsylvania
Philadelphia, Pennsylvania
Degree: B.S. Economics (May 1970)

Honors: Graduated Cum Laude; Dean's
List (All Semesters); Beta Gamma Sigma
(Business Honorary)

EMPLOYMENT

Wake Forest University

University Distinguished Chair

From 2004

Associate Dean for Research and Development

From 2007

University of Padua

Visiting Professor

Spring, 2009

University of Kansas

Associate Dean for Research

1999-2004

John M. Rounds Professor of Law

1988-2004

Professor of Law

1982-1988

Associate Professor of Law

1976-1980

Lewis & Clark Law School

Visiting Professor

Summer, 1993, 1995

University of North Carolina

Visiting Professor

1990-1991

University of Texas

Visiting Professor

1981-1982

Georgetown University

Visiting Professor

Summer, 1984, 1980

<u>Department of Health, Education & Welfare (HEW)</u>	
Deputy Legal Counsel, Secretary's Review Panel on New Drug Regulation	1975-76
<u>Federal Trade Commission</u>	
Trial Attorney, Bureau of Competition	1973-1975
<u>Pepper, Hamilton & Sheetz</u>	
Summer Associate	Summer, 1972

COURSES

Administrative Law, Regulatory Law and Policy, Risk Regulation Seminar