

Lisa Heinzerling

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Employment:

- July 1997 - present Professor of Law, Georgetown University Law Center
- Winter 2001 Visiting Professor of Law, Harvard Law School
- Fall 1997 Visiting Professor of Law, Yale Law School
- 1993-97 Associate Professor of Law, Georgetown University Law Center
- 1990-93 Assistant Attorney General, Environmental Protection Division, Commonwealth of Massachusetts
- 1989-90 Skadden Public Interest Fellow, Business & Professional People for the Public Interest, Chicago, Illinois
- 1988-89 Law Clerk, Hon. William J. Brennan, Jr., Supreme Court of the United States
- 1987-88 Law Clerk, Hon. Richard A. Posner, United States Court of Appeals for the Seventh Circuit

Special Projects:

- 2007 Counsel of Record for Amicus Consumers Union, *Riegel v. Medtronic*, U.S. Supreme Court (supporting plaintiffs' argument that their tort claims are not preempted by the Medical Device Amendments to the Federal Food, Drug, and Cosmetic Act)
- 2006 Lead Author, Petitioners' Briefs, in *Massachusetts v. EPA* (U.S. S.Ct.) (concerning EPA's authority to regulate greenhouse gases under the Clean Air Act)
- 2005 Counsel of Record for Amicus OMB Watch, in *Surfrider et al. v. EPA* (2d Cir.) (supporting environmental and state petitioners' challenge to EPA's final rule for existing cooling water intake structures under the Clean Water Act)
- 2002-present Member Scholar, Center for Progressive Reform (Vice-President, 2002-2004)
- 2002 Counsel of Record for Petitioner Governor Jim Hodges of South Carolina, in *Hodges v. Abraham* (petition for writ of certiorari to Fourth Circuit filed in October 2002)
- 2002 Counsel of Record for Amicus Senator Harry Reid in *Walker v. Cheney*, Civil Action No. 1:02cv340JB (D.C. Dist. Ct.) (supporting General Accounting Office's request for information regarding Vice-President Cheney's energy policy task force)
- 2001-present Lead Counsel for Amici Natural Resources Defense Council, et al., in *General Electric Co. v. Whitman*, Civil Action No. 1:00CV02855 (RWR) (D.C. Dist. Ct.) (due process challenge to provisions of Comprehensive Environmental Response, Compensation, and Liability Act authorizing Environmental Protection Agency to achieve hazardous waste cleanups through administrative orders)
- 2001-03 Panel Member for National Academy of Public Administration study of New Source Review program of the Clean Air Act

2000 Counsel of Record for Massachusetts and New Jersey in *Browner v. American Trucking Ass'ns.*, 121 S.Ct. 903 (2001) (constitutional and statutory challenge to longstanding interpretation of Clean Air Act's provisions concerning the National Ambient Air Quality Standards)

Summer 1994 Special Counsel, United States Senate, Committee on the Judiciary, concerning hearings on the nomination of Stephen Breyer to the Supreme Court of the United States

Education:

University of Chicago Law School - J.D. cum laude 1987

Editor-in-Chief, Univ. of Chicago Law Review (1986-87)

Honors: Order of the Coif

John M. Olin Foundation Scholarship

D. Francis Bustin Prize (for student comment)

Princeton University - A.B. cum laude 1983

Major: Philosophy

Honors: Class of 1869 Ethics Prize (for senior thesis)

Publications

Books:

THE REGULATORY AND ADMINISTRATIVE STATE: MATERIALS, CASES, COMMENTS (with Mark Tushnet) (Oxford University Press 2006)

PRICELESS: HUMAN HEALTH, THE ENVIRONMENT, AND THE LIMITS OF THE MARKET (with Frank Ackerman) (The New Press 2004)

ENVIRONMENTAL LAW AND POLICY: NATURE, LAW, AND SOCIETY (with Zygmunt Plater et al.) (Aspen 2004)

Book Chapters:

Why Care About the Polar Bear? Economic Analysis of Natural Resources Law and Policy, in THE EVOLUTION OF NATURAL RESOURCES LAW AND POLICY (forthcoming 2008)

Climate Change, Human Health, and the Post-Cautionary Principle, in ECONOMIC THOUGHT AND U.S. CLIMATE CHANGE POLICY (MIT Press forthcoming 2008)

Cost-Benefit Analysis and Fundamental Rights, in STATE AND MARKET IN A GLOBALIZED WORLD: TRANSATLANTIC PERSPECTIVES (forthcoming)

Wrong in retrospect: cost-benefit analysis of past successes, in FRONTIERS IN ECOLOGICAL ECONOMIC THEORY AND APPLICATION (Jon D. Erickson & John M. Gowdy eds., 2007) (with Frank Ackerman and Rachel I Massey)

Shifting the Blame, in A NEW PROGRESSIVE AGENDA FOR PUBLIC HEALTH AND THE ENVIRONMENT (Christopher H. Schroeder & Rena Steinzor, eds., Carolina Academic Press 2005)

The Environment, in OXFORD HANDBOOK OF LEGAL STUDIES (2003)

Articles:

Climate Change in the Supreme Court, – ENVTL. L. – (forthcoming 2008)

Climate Change, Human Health, and the Post-Cautionary Principle, 96 GEO. L.J. 445 (2008) (symposium issue) (reprinted in ICFAI Journal of Environmental Law (2008))

Climate Change and the Clean Air Act, 42 U. SAN FRAN. L. REV. 111 (2007) (symposium issue)

Massachusetts v. EPA, 22 J. ENVTL. L. & LITIG. 301 (2007)

Law and Economics for a Warming World, 1 HARV. L. & POLICY REV. 331 (2007) (with Frank Ackerman)

Wasting Away in Paretoville: A Reply to Cass Sunstein, 1 HARV. L. & POLICY REV. 363 (2007) (with Frank Ackerman)

Statutory Interpretation in the Era of OIRA, 33 Fordham Urban L.J. 1097 (2006)

Knowing Killing and Environmental Law, 14 NYU ENVTL. L.J. 521 (2006)

Doubting Daubert, BROOKLYN J. L. & POLICY, SCIENCE FOR JUDGES SERIES, 14 J. L. & POL'Y 65 (2006)

The Accidental Environmentalist: Judge Posner on Catastrophic Thinking, 94 GEO. L.J. 833 (2006) (reprinted in 5 ICFAI Journal of Environmental Law 62 (2006))

Risking It All, 57 ALABAMA L. REV. 103 (2005) (based on Meador Lecture, fall 2004)

Applying Cost-Benefit to Past Decisions: Was Environmental Protection Ever a Good Idea?, 57 ADMIN. L. REV. 155 (with Frank Ackerman & Rachel Massey) (2005) (selected by environmental law professors as one of best environmental law articles published in 2005)

A Perfect Storm: Mercury and the Bush Administration, Part II, 34 Envtl. L. Rep. 10485 (with Rena I. Steinzor) (June 2004)

A Perfect Storm: Mercury and the Bush Administration, 34 Envtl. L. Rep. 10297 (with Rena I. Steinzor) (April 2004)

Minnesota Wild, 87 MINN. L. REV. 1139 (2003)

Terrorism, Toxics, and Tort, 9 WIDENER L. SYMPOSIUM 545 (2003)

Markets for Arsenic, 90 GEO. L.J. 2311 (2002)

Five-Hundred Life-Saving Interventions and Their Misuse in the Debate Over Regulatory Reform, 13 RISK: HEALTH, SAFETY & ENVIRONMENT 151 (2002)

Pricing the Priceless: Cost-Benefit Analysis of Environmental Protection, 150 U. PENN. L. REV. 1553 (2002) (with Frank Ackerman) (symposium issue) (selected by environmental law professors as one of best environmental law articles published in 2002)

The Humbugs of the Anti-Regulatory Movement, 87 CORNELL L. REV. 648 (2002) (with Frank Ackerman) (symposium issue)

Tortious Toxics, 26 WM. & MARY LAW & POLICY REV. 67 (2001) (with Cameron Powers Hoffman) (symposium issue)

The Temporal Dimension in Environmental Law, 31 ENVIR. L. REP. 11055 (Sept. 2001)

The Clean Air Act and the Constitution, 20 ST. LOUIS U. PUB. L. REV. 121 (2001) (symposium issue)

Environmentalists and Pragmatists, 113 HARV. L. REV. 1421 (2000) (reviewing Daniel Farber, ECO-PRAGMATISM)

The Rights of Statistical People, 24 HARV. ENVIR. L. REV. 189 (2000)

Hormesis and the Law, 9 BIOLOGICAL EFFECTS OF LOW-LEVEL EXPOSURES NEWSLETTER 16 (2000) (co-authored with Robert J. Lechleider, M.D.)

Discounting Life, 108 YALE L.J. 1911 (1999) (response to John J. Donohue, *Why We Should Discount the Views of Those Who Discount Discounting*, 108 YALE L.J. 1901 (1999))

Environmental Law and the Present Future, 87 GEO. L.J. 2205 (1999) (selected by environmental law professors as one of best environmental law articles published in 1999)

Discounting Our Future, 34 WYO. LAND & WATER L. REV. 39 (1999) (invited lecture)

The Perils of Precision, 15 ENVIR. FORUM 38 (Sept./Oct. 1998)

Regulatory Costs of Mythic Proportions, 107 YALE L.J. 1981 (1998) (selected by environmental law professors as one of best environmental law articles published in 1998)

Reductionist Regulatory Reform, 8 FORDHAM ENVIR. L. J. 459 (1997) (symposium issue)

The Commercial Constitution, 1995 SUP. CT. REV. 217

Selling Pollution, Forcing Democracy, 14 STAN. ENVIR. L.J. 300 (1995)

Political Science, 62 U. CHI. L. REV. 449 (1995) (reviewing Stephen Breyer, *Breaking the Vicious Circle*)

Justice Breyer's Hard Look, 8 AMER. U. AD. L.J. 767 (1995) (symposium issue)

Actionable Inaction: Section 1983 Liability for Failure to Act, 53 U. CHI. L. REV. 1048 (1986)

Distinguished Lectures, Honors and Awards:

Natural Resources Law Institute Distinguished Visitor, Northwestern School of Law, Lewis & Clark College (forthcoming October 2007)

Quinney Distinguished Lecturer, University of Utah Law School (forthcoming September 2007)

Distinguished Environmental Scholar, Vermont Law School (Summer 2006)

Daniel J. Meador Lecturer, University of Alabama (2004)

Frank F. Flegal Teaching Award, Georgetown University Law Center (2003)

Articles selected by environmental law professors as among best environmental law articles published in 1998, 1999, 2002, and 2005

Visiting Scholar, University of Wyoming College of Law (March 1998)

Academic Presentations:

Tel Aviv University, Buchmann Faculty of Law, faculty workshop (forthcoming 2008)

Emory University School of Law, Keynote Speaker, Randolph W. Thrower Symposium on "Legal Science: An Interdisciplinary Examination of the Use and Misuse of Science in the Law" (February 2008)

University of Arizona, James E. Rogers College of Law, "Executive Preemption," at conference "Federalism and Climate Change: The Role of States in a Future Climate Regulatory Regime" (February 2008)

UCLA School of Law, "Climate Exceptionalism After *Massachusetts v. EPA*," at conference "Changing Climates: Adapting Law and Policy to a Transforming World" (January 2008)

Michigan State University Environmental Speaker Series, "Climate Change at the Court" (October 2007)

University of Colorado School of Law, symposium on natural resources law and policy, "Why Care About the Polar Bear? Economic Analysis of Natural Resources Law and Policy" (June 2007)

University of San Francisco Law School, symposium on climate change, "Climate Change and the Clean Air Act" (March 2007)

Heidelberg Center for American Studies, conference on "State and Market in a Globalized World: Transatlantic Perspectives" (October 2006)

Universidad de los Andes, Facultad de Derecho, "The Cost-Benefit Creed," conference on "Free-Market Fundamentalism: A Critical Review of Dogmas and Consequences" (Bogota, Colombia, May 2006)

American University, conference on "The Role of Science in Rulemaking" (May 2006)

Stanford Law School, faculty workshop, "Knowing Killing and Environmental Law" (March 2006)

Notre Dame Law School, faculty colloquium, "Statutory Interpretation in the Era of OIRA" (February 2006)

Fordham University School of Law, "Statutory Interpretation in the Era of OIRA," delivered at conference on "The Contemporary Regulatory State" (February 2006)

Johns Hopkins, Bloomberg School of Public Health, panel on risk policy (November 2005)

Brooklyn Law School, Science for Judges conference (April 2005)

University of North Carolina, "Lost in Translation: The Mismatch Between Environmental Values and Valuation," conference on Valuation and the Environment (March 2005)

University of Alabama School of Law, "Risking It All" (Meador Lecture, Fall 2004)

University of Arizona College of Law, "Priceless: On Knowing the Price of Everything and the Value of Nothing" (January 2004)

Harvard Law School, panel on Bush administration's natural resources policy (November 2003)

University of Florida Law School, faculty workshop and student seminar on discounting future lives and monetizing human life, respectively (September 2003)

University of Minnesota Law School, commentator at conference, "The Pragmatic Ecologist" (November 2002)

University of Florida Law School, "Markets for Arsenic" (September 2002)

Harvard Center for Risk Analysis, "Five-Hundred Life-Saving Interventions and Their Misuse in the Debate Over Regulatory Reform" (April 2002)

Harvard, the University of Chicago, and the University of Kansas law schools, faculty workshops, "The Humbugs of the Anti-Regulatory Movement" (April and May 2001)

Yale Law School, panel presentation on *Whitman v. American Trucking Assns.* (April 2001)

College of William and Mary, Marshall-Wythe School of Law, "Tortious Toxics," symposium on toxic torts (March 2001)

Cornell Law School, comments on papers, symposium "Getting Beyond Cynicism: New Theories of the Regulatory State" (March 2001)

Duke University School of Law, "The Lessons of American Trucking," symposium on administrative law (March 2001)

Widener University School of Law, faculty workshop on *Whitman v. American Trucking Assns.* (February 2001)

Duke University School of Law, comments on paper by Richard D. Morgenstern on cost-benefit analysis and environmental law (December 2000) (symposium, "EPA at Thirty")

St. Louis University School of Law, "The Clean Air Act and the Constitution" (November 2000) (symposium on Clean Air Act Amendments of 1990)

American University, Washington College of Law, panel presentation, "Should the Nondelegation Doctrine Be Revived?" (October 2000)

University of Maryland, Center for Philosophy and Public Policy, "The Rights of Statistical People" (February 2000)

Resources for the Future Seminar, "The Rights of Statistical People" (December 1999)

Harvard Law School Environmental Law and Policy Research Seminar, "Environmental Law and the Present Future" (April 1999)

Stanford Law School, Environmental Research Workshop, "Regulatory Costs of Mythic Proportions" (April 1998)

University of Wyoming College of Law, Land and Water Law Review Visiting Lecture Series, "Discounting Our Future" (March 1998)

Northwestern University School of Law, Faculty Workshop, "Regulatory Costs of Mythic Proportions" (February 1998)

Duke University School of Law, Faculty Workshop, "Regulatory Costs of Mythic Proportions" (January 1998)

Yale Law School, Faculty Workshop, "Regulatory Costs of Mythic Proportions" (November 1997)

Washington University School of Law, Faculty Workshop, "Regulatory Costs of Mythic Proportions" (October 1997)

University of Virginia Legal Theory Workshop, "The Commercial Constitution" (February 1996)

Harvard Law School Environmental Law and Policy Research Seminar, "Selling Pollution, Forcing Democracy" (November 1994)

Syracuse University College of Law, faculty presentation, "Political Science" (October 1994)

Congressional Testimony:

House Select Committee on Energy Independence and Global Warming, Hearing on EPA's Response to Supreme Court's Decision in *Massachusetts v. EPA* (forthcoming March 2008)

House Subcommittee on Environment and Hazardous Materials, Hearing on POPs, PIC, and LRTAP: The Role of the United States and Draft Legislation to Implement These International Conventions (July 13, 2004)

House Committee on Government Reform, Hearing on Paperwork and Regulatory Improvements Act of 2003 (H.R. 2432) (July 22, 2003)

House Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, of the Committee on Government Reform, Hearing on Regulatory Accounting (March 11, 2003)

House Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs, of the Committee on Government Reform, Hearing on Regulatory Accounting (March 12, 2002)

Senate Governmental Affairs Committee, Nomination of John D. Graham as Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (written statement) (May 2002)

House Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, of the Committee on Government Reform, Hearing on H.R. 1074, "Regulatory Right-to-Know Act of 1999" (March 24, 1999)

Other Presentations:

Keynote Lecture, Waste Management Association of Australia, South Australia Branch, Conference and Expo 2008 (forthcoming July 2008)

Keynote Lecture, "Bankrupting the Future: Cost-Benefit Analysis and Environmental Policy," Waste & Recycle 2007 Conference, Fremantle, Australia (September 2007)

American Constitution Society, National Convention, panel, "Climate Change and Other 'Hot' Topics" (July 2007)

Congressional Research Service, EPA scientists' brown bag, Georgetown Environmental Law & Policy Institute, American Enterprise Institute, AALS annual meeting, Women's Council on Energy and the Environment, Pew-sponsored conference on climate change – talks on *Massachusetts v. EPA* (2006-2007)

American Association of Law Schools, annual meeting, panels on "Ecological Economics" and on climate change litigation (January 2007)

North Dakota State Judges' Conference, panel on scientific evidence in the courts (June 2005)

Federalist Society, panel on public nuisance suits on climate change (February 2005)

Society for Risk Analysis Annual Meeting, panel on "Risk Analysis: As Others See Us" (December 2004)

State Attorneys General Conference on Environmental Law, panel on Natural Resource Damages (Columbia Law School, September 2004)

American Association of Law Schools, annual meeting, panel on "Bushian Environmentalism" (January 2004)

National Association of Attorneys General, conference on environmental enforcement, presentation on *TVA v. EPA*

AEI-Brookings Joint Center for Regulatory Studies, panel, "Valuing Lives: Are Old People Worth Less Than Younger People?" (July 2003)

ABA Conference on September 11, "Terrorism, Toxics, and Tort" (April 2002)

ABA Conference on Administrative Law, panel on *Whitman v. American Trucking Assns.* (November 1, 2001)

Environmental Law Seminar for Judges, co-sponsored by Georgetown Law Center and Federal Judicial Center, "Risk Assessment and Management" (October 2000)

National Association of Attorneys General, Environmental Chiefs' Meeting, Supreme Court Cases: 1999 and 2000 Terms (June 2000 and May 2001)

American Law Institute-American Bar Association, conference on environmental law, presentation on law of hazardous waste (February 2000)

AEI-Brookings Joint Center for Regulatory Studies, comments on Cass R. Sunstein, "Is the Clean Air Act Unconstitutional?" (October 1999)

Children's Health Protection Advisory Committee, presentation on economic analysis of children's health (May 1999)

Nuclear Regulatory Commission, Office of General Counsel's seminar series, "Lay and Expert Perceptions of Risk" (November 1996)

American Association of Law Schools, New Teachers' Workshop, panel of new law teachers (July 1995 and 1996)

D.C. Bar Association, Administrative Law section, "Breyer on Regulation" (October 1994)

Courses Taught:

Advanced Environmental Law, Energy and the Environment (seminar), Environmental Law, Environmental Research Workshop (seminar), Food and Drug Law, Government Processes, Law in a Global Context, Natural Resources Law, Regulating Risk (seminar), Torts

Bar Memberships: District of Columbia, Illinois, Massachusetts