

## WENDY E. WAGNER

The University of Texas School of Law  
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and

Case Western Reserve University School of Law  
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### Employment

- 2008-present *Case Western Reserve School of Law, Cleveland, OH – Professor (joint tenured appointment with University of Texas)*
- 2001-present *University of Texas School of Law, Austin, TX – Joe A. Worsham Centennial Professorship in Law*
- 2001 (spring) *Columbia University School of Law, NY, NY – Visiting Professor of Law*
- 1992-2000 *Case Western Reserve University School of Law and Weatherhead School of Management, Cleveland, OH – Assistant/Associate Professor of Law (92-99) and Marketing and Policy Studies (97-99); Professor of Law and Marketing and Policy Studies (99-2000)*
- 1999 (spring) *Vanderbilt University Law School, Nashville, TN – Visiting Associate Professor (part-time (1 day/wk))*
- 1991-92 *Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. -- Pollution Control Coordinator*
- 1988-91 *Enforcement Section, Environment and Natural Resource Division, Department of Justice, Washington, DC -- Honors Attorney*
- 1987-88 *The Honorable Albert J. Engel, U.S. Court of Appeals for the Sixth Circuit, Grand Rapids, MI -- Law Clerk*
- 1983-84 *Environmental Defense Fund, NY, NY -- Staff Scientist (2 summers and part time during 83-84 academic year)*

### Education

- 1988 *University of Virginia, Department of Environmental Sciences  
Ph.D. student, Wetlands Ecology (Advisor: Bill Odum (deceased))*
- 1984-87 *Yale Law School, Juris Doctorate*

- 1982-84            *Yale School of Forestry and Environmental Studies*, Masters of Environmental Studies
- 1978-82            *Hanover College*, Hanover, Indiana, Bachelor of Arts, Summa Cum Laude (Major-Biology; Minor-Math)

Selected Honors

Texas Law Fellowships Award for Outstanding Faculty Contribution to Public Interest Law (2006)

Texas Law Review Award for Outstanding Faculty Contribution to Student Scholarship (2004-05)

Teacher of the Year, CWRU School of Law (2000)

Dirksen Center Congressional Research Grant (1994-95)

U.S. Department of Agriculture Special Service Award (1992)

U.S. Department of Justice Special Achievement Award (1991)

First Prize in the National Association of Administrative Law Judges Student Essay Contest (1986)

Yale Law Journal, Senior Editor (1986-87)

Yale Journal of Regulation, Managing Editor (1986-87)

Henry C. Long Citation for Scholarship and General Excellence (Outstanding Senior Woman at Hanover College 1981-82)

Helen D. Joel W. Hadley Prize in Biology (Outstanding biology student at Hanover College 1981-82)

Senior Speaker at 1982 Hanover College Commencement (elected by class)

Publications

BOOKS

BENDING SCIENCE: HOW SPECIAL INTERESTS CORRUPT PUBLIC HEALTH RESEARCH (co-authored with Tom McGarity) (Harvard University Press 2008)

RESCUING SCIENCE FROM POLITICS: REGULATION AND THE DISTORTION OF SCIENTIFIC RESEARCH (co-edited with Rena Steinzor) (Cambridge University Press 2006)

## ARTICLES

*When All Else Fails: Regulating Risky Products through Tort Litigation*, 95 GEORGETOWN L. J. 693 (2007).

*Commons Ignorance: The Failure of Environmental Law to Produce Needed Information on Health and the Environment*, 53 DUKE L. REV. 1619 (2004).

*Legal Aspects of the Regulatory Use of Environmental Modeling*, 10 Environmental Law Reporter (ELI) 10751 (2003) (co-authored with Tom McGarity).

*Congress, Science and Environmental Policy*, 1999 U. OF ILLINOIS L. REV. 181

*Breast Implants Revisited: Beyond SCIENCE ON TRIAL*, 1997 WISCONSIN L. REV. 705 (1997) (coauthored with Rebecca Dresser and Paul Giannelli)

*Choosing Ignorance in the Manufacture of Toxic Products*, 82 CORNELL L. REV. 773 (1997)

*The Science Charade in Toxic Risk Regulation*, 95 COLUMBIA L. REV. 1613 (1995), reprinted in 1997 LAND USE AND ENVIRONMENT LAW REVIEW 627 (Stuart L. Deutsch & A. Dan Tarlock eds.)

## SYMPOSIUM ARTICLES

*Emerging Science, Adaptive Regulation, and the Problem of Rulemaking Ruts*, 86 TEXAS L. REV. 1701 (2008) (with Lynn Blais)

*Using Competition-Based Regulation to Bridge the Toxics Data Gap*, 83 INDIANA L. J. 629 (2008)

*Children's Health and Environmental Exposure Risks: Information Gaps, Scientific Uncertainty, and Regulatory Reform*, 17 DUKE ENVIRONMENTAL LAW AND POLICY FORUM 249 (2007) (with Lynn Blais)

*Stormy Regulation: The Problems that Result when Stormwater (and Other) Regulatory Programs Neglect to Account for Limitations in Scientific and Technical Information*, 9 CHAPMAN L. REV. 191 (2006).

*The Perils of Relying on Interested Parties to Evaluate Scientific Quality*, 95 AMERICAN JOURNAL OF PUBLIC HEALTH S99 (2005).

*Equal Treatment for Regulatory Science: Extending the Controls governing the Quality of Public Research to Private Research*, 30 AMERICAN JOURNAL OF LAW & MEDICINE 119 (2004) (co-author David Michaels), reprinted in 2004 LAND USE AND ENVIRONMENT LAW REVIEW -- (A. Dan Tarlock & David Callies, eds.)

*Importing Daubert to Administrative Agencies through the Information Quality Act*, 12 JOURNAL OF LAW AND POLICY 589 (2004).

*The 'Bad Science' Fiction: Reclaiming the Debate over the Role of Science in Public Health and Environmental Regulation*, 66 LAW & CONTEMP. PROBS., Autumn 2003, at 63.

*What's It All About, Cardozo?*, 80 TEXAS L. REV. 1577 (2002).

*Restoring Polluted Waters with Public Values*, 25 WILLIAM & MARY ENVIRONMENTAL LAW AND POLICY REVIEW 429 (2000).

*The Triumph of Technology-Based Standards*, 2000 U. OF ILLINOIS L. REV. 83, reprinted in THE THEORY AND PRACTICE OF COMMAND AND CONTROL IN ENVIRONMENTAL POLICY (Gloria E. Helfand & Peter Berck eds., forthcoming 2004).

*The Precautionary Principle and Chemical Regulation in the U.S.*, 6 HUM. ECOL. RISK ASSESSMENT 459 (2000).

*Rough Justice and the Attorney General Litigation*, 33 U. GA. L. REV. 935 (1999)

*Learning from Brownfields*, 13 J. OF NAT. RESOURCES & ENVTL. L. 217 (1998)

*Ethyl: Bridging the Science-Law Divide*, 74 TEXAS L. REV. 1291 (1996)

#### BOOK CHAPTERS

*Stubborn Information Problems and the Regulatory Benefits of Gun Litigation*, in GUN LITIGATION (Timothy Lytton, ed.) 271 (U. of Michigan Press 2005).

*Science and Law*, in SCIENCE, TECHNOLOGY, AND SOCIETY (Sal Restivo ed.) (Oxford U. Press 2005)

*Biotechnology, Congress, and EPA*, in ENCYCLOPEDIA OF ETHICAL, LEGAL & POLICY ISSUES IN BIOTECHNOLOGY 227-34 (Thomas Murray & Maxwell Mehlman eds. 2000).

*Judicial Review of Statistical Analyses in Environmental Rulemakings*, in STATISTICS IN THE COURTROOM 281 (Joseph Gastwirth ed. 2000)

*Overview of Federal and State Law Governing Brownfields Cleanups*, in BROWNFIELDS: A COMPREHENSIVE GUIDE TO REDEVELOPING CONTAMINATED PROPERTY 15-34 (Todd S. Davis & Kevin D. Margolis, eds. 1997) and (2d ed. 2002).

*Developments in Environmental Law and Natural Resources Regulation*, in ABA,

ANNUAL DEVELOPMENTS IN ADMINISTRATIVE LAW – 1999 273-91 (Jeffrey Lubbers, ed. 2000) (co-authored with Joshua D. Sarnoff) and *Developments 2000* 267-97 (Lubbers ed. 2001) (co-authored with Jonathan Entin and Joshua Sarnoff) and *Developments 2001* (Lubbers ed. 2002) (co-authored with Jonathan Entin, et al.); *Developments 2002* (Lubbers ed. 2003) (co-authored with Jonathan Entin, et al) *Developments 2003* (forthcoming 2004) (co-authored with Jonathan Entin, et al.).

#### MISCELLANEOUS COMMENTARY

*Faculty Response to “Tap into the law review literature – or better yet, submit an article!”*, 6 FRONTIERS IN ECOLOGY AND THE ENVIRONMENT 218 (2008).

*EPA’s Delay in Responding to Scientific Advancements: A Reply to Conrad*, 34 Env’tl. L. Rep. (ELI) 10497 (2004).

*Disclosure in Regulatory Science*, 302 SCIENCE 2073 (2003); and *Reply to “Questions about Disclosure,”* 304 SCIENCE 1447-49 (2004) (co-authored with David Michaels).

*Marine Mammal Protection Act*, in MAJOR ACTS OF CONGRESS (Alfred L. Brophy; Thomas O. Sargentich; Nancy C. Staudt eds.) (MacMillan Press 2004).

*Introduction to the symposium papers*, 6 RISK DECISION AND POLICY 121 (2001).

*Possible Legal Implications of Hormesis (a comment on Frank Cross)*, 9 BELLE NEWSLETTER 34 (2000).

*Review: Legal Alchemy by David Faigman*, 76 QUARTERLY REVIEW OF BIOLOGY 68 (2001).

*Teaching a Megacourse: Adventures in Environmental Policy, Team Teaching, and Group Grading*, 47 J. OF LEGAL ED. 224 (1997) (coauthored with Christine Corcos, Melvyn Durchslag, and Andy Morriss)

#### COMMISSIONED WHITE PAPERS

“Enforcement Against Concentrations of Toxic Pollution in Texas” (co-authored with Lynn Blais & Tom McGarity) (2003) (for Texas Council on Environmental Quality and US EPA)

“Legal Aspects of the Regulatory Use of Environmental Modeling” (co-authored with Tom McGarity) (2003) (for US EPA)

#### PUBLICATIONS WRITTEN PRIOR TO ACADEMIC APPOINTMENT

A CITIZEN’S GUIDE TO PROTECTING WETLANDS IN ALABAMA (1990) and GEORGIA (1989) (in cooperation with the Southern Environmental Law Center)

*Liability for Hazardous Wastes: The New Jersey Example*, 13 HARVARD ENVIRONMENTAL LAW REVIEW 245 (1989)

*Letter to the Editor*, 241 SCIENCE 1413 (1988)

*Trans-science in Torts*, 96 YALE LAW JOURNAL 428 (1986), *reprinted in* CHEMICAL VICTIMS--COMPENSATION WITHOUT FACT 85 (D.Schnare & M.Katzman eds. 1989)

*Environmental Regulation and the Doctrine of Scientific Uncertainty: A Case Study of the EPA's Cancellation of 2,4,5-T*, 6 JOURNAL OF THE NATIONAL ASSOCIATION OF ADMINISTRATIVE LAW JUDGES 7 (Spring 1986)

*Response: Acid Fog Health Impacts*, 34 JOURNAL OF THE AIR POLLUTION CONTROL ASSOCIATION 462 (1984)

*Benthic Diatom Response to the Removal of Macroconsumers*, 91 PROCEEDINGS OF THE INDIANA ACADEMY OF SCIENCE 237 (1982)

*Response of Benthic Diatoms to the Exclusion of Macroconsumers*, abs. 161 BIOLOGICAL BULLETIN 331 (1981)

#### WORKS IN PROGRESS

“Misunderstanding Models” (with Liz Fisher, Oxford, & Pasky Pascual, EPA)

“The Politics of Administrative Process: Stakeholder Influence on EPA Rulemaking” (an empirical project) (with David Adelman, U of Ariz., Mary Jane Angelo, U. of Florida, and Bill West, Texas A&M) (NSF Collaborative Research Grant Proposal pending Jan. 2008)

“Information Capture” (early book project)

“The CAIR RIA: Advocacy Dressed up as Policy Analysis” (to be published in a Resources for the Future Book on Reforming Regulatory Analysis)

“Lost in Salt Science” (draft paper)

#### Presentations/Panels/Conferences

Commenter, University of Texas Law and Philosophy Colloquium (2008)

Presenter, Virginia Polytechnic Institute and State University Conference (2008)

Presenter, Resources for the Future Conference (2008)

Presenter, Albany Law School Conference (2008)

Faculty Colloquium, Wake Forest Law School (2008)

Colloquium on Intellectual Property, New York University Law School (2008)

Faculty Colloquium, University of Akron School of Law (2008)

Presenter, Annual American Association for the Advancement of Science Forum on Science and Technology Policy (2007)

Faculty Colloquium, University of Wisconsin School of Law (2007)

Participant, Albany Law School Conference on “Bending Science” (2006)

Faculty Colloquium, University of Texas School of Law (2006)

Presenter, Duke Environmental Law and Policy Forum Symposium (2006)

Presenter, Duke University’s Integrated Toxicology and Environmental Health Program Seminar Series (2006)

Presenter, Trans-Atlantic Uncertainty Colloquium (2006)

Presenter, Law and Society Annual Meeting (2006)

Presenter, Center for Disease Control (CDC) Annual Meeting (2006)

Presenter, Congressional Research Service Symposium (2006)

Presenter, ABA Administrative Law Section Spring Meeting (2006)

Presenter, University of Minnesota Faculty Workshop (2006)

Presenter, Indiana-Bloomington School of Law Conference (2006)

Presenter, Fordham Urban Law Review Symposium (2006)

Presenter, Chapman Law Review Symposium (2006)

Presenter, University of Florida Law School Environmental & Land Use Colloquium (2005)

Presenter, Association for Public Policy Analysis and Management (APPAM) Annual Meeting (2004)

Presenter, University of Wisconsin Law School Conference (2004)

Presenter, University of Maryland Law School Conference (2004)

Faculty Colloquium, Arizona State University Law School (2004)

Presenter, University of Minnesota Conference (2004)

Presenter, UCLA Law School Conference (2004)

Presenter, ABA Midyear Meeting, Administrative Law and Regulatory Practice Section (2004)

Presenter, Brooklyn Law School Conference (2003)

Presenter, Albany Law School Conference (2003)

Faculty Colloquium, University of Arizona Law School (2003)

Presenter, U.S. EPA Conference (2003)

Presenter, SKAPP Conference (2003)

Chair and Commentator of Panel, American Association for the Advancement of Science Annual Meeting (2003)

Panelist, National Public Radio's "Science Friday" (part of "Talk of the Nation") (2000 and 2003)

Panelist, National Academy of Science Workshop (2003)

Presenter, Law and Contemporary Problems Symposium (2002)

Participant, Duke Law School Workshop (2002)

Presenter, Environmental Law Section of the Houston Bar Association (2002)

Commentator, Texas Law Review Symposium (2002)

Participant, Lowell Center for Sustainability Development Conference (2001)

Commentator, Kennedy School Policy Workshop (2001)

Presenter, U.S. EPA Conference (2001)

Commentator, Duke University School of Law Conference (2000)

Chair and Moderator, Panel at the ABA Administrative Law Section Fall Meeting

(2000)

Written Testimony, Congressional Hearing of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform (2000).

Commentator, Arizona State University Conference (2000)

Faculty Colloquium, Notre Dame Law School (2000)

Presenter, William & Mary Environmental Law Review Symposium (2000)

Presenter, Chicago-Kent Law School Environmental and Energy Law Speaker Series (2000)

Presenter, Harvard Center for Risk Analysis Conference (1999)

Presenter, University of Illinois Law Review Symposium (1999)

Faculty Colloquium, Vanderbilt Law School (1999)

Presenter, Panel at Annual meeting of the International Biometrics Association, Eastern North American Region (1999)

Presenter, University of Chicago Department of Economics Workshop (1999)

Presenter, Seton Hall Law Review Symposium (1999)

Presenter, AALS Annual Meeting (1999)

Presenter, Illinois Institute of Technology University Workshop (1998)

Presenter, University of Kentucky Law Journal of Natural Resources & Environmental Law Symposium (1998)

Participant, Political Economy Research Center Ninth Annual Forum (1998)

Presenter, Stanford Law School Environmental and Natural Resource Workshop (1998)

Faculty Colloquium, Washington University (1998)

Presenter, Society for Risk Analysis Annual Meeting (1996, 1997, 1998, 2001, 2002, 2003, 2004, 2006)

Environmental Speaker Series, Georgetown University Law Center (1997)

Faculty Colloquium, Hofstra Law School (1997)

Presenter, Risk Assessment, Risk Assessment & Policy Association Annual Meeting (1997)

Panelist, Oberlin Conference (1996)

Speaker, Cleveland Bar Continuing Legal Education (1992, 1993, 1994)

Speaker, Case Western Reserve University (1993, 1994, 1996)

### Professional Service

Member, National Research Council of the National Academies of Sciences Committee on Reducing Stormwater Discharge Contributions to Water Pollution (2007-09).

Member, National Research Council of the National Academies of Sciences Committee on the Selection and Use of Models in the Regulatory Decision Process, Division of Earth and Life Sciences (2004-06).

Council, Administrative and Regulatory Law Section, American Bar Association (2004-07); Nominating Committee, ABA Section of Administrative Law and Regulatory Practice (2000-2001); Co-chair, Environmental and Natural Resources Regulation Committee of the ABA Section of Administrative Law and Regulatory Practice (1999-2003).

Council, Society for Risk Analysis (2002-05); and Executive Council, Risk Science and Law Specialty Group (2001-2003); formerly Chair (1999-2001) and Executive Council (1998-1999) of Specialty Group

Academic Board, Center for Science, Policy, and Outcomes (2001)

Member Scholar, Academic Board, Center for Progressive Reform; Issue Group Leader for “Clean Science” (2002-present)

Editorial Board, Risk Decision and Policy (a Cambridge University Press journal - 2001).

Consultant, Texas Natural Resources Conservation Commission, Study of Authorities to Control Air Toxins

Member, National Conference of Lawyers and Scientists (1997-2002) (consists of seven lawyers appointed by ABA and seven scientists appointed by AAAS)

Member, Political & Legal Issues Working Group, U.S. Representative Dennis

Kucinich's Sustainable Communities Symposium 2000 Project (1999)

Member, Board of Directors, The Clean Air Conservancy (formerly INHALE) (1992-1999) (national nonprofit involved in pollution trading)

Working Group Member, National Environmental Policy Institute (NEPI)  
"Enhancing the Quality of Science in the Regulatory Process" (EQSRP) project (1998)

Working Group Member, AAAS, ABA, and Federal Judicial Center Task Force on "Judicially Compelled Disclosure of Non-party Research" (1997).

Member, ABA Special Committee on Legal Education (1996-1997) (Committee was sunset in August 1997)

Member, Northeast Ohio Air Pollution Control Association Advisory Task Force (1993)

#### Peer Reviewer

American Journal of Public Health

Cambridge Press

Environmental Health Perspectives

Environmental Management: An International Journal

Human and Ecological Risk Assessment: An International Journal

Johns Hopkins Press

Journal of the American Medical Association (JAMA)

Jurimetrics Journal

Lexis Publishing

National Science Foundation

Office of Management and Budget, 2002 Cost-Benefit Report to Congress

Oxford Press

#### University/Law School Service

##### *Law School Committees:*

Admissions, CWRU (1993-94; 1995-96; 1998-99)

Appointments, CWRU and UT (1992-93; 1994-95; 1996-97; 2001-02; 2004-05; 2008-09)

Budget, UT (2003-09)

Curriculum, UT (2002-03; 2007)

Dean Search, CWRU (1995-96)

Faculty Colloquia, CWRU (1999-2000)

Law School Faculty Collaborations, CWRU (1998-99)

Steering Committee for Self-Study, CWRU (1994)

##### *Law School Appointments*

Faculty Advisor to Environmental Law Society (1992-2000)

Faculty Advisor for Judicial Clerkships (2004-05)

Faculty Advisor, Helen Hargrave Society (2004-05)

*University Committees:*

CWRU Ad hoc University Steering Committee on Environment (1992-97)

Bridging Disciplines in Environmental Studies, UT (2001-04)

Environmental Science Institute, Cluster Hire Committee, UT (2002-04)

Honorary Degree, CWRU (1993-94)

Institutional Review Board (IRB), UT (2001-2006)

University Library, CWRU (1994-95)

Women's Faculty Association, Steering Committee, CWRU (1996-99)  
(Secretary 1997-99)

Teaching Commitments

Torts (1992, 1993, 1994, 1995, 1996, 1998, 1999, 2001, 2002, 2004, 2006, 2007  
(spring and fall), 2008)

Environmental Law (1993, 1994, 1995, 1997, 1998, 1999 (spring and fall), 2004,  
2007)

Water/Wastewater Clinic (2005 (spring and fall), 2006 (spring)) (co-taught with  
Lynn Blais and Melinda Taylor)

Seminar on Citizen Participation and Environmental Policy (spring and fall 2005)  
(co-taught with Lynn Blais)

Seminar on the Regulation of Toxic Products (2008 (spring and fall))

Science and Law Seminar (1993, 1996, 2002, 2007) (co-taught with John  
Robertson in 2007)

Foundations of the Regulatory State (2001)

Environmental Law Practicum (1999)

Environmental Law: Toxics (2002 (spring and fall), 2004, 2007; 2008 (seminar)).

Comparative Analysis of Complex Problem Solving: A Case Study on the  
Environment (1997, 1998, 2000 (spring and fall)) (through Weatherhead  
Executive Doctorate in Management Program)

Selected Problems in Environmental Law (1994-95; 1995-96) (co-taught)

University Interdisciplinary Courses on Lead (1992), Environmental Priority  
Setting (1994), Great Lakes (1995), Special Research on Urban Sprawl  
(1996), and the Automobile and Environment (1997) (lecturer/faculty  
member in interdisciplinary courses co-taught by over one dozen faculty)