

TODD AAGAARD

Villanova University Charles Widger School of Law
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EXPERIENCE

Villanova University School of Law **Villanova, PA**
Professor of Law 2014 – Present
Associate Professor 2011 – 2013
Assistant Professor 2008 – 2010
Teach classes in environmental law, energy law, property law, regulation, risk regulation, and race and law. Research interests focus on environmental law, energy law, and regulation.

Vice Dean 2015 – 2019
Managed internal operations of law school. Oversaw academic affairs, finance and administration, faculty research, admissions, financial aid, career strategy, library, graduate tax program, events, and Centers of Excellence.

Resources for the Future **Washington, DC**
Visiting Fellow 2019 – Present
Conduct research regarding how markets can advance energy and environmental policy objectives.

U.S. Department of Justice, Environment & Natural Resources Division **Washington, DC**
Attorney, Appellate Section 1999 – 2007
Law Clerk, Policy, Legislation, & Special Litigation Section Summer 1997
Briefed and argued civil and criminal cases in federal courts of appeals in the areas of environmental law, natural resources law, Indian law, and administrative law. Drafted merits briefs and certiorari opposition briefs in several Supreme Court matters.

Chambers of Judge Guido Calabresi,
United States Court of Appeals for the Second Circuit **New Haven, CT**
Law Clerk 1998 – 1999

EDUCATION

University of Michigan School of Natural Resources and the Environment, M.S., Natural Resources and Environment, 1998

Thesis: *EPA's Regulation of Occupational Health Risks Under TSCA*

University of Michigan Law School, J.D., *magna cum laude*, 1997

Honors: Order of the Coif
Henry M. Bates Memorial Scholarship Award

Activities: *Michigan Law Review*
Editor-in-Chief (1997 – 98)
Associate Editor (1996 – 97)
Michigan Journal of Race & Law
Executive Editor (1996 – 97)
Associate Editor (1995 – 96)

Pomona College, B.A., Economics and Government/Public Policy Analysis (double concentration), 1992

Honors: Vieg Prize in Government
Pomona Scholar, 1990 – 1992

Thesis: *Costly Information and Social Change*

ADDITIONAL EXPERIENCE

Abt Associates Inc.

Research Assistant

Conducted economic and risk-based environmental policy analyses under contract to Environmental Protection Agency and World Bank.

Bethesda, MD

1992 – 1994

WORKS IN PROGRESS

Compensating Regulatory Losers

Effective Load Carrying Capability: Marginal vs. Average Methods (with Andrew N. Kleit)

PUBLICATIONS

Books

ELECTRICITY CAPACITY MARKETS (Cambridge University Press 2022) (with Andrew N. Kleit).

PRACTICING ENVIRONMENTAL LAW (Foundation Press 2d ed. 2021) (with David Owen and Justin Pidot).

PRACTICING ENVIRONMENTAL LAW (Foundation Press 2017) (with David Owen and Justin Pidot).

Book Chapters

The Renewable Energy Boom: Challenges and Opportunities for Electricity Markets and Regulations, in PROCEEDINGS OF THE SIXTY-EIGHTH ANNUAL NATURAL RESOURCES AND ENERGY LAW INSTITUTE (Foundation for Natural Resources & Energy Law, forthcoming 2022).

What Legal Scholarship Can Contribute to Environmental Law, in PERSPECTIVES ON ENVIRONMENTAL LAW SCHOLARSHIP 10 (Ole W. Pedersen ed., Cambridge University Press 2018).

Journal Articles

24/7 Clean Energy, 94 U. COLO. L. REV. (forthcoming 2022).

Too Much Is Never Enough: Constructing Electricity Capacity Market Demand, 43 ENERGY L.J. 79 (2022) (with Andrew N. Kleit) (peer reviewed).

Why Capacity Market Prices Are Too High, 75 UTILITIES POL'Y 101335 (2022) (with Andrew N. Kleit) (peer reviewed).

A Road Paved With Good Intentions?: FERC's Illegal War on State Electricity Subsidies, ELECTRICITY J., June 2020, at 1 (with Andrew N. Kleit).

The Complexity Dilemma in Policy Market Design, 30 DUKE ENVTL. L. & POL'Y F. 1 (2019) (with Andrew N. Kleit).

Agencies, Courts, First Principles, and the Rule of Law, 70 ADMIN. L. REV. 771 (2018).

Environmental Regulation and Environmental Rights, 61 VILL. L. REV. 385 (2016)

Energy-Environment Policy Alignments, 90 WASH. L. REV. 1517 (2015).

Environmental Law's Heartland and Frontiers, 32 PACE ENVTL. L. REV. 511 (2015) (invited symposium).

Using Non-Environmental Law to Accomplish Environmental Objectives, 30 J. LAND USE & ENVTL. L. 35 (2014) (invited symposium).

Environmental Law Outside the Canon, 89 IND. L.J. 1239 (2014).

A Functional Approach to Risks and Uncertainties under NEPA, 1 MICH. J. ENVTL. & ADMIN. L. 87 (2012).

Regulatory Overlap, Overlapping Legal Fields, and Statutory Discontinuities, 29 VA. ENVTL. L.J. 237 (2011).

Environmental Harms, Use Conflicts, and Neutral Baselines in Environmental Law, 60 DUKE L.J. 1505 (2011)

Environmental Law as a Legal Field: An Inquiry in Legal Taxonomy, 95 CORNELL L. REV. 221 (2010)

Factual Premises of Statutory Interpretation in Agency Review Cases, 77 GEO. WASH. L. REV. (2009)

A Fresh Look at the Responsible Relation Doctrine, 96 J. CRIM. L. & CRIMINOLOGY 1245 (2006)

Note, *Identifying and Valuing the Injury in Lost Chance Cases*, 96 MICH. L. REV. 1335 (1998)

Other

FERC 101: ELECTRICITY REGULATION AND THE FEDERAL ENERGY REGULATORY COMMISSION (Resources for the Future 2021) (with Kathryn Cleary & Karen Palmer).

FERC 102: FERC'S ROLE IN GRID DECARBONIZATION (Resources for the Future 2021) (with Kathryn Cleary & Karen Palmer).

Texas Power Crisis Suits Bring Market Price Questions, LAW 360, July 28, 2021 (with Andrew N. Kleit).

The 2021 ERCOT Power Crisis: Capacity Markets Would Not Have Helped, IAEE ENERGY FORUM, Third Quarter 2021 (with Andrew N. Kleit).

Legal Defects in FERC's War on State Electricity Subsidies, RESOURCES MAG. (Apr. 15, 2020).

FERC Demand Response Resource Order May Be Heading to the Supreme Court, REGULATORY REV., Jan. 22, 2015 (with Joel B. Eisen).

Tackling Climate Change: Don't Forget Energy Efficiency, N.Y.L.J., July 10, 2014, at 4, 7 (with Joel B. Eisen).

PRESENTATIONS

The Renewable Energy Boom: Challenges and Opportunities for Electricity Markets and Regulations, Sixty-Eighth Annual Natural Resources and Energy Law Institute, Foundation for Natural Resources & Energy Law, Vail, Colorado (July 22, 2022).

24/7 Clean Energy, Sustainability Conference of American Legal Educators, Arizona State University Sandra Day O'Connor College of Law, Phoenix, Arizona (May 13, 2022).

Capacity Markets and the Clean Electricity Transition, Resources for the Future Live, Washington, DC (virtual) (May 11, 2022).

Sustainability Outside of Traditional Legal Practice, Continuing Legal Education Series, Villanova University, Villanova, Pennsylvania (virtual) (April 27, 2022).

24/7 Clean Energy, Faculty Workshop, Seton Hall Law School, Newark, New Jersey (virtual) (February 23, 2022).

24/7 Clean Energy, Academic Workshop, Resources for the Future, Washington, D.C. (virtual) (February 14, 2022).

Business and the Environment: Challenges and Opportunities (host and panel moderator), Villanova Environmental Law Journal Annual Blank Rome LLP Symposium, Villanova, Pennsylvania (virtual) (February 11, 2022).

24/7 Clean Energy, Environmental Law and Natural Resources and Energy Law Sections' Work-in-Progress Session, 2022 AALS Annual Meeting (virtual) (January 5, 2022).

Leveraging the Impact of Renewable Energy Purchases, Online Environmental Law Workshop, University of Maryland Francis King Carey School of Law, Baltimore, Maryland (virtual) (November 4, 2021).

Climate, Controversy, and Courts, Pennsylvania Bar Association Federal Practice Institute, Villanova, Pennsylvania (October 15, 2021).

Electricity Capacity Markets, Sustainability Conference of American Legal Educators, Arizona State University Sandra Day O'Connor College of Law, Phoenix, Arizona (virtual) (May 14, 2021).

Climate (De)Regulation in the Courts, Resources for the Future, Washington, DC (virtual) (May 5, 2021).

Climate (De)Regulation in the Courts, Continuing Legal Education Series, Villanova University, Villanova, Pennsylvania (virtual) (April 19, 2021).

Electricity Capacity Markets, Online Environmental Law Workshop, University of Maryland Francis King Carey School of Law, Baltimore, Maryland (virtual) (April 19, 2021).

The South Philadelphia Refinery (host and panel moderator), Villanova Environmental Law Journal Annual Blank Rome LLP Symposium, Villanova, Pennsylvania (virtual) (February 2021).

Climate (De)Regulation in the Courts, Houston Bar Association Environmental Law Section, Houston, Texas (virtual), Professional, Local, Invited. (February 17, 2021).

Is There a Future for Capacity Markets?, Rutgers Business School Center for the Research of Regulated Industries (virtual), New Brunswick, New Jersey (August 26, 2020).

Major Federal Environmental Decisions, Pennsylvania Bar Institute Environmental Law Forum (virtual), Harrisburg, Pennsylvania, July 13, 2020.

Renewable Energy Credits and the Paradox of Inefficient Additionality, Workshop on Environmental Scholarship, University of Arizona James E. Rogers College of Law, Tucson, Arizona (February 1, 2020).

Electricity Capacity Markets, Faculty Workshop, Penn State Law, University Park, Pennsylvania (October 10, 2019) (with Andrew N. Kleit).

Shareholder Environmental Activism (host and panel moderator), Villanova University Charles Widger School of Law (February 7, 2020).

Electricity Capacity Markets, Nineteenth Institute for Natural Resources Law Teachers, Missoula, Montana, May 30, 2019.

The Complexity Dilemma in Policy Market Design, Fifth Annual Sustainability Conference of American Legal Educators, Arizona State University Sandra Day O'Connor College of Law, Phoenix, Arizona, May 10, 2019.

Major Federal Environmental Decisions, Pennsylvania Bar Institute Environmental Law Forum, Harrisburg, Pennsylvania, April 4, 2019.

Strategies to Address Uncertainty and Transition in Environmental Law (host and panel moderator), Villanova University Charles Widger School of Law, February 8, 2019.

First Principles and Administrative Agencies, Fourth Annual Sustainability Conference of American Legal Educators, Arizona State University Sandra Day O'Connor College of Law, Phoenix, Arizona, May 11, 2018.

Standing at the Intersection of Robinson Township and Trump: Current Issues in Real Estate Development and Environmental Law (host and panel moderator), Villanova University Charles Widger School of Law, February 9, 2018.

Administrative Enforcement and the Rule of Law, Third Annual Benjamin D. Fields Lecture on the Administrative Enforcement of Environmental Laws, U.S. Environmental Protection Agency Region III, Philadelphia, Pennsylvania, November 30, 2017.

Reframing Energy Development on Public Lands to Enhance Public Deliberation, Bridging Divides: Energy, Environment, and Empowerment in a New Era, 37th Biennial Public Land Law Conference, University of Montana Alexander Blewett III School of Law, October 13, 2017.

Explaining Energy Law, Faculty Workshop, University of Kansas School of Law, April 7, 2017.

Explaining Energy Law, Faculty Workshop, Penn State Law, April 3, 2017.

Implementing the Frank R. Lautenberg Chemical Safety for the 21st Century Act (host and panel moderator), Villanova University Charles Widger School of Law, February 10, 2017.

Smart Climate Primacy, The Road to Paris: Multidimensional Action to Address Climate Change Workshop, University of Minnesota Law School, October 28, 2015.

Smart Climate Primacy, Climate Change, Energy, and Natural Resources Law & Policy Works-in-Progress Symposium, University of Colorado Law School, August 7, 2015.

Rethinking the Energy-Environment Divide, Sustainability Conference of American Legal Educators, Arizona State University Sandra Day O'Connor College of Law, Tempe, Arizona, May 8, 2015.

Value-Added NEPA Lawyering, Pennsylvania Bar Institute Environmental Law Forum, Harrisburg, Pennsylvania, April 9, 2015.

Environmental Law's Heartland and Frontiers, Reconceptualizing the Future of Environmental Law, Pace Law School, March 20, 2015.

Clean Air Act Source Aggregation and Oil and Gas Production, Air Quality: Health, Energy and Economics, University of Utah S.J. Quinney College of Law, March 6, 2015.

Pennsylvania Environmental and Energy Update (host and panel moderator), Villanova University School of Law, February 20, 2015.

Rethinking the Energy-Environment Divide, Environmental Law Distinguished Speaker Series, Widener University Commonwealth Law School, February 18, 2015.

Rethinking the Energy-Environment Divide, Colloquium on Environmental Scholarship, Vermont Law School, October 4, 2014.

The Impact of Robinson Township on Oil and Gas Development in PA and Beyond, Montgomery County Bar Association, Norristown, Pennsylvania, May 15, 2014.

Rethinking the Energy-Environment Divide, Faculty Workshop, University of Richmond School of Law, April 11, 2014.

Green Tweets: The Promise and Peril of Advancing Corporate Social Responsibility Through Social Media (host and panel moderator), Villanova University School of Law, April 4, 2014.

Using Non-Environmental Law to Accomplish Environmental Objectives, Environmental Law Without Congress Symposium, Florida State University School of Law, February 28, 2014.

Inculcating Trans-Substantive Values in the Administrative State, Colloquium on Environmental Scholarship, Vermont Law School, October 11, 2013.

Inculcating Trans-Substantive Values in the Administrative State, Faculty Workshop, Rutgers School of Law (Camden), September 30, 2013.

Emerging Legal Issues: Federal vs. State Rights Impacting the Oil and Gas Business, Shale Insight 2013 Conference, Philadelphia, Pennsylvania, September 26, 2013.

Structure, Integration, and Trans-Substantivity in the Administrative State, Junior Environmental Law Scholars Workshop, American University—Washington College of Law, June 28, 2013.

Trans-substantive Structural Environmental Law, Faculty Workshop, Marquette University Law School, April 25, 2013.

Trans-substantive Structural Environmental Law, Faculty Workshop, University of Wisconsin Law School, April 24, 2013.

Decarbonization: A New Direction for Climate Change Policy? (host and panel moderator), Villanova University School of Law, April 13, 2013.

Major Federal Environmental Decisions and NEPA Developments, Pennsylvania Bar Institute Environmental Law Forum, Harrisburg, Pennsylvania, April 11, 2013.

Adventures in Standing: The Lost Case of Edwards v. First American Financial Corp., Reunion Weekend, Villanova University School of Law, November 3, 2012.

Environmental Law Outside the Canon, Colloquium on Environmental Scholarship, Vermont Law School, October 12, 2012.

Environmental Law Outside the Canon, Junior Environmental Law Scholars Workshop, University of Washington School of Law, July 19, 2012.

Environmental Law Outside the Canon, Faculty Workshop, American University—Washington College of Law, April 13, 2012.

Major Federal Environmental Decisions and NEPA Developments, Pennsylvania Bar Institute Environmental Law Forum, Harrisburg, Pennsylvania, March 29, 2012.

A Functional Approach to Risks and Uncertainties under NEPA, Environmental Law and Policy Program Speaker Series, University of Michigan Law School, March 6, 2012.

The New Fuel Economy Standards: Driving Environmental Law into the Future (host and panel moderator), Villanova University School of Law, February 11, 2012.

The Future of Pennsylvania Electricity Markets (co-organizer and panel moderator), Matthew J. Ryan Law and Public Policy Forum, Villanova University School of Law, November 4, 2011.

Major Federal Environmental Decisions and NEPA Developments, Pennsylvania Bar Institute Environmental Law Forum, Harrisburg, Pennsylvania, April 7, 2011.

Regulatory Overlap and Statutory Discontinuities, Faculty Workshop, University of Cincinnati School of Law, February 4, 2011.

Renewable Energy Development and Wildlife (host and panel moderator), Villanova University School of Law, January 29, 2011.

Regulatory Overlap and Statutory Discontinuities, Faculty Workshop, University of Maryland Law School, October 28, 2010.

Environmental Harms, Use Conflicts, and Neutral Baselines in Environmental Law, Colloquium on Environmental Scholarship, Vermont Law School, October 22, 2010.

A Use Conflict Framework for Environmental Law, Faculty Workshop, Temple University School of Law, November 9, 2009.

'Shale' We Drill? The Legal and Environmental Impacts of Extracting Natural Gas from Marcellus Shale (host and panel moderator), Villanova University School of Law, January 30, 2010.

Recent Environmental Law Scholarship, Appellate Section Retreat, U.S. Department of Justice, Environment & Natural Resources Division, Shepherdstown, West Virginia, June 2009.

Environmental Law as a Legal Field: An Inquiry in Legal Taxonomy, Faculty Workshop, Boston College Law School, January 16, 2009.

Climate Change and NEPA (host and panel moderator), Villanova University School of Law, October 25, 2008.

Factual Premises of Statutory Interpretation in Agency Review, Faculty Workshop, University of Oregon School of Law, February 2008.

Sentencing and Collateral Consequences, Criminal Enforcement of Environmental Laws, ALI-ABA Course of Study, Washington, D.C., October 5, 2007.

Environmental Justice and Environmental Impact Assessments, The State of Environmental Justice in America 2007, Howard University School of Law, March 30, 2007.

SERVICE

Faculty Director, Professional Development Program (2022 – Present)

Steering Committee, Villanova Initiative for Climate Justice and Sustainability (2020 – Present)

University Academic Learning Outcomes Committee (2020 – 2022).

University Sustainability Leadership Council (2018 – Present).

Learning Outcomes Task Force (2016 – 2019, 2022 – Present; Chair, 2020 – 2022)

Appointments Committee (2010 – 2011, 2021 – Present; Chair, 2022 – Present)

Diversity, Equity, and Inclusion Task Force (2020 – Present)

Tenure Screening Committee (2020 – Present; Chair, 2021 – 2022)

Consultant to the National Academy of Sciences, Engineering, and Medicine, Committee on Respiratory Protection for the Public and Workers without Respiratory Protection Programs at their Workplaces (2021)

University Middle States Commission on Higher Education (MSCHE) Reaccreditation, Standard V Working Group (2019 – 2020)

University Committee on Socially Responsible Proxy Voting (2011 – 2020)

Strategic Planning Task Force (2010 – 2011; 2012 – 2016; Chair, 2015 – 2016; Vice Chair, 2018 – 2019)

Alumni & Development Committee, ex officio (2018 – 2019)

Dean's Advisory Committee (2016 – 2019)

Admissions Committee, ex officio (2015 – 2019)

Career Strategy Committee, ex officio (2015 – 2019)

ABA Self Study Committee (2015 – 2018)

Experiential Learning Committee, ex officio (2016 – 2018)

Dean Search Committee (2016)

Education Law Society, Faculty Advisor (2015 – 2016)

Faculty Committee, Chair (2014 – 2015)

Academic Committee, Chair (2011 – 2014)

Legal Writing Advisory Committee (2011 – 2012)

Dean's Task Force on Administrative Structure (2011)

Public Interest Programs Committee (2010 – 2011)

Graduation Awards Committee (2009 – 2010)

Clerkship Committee (2008 – 2011)

Dean's Commission on Inclusiveness (2008 – 2010)

Curriculum Committee (2008 – 2009)

St. Thomas More Society, Faculty Advisor (2015 – Present)

Environmental and Energy Law Society, Faculty Advisor (2010 – Present)

Villanova Environmental Law Journal, Faculty Advisor (2008 – Present)

Delaware Valley Environmental American Inn of Court (2008 – Present)