

# MICHAEL A. LIVERMORE

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## POSITIONS

### UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, VA

*Edward F. Howrey Professor of Law*, 2019–present

*Professor of Law*, 2018–present

*Associate Professor of Law*, 2013–2018

Courses: Administrative Law; Environmental Law; LawTech; Regulatory Law and Policy

Carl McFarland Price (2019): awarded to junior faculty member for outstanding research

### DUKE LAW SCHOOL, Durham, NC

*Visiting Professor of Law*, Fall 2019

### UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, IL

*Visiting Professor of Law and Charles J. Merriam Scholar*, Fall 2016

### NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

*Founding Executive Director, Institute for Policy Integrity*, 2008–2013

*Co-Director, Administrative and Regulatory State Clinic*, 2009–2013

*Postdoctoral Fellow, Center for Environmental & Land Use Law*, 2006–2007

## CLERKSHIP

**HON. HARRY T. EDWARDS, DC CIRCUIT COURT OF APPEALS**, Washington DC, 2007–2008

## EDUCATION

### NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

J.D., magna cum laude, May 2006

Order of the Coif

Managing Editor, *New York University Law Review*

Furman Academic Scholar

Law Review Alumni Association Award

Butler Scholar

Frank H. Sommer Memorial Award

Law and Economics Prize

### STATE UNIVERSITY OF NEW YORK AT ALBANY, Albany, NY

B.A. (English), magna cum laude, May 2000

Phi Beta Kappa

Presidential Scholar

## BAR ADMISSION

New York State

U.S. Court of Appeals for the DC Circuit

U.S. Supreme Court

## PUBLICATIONS

### Books

*Reviving Rationality: Saving Cost-Benefit Analysis for the Sake of the Environment and Our Health* (Oxford University Press, forthcoming 2020) (with Richard L. Revesz).

*Law as Data: Computation, Text, and the Future of Legal Analysis* (Santa Fe Institute Press, 2019) (ed. with Daniel Rockmore).

*Environmental Law and Policy* (Foundation Press, 2019) (4th ed. with Richard Revesz, Caroline Cecot, and Jayni Foley Hein).

*The Globalization of Cost-Benefit Analysis in Environmental Policy* (Oxford University Press, 2013) (ed. with Richard L. Revesz).

*Retaking Rationality: How Cost-Benefit Analysis Can Better Protect the Environment and Our Health* (Oxford University Press, 2008) (with Richard L. Revesz).

### Chapters

“Regulating Regulation: Impact Assessment and Trade,” in *Megaregulation Contested: Global Economic Ordering After TPP* (Oxford University Press, Benedict Kingsbury et al. eds., 2019) (with Jason Schwartz).

“Economics and Environmental Law Scholarship,” in *Perspectives on Environmental Law Scholarship: Essays on Purpose, Shape and Direction* (Cambridge University Press, Ole W. Pedersen ed., 2018) (with Caroline Cecot).

“Environmental Law and Economics,” in *Oxford Handbook of Law and Economics* (Oxford University Press, Francesco Parisi, ed., 2017) (with Richard L. Revesz).

“Setting the Social Cost of Carbon,” in *Climate Change Law* (Edward Elgar, Encyclopedia of Environmental Law, Daniel Farber and Marjan Peeters eds., 2016).

“Balanced Job Impact Analysis,” in *Does Regulation Kill Jobs?* (University of Pennsylvania Press, Cary Coglianese, Adam Finkel & Christopher Carrigan, eds., 2014) (with Jason Schwartz).

“Can Executive Review Help Prevent Capture?” in *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press, Dan Carpenter & David Moss, eds., 2014) (with Richard L. Revesz).

“The Shape of Distributional Analysis,” in *The Globalization of Cost-Benefit Analysis in Environmental Policy* (Oxford University Press, 2013) (with Jennifer S. Rosenberg) (translated into Spanish and French)

### Articles

“Computational Methods in Legal Analysis,” 16 *Annual Review of Law and Social Science* \_\_ (2020) (with Jens Frankenreiter).

“The Problem of Data Bias in the Pool of Published U.S. Appellate Court Opinions,” 17 *Journal of Empirical Legal Studies* 224 (2020) (with Keith Carlson and Daniel N. Rockmore).

“Modeling Law Search as Prediction,” *Artificial Intelligence and Law*, doi.org/10.1007/s10506-020-09261-5 (2020) (with Faraz Dadgostari, Mauricio Guim, Peter A. Beling, and Daniel N. Rockmore).

“Administrative Law in an Era of Partisan Volatility,” 69 *Emory Law Journal* 1 (2019) (with Daniel Richardson).

“Sociopolitical Feedbacks and Climate Change,” 43 *Harvard Environmental Law Review* 119 (2019) (with Peter Howard).

“Bending the Law: Geometric Tools for Quantifying Influence in the Multinetwork of Legal Opinions,” 26 *Artificial Intelligence and Law* 145 (2018) (with Greg Leibon, Reed Harder, Allen Riddell and Dan Rockmore).

“Computationally Assisted Participatory Rulemaking” 93 *Notre Dame Law Review* 977 (2018) (with Vladimir Eidelman and Brian Grom).

“The U.S. Supreme Court and the Judicial Genre” 59 *Arizona Law Review* 837 (2017) (with Allen B. Riddell and Daniel N. Rockmore).

“The Perils of Experimentation,” 126 *Yale Law Journal* 636 (2017) (selected for the Harvard/Stanford/Yale Junior Scholars Workshop, the Haub Environmental Law Distinguished Junior Scholars Award, and the *Land Use & Environmental Law Review* compendium of significant legal scholarship in the field).

“A Quantitative Analysis of Writing Style on the U.S. Supreme Court,” 93 *Washington University Law Review* 1461 (2016) (with Keith Carlson and Daniel Rockmore).

“Political Parties and Presidential Oversight,” 66 *Alabama Law Review* 45 (2015).

“The Measurement of Subjective Value and Its Relation to Contingent Valuation and Environmental Public Goods,” 10(7) *PLoS ONE* e0132842 (2015) (with Mel W. Khaw, Paul Glimcher, Denise Grab, and Christian Vossler).

“Rethinking Health-Based Environmental Standards,” 89 *New York University Law Review* 1184 (2014) (with Richard L. Revesz) (included in Environmental Law Institute annual review of best environmental law scholarship).

“Cost-Benefit Analysis and Agency Independence,” 81 *University of Chicago Law Review* 609 (2014).

“The Meaning of Green Growth,” 3 *Michigan Journal of Environmental and Administrative Law* 33 (2013).

“Regional Variation, Holdouts, and Climate Treaty Negotiations,” 4 *Journal of Benefit-Cost Analysis*, art. 1 (2013) (with J. Scott Holladay).

“Patience is an Economic Virtue: Real Options, Natural Resources, and Offshore Oil,” 84 *University of Colorado Law Review* 581 (2013).

“Regulatory Review, Capture, and Agency Inaction,” 101 *Georgetown Law Journal* 1337 (2013) (with Richard L. Revesz).

“Can Cost-Benefit Analysis of Environmental Policy Go Global?” 19 *New York University Environmental Law Journal* 146 (2011).

“Retaking Rationality: Two Years Later,” 48 *Houston Law Journal* 1 (2011) (with Richard L. Revesz).

“A Brief Comment on ‘Humanizing Cost-Benefit Analysis,’” 2011 *European Journal of Risk Regulation* 13.

“Water Pollution and Regulatory Cooperation in China,” 44 *Cornell International Law Journal* 101 (2011) (with Craig Wenner & Hong Lan).

“Análisis Cost-Beneficio en Países en Vías de Desarrollo,” 117 *Estudios Públicos* 21 (2010).

“Realist Lawyers and Realistic Legalists: A Brief Rebuttal to Judge Posner,” 59 *Duke Law Journal* 1187 (2010).

“Pitfalls of Empirical Studies that Attempt to Understand the Factors Affecting Appellate Decisionmaking,” 58 *Duke Law Journal* 1895 (2009) (with Hon. Harry T. Edwards).

“Cause or Cure? Cost-Benefit Analysis and Regulatory Gridlock,” 17 *New York University Environmental Law Journal* 107 (2008).

“Reviving Environmental Protection: Preference-Directed Regulation and Regulatory Ossification,” 25 *Virginia Environmental Law Journal* 311 (2007).

Note, “Authority and Legitimacy in Global Governance: Deliberation, Institutional Differentiation, and the Codex Alimentarius,” 81 *New York University Law Review* 766 (2006).

#### Short Works and Papers

“Assessing the Rationale for the U.S. EPA’s Proposed ‘Strengthening Transparency in Regulatory Science’ Rule,” *Review of Environmental Economics and Policy*, doi.org: 10.1093/reep/rez017 (2019) (with Madison E. Condon and Jeffrey G. Shrader).

“Environmental Federalism in a Dark Time,” 79 *Ohio State Law Journal* 667 (2018).

Comment, “Will AI Eat ELS?” 174 *Journal of Institutional and Theoretical Economics* 214 (2018).

“Centralizing Congressional Oversight,” 32 *Journal of Law and Politics* 201 (2017) (with Matthew Brooker).

“The One-In, Two-Out Executive Order Is a Zero,” 166 *University of Pennsylvania Law Review Online* 1 (2017) (with Caroline Cecot).

Letter, “Best Cost Estimate of Greenhouse Gases,” 357 *Science* 655 (2017) (with Richard Revesz, Michael Greenstone, Michael Hanemann, Thomas Sterner, Denise Grab, Peter Howard and Jason Schwartz).

Letter, “The Social Cost of Carbon: A Global Imperative,” 11 *Review of Environmental Economics and Policy* 172 (2017) (with Kenneth Arrow, Michael Oppenheimer, Peter H. Howard, Richard L. Revesz, Jason Schwartz and Thomas Sterner).

Book Review, “*Uncommon Ground: How Presidents Interpret the Constitution* by Harold H. Bruff” 79 *The Historian* 568 (2017).

“Rethinking Health-Based Environmental Standards and Cost-Benefit Analysis” 46 *Environmental Law Reporter* 10,674 (2016) (with Richard L. Revesz).

“Interest Groups and Environmental Policy: Inconsistent Positions and Missed Opportunities,” 45 *Environmental Law* 1 (2015) (with Richard L. Revesz).

Comment, “Global warming: Improve economic models of climate change,” 508 *Nature* 173 (April 10, 2014) (with Kenneth Arrow, Lawrence H. Goulder, Peter H. Howard, Robert E. Kopp, Michael Oppenheimer, Richard L. Revesz and Thomas Sterner).

“Tacking in Shifting Winds: A Short Response to Bubb and Pildes, 127 *Harvard Law Review Forum* 204 (2014) (with Quinn Curtis and Andrew Hayashi).

“All the Authority the Agency Needs to Regulate GHGs,” 30 *ENVTL. FORUM* 49 (Nov./Dec. 2013)

“Prevailing Academic View on Compliance Flexibility under § 111 of the Clean Air Act,” (Resources for the Future Discussion Paper 11-29, 2011) (with Gregory E. Wannier, Jason A. Schwartz, Nathan Richardson, Michael B. Gerrard, and Dallas Burtraw).

“Environmental Law: The Future of Cost-Benefit Analysis in Environmental Policy,” 17 *University of Baltimore Journal of Environmental Law* 189 (2010) (transcript of panel discussion).

Book Note, “Conversation, Representation, and Allocation: Justice Breyer’s Active Liberty,” 81 *New York University Law Review* 1505 (2006) (with D. Theodore Rave).

## SELECTED PRESENTATIONS AND PANELS

“The Promise and Pitfalls of Law as Data,” presentation, Law, Artificial Intelligence and Data Science: Challenges and Opportunities, Bar-Ilan University, Ramat Gan, Israel, December 18–19, 2019.

“When Environmental Rights Go Wrong,” presentation, Latin American Workshop in Law and Economics, ITAM, Mexico City, Mexico, Nov. 21–22, 2019; American Law and Economics Association Annual Meeting, Boston University, Boston MA, May 11–12, 2018.

“Political Shifts and Public Responses to Agency Action,” presentation, American Political Science Association Annual Meeting, Washington DC, Aug. 29–Sept. 1, 2019.

“Law Search,” presentation, Conference on Data Science and Law, ETH Zurich, Switzerland, June 7–8, 2019 (workshop co-convenor).

“Genetic Instruments for Causal Inference in BMI-SES Relationships,” workshop, Max Planck Institute for Research on Collective Goods, Bonn, Germany, May 27, 2019.

“Opinion Publication and the Study of Judicial Politics in the U.S. Appellate Courts,” presentation, Text Analysis and Law Conference, Northwestern, Pritzker School of Law, Chicago IL, April 4–6, 2019.

“Administrative Law for an Era of Partisan Volatility,” workshop, University of Houston Law Center, Houston TX, March 25, 2019.

“Legal Reasoning and Legal Analytics,” presentation, The Emergence of Computational Legal Studies: The Promises and Challenges of Data-Driven Legal Research, University of Hong Kong, China, June 28–29, 2018.

“Structure and Content of the United States Code,” presentation, Conference on Empirical Legal Studies, Europe, Leuven, Belgium, May 31–June 1, 2018.

“Empirical Methods for the Law,” discussant, Journal of Institutional and Theoretical Economics, Max Planck Institute for Research on Collective Goods, Syracuse, Italy, June 8–9, 2017.

“The Role of Judicial Characteristics in Influencing Opinion Text,” presentation, Conference on Empirical Legal Studies, Duke Law School, Durham, NC, Nov. 19, 2016.

“Computational Law,” presentation, LawOS: The Evolution and Complexity of Legal and Regulatory Systems, Santa Fe Institute, Santa Fe, NM, Nov. 5, 2016.

“Valuation of Air Toxics,” participant, Environmental Protection Agency Workshop, New York, NY Aug. 25–26, 2016.

“Conference on Megaregional Trade Agreements,” participant, Institute for International Law and Justice, New York University School of Law, New York, NY July 1–2, 2016.

“Law Search,” presentation, Conference on Empirical Legal Studies Europe, Amsterdam, The Netherlands, June 22, 2016; Complexity and the Law, University of Michigan, February 23, 2017.

“Computationally Assisted Regulatory Participation,” presentation, Annual Workshop on Political Economy and Public Law, Cornell Law School, Ithaca NY, June 4, 2016; workshop, Brooklyn Law School, March 2, 2017.

“Neuroeconomics and Contingent Valuation,” panel discussion, Resources for the Future, June 1, 2016; presentation, Sustainability Conference for Legal Educators, Arizona State University, Phoenix AZ, May 13, 2016.

“Health-Based Environmental Standards and Cost-Benefit Analysis,” panel discussion, Environmental Law and Policy Annual Review (cosponsored by the Environmental Law Institute and Vanderbilt Law School), Washington DC, April 1, 2016.

“Sociopolitical Feedbacks and Climate Damages,” presentation, Society for Benefit Cost Analysis Annual Conference, Washington DC, March 17, 2016; American Law and Economics Association Annual Conference, Harvard Law School, Cambridge MA, May 20, 2016; Society for Environmental Law and Economics, University of Texas Law School, Austin TX, May 28, 2016.

“Quantitative Analysis of Legal Texts,” presentation, Center for the Study of Data and Knowledge, University of Virginia, Charlottesville VA, Nov. 22, 2015; Santa Fe Institute, Santa Fe NM, March 11, 2016.

“The Perils of Experimentation,” workshop, Cornell Law School, Ithaca NY, Nov. 13, 2015; Pace Law School, White Plains NY, Sept. 14, 2016; Chicago Law School, Chicago IL, Oct. 20, 2016; presentation, Harvard/Stanford/Yale Junior Scholars Workshop, New Haven CN, June 29, 2016.

“Costs and Benefits vs. Smoke and Mirrors,” panel discussion, Federalist Society, Executive Branch Review Conference, Washington DC, June 24, 2015

“Air Quality: Health, Energy, and Economics,” panel discussion, Stegner Center, University of Utah S.J. Quinney College of Law, Salt Lake City, UT, March 5, 2015.

“Improving the Link between Analytical Methods and Policy,” panel discussion, Association for Public Policy Analysis and Management Annual Meeting, Albuquerque NM, Nov. 7, 2014.

“Agency Inaction,” American Bar Association Administrative Law Conference, panel discussion, Washington DC, Oct. 17, 2014.

“Parties and Presidential Oversight,” workshop, Vanderbilt Law School, Nashville TN, Oct. 1, 2014; Duke Law School, Durham NC, April 3, 2015.

“Patterns in Law and other Systems,” presentation, Interdisciplinary Workshop on Patterns in Humanities Research, Neukom Institute, Dartmouth College, Hanover NH, Aug. 11, 2014

“U.S. Environmental Law, from NEPA to Climate Change,” presentation, Universidad de la República, Montevideo Uruguay, April 28, 2014.

“Rethinking Health Based Environmental Standards,” presentation, American Law and Economics Association Annual Meeting, Chicago IL, May 8, 2014.

“Domestic Priorities, Mechanisms, Constraints,” discussant, Symposium on New Approaches to International Regulatory Cooperation, Institute for International Law and Justice, New York University School of Law, New York, NY Feb. 27–29, 2014.

“The White House Role in the Agency Rulemaking Process,” panel discussion, American Bar Association Administrative Law Conference, Washington DC, Nov. 7, 2013.

“OIRA, Regulatory Review, and Capture,” presentation, American Law and Economics Association Annual Meeting, Stanford CA, May 18, 2012.

“Presidential Review in the Obama Administration,” panel discussion, Association of American Law Schools Annual Meeting, Washington DC, Jan. 7, 2012.

“Better Regulation for Green Growth,” panel discussion, Bertelsmann Stiftung International Conference on Regulatory Reform, Amsterdam, The Netherlands, Mar. 10–11, 2011.

“Valuing Lives: A Conference on Ethics in Health & the Environment,” panel discussion, New York University Center for Bioethics, New York, NY, Mar. 5, 2011.

“U.S. Experience Incorporating Climate Change into Regulatory Review,” panel discussion, International Conference on Better Regulation for Green Growth, Seoul, Korea, Nov. 4–5, 2010

“Can Cost-Benefit Analysis Go Global,” presentation, Global Cost-Benefit Analysis: Challenges and Opportunities, New York University-Abu Dhabi Institute, Abu Dhabi, United Arab Emirates, Oct. 26–27, 2010 (workshop co-convener).

“Challenges and Opportunities for Cost-Benefit Analysis,” panel discussion, Conference on Cost-Benefit Analysis and Efficiency in Public Policy, Universidade de Brasília, Brasília, Brazil, Aug. 23–24, 2010

“Happiness Analysis vs. Cost-Benefit Analysis,” panel discussion, Law and Society Association Annual Meeting, Chicago IL, May 28, 2010.

“New Arguments on Technology Assessment, Democratic Participation and Risk Perception,” panel discussion, American Philosophical Association Annual Meeting, Dec. 27, 2009, New York, NY.

“Accounting for the Effects of Environmental Regulation,” presentation, China University School of Law and Political Science, Beijing, China September 28, 2009.

“The Challenge of Cost-Benefit Analysis in Developed Countries,” presentation, Centro de Estudios Público Conference, Santiago, Chile, June 17, 2009.

#### SELECTED BRIEFS AND ADMINISTRATIVE FILINGS

Brief of *Amicus Curiae* 36 Computational Law Scholars *in* State of Georgia v. Public.Resource.Org, Inc. (U.S. 2019).

Counsel of Record *in* Center for Sustainable Economy v. Jewell (D.C. Cir. 2014).

Petition for Rulemaking by the Institute for Policy Integrity at New York University School of Law to the Environmental Protection Agency under Section 115, Title VI, Section 111, and Title II of the Clean Air Act to Regulate Greenhouse Gas Emissions (February 19, 2013).

Public Comments of the Institute for Policy Integrity at New York University School of Law concerning the Environmental Protection Agency Proposed Federal Implementation Plans to Reduce Interstate Transport of Fine Particular Matter and Ozone (October 1, 2010).

#### ACADEMIC AND PROFESSIONAL SERVICE

Administrative Conference of the United States, Public Member (2019–present)

University of Virginia Law School, Academic Placement Committee (2014–2015, 2019–2021); Appointments Committee (Vice Chair) (2018–2019); Empirical Legal Studies Committee (2016–2018); Faculty Enrichment and Visibility Committee (2019–2021); Law and Economics Committee (2015–2016); Library Director Search Committee (2017–2018); Publications Committee (2017–2018)

University of Virginia, Directorate Member, Contemplative Sciences Center (2013–present); Co-convener, Environmental Humanities Colloquium (2014–2016)

Reviewer: Cambridge University Press; Digital Scholarship in the Humanities; Edward Elgar; ETH Zurich; Israel Science Foundation; Journal of Benefit Cost Analysis; Journal of Policy Analysis and Management; KU-Leuven; Law and Society; Max Planck Society; McGill Journal of Sustainable Development Law; New York University Press; Regulation and Governance; Science; Social Science Journal; Society for Law and Economics; Wiley