

Administrative Law  
Spring 2003 - Richards

Put your exam number on each page of the examination. Do not put your name or any other identifying information on the examination. Read the entire exam before answering any questions. Make sure you have all the pages and that they are all different. Use no more than the space provided. None of the questions require all the space provided so you have enough space to be neat and organized. Use specific case and statute references as necessary to answer the question. **Do not write on the back** - I only read what is on the front.

1. The tax assessor in the town of Peace in the State of Bliss is setting a new tax rate. The rate is based on the square footage of each lot as determined by the official plat map on file in the tax assessor's office. The rate has been correctly promulgated using the appropriate procedures. Joe comes to you because his tax bill has tripled. Under the old system, the taxes were based on the value of the house and lot, and he did not pay much because he lives in a small house. Is he entitled to a hearing? Explain your reasoning with reference to appropriate cases.



2. The CDC was established by Congress to assist the states by providing expert assistance and information about communicable diseases, and to act as a national clearinghouse for information about the nation's health. The CDC has no specific enforcement powers. The CDC is concerned that states are not aggressively investigating SARS cases because the state governors are afraid of losing tourist revenue if any cases are found. The CDC passes an emergency regulation based on its clearinghouse function requiring that every person with a potential case of SARS call the CDC SARS Hotline at 1-800-WECOUGH.

Question 2.1 - Your client is the Louisiana Travel Agents Association, an NGO. They are concerned that even one case of SARS in LA, added to the West Nile Virus and the serial killer publicity, will put LA out of the tourist business. What is their argument for standing and what is the agency's rebuttal? Who do you think will prevail? (Ignore other potential problems with the regulation.)



Question 2.2 - You have been contacted by the Cystic Fibroses Foundation. Their members are always getting colds and they do not want to comply with this law. They want to mount a facial challenge to the regulation. Assume that they have standing. What is your argument on their behalf and what is the agency's rebuttal?



Question 2.3 - A number of persons with cystic fibrosis did call the hotline and give the CDC their names, addresses, and information about their medical conditions. You have just read in the NY Times that a medical research group has filed a Freedom of Information request to the CDC for the names and medical conditions of persons identified with SARS. The agency is under pressure to release the information to avoid claims of a cover-up. May the agency release this information? What can you do to stop this release?



3. Assume that the Federal quarantine law provides that the President, through an executive order, may prevent any person with a listed disease (which includes SARS) from traveling in interstate commerce. The President issued an order to restrict all travel by persons suspected of having SARS. Your client, Mary, was visiting her sick mother in Lake Charles when she started coughing. She asked her mother's doctor about it and he reported her to the 1-800-WECOUGH line. The Department of Justice sent a federal marshal to Lake Charles and he has detained her so that she cannot drive back to her home in Baton Rouge.

Question 3.1 - What do you file to contest this? Should you ask for a bail hearing? Explain your reasoning.



Question 3.2 - The judge says the case turns on whether driving from Lake Charles to Baton Rouge under these facts is interstate commerce. The judge says that since this is a disease control case he is leaning toward deferring to the DOJ and CDC. What is your argument against agency deference in resolving this question? (Just focus on the argument against deference, not constitutional arguments about whether it is interstate commerce.)



4. Explain that case! For each case, briefly explain its significance in administrative law and any tests it stands for.

NLRB v. Sears, Roebuck & Co

Legal Services Corp. v. Velazquez, 531 U.S. 533 (2001)

State v. Broom, 439 So.2d 357 (La. 1983)

Chocolate Manufacturers Ass'n v. Block

Reguero v. Teacher Standards and Practices Commission

UAW of America v. NLRB

Grant v. Shalala

Mathews v. Eldridge