

On the Virtues of Simple Standards

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We develop a new theory for the advantages of legal standards over legal rules. In short, standards that in practice operate in a relatively simple, undifferentiated manner can nonetheless produce a usefully differentiated pattern of behavior by inducing variation in beliefs about the law that correlates with what the law would ideally require. To achieve the same degree of differentiation in behavior using rules, in contrast, would require costly differentiation in legal consequences, since beliefs about rules track more closely the actual content of the rules. We thus put on firmer microeconomic foundations older understandings about the advantages of standards in managing complexity.