

Transforming E-rulemaking to Promote Public Participation and Efficiency

A joint public forum of the Administrative Conference and the Brookings Institution

Paul R. Verkuil

Chairman, Administrative Conference of the United States

November 30, 2010

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES



The Administrative Conference “is a public-private partnership designed to make government work better.”

President Barack Obama
July 8, 2010

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Our Mandate

Arrange for federal agencies, assisted by outside experts, cooperatively [to] study mutual problems, exchange information, and develop recommendations for action [so that] private rights may be fully protected and federal responsibilities may be carried out expeditiously in the public interest (1964).

Added in 2004

- Promote public participation and efficiency in rulemaking and with regard to rulemaking, adjudication, licensing, and investigation:
- Reduce unnecessary litigation
- Improve the use of science
- Improve the effectiveness of applicable laws

See 5 U.S.C. 591



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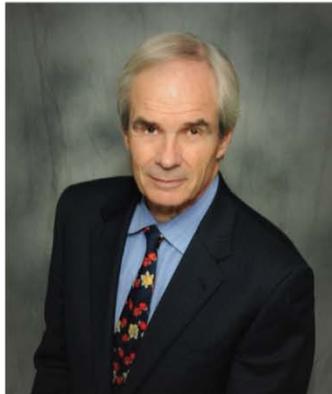
Council of Independent Regulatory Agencies

- Commodity Futures Trading Commission
- Consumer Product Safety Commission
- Federal Communications Commission
- Federal Election Commission
- Federal Energy Regulatory Commission
- Federal Maritime Commission
- Federal Mine and Safety & Health Review Commission
- Federal Reserve Board
- Federal Trade Commission
- National Labor Relations Board
- Nuclear Regulatory Commission
- Occupational Safety & Health Review Commission
- Postal Regulatory Commission
- Securities and Exchange Commission
- Surface Transportation Board
- U.S. International Trade Commission



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In progress -

- Federal Agency Preemption of State Law
- Ethics for Government Contractor Employees

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- e-Rulemaking
- FACA in the 21st Century
- Government in the Sunshine Act
- Immigration Adjudication
- Methods of Collaborative Governance
- Rulemaking Comments
- Science in the Administrative Process
- Midnight Regulations



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Next Steps

53rd Plenary of the Administrative Conference of the United States December 9-10, 2010

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E-Rulemaking and the Courts

- Ossification issues
- What will record on review look like (74-4 redux)
- Consequences of on line collaboration for rulemaking review—will there be a duty to participate (logical outgrowth test, etc.)
- How are the values of transparency, collaboration, efficiency and public participation to be measured



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