

**Committee on Regulation**  
*April 25, 2011 Committee Meeting*  
Comment of Bob Anthony

Hi Reeve,

I appreciated your very helpful memo on issues raised at the March meeting of the Regulation Committee.

Unfortunately, my attendance at the Committee's meeting on Monday is not feasible. But I am very interested in the subject, and would like to participate by telephone. Could you please call or e-mail me with the call-in number and any other relevant information? My (home) telephone is 540-428-7036. Thanks.

Here are a few thoughts on the draft provisions, which you may certainly circulate to the Committee if you wish to do so.

Paragraph 1. I would treat this as a matter of best practices, not as grist for APA amendment. I suggest beginning with the last sentence of draft paragraph 1 (Agencies should set comment periods that consider . . . ). Then adapt the text of 1", possibly encouraging findings a la 1' Option A.

Paragraphs 2, 3 and 8. I realize that it may be hard to incorporate anything into the text, but I wonder if these formulations take adequate account of commenters' practice of hanging back strategically and filing at the last minute in order to minimize opponents' chances to rebut. I would think that a robust discussion of this knotty central problem might yield some refinements. Do I correctly understand that, under the last sentence in paragraph 3, the time for public opportunity to comment on previously submitted comments would not count in the 30- or 60- etc. day period encouraged by paragraph 1?

Paragraph 5. I've forgotten whether Steve Balla's report (not at hand) or the Committee's discussions in March considered the effects of the Trade Secrets Act, 18 U.S.C. § 1905, which prohibits the disclosure of trade secrets information submitted to the government, on pain of fine, imprisonment or removal from federal employment.

Best wishes,

Bob