



Monday, October 19
11:00 am–12:30 pm

402 E-rulemaking Has Changed Administrative Practices: Cut Your Legal Costs

Diane Lazzaris

Senior Vice President- Legal, General Counsel & Corporate Secretary
Dick's Sporting Goods

Ann Nolan

Associate General Counsel
IDEXX Laboratories

John Sweeney

Attorney- Product Liability
Womble Carlyle Sandridge & Rice PLLC

Faculty Biographies

Diane Lazzaris

Diane Lazzaris is the general counsel and corporate secretary at Dick's Sporting Goods. She works in Elizabeth, PA.

Prior to joining Dick's Sporting Goods, she was senior counsel and group counsel at Alcoa Inc., where her practice included international legal work, mergers and acquisitions transactions and a variety of commercial work.

Ms. Lazzaris is a graduate of the University of Pittsburgh School of Law and Carnegie Mellon University (MBA). She is also a licensed CPA and a CFA charterholder.

Ann Nolan

Ann E. Nolan is an associate general counsel for IDEXX Laboratories, Inc., a publicly traded international company located in Westbrook, ME that focuses on diagnostic products and services for veterinary, production animal and water applications. Her responsibilities include providing legal counsel to multiple lines of business on a wide variety of corporate matters, supporting the corporate finance group and managing company wide privacy initiatives.

Prior to joining IDEXX, Ms. Nolan clerked for the Honorable Eugene E. Siler Jr. of the United States Court of Appeals for the Sixth Circuit, and practiced law with the firms of Davis Polk & Wardwell in New York, NY and Sheehan Phinney Bass + Green in Manchester, NH.

Ms. Nolan received a BS from Cornell University and is a graduate of the University of Kentucky College of Law.

John Sweeney


John Parker Sweeney is a member in the Baltimore office of Womble Carlyle Sandridge & Rice, PLLC. He has extensive experience defending businesses in mass torts, complex litigation typically involving toxic environmental exposures, as well as counseling corporate premises owners and manufacturers on regulatory compliance and claims avoidance. He has been closely involved with counseling business clients regarding the Consumer Product Safety Commission's (CPSC) e-rulemaking in its implementation of the complex legislation passed last year to expand the CPSC's authority and impose significant new requirements on consumer product importers, manufacturers, and distributors.

Mr. Sweeney joined Womble Carlyle's after several years as a principal at Miles & Stockbridge P.C. where he chaired that firm's litigation department. Previously he held

positions as a partner and associate with Debevoise & Plimpton in Washington, D.C. and as assistant general counsel of the Securities and Exchange Commission.

Mr. Sweeney serves as a national director of the Defense Research Institute (DFI), and chairs DRI's task force on climate change litigation. He is past chair of the DRI committee on industrywide litigation and the committee on toxic torts and environmental law. He leads a team of Womble Carlyle lawyers providing pro bono legal services to the residents of the Helping Up Mission, Baltimore's oldest faith-based recovery program.

Mr. Sweeney obtained his B.A from Ohio Wesleyan University and his J.D., summa cum laude, from the American University.



Explaining E-Rulemaking

Bush's E-Government Strategy =

Transparency
+
Accessibility

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Regulations.gov

- Improved Searching
- Navigation Tools
- Easy Access

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Searching

- Rules
- Proposed Rules
- Notices
- Comments
- Supporting & Related Materials



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Submitting Comments

Informal Requests + Formal Requests
+ Deadlines + Access to Public Comments

 = 
Better Comments

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E-mail Alerts

- Sign up
- Select Frequency
- Stay Informed
- Meet Deadlines

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Anticipate Future Regulations

- Regulatory Agenda
 - Rule Abstracts
 - Timeline
- Contact Information
- Potential Effects

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Helpful Links

- Federal Register
- Code of Federal Regulations
- THOMAS

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Effective Agencies

- CPSC
- FDA
- HHS
- EPA
- SEC

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Consumer Product Safety Information Act of 2008

- Agency Information
- Easy Access
- Avoids Costs
- Status Updates

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Reduce Expenses

- Primary Sources
- Secondary Sources
- Guidance
- Intra-Agency Work Product

CPSIA Legislation
Read the CPSIA legislation (and other CPSC statutes as amended), or view by [section](#)

General Certification of Conformity
Learn about a sample, instructions, and frequently asked questions (pdf)

Small Businesses
Find information on the CPSIA for small businesses and resale stores & product resellers (pdf)

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Public Involvement

- Early Informal Requests
- Public Meetings Online
- E-mail Alerts

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Effects

- Increase Value
- Adjust Models
- Collaboration
- Reduce Expenses
- Informed Public

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Acknowledgements

- Cary Coglianese, [E-Rulemaking: Information Technology and Regulatory Policy](#), *Regulatory Policy Program Report No. RPP-05* (2004).
- Consumer Product Safety Commission, available at <http://www.cpsc.gov/about/cpsia/cpsia.html#requirements>.
- Cynthia R. Farina and Sally Katzen, [Achieving the Potential: The Future of Federal E-Rulemaking](#), *Committee on the Status & Future of Federal E-Rulemaking, ABA Law & Regulatory Practice Section of ABA* (Nov. 20, 2008), available at <http://ceri.law.cornell.edu/documents/report-web-version.pdf>.
- John Parker Sweeney & Erin Miller, Womble, Carlyle, Sandridge, & Rice, PLLC, [Consumer Product Safety Commission E-Rulemaking: Implementation of the Consumer Product Safety Improvement Act of 2008](#), *Law360.com* (posted January 14, 2009).
- John Parker Sweeney & Erin Miller, Womble, Carlyle, Sandridge, & Rice, PLLC, [Online Implementation of the Consumer Product Safety Improvement Act of 2008](#), *DRI Voice*

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Are You Paying Top Dollar For What The Feds Give Away?

E-Rulemaking Should Cut The Cost Of Regulatory Work

John Parker Sweeney

Womble Carlyle Sandridge & Rice

I. Introduction

- a. E-Rulemaking Has Changed Administrative Practices: Cut Your Legal Costs

II. Explaining E-Rulemaking

- a. Bush Administration's "E-government strategy" to increase government transparency & make laws and regulations accessible
 - i. President Bush wanted to achieve greater transparency and accessibility by moving agency practices into the public forum and away from their previous internal focus
 - ii. In 2002, Congress passed the E-Government Act to promote the use of information technology throughout government in order to increase opportunities for public participation and to improve government decision-making
 - iii. Highlights how the practice of law is changing in the Information Age and how Counsel must take advantage of new electronic resources available in administrative practice

III. Regulations.gov

- a. 1-Stop, public access to information related to current and forthcoming regulations issued by agencies that affect in-house counsel on a daily basis and give the public access to 170 different rulemaking entities in 15 Cabinet departments
- b. Recently upgraded to improve agency and public interaction and avoid the "insider" perspective for which it had been criticized before and made searching, accessing, and commenting complicated
 - i. Improved search capabilities across agencies and dockets
 - ii. New navigation tools

- iii. Easier access to public comments

IV. How to Search

- a. What can you search?
 - i. Rules, Proposed Rules, Notices, Supporting & Related Materials, and Public Submissions
- b. Why should I search?
 - i. Stay informed and abreast of developments in regulations that affect you
 - ii. Cheaper & Easier: no longer do you have to call Outside Counsel to draft legal memoranda on updates, but you can educate yourself with both primary and secondary source materials
 - iii. Change/adjust practices to stay in compliance on a real-time basis

V. Submitting Comments

- a. Early informal requests + Formal requests + Timelines + Access to Posted Comments = Better Commenting
- b. The Internet allows for earlier and better collaboration, which leads to better commenting and more effective rule-making
 - i. Links on the homepage guide users to comment periods that are ending soon and “hot” dockets with the most comments and views

VI. E-mail Alerts

- a. Sign up to a docket, select e-mail frequency (daily, weekly, monthly), stay informed, and meet comment deadlines
- b. Advantages: efficiency & ease of information flow; time management allows you to meet comment deadlines & help to improve regulations with your expertise in a certain field ; customization allows you to track dockets relevant to you

VII. Stay on top of Future Regulations

- a. Access to Regulatory Agenda: twice a year each Agency publishes a Regulatory Agenda that provides information about planned or recently issued regulations
 - i. Individual entries contain information about each rule, including: (1) brief description of the rule; (2) timetable showing past or projected actions in connection with developing the rule; (3) Contact person for future information; and (4) Potential effects of the rule and related matters
- b. Adjust operating models and plan accordingly

- c. Stay ahead of the competition

VIII. Helpful Links

- a. Daily Federal Register
- b. Code of Federal Regulations
- c. THOMAS: federal legislative information from the Library of Congress

IX. Effective Agencies

- a. E-Rulemaking has taken off and individual agencies have developed their own websites
- b. Examples:
 - i. Food & Drug Administration: website features updates, recalls, and announcements on recently-approved devices
 - ii. Health and Human Services Office of Civil Rights: website features helpful links for understanding HIPAA and Patient Safety Act (guidance to figure out if you are a “covered entity”), enforcement activities, and links for filing complaints
 - iii. Federal Energy Regulatory Commission: website has a multitude of “e-features” that allow in-house counsel and small businesses to stay very up-to-date with regulations; they include eSubscription, eService, eLibrary, and “quick comment” – all the information you need is a click away
 - iv. Securities & Exchange Commission: website features easy-to-follow links to answer your questions on primary source material and provides helpful secondary source material

X. Consumer Product Safety Improvement Act of 2008: One very effective illustration of how an Agency, the Consumer Product Safety Commission, has utilized the Internet to make the Consumer Product Safety Improvement Act of 2008, which provided sweeping modifications to consumer product safety standards for children’s products as well as many enhancements to the CPSC’s enforcement authority, easily and conveniently accessible to the public

- a. Provides Agency information; easy access; avoids costs; status updates
- b. CPSC’s basic means of disseminating information to the public about the CPSIA, including e-mail alerts and RSS feeds
- c. Useful resource for easy access by in-house counsel and small business owners

- d. Avoids cost of pursuing regulatory information through proprietary research services
- e. Web postings make it easy to follow agency action by providing regulatory timeline as well as frequent status updates for interested parties

XI. Reduce Expenses

- a. Primary Source Material is available at the click of the mouse
- b. Secondary Source Material to obtain background information in the legal research process
 - i. Guidance: FAQs to navigate your way through tricky language
 - ii. Intra-Agency Material: Staff Memorandums and General Counsel Advisory Opinions that are now available without going through lengthy Freedom of Information Act requests
 - 1. Saves valuable time by providing free work product
 - 2. Provides access to other valuable opinions
- c. Increases Value of in-house counsel's relationship with outside counsel
 - i. More informed during discussions because you have better first-hand knowledge
 - ii. Better collaborative potential

XII. Public Involvement

- a. Early Public Involvement – informal requests for comments and information
- b. Public meetings to articulate views and solicit feedback – videos posted online
- c. E-mail alerts
- d. Equals more complete rules and regulations

XIII. Effects

- a. Increase value of relationship with outside counsel
- b. Adjust operating models and plan accordingly
- c. Collaboration through greater interaction and transparency
- d. Reduce expenses
- e. Informed public