



Benefits of robust public consultation

a U.S. private sector perspective

April 28, 2017

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GE's regulatory approach



Core regulatory principles

How do you develop the best regulations?

Good regulation

- Begins with a clear problem statement
- Developed by experts
- Achieves the most beneficial outcome and the lowest possible costs
- Simple, prospective, and non-duplicative

Good regulatory process

- Open
- Shaped by diverse input
- Transparent
- Coordinated
- Subject to review
- Subject to challenge



Globally recognized principles

Organizations & goals

Organizations

- OECD
- APEC
- World Bank / IMF
- World Economic Forum
- Global Trade and Investment Agreements

Goals

- ✓ *Create sound policies and regulations that promote private sector development*
- ✓ *Maximize benefits to society*



Benefits of good regulatory process

Public consultation is key

Good for government

- Poorly designed regulations are **costly** for governments
- Whole-of-government **efficiency** and **coordination**
- Smart design, openness, and transparency lead to **increased trust** in government

Good for society

- Better regulation supports quality of life, social cohesion, and the rule of law, through **enhanced transparency** and **public participation**
- Increased **citizen protections** coupled with **economic growth**

Good for business

- A good regulatory environment improves business competitiveness and trust in government.
- Good regulation reduces costs and barriers that impede business start-ups, development, economy, and growth – increases certainty and predictability



Benefits of good regulatory process (cont.)

Public consultation is key

Good for the economy

- Improves market mechanisms, innovation, and entrepreneurship
- Improves investors' confidence, including foreign investors, through increased clarity and transparency
- Improves domestic and global competitiveness
- Don't forget permitting, fees, and enforcement

World Economic Forum: “if implemented correctly, sound regulation can strengthen countries’ growth capacity, while protecting citizens and improving their long-term living standards.”



Role of the private sector



Value of private sector input

Unmask the unknown-unknowns

Gather good ideas

- Do you have the best available data? Science? Policy ideas?
- Agencies gather critical input from the regulated community AND civil society

Spot unintended consequences

- Do you know how many parties you're affecting? Will your regulation solve one problem, but cause others?

Avoid duplication

- Regulated parties see *all* of the agencies that regulate them – and they know if your rule will conflict with rules from those other agencies



Develop trust-based relationships

Regulation works better with mutual understanding

Solve problems early

- Is “command-and-control” regulation necessary at all (is there a market failure)? What problem is the agency trying to solve?
- Does industry understand the agency’s goals, or do they feel like the agency exists to make their life more difficult? Can the problem be solved informally?

Demonstrate responsibility

- By participating in the regulatory process and asking regulators to make *smarter* rules, regulated parties demonstrate good faith.
- Regulated parties must help agencies understand their concerns, and participating in the regulatory process is key to achieving that understanding.
- If you have a problem, will your regulator trust you to fix it?



RIA and the review process



Make good choices

Develop a menu of options, and stress-test it

Regulatory impact analysis (RIA)

- Thoughtful RIAs provoke discussion – are there alternatives that achieve the regulatory goal? Has the agency picked right balance of burden and benefit?
- RIAs are a means to an end. They provide crucial info to public participants who can then submit more meaningful and targeted comments on how to improve the rule.

Review process

- Central review requires a careful balance of transparency: open enough to encourage participation, but protected enough that participants provide honest feedback.
- The reviewing agency should be empowered to change proposed rules to keep consistency among agencies and with official policy



What's next?



Regulations need to be accessible

Can you easily figure out the rules that apply to you?

Rules should be easy to find

- Easy online access is critical to compliance.
- Trust that most parties will act in good faith, and that they would rather comply with the rules than break the law.

Invest in online infrastructure

- Critical for international companies
- Can a business executive in the U.S., India, or Argentina understand how to do business in Zambia? Could a lawyer from one of those countries figure it out?



Public participation should be easy

Develop tools to engage the private sector – from big business to individual contributors

Tools matter

- U.S. Federal agencies do a very good job of publicizing their activities. If an agency is making a new rule, generally it will be easy to find the proposal and comment on it.
- In contrast, *state* agencies usually do a worse job of including the public in rulemaking. As a result, their rules are less vetted and are often lower quality.

Is anybody listening?

- What can Zambian agencies do to demonstrate that they are listening to public concerns? Does private sector participation change the shape of agency rules?
- Are Zambian agencies clearly communicating their enforcement priorities?
- If the private sector believes participation is futile, the *entire exercise* will be futile.



Public participation should be transparent

Transparency among all parties is critical to trust

Oversight depends on open dockets

- Non-government parties should be able to challenge the outcome of rules if they are illegal, unfair, or poorly made.
- Open comment dockets allow anybody to see if a party or industry wields too much influence, to challenge incorrect statements, and to develop a record for judicial review.
- Open dockets are also vital to spotting agency capture.

Key questions

- Do Zambian agencies occasionally rely on *ex parte* communications to justify their actions?
- Can the public easily read comments submitted by foreign governments and parties?



Online tools are critical

What will regulators do next?



The screenshot shows the 'regulations.gov' website's 'Regulatory Agenda' page. The header includes the logo and tagline 'Your Voice in Federal Decision-Making'. Below the header, there is a navigation breadcrumb 'Home > Regulatory Agenda' and a sub-header 'Regulatory Agenda'. A main heading reads 'Find a Regulatory Agenda and List of an Agency's Agenda Entries'. The page contains a paragraph explaining that agencies publish a Regulatory Agenda twice a year. There is a 'Select Publication Date' dropdown menu set to 'Fall 2016'. Under 'Introduction', there are links for 'Introduction to Fall 2016 Regulatory Plan' and 'Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions'. A 'Select Agency' dropdown menu is open, showing a list of agencies including the Agency for International Development (AID), Architectural and Transportation Barriers Compliance Board (ATBCB), Commission on Civil Rights (CCR), Committee for Purchase From People Who Are Blind or Severely Disabled (CPB5D), Commodity Futures Trading Commission (CFTC), Consumer Financial Protection Bureau (CFPB), Consumer Product Safety Commission (CPSC), and Corporation for National and Community Service (CNCS).

How do you read proposed rules and comment?



The screenshot shows the 'regulations.gov' website's homepage. The header includes the logo and tagline 'Your Voice in Federal Decision-Making'. Navigation links for 'Home', 'Help', 'Resources', and 'Contact Us' are visible. A search bar is prominent, with a 'Search' button and a 'Browse' button. A main heading reads 'Make a difference. Submit your comments and let your voice be heard.' Below this is a search box with the text 'SEARCH for: Rules, Comments, Adjudications or Supporting Documents:' and a 'Search' button. The page is divided into several sections: 'What's Trending' with a list of items like 'Evaluation of Existing Regulations' and 'Organic Research, Promotion, and Information Orders: Certified Products'; 'Comments Due Soon' with a list of items like 'Tobacco Product Standard for N-Nitrosornicotine Level in Finished Smokeless Tobacco Products'; and 'Newly Posted' with a list of items like 'Tobacco Product Standard for N-Nitrosornicotine Level in Finished Smokeless Tobacco Products'. There are also links for 'FAA Section 333', 'APIs for Developers', 'Browse by Category', and 'DOS Regulations Twitter Page'.



Online tools are critical (cont.)

What rules are under central review?

OFFICE of INFORMATION and REGULATORY AFFAIRS
OFFICE of MANAGEMENT and BUDGET
EXECUTIVE OFFICE of the PRESIDENT

U.S. General Services Administration GSA

Reginfo.gov

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AGENCIES WITH THE MOST REGULATORY ACTIONS CURRENTLY UNDER REVIEW

Agency	Number of Pending Actions
HHS	8
DOT	1
NASA	1

Total Pending Actions: 10

Pending Actions By Rule Stage

View: Proposed Rule Final Rule No Material Change

View:

REGULATORY REVIEW
Executive Order 12866 directs agencies to follow certain principles in rulemaking, such as consideration of alternatives and

UNIFIED AGENDA and REGULATORY PLAN
The Unified Agenda and Regulatory Plan provide uniform reporting of data on regulatory and deregulatory actions under

ICR DASHBOARD
INFORMATION COLLECTIONS REVIEW PENDING BY TYPE

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FEDERAL REGISTER
The Daily Journal of the United States Government

Wednesday, April 19th

Current Issue
95 documents from 37 agencies (164 Pages)
84 Notices 1 Presidential Document 5 Proposed Rules 5 Rules

Public Inspection

Filing Type	Updated	Count
Special Filing	updated on 11:15 AM, on Wednesday, April 19, 2017	9 documents from 8 agencies 8 Notices 1 Proposed Rule
Regular Filing	updated on 08:45 AM, on Wednesday, April 19, 2017	98 documents from 37 agencies 80 Notices 8 Proposed Rules 10 Rules

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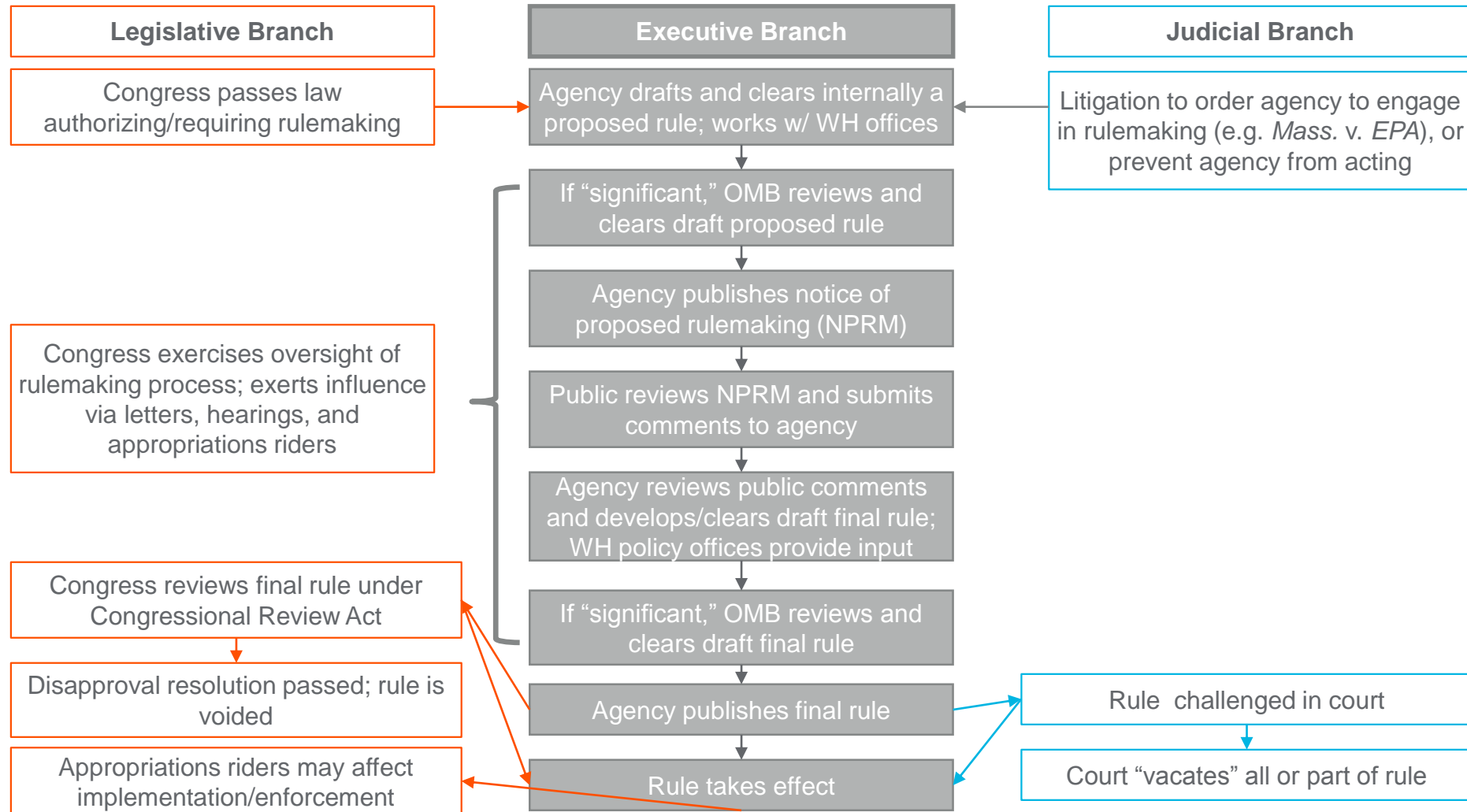
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Appendix



US “informal” rulemaking process



Office of Information and Regulatory Affairs

OMB

- Managed by a small group of political appointees; most staff (400+) are highly skilled career professionals.
- President's chief tool to manage Executive Branch

OIRA

- Coordinates regulation in the Executive Branch
- Manages interagency review to prevent multiple agencies from overlapping (or creating conflicting rules)
- Ensures high-quality analysis in the rulemaking process
- Only reviews the most important rules, many agency rules are low-cost and non-controversial
- Process and people remain essentially unchanged throughout Administrations



OIRA in-depth

Timeframe

Review can take up to 90 days (avg. ~50 days); option to extend

Transparency

OIRA docket all meetings online, including written materials provided, with participants identified. Oral communications are docketed but not transcribed. After review, the public can see before-and-after versions of the rule

Meetings

Open-door policy during review – OIRA accepts any meeting requested. OIRA always invites the agency writing the rule, and often invites other White House offices or key agencies

Outcome

OIRA can accept the rule as written, or it may ask the agency to make changes. OIRA may also delay the issuance of the rule, or ask the agency to withdraw the rule entirely and not issue it

