GW Regulatory Studies Center

Working to improve regulatory policy through research, education, and outreach.
Research, Education & Outreach

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Regulatory Studies Center
THE GEORGE WASHINGTON UNIVERSITY

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Congress passes law authorizing/requiring regulation.

Agency develops "proposed" rule.

OMB reviews the proposed rule if "significant."

Agency publishes rule in Federal Register.

Agency reviews public comments and incorporates into "final" rule.

OMB reviews final rule.

Agency publishes final rule in Federal Register, and rule goes into effect.

Congress may review final rule and pass resolution of disapproval.

Rule may be challenged in court.

Court may "vacate" all or part of rule.

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Executive Review

- EO 12866 (1993)
  - Net benefit test
  - “Significant” rules submitted to OIRA
- EO 13563 (2011)
  - Reaffirmed E.O. 12866
- EO 13610 (2012)
  - Institutionalize retrospective review
President Trump’s EOs

- EO 13771
  - Issue 2 deregulatory actions for every new regulation
  - Offset costs of new regulations by modifying or rescinding old ones

- EO 13777
  - Designate Regulatory Reform Officer
  - Form Regulatory Reform Task Forces
OIRA’s Role

• “Dispassionate and analytical second opinion”
  – Draft regulations & supporting analyses
• Facilitate interagency coordination
  – Other agencies & White House offices
• Paperwork Reduction Act
  – Approve information collections
• Manage EO 13771 process & offsets
  – Guidance to agencies
OIRA’s EO 13771 Guidance

• What counts as “ins” & “outs?”
  – Apples & oranges
• Regulatory budget accounting
• EO 12866 and EO 13563 still apply
  – Maximize net benefits
Challenges to Retrospective Review for Research Rules

- Definitional
  - APA “rules” v. other binding terms
- Assessing the stock of regulations
  - Measuring the number of “rules” is easy
  - Measuring the number of other actions is harder
  - “Rules” are analyzed differently
Challenges to Retrospective Review for Research Rules

• Influencing the flow of regulations
  – “Rules” and some “guidance” reviewed by OIRA
  – Many other policy documents are not
  – No single flow-through-point for policy changes that affect academic research
  – Paperwork Reduction Act can be a useful tool
Opportunities

• Research Policy Board
• Initiatives from OSTP & OIRA
• EO 13771 “deregulatory action” definition
• Leverage PRA
• Proposals for structural change
  – Many prior calls for changes, e.g., ombudsman
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