

Regulatory Studies Center

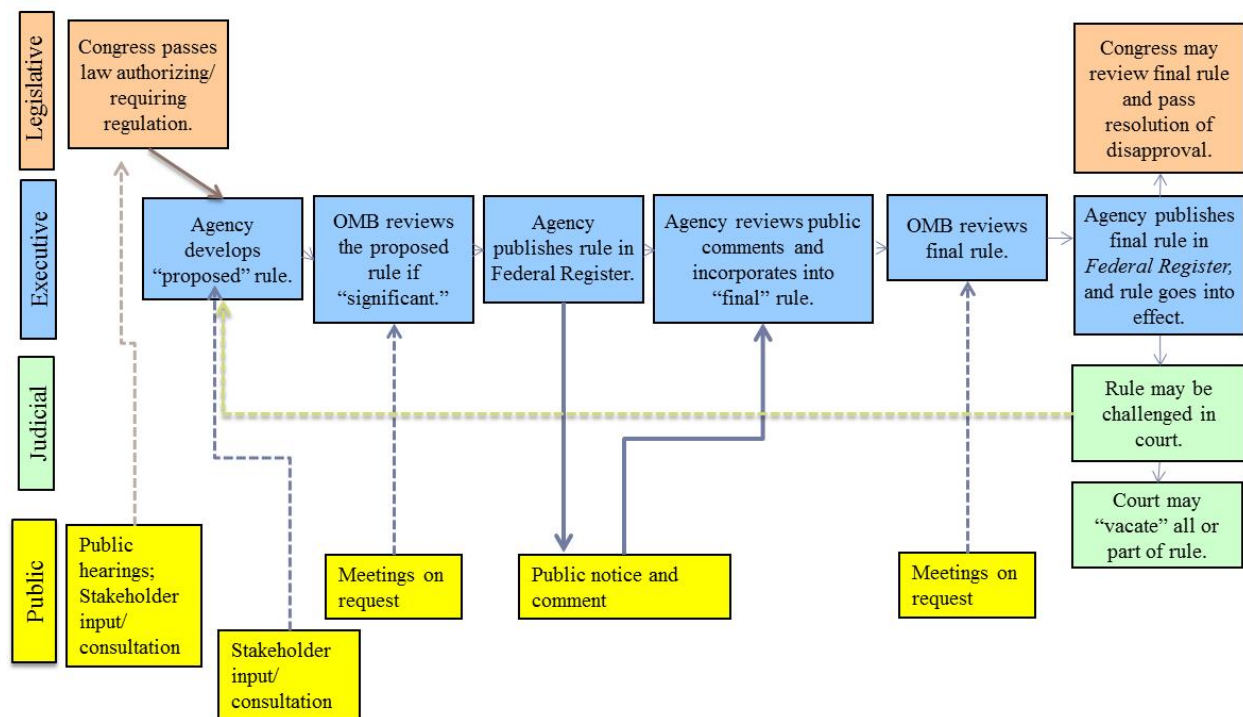
THE GEORGE WASHINGTON UNIVERSITY

Opportunities for Stakeholder Participation in US Regulation

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Interested members of the public have several opportunities to get involved in the development of U.S. regulations. Generally, pursuant to the [Administrative Procedure Act of 1946](#), agencies must solicit and consider public comment on draft regulations before they are issued in final form. This “notice-and-comment” process is a fundamental step in the development of federal regulations, but opportunities for stakeholder engagement are available at other points in the process as well. The figure below illustrates the main steps in the development of regulations and highlights the opportunities for stakeholder participation at each stage.

U.S. Rulemaking Process



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The table below summarizes opportunities for stakeholder participation throughout the regulatory development process. All regulations are written under authority delegated to executive branch agencies by legislatively-enacted statutes. The content of the regulations is constrained by a) authorizing statutory language, b) executive principles for regulatory analysis, and c) procedural rules regarding consideration of public comment.

Modes of Stakeholder Participation in the Regulatory Process

Stage in Regulatory Process	Mode of Stakeholder Participation
<p>Authorizing Legislation</p> <p>Must pass both houses of Congress and be signed by the president.</p>	<p>Interested stakeholders may work with elected officials to influence legislation that will authorize regulatory action.</p>
<p>Regulation Initiation</p> <p>The Unified Agenda is the official compendium of upcoming federal regulatory activity, published online twice a year.</p>	<p>The Unified Agenda often provides the first public notice of agency activity. It is a searchable electronic database that allows the public to identify upcoming regulations of interest.</p>
<p>Draft Proposal</p> <p>Agencies analyze alternatives and draft a regulatory proposal.</p>	<p>Stakeholder participation on technical basis for regulatory approach is often sought at this stage, sometimes through an Advance Notice of Proposed Rulemaking, or through more targeted inquiries.</p>
<p>Small Entity Impacts</p> <p>Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996</p>	<p>Small entities can participate in panels organized by the Small Business Office of Advocacy to evaluate early draft proposals (applicable to EPA, OSHA, and CFPB).</p>
<p>Executive Review</p> <p>E.O. 12866.</p>	<p>Officials at the White House Office of Information and Regulatory Affairs meet with members of the public upon request while a regulation is under interagency review.</p>
<p>Publication in Federal Register</p> <p>Regulations.gov contains Federal Register notices of proposed rulemaking and final rules, as well as supporting documentation.</p>	<p>Agencies invite public comment on all aspects of regulation. Commenting is not limited to stakeholders. To be considered in final regulation, comments must be filed on the public record, through channels such as regulations.gov.</p>
<p>Paperwork Burden Assessment</p> <p>Paperwork Reduction Act of 1980.</p>	<p>Agencies must seek public comment on “burden” (time and cost) involved in reporting requirements (including information collected to comply with regulations) every three years.</p>
<p>Draft Final Rule</p>	<p>Under the APA, agencies must consider public comments filed on the record during the comment period as they develop their final regulation.</p>
<p>Final Regulatory Review</p> <p>Executive Order 12866.</p>	<p>OIRA review of draft final rule and opportunity for meetings.</p>

Publication of Final Rule	Under the APA, regulations are generally not binding until at least 30 days after publication in the <i>Federal Register</i> .
Congressional Review Congressional Review Act of 1996.	Congress can issue a joint resolution of disapproval to overturn a final regulation (very rare).
Judicial Review	Parties affected by rules may seek judicial review of final agency actions.
Retrospective Review	Executive Orders 13563 and 13610 ask agencies to develop plans for analyzing effects of existing regulations and to share plans and analyses with public.

For more information on the regulatory process, visit Regulation 101 at the GW Regulatory Studies Center, www.RegulatoryStudies.gwu.edu or download [Regulation: A Primer](#).