

# Administrative Law Update for the Trump Administration Era

Tracy Hester

Statutory Interpretation and Regulation  
Spring 2018

---

April 19, 2018





# Congressional Reform Initiatives



- Regulatory Accountability Act of 2017
- REINS Act of 2017
- Midnight Rules Relief Act of 2017

# Congressional Review Act



- Remember the basics:
  - Limited window for Congress to disapprove major rulemakings
  - Deadline – 180 days
  - No legislative filibuster allowed
  - Used successfully only once prior to 2016
- Trump Era Usage
  - 13 rulemakings reversed (Clean Streams Rule)
  - Over 20 other rules potentially subject to repeal
  - Window has closed for new joint resolutions



# Executive Orders Targeting Rulemaking Processes

- EO 13,771 (Two-For-One)
- EO 13,563 (Retrospective Review)
- EO on Enforcing the Regulatory Reform Agenda (Feb. 24, 2017)
- EO 12,866 – still the primary vehicle



**U. S. Department of Justice**

Office of the Associate Attorney General

---

The Associate Attorney General

*Washington, D.C. 20530*

January 25, 2018

MEMORANDUM FOR: HEADS OF CIVIL LITIGATING COMPONENTS  
UNITED STATES ATTORNEYS

CC: REGULATORY REFORM TASK FORCE

FROM: THE ASSOCIATE ATTORNEY GENERAL *ReB*

SUBJECT: Limiting Use of Agency Guidance Documents  
In Affirmative Civil Enforcement Cases

On November 16, 2017, the Attorney General issued a memorandum ("Guidance Policy") prohibiting Department components from issuing guidance documents that effectively bind the



## Questions?

Professor Tracy Hester  
University of Houston Law Center

[tdheste2@central.uh.edu](mailto:tdheste2@central.uh.edu)  
713-743-1152 (office)