

Administrative Law Update for the Trump Administration Era

Tracy Hester

Statutory Interpretation and Regulation
Spring 2020

April 1, 2020





Congressional Review Act



- 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 were potentially subject to repeal
 - Window has closed for new joint resolutions
- Potential for revival in 2020?



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

Congressional Reform Initiatives



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



Professor Tracy Hester
University of Houston Law Center

tdheste2@central.uh.edu
713-743-1152 (office)