



C.H. ROBINSON

Regulatory Advocacy Bootcamp: Navigating the Regulatory Process

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→ Agenda

- The regulatory process
- A brief regulatory history
- Tracking regulatory activity
- Writing comment letters
- What makes good regulatory impact analysis?
- Engaging with the federal government
- Current regulatory trends



→ About C.H. Robinson

- Global multimodal logistics leader
- Established in 1905 and headquartered in Eden Prairie, MN
- \$23B in freight under management and 37M shipments managed/year
- 75k customers and 450k carriers
- 30+ AI agents
- Operate in North America, South America, Europe, Asia, and Oceania
- 12,000 employees worldwide



→ C.H. Robinson Government Affairs

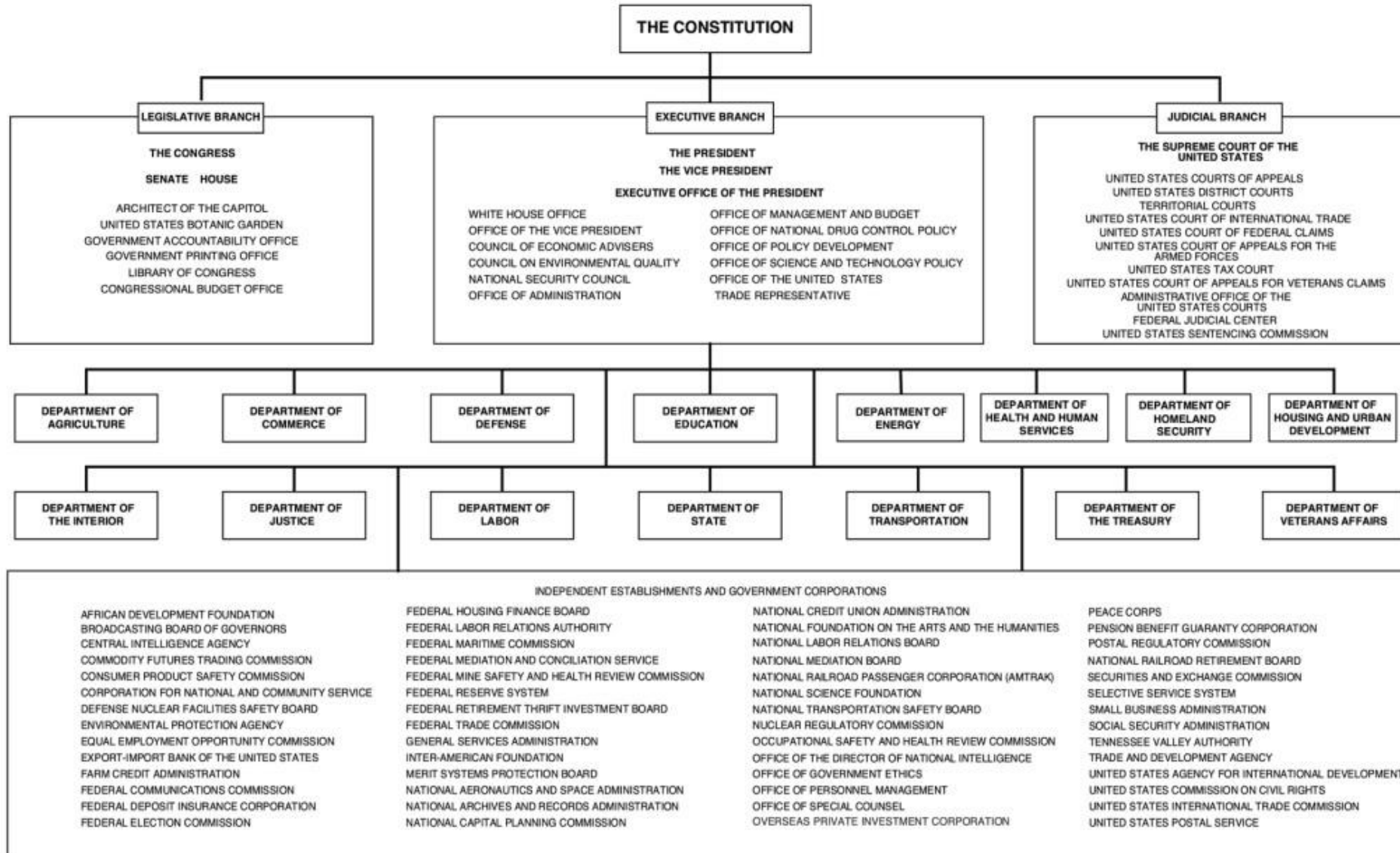
- Build relationships with policymakers and industry partners
- Shape public policies at the state, federal, and international levels
- Provide strategic guidance to the business to ensure the company is positioned for long-term success
- Member, U.S. Chamber of Commerce, Business Roundtable, Transportation Intermediaries Association, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Customs Brokers and Forwarders Association of America, Public Affairs Council
- Policy Priorities: Trade, Transportation, Technology, Food/Agriculture

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→ Where do regulations come from?

THE GOVERNMENT OF THE UNITED STATES



→ A Brief Regulatory History

- Carter: EO 12044 Improving Government Regulations (1978), Regulatory Flexibility Act (1980)
- Reagan: EO 12291 Federal Regulation (1981), EO 12498 Regulatory Planning Process (1985)
- Clinton: EO 12866 Regulatory Planning and Review (1993), Small Business Regulatory Enforcement Fairness Act (1996)
- Bush II: EO 13272 Proper Consideration of Small Entities in Agency Rulemaking (2002)
- Obama: EO 13563 Improving Regulation and Regulatory Review (2011)
- Trump I: EO 13771 Reducing Regulation and Controlling Regulatory Costs, EO 13777 Enforcing the Regulatory Reform Agenda
- Biden: EO 14094 Modernizing Regulatory Review
- Trump II: EO 14192 Unleashing Prosperity Through Deregulation

→ What is the agency rulemaking process?

- Gather information
 - RFI
 - ANPRM
- Propose rules (APA notice and comment)
 - NPRM
- Solicit public input
 - Comment periods (30-60 days)
- Issue final rules
 - Responsive
 - Supported by rationale



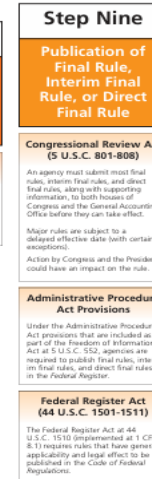
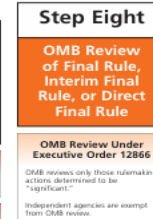
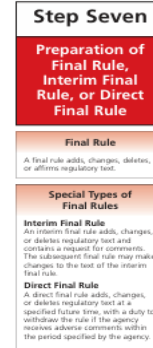
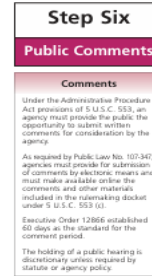
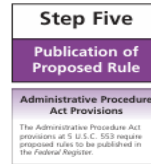
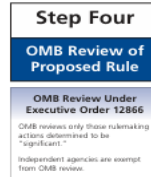
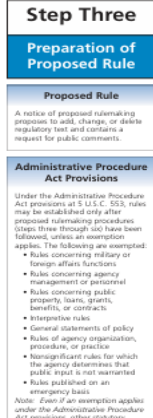
→ Review and Oversight

- Executive:
 - Centralized review led by OMB (OIRA)
 - Reviews “significant” rules (not all rules and not independent agencies)
 - Promotes interagency coordination
 - Ensures alignment with President’s priorities
 - Monitors compliance of benefit-cost analysis requirements.
- Judicial:
 - Holds agencies accountable
 - Incentivizes strong administrative record
- Legislative:
 - Congressional Review Act (1996)
 - Hearings and investigations
 - Letters and inquires
 - Pass legislation

→ Regulatory Process

The Reg Map

Informal Rulemaking



| Specific Analyses for Steps Three and Seven | | |
|---|------------------|--|
| Regulatory Planning and Review (E.O. 12866) | | |
| Would the rule have a \$100 million annual impact, raise novel issues, and/or have other significant impacts? | → if yes | Prepare economic impact analysis. |
| Regulatory Flexibility Act (5 U.S.C. 601-612) | | |
| Is a notice of proposed rulemaking required by law? | → if yes | Prepare regulatory flexibility analysis. |
| Would the rule "have a significant economic impact on a substantial number of small entities"? | → and yes | Prepare regulatory flexibility analysis. |
| <i>Note: Under limited circumstances analysis also are required for certain interpretive rules creating internal revenue laws (5 U.S.C. 602, 606).</i> | | |
| Paperwork Reduction Act (44 U.S.C. 3501-3520) | | |
| Does the rule contain a "collection of information" (reporting, disclosure, or recordkeeping)? | → if yes | Prepare information collection clearance package for OMB review and approval, and prepare request for public comments. |
| Unfunded Mandates Reform Act (2 U.S.C. Chs. 17A, 25) | | |
| Does the rulemaking process include a proposed rule? | → if yes | |
| Does the rule include any Federal mandates that may result in the expenditure (direct costs, minus direct savings) by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year (adjusted annually)? | → and yes | Prepare unfunded mandates analysis (unless an exclusion applies). |
| Federalism (E.O. 13132) | | |
| Is the rule a discretionary rule that has federalism implications and imposes substantial unremitted direct compliance costs on State and local governments? | → if yes | Prepare federalism summary impact statement. |
| Does the rule have federalism implications and preempt State law? | → if yes | Prepare federalism summary impact statement. |
| Indian Tribal Governments (E.O. 13175) | | |
| Is the rule a discretionary rule that has tribal implications and imposes substantial unremitted direct compliance costs on Indian tribal governments? | → if yes | Prepare tribal summary impact statement. |
| Does the rule have tribal implications and preempt tribal law? | → if yes | Prepare tribal summary impact statement. |
| National Environmental Policy Act (42 U.S.C. 4321-4347) | | |
| Is the rule categorically excluded from review? | → if no | |
| Does the rule constitute a major Federal action that could significantly affect the quality of the human environment? | → and yes | Prepare environmental assessment or environmental impact statement, as appropriate. |
| National Technology Transfer and Advancement Act (15 U.S.C. 272 note) | | |
| Does the rule contain provisions for which the use of voluntary standards is applicable? | → if yes | Adopt voluntary consensus standards or explain why not. |
| Governmental Actions and Interference with Constitutionally Protected Property Rights (E.O. 12630) | | |
| Does the rule regulate private property use for the protection of public health or safety? | → if yes | Prepare takings analysis. |
| Is the rulemaking a proposed regulatory action that has takings implications (other than regulating private property for the protection of public health and safety)? | → if yes | Prepare takings analysis. |
| Protection of Children from Environmental Health Risks and Safety Risks (E.O. 13045) | | |
| Is the rulemaking a "covered regulatory action"? | → if yes | Prepare analysis of the environmental health or safety effects on children. |
| Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (E.O. 13211) | | |
| Is the rulemaking action a "significant energy action"? | → if yes | Prepare statement of energy effects. |

Drafting Requirements for Rulemaking Documents

Regulatory Planning and Review (E.O. 12866)

Rulemaking documents must comply with the specified regulatory philosophy and principles of regulation.

Civil Justice Reform (E.O. 12988)

Rulemaking documents must be written in clear language designed to help reduce litigation.

Presidential Memorandum on Plain Language (63 FR 31885)

Rulemaking documents must comply with plain language principles.

Federal Register Publications

Rulemaking documents must comply with the Federal Register regulations (1 CFR). Additional standards and requirements are contained in the Federal Register's Document Drafting Handbook.

Agendas for Rules Under Development or Review

Unified Regulatory Agenda

The Unified Regulatory Agenda provides information concerning agency rules under development or review.

The Unified Regulatory Agenda is published in the Federal Register in the spring and fall of each year.

Regulatory Plan

The Regulatory Plan provides information concerning the most important significant regulatory actions that the agency is planning to take.

The Regulatory Plan is published in the Unified Regulatory Agenda in the fall of each year.

Regulatory Flexibility Agenda

The Regulatory Flexibility Agenda provides information concerning any rule that an agency expects to prepare or promulgate that is likely to have a significant economic impact on a substantial number of small entities.

Agency regulatory flexibility agendas are published as part of the Unified Regulatory Agenda in the spring and fall of each year.

- Pre-rule
- Proposed rule
- Public comment period
- Final rule
- Effective date



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→ What analyses do agencies do?

- EO 12866
 - Foundation of current process in force today
 - Principles for how agencies develop, analyze, and coordinate regulations
 - If significant action, agencies prepare Regulatory Impact Analysis
- Paper Reduction Act
 - When rules have reporting requirements, agencies must estimate the burden imposed to collect the information (number of respondents, hours, costs)
- Regulatory Flexibility Act
 - Requires agencies to analyze the economic impact of regulations on small businesses.
 - Number of small businesses affected, compliance costs, alternative approaches (if significant)

→ What makes for good regulatory analysis?

- Agencies are required to produce Regulatory Impact Analyses (RIAs) if rule is significant.
- Circular A-4 (2003) provides agencies guidance on producing RIAs.
- Principles of A-4
 - Clear statement of need and objective
 - Clear baseline
 - Evaluation of alternatives
 - Estimate benefits and costs
 - Distributional effects
 - Discount future impacts
 - Treatment of uncertainty and risk
 - Clarity, transparency, and reproducibility



→ Accessing Regulations

- Federal Register (flow)
 - Daily publication of regulatory activity
 - Official when published
 - Preamble (explanatory narrative) and regulatory text (the actual rule language)
 - Types of actions: proposed rules, final rules, “notices”, presidential documents
- eCFR (stock)
 - Official collection of regulations in effect
- Reginfo.gov (rules under review prior to publication)
 - Regulations under OMB review (typically 90 days)
 - Unified Agendas
 - 12866 meetings
- Regulations.gov (rulemaking dockets)



→ Using regulations.gov

- Federal Register provides the preamble and regulatory text but not the whole docket which includes important analyses and support documents.
- Review agency analyses / technical documents / studies
 - Understand assumptions, data, and results
 - Supporting information
- Submit and view public comments
 - Where the public can submit a comment to the public record.
 - Scan and search for what other commenters / relevant organizations are commenting on.

→ Good comment letters

- Introduction
- Background / relationship to the issue
- Quantitative analysis
 - Market impacts
 - Financial impacts
- Relevant data
- Clear recommendations
- Conclusion

→ Estimating Regulatory Impacts

- Market impacts
 - Define and describe market
 - Prices
 - Output / Capacity
 - Entry, exit, consolidation
 - Small vs. large firms
 - Rural vs. urban
 - Regional differences
- Financial impacts
 - Quantify upfront and ongoing compliance costs
 - Annual terms
 - Effects on employment, wages, and revenue

→ Engaging with the federal government

- Promulgating federal agency
 - Respond to RFIs and ANPRMs
 - Provide technical briefings
 - Write public comments
 - Agencies don't need to respond to all comments only to relevant comments
- OMB
 - OIRA 12866 meetings
 - Present on analytical issues, feasibility concerns, timetables, duplicating or conflicting provisions of other federal rules, policy inconsistencies.
- SBA Office of Advocacy
 - Small business regulatory flexibility
 - RFA analysis
 - SBREFA panels (EPA, OSHA, CFPB)



→ Advocacy Tips

- Understand incentives and dynamics of key players
 - Agency
 - Program staff
 - General Counsel
 - Economists
 - Political leadership
 - OMB /OIRA
 - Courts
 - Congress
- Understand procedural levers
 - Comment period length and extension prospects
 - OIRA review timing and mechanics
 - PRA clearance
 - Unified Agenda signals and sequencing

→ Regulation at the State Level

- Less formal and standardized
- Variation state to state
- Faster
- Limited analytical requirements
- Less than half of states have centralized review office (like OIRA) and small business advocacy office with role in rulemaking (like SBA Office of Advocacy)
- Lean on trade associations with state presence
- Relationships matter
- EPA vs CARB



→ Deregulatory Initiatives

- Slowing pace of new regulations.
- Focus on rescinding regulations through EO 14192 (10 for 1).
- FY25 (January to September 2025)
 - \$211.8 billion in regulatory cost savings
 - 129 to 1: Agencies issued 646 deregulatory actions and 5 significant regulatory actions. This included changes to rules, guidance, policies, and “regulatory dark matter” that impose requirements.
 - 43 to 1: Agencies issued 218 deregulatory actions that delete, modify, or otherwise refine the Code of Federal Regulations.
- Government-wide effort to identify and repeal burdensome regulations.
- Can you provide data and analysis on economic impacts?

→ Loper Bright

- Chevron deference: Courts generally defer to agency interpretations of ambiguous statutes.
- Loper Bright: Courts must independently interpret statutes.
- Potential early effects
 - More challenges
 - More statutory analysis
 - Narrower rules
 - Greater importance of the administrative record
 - Congress needs to write clearer rules



→ Developing a Regulatory Advocacy Plan

- Become deeply familiar with EO 12866 and Circular A-4
- Map and understand your regulatory landscape
 - Agencies and its statutory authority
 - Status and timelines
 - Press releases and letters to Congress
- Engage and participate
 - Start with political leadership and connect technical experts with program offices
 - Write comment letters
 - Attend and host forums, conferences, symposia, workshops, webinars
 - Connect with thought leaders: GW Regulatory Studies Center, Mercatus Center, Society of Benefit Cost Analysis, Brookings, Administrative Conference of the United States
- Build a track record of supporting sound regulatory policy
 - Find areas of alignment and be a partner

→ Summary

- Regulatory issues are an opportunity for advocacy
- Good regulatory analysis is important and has been across administrations
- Agencies want to hear from stakeholders, especially on regulatory reform
- Agencies don't have all the information they need

→ Stay Connected

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