



1899 L Street, NW, Suite 1200
Washington, DC 20036

T 202.822.8282
F 202.296.8834

HOBBSSTRAUS.COM

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GENERAL MEMORANDUM 25-013

The Office of Management and Budget Memorandum – “Streamlining the Review of Deregulatory Actions.”

On October 21, 2025, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) issued a [memorandum](#) titled “Streamlining the Review of Deregulatory Actions.” The memorandum encourages federal agency heads to rescind regulations that they view as unlawful without public notice and comment procedures and states that agencies are not required to consult Tribes. Practically, this memorandum means that agencies may start proceeding with regulatory changes without conducting Tribal consultation when they would have done so previously. Additionally, regulations may be rescinded without the process that has typically been followed under the Administrative Procedure Act (APA). Finally, the memorandum changes the government’s review timelines for regulations, meaning that regulatory actions will move through the process more quickly.

The memorandum specifically states that agencies can rescind regulations without conducting Tribal consultation and that if they do conduct Tribal consultation, they should combine it with general public participation. The memorandum argues that certain executive orders, including [Executive Order 13175](#) (Consultation and Coordination With Indian Tribal Governments), “tend not to be as relevant when agencies deregulate” compared to when they issue new regulations. Thus, the memorandum states that “agencies should consider deregulatory actions as presumptively not triggering these consultation...requirements.” It also argues that if an agency finds a reason to engage in “government-to-government consultations” on deregulatory efforts, those should be wrapped into the “normal opportunity for stakeholder participation.”

The memorandum talks about two different categories of regulations. The first, where most change is likely following the memo, are those that the agency interprets as “facially unlawful,” and the memo states that these are subject to immediate repeal without a written notice or comment period under the APA’s “good cause” exception. The good cause exception states that complying with public notice and comment rulemaking procedures is not required when the agency, “for good cause,” finds that these requirements are “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. § 553(b)(B). The memorandum states that agencies should use that exception to target regulations that are, in the agency’s view, unlawful based on the text of the regulation or the statute it implements, or under other sources of law. It specifically references ten recent Supreme Court cases that addressed administrative law issues as grounds for rescinding regulations, including *Loper Bright Enterprises v. Raimondo*, 603 U.S.

369 (2024) and *West Virginia v. EPA*, 597 U.S. 697 (2022). Both of these cases addressed the scope of federal agencies' ability to decide how they regulate in a given area and the authority of courts to interpret those regulatory actions. As a practical matter, the memo would allow agency heads to immediately repeal any regulation they believe is inconsistent with or goes beyond the requirements of federal statutes. The agency would still be required to explain why the good cause exception allows the agency to skip the notice and comment process, and the memo explains that the agency should provide a "brief" explanation of why the regulation being rescinded is unlawful.

For the second category of regulations discussed in the memo – those that require establishing a deregulatory record – the memo acknowledges that public notice and comment procedures still apply. It lists several benefits of deregulation, including "expanding the scope of private freedom[.]" The memorandum argues that agencies should pursue more deregulation and encourages agencies to use the broader deregulatory concepts discussed in the memo as a basis for rescinding regulations.

The process of rescinding regulations will also start taking place on a faster timeline for the review process by OIRA (which serves as the central hub for reviewing Executive Branch regulations). Under the new timelines, there is a presumptive 14-day review period for facially unlawful rules and a presumptive 28-day review period for deregulatory actions that include factual records (by comparison, the current timeline is 90 days, or 45 days for largely unchanged actions, with the ability to extend once for 30 days).

Please let us know if you would like our assistance drafting a letter on this to your Congressional delegation or the Administration.

Inquiries may be directed to:

Olga Symeonoglou (osymeonoglou@hobbsstrauss.com)