

Unit 3 Administrative Law Basics

- Administrative agencies
 - Created by Congress
 - To carry out specific duties

Duties of Administrative Agencies

- Rule making (legislative)
- Adjudication of individual cases (judicial)
- Administrative activities (executive)

Rule making under APA

- Steps
 - Review of Proposed Rule by OMB
 - Notice of Proposed Rule - *Federal Register*
 - Public input
 - Review of draft Final Rule by OMB
 - Final Rule - *Federal Register*

Types of rule making

- Informal
- Formal (not favored by agencies)
- Hybrid
- Exempted (not favored by courts)

Public input

- Informal - written comments
- Formal - formal public hearing, sworn witnesses
- Hybrid - written comments, informal public hearing
- Exempt - no public input

Exempt rule making

- Military/Nat'l security
 - Speed, secrecy
- Emergencies - written comment at same time as rule effective
- Interpretive
- General policy statement

Judicial review of rule making

- Delegation unconstitutionally vague
- Constitutional standard violated
- Beyond scope of statutory authority
- Proper procedure not followed

Agency adjudication

- Administrative law judge
- Issues
 - Dispute findings
 - Dispute fine/compliance order
 - Dispute denial of benefits
 - Other
- Intra-agency appeal

Administrative duties

- Advising
- Conducting research
- Issuing permits
- Managing property
- Administering contracts & grants

Limitations on agency power

- Constitutional
- Statutory
- Institutional
- Judicial

Institutional limitations

- Executive
 - Presidential appointment
 - OMB budget recommendations
 - OMB regulatory review
 - Executive orders

Institutional limitations

- Legislative
 - Oversight
 - Power to terminate or amend enabling statute
 - Power of appropriations
 - Advise & consent of Senate on nominations
- Judicial review of agency actions

Types of agencies

- Executive - head serves at pleasure of President
- Independent - head appointed by President, serves for fixed term

Federal Agencies with environmental responsibilities

- EPA
 - Independent, but head serves at pleasure of President
 - Created by executive order
- Department of Interior
 - Bureau of Land Management
 - U.S. Fish & Wildlife Service
 - National Park Service

Federal Agencies

- Department of Agriculture
 - Forest Service
 - Natural Resources Conservation Service
 - Farm Service Agency
 - Animal, Plant Health Inspection Service
 - Food Safety Inspection Service

Federal Agencies

- Department of Labor
 - Occupational Safety and Health Administration
 - Mine Safety and Health Administration
- Department of Defense
 - U.S. Army Corps of Engineers

Federal Agencies

- Independent agencies
 - Consumer Products Safety Commission
 - Food and Drug Administration