



Good Regulatory Practices (GRP)

International GRP and the U.S. Approach

Office of Information and Regulatory Affairs
White House's Office of Management and Budget

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Agenda

International Good Regulatory Practices (GRP)

U.S. Approach to GRP

U.S. Application of the Principles of the World Trade Organization
Technical Barriers to Trade (WTO TBT) Agreement

U.S. Lessons Learned

Conclusions



Overview: Why are GRP Important?

Contribute to more informed policy decisions and promotes economic efficiency.

Address concerns about undue influence and allows all interested parties to be heard through transparency and accountability.

Facilitate trade and investment by reducing regulatory burdens.

Improve the quality and cost-effectiveness of regulations.

Reduce non-tariff barriers to help increase economic growth and trade.



International Good Regulatory Practices (GRP)

There are a lot of resources available to governments interested in learning about and adopting GRP.

- APEC-OECD Integrated Checklist on Regulatory Reform.
- OECD Guiding Principles for Regulatory Quality and Performance.
- World Bank – Investment Climate Advisory Services of the World Bank Group: *Better Regulation for Growth – Making it Work “RIA Light” for Developing Countries.*
- World Trade Organization Technical Barriers to Trade (WTO TBT).



International Good Regulatory Practices (GRP)

Three common principles are:

1. Centralized Management and Leadership;
2. Regulatory Impact Analysis (RIA);
3. Transparency and Accountability.



U.S. GRP: Centralized Management and Leadership

Emphasizes the importance of and adherence to regulatory principles and procedures.

Helps to ensure that regulations are consistent with the law and with the President's principles and priorities.

Promotes coordination among different parts of the Executive Branch.

Helps to improve and strengthen the analysis underlying rules.



U.S. GRP: Regulatory Impact Analysis (RIA)

Basic Goals.

- Maximize net benefits to society—or at least ensure that benefits justify costs.
- Promote economic efficiency by regulating only where markets fail, and when regulating, by using cost-effective and market-based approaches.
- Increase the transparency of the regulatory system.

RIA assesses the anticipated consequences a regulation and estimates associated benefits and costs.

- Helps to organize and consolidate all the possible impacts and elements for decisions at various stages of policy development.
- Provides clear and transparent methodologies and criteria for new or existing regulations.



U.S. GRP: Transparency and Accountability

Administrative Procedure Act of 1946 (APA).

- The APA requires that agencies go through a notice and comment process open to all members of the affected public, both U.S. and foreign.
- Before agencies can issue a final regulation, they must respond to the public comments, make sure that the final regulation is a logical out-growth of the proposal and the administrative record, and is not arbitrary or capricious.

Disclosure of Information Under Executive Order 12866.

- Unified Agenda of Regulatory and Deregulatory Actions: Semi-annual publication about agencies' upcoming regulatory actions.
- Annual Regulatory Plan explains the regulatory priorities of agencies.
- Meetings with outside parties – OIRA and the issuing agency will meet with external stakeholders regarding rules under review. OMB's website notes which outside groups have met with OIRA, including the participants, and docket written materials provided to OIRA during the meeting.



U.S. GRP: Transparency and Participation (cont'd)

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- Deepwater Port Licenses: Liberty Natural Gas, LLC, Port Ambrose Deepwater Port, Correction
- Oil and Gas: Hydraulic Fracturing on Federal and Indian Lands
- Endangered and Threatened Wildlife and Plants: Gray Wolf (Canis lupus), Mexican Wolf (Canis lupus bailey)
- Endangered and Threatened Wildlife and Plants: Nonessential Experimental Population of the Mexican Wolf

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REGULATORY ACTIONS CURRENTLY UNDER REVIEW BY AGENCY

Agency	Number of Pending Actions
USDA	14
DOC	13
DOD	1
DOE	10
HHS	18
DHS	4
HUD	5
DOT	6
DOJ	2
DOL	8
STATE	11
DOT	10
TREAS	2
VA	4
Others	46

Pending Actions By Rule Stage

Rule Stage	Number of Pending Actions
Prerule	9
Interim Final Rule	15
Proposed Rule	78
Final Rule	55

Total Pending Actions: 158

List of Regulatory Actions Currently Under Review

(Agency: ALL; Rule Stage: ALL; Length of Review: ALL; Economically Significant: ALL; International Impact: ALL)

Department of Agriculture

AGENCY: USDA-AMS RIN: 0581-AD17
TITLE: National Organic Program: Sunset Review for Nutrient Vitamins and Minerals (NOP-10-0083)
STAGE: Final Rule ECONOMICALLY SIGNIFICANT: Yes
RECEIVED DATE: 07/04/2012 LEGAL DEADLINE: None

AGENCY: USDA-APHIS RIN: 0579-AC08
TITLE: Sharing Confidential Business Information With Government Agencies Regarding the Introduction of Genetically Engineered Organisms and Products
STAGE: Proposed Rule ECONOMICALLY SIGNIFICANT: No
RECEIVED DATE: 02/03/2012 LEGAL DEADLINE: None

U.S. Application of the Principles of the WTO TBT Agreement

OMB Circular A-119, “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities”.

- Guidance to U.S. agencies on areas such as the use of international standards, periodic reviews, and transparency.
- Revised January 2016 due to experience from agencies using the Circular, domestic and international developments, issuance of recent executive orders and comments received from stakeholders.



U.S. Application of the Principles of the WTO TBT Agreement (cont'd)

Use of International Standards

- Preference for use of existing voluntary consensus standards over government-unique standards where feasible (unless inconsistent with law or otherwise impractical).

Periodic Reviews

- Executive Order 13610, “Identifying and Reducing Regulatory Burdens” requires executive agencies to perform periodic review of existing significant regulations.
- Agencies have made available for public comment retrospective review plans.
- Should undertake standards specific review of standards incorporated by reference every 3 to 5 years or sooner for matters of health, safety, the need to keep up with technological changes or other compelling reasons.



U.S. Lessons Learned

Easier to prevent unnecessary regulatory differences than to remove existing ones.

Adopting GRP take time, focus on the long-term.

GRP should endure Administration changes and be used to help inform policy officials.

If two countries both apply similar GRP, then it provides a platform to cooperate to help avoid long-standing trade irritants.

Focus on areas with the best prospects of success and where the net benefits are the highest.

Engage external stakeholders.



Conclusions

A firm and enduring commitment to good regulatory practices from the center of government is a necessary condition for a successful regulatory program.

An effective regulatory program should ensure that economic analysis is conducted to promote economic efficiency and inform policy decisions and public stakeholders.

Regulatory interagency coordination, transparency and participation and RIA are essential to supporting a good regulatory system.



References

International Tools

- OECD Guiding Principles for Regulatory Quality and Performance: www.oecd.org/dataoecd/24/6/34976533.pdf
- APEC-OECD Integrated Checklist on Regulatory Reform: www.oecd.org/dataoecd/41/9/34989455.pdf
- Investment Climate Advisory Services of the World Bank Group: *Better Regulation for Growth – Making it Work “RIA Light” for Developing Countries*: www.wbginvestmentclimate.org/uploads/RIALightNov2009.pdf
- WTO TBT Notifications- List of proposed foreign technical regulations that can affect their businesses and their access to international markets: <https://tsapps.nist.gov/notifyus/data/index/index.cfm>

U.S. Tools

- OIRA’s International Regulatory Cooperation Webpage: http://www.whitehouse.gov/omb/international_regulatory_cooperation#irc
- RegInfo: www.RegInfo.gov
- Regulations.gov: www.Regulations.gov
- Circular A-4: http://www.whitehouse.gov/omb/circulars_a004_a-4/#c
- Circular A-119: https://www.whitehouse.gov/omb/inforeg_infopoltech
- Executive Order 12866: <http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf>
- Executive Order 13563: <http://www.archives.gov/federal-register/executive-orders/2011.html>
- Executive Order 13610: <https://www.gpo.gov/fdsys/pkg/FR-2012-05-14/pdf/2012-11798.pdf>
- Administrative Procedure Act: www.archives.gov/federal-register/laws/administrative-procedure/

