

Presumption of Data Access for Statistical Agencies and Units

Presumption of Access Regulation

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of the United States

Agenda

- Evidence Act's Vision to Increase Use of Federal Data Assets
- Presumption Regulation
 - Background
 - Statutory Requirements
- Rulemaking Process

*** This presentation does not provide new OMB guidance or interpret existing guidance ***



Evidence Act's Vision for Federal Data

Increased Public Access and Information

Title II: OPEN Government Data Act

- Comprehensive Inventories of all Federal Data Assets
- Proactive Disclosure on the Federal Data Catalogue
- Open Data Plans



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Evidence Act's Vision for Federal Data

Sensitive, Confidential, or otherwise Non-Public Federal Data

Title III: CIPSEA 2018

- Codification of Statistical Policy Directive No. 1 (“Trust” Reg)
- Expanding Secure Access to CIPSEA Data Assets
- Standard Application to Access Data Assets for Developing Evidence ([OMB M-23-04](#))
- Presumption of Accessibility for Statistical Agencies



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Evidence Commission's Recommendations to Improve Access to and Use of Confidential Data

Improving Secure, Private, and Confidential Data Access

REC. 2-1: The Congress and the President should enact legislation establishing the National Secure Data Service (NSDS) to facilitate data access for evidence building while ensuring transparency and privacy. The NSDS should model best practices for secure record linkage and drive the implementation of innovative privacy-enhancing technologies.

REC. 2-2: The NSDS should be a service, not a data clearinghouse or warehouse. The NSDS should facilitate temporary data linkages in support of distinct authorized projects.

REC. 2-4: The Congress and the President should review and amend, as appropriate, statutes such as Title 13 of the U.S. Code to allow statistical uses of survey and administrative data for evidence building within the CIPSEA secure environment.

REC. 2-5: The Congress and the President should consider repealing current bans and limiting future bans on the collection and use of data for evidence building.



Congressional Explanation of Presumption of Access ([House Report 115-411](#))

“Agency interpretations of restrictions on data sharing often govern access and use of the data, but agencies may interpret the same law differently, causing confusion. Sharing data between Federal agencies can be difficult, costly, and cumbersome. The Commission found that as a result of years of statutory buildup of regulations related to statistical and administrative data collected by the government, there is no consensus on how, when, and with whom collected data can be shared. This stems in part from the decentralized nature of the Federal statistical programs, which are spread among multiple different agencies.”

“H.R. 4174 creates a presumption that Federal data should be made available to statistical agencies for evidence-building purposes. To create greater clarity regarding which laws restrict access, the bill requires OMB to develop a list of laws that prevent statistical agencies from accessing data and for all future restrictions to specifically cite to the code section when intending to create an exemption from the presumption in this bill.”



Advisory Committee on Data for Evidence Building's Presumption Reg Recommendations

<i>The Presumption of Accessibility for Statistical Agencies and Units</i>	
1.4	OMB should issue the Presumption of Accessibility rule to maximize the impact of federal administrative data for evidence-based decisionmaking.
1.5	OMB, in coordination with the ICSP and other relevant federal councils, should identify mechanisms for streamlining data-sharing agreements across federal agencies.



Statutory Requirements for Presumption Reg

44 U.S.C. 3581

Presumption: Subsection (a) requires federal agencies to make their data assets available to recognized statistical agencies and units for purposes of developing evidence.

Limit to Applicability: Subsection (b) provides that any data asset subject to a statute that prohibits sharing or use is not subject to the presumption

- “in a manner as to leave no discretion”
- “specifically cites to this paragraph”



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Statutory Requirements for Presumption Reg

44 U.S.C. 3581

Regulation: Subsection (c) requires OMB to issue regulations

- Timely provision of data assets
- List of statutes that exempt agencies
- Clear and consistent standards for complying with data protection laws such as the Privacy Act
- Transparent process

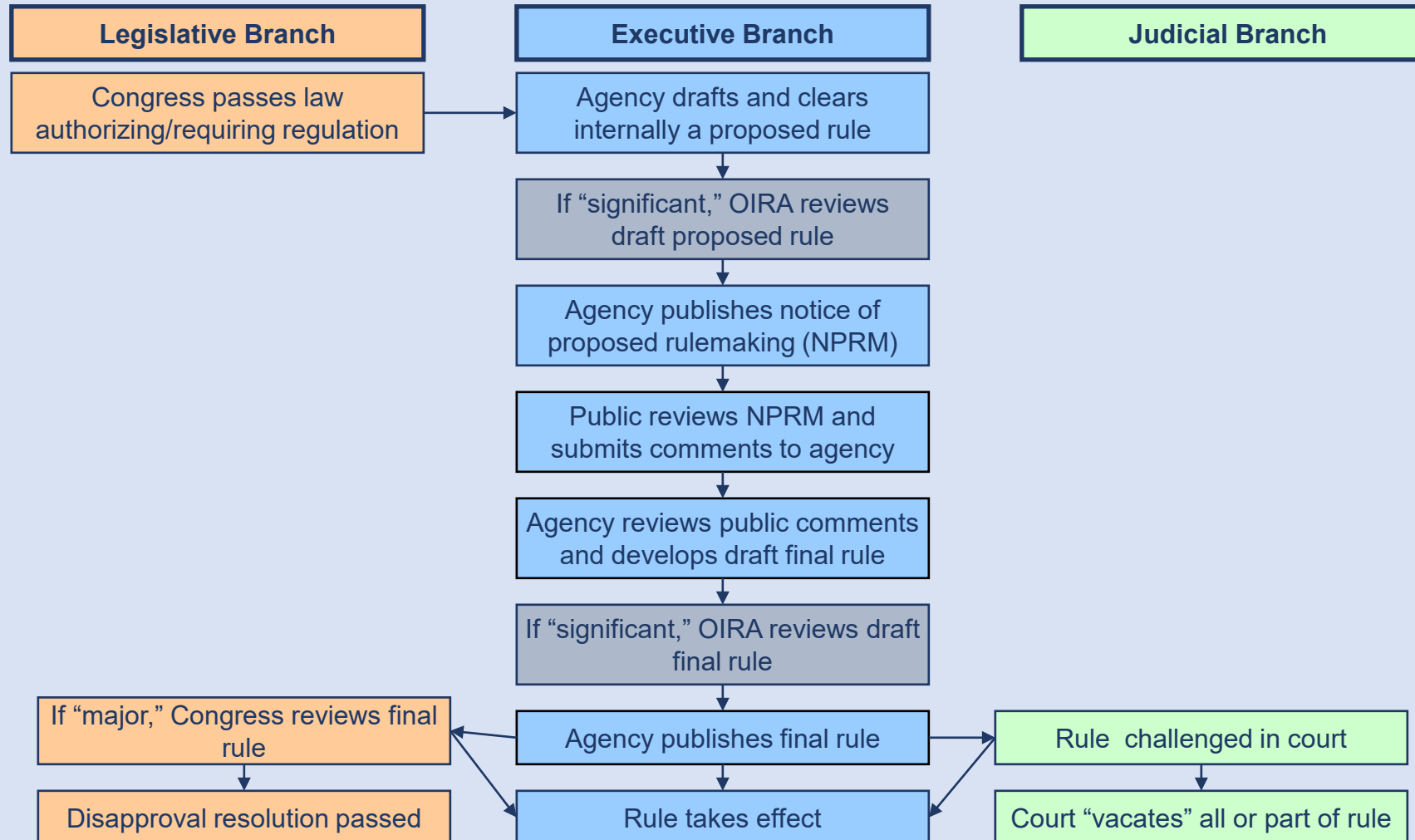


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Regulatory Process



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Thank You!

Questions?

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