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