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Asserting presidential preferences in a regulatory review bureaucracy

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Abstract Asserting presidential preferences in a regulatory review bureaucracy US presidents face many challenges in executing their duties as CEOs of a mammoth sprawling bureaucracy known as the nation's executive branch. Included among the many offices and bureaus in 2014 were 78 regulatory agencies with more than 276,000 employees who in recent years turned out annually some 80,000 Federal Register pages of rules and rule modifications. A successful president, e.g., one who can be reelected or help to pave the way for the party in the next election, must find ways to steer bureau activities in his preferred direction while delivering on regulatory promises made in the process of being elected. White House review of proposed regulations provides an opportunity for presidents to affect regulatory outcomes in ways that reward politically important interest groups. Our review of all empirical work on White House review as well as our own institutional and statistical findings yield strong support to the notion that the review process provides opportunities to make presidential preferences operational.

Keywords Presidential politics · Bureaucracy · Regulation rent seeking behavior · Political economy

1 Introduction

US presidents face many challenges in executing their duties as CEOs of a mammoth bureaucracy known as the nation's executive branch. In 2014, for example, the executive branch employed just over two million government workers (US Office of Personnel

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Management 2015); it was about the size of the Walmart workforce or Chinese Liberation Army. Included among the many offices and bureaus were 78 regulatory agencies with more than 276,000 employees who in recent years turned out annually some 80,000 *Federal Register* pages of rules and rule modifications (Dudley and Warren 2015).

The managers and leaders of these regulatory bureaus have wills of their own, objective functions, perhaps, which might involve maximizing the amount of discretionary slack in their budgets (Niskanen 2008, p. 188), responding to internal and external interest group pressures (Faith et al. 1981), satisfying constraints imposed by congressional oversight committees and the White House itself (Niskanen 2008, pp. 189–190; Bubb and Warren 2014) or just pursuing one of their passions.

Winning elective office provides a president with the necessity of engaging in the time-honored practice of transactional politics (Rauch 2015): "You do this for me, and I'll do that for you."[1] The road to elected office is paved with promises. Making good on rent-seeker promises can involve delaying, accelerating, modifying, or (much less frequently) eliminating regulations of importance to key interest groups (Bueno de Mesquita and Smith 2011).[2] A successful president, e.g., one who can be reelected or help pave the way for the party in the next election, must find ways to steer regulatory activities in his preferred direction. While delivering on special interest promises, a president may also seek to pursue goals that facilitate overall wealth creation.

With opportunities to distribute cash (transfers or tax benefits) limited in recent years by looming deficits, budget constraints, and with congressional rules against earmarking, targeted wealth transfers made by way of command-and-control regulation become all the more attractive when paying off important interest groups. Artfully crafted command-and-control regulation can perform a dual role. A well-shaped rule can provide public goods benefits, such as cleaner air, to large constituencies while simultaneously generating private benefits, e.g., output restrictions and related monopoly rents to individual special interests (Shamoun 2013).

To assist in the rule-crafting process, a president needs more than a regulatory traffic cop who manages the flow of rules through the bureaucracy. The president needs regulatory coordinators who share his vision, understand his regulatory goals, and can "read" White House signals. Reading those signals may include understanding which rules require special scrutiny, which need to be accelerated or delayed, and which must be molded in ways to suit important interest groups.[3] Successful use of regulation as currency in

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[1] Rauch (2015, pp. 2–3) explains transactional politics in common sense terms: "The politicos of our grandparents' generation did a pretty good job of governing the country, despite living in a world of bosses and back rooms and unlimited donations, and many of them understood some home truths which today's political reformers have too often overlooked or suppressed. In particular, they understood that transactional politics—the everyday give-and-take of dickering and compromise—is the essential work of governing and that government, and thus democracy, won't work if leaders can't make deals and make them stick."

[2] Here, we emphasize the word "targeted." Command-and-control regulations, unlike the use of economic incentives or performance standards, allow a president to know *ex ante* which firms, groups, and individuals will gain when rules are imposed. There is strong evidence that groups with rents to gain, business groups, for example, as compared with government groups, will lobby more extensively and more successfully in affecting regulatory outcomes. On this see Yackee and Yackee (2006).

[3] Under the heading *Elevation*, Cass Sunstein explains how White House review involving controversial regulatory proposals may move beyond a career desk officer's responsibility and be pushed to a higher level, even to the president himself (Sunstein 2014, p. 28). Sunstein's remarks were made in the context of his position as President Obama's administrator of the White House Office of Information & Regulatory Affairs (OIRA), the office charged with conducting regulatory review. We note that the president and his administration have no direct control of independent agency actions; they can influence them only indirectly. In general, though, some heads of independent bureaus may cooperate voluntarily.

presidential politics lifts the strategic importance of centralized regulatory review by White House units like the Office of Information and Regulatory Affairs (OIRA). Exercising White House control by way of regulatory review is central to a president's political success.

We hypothesize that presidents manage the regulatory process *systematically* and *continually* to deliver *targeted* benefits to important political supporters, thereby delivering rents that are distinct from the headline benefits that may be explicitly written into laws that spawn the regulations. The notion that presidents may use regulation simply to pay off special interest supporters is certainly not novel. Indeed, practically every discussion of regulation inspired by the Stigler (1971)/Peltzman (1976) economic theory of regulation embraces this idea. But we are speaking of presidential use of the entire regulatory enterprise in a coordinated effort by way of centralized regulatory review to reward (or punish) important interest groups.

We offer a positive theory of regulation coordination: Presidents work to keep regulatory promises they make to important special interest groups when seeking, and while holding, office. Presidential preferences must matter. We recognize that ours is not the first positive theory of regulatory oversight; we will review others later. But our theory is the first to imply that systematic evidence of transactional politics will be found when reviewing the White House coordination record.

While we offer unabashedly a positive public choice theory of regulation coordination, there are efficiency theories to consider. The efficiency theories can be thought of as public interest arguments, while ours is a special interest or economic theory of regulation (Stigler 1971; Peltzman 1976).

Those offering an efficiency or normative view generally see White House regulatory review as part of an effort to bring more information to bear on regulatory decision making, to improve the scientific basis of proposed rules, and to reduce unnecessary regulatory burdens in order to increase the overall effectiveness of government operations and with that, the efficiency of the economy (Sunstein 2014, pp. 11–15). We do not believe that the efficiency theories and ours are mutually exclusive. We believe that the utility or objective functions of presidents, like those of other rational, purposeful individuals, may be characterized as having multiple attributes.[4] Their end-of-period satisfaction may be explained partially by improvements in per capita wealth they can relate to their policy efforts; the producer surplus they facilitate that is captured by special interest groups, which, of course, may be a proxy for their future income; by increases in consumer surplus somehow transferred to a vast number of citizens, which can be transformed into votes and campaign contributions; and by current personal income flows and other objectives (Peltzman 1989, p. 9). When coordinating the regulatory process, presidents are making tradeoffs between competing politically advantageous activities. In short, any change in regulatory activities carries an unidentifiable opportunity cost.

In the remaining sections of our paper, we first summarize theories of White House regulatory coordination and trace the evolution of the activity. Having reviewed all of the empirical work that uses statistical methods to evaluate White House regulatory review, along with the contents of studies that evaluate the review process and our own statistical

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[4] Along these lines, we note Scott Farrow's (2006) empirical analysis of the probability that OIRA would reject a rule, which means returning a proposed regulation to the issuing agency for further work. Farrow examined 73 rules from across the years 1967–1991 and tested for the presence of bureaucratic, efficiency, and political influence effects. He found statistically significant support for our notion that a president's preferences would contain both a concern for efficiency and political sensitivities.

findings, we provide evidence that supports our contention that transactional politics systematically affects the character and pace of the White House regulatory review process. Taken together, the evidence we present indicates that:

- When the party in power changes, regardless of the direction of partisan change, outgoing administrations speed the pace of regulation and reduce the quality of regulatory review, i.e., the level of scrutiny, in their final days.
- Presidents use the centralized regulatory coordination process to postpone regulatory activity in order to minimize controversies when seeking reelection.
- The speed at which politically challenging regulations are promulgated is controlled by presidents through the centralized review process. They impede troublesome regulations and accelerate helpful ones.
- When presidential preferences match those of regulatory agency decision makers, fewer proposed rules are returned to issuing agencies for additional work or withdrawn from the review process.

We end our paper with the conclusion that White House coordination is about many things, certainly including delivery on regulatory promises.

2 Centralized White House regulatory review: theory and evidence

In the United States, the results of decades of cumulative regulatory transactions yield an entangled economy where command-and-control regulation providing targeted benefits is found at almost every decision margin (Smith et al. 2011). Whether for fuel economy rules that provide differential effects across vehicle categories, appliance efficiency standards that affect winners and losers, or railroad safety regulations that specify particular kinds of electronic braking mechanisms, modern day presidents have no lack of requests for regulatory favors (Smith and Yandle 2014).

To be an effective promise keeper, a president must reduce agency cost between himself and his agency appointees, coordinate and then affect the actions of the executive branch agencies and, where possible, influence the behavior of the independent regulatory agencies that lie beyond the direct control of the White House CEO. For a newly elected president, modifying the priorities and mix of activities in a sprawling bureaucracy takes time, effort, and continuous monitoring; many subtleties are involved therein.[5] There are lots of rents at stake, and special interest lobbying is extensive and effective (Yackee 2011). In a word, the effort is costly, and this is just one of a president's many challenges.

President Richard Nixon was the first president to face a regulation coordination problem of sufficient size to force the establishment of a formal White House regulatory review activity, and perhaps for understandable reasons.[6] It was the Nixon administration

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[5] Indeed, as to subtleties, Coffey et al. (2012) find a strong positive relationship between Washington Redskins' winning record and *Federal Register* pages of regulations. They argue that lobbying activity— even lobbying within the executive branch, we would add—is lubricated and facilitated by the presence of a winning NFL football team, allowing the interested parties to take care of business in an enjoyable environment.

[6] As we see the situation, President Nixon's estimate of the benefits of asserting White House control over agency heads exceeded the political cost of doing so. George J. Stigler (1972, p. 100) reminds us that a subset of the larger political unit, in this case the White House, can succeed in achieving its goal so long as the cost incurred by those who stop the action is large and excessive, relative to that of those who would support the action.

that created the US Environmental Protection Agency (1970), the National Traffic and Safety Administration (1970), the Occupational Safety and Health Administration (1971), and the Consumer Products Safety Commission (1972). An avalanche of new rules was on the way.

According to Eads and Fix (1984, pp. 46–47), President Nixon became so concerned over the unexpected flow of rules from the Environmental Protection Agency that in 1971 he called on Office of Management & Budget (OMB) Director George Schulz to find a way to rein in the regulators. Schultz and the Nixon White House team responded with the Quality of Life Review, located in OMB.

The review process required agencies to subject regulations to benefit/cost and economic impact analysis and then to have the newly proposed rules reviewed by OMB officials. But was that action simply an effort to decelerate the *Federal Register* printing presses? Or did President Nixon also need an OMB screening process to ration regulatory output selectively and thereby deliver on regulatory promises to important interest groups? With respect to these questions, we note that Weidenbaum (1997, p. 20) indicates that the OMB's authority was limited and, as a result, "many agencies ignored the process." This suggests that President Nixon was selective in choosing which regulations to accelerate and which to delay. Some of President Nixon's agency heads at times may have ignored the OMB process because President Nixon was comfortable with their doing just that. We are not the first to suggest that a president might impose a benefit–cost regulatory review process in order to enhance his ability to make transfers to desired interest groups. Posner (2001) made a similar argument:

> Suppose that one believes that Congress and the President are motivated solely or mainly by a desire to transfer resources to interest groups, but are partially checked by the taxpayers' ability to retaliate at the polls. If cost–benefit analysis enhances Congress's and the President's control over agencies but does not enhance the public's control over the government, then this more efficient monitoring instrument should lead not only to more regulation (as suggested earlier) but to more regulation that transfers resources from citizens to interest groups (1198).

Every president since Richard Nixon has kept coordination of regulation centralized within White House operations. President Ford had regulatory review housed in a unit called Government Operations Research in his Council on Wage & Price Stability (COWPS), and President Reagan assigned regulatory review responsibility to the White House Office of Information and Regulatory Affairs (OIRA), which subsequent presidents have maintained.[7] In each case, the office contained a coordinating administrator who served at the pleasure of a sitting president and worked with White House senior staff.

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[7] The Council on Wage and Price Stability (COWPS) came into being during a Republican administration, though the Democrats controlled both houses of Congress. It was a time of crisis, of high inflation, sufficiently high to warrant the two parties uniting their efforts. COWPS was created by Congress to deal with price stability, not for the purpose of reforming regulation. But, having incorrectly assessed the cause of inflation as being based on wage and price increases, Congress created a tool with more and varied applications than they may have imagined. The executive branch "discovered" that COWPS could be used to regulate regulatory output. And when COWPS was subsumed by OIRA, which had come into being originally as a paperwork-reducing office, a small unit in COWPS survived to become the seedbed of today's OIRA. We point out that the centralized regulatory review process initiated by COWPS was the first among developed countries, but by 1997, half of the OECD countries had a review process in place, up from two (Finland and the United States) in 1980 (Jacobs 1997, p. 13).

The literature on White House regulatory review for the most part implicitly offers a normative theory, one that assumes that the coordinating office operates as part of a president's effort to improve the efficiency of the regulatory process and therefore the efficiency of the economy. For example, Miller et al. (1984) argue that centralized coordination and review reduces the costs of diffuse interest groups seeking to influence rules across scores of agencies and also provides improved transparency. They argue that centralized review thus buffers the stronger influence of concentrated interests. More recent work by Bubb and Warren (2014) develops a positive analysis of a presidentially preferred tension for balancing regulatory outcomes by way of centralized review. As they see it, the review process is intended to bring balance to the actions of presidentially appointed agency heads who are overly zealous in pursuing strong regulatory agency actions.[8]

Bubb and Warren argue that as a principal, the president will place agents in charge of regulatory bureaus who are biased in favor of the president's particular regulatory preferences. Because of each agent's bias, bureau heads may not have sufficient incentives to understand the overall impact of their actions. Further, the zealous agent will not be as diligent in digging out costly information, for instance, information relating to the potentially negative economic impact of the agent's preferred rules. Recognizing the tendency of zealots to overregulate, the president organizes a review procedure led by another appointed agent who embodies the president's broader regulatory preferences, which may include a concern for cost effectiveness and in any case likely will not be as extreme as those of the zealous agency directors. The regulatory review agent may also be positioned to take flak for politically unpopular decisions.[9]

In their work on centralized review, Ellig and McLaughlin (2011) analyzed the quality of regulatory analyses that accompanied regulation during the George W. Bush administration. They found that the regulatory analysis associated with transfer regulations, which have to do with budget matters, received shorter as well as inferior treatment when compared to traditional command-and-control regulation. Quite possibly, the larger special interest struggles had occurred and were settled when laws establishing transfers were debated and passed in the legislative process whereas the targeted benefits found in the fine print of command-and-control regulation, more apt to emerge from within the burrows of the bureaucracy, requires closer White House attention. In any case, transfer regulations were not as heavily scrutinized and therefore could be rushed through the review process.

In an exhaustive study of White House review and modification of final rules, Haeder and Yackee (2015) analyzed the content of 1526 final regulations issued between 2005 and 2011. They concentrated on the effects of lobbying activities and measured the extent of verbal content changes associated with presidential final review. Using probit and OLS regression analysis, they modeled the determinants of the degree of change with variables

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[8] We note that Bagley and Revez (2006) challenge the notion of overly zealous regulators and go on to argue that OIRA's focus should be broadened far beyond doing benefit-cost and economic impact analysis and made to include assessments of the scientific basis of proposed rules. The 2001 Data Quality Act (Public Law 106-554; H.R. 5658) embraces some of the requirements Bagley and Revesz propose. Lawrence A. Kogan (2015) advanced a similar proposal. As Kogan argues, OMB should be charged with implementing the Information Quality ACT (IQA) that potentially can hold regulatory agencies judicially liable for relying on poor science that leads to the adoption of regulations imposing net-costs on society.

[9] Quite possibly, Bubb and Warren have identified a mechanism for making operational Fred McChesney's (1987) rent extraction regulation theory. McChesney's "trolling theory" has the politician announcing costly regulatory possibilities for the purpose of attracting regulatory avoidance contributions from those who seek to escape the proposed rules. Budd and Warren's centralized regulatory review with presidential adjustment capabilities seems comfortably to accommodate McChesney's theory. We express appreciation to an anonymous referee of this journal for suggesting this possibility to us.

that accounted for the extent of public- and private-interest OMB lobbying and campaign contributions by lobby groups. They also adjusted for regulatory agency political bias and OMB/presidential preference as measured by ongoing White House/agency interaction. They tested for differences between the Bush and Obama administrations. Haeder and Yackee found that the extent of lobbying effort—both number of lobby groups engaged in the review and amount of campaign donations—was positively associated with rule changes in the final review process. They also found that agency political bias was associated with more changes and that prior presidential preference for a rule led to smaller rule changes. There were fewer rule changes during the Bush years, all else equal. While Haeder and Yackee focused on the effects of lobbying in molding the content of final rules, their presidential preference finding, which suggests that presidents had greased the rails for final approval prior to the final review, lends strong support to our theory.

2.1 Changing the pace when the party changes

The Haeder-Yackee assessment squares with the notion that when building regulations that generate differential rents among affected parties it is important for sitting presidents, either personally or through their centralized review mechanism, to be engaged more closely in the process. But in addition to influencing regulatory content, the president, depending on his desires, will seek to impose or remove obstacles, slowing or assisting the passage of new regulations. In this regard, Cochran (2001) reviewed the number of pages of *Federal Register* rules published from 1948 through 2000 and found a significant increase in rules in the quarter following elections when the party in the White House changed. For example, Cochran (2001, p. 3) reported that:

> The daily volume of rules during the final 3 months of the Carter Administration—as approximated by page counts of the *Federal Register*—ran more than 40 % above the level it had averaged during the same months of the non-election years 1977, 1978, and 1979. Indeed, the volume of midnight regulations was so high that the incoming Reagan Administration imposed a 60-day moratorium on the implementation of these last minute rules.

Cochran reasoned that the greater volume could be the result either of procrastination or efforts by presidents and their appointees to get their preferred regulations on the books. However, the fact that the Reagan administration ordered a moratorium on the implementation of the Carter rules supports the notion that presidential preferences matter.

Former OIRA administrator and regulatory scholar Susan Dudley (2001, 2011) also examined the midnight regulations that are pushed out the door by lame duck administrations and found strong evidence of last-minute presidential efforts to pack the *Federal Register* with rules favored by the exiting administration. But in making a broader assessment of her experience as OIRA director, Dudley indicated surprise at the extent to which White House senior staff was involved in the process of molding regulations. As described by Copeland (2013, p. 48):

> [W]hen she became OIRA administrator, even though she had worked in OIRA previously, it was an "eye-opener" to see how the West Wing works, and the number of people who were interested in the issues addressed by draft regulations. She said the political appointees in the White House realize that regulations are an important policy tool, and they all want to be involved. By the time the OIRA administrator gets confirmed in an administration (which is usually one of the last positions to be

confirmed), she said the White House offices are somewhat used to playing a decisional role in regulations, and it can be difficult for the OIRA administrator to take control. Also, as noted earlier in this report, unless a rule is considered a priority, Dudley said it may be delayed at the White House or other parts of the EOP [Executive Office of the President] until OIRA is given the authority to proceed with the rule.

Dudley's comment on White House politics supports the notion that midnight regulations are more about presidential preferences than procrastination.

In his assessment of how White House politics placed OIRA at a decided disadvantage when OIRA leadership took on a regulatory agency in an attempt to influence proposed rules, regulatory scholar and former Food and Drug Administration chief economist Richard Williams had this to say (Williams 2015):

OIRA will always serve as only a minor check on the quality of regulations implemented because it is in the same branch of government as the regulatory agencies, and it often carries less political clout than the agencies whose work it reviews. A credible effort by any OIRA administrator to push back on a regulation, therefore, depends on whether the administrator knows if OIRA can win the political argument that will follow. Having to win a political battle to ensure that analysis is done well and is considered in rulemaking is never going to provide the kind of quality check that the last six presidents have called for.

Williams' comments offer little encouragement to those who see OIRA chiefly through the lens of efficiency enhancement.

In their examination of midnight regulation data from 1946 to 2006, de Rugy and Davies (2009) also identified strong end-of-period presidential effects. Ellig and McLaughlin (2011) reviewed midnight regulations and found that the agency provided regulatory impact analyses (RIAs) accompanying them were of lower quality, relative to the norm for regulations generally. This Ellig–McLaughlin evidence does not allow us to distinguish between theories of procrastination and efforts to catch up at the end of an administration or the exercise of presidential preferences. However, a related study does distinguish between the theories and supports the latter argument.

Ellig and McLaughlin (2011) extended their assessment of the quality of regulations submitted by regulatory agencies for OIRA review to focus on leftover regulations in 2008–2010. Leftover regulations are those that miss the end-of-administration review deadline and are passed on to a succeeding administration. The regulatory analyses accompanying both midnight and leftover regulations were found to be significantly inferior in quality relative to the norm. With respect to leftover regulations, Ellig et al. (2013, p. 170) conclude: "Our results…confirm the suspicions that regulatory analyses and decisions are susceptible to political influence, regardless of administration," a finding that is consistent with Shapiro and Morrall (2012) and supportive of our theory that coordinated review is in part used to satisfy presidential preferences and obligations. But there is more to the story.

2.2 Postponing troublesome rules at election time

A recent anecdote involving President Obama and his newly nominated and later named OIRA administrator illustrates how sitting presidents can use OIRA procedures for delaying controversial regulations for political purposes. It should be noted that OIRA's

operating procedures generally call for the review of proposed regulations to be completed within 90 days, with extensions allowed when an agency requests a delay or OIRA notifies an agency that additional time will be needed. In April 2013, President Obama nominated Howard Shelanski to replace Cass Sunstein as OIRA administrator. The Center for Progressive Reform (CPR) described the results of the new appointee's behavior this way (CPR's Eye on OIRA 2015):

- On September 6, 2013, less than 3 months after Shelanski's confirmation, EPA withdrew its proposed "Chemicals of Concern" list, a proposal that would have identified a number of potentially harmful substances worthy of scrutiny.
- That same day, EPA withdrew a proposal to limit confidential business information claims that shield crucial health and safety data on new chemicals from the public.
- Then on September 17, 2013, EPA withdrew draft final guidance intended to clarify the scope of the Clean Water Act.
- That followed the withdrawal on June 6, 2013, while Shelanski's nomination still was being considered by the Senate, of NHTSA's final rule mandating rearview cameras on vehicles to prevent back-over accidents.

The CPR also indicated that, "all four rules were more than a year overdue, with the Chemicals of Concern list 3 years late, all because of OIRA." The CPR continued: "The Obama Administration seems to be increasingly relying on a relatively uncommon practice known as a 'withdrawal' to unceremoniously dispose of long-overdue OIRA reviews involving important safeguards that are vigorously opposed by industry."

Things apparently changed with the executive branch's new leadership, but, again, there is more to the story. The new OIRA head was actually dealing with a large number of regulations that had been delayed by the White House in an effort to grease the rails for the 2012 election, which illustrates our key point. According to the *Washington Post*, "The White House systematically delayed enacting a series of rules on the environment, worker safety and health care to prevent them from becoming points of contention before the 2012 election, according to documents and interviews with current and former administration officials" (Eliperin 2014). Enacting or withdrawing the rules before the election would have drawn howls from either industry opponents or special interest supporters, and therefore likely was the correct move politically. But the use of centralized review simply to delay ostensibly life-saving rules for political purposes tends to undermine an efficiency theory of centralized review. Of course, it is possible that the delays in question led to the development of more cost-effective rules.

2.3 Modulating the pace of regulatory output

Even prior to the Shelanski episode, concern over OIRA's delaying actions had led to the Administrative Conference of the United States (ACUS) commissioning a report that resulted in a special study (Copeland 2013). In the study, which involved analysis of data from 1981 through 2013, ACUS interviewed former OIRA administrators and high ranking regulatory agency officials, as well as other executive branch personnel. The review of OIRA data revealed a recent rapid lengthening of the time required for completing a regulatory review. The report (Copeland 2013, p. 4) noted that:

> [F]rom 1994 through 2011, the average amount of time it took to complete a review was 50 days, and the highest average review time in any year was 62 days. However, in 2012, the average time for OIRA to complete reviews increased to 79 days, and in

the first half of 2013, the average review time was 140 days—nearly three times the average for the period from 1994 through 2011.

When asked to explain the delays, a high-ranking EPA official indicated that OIRA set the timing and pace of review by contacting the agency and inviting the agency to request a delay. The official noted that when OIRA asked for more time, the delay always was forthcoming. She indicated that, "not only is there no deadline for OIRA review, but OIRA itself controls the agency's 'requests' for extensions. In this way, it comes to pass that rules can remain at OIRA for years" (Copeland 2013, p. 21). OIRA also managed the pace of regulation by controlling when agencies could submit a rule for formal regulatory review. The ACUS study (Copeland 2013, p. 37) indicated that:

> Several senior agency employees said that there had always been some type of pre-submission meeting with OIRA at a general level as to what rules or groups of rules their agencies would be submitting for review in the coming months, and a priority list was often developed. Then, they said, the agency would enter each rule into the OIRA data system whenever the agency believed it was ready to be submitted for review. Starting in 2012, however, these employees said they have had to meet with and/or brief the OIRA desk officer before submitting each significant rule for formal review (which were sometimes referred to by the agency employees interviewed for this report as "Mother-may-I" meetings), and have had to obtain OIRA's approval before submitting each rule.

When asked why OIRA orchestrated the timing and pace of regulatory review (Copeland 2013, p. 42):

> Several of the senior agency employees indicated that OIRA reviews took longer in 2011 and 2012 because of concerns about the agencies issuing costly or controversial rules prior to the November 2012 election. The employees said their agencies were instructed that such rules were not to be issued unless deemed absolutely necessary (e.g., a judicial deadline) or if it could be shown they were not controversial (e.g., clear net benefits). They said those instructions were not in writing, but shortly after their agency's political leaders went to meetings with certain Executive Office of the President (EOP) officials, agency staff were told that all sensitive rules would have to be pre-approved by OIRA before being sent to OIRA for review. When any such rules were submitted to OIRA, they said the reviews were often delayed. Several of the agency employees were quick to point out that they did not believe these delays were OIRA's fault; OIRA appeared to be simply carrying out the instructions of those in other parts of the EOP.

We note that presidential preferences seem to matter a lot.

2.4 Presidential priorities and regulatory review

Two ways are available for pressuring agencies to finalize a desired regulation: tight legislative deadlines and presidential pressure. Ellig and Conover (2014) asked whether the joint influence of a presidential priority *and* a tight congressionally mandated deadline affect the quality of the Regulatory Impact Analysis (RIA) that agencies must provide for major rules, i.e., those that have an annual impact on the economy of $100 million or more or which OIRA and the issuing agency consider to be major for reasons that go beyond a dollar determination.

Tight legislative deadlines are imposed by Congress to ensure that the desired regulation will be written and announced during the period in which its sponsors are still in their seats. Presidential priority is manifested when a regulation is designed from the "top-down." The sitting president may have certain high priority regulatory ambitions and thus have his White House staff originate and direct the rule writing process, sometimes without OIRA review (Sunstein 2014, p. 20). Ellig and Conover (2014) examined interim regulations favored by the White House, namely interim final homeland security regulations in the George W. Bush Administration and interim final regulations implementing the Affordable Care Act during the Obama Administration. They found both regulatory initiatives, which were under congressional and presidential pressure, to be associated with significantly lower quality Regulatory Impact Analyses (RIAs).

Furthermore, in a recent analysis of 108 economically significant regulations between 2008 and 2012, those having an annual impact of $100 million or more or as described above, Ellig and Abdukadirov (2015) concluded that agencies in the majority of cases fail to explain how they conducted and took account of the RIAs required by OMB. In other words, the regulatory agency produced and submitted a RIA, but made no reference to it in recommending a preferred regulatory action.[10] We see this as evidence of agency costs that support the Bubb-Warren theory, wherein zealous agency heads are biased towards passing more regulations at the expense of researching information regarding their cost-effectiveness.[11] The evidence only indirectly supports our theory of presidential preference, but offers no support for an efficiency theory of centralized review.

3 Direct examination of the effects of centralized review

We now turn to our own examination of data. As White House review and OIRA evolved, the agency's operating procedures focused more on reviewing major rules. During the Clinton administration, for example, this was the agency's official duty. A similar focus was maintained in subsequent administrations. No meaningful variation occurs in OIRA's rule review activity. All major rules are reviewed. As a result, no behavioral implications can be drawn from OIRA's rule review process per se. But as shown by Ellig et al. (2013), evidence is available on the quality of the regulatory impact analyses that emerge from executive branch agencies' pipelines and receive OIRA attention.

In our search for empirical evidence reflecting OIRA's purpose, we focused on two datasets. First, while OIRA is bound to review all economically significant or major rules, the regulatory agencies issuing such rules could alter the pace of regulatory output with or

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[10] An earlier assessment of RIA quality by Hahn and Dudley (2006) used an expert scoring technique to review all RIAs submitted across the years, which included 55 documents from across the Reagan, Bush I, and Clinton administrations. They found inconsistent treatment of costs, benefits, and justification of rules selected. They also found no trend toward improvement. The Hahn/Dudley findings suggest that agencies engage in RIA analysis because they must, not as a critical part of a decision making process.

[11] Whether our theory—stating that centralized regulatory review serves as a vehicle for imposing presidential preferences on regulation—can be extrapolated to other countries is uncertain and requires further empirical investigation. A recent working paper by Dudley and Wegrich (2015) discusses centralized regulatory review in the European Union (EU). Recognizing the sharp differences in constitutional powers between the United States and the European Union, this promising study indicates that the EU's review procedures allow for returning proposed regulations to the issuing agency. Indeed, in 2012–2013, more than 40 % of proposed rules failed to pass centralized review muster (Dudley and Wegrich 2015, p. 20). Unfortunately, we lack sufficient information even to support speculations as to interactions between EU politics and regulatory decision-making that might explain such behavior.

without OIRA's cooperation. Consistent with the findings of Ellig et al. (2013), a sitting president could instruct executive branch agencies to indulge his preferences with respect to entering rules into the review process. Our second dataset is drawn from the review process. When reviewing proposed rules, OIRA either can reject them, returning the rules to the issuing agency for improvement, or approve the rules as sent. The agency can also decide to withdraw the rule while it is being reviewed. OIRA exercises discretion when it comes to returning and approving rules, which for our purpose reveals presidential preferences beyond the often-stated goal of increasing regulatory efficiency. Interestingly, presidential preferences seem to also play a role in agencies' decision to withdraw rules from OIRA's review. We note that our dataset begins in 1981 and ends in 2015.

3.1 Amplifying the evidence

To examine the extent to which issuing agencies managed their regulatory activities, we report the number of major rules issued and therefore reviewed by OIRA (Fig. 1).[12]

Instead of using calendar years, we provide data in presidential years beginning February 1 and ending the next January 31. We do this in an effort to isolate presidential effects. We have colored Republican years in red, Democrat years in blue. And we have marked in yellow the last year of a president's term of office when the party changes with the next president.

The data highlighted in yellow clearly demonstrate a surge of major rules in the lame duck year of transition administrations. Thus, we have another confirmation of midnight regulations—those with major impact—that emerge no matter which party leaves the White House (de Rugy and Davies 2009; McLaughlin 2011; Ellig et al. 2013). The result supports the theory that particular regulations are not homogeneous with respect to important interest group support that varies across administrations.

What we mean is this: a nonpoint-source water quality regulation developed in the Clinton administration, let us say, may provide less opportunity for water quality trading in meeting regulatory requirements but place more emphasis on the use of technology for achieving the end purpose than might a similar rule emerging from a Bush II administration. Both rules may have similar intended objectives, e.g., reduction of nutrient run-off into rivers and streams, but with significantly different effects across regulated parties. OIRA may work hard to put a sitting president's brand on a deluge of rules before he loses power, but the sheer volume of rules to be assessed makes for a troublesome process.[13] Such behavior, described in related research (Loring and Roth 2005), implies that regulations that nominally may serve the same end purpose, and are derived from the same legislative mandate, can have markedly different characteristics that serve distinctly different interest groups and in different ways.[14] For example, regulations that define the meaning of new source review found in the Clean Air Act can be narrowly construed so

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[12] We express appreciation to Susan Dudley and the George Washington University Center for Regulatory Studies for inspiring the figure.

[13] McLaughlin's (2011, pp. 411–412) review of data for February 1981–January 2009 found that the end-of-period surge in volume of significant regulations (the ratio of significant to all regulations reviewed is higher) appeared to swamp OIRA's review process; the average review time fell for significant and for all other regulations.

[14] On this see Mercatus Center, Regulatory Studies Program, for a listing of comments, testimony, and studies that focus on alternate ways to accomplish specific regulatory goals and regulation in general. http://mercatus.org/regulatory-studies-program. For an early on-point study of COWPS, see Miller and Yandle (1979).
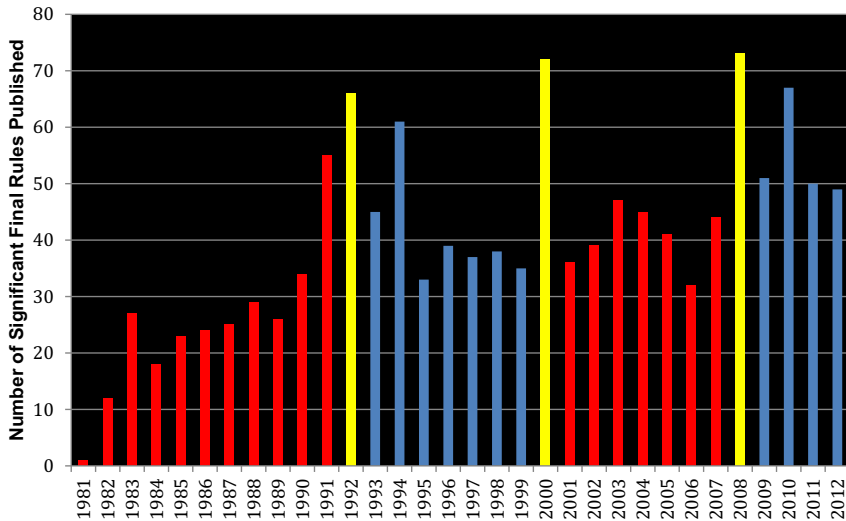
Fig. 1 Major rules published by presidential year February 1–January 1 of the year following, 1981–2012

that a larger part of an industry's expanded plants are not considered to be "new sources" and therefore subject to stricter emission standards or more broadly interpreted so that those same expansions would be required to meet the more costly new source requirements.

Our next dataset addresses OIRA's decisions to return rules to issuing agencies for additional work. Figure 2 shows the number of major regulations issued by and returned to agencies by *calendar* year. Two periods call for attention. The first period centers on the Reagan administration and immediately thereafter, 1981–1992, when the number of rules returned surges and then declines somewhat. We note that a large surge in rejections occurred in President Reagan's first term of office and remind the reader that those rejections could be associated with part of the Carter administration's surging midnight regulation activity accounted for by still-maturing regulations under review when the new administration took charge. We also remind the reader that this was the time when OIRA was reinvented to serve as the White House's regulatory review agency. We interpret the initial surge as a period when, following the president's directive, OIRA took a tough stance in an effort to communicate that the rules of the game had been changed.

During the second noteworthy period the data tell us that the number of rejections fell during the Bush I and Clinton years and surged again during the first 2 years of the George W. Bush administration; rejections then fell for the remaining years shown in the chart. Following Loring and Roth (2005), we interpret the George W. Bush surge as his attempt to counter and co-opt the Clinton administration's midnight regulation push, which is to say that President Bush wanted to reshape the Clinton rules to satisfy his own campaign promises and regulatory preferences.

3.2 Statistical analysis of rules returned and withdrawn

Our graphical analysis supports the theory that presidential preference effects are seen in the form of a "hurry up offense," allowing a surge of midnight regulations during transition years and is demonstrated by returning proposed rules to issuing agencies for
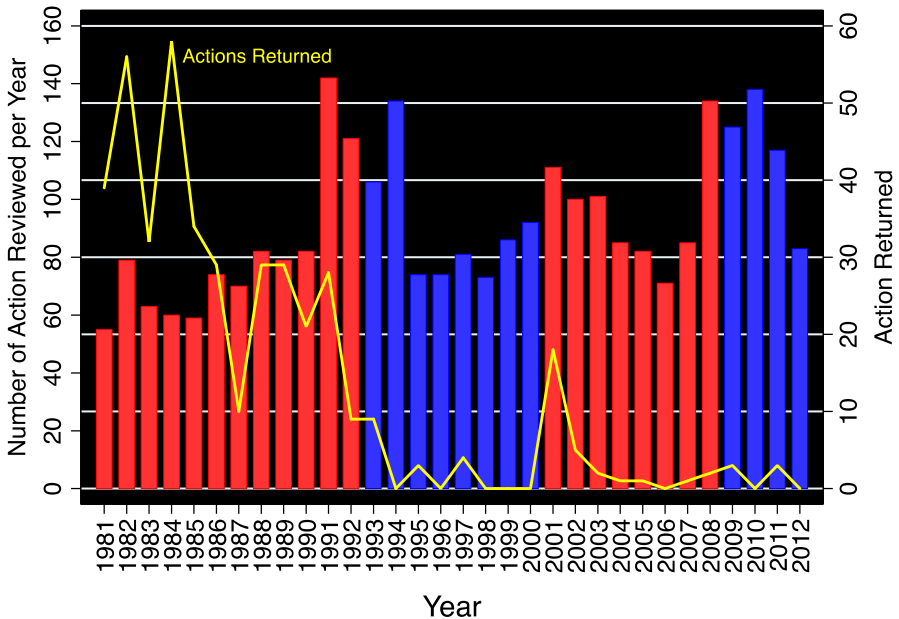
Fig. 2 Comparison of the number of major actions and numbers of action returned by OIRA from 1981–2012

revision.[15] Probing deeper into the review process, if presidential preferences matter, then we would expect that OIRA is more likely to return fewer rules to agencies in periods when the ideologies of the president and the issuing agency are aligned than when they clash. Our argument is similar to that of Posner (2001, pp. 1150–1157) in his analysis of whether concurrence between presidents and regulatory agencies is enhanced with leaders' ideological alignment. Stated differently, fewer rule returns will occur where agency cost— between the president and the regulatory agency leadership—is lower. In our empirical analysis, we measure this cost by the degree of ideological alignment between agencies and the sitting president at the time. As we will explain in detail below, this degree of alignment resides in the interaction between the agency ideology index and the party in office. To test this observation, we use the following data:

- The total number of rules (*total number of rules*)$_{it}$, the number of economically significant rules (*Number of Economically Significant Rules*)$_{it}$, and the number of rules with statutory or judicial deadline (*Number of Rules with Statutory or Judician Deadline*)$_{it}$ that OIRA reviewed by agency and presidential year from 1981 to 2015.[16]
- The number of rules that OIRA returned (*Number of Rules Returned*)$_{it}$ to the issuing agency *i* by agency and presidential year *t* from 1981 to 2015.

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[15] This preference is seen during two periods. We see clear evidence of presidential effects during OIRA's founding years, and then at a transition point when the George W. Bush administration appears to have used OIRA to counter the Clinton administration's regulatory efforts.

[16] Data on OIRA decisions of rules reviewed were retrieved from the Reginfo.gov website (http://www.reginfo.gov). This source offers a count of the total rules OIRA reviewed, by agency and year, starting in 1981. For every agency and every year, the source also provided the number of economically significant rules and the OIRA conclusion action, including how many of the rules were reviewed, returned, exempt from executive review, withdrawn, etc. The database is available from the authors upon request.

- The number of withdrawn rules (*Number of Rules Withdrawn*)$_{it}$ by agency and presidential year from 1981 to 2015.
- A dummy variable indicating the party of the sitting president (*Republican*)$_t$ by presidential year from 1981 to 2015 with a value of 1 indicating a republican president and 0 otherwise.
- The average number of days it takes OIRA to review an economically significant rule (*Review Time of Economically Significant Rules*)$_{it}$ by agency and year.
- The agency ideology index (*Agency Ideology Index*)$_i$ developed by Clinton and Lewis (2008). Based on an expert survey, the authors developed an index for 82 departments and agencies in existence between 1988 and 2005.[17] The authors use multi-rater item response model estimates of agencies' policy preferences to develop a continuous index; the smaller the number the more liberal the agency, and the larger the number the more conservative the agency. For example, Action ranked as the most liberal agency with a score of −2.07 and the Department of the Navy as the most conservative with a score of 2.40.
- An interaction variable between the binary variable indicating the party in office and the continuous ideology index (*Republican#Ideology*)$_{it}$. The interaction variable identifies whether the rate of change of the independent variable (returned or withdrawn rules) with respect to agency ideology differs depending on the party of the sitting president. In other words, the interaction variable allows us to detect whether the alignment (or lack thereof) of the ideology of the agency with that of the president affects OIRA's regulatory review process.

We used four models (Models 1–4) in making our estimates when the number of rules returned is the dependent variable, and two models (Models 5, 6) in making our estimates when the number of rules withdrawn is the dependent variable (all variables are as defined earlier and α_i and μ_{it} are the agency-specific intercept and the error term respectively)[18]:

Model 1

$$
\begin{aligned}
(\text{Number of Rules Returned})_{it} = {} & \beta_0 + \beta_1(\text{total number of rules})_{it} + \beta_2(\text{Republican})_t \\
& + \beta_3(\text{Agency Ideology Index})_i \\
& + \beta_4(\text{Republican\#Ideology})_{it} + \alpha_i + u_{it}
\end{aligned}
$$

Model 2

Same as Model 1 but restricted to the period of 1994–2015 to account for Clinton's EO 12866.

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[17] The agencies we studied were those that have both an OIRA review record and an ideology index. Our study of returned rules included 49 agencies for a total of 983 observations for the years of 1981–2015 and 39 agencies for a total of 567 observations for the years of 1994–2015. Our study of withdrawn rules, on the other hand, included 28 agencies for a total of 472 observations for the years of 1981–2015 and 26 agencies for a total of 314 observations for the years of 1994–2015. Restricting the years in some of the regressions to only 1994–2015 allows us to account for Clinton's Executive Order 12866 which allowed OIRA to restrict its regulatory review duties to only economically significant rules; however, it also limits our sample size and eliminates observations from two Republican administrations. Therefore, for every regression we report for the period of 1981–2015, we also report its counterpart for the period of 1994–2015.

[18] It is worth noting that we ran several iterations of regressions using OIRA's average review time of economically significant rules as the dependent variable and in all iterations one observation stood out, which is that the average review time of economically significant rules seem to be increasing with time. For example, with only controlling for year, total number of rules, the party in office, and agency fixed effects, the coefficient on year was equal to 1.25, statistically significant at the 1 % level, indicating that the average review time of economically significant rules increases about 1.25 days per year. We do not report these results in the paper, but the data and regressions are available from the authors upon request.

Model 3

$$(\text{Number of Rules Returned})_{it} = \beta_0 + \beta_1(\text{Republican})_t + \beta_2(\text{Agency Ideology Index})_i$$
$$+ \beta_3(\text{Republican\#Ideology})_{it}$$
$$+ \beta_4(\text{Number of Economically Significant Rules})_{it}$$
$$+ \beta_5(\text{Number of Rules with Statutory or Judicial Deadline})_{it}$$
$$+ \alpha_i + u_{it}$$

Model 4
Same as Model 3 but restricted to the period of 1994–2015 to account for Clinton's EO 12866.

Model 5

$$(\text{Number of Rules Withdrawn})_{it} = \beta_0 + \beta_1(\text{Number of Economically Significant Rules})_{it}$$
$$+ \beta_2(\text{Review Time of Economically Significant Rules})_{it}$$
$$+ \beta_3(\text{Republican})_t + \beta_4(\text{Agency Ideology Index})_i$$
$$+ \beta_5(\text{Republican\#Ideology})_{it} + \alpha_i + u_{it}$$

Model 6
Same as Model 6 but restricted to the period of 1994–2015 to account for Clinton's EO 12866.

Our results for Models 1–4 are reported in Table 1, and those for Models 5–6 are reported in Table 2. Table 3 gives a truncated summary of the percentage of mean rules returned to agency by president, agency, presidential year, and ideology index (observations with zero returned rules are excluded). In Models 1–4, the type of party in office has a highly statistically significant effect on the number of rules returned to agencies, with Republican presidents having a higher level of returns than Democrats. Models 1 and 3 particularly support the inference that presidential preferences do play a role in influencing regulatory output through centralized regulatory review. More precisely, the coefficient on the interaction variable is negative and significant in both models and it ranges from -0.269 (Model 3) to -0.181 (Model 1). The latter two coefficients may imply that the marginal decision of OIRA to return rules to agencies is influenced by the degree of alignment between the agency's ideology and that of the sitting president.

Figure 3 illustrates this point. The rate of change for returns with respect to ideology changes with the party in office. Republican presidential administrations are associated with both more returns across the board than their Democratic counterparts, and fewer returns the more conservative the agency.

This observation is even more clearly evident in Fig. 4 when we restrict the analysis to the period after Clinton's 1994 EO. However, the interaction coefficient loses statistical significance, as shown in Table 1, when the years are restricted to 1994 and beyond. The reason the interaction coefficient loses statistical significance in models 2 and 4 relative to 1 and 3 deserves further investigation. This restriction limits the sample size by eliminating observations from two Republican administrations: Reagan and George H.W. Bush; however, as mentioned earlier, focusing on the years from 1994 and beyond takes into account the fact that OIRA was allowed to restrict its review of rules to those that are economically significant.

We also enquired into whether presidential preferences influence the withdrawal of rules by agencies whose ideologies do not conform to that of the sitting president. As Models 5 and

Table 1 The influence of ideological alignment between presidents and issuing agencies on the number of rules that OIRA returns

Variables	(1) Number of rules returned 1981–2015	(2) Number of rules returned 1994–2015	(3) Number of rules returned 1981–2015	(4) Number of rules returned 1994–2015
All rules	0.0108*** (0.000470)	0.00295*** (0.000794)		
Republican President	0.289*** (0.0753)	0.118*** (0.0411)	0.597*** (0.0875)	0.129*** (0.0411)
Ideology	0.0388 (0.0607)	−0.00528 (0.0268)	0.0954 (0.0724)	−0.00251 (0.0272)
Republican#Ideology	−0.181** (0.0771)	0.0407 (0.0427)	−0.269*** (0.0909)	0.0272 (0.0430)
Number of Economically Significant Rules			0.0327*** (0.00656)	0.00394 (0.00280)
Number of Rules with Statutory or Judicial Deadline			0.117*** (0.0148)	0.0269*** (0.00871)
Constant	−0.230*** (0.0591)	−0.0357 (0.0304)	−0.135* (0.0719)	0.00109 (0.0275)
Observations	983	567	983	567
Number of agencies	49	39	49	39

Standard errors in parentheses

Years in these regression are presidential year. For example, year 1981 starts on January 21st of 1981 and ends on January 20th of 1982. All data is retrieved from www.reginfo.gov. For regressions 1 and 2, we only used the "Review Counts by OIRA Conclusion Action data"; for regression 3 and 4, we merged the latter dataset with the "Review Counts by Number of Rules and Economically Significant Rules Reviewed and Average Review Times" data

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$

6 illustrate, there is highly statistically significant evidence that the level of withdrawal is higher during Republican administrations than Democratic ones, ranging from 1.487 (in Model 4) to 1.765 (in Model 5) more withdrawn rules under Republicans than Democrats. The coefficient of interaction is also statistically significant in Model 4, and more so for Model 5 when the years span all of OIRA's existence, an observation consistent with Models 1–4. As the coefficient of interaction implies, liberal agencies withdraw more rules from OIRA's review than do the more conservative agencies when a Republican is in office. This finding holds when controlling for the average length of time it takes OIRA to review a rule.

4 Final thoughts

White House regulatory review forms an interesting chapter in the history of regulatory governance. As an effort by presidents within a large democracy to manage the production of regulation, the experience provides an opportunity to assess presidential behavior in the light of a positive theory. Our theory models a regulatory review agency as being influenced directly by presidents, their senior staffs, and by an administrator responsive to sitting presidents, appointed to monitor and affect the production of regulations as a part of

Table 2 The influence of ideological alignment between presidents and issuing agencies on the number of rules withdrawn by agencies

Variables	(5) Withdrawn 1981–2015	(6) Withdrawn 1994–2015
Number of Economically Significant Rules	0.133*** (0.0196)	0.0949*** (0.0189)
Review Time of Economically Significant Rules	0.00130 (0.00323)	0.00117 (0.00310)
Republican President	1.487*** (0.321)	1.765*** (0.324)
Ideology	0.112 (0.233)	0.103 (0.199)
Republican#Ideology	−0.608** (0.310)	−0.607* (0.314)
Constant	0.879*** (0.336)	0.762** (0.302)
Observations	472	314
Number of Agencies	28	26

Standard errors in parentheses

Years in these regression are presidential year. For example, year 1981 starts on January 21st of 1981 and ends on January 20th of 1982. All data is retrieved from www.reginfo.gov. For regressions 5 and 6, we merged the "Review Counts by OIRA Conclusion Action" data with the "Review Counts by Number of Rules and Economically Significant Rules Reviewed and Average Review Times" data

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$

the White House's political payoff strategies. The theory assumes that sitting presidents make promises to key constituents they must keep and use command-and-control and other types of regulations for that purpose. But there is no such thing as a free lunch, and regulation that pays off rent seekers generates costs as well as benefits. Requirements for economic analysis in executive orders combined with OIRA review inform presidents of the costs and tradeoffs associated with delivering promised regulatory actions. In the process, centralized regulatory review reduces agency costs and helps to overcome an immense knowledge problem that every president confronts.

Our review of evidence shows that

- When the party in power changes, outgoing presidents systematically use the regulatory review process to accelerate the rate at which new regulations are approved, which is, in turn, associated with lower quality assessment of rules;
- Presidents use regulatory review to delay controversial regulations when seeking reelection;
- Regulatory review is used to delay troublesome rules and accelerate more congenial ones; and
- That where agency cost is lower, which is to say when presidential preferences match those of regulatory agency decision makers, fewer proposed rules are returned to agencies for additional work or are withdrawn from the review process.

Seen in the light of a positive theory of political behavior, the White House review story is a rich one that shows how presidents seek to keep regulatory promises while monitoring the costs and tradeoffs associated therewith. Our review of findings offers strong support to the notion that sitting presidents seek to be politically successful in working the regulatory

Table 3 Summary of the number of rules return data

Year	Agency	Ideology index	President	Percent of mean rules returned
1981	AID	−0.54	Reagan	17
1981	DOC	1.25	Reagan	1
1981	DOE	0.35	Reagan	2
1981	DOI	0.47	Reagan	1
1981	DOJ	0.37	Reagan	7
1981	DOT	0.07	Reagan	2
1981	ED	−1.22	Reagan	1
1981	EEOC	−1.58	Reagan	14
1981	EPA	−1.21	Reagan	3
1981	FEMA	0.08	Reagan	13
1981	HUD	−1.33	Reagan	3
1981	OPM	0.24	Reagan	2
1981	PBGC	0.27	Reagan	5
1981	SSA	−0.45	Reagan	4
1982	DOC	1.25	Reagan	1
1982	DOD	2.21	Reagan	8
1982	DOJ	0.37	Reagan	2
1982	DOT	0.07	Reagan	3
1982	ED	−1.22	Reagan	2
1982	EPA	−1.21	Reagan	3
1982	GSA	0.26	Reagan	8
1982	HHS	−1.32	Reagan	2
1982	HUD	−1.33	Reagan	1
1982	OPM	0.24	Reagan	2
1982	PBGC	0.27	Reagan	17
1982	SBA	1.17	Reagan	6
1982	USDA	0.16	Reagan	1
1982	VA	0.23	Reagan	5
1983	DOC	1.25	Reagan	2
1983	DOI	0.47	Reagan	1
1983	DOJ	0.37	Reagan	1
1983	EEOC	−1.58	Reagan	40
1983	EPA	−1.21	Reagan	1
1983	FEMA	0.08	Reagan	4
1983	GSA	0.26	Reagan	2
1983	HHS	−1.32	Reagan	3
1983	HUD	−1.33	Reagan	2
1983	NCPC	0.05	Reagan	50
1983	OPM	0.24	Reagan	3
1983	SBA	1.17	Reagan	6
1983	SSA	−0.45	Reagan	2
1983	USDA	0.16	Reagan	1
1983	VA	0.23	Reagan	5
1984	DOC	1.25	Reagan	5

Table 3 continued

Year	Agency	Ideology index	President	Percent of mean rules returned
1984	DOD	2.21	Reagan	13
1984	DOI	0.47	Reagan	2
1984	DOL	−1.43	Reagan	6
1984	ED	−1.22	Reagan	2
1984	EPA	−1.21	Reagan	1
1984	FEMA	0.08	Reagan	13
1984	GSA	0.26	Reagan	4
1984	HHS	−1.32	Reagan	7
1984	HUD	−1.33	Reagan	1
1984	NASA	−0.07	Reagan	9
1984	OPM	0.24	Reagan	4
1984	SBA	1.17	Reagan	13
1984	SSA	−0.45	Reagan	7
1984	USDA	0.16	Reagan	1
1984	VA	0.23	Reagan	6
1985	DOE	0.35	Reagan	4
1985	DOI	0.47	Reagan	1
1985	DOL	−1.43	Reagan	13
1985	EEOC	−1.58	Reagan	17
1985	GSA	0.26	Reagan	1
1985	HHS	−1.32	Reagan	4
1985	HUD	−1.33	Reagan	11
1985	NASA	−0.07	Reagan	4
1985	OPM	0.24	Reagan	2
1985	SBA	1.17	Reagan	16
1985	VA	0.23	Reagan	3
1986	DOC	1.25	Reagan	1
1986	DOE	0.35	Reagan	8
1986	DOT	0.07	Reagan	1
1986	ED	−1.22	Reagan	1
1986	EPA	−1.21	Reagan	3
1986	HHS	−1.32	Reagan	1
1986	HUD	−1.33	Reagan	4
1986	MSPB	−0.68	Reagan	100
1986	RRB	−0.12	Reagan	14
1986	SSA	−0.45	Reagan	6
1986	USDA	0.16	Reagan	1
1986	VA	0.23	Reagan	3
1987	DOT	0.07	Reagan	2
1987	HUD	−1.33	Reagan	2
1987	OPM	0.24	Reagan	2
1987	TREAS	1.07	Reagan	3
1988	DOC	1.25	Reagan	1
1988	DOE	0.35	Reagan	5

Table 3 continued

Year	Agency	Ideology index	President	Percent of mean rules returned
1988	DOI	0.47	Reagan	1
1988	DOL	−1.43	Reagan	1
1988	DOT	0.07	Reagan	1
1988	EPA	−1.21	Reagan	3
1988	GSA	0.26	Reagan	2
1988	HHS	−1.32	Reagan	1
1988	SBA	1.17	Reagan	3
1988	SSA	−0.45	Reagan	7
1988	USDA	0.16	Reagan	2
1988	VA	0.23	Reagan	1
1989	DOI	0.47	GHW Bush	2
1989	DOL	−1.43	GHW Bush	3
1989	EPA	−1.21	GHW Bush	5
1989	GSA	0.26	GHW Bush	3
1989	HHS	−1.32	GHW Bush	1
1989	HUD	−1.33	GHW Bush	4
1989	OPM	0.24	GHW Bush	4
1989	SSA	−0.45	GHW Bush	7
1990	DOC	1.25	GHW Bush	1
1990	DOI	0.47	GHW Bush	2
1990	DOL	−1.43	GHW Bush	2
1990	ED	−1.22	GHW Bush	4
1990	EPA	−1.21	GHW Bush	2
1990	HHS	−1.32	GHW Bush	1
1990	TREAS	1.07	GHW Bush	2
1990	USDA	0.16	GHW Bush	2
1990	VA	0.23	GHW Bush	1
1991	DOJ	0.37	GHW Bush	1
1991	ED	−1.22	GHW Bush	1
1991	EPA	−1.21	GHW Bush	4
1991	GSA	0.26	GHW Bush	3
1991	HHS	−1.32	GHW Bush	1
1991	HUD	−1.33	GHW Bush	2
1991	SSA	−0.45	GHW Bush	2
1991	USDA	0.16	GHW Bush	2
1991	VA	0.23	GHW Bush	1
1992	EPA	−1.21	GHW Bush	5
1992	HHS	−1.32	GHW Bush	1
1992	VA	0.23	GHW Bush	1
1993	DOC	1.25	Clinton	1
1993	ED	−1.22	Clinton	1
1993	SSA	−0.45	Clinton	3
1993	USDA	0.16	Clinton	1
1995	EPA	−1.21	Clinton	3

Table 3 continued

Year	Agency	Ideology index	President	Percent of mean rules returned
1995	HHS	−1.32	Clinton	1
1997	RRB	−0.12	Clinton	43
1997	USDA	0.16	Clinton	1
2001	DOT	0.07	GW Bush	12
2001	EPA	−1.21	GW Bush	2
2001	HUD	−1.33	GW Bush	6
2001	SSA	−0.45	GW Bush	23
2001	VA	0.23	GW Bush	4
2002	DOT	0.07	GW Bush	2
2002	OPM	0.24	GW Bush	4
2002	SBA	1.17	GW Bush	5
2002	USDA	0.16	GW Bush	2
2002	VA	0.23	GW Bush	2
2003	DOT	0.07	GW Bush	4
2004	DOT	0.07	GW Bush	2
2007	DOC	1.25	GW Bush	4
2008	DHS	0.88	GW Bush	3
2008	EPA	−1.21	GW Bush	1
2008	SBA	1.17	GW Bush	30
2011	EPA	−1.21	Obama	3

All years are presidential years. Observations with zero returned rules were excluded for clarity. Complete data is available from the authors upon request
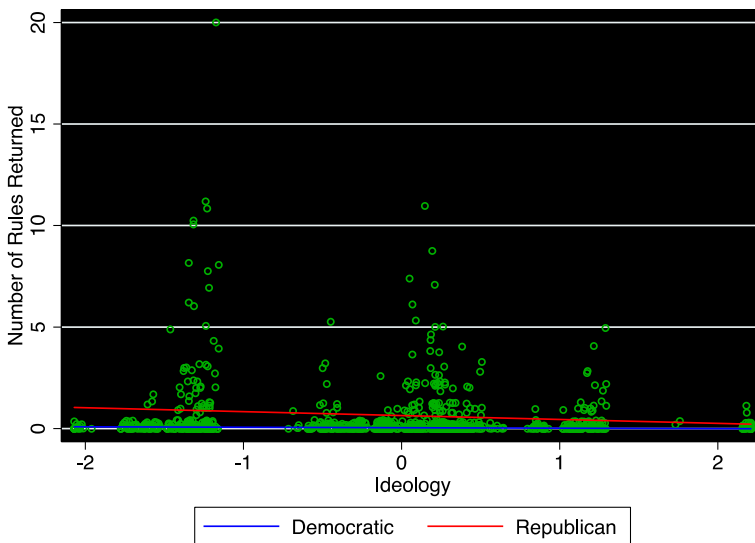

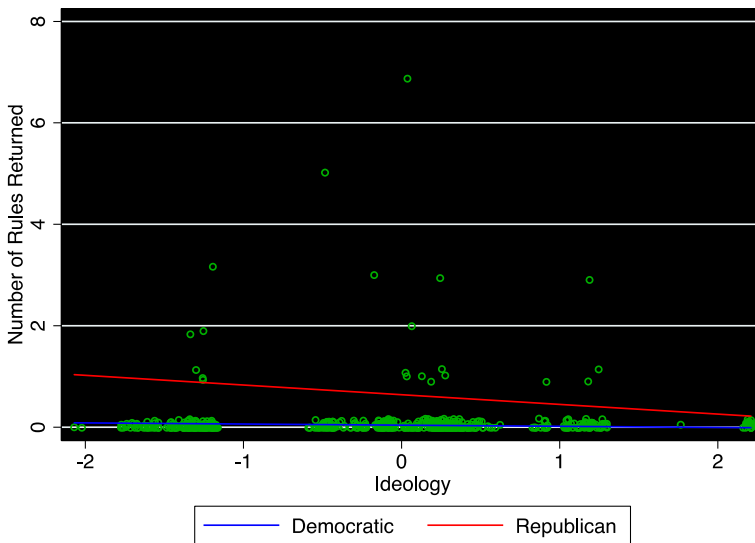**Fig. 3** Party preferences in returning rules (1981–2015)

Fig. 4 Party preferences in returning rules (1994–2015)

front and that OIRA is a valuable institution for accommodating that success. Our evidence indicates that presidential preferences matter.

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