

Public Review of Regulations and Accepting Comments from other WTO Members

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Any views expressed here are solely those of the presenter, and do not necessarily reflect the position of the U.S. Trade Representative or the Executive Office of the President.

Public Review of U.S. Regulations

January 21, 2009: President's Memorandum on "Transparency and Open Government"

❖ "Knowledge is widely dispersed in society....My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use."

- January 21, 2009, Memorandum

❖ President Obama: "...sunlight is the best disinfectant."

- January 28, 2009

❖ Three core principles: Transparency, Participation, and Collaboration.



Overview of U.S. eRulemaking

- ❖ Regulations.gov: A public website to make the Federal rulemaking process more accessible, participatory, and comprehensible.
- ❖ Federal Docket Management System (FDMS): The “back end” system agencies use to accept and review public comments and manage docket materials.

Overview of Regulations.gov

- ❖ Direct data feed from the Federal Register, the daily U.S. publication that publishes all regulatory actions.
- ❖ Over 2 million documents, including public comments and supporting materials, available to the public.
- ❖ Redesign launched in February 2012 with improved navigation, search, and layout features.
- ❖ Continuous upgrades to underlying technology to enable rapid and dramatic changes to user interface at lower cost.
- ❖ Application Programming Interface (API) now available for other users to repurpose the regulatory content.

Regulations.gov: Homepage

- ❖ Homepage
 - ❖ Navigate with Search, Browse, and Learn
 - ❖ Commenter's Checklist
 - ❖ Connect with social media tools and Exchange
- ❖ Browse up to 10 new categories
- ❖ What's Trending uses site data
- ❖ Learn about the regulatory lifecycle
- ❖ Search improvements

The screenshot shows the Regulations.gov homepage. At the top, the logo 'regulations.gov' is displayed with the tagline 'Your Voice in Federal Decision-Making'. Navigation links for 'Home', 'Help', 'Resources', and 'Feedback and Questions' are visible. A search bar is highlighted with a red box, containing 'Search', 'Browse', and 'Learn' buttons. Below this, a 'Participate Today!' section encourages users to submit comments on proposed regulations. A search box is provided with the text 'SEARCH for: Rules, Comments, Adjudications or Supporting Documents:'. The 'What's Trending' section lists several regulatory topics with their closing dates. A 'Comments Due Soon' section lists the number of comments due for various regulations. The 'Site Enhancements' section features a monitor icon and the text 'Explore new features on Regulations.gov'. The 'Developers' section includes links for 'A Commenter's Checklist' and 'President's Executive Order'. At the bottom, a footer contains links for 'Home', 'About Us', 'Resources', 'Help', and 'Connect With'. The 'Connect With' section is highlighted with a red box, showing social media icons for RSS, Facebook, Twitter, and YouTube, along with a 'Feedback and Questions' button.

Regulations.gov: Docket Page

- ❖ Docket Page
 - ❖ Puts docket materials into a “virtual folder” including: primary documents, supporting documents, and comments.
- ❖ “Comment Now” button is one click access to submitting a comment.
- ❖ Shows how many comments have been received.
- ❖ Compiles relevant data from other sites, such as the Federal Register and RegInfo.gov

The screenshot displays the Regulations.gov interface for a specific docket. At the top, the site logo and navigation links are visible. The main heading is "Designation of Critical Habitat for Gunnison Sage-grouse". Below this, there is a "Docket Folder Summary" section with a link to "View all documents and comments in this Docket".

The docket details include: Docket ID: FWS-R6-ES-2011-0111, Agency: Fish and Wildlife Service (FWS), Parent Agency: Department of the Interior (DOI). A "Summary" section follows, stating the purpose of the rule. Below the summary, there are links for "RIN: 1018-AX71", "Impacts and Effects: Energy", "CFR Citation: 50 CFR 17", and "Priority: Substantive, Nonsignificant". A link to "View More UA and Regulatory Plan Information and Docket Details" is also present.

The page is divided into sections: "Primary Documents" (with a "View All (2)" link), "Supporting Documents" (with a "View All (3)" link), and "Comments" (with a "View All (197)" link). The "Primary Documents" section lists two entries, each with a "Proposed Rule" icon and a "Comment Now!" button. The "Supporting Documents" section lists three entries, each with an "SR" icon and a "Comments Not Accepted" status.

On the right side, there is a "Take a Tour!" button, a "Sign up for E-mail Alerts" button, and a "Comments Received" counter showing "219". Below this is a "Regulatory Timeline" section with a "Pre Rule" folder icon, a "Proposed Rule Current Stage" folder icon, and a "Final Rule" folder icon. At the bottom right, there is an "Agency Contact" section with contact information for Douglas Hirota, Chief, Branch of Listing, Endangered Species Program, FWS, DOI.

WTO Inquiry Point Operations

Sending and Responding to WTO Member Comments

WTO Member Obligations under the TBT Agreement

- **The World Trade Organization (WTO) requires all signatories to the Agreement on Technical Barriers to Trade (TBT) to establish a national Inquiry Point and Notification Authority**



*Image source:
WTO Trade Topics
http://www.wto.org/english/tratop_e/tratop_e.htm*

U.S. WTO TBT Inquiry Point: What We Do

- **Notify U.S. Draft Technical Regulations to the WTO for Member Comments**
- **Distribute WTO member TBT notifications to interested U.S. parties**
- **Provide the associated full texts of the standards, technical regulations, and conformity assessment procedures notified to WTO**
- **Circulate U.S. and WTO Member comments**
- **Respond to technical inquiries**
- **Provide training on best practices to other TBT inquiry points**

U.S. WTO TBT Notification Authority: What We Do

- Identify
- Actions or measures concerning standards, technical regulations, and conformity assessment procedures which:
 - Have significant trade effects
 - Do not conform to internationally-accepted standards, technical regulations, or conformity assessment procedures
 - Do not have internationally-accepted standards, technical regulations, or conformity assessment procedures in place

U.S. WTO TBT Notification Authority: What We Do

- **Notify to the WTO**

WORLD TRADE

G/TBT/N/USA/
2012

ORGANIZATION

(00-0000)

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.



1.	Member to Agreement notifying: United States If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Food and Drug Administration (FDA), Health and Human Services (HHS) (738) Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3.	Notified under Article 2.9.2 <input checked="" type="checkbox"/> , 2.10.1 [<input type="checkbox"/>], 5.6.2 [<input type="checkbox"/>], 5.7.1 [<input type="checkbox"/>], other [<input type="checkbox"/>]
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading: ICS numbers may be provided in addition, where applicable): Medical device & device packages identification (ICS 11.040)

Sample Notification Template

U.S. WTO TBT Inquiry Point: What We Do

- **Distribute WTO TBT Member Notifications and Provide Full Texts**



www.nist.gov/notifyus

a free, web-based, e-mail registration service



- U.S. trade stakeholders are immediately informed about changing or proposed regulations in global markets
- U.S. trade stakeholders have the opportunity to comment on and potentially influence those changing or proposed regulations
- U.S. trade stakeholders gain value and assistance in global trade issues

U.S. WTO TBT Inquiry Point: What We Do

- Circulate U.S. and WTO Member Comments
- U.S. entities submit comments on proposed non-U.S. technical regulations (notifications) via Notify U.S.
 - U.S. Inquiry Point distributes comments to:
 - ✓ appropriate WTO Member national inquiry point
 - ✓ U.S. government trade and export agencies
- WTO Members submit comments on proposed U.S. measures to U.S. inquiry point
 - U.S. Inquiry Point distributes comments to:
 - ✓ U.S. government regulators and trade and export agencies

USA Comment Activity 2008 - 2013

	2008	2009	2010	2011	2012	2013
USA Comments on WTO Member Notifications	185	153	112	129	192	196
USA Requests for WTO Member Extension of Comment	108	58	54	94	106	55
USA Information Requests to WTO Members	30	19	53	74	48	106

Industry & Government Working Together



[Image courtesy of flickr, highersights](#)

In-Depth:

Processing Own Government or Industry Comments to Members

- Comments made by industry, trade associations, government agencies, etc., should be sent to the authority designated on the notification to accept comments, and sent to the Member's inquiry Point or Notification Authority if no other authority is specified.
- Encourage use of inquiry points for sending comments.

Preparing for TBT Committee

- Inquiry Point liaises with Commerce, USTR and FAS on specific trade concerns of U.S. interested parties and WTO Members.
- USTR works with U.S. industry, regulators, and trade agencies to develop information that will help to rectify the trade concern.
- If there is no ability to rectify the trade concern bilaterally, we will then raise the issue in the WTO TBT Committee as a specific trade concern.

References

- ❖ January 21, 2009: President's Memo on "Transparency and Open Government": http://www.whitehouse.gov/the_press_office/Transparency_and_Open_Government/
- ❖ Open Government Initiative: <http://www.whitehouse.gov/open/>
- ❖ OMB Open Government Directive: http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf
- ❖ U.S. National Action Plan for Open Government: <http://www.opengovpartnership.org/countries/united-states>
- ❖ Regulations.gov: <http://www.Regulations.gov>
- ❖ Federal Register: <http://www.federalregister.gov/>