



# Open Government in the United States: Public Participation Through eRulemaking (Regulations.gov)

Any views expressed here are solely those of the presenter, and do not necessarily reflect the position of the Office of Management and Budget or the Executive Office of the President.



# Agenda

- ❖ Open Government
  - ❖ The Domestic Initiative in the U.S.
  - ❖ The Open Government Partnership
- ❖ eRulemaking
- ❖ Questions and Answers



## 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.



# Open Government Partnership:

- ❖ In his speech to the U.N. General Assembly in 2010, President Obama challenged leaders to return in 2011 with specific open government commitments.
- ❖ On July 12, 2011, Brazil and the United States announced the creation of the Open Government Partnership (OGP) – a global initiative that supports efforts to promote more transparent, effective, and accountable institutions globally.
- ❖ On September 20, 2011, the Open Government Partnership is formally launched on the margins of the U.N. General Assembly in New York City.



## eRulemaking in Open Government Plans

The U.S. has prioritized improving eRulemaking in both our domestic and international Open Government plans.

*We will revamp public commenting mechanisms, search functions, user interfaces, and other major features to help the public find, follow, and participate in Federal rulemakings. In this way, we will ensure what the President has called “an open exchange of information and perspectives.”*

*~ The Open Government Partnership, U.S. National Action Plan (September 2011)*





# eRulemaking / Regulations.gov





# Regulations 1.0

- ❖ The **Administrative Procedure Act** of 1946 law 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 public record, and is not arbitrary or capricious.
- ❖ The public record is used by the courts in settling any challenge to the regulations brought by the affected public.



## Regulations 2.0

- ❖ The **E-Government Act of 2002** required regulatory agencies improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency.
- ❖ **Goal:** Provide the public convenient access to electronic rulemaking dockets, and make it easier for the public to comment on regulatory proposals.
- ❖ **Solution:** Regulations.gov
- ❖ **Improve and modernize** well-established legal and administrative procedures by leveraging new technologies that make it easier for members of the public to understand and participate in the development of regulations.





## Regulations 2.0

- ❖ **Increase public participation** with early engagement and social media tools:
  - ❖ A taxonomy of regulatory terms to simplify the online regulatory content.
  - ❖ Creating more comprehensive electronic versions of paper regulatory dockets.
  - ❖ Enable visitors to customize review of regulatory information (My Regulations).



# Executive Order 13563: “Improving Regulation and Regulatory Review”

❖ January 18, 2011: President Obama issues Executive Order 13563.

1. Reaffirms **core principles** and procedures of E.O.12866.
2. Calls for **public participation** to promote an “open exchange” with stakeholders.
3. Directs agencies to **harmonize, simplify, and coordinate rules** to reduce costs and to promote simplicity.
4. Emphasizes **flexible approaches** that reduce burdens and maintain freedom of choice for the public.
5. Calls for **scientific integrity**.
6. Directs agencies to conduct **retrospective analysis of existing rules** and produce preliminary plans for periodic review.



# Executive Order 13563 and Public Participation

❖ Section 2 on “Public Participation” calls on agencies to:

- ❖ Base regulations on an “open exchange of information and perspectives” among stakeholders and ensure that relevant issues and concerns are addressed in the regulatory process.
- ❖ Provide meaningful opportunities to comment online on any proposed regulation, with comment periods generally lasting at least 60 days.
- ❖ Improve public understanding of and provide timely access to regulatory dockets—including relevant scientific and technical findings—using Regulations.gov.
- ❖ Consult with affected stakeholders before issuing a proposed regulation.



# Overview of 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.





# Interagency Coordination of eRulemaking

- ❖ Program Management Office: Environmental Protection Agency hosts the Program Management Office (PMO). The PMO manages the IT contracts, committee structure, and budget process on behalf of partner agencies.
- ❖ 39 Partner Agencies: All major regulatory agencies currently use Regulations.gov as their electronic comment and public docketing system.
- ❖ Independents: Some of the independent agencies with major rulemaking are *not* currently on the site, such as SEC, FCC, FDIC, Federal Reserve.
- ❖ “Shared service” funding structure (cross-agency).





# 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, there is a navigation bar with links for Home, Help, Resources, and Feedback and Questions. Below this is a search bar with a red border, containing the text 'Search', 'Browse', and 'Learn'. The main content area features a 'Participate Today!' section with a search box and a 'Search' button. Below this is a 'What's Trending' section with a list of trending regulations. To the right, there is a 'Comments Due Soon' section with a list of upcoming comment deadlines. At the bottom, there is a footer with navigation links for Home, About Us, Resources, Help, and Connect With. The 'Connect With' section includes social media icons for RSS, Facebook, Twitter, and YouTube, and a 'Feedback and Questions' button.

regulations.gov  
Your Voice in Federal Decision-Making

Home Help Resources Feedback and Questions

Search Browse Learn

**Participate Today!**

Submit your comments on proposed regulations and related documents published by the U.S. Federal government. You can also use this site to search and review original regulatory documents as well as comments submitted by others.

Help improve Federal regulations by **submitting your comments**.

SEARCH for: Rules, Comments, Adjudications or Supporting Documents:

Search

Advanced Search

**What's Trending**

- Coverage of Certain Preventive Services under Affordable Care Act  
Closing on Apr 08, 2013
- Endangered and Threatened Wildlife and Plants: Threatened Status for the Distinct Population Segment of the North...  
Closing on May 06, 2013
- Flavored Milk; Petition to Amend the Standard of Identity for Milk and 17 Additional Dairy Products  
Closing on May 21, 2013
- Mandatory Country of Origin Labeling: Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-raised Fish and Shellfish, etc...  
Closing on Apr 11, 2013
- National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required...  
Closing on Apr 09, 2013

Comments Due Soon

- Today (23)
- Next 3 Days (99)
- Next 7 Days (244)
- Next 15 Days (485)
- Next 30 Days (868)
- Next 90 Days (1,235)

Newly Posted

- Today (142)
- Last 3 Days (380)
- Last 7 Days (574)
- Last 15 Days (1,180)
- Last 30 Days (2,438)
- Last 90 Days (6,307)

Are you new to the site?

Click the links below to get started.

- What can I find on this site?
- How do I find a rule?
- How do I submit a comment?
- How do I find my comment?
- Do my comments make a difference?

Site Enhancements

Explore new features on Regulations.gov

Developers

- A Commenter's Checklist
- President's Executive Order

Home About Us Resources Help Connect With

Search Advanced Search Browse By Category Browse By Topics

eRulemaking Program Newsroom Agencies Awards & Recognition

Site Data Regulatory Agenda Agency Reports Required by Statute Executive Order 12866

How to use Regulations.gov FAQs Glossary

Feedback and Questions



# 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 menu are visible. The main content area is titled "Designation of Critical Habitat for Gunnison Sage-grouse" and includes a "Docket Folder Summary" with a link to "View all documents and comments in this Docket".

Key features highlighted with red boxes include:

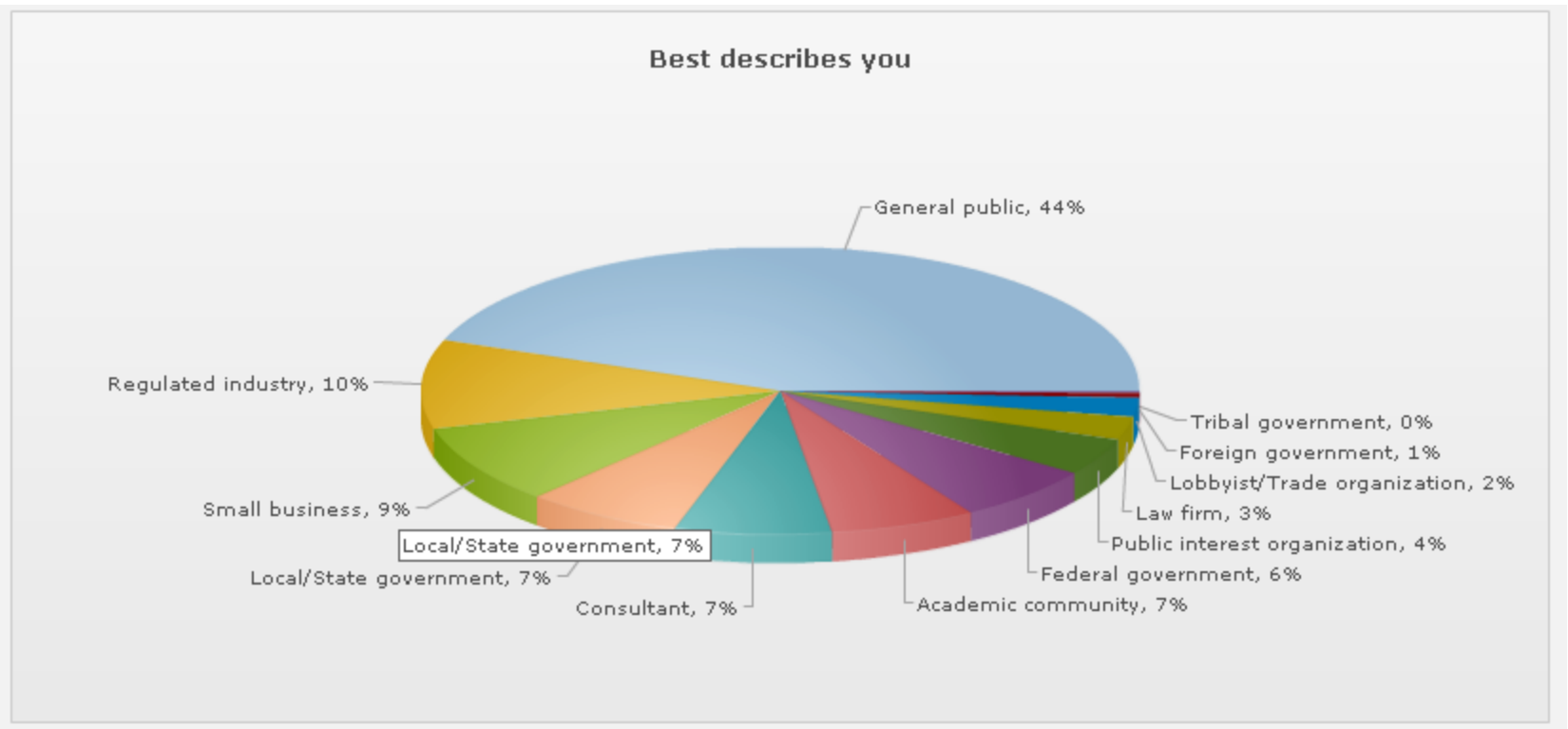
- Primary Documents:** A link to view all primary documents (2).
- Comment Now:** A button for submitting a comment, with a "Comment Period Closed" message below it.
- Comments Received:** A box showing "219 Comments Received".
- Regulatory Timeline:** A sidebar showing the progression from "Pre Rule" to "Proposed Rule Current Stage" to "Final Rule".
- Agency Contact:** Contact information for Douglas Hirota, Chief, Branch of Listing, Endangered Species Program, FWS, DOI.

The document list includes:

- Primary Documents:** "Endangered and Threatened Wildlife and Plants: Endangered Status and Critical Habitat Designation..." (Proposed Rule, Posted: 03/13/2013, ID: FWS-R6-ES-2011-0111-0129) and "Endangered and Threatened Wildlife and Plants: Designation of Critical Habitat for Gunnison Sage..." (Proposed Rule, Posted: 01/11/2013, ID: FWS-R6-ES-2011-0111-0001).
- Supporting Documents:** "Related Docket: Endangered Status Listing for Gunnison Sage-Grouse - FWS-R6-ES-2012-0108" (Comments Not Accepted), "Literature Cited for Gunnison Sage-grouse" (Comments Not Accepted), and "UTM Coordinates for Designation of Critical Habitat for the Gunnison Sage-grouse" (Comments Not Accepted).
- Comments:** A section for "Robert & Linda Hancock's Comment" (Posted: 03/27/2013, ID: FWS-R6-ES-2011-0111-0000).

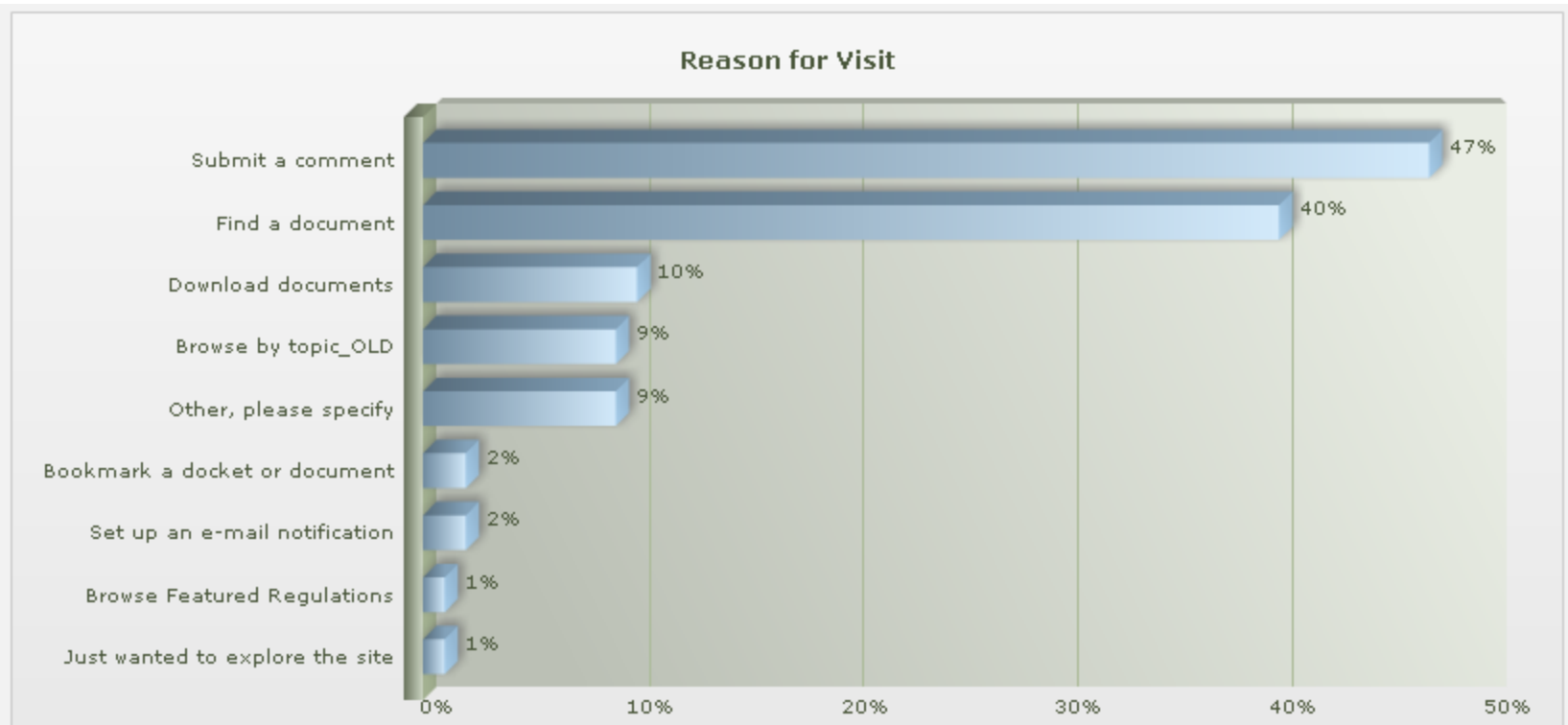


## Regulations.gov - Audience





# Regulations.gov – Reason For Visit





# Future Improvements to Regulations.gov

- ❖ “Commenting” APIs
- ❖ Upgrade search criteria and create “flags” for certain impacts (industry, international, small business, environmental, etc.)
- ❖ Simplify and standardize document types.
- ❖ Require the use of Regulation Identification Numbers (RINs).
- ❖ Post agencies’ retrospective plans, pursuant to E.O. 13563.
- ❖ Build and display lifecycle of a rulemaking—comprehensive data sharing between and among *Federal Register*, *Reginfo.gov*, and *Regulations.gov*.
- ❖ Expand docket export features.





# References

- ❖ January 21, 2009: President's Memo on "Transparency and Open Government": [http://www.whitehouse.gov/the\\_press\\_office/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](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/>