



**Asia-Pacific  
Economic Cooperation**

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**2013/SOM2/013**

Agenda Item: 2

## **U.S. Progress on Conducting Public Consultations: E-Rulemaking**

Purpose: Information  
Submitted by: United States



**Second Senior Officials' Meeting  
Surabaya, Indonesia  
18-19 April 2013**



## U.S. Progress on Conducting Public Consultations: E-Rulemaking

Surabaya, Indonesia



## 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 outgrowth 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.

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## 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.

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## 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.

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## 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.

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## 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.

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## 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 (“pass-the-hat”, or “cross-agency”).

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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**.

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**What's Trending**

- Coverage of Certain Preventive Services under Affordable Care Act  
Closing on Apr 30, 2013
- Endangered and Threatened Wildlife and Plants: Threatened Status for the Redford Population Segment of the North...  
Closing on May 21, 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 30, 2013

Comments Due Soon

- Today (23)
- Next 3 Days (99)
- Next 7 Days (244)
- Next 15 Days (485)
- Next 30 Days (866)
- Next 90 Days (1,235)

Newly Posted

- Today (142)
- Last 3 Days (580)
- Last 7 Days (1,743)
- Last 15 Days (3,103)
- Last 30 Days (5,438)
- Last 90 Days (8,307)

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Developers  
A Commenter's Checklist  
President's Executive Order

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- ❖ **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

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Designation of Critical Habitat for Gunnison Sage-grouse

Docket Folder Summary View all documents and comments in this Docket

Docket ID: FWS-R6-ES-2011-0111 Agency: Fish and Wildlife Service (FWS) Parent Agency: Department of the Interior (DOI)

Summary  
We will propose designate critical habitat for the Gunnison sage grouse (*Centrocercus minimus*) under the Endangered Species Act. This species occurs in southeastern Colorado and southeastern Utah.  
RIN: 1018-A071 Impacts and Effects: Energy CFR Citation: 50 CFR 17 Priority: Substantive, Nonurgent  
View More US and Regulatory Plan Information and Docket Details

Primary Documents View All (2)

Endangered and Threatened Wildlife and Plants: Endangered Status and Critical Habitat Designation...  
Proposed Rule Published: 03/13/2013 ID: FWS-R6-ES-2011-0111-0209

Endangered and Threatened Wildlife and Plants: Designation of Critical Habitat for Gunnison Sage...  
Proposed Rule Published: 01/11/2013 ID: FWS-R6-ES-2011-0111-0201

Supporting Documents View All (2)

Related Docket: Endangered Status Listing for Gunnison Sage-Grouse - FWS-R6-ES-2012-0106  
Supporting & Related Material Published: 01/11/2013 ID: FWS-R6-ES-2011-0111-0204

Literature Cited for Gunnison Sage-grouse  
Supporting & Related Material Published: 01/11/2013 ID: FWS-R6-ES-2011-0111-0202

UTW Coordinates for Designation of Critical Habitat for the Gunnison Sage-grouse  
Supporting & Related Material Published: 01/11/2013 ID: FWS-R6-ES-2011-0111-0202

Comments View All (317)

Robert A. Laska Hancock's Comment  
View Comment Submitted Name: Hancock, Robert A. Laska Published: 03/27/2013 ID: FWS-R6-ES-2011-0111-0202

Sign up for Email Alerts  
219 Comments Received

Comment Now

Comment Period Closed

Regulatory Timeline  
Pre Rule  
Proposed Rule  
Current Stage  
Final Rule

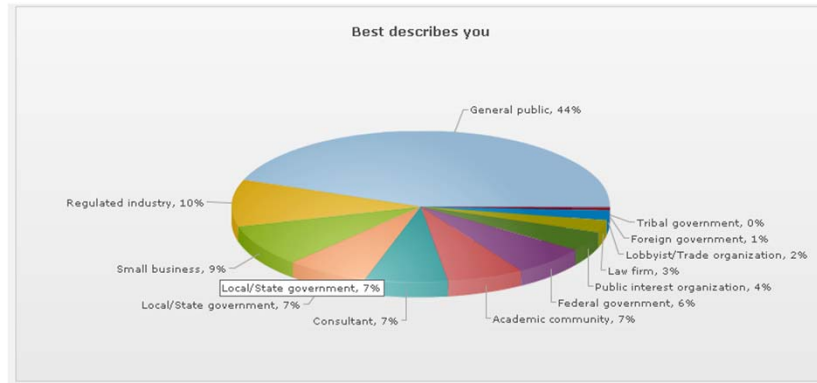
Agency Contact  
Designation of Critical Habitat Listing  
Endangered Species Program  
FWS  
DOI  
401-784-6000  
700 M Street, SW  
Washington, DC 20540  
FWS-ES-101-1010  
800-368-2842  
8/14/12

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- ❖ **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



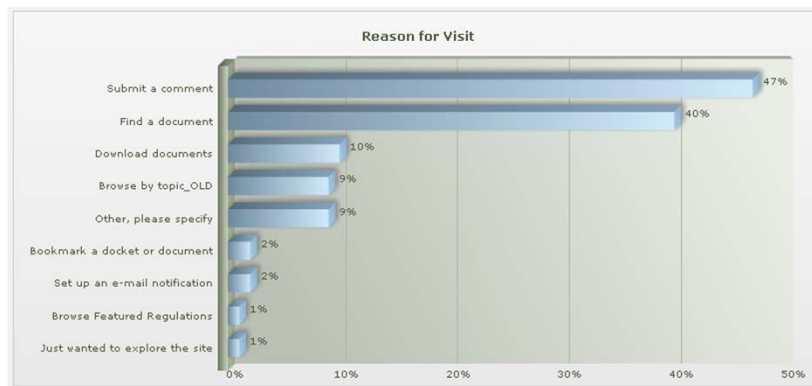
## Regulations.gov - Audience



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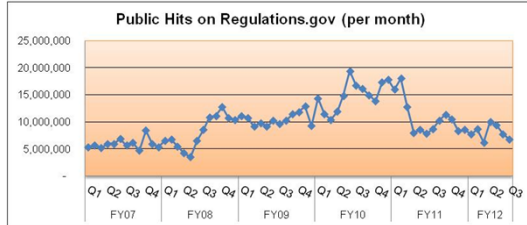
## Regulations.gov – Reason For Visit



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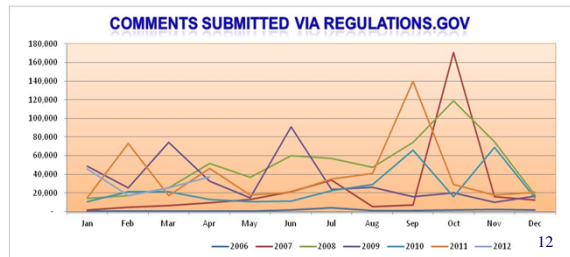


## Statistics – Trends in Public Access (as of May 6, 2012)



- 2009 131 Million hits  
(Average 10.9 Million hits per month)
- 2010 190 Million hits  
(Average 17 Million hits per month)
- 2011 104.7 Million hits  
(Average 9.5 Million hits per month)
- 2012 34 Million hits to date  
(Average 8.5 Million hits per month)

- 2009 399,000 online public comments  
(Average of 33,000 /month)
- 2010 306,400 online public comments  
(Average of 25,000 /month)
- 2011 473,000 online public comments  
(Average of 47,000 /month)
- 2012 126,553 online public comments to date  
(Average 32,000 /month)



## 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.





## Annex D to Honolulu Declaration

Implement the principles related to public consultation of the 2005 APEC-OECD Integrated Checklist on Regulatory Reform section on regulatory policy and the 2004 Leaders' Statement to Implement the APEC Transparency Standards.

Implementation of these principles may include, but are not limited to, the following:

- Establish procedures that provide stakeholders with a meaningful opportunity to comment on regulatory proposals;
- Provide plainly written, clear, and concise draft measures for public comment with adequate time for review, so that stakeholders and government can have a genuine dialogue that leads to improved regulatory outcomes; and
- Ensure that regulators consider public comments.

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## 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/>

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