

GAO

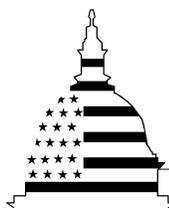
Report to the Committee on  
Governmental Affairs, U.S. Senate

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September 2003

# ELECTRONIC RULEMAKING

## Efforts to Facilitate Public Participation Can Be Improved



G A O

Accountability \* Integrity \* Reliability

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Highlights of [GAO-03-901](#), a report to the Committee on Governmental Affairs, U.S. Senate

# ELECTRONIC RULEMAKING

## Efforts to Facilitate Public Participation Can Be Improved

### Why GAO Did This Study

Information technology can greatly facilitate the public's ability to comment on proposed rules that affect them. The E-Government Act of 2002 made the Office of Management and Budget (OMB) responsible for overseeing electronic government initiatives. We examined the extent to which agency-specific Web sites and the new governmentwide Regulations.gov Web site permit the public to electronically (1) identify proposed rules that are open for comment, (2) comment on proposed rules, and (3) access regulatory supporting materials (e.g., economic analyses) and the comments of others.

### What GAO Recommends

This report contains recommendations intended to improve the public's awareness of rules open for comment and the Regulations.gov system, and to improve the operation of Regulations.gov. OMB generally agreed with the report's recommendations and indicated that actions had already begun to address some of them. EPA expressed concerns about how the report characterized its Web site but expected to implement our recommendations regarding Regulations.gov.

[www.gao.gov/cgi-bin/getrpt?GAO-03-901](http://www.gao.gov/cgi-bin/getrpt?GAO-03-901).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Victor Rezendes at (202) 512-6806 or [rezendesv@gao.gov](mailto:rezendesv@gao.gov).

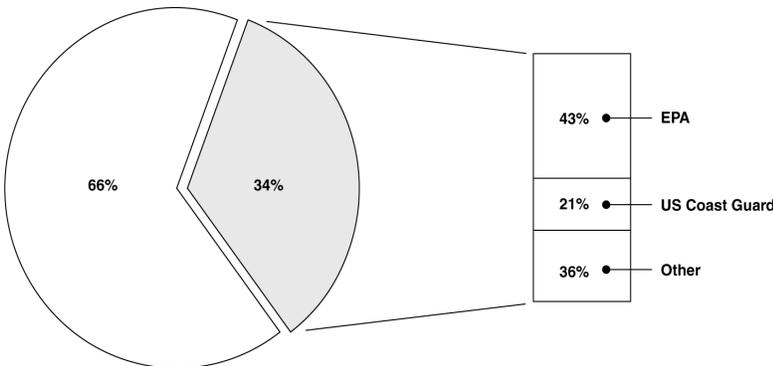
### What GAO Found

The Web sites for the Environmental Protection Agency (EPA), the lead agency for the administration's electronic rulemaking initiative, and the Department of Transportation (DOT) each identified only about 20 percent of the agencies' proposed rules that were published from February 2003 through April 2003 and that were open for comment on May 1, 2003. However, a Web site for an agency within DOT identified most of the department's other rules. Neither the EPA nor the DOT systems were originally designed to include rules originating outside of the agencies' headquarters offices. The Department of Agriculture's Web site did not identify open proposed rules, but Web sites for agencies within the department collectively identified almost all of the rules. The Regulations.gov Web site identified nearly all of these agencies' open proposed rules, but its design sometimes made finding the rules difficult.

Regulations.gov allowed the public to provide electronic comments (e-comments) on about 91 percent of the 411 proposed rules that were published during this 3-month period. In contrast, the rulemaking agencies provided for e-comments in only about 66 percent of the rules. Some agencies (e.g., EPA) did not provide for e-comments in most of their proposed rules. Where agencies permitted e-comments, the methods provided varied. Only 2 of the 411 proposed rules mentioned Regulations.gov as a commenting option. Perhaps, as a result, few comments were submitted via Regulations.gov during this period.

Some agencies permitted the public to access regulatory supporting materials for some of their proposed rules. Although Regulations.gov did not permit access to these materials, EPA officials said such access would be available when the second module of the electronic rulemaking initiative is fully implemented (by the end of 2005).

About One-Third of Proposed Rules Did Not Permit E-Comments



Rules that provided an electronic comment option  
 Rules that did not provide an electronic comment option

Source: GAO.



























































































