



105 West Adams Street, Suite 3300  
Chicago, IL 60603  
312.939.4764  
[www.aallnet.org](http://www.aallnet.org)

June 1, 2020

Mr. Tobias Q. Schroeder  
Director, eRulemaking Program Management Office  
Office of Regulation Management  
Office of Governmentwide Policy  
General Services Administration  
1800 F St. NW  
Washington, DC 20006

**RE: Modernizing Services for Regulation Management (84 F.R. 72364,  
Docket No. 2019-0002)**

Dear Director Schroeder:

The American Association of Law Libraries (AALL) submits these comments to supplement AALL President Michelle Cosby's remarks before the U.S. General Services Administration's (GSA) virtual public meeting on Improving Public Access to Regulatory Data on April 30, 2020.

AALL, founded in 1906, is the only national association with 4,000 members dedicated to the legal information profession and its professionals. Law librarians and legal information professionals use Regulations.gov to analyze regulatory actions and government agencies' rationale in decision making; to study rulemaking trends; and to teach legal research, among many other things. In response to the COVID-19 pandemic and the closure of many physical law libraries, online government information and government websites such as Regulations.gov have been essential to supporting the continued legal information needs of attorneys, law students, and the public.

In her remarks, President Cosby offered three recommendations for improving Regulations.gov and the GSA's electronic regulatory management services. These comments provide additional background information and examples to further explain our recommendations. We hope these comments assist GSA in developing its plans for modernizing services for regulation management.

## **Background**

The *E-Government Act of 2002* established a framework for federal electronic government systems, with a special focus on rulemaking.<sup>1</sup> The Act directed agencies to

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<sup>1</sup>44 U.S.C. §§ 3601 et seq.



accept comments “by electronic means” and to include public comments and other materials in the official rulemaking docket.

Launched in January 2003 in response to the requirements of the E-Government Act, Regulations.gov allowed the public, for the first time, to fully participate in the complex regulatory process by providing comments on rulemakings, reviewing supporting materials, and tracking agency actions. In 2004, AALL recognized the unique value of Regulations.gov by bestowing the Association’s Public Access to Government Information Award to the Senate sponsors of the E-Government Act, Senators Conrad Burns and Joseph I. Lieberman, and the administrator of the Environmental Protection Agency (EPA) for the development of Regulations.gov.<sup>2</sup>

Today, nearly all agency primary rulemaking documents are published online, and Regulations.gov continues to provide a platform for increasing public engagement with rulemaking.<sup>3</sup> AALL appreciates the steps GSA has already taken to modernize Regulations.gov by holding public meetings, soliciting comments, and officially launching the new beta version of Regulations.gov on May 20, 2020.<sup>4</sup> We also offer the following recommendations for GSA’s consideration for further improvements.

## **I. Integrate Systems and Improve Collaboration**

The launch of Regulations.gov in 2003 was an outstanding example of inter-agency collaboration. For example, the EPA, which ran the electronic rulemaking initiative at the time, hosted the application for online submission of comments; the National Archives and Records Administration designed the search function and the database application that tracked proposed rules for comment; and the U.S. Government Publishing Office (GPO) hosted the web servers and other hardware.<sup>5</sup>

As GSA considers the next version of Regulations.gov, **AALL recommends that GSA consider further integrating regulatory information systems and improving**

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<sup>2</sup> See <https://www.aallnet.org/community/recognition/awards-program/public-access-to-government-information-award/> [<https://perma.cc/BLX6-BWQ8>], accessed May 26, 2020.

<sup>3</sup> Todd Rubin, *Regulations.gov and the Federal Docket Management System* (Dec. 1, 2018) (report to the Admin. Conf. of the U.S.), <https://www.acus.gov/report/regulationsgov-and-fdms-final-report> [<https://perma.cc/N4NK-D2Q8>].

<sup>4</sup> U.S. General Services Administration, “GSA Steps Forward to Modernize Electronic Rulemaking,” *GSA Blog* (May 20, 2020) <https://www.gsa.gov/blog/2020/05/20/gsa-steps-forward-to-modernize-electronic-rulemaking> [<https://perma.cc/J2KE-B24V>].

<sup>5</sup> Committee on the Status and Future of Federal e-Rulemaking (U.S.) and Cynthia R. Farina, *Achieving the Potential: The Future of Federal e-Rulemaking: A Report to Congress and the President* (2008). *Cornell Law Faculty Publications*. Paper 1237. <http://scholarship.law.cornell.edu/facpub/1237> [<https://perma.cc/5TVN-GG8X>].



**collaboration with other federal agencies.** The existing integration between the Office of the Federal Register’s (OFR) FederalRegister.gov and Regulations.gov allows users to submit and view comments on a proposed rule and read supporting materials on either website. AALL recognized this important functionality in the Association’s *Resolution Celebrating the 75th Anniversary of the Federal Register Act*, in which AALL noted that the Federal Register’s website, “integrates seamlessly with Regulations.gov and the Unified Agenda to make it easy for users to submit comments directly into the official docket and view the history of rulemaking activity through a regulatory timeline.”<sup>6</sup>

Building on its existing partnerships with OFR and GPO, GSA could increase public access to regulatory information through FederalRegister.gov, Regulations.gov, and GPO’s *govinfo* public access website. By integrating content and sharing metadata with OFR and GPO, GSA could make information more easily discoverable and usable.

**We also encourage GSA to consider moving toward using structured data,** which could allow regulations to be drafted and analyzed with greater ease. Structured data would also enable regulatory materials to be prepared from their creation in formats to fluidly move through publication, review, and codification. GPO has special expertise in the creation of structured data, including the U.S. Legislative Markup language, and may be a resource in assisting GSA with these efforts.

## **II. Allow Users to Move Seamlessly Through Rulemaking Stages**

In its April 2020 report to Congress, the U.S. Government Accountability Office (GAO) described the difficulty that advanced users have in navigating dockets and finding the information they need on Regulations.gov.<sup>7</sup> Subject matter experts reported significant challenges wading through multiple e-dockets for a single rule and multiple rulemaking actions under a single e-docket, as well as inconsistent naming conventions for supporting materials. GAO reported that this may “lead to inefficiencies in the way information is organized and categorized.”

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<sup>6</sup> See <https://www.aallnet.org/about-us/what-we-do/resolutions/resolution-celebrating-the-75th-anniversary-of-the-federal-register-act/> [<https://perma.cc/TV5N-UYH4>], accessed May 27, 2020.

<sup>7</sup> U.S. Government Accountability Office, *Federal Rulemaking: Information on Selected Agencies’ Management of Public Comments*, GAO-20-383R (Apr 16, 2020; Publicly Released May 18, 2020), <https://www.gao.gov/products/gao-20-383r> [<https://perma.cc/MPM3-WN8P>].



Improving docket search will enable users to move through the elements of the rulemaking process more easily by simplifying access to dockets, documents, and comments. The creation of a system that connects relevant rules—past, current, and proposed—to make connections between the regulations and the e-rulemaking more apparent would be particularly helpful.

**AALL supports the recommendations put forth by the Administrative Conference of the United States (ACUS) in its December 2018 report on Regulations.gov and the Federal Docket Management System.** ACUS recommended that GSA develop a revised classification scheme for document and docket types and subtypes and allow the public to comment on the revised scheme.<sup>8</sup> Once developed, the scheme could be made publicly available, with agencies trained on how to use the new classification categories so that information is more consistently findable.

AALL congratulates GSA on the official launch of the Regulations.gov beta website, which provides enhanced search capabilities, a simplified commenting process, and streamlined, mobile-friendly design, which are all positive steps to improving the user experience and easing public access to regulatory information. AALL encourages GSA to continue to proactively enlist stakeholders to provide feedback on the development of the new website. AALL particularly encourages GSA to consult law librarians and legal information professionals as well as a wide cross-section of government and private sector experts to contribute to the improvements. Features such as “Advanced Search” and “Browse” are important to law librarians and legal information professionals who may be searching for specific information contained in a docket or across multiple dockets.

### **III. Link to Administrative Law Guides**

**We commend GSA for providing information about the rulemaking process on the Regulations.gov beta website’s “Learn” page.** By providing links to additional authoritative guides about administrative law, GSA could aid public users in learning more about the regulatory process and encouraging more informed

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<sup>8</sup> Rubin, *supra* note 2.



participation. For example, the Law Library of Congress<sup>9</sup>, the Georgetown Law Library<sup>10</sup>, and the Law Librarians' Society of Washington, D.C.<sup>11</sup>, a chapter of AALL, all provide clear and concise guides to administrative law on their websites.

## **Conclusion**

AALL once again thanks GSA for soliciting comments on electronic rulemaking. We hope our comments provide additional ideas as GSA considers improvements to Regulations.gov and other approaches to modernize services for regulation management.

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<sup>9</sup> Law Library of Congress, Guide to Administrative Law, <https://www.loc.gov/law/help/administrative.php> [<https://perma.cc/Q3SE-RT2Q>], accessed May 25, 2020.

<sup>10</sup> Georgetown Law Library, Administrative Law Research Guide, <https://guides.ll.georgetown.edu/adminlaw> [<https://perma.cc/UUX5-6PRX>], accessed May 25, 2020.

<sup>11</sup> Richard J. McKinney, *Federal Administrative Law: A Brief Overview*, LLSDC's Legislative Source Book, <https://www.llsdc.org/federal-administrative-law-a-brief-overview> [<https://perma.cc/PUF4-TNF3>].