



March 10, 2023

Administrator Revesz
Office of Information and Regulatory Affairs
1600 Pennsylvania Ave, NW
Washington, DC 20500
Submitted through: publicparticipation@omb.eop.gov

[Comments by the Environmental Data and Governance Initiative on
Broadening Public Engagement in the Federal Regulatory Process](#)

Dear Administrator Revesz,

The [Environmental Data and Governance Initiative](#) (EDGI) welcomes the opportunity to offer feedback on the learnings and potential recommendations OIRA has provided for broadening public engagement in the federal regulatory process. EDGI is a cross-disciplinary network of scholar advocates and other professionals driven by the environmental right to know. We've been monitoring the federal presentation of public information, especially regulatory information, since early 2017.

EDGI supports the thoughtful and thorough recommendations presented by OIRA, and we want to bring attention to a key obstacle to public engagement that is not addressed by these recommendations: the lack of required regulatory information on agency websites. Without addressing this policy gap, the effectiveness of other fruitful recommendations, such as "Make regulatory material more accessible and useable by members of the public," will be severely curtailed.

For several years, it has been recognized that websites are the primary means by which the federal agencies communicate with the public (OMB M-17-06). As early as 2003, more than

50% of Americans had reported using federal agency websites (Tolbert and Mossberger, 2006), and by 2020 agency websites receive millions of unique visitors each year. However, there are scant requirements for the types of information that must be provided to the public through agency websites, including about regulatory matters. There are two guidance documents from the Office of Management and Budget for agency information management, Circular A-130 (most recently revised in 2016) "Managing Information as a Strategic Resource," and M -17-06 (2016) "Policies for Federal Agency Public Websites and Digital Services." These guidance documents largely focus on infrastructural rather than content or contextual information requirements, with privacy and transparency policies as the only named required content. The Information Quality Act requires information that is presented on agency websites to be accurate, but it does not stipulate whether or which kinds of information must be present. The Administrative Procedure Act and National Environmental Policy Act require agencies to notify the public about proposed rules and have some important mandatory reporting requirements (such as a rule's disproportionate impacts on low-income, minority communities), however, these notices are only required to be provided in the Federal Register, not agency websites where the public looks for information about issues that affect their lives. While agency websites are recognized as a key conduit of information and a critical tool for public engagement in our participatory democracy, there is a substantial information policy gap omitting required content on agency websites.

This information policy gap undermines public knowledge and democratic participation. Changes to agency website language, content, and access can directly affect the public's knowledge and awareness of an issue, and there are currently no repercussions for stripping agency websites of tax-payer funded public information about proposed rules and regulations if, for example, they become inconvenient for a political agenda.

EDGI studied changes to environmental agency websites directly related to rules and regulations, and published a report in 2021, [*Access Denied: Federal Website Governance Under the Trump Administration*](#). We found that 50% of changes to those websites were removals of information, particularly the removal of factual contextual information geared toward non-expert audiences, such as fact sheets and guides. More than 80% of these removals of information occurred prior to or during active regulatory proceedings such as public comment periods. For example, the Trump administration removed the EPA's entire Clean Power Plan (CPP) website and redirected it to a single, sparse webpage titled "Energy Independence" about President Trump's executive order to promote domestic fossil fuel production. For the five months preceding the public comment period for the proposed

repeal of the CPP, a visitor to the EPA website would not find the infographics, fact sheets for a diversity of stakeholders, grid-level and facility-level calculators, and more that had been developed for public learning about the CPP; the EPA had stripped that information when it was invested in the CPP's repeal as a key part of its (de)regulatory agenda. *Access Denied* details several examples of website governance actions that undermined the public's ability to understand and participate in federal environmental rulemaking, and the implications of this information suppression are sobering: Federal agencies with vested interests in certain regulatory outcomes can deprive the public of resources that inform their understanding of and facilitate their involvement with those regulations.

Efforts such as “produc[ing] material in easily accessible formats, like infographics, videos, and short summaries” are essential for broadening public engagement in the federal regulatory process, but those efforts could be disposed of at any moment with our current information policies. To ensure that the critical efforts of making information more accessible for the public, the development and maintenance of such resources must be explicitly protected in our information and website governance policies. EDGI recommends two key avenues to promote and protect public resources that facilitate public understanding of and participation in federal rulemaking.

1. First, develop standards for what information regarding existing and proposed regulations must be available through federal agency websites. For example, the scientific basis for and/or estimated impacts of proposed rules should be included on agency websites). Further, develop resources to expand and enhance civic and scientific literacy, with resources geared toward a variety of background knowledge from novice to expert, through which people can deepen their understanding of an issue and its complexities. These resources should be available and discoverable on agency websites through a variety of entry points.
2. Second, develop a set of rules regarding what information can be deleted or otherwise altered once a proposed rule has been placed on the Unified Agenda. For example, once a notice of proposed rulemaking has been posted or a proposed rule has been listed in the Unified Agenda, information should only be added, not removed, even to indicate an updated important issues such as regulatory timelines and estimated effects of rules.

Providing comprehensive information about policies that affect our lives is a critical function of agencies, and should be a core responsibility of their web content management

teams. The unobstructed and unbiased delivery of such information is critical to upholding the integrity of notice-and-comment rulemaking and building trust in the federal government.

Please read the full [*Access Denied: Federal Website Governance Under the Trump Administration*](#) for more detailed recommendations to broaden public engagement in the federal regulatory process.