

A forthcoming proposal to the National Science Foundation

Citizen Agenda-Setting: The Electronic Collection and Synthesis of Public Commentary in the Regulatory Rulemaking Process



Stuart W. Shulman

Environmental Science and Policy Program

Drake University

Des Moines, IA

David Schlosberg

Department of Political Science

Northern Arizona University

Flagstaff, AZ

Steve Zavestoski

Department of Sociology

Providence College

Providence, RI

Mack C. Shelley

Department of Statistics

Iowa State University

Ames, IA

Presented at the Council for Excellence in Government, May 2001



Symposium Acknowledgements

- **Drake University**
 - Office of the Provost
 - College of Liberal Arts
- **Council for Excellence in Government**
 - Greg Crosby
 - eGovernment Fellow
- **National Science Foundation**
 - The Digital Government Program



Some Food for Thought

“One could not know the importance of rulemaking from the curricula of political science, public administration, and public policy programs . . . Rulemaking rarely, if ever, merits more than a small fraction of a single course. Clearly, this is an area in which the academic community lags behind the practitioners.” (p. 278)

Source: Dr. Cornelius Kerwin, *Rulemaking: How Government Agencies Make Law and Write Policy* 2nd ed. (Washington, DC: CQ Press, 1999)



“The Internet Changes Everything”

“...studies demonstrate that courts invalidate legislative rules promulgated by agencies through notice and comment rulemaking in thirty to fifty percent of the cases challenging them....One [EPA] Administrator estimates that nearly eighty percent of the major rules promulgated by the EPA during his tenure were challenged in court.”

Source: Stephen M. Johnson. 1997. “The Internet Changes Everything: Revolutionizing Public Participation and Access to Government Information Through the Internet,” *Administrative Law Review* 50: 277-337.



Why Are We Here?

- **Finishing a Research Proposal**

- A July 11, 2001 submission to the National Science Foundation's Digital Government program
- A proposed 3-year study of the impact of IT-based applications on rulemaking

- **Linking: Government--Industry--Academia**

- Promotion of technology transfer
- Facilitation of a lasting & meaningful dialogue
- Asking for commitment to long-term collaboration



Research Questions

■ **Democracy**

- How can IT better serve democratic ideals underlying citizen participation?

■ **Synthesis**

- Which IT-based approaches improve agency capacity to handle citizen input?

■ **Technology**

- Do different interfaces influence the level and nature of citizen participation?



Proposed Advisory Boards

- **Interagency eRulemaking Advisory Board**
 - Annual end-user & technologist meetings in DC
 - Networking and diffusion of best practices
- **Public Interest Group Advisory Board**
 - Annual user meetings in Des Moines
 - Capacity-building from the NGO perspective
- **Separate Meetings but Virtual Links**
 - An Iowa Digital Government Organization
 - A web-based clearinghouse for eRulemaking ideas, documents, and discussions



Benchmarking a New Standard

■ **Normative Dimensions**

- Communicative rationality
- Authentic participation and legitimacy
- Better policy
 - Fewer court challenges & FOIA requests

■ **Practical challenges posed by eRulemaking**

- Information overload for users & end-users
- Efficiency and responsiveness
- Equity



How Can Social Science Inform the Development of IT?

- **Risk assessment and democracy**
 - At times an awkward fit
- **Listening and legitimacy**
 - Risk easier to accept with genuine input
- **Discourse as education**
 - Engendering respect for divergent views
 - IT-based systems are not a deliberative panacea



IT-Based Approaches

- **Proactive vs. passive systems**
 - Advanced notification
- **Standardization vs. flexibility**
 - Generic tools for unstructured data
 - Legal obligations for data storage
 - Agency mission and constituency variation
- **Pre-sorting, indexing, filtering, and routing**
 - Automation & time for closer analysis



Potential Agency Benefits

- **A More Efficient & Responsive Process**
- **Greater Legitimacy for Agencies**
- **Less Litigation**
- **A Strategic Position in eGovernment**
 - **Current and emerging legislative initiatives**
 - **Funding for interagency collaboration**



The Emerging E-Gov

“E-Government currently is a loose-knit mix of ideas, projects and affiliations often not well coordinated, sometimes overlapping in its goals and redundant in its expenditures ... This is not the best way forward. We can and must take full advantage of information technologies to overcome the often arbitrary boundaries that exist between agencies, and to provide the public with seamless, secure online services.”

Source: Senator Joe Lieberman,
Introducing S. 803, The Electronic Government Act of 2001