



**THE SMALL COMMUNITIES OUTREACH PROJECT
FOR ENVIRONMENTAL ISSUES**

A cooperative agreement between the U.S. Environmental Protection Agency (EPA) and the National Association of Schools of Public Affairs and Administration (NASPAA) for the benefit of small communities

**FINAL PROJECT REPORT
ON THE
“SMALL COMMUNITIES AND E-RULEMAKING”
PROJECT**

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The spring 2004 SCOPE “Small Communities and E-Rulemaking” project conducted under this cooperative agreement with EPA was directed by NASPAA Executive Director Kenneth Tolo. Working with him were NASPAA project assistants Jocelyn Lewis, School of Public Policy, University of Maryland, College Park (January – May 2004), and Sherry Sherman, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota (June – August 2004). Rebecca Singer, School of Public Policy and Public Administration, George Washington University, provided editorial assistance in the final editing and production of this report.

This final report on the SCOPE “Small Communities and E-Rulemaking” project has been compiled from the field reports of SCOPE’s three state-based principal investigators during spring 2004. These investigators, each of whom is a faculty member at a NASPAA member institution, were Professor Ellen Szarleta, School of Public and Environmental Affairs, Indiana University Northwest; Professor Christine Reed, School of Public Administration, University of Nebraska at Omaha; and Professor Beverly Cigler, School of Public Affairs, and Director of the Pennsylvania Program to Improve State and Local Government, Penn State Harrisburg. They were selected to conduct this project based on their extensive experience with environmental policy and small community engagement. Assisting them were graduate students in their respective universities, namely, Alex DaSilva, Matthew Rehder, and Karen Gibson.

Professor Arthur (Andy) Felts, Director of the Joseph P. Riley Institute for Urban Affairs and Policy Studies, College of Charleston (SC), served as the evaluator for this spring 2004 SCOPE project. His report also has contributed to this final report.

All findings, conclusions, and recommendations in this project report are solely the responsibility of NASPAA and do not reflect EPA policies or viewpoints.

TABLE OF CONTENTS

Executive Summary	1
Introduction.....	2
Small Community Involvement in Regulatory Development	2
SCOPE Background	2
Federal eRulemaking Initiative Background	3
SCOPE “Small Communities and E-Rulemaking” Project.....	5
Overview	5
Timeline	6
Local Advisory Board.....	7
Outreach Process	7
Community Data.....	8
Assessing Small Communities’ IT Capability and Federal eRulemaking Initiative Perceptions: Project Findings.....	10
IT Capability	10
Federal eRulemaking Initiative Perceptions	13
Enhancing Small Communities’ Participation in Rulemaking	16
Summary.....	17
Concluding Comments and Recommendations	18
Appendices.....	20
1 Regulations.gov Frequently Asked Questions (FAQs)	21
2 Federal eRulemaking Initiative	24
3 Selected Federal E-Rulemaking Links	26
4 SCOPE “Small Communities and E-Rulemaking” Project Brochure: Spring 2004	27
5 SCOPE Discussion Guide for Community Meetings: Spring 2004.....	29
6 SCOPE Discussion Guide for Final Local Advisory Board Meeting: Spring 2004.....	31
7 SCOPE Inventory of Resources in Three Project States: Spring 2004.....	33
8 SCOPE Project Evaluation Survey Summary: Spring 2004	41

EXECUTIVE SUMMARY

The Small Communities Outreach Project for Environmental Issues (SCOPE) is a community-based initiative directed by the National Association of Schools of Public Affairs and Administration (NASPAA) to engage elected officials and staff of local governments more effectively in regulations development. SCOPE was created to bridge the gap between federal regulators and small communities and other local jurisdictions by enabling representatives of these small communities to understand better the rulemaking process. SCOPE findings are widely disseminated to policy makers, writers of rules, and other e-rulemaking stakeholders.

SCOPE is funded through a cooperative agreement between the U.S. Environmental Protection Agency (EPA) Office of Policy, Economics, and Innovation and NASPAA. NASPAA is a 501(c)(3) organization that promotes excellence in public service and public service education and is the accrediting body for U.S. public administration, public affairs, and public policy master's degree programs. The association's membership consists of 250 university graduate schools and programs located in 49 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

The 2004 SCOPE "Small Communities and E-Rulemaking" project has sought to promote and enhance small communities' involvement in the federal government's eRulemaking Initiative. Small communities have special needs and concerns that the EPA should consider in the development of an electronic rulemaking system that provides enhanced opportunities for effective involvement in the rulemaking process.

This report provides an overview of the 2004 SCOPE project activities and outcomes. The report includes information on the outreach process and participating small communities in each of the project's three states. As e-rulemaking is the focus of the project, an assessment of the IT capability in the communities is conducted along with the impact this capability has on the communities' participation in the federal e-rulemaking process.

Most of the communities participating in the spring 2004 SCOPE project have access to high-speed internet connections and have the technical capability to use the federal www.regulations.gov website. Most also have websites, although these sites are primarily used for accessing and conveying information and not for completing transactions or participating in rulemaking.

Even though most local governments recognize the potential of the www.regulations.gov website, they cited a lack of financial and staff capacity and also a lack of citizen and local official awareness/interest as significant barriers to greater small community participation in federal e-rulemaking. Devising a support system to help them address this staff and time constraint will be a key to enhancing small communities' participation in the federal e-rulemaking process.

INTRODUCTION

Small Community Involvement in Regulatory Development

Small governments are a large segment of the regulated community. But their lack of resources compared to larger counterparts puts them at a distinct disadvantage. The disproportional impact of federal regulations on these overburdened systems and the concomitant importance of small community participation in the federal regulatory development process in order to minimize the adverse impact of regulations on them led the U.S. Congress to enact the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act of 1980.

The purposes of the Regulatory Flexibility Act are (1) to motivate agencies to tailor rule requirements to fit the size, resources, and relative contribution to the problem of the small entities that will be subject to the requirements, consistent with the statute authorizing the rule; and (2) to assure that small entities are given an opportunity to participate in rulemaking for a rule that will have a significant economic impact on a substantial number of small entities.

EPA is one of two federal agencies subject to the SBREFA panel process. SBREFA section 609 requires convening a review panel unless the agency certifies that a rule will not have a “significant economic impact on a substantial number of small entities” or undergo panel review. The phrase “significant economic impact” means an annual aggregate cost of 100 million dollars. “Small entities” are defined as including small businesses, small governments, and non-profits that are not dominant in their field. Small governments are governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000 residents.

EPA’s policy toward small communities extends even further than the congressional mandates. EPA is vitally interested in outreach to small communities in order to understand how to ensure that small entities receive the environmental and health benefits derived from environmental regulations. The result of these EPA outreach efforts will ultimately be rules that reflect the increased understanding of the strengths and limitations of small community resources.

SCOPE Background

SCOPE, a cooperative agreement between the U.S. Environmental Protection Agency (EPA) Office of Policy, Economics and Innovation (OPEI) and NASPAA, was initiated in 1998. The project was designed to benefit small communities by articulating their concerns on regulatory developments to EPA, policy analysts, environmental associations, local governments and other organizations. Since its inception, SCOPE has worked with over 500 communities in 20 states. [For additional SCOPE project information, see the NASPAA website at www.naspaa.org/initiatives/community/scope/scope.asp.]

Small communities bear a disproportionate burden of the adverse impacts of environmental regulations, yet their voices are rarely heard while these regulations are developed. SCOPE teams meet directly with small communities to discuss the regulatory developments that will

affect their communities. The teams are composed of expert neutral facilitators who are highly skilled at

- communicating complex information;
- eliciting values and concerns as a form of information gathering;
- analyzing findings; and
- capturing characteristics of small governments and communities.

At the conclusion of the outreach, a report on the research and findings is published and sent to all participants. The report includes resources available in the states where SCOPE meetings took place.

Prior to 2004, SCOPE had facilitated discussions on eight rulemakings. During these projects, participating communities were advised of a rule under consideration in the early stages of the rulemaking process and given an opportunity to respond to the proposed rule.

The spring 2004 SCOPE “Small Communities and E-Rulemaking” project addressed small communities’ participation in the notice and comment phase of the rulemaking process (without identifying particular rules). The goal of the project was to identify barriers to small community participation in the notice and comment process, as well as to evaluate participants’ awareness of the federal eRulemaking Initiative and knowledge of the e-rulemaking process.

Federal eRulemaking Initiative Background

On December 17, 2002, President Bush signed into law the E-Government Act of 2002. This legislation attempts to build upon President Bush’s E-Government Initiative by ensuring strong leadership of the information technology activities of federal agencies, a comprehensive framework for information security standards and programs, and uniform safeguards to protect the confidentiality of information provided by the public for statistical purposes. The Act also assists in expanding the use of internet and computer resources in order to deliver government services for a citizen-centered, results-oriented, and market-based government.

Polling data from The Pew Charitable Trusts show that over 40 million Americans have gone on-line to look at federal, state, and local government sites. In an effort to take advantage of expanding use of the internet and public expectations of advanced government websites, the federal government has vowed to make government websites more user-friendly while helping to streamline citizen-to-government communications and cut costs. The website FirstGov.gov (www.firstgov.gov) serves as a gateway to millions of websites from federal and state governments, the District of Columbia, and U.S. territories. Recently, FirstGov.gov launched “FirstGov en Español,” the first on-line gateway to the entire spectrum of Spanish-language web pages offered by the government.

Other popular websites improved or launched in response to the E-Government Act include Recreation One-Stop (www.recreation.gov), which provides citizens with easy access to directions and information for over 3,500 national parks, forests, lakes, and wildlife areas. Websites such as e-Payroll, e-Training, and e-Clearance are specifically targeted to help

government employees through: a standardized federal payroll process, on-line training and education courses, and a faster process of investigations for federal security clearances, respectively.

The E-Government Act of 2002 prompted regulatory agencies to deploy technology to enhance public participation in government rulemaking and decision-making processes. The EPA was tapped to manage the Regulations.gov (www.regulations.gov) project, a new internet portal for accessing all federal agency regulations from one website. This site allows the public to search, view, and comment on hundreds of proposed regulations from approximately 160 federal agencies. The Regulations.gov website seeks to streamline the proposed rulemaking and public comment process while simultaneously making the information and regulatory process more transparent and more easily accessible to all U.S. citizens. [See Appendix 1 for further information about Regulations.gov.]

Rulemaking in general is an important area to study because a regulation issued by a department or agency has the force of law. For most categories of rulemaking, the department or agency provides notice of a proposed regulation, and any individual or organization may review this document and submit comments. As part of the rulemaking process, federal agencies and departments are required to consider the comments received during the comment period. E-rulemaking is especially important because it is an attempt by the government to take advantage of technological advances that allow for greater public access to, and involvement in, the rulemaking process. Rulemakers can benefit from the diverse knowledge base and inputs that citizens from across the country are able to add concerning a proposed rule and the likely effects this rule may have on different communities. Rulemakers also believe that individuals who actively participate in the rulemaking process are more willing to accept and comply with the final rule.

The U.S. EPA is the lead agency in the federal government's eRulemaking Initiative. The eRulemaking Initiative, a cross-agency e-government effort under the President's Management Agenda, is managed by the EPA in coordination with 12 federal department and agency partners. One of the goals of the eRulemaking Initiative is to foster more effective small community participation throughout the rulemaking process and to recommend enhancements to the eRulemaking Initiative that would promote such participation. [See Appendix 2 for further information about the eRulemaking Initiative, and Appendix 3 for selected federal government e-rulemaking links.]

SCOPE “SMALL COMMUNITIES AND E-RULEMAKING” PROJECT

Overview

There are approximately 90,000 local government units in the United States. Of these, about 40,000 are county governments, municipal governments, and township governments. Approximately half of these have populations of 50,000 or less. While all small communities are impacted by EPA and federal government rulemaking, few have the resources, information, and subsequent ability to participate actively in the regulatory process. Yet informed and responsive small communities can enhance the effective formulation of environmental and other regulations through their participation, particularly during the early stages of rulemaking initiatives. Outreach to small communities in the early stages of rulemaking also can mitigate the need for costly alterations to programs or regulations at the later stages of their development.

The SCOPE discussions take place in small communities and are organized and facilitated by faculty in NASPAA graduate programs of public affairs and administration and/or local government institutions, which regularly provide development, training, and evaluation services to local governments. Discussions are structured around discussion guides developed in consultation with local experts, federal regulators, and others. The SCOPE outreach network is built on the trusted relationships that exist between local governments and NASPAA programs. As academic experts with a public service mission, SCOPE faculty teams bring the highest caliber of professional expertise to serving small communities.

The SCOPE “Small Communities and E-Rulemaking” project provides an effective means to facilitate the goals of SBREFA and related federal policy by

- enabling small, local governments to become better informed about federal e-rulemaking initiatives that will directly affect them;
- helping small governments understand and respond to issues and concerns they have about the federal eRulemaking Initiative and the development of regulations through this Initiative; and
- aiding in communicating these concerns to other small communities, as well as to the environmental, policy making, academic, and regulatory communities.

In spring 2004, SCOPE teams conducted meetings with 51 communities in Indiana, Nebraska, and Pennsylvania to capture the interests and insights of small communities in states with diverse mixes of small communities in order to gain a preliminary indication of e-rulemaking participation by small communities nationwide. The goal of the project was to identify the barriers precluding small communities from participating in the rulemaking process and the communities’ special needs and concerns the EPA should consider in the early stages of the development of an electronic rulemaking system in order to provide enhanced opportunities for effective involvement in the e-rulemaking process.

This report discusses SCOPE project outreach findings drawn from meetings with representatives in small communities in Indiana, Nebraska, and Pennsylvania in spring 2004. The SCOPE principal investigators in these states were as follows:

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The SCOPE “Small Communities and E-Rulemaking” project was directed by Dr. Kenneth W. Tolo, NASPAA Executive Director. NASPAA project assistants were Ms. Jocelyn Lewis (January – May 2004) and Ms. Sherry Sherman (June – August 2004). Dr. Arthur (Andy) Felts, Director, Joseph P. Riley Institute for Urban Affairs and Policy Studies, College of Charleston (SC), served as the project evaluator. Ms. Rebecca Singer provided editorial assistance in the final editing and production of this report.

Timeline

In January 2004, NASPAA selected the three state-based principal investigators for the “Small Communities and E-Rulemaking” project. On January 8th, two of these investigators and NASPAA staff participated in an e-rulemaking conference at American University, sharing information about the SCOPE project with other attendees. In early 2004, NASPAA staff developed a SCOPE e-rulemaking project brochure for the EPA, the project’s principal investigators, and other interested parties (see Appendix 4). Additionally, information on e-rulemaking was made available to the principal investigators (see Appendixes 1, 2, and 3). In February, the NASPAA team, including the principal investigators, developed a common discussion guide to be used in all three states during the initial meetings with the local government representatives (see Appendix 5).

Each principal investigator recruited Local Advisory Board members in March and April, then conducted outreach to and dialog with small communities’ representatives in April and May. After final state reports were submitted to NASPAA in early June, the SCOPE project team developed a discussion guide for use by the principal investigators in their final Local Advisory Board meetings in summer 2004, during which time they discussed overall SCOPE project findings (see Appendix 6). An inventory of resources available in each of the three project states was also compiled for reference (see Appendix 7).

In June 2004, Dr. Felts conducted an evaluation of the SCOPE project to assess the SCOPE process as viewed by the participating small communities (see Appendix 8).

Local Advisory Board

The first step of the spring 2004 SCOPE project outreach process for each principal investigator was to establish a Local Advisory Board. The Local Advisory Board was to be composed of a mix of local, regional and state government representatives. The purpose of the Local Advisory Board was to help identify the appropriate small communities for participation, assist with linking the SCOPE team with those local governments, and provide guidance on federal e-rulemaking initiatives. Local Advisory Boards either convened in face-to-face meetings or corresponded via e-mail exchanges.

Collectively, the Local Advisory Board members represented the following organizations:

- Regional planning commission
- Higher education institutions (3)
- Local government training academy
- Quality of life council and center for sustainability
- League of cities (2)
- Township supervisors' association
- County commissioners' association
- State association of boroughs
- State environmental quality board
- League of county clerks

Pennsylvania's Local Advisory Board consisted of five individuals, four of whom hold positions in statewide local government organizations. The fifth member is a regulatory contact person for the state's Environmental Quality Board. Indiana's Local Advisory Board also consisted of five members, including directors of public policy research centers; two individuals also had served on a Local Advisory Board for a previous SCOPE project. Nebraska's Local Advisory Board had three members, all of whom work in statewide local government organizations.

The roles of the Local Advisory Boards varied from state to state. Virtual board meetings and the use of threaded e-mail discussions among board members, which began in earlier SCOPE projects, continued frequently during spring 2004. The Indiana state report, for example, indicates extensive use of the Local Advisory Board to develop the outreach process and thus to lend credibility to the project.

Outreach Process

The principal investigators had considerable flexibility in how they conducted outreach to small communities. Community meetings were held in both group and one-on-one formats. Since a community's IT capacity had a significant impact on its ability to participate in e-rulemaking, one principal investigator concluded it was important to visit community facilities and evaluate this capability first hand. The state SCOPE teams generally used their Local Advisory Board to identify potential small community participants. Following is additional information on the state-based approaches to project outreach.

Indiana

The principal investigator sent the SCOPE brochure and an accompanying letter to 25 small communities to initiate contact. This was followed by a telephone call requesting an interview time. Representatives from 7 communities were interviewed individually, and an additional 8 communities participated as a group when their representatives attended a regional planning meeting.

Nebraska

Using the names of small communities' contact persons suggested by the Local Advisory Board, the Nebraska principal investigator used a process similar to that used in Indiana. A total of 20 communities were contacted, and 16 agreed to participate. All the interviews were conducted one-on-one.

Pennsylvania

Using multiple selection criteria, the Pennsylvania principal investigator made initial contact with potential participants by telephone, and followed with a fax (to those who indicated interest) giving more detailed information about this SCOPE project. The list of contacts was divided into two groups – one including those persons within convenient driving distance of Harrisburg, and the other including those in more distant locales throughout the state. These latter individuals, all of whom indicated a willingness to participate, were asked if they planned on attending one of several statewide meetings held in Harrisburg; if so, they were interviewed in small groups at these meetings. In total, ten officials were interviewed individually, and ten participated in two group discussions, each involving five persons.

Community Data

Although each participating small community had a population of 50,000 or less, these small communities were quite varied. The Indiana team interviewed representatives from 13 towns and 2 cities; the Nebraska team interviewed 10 cities or villages and 6 counties; and the Pennsylvania team interviewed 20 townships or boroughs. Thus, 45 municipalities and 6 counties participated in the spring 2004 project. The breakdown of these participating communities by population is detailed in Table 1.

A total of 16 commission or supervisor types of government participated in the spring 2004 SCOPE project, together with 9 mayor-council types and 6 council-manager systems.

The interviewed elected officials served as members of councils, commissions, or other supervisory groups that ranged in size from 3 to 9 members.

The communities with larger numbers of elected officials are typically mayor-council systems. In general, these are “weak mayor” governments; the separately elected mayor has little or no executive power. She or he presides over council meetings and contributes one council vote on matters of legislation.

Table 1: Population of Small Communities Participating in Spring 2004 SCOPE Project

Population	Indiana	Nebraska	Pennsylvania	Total
5,000 or Under	8	4	6	18
5,001 to 10,000		5	7	13
10,001 to 20,000	3	2	3	8
20,001 to 30,000	3	1	3	7
30,001 to 40,000	1	2	1	4
40,001 to 50,000	0	1	0	1

Please note: One Nebraska community declined to respond to this question.

The mean population of the participating communities was 13,884, with a range of 832 to 44,000 and a standard deviation of 13,216. There was a significant variation among mean sizes of these communities with mayor-council, council-manager, and commission types of government — the former two types had a mean population in the high 7,000s, while the commission form had a mean population of 19,000. These data are undoubtedly skewed by the six counties in Nebraska, all of which have a commission type of government.

The mean minority population of the participating small communities was 8.53 percent — significantly below the 12.9 percent average for the entire United States. The largest minority population among the communities was 36.8 percent, indicating that many of the communities had significantly lower percentages of minorities than the national average.

Average yearly income per capita ranged from \$6,297 to \$19,240, with a mean of \$16,378 and a standard deviation of \$2,069. Interestingly, there was not a significant correlation between income and the percentage of minorities in the communities.

ASSESSING SMALL COMMUNITIES' IT CAPABILITY AND FEDERAL eRULEMAKING INITIATIVE PERCEPTIONS: PROJECT FINDINGS

The outreach discussions conducted with 51 jurisdictions throughout the three states had three objectives. The first objective was to evaluate the IT capability of each participating community. The second objective of the project team was to introduce the public officials to the federal eRulemaking Initiative at www.regulations.gov. The third objective was to request suggestions from the participants regarding methods to encourage and improve small community participation in the rulemaking process and the www.regulations.gov website. Each objective warrants its own discussion; these summaries follow. [Please reference www.webopedia.com/Internet_and_Online_Services/Internet for definitions of general internet technology terms.]

IT Capability

Nebraska

All 16 local jurisdictions participating in this round of SCOPe use high-speed internet, which is unusual in the region. The Local Advisory Board recommended these communities not only based on a diversity of (small) size and geographic location, but also because they regularly used the internet for the conduct of government business and could therefore offer informed feedback about the e-rulemaking portal.

A number of private companies provide high-speed internet service, a reflection of the de-regulated market in the state:

- Four municipalities and three counties use service through cable companies.
- Five municipalities and two counties use DSL (phone) service.
- One county uses wireless (phone) service connecting all city and county offices.
- One municipality uses wireless service provided by a locally owned company.

The one village participating in the survey has had high-speed internet service for a number of years despite its remote location in the “panhandle” area of northwest Nebraska. (This is possible because there is an independently owned phone company located in that village.) The village clerk emphasized that other nearby villages were just now purchasing computers and were probably not yet using the internet at all.

In addition to the private high-speed internet service provided to the six counties participating in this project, there is also a separate internet service provided to all 93 counties in Nebraska by the Secretary of State’s Office. In 1999 the Secretary of State’s Office migrated away from the mainframe terminals for accessing Uniform Commercial Code (UCC) information and replaced that centralized system with a personal computer based system that performs searches over the internet. Each county clerk has a personal computer terminal dedicated specifically to this function, and accesses the UCC information at the Secretary of State’s Office home page with a personal user ID and password. In addition, the county websites are linked to this home page, and the county clerk e-mails listed on these websites are Nebraska On Line (NOL) addresses. County government use of the internet tends to be less centralized and standardized than municipal government use; in

some cases there is more than one internet service provider, while some county offices use neither e-mail nor the internet. The county clerks tend to serve as the “post office” for e-mails being sent to other county offices and to county elected officials.

All 16 participating local jurisdictions maintain websites that may include the following: basic information about the city or county, names of local elected and appointed officials with contact information, and council or board agendas and minutes. The municipal government websites tend to be more sophisticated than the county government websites. One exemplary city enables citizens to pay bills, fines, and fees online and to post comments to the mayor or to any city department. The city administrator of that municipality plans to integrate those web-based comments into a performance management system. At the opposite end of the scale, most county websites provide basic information and contacts but lack capability for web-based transactions or comment pages.

Participants all said that they use the internet to access the state legislature’s website to track legislation and state agency websites, especially the Departments of Revenue and Economic Development, as well as the Secretary of State’s Office (to access data, rules and other information). Participants at most of the municipal sites reported that all department heads have high-speed internet access, either in their offices at city hall or through wireless connections. The situation at the county discussion sites is more difficult to assess. The county sheriffs tend to maintain their own websites, as do the county development agencies. County highway superintendents in most counties have access to high-speed internet, but it isn’t clear how many use it on a regular basis.

Indiana

All of the participating small communities have access to basic internet services, but not all government units subscribe to such a service. In a few instances, the government unit did not want to reveal whether it did or it did not subscribe. The local government offices that actually subscribe to internet services rely on DSL and dial-up services. No government unit reported the use of cable-internet. Although some form of internet access is available to all participating government offices, one community reported that it does not have access to a computer and therefore does not subscribe to an internet provider.

All of the officials interviewed indicated that most, if not all, community members have access to some form of internet service. They did not have specific knowledge about the percentages of the population subscribing, nor did they have information about the frequency of subscription to specific providers. Their knowledge, based on informal discussions with community members, was anecdotal.

Alternate sources of community access include the public libraries and, in a few communities, an internet café. As different providers move their infrastructure into the region, the availability of internet service will improve. Recently, the communications company SBC announced a major initiative aimed at expanding the availability of DSL services, and local providers of internet services are advancing efforts to provide high-speed dial-up.

All of the communities contacted had, at one point or another, visited the Indiana state

government website, "Access Indiana," at www.ai.org. They did not all access the website via government computers, however; a few individuals accessed the site from personal home computers. Information seeking was an activity engaged in by all communities. Only one community reported accessing the "Bill Watch" website (www.in.gov/apps/lisa/session/billwatch/) for the State of Indiana. This website possesses functions similar to www.regulations.gov; however, its main purpose is to provide the public with access to copies of the bills under consideration by the Indiana State Legislature, and it does not provide a notice and comment feature via the internet.

The biggest advantage cited by public officials was the ability to contact agency representatives via e-mail. Local government operations have become more efficient; the time lag between a question and its answer has reduced. As public officials stated, "It saves time." When asked if the time savings translated into financial savings, however, no public officials answered affirmatively.

Pennsylvania

All of the participating communities in Pennsylvania have access to the internet, including high-speed connections for all but three communities. Most of the project participants also noted that they have access to the internet at home. Whether an elected or an appointed official, each participant has used the internet in the workplace, and several lightheartedly mentioned that they often "Google." More than a few said that they had "Googled" the name of the SCOPE team leader in Pennsylvania.

Because all of the communities have internet access, all of the officials have access to state agency websites and to county websites. No one was willing to say that he or she had not used state and or county websites. Two officials mentioned the need to "keep up with the Jones," commenting that they have accessed the websites of neighboring municipalities. One of the municipal websites links to a much larger site that provides information about multiple communities within the region. The official said that the cooperation among the various municipalities and businesses to create the site makes it possible for the community to have much higher quality and diversity in webpage content than it would have otherwise.

It was not surprising to learn that the SCOPE participants have the rudimentary technical capabilities to participate in the federal e-rulemaking initiatives, namely, computers and internet access. A study conducted in fall 2002 and published in May 2003 by the Center for Rural Pennsylvania (CRP), a legislative agency of the Pennsylvania General Assembly, surveyed Pennsylvania communities with less than 2,500 residents to determine computer availability and use. Fifty-nine percent of those surveyed responded, and 80 percent of the small municipalities had computers. Local officials claimed to use the computers for routine municipal/office functions such as bookkeeping, correspondence, and meeting notes. The CRP survey found that 73 percent of the boroughs and 72 percent of the townships accessed the internet during the time period of the survey in fall 2002. Most of the communities used a dial-up modem.

The CRP study did not find important differences between boroughs and townships or among state regions (i.e., western, central, and eastern). Statistically, there was a significant correlation between the number of computers, the municipality's budget, and the number of municipal employees. The higher the municipal budget or the number of employees, the more computers there are in the municipal office. Correspondingly, the more staff or the

larger the municipal budget, the more tasks employees performed on computers. One-fifth (20 percent) of the small communities in the CRP study filed reports electronically with the state government in 2001. This includes the Department of Transportation's Liquid Fuels Data Report and the Local Government Officials Report and Survey of Financial Conditions, both of which are filed with the Center for Local Government Services in the Department of Community and Economic Development.

Given the larger size of the participating SCOPe communities compared to the CRP survey, as well as the more recent time period, it was expected that the participating communities would have computer and internet access. Nevertheless, it was somewhat surprising to learn that the majority of SCOPe participants not only have high-speed access, but also expressed no reservations about the necessity for computers or accessibility to the internet.

In general, the Pennsylvania officials — whether elected or appointed, from smaller or larger communities — spoke comfortably about their familiarity with Pennsylvania's state government pages, especially those of the Center for Local Government Services and the Department of Environmental Protection. Pennsylvania's local governments have been filing forms electronically for several years, and local government databases are easily accessible on state agency web pages. The Center for Local Government Services, in particular, has been adding valuable land use planning and zoning information and data. A few officials mentioned the Center's virtual library as an especially important resource for them.

Federal eRulemaking Initiative Perceptions

As discussed above, the project teams' second objective was to introduce the participating public officials to the federal eRulemaking Initiative (see Appendix 2) and to enable small communities to advise the EPA on the Initiative's opportunities and challenges. Following are selected findings in each of the project states regarding the federal eRulemaking Initiative.

Indiana

- All but one of the communities reported some form of participation in federal rulemaking in the past. The form of participation varied, including participation in the notice and comment process, having volunteers that followed and responded to the notice and comment process, and contacting their congressional representatives. It is important to note that none of the public officials that were interviewed indicated they actually wrote comments and sent them into the designated federal official as is required in the notice and comment provisions of the rulemaking process. Their primary objection to participating in the notice and comment process was that it was too time consuming and cumbersome.
- None of the participating small communities was familiar with the current federal E-Government Initiative or the www.regulations.gov website prior to participating in the spring 2004 SCOPe discussions.
- After a brief explanation and demonstration of the www.regulations.gov website, all but one of the communities recognized the advantages the site would provide for participating in the rulemaking process. The participants focused more on *accessing* information regarding rules and regulations than on *participating* in the notice and

comment process.

- When discussing the notice and comment process, the participants had questions relating to how the comments were processed and prioritized, and whether the EPA would respond to the comments. They felt that if they did not receive any feedback to their comments, there was no way to ensure their time was well spent.
- The communities identified participation in e-rulemaking as important, but distinguished between participation in the form of information gathering and, on the other hand, effective participation in the notice and comment process as a means to impact the development of a rule.

Nebraska

- Prior to participating in the spring 2004 SCOPe e-Rulemaking project, none of the communities were familiar with the website, and none were familiar with the current federal E-Government Initiative.
- There was a virtually unanimous sense of fatalism about the federal rulemaking process and local participants' inability to affect the development of regulations. After a brief explanation and demonstration of the www.regulations.gov website, all of the participants were able to navigate the site and recognize the benefits the site could provide for participating in the rulemaking process via the internet. However, very small jurisdictions cited time constraints, lack of expertise and understanding, and reading the lengthy *Federal Register* notices as obstacles to participation. These institutional barriers had existed prior to the eRulemaking Initiative, as reported in previous rounds of SCOPe, and they appear to continue to constitute the major challenge for the EPA and other federal agencies working to enhance participation in rulemaking.
- Only one participant had submitted comments electronically to a rule change proposed by a federal agency (not the EPA). However, the comments were submitted directly to the agency website and not via the new portal.
- Several participants reported participating in a previous EPA rulemaking exercise by contacting their congressional delegation and seeking to modify the final rule through legislation.
- Several participants reported that they depended on state agencies to notify them of changes in federal rules that would impact how they had to comply with environmental regulations. In some cases, changes at the federal level result in few changes in existing state regulations; in other cases, federal rules changes have had serious, negative economic impacts.
- None of the participants indicated that access to the Regulations.gov site would increase their participation in the notice and comment process.
- The participating communities found the main page of the Regulations.gov website easy to navigate. A common complaint was that the search engine returned too many hits on an issue of interest and that it was difficult to sort through the information.
- Participants found it difficult to ascertain which agency had primary authority for a particular issue. For example, the Department of Natural Resources and the Indiana Department of Environmental Management, as well as the Department of Transportation, all have water regulations. Public officials interested in an issue such as water quality found it confusing to sort through the various agency responsibilities.
- There was a very positive response from the communities about the electronic tax filing process in the state; many of the officials reported visiting the Department of Revenue site or filing their personal taxes on-line.

Pennsylvania

- None of the participants could recollect ever having participated directly in a federal rulemaking initiative. They did indicate that most rules that impact local governments are likely to be implemented by a state government agency, and 80 percent claimed to have participated in state rulemaking at one time. Participants did not differentiate between participating in the actual rulemaking process and participating in the rule implementation process; there were more comments related to implementation than to the rulemaking process.
- Prior to participating in the spring 2004 SCOPE project, none of the communities was familiar with the www.regulations.gov website and none was familiar with the E-Government Initiative.
- After a brief explanation and demonstration of the www.regulations.gov website, all of the participants were able to navigate the site and recognize the benefits the site could provide for participating in the e-rulemaking process. However, none of the officials was enthusiastic about using the site.
- Five key benefits of federal e-rulemaking were mentioned during the SCOPE discussions. These were elicited by, first, soliciting open-ended comments and, second, prodding to obtain more input. In order of the frequency with which they were cited, the major perceived benefits of federal e-rulemaking are:
 - increasing the speed of devising regulations (16)
 - increasing public awareness of regulations (12)
 - increasing citizen participation (9)
 - offering more ways to participate (3)
 - offering cost savings (3)
- The discussions yielded additional comments about the barriers involved with e-rulemaking. Again, comments were solicited in an open-ended discussion format, with prodding, to reveal the full array of participants' perceptions. Discussing the perceived barriers to e-rulemaking receives much more interest and attention from the SCOPE participants than did discussing benefits of e-rulemaking. In order of the frequency with which they were cited, the barriers associated with federal e-rulemaking are:
 - lack of citizen awareness/interest (18)
 - lack of local official awareness/interest (18)
 - lack of local technical capacity (15)
 - time constraints (14)
 - e-rulemaking complexity (14)
 - the digital divide between wealthier and poorer communities as well as wealthier and poorer citizens (2)

Enhancing Small Communities' Participation in Rulemaking

The third objective of the SCOPE discussions with representatives of small communities in the three project states was to solicit suggestions for ways to enhance their participation in the federal e-rulemaking process.

In these discussions, local officials in all three states emphasized that small communities generally need to be made more aware of the Regulations.gov website and the eRulemaking Initiative, as well as more effectively encouraged to participate in federal rulemaking through this website and this Initiative.

A common concern among the participating local officials was the lack of feedback they received to their rulemaking comments. They suggested that the responsible (federal) agency should at least acknowledge that the comments were received. If local officials take the time to send comments, they want to know their comments will be considered, so that their time has not been wasted. This suggestion reinforces the fact that time constraints (not digital divides) were mentioned most often by the local officials as the most significant barrier to their active participation in the notice and comment process.

Similarly, the local officials expressed the view that the comments they send would be insignificant among the multitudes received by the federal agency. Many indicated they would be more likely to participate in state rulemaking processes because their "voice" would be more likely to be heard. One suggestion to address this concern was that the federal agency post the revised rule on the Regulations.gov website after the comments have been considered and incorporated into it. This would allow the local officials to follow the development of the rule and ensure the comments are actually being considered by the agency.

Many of the communities indicated they would be more likely to participate in the notice and comment process if one of their municipal or professional associations would assist them in the screening process. For example, if such an association would notify its small community members when a notice for a rule that may impact them is being considered, they would be more likely to comment. Again, limited personnel resources and time constraints are a significant barrier for these communities. They do not have the personnel to devote a significant amount of time to monitoring the *Federal Register* or the Regulations.gov website. Many communities also identified a need for one of their membership associations to perform a role similar to that performed by SCOPE teams in projects prior to 2004: in consultation with the EPA, develop and communicate a summary of the background of and the need for the proposed rule under development, as well as the key issues, questions, and alternatives in the proposed rule.

Small community participants believe that citizens feel alienated from the federal government. Many participants expressed the view that the federal agencies are insulated from the issues that most concern citizens in small communities and that these agencies appear unresponsive to working to address these issues. Again, the small communities' associations perhaps could help bridge this gap.

Summary

In summary, technology and access to information are not the primary barriers to local government officials in small communities participating in the federal e-rulemaking process. The primary barriers are time, money and personnel resources. As a rule, these communities rely on state organizations and associations to aid them in this process by responding and commenting on their behalf.

The nature of conducting business in small communities is also a barrier to their participation in e-rulemaking. The majority of government transactions in small communities are conducted face-to-face, and this personal contact is highly valued. Elected government officials use these contacts to stay in touch with the community and the voters. The citizens of the communities are assured that their requests are received and processed. Local officials are reluctant to forgo this personal contact, even though it takes a significant amount of their time (and leaves less time for e-rulemaking participation).

Knowledge and understanding of the rulemaking process, whether on paper or electronically, is also a barrier. Many communities indicated they relied on the state agencies to notify them of impending rules, suggesting confusion regarding rulemaking and regulatory compliance. They look to the state agencies for help with compliance. If there is a problem, they contact their congressional delegation. Typically, this process takes place after the notice and comment phase of the rulemaking process, and thus it is too late to have any impact on the development of the rule in question.

Technology and access to electronic information, while not a primary barrier to participation in e-rulemaking, can become a challenge if the community does not have the financial resources necessary to invest. Financial resources play an important role in a community's participation in government rulemaking. Wealthier communities tend to have more advanced technological resources and a larger staff. In many small communities the local government officials work part-time or are elected to unpaid positions, often having full-time jobs in addition to their government responsibilities.

Concern that their rule-related comments will not be acknowledged and considered by the EPA, as well as a misunderstanding of the rulemaking process, inhibits and sometimes prohibits small communities from participating in this process – and this is true whether or not the rulemaking process is electronic. With limited personnel resources, communities are not likely to devote valuable staff time to the rulemaking process without assurance that their comments will be acknowledged.

CONCLUDING COMMENTS AND RECOMMENDATIONS

The spring 2004 SCOPE “Small Communities and E-Rulemaking” project has facilitated the goals of SBREFA and related federal policy, as well as contributed to the development of the federal eRulemaking Initiative, by

- enabling small communities in Indiana, Nebraska, and Pennsylvania to become better informed about federal e-rulemaking initiatives that will directly affect them;
- helping small communities in these states understand and respond to issues and concerns they have about the eRulemaking Initiative and the development of regulations through this Initiative; and
- aiding in communicating these concerns to other small communities, as well as to the environmental, policy making, academic, and regulatory communities.

During this project, SCOPE teams, led by faculty members at NASPAA schools, organized and conducted discussions with local officials in 51 small communities in these three states. These discussions resulted in the project findings that have been presented in this report.

Providing invaluable assistance and insights to the SCOPE principal investigator in each project state was a Local Advisory Board, the composition of which was discussed earlier in this report. In addition to helping the principal investigator identify the small community participants for the discussions, the Local Advisory Board in each state convened in late summer 2004 to review, with the principal investigator, the findings from the discussions in all three project states among representatives of the selected small communities. These Local Advisory Boards also made the following recommendations for addressing these issues and findings:

1. Small communities, coordinated by a metropolitan planning organization, could share the responsibility for identifying proposed rules of concern, summarizing the details and potential impacts of the rule, and providing guidelines for commenting on the proposed rules. This collaborative approach would not overburden individual communities with its personnel and time requirements, yet it would provide them an opportunity to obtain experience with the www.regulations.gov website and the e-rulemaking process.
2. Membership associations representing the various types of small communities could design an appropriate method for reviewing and commenting collaboratively on proposed rules. These associations perhaps could provide this e-rulemaking monitoring and comment service as a membership benefit.
3. State and local governments could work with the public schools and public libraries to promote greater awareness and use of the www.regulations.gov website, thereby educating and engaging the general community in the e-rulemaking process.
4. State government executive and legislative agencies, as well as appropriate small community membership associations, could be encouraged to add a link on their respective websites to the www.regulations.gov website.

5. State environmental agencies, working with the EPA and small communities, could explore ways to expand and enhance outreach and education programs regarding the eRulemaking Initiative.
6. The EPA (and all federal agencies) could be encouraged to post electronically all comments received during the notice and comment phase of e-rulemaking, thereby making all comments available to the public. This would reassure participants in the e-rulemaking process that their comments are being read and considered.
7. The eRulemaking Initiative could design, draft, review with representatives of small communities, and then post on the www.regulations.gov website a guide on writing and submitting succinct and effective comments on proposed rules.
8. State governments, in collaboration with their public schools and small communities, could be encouraged to give attention to the rulemaking process (and the related role of government agencies in rulemaking) in the secondary education curriculum.

APPENDICES

Appendix 1. Regulations.gov Frequently Asked Questions (FAQs)

Appendix 2. Federal eRulemaking Initiative

Appendix 3. Selected Federal E-Rulemaking Links

**Appendix 4. SCOPe “Small Communities and E-Rulemaking” Project Brochure:
Spring 2004**

Appendix 5. SCOPe Discussion Guide for Community Meetings: Spring 2004

**Appendix 6. SCOPe Discussion Guide for Final Local Advisory Board Meeting:
Spring 2004**

Appendix 7. SCOPe Inventory of Resources in Three Project States: Spring 2004

Appendix 8. SCOPe Project Evaluation Survey Summary: Spring 2004

APPENDIX 1.

Regulations.gov Frequently Asked Questions (FAQs)

1. What is the *Federal Register*?

The *Federal Register* is the official daily publication for final regulations, proposed regulations, and other notices of federal departments and agencies and organizations, as well as Executive Orders and other Presidential Documents. The *Federal Register* also provides access to a wide range of federal benefits and opportunities for funding. The National Archives and Records Administration (NARA), Office of the *Federal Register*, prepares the *Federal Register* for publication in partnership with the Government Printing Office (GPO), which distributes it in paper, on microfiche, and on the World Wide Web. For additional information on the *Federal Register*, go to www.archives.gov/federal_register/index.html.

2. What is the CFR?

The CFR (Code of Federal Regulations) is an annual codification of the general and permanent regulations published in the *Federal Register* by the executive departments and agencies of the federal government. The CFR is available as an electronic publication, free of charge, on the GPO Access Service, maintained by the U.S. Government Printing Office; and as a paper publication, by full set subscription or individual copy purchase, from the Superintendent of Documents, or at any Federal Depository Library.

3. What is a rulemaking?

A rulemaking is the name given to the process followed by federal departments and agencies to formulate, amend, or repeal a regulation. A regulation generally is an authoritative requirement, issued by departments and agencies that implement a statute, and has the force of law. The rulemaking process generally consists of a proposed regulation stage and a final regulation stage. For most categories of rulemaking, the department or agency provides notice of a proposed regulation, and any person or organization may review this document and submit comments on it in writing. The period during which public comments are accepted may vary for individual rulemaking actions, but it usually is 30, 60, or 90 days.

As part of the rulemaking process, the department or agency is required to consider the public comments received on the proposed regulation. When the department or agency publishes the text of the final regulation in the *Federal Register*, it generally incorporates a response to the significant issues raised by the commenters, and discusses any changes made to the regulation in response.

4. What is a docket?

A rulemaking docket serves as the official repository for the collection of documents or information related to a particular rulemaking. When a federal department or agency establishes a public docket for a specific rulemaking, the docket may include the documents specifically referenced in the *Federal Register* document, any public comments received, and other information used by department and agency decision makers, or otherwise related to the rulemaking. To locate the docket for any of the rulemaking activities listed on this website, refer to the “Addresses” section of the specific *Federal Register* document. Any comments you submit to a department or agency in a rulemaking may be made available for public inspection, copying, and dissemination via the paper and/or electronic docket.

5. What is Regulations.gov?

The Regulations.gov (www.regulations.gov) website is the central online rulemaking portal of the United States government. It is being offered as a public service to increase participation in the federal government’s regulatory activities. Regulations.gov enables you to search, view, and comment on proposed federal regulations from approximately 160 federal departments and agencies through a single website. The site allows visitors to search by keyword or department or agency to find proposed regulations. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to the appropriate department or agency. The consolidated site enables visitors to easily move from one regulation to the next. By providing electronic access to open rulemaking actions, Regulations.gov gives citizens a greater opportunity to provide their views.

The National Archives and Records Administration/*Federal Register* (NARA/FR) provides content for the website from *Federal Register* documents and data, the Government Printing Office (GPO) provides user support and hosts the main website, and the Environmental Protection Agency hosts the comment portion of the website.

Regulations.gov uses the existing information systems at GPO and NARA. The same *Federal Register* documents that GPO provides online are also used to keep Regulations.gov up-to-date. Therefore, Regulations.gov is updated every business day as new regulations are proposed. All the proposed and final regulations that are open for comment are cataloged and then posted to the site. With Regulations.gov, a person has easy, manageable access and the ability to comment on proposed regulations at a single website.

6. What is eRulemaking?

The eRulemaking Initiative, a cross-agency E-Government effort under the President's Management Agenda, is transforming the federal rulemaking process by enhancing the public's ability to participate in their government's regulatory decision making.

The project consists of three modules:

Module 1: Regulations.gov

A federal regulatory clearinghouse, Regulations.gov, was officially launched in January 2003. This website allows the public to view a description of rules currently open for comment, read full texts of these documents, and submit comments to the appropriate federal agency. Regulations.gov provides one-stop, online access to every open rule published by more than 160 different federal agencies.

Module 2: Federal-wide Docket Management System

The federal-wide docket management system, currently under development, will build upon Regulations.gov to establish a full-featured docket management system. It will serve as a central repository for federal rulemaking dockets, which are comprised of *Federal Register* notices, supporting materials, and public comments. The docket management system also will be designed to include non-rulemaking documents, such as Information Collection Requests that agencies can post online for public comment.

Module 3: Online Rulewriter Toolbox

The Initiative also will explore deploying information technology tools to assist in the development, review, and publication of federal regulations and the analysis of public comments. Tools will be available to federal regulation writers and the public. Such tools may include templates, collaboration applications, databases and content categorization software.

The eRulemaking Initiative is a collaborative effort of several federal agencies including the Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of Interior, Department of Justice, Department of Labor, Department of Transportation, Department of Treasury, Environmental Protection Agency, Equal Employment Opportunity Commission, Federal Communications Commission, National Archives and Records Administration, General Services Administration, Government Printing Office, and Small Business Administration.

APPENDIX 2.

Federal eRulemaking Initiative

Vision: Citizens can easily access and participate in a high quality, efficient, and open rulemaking process.

Goals: Through the use of information technology, the eRulemaking Initiative seeks to:

- 1 expand public understanding of the rulemaking process,
- 2 improve the quality of federal rulemaking decisions,
- 3 increase the amount, breadth, and ease of citizen and intergovernmental access, and
- 4 increase participation in rulemaking.

Authority: The E-Government Act of 2002 authorizes the eRulemaking Initiative and requires federal agencies to support this initiative. All agencies and departments are expected to make their regulatory docket electronically accessible and searchable via the eRulemaking Initiative.

Organization: The project consists of three modules:

Module 1: Regulations.gov

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Program Management Office Structure

The eRulemaking Initiative is governed by an Executive Committee, comprised of senior officials from participating federal agencies. An interagency Advisory Board, comprised of senior managers from partner agencies, informs the Executive Committee and oversees the eRulemaking Initiative's issue workgroups (e.g., Budget, Legal and Policy, Module 1, Module 2, Module 3, Records Management). The eRulemaking Program Management Office, headed by the director of the eRulemaking Initiative, includes employees from several agencies, including EPA, DOT, DOL, HHS, NARA, GPO, and USDA.

Partner Agencies: The Environmental Protection Agency is the Managing Partner for the overall eRulemaking Initiative. Other partner federal agencies include the Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of Interior, Department of Justice, Department of Labor, Department of Transportation, Department of Treasury, Equal Employment Opportunity Commission, Federal Communications Commission, National Archives and Records Administration, General Services Administration, Government Printing Office, and Small Business Administration.

APPENDIX 3.

Selected Federal E-Rulemaking Links

Federal e-Rulemaking Websites

Links to regulatory information pages.

http://www.archives.gov/federal_register/public_participation/rulemaking_sites.html

Office of Management and Budget (OMB)

Executive Orders, OMB policy directives, and rule-tracking information.

<http://www.whitehouse.gov/omb/inforeg/regpol.html>

RegInfo.gov Regulatory Resources

Links to the Unified Agenda and Regulatory Plan, plus other resources.

<http://www.gpoaccess.gov/ua/index.html>

***Federal Register* Home Page**

Gateway to *Federal Register* publications on GPO Access, including the daily *Federal Register*, the Code of Federal Regulations (CFR), and e-CFR, a new online edition of the CFR updated daily.

http://www.archives.gov/federal_register/index.html

Laws on the Rulemaking Process

A collection of federal laws relating to notice and comment rulemaking, including the Administrative Procedures Act.

http://www.archives.gov/federal_register/public_laws/publication_laws.html

Rulemaking Tutorial

The *Federal Register* – what it is, and how to use it.

http://www.archives.gov/federal_register/tutorial/about_tutorial.html

Small Business Administration (SBA) Regulatory Review

The SBA Office of Advocacy's regulatory comment letters on behalf of small business.

<http://www.sba.gov/advo/laws/comments/>

Small Business Administration (SBA) Regulatory Alerts

Small business owners have a tool to help cut through the complex and confusing federal regulatory process. The Regulatory Alerts website provides access to proposed regulations, direct access to Office of Advocacy staff, and links to other regulatory related sites, including Regulations.gov, to facilitate the submission of comments electronically to SBA.

http://www.sba.gov/advo/laws/law_regalerts.html

APPENDIX 4.



**The National Association of Schools of
Public Affairs and Administration**

1120 G Street, NW
Suite 730
Washington, DC 20005
Phone: 202 628 8965 Fax: 202 626 4978

SMALL COMMUNITIES OUTREACH PROJECT FOR ENVIRONMENTAL ISSUES (SCOPE)

SCOPE “SMALL COMMUNITIES AND E-RULEMAKING” PROJECT BROCHURE Spring 2004

The Small Communities Outreach Project for Environmental Issues (SCOPE) is a community-based initiative directed by NASPAA to engage elected officials and staff of local governments more effectively in regulations development. SCOPE was created to bridge the gap between federal regulators and small communities and other local jurisdictions by enabling representatives of these small communities to understand better the rulemaking process. SCOPE findings are widely disseminated to policy makers, writers of rules, and other interested parties.

SCOPE discussions are organized and led by faculty in NASPAA graduate programs of public affairs and administration and/or local government institutions, which regularly provide development, training, and evaluation services to local governments. The SCOPE outreach network is built on this extraordinary resource and the trusted relationships that exist between local governments and NASPAA programs. As neutral experts with a public service mission, SCOPE faculty teams bring the highest caliber of professional expertise to serving small communities.

SCOPE is funded through a cooperative agreement between the U.S. Environmental Protection Agency (EPA) Office of Policy, Economics, and Innovation and NASPAA. NASPAA is a 501(c)(3) organization that promotes excellence in public service and public service education and is the accrediting body for U.S. public administration, public affairs, and public policy master's degree programs. The association's membership consists of 250 university graduate schools and programs located in 49 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Since SCOPE's beginning in 1998, its team members have met with over 350 small community elected officials and staff in 20 states to discuss development of clean air and clean water rules subsequently proposed by EPA. The current SCOPE initiative seeks to promote and enhance small communities' involvement in the federal government's eRulemaking Initiative. In particular, SCOPE seeks to understand better how small communities have participated in e-rulemaking; what enhancements to current EPA and federal government e-rulemaking are important to foster more effective small communities' participation; and what strategies might be adopted by EPA and the federal government to address small communities' concerns and recommendations. SCOPE team members will

conduct meetings in Indiana, Nebraska, and Pennsylvania in spring 2004 to capture the interests and insights of small communities in states with diverse mixes of small communities in order to enhance e-rulemaking participation by small communities nationwide.

Small communities have special needs and concerns that the EPA should consider in the development of an electronic rulemaking system that provides enhanced opportunities for effective involvement in the rulemaking process. These needs and concerns may include the costs associated with obtaining information about and participating in the development of proposed rules and the subsequent public comment process, as well as with the procedures, training, reporting, or record keeping that may be required. Small communities' participation constraints include, for example, the digital divide facing small, public institutions; lack of access to high-speed internet connections – and the time of small communities limited staff to use these connections; and distinct small community government structures that may impair these communities' ability to participate effectively.

The SCOPE “Small Communities and E-Rulemaking” project is directed by Kenneth W. Tolo, NASPAA executive director, with the assistance of NASPAA project assistants Jocelyn Lewis and Sherry Sherman. Principal investigators during the spring 2004 consultations with small communities about e-rulemaking are Professor Beverly Cigler, School of Public Affairs, and Director of the Pennsylvania Program to Improve State and Local Government, Penn State Harrisburg; Professor Christine Reed, School of Public Administration, University of Nebraska at Omaha; and Professor Ellen Szarleta, School of Public and Environmental Affairs, Indiana University Northwest. Professor Arthur A. (Andy) Felts, Director, Joseph P. Riley, Jr. Institute for Urban Affairs and Policy Studies, College of Charleston, South Carolina, is the SCOPE evaluator.

APPENDIX 5.

SCOPE Discussion Guide for Community Meetings: Spring 2004

Part I: General information about the community

- A. Population size of the community and surrounding area
- B. Economic base and social characteristics of the area
- C. IT infrastructure
 - access to basic internet services?
 - dial up or high speed cable connections?

Part II: Background information about the local or county government

- A. Form of government and number of employees
- B. Title of local or county official(s) participating in the discussion
- C. Does someone function as “Chief Information Officer”?
 - if so, what do the duties include?
- D. IT capacity within local or county government
 - 1. internet access?
 - if so, used for what purposes?
 - 2. web page?
 - what information is on web page?
 - estimated number of hits?
 - 3. e-government?
 - ability of citizens to submit questions/concerns electronically?
 - web-based transactions? (possibly including: access to public records; registration of deeds; issuance of permits)
- E. Web-based interface between local and state government
 - 1. do local or county government officials access state government web site(s)?
 - 2. for what purposes, functions or transactions?
 - 3. assessment of state government website(s)?

Part III: The federal e-government initiative (local and county official discussion)

- A. Previous local and county government participation in federal rulemaking?
 - 1. which rule(s) and when?
 - 2. participate as part of the municipal or county league?
 - 3. general sense of efficacy?

- B. E-government initiative for small communities
 - 1. aware of Bush Administration initiative?
 - explain/access website www.regulations.gov?
 - 2. local opportunities for and barriers to small community participation?
 - 3. role of state agencies?
 - environmental or other

- C. Ideas and recommendations for EPA and electronic rulemaking
 - 1. perceptions of benefits and costs of electronic rulemaking
 - 2. what would local or county government like to see in a new system?
 - 3. how could EPA help to enhance small community participation?

APPENDIX 6.

SCOPE Discussion Guide for Final Local Advisory Board Meeting: Spring 2004

Part I: **Response to findings**

- A. Agree or disagree with findings?
- B. Were findings what they anticipated?
- C. Is an understanding of the rulemaking process (i.e., post a comment versus contacting Member of Congress) an issue in small community participation?

Part II: **Outreach process**

- A. Response to the number, size, and location of participating communities
 - 1. do they feel it was a representative sample?
 - 2. why or why not?
- B. Evaluation of the outreach process
 - 1. was the outreach process sufficient to encourage and attain community participation?
 - 2. how might we improve the outreach process for the next SCOPE project?

Part III: **Meetings**

- A. Evaluation of meeting process
 - 1. individual versus group meetings?
 - 2. efforts to accommodate participating communities?
- B. Did participants receive enough information regarding the e-Rulemaking Initiative?

Part IV: Recommendations

- A. Suggestions to implement a plan to address the recommendations identified in the report
 - 1. assist communities in following the notice and comment process?
 - 2. guide them in making effective comments?
 - 3. how can EPA acknowledge comments to encourage participation?
 - 4. how can federal government reach out to small communities to decrease feelings of alienation?
 - 5. how can the general community be engaged in the e-rulemaking process?

- B. Recommendations for next phase of SCOPE project (i.e., pilot programs? focus on a pending rule?)

APPENDIX 7.

SCOPE Inventory of Resources in Three Project States: Spring 2004

INDIANA

An exhaustive search of state resources appropriate to and useful for increasing the effectiveness of e-rulemaking participation in small communities suggested that no state resources are directly devoted to promoting community participation in the e-rulemaking process. For example, a web search of the state website revealed only two references to www.regulations.gov and the e-rulemaking process. Both references are related and originate at the Indiana Department of Environmental Management website page, which focuses on citizen participation in environmental justice issues.

The absence of such information points to the enormous potential for improving small government participation in federal e-rulemaking. State resources could be expanded to include additional references to the www.regulations.gov website.

The state has significant presence in the e-government environment, related to state government functions. These resources include, for example, collection of taxes and, to a limited extent, facilitating local government interaction with the state government (e.g., submission of local government forms).

The existing state-based resources may serve as a starting point for supplementary assistance to small communities wishing to participate in the e-rulemaking process. For example, a link could be provided to the www.regulations.gov website from a number of state websites, such as the Indiana Department of Environmental Management (IDEM) website. The IDEM addresses many issues whose origin lies in federal law and regulations, such as air and water quality. Other resources that could be used to facilitate small government participation in e-rulemaking include the:

*Indiana Association of Cities and Towns and affiliated entities:

www.citiesandtowns.org

*Indiana Association of Counties (for smaller counties):

www.indianacounties.org

*Indiana Association of Townships: www.indianatownshipassoc.org

*Indiana Chamber of Commerce (efficient government):

www.indianachamber.com

*National Association of Regional Councils (suggested by community):

www.narc.org

NEBRASKA

Several statewide resources exist in Nebraska for increasing the effectiveness of e-rulemaking participation in small communities.

1. *Access eGovernment* is an online guide that is intended for use in local e-government training sessions and for self-study. This guide shows local governments how to plan information-rich websites to transact business and communicate with citizens, as well as how to find the resources to design and maintain their own websites. The *Access eGovernment* curriculum is made available through a partnership between the University of Nebraska Cooperative Extension Service and the University of Minnesota.

2. *Technologies Across Nebraska* is an initiative led by the University of Nebraska Cooperative Extension Service to provide a network of expertise to assist communities in locating current information on infrastructure, policy and education, and training issues and opportunities. A Technologies Partnership of 40 entities is helping to ensure that the citizens in Nebraska communities have access to “broadband” services for their businesses and personal quality of life.

3. *Community “Fast Facts” Profiles* are provided for all Nebraska communities on the Nebraska Public Power District website. These profiles provide summaries of census data, including population, economic base, and municipal services, as well as detailed information about transportation infrastructure. The profiles are designed by the communities themselves and sometimes include descriptions about information technologies, particularly “broadband” service providers.

4. *Nebraska Online* is the official website for the State of Nebraska. It offers online services through various “portals” for business, citizens, and education. Small local jurisdictions use this website for a variety of purposes, including rules and regulations searches, business transactions, and e-mail communications with state agency officials and staff. All 93 counties in Nebraska are linked to the Secretary of State’s Office through a system of personal computers dedicated to Uniform Commercial Code searches. The Secretary of State’s Office has also assisted counties with the design of county websites.

5. *League of Nebraska Municipalities* represents 385 municipalities and villages. League staff is responsible for alerting members to legislation and rules under development with potential impact on small communities. Their familiarity with the information technology capacity of member communities made them a primary source of advice in the community outreach phase of the spring 2004 SCOPE project.

6. *Nebraska Association of County Officials* represents the state's 93 counties. Staff members are responsible for alerting members to legislation and rules under development with potential impact on small counties. Their familiarity with the information technology capacity of member counties made them a primary source of advice in the community outreach phase of the spring 2004 SCOPe project.

7. *Nebraska Municipal Clerk Institute and Master Academy* is hosted each year by the School of Public Administration at the University of Nebraska at Omaha. Municipal clerks are often charged with responsibility for websites, for e-mails for elected officials, and for conducting local government business via the internet. The current president of the Nebraska Municipal Clerks Association served on the spring 2004 SCOPe Local Advisory Board in Nebraska.

PENNSYLVANIA

PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Commonwealth Keystone Building, 4th Floor
Harrisburg, PA 17120
Ph. 717-234-4560

The Governor's Center for Local Government Services (1-888-223-6837) is a one-stop information service for all local governments in the state and connects officials to appropriate personnel on any issue affecting a municipality.

Pennsylvania Municipal Technology Assistance Program

This is operated by the Governor's Center for Local Government Services and provides computers at a discounted cost to local governments. Toll-free: (888) 223-6837.

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)

P.O. Box 2063
Harrisburg, PA 17105-2063
Ph. 717-783-2300

The DEP has six regional offices that serve as local government liaisons.

DEP eFACTS (environment, facility, application, compliance tracking system) is the expanded version of what was formerly called the DEP Compliance Reporting system. This was named by the Council of State Governments in 1999 as one of the eight most innovative programs in the U.S. and Canada. When the original version was developed in 1997, DEP was the first environmental protection agency in the U.S. to report on-line inspection, violation, and compliance information. Many enhancements have been made since, and more than 500 citizens, local officials, representatives of business and industry, and environmentalists participated in seven public Compliance Roundtables to discuss the design of the system. An e-mail button at the site permits continuous suggestions.

The site lists regulated sites and their owners, information about issued permits when such information is available electronically, information about the status of pending permit applications, and links between violations, their regulatory citations, and the on-line version of the Pennsylvania Bulletin. Users can subscribe to eNotice to track permit applications through the permit approval process, including geographically by selecting a county or municipality.

Environmental Quality Board (EQB)

Pennsylvania's Environmental Quality Board, established in 1970, is a 20-member independent board chaired by the Secretary of DEP. It adopts all of DEP's regulations. EQB's members include 11 state agencies (DEP, Agriculture, Health, Community and Economic Development, the Public Utility Commission, the Fish and Boat Commission, the Game Commission, Labor and Industry, the Governor's Office of Policy, the Historical and Museum Commission, and Transportation. Five members of the Citizens Advisory Council and four members of the Senate and House are also members. The legislative members are appointed by the President Pro Tempore of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader.

Meetings of the EQB are held monthly, with special meetings and hearings held at the discretion of the EQB. Meetings are open to the public. but public statements are not permitted. EQB public hearings are scheduled to solicit public comments on proposed regulations.

The EQB also examines petitions to change regulations and has such other responsibilities as the review of Pennsylvania's Clean Air Implementation Plan changes, citing low-level radioactive waste disposal facilities, adopting a Hazardous Waste Facilities Plan, and considering applications for a certificate of public necessity for hazardous waste disposal facilities.

Environmental Quality Board
15th Floor, RCSOB
P.O. Box 8477
Harrisburg, PA 17105-8477
(717) 787-4526
<http://www.dep.state.pa.us/dep/subject/eqb/eqb.htm>

DEP Public Participation Center

The Center publishes a weekly DEP newsletter that subscribers can receive via email. The Center's web pages include DEP regulations, a regulatory status report, the regulatory agenda, a sunset review schedule, rulemaking petitions, an inventory of regulations, guides to public participation and right to know laws, the PA Code and PA Bulletin, information about boards such as the Environmental Hearing Board, status of legislation, and proposals recently finalized. The site also provides contact information for the DEP Regional Offices and a DEP Telephone Directory. This user-friendly site helps individuals and families, students, educators, farmers, business, and local government officials locate pertinent information.

OTHER STATE AGENCIES

Center for Rural Pennsylvania

200 North Third Street

Suite 600

Harrisburg, PA 17101

Phone: 717-787-9555

Fax: 717-772-3587

URL: <http://www.ruralpa.org/>

The Center for Rural Pennsylvania is a bipartisan, bicameral legislative agency that serves as a resource for rural policy within the Pennsylvania General Assembly. The Center works with executive agencies and federal, regional, and community organizations to maximize resources and strategies that can better serve the needs of Pennsylvania's 3.7 million rural residents.

The Center promotes and sustains the vitality of Pennsylvania's rural and small communities by awarding grants for applied research and model projects; maintaining and disseminating information on rural trends and conditions; publishing research and project results; and sponsoring local, state and national forums on rural issues.

Access eGovernment

College of Agricultural Sciences

Cooperative Extension

Penn State University

<http://www.egov.psu.edu/>

Access eGovernment is an educational service of Penn State Cooperative Extension, which is designed to help county and municipal governments make smart choices about planning and implementing eGovernment. Access eGovernment includes face-to-face presentations and implementation assistance on eGovernment, as well as a web-based eGovernment Guide. The guide offers a step-by-step process and resource materials that can help local government officials design and maintain a website to transact business and communicate with citizens. Access eGovernment offers workshop across the state. One provides a basic introduction to eGovernment, and the other is a Hands-On Tour with computer training that shows how other governments are using eGovernment to deliver information and services.

The publication **Access eGovernment Online Guide** explains the content, services, technology, politics, and issues specific to e-government and is intended for local e-government training sessions as well as for self-study. Local governments are shown how to plan websites and how to find the resources to design and maintain their websites.

Contact either the local Cooperative Extension Office or Regional Community Development Agent at (717) 436-7744 or email: wew2@psu.edu.

The Penn State Cooperative Extension also offer **Access eBusiness and Access Pennsylvania Main Street**, which connects small to medium-sized businesses to the Internet, electronic commerce, and global trade. The curriculum was modified from Access Minnesota Main Street, developed by the University of Minnesota Extension Service.

[Contact: University of Minnesota Extension Service, 405 Coffey Hall, St. Paul, MN 55108-6068; Email: copyright@extension.umn.edu; Fax: (612) 625-2207.]

Statewide Technology and Electronic Commerce Advisory Council

Intergovernmental Affairs Committee
Subcommittee on Information Technology
Pennsylvania General Assembly

The purpose of this council is to provide the House of Representatives with an independent, nonpartisan source of information and advice on information technology and electronic commerce and to focus and report on technology development and initiatives.

Contact: House Intergovernmental Affairs Committee, Executive Director
Phone: (717) 787-3711; Fax: (717) 783-2322 (fax)

The Pennsylvania Program to Improve State and Local Government (The PA Program)

Penn State Harrisburg
777 W. Harrisburg Pike
Middletown, PA 17057-4898
Phone: (717) 948-6060
Fax; (717) 948-6320

The PA program is a university research and outreach center dedicated to public service by advancing the frontiers of knowledge through careful and systematic analysis that helps develop sound practical assistance to governments and public policy makers. The PA Program conducts original research, facilitates the application of sound information by Pennsylvania's decision makers, and conveys examples of exemplary policy, service delivery, and management practices through various outreach activities. The PA Program works closely with Pennsylvania municipal associations and state agencies.

MUNICIPAL, COUNTY, AND PROFESSIONAL ASSOCIATIONS

Pennsylvania State Association of Township Supervisors (PSATS)

3001 Gettysburg Road
Camp Hill, PA 17011-7296
Phone: (717) 763-0930
<http://www.psats.org/>

Pennsylvania State Association of Boroughs (PSAB)

41 North Front Street
Harrisburg, PA 17110
Phone: (717) 236-9526
Fax: (717) 236-8164
E-mail: general@boroughs.org
URL: <http://www.boroughs.org/index.stm>

Pennsylvania League of Cities and Municipalities (PLCM)

(This organization also is the secretariat to the Municipal Managers Association.)

414 North Second Street
Harrisburg, PA 17101
(717) 236-9469
FAX (717) 236-6716
URL: <http://www.plcm.org>

A key program offered by PLCM is a local public procurement program (1-800-438-5370), through which any municipal government can purchase materials, such as lead-free paint products.

The Municipal Pointe was created by PLCM to serve as a clearinghouse of information for members on technology and related issues. PLCM is both a sponsor and a customer of the GovOffice tool, "The Internet Solution for Government." This was created by and is offered in conjunction with the League of Minnesota Cities, the International City/County Management Association (ICMA), Avenet LLC, Microsoft, and Qwest.

GovOffice gives public officials a powerful, state-of-the art system for providing public information, enhancing outreach and interaction, and promoting activities to citizens 24/7 via the Internet.

Contact: Director of Programs and Marketing, PLCM; (800) 922-8063.

Pennsylvania Municipal Authorities Association (PMAA)

1000 N. Front Street
Suite 401
Wormleysburg, PA 17043
Phone: (717) 737-7655
Fax: (717) 737-8431
E-mail: pmaa@redrose.net
URL: <http://www.municipalauthorities.org/>

County Commissioners Association of Pennsylvania

17 North Front Street
Harrisburg, PA 17101-1624
Phone: 717-232-7554
Fax: 717-232-2162
URL: <http://www.pacounties.org>

APPENDIX 8.

SCOPE Project Evaluation Survey Summary: Spring 2004

Professor Arthur (Andy) Felts, Director of the Joseph P. Riley Institute for Urban Affairs and Policy Studies, College of Charleston (SC), served as the evaluator for this spring 2004 SCOPE project.

Following the discussions in each of the three project states with the representatives of small communities in those states, the participants were asked to complete an evaluation form. The following selected results represent the views of these representatives.

The spring 2004 SCOPE project evaluation asked the small community representatives whether they agreed or disagreed with a statement that the SCOPE session was a productive use of their time. The table below shows that slightly more than 90 percent either highly agreed or agreed with the statement.

PRODUCTIVE USE OF TIME	FREQUENCY	PERCENT
Highly Agree	18	43.9
Agree	19	46.3
Neither	4	9.8
Total	41	100.0

There was a significant ($p = .02$) difference in the average population of communities and the way they answered this question. Those who highly agreed represented communities with an average population of 8,724; those who agreed were from communities with an average population of 15,444; and the four participants who were neutral on the session being productive represented communities with an average population of 34,929. This, at least indirectly, suggests that SCOPE may be meeting its objective of engaging small communities, since the smaller the community, the more enthusiastic was the response.

The three state-based project principal investigators reported that their SCOPE sessions with small community representatives lasted from one hour to one and one-half hours. An overwhelming majority – 98 percent – reported that the sessions were “about right” in length. Only one respondent thought the time was too short.

FELT COMFORTABLE	FREQUENCY	PERCENT
Highly Agree	18	43.9
Agree	18	43.9
Neither	4	9.8
Disagree	1	2.4
Total	41	100.0

While SCOPE principal investigators were under instructions to conduct outreach sessions either through one-on-one meetings with community representatives or in-group sessions, it is important to ascertain how the community representatives feel about such meetings. As noted in the three states’ reports, the so-called “digital divide” that has separated wealthier (and likely larger) communities from their smaller counterparts with respect to computerization and access to the internet is rapidly disappearing. As it disappears, the possibility of a web-based outreach or even a threaded e-mail discussion appears more and more viable. We asked the respondents what type of meeting they thought was best for addressing e-rulemaking issues and participation. As the table below shows, an overwhelming majority preferred either one-on-one or group meetings.

BEST TYPE MEETING	FREQUENCY	PERCENT
In person, one-on-one	18	43.9
In person, group	17	41.5
Telephone	3	7.3
No Response	3	7.3
Total	41	100.0

The evaluation doesn’t specify what type of meeting each respondent attended, but it would be reasonable, given that many participants indicated the session was a productive use of their time, that these responses might mirror their actual participation in SCOPE.

The next question asked respondents if they would be comfortable calling their discussion leader if they had additional questions. All respondents either highly agreed or agreed with this statement – with two-thirds highly agreeing.

As the next table shows, nearly 100 percent of the respondents felt that the goals of the SCOPE project were explained well.

GOALS EXPLAINED	FREQUENCY	PERCENT
Yes	40	97.6
No	1	2.4
Total	41	100.0

An identical number responded to a statement that asked if their role in SCOPE was explained.

ROLE EXPLAINED	FREQUENCY	PERCENT
Yes	40	97.6
No	1	2.4
Total	41	100.0

The success of SCOPE is predicated on a relatively short meeting time. It is therefore essential that participants be given enough information in advance of the meeting to be able to maximize their participation. As the table below shows, more than 85 percent of the participating small communities' representatives felt that they were given sufficient advance information about e-rulemaking to prepare for the meeting.

SUFFICIENT ADVANCE INFORMATION	FREQUENCY	PERCENT
Yes	35	85.4
No	6	14.6
Total	41	100.0

Of the six who felt they were not given sufficient information in advance, three were from Indiana, two were from Nebraska, and one was from Pennsylvania. There was a relationship between the size of the community and answers to this statement ($p = .067$), with those who answered "no" coming from communities with an average population of 27,097 and those answering "yes" from communities with an average population of 12,467. It is not clear whether those who responded negatively met in a group meeting or had a one-on-one session with the principal investigator, but it is likely that in a group meeting those who felt less prepared would also likely to have been less comfortable asking questions.

We asked the participants to agree or disagree with a statement that said they felt more comfortable with e-rulemaking as a result of participating in the outreach session.

MORE COMFORTABLE WITH E-RULEMAKING	FREQUENCY	PERCENT
Highly Agree	10	24.4
Agree	22	53.7
Neither Agree Nor Disagree	8	19.5
Disagree	1	2.4
Total	41	100.0

The one person who disagreed with the statement was from Indiana, while among those participants who responded “neither” four were from Pennsylvania, three were from Nebraska, and one was from Indiana. There was no correlation between the size of a participant’s community and that participant’s responses to this statement.

A major goal in SCOPE is to encourage more participation in rulemaking – and the survey asked those participating whether they would be more likely to do so as a result of the outreach. As the table below shows, a majority said they would neither be more nor less likely to do so, with 40 percent saying they would be more likely.

MORE LIKELY TO PARTICIPATE IN E-RULEMAKING	FREQUENCY	PERCENT
More Likely	17	41.5
Neither More or Less Likely	23	56.1
Less Likely	1	2.4
Total	41	100.0

There was considerable state variation in the responses to this question. The one participant that indicated s/he would be less likely was from Pennsylvania. Ten of the 16 Nebraska respondents indicated they would be “more likely,” and 16 of the 19 respondents from Pennsylvania said “neither more nor less.” There can be little doubt that saliency is an issue here – and the question as asked is an abstract one. That is to say, these same respondents might be more likely to participate (given more understanding of the e-rulemaking website and e-rulemaking generally) when faced with a proposed rule that they clearly understood would affect them.

We asked respondents to agree or disagree with a statement that if e-rulemaking were widely adopted it would make a difference in the rules that government makes. As can be seen in the next table, a majority of participants responded that they did not know.

E-RULEMAKING WILL MAKE A DIFFERENCE	FREQUENCY	PERCENT
Yes	12	29.3
Don't Know	23	56.1
No	6	14.6
Total	41	100.0

Significantly, nearly 30 percent answered “yes” to this statement; of those respondents, 10 were from Nebraska. Of the six that answered “no,” four were from Pennsylvania. There was no statistically significant correlation between the size of the community and responses.

As in the case of evaluation surveys of prior SCOPE projects, the spring 2004 survey asked if participation in this latest SCOPE project caused state participants to view EPA differently. The table below shows that approximately one in five looked at EPA more positively as a result of the state-based discussions about e-rulemaking, with the remainder saying they viewed EPA the same.

VIEW OF EPA	FREQUENCY	PERCENT
More Positively	9	22.0
Same	32	78.0
Total	41	100.0