

# Making Your Voice Heard in the Federal Rulemaking Process



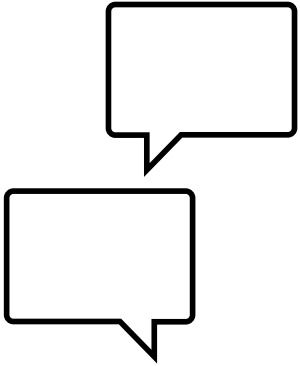
Office of the Assistant Secretary for Policy

July 2022



# Needed: your voice!

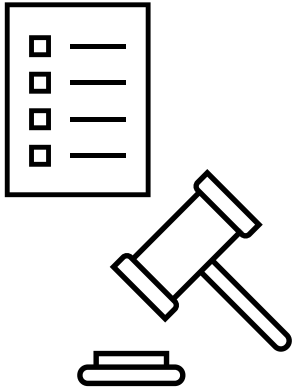
- This presentation explains how **you can make your voice heard** in the federal rulemaking process
- We will explain:
  - What is a rule (or regulation) and why they are important
  - How the rulemaking process works
  - How you can know when to submit comments and why comments matter
  - How to submit comments, including what you should put in your comment





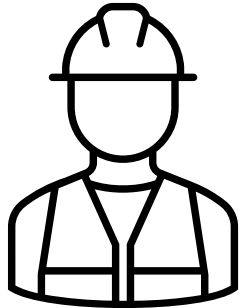
# What is a rule or regulation?

- The U.S. Congress passes laws but often leaves details of how the laws should be implemented to federal agencies – like the U.S. Department of Labor (DOL) and its corresponding sub-agencies, like the Occupational Safety and Health Administration (OSHA) or the Wage and Hour Division (WHD)
- Federal agencies use regulations (also called rules) to establish those details about how laws should work
- Regulations can have the force of law, and can require workers and employers to take certain actions or can prohibit certain actions.





# Rulemaking at the U.S. Department of Labor



- At the U.S. Department of Labor, we develop regulations or rules that address important issues like:



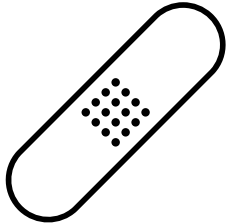
- Which workers are covered by the federal minimum wage?
- What steps must employers take to address workplace health or safety hazards?
- How are guest workers from other countries paid?
- What kind of investment offerings can employers include in retirement plans?
- What standards must apprenticeship programs meet?



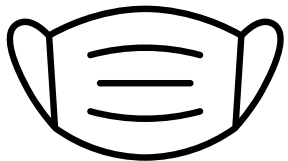


# Why does rulemaking matter?

- Rules **can have a big impact on workers—like who is protected or not, and what kind of protections they can receive**



- For instance, in 2013 the U.S. DOL proposed a rule to limit workers' exposure to respirable crystalline silica—a common mineral that can cause incurable lung disease



- The final rule issued by DOL required employers to take steps to limit workers' exposure to silica dust, including better ventilation
- DOL projected that the rule would prevent more than 600 deaths per year from silica-related diseases, like silicosis and lung cancer, and would prevent more than 900 new cases of silicosis annually



# Where do rules come from?

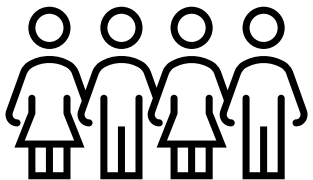


- Sometimes, the Congress or the President directs agencies to consider new regulations or to change existing regulations

- In other cases, agencies will consider new or changed regulations on their own



- The public can always ask an agency to work on a specific rule—through a petition, an advisory committee, or just a letter



- For instance, you can read more about the process at U.S. DOL's Occupational Safety and Health Administration here: <https://www.osha.gov/laws-regs/standards-development>




# How does rulemaking usually work?

- **Agency Proposes Rule**
  - The agency publicly tells the public about the issue they are trying to address
  - The agency suggests specific design of a rule, generally including proposed rule text
  - The agency discusses the potential impact of the rule, including costs and benefits
- **Agency Collects Comments on Proposed Rule**
  - Members of the public—including workers, retirees, unions, advocates, businesses, industry groups, and more—can submit comments on the proposed rule in most circumstances
  - Agencies, like the U.S. DOL, especially want to hear directly from people who would be affected by the rule—workers and businesses alike
- **Agency Publishes Final Rule**
  - Agencies review each comment and develop a final rule, responding to issues or questions that comments have raised.
  - Agencies may change the proposed rule because of arguments or ideas presented in the comments.



# How do you know when to submit a comment?

An official website of the United States government. [Here's how you know](#)

 U.S. DEPARTMENT OF LABOR MENU

Home > Regulations

## Regulations

On December 10, 2021, the U.S. Department of Labor's fall 2021 regulatory agenda was published on [www.reginfo.gov](http://www.reginfo.gov). The regulatory agenda is a listing of all the regulations the Department expects to have under active consideration for promulgation, proposal, or review during the coming 6- to 12-month period.

### Regulations Open for Comment

The following regulations are currently open for comment at Regulations.gov:

- [EBSA Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications NPRM](#) – The Notice of Proposed Rulemaking was published on March 15, 2022 and the comment period ends **April 14, 2022**.
- [OFCCP Pre-Enforcement Notice and Conciliation Procedures NPRM](#) – The Notice of Proposed Rulemaking was published on March 22, 2022 and the comment period ends **April 21, 2022**.
- [OSHA Occupational Exposure to COVID-19 in Healthcare Settings Notice of limited reopening of comment period; notice of informal hearing](#) – The Notice of limited reopening of comment period; notice of informal hearing was published on March 23, 2022 and the comment period ends **April 22, 2022**.
- [OSHA Procedures for the Handling of Retaliation Complaints Under the Taxpayer First Act \(TFA\) IFR](#) - The Interim Final Rule Rule was published on March 7, 2022 and the comment period ends **May 6, 2022**.
- [OSHA Powered Industrial Trucks Design Standard Update NPRM](#) – The Proposed Rule was published on February 16, 2022 and the comment period ends **May 17, 2022**.
- [WHD Updating the Davis-Bacon and Related Acts Regulations NPRM](#) – The Notice of Proposed Rulemaking was published on March 18, 2022 and the comment period ends **May 17, 2022**.
- [OSHA Improve Tracking of Workplace Injuries and Illnesses NPRM](#) - The Notice of Proposed rulemaking was published on March 30, 2022 and the comment period ends **May 31, 2022**.
- [MSHA's Retrospective Study of Respirable Coal Mine Dust Rule](#) – The Request for Information was published on July 9, 2019, and the comment period ends **July 9, 2022**.

- You can visit [Regulations](http://www.dol.gov/regulations) (<http://www.dol.gov/regulations>) to learn about the regulations that the U.S. Department of Labor has open for public comments.
- This page lists rules that are open for comment, including the title of the rule and the period for public comment.
- By clicking on the links, you can read the full text of the proposed rule and submit a comment.





# How do you submit a comment? (1/2)

The screenshot shows the Regulations.gov website interface. At the top, there is a blue header with the site logo and the text 'Regulations.gov Your Voice in Federal Decision Making'. Below the header, the page title is 'Docket (EBSA-2022-0003) / Document'. A white box indicates 'Comment Period Ends: 3 Days'. A blue box with 'PR' and 'PROPOSED RULE' is followed by the title 'Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications'. Below the title, it says 'Posted by the Employee Benefits Security Administration on Mar 15, 2022'. A prominent blue button labeled 'Comment' is visible. Below the button is a white box with 'View Related Comments 6'. At the bottom left, there is a 'Share' button. At the bottom, there is a white box with a yellow icon and the text 'Document Details'. Blue arrows point from the text on the right to these specific elements on the screenshot.

- The website [www.regulations.gov](https://www.regulations.gov) is the main government portal for public comments on federal rules.
- The box at the top tells you how long you have to submit your comment before the comment period ends.
- The official title is in the middle.
- There is a button allowing you to click to submit a comment.
- You can scroll down to read the whole proposed rule.



# How do you submit a comment? (2/2)

You are commenting on a Proposed Rule by the Employee Benefits Security Administration  
Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications

Comment Period Ends: 3 Days

### Write a Comment

Commenter's Checklist

**Comment\***

Start typing comment here...

X You can't leave this field blank 5000

**Attach Files**

You can attach up to 20 files, but each file cannot exceed 10MB. Valid file types include: bmp, docx, gif, jpg, jpeg, pdf, png, pptx, rtf, sgml, tif, tiff, txt, wpd, xlsx, xml.

Drop files here or

**Email Address**

Email Address

Opt to receive email confirmation of submission and tracking number? (We will never post on Regulations.gov or share your email with anyone else.)

**Tell us about yourself! I am...\***  
(Select an identity below)

An Individual

An Organization

Anonymous

- You can type out your comment at the top, or in a separate document and copy and paste the text into the text field.
- You can attach files to supplement your comment by dragging them onto the middle of the page. You are not required to attach separate files.
- You can indicate what kind of commentator you are—an individual or organization—and then give your name and as much information about your location as you'd like. You can also submit a comment anonymously. Comments with more context and detail can prove more helpful to agencies.



# What should you put in your comment?

- **What rule are you writing about?**
  - Include the rule name (you can also include the docket number)
- **Who are you?**
  - Your name? (optional)
  - Where do you live or work?
  - What is your job or business (if relevant to the rule)?
  - What is your family or household like (if relevant to the rule)?
  - It's up to you how much detail you want to share. Including specifics about how a rule will affect you may increase the likelihood that your comment will be helpful.

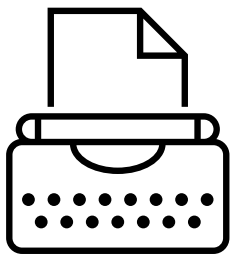


# What should you put in your comment? (cont.)

- **How will the proposed rule impact you?**
  - For workers, you can tell stories about how new rules might change your wages or the protections you receive on the job
  - For businesses, you can talk about the impact of implementing the rules and how others—like workers—might react and what it means for you
- **How could the rule be made better?**
  - While it is not necessary, you can make suggestions about how the agency could change the rule to make it better
- **Do you have specific answers to agency questions?**
  - Agencies will often include specific questions for the public in the proposed rule, and you can answer these questions if they are relevant to you



# Tips for an effective comment



- The most effective comments give specific examples of how the rule would impact workers or businesses, in the commenter's own words
- Sometimes these comments can include data points (like specific dollar amounts of costs and benefits) but these are not required
- You should focus your comment on the specific issues raised in the rule
- If you refer to other documents, like news stories, reports, or research articles, you should reference these documents, and where possible, provide hyperlinks
- Remember: **comments are public, so don't say anything that you wouldn't want posted online (for instance, your Social Security Number)**



# An example from OSHA's Silica Regulation (1/2)

- **What rule are you writing about?**
  - Occupational Exposure to Crystalline Silica
- **Opening**
  - Dear Department of Labor:
- **Who Are You?**
  - I live in Southwestern Pennsylvania, and I work outside. Over the last few years, I have seen a lot of hydraulic fracturing activities in our area.



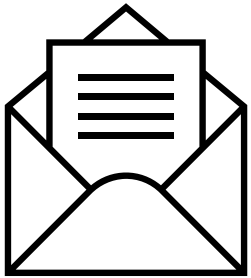
# An example from OSHA's Silica Regulation (2/2)

- **How will the proposed rule impact you?**

- Those of us who live around hydraulic fracturing have experienced silica dust clouds that develop around 'rail car to truck' offloading areas. The conveyor belts carrying silica sand from the bottom of a rail car to a tractor trailer results in fine silica dust particles escaping, which impacts any workers who are around.
- When I first began my career ... we were told [silica] was a 'nuisance dust' and that we only wore dust masks (not respirators) .... My company then began monitoring the ... dust levels in our clean rooms and ... determined N95 respirators were needed to protect the workers.



# Why it matters



- Academic research [finds](#) that public comments make a difference: the mix of public comments that agencies receive shapes final rules
- But research also finds that agencies often don't hear from individual members of the public or workers as much as they hear from organizations and businesses
- One [study](#), looking at nearly 1,700 DOT and DOL rules, found that [businesses](#) accounted for nearly 60% of all comments submitted and other government officials (like state and local governments) accounted for another 19%
- You have an important opportunity to shape government action with your public comments