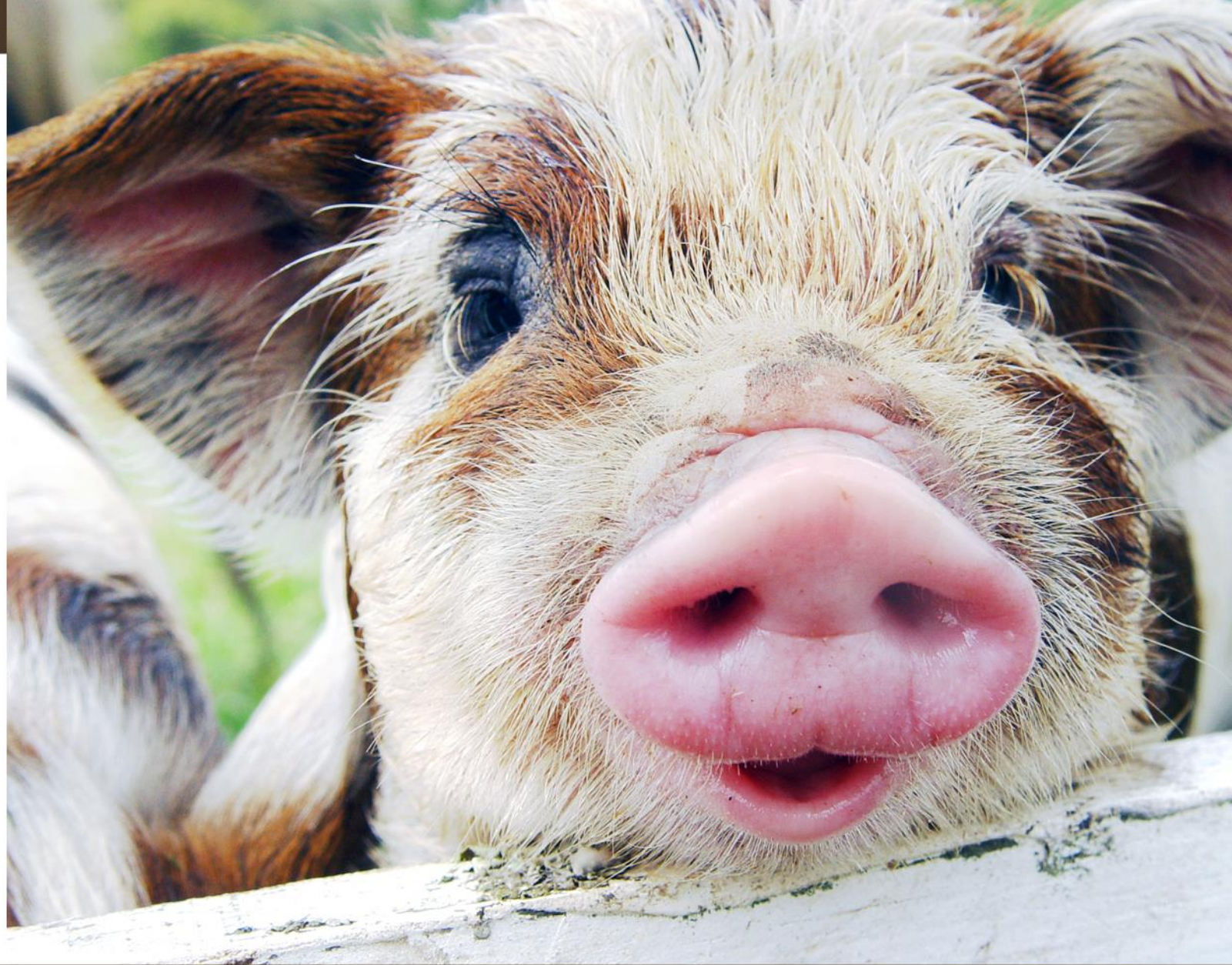


# 2021 Student Chapter Kickoff

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The Public Commenting  
Process & You

Stacey Gordon Sterling  
Animal Law Program Director





# The Role of Public Comments

*Regulations touch virtually every part of our lives as citizens: the food we eat, the water we drink, the air we breathe, the cars we drive, the animals we protect. Regulations implement public policy.*

Regulations = laws implemented by government agencies. Agency officials are appointed– not elected– so Administrative Procedures Act contains safeguards to ensure rulemaking process is accountable to the citizens.

- Agencies must provide the public a **meaningful opportunity** to comment
- Agency must consider **“all relevant matters presented”** during the comment period
- Agency must **provide responses to all significant issues** raised. Significant = if adopted, the agency would be required to change the proposed rule.

When adopting a final rule the agency must base its reasoning and conclusion on the full rulemaking record, including **public comments**, scientific data, expert opinions, and facts gathered during the rulemaking process.



# Why You Should Participate in the Rulemaking Process

- Make your voice heard to **influence or change** a proposed regulation.
- Make sure that legal requirements, facts, unintended consequences and errors **aren't overlooked** during the rulemaking process.
- **Use your expertise** to point out issues, offer alternative language, suggest solutions the agency may not have considered.
- Ensure that **on-the-ground experience** is considered in the process; you have the opportunity to share your perspective as someone affected by the issue and the final rule.
- Help agencies determine the level of **acceptance or resistance** to the proposed rule.
- Ensure that **all interested voices are heard**— other private citizens, nonprofit organizations, industry lobbying groups, and even other government agencies are all commenting too, and many will have a different perspective.





# The Rulemaking Process

**Pre-Rulemaking: Advance Notice of Proposed Rulemaking published in the Federal Register**

Step One: Agency drafts proposed rule

Steps Two-Three: Draft of proposed rule is reviewed by the agency and the Office of Information & Regulatory Affairs

**Step Four: Notice of Proposed Rulemaking is published in the Federal Register**

**Step Five: Public comment period open**

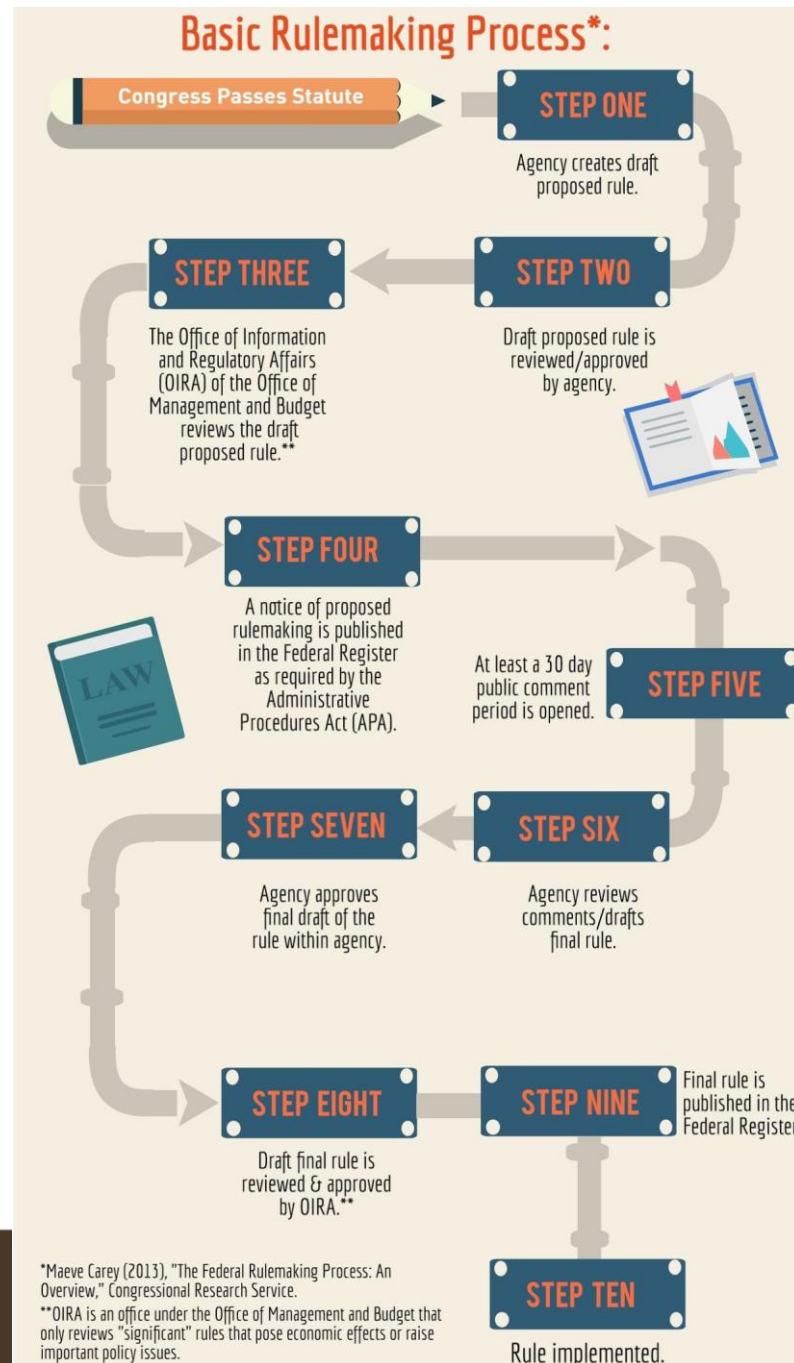
Step Six: Agency reviews comments & drafts final rule

Step Seven: Agency approves Final Rule draft

Step Eight: Final Rule is reviewed

Step Nine: Final Rule is published in the Federal Register

Step Ten: Rule implemented



# How to Find Open Notices

## Federal

[Reginfo.gov](https://www.reginfo.gov): Unified Agenda

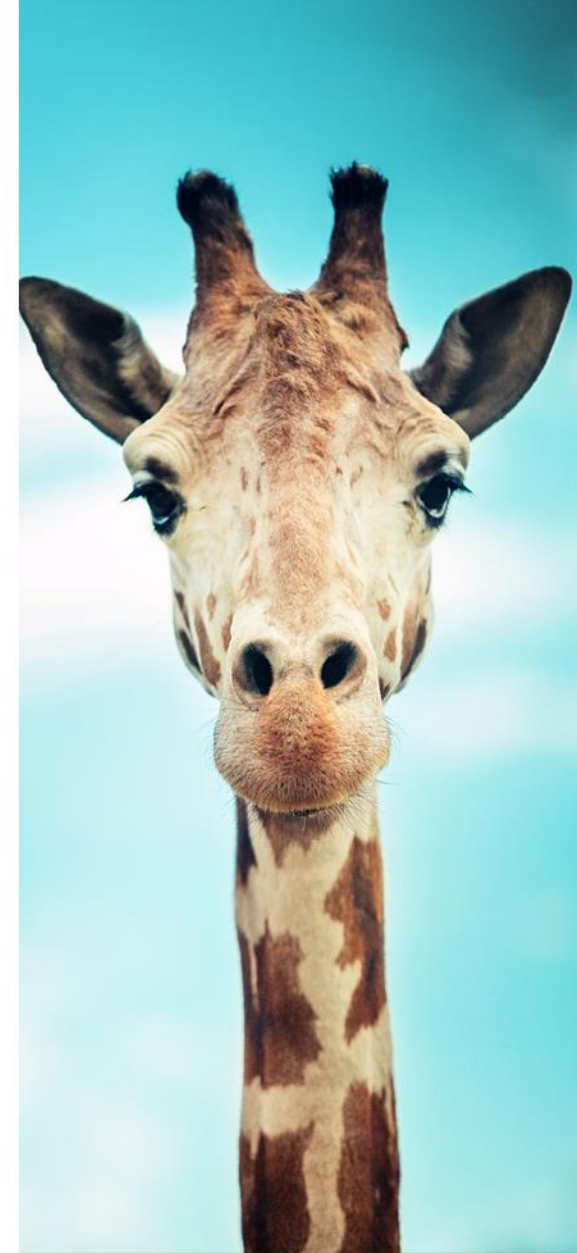
[Regulations.gov](https://www.regulations.gov): Federal rulemaking portal

[FederalRegister.gov](https://www.federalregister.gov): Federal Register

## State

State Secretary of State websites

Westlaw (Proposed and Adopted Regulations – Current)





# How to Read a Proposed Rule Notice

## Header

- Title
- Docket Number
- Agency

## Preamble

- Submission instructions
- Rule explanation
- Agency reasoning
- Specific comment requests

## Proposed Rule Text



The screenshot displays the Federal Register website interface. At the top, there is a navigation bar with options for Sections, Browse, Search, Reader Aids, and My FR, along with a search box and a user account link. Below this is the Federal Register logo, featuring the National Archives seal and the text "FEDERAL REGISTER The Daily Journal of the United States Government". A blue banner indicates a "Proposed Rule". The main heading is "Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for Emperor Penguin". Below the heading, it states "A Proposed Rule by the Fish and Wildlife Service on 08/04/2021". A green button prompts users to "SUBMIT A FORMAL COMMENT" and notes that the comment period ends on 10/04/2021. The main content area is divided into two columns: "PUBLISHED DOCUMENT" and "DOCUMENT DETAILS". The "PUBLISHED DOCUMENT" column includes sections for AGENCY (Fish and Wildlife Service, Interior), ACTION (Proposed rule), and SUMMARY (We, the U.S. Fish and Wildlife Service (Service), propose to list the emperor penguin (*Aptenodytes forsteri*), a flightless bird species from Antarctica, as a threatened species under the Endangered Species Act of 1973, as amended (Act). This proposal also serves as our 12-month finding on a petition to list the emperor penguin. After a review of the best available scientific and commercial information, we find that listing the species is warranted. Accordingly, we propose to list the emperor penguin as a threatened species with a rule issued under section 4(d) of the Act ("4(d) rule"). If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species.). The "DOCUMENT DETAILS" column includes information such as Printed version (PDF), Publication Date (08/04/2021), Agencies (Fish and Wildlife Service), Dates (We will accept comments received or postmarked on or before October 4, 2021. Comments submitted electronically using the Federal), Comments Close (10/04/2021), Document Type (Proposed Rule), Document Citation (86 FR 41917), Page (41917-41934 (18 pages)), CFR (50 CFR 17), and Agency/Docket Numbers.



# How to Write a Public Comment

## Before You Write

- **Read and understand** the regulatory document you are commenting on.
  - Do your research— read underlying statute, relevant caselaw.
- Define your **objectives**.
- **Plan** & outline.

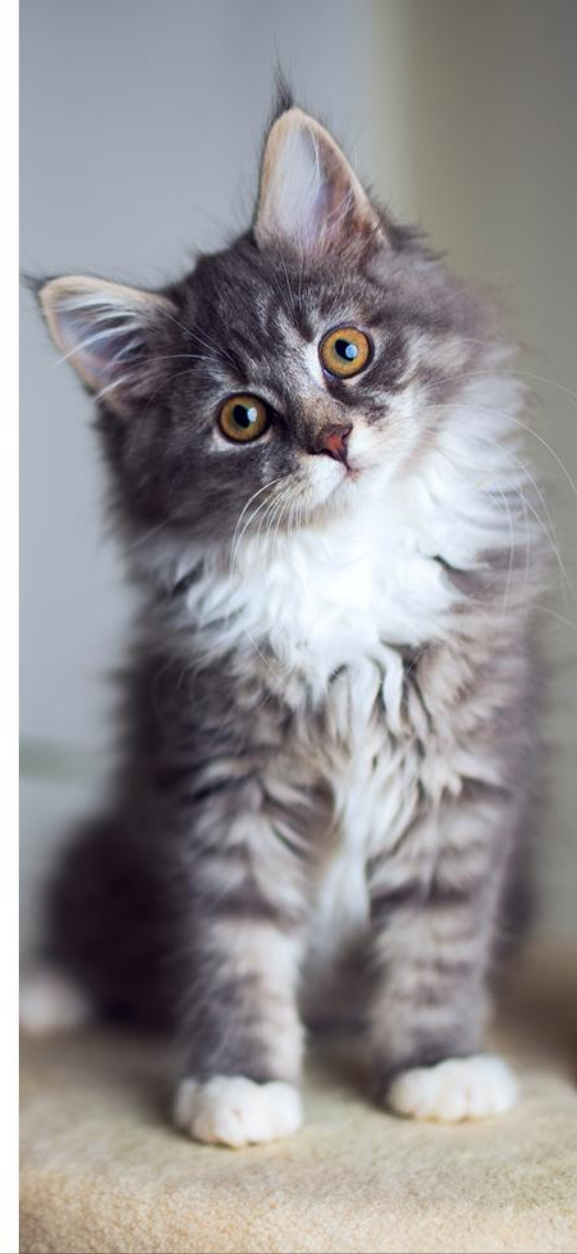
## Drafting Your Comment

- **Identify yourself** and your interest.
- Use **sound reasoning** and evidence to support your points-- scientific evidence, legal analysis, personal experience, illustrate with examples, supplemental information.
- **Suggest** specific language, alternatives when appropriate.
- Pay attention to **organization and writing**.
- Comment, **don't question**.
- **Be respectful**.



# Some Good Advice

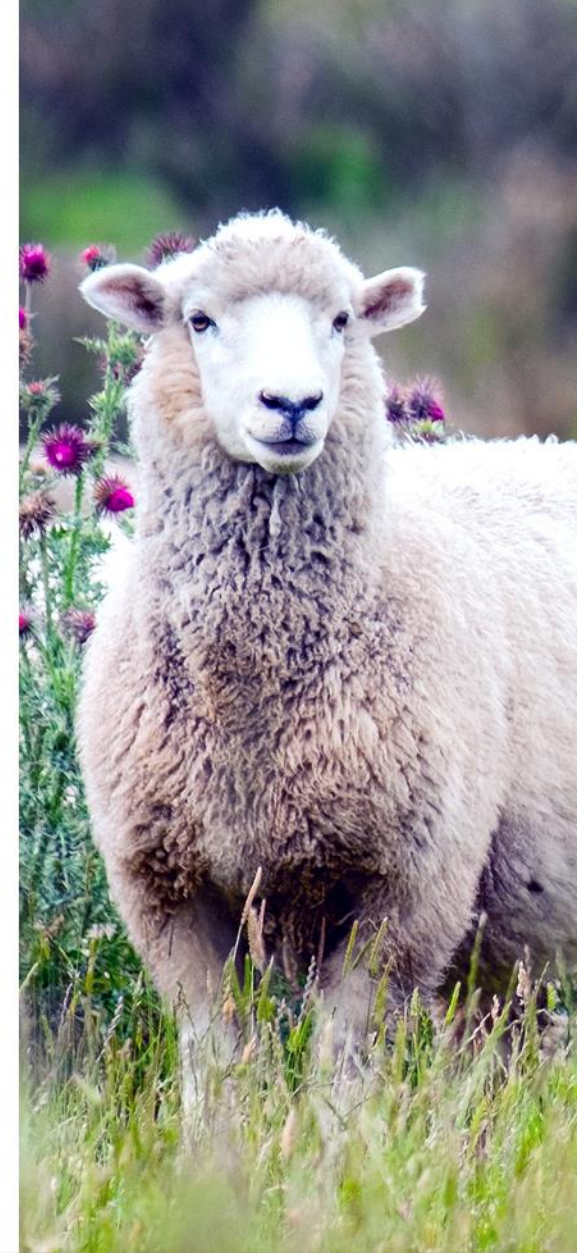
- **\*Step-by-Step Tips for Writing Effective Public Comments** (Environmental Law Institute)
- **Tips for Submitting Effective Comments** (Regulations.gov)
- **Writing Effective Comments** (Public Comment Project) (includes templates)





# Submitting Your Comment

- [FederalRegister.gov](https://www.federalregister.gov)
- [Regulations.gov](https://www.regulations.gov)
- State Secretary of State websites



# Make It a Chapter Project

- One comment
  - Divide & conquer
- Multiple comments
  - Template
  - One page summary of rule & talking points
  - Host a public comment party or workshop
- Involve other student groups





# Questions?

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Contact Stacey at  
[sgordonsterling@aldf.org](mailto:sgordonsterling@aldf.org)





# Thank you!

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Have a great year!

