

GAO@100 Highlights

Highlights of [GAO-21-103181](#), a report to congressional requesters

Why GAO Did This Study

Federal agencies publish thousands of proposed rules each year and are generally required to provide interested persons (commenters) an opportunity to comment on them. Although the identity information collected varies, agencies are generally required to make public comments available online, to the extent practical. Some rulemakings have received extremely large numbers of comments in recent years, raising questions about the accuracy of the associated identity information.

GAO was asked to review issues related to identity information associated with public comments. Among other things, this report examines the extent to which commenters confirmed that they submitted comments on rulemaking proceedings for selected agencies and the challenges that exist for external users in reviewing and analyzing public comment data.

GAO selected 10 agencies and obtained electronic comments on their rulemakings that accepted comments from 2013 through 2017. GAO selected generalizable samples of comments with email addresses and surveyed commenters to determine whether they submitted the comments. GAO reviewed comment data and key practices for reporting government data.

What GAO Recommends

GAO is making a total of 10 recommendations to selected agencies and GSA to fully describe comment data available to the public, including any limitations. The agencies generally agreed with the recommendations and discussed plans to implement them.

View [GAO-21-103181](#). For more information, contact Seto Bagdoyan at (202) 512-6722 or bagdoyans@gao.gov.

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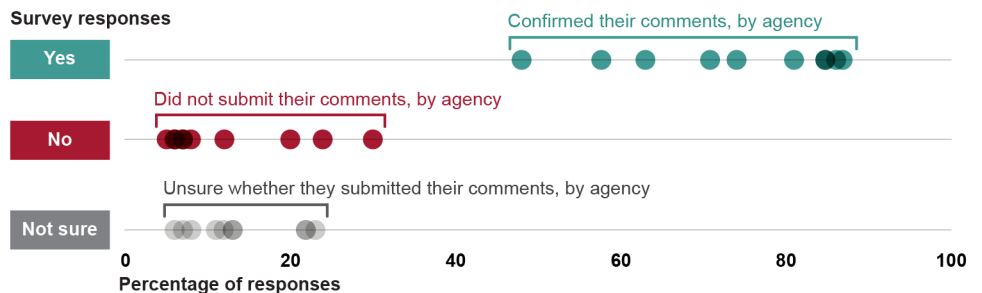
FEDERAL RULEMAKING

Selected Agencies Should Fully Describe Public Comment Data and Their Limitations

What GAO Found

Regulations.gov and selected agency-specific comment websites collect some identity information, such as email address, from commenters who choose to provide it during the public comment process. Based on GAO's survey, the extent to which commenters with email addresses confirmed that they submitted their comments to rulemakings varied across 10 selected agencies (see figure). Specifically, estimates of commenters with email addresses that confirmed their comments ranged from 48 to 87 percent. Conversely, estimates of presumed commenters with email addresses that did not make the comments ranged from 5 to 30 percent, calling into question the actual source of these comments. Most comments at eight selected agencies did not contain email addresses. Although agencies may collect identity information, the law does not require its collection or verification. Agencies must consider the substance of the comment, rather than the identity of the commenter, as part of the rulemaking process.

Extent of Commenters with Email Addresses that Confirmed They Submitted Their Comments on 10 Selected Agencies' Rulemaking Proceedings



Source: GAO analysis. | GAO-21-103181

Note: Estimates in this figure have a margin of error of +/- 9 percentage points or fewer, at the 95 percent confidence level. Circles representing each agency's estimates may overlap if the estimates are similar. For example, the circle at the 85 percent level for Yes responses covers two agencies.

Various aspects of the commenting process can create limitations for certain external users of public comment data. For example, identity information associated with public comments is self-reported and may not always be accurate. Additionally, some agencies do not post all instances of duplicate comments (identical or near-identical comment text but varied identity information), so the public may not have access to all comment data related to a proposed rule. Almost all of the selected agencies share at least some public comment data online, but they do not always fully describe the available data. Specifically, the Federal Communications Commission (FCC) does not define the data elements that may be present in its comment data. Further, FCC, the General Services Administration (GSA) (which manages Regulations.gov), and the eight selected agencies that use that site do not describe limitations to external users of comment data that may affect their use of the data. Key practices for transparently reporting open government data state that agencies should fully describe the information they share, including any limitations. Providing information about available public comment data and their limitations can help external users make informed decisions about their use of the data and help ensure they do not inadvertently draw inaccurate conclusions from the data.