

Processes like public comment periods, where government agencies must solicit public input on draft policies, are said to produce new technical information (Yackee 2006; Nelson and Yackee 2012), political oversight opportunities (Balla 1998; Mccubbins and Schwartz 1984), and democratic legitimacy (Croley 2003; Rosenbloom 2003).¹

While recent scholarship has shed light on the sophisticated lobbying by businesses and political insiders, we know surprisingly little about the vast majority of public comments which are submitted by ordinary people as part of public pressure campaigns and the impact this kind of input may play in policymaking. These occasional bursts of civic engagement in agency rulemaking raise practical and theoretical questions for democracy. In 2018, administrative law scholars identified mass commenting as “one of the more vexing challenges facing agencies.”²

Civic engagement includes writing to government officials, signing petitions, attending hearings, attending protests, or donating to a political campaign (Verba and Nie 1987). Activists frequently target agency policymaking with letter-writing campaigns, petitions, protests, and mobilizing people to attend hearings. Mass comment campaigns are known to drive significant participation of ordinary people in Environmental Protection Agency rulemaking Potter (2017); Balla et al. (2018). Cuéllar (2005), who examines public input on three rules, finds that ordinary people made up the majority of commenters demonstrating “demand among the mass public for a seat at the table in the regulatory process”. While legal scholars have focused on practical and normative questions, much of this analysis depends on empirical questions: Do these campaigns affect policy? If so, by what mechanisms?

This article theoretically develops and tests four mechanisms by which public comments may affect bureaucratic policymaking. Each mechanism provides bureaucrats with a distinct type of information: technical information, information about likely political consequences, information about the preferences of elected officials, or information about the opinions of the attentive public.

Existing research finds that commenters believe their comments matter and that (Yackee 2015), and a

¹These various goals are evident in the Proposed Recommendation on Public Engagement in Rulemaking from the Administrative Conference of the United States, which asserts that “The opportunity for public engagement is vital to the rulemaking process, permitting agencies to obtain more comprehensive information, enhance the legitimacy and accountability of their decisions, and enhance public support for their rules” (ACUS 2018).

²Sant’Ambrogio and Staszewski (2018) conclude, “The ‘mass comments’ occasionally submitted in great volume in highly salient rulemakings are one of the more vexing challenges facing agencies in recent years. These comments are typically the result of orchestrated campaigns by advocacy groups to persuade members or other like-minded individuals to express support for or opposition to an agency’s proposed rule.”

correlation between comments and rule change in certain small samples (Shapiro 2008), but the relationship between the scale of public participation and policy change remains largely untested.

To answer this question, I introduce a large new dataset of millions of public comments on agency rules and assess mass comment campaigns' impact on the rulemaking processes and outcomes.

I find evidence consistent with the observable implications of mass comment campaigns influencing policymaking through [non-null results] but no evidence that mass engagement affects rulemaking processes or outcomes through [null results].

References

- ACUS. 2018. Mass and Fake Comments in Agency Rulemaking. Technical report Administrative Conference of the United States.
- Balla, Steven J. 1998. "Administrative Procedures and Political Control of the Bureaucracy." *American Political Science Review* 92(03):663–673.
- Balla, Steven J, Alexander R Beck, William C Cubbison and Aryamala Prasad. 2018. "Where's the Spam? Mass Comment Campaigns in Agency Rulemaking 2.".
- Croley, Steven. 2003. "White House Review of Agency Rulemaking: An Empirical Investigation." *Harvard Law Review* 70(3):821–835.
- Cuéllar, Mariano-Florentino. 2005. "Rethinking Regulatory Democracy." *Administrative Law Review* 57(2).
- Mccubbins, Mathew D and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms." *Source: American Journal of Political Science* 28(1):165–179.
- Moore, Emily H. 2017. "Public Participation in Rulemaking.".
- Nelson, David and Susan Webb Yackee. 2012. "Lobbying Coalitions and Government Policy Change: An Analysis of Federal Agency." *Source: The Journal of Politics* 74(2):339–353.
- Potter, Rachel. 2017. "More than spam? Lobbying the EPA through public comment campaigns.".
- Rosenbloom, David H. 2003. *Administrative law for public managers*. Westview Press.
- Sant'Ambrogio, Michael and Glen Staszewski. 2018. Public Engagement in Agency Rulemaking. Technical report Administrative Conference of the United States.
- Shapiro, Stuart. 2008. "Does the Amount of Participation Matter? Public Comments, Agency Responses and the Time to Finalize a Regulation." *Policy Sciences* 41(1):33–49.
- Verba, Sidney. and Norman H. Nie. 1987. *Participation in America: political democracy and social equality*. University of Chicago Press.
- Yackee, Susan Webb. 2006. "Sweet-talking the fourth branch: The influence of interest group comments on federal agency rulemaking." *Journal of Public Administration Research and Theory* 16(1):103–124.
- Yackee, Susan Webb. 2015. "Participant Voice in the Bureaucratic Policymaking Process." *Journal of Public Administration Research and Theory* 25(2):427–449.