

Are Agencies Responsive To Mass Comment Campaigns?

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In this age of [clicktivism](#), federal agencies sometimes receive a large number of public comments during rulemaking. High-profile rules such as [greenhouse gas](#) emissions and [Restoring Internet Freedom](#) garnered millions of public comments. Advocacy organizations orchestrate campaigns to encourage politically conscious citizens to send letters in favor or against proposed regulations. For example, [handsoffSNAP](#) prompted individuals to submit comments to USDA on the Supplemental Nutrition Assistance Program (SNAP) [proposed rule](#). Thousands of individuals enthusiastically submit comments in a hope of changing the outcomes. But how much do agencies listen to the masses?

In a [recent study](#), my colleagues and I try to uncover agency responsiveness by analyzing approximately 1,000 mass comment campaigns directed at 21 proposed rules published by Environmental Protection Agency (EPA) between 2012 and 2016. The results demonstrate that EPA is procedurally responsive to the majority of public comments. However, mass comment campaigns do not elicit substantive changes in the content of final rules.

What are mass comment campaigns?

[Mass comment campaigns](#) are identical or near-duplicate comments submitted in response to a proposed rule. These campaigns are often sponsored by organizations to represent interests from particular social issues (environment or labor, for example) to regulated parties. The table below summarizes the sponsors of mass comment campaigns that occurred in EPA rulemaking between 2012 and 2016.

In brief...

New research finds that agencies perform a detailed review of mass comment campaigns on their proposed rules, but the affect of these campaigns on the outcome of final rules may be negligible.

Table 1: Types of Sponsors for Mass Comment Campaigns

Type of Sponsor	Number of Mass Comment Campaigns
Environmental Advocacy	411
Unions/Workers' Rights	10
General liberal organizations	10
Other public interest advocates	62
Agriculture industry	97
Energy Sector	89
Other industries	12

Source: [Balla et al 2019](#)

Mass comment campaigns are often short in length with an average comment consisting of 223 words. Out of 1000 comments, only 11 mass comment campaigns had more than 1,000 words.

In comparison, group comments, submitted by companies or organizations, are often longer comments that include technical, legal, scientific or economic information. For example, one of the comments submitted by a consumer advocacy group during the Clean Power Plan rulemaking was 16-pages long with detailed data and analysis and specific recommendations based on the evidence. The content of mass comments often reflects [commenters'](#) sentiment in favor of or against proposed rules. A few comments include [scientific facts](#) or [personal experience](#), as suggested by sponsoring organizations in the form letter.

Although high-profile rules receive millions of comments, EPA mass comment campaigns received, on average, 10,487 submissions (the median was 408 submissions). Only two (out of 1,244) mass comment campaigns had more than 500,000 submissions.

Response to Mass Comments Campaigns

Research on public comments suggests that agencies focus their attention on [sophisticated comments](#) that include scientific data or [analytical arguments](#). Agencies tend to [ignore](#) value-laden preferences revealed through mass comment campaigns. However, our analysis of mass comment campaigns indicates that they draw some attention from EPA.

We examined agency responsiveness by analyzing the content of public comments, changes in proposed and final rules, and response to comment documents published by EPA. A Response to Comment document is a supporting document shared by EPA to present its response to public comments received on the proposed rule. In addition to campaign-driven mass comments, we looked at group comments, submitted by companies or organization, for comparison. In total, we examined 417 group comments and 720 mass comment campaigns.

We looked at EPA's Response to Comment document to measure the response to mass and group comments. EPA acknowledges mass comment campaigns and group comments with the same regularity of 81 percent and 79 percent, respectively. However, the individual references in each comment (i.e. document number) is higher for group comments compared to mass comments. On average EPA

references group comments 14 times compared to three times for comments submitted as part of organized campaign. Data also indicate that the number of words in the campaign may influence the number of mentions for comments: EPA references longer comments more frequently.

Influence of Mass Comments on Final Rules

To identify the extent to which the mass comment campaigns influence the rulemaking outcome, we matched commenters' requests with changes made to proposed rules. The analysis focused on measuring the association between requested and actual changes to the rules on five dimensions: regulated entities, regulated substances, outcomes, compliance/effective dates, and monitoring and reporting standards. The changes requested in 19 percent of the comments were fully consistent on all five dimensions with the actual changes in proposed rules however 54 percent of comments did not match on any dimension. Overall, the final rules did not incorporate the majority of substantive changes requested by participants of mass comment campaigns

The modifications requested by commenters varied based on their perspective. The mass comment campaigns by regulatory advocates mostly demanded stricter regulations. In contrast, group comments submitted by regulated entities appealed for reducing compliance requirements or extending deadlines. When comparing the requested changes by the type of commenter, the consistency between the changes requested and the actual changes is higher for group comments than mass comment campaigns. On the five dimensions, the consistency between changes requested and actual changes was 42 percent for the group comments compared to 26 percent for the mass comment campaigns. However, we did not find any clear trend in changes implemented by EPA in final rules: some rules become strict or lenient while others remain the same compared to proposed rules. Out of 21 rules, 18 rules changed in multiple directions, thus making it difficult to conclude any directional pattern in actual changes

The analysis demonstrates that the agency deliberates on mass comments campaigns but may not make changes to proposed rules solely based on the number of comments. The findings of this study reinforce [previous knowledge](#) that agencies are more likely to pay attention to technical, legal, or analytical arguments presented in public comments.