

GAO Highlights

Highlights of [GAO-19-483](#), a report to congressional requesters

Why GAO Did This Study

Federal agencies publish on average 3,700 proposed rules yearly and are generally required to provide interested persons (commenters) an opportunity to comment on these rules. In recent years, some high-profile rulemakings have received extremely large numbers of comments, raising questions about how agencies manage the identity information associated with comments. While the APA does not require the disclosure of identifying information from a commenter, agencies may choose to collect this information. This report examines (1) the identity information collected by Regulations.gov and agency-specific comment websites; (2) the guidance agencies have related to the identity of commenters; (3) how selected agencies treat identity information; and (4) the extent to which selected agencies clearly communicate their practices associated with identity information.

GAO selected a nongeneralizable sample of 10 federal agencies on the basis of large comment volume. GAO surveyed 52 program offices within these agencies about their comment process; and reviewed comment websites, agency guidance, and posted comment data. GAO also interviewed relevant agency officials.

What GAO Recommends

GAO is making a total of eight recommendations to the selected agencies to more clearly communicate to the public their policies for posting comments and associated identity information to Regulations.gov and agency-specific comment websites. The selected agencies generally agreed with the recommendations.

View [GAO-19-483](#). For more information, contact Seto J. Bagdoyan at (202) 512-6722 or bagdoyans@gao.gov.

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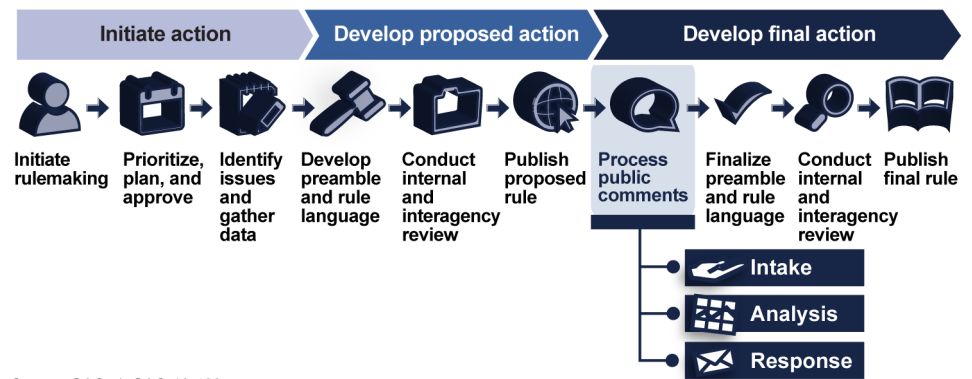
FEDERAL RULEMAKING

Selected Agencies Should Clearly Communicate Practices Associated with Identity Information in the Public Comment Process

What GAO Found

The Administrative Procedure Act (APA) governs the process by which many federal agencies develop and issue regulations, which includes the public comment process (see figure below).

The Rulemaking Process under the Administrative Procedure Act



Source: GAO. | GAO-19-483

Regulations.gov and agency-specific comment websites collect some identity information—such as name, email, or address—from commenters who choose to provide it during the public comment process. The APA does not require commenters to disclose identity information when submitting comments. In addition, agencies have no obligation under the APA to verify the identity of such parties during the rulemaking process.

GAO found that seven of 10 selected agencies have some internal guidance associated with the identity of commenters, but the substance varies, reflecting the differences among the agencies. The guidance most frequently relates to the comment intake or response to comment phases of the public comment process.

With the discretion afforded by the APA, selected agencies' treatment of commenters' identity information varies, particularly when posting duplicate comments (identical or near-identical comment text but varied identity information). Generally, officials told GAO that their agencies (1) post all comments within the comment system; or (2) maintain some comments outside of the system, such as in email file archives. For instance, one agency posts a single example of duplicate comments and indicates the total number of comments received. However, within these broad categories, posting practices vary considerably—even within the same agency—and identity information is inconsistently presented on public websites.

Selected agencies do not clearly communicate their practices for how comments and identity information are posted. GAO's key practices for transparently reporting government data state that federal government websites should disclose data sources and limitations to help public users make informed decisions about how to use the data. As a result, public users of the comment websites could reach inaccurate conclusions about who submitted a particular comment, or how many individuals commented on an issue.