

Public information, public engagement in government regulation-making processes

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From the NSA's surveillance program to FDA drug approval and from the use of police body cameras to fracking, many public policies that are frequently in the news are regulations, developed by federal or state agencies based on enacted legislation. The processes these agencies use to develop regulations vary. One thing that is common, however, is that these rule-making processes often involve the public — notifying the public about a proposed change, collecting their feedback and using that input to shape and finalize new rules.

Journalists who cover public policy will need to scrutinize the processes through which regulations are made. That means taking a hard look at the efforts governmental bodies make to engage the public, as those efforts may differ from state to state and among federal agencies. Journalists also will need to scrutinize the amount and quality of the information that is made available to the public — information that citizens need in order to understand the changes that are being proposed and form opinions about how these changes will affect them and their communities.

Academic scholars have studied public engagement in various government contexts. Some studies highlight shortcomings, including barriers that prevent or discourage members of the public from participating in the rule-making process. A [2014 study](#) led by a University of Michigan researcher, for example, discusses the ways that “agency-led public participation opportunities, while extensive, may be experienced as confusing, perfunctory, discriminatory, and burdensome.”

A 2016 study published in the *Review of Policy Research*, “[Public Information and Regulatory Processes: What the Public Knows and Regulators Decide](#)” adds to the body of knowledge on this topic by examining the rule-making processes in five states: California, Colorado, Michigan, North Carolina and Pennsylvania. A group of three researchers, led by [Deserai A. Crow](#) of the University of Colorado Boulder, sought to better understand the role the public plays in forming regulations in these states. The authors interviewed regulators and analyzed regulatory documents and media coverage of regulation changes to gauge how much and what types of information are disseminated to the public and how much feedback the public offers. This study looks specifically at the processes the five states used to set regulations in three areas: fracking, concentrated animal feeding operations and renewable energy production.

Among their key findings:

- Regulatory agencies do a poor job of informing the public and soliciting comments from broad swaths of the public. Regulators reported focusing their outreach efforts on environmental organizations and people who had participated in previous rule-making processes. E-mail listservs were the primary method used to disseminate information to these two groups.
- Regulatory agencies do a poor job reaching out to media organizations to get their help notifying the public about proposed regulations. Regulators noted that the media is disinterested in rule-making processes because of their technical nature.
- When government agencies invite specific stakeholders to participate in the early stages of the decision-making process – before inviting the general public — it seems to result in lower levels of public involvement. The public's feedback, which generally is collected during formal comment periods later in the process, also “might prove less important to regulatory decision makers who have already worked with organized stakeholders to reach consensus on specific aspects of the rule-making.”
- The public was more likely to get involved after the media reported on a big-picture story about fracking, renewable energy and animal waste pollution than after the media reported about the regulation-making process specifically.

- There was no observed pattern related to government transparency and citizen participation. California was the most transparent in terms of its processes while Michigan was the least transparent. However, there was no significant difference in how frequently citizens participated in regulatory rule-making among the five states that were studied.

This study highlights some of the shortcomings of regulatory agencies. “While all agencies perform their expected minimal functions of publicizing rule-making in their state regulatory registers, the data from interviews suggest that agencies are not focused on providing information to encourage public participation in rule-making,” the authors state. The authors suggest that future research examine whether public input or input from stakeholders such as environmental organizations is more likely to result in changes to regulation.

Related research: A [2015 study](#) published in *Science, Technology & Human Values*, “Maximizing the Policy Impacts of Public Engagement: A European Study,” considers ways to measure the impact of public engagement in science and technology policy. A [2013 study](#) in the *American Review of Public Administration*, “Citizen Input in the Budget Process: When Does It Matter Most?,” examines how public participation influences organizational performance. A [2011 paper](#) from Harvard’s Shorenstein Center on the Press, Politics and Public Policy, titled “Modern Citizenship or Policy Dead End? Evaluating the Need for Public Participation in Science Policy Making, and Why Public Meetings May Not Be the Answer,” questions the usefulness of consensus conferences and other forms of public meetings as a way to improve long-term planning related to science and its applications. A [1999 study](#) in the *Journal of Forestry*, “The Public Comment Process: What Do Citizens Contribute to National Forest Management?,” looks at how public input can help government officials determine what the public needs.

Keywords: public information, public comment, public input, public engagement, public meetings, open records laws, regulation