

Why GAO Did This Study

Federal agencies issue thousands of regulations annually to address such national goals as public health and safety. Retrospective analysis can help agencies evaluate how existing regulations work in practice. GAO was asked to provide insights on agencies' retrospective analyses. This report identifies for selected agencies (1) the results and anticipated outcomes of retrospective analyses agencies completed, (2) strategies, practices, or factors that affected agencies' ability to implement these analyses, and (3) the extent to which agencies are incorporating the analyses into processes for measuring and achieving agency priority goals. Applying criteria from executive orders, GPRAMA, and related guidance, GAO analyzed documents from 22 executive agencies and 2 independent regulatory agencies that prepared final retrospective review plans. These agencies issued more than 96 percent of all final rules published between 2011 and 2013. GAO also obtained agency officials' views through questionnaires and a roundtable of 9 agencies selected primarily on numbers of completed analyses. The officials' views are not generalizable to all agencies. GAO also interviewed OMB staff.

What GAO Recommends

GAO recommends that OMB work with agencies to improve reporting on results of retrospective analyses and strengthen links between those analyses and agencies' performance goals by considering APGs when planning retrospective analyses, among other actions. OMB staff generally agreed with the recommendations in this report.

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REEXAMINING REGULATIONS

Agencies Often Made Regulatory Changes, but Could Strengthen Linkages to Performance Goals

What GAO Found

Agencies often made changes to regulations in response to completed retrospective regulatory analyses, but could improve the reporting of progress. Executive Orders and related implementation guidance from the Office of Management and Budget (OMB) require executive agencies, and encourage independent regulatory agencies, to develop and implement retrospective review plans. Agencies use semiannual updates to report on the progress and results of their analyses. The 22 executive agencies in GAO's scope identified more than 650 planned analyses and reported having completed and taken final actions on 246 of those analyses by August 31, 2013. The two independent regulatory agencies in GAO's scope each chose to develop a final retrospective review plan, although not required to do so. More than 90 percent of the completed analyses led executive agencies to revise, clarify, or eliminate regulatory text. Agencies also took other actions such as updating guidance to the public. Agencies most commonly reported three expected outcomes from actions they took: improving the effectiveness of regulations (112 of 246), reducing regulatory burden (99 of 246), and clarifying regulations or making other administrative changes (93 of 246), such as implementing new procedures. Agencies often reported more than one outcome. Agencies quantified expected savings for 38 of the 246 completed analyses, often attributing savings to reduced information collection burdens. However, agencies did not consistently include citations or links to the supporting analyses and data in their progress reports. While OMB guidance contains transparency requirements for agencies to inform the public, OMB could work with agencies to effectively implement the guidance to improve the usefulness of the information agencies report on the results of their analyses.

Officials from the 9 agencies that participated in GAO's roundtable identified three key strategies and two barriers that most often affected their implementation of retrospective analyses. Strategies that facilitated planning and conducting analyses included: (1) establishing a centrally coordinated review process, (2) leveraging existing regulatory activities such as rulemaking and enforcement processes, and (3) using existing external feedback mechanisms such as advisory committees. The most commonly cited barriers were competing priorities for available staff and difficulty obtaining sufficient data.

Retrospective analysis can also help inform agencies' priority goals (APG). The Government Performance and Results Act Modernization Act of 2010 (GPRAMA) requires agencies to assess whether regulations, among other activities, are contributing as planned to APGs. Agencies reported mixed experiences linking retrospective analyses to APGs. The seven roundtable agencies with APGs identified regulations contributing to their priority goals, but their retrospective analyses were only sometimes linked to APGs. In some cases, different offices in the same agency had mixed responses about whether such linkages existed. Several agency officials said staff conducting retrospective analyses were not involved in performance discussions at higher levels of the agency. To inform broader performance planning and reviews, retrospective analyses can be another potential data source for APGs. Agencies could strengthen that linkage by taking actions such as considering APGs, to the extent practicable, when planning retrospective analyses and identifying how they will measure the performance of significant new rules related to priority goals.