



At a Glance

Why We Did This Review

The purpose of this review was to assess the reasons behind the lack of comment on Regulatory Flexibility Act (RFA) Section 610 reviews conducted by the U.S. Environmental Protection Agency (EPA).

Background

Under Section 610 of the RFA, agencies are required to review rules which have or will have a significant economic impact on a substantial number of small entities anytime within 10 years of promulgation. The purpose of these reviews is for the agency to determine whether such regulations should be continued as written or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize their impact on small entities.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20120719-12-P-0579.pdf

Limited Public Comment on EPA's Regulatory Flexibility Act Section 610 Reviews

What We Found

An essential aspect of Section 610 reviews is obtaining public comment on the impact of regulations. We found that EPA receives little to no public comment when Section 610 review notices are published in the Federal Register. This limited public comment can hinder the ability of the Agency to implement an effective Section 610 review process.

EPA's ability to conduct effective retrospective reviews is dependent on feedback from the public and the regulated community. We found that the shortage of comments may be the result of the following reasons:

- If small business concerns are identified, the Agency is mandated by the RFA to address these during the initial rulemaking process, which could result in concerns being addressed at the outset.
- EPA is required by a number of other statutes to conduct retrospective reviews; the Agency may have already reviewed and modified regulations before the 10-year mark for the Section 610 review. These other reviews are generally not coordinated with Section 610 reviews.
- Ten years after a rule is finalized may not be the optimal time to seek feedback; some rules may benefit from a review closer to issuance.
- Some of the stakeholders in the regulated community that we contacted were unaware of the purpose or execution of the Section 610 reviews.

Recommendations/Planned Agency Corrective Actions

We recommend that EPA's Associate Administrator for Policy coordinate the Section 610 review with other required retrospective reviews, and implement additional public outreach efforts to increase awareness of the Section 610 purpose and process.

The Agency indicated that it is committed to coordinating Section 610 reviews with other required reviews when appropriate. EPA agreed to implement additional public outreach to increase awareness of the Section 610 review purpose and process, including making changes to its Small Entities and Rulemaking website within 3 months.