



# ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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## Information Interchange Bulletin No. 015

# Retrospective Review

### What is retrospective review?

Retrospective review refers to the processes agencies use to assess existing regulations and decide whether to update them. It can involve a one-time lookback or can take place at periodic intervals.

### Why is retrospective review beneficial?

Retrospective review can enhance the quality of agencies' regulations by helping agencies determine whether regulations continue to meet their statutory objectives.

Agencies can use data, experience, and public feedback obtained since a regulation went into effect to evaluate the regulation's performance, assess whether and how to revise it, and determine the accuracy of the assessments underlying the regulation.

Retrospective review can also help identify redundant or overlapping regulations and regulations that should be strengthened, modified, or eliminated due to changed circumstances.

### What legal requirements govern retrospective review?

Several statutes and executive orders set forth requirements for retrospective review in particular contexts. The most notable statutes and executive orders are discussed to the right. Many agencies have also implemented retrospective review programs on their own initiative.

### Sources of Retrospective Review Requirements for Federal Agencies

#### EO 12866 Regulatory Planning and Review

[EO 12866](#) directs agencies to conduct periodic reviews of "existing significant regulations to determine whether any such regulations should be modified or eliminated . . . ."

#### 5 USC § 610 Regulatory Flexibility Act

The [Regulatory Flexibility Act](#) requires agencies to review every 10 years rules "which have or will have a significant economic impact upon a substantial number of small entities."

#### EO 13610 Identifying and Reducing Regulatory Burdens

[EO 13610](#) directs agencies "to invite, on a regular basis, . . . public suggestions about regulations in need of retrospective review and appropriate modifications to such regulations." It also requires agencies to "regularly report on the status of their retrospective review efforts to [the Office of Information and Regulatory Affairs]."

#### EO 13563 Improving Regulation and Regulatory Review

[EO 13563](#) directs agencies to periodically review their "existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving its regulatory objectives."

#### EO 13579 Regulation and Independent Regulatory Agencies

[EO 13579](#) states that independent regulatory agencies should comply with the retrospective-review provisions of E.O. 13563.

#### EO 13609 Promoting International Regulatory Cooperation

[EO 13609](#) directs agencies, when choosing which regulations to review, to consider "reforms to existing significant regulations that address unnecessary differences in regulatory requirements between the United States and its major trading partners . . . ."

#### Additional Resources

ACUS Rec. [2021-2](#), *Periodic Retrospective Review*  
ACUS Rec. [2017-6](#), *Learning from Regulatory Experience*  
ACUS Rec. [2014-5](#), *Retrospective Review of Agency Rules*  
Lori S. Bennear & Jonathan B. Wiener, [Periodic Retrospective Review](#) (2021)  
Zachary J. Gubler, [Regulatory Experimentation](#) (2017)  
Joseph E. Aldy, [Retrospective Review](#) (2014)