

GAO Highlights

Highlights of [GAO-14-714](#), a report to congressional requesters.

Why GAO Did This Study

Federal agencies issue thousands of regulations each year to achieve national goals. For the few hundred of these rules deemed to be significant, agencies are required to assess expected costs and benefits. For the subset of these rules estimated to have the greatest economic impact, agencies must also include an assessment of alternatives.

GAO was asked to review agencies' compliance with broadly applicable directives and guidance related to significant federal rulemaking. This report addresses (1) how often and to what extent significant, economically significant, and major rules include key elements for assessing or analyzing benefits and costs; and (2) how and to what extent agencies assess the quality of the scientific, technical, and other types of data they use to consider benefits and costs. To answer these objectives, GAO reviewed a generalizable sample of 109 significant and 57 economically significant rules issued by executive agencies and all 37 major rules issued by independent agencies and published in the *Federal Register* from July 1, 2011, to June 30, 2013. GAO also conducted roundtable discussions with the 17 executive and independent agencies with the largest number of rules in GAO's sample.

What GAO Recommends

To improve the transparency of the rulemaking process, GAO recommends the Office of Management and Budget (OMB) work with agencies to clearly communicate why certain rules are designated as significant. OMB staff did not state whether they agreed or disagreed with the recommendation.

View [GAO-14-714](#). For more information, contact Michelle Sager at (202) 512-6806 or sagem@gao.gov.

September 2014

FEDERAL RULEMAKING

Agencies Included Key Elements of Cost-Benefit Analysis, but Explanations of Regulations' Significance Could Be More Transparent

What GAO Found

How often and to what extent agencies included selected key elements of cost-benefit analysis varied by rule type. The selected key elements in GAO's review are a statement of purpose; monetized or quantified costs and benefits or a qualitative discussion of them; and a discussion of alternatives. The 203 rules GAO reviewed are categorized into three broad, nonmutually exclusive categories—major, economically significant, and significant rules—based in part on their likely economic effects. Between July 1, 2011, and June 30, 2013, agencies included the selected key elements in the majority of the economically significant and major rules and less often in significant rules. Agencies sometimes included these key elements even when they may not have been required to do so. The results of GAO's review of agencies' regulatory cost-benefit analyses for these rules are as follows:

Statement of purpose: A statement of purpose provides the underlying reason for the rule. Agencies included this element in all rules.

Costs and benefits: Monetizing costs and benefits allows decision makers to evaluate different regulatory options using a common measure. Agencies included a mix of monetized and quantified costs and benefits and qualitative discussions of costs and benefits in most economically significant and major rules, but less often in significant rules. Almost all economically significant rules contained some monetized costs, as did most major rules and some significant rules. Many agency officials said they try to monetize costs and benefits whenever possible, regardless of rule type; however, monetizing benefits can be more difficult than monetizing costs. For example, officials said it is challenging to estimate the value of enhancing national security. Agency officials said that obtaining sufficient or quality data is a primary challenge to cost-benefit analysis.

Alternatives: Analyzing alternatives helps agencies to decide on the best regulatory approach. Agencies identified alternatives in most economically significant and major rules and in some significant rules. Agencies said they sometimes do not identify alternatives because the statute requiring the rule is so specific that considering alternatives is not a practical use of resources.

Agencies included a discussion of how they assessed the data quality more often in economically significant rules than in significant or major rules. Agencies used various methods to assess the data, depending on the type and use of the data. For example, agencies used the peer review process to help ensure science-driven data were the most current and appropriate data available. Only three of the seventeen agencies that participated in GAO's roundtables reported reevaluating cost-benefit analyses once a rule had been issued.

GAO's review also found that for the majority of the 109 significant rules reviewed, the rulemaking process is not as transparent as it could be. This is because 72 percent of these rules included no language to explain why the rule was designated as significant. Some agency officials indicated that the Office of Management and Budget's Office of Information and Regulatory Affairs did not always provide a reason for changing a rule's designation to significant. The rulemaking process could be more transparent if significance designations were explained and communicated.