

## Executive Summary

In response to Executive Orders 13771 and 13777, presidential directives that prompted regulatory reform efforts, executive branch agencies initiated actions to identify regulations for repeal, replacement, or modification. One method agencies have used to assist their regulatory lookback efforts is soliciting public comments for identifying regulations that could be candidates for evaluation. This report, supported by a cooperative agreement with the U.S. Department of Agriculture (USDA), analyzes public comments solicited for the evaluation of existing regulations by USDA, the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) and considers how they can inform retrospective review of agriculture-related regulations.

In Chapter 1, Pérez and Prasad consider the role of public participation in retrospective review through a comprehensive literature review. They describe the historical development of retrospective review in the United States and provide an overview of persistent challenges in systematically conducting retrospective review—including the difficulty of establishing criteria for identifying which regulations to evaluate. While public participation has been long institutionalized in agency rulemaking through the notice-and-comment process, a lack of empirical research limits our understanding of the extent to which public input might help agencies overcome the challenges in implementing retrospective review. The analysis of the comments solicited for the evaluation of existing regulations in this report addresses this gap.

In Chapter 2, Febrizio and Xie present a detailed content analysis of a sample of comments submitted to USDA, EPA, and FDA. The analysis centers around two questions: who commented, and what did they say? The biggest subset of the comments was from anonymous and non-identifiable commenters, although among identifiable commenters, organizations commented more frequently than individuals. The chapter analyzes the content of the comments across the following dimensions: issue areas, relevance to regulation, types of specific references to regulations, use of expertise and evidence, regulatory forms in existing regulations, and proposals for regulatory actions. Notably, substantial variation in many categories exists across agencies. The results also suggest key implications for future agency requests for public comments on evaluating existing regulations. Agencies should consider designing consultations to elicit more substantive comments from relevant stakeholders, conducting targeted outreach to supplement public comments, soliciting more focused input on notable subsets of regulations, and facilitating participation from a larger variety of commenters to broaden public engagement.

In Chapter 3, Prasad and Pérez identify specific regulations mentioned by public comments—going beyond explicit references by exploring underlying characteristics across comments. The chapter identifies meaningful indicators to inform regulators' prioritization of regulations for review. Building off Chapter 2, the authors focus on public comments that cited specific

regulations, generating a dataset of 392 unique parts of the Code of Federal Regulations (CFR), and they document four key characteristics of those regulations: regulatory subject area, regulatory form, length of the regulation, and recency of regulatory changes.

The chapter provides evidence that comments include relevant feedback on regulations that impose burdens—highlighting the specific examples of performance standards and monitoring, reporting, and verification requirements. Nevertheless, it also suggests notable limitations regarding the evidence provided by comments. For instance, comments often indicate sources of administrative burdens or unintended consequences but are less likely to communicate enforcement costs or dispersed costs to consumers. Furthermore, commenters primarily focus on recently amended regulations, which implies that agencies will have to rely on their own subject matter expertise or other channels to identify older or outdated regulations for review.

In Chapter 4, Xie investigates the extent to which public comments identify existing regulations that inhibit productivity growth. Building on the framework used in our 2017-2018 cooperative agreement with USDA, *The Relationship between Regulatory Form & Productivity: An Empirical Application to Agriculture*, Xie uses a novel approach to identify regulations that are likely to affect crop production industries by analyzing the comments submitted to USDA, EPA, and FDA for evaluation of existing regulations. Through an econometric analysis using industry-year panel data for 17 crop production industries over the period of 2003-2017, she finds that the growth of restrictions in the regulations that commenters identified has a large negative relationship with crop yield growth during the most recent decade. This relationship is more prominent in terms of both magnitude and statistical significance when comments submitted by organizations are used to identify relevant regulations. The results imply that public input, especially from organizations, could provide information about the effects of regulations on productivity and include potentially valuable suggestions for agency evaluation of existing regulations.

The report emphasizes the value of public input in the regulatory process, particularly for aiding retrospective review of existing regulations by identifying candidates for evaluation. Both qualitative and quantitative findings indicate that public comments provide meaningful suggestions for reforming agriculture-related regulations. Furthermore, comments submitted by organizations may offer relevant, precise information that could aid evaluation efforts, at least for identifying regulations that affect productivity in agricultural industries. However, despite their important contributions, public comments are likely not a sufficient source of input to comprehensively inform agency retrospective review, as discussed in Chapter 3.

Further research on the role of public comments in retrospective review, especially in sectors beyond agriculture, could shed additional light on a critical tool governments have for evaluating existing regulations. Extending the research to other industries and agencies could contextualize the nature of this report's findings and highlight agency practices generalizable to other contexts.