The Role of the U.S. Government Accountability Office

Presentation to Visiting Fellows
George Washington University
November 11, 2009

Loren Yager, Ph.D.
Director
International Affairs and Trade
U.S. GAO
Presentation Outline

Who we are

Overview of regulation in the U.S.

GAO & the regulatory process
Who We Are

Operating principles and guidelines
People and teams
Performance measures
International activities
GAO’s role is to support the Congress in carrying out its constitutional responsibilities and to help improve the performance and assure accountability of government for the benefit of the American people.
Core Values

**Accountability**
Help the Congress oversee federal programs, policies, and operations to ensure accountability to the American people

**Integrity**
Ensure that our work is professional, objective, fact-based, nonpartisan, nonideological, fair, and balanced

**Reliability**
Provide high-quality, timely, accurate, useful, clear, and candid information
The Comptroller General (CG) is the head of GAO:

- confirmed through a joint selection/appointment process involving the Congress and the President
- serves a 15 year term of office
- can only be removed by impeachment or joint resolution of Congress for specified reasons

GAO staff at all levels are civil servants, not political appointees
GAO’s Protocols

**Congressional Protocols**
Govern GAO’s interactions with our client, the Congress

**Agency Protocols**
Govern GAO’s interactions with executive branch agencies

**International Protocols**
Govern GAO’s work that has international components or implications
3,141 FTE—75% in D.C., 25% in field

Workforce consists primarily of analysts, IT specialists, auditors, attorneys, and economists

GAO has technical chiefs for accounting, actuarial science, economics, statistics, science, and technology

80% of GAO’s resources spent on people
GAO’s Mission Teams

Defense Capabilities Management
Education, Workforce, and Income Security
Financial Markets and Community Investments
Health Care
Homeland Security and Justice
International Affairs and Trade

Natural Resources and the Environment
Physical Infrastructure
Acquisitions and Sourcing Management
Applied Research and Methods
Financial Management Assurance
Information Technology
Strategic Issues
Increasing Demand for GAO Testimony

GAO witnesses testifying at record pace

• 298 testimonies in FY ’08
• Over 200 to date in FY ’09
## Fiscal Year 2008 Performance

<table>
<thead>
<tr>
<th>Measures</th>
<th>FY 08 Target</th>
<th>FY 08 Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial benefits (in billions)</td>
<td>$40.0</td>
<td>$58.1</td>
</tr>
<tr>
<td>Other benefits</td>
<td>1,150</td>
<td>1,398</td>
</tr>
<tr>
<td>Testimonies</td>
<td>220</td>
<td>298</td>
</tr>
<tr>
<td>Products with recommendations</td>
<td>60%</td>
<td>66%</td>
</tr>
<tr>
<td>Recommendations implemented</td>
<td>80%</td>
<td>83%</td>
</tr>
<tr>
<td>Timeliness (based on client feedback)</td>
<td>95%</td>
<td>95%</td>
</tr>
</tbody>
</table>
GAO in the International Community

GAO is a member of the International Organization of Supreme Audit Institutions (INTOSAI)

GAO’s Comptroller General sits on the INTOSAI Governing Board

GAO facilitates an international auditor fellowship training program

GAO participates in international peer reviews

Partnerships are a key enabler of change and help to leverage available resources
Overview of Regulation In U.S.

Rulemaking steps
Applicable laws & Executive Orders
OMB’s role
Congressional role

GAO’s role
Rulemaking Steps

Proposed Rule stage
- agency identifies issues and gathers data
- proposed rule undergoes internal and external reviews
- agency publishes proposed rule in the Federal Register for public comment

Final Rule stage
- agency considers public comments and finalizes rule
- final rule undergoes internal and external reviews
- agency publishes final rule in the Federal Register
  - responds to comments,
  - amends Code of Federal Regulations
  - sets effective date

Congressional review
- agency submits rule and related materials to Congress
- agency submits rule to GAO for review
Applicable Laws

Administrative Procedure Act
Paperwork Reduction Act
Regulatory Flexibility Act
Congressional Review Act

Numerous other laws
Applicable Laws

Administrative Procedure Act
The APA provides for both formal and informal rulemaking.

Formal rulemaking is used in ratemaking proceedings and in other cases when rules are required by statute to be made “on the record” after an opportunity for a trial-type agency hearing.

Informal or “notice and comment” rulemaking is used much more frequently and requires agencies to publish a notice of proposed rulemaking and allow interested persons an opportunity to comment.
Paperwork Reduction Act

The PRA requires agencies to justify any collection of information from the public to minimize the paperwork burden they impose on the public to carry out their missions. Under PRA, agencies are required to submit all proposed information collections to the Office of Management and Budget (OMB) for approval.

The PRA established the Office of Information and Regulatory Affairs (OIRA) within OMB to provide central agency leadership and oversight of government efforts to reduce unnecessary paperwork and improve the management of information resources.
Applicable Laws

Regulatory Flexibility Act

The RFA requires independent and non-independent regulatory agencies to prepare an initial regulatory flexibility analysis on the impact the rule could have on small entities, unless the proposed rule would not have a “significant economic impact upon a substantial number of small entities.”

Section 610 of the RFA requires agencies to review those rules that have or will have a significant impact on small entities within 10 years of their promulgation to determine whether they should be continued without change or should be amended or rescinded to minimize their impact on small entities.
Applicable Laws

Congressional Review Act
The CRA requires federal regulatory agencies to file final rules with both Congress and GAO before the rules can become effective.

- If rule a $100 million impact on the economy, within 60 legislative or session days, a Member of Congress can introduce a resolution of disapproval that, if adopted by both Houses and signed by the President, can nullify the agency’s rule.

- GAO’s role under the CRA is to provide Congress with a report on each major rule concerning agency’s compliance with the procedural steps required by the various acts and executive orders.
Other relevant statutory provisions
  – Unfunded Mandates Reform Act
  – Paperwork Elimination Act
  – E-Government Act
  – National Environmental Policy Act
  – Federal Advisory Committee Act
  – Trade Agreements Act
  – Negotiated Rulemaking Act
  – National Technology Transfer and Advancement Act
  – Regulatory Right-to-Know Act
Applicable Executive Orders

Regulatory Planning and Review

– Executive Order 12866 requires non-independent regulatory agencies to submit their “significant” rules to OIRA before publishing them in the *Federal Register* at both the proposed and final rulemaking stages. The agencies are required to submit the text of the draft regulatory action and an assessment of the potential costs and benefits of the action.

– Executive Order 12866 also requires agencies to periodically review their existing significant regulations to determine whether they should be modified or eliminated.
Regulatory Oversight

Office of Management and Budget
  – Roles and responsibilities
  – Recent initiatives to improve OMB oversight

Public Stakeholders

Congress
  – Authorizing Committees
  – Oversight Committees
  – Appropriations Committees

GAO
Office of Information & Regulatory Policy

OIRA “...an office within the Office of Management and Budget, Executive Office of the President.

In addition to reviewing draft regulations under Executive Order 12866, OIRA reviews collections of information under the Paperwork Reduction Act, and oversees the implementation of government-wide policies in the areas of information technology, information policy, privacy, and statistical policy.”
OIRA’s Role in Regulation

OIRA reviews agency draft regulations before publication to ensure agency compliance with Executive Order 12866.

– OIRA determines whether the draft rule is consistent with applicable laws, the President’s priorities, and Executive Order 12866.
– OIRA can return the draft rule to the agency for further review.
– OIRA can also issue prompt letters to agencies proactively suggesting areas an agency might address.
Congressional Committees

Authorizing Committees
—standing committees with legislative jurisdiction over the subject matter of those laws, or parts of laws, that set up or continue federal operations

Oversight Committees
—the congressional committees charged with general oversight of federal operations. In most cases, the oversight committee for an agency or program is also its authorizing committee.

Appropriations Committee
—committees responsible for “appropriations made by law" prior to the expenditure of any money from the Federal treasury.
Some of the applicable laws enacted by Congress provide for judicial review of agencies’ regulatory actions, where aggrieved parties can appeal to the judicial system when agencies’ actions are perceived as inappropriate.
Subject Matter Teams—teams across GAO focus on regulatory issues involving a particular agency or industry (for example, telecommunications, energy, financial markets) and may focus on issues such as compliance, oversight, and enforcement.

Strategic Issues—a team within GAO responsible for regulatory issues that have cross-cutting implications across government (for example, rulemaking policies and processes, paperwork reduction, unfunded mandates).

GAO role—GAO also has a role in reviewing “major” rules and submitting a report to Congress within 15 days of issuance.
Financial Institutions and Market Issues

Financial Regulation: Recent Crisis Reaffirms the Need to Overhaul the U.S. Regulatory System, GAO-09-1049T

Physical Infrastructure

Vehicle Fuel Economy: Reforming Fuel Economy Standards Could Help Reduce Oil Consumption, GAO-07-921

Natural Resources and Environment

Clean Air Act: Mercury Control Technologies at Coal-Fired Power Plants Have Achieved Substantial Emissions Reductions, GAO-10-47
Federal Rulemaking:

Improvements Needed to Monitoring and Evaluation … Report to Government Oversight Committee, April 2009, GAO-09-205

Perspectives on 10 Years of Congressional Review Act … Testimony before House Judiciary Committee, GAO-06-601T

Past Reviews and Emerging Trends Suggest Issues … Testimony before House Judiciary Committee, GAO-06-228T
## GAO Federal Rules Database

<table>
<thead>
<tr>
<th>Issuing Agency</th>
<th>Total Rules</th>
<th>Major Rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeland Security</td>
<td>974</td>
<td>3</td>
</tr>
<tr>
<td>Independent Agencies (SEC, FRB, EPA, etc.)</td>
<td>815</td>
<td>22</td>
</tr>
<tr>
<td>Transportation</td>
<td>667</td>
<td>12</td>
</tr>
<tr>
<td>Commerce</td>
<td>355</td>
<td>2</td>
</tr>
<tr>
<td>Agriculture</td>
<td>150</td>
<td>11</td>
</tr>
<tr>
<td>Total (Oct. 08 to Oct. 09)</td>
<td>3470</td>
<td>96</td>
</tr>
</tbody>
</table>