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UNFUNDED MANDATES

Reform Act Has Had Little Effect on Agencies' Rulemaking Actions

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The Honorable Fred Thompson
Chairman
The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

During the past 20 years, state, local, and tribal governments as well as businesses have expressed concerns about the costs associated with federal regulations. Because of those concerns, Congress has enacted a number of statutes designed to reform the process by which federal agencies develop and issue regulations.[1] Some of these statutory requirements are found in title II of the Unfunded Mandates Reform Act of 1995 (UMRA), which was passed early in the 104th Congress and was signed by the President on March 22, 1995.[2]

Title II of UMRA has various sections, each of which requires rulemaking agencies or the Office of Management and Budget (OMB) to take certain actions. For example, section 202 of UMRA generally requires federal agencies (other than independent regulatory agencies)[3] to prepare "written statements" containing specific information for any rule[4] for which a proposed rule was published that includes a federal mandate that may result in the expenditure of $100 million or more in any 1 year by state, local, and tribal governments, in the aggregate, or the private sector. A "mandate" is defined in UMRA as an "enforceable duty" that is not a condition of federal assistance and does not arise from participation in a voluntary federal program. For those rules requiring a written statement, other sections of UMRA require the following:

- Section 205 of UMRA requires agencies to consider a reasonable number of regulatory alternatives and select the one that is the least costly, most cost-effective, or least burdensome and that achieves the purpose of the rule.

[1]These statutes include the Paperwork Reduction Acts of 1980 and 1995, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act of 1996.

[2]Public Law No. 104-4, 109 Stat. 48 (1995).

[3]Independent regulatory agencies include such agencies as the Federal Communications Commission, the Securities and Exchange Commission, and the Consumer Product Safety Commission.

[4]In this report, the "rule" includes both the revisions to the text of the Code of Federal Regulations and the preamble to the text revisions.

- Section 203 of UMRA states that agencies must develop plans to involve small governments in the development of regulatory proposals that have a significant or unique effect on those entities.[5]
- Section 204 of UMRA requires agencies to develop processes to consult with representatives of state, local, and tribal governments in the development of regulatory proposals containing "significant [f]ederal intergovernmental mandates."
- Section 206 of UMRA requires the Director of OMB to collect the written statements prepared under section 202 and periodically forward them to the Director of the Congressional Budget Office (CBO).
- Section 207 of UMRA requires the OMB Director to establish pilot programs in at least two agencies to test regulatory approaches that reduce the burden on small governments.

Title IV of UMRA sets forth the extent to which agencies' compliance with the written statement and small government plan requirements in the act are subject to judicial review.

This report responds to your request that we review federal agencies' implementation of UMRA. The overall objective of our review was to determine what effect title II of UMRA has had on agencies' rulemaking actions. To accomplish this objective, we reviewed agencies' implementation of the substantive provisions of title II (secs. 202 through 205) for "economically significant" rules published in the Federal Register between March 22, 1995, and March 22, 1997.[6] Because of the large number of agencies that issue rules, we focused some of our efforts on the four agencies that issued the greatest number of economically significant rules and produced the greatest number of written statements during this period: the Departments of Agriculture (USDA), Health and Human Services (HHS), and Transportation (DOT) and the Environmental Protection Agency (EPA).[7] We also examined pilot projects established by OMB under section 207 of UMRA and searched for court decisions resulting from the judicial review provisions in title IV of the act.

[5]The term "small governments" is defined in title I of UMRA as having the same meaning as section 601(5) of title 5, United States Code, and any tribal government. Section 601(5) generally defines a small government as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand . . . ."

[6]According to Executive Order 12866, an economically significant rule is one that may "[h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or [s]tate, local, or tribal governments or communities."

[7]Within HHS, the only agencies that issued economically significant rules during this period were the Food and Drug Administration and the Health Care Financing Administration.

Results in Brief

The enactment of title II of UMRA appears to have had only limited direct impact on agencies' rulemaking actions in the first 2 years since its implementation. Most of the economically significant rules promulgated during UMRA's first 2 years were not subject to the requirements of title II. Also, title II contains exemptions that allowed agencies not to take certain actions if they determined the actions were duplicative or not "reasonably feasible." The title also required agencies to take certain actions that they already were required to take or had completed or that were already under way.

Written statements were not on file at CBO for 80 of the 110 economically significant rules promulgated in the first 2 years of UMRA's implementation. We concluded that UMRA did not require written statements for 78 of these 80 rules. Some of the rules did not have an associated notice of proposed rulemaking. Many did not impose an enforceable duty other than as a condition of federal financial assistance or as a duty arising from participation in a voluntary program. Other rules did not result in "expenditures" of $100 million by state, local, and tribal governments, in the aggregate, or by the private sector in any 1 year. The two rules that we believe should have had written statements on file at CBO but did not were EPA's proposed rules establishing national ambient air quality standards for ozone and particulate matter. Nevertheless, these rules appeared to satisfy the substantive UMRA written statement requirements.

The written statements that agencies prepared for 30 of the economically significant rules appeared to meet most of the UMRA requirements for those statements. In almost every case, the written statements were not separate documents specifically prepared to comply with UMRA but were (as permitted in the act) the rules themselves and any associated economic analysis. Although many agencies did so, section 205 of UMRA does not require agencies to identify in the written statement (or elsewhere in writing) the regulatory alternatives that they considered or why one of the alternatives was selected. Also, sections 202 and 205 (1) give agencies discretion in how they can comply with the requirements and (2) are similar to requirements in previous statutes and Executive Order 12866, which was issued in 1993.

During the first 2 years of UMRA's implementation, the requirement in section 204 of the act that agencies develop a process to consult with state, local, and tribal governments before promulgating any significant federal intergovernmental mandate appears to have applied to no more than four EPA rules and no rules from other agencies. EPA generally used a

consultation process that was in place before UMRA was enacted to satisfy this requirement. Other agencies also said they would use preexisting consultation processes if they issued a significant intergovernmental mandate.

Section 203 small government plans were not developed for any of the 73 final rules promulgated during the first 2 years of UMRA implementation. Officials in the four agencies that we contacted said none of their final rules had a significant or unique effect on small governments. OMB designated three UMRA pilot programs in two agencies, but none of these efforts appears to have been initiated because of UMRA. For example, one of the EPA pilots was started because of requests from representatives of two state governments. Finally, one case had been decided in which the court refused to invalidate a rule on the basis of the plaintiff's allegation that the agency had not prepared an UMRA written statement.

Background

The process of issuing and enforcing regulations is one of the basic tools of government. The main elements of the federal rulemaking process are described in section 553 of the Administrative Procedure Act (APA), which was enacted in 1946. The APA generally requires agencies to (1) publish a notice of proposed rulemaking in the Federal Register; (2) allow interested persons an opportunity to participate in the rulemaking process by providing "written data, views, or arguments"; and (3) publish the rule 30 days before it becomes effective. The notice of proposed rulemaking must include reference to the legal authority under which the rule is proposed and state the time, place, and nature of public rulemaking proceedings. In some cases, agencies issue advance notices of proposed rulemaking before a formal notice is published to receive public reaction to a rule as early as possible.

Although the federal government has long regulated economic activity, several major new statutes were enacted in the 1960s and 1970s that prompted regulation in such areas as environmental quality, workplace safety, and consumer protection. By the 1980s, an array of federal regulations were in place that affected many of the decisions made by businesses and by other governmental units. For some time, state, local, and tribal governments have expressed concerns about the difficulty of complying with federal regulatory mandates without additional resources. Business groups have voiced similar concerns about rising costs that they said were being imposed by federal regulations.

Both the executive and legislative branches have responded to these public and private sector concerns by attempting to reform the federal regulatory process. For example, in 1981, President Reagan issued Executive Order 12291 on "Federal Regulation," which gave OMB the authority to review all new regulations for consistency with administration policies. The order also required agencies to prepare a "regulatory impact analysis" for each major rule, describing the costs, benefits, and alternatives to the rule. In September 1993, President Clinton issued Executive Order 12866 on "Regulatory Planning and Review," which, among other things, established "principles of regulation" (e.g., requiring agencies to "identify and assess alternative forms of regulation" and to tailor their regulations to "impose the least burden on society") and specific processes that agencies had to follow (e.g., conduct cost-benefit analyses for all economically significant rules). This executive order also states that agencies must, wherever feasible, "seek views of appropriate [s]tate, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities."

In October 1993, the President issued Executive Order 12875 on "Enhancing the Intergovernmental Partnership," which, among other things, requires each agency to "develop an effective process to permit elected officials of state, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." The President also made regulatory reform one of the central elements of the administration's National Performance Review (NPR), which is a major management reform effort that was started in March 1993 under the direction of Vice President Gore and is intended to identify ways to make the government work better and cost less.

Congress has been equally active in attempting to reform the federal regulatory process. For example, in 1980 Congress enacted the Regulatory Flexibility Act, which requires agencies to assess the impact of their regulations on small entities (e.g., businesses and governments) and to publish their plans for new regulations.[8] During the 104th Congress, numerous legislative initiatives were introduced that attempted to reform the regulatory process. One of the first such efforts was UMRA, which was

[8]For a discussion of how these requirements are working, see Regulatory Flexibility Act: Status of Agencies' Compliance (GAO/GGD-94-105, Apr. 27, 1994) and Regulatory Flexibility Act: Agencies' Use of the November 1996 Unified Agenda Did Not Satisfy Notification Requirements (GAO/GGD/OGC-97-77R, Apr. 22, 1997). In 1996, the Small Business Regulatory Enforcement Fairness Act amended the Regulatory Flexibility Act and, among other things, permitted judicial review of agencies' compliance with certain provisions in the Regulatory Flexibility Act.

introduced as S. 1 in the Senate on January 4, 1995, and was enacted on March 22, 1995. Title I of UMRA established new procedures designed to ensure that Congress fully considers the potential effects of unfunded federal mandates before imposing them on state, local, and tribal governments or the private sector. Among other reforms, the procedures call for CBO to provide statements to authorizing committees about whether reported bills contain mandates and, if so, what their costs would be.[9]

Title II of UMRA, entitled "Regulatory Accountability and Reform," contains the requirements imposed on federal agencies during the rulemaking process, and took effect on the day the act was signed by the President. Section 201 states that "[e]ach agency shall, unless otherwise prohibited by law, assess the effects of [f]ederal regulatory actions on [s]tate, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Other sections in title II require agencies to

- prepare a written statement containing specific descriptions and estimates for any proposed rule or any final rule for which a proposed rule was published that includes any federal mandate that may result in the expenditure of $100 million or more in any 1 year by state, local, and tribal governments, in the aggregate, or the private sector—one of the items required in the written statement is a qualitative and quantitative assessment of the anticipated costs and benefits of the federal mandate (sec. 202);
- "identify and consider a reasonable number of regulatory alternatives" and select the least costly, most cost-effective, or least burdensome alternative (or explain why that alternative was not selected) for each rule for which a written statement is prepared (sec. 205);
- develop a plan in which agencies provide notice of regulatory requirements to potentially affected small governments; enable officials of those governments to provide input in the development of regulatory proposals; and inform, educate, and advise those governments on compliance with the requirements before establishing any regulatory requirements that might "significantly or uniquely" affect small governments (sec. 203); and
- develop an effective process to permit elected officers of state, local, and tribal governments (or their designees) to provide input in the

[9]For an analysis of these procedures, see The Experience of the Congressional Budget Office During the First Year of the Unfunded Mandates Reform Act, Congressional Budget Office, January 1997.

development of regulatory proposals containing significant intergovernmental mandates (sec. 204).

Section 206 of UMRA requires the OMB Director to collect the written statements prepared by the agencies and periodically forward them to the CBO Director. Section 207 requires the OMB Director to establish pilot programs in at least two agencies to test innovative and flexible regulatory approaches to reduce the reporting and compliance burden on small governments while meeting statutory goals and objectives. Section 208 requires the OMB Director to submit annual reports to Congress detailing agencies' compliance with title II of UMRA.

Title III of UMRA required the Advisory Commission on Intergovernmental Relations to conduct a study reviewing federal mandates, and title IV established judicial review under the act.

The committee reports for the Senate bill that ultimately resulted in UMRA indicate that Congress was aware that the bill duplicated existing requirements in many respects.[10] For example, the report by the Senate Committee on the Budget stated that, except for the requirement for small government plans, "the bill will not impose new requirements to implement in the regulatory process that are not already required under Executive Orders 12866 and 12875." However, the report by the Senate Committee on Governmental Affairs stated that the "spirit and intent" of the written statement requirements involving cost-benefit analysis were "meant to be entirely consistent with the relevant portions of [Executive Order] 12866." Therefore, Congress may have expected that the scope of these requirements would be the same as the scope of the executive order and would cover all economically significant rules.

OMB Issued UMRA Guidance and Reports

Within OMB, the Office of Information and Regulatory Affairs (OIRA) has primary responsibility for monitoring agency compliance with title II of UMRA. On March 31, 1995, the OIRA Administrator issued guidance for implementing title II. The guidance generally repeated the requirements in UMRA and did not further define many of the key words or phrases in the act (e.g., "expenditure" or "significantly or uniquely affect small governments"). The OIRA guidance noted parallels between the requirements in (1) sections 202 and 205 of UMRA and Executive Order 12866 and (2) section 203 and the Regulatory Flexibility Act.

[10]See, for example, S. Rep. No. 104-1, at 17-18 (1995) and S. Rep. No. 104-2, at 17 (1995).

OMB has issued two reports[11] to Congress as required by section 208 of UMRA, the most recent of which was published in April 1997. In that report, OMB said that UMRA's "overall philosophy has been embraced by [f]ederal agencies," as evidenced by the wide range of consultative activities described in the report. OMB went on to say the following:

"Each agency has developed processes suited to its needs, appropriate to its mission, and responsive to its constituents. While more work remains to be done, real progress has occurred in both the agency infrastructure under which consultations take place, and the way that agencies use this structure to analyze specific rules in ways that reduce costs and increase flexibility for all levels of government, and for the private sector, in implementing important national priorities."

Current Regulatory Reform Initiatives

Despite the enactment of UMRA and other reform initiatives, concerns have continued to be raised about the effect of federal regulations on the public and private sectors. As a result, proposed legislation to reform the federal rulemaking process was introduced in the 105th Congress. One such proposal is S. 981, the "Regulatory Improvement Act of 1997," which was introduced in June 1997.[12] S. 981 addresses many of the same issues as Executive Order 12866 and UMRA, including cost-benefit analysis, examination of regulatory alternatives, and the transparency of the regulatory process. However, the bill goes beyond the executive order and UMRA's requirements in these areas and adds some new elements to the rulemaking process. For example, S. 981 would require agencies to conduct cost-benefit analyses for all "major" rules that have an annual effect on the economy of $100 million—a much broader standard than in UMRA ($100 million in expenditures by certain regulated entities).[13] S. 981 also would require agencies to conduct risk assessments and peer reviews for these major rules, and the bill would apply to many of the independent regulatory agencies. Neither UMRA nor Executive Order 12866 specifically requires risk assessments or peer reviews, and neither applies to

[11]Agency Compliance With Title II of the Unfunded Mandates Reform Act of 1995, Report to Congress from the Director of the Office of Management and Budget, March 22, 1996; Agency Compliance With Title II of the Unfunded Mandates Reform Act of 1995, Second Annual Report to Congress from the Director of the Office of Management and Budget, April 1997.

[12]For our comments on certain sections of this bill, see Regulatory Reform: Comments on S. 981—The Regulatory Improvement Act of 1997 (GAO/T-GGD/RCED-97-250, Sept. 12, 1997).

[13]For example, a rule that involves federal expenditures of more than $100 million each year would be considered major under S. 981 but would not be covered by UMRA unless it also required expenditures by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any 1 year.

independent regulatory agencies. S. 981 also contains judicial review provisions that are not in UMRA or the executive order.

Scope and Methodology

To address our overall objective of determining the effect of title II of UMRA on agencies' rulemaking actions, we reviewed the substantive requirements in title II and determined how federal agencies have implemented those requirements. To determine if there were rules for which written statements under section 202 of UMRA should have been on file at CBO but were not, we first obtained a list of rules from the Regulatory Information Service Center (RISC)[14] that its database indicated were economically significant rules published in the Federal Register between March 22, 1995, and March 22, 1997—the 2 years after the effective date of title II of UMRA. We focused our review on economically significant rules because rules that would result in the expenditure of $100 million in any 1 year by state, local, and tribal governments or the private sector (one of the factors necessitating an UMRA written statement) should be a subset of those rules that are considered economically significant according to Executive Order 12866.

We reviewed each of the economically significant rules promulgated during this 2-year period for which written statements were not on file at CBO and noted any explanations presented in the rules regarding why they were not covered by UMRA's section 202 written statement requirements. We asked follow-up questions regarding why no written statement was on file at CBO for these rules at OIRA and at the four agencies that had promulgated the greatest number of both economically significant rules and rules for which written statements were on file—USDA, HHS, DOT, and EPA. Using this and other information that we collected about the rules, we then determined whether any of them should have had an UMRA written statement on file at CBO.

Certain terms in UMRA that dictate whether a written statement should be prepared are not defined in the act, the conference report, or OMB guidance. Therefore, we had to develop working definitions of those terms to determine whether agencies should have prepared written statements for the rules in our review. We defined an "expenditure" as a payment made by either the public or private sector, but we did not include lost income by those groups or payments made by other entities (e.g., the

[14]RISC is part of the General Services Administration, but works closely with OMB to provide the president, Congress, and the public with information on federal regulatory policies. Its major project has been to coordinate the development and publication of the Unified Agenda of Federal Regulatory and Deregulatory Actions, which is published twice a year.

federal government). We defined an "enforceable duty" as a responsibility or obligatory task that can be compelled by the force of government. We defined a "voluntary" federal program as one in which participants are involved of their own choice.

We had to define other terms to determine whether the written statements met UMRA requirements and whether the agencies should have prepared small government plans under section 203 and developed consultation processes under section 204. For example, we defined "qualitative" cost-benefit assessments as any nonnumerical measure of the effects of a rule (e.g., "substantial" costs or "would save many lives"). If an agency's written statement contained an estimate of the rule's cost in any forthcoming period, we considered that to be evidence of "future compliance costs." We used definitions that were suggested or used by OMB or rulemaking agencies to describe the possible scope of other terms (e.g., a "significant [f]ederal intergovernmental mandate" that triggers the consultation process requirement in sec. 204).

We reviewed all of the written statements that were on file at CBO (plus one statement that OMB had not forwarded to CBO) and, using a data collection instrument modeled on our interpretation of the statute, determined whether the statements met the specific requirements of section 202 of UMRA and whether the statements contained information relevant to section 205. We interviewed officials in the four selected agencies to (1) ensure that all required elements in their statements had been identified, (2) verify our coding of those elements, and (3) obtain other information. To determine what consultation processes the selected agencies established under section 204, we reviewed descriptions of those processes in OMB's annual reports on UMRA, interviewed officials in the four selected agencies, and obtained and reviewed copies of any relevant documents in those agencies.

To determine whether the agencies had developed small government plans required under section 203, we focused on all final rules that had been promulgated during the 2-year period included in our review and that appeared on the list of rules that RISC identified as economically significant or that we identified as economically significant.[15] We reviewed the

[15]We focused on only final rules in this part of the review because section 203 of UMRA states that agencies must develop small government plans before "establishing" certain regulatory requirements. Although some of the 73 final rules we reviewed were not economically significant, the requirements of section 203 of UMRA can apply to rules that have a significant or unique effect on small governments but are not economically significant or mandates.

Unified Agenda of Federal Regulatory and Deregulatory Actions[16] to determine whether the agencies had previously identified the rules as having an effect on small governments. We also obtained comments from officials in the Small Business Administration's (SBA) Office of Advocacy on whether they believed that any of the final rules would have an effect on small governments.[17] Finally, we asked officials in each of the four selected agencies whether they had developed small government plans.

To determine the status of the pilot programs established by OMB under section 207, we interviewed appropriate officials in the two agencies with such pilots and reviewed any available documentation for those pilots. We also conducted a legal review to determine whether any judicial decisions had been issued regarding agencies' compliance with the written statement and small government plan requirements of UMRA. However, we did not identify cases that might have been filed with the courts regarding UMRA compliance but that had not yet been decided. We did not validate all of the databases we used in this review.

The methodology we used in this review was not designed to identify all of the possible effects that UMRA may have had on agencies' rulemaking actions. For example, we did not attempt to determine whether UMRA prevented agencies from proposing rules with significant mandates or caused them to eliminate certain burdensome effects that otherwise would have been contained in the rules that were proposed.

Although we attempted to determine whether agencies' written statements satisfied the basic requirements of sections 202 and 205 of UMRA, we did not assess the quality of the agencies' economic analyses prepared to satisfy these provisions.[18] For example, although we determined whether the written statements contained qualitative and quantitative assessments of the anticipated costs and benefits of a federal mandate, we did not attempt to determine whether an agency's economic analysis used sound economic assumptions or methodologies. Neither did we determine whether all relevant quantitative and qualitative costs and benefits had been identified or whether the alternatives had been adequately

[16]The Unified Agenda is issued twice a year by RISC and is a compendium of executive and independent agencies' regulatory activities that are being developed, planned for the future, or completed.

[17]We asked this office to review the rules because section 612 of the Regulatory Flexibility Act requires SBA's Chief Counsel for Advocacy to monitor agency compliance with the UMRA requirements. One of the small entities that UMRA was designed to protect is small governments.

[18]In a forthcoming report, we will discuss in greater detail the economic analyses that agencies used to satisfy the requirements.

considered. Any comments we received from officials in the four selected agencies are not generalizable to other federal agencies.

We conducted our work between February 1997 and November 1997 at OMB, USDA, HHS, DOT, and EPA headquarters in Washington, D.C., in accordance with generally accepted government auditing standards. We provided a draft of this report for review and comment to the Director of OMB; the Secretaries of Agriculture, HHS, and Transportation; and the Administrator of EPA. Their comments are reflected in the agency comments section of this report.

Written Statements Were Not Required for Most Economically Significant Rules

Section 202 of UMRA says that, unless otherwise prohibited by law, agencies must prepare a written statement for each applicable rule before promulgating any general notice of proposed rulemaking or any final rule for which a notice of proposed rulemaking was published. At our request, RISC provided us with a list of 132 rules that its database indicated were economically significant under Executive Order 12866 and that had been published in the Federal Register between March 22, 1995, and March 22, 1997. However, we determined that

- 22 of the rules on the RISC list were not economically significant and, therefore, were excluded from our review;
- 3 of the rules on the RISC list had been "promulgated" before UMRA's March 22, 1995, effective date and, therefore, were excluded from our review;[19] and
- 3 economically significant rules had been promulgated during this period that were not in the RISC database and, therefore, were included in our review.

Therefore, we focused on a total of 110 economically significant rules in this portion of our review. Section 202 written statements were on file at CBO for 29 of these 110 rules.[20] We discovered that one of the three additional economically significant rules described what the issuing agency had done to comply with UMRA, but OMB had mistakenly not

[19]Section 202 of UMRA says that agencies must prepare a written statement before promulgating any proposed or final rule for which a notice of proposed rulemaking was published. The statute does not define the word "promulgating," but several court decisions unrelated to UMRA have stated that a rule is promulgated when it is signed by the agency head and publicly disseminated. (See American Petroleum Institute v. Costle, 609 F.2d 20 (D.C. Cir. 1979) and Industrial Union Department v. Bingham, 570 F.2d 965 (D.C. Cir. 1977).) Therefore, a rule does not always have to be published in the Federal Register for it to be promulgated.

[20]One of these 29 rules had no written statement on file at the start of our review, but a statement was added after we queried OMB about its absence.

forwarded a copy of the written statement for the rule to CBO.[21] We included this rule with the 29 for which written statements were on file at CBO. Subtracting these 30 rules from the 110 economically significant rules promulgated during this 2-year period yielded a total of 80 rules that were economically significant but for which no written statement had been prepared. (See app. I for a list of these 80 economically significant rules for which no written statements were on file at CBO. See app. II for a list of the 30 rules for which written statements were on file at CBO.)

Of the 80 economically significant rules that were promulgated between March 22, 1995, and March 22, 1997, for which no written statement was on file at CBO, the issuing agencies frequently did not mention UMRA in the rules. Those agencies that did mention UMRA in their rules frequently said that the rules did not contain a federal mandate and/or did not result in $100 million in expenditures by state, local, and tribal governments or the private sector and, therefore, were not covered by sections 202 or 205 of the act.

We compared the substance of these 80 economically significant rules to the requirements in UMRA and concluded that 2 of the rules were required to have an UMRA written statement on file at CBO. No written statements appeared to be required for 78 of the rules for a variety of reasons as follows.[22]

- One DOT rule established the light truck fuel economy standard for 1998 at 20.7 miles per gallon—the level at which Congress had required DOT to set the standard in the Department of Transportation and Related Agencies Appropriation Act of 1996. Because this rule incorporated requirements that were specifically set forth in law, section 201 of UMRA allowed DOT not to assess the rule's effects on state, local, and tribal governments or the private sector.
- Eighteen of the rules were not notices of proposed rulemaking or final rules for which such notices had been published. Section 202 of UMRA states that a written statement must be prepared before promulgating any general notice of proposed rulemaking and before promulgating any final rule for which a general notice of proposed rulemaking was published.

[21]An OMB official said that a copy of the written statement for this rule should have been submitted to CBO, and that OMB would do so.

[22]Some of the rules did not appear to require a written statement for more than one reason. Also, the number of rules that fell into each of the categories was partially a function of the order of presentation. For example, if the "$100 million in expenditures" criterion was presented first, it would have accounted for more of the rules and diminished the number of rules in the other categories. The order we used generally reflected the order that the criteria were presented in UMRA.

The rules without proposed rules included notices, advance notices of proposed rulemaking, and interim final rulemakings. For example, HHS issued six notices for the Medicaid and Medicare programs, each of which had associated costs of more than $100 million, but none of which had associated proposed rules. USDA issued a final rule involving the implementation of several farm programs with associated costs that the agency estimated at $36.8 billion. However, there was no notice of proposed rulemaking for this rule.

- Forty-seven of the rules had notices of proposed rulemaking but were not "mandates" as defined in UMRA. Section 202 of UMRA states that the written statement requirement applies to rules that include a federal mandate, which is defined in title I of the act as an "enforceable duty" that is not "a condition of [f]ederal assistance" or "a duty arising from participation in a voluntary [f]ederal program." Three of the 47 rules did not appear to impose an enforceable duty. For example, one USDA rule allowed the importation of meat from Argentina and Mexico. Although USDA estimated that the rule could cause American livestock producers to lose as much as $190 million in income each year, the rule did not impose an enforceable duty on those producers.[23] Forty-four of the 47 rules appeared to impose an enforceable duty, but that duty was either as a condition of federal assistance (33 rules) or arose from participation in a voluntary program (11 rules). For example, although USDA's 1996 upland cotton program regulation appeared to impose the requisite enforceable duty (that farmers not plant cotton), the duty arose only as a condition of federal assistance. USDA estimated that this regulation would cost the federal government between $0.5 and $1.5 billion in 1996.[24]
- Twelve of the rules met all of the aforementioned standards but were unlikely to result in expenditures of more than $100 million in any 1 year. For example, one of the rules issued by the Food and Drug Administration within HHS established new food labeling requirements. The rule was considered economically significant because the agency had estimated its benefits at more than $100 million per year. However, the agency estimated that the rule would cost the private sector only $4 million in the first year, and that costs would decline in subsequent years.

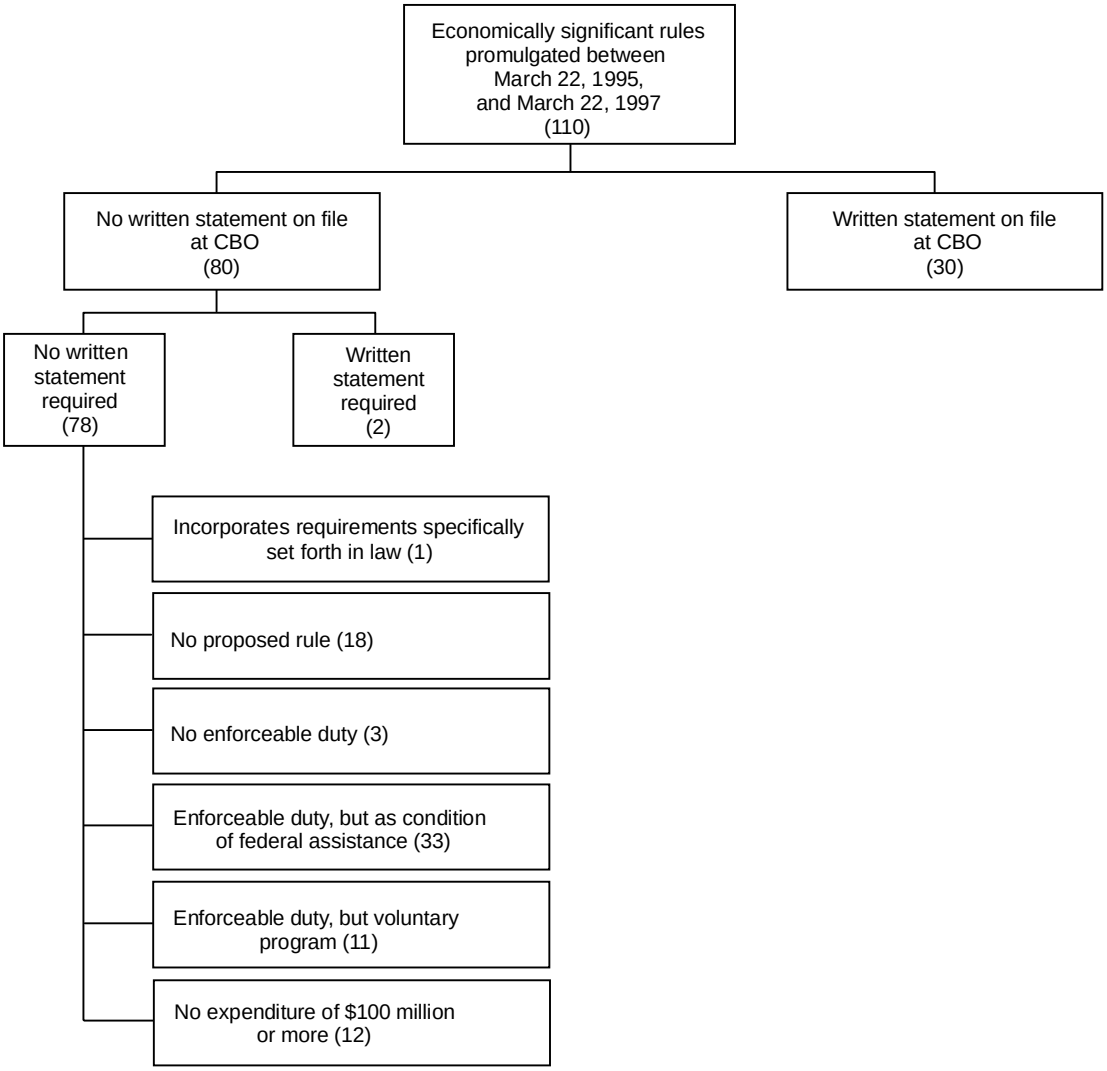
Figure 1 summarizes this information, showing how many of the 110 economically significant rules that were promulgated during this 2-year

[23]This rule also did not appear to require "expenditures" on the part of American livestock producers. Although "expenditures" is not defined in UMRA, we did not consider lost income to be an "expenditure."

[24]For related information, see Cotton Program: Costly and Complex Government Program Needs to Be Reassessed (GAO/RCED-95-107, June 20, 1995) and Commodity Programs: Impact of Support Provisions on Selected Commodity Prices (GAO/RCED-97-45, Feb. 21, 1997).

period did and did not have written statements on file at CBO, and why many rules did not appear to require such statements.

Figure 1: Most Economically Significant Rules Did Not Appear to Require an UMRA Written Statement



( ) Numbers in parentheses indicate rules.

(Figure notes on next page)

Note: One economically significant rule described what the agency had done to comply with UMRA, but OMB had mistakenly not forwarded the rule to CBO. We included this rule with the 29 rules for which written statements were on file at CBO.

Source: GAO analysis.

Table 1 shows the number of economically significant rules for which written statements were and were not on file at CBO and the total number of such rules, by department or agency.

Table 1: Economically Significant Rules and Written Statements, by Department or Agency

	Economically significant rules		
Department or agency	**No written statement on file at CBO**	**Written statement on file at CBO**	**Total**
Department of Agriculture	25	1	26
Department of Commerce	3	0	3
Department of Energy	0	1	1
Department of Health and Human Services	16	5	21
Department of Housing and Urban Development	4	0	4
Department of the Interior	6	0	6
Department of Justice	4	0	4
Department of Labor	4	1	5
Department of Transportation	2	4	6
Environmental Protection Agency	11	18	29
Small Business Administration	2	0	2
Social Security Administration	3	0	3
Total	**80**	**30**	**110**

Sources: RISC and GAO.

The two rules that we concluded should have had UMRA written statements on file at CBO but did not were EPA's proposed national ambient air quality standards for ozone and particulate matter.[25] As we said in our August 1997 report on these rules, we disagree with EPA's interpretation of UMRA's requirements regarding the written statements in one respect.[26] EPA

[25]61 Fed. Reg. 65716 and 65638, December 13, 1996.

[26]For a full discussion of this issue, see Environmental Protection Agency: National Ambient Air Quality Standards for Particulate Matter; Final Rule and National Ambient Air Quality Standards for Ozone; Final Rule (GAO/OGC-97-56, Aug. 4, 1997).

contended that a written statement was not required for these rules under section 202 of UMRA, which states that a statement need not be prepared if "otherwise prohibited by law." However, although EPA was not required to include cost estimates described in sections 202(a)(2), (3), and (4) of UMRA because of Clean Air Act prohibitions, it was still required to identify the provision of federal law under which rules were being promulgated and to describe its outreach efforts with state, local, and tribal governments under sections 202(a)(1) and (5). Nevertheless, EPA appears to have satisfied the substantive UMRA written statement requirements.

UMRA Written Statements Generally Met the Act's Requirements

Subsection 202(a) of UMRA states that the written statements that agencies are required to prepare for certain rules must (1) identify the provision of federal law under which the rule is being promulgated; (2) contain a qualitative and quantitative assessment of the anticipated costs and benefits of the mandate; and (3) for certain rules, describe the extent of the agency's prior consultation with representatives of affected state, local, and tribal governments. UMRA also says that the written statements should contain estimates, if the agency determines they are "reasonably feasible," of future compliance costs; effects on the national economy; and any disproportionate budgetary effects on particular regions, governments, communities, or segments of the private sector.

The 30 written statements that the agencies provided to OMB during the 2 years following the enactment of UMRA were usually contained in the preambles to the rules themselves and any associated economic analyses. Only 2 of the 30 rules had a separate written statement prepared specifically to comply with UMRA. About half of the remaining 28 rules had specific sections in the preambles describing the actions that the agencies had taken under the section 202 requirements. The UMRA sections in the preambles were typically less than a page in length. In the other half of the 28 rules, there were no specific sections dealing with UMRA compliance. However, the act does not require agencies to prepare a separate UMRA written statement or a separate UMRA section. Subsection 202(c) of UMRA states that an agency "may prepare any statement required under subsection (a) in conjunction with or as part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a)."

Our analysis indicated that the written statements generally met most of the requirements of section 202 of UMRA. All of the 30 statements identified the provision of federal law under which the rules were being

promulgated.[27] All but one of the statements contained quantitative cost-benefit information, and a few others did not contain information on qualitative costs. About half of the statements contained descriptions of the agencies' prior consultations with state, local, and tribal government representatives. However, there was no indication in the remaining statements that the rules would affect those governments to the degree that a description of their consultations was required. Subsection 202(a)(5) of UMRA states that the written statements must describe the agency's intergovernmental consultations "under section 204." As will be discussed later, section 204 may only apply to a few of the 110 economically significant rules promulgated during the 2 years after UMRA was enacted.

Most of the written statements did not contain estimates of disproportionate budgetary effects of the mandates on particular regions or governments, or estimates of the effect of the mandates on the national economy. However, in most of those cases, the rules appeared unlikely to have such effects. Furthermore, even if the rules had budgetary or economic effects, UMRA allows agencies to exclude those items from the written statements if they determine that accurate estimates of those effects are not reasonably feasible. That determination is not required to be made in the written statement or even in writing.

Alternatives and Selection Criteria Were Not Required in the Written Statement but Were Usually Present

Section 205 of UMRA states that before promulgating a rule for which a written statement is required, agencies must "identify" and "consider" a reasonable number of alternatives and "select" the one that is least costly, most cost-effective, or least burdensome and that achieves the rule's objective. However, UMRA does not require agencies to document those actions in the written statements that they are required to prepare under section 202(a), or even to identify, consider, or select the alternatives in writing. Nevertheless, all but 1 of the 30 written statements that were submitted during the first 2 years of UMRA's implementation included some discussion of the regulatory alternatives that the agencies considered and the alternatives they selected. In most cases, the number of regulatory alternatives that the agencies considered was clear, but in other cases the number of alternatives was more difficult to tally. For example, one of the rules contained five basic options, each of which had four suboptions. Therefore, it was unclear whether the agency considered 5 alternatives or 20 alternatives for this rule.

[27]Two of the written statements on file at CBO did not identify the provision of federal law. An OMB official said that the rules that the agencies submitted to OMB contained this information, but OMB had not forwarded the entire rule to CBO.

Most commonly, the agencies considered between three and seven alternatives for each of the rules, with the types of options considered varying widely. For example, the Department of Energy (DOE) identified six major policy alternatives in its proposed rule on energy conservation standards for refrigerators and freezers, including no new regulatory action, informational action, prescriptive standards, financial incentives, voluntary targets, and the proposed performance standards. DOE said it selected the proposed standards as the basis of its regulatory action because none of the other alternatives saved as much energy and all of the other options would have required legislation. Other agencies said that they selected the regulatory alternative being proposed because it was the least costly and/or least burdensome option. However, in its rule on Air Pollution Emission Standards for New Nonroad Spark Ignition Marine Engines, EPA said that it selected the least costly, most cost-effective, or least burdensome option, but the rule did not indicate which factor prompted the selection.

Requirements in Sections 202 and 205 of UMRA Are Similar to Previous Statutory and Executive Order Requirements

Several of the requirements in sections 202 and 205 of UMRA are similar to the requirements in previous statutes and executive orders. For example, for more than 50 years, the APA has required that notices of proposed rulemaking contain "reference to the legal authority under which the rule is proposed." Executive Order 12866, which had been in effect for more than 18 months by the time UMRA was enacted, requires agencies to conduct cost-benefit analyses of economically significant proposed and final rules, and to include in those analyses "an assessment . . . of potentially effective and reasonably feasible alternatives to the planned regulation . . . and an explanation why the planned regulatory action is preferable to the identified potential alternatives."[28] Cost-benefit analyses under the executive order are to include some of the same issues that UMRA requires cost-benefit analyses to cover, including effects on the economy, productivity, competitiveness, and employment. OIRA's guidance on the implementation of title II of UMRA notes these areas of overlap between the executive order and the statute, and states that OIRA would review agencies' written statements "during our reviews conducted under E.O. 12866."

[28]Executive Order 12291, which was in effect from 1981 to 1993, also required agencies to describe "alternative approaches that could substantially achieve the same regulatory goal at lower cost . . . ."

UMRA Did Not Substantively Change Agencies' Intergovernmental Consultation Processes

Section 204 of UMRA requires agencies, to the extent permitted in law, to develop an effective process to permit elected officers of state, local, and tribal governments (or their designees) to provide meaningful and timely input in the development of regulatory proposals containing "significant [f]ederal intergovernmental mandates." The UMRA conference report stated that this requirement was included because improved communication with these nonfederal governments is "an important part of efforts to improve the [f]ederal regulatory process . . . ."

Although the term "federal intergovernmental mandate" is defined in title I of UMRA,[29] the term "significant federal intergovernmental mandate" is not defined in either the statute or the conference report. OIRA officials told us that they also have not defined the term, but they said a "significant" intergovernmental mandate would at least include any mandate that may result in expenditures by state, local, and tribal governments, in the aggregate, of $100 million or more in any 1 year. EPA's Office of Policy, Planning and Evaluation used exactly those words to define a significant mandate under section 204 of UMRA in draft guidance on implementing the act, which it issued to its regulatory steering committee and regional regulatory contacts in August 1995.[30]

Only 2 of the 110 economically significant rules that were promulgated during the first 2 years of UMRA were described as significant federal intergovernmental mandates in OIRA's reports on agencies' compliance with title II of the act. Both of the rules were issued by EPA in UMRA's first year of implementation.[31] Our review of the other 108 rules promulgated during this period indicated that EPA's December 1996 proposed ozone and particulate matter rules may have also triggered the consultation process requirements in section 204. EPA's cost-benefit analyses for these rules indicate that state and local governments may incur annual costs of more than $100 million. However, UMRA appears to require that an agency develop only a single consultation process for all its significant federal intergovernmental mandates. Therefore, the consultation process that EPA

[29]The term "[f]ederal intergovernmental mandate" is defined as a provision that would (1) impose an enforceable duty on state, local, or tribal governments other than as a condition of federal assistance or arising from a voluntary federal program or (2) reduce or eliminate the amount of authorized appropriations for federal financial assistance or the control of borders by the federal government.

[30]EPA officials said that, as of November 1997, this draft UMRA guidance had not been made final.

[31]One of the rules sets performance standards for new municipal waste combustors, and the other rule sets performance standards for new municipal solid waste landfills and emission guidelines for existing municipal solid waste landfills to implement section 111 of the Clean Air Act. These rules were 2 of the 30 for which written statements were prepared. The other 28 rules were private sector mandates.

developed for the two rules identified as significant federal intergovernmental mandates in OIRA's reports would have met the UMRA requirement for the ozone and particulate matter rules as well.

UMRA Consultation Requirements Are Similar to Previous Statutes and Executive Orders

The requirement in section 204 of UMRA is similar to consultation requirements that were in place at the time the act was put into effect. For example, for more than 50 years, the APA has required agencies to "give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments . . . ." Executive Order 12866 states that, whenever feasible, agencies must "seek views of appropriate [s]tate, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities." Finally, in language that closely parallels UMRA, Executive Order 12875 requires each agency to "develop an effective process to permit elected officials of state, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Selected Agencies' Consultation Processes Were Relatively Unchanged by UMRA

None of the four agencies that we contacted said they had changed their intergovernmental consultation process as a result of the passage of UMRA. For example, EPA's August 1995 draft UMRA guidance says that agency staff should continue to gather input from state, local, and tribal governments using the procedures EPA developed to implement Executive Order 12875, which had been issued nearly 2 years earlier. EPA's guidance under that executive order was included as an appendix to the UMRA guidance and was updated to include references to UMRA. The guidance states that EPA's general policy is that the amount and type of intergovernmental consultation for a given action should be commensurate with the extent of the rule's costs, complexity, and controversy. Officials in USDA, HHS, and DOT said that, if their agencies promulgated a significant federal intergovernmental mandate, they would use essentially the same consultation processes to satisfy UMRA that they use to comply with the APA and Executive Orders 12866 and 12875.

None of the Rules Triggered the UMRA Small Government Plan Requirement

Section 203 of UMRA states that agencies must have developed a plan for notifying, educating, advising, and obtaining input from small governments before "establishing" any regulatory requirements that might "significantly or uniquely" affect small governments. Although not defined in UMRA, we interpreted "establishing" to mean the promulgation of final rules. Of the

132 rules that either RISC or we identified as economically significant rules that had been promulgated during the 2 years following the enactment of UMRA, 73 were final rules for which small government plans would have been required if the rules had a significant or unique effect on small governments.

We reviewed all of these 73 final rules, and none indicated that a small government plan had been established. Fifty of these rules were in the four agencies that we focused on in our review—USDA, HHS, DOT, and EPA. Officials in these agencies said that none of the 50 rules would have a significant or unique effect on small governments, and, therefore, they had not developed small government plans for any of the rules.[32] However, EPA officials said that they had developed a generic "interim small government agency plan" that would be tailored to any rule that the agency determines will have a significant or unique effect on small governments.

We provided officials in SBA's Office of Advocacy with a list of these 73 final rules. They concluded that one EPA rule on air emissions from municipal solid waste landfills could have had a significant or unique effect on small governments, but they could not be sure because of incomplete information.[33] We also reviewed the Unified Agenda entries for the 73 rules to determine whether the issuing agencies had previously indicated that the rules would have a significant economic impact on a substantial number of small governments. If so, the rules might have also significantly or uniquely affected those small governments. The Unified Agenda indicated that 6 of the 73 final rules would have a significant effect on small governments. EPA promulgated three of these six final rules. However, EPA officials said that their assessments in the Unified Agenda were made early in the rulemaking process, and that the rules may have changed during that process to have less of an effect on small governments. The officials also said that they indicate in the agenda whether their rules will have any effect on small governments, not just a

[32]In its November 27, 1996, rule on financial assurance mechanisms, EPA said the rule was intended to have a significant or unique effect on small governments. However, EPA also said that the rule was not subject to section 203 of UMRA because it provided regulatory flexibility for local governments and did not impose additional regulatory requirements.

[33]SBA officials said that most of the remaining 72 final rules would either not have a significant or unique effect on small governments or that such an effect was unlikely.

significant or unique effect.[34] The other three rules were issued by USDA, HHS, and the Department of Labor (DOL). In the final rules, the three agencies said that the rules would not significantly or uniquely affect small governments.

UMRA Small Government Plan Requirements Are Similar to Other Statutory Requirements

In its guidance on implementing title II of UMRA, OIRA said that the small government plan requirement in section 203 of the act "builds upon the policy objectives of the Regulatory Flexibility Act." The Regulatory Flexibility Act requires federal agencies to assess the effects of their proposed rules on small entities, including small governments. If a proposed or final rule has a "significant economic impact on a substantial number of small entities," the issuing agency must prepare and make available to the public a regulatory flexibility analysis. This analysis is to describe, among other things, the need for the rule, its objectives, reporting requirements, alternatives that would minimize the impact of the rule on small entities, and a summary of the issues raised by public comments.[35]

In 1996, Congress passed the Small Business Regulatory Enforcement Fairness Act, which amended the Regulatory Flexibility Act in several ways. One such amendment is a requirement that EPA and the Occupational Safety and Health Administration convene a panel soliciting the views of affected small entities (including small governments) before issuing any rule that has a significant impact on a substantial number of small entities. The agencies must report on the comments of the small entity representatives within 60 days after the panel is convened.

Pilot Programs Were Not Started Because of UMRA

Section 207 of UMRA requires the Director of OMB, in consultation with federal agencies, to establish pilot programs in at least two agencies "to test innovative, and more flexible regulatory approaches" that reduce reporting and compliance burdens on small governments and meet overall statutory goals and objectives. OMB's April 1997 annual report on agencies' compliance with title II indicated that OMB had designated three pilot projects in two agencies—one at USDA and two at EPA.

[34]The introduction to the Unified Agenda states that the "small entities affected" data element indicates whether a rule is expected to have a "significant economic impact on a substantial number of 'small entities.'" However, in the preamble to its section in the Unified Agenda, EPA said "we have identified those rules that will, if promulgated, impose any requirements on any small entities by indicating in the 'Small Entities Affected' section the category of small entities that will be subject to the rule requirements."

[35]For a discussion of how this act has been implemented, see Regulatory Flexibility Act: Status of Agencies' Compliance (GAO/GGD-94-105, Apr. 27, 1994).

The USDA pilot involved consolidation of its regulations on grants and loans for water and waste disposal from the former Rural Electrification Administration and the former Farmers Home Administration into the Rural Utilities Service. This consolidation was initiated because of a reorganization of responsibilities within USDA. Legislation implementing the new organizational structure was passed and signed into law in October 1994.[36] In a final rule related to the pilot, USDA said that by combining the water and waste loan and grant regulations into one regulation, "[u]necessary and burdensome requirements for entities seeking . . . financial assistance under the program are eliminated."[37]

One of the two pilots at EPA is an initiative by EPA's Office of Enforcement and Compliance Assurance to develop a policy on flexible state enforcement responses to small community violations. Under the final policy, issued in November 1995, EPA will defer to a state's decision to provide a small community compliance assistance and waive part or all of the noncompliance penalty if the community is working diligently and in good faith to achieve compliance. An EPA official said that the project was started because representatives of Oregon and Idaho came to EPA in 1994 and requested that the agency develop a program to work with small local governments to identify environmental compliance problems and develop new methods of addressing them. At the time of our review, only Oregon and Nebraska had active small community environmental compliance assistance programs; however, according to the EPA official, five additional states had applied to participate.

The other EPA pilot involves a number of activities in which the agency worked with the Environmental Council of the States (ECOS) to facilitate its interactions with state and local governments. According to OMB's 1997 annual report on title II compliance, one of the key priorities of the effort was to promote flexible approaches to regulatory compliance for small governments. On June 17, 1996, EPA's Small Town Task Force presented to the EPA Administrator its final report containing more than 39 recommendations developed during the previous 2 years. On March 17, 1997, the ECOS Small Town Task Force submitted a work plan to EPA to implement the recommendations. An EPA official said that some of the tasks in the work plan had been completed at the time of our review and that others were ongoing.

[36]Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law No. 103-354, 108 Stat. 3178 (1994).

[37]62 Fed. Reg. 33462, June 19, 1997.

In its March 1995 guidance on implementing title II of UMRA, OMB noted that agencies may already be considering efforts similar to the pilots as part of the administration's NPR initiative, which had started 2 years before UMRA was enacted. In fact, the three pilots appear related or similar to that initiative in some respects. For example, USDA noted in its final rule related to the pilot that it was part of the NPR effort. The reorganization that USDA officials said prompted their pilot was recommended by the NPR in its September 1993 report.[38] The EPA pilots appear related to an NPR recommendation that EPA improve environmental protection through increased flexibility for local governments. In our December 1994 report assessing the implementation of the recommendation, we noted that EPA had already formed its Small Town Task Force Advisory Committee to advise the EPA Administrator and recommend ways to increase flexibility for local governments.[39] We also noted that EPA had established pilot projects in three states, one of which involved reviewing a community's environmental risks and developing priorities to target the most pressing environmental needs. However, the impetus for EPA's pilot on small community violations appears to have been actions by two states' representatives, not NPR or UMRA.

Although OMB appears to have satisfied UMRA's requirement to establish pilot programs in at least two agencies, two of the three initiatives previously mentioned began before the enactment of UMRA. Furthermore, officials in both USDA and EPA indicated that the three initiatives were not started because of the passage of UMRA.

One Federal Court Decision Involved Agencies' Compliance With the Written Statement Requirements

Title IV of UMRA states that agencies' compliance with the requirements to prepare the written statement under section 202 and the small government plan under section 203 are subject to limited judicial review. If an agency fails to prepare the written statement or the plan, a court may compel the agency to do so. However, the absence or inadequacy of a statement or a plan cannot be used as the basis for invalidating the rule.

We identified one court case that had been decided in which the plaintiff alleged violations of UMRA as well as other laws by DOL in its rulemaking

[38]From Red Tape to Results: Creating a Government That Works Better and Costs Less, report of the National Performance Review, Vice President Al Gore, September 7, 1993.

[39]Management Reform: Implementation of the National Performance Review's Recommendations (GAO/OCG-95-1, Dec. 5, 1994).

process.[40] Regarding UMRA, the plaintiffs alleged that because DOL issued its final rule of December 20, 1996, without preparing any of the regulatory analyses and impact statements required by section 202, the court should declare the rule invalid. In accordance with section 401(a)(3) of UMRA, the court refused to grant the plaintiff's requested relief and stated that the inadequacy or failure to prepare the written statement could not be used as a basis for staying, enjoining, invalidating, or otherwise affecting the agency rule.

Conclusions

Our review of federal agencies' implementation of title II of UMRA indicates that this title of the act has had little direct effect on agencies' rulemaking actions during the first 2 years of its implementation. We reached this conclusion for three reasons.

First, many of the UMRA requirements did not appear to apply to most economically significant rules promulgated during this period. For example, we concluded that 78 of the 80 economically significant rules for which section 202 written statements were not on file at CBO did not require such a statement under the terms of the statute. Economically significant rules that may cost individuals or businesses more than $100 million per year are not covered by UMRA's requirement to develop a written statement if they (1) do not have an associated notice of proposed rulemaking; (2) do not impose an enforceable duty; (3) impose such a duty but only as a condition of federal assistance or as part of a voluntary program; or (4) do not involve an expenditure of $100 million in any 1 year by the private sector or by state, local, and tribal governments. Because section 205 of UMRA only applies to those rules for which a written statement is required, its reach is equally limited. The remaining two rules, which we believe should have had written statements, were EPA rules that complied with the substance of the UMRA written statement requirements.

Sections 203 and 204 of UMRA also appeared to have had little impact on agencies' rulemaking actions. Agencies did not prepare small government plans for any of the 73 final rules that we examined. Officials in the 4 agencies that we contacted—USDA, HHS, DOT, and EPA—said that none of the 50 final rules within this group that they promulgated had a significant or unique effect on small governments requiring a section 203 small government plan. Officials in SBA's Office of Advocacy generally concurred with the agencies' conclusions. OIRA and federal agencies said that only 2

[40]Associated Builders & Contractors, Inc., et al v. Alexis Herman, Secretary of Labor, and John Fraser, Acting Administrator of the Wage and Hour Division, U.S. Department of Labor, No. 96-1490 (SS), 1997 U.S. Dist. LEXIS 11991, at *1 (D.D.C. 1997).

of the 110 rules promulgated during the first 2 years of UMRA were significant federal intergovernmental mandates that required the development of a consultation process under section 204. Both of the rules were issued by EPA. Although two other EPA rules might have been significant intergovernmental mandates, the consultation process that the agency used for the other rules would satisfy the section 204 requirement for any mandates the agency developed.

The second reason UMRA does not appear to have had much effect on the agencies' rulemaking actions is that it does not require agencies to take the actions required in the statute if the agencies determine that the actions are duplicative of other actions or that accurate estimates of the effect of the rule are not feasible. For example, section 202(c) of UMRA says that the written statement required in section 202(a) may be prepared "in conjunction with or as part of any other statement or analysis" as long as that statement or analysis contains the required information. Because the agencies' rules commonly contain the information that section 202(a) requires in the written statements, the agencies only rarely prepared a separate UMRA written statement. Subsection 202(a)(3) of UMRA says agencies' written statements must contain estimates of future compliance costs and any disproportionate budgetary effects "if and to the extent that the agency determines that accurate estimates are reasonably feasible." Subsection 202(a)(4) says that the written statements must contain estimates of the effect on the national economy "if and to the extent that the agency in its sole discretion determines that accurate estimates are reasonably feasible and that such effect is relevant and material." Therefore, an agency can omit these estimates from any written statement if it considers them inaccurate, unfeasible, or, in the case of subsection 202(a)(4), irrelevant or immaterial.

The third reason UMRA does not appear to have had much effect on the agencies' rulemaking actions is that the act requires agencies to take certain actions that are either identical or similar to actions that they were already required to take or had completed, or that were under way. Because the scope of the previous requirements was usually much broader than the UMRA requirements, the following UMRA requirements did not appear to significantly alter the agencies' rulemaking actions:

- Section 202(a) of UMRA requires agencies to prepare a written statement containing an assessment of the costs and benefits of proposed federal mandates. Section 206 of UMRA says that the Director of OMB must collect the written statements from the agencies. However, Executive Order

12866, which was issued more than a year before UMRA, already required agencies to provide OIRA with assessments of the costs and benefits of all economically significant proposed rules, including some rules that were not mandates.

- Section 205 of UMRA requires agencies to identify a number of regulatory alternatives for proposed mandates and to select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rules. However, Executive Order 12866 already required agencies to identify regulatory alternatives and explain why the planned regulatory action is preferable to the other alternatives for all economically significant rules, including some rules that were not mandates. The executive order also says that agencies' regulations should be cost-effective and impose the least burden on society.
- Section 204 of UMRA requires agencies to develop a process to consult with representatives of state, local, and tribal governments. However, the basic elements of the UMRA consultation process can be traced to the notice and comment requirements in the APA, which was enacted nearly 50 years before UMRA. More specifically, Executive Order 12866 requires agencies to seek the views of state, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect them. Executive Order 12875, which was also issued more than a year before UMRA, requires agencies to "develop an effective process to permit elected officials of state, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates"—language that is almost identical to section 204 of UMRA.
- Officials in the agencies where the section 207 pilot programs were established said that the pilots were not initiated to satisfy UMRA requirements. Two of the pilots began before the enactment of UMRA, and all three pilots were similar or related to initiatives already under way as part of the administration's NPR management reform initiative.

The committee reports for the Senate bill that led to the adoption of UMRA indicate that Congress was aware that the bill duplicated existing requirements in many respects. For example, the report by the Senate Committee on the Budget stated that, except for the requirement for small government plans, "the bill will not impose new requirements for agencies to implement in the regulatory process . . . ."

Regulatory reform legislation currently under consideration by Congress also contains some requirements that are similar to those in Executive Order 12866 and existing statutes. For example, S. 981 would require

agencies to conduct cost-benefit analyses for what are essentially economically significant rules and, as part of those analyses, to evaluate a reasonable number of alternative approaches reflecting the range of regulatory options that would achieve the objective of the statute. Therefore, if agencies are already performing those analyses to comply with the executive order, codification of the requirements through S. 981 would not impose significant additional requirements for those rules.

However, the provisions in S. 981 are different from existing requirements in several other respects. First, the bill would cover more rules than are covered by UMRA or Executive Order 12866. For example, S. 981 would cover many independent regulatory agencies, whereas both UMRA and the executive order exclude independent regulatory agencies. Also, the analytical requirements in S. 981 would be broader than those in UMRA. UMRA requires that cost-benefit analyses be conducted for only a small group of rules that contain a narrowly defined mandate and that may result in expenditures of $100 million in any 1 year by state, local, or tribal governments, in the aggregate, or the private sector. S. 981, on the other hand, generally would cover all rules that have an annual effect on the economy of $100 million or that the Director of OMB declares to be a major rule.

S. 981 also would address a number of topics that are not addressed by either UMRA or Executive Order 12866. For example, the bill includes requirements that agencies conduct risk assessments for certain rules and have those risk assessments and any cost-benefit analyses peer reviewed. Neither UMRA nor the executive order contain such requirements. These requirements in S. 981 could also have the effect of improving the quality of the regulatory analyses that agencies are currently required to perform under Executive Order 12866.

Agency Comments and Our Evaluation

We sent a draft of this report for review and comment to the Director of OMB; the Secretaries of USDA, HHS, and DOT; and the Administrator of EPA. OMB, USDA, HHS, and DOT officials said they had no comments on the draft report.

On December 24, 1997, EPA's Director of the Office of Regulatory Management and Evaluation suggested several changes in the draft report. First, the Director said the final report should clarify that UMRA has not had much effect on agencies' rulemaking actions because some rules were not subject to UMRA or because agencies already had systems to address the

act's requirements, not because the agencies are ignoring UMRA. Therefore, he suggested changing the title of the report to "Agencies' Rulemaking Actions Comply With UMRA." Second, he said that EPA continued to disagree with our conclusion that written statements were required for the national ambient air quality standards for ozone and particulate matter, and that the report should clarify that the only areas of disagreement regarding these rules involved two of the five written statement requirements. Finally, he said the title of appendix I was misleading and should be clarified by adding a phrase or a footnote to the title to make it clear that written statements were not required for the rules in the table.

In response to EPA's first comment, we clarified the Results in Brief section of this final report to more clearly indicate that we concluded title II of UMRA did not have much effect on agencies' rulemaking actions because of how many of the act's requirements were written, not because of any systematic failure on the part of rulemaking agencies. However, we did not change the title of the report because we believe the current title more accurately reflects the report's message than EPA's suggested change. Regarding EPA's second comment, we changed this final report to clarify that we disagreed with EPA's interpretation of UMRA's requirements "in one respect," and we added a sentence noting that the disagreement centered on two of the five written statement requirements. Finally, in response to EPA's third comment, we added a brief discussion after the title of appendix I indicating that, with the exception of the ozone and particulate matter rules, we did not believe that written statements were required for the listed rules.

We are sending copies of this report to the Director of OMB; the Secretaries of USDA, HHS, and DOT; and the Administrator of EPA. We are also sending copies of this report to the Chairmen and Ranking Minority Members of (1) the House Committee on Government Reform and Oversight; (2) that Committee's Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs; and (3) the House Committee on the Judiciary, Subcommittee on Commercial and Administrative Law. We will make copies available to others on request.

Major contributors to this report are listed in appendix III. Please contact me on (202) 512-8676 if you or your staff have any questions concerning this report.

L. Nye Stevens
Director, Federal Management
and Workforce Issues

Contents

Abbreviations

APA	Administrative Procedure Act
CBO	Congressional Budget Office
DOE	Department of Energy
DOL	Department of Labor
DOT	Department of Transportation
ECOS	Environmental Council of States
EPA	Environmental Protection Agency
HHS	Department of Health and Human Services
NPR	National Performance Review
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
RISC	Regulatory Information Service Center
SBA	Small Business Administration
UMRA	Unfunded Mandates Reform Act of 1995
USDA	United States Department of Agriculture

Economically Significant Rules Without Written Statements

The following table lists, by department or agency and office, the 80 economically significant rules promulgated between March 22, 1995, and March 22, 1997, for which no written statements were on file at CBO. We believe that no written statements were required for all but two of these rules—EPA's national ambient air quality standards for ozone and particulate matter. Even for these two rules, EPA appeared to have met the substantive written statement requirements of UMRA.

The table also presents the date each of these rules was published in the Federal Register. UMRA's written statement requirements apply to rules promulgated after March 22, 1995. Although some of these rules may have been promulgated before publication in the Federal Register, none were promulgated before March 22, 1995.

Table I.1: Economically Significant Rules Promulgated in the First 2 Years of UMRA Title II Implementation for Which No Written Statements Were on File at CBO

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
Department of Agriculture			
Animal and Plant Health Inspection Service	Karnal Bunt Disease; Domestic Plant-related Quarantine	Oct. 4, 1996	Final
	Importation of Animals and Animal Products	Apr. 18, 1996	Proposed
Commodity Credit Corporation	Environmental Quality Incentives Program	Oct. 11, 1996	Proposed
Farm Service Agency	1996 Farm Bill: Implementation of Farm Program Provisions	July 18, 1996	Final
	1986-1990 Conservation Reserve Program	May 8, 1995	Interim final
	1995 Crop Sugarcane and Sugar Beet Price Support Loan Rates	Apr. 10, 1996	Final
	Amendments to the Peanut Poundage Quota Regulations	July 16, 1996	Interim final
	1995 Upland Cotton Program	June 16, 1995	Final
	1995 Rice Acreage Reduction Program	Aug. 18, 1995	Final
	1995 Wheat and Feed Grain Acreage Reduction Program	Sept. 18, 1995	Final
	1996 Upland Cotton Program	Oct. 10, 1995	Proposed

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
	1997 Crop Peanut National Poundage Quota	Nov. 25, 1996	Proposed
	Conservation Reserve Program—Long-Term Policy	Sept. 23, 1996	Proposed
	Conservation Reserve Program—Long-Term Policy	Feb. 19, 1997	Final
	Disaster Payment Program for 1990-1994	Oct. 10, 1995	Final
Federal Crop Insurance Corporation	General Crop Insurance Regulations	Nov. 8, 1995	Proposed
	General Administrative Regulations; Federal Crop Insurance Reform Act of 1994	Aug. 20, 1996	Final
	Catastrophic Risk Protection Endorsement	Aug. 20, 1996	Final
	General Crop Insurance Regulations	Dec. 7, 1995	Final
Food and Nutrition Service (formerly Food and Consumer Service)	Child and Adult Care Food Program; Improved Targeting of Day Care Home Reimbursements	Jan. 7, 1997	Interim final
	Food Stamp Program: Certification Provisions of the Mickey Leland Childhood Hunger Relief Act	Oct. 17, 1996	Final
Food Safety and Inspection Service	Use of the Term “Fresh” on the Labeling of Raw Poultry Products	Aug. 25, 1995	Final
Foreign Agricultural Service	Commodity Credit Corporation Supplier Credit Guarantee Program	July 1, 1996	Interim final
	Dairy Tariff-Rate Import Quota Licensing	Oct. 9, 1996	Final
	Dairy Tariff-Rate Import Quota Licensing	Jan. 18, 1996	Proposed
Department of Commerce			
Bureau of Export Administration	Exports of Certain California Crude Oil	Mar. 27, 1995	Final
National Oceanic and Atmospheric Administration	Northeast Multispecies Fishery: Amendment 7	Mar. 5, 1996	Proposed
	Northeast Multispecies Fishery: Amendment 7	May 31, 1996	Final
Department of Health and Human Services			

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
Food and Drug Administration	Substances Prohibited From Use in Animal Food or Feed	Jan. 3, 1997	Proposed
	Medical Devices: Current Good Manufacturing Practices	Oct. 7, 1996	Final
	Food Labeling, Nutrition Labeling, Small Business Exemption	Aug. 7, 1996	Final
Health Care Financing Administration	Medicaid Program: Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1996	Sept. 23, 1996	Notice
	Medicaid Program: Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1996	May 9, 1996	Notice
	Medicare Program: Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rate Beginning January 1, 1996	Oct. 16, 1995	Notice
	Medicaid Program: Final Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1995	Sept. 8, 1995	Notice
	Medicare Program: Schedule of Limits on Home Health Agency Costs per Visit for Cost Recording Periods Beginning on or After July 1, 1996	July 1, 1996	Notice
	Medicare Program: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1997	July 2, 1996	Proposed
	Medicare Program: HHS' Approval of NAIC Statements Relating to Duplication of Medicare Benefits	June 12, 1995	Notice

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
	Medicare Program: Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1996 Rates	Sept. 1, 1995	Final
	Medicare Program: Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1996 Rates	June 8, 1995	Proposed
	Medicare Program: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1997	Nov. 22, 1996	Final
	Medicare Program: Physician Financial Relationships With, and Referrals to, Health Care Entities That Furnish Clinical Laboratory Services and Financial Relationship Reporting Requirements	Aug. 14, 1995	Final
	Medicare Program: Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates	Aug. 30, 1996	Final
	Medicare Program: Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates	May 31, 1996	Proposed
Department of Housing and Urban Development			
Office of the Assistant Secretary for Housing	Sale of HUD-Held Single Family Mortgages	Jan. 24, 1997	Final
	Sale of HUD-Held Single Family Mortgages	Aug. 31, 1995	Interim final
	Single Family Mortgage Insurance-Loss Mitigation Procedures	July 3, 1996	Interim final
Office of the Secretary	Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance	June 7, 1996	Proposed

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
Department of Justice			
Drug Enforcement Agency	Implementation of the Domestic Chemical Diversion Control Act of 1993 (P.L. 103-200)	June 22, 1995	Final
Immigration and Naturalization Service	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings: Asylum Procedures	Jan. 3, 1997	Proposed
	Charging of Fees for Services at Land Border Ports-of-Entry	Aug. 7, 1995	Final
	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings: Asylum Procedures	Mar. 6, 1997	Interim final
Department of Labor			
Employment and Training Administration	Disaster Unemployment Assistance Program	May 11, 1995	Interim final
Wage and Hour Division	Service Contract; Labor Standards for Federal Service Contracts	May 2, 1996	Proposed
	Service Contract Act; Labor Standards for Federal Service Contracts	Dec. 30, 1996	Final
	Service Contract Act; Labor Standards for Federal Service Contracts	Oct. 25, 1996	Proposed
Department of the Interior			
Fish and Wildlife Service	Migratory Bird Hunting; Proposed 1997-98 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	Mar. 13, 1997	Proposed
	Migratory Bird Hunting: Final Frameworks for Late-Season Migratory Bird Hunting Regulations	Sept. 26, 1996	Final

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
	Migratory Bird Hunting; Proposed 1996-97 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	Mar. 22, 1996	Proposed
	Migratory Bird Hunting: Final Frameworks for Late-Season Migratory Bird Hunting Regulations	Sept. 27, 1995	Final
	Migratory Bird Hunting: Final Frameworks for Early-Season Migratory Bird Hunting Regulations	Aug. 29, 1995	Final
	Migratory Bird Hunting: Final Frameworks for Early-Season Migratory Bird Hunting Regulations	Aug. 29, 1996	Final
Department of Transportation			
National Highway Traffic Safety Administration	Light Truck Average Fuel Economy Standard, Model Year 1998	Apr. 3, 1996	Final
Office of the Secretary	Domestic Passenger Manifest Information	Mar. 13, 1997	Advance Notice of Proposed Rule-making
Environmental Protection Agency			
Air and Radiation	National Emission Standards for Air Pollutants: Petroleum Refineries	Aug. 18, 1995	Final
	Federal Operating Permits Program	Apr. 27, 1995	Proposed
	Control of Air Pollution From New Motor Vehicles	Oct. 10, 1995	Proposed
	Federal Operating Permits Program	July 1, 1996	Final
	NAAQS for Particulate Matter	Dec. 13, 1996	Proposed
	NAAQS for Ozone	Dec. 13, 1996	Proposed
Pollution Prevention and Toxic Substances	Lead: Requirements for Lead-Based Paint Activities	Aug. 29, 1996	Final
Solid Waste & Emergency Response	Identification and Listing of Hazardous Waste	Dec. 21, 1995	Proposed
	Financial Assurance Mechanisms	Nov. 27, 1996	Final

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
	Corrective Action for Releases From Solid Waste Management Units	May 1, 1996	Advance Notice of Proposed Rule-making
	Requirements for Management of Hazardous Contaminated Media	Apr. 29, 1996	Proposed
Small Business Administration			
Small Business Administration	Sale of Unguaranteed Portions of Loan	Feb. 26, 1997	Proposed
	Small Business Size Regulations; Non-Manufacturer Rule	May 26, 1995	Proposed
Social Security Administration			
Social Security Administration	Cycling Payment of Social Security Benefits	Feb. 11, 1997	Final
	Cycling Payment of Social Security Benefits	Jan. 26, 1996	Proposed
	Determining Disability for an Individual Under Age 18 — Supplemental Security Income	Feb. 11, 1997	Interim final

Sources: RISC and GAO.

Economically Significant Rules With Written Statements

The following table lists, by department or agency and office, the 30 economically significant rules promulgated between March 22, 1995, and March 22, 1997, for which written statements were on file at CBO. The table also presents the date each of these rules was published in the Federal Register. UMRA's written statement requirements apply to rules promulgated after March 22, 1995. Although some of these rules may have been promulgated before publication in the Federal Register, none were promulgated before March 22, 1995.

Table II.1: Economically Significant Rules Promulgated in the First 2 Years of UMRA Title II Implementation for Which Written Statements Were on File at CBO

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
Department of Agriculture			
Food Safety and Inspection Service	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems	July 25, 1996	Final
Department of Energy			
Office of Energy Efficiency and Renewable Energy	Energy Conservation Program for Consumer Products: Proposed Rulemaking Regarding Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers	July 20, 1995	Proposed
Department of Health and Human Services			
Food and Drug Administration	Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents	Aug. 11, 1995	Proposed
	Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents	Aug. 28, 1996	Final
	Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products	Dec. 18, 1996	Final
	Mammography Quality Standards	Apr. 3, 1996	Proposed

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
Health Care Financing Administration	Medicaid Program; Payment for Covered Outpatient Drugs Under Drug Rebate Agreements With Manufacturers	Sept. 19, 1995	Proposed
Department of Labor			
Occupational Health and Safety Administration	Occupational Exposure to Methylene Chloride	Jan. 10, 1997	Final
Department of Transportation			
National Highway Traffic Safety Administration	Federal Motor Vehicle Safety Standards; Head Impact Protection	Aug. 18, 1995	Final
	Federal Motor Vehicle Safety Standards; Child Restraint Systems; Tether Anchorages and Anchorage Systems	Feb. 20, 1997	Proposed
United States Coast Guard	Operational Measures to Reduce Oil Spills from Existing Tank Vessels	Nov. 3, 1995	Proposed
	Vessel Response Plan	Jan. 12, 1996	Final
Environmental Protection Agency			
Air and Radiation	Acid Rain Phase II Nitrogen Oxides Emission Reduction Program	Oct. 10, 1995	Proposed
	Acid Rain Phase II Nitrogen Oxides Emission Reduction Program	Dec. 19, 1996	Final
	Revisions to the Federal Test Procedures for Emissions From Motor Vehicles	Oct. 22, 1996	Final
	Control of Emissions of Air Pollution From Highway Heavy-Duty Engines	June 27, 1996	Proposed
	Certification Standards for Deposit Control Gasoline	July 5, 1996	Final
	Federal Standards for Marine Tank Vessel Loading and Unloading Program	Sept. 19, 1995	Final
	Air Emissions From Municipal Solid Waste Landfills	Mar. 12, 1996	Final

(continued)

Department or agency and office	Title	Date published in the Federal Register	Rulemaking stage
	Standards of Performance for New Stationary Sources: Municipal Waste Combustors	Dec. 19, 1995	Final
	Emission Standards for New Locomotives and New Engines Used in Locomotives	Feb. 11, 1997	Proposed
	Air Pollution Emission Standards for New Nonroad Spark Ignition Marine Engines	Oct. 4, 1996	Final
Pollution Prevention and Toxic Substances	Pesticides and Ground Water State Management Plan	June 26, 1996	Proposed
	Addition of Facilities in Certain Industry Sectors; Toxic Chemical Release Reporting	June 27, 1996	Proposed
Solid Waste & Emergency Response	Land Disposal Restrictions Phase IV	Aug. 22, 1995	Proposed
	Supplemental Proposal to Phase IV Land Disposal Restrictions Rule	Jan. 25, 1996	Proposed
	Accidental Release Prevention Requirement	June 20, 1996	Final
	Proposed Revised Standards for Hazardous Waste Combustors	Apr. 19, 1996	Proposed
	Land Disposal Restrictions Phase III	Apr. 8, 1996	Final
Water	Metal Products and Machinery Effluent Guidelines, Pretreatment Standards, and New Source Performance Standards	May 30, 1995	Proposed

Sources: CBO and GAO.

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