



Highlights of [GAO-11-385T](#), a testimony before the Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform, Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

Many federal programs and initiatives involve shared responsibilities—and benefits—for the federal, state, local and tribal governments, and the private sector. Federal statutes and rules often require nonfederal parties to expend their resources in support of certain national goals. The Unfunded Mandates Reform Act of 1995 (UMRA) was enacted to address some of the concerns about federal statutes and regulations that require nonfederal parties to expend resources to achieve these goals without being provided funding to cover the costs. UMRA generates information about how these potential federal mandates could affect other levels of government and the private sector as Congress and agency decision makers consider proposed legislation and regulations.

Congress has asked GAO to evaluate the effectiveness of UMRA procedures and requirements several times since it was enacted. Based on that body of work, this testimony focuses on Title II of UMRA regarding federal mandates in rules and (1) describes the exceptions and exclusions in the act when identifying a federal mandate and (2) summarizes GAO findings on UMRA's implementation over the years and views of knowledgeable parties on potential improvements.

GAO is not making recommendations in this testimony.

View [GAO-11-385T](#) or key components. For more information, contact Denise M. Fantone at (202) 512-6806 or fantoned@gao.gov.

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FEDERAL MANDATES

Few Rules Trigger Unfunded Mandates Reform Act

What GAO Found

UMRA's process for identifying whether a rule contains a federal mandate is complex, and there are 14 reasons why a rule would not be identified as containing a federal mandate. These include definitions, exceptions, and exclusions. For example, requirements in rules are not considered federal mandates under UMRA if they (1) arise in a rule issued by an independent regulatory agency, such as the Securities and Exchange Commission, (2) are a condition of receiving federal financial assistance, (3) require compliance with accounting or auditing procedures, or (4) provide for emergency assistance. If UMRA applies, the federal agency is then required to prepare a written statement about the anticipated effects of the mandates contained in the rule and consult with affected parties.

GAO consistently found that agencies' rules seldom triggered UMRA. In 2004 GAO reported that 65 rules, or over half of the 113 final major rules published in calendar years 2001 and 2002 that had not triggered UMRA, had impacts on nonfederal parties that those affected might perceive as unfunded mandates. GAO analyzed each of those rules to identify how it was treated under UMRA's mandate identification process. Among the most common reasons the rules did not trigger UMRA's requirements were that (1) the rule did not meet the UMRA dollar threshold for expenditures, (2) the rule was published in final form without going through the proposed rule stage, (3) participation in the federal program was considered voluntary, and (4) the rule was issued by one of the independent regulatory agencies, which are not covered by the act. It is important to note that GAO also found that the remaining rules that had not triggered UMRA included no new requirements that would impose costs or have a negative financial effect on state, local, and tribal governments or the private sector. These rules often involved payments from the federal government to nonfederal parties.

In 2005, when GAO asked knowledgeable parties from academia, advocacy groups, business, federal agencies, and state and local governments about UMRA, they frequently raised concerns about the act's coverage and the quality of analyses of federal mandates. Their comments suggested that there is merit in considering whether features of the law that determine if a rule includes a federal mandate subject to UMRA need to be retained, modified, or eliminated. Additionally, the parties we spoke with suggested that evaluation of existing rules through retrospective reviews has the potential of being able to better assess the effectiveness of UMRA, among other benefits.