

106TH CONGRESS  
2D SESSION

# H. R. 3521

To amend chapter 8 of title 5, United States Code, to provide for a report by the General Accounting Office to Congress on agency regulatory actions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2000

Mr. McINTOSH introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend chapter 8 of title 5, United States Code, to provide for a report by the General Accounting Office to Congress on agency regulatory actions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Congressional Ac-  
5       countability for Regulatory Information Act of 2000”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) many Federal regulations have improved  
2           the quality of life of the American public, however,  
3           uncontrolled increases in regulatory costs and lost  
4           opportunities for better regulation should not be  
5           continued;

6           (2) the legislative branch has a responsibility to  
7           ensure that laws passed by Congress are properly  
8           implemented by the executive branch;

9           (3) in order for the legislative branch to fulfill  
10          its responsibilities to ensure that laws passed by  
11          Congress are implemented in an efficient, effective,  
12          and fair manner, the Congress requires accurate and  
13          reliable information on which to base decisions; and

14          (4) the legal effect of many Federal agency  
15          guidance documents and other Federal agency state-  
16          ments that are not published in the Code of Federal  
17          Regulations is often not clear to the affected public.

18 **SEC. 3. REPORTS ON REGULATORY ACTIONS BY THE GEN-**  
19 **ERAL ACCOUNTING OFFICE.**

20          (a) IN GENERAL.—Section 801(a)(2) of title 5,  
21 United States Code, is amended by striking subparagraph  
22 (B) and inserting the following:

23          “(B)(i) After an agency publishes a regulatory action,  
24 a committee of either House of Congress with legislative  
25 or oversight jurisdiction relating to the action may request

1 the Comptroller General to review the action under clause  
2 (ii).

3 “(ii) Of requests made under clause (i), the Comp-  
4 troller General shall provide a report on each regulatory  
5 action selected under clause (iv) to the committee which  
6 requested the report (and the committee of jurisdiction in  
7 the other House of Congress)—

8 “(I) except as provided in subclause (II), by not  
9 later than 180 calendar days after the committee re-  
10 quest is received; or

11 “(II) in the case of a request for review of a no-  
12 tice of proposed rule making or an interim final rule  
13 making, by not later than the end of the 60-cal-  
14 endar-day period beginning on the date the com-  
15 mittee request is received, or the end of the period  
16 for submission of comment regarding the rule mak-  
17 ing, whichever is later.

18 The report shall include an independent analysis of the  
19 regulatory action by the Comptroller General using any  
20 relevant data or analyses available to or generated by the  
21 General Accounting Office.

22 “(iii) The independent analysis of the regulatory ac-  
23 tion by the Comptroller General under clause (ii) shall  
24 include—

1           “(I) an analysis by the Comptroller General of  
2           the potential benefits of the regulatory action, in-  
3           cluding any beneficial effects that cannot be quan-  
4           tified in monetary terms and the identification of  
5           those likely to receive the benefits;

6           “(II) an analysis by the Comptroller General of  
7           the potential costs of the regulatory action, including  
8           any adverse effects that cannot be quantified in  
9           monetary terms and the identification of those likely  
10          to bear the costs;

11          “(III) an analysis by the Comptroller General  
12          of any alternative regulatory approaches that could  
13          achieve the same goal in a more cost-effective man-  
14          ner or that could provide greater net benefits, and,  
15          if applicable, a brief explanation of any statutory  
16          reasons why such alternatives could not be adopted;

17          “(IV) an analysis of the extent to which the  
18          regulatory action would affect State or local govern-  
19          ments; and

20          “(V) a summary of how the results of the  
21          Comptroller General’s analysis differ, if at all, from  
22          the results of the analyses of the agency in promul-  
23          gating the regulatory action.

24          “(iv) In consultation with the Majority and Minority  
25          Leaders of the Senate and the Speaker and Minority

1 Leader of the House of Representatives, the Comptroller  
2 General shall develop procedures for determining the pri-  
3 ority and number of those requests for review under clause  
4 (i) that will be reported under clause (ii). The procedures  
5 shall give the highest priority to requests regarding a no-  
6 tice of proposed rule making for a major rule, and to re-  
7 quests regarding an interim final rule making for a major  
8 rule.

9 “(C) Federal agencies shall cooperate with the Comp-  
10 troller General by promptly providing the Comptroller  
11 General with such records and information as the Comp-  
12 troller General determines necessary to carry out this sec-  
13 tion.”.

14 (b) DEFINITIONS.—Section 804 of title 5, United  
15 States Code, is amended—

16 (1) by redesignating paragraphs (2) and (3) as  
17 paragraphs (3) and (5), respectively;

18 (2) by inserting after paragraph (1) the fol-  
19 lowing:

20 “(2) The term ‘independent analysis’ means a  
21 substantive review of the agency’s underlying assess-  
22 ments and assumptions used in developing the regu-  
23 latory action and any additional analysis the Comp-  
24 troller General determines to be necessary.”; and

1           (3) by inserting after paragraph (3) (as redesignated by paragraph (1) of this subsection) the following:

4           “(4) The term ‘regulatory action’ means—

5                   “(A) notice of proposed rule making;

6                   “(B) final rule making, including interim  
7           final rule making; or

8                   “(C) a rule.”.

9   **SEC. 4. DISCLOSURE OF NONBINDING EFFECT OF GUID-**  
10                   **ANCE DOCUMENTS.**

11       (a) IN GENERAL.—Chapter 8 of title 5, United  
12 States Code, is amended by inserting after section 803 the  
13 following:

14   **“§ 803a. Notice of nonbinding effect of agency guid-**  
15                   **ance**

16       “The head of an agency shall include on the first  
17 page of each statement published by the agency that is  
18 not a rule a notice that the statement has no general appli-  
19 cability or future effect (or both), as applicable, and is  
20 not binding on the public.”.

21       (b) CLERICAL AMENDMENT.—The table of sections  
22 at the beginning of chapter 8 of title 5, United States  
23 Code, is amended by inserting after the item relating to  
24 section 803 the following:

“803a. Notice of nonbinding effect of agency guidance.”.

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated to the Gen-  
3 eral Accounting Office to carry out chapter 8 of title 5,  
4 United States Code, \$5,200,000 for each of fiscal years  
5 2000 through 2003.

6 **SEC. 6. EFFECTIVE DATE.**

7       This Act and the amendments made by this Act shall  
8 take effect 180 days after the date of enactment of this  
9 Act.

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