

116TH CONGRESS
2D SESSION

H. R. 8956

To require reports on regulations issued, and homeland security risks arising, during a presidential transition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2020

Mr. CONNOLLY (for himself, Mrs. CAROLYN B. MALONEY of New York, Mr. KRISHNAMOORTHY, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Oversight and 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

A BILL

To require reports on regulations issued, and homeland security risks arising, during a presidential transition, 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 “Midnight Regulations
5 Review Act”.

1 **SEC. 2. REPORT ON REGULATIONS PROMULGATED NEAR**
2 **THE END OF PRESIDENTIAL TERMS.**

3 (a) REPORT.—Not later than one year after the inau-
4 guration of a new President, the Comptroller General of
5 the United States shall submit to Congress a report re-
6 garding covered regulations promulgated during the cov-
7 ered presidential transition period.

8 (b) CONTENTS OF REPORT.—The report required
9 under subsection (a) shall, to the extent feasible, for the
10 covered presidential transition period—

11 (1) compare the number, scope, and impact of,
12 and type of rulemaking procedure used for, covered
13 regulations promulgated during the covered presi-
14 dential transition period to the number, scope, and
15 impact of, and type of rulemaking procedure used
16 for, covered regulations promulgated during the 120-
17 day periods ending on January 20 of each year after
18 1996, other than the 120-day period ending on the
19 date of the inauguration of the new President;

20 (2) determine the statistical significance of any
21 differences identified under paragraph (1) and
22 whether and to what extent such differences indicate
23 any patterns;

24 (3) evaluate the size, scope, and effect of the
25 covered regulations promulgated during the covered
26 presidential transition period; and

(4) assess the extent to which the regularly required processes for the promulgation of covered regulations were followed during the covered presidential transition period, including compliance with the requirements under—

(A) chapter 8 of title 5, United States Code (commonly known as the “Congressional Review Act”);

(B) the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note);

(C) sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–1535);

(D) chapter 6 of title 5, United States Code (commonly known as the “Regulatory Flexibility Act”); and

(E) subchapter I of chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

SEC. 3. COMPTROLLER GENERAL REPORT ON MAJOR RULES SUBJECT TO CONGRESSIONAL REVIEW.

(a) IDENTIFICATION.—Beginning not later than 5 weeks after January 20, 2021, or 5 weeks after the date

1 of the enactment of this Act, whichever is later, and not
2 later than 5 weeks after each date on which a new Presi-
3 dent is inaugurated thereafter, the Comptroller General
4 of the United States shall identify and submit to Congress
5 any major rules potentially subject to a joint resolution
6 of disapproval pursuant to section 802 of title 5, United
7 States Code, which were published in the Federal Register
8 or for which a report was submitted to Congress in accord-
9 ance with section 801(a)(1)(A) of such title, during—

10 (1) the period described in section 801(d) of
11 such title; or

12 (2) the period beginning on the date on which
13 the period described in subparagraph (A) expires
14 and ending on the date on which a new President is
15 inaugurated.

16 (b) RULE OF CONSTRUCTION.—Nothing in this Act
17 may be construed to limit the ability to exercise authority
18 pursuant to chapter 8 of title 5, United States Code (com-
19 monly known as the “Congressional Review Act”).

20 **SEC. 4. DEFINITIONS.**

21 In this Act:

22 (1) COVERED PRESIDENTIAL TRANSITION PE-
23 RIOD.—The term “covered presidential transition pe-
24 riod” means the 120-day period ending on the date
25 of the inauguration of the new President.

1 (2) COVERED REGULATION.—The term “cov-
2 ered regulation” means a final economically signifi-
3 cant regulatory action promulgated by an agency.

4 (3) EXECUTIVE DEPARTMENT.—The term
5 “agency” has the meaning given that term in section
6 551 of title 5, United States Code.

7 (4) MAJOR RULE.—The term “major rule” has
8 the meaning given such term in section 804 of title
9 5, United States Code.

10 (5) NEW PRESIDENT.—The term “new Presi-
11 dent” means a President who—

12 (A) did not hold the office of the President
13 on the day before the date of the inauguration
14 of such President; and

15 (B) is inaugurated on or before January
16 20, 2033.

17 (6) ECONOMICALLY SIGNIFICANT REGULATORY
18 ACTION.—The term “economically significant regu-
19 latory action” means any regulatory action that is
20 likely to result in a rule that may have an annual
21 effect on the economy of \$100,000,000 or more or
22 adversely affect in a material way the economy, a
23 sector of the economy, productivity, competition,

- 1 jobs, the environment, public health or safety, or
- 2 State, local, or Tribal governments or communities.

