

Midnight Regulations Review Act (H.R. 8956)

Regulations rushed through the review and approval process at the end of a president's tenure, often called "midnight regulations," are subject to little accountability and can lead to harmful, unvetted policies. Because these hastily issued regulations are typically released at higher volumes than similar time periods during the administration, they can overwhelm the institutional review process. As a result, outgoing administrations often saddle incoming administrations with last-minute regulations that did not undergo thorough review and analysis or failed to collect and heed stakeholder input. If a midnight rule is finalized, a new administration is forced to work through the time-consuming rulemaking process to change or repeal the rule, potentially diverting critical resources at a substantial cost.

The Midnight Regulations Review Act (H.R. 8956) would provide oversight of midnight regulations finalized at the end of an administration and during the presidential transition period.

Specifically, the act would require the U.S. Government Accountability Office (GAO) to report to Congress a list of the major rules promulgated during the end of a Presidential administration that are subject to repeal by Congress through the Congressional Review Act.

The bill also would require GAO to report to Congress on a subsection of these regulations issued during the presidential lame duck period. That report would include a:

1. Comparison of the number, scope, impact, and type of rulemaking procedure used for the midnight regulations enacted during the transition period to that of the regulations enacted outside of the transition period;
2. Determination of any statistically significant differences based on the comparison above and identification of any patterns to the differences;
3. Evaluation of the size, scope, and effect of the midnight regulations; and
4. Assessment of whether the processes used to enact the midnight regulations complied with relevant sections of the Congressional Review Act, the Small Business Regulatory Act of 1996, Unfunded Mandates Reform Act of 1995, Regulatory Flexibility Act, and Paperwork Reduction Act.

Endorsements: Citizens for Responsibility and Ethics in Washington, Partnership for Public Service