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# Congressionally Mandated Reports: Overview and Considerations for Congress

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## Congressionally Mandated Reports: Overview and Considerations for Congress

Congress frequently requires the President, departments, agencies, and other entities of the federal government to transmit reports, notifications, studies, and other information on a specified timeline. Reporting requirements may direct agency officials to notify Congress or its committees of forthcoming actions or decisions, describe actions taken on a particular matter, establish a plan to accomplish a specified goal, or study a certain problem or concern.

Reporting requirements may be designed to serve a range of purposes that facilitate congressional oversight of the executive branch and inform congressional decisionmaking. Required reports may help legislators monitor executive activity, ensure compliance with legislative intent, focus agency attention on matters of importance to Congress, and assess the effectiveness of existing programs and policies. Certain reports on complex or emerging issues may also help originate or inform legislative proposals.

This report discusses the potential benefits and challenges of reporting requirements, and analyzes a number of statutory reporting requirements enacted during the 115<sup>th</sup> Congress. (Patterns gleaned from these data may not be generalizable to requirements enacted in other years.) This report analyzes features common to legislative language establishing reporting requirements. In general, most identified statutory reporting provisions specify

- the information that must be contained in the report;
- the identity of the official or agency responsible for submission;
- the recipient of the report;
- the deadline by which the report must be submitted; and
- whether the requirement is for a one-time or recurring report.

Depending on the type of reporting requirement, the reporting provision may also include language detailing whether the information reported to Congress must also be made publicly available, and how any potentially classified material contained in the report ought to be handled. Some provisions also permit certain activities only upon the submission of a report or notification to Congress, such as the waiver of sanctions, or the transfer or reprogramming of appropriated funds.

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## Introduction

Congressional oversight of the executive branch is a topic of perennial interest to many Members of Congress, their staff, and the public. Statutory reporting requirements can be useful in facilitating congressional oversight by enhancing congressional access to information about the implementation of public policy. Each year, Congress enacts a variety of requirements for the President, executive departments, agencies, and other federal government entities to provide advance notification of actions and decisions, to create plans and strategies to carry out certain activities, to summarize steps taken toward implementation of particular policies, or to study problems and issue recommendations. Reporting requirements can be used to accomplish a range of different goals. When designing such requirements, policymakers face a number of choices that may affect the content, frequency, and other features of the information that Congress receives as a result.

This report provides an overview of statutory reporting requirements used by Congress to obtain information from the executive branch; describes the goals that various types of reporting requirements may help achieve; and analyzes statutory requirements enacted during the 115<sup>th</sup> Congress to identify common features of legislative language used to establish such requirements.

## Statutory Reporting Requirements and Congressional Oversight

Congress relies in large part on information provided by the executive branch in order to conduct oversight. To that end, Congress frequently enacts statutory provisions that require executive agencies and other federal entities to provide Congress or its committees with specified information. The type and amount of information required by these provisions can vary substantially. Congress often requires federal entities to provide, among other things, notifications of actions or decisions, data and statistics related to particular topics, reports describing the results of studies or evaluations, detailed plans to implement particular policies, and recommendations for legislative actions.

The volume of statutory reporting requirements has varied over time, and policymakers have periodically taken steps to assess and/or reduce the number of reporting requirements.<sup>1</sup> Still, Congress requires various federal entities to submit thousands of reports, notices, studies, and other materials each year, and new requirements for both singular and recurring reports continue to be enacted.

Statutory reporting requirements come in several common forms, and can serve a range of potentially overlapping purposes. These include ensuring compliance with legislative intent, gathering vital data and statistics, monitoring the implementation of public policy, evaluating the effectiveness of particular programs, assessing federal capacity to meet particular challenges, studying issues that are not well-understood, and obtaining recommendations for legislative or other action.

## Reporting Requirements: Types and Purposes

Each year, Congress typically enacts a range of reporting requirements of varying types. Most requirements can be roughly divided into several categories:

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<sup>1</sup> See, for example, CRS Report R42490, *Reexamination of Agency Reporting Requirements: Annual Process Under the GPRM Modernization Act of 2010 (GPRAMA)*, by Clinton T. Brass.

- notifications of actions or decisions;
- descriptive reports that summarize actions taken or provide other factual information;
- plans to accomplish particular goals; and
- studies or evaluations relating to a specific problem or concern.<sup>2</sup>

Each category is discussed in additional detail below.<sup>3</sup>

## Notification Requirements

Many statutory provisions require that specified federal officials, typically Cabinet Secretaries or the heads of other federal entities, notify Congress either before or soon after taking some action. For instance, Congress may grant a Secretary the authority to take a particular action or waive a particular restriction, provided that the Secretary notifies Congress when utilizing such authority. In some instances, notification requirements specify additional information that must be submitted, such as justification supporting the relevant action. The National Defense Authorization Act for FY2019 (P.L. 115-232), for example, provided the following notification requirement:

(c) WAIVER.—The Secretary of the Navy may waive the limitation under subsection (a) with respect to a naval vessel if the Secretary submits to the congressional defense committees notice in writing of—

- (1) the waiver of such limitation with respect to the vessel;
- (2) the date on which the period of overseas forward deployment of the vessel is expected to end; and
- (3) the factors used by the Secretary to determine that a longer period of deployment would promote the national defense or be in the public interest.<sup>4</sup>

This type of reporting requirement can help Congress supervise executive branch activities as they occur. Notification requirements may also help Congress monitor the use of a new grant of authority in order to ensure compliance with legislative intent. Additionally, notification requirements may provide legislators an opportunity to prevent or modify certain executive actions with which they disagree, or to consult with relevant officials before such action is carried out.<sup>5</sup> Further, the requirement to keep Congress notified of ongoing developments may provide a disincentive for the executive branch to take actions that might prompt a legislative response.

## Descriptive Reports

A broad category of reporting requirements might be labeled descriptive reports on executive branch activities. This category of reports largely consists of descriptions of agency activity and

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<sup>2</sup> The categories discussed in this section are drawn from John R. Johannes, “Study and Recommend: Statutory Reporting Requirements as a Technique of Legislative Initiative in Congress—A Research Note,” *Western Political Quarterly*, vol. 29, no. 4 (December 1976), pp. 589-596; and from Patrick R. Mullen, “Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration” (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006). Other categorizations would also be possible.

<sup>3</sup> Selected examples of reporting provisions are intended to be illustrative, and may not be representative of all reporting requirements, or requirements in other policy areas.

<sup>4</sup> P.L. 115-232, §323, 132 Stat. 1719.

<sup>5</sup> For additional information on congressional influence over executive branch agencies, see CRS Report R45442, *Congress’s Authority to Influence and Control Executive Branch Agencies*, by Todd Garvey and Daniel J. Sheffner.

other factual information. Requirements for descriptive reports often direct officials to provide Congress with data and statistics, to summarize actions taken by an agency on a particular policy matter, or to list actions taken during a specified time frame. The scope of content that may be required in this category of reports is wide-ranging. Some common formulations include requirements for agencies to provide

- data and statistics pertaining to a particular program or policy issue;
- summaries of major agency activities or accomplishments during a specified time frame;
- descriptions of the operations or results of a particular program;
- recurring reports on how certain appropriated funds are used;
- summaries of steps taken to implement a set of recommendations; or
- reports describing instances in which a Secretary or other executive branch official utilized a particular grant of authority during a specified time frame.

## Plans

Congress may require agencies to submit plans to achieve particular goals. Requirements in this category often require agencies to describe timelines for achieving goals, and to establish performance indicators that will be used to measure progress. Certain acts, such as the Government Performance and Results Act (GPRA)<sup>6</sup> and the GPRA Modernization Act of 2010,<sup>7</sup> have established requirements for multiple executive branch agencies to create and submit agency-wide strategic and performance plans on a recurring basis.<sup>8</sup>

In addition to agency-wide plans, Congress may enact provisions that require a particular agency to specify how it plans to accomplish specific goals, such as the establishment of a new program, or the implementation of new policies and procedures. For example, the Harry W. Colmery Veterans Educational Assistance Act of 2017 (P.L. 115-48) included the following provision, requiring the Secretary of Veterans Affairs to outline plans to make changes and improvements to a particular information technology system:

(a) PROCESSING OF CERTAIN EDUCATIONAL ASSISTANCE CLAIMS.—The Secretary of Veterans Affairs shall, to the maximum extent possible, make such changes and improvements to the information technology system of the Veterans Benefits Administration of the Department of Veterans Affairs to ensure that—

- (1) to the maximum extent possible, all original and supplemental claims for educational assistance under chapter 33 of title 38, United States Code, are adjudicated electronically; and
- (2) rules-based processing is used to make decisions with respect to such claims with little human intervention.

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<sup>6</sup> P.L. 103-62.

<sup>7</sup> P.L. 111-352.

<sup>8</sup> For additional information on reporting requirements contained in the GPRA Modernization Act of 2010, see CRS Report R42379, *Changes to the Government Performance and Results Act (GPRA): Overview of the New Framework of Products and Processes*, by Clinton T. Brass.

(b) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a plan to implement the changes and improvements described in subsection (a).<sup>9</sup>

Reporting provisions of this sort might also be accompanied by requirements for regular status updates on how such a plan is being carried out.

Agencies also may be required to submit plans that describe how funds appropriated for a particular purpose are to be spent, potentially as a precondition for the expenditure of such funds. For instance, a provision of the Consolidated Appropriations Act for FY2017 (P.L. 115-31) required the Secretary of State to report to the House and Senate Committees on Appropriations prior to obligating certain funds:

(3) PRE-OBLIGATION REQUIREMENTS.—Prior to the obligation of funds made available pursuant to paragraph (2) and following the submission of the Strategy as required in paragraph (1), the Secretary of State shall submit to the Committees on Appropriations a multi-year spend plan as described under this section in the explanatory statement described in section 4 (in the matter preceding division A of this Consolidated Act), including a description of how such funds shall prioritize addressing the key factors in countries in Central America that contribute to the migration of undocumented Central Americans to the United States.<sup>10</sup>

Requiring an agency to submit a plan to achieve a particular goal can force attention to matters of interest to Congress that an agency might otherwise choose to deprioritize. Further, plans that establish timelines and performance metrics can help policymakers more systematically measure and assess agency progress.

## Studies and Evaluations

Congress often asks departments, agencies, and other federal entities to study a problem or emerging issue, evaluate government performance in a particular area, or perform some other analytical task. These provisions often include a requirement that the reporting entity issue recommendations for legislative or other actions to address particular concerns. Unlike descriptive reporting requirements, this category of requirements tends to address forward-looking concerns that may not be well or fully understood. Studies and evaluations required by Congress may serve to highlight issues and call attention to problems; to obtain expertise concerning issues that are technical or complex; to assess government performance and capacity; and to obtain recommendations and inform legislative decisionmaking.

The John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232), for example, established the National Security Commission on Artificial Intelligence, which was directed to “review advances in artificial intelligence, related machine learning developments, and associated technologies,” and to submit recurring reports to Congress and the President on the commission’s findings and recommendations.<sup>11</sup>

Other reporting requirements direct agencies to conduct an evaluation of a program or policy. For example, The Federal Aviation Administration (FAA) Reauthorization Act of 2018 (P.L. 115-254) directed the Secretary of Transportation to establish an advisory panel “to review and evaluate the effectiveness of the FAA’s personnel management system and performance management

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<sup>9</sup> P.L. 115-48, §115, 131 Stat. 986.

<sup>10</sup> P.L. 115-31, 131 Stat. 683.

<sup>11</sup> P.L. 115-232, §1051, 132 Stat. 1962.

program”; to develop a series of recommendations based on the results of the review; and to report its findings to the Secretary, the FAA Administrator, and the appropriate committees of Congress.<sup>12</sup>

In addition, Congress also enacts provisions that require the Government Accountability Office (GAO) to conduct studies and evaluations. GAO is a legislative branch agency that performs audits, evaluations, investigations, and other services that support Congress in its oversight role.<sup>13</sup> GAO prepares reports, testimonies, and other products in response to requirements established in statute, contained in committee or conference reports, and in response to requests from committees and individual Members.<sup>14</sup>

## Potential Benefits and Challenges of Reporting Requirements

### Potential Benefits

As discussed above, reporting requirements may be designed to serve several, potentially overlapping, purposes. These purposes include supervising executive activity, ensuring compliance with legislative intent, focusing agency attention on matters of importance to Congress, gathering factual information, assessing the effectiveness of programs and policies, and obtaining better understanding of complex or emerging issues. Reports on studies and evaluations may also help originate new legislative proposals and better inform legislative decisionmaking. Agency reviews of policies and procedures might provide useful information to Congress regarding potentially outdated or otherwise incompatible provisions of law that might need reconsideration.

The addition of reporting requirements might serve as a compromise position for legislators in certain circumstances. For example, Members may disagree on whether to provide the Executive with a certain grant of authority. Granting the authority, provided that the Executive reports to Congress on its use, might serve as a middle ground in such a scenario.<sup>15</sup>

### Potential Drawbacks and Other Challenges

Some observers have criticized the reporting burden that Congress places on the executive branch as excessive and costly.<sup>16</sup> Although various entities have periodically attempted to estimate the financial cost of certain reporting requirements, efforts to estimate the total cost of reporting requirements are complicated by, among many factors, the lack of a comprehensive inventory of

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<sup>12</sup> P.L. 115-254, §533, 132 Stat. 3667.

<sup>13</sup> CRS Report RL30240, *Congressional Oversight Manual*, coordinated by Christopher M. Davis, Walter J. Oleszek, and Ben Wilhelm, pp. 81-82.

<sup>14</sup> GAO’s *Congressional Protocols* (available at <https://www.gao.gov/products/GAO-17-767G>) outline GAO policies regarding the acceptance and prioritization of mandates and requests from Members of Congress for GAO services.

<sup>15</sup> U.S. Congress, House Committee on Foreign Affairs, *Required Reports to Congress on Foreign Policy*, committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., August 1, 1988 (Washington: GPO, 1988), p. 9.

<sup>16</sup> David Farenthold, “Unrequired Reading: Many of the Thousands of Reports Mandated by Congress will only Gather Dust,” *Washington Post*, May 3, 2014; Walter J. Olson, “How Congress Erodes the Power of the Presidency: The Reporting Burden,” *Wall Street Journal*, February 6, 1981.



required reports.<sup>17</sup> Nonetheless, preparing and submitting reports to Congress requires expenditure of agency resources—including time, money, and personnel.

Ensuring the ongoing relevance of existing reporting requirements is another concern. Many statutory reporting requirements instruct that a report shall be submitted on a recurring basis, often without any sunset provision. Elimination or consolidation of reports that are considered to be duplicative, outdated, ineffective, or excessively costly has been a long-standing challenge for policymakers, and several attempts have been made to address the issue.<sup>18</sup> Again, because no comprehensive inventory of reporting requirements currently exists, assessing the usefulness of existing requirements and deciding whether a contemplated new requirement is duplicative of existing requirements both pose challenges for Congress.

Agency compliance with reporting requirements poses another difficulty. Due to a variety of factors, including vagueness in some statutory deadlines, and the lack of a complete inventory of reporting requirements and actual submissions, assessing whether required reports have been submitted (and whether the submission was timely) can be difficult. Moreover, the content of reports submitted to Congress may sometimes fall short of statutory requirements or congressional expectations.<sup>19</sup>

## Designing Reporting Requirements: Considerations for Congress

Although statutory reporting requirements vary widely in the scope and nature of the information they are designed to elicit, most requirements carry several common provisions. When designing these requirements, Congress faces a number of choices that may affect the content, frequency, and other features of the information ultimately received. To better understand various options and legislative considerations for creating reporting requirements, this report analyzes requirements enacted during the 115<sup>th</sup> Congress that could be identified using a keyword search.

## Identifying Statutory Reporting Requirements Enacted in the 115<sup>th</sup> Congress

### Challenges in Identifying Reporting Requirements

CRS is unaware of a search method that can obtain an exact accounting of all reports required to be submitted to Congress. Perhaps the best-known compendium of statutory reporting requirements is *Reports to be Made to Congress*, a document published annually by the Clerk of the House pursuant to clause 2(b) of House Rule II.<sup>20</sup> This document provides an extensive listing

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<sup>17</sup> See, for example, U.S. Government Accountability Office, *A Systematic Management Approach is Needed for Congressional Reporting Requirements*, PAD-82-12, November 25, 1981, <https://www.gao.gov/assets/140/135788.pdf>. In this report, GAO found it “virtually impossible” to obtain an exact accounting of the volume of reporting requirements (p. 5).

<sup>18</sup> See, for example, CRS Report R42490, *Reexamination of Agency Reporting Requirements: Annual Process Under the GPRAModernization Act of 2010 (GPRAMA)*, by Clinton T. Brass.

<sup>19</sup> U.S. Congress, House Committee on Foreign Affairs, *Required Reports to Congress on Foreign Policy*, committee print, prepared by the Foreign Affairs Division of the Congressional Research Service, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., August 1, 1988 (Washington: GPO, 1988), pp. 21-22.

<sup>20</sup> House Rule II, clause 2(b) requires the Clerk of the House to produce, for each session of Congress, a “list of reports

of reporting requirements and is sometimes used by analysts attempting to quantify the reporting burden placed by Congress on the executive branch.<sup>21</sup> Although the information provided in the Clerk’s report is valuable and extensive, it may not provide a complete accounting of statutory reporting requirements.<sup>22</sup>

Reports to Congress might arise from several sources. These include statutory reporting requirements; House, Senate, and conference committee report language; and interactions between Members of Congress and agency officials. The diversity of sources of reporting requirements means that any accounting of requirements based on a single source (such as public laws) will necessarily be incomplete.

Congress utilizes reporting requirements to obtain a wide array of information through a variety of different products. Accordingly, variation in the legislative language used to refer to reports and their contents—as well as recipients of such reports—poses additional challenges in comprehensively identifying reporting requirements. For instance, Congress may require agencies to conduct and submit information regarding a review, evaluation, assessment, plan, strategy, analysis, or study; it may ask for a report, list, summary, briefing, notification, certification, or some other product; and agencies might be directed to submit this product to Congress, to committees of Congress, or to specified individuals (such as the Speaker of the House, the President Pro Tempore of the Senate, or the chairperson and ranking member of relevant committees).

## Search Method

To identify statutory reporting requirements created during the 115<sup>th</sup> Congress, CRS searched the text of public laws enacted in the 115<sup>th</sup> Congress<sup>23</sup> for a variety of terms related to reports, and a variety of terms related to Congress.<sup>24</sup> Each search result was examined to determine whether the language required a federal official, agency, or other entity to submit specified information to Congress, congressional committees, or congressional leaders. This search process resulted in the identification and analysis of over 3,000 reporting requirements enacted in statute during the 115<sup>th</sup> Congress.<sup>25</sup>

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which it is the duty of any officer or Department to make to Congress.” For an example of a report in this series, see U.S. Congress, *Reports to be Made to Congress*, prepared by The Clerk, U.S. House of Representatives, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Doc. 116-85 (Washington: GPO, 2020), available at <https://www.govinfo.gov/content/pkg/CDOC-116hdoc85/pdf/CDOC-116hdoc85.pdf>.

<sup>21</sup> See, for example, Patrick R. Mullen, “Congressional Reporting: A Management Process to Build A Legislative-Centered Public Administration” (Ph.D. diss., Virginia Polytechnic Institute and State University, 2006), pp. 54-55.

<sup>22</sup> See, for example, “Legislative branch sources,” <https://www.llsdc.org/sources-for-mandated-congressional-reports> (accessed March 6, 2020).

<sup>23</sup> Available at <https://www.congress.gov/public-laws/115th-congress> (accessed March 6, 2020).

<sup>24</sup> Specifically, the search attempted to identify subsections of public laws that contained both a reference to a report (using the terms “report,” “study,” “notif,” “certif,” “audit,” “plan,” “strategy,” “brief,” “assessment,” “submit,” and “transmit”) and a reference to Congress (using the terms “Congress,” “Senate,” “House of Representatives,” and “committee”).

<sup>25</sup> This count excludes any instances of identified language that appeared to modify existing reporting requirements (e.g., language amending the deadline for an existing report, or altering the content required in a given report). Additionally, the *total number of reports required to be submitted* differs from the *number of reporting requirements*. For instance, a single reporting requirement (e.g., requiring an agency to submit an annual report) may result in multiple, recurring reports being sent to Congress. Other reports may be required only if or when specified circumstances arise. In such cases, the circumstances that trigger a report may plausibly never arise, meaning that some requirements result in the production of no reports at all.

## Limitations

Although the described search method identified many reporting requirements, the results identified should not be considered a complete accounting of the reporting requirements placed on agencies during the 115<sup>th</sup> Congress, and may not be representative of all reporting requirements. These limitations include the following:

- The diversity in statutory language used to establish reporting requirements makes it unlikely that any single keyword search will capture all of them.
- Some legislative provisions require that agencies produce a report, but do not specify a congressional recipient—requiring instead, for instance, that the agency make a copy of such report publicly available on its website. Because this search used the proximity between words related to reports and words related to Congress in order to identify reporting requirements, any requirements that did not specify a congressional recipient are not included.
- Agency reports to Congress may originate from statutory provisions, committee report language, and other sources. Because this search was conducted exclusively within the text of public laws, any reporting requirements contained in other sources will necessarily be excluded.
- Reporting requirements identified for this report are only those statutory requirements enacted during the 115<sup>th</sup> Congress. Therefore, any patterns gleaned from these data may not be generalizable to requirements enacted in other years.

## Identified Reporting Requirements Enacted During the 115<sup>th</sup> Congress: Overview

The search process outlined above identified 3,359 reporting requirements enacted during the 115<sup>th</sup> Congress. Several laws contained the bulk of the 3,359 identified requirements. In particular, four acts—the Consolidated Appropriations Acts for FY2017<sup>26</sup> and FY2018,<sup>27</sup> as well as National Defense Authorization Acts for FY2018<sup>28</sup> and FY2019<sup>29</sup>—together contain more than half of all identified requirements.

Reporting requirements identified in appropriations measures generally differ from those identified in other measures. For instance, identified notification requirements were more common in appropriations acts than in other acts, which generally contained a greater number of provisions requiring agencies to submit other types of reports to Congress (descriptive reports, plans, and studies and evaluations). Appropriations measures enacted in the 115<sup>th</sup> Congress contained numerous requirements for agencies and officials to notify Congress before (or soon after) the obligation, transfer, or reprogramming of certain funds.

The permanence of reporting provisions constitutes another difference between appropriations and nonappropriations measures. Reporting requirements contained in appropriations acts generally expire at the end of the relevant fiscal year.<sup>30</sup> Still, some requirements contained in

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<sup>26</sup> P.L. 115-31.

<sup>27</sup> P.L. 115-141.

<sup>28</sup> P.L. 115-91.

<sup>29</sup> P.L. 115-232.

<sup>30</sup> The permanence of provisions contained in appropriations acts is discussed in *Principles of Federal Appropriations*

appropriations acts reappear in subsequent appropriations bills, effectively making them recurring provisions.

## Specific Components of Statutory Reporting Provisions

Analysis of reporting provisions enacted in the 115<sup>th</sup> Congress identified several components common to statutory reporting requirements. Most reporting provisions specify

- the information that must be contained in the report;
- the identity of the official or agency responsible for submission;
- the recipient of the report;
- the deadline by which the report must be submitted; and
- whether the requirement is for a one-time or recurring report.

Depending on the type of reporting requirement, the reporting provision may also include language detailing whether the information reported to Congress must also be made publicly available, and how any potentially classified material contained in the report ought to be handled.

## Contents

Every identified reporting requirement specifies some information that must be submitted to Congress. Analysis of these reporting provisions uncovered a wide range in the nature, type, and specificity of content required. As already mentioned, reporting provisions require many different products to be submitted to Congress, such as notifications, certifications, plans, summary reports, studies, assessments, and evaluations, among many others.

Instructions regarding the information required to be submitted ranged from general to highly specific. For instance, some reporting provisions direct agencies to produce a “status update,” or a “quarterly report” on a particular topic, without detailing specific matters that must be analyzed or included in such reports. Other reporting provisions detail in length the components and subcomponents that an agency must include in its report to Congress. Greater specificity in the required contents of a report may help ensure agency attention to matters of congressional interest. However, adding additional components to a requirement may place greater burdens on the responsible agency.

Although requirements for written reports are most common, Congress also periodically directs agencies to share information in other ways, including through briefings and testimony. For instance, the Save Our Seas Act of 2018 (P.L. 115-265) provided the following:

- (a) IN GENERAL.—Not later than December 19 of 2018, and of each of the 2 subsequent years thereafter, the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a briefing on the status of implementation of each action

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*Law:* “Since an appropriation act is made for a particular fiscal year, the starting presumption is that everything contained in the act is effective only for the fiscal year covered. Thus, the rule is: A provision contained in an annual appropriation act is not to be construed to be permanent legislation unless the language used therein or the nature of the provision makes it clear that Congress intended it to be permanent.” U.S. Government Accountability Office, *Principles of Federal Appropriations Law*, GAO-16-464SP, ch. 2, pp. 85-92 (4<sup>th</sup> ed., 2016 rev.), available at <https://www.gao.gov/assets/680/675709.pdf> (accessed March 6, 2020).

outlined in the Commandant's final action memo dated December 19, 2017, regarding the sinking and loss of the vessel *El Faro*.<sup>31</sup>

## **Official or Agency Responsible for Submission**

Reporting requirements typically specify one or more federal officials responsible for submitting a report to Congress. Among the reporting requirements CRS identified, Cabinet Secretaries were most commonly directed to submit reports, though in many cases, the heads of other federal entities and subentities (officials with the titles Under Secretary, Deputy Secretary, Assistant Secretary, Director, Administrator, and Chief, among others) were also specified.<sup>32</sup> In a smaller number of cases, no specific official was identified, but instead an agency or other entity (such as a federal commission, task force, board, or some other group) was made responsible for submission.

Some reporting requirements direct multiple federal agencies to participate in creating and submitting a report. A common formulation is to direct that a report be prepared and submitted by an official, "jointly," "in consultation," or "in coordination" with one or more officials from other agencies. For example, the National Defense Authorization Act for FY2018 (P.L. 115-91) directed that

the Secretary of Defense, in consultation with the Secretary of State, shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report that contains a strategy to prioritize United States defense interests in the Indo-Asia-Pacific region.<sup>33</sup>

Some requirements may also direct federal officials to work with nonfederal entities in the creation of reports. These provisions might be used in cases where Congress desires agency consultation with outside experts on complex issues, or collaboration with other relevant stakeholders. For example, the Weather Research and Forecasting Innovation Act of 2017 (P.L. 115-25) directs the Under Secretary of Commerce for Oceans and Atmosphere to "assess the National Oceanic and Atmospheric Administration system for issuing watches and warnings regarding hazardous weather and water events," and specifies the following:

(4) Consultation.—In conducting the assessment required by paragraph (1)(A), the Under Secretary shall—

(A) consult with such line offices within the National Oceanic and Atmospheric Administration as the Under Secretary considers relevant, including the National Ocean Service, the National Weather Service, and the Office of Oceanic and Atmospheric Research;

(B) consult with individuals in the academic sector, including individuals in the field of social and behavioral sciences, and other weather services;

(C) consult with media outlets that will be distributing the watches and warnings;

(D) consult with non-Federal forecasters that produce alternate severe weather risk communication products;

(E) consult with emergency planners and responders, including State and local emergency management agencies, and other government users of the watches and warnings system, including the Federal Emergency Management Agency, the Office

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<sup>31</sup> P.L. 115-265, §218(a), 132 Stat. 3752.

<sup>32</sup> Other officials statutorily directed to submit reports to Congress include the President, Inspectors General of various agencies, and the Comptroller General of the United States (the head of the Government Accountability Office).

<sup>33</sup> P.L. 115-91, §1252(b), 131 Stat. 1678.

of Personnel Management, the Coast Guard, and such other Federal agencies as the Under Secretary determines rely on watches and warnings for operational decisions; and

(F) make use of the services of the National Academy of Sciences, as the Under Secretary considers necessary and practicable, including contracting with the National Research Council to review the scientific and technical soundness of the assessment required by paragraph (1)(A), including the recommendations developed under paragraph (2)(B).<sup>34</sup>

## Recipient of Report

Among identified requirements, statutory language identifying the recipients of reports varies substantially. Report recipients specified in statute include Congress as a whole, specific congressional committees, committee chairs and ranking members, congressional leaders, executive branch officials, and a combination of several of the above.

Most identified reporting requirements direct that the report or notification in question be submitted to one or more standing committees of Congress, or to the chairs and ranking members thereof. Often, a report is directed to be submitted to a single pair of committees (e.g., both the House and Senate Committees on Appropriations), but some statutes designate multiple committees in each chamber as recipients of the report.

The second-most-common category of reporting requirements are those that specify Congress as the recipient, without identifying any particular committee. Reports submitted to Congress as a whole, and received by the Speaker of the House or the presiding officer in the Senate, are generally referred to the committee of jurisdiction in each chamber.<sup>35</sup>

The decision to specify Congress, a single pair of House and Senate committees, or several committees in each chamber may have consequences for dissemination of relevant information. Although some reports may contain information of value to multiple committees, reports submitted to Congress as a whole are generally referred to a single relevant committee in each chamber. Accordingly, directing that a report be submitted to Congress may not always guarantee that the report reaches all interested congressional audiences.

Some requirements direct that reports be submitted to the President, agency officials, or other recipients, in addition to Congress or its committees. For instance, some statutes establish independent panels that conduct studies and report their recommendations to both Congress and the President, particularly in cases where the panel may produce recommendations for both legislative and administrative action.<sup>36</sup> Several identified requirements direct an agency to submit a report to both Congress and the Comptroller General, and require the Comptroller General to subsequently assess the contents of such report and submit findings and/or recommendations to Congress. Inclusion of such provisions may help Congress obtain an outside perspective on the matter in question, assess the quality of plans or recommendations issued by agencies, and help ensure that the report produced by the agency in question meets the standards laid out in statute.

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<sup>34</sup> P.L. 115-25, §406, 131 Stat. 109.

<sup>35</sup> For referral of executive communications in the House, see U.S. Congress, House, *Deschler's Precedents of the United States House of Representative*, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Doc. 94-661, volume 17, chapter 34, section 1.2-1.4; for referral of executive communications in the Senate, see U.S. Congress, Senate, *Riddick's Senate Procedure: Precedents and Practices*, prepared by Floyd M. Riddick and Alan S. Frumin, 101<sup>st</sup> Cong., 1<sup>st</sup> sess., S.Doc. 101-28 (Washington: GPO, 1992), pp. 430-441.

<sup>36</sup> For more information on congressional commissions, see CRS Report R40076, *Congressional Commissions: Overview and Considerations for Congress*, by Jacob R. Straus and William T. Egar.



For instance, the FAA Reauthorization Act of 2018 (P.L. 115-254) included the following provision:

(a) STRATEGY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate congressional committees and the Comptroller General of the United States a strategy to guide operations of surface transportation security inspectors that addresses the following:

- (1) Any limitations in data systems for such inspectors, as identified by the Comptroller General.
- (2) Alignment of operations with risk assessment findings, including an approach to identifying and prioritizing entities and locations for inspections.
- (3) Measurable objectives for the surface transportation security inspectors program.

(b) GAO REVIEW.—Not later than 180 days after the date the strategy under subsection (a) is submitted, the Comptroller General of the United States shall review such strategy and, as appropriate, issue recommendations.<sup>37</sup>

## Deadlines

Nearly all identified reporting requirements contain some deadline by which the specified information must be submitted. In some cases, a calendar date is provided. More often—particularly in the case of notification requirements—the deadline is fixed to the occurrence of a specified event. For example, reports may be required to be submitted to Congress within a certain amount of time following

- enactment of legislation containing the requirement;
- a specified action taken by an agency or official (such as the waiver of a requirement, the completion of a review, or a determination that certain conditions have been met);
- submission of the President’s budget request to Congress;
- termination of a program; and
- the end of a fiscal year or quarter.

### *Calendar Date Deadline Versus Deadline Tied to a Specified Event*

The decision to require a report by a certain calendar date, or instead by some amount of time following a specified event, can involve trade-offs between a report’s timeliness and the quality of the information received. For instance, setting a calendar-date deadline for submission of a report may help ensure that relevant information is submitted to Congress in a timely and predictable manner. However, any delay in the actual enactment of such a requirement would have the practical effect of reducing the amount of time available to the agency to produce the report. Instead, fixing the deadline to an event—for instance, by instructing that the report be submitted within 180 days of enactment (or some other time frame)—would provide the agency with the same amount of time to complete the report, regardless of when the requirement is enacted. This may help ensure that an agency has sufficient time to produce a report that addresses congressional concerns.

On the other hand, tying the deadline to an event rather than establishing a calendar-date deadline may delay the actual submission date of the report in question. Additionally, it may be more

<sup>37</sup> P.L. 115-254, §1975, 132 Stat. 3615.

difficult for legislators and staff to oversee compliance with complex deadlines. Some report deadlines are tied to events that are less easily observed than the enactment of legislation or the submission of the President's budget request. For instance, reports and notifications may be required to be submitted within some period of time following (or in advance of) a specific action taken by an agency official, such as waiving a requirement, awarding a contract, or certifying that certain conditions have been met. In such cases, knowing when to expect a report to be delivered and assessing agency compliance with statutory requirements may be challenging.

### *No Fixed Deadline*

Occasionally, reporting requirements do not specify a deadline for submission. Instead, these provisions may provide some other incentive for agencies to submit the information—often by making funds available for a particular purpose, or permitting some other action only after the report is submitted. For example, the National Defense Authorization Act for FY2018 (P.L. 115-91) limited the availability of funds authorized to be appropriated for the upgrade of certain vehicles, until the Secretary of the Army submitted specified information:

(a) **LIMITATION.**—Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2018 for the upgrade of M113 vehicles of the Army, not more than 50 percent may be obligated or expended until the date on which [the] Secretary of the Army submits to the congressional defense committees the report described in subsection (b).

(b) **REPORT.**—The report described in this subsection is a report setting forth the strategy of the Army for the upgrade of M113 vehicles that includes the following:

- (1) A detailed strategy for upgrading and fielding M113 vehicles.
- (2) An analysis of the manner in which the Army plans to address M113 vehicle survivability and maneuverability concerns.
- (3) An analysis of the historical costs associated with upgrading M113 vehicles, and a validation of current cost estimates for upgrading such vehicles.
- (4) A comparison of—
  - (A) the total procurement and life cycle costs of adding an echelon above brigade requirement to the Army MultiPurpose Vehicle; and
  - (B) the total procurement and life cycle costs of upgrading legacy M113 vehicles.
- (5) An analysis of the possibility of further accelerating Army Multi-Purpose Vehicle production or modifying the fielding strategy for the Army Multi-Purpose Vehicle to meet near-term echelon above brigade requirements.<sup>38</sup>

### **Frequency of Reports**

Some reports to Congress are designed to be submitted once, whereas others are to be submitted on a periodic basis. Whether a reporting requirement is one-time or reoccurring may depend on the type of requirement and the nature of the information being reported.

### *One-Time Reports*

Many statutes provide for one-time, nonrecurring reports to Congress. Often, these reports are designed to address a particular problem or concern. Studies and evaluations, for instance, are

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<sup>38</sup> P.L. 115-91, §113, 131 Stat. 1308.



commonly one-time reports. One-time reports constituted the single largest category of identified reporting requirements enacted in the 115<sup>th</sup> Congress.

### ***Regularly Recurring Reports***

Reports are also commonly required to be submitted at regular intervals. Recurring reports to Congress might include, among other things, periodic status updates on the implementation of a particular policy, annual summaries of agency activity and accomplishments, regularly reported data and statistics related to a particular program or policy issue, and quarterly reports on how certain funds are obligated and expended.

Among identified regularly recurring reporting requirements, annual and quarterly reporting intervals were the most common, though intervals ranged from as short as every month to as long as every five years. Requiring reports on a frequent basis may help Congress maintain close supervision of executive activity; on the other hand, frequent reports may increase the burden placed on agency resources.

A number of identified recurring requirements contain a sunset date for the recurring reporting provision. For example, the SUPPORT for Patients and Communities Act (P.L. 115-271) included the following recurring reporting requirement:

(3) ADDITIONAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the date that is 5 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report providing, for the previous year—

(A) the number of reports of suspicious orders;

(B) a summary of actions taken in response to reports, in the aggregate, of suspicious orders; and

(C) a description of the information shared with States based on reports of suspicious orders.<sup>39</sup>

In the long term, automatic expiration of recurring reporting requirements may reduce the reporting burden placed on agencies, and help legislators and staff avoid the task of searching for and identifying outdated or duplicative requirements.

### ***Reports Required Under Specified Circumstances***

In contrast to requirements for one-time reports and reports provided at fixed intervals, some provisions mandate the submission of a report to Congress only under particular circumstances. Many such provisions, for instance, direct an agency official to report to Congress each time a certain action is taken. Depending on how often the circumstances arise, an individual requirement of this type may give rise to the possibility of zero, one, or multiple actual reports to Congress. For instance, the Veterans Appeals Improvement and Modernization Act of 2017 (P.L. 115-55) directs the Secretary of Veterans Affairs to report to Congress “whenever” the Secretary makes a certain determination:

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Veterans Affairs may carry out such programs as the Secretary considers appropriate to test any assumptions relied upon in

<sup>39</sup> P.L. 115-271, §3292(c), 132 Stat. 3956.

developing the comprehensive plan required by section 3(a) and to test the feasibility and advisability of any facet of the new appeals system.

(2) REPORTING REQUIRED.—Whenever the Secretary determines, based on the conduct of a program under paragraph (1), that legislative changes to the new appeals system are necessary, the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives notice of such determination.<sup>40</sup>

Requirements for agencies to notify Congress of actions or decisions commonly fall into this category. Examples include, among many others, provisions that require congressional notification prior to (or soon after) the obligation, transfer, or reprogramming of funds;<sup>41</sup> awarding a certain type of contract; waiving sanctions; waiving a specified limitation; or utilizing some grant of authority. For example, the Agriculture Improvement Act of 2018 (P.L. 115-334) provided that

[t]he Secretary shall not close any field office of the Natural Resources Conservation Service unless, not later than 30 days before the date of the closure, the Secretary submits to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a notification of the closure.<sup>42</sup>

As previously discussed, in addition to helping Congress monitor agency activity on a close-to-real-time basis, this type of requirement may provide an opportunity to consult with executive branch officials about a contemplated action, or to take steps to modify, prevent, or reverse the action in cases of disagreement.

## Other Components

### *Actions Permitted Following Submission of Report*

As noted above, some statutes create requirements for reports and notifications that, upon or after submission, clear the way for some exercise of authority or permit some other action by executive branch officials. For instance, Congress may provide executive branch officials with the discretion to waive certain requirements, provided that the official provides Congress with justification for the decision. The Countering America’s Adversaries through Sanctions Act, for example, includes a number of provisions that permit the President to waive or terminate particular sanctions, contingent upon the submission of specified information to Congress.<sup>43</sup> Other statutes place limitations on how certain funds may be obligated, contracts may be awarded, or other authorities may be used, until a particular report is submitted.

### *Public Release*

Requiring that a report be made publicly available may enhance access to and awareness of its contents, among both legislators and the general public. Certain reports to Congress are made public by default—for instance, all unclassified GAO reports are made publicly available on the

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<sup>40</sup> P.L. 115-55, §4, 131 Stat. 1119.

<sup>41</sup> For additional information on the transfer and reprogramming of appropriations, see CRS Report R43098, *Transfer and Reprogramming of Appropriations: An Overview of Authorities, Limitations, and Procedures*, by Michelle D. Christensen.

<sup>42</sup> P.L. 115-334, §12410, 132 Stat. 4977.

<sup>43</sup> See, for example, P.L. 115-44, §228, 131 Stat. 911.

agency website.<sup>44</sup> However, other agencies submitting reports to Congress or its committees may not be required to make such reports publicly available, absent some explicit instruction. Some reporting provisions do contain such instructions, often directing that a report be made available on an agency's public website. The Consolidated Appropriations Act for FY2018 included a blanket provision that gave agency officials discretion over whether to make certain reports public:

(1) Requirement.—Any agency receiving funds made available by this Act shall, subject to paragraphs (2) and (3), post on the publicly available Web site of such agency any report required by this Act to be submitted to the Committees on Appropriations, upon a determination by the head of such agency that to do so is in the national interest.

(2) Exceptions.—Paragraph (1) shall not apply to a report if—

(A) the public posting of such report would compromise national security, including the conduct of diplomacy; or

(B) the report contains proprietary, privileged, or sensitive information.

(3) Timing and Intention.—The head of the agency posting such report shall, unless otherwise provided for in this Act, do so only after such report has been made available to the Committees on Appropriations for not less than 45 days: *Provided*, That any report required by this Act to be submitted to the Committees on Appropriations shall include information from the submitting agency on whether such report will be publicly posted.<sup>45</sup>

### *Classified Annex*

Some reports required to be submitted to Congress may contain national security classified material, which may restrict who may access the information, how an agency might provide it to Congress, and how it may be accessed. In such cases, reporting provisions may require submission of a nonclassified report, with a classified annex. Separating classified and nonclassified material may increase a given report's usefulness by facilitating policymakers' access to relevant nonclassified materials.

## Concluding Observations

Reporting requirements can serve as a critical component of legislative oversight. They may be designed to accomplish a variety of purposes, including monitoring executive activity, obtaining information on complex or emerging issues, and generating ideas and recommendations for legislative action. However, legislators, agencies, and outside observers have periodically voiced concerns regarding the volume and cost of reporting requirements, whether certain requirements are duplicative and ineffective, and the difficulty in monitoring agency compliance with such requirements.

Each concern noted above is complicated by the lack of a comprehensive inventory of existing report requirements and report submissions. Legislators have periodically introduced legislation to create a centralized repository of congressionally mandated reports. For example, the Access to Congressionally Mandated Reports Act (H.R. 736, 116<sup>th</sup> Congress) would, among other things, require the Government Publishing Office (GPO) to create a publicly available online portal of "all congressionally mandated reports," subject to certain exceptions. The bill was passed by the House on July 7, 2019.

<sup>44</sup> <https://www.gao.gov/about/what-gao-does/reports-testimonies> (accessed February 18, 2020).

<sup>45</sup> P.L. 115-141, 132 Stat. 957.

Establishing a centralized, public repository for congressionally mandated reports may address a number of concerns related to the reporting process. For instance, a comprehensive database of submitted reports may allow Congress to more easily monitor whether an expected report has been submitted, and whether it was submitted in a timely fashion. Additionally, it may facilitate greater accessibility to and awareness of reports submitted to Congress. Greater awareness of reports that have already been submitted may in turn help Congress make better use of information provided by agencies, and also help determine whether contemplated requirements for new reports may be duplicative of existing reports. Lastly, a centralized database of submitted reports may help Congress better assess the reporting burden placed on federal agencies.

On the other hand, creating a database of all *submitted reports* would not necessarily provide Congress with a complete picture of *reporting requirements*.<sup>46</sup> Reports that are required, but are not submitted, would not appear in a repository of submitted reports, potentially limiting its use as a tool for monitoring agency compliance. For reasons already discussed, obtaining a complete inventory of existing requirements would be a complicated and potentially resource-intensive task. Additionally, the establishment of any centralized repository would require ongoing maintenance and other resources as new requirements are established and new reports are submitted. However, an incomplete understanding of the full range of existing requirements may make it difficult or impossible to determine the total volume of reports required, to attempt to identify and eliminate outdated requirements, to assess agency compliance, or to determine whether a contemplated new reporting requirement is duplicative of existing requirements.

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<sup>46</sup> Additionally, establishing a public database of all submitted reports could potentially result in dissemination of sensitive material. Section 3(e) of the Access to Congressionally Mandated Reports Act (H.R. 736, 116<sup>th</sup> Congress) contains a provision that would allow committee chairs to prevent certain reports from being published on the reports online portal. Section 4 would permit agency heads to change or remove reports from such portal, after consultation with relevant congressional committees, and the passage of a joint resolution to authorize the change or removal.

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