

Congressional Review Act Fact Sheet

Background

Congress enacted the Congressional Review Act (CRA) on March 29, 1996 as part of the Small Business Regulatory Enforcement Fairness Act (SBREFA) in an effort to increase its oversight of federal agency rulemaking. The CRA provides Congress a mechanism, with several features as explained below, for disapproving (i.e., eliminating) final rules issued by federal agencies.

Disapproval under the Congressional Review Act

Mechanisms for Disapproval of Rules

- Any member of the House or Senate can introduce a joint resolution disapproving (i.e., eliminating) a final agency rule within 60 days of continuous session after agencies submit the rule to Congress.¹
- Once introduced, resolutions of disapproval are referred to the committees of jurisdiction in each house of Congress.
- A simple majority in both houses of Congress is required for the measure to pass and be sent to the President.
- If the President vetoes the resolution, a 2/3 majority in both houses would be required to override it.
- The CRA is not subject to judicial review: “no determination, finding, action, or omission under this chapter shall be subject to judicial review.”

Senate Fast Track Provisions

- The language of the disapproval procedure, ingrains in it “fast track” provisions for 60 working days in the Senate that prevent the resolution from being filibustered and all

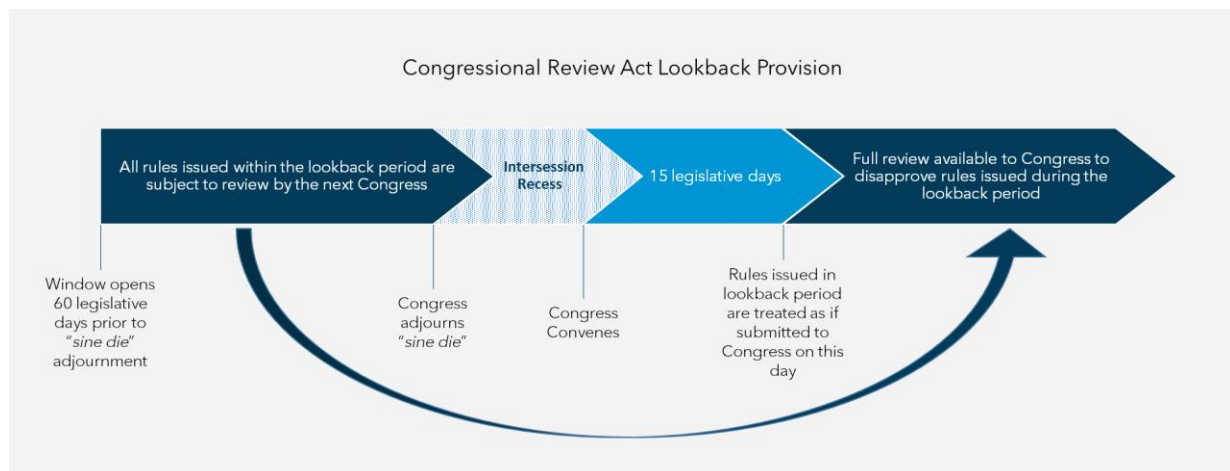
¹ Days of continuous session include every calendar day with the exception of periods during which either the House or Senate is adjourned for more than 3 calendar days. The countdown on this 60 day time period only begins on the date that the rule is submitted to Congress—which is the later date of either: its referral to a Senate committee or its receipt by the Office of the Speaker of the House.

but guarantees a final vote on the resolution.²

- Resolutions of disapproval are referred to the committees of jurisdiction in each house of Congress. However, after 20 calendar days 30 senators can sign and file a petition that discharges the committees of their roles and:
 - Allows any Senator to make a non-debatable motion to proceed to consider disapproval;
 - Disallows amendments;
 - Limits floor debate to 10 hours;
 - Prevents any other dilatory actions.
- The CRA does not provide the House with “fast track” procedures.

Special Lookback Provision

- If a rule is submitted to Congress fewer than 60 working days before it adjourns its final session (adjourns “*sine die*”) a new period for congressional review becomes available to the incoming session of Congress; for purposes of calculating the timeframe for Congressional review, all rules are treated as if they had been submitted to Congress and published in the *Federal Register* on the 15th working day of the incoming Congress. At this point, a new 60 day window of review is available.³
- This reset provision creates a condition immediately following a presidential election where an incoming Congress might exercise the disapproval procedure without the threat of a presidential veto.



² Used throughout this fact sheet, “working days” for each chamber represents either legislative days (House of Representatives) or session days (Senate) which are counted differently for each chamber based on their respective parliamentary rules.

³ As a rule of thumb, if there are different time periods calculated as a result of differences between legislative days and session days, the CRA prescribes using the time period that gives Congress the longer timeframe to conduct oversight. For example, if 60 session days before a Congress adjourns sine die yields a date in June while 60 legislative days yields a date in May, the CRA prescribes using the date in May (i.e., the longer timeframe for including rules in the lookback provision).

Consequences for Rules Disapproved by Congress

- Once a president signs a resolution of disapproval, the rule is nullified: it either does not take effect or its effect is discontinued (for rules already in effect).
- Additionally, such a rule “may not be reissued in substantially the same form.” Essentially, once a joint resolution of disapproval takes effect, an agency would require Congress to specifically authorize it by law to issue a new rule that is “substantially the same” as the previously disapproved rule.
- **There is one important caveat.** If a statute or court establishes a deadline for promulgating a rule, the CRA joint resolution of disapproval does not prohibit an agency from issuing future rules as required by the deadline. Instead, the deadline to do so is extended by one year from the date of the joint resolution of disapproval. E.g., the Energy Independence and Security Act of 2007 (EISA) requires the Environmental Protection Agency (EPA) to issue annual mandates that increase the required volume of renewable fuels used in the U.S.; if Congress used the CRA to disapprove of an EPA rule setting new targets for renewable fuels, EPA would still be required by statute to issue additional rules related to the Renewable Fuel Standards (RFS) program, however, the new deadline would be one year after the date of the disapproval.
- If either house of Congress rejects a resolution of disapproval for a major rule, it could effectively cause the regulation to take effect sooner than it would have otherwise.

Actions Subject to CRA Disapproval

- The definition of what is considered a “rule” is the broadest definition contained within the [Administrative Procedure Act](#) and extends beyond rules that are subject to the notice and comment rulemaking process. This includes: interim final and direct final rules, amendments to previously issued rules, general statements of agency policy, agency guidance, interpretative rules, etc.
- Proposed rules cannot be disapproved.
- Only agency actions submitted to Congress under the CRA are subject to disapproval. However, a Member of Congress can ask the U.S. General Accountability Office (GAO) to produce a formal opinion regarding whether the agency action that was previously not submitted qualifies under the CRA’s definition of a “rule.”
- A resolution of disapproval can only nullify an agency’s rule in its entirety.
- Multiple rules cannot be “bundled” under a single resolution of disapproval.
- Several categories of rules are exempt from CRA disapproval including:
 - “Rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee” and “Any rule related to agency management or personnel... [or]...any rule...that does not substantially affect the rights or obligations of non-agency parties.”

References and Further Reading

Richard S. Beth, “Disapproval of Regulations by Congress: Procedure under the Congressional Review Act,” *Congressional Research Service*. October 10, 2001.

Curtis W. Copeland, Richard S. Beth, “Congressional Review Act: Disapproval of Rules in a Subsequent Session of Congress,” *Congressional Research Service*. September 3, 2008.

Maeve P. Carey, Alissa M. Dolan, Christopher M. Davis, “The Congressional Review Act: Frequently Asked Questions,” *Congressional Research Service*, November 17, 2016.

Daniel R Pérez, “[Upcoming CRA Deadline has Implications for Regulatory Oversight by Congress](#)”