



## Congressional Review Act Overview

The Congressional Review Act (CRA) is a tool that Congress can use to overturn a regulatory rule issued by a federal agency. The CRA allows Congress to review "major" rules issued by federal agencies before the rules take effect. Congress may also disapprove new rules, rendering the rules meaningless.

A major rule is defined as a rule that has resulted in, or is likely to result in:

- (1) an annual effect on the economy of \$100 million or more;
- (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or
- (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Since its enactment, the CRA has been used to overturn a total of 20 rules: 1 in the 107th Congress (2001-2002), 16 in the 115th Congress (2017-2018), and 3 in the 117th Congress (2021-2022).

However, as described below, while it is possible that a Republican majority in Congress may be able to approve a CRA resolution, President Biden has the option to veto the resolution, and it would take two-thirds of Congress to overturn a veto, likely rendering any effort unlikely to succeed.

If the CRA process is used by Congress, it would likely be for the purpose of highlighting objections to the rule publicly for political reasons, not because Republicans believe it can be overturned.

### CRA Process:

- Any member of the House or Senate can introduce a joint resolution to disapprove, or eliminate a final agency rule.
- This has to be done **within 60 days of continuous session after the rule was submitted by the agencies.**
  - o The "60 days of continuous session" begins on the date the final rule is "received by Congress (its referral to a Senate committee, its receipt in the Office of the Speaker of the House, or its publication in the Federal Register). "Days of continuous session" includes every calendar day, including weekends and holidays, and the count is paused only for periods where either the House or Senate (or both) is gone for more than three days.
- The resolutions of disapproval are referred to the committees of jurisdiction in each house of Congress and **must be passed by both houses in order to be sent to the President.**
  - o Note, a CRA resolution only requires a simple majority in both the House and the Senate to pass. So, depending on the outcome of the election in either chamber, it's possible that Republicans might have the votes to obtain a simple majority in both chambers.

- If the President vetoes the resolution, Congress can attempt to override the veto, but it must overcome a two-thirds majority of both houses to be overruled.

If a joint resolution of disapproval is submitted within the CRA-specified deadline, passed by both houses of Congress, and signed by the President, the CRA states that the disapproved rule “shall not take effect (or continue).” The rule would be deemed not to have had any effect at any time, and even provisions that had become effective would be retroactively negated.