



# ‘Rule’ Determinations by the Government Accountability Office for Congressional Review Act Consideration

May 28, 2024

The Congressional Review Act (CRA) created a legislative mechanism to strike down final rules issued by federal agencies. Congress can overturn actions by administrative agencies only if they are first considered a “rule” under the CRA.

Agencies engage in numerous actions, and under the CRA they are required to submit to Congress only those actions that are considered “rules.” If an agency does not consider its action a rule, it does not need to be submitted to Congress. However, if a member of Congress wants an agency action to be considered a rule under the CRA, a lawmaker can ask the Government Accountability Office (GAO) to determine whether the action should be considered a rule.

While the response times vary widely, it takes the GAO on average 223 days to determine CRA eligibility, or nearly seven months. The GAO’s timeline for responses is notable, as this information is not available anywhere else. GAO has taken anywhere between a few weeks to over a year and a half to issue CRA determinations. While a majority of its determinations have resulted in submission to Congress, only a handful of those resolutions have gained any traction. Over 50% of all requests for GAO determinations have been made during the Biden Administration.

If the GAO finds that an agency’s action meets CRA’s broad definition of a rule, its report may be published in the Congressional Record, which commences the period of congressional review and green lights the CRA’s fast-track procedures for disapproval. To date, only one CRA resolution of disapproval has been signed into law following a GAO opinion.

The chart below documents the requests and GAO responses for “rule” determinations. It includes the names of the congressional requesters, the GAO’s opinion, and the amount of time that it took to respond to each request for a rule determination – dating back to the first GAO opinion issued in response to a “rule” determination request in 1996.

Agency Action Under Consideration	GAO Citation	GAO Opinion	Opinion Date	Requested By	Date Requested	Days Between Request and Opinion	CRA Res. Passed By
Office of the United States Trade Representative—Applicability of the Congressional Review Act to Agreement Between the Government of the United States of America and the Government of Japan on Strengthening Critical Minerals Supply Chains	<a href="#">B-335714</a>	NOT A RULE	May 23, 2024	Senator Crapo	October 13, 2023	223	N/A

Federal Energy Regulatory Commission—Applicability of the Congressional Review Act to an Order Modifying and Approving Surrender of the Lower Klamath Project License	<a href="#">B-335030</a>	NOT A RULE	May 8, 2024	Representatives LaMalfa and Bentz	February 6, 2023	457	N/A
U.S. Department of Commerce -- Applicability of Congressional Review Act to Notice of Funding Opportunity CHIPS Incentives Program -- Commercial Fabrication Facilities	<a href="#">B-335175</a>	RULE; SUBMIT	May 6, 2024	Senator Tillis	March 20, 2023	413	N/A
Office of Management and Budget and U.S. Department of Labor—Applicability of the Congressional Review Act to a Joint Memorandum Titled, Strengthening Support for Federal Contract Labor Practices	<a href="#">B-335142</a>	RULE; EXEMPT FROM SUBMISSION	May 1, 2024	Senator Cassidy and Representative Foxx	March 16, 2023	412	N/A
U.S. Sentencing Commission—Applicability of the Congressional Review Act to Amendments to Sentencing Guidelines	<a href="#">B-335515</a>	NOT A RULE	May 1, 2024	Senator Cruz	August 29, 2023	246	N/A
Federal Housing Finance Agency—Applicability of the Congressional Review Act to FHFA Updates to the Enterprises' Single-Family Pricing Framework, FHFA Targeted Increases to Enterprise Pricing Framework, and FHFA Targeted Pricing Changes to Enterprise Pricing Framework	<a href="#">B-335424</a>	NOT A RULE	March 7, 2024	Senators Tillis, Crapo, Risch, Moran, Hoeven, Rubio, Johnson, Cassidy, Lankford, Daines, Rounds, Cramer, Romney, Lummis, Marshall, Budd, Schmitt, and Britt	May 1, 2023	311	N/A
U.S. Department of the Interior—Applicability of the Congressional Review Act to Cancellation of Oil Leases in the Artic National Wildlife Refuge	<a href="#">B-335781</a>	NOT A RULE	February 27, 2024	<a href="#">Congressional Requestors</a>	November 16, 2023	103	N/A
U.S. Department of Education—Applicability of the Congressional Review Act to Agency Statement titled "Fact Sheet: President Biden Announces New Actions to Provide Debt Relief and Support for Student Loan Borrowers"	<a href="#">B-335516</a>	RULE; EXEMPT FROM SUBMISSION	January 24, 2024	<a href="#">Congressional Requestors</a>	August 7, 2023	170	N/A
Environmental Protection Agency Notice of Decision on Clean Air Act Waiver of Preemption	<a href="#">B-334309</a>	NOT A RULE	November 30, 2023	Senator Capito	May 11, 2022	568	N/A
U.S. Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Immunization Practices Recommended Immunization Schedule for Children and Adolescents Aged 18 Years or Younger	<a href="#">B-335316</a>	NOT A RULE	November 29, 2023	Senator Tom Cotton	May 16, 2023	197	N/A
Securities and Exchange Commission Staff Accounting Bulletin No. 121	<a href="#">B-334540</a>	RULE; SUBMIT	October 31, 2023	Senator Cynthia M. Lummis	August 2, 2022	455	N/A

U.S. Department of Transportation Notice of Funding Opportunity for the Department of Transportation's FY 2023-2024 Multimodal Project Discretionary Grant Opportunity	<a href="#">B-335488</a>	RULE; SUBMIT	October 18, 2023	Senator Ted Cruz	July 27, 2023	83	N/A
U.S. Department of Defense Certain Healthcare Memoranda	<a href="#">B-335115</a>	RULE; EXEMPT FROM SUBMISSION	September 26, 2023	Senator Tuberville	March 9, 2023	201	N/A
U.S. Food and Drug Administration Risk Evaluation and Mitigation Strategy (REMS) Single Shared System for Mifepristone 200 mg	<a href="#">B-334995</a>	NOT A RULE	July 6, 2023	<a href="#">Congressional Requestors</a>	March 8, 2023	120	N/A
Department of Homeland Security Memoranda Terminating the Migrant Protection Protocols	<a href="#">B-334045</a>	RULE; EXEMPT FROM SUBMISSION	July 5, 2023	Senator Hagerty	February 16, 2022	504	N/A
U.S. Department of Agriculture, Food and Nutrition Service Food and Nutrition Service Policy Memorandum CRD 01-2022, Application of Bostock v. Clayton County to Program Discrimination Complaint Processing—Policy Update	<a href="#">B-334411</a>	RULE; SUBMIT	June 5, 2023	Senators Roger Marshall, Marsha Blackburn, John Barrasso, Tom Cotton, and James Lankford	June 16, 2022	354	N/A
U.S. Department of Agriculture Documents Implementing Four Financial Assistance Programs	<a href="#">B-334146</a>	RULE; SUBMIT	June 5, 2023	Senator Roger Marshall	March 22, 2022	440	N/A
Office of Personnel Management Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees- Executive Order 14043	<a href="#">B-334237</a>	RULE; EXEMPT FROM SUBMISSION	April 6, 2023	Senator Ted Cruz	April 13, 2022	358	N/A
Federal Highway Administration—Request for Reconsideration— Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America	<a href="#">B-334032.2</a>	RULE; SUBMIT	April 5, 2023	Senator Thomas R. Carper	February 8, 2023	56	N/A
Department of Education's Student Loan Debt Relief Website and Accompanying Federal Register Publication	<a href="#">B-334644</a>	RULE; SUBMIT	March 17, 2023	Chairwoman Virginia Foxx, Senators Bill Cassidy and John Cornyn; Representatives Bob Good and Mariannette Miller-Meeks	September 23, 2022	175	<a href="#">Congress</a>
Office of Personnel Management Memorandum on Achieving a \$15 Per Hour Minimum Pay Rate for Federal Employees	<a href="#">B-334221</a>	RULE; EXEMPT FROM SUBMISSION	February 9, 2023	Senator Lee	April 8, 2022	307	N/A

Environmental Protection Agency June 2022 Denial of Petitions for Small Refinery Exemptions Under the Renewable Fuel Standard Program	<a href="#">B-334400</a>	NOT A RULE	February 9, 2023	Senators Hagerty, Moore Capito, and Wicker	June 9, 2022	245	N/A
Court Services and Offender Supervision Agency, Pretrial Services Agency—Privacy Act of 1974; Systems of Records Notice	<a href="#">B-334005</a>	NOT A RULE	January 18, 2023	<a href="#">Congressional Requestors</a>	February 3, 2022	349	N/A
Federal Highway Administration Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America	<a href="#">B-334032</a>	RULE; SUBMIT	December 15, 2022	Senator Shelley Moore Capito	February 10, 2022	308	N/A
United States Department of Agriculture's 2021 Updates to the Thrifty Food Plan	<a href="#">B-333732</a>	RULE; SUBMIT	July 28, 2022	Senator Tillis	October 27, 2021	274	N/A
Safer Federal Workforce Task Force, OMB COVID-19 Workplace Safety Guidance for Federal Contractors and Subcontractors	<a href="#">B-333725</a>	NOT A RULE	March 17, 2022	Senators Sullivan, Scott, Wicker, Lee, Braun, and Daines	October 19, 2021	149	N/A
Centers for Disease Control and Prevention Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs	<a href="#">B-333501</a>	RULE; SUBMIT	December 14, 2021	Senator Rand Paul	August 9, 2021	127	<a href="#">Senate</a>
Department of Housing and Urban Development guidance entitled "Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act"	<a href="#">B-331171</a>	RULE; SUBMIT	December 17, 2020	Representative Steve King	April 26, 2019	601	N/A
Federal Communications Commission order entitled "LightSquared Technical Working Group Report, et al."	<a href="#">B-332233</a>	NOT A RULE	August 13, 2020	Senators James Inhofe and Jack Reed	May 22, 2020	83	N/A
Board of Governors of the Federal Reserve System Supervision and Regulation Letter 15-8	<a href="#">B-331560</a>	RULE; SUBMIT	April 16, 2020	Senator Thom Tillis	October 24, 2019	175	N/A
Board of Governors of the Federal Reserve System Supervision and Regulation Letters 12-17, 14-8, 15-7	<a href="#">B-330843</a>	Letters 12-17 and 14-8: RULE; SUBMIT Letter 15-7: NOT A RULE	October 22, 2019	Senators Thom Tillis, Mike Crapo, David Perdue, Michael Rounds, Kevin Cramer	February 22, 2019	242	N/A
Board of Governors of the Federal Reserve System Supervision and Regulation Letter 11-7	<a href="#">B-331324</a>	RULE; SUBMIT	October 22, 2019	Senator Thom Tillis	April 26, 2019	179	N/A
Departments of Health and Human Services and Treasury guidance entitled "State Relief and Empowerment Waivers"	<a href="#">B-330811</a>	RULE; SUBMIT	July 15, 2019	Senator Ron Wyden, Representative Frank Pallone Jr.	February 6, 2019	159	N/A
Department of Commerce memorandum regarding a citizenship question on the 2020 Census	<a href="#">B-330288</a>	NOT A RULE	February 7, 2019	Senator Brian Schatz	N/A	N/A	N/A

Department of Justice memorandum to federal prosecutors along the southwest border of the United States	<a href="#">B-330190</a>	RULE; EXEMPT FROM SUBMISSION	December 19, 2018	Senator Edward Markey	June 19, 2018	183	N/A
Social Security Administration Hearings, Appeals, and Litigation Law Manual ("HALLEX")	<a href="#">B-329926</a>	RULE; EXEMPT FROM SUBMISSION	September 10, 2018	Representative Jason Smith	February 16, 2018	206	N/A
Internal Revenue Service statement on health care reporting requirements	<a href="#">B-329916</a>	RULE; EXEMPT FROM SUBMISSION	May 17, 2018	Representative Mark Meadows	February 16, 2018	90	N/A
U.S. Agency for International Development fact sheet on global health assistance and revisions to standard provisions for U.S. nongovernmental organizations	<a href="#">B-329206</a>	NOT A RULE	May 1, 2018	Senators Jeanne Shaheen, Benjamin Cardin, Richard Blumenthal, Patty Murray; Representatives Nita M. Lowey, Diana DeGette, Eliot L. Engel, Barbara Lee	May 27, 2017	339	N/A
Consumer Financial Protection Bureau bulletin on Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act	<a href="#">B-329129</a>	RULE; SUBMIT	December 5, 2017	Senator Pat Toomey	N/A	N/A	<a href="#">President</a>
Bureau of Land Management Eastern Interior Resource Management Plan	<a href="#">B-329065</a>	RULE; SUBMIT	November 15, 2017	Senator Lisa Murkowski	N/A	N/A	N/A
U.S. Forest Service 2016 Amendment to the Tongass Land and Resource Management Plan	<a href="#">B-238859</a>	RULE; SUBMIT	October 23, 2017	Senator Lisa Murkowski	N/A	N/A	N/A
Office of the Comptroller of the Currency, Federal Reserve Board, and Federal Deposit Insurance Corporation Interagency Guidance on Leveraged Lending	<a href="#">B-329272</a>	RULE; SUBMIT	October 19, 2017	Senator Pat Toomey	N/A	N/A	N/A
Environmental Protection Agency proposed rule on Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units	<a href="#">B-325553</a>	PROPOSED RULE IS NOT A RULE; FINAL RULE MUST BE SUBMITTED	May 29, 2014	Senator Mitch McConnell	N/A	N/A	<a href="#">Congress</a> *Final rule was submitted to Congress and CRA resolution was later <a href="#">vetoed</a>

							under CRA*
Department of Health and Human Services Information Memorandum concerning the Temporary Assistance to Needy Families Program	<a href="#">B-323772</a>	RULE; SUBMIT	September 4, 2012	Senator Orrin Hatch, Representative Dave Camp	July 12, 2012	54	<a href="#">House</a>
Centers for Medicare and Medicaid Services Letter on the State Children's Health Insurance Program	<a href="#">B-316048</a>	RULE; SUBMIT	April 17, 2008	Senators John D. Rockefeller IV and Olympia Snowe	February 13, 2008	64	N/A
Department of Veterans Affairs memorandum terminating Vendee Loan Program	<a href="#">B-292045</a>	NOT A RULE	May 19, 2003	Representative Lane Evans	February 7, 2003	101	N/A
Department of Veterans Affairs (VA) memorandum regarding the VA's marketing activities to enroll new veterans in the VA health care system	<a href="#">B-291906</a>	NOT A RULE	February 28, 2003	Representative Ted Strickland	January 2, 2003	57	N/A
Department of the Interior Record of Decision "Trinity River Mainstem Fishery Restoration"	<a href="#">B-287557</a>	RULE; SUBMIT	May 14, 2001	Representative Doug Ose	March 19, 2001	56	N/A
Farm Credit Administration national charter initiative	<a href="#">B-286338</a>	RULE; SUBMIT	October 17, 2000	Representative James Leach	September 21, 2000	26	N/A
Environmental Protection Agency "Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits"	<a href="#">B-281575</a>	RULE; SUBMIT	January 20, 1999	Representative David McIntosh	September 1, 1998	141	N/A
American Heritage River Initiative, created by Executive Order 13061	<a href="#">B-278224</a>	NOT A RULE	November 10, 1997	Senator Conrad Burns	September 17, 1997	54	N/A
U.S. Forest Service Tongass National Forest Land and Resource Management Plan	<a href="#">B-275178</a>	RULE; SUBMIT	July 3, 1997	Senators Ted Stevens and Frank Murkowski, Representative Don Young	June 5, 1997	28	N/A
Department of Agriculture memorandum concerning the Emergency Salvage Timber Sale Program	<a href="#">B-274505</a>	RULE; SUBMIT	September 16, 1996	Senator Larry Craig	August 27, 1996	20	N/A

###