

Government Accountability Office

Database on Regulations

The various federal reports and databases on regulations serve different purposes:

- The *Federal Register* shows the aggregate number of proposed and final rules—both those that affect the private sector and those that deal with internal government machinery or programs—and numerous notices and presidential documents.
- The Unified Agenda depicts agency regulatory priorities and provides details about the overall number of rules at various stages in the regulatory pipeline, as well as those with economically significant effects and those affecting small businesses and state and local governments.

The 1996 Congressional Review Act requires agencies to submit reports to Congress on their major rules—those with annual estimated costs of \$100 million or more. Owing to such reports, which are prepared and maintained in a database at the Government Accountability Office, one can more readily observe (a) which of the thousands of final rules that agencies issue each year are major (to the extent the directive is obeyed) and (b) which departments and agencies are producing the major rules.⁵¹⁰

The CRA gives Congress a window of 60 legislative days in which to review a received major rule and pass a resolution of disapproval rejecting the rule. Despite the issuance of thousands of rules since the CRA's passage, including many dozens of major rules, prior to 2017 only one had been rejected: the Department of Labor's rule on workplace repetitive-motion injuries in early

2001. Since the start of the 115th Congress in January 2017, the CRA has been used 16 times to overturn regulations.⁵¹¹ According to recent analysis, however, some final rules are not being properly submitted to the GAO and to Congress as required under the CRA, and major guidance only rarely has been submitted.⁵¹²

Major rules can add burdens, reduce them, implement delays, or set rates and standards for major governmental programs like Medicaid. Table 11 depicts the number of final major rule reports issued by the GAO regarding agency rules through calendar year 2019. There were 74 major rules in 2019 based on a search of the GAO's database, a significant increase from the 55 in 2018 and 49 in 2017.⁵¹³ The 119 major rules in 2016 under Obama were the highest count since this tabulation began at GAO following passage of the CRA; the 100 rules in 2010 was the second-highest. The 49 under Trump in 2017 was the lowest since these records began, followed by 50 in 2003.

This is a good place to summarize the species of significant rules.⁵¹⁴ For example, an economically significant rule is major, but a major one is not necessarily economically significant (so there are fewer economically significant rules than major ones). Both economically significant rules and major ones qualify as significant. Numbers of each over the past four years per various databases appears in Table 12.

An object in the universe cannot be larger than the universe, but note the economically significant rule counts being larger than the major or significant count in some instances.

Table I I. Government Accountability Office Reports on Major Rules as Required by the Congressional Review Act, 2000–2019

	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
Department of Agriculture	7	5	2	5	7	8	4	2	4	6	12	3	7	8	6	7	4	7	9	
Department of Commerce		1	1				2				2	1	2			1			2	
Department of Defense	1		1	2	2	1				4	4	6			1			2	3	
Department of Education	6		3	2	1	2	5	4	2	5	6	2	1	2						
Department of Energy		2	4	8	2	6	3	1	5	4	7	3	3				1	1	3	3
Department of Health and Human Services	21	19	16	38	18	27	24	23	24	24	17	24	19	16	22	22	17	13	15	17
Department of Homeland Security	2	2		5	3	2	2	1	1	3	1	5	4	2	3	2	2			
Department of Housing and Urban Development			1	2	1				2	1	1	2			1	1			1	2
Department of Justice		2		1				1	1	3				1	1	1		3	4	
Department of Labor	2	1	2	8	1	3	3	3	2	6	1	2	3	3	1	1		2	3	5
Department of the Interior	3	5	3	6	6	6	6	7	6	7	7	10	5	6	6	8	7	7	8	9
Department of State		1						1		1		1								
Department of Transportation	1	1		4	3	3	3	2	2	5	6	8	3	1	3	5	4	6	3	
Department of the Treasury	13		2	5	7	6	3	2	1	4		1	1	1		1	1		1	
Department of Veterans Affairs	3	3	1	1	4	3	1	1	2	2	2	1	1		1		2	1	3	
Architectural Barriers Compliance Board			1													1				1
Commodity Futures Trading Commission				4		1	4	9	6											
Consumer Financial Protection Bureau	2		3	2	2		4	1	1											
Consumer Product Safety Commission									1					1						
Emergency Oil and Gas Loan Board																				
Emergency Steel Guarantee Loan Board																				
Environmental Protection Agency	1	2	2	7	8	2	3	5	6	8	3	9	2	8	3	7	3	1	4	20
Equal Employment Opportunity Commission									1											

Table 12. Number of Significant and Major Rules

		Completed Economically Significant*	Major per GAO**	Major Per Unified Agenda***	Significant****
2016	Obama	83	119	96	486
2017	Trump	88	48	102	199
2018	Trump	35	54	43	108
2019	Trump	70	74	84	66

* From Unified Agenda by (loosely) “fiscal” year; see Figure 20’s completed economically significant rules.

** From GAO database by calendar year.

*** From Unified Agenda.

**** From Federal Register.gov advanced search of “significant” final rules; these may be found at www.tenthousandcommandments.com.

The basic relationship is economically significant \geq major \geq significant. There may be different explanations, such as calendar and fiscal year nonalignment, rules not being reported to GAO but being noted at OMB, different categorizations of independent agency rules in the databases, or differing treatment of budget/transfer rules. Greater clarity can be had with an executive order or legislation that clarifies nomenclature, reconciles record keeping across the various databases, and brings independent agencies fully in to review.⁵¹⁵

Sticking with the GAO compilation, President Barack Obama issued 691 major rules

over eight years, compared with President George W. Bush’s 505 over eight years. (This presentation uses calendar years, so Bush’s eight years contain a couple of Bill Clinton’s presidential transition weeks at the top before his inauguration, whereas Obama’s first year would include the Bush administration’s final weeks.) President Bush averaged 63 major rules annually during his eight years in office. President Obama averaged 86, a 36 percent higher average annual output than that of Bush. Trump’s 40, 55, and 74 major rules between 2017 and 2019, respectively, mean an average of 59 major rules annually. This is less than his two predecessors, even before considering that some major rules are deregulatory.