

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 procedures or programs—and numerous notices and presidential documents.
- The Unified Agenda depicts agency regulatory priorities and provides detail about the number of rules at various stages in the regulatory pipeline, rules with economically significant effects, and rules affecting small businesses and state and local governments.

The 1996 Congressional Review Act (CRA) requires agencies to submit rules to both houses of Congress and to the Government Accountability Office, and for the GAO to submit reports to Congress on the major ones—those with annual estimated costs of \$100 million or more. Owing to such reports, which are prepared and maintained in a GAO database, 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.⁵¹⁹ However, according to recent analysis, some final rules are not being properly submitted to the GAO and to Congress as required under the CRA.⁵²⁰ Major guidance documents are rarely submitted.

The CRA gives Congress a window of 60 legislative days in which to review a received major rule and pass a resolution of disap-

proval rejecting the rule. Despite the issuance of thousands of rules since the CRA's passage, including dozens of major rules, before 2017 only one had been rejected: the Department of Labor's rule on workplace repetitive-motion injuries in early 2001. The 115th Congress, which began in January 2017, used the CRA 16 times to overturn regulations. The 117th Congress, which began in 2022, used the CRA to overturn three Trump-era rules: an Equal Employment Opportunity Commission rule on conciliation procedures, an EPA rule on oil and natural gas sector source emission standards, and an Office of the Comptroller of the Currency rule on lending by national banks and savings associations.

For all rules, the database appears to contain 84,893 rules through December 31, 2021.⁵²¹ As noted, there have been 95,848 rules since the CRA's passage through 2021. The database contains 1,704 reports on major rules overall.⁵²² Major rules can add burdens, reduce them, delay their implementation, or set rates and standards for major government programs like Medicaid.

Table 9 depicts the number of final major rule reports issued by the GAO regarding agency rules from 1998 through calendar year 2021.⁵²³ With the caveat that there is fluctuation in the GAO database from year to year, 98 major rules were reported in 2021, a significant drop from 140 in 2020,⁵²⁴ which is the highest count apart from 2016 under Obama since the GAO began these tabulations following passage of the CRA. In any event, the GAO counts are presented for context and completeness, despite their fluctuation. Suffice it to say that

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Table 9. Government Accountability Office Reports on Major Rules as Required by the Congressional Review Act, 2002–2021

	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Department of Agriculture	6	3	8	5	2	5	7	8	4	2	4	6	12	3	7	8	6	7	4	7
Department of Commerce		2		1	1				2				2	1	2			1		
Department of Defense	1	2	1		1	2	2	1				4	4	6			1			2
Department of Education	3	1	6		3	2	1	2	5	4	2	5	6	2	1	2				
Department of Energy		4		2	4	8	2	6	3	1	5	4	7	3	3				1	1
Department of Health and Human Services	17	11	22	19	16	38	18	27	24	23	24	24	17	24	19	16	22	22	17	13
Department of Homeland Security	5	5	2	2		5	3	2	2	1	1	3	1	5	4	2	3	2	2	2
Department of Housing and Urban Development					1	2	1				2	1	1	2			1	1	1	
Department of Justice			4	2		1				1	1	3				1	1	1	1	3
Department of Labor	8	1		1	2	8	1	3	3	3	2	6	1	2	3	3	1	1		2
Department of the Interior	2	4	2	5	3	6	6	6	6	7	6	7	7	10	5	6	6	8	7	7
Department of State	1			1						1		1		1						
Department of Transportation	4	3	1	1		4	3	3	3	2	2	5	6	8	3	1	3	5	4	6
Department of the Treasury	11	16	13		2	5	7	6	3	2	1	4		1	1	1		1	1	
Department of Veterans Affairs	2	1	3	3	1	1	4	3	1	1	2	2	2		1		1		2	1
Architectural Barriers Compliance Board					1													1		
Commodity Futures Trading Commission						4		1	4	9	6									
Consumer Financial Protection Bureau					3	2	2		4	1	1									
Consumer Product Safety Commission	4										1					1				
Emergency Oil and Gas Loan Board																				
Emergency Steel Guarantee Loan Board																				
Environmental Protection Agency	3			1	2	7	8	2	3	5	6	8	3	9	2	8	3	7	3	1
Equal Employment Opportunity Commission											1									

Table 10. Number of Significant and Major Rules

		Completed Economically Significant*	Major per GAO**	Major Per Unified Agenda***	Significant****
2016	Obama	83	105	96	486
2017	Trump	88	71	102	222
2018	Trump	35	54	43	201
2019	Trump	70	78	84	261
2020	Trump	97	140	133	462
2021	Biden	105	98	124	387

* 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. These fluctuate in the database periodically.

there are several dozen GAO “reports” on major rules each year, and reporting on all aspects of rulemaking can improve.

There are several categories of significant rules. A bewildering nomenclature places regulations into categories encompassing such terms as rules, significant rules, major rules, economically significant rules, guidance, and more.⁵²⁵ For example, an economically significant rule is major, but a major rule is not necessarily economically significant, so there are fewer economically significant rules than major ones. Both economically significant and major rules qualify as significant. Table 10 depicts numbers of each over the past six years as follows (counts fluctuate slightly as discussed; these are captured in various years editions of this report):

Note that some economically significant rule counts are larger than the GAO’s count of major or significant rules in some instances. There may be different explanations, such as follows:

- Calendar and fiscal years do not align
- Rules are not being reported to the GAO but are being noted at OMB

- Independent agency rules appear under different categorizations in various databases
- Budget and transfer rules are reported differently

Legislation or an executive order to systematize nomenclature could help bring greater clarity, reconcile record keeping across various government databases, and subject independent agencies to greater oversight by Congress and the public.⁵²⁶

Regarding Table 9’s GAO-based compilation, President Barack Obama issued 691 major rules, compared with President George W. Bush’s 504—both over eight years. (This presentation uses calendar years, so Bush’s eight years contain the final weeks of President Bill Clinton’s presidency, before Bush’s inauguration, and Obama’s first year includes 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 issued an average of almost 69 major rules annually—49 in 2017, 55 in 2018, 80 in 2019, and 90 in 2020—some of which were deregulatory.