



The Daily Dish

Don't Look Back in Anger (Regulatory Edition)

DAN GOLDBECK | AUGUST 27, 2024

August 2024 may turn out to be a consequential month in the realm of 1990s nostalgia – albeit for wildly different reasons. Fans of mid-'90s-era Brit-Pop music may be getting hyped about the [news](#) surrounding a potential Oasis reunion. Aficianados of mid-'90s-era regulatory policy laws may also have reason for excitement, with the Congressional Research Service (CRS) releasing its [report](#) on the potential “look-back” window under the Congressional Review Act (CRA).

While there are various arcane aspects to it, the main point of the “look-back” period is that it affords an incoming administration and Congress an opportunity to review – and potentially repeal on a simple majority vote – regulations put forward during the waning months of the preceding administration. In recent years, the political stars aligned to afford both [Republican](#) and [Democratic](#) “trifectas” (holding the White House and both chambers of Congress) the opportunity to successfully use this part of the CRA.

Enter CRS' latest report that pegs the start of this window for the home stretch of the Biden Administration at August 1. The advisory agency arrives at this estimate using the projected 2024 [congressional calendars](#) but accounts for potential *pro forma* days as well. Taking simply the projected days in session at face value yields a cut-off date in [late May](#). Incorporating these additional *pro forma* days – as already seen during [this August recess](#) – pushes that date further back into the late summer. CRS takes pains to note that this estimate is non-binding and that the definitive window cannot be known until this Congress adjourns *sine die*.

Nevertheless, assuming we are already well into “look-back” time, one may wonder which rules may face rescission next year. Going merely by estimated costs as recorded in AAF's [RegRodeo](#), there are relatively few clear candidates thus far. A multi-agency [rule](#) implementing aspects (still...) of the Dodd-Frank Act may be the clearest target. The other two [high-cost rules](#) from recent weeks involve added regulatory costs for state and local governments – not typically a topic of focus for Republicans. A rule's price tag, however, may not be the determinative signal for CRA emphasis. For instance, this [Congress](#) has introduced CRA resolutions addressing more than 90 Biden-era rulemakings. While some carry serious costs, many others make the list due to their non-economic political valence.

Bottom line: Any rule finalized from now through the end of the year will be vulnerable to CRA action under a Republican trifecta come 2025. Given the historic run seen in early 2017 and current congressional Republicans' willingness to put forward various resolutions ultimately doomed to meet President Biden's veto, one can expect an exceptionally busy spring for the CRA next year if the 2024 election goes a certain way.

[Anyway, here's Wonderwall.](#)