

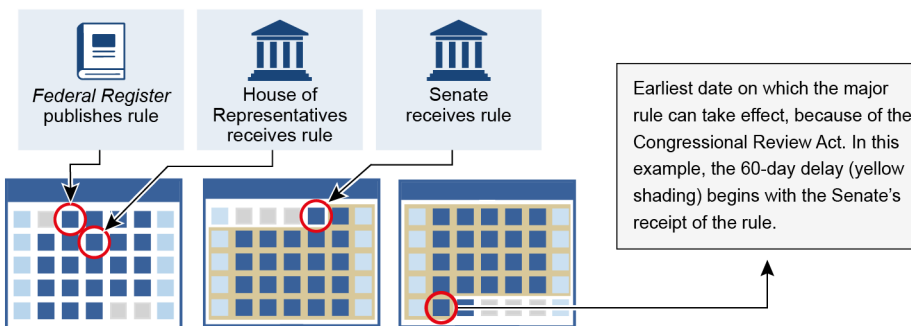
A report to the Subcommittee on Border Management, Federal Workforce, and Regulatory Affairs, Committee on Homeland Security and Governmental Affairs, U.S. Senate

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## What GAO Found

For about a quarter of the major rules issued from January 21, 2021, to January 20, 2025 (119 of 462 rules), agencies published effective dates inconsistent with the Congressional Review Act's (CRA) 60-day waiting period. The waiting period begins when the *Federal Register* has published the rule or the House and the Senate have received paper copies, whichever is later, and does not apply under certain exceptions, such as when agencies claim good cause.

### Example of 60-Day Delay for a Major Rule



Source: GAO analysis of the Congressional Review Act. | GAO-26-107825

The CRA requires rules to be received by Congress but does not further define what constitutes receipt by Congress or establish what must occur for the House and the Senate to receive a rule. Officials from all four agencies described challenges with understanding what counts as the date Congress receives copies of rules. Amending the CRA to be more precise about the date of receipt, such as by specifying that receipt occurs when agencies deliver rules to an identified office or location, would help allay the confusion agencies face. Doing so would promote the CRA's goal of ensuring a specific minimum delay in the effective dates of major rules.

Department of Energy (DOE) officials told GAO that they set effective dates for some major rules at 75 days from the date of publication in the *Federal Register*, instead of 60 days, which allows Congress additional time to process and receive the rules. However, no department policy formalizes this practice. GAO found that both DOE and the Department of the Treasury could have increased the number of major rules with effective dates consistent with the CRA by routinely allowing this additional time.

The Department of Health and Human Services (HHS), unlike the other selected agencies, sometimes uses a different date to start the clock on the 60-day delay period. HHS officials told GAO that for some rules, they set the effective date 60 days from the date the *Federal Register* displays a version of the rule for public inspection, instead of using the date of official publication, as the CRA requires. HHS officials stated they did so because these rules are long and complex and can take weeks to process for publication. As a result, Congress had less time to consider these rules before they were put into effect.

## Why GAO Did This Study

Under the CRA, rules that are likely to have large economic impacts (major rules) are subject to a 60-day waiting period before they can take effect. In previous reports, GAO found that agencies frequently set effective dates (i.e., the dates when rules are to take effect) earlier than allowed by the CRA.

GAO was asked to examine agencies' implementation of the CRA's 60-day delay for major rules. This report examines, among other issues, (1) the number of major rules issued from January 21, 2021, to January 20, 2025, with stated effective dates inconsistent with the CRA; and (2) challenges selected agencies experienced in setting dates consistent with the CRA.

GAO identified rules with stated effective dates inconsistent with the CRA using its major rule reports, the *Federal Register*, and the *Congressional Record*. GAO selected four agencies with the largest number of rules that were inconsistent with the CRA—the Department of Agriculture, DOE, HHS, and Treasury. GAO reviewed documentation and interviewed agency officials on their policies and challenges they may have experienced.

## What GAO Recommends

GAO recommends that Congress consider amending the CRA to specify when rules count as received. GAO also recommends that Treasury and DOE amend their policies to increase the time between the *Federal Register* publication date and the stated effective date of major rules and that HHS take steps to ensure its published effective dates for major rules are consistent with the CRA. DOE did not provide comments. Treasury and HHS agreed that congressional action is needed and stated they intend to take actions consistent with our recommendations.