



The Daily Dish

The Coronavirus Changes Everything

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Eakinomics: The Coronavirus Changes Everything

The coronavirus pandemic changes everything. Obviously. Having said that, I still get surprised by some of its implications. Take, for example, AAF's Dan Goldbeck's latest [paper](#) on the coronavirus and the Congressional Review Act (CRA). Recall that the CRA is an instrument to control excessive federal regulations – in particular the phenomenon of “midnight regulations” that administrations try to finalize as they are headed out the door.

Under the CRA, “any rule finalized within the final 60 legislative days of either the House or Senate is potentially subject to an expedited ‘joint resolution of disapproval’ by the following Congress that can rescind that rule. The expedited nature of the resolution means that it merely needs majorities in both chambers and a presidential signature to pass – thereby avoiding a possible filibuster.” Using the CRA, the Republican-controlled Congress and White House rolled back a record number of Obama-era rules in early 2017.

The key element, however, is that the rule has to be finalized in the final 60 legislative days of either the House or Senate. Because the coronavirus has played havoc with the congressional calendar – and has the potential to play further havoc in the remainder of this year – it is hard to know where those 60 legislative days will fall within 2020's calendar days. More cancelled legislative sessions moves the 60-day cutoff earlier and earlier in 2020. A flurry of new sessions to address the consequences of the pandemic, for example, would tend to move it later.

As Goldbeck notes, “spring of a presidential election year traditionally marks the cut-off point after which rules published in the Federal Register are vulnerable to repeal from a new administration and Congress under the Congressional Review Act.” Since we are entering that period, there is some pressure for this administration to finalize rules so that they are relatively immune from the electoral outcomes.

But – thank you coronavirus – it may already be too late. Indeed, the endangered rules could include such “notable Trump-era rules as the updated [Waters of the United States](#) criteria (published [April 21](#)) and the [Safer Affordable Fuel-Efficient Vehicles Rule](#) (slated for publication on [April 30](#)).”