

Regulatory Reform

H.R. 5/S. 951, the Regulatory Accountability Act (RAA)

NACD supports H.R. 5, which combines six reform bills the U.S. House of Representatives passed in previous sessions of Congress. Collectively, the provisions:

- Require agencies to choose the lowest-cost rulemaking alternative that meets statutory objectives and require greater opportunity for public input and vetting of critical information—especially for major and billion-dollar rules.
- Repeal the Chevron and Auer doctrines to end judicial deference to bureaucrats’ statutory and regulatory interpretations.
- Require agencies to account for the direct, indirect, and cumulative impacts of new regulations on small businesses—and find flexible ways to reduce them.
- Prohibit new billion-dollar rules from taking effect until courts can resolve timely-filed litigation challenging their promulgation.
- Force agencies to publish online, timely information about regulations in development and their expected nature, costs, and timing.
- Require agencies to publish online plain-language summaries of new proposed rules, so the public can understand what agencies are actually proposing to do.

H.R. 21/S. 34, the Midnight Rules Relief Act of 2017

NACD supports H.R. 21/S. 34, which amends the Congressional Review Act (CRA) to allow Congress to consider a joint resolution to disapprove en bloc multiple regulations issued during the last two months of a president’s term rather than considering one regulation at a time. The effect is to reduce the risk of poorly written rules escaping CRA review simply because there was not enough time for separate debate and votes on each rule. Agencies typically issue a significantly greater number of rules during the final months of an administration in a rushed effort to implement outstanding policy objectives. The Midnight Rules Relief Act would allow for more efficient consideration of rules like the problematic Risk Management Plan rule recently finalized by the Environmental Protection Agency.

H.R. 26/S. 21, the Regulations from the Executive in Need of Scrutiny Act of 2017 (REINS)

NACD supports H.R. 26/ S.21, which requires federal agencies to publish a report that includes a classification of the rule as a major or non-major rule and a copy of the cost-benefit analysis of the rule, including an analysis of any jobs added or lost. The REINS Act would require both houses of Congress to approve affirmatively, and the president to sign, any new rule with a projected impact to the economy of over \$100 million (“major” rule) before it could become effective. The intent of the legislation is to improve the quality of both congressional oversight and agency actions and restore the historic relationship between Congress and the federal agencies.

S. 580, Truth in Regulations Act

NACD supports S. 580, which would require federal agencies to receive approval by each appropriate senior staff official before issuing policy guidance documents. An agency would also be required to publish the draft and final documents on its website and allow for public comment. S. 580 states that a guidance document could not include mandatory language unless it is either describing a statutory requirement, it is addressed to agency employees, or if the prohibition would prevent the agency from considering a position taken by an affected party. The bill is aimed at restricting the use of guidance documents, which have been used at an alarming rate over the past several years.

S.584, Small Business Regulatory Flexibility Improvements Act

NACD supports S. 584, which would reform agency rulemaking procedures related to small businesses by requiring agencies to analyze the full impact of a proposed rule. Specifically, S. 584 requires agencies to include in their regulatory flexibility analyses a description of the industry that will be impacted, why the agency is considering the action, and an estimate of the number and types of small entities that will be affected. Additionally, the bill requires agencies to solicit input from small businesses or associations of small businesses when preparing compliance guidance.

President Trump Executive Order on Reducing Regulation and Controlling Regulatory Costs

NACD supports regulatory reform initiatives at every level of the federal government to reduce the unnecessary burdens on the regulated community. On January 30, 2017, President Trump signed Executive Order 13771 aimed at reducing the regulatory burden and reducing costs. The Order makes several reforms to the regulatory structure of the federal government. First the Order requires federal agencies to identify two regulations to be repealed for every new regulation they propose. To that end, under the Order, the incremental costs of regulations for fiscal year 2017 will be zero unless otherwise directed by law or the Office of Management and Budget (OMB). Finally, the Order requires agencies to include the estimated costs or savings associated with each new or repealed regulation in their annual Regulatory Plans submitted to OMB.