

INSIGHTS

Breaking Down the Congressional Review Act: A Special CRA Explainer

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By: [Daniel J. Pope](#), [Taylor M. Stuart](#), [Liam P. Donovan](#), and [Joseph A. Brazauskas](#)

In this episode of the Bracewell Environmental Law Monitor, hosts [Daniel Pope](#) and [Taylor Stuart](#) are joined by colleagues in Bracewell's Policy Resolution Group, [Joseph Brazauskas](#), senior counsel and [Liam Donovan](#), senior political strategist. The group discusses the potential impact of the 2024 elections on the Biden administration's policy initiatives, focusing on the Congressional Review Act (CRA) and the lookback period.

Considering a possible Republican trifecta (control of the White House, Senate and House of Representatives) following the 2024 elections, the Biden administration's regulations – particularly on environmental initiatives and Inflation Reduction Act (IRA) rules related to energy transition – might be vulnerable to the CRA. The CRA poses a considerable risk, as it provides Congress the opportunity to disapprove of a rule and prevents federal agencies from creating a substantially similar rule if a rule has been disapproved. The episode emphasizes that the 2024 election outcomes will significantly determine the use of the CRA, as well as the importance of ongoing strategic analysis and monitoring.

Featured Guests

Name: [Liam Donovan](#)

About: Liam Donovan is a veteran government relations strategist with nearly two decades of experience working at the intersection of politics and policy. He advises leading corporations, trade associations and non-profit organizations on the federal legislative and regulatory process and helps plan and execute campaigns to advance their policy goals. He also provides strategic analysis and intelligence to institutional investors, executives and other clients who are looking to separate the signal from the Beltway noise.

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Name: [Joseph Brazauskas](#)

About: Joseph Brazauskas assists clients with navigating complex federal legislative and regulatory processes with a focus on energy, environment and natural resources. Joseph advocates for clients before Congress and the executive branch and provides counsel for clients in matters involving congressional investigations.

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Episode Highlights

[03:35] **What Is the Congressional Review Act?** The Congressional Review Act gives Congress the authority to disapprove of a regulation that has been promulgated by the executive branch. It's always available, but it's not typically used unless and until there's a change in presidential administrations

[07:10] **CRA Motions Swirling Right Now:** There's talk of a CRA for the SEC climate disclosure rule, a CRA on the EPA's PM_{2.5} regulations, and one related to EPA tailpipe emissions. "These are all rules that are not within the lookback period, but certainly Congress is considering taking action on the CRA as a messaging device," Joe says.

[15:15] **What the CRA Might Look Like This Time Around:** There are a lot of initiatives that the Biden administration wants to complete before the election and outside of the CRA window. There are environmental initiatives, including ones at the EPA and IRA provisions related to the energy transition.

[21:01] **Limited Opportunity for Judicial Review Under the CRA:** There have been attempts at litigating the issue, but courts do not want to take it up. They want to avoid a constitutional crisis.

[22:54] **Approaching November:** Liam talks about potential scenarios and possible outcomes of the 2024 elections and the implications for use of the CRA.

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