A Race for the Regs: Unified Government, Statutory Deadlines, and Federal Agency Rulemaking*

Jason A. MacDonald†
Department of Political Science
West Virginia University

Robert J. McGrath‡
School of Policy, Government, and International Affairs
George Mason University

May 6, 2016

*A previous version of this paper was presented at the 2015 meeting of the Midwest Political Science Association, April 19, 2015, Chicago, IL. We thank Bert Rockman and George Krause for providing useful feedback on this project.

†316 Woodburn Hall, P.O. Box 6317, Morgantown, WV 26506; Jason.MacDonald@mail.wvu.edu.

‡4400 University Dr., MSN 3F4, Fairfax, VA 22030; rmcgrat2@gmu.edu.

Abstract

Theory suggests that Congress should delegate more policymaking authority to the bureaucracy under unified government, where lawmakers are less worried about the president orchestrating "bureaucratic drift." Yet, all unified governments come to an end, making broad delegations potentially advantageous to future lawmaking coalitions ("coalitional drift"). We seek to assess how lawmakers simultaneously limit the risk of each of these pitfalls of delegation. Our answer is rooted in Congress's ability to spur agency rulemaking activity under unified government. Specifically, we expect statutes passed under unified government to require agencies to issue regulations quickly and for enacting coalitions to use oversight tools to influence agency policy choices. Such "proximate oversight" allows coalitions to cement policy decisions before a new election changes the configuration of preferences within Congress and the executive branch. We assess our argument using unique data on both congressional rulemaking deadlines (1993-2010) and the speed with which agencies issue regulations (1997-2010).

Congress, like all modern legislatures, delegates much policymaking authority to bureaucratic agencies. Yet, since members of Congress are ultimately accountable to public perceptions, they are keen to ensure that policies created in the bureaucracy do not stray far from theirs and their constituencies' preferences. This principal-agent relationship has inspired volumes of research and we now know much about congressional strategies to influence agency policymaking (Dodd and Schott 1986; Aberbach 1990, 2002; Ogul and Rockman 1990; Kriner and Schwartz 2008; Parker and Dull 2009; Balla and Deering 2013; McGrath 2013; Kriner and Schickler 2014). In particular, the literature has alternatively focused on two types of "drift" that Congress should consider when making delegation decisions. On the one hand, the potential for "bureaucratic drift" leads Congress to delegate most extensively when agencies share legislative preferences. Yet, such broad delegations make "coalitional drift" more likely. We focus on the tradeoffs among these two concerns and the well-established benefits of delegation. In particular, and in contrast with much previous literature, we focus on how Congress seeks to manipulate the *speed* with which federal agencies make policy, in addition to attempting to influence its content.

Simply, congressional majorities are ephemeral and this fact should drive much congressional strategy with respect to the bureaucracy. Such majorities, especially when they are partnered with friendly (from a partisan persecutive) presidents, have a strong interest in taking advantage of their privileged policymaking positions. Previous literature has rightly emphasized the strategies that such majorities have used to pass legislation consistent with their preferences, as well as to ensure that delegated agency policymaking conforms to their wishes. Yet, due in part to strong supermajoritarian institutions, these strategies become ineffective in the presence of intra-congressional or inter-branch policy conflict. Thus, majorities have the incentive to "lock-in" their preferred policies, both through legislation and through the bureaucracy, before they lose power. We focus on this second policymaking venue and argue that forward-thinking congressional majorities should work to encourage executive agencies to finalize rules and regulations before they (the legislators in the majority) lose institutional power.

In this paper, we identify the conditions under which congressional majorities should seek to accelerate agency rulemaking in this way. Briefly, by engaging in what we call "proximate oversight"—requiring agencies to issue regulations quickly after legislative enactment—lawmaking coalitions can reduce, even if they cannot eliminate, the probability that their opponents can effect coalitional drift in the future. We assess our expectations with regard to two particular means of such congressional acceleration: the imposition of statutory deadlines for final rulemaking action, and ex post oversight attention meant to spur final agency action. Deadlines have been shown to increase the speed of regulatory action and we suspect this to be a motivating factor for legislative majorities that institute them. Indeed, we show, using data on Public Laws from 1993-2010, that Congress is more likely to impose rulemaking deadlines under unified government. Lawmakers do not stop at these deadlines. We also show, using data from the Unified Agenda of Federal Regulatory and Deregulatory Actions from 1995-2012, that agencies finalize rules more quickly when there is unified government and that this pattern is accelerated further by statutory deadlines.

Together, these findings support the theoretical proposition that Congress, under conditions of unified government, cares about the *timing* of agency policymaking as well its content. These findings produce an answer to the question posed by Horn and Shepsle (1989) and Shepsle (1992) regarding how lawmakers can take advantage of bureaucratic expertise and simultaneously limit bureaucratic and coalitional drift. As such, when considered in tandem with recent research on bureaucratic discretion, we provide a more complete explanation of how lawmakers pursue their political and policy goals through delegation. Our research fits well with recent theories of congressional oversight under unified government (MacDonald and McGrath 2016)and is consistent with a theoretical corollary: that political actors seek to delay agency rulemaking under conditions of significant policy conflict.

Delegation and Policy Drifts

Lawmakers value bureaucratic expertise. It often allows them them to pass legislation that effectively addresses complex problems in response to electoral pressure from constituents and interest groups. Yet, delegation can be dangerous for lawmakers for at least two reasons. First, in providing agencies with authority, lawmakers make it possible for agencies to design policies that promote different outcomes than those preferred by the constituents and interest groups that lawmakers intend to satisfy (McCubbins, Noll, and Weingast 1987, 1989). Such "bureaucratic drift" (e.g., Shepsle 1992, 113) prevents delegation from delivering the electoral dividends desired by lawmakers, eliminating the political benefits of delegation (e.g., Kiewiet and McCubbins 1992, Ch. 2).

Second, in delegating authority, lawmakers risk allowing political opponents to affect the substance of agencies' policy decisions in the future. In particular, the majority party/lawmaking coalition that enacts a law can lose control of the legislature in the next election and be replaced by a new majority/coalition. This new coalition will control oversight of, and appropriations for, the agency. Hence the new coalition should be expected to use this leverage to cajole the agency into making different policies than those desired by the original enacting coalition. Such "coalitional drift" (Shepsle 1992, 114) may result in policies at best different from, and at worst antithetical to, the priorities of the coalition that enacted the law (Horn and Shepsle 1989; Shepsle 1992). These sources of drift raise important questions for scholars of political institutions and public policy. Why do legislatures delegate substantial authority to bureaucracies given that drift can eliminate the benefits of delegation and even undermine lawmakers' priorities (Epstein and O'Halloran 1999; Huber and Shipan 2002; Lowi 1969)? Or, more practically, what can legislators do to limit drift so that they may take advantage of agency expertise?

In approaching these questions, research on delegation has focused largely on explaining how lawmakers try to limit bureaucratic drift (though see Ainsworth and

Harward (2009)). This body of research finds that when lawmaking coalitions agree with agencies, they provide agencies with more discretion to make policy. However, when lawmaking coalitions disagree with these actors on policy matters, they provide less discretion. This solution is appropriate for limiting bureaucratic drift. However, when delegating sizable discretion to agencies when there is policy agreement, lawmaking coalitions risk that this discretion will be used against them as future elections usher in new coalitions with different policy priorities. As Horn and Shepsle (1989) and Shepsle (1992) emphasize, and as discussed in more detail below, focusing solely on the trade-off between bureaucratic drift and and the benefits of delegation may actually facilitate coalitional drift. A more complete understanding of how lawmakers pursue their political and policy goals given the need to delegate authority to bureaucrats requires an answer to the question of how lawmakers limit bureaucratic and coalitional drift simultaneously.

Congressional Strategies

One strategy lawmakers use to limit bureaucratic drift involves "deck-stacking" whereby legislators include provisions in laws that delegate authority, but require agencies to follow particular procedures and adhere to decision-making rules that advantage the interest groups and constituents whom lawmakers intend to serve (McCubbins, Noll, and Weingast 1987, 1989). Examples of such ex ante controls include requiring agencies to get permission from other agencies before decisions can be finalized and instructing agencies to weigh input from some stakeholders more greatly than input from others when issuing regulations. Even though ex ante controls do not always guarantee that agencies will follow lawmakers' intent (Balla 1998; Hamilton and Schroeder 1994), they place constraints on agency behavior, limiting bureaucratic drift in some cases while allowing lawmakers to take advantage of bureaucratic expertise.

Indeed, the same sorts of procedural ex ante controls that are useful for combating bureaucratic drift can be used by legislatures concerned with future coalitional drift.

In his foundational essay on the politics of bureaucratic structure, Terry Moe makes this point clearly:

> [Lawmakers] write detailed legislation that imposes rigid constraints on the agency's mandate and decision procedures. While these constraints will tend to be flawed, cumbersome, and costly, they serve to remove important types of decisions from future political control. The reason they are so attractive is rooted in the American separation-of-powers system, which sets up obstacles that make formal legislation extremely difficult to achieve—and, if achieved, extremely difficult to overturn. Should the group's opponents gain in political power, there is a good chance they would still not be able to pass corrective legislation of their own (Moe 1989, p. 274).

While Moe here means procedures broadly conceived, other scholars use a similar logic to explain the prevalence and importance of Administrative Procedures Acts that establish omnibus procedures for agency policymaking. For example, McCubbins, Noll, and Weingast (1999) emphasize the importance of future political uncertainty in activating the incentives for dominant congressional coalitions to impose procedural constraints on their preferred policies. They conclude that congressional Democrats in 1946 accepted administrative procedures as an effective way to insulate and cement their New Deal policies after FDR's death. De Figueiredo Jr. and Vanden Bergh (2004) bolster this argument by showing that APA adoption in the US states has been conditioned by the electoral insecurity of previously dominant electoral majorities. Most recently, Baum, Jensen, and McGrath (2016) find that single-party and coalitional parliamentary governments also adopt APAs in response to the expectation of future coalitional drift.

Aside from, and at times in addition to, ex ante procedural constraints, lawmakers also restrict agencies' statutory discretion when they fear agency losses. In research on delegation by the U.S. Congress (Epstein and O'Halloran 1999; MacDonald 2007) the creation of agencies (Lewis 2003; Wood and Bohte 2004), delegation by state legislatures (Huber and Shipan 2002; Huber, Shipan and Phahler 2001; Potoski 1999; Reenock and Poggoine 2004; McGrath 2013b) and delegation in parliamentary democracies (Thies 2001; Huber and Lupia 2001; Huber and Shipan 2002), scholars have found that legislatures systematically provide less discretion to agencies as policy disagreement between legislatures and executives increases. Although legislators are limited by resource and expertise constraints in how much statutory detail they can include themselves into laws, this research shows that legislatures can limit bureaucratic drift when they really need to, from a policy perspective.

Yet, when there is no such policy disagreement, legislatures can abstain from designing costly ex ante contracts that limit bureaucratic discretion. In these cases, the "ally principle" (see, e.g., Gailmard and Patty 2012) holds and legislatures can give agencies more leeway to make policy. By virtue of the principals' and agents' similar preferences, such agency-made policy is acceptable to lawmaking coalitions and is preferable to policy made under the strictures of tightly limited discretion. Limiting discretion here actually has high costs, both in terms of the legislative costs to write detailed statutes, but also in the policy benefits lost by taking discretion from expert agencies. Thus, when unconcerned with bureaucratic drift, legislatures are presumed to delegate freely. Such delegation, though, presents opportunities for the lawmaking coalition's opponents when they eventually become the majority. Delegation grants agencies policymaking latitude, but it also empowers those with policy oversight responsibilities (e.g., agency appointees, the Office of Information and Regulatory Affairs, congressional committees) the ability to influence agency actions. Existing accounts of the determinants of delegation underestimate the importance of this fact that broad delegation enables future coalitional drift.

Of course, this characterization assumes that, once lawmakers have provided agencies with discretion, there are no other tactics that they can employ to limit the future influence of their political opponents. We know from the APA discussion from above that lawmakers are keenly aware of the "shadow of the future." And, they often respond strategically. For example, McCubbins, Noll, and Weingast (1999) argue that that the New Deal Democrats did not accept procedural constraints prior to 1946 when they were still certain of their short-term dominance. They only yielded and enacted the federal APA when the current costs (of procedurally constrained policymaking) were outweighed by the benefits of stacking the deck in favor of their allies in an electorally uncertain future.

Shepsle (1992) hints that the use of judicial review may provide an additional firewall against coalitional drift. Along these lines, Shipan (1997, 121) discusses Congress's design of judicial review under the Communications Act of 1934, noting that here Congress guaranteed that all of the Federal Communications Commission's (FCC) decisions affecting already existing radio stations would be appealable by the stations. With this mandate, Congress protected existing stations from potential changes in congressional, and/or agency, preferences. After all, a new coalition cannot change how courts recognize standing under existing law—the only measure such coalitions can take is to change the law. Absent a new law amending the judicial standing of existing stations, stations would be able to seek, and potentially win, redress from adverse rulings by the FCC. In this way, Shipan's (1997) analysis demonstrates that there are tactics available to lawmaking coalitions to help them simultaneously provide discretion to agencies and protect against, even if they cannot prevent entirely, coalitional drift in the future.

Although judicial review is one mechanism to limit coalitional drift, it may not be the most effective. Shipan (1997, 18-21) details the tools available to lawmaking coalitions to shape judicial rulings on bureaucratic decisions: from specification of standing to requiring a strong, or weak, burden of proof for a future litigant to make a case. Yet, the "careful use of procedures can direct the courts to act in certain ways. Again, however, there will be many circumstances that are unforeseen and for which specific procedures cannot be written" (Shipan 1997, 21).

Previous literature has thus recognized the trade-offs that exist between the two types of drift and between each and the benefits of delegation. Yet, besides the mentioned work on APAs and judicial review, political scientists have paid scant attention to other strategies that Congress may employ so that majorities may enjoy the fruits of delegation without the fear of certain future drift. In line with the "lock-in" logic of procedures and judicial review, we identify two additional mechanisms of congressional policy control, with each focused on affecting the *timing* of agency policymaking, as well as the content. In particular, we situate each of these strategies theoretically as special cases of previous understandings of congressional behavior, but we also specify some empirical implications. We then assess these implications with respect to when and how often Congress writes rulemaking deadlines into statutes and whether congressional committees can use oversight to hasten agency action to lock in their preferred policies.

Statutory Deadlines and "Proximate Oversight"

The starting point for our theoretical extension of previous work is the situation where Congress delegates significant policymaking authority to the bureaucracy, because it is unafraid of bureaucratic drift due to preference alignment. Here, as explained above, the majority lawmaking coalition is exposed to the risk of coalitional drift, especially when they expect to lose majority status in the near future. Under these conditions, we argue that Congress has the incentive to make sure that agency policymaking that ensues from congressional delegation occurs quickly, at least before the next precarious election.

Simply, when a decision is made quickly after enactment of the law delegating authority, it is likely that the delegating coalition still controls lawmaking and oversight processes within the legislature. Given this control, the agency possesses the incentive to be responsive to the coalition's oversight directives. This incentive is based on the coalition's ability—as demonstrated by the new law—to alter policy, and perhaps even the scope of agency authority, in this area. Unless the agency responds to the coalition's instructions about the substance of its initial policy choices, new, perhaps "perfecting," legislation may make decisions for the agency (Shipan 2004).

How does Congress work to ensure quick finalization of agency actions that its delegation has enabled? We see at least two particular ways. First Congress could write into enacting legislation a deadline for rulemaking action. Such statutory deadlines can be variably vague or specific, omnibus with respect to agency action, or segmented and directed. Yet, despite such variation in particular deadline instruments, Congress can be presumed to be particularly interested in the timing of agency rulemaking when it issues a deadline along with a particular rulemaking authority. In fact, previous research has recognized this in a similar way to what we argue in this paper. Gersen and O'Connell's (2008) discussion of the strategic benefits of statutory deadlines is worth quoting at length on this point:

> The bureaucratic drift versus legislative [coalitional] drift tradeoff is a standard and general point. Deadlines, however, can balance these risks in an innovative way... the deadline guards against bureaucratic drift by ensuring that the enacting Congress gets to see (and possibly object to) the final regulation...
>
> Short statutory deadlines can also mitigate the risk of legislative [coalitional] drift by ensuring that agency action is implemented during the current Congress... Unlike other tools that tend to control one type of drift at the expense of another, statutory deadlines have the potential to jointly manage both (p. 936).

Despite the fact that agencies regularly miss their statutory deadlines, there is empirical evidence that deadlines can have the desired effect of at least shortening the length of time that agencies take to issue regulations, although this evidence is somewhat mixed and generally modest in substantive terms (see, e.g., Gersen and O'Connell 2008; Yackee and Yackee 2010; Kerwin and Furlong 2011; Potter 2014; Lavertu and Yackee 2014). At the very least, by writing deadlines into statutes, congressional majorities signal their interest in a piece of policy to be made by the bureaucracy and their willingness to follow up on the deadline.[1] Yet, deadlines can come with significant costs. The primary downside of deadlines lies in the deleterious effects they can have on rule quality, especially in complex policy areas, such as the regulation of drug approval and safety (Carpenter and Grimmer 2009; Carpenter, Chattopadhyay, Moffitt, and Nall 2012). Thus, Congress almost certainly believes that deadlines hasten the rulemaking process, otherwise there would be little reason to add them to statutes given potential reductions in rule effectiveness.

By issuing statutory deadlines for rulemaking action, Congress makes known its ex ante intent to affect eventual rule timing. Of course, majorities do not exhaust their options at the point of bill passage. We thus expect congressional committees to monitor deadlines and to otherwise spur quick agency action through oversight as well. Although oversight is often seen in the scholarly literature as indicating and combating bureaucratic drift and policy conflict, recent research has shown that Congress conducts much oversight of agency action under unified government as well (MacDonald and McGrath 2016). Since this oversight is generally more friendly in tone than oversight during divided government, we suspect that one application of such congressional attention may be to encourage agencies to speed up their policymaking. Indeed, congressional committees often schedule oversight hearings to check in on an agency's progress in meeting a statutorily determined deadline. In addition, hearings also provide their own (new) time requirements for agencies to meet. We term such oversight, both formal and informal, taken after law passage meant to spur proximate agency action "proximate oversight."

Given that the lawmaking coalition will eventually lose control of the lawmaking process to opponents of a law, is it really reasonable to argue that successfully conducted proximate oversight protects against coalitional drift? Several circumstances present in contemporary policymaking suggest that, once the initial delegated policy

[1] Gersen and O'Connell (2008) also note that deadlines make it easier for Congress to monitor agencies by providing an objective performance measure by which to judge agency action.

decisions are made by agencies, it will be difficult for new legislative coalitions to reverse them. One relevant feature of separation of powers systems is that opponents' electoral gains may be insufficient to enact new legislation or even exert leverage over bureaucratic decision-makers. The difficulty the new coalition faces is that, although its gains may be significant, it may not possess sufficient majorities to enact new legislation given the hurdles associated with passing laws. For example, after the Republicans became the majority party in the U.S. House and Senate after the 1994 congressional elections, it was positioned to challenge President Clinton, a Democrat, to alter the substance of policies. The new Republican majority was successful in passing new legislation, though it had to compromise with the President. However, it was not in a position to overturn legislation enacted in the previous congressional session, such as the Family and Medical Leave Act of 1993, which most Republicans opposed. Despite the party's substantial gains, it could not enact new legislation to overturn the law. At any rate, as an example of quick bureaucratic policymaking subsequent to legislative enactment, the Department of Labor issued an interim final rule on June 4, 1993, four months after the law's passage, and issued a final rule implementing it on Jan. 6, 1995 just days after Republicans assumed majority status in Congress.

In addition, even if the rule had not been finalized, Republicans were not well-positioned to affect the substance of agency rules to implement the law, since the Clinton administration still headed the federal bureaucracy. Although the Republican majority had won a major electoral victory, it could not roll back a law it had opposed or even exercise influence over the first policy choices made by agencies to implement the law. Although electoral turnover in separation of powers systems results in new majorities, such systems still impose substantial barriers to new coalitions impeding their ability to affect bureaucratic policy choices and to impose coalitional drift on the enacting coalition. So long as enacting coalitions are sufficiently quick in facilitating agency actions, they can establish policy within the agency and enjoy protection from interference by new coalitions.

This perspective is consistent with the view that the Supreme Court's decision in *State Farm Mutual Automobile Insurance Co. v. DOT* (1982) makes it difficult for an agency to reverse its policy decisions once it has established "a compelling rationale for why it chose a particular policy instrument" (Wiseman and Wright 2015, 23). The ruling emphasized that, once an agency decides on a course of action based on evidence and concludes that this policy will be effective, it cannot then reverse course and change that policy decision for arbitrary reasons. Instead, before the agency alters its decision, it must compile another compelling case—based on evidence and analysis—that pursuing a different policy will be desirable. Therefore, critically from the standpoint of understanding how lawmaking coalitions limit legislative drift, once a course of action has been chosen, agencies cannot simply change this course because partisan control of Congress has changed and the new majority does not like the policy that the agency is pursuing. Even if the agency wants to reverse course, it cannot simply halt the policy to which it has committed. Rather, it must develop a separate rationale.

One implication of this costly process for changing regulatory policy decisions post-*State Farm* is that lawmaking coalitions have an incentive to get agencies to make policies quickly. Once policies have been cemented, it is costly for future lawmaking coalitions to reverse them. Therefore, coalitions that want to establish a decision should strive to do so before it potentially loses the next election.

In summary, the perspective outlined above regarding congressional use of rule-making deadlines and conduct of proximate oversight helps explain how lawmaking coalitions can safely delegate to the bureaucracy and simultaneously limit agency losses from bureaucratic and coalitional drift. To be clear, the strategies we outline are not panaceas. First, lawmaking majorities can never completely obviate the risk of bureaucratic drift. Lawmakers still possess less expertise than bureaucrats, as they did when the law was enacted—otherwise delegation would not have occurred—and problems related to unobservable decisions by bureaucrats can lead to agency losses for the coalition (Brehm and Gates 1997, Ch. 2). Yet, we argue that Congress is most likely to spur quick agency action when the risk of such contemporaneous agency drift is low. Thus, we focus on what Congress does during periods of unified government.[2]

A second threat to strategies related to proximate oversight comes from what MacDonald and McGrath (2016) call "retrospective oversight." In particular, they show that Congress ramps up oversight activity at the beginnings of new periods of unified government specifically in order to overturn agency decisions made under previous lawmaking coalitions. This threat is mitigated by the fact that such oversight surely cannot work to effect complete coalitional drift, and from the perspective of the previous lawmaking coalition, such retrospective oversight becomes more difficult with the volume of previously enshrined rules. Thus, we still argue that deadlines and efforts at proximate oversight increase the likelihood that enacting coalitions are able to lock-in their policies in future periods.

Finally, the empirical expectations we develop should not necessarily be considered to hold evenly across policy areas. As Bawn (1995) notes, in some instances lawmaking coalitions will impose no limits on agency discretion since the technical problems associated with policy challenges are a bigger consideration for lawmakers than bureaucratic drift. In such circumstances, it is probably not reasonable for lawmakers to require agencies to act quickly to minimize the probability of coalition drift. After all, the complexity of the problems means that the agency will have to develop solutions slowly over time. Nevertheless, even if cementing agency policy decisions authorized by laws quickly after enactment is not a strategy always available to lawmaking coalitions, it is strategy to pursue their political and policy goals given the need to delegate with respect to many laws that they enact.

The theory of proximate oversight developed above is similar to the argument by

[2]In addition, as a general matter, research has shown that Congress *can* often effectively oversee the bureaucracy (e.g., McGrath 2013). As the agency proceeds with its decision, lawmakers can be informed by stakeholders via "fire-alarm" oversight when an agency decision runs against the intent of the newly enacted law (McCubbins and Schwartz 1984). In addition, lawmakers' staffs can employ their well-developed networks of agency personnel to obtain information on the substance of agency decisions through informal discussions (Aberbach 1990, Ch. 4).

Macey (1992) that lawmaking coalitions can limit bureaucratic and coalitional drift simultaneously. However, in contrast to the idea behind proximate oversight, Macey (1992, 97) dismisses the prospect of using oversight to affect initial policy decisions, noting that "efforts by politicians to intercede ex post can be assumed to be designed to thwart the original deal." Rather, Macey stresses that structural arrangements are the mechanism through which both bureaucratic and coalitional drift can be limited. Yet, as Shepsle (1992, 117) emphasizes, the regularity with which such structural arrangements allow coalitions to cement the preferences of agencies in the future is up for debate. What clearly happens regularly, however, is that agencies exercise authority delegated to them. The theory of proximate oversight argues that lawmakers intervene with the bureaucracy—not to undo the deals struck during the legislative process—but to cement them.

The Empirical Consequences of Proximate Oversight

Drawing from the theoretical discussion above, we now express specific empirical hypotheses. First, with respect to rulemaking deadlines, we expect that Congress will increasing write these into laws when they are most likely to advantage the lawmaking coalition. We contend that this should be the case most often during unified government, as this is when the preferences for locking in policy should be the strongest and when it should be easiest to achieve agreement on the deadlines as an instrument to achieve this end. Thus, we simply expect Congress to employ rulemaking deadlines more often during unified government, controlling for other relevant factors, such as policy area and party control.

Engaging in what we call proximate oversight after bill passage may be the second stage of congressional strategy here, or it may be independent. That is, if a lawmaking majority fails, for whatever reason. to stipulate a rulemaking deadline in statute, it still may act to cajole agency action through oversight. In the U.S. context, bureaucrats receive higher levels of authority when coalitions enact laws under unified, as opposed to divided, government (Huber and Shipan 2002). In addition, to reduce the probability of coalitional drift, lawmakers need to facilitate quick bureaucratic decision-making and influence the decisions that are made using oversight tools. Together, these insights lead to the prediction that as enacting coalitions of laws experience higher levels of agreement among coalition partners (e.g., the president and congressional majorities), bureaucratic policy decisions using authority under those laws will be made more quickly. We assess this prediction in the context of the U.S. lawmaking process. Specifically, regulations mandated by laws enacted under unified government should be issued by agencies more quickly than laws enacted under divided government. If this is the case, we would infer that oversight was a primary mechanism.

Data, Methods, and Findings

Statutory Rulemaking Deadlines

We turn first to our expectation regarding congressional use of statutory deadlines on rulemaking activity. There have been many recent papers that examine the effects that deadlines have on the rulemaking process (Gersen and O'Connell 2008; Yackee and Yackee 2010; Kerwin and Furlong 2011; Potter 2014; Lavertu and Yackee 2014), but to date, there is scant research on the initial and overall occurrence of deadlines in public laws.[3] Some of these works, e.g., Gersen and O'Connell (2008), intend to portray a descriptive account of rulemaking deadlines, but they focus on such deadlines from the perspective of the agencies targeted for this instrument, rather than on congressional incentives directly.

First, we simply need to explore how often Congress uses deadlines in its statutes delegating policymaking authority to the bureaucracy. To do this, we turn to data from the *Congressional Bills Project* (Adler and Wilkerson 1993-2010) and from the full text public laws available from the Government Publishing Office.[4] We first searched

[3] In fact, we are aware of only one other piece of research that attempts to explain deadline issuance (Doherty and Selin 2015).

[4] *Congressional Bills Project* data are available at: `http://congressionalbills.org/download.`

through the text of the GPO-provided laws for keywords indicating a deadline or some sort. We coded whether these deadlines were directed at agency rulemaking by measuring the distance between the keyword and the mention of a federal agency and flagging all instances where this distance was small (below 30 words). For each public law from 1993-2010, we were thus able to code whether the law contained mention of a statutory deadline for rulemaking.We merged these data with the *Congressional Bills Project* data to give us accurate dates and policy codes of the laws.

Figure 1 displays the proportion of all public laws that contain some deadline on rulemaking action from 1993-2010. We see here that there is variation in this proportion over time and that it seems at first glance that deadlines are *less* pervasive during the three periods of unified government in our sample. While descriptively interesting, the patterns shown in the figure may obscure as much as they elucidate. For one, we have not yet counted the number of deadlines in each statute (some statutes may have just one deadline, while others may have dozens), nor have we coded the agencies to which the deadlines apply. This may be relevant, as Doherty and Selin (2015) show that deadlines are more common for defense and distributive policy areas and the mixture of these policies may change over time.

To correct for the second of these issues, we disaggregate the data and model the propensity for each individual public law that it contains at least one rulemaking deadline. In addition, we control for other bill-, chamber-, and government-level factors that may affect the use of deadlines: whether the sponsor is a Democrat, whether the law came from the House of Representatives, Democratic House control, Democratic Senate control, whether there was a Democratic president, and for time trends, and *Policy Agendas Project* topic fixed effects. Table 1 displays results from a logistic regression of the appearance of rulemaking deadlines in statutes on an indicator for unified government and the mentioned controls. Here, we see that, accounting especially for policy

html GPO (formerly Government Printing Office) data available at: http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=PLAW for plain text files and http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=STATUTE for searchable pdf files. We found that pdf files for years prior to 1993 were not as accurately searchable as the pdfs from 1993-1994 or the text files from 1995-2010, so we limit our attention to these most accurate raw data.

fixed effects, deadlines are significantly more likely to appear in statutes during unified government (by about 7 percentage points).

Rulemaking Speed

To assess our expectations about how proximate oversight affects the speed with which agencies complete regulations, we examine all economically significant final regulations that were promulgated, and published as final regulations in the *Federal Register* (FR), by agencies between 1997 and 2014.[5] Our time series begins in 1997 because this is the first year that it is possible to identify congressional oversight of specific agencies.[6] We examine economically significant regulations—rather than all regulations—because the source of data on final regulations suffers from a number of issues that preclude automated data collection.

This source is the Unified Agenda of Regulatory and Deregulatory Actions (UA) published by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget's (OMB).[7] The Unified Agenda contains information on all regulations issued by federal agencies. However, in inspecting these data, we identified a number of hurdles to using automated methods to cull data from this source. For example, the UA will sometimes provide a date for a final regulation when no final regulation was issued. In addition, for most regulations, the UA does not provide a final regulation date. Rather, it provides a record of a final action. In many cases, this final action does not refer to the date on which the final regulation was issued. Instead, it will point to the date on which a minor correction is made. Another issue involves the use of vague dates in the UA. In some instances, the UA will list a month and a year for a final action. However, when one checks the date of the final publication in the Federal

[5]Executive Order 12866 defines "economically significant" regulations as likely to have an annual effect of 100 million or more on the economy; affect other agencies' activities; affect programs such as entitlements; or affect the president's priorities.

[6]In particular, we use oversight hearings data collected from the GPO (`http://www.gpo.gov/fdsys/search/advanced/advsearchpage.action`) and need the full text of hearing transcripts to identify agencies involved in each hearing. We have found that such information is reliable only back through 1997.

[7]`http://www.reginfo.gov/public/do/eAgendaMain`

Register or on the Government Accountability Office's (GAO) "Legal Decisions and Bid Protests" page, one often finds that the real date on which the final regulation was published well before (or after) this date.[8] In summary, to model the time that it takes agencies to begin and finalize regulations—by publishing regulations in the FR—one simply cannot rely on the information about final regulation dates in the UA being accurate. Therefore, we relied on the UA for an itemization of economically significant regulations and then searched the GAO's Legal Decisions and Bid Protests page and the FR to obtain the true dates on which final regulations were published in the FR.

To assess our expectations, we model how long it takes for agencies to complete economically significant regulations. More specifically, we model the hazard rate at which final regulations are completed given that they have not yet been completed. As noted above, regulations are viewed as being final once they are published as such in the FR. We identify a regulation as having been initiated based on the first date listed in the regulation's record in the UA. Since we are not interested in the hazard function in and of itself, and since we have no expectation about the hazard rate's distribution, we employ a Cox proportional hazards model that allows the hazard rate to be flexible (Box-Steffensmeier and Jones 2004, Ch. 4) to estimate the effect of unified government, congressional oversight, statutory deadlines, and a series of control variables on the hazard rate.

To assess whether regulations are completed more quickly under unified government, we create a dummy variable indicating that a regulation was initiated during unified government and that this configuration of unified government, e.g., 2003-2006 under a Republican-controlled House and Senate during the George W. Bush presidency, continues (1 if yes; 0 otherwise). We expect this variable to be positively and significantly associated with the hazard rate. To measure the prevalence of oversight of agencies promulgating regulations, we count the number of hearings published in the

[8] The URL for the GAO's site at which final regulation dates are available is `http://www.gao.gov/legal/congressact/fedrule.html`. One can use a regulation's RIN number to obtain a wealth of information about the regulation, including the date on which the final regulation was published in the FR.

GPO involving the agency working on the regulation in each year. We expect oversight to hasten completion of regulations during unified government. Therefore, we interact the unified government variable with the volume of oversight to which agencies were submitted. We expect this interaction to be positively and significantly associated with the hazard rate.

We also created a dummy variable for whether agencies issued a regulation under a deadline imposed by statute, relying on the UA to provide this information (1 if yes; 0 otherwise). Because we expect statutory deadlines to catalyze agencies to complete regulations faster than they would otherwise do so, we expect this variable to be positively and significantly associated with the hazard rate. In addition, since the discussion above emphasizes that lawmaking coalitions are more well-positioned to cement their views in regulations during unified government, we expect deadlines to have a greater effect on the hazard rate during unified, rather than divided, government. This is because, under unified government, agencies will only be encouraged to complete their work as quickly as possible by both the legislative and executive branches. Any agency that wants to delay will find no ally in justifying failure to complete a regulation on time. Under divided government, however, agencies that wish to, or need to, work at a measured pace may be able to receive support from Congress. Congress may worry that agencies are making policies in a way that advantages the president's views rather than views prevalent in the majority party in Congress. To guard against this possibility, the jurisdictionally relevant committees may hold hearings to slow the agency down. In sum, interbranch policy disagreement may negate the mandates of deadlines under divided government; however, under unified government, agencies are more likely to only receive encouragement to meet deadlines. Therefore, we interact unified government with statutory deadlines, expecting the interaction term to be positively and significantly associated with the hazard rate.

We control for a host of additional variables that may affect the speed with which agencies finalize regulations (Potter 2016). For example, we control for whether an agency had a deadline placed on the completion of a regulation by a court. The variables that we employ as controls are itemized in Table 2. Finally, although we do not present the findings in Table 2, we also include sixty-eight dummy variables to control for unique factors that affect how quickly specific agencies finalize regulations, providing for agency fixed-effects in the Cox regressions.

These variables allow us to examine the mechanisms at play in hurrying agencies to cement policies. If we observe a positive and significant coefficient for the interaction of unified government with oversight, this will suggest that it is not merely unified government that prompts agencies to complete regulations. Rather, it is unified government combined with conscious efforts on the part of committees to subsequently spur agencies along. If the base coefficient for the unified government variable alone (and not this interaction) is positively and significantly associated with the hazard rate, this will suggest that unified government itself, without the need for committee oversight, quickens the regulatory process.

In addition, the interaction of unified government with the presence of statutory deadlines allows us to assess whether statutory deadlines themselves quicken regulatory completion or whether such deadlines do so only (or more so) under unified government. If the base coefficient for deadlines is positively and significantly associated with the hazard rate while the interaction term is not, then this finding would suggest that deadlines spur regulation in divided government. However, if the interaction is positive and significant (with a positive and significant base term for deadlines), the finding will suggest that deadlines have a greater effect under unified, than divided government. If only the interaction term is significant, this finding would suggest that deadlines are only effective in spurring regulatory action under unified government.

Table 2 presents the findings of the Cox Regression of economically significant rules from 1997 to 2014. The statistically significant log-likelihood in both Model 1, which models hazard rate as an additive function of unified government, oversight, and statutory deadlines, and Model 2, which additionally models the hazard rate as conditional on the interaction between unified government and oversight and unified government and statutory controls, allows us to reject the null hypothesis that the independent variables in the models jointly explain no variation in the number of days it takes agencies to finalize regulations. In addition, tests of the proportional hazards assumption fail to reject the null hypothesis that the hazard rate does not vary over time. Along these lines, Figure 2 presents the hazard rate of regulations initiated and completed under unified government compared to other regulations, showing that there was no difference between the hazard rate of the different categories of regulations.

Importantly, the positive and significant coefficient for unified government in Model 1 supports the perspective that agencies finalize regulations more quickly when regulations are initiated under unified government and that configuration of unified government persists. For example, compared to a regulation initiated under divided government, or a regulation initiated under unified government that was not finalized until government again became divided, Model 1 expects regulations begun and finished under unified government to finalize over 3 times more quickly (increase in the hazard rate of approximately 339 percent). We also observe a positive and significant association between the presence of statutory deadlines and the hazard rate, which is consistent with the view discussed in studies cited above that deadlines hasten completion of regulations. Model 1 expects statutory deadlines to spur regulation completion by roughly 28 percent compared to regulations without legally imposed deadlines. In contrast, we do not find that oversight of an agency spurs regulations, as the coefficient for the number of hearings of an agency in a year is essentially zero and is swamped by its standard error. Finally, we also observe that the coefficient of one of the control variables, the presence of a judicial deadline, is positively and significantly associated with the hazard rate (under a one-tailed test). The model expects that judicial deadlines will increase the hazard rate by approximately 33 percent.

Turning to the conditional specification in Model 2, we observe that the base coefficient for unified government is positively and significantly associated with the hazard rate. The model expects that such regulations are completed at just over twice the rate of other regulations (those regulations that began and ended under divided government, began under unified and were completed under divided government, and began under divided and ended under unified government). However, we do not observe a positive and significant coefficient for either the variable for oversight or the variable interacting unified government with oversight. Together, these findings suggest that the mechanism that prompts agencies to speed up the completion of regulations is not oversight alone or oversight under the pressure of unified government. Rather, when a regulation is initiated under these circumstances, and the party enjoying unified control has yet to lose its grip on the legislative and executive branches, the regulatory wheels accelerate regardless of how much oversight Congress conducts. This suggests that the congruence in priorities between executive branch personnel and congressional overseers creates a situation where there is a lack of friction in the regulatory process—compared to other circumstances under which regulators work to complete rules, all of which include a period of divided government. During these periods, though, greater friction is introduced by executive personnel of one party and/or congressional overseers of another party. This friction slows down the rulemaking process.[9]

In the conditional specification presented in Model 2, the variable for judicial deadlines no longer is positively and significantly associated with the completion of regulations. However, the estimates support the view that statutorily imposed deadlines hasten regulations. More specifically, the base coefficient for statutory deadlines, which provides an estimate of the relationship between statutory deadlines and regulatory completion during divided government, is positively and significantly associated with the hazard rate. Model 2 expects such regulations—with statutory deadlines initiated under divided government—to increase the hazard rate by just over 7 percent. The

[9]We are mindful of the potential critique that periods of unified government tend to be short and, by including dummies for regulations that begin and end under unified government, perhaps we are just selecting regulations that take a shorter time to finalize. Therefore, we estimated additional models, employing dummy variables for whether or not the regulations were initiated under unified government. We observe identical findings with respect to the direction (positive) and significance of the coefficient for unified government.

effect of statutory deadlines on regulatory completion is substantially higher under unified government, however, as displayed by the coefficient for the interaction between statutory deadlines and unified government. The coefficient is also positively and significantly associated with the hazard rate. Based on the base and interaction coefficients, though, Model 2 expects that the combination of statutory deadlines and unified government nearly doubles the rate at which they are finalized. This finding is consistent with the view articulated above, and discussed in some previous studies, that lawmaking coalitions under unified government employ statutory deadlines to facilitate the completion of regulations before they lose control of both branches of government in an election.

Conclusion and Discussion

The findings support the view that lawmaking coalitions under unified government avail themselves of several strategies to protect against the "shadow of the future." First, coalitions that enact laws during unified government are more likely to impose statutory deadlines on agencies. These deadlines rush agencies to complete their work, making it less likely that the coalition will lose control of the legislative or executive branch of government prior to the finalization of regulations. Although prior research advances this view (Gersen and O'Connell 2008), we offer novel evidence along these lines. In particular, along with a recent paper by Doherty and Selin (2015), we focus on such deadlines from the perspective of Congress, rather than describing the prevalence of deadlines in the population of agency regulations.

Second, our analysis of the duration of economically significant regulations reveals that these regulations are completed more quickly during unified government. We observe this finding while controlling for a host of factors, including fixed effects for agencies that control for the circumstances, such as particularly straightforward or complex policies, under which agencies operate. We expected to observe this finding because, as we argued, lawmaking coalitions always want to lock in favorable policy before legislative drift can occur. Under unified government, there are fewer obstacles to locking these benefits when it comes to bureaucratic policy-making. This is because (compared to divided government) congruence between the policy priorities of the legislative and executive branch during unified government means that neither congressional committees nor political appointees in the executive branch are likely to throw up roadblocks as agencies work to implement the shared priorities of the Congress and the president.[10] This is what we observe in the models presented in Table 2. In particular, we observe that it is unified government itself that speeds the completion of regulations—rather than prodding from congressional oversight.

We also observe in the duration analyses that statutory deadlines, which we know are more likely to be enacted during unified government, hasten the completion of regulations to a greater extent under unified than divided government. This finding serves to support the view that these deadlines are an effective tool for lawmakers who wish to cement policies quickly so as to avoid legislative drift. Deadlines are favored by coalitions during unified government for a reason: they work.

In summary, the research that we report above provides new insight into how lawmaking coalitions confront the possibility of legislative drift when delegating authority to the bureaucracy. As discussed, the overwhelming bulk of research on delegation over the last 15-20 years has focused on explaining why legislatures provide more or less discretion to agencies. The premise of this research is that legislatures do so to limit agency losses from decisions made by bureaucrats that conflict with legislative policy priorities. Scholars observe, consistent with this view, that legislatures provide more discretion when they share policy goals the executive branch officials and less discretion when they disagree with such officials. This research has improved our knowledge of policymaking and of the basis for bureaucratic power. Yet, it has largely glossed over the problem of legislative drift. In this paper, we present evidence that legislatures

[10] Our empirical findings are consistent with Potter's (2016), but our theory emphasizes the role of the legislature in spurring rulemaking action, while Potter's approach is more agency-centric. Future work should attempt to estimate the relative magnitude of each actor's influence in speeding up (or slowing down) rulemaking.

consider this matter, too, by observing that, at least when it comes to the promulgation of economically significant regulations, policymaking occurs more quickly under unified government. This haste decreases the odds that lawmaking coalitions will suffer from legislative drift after providing the bureaucracy with discretion. Lawmakers, working to enact laws on a day to day basis—in the present—can take advantage of bureaucratic expertise while pursuing strategies that reduce the likelihood of empowering future lawmakers with which they disagree. We believe that this finding, more than any other contribution to the literature on policymaking in a separation of powers system, speaks to how strategic lawmakers confront this conundrum.

Finally, we wish to emphasize that, although we did not observe support for the perspective that congressional committees use oversight hearings to prod agencies into completing regulations, this finding does not imply that Congress cannot influence the content of regulations. First, we simply examine the speed with which regulations are made because of our focus on how quickly coalitions can lock in bargains. Therefore, we cannot speak to how much influence Congress, through majority party leaders or advice given to agencies by chairs and members of jurisdictionally relevant committees, has over the details of regulatory language. Second, as Aberbach (1990, see especially Ch. 4) emphasizes, committee oversight is a multifaceted endeavour. We employ measures of hearings to gauge the volume of oversight that committees conduct. However, Aberbach makes clear that much oversight involves committee staff picking up the phone to speak with executive branch officials. As such, we leave it to future research to assess influence that oversight has over the speed, and content, of regulations.

References

Aberbach, Joel D. 1990. *Keeping a Watchful Eye: The Politics of Congressional Oversight.* Washington, D.C.: Brookings Institution Press.

Aberbach, Joel D. 2002. "What's Happened to the Watchful Eye?" *Congress & the Presidency* 29:3–23.

Ainsworth, Scott H. and Brian M. Harwood. 2009. "Delegation and Discretion in Anticipation of Coalitional Drift." *American Politics Research* pp. 983–1002.

Balla, Steven J. 1998. "Administrative Procedures and Political Control of the Bureaucracy." *The American Political Science Review* 92(3):663–673.

Balla, Steven J. and Christopher J. Deering. 2013. "Police Patrol and Fire Alarms: An Empirical Examination of the Legislative Preference for Oversight." *Congress & the Presidency* 40(1):27–40.

Baum, Jeeyang Rhee, Christian B. Jensen and Robert J. McGrath. 2016. "Constraining a Shadowy Future: Enacting APAs in Parliamentary Systems." *Legislative Studies Quarterly* 41(2):471–499.

Bawn, Kathleen. 1995. "Political Control Versus Expertise: Congressional Choices about Administrative Procedures." *The American Political Science Review* 89(1):62–73.

Bolton, Alex, Rachel Augustine Potter and Sharece Thrower. 2014. "The Limits of Political Control: How Organizational Capacity Influences Regulatory Review". Paper presented at the 2014 meeting of the Midwest Political Science Association, Chicago, IL.

Bolton, Alexander D. and Sharece Thrower. 2015 (forthcoming). "Legislative Capacity and Executive Unilateralism." *American Journal of Political Science* .

Brehm, John and Scott Gates. 1997. *Working, Shirking, and Sabotage: Bureaucratic Response to a Democratic Public.* Ann Arbor, MI: University of Michigan Press.

Carpenter, Daniel, Jacqueline Chattopadhyay, Susan Moffitt and Clayton Nall. 2012. "The Complications of Controllling Agency Time Discretion: FDA Review Deadlines and Postmarket Drug Safety." *American Journal of Political Science* 56(1):98–114.

Carpenter, Daniel and Justin Grimmer. 2009. "The Downside of Deadlines." Robert Wood Johnson Scholars in Health Policy Working Paper No. 35.

Dodd, Lawrence C. and Richard L. Schott. 1979. *Congress and the Administrative State.* New York: John Wiley & Sons.

Doherty, Kathleen M. and Jennifer L. Selin. 2015. "Does Congress Differentiate? Administrative Procedures, Information Gathering, and Political Control". Paper presented at the 2015 South California Law and Social Science Forum on Regulation, Law, and Social Science.

Esterling, Kevin M. 2004. *The Political Economy of Expertise: Information and Efficiency in American National Institutions.* Ann Arbor, MI: University of Michigan Press.

Gailmard, Sean and John W. Patty. 2012. "Formal Models of Bureaucracy." *Annual Review of Political Science* 13:353–77.

Gersen, Jacob E. and Anne J. O'Connell. 2008. "Deadlines in Administrative Law." *University of Pennsylvania Law Review* 156(4):923–990.

Hamilton, James T. and Christopher H. Schroeder. 1994. "Strategic Regulators and the Choice of Rulemaking Procedures: The Selection of Formal vs. Informal Rules in Regulating Hazardous Waste." *Law and Contemporary Problems* 57(2):111–160.

Horn, Murray J. and Kenneth A. Shepsle. 1989. "Commentary on 'Administrative Arrangements and the Political Control of Agencies': Administrative Process and Organizational Form as Legislative Responses to Agency Costs." *Virginia Law Review* 75:499–508.

Huber, John D. and Arthur Lupia. 2001. "Cabinet Instability and Delegation in Parliamentary Democracies." *American Journal of Political Science* 45(1):18–32.

Huber, John D. and Charles R. Shipan. 2002. *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy.* Cambridge: Cambridge University Press.

Huber, John D., Charles R. Shipan and Madelaine Pfahler. 2001. "Legislatures and Statutory Control of Bureaucracy." *American Journal of Political Science* 45(2):330–345.

Kerwin, Cornelius M. 2003. *Rulemaking: How Government Agencies Write Law and Make Policy.* 3rd ed. Washington, D.C.: CQ Press.

Kriner, Douglas and Eric Schickler. 2014 (Forthcoming). "Investigating the President: Committee Probes and Presidential Approval, 1953-2006." *Journal of Politics* .

Kriner, Douglas and Liam Schwartz. 2008. "Divided Government and Congressional Investigations." *Legislative Studies Quarterly* 33:295–322.

Lavertu, Stéphane and Susan Webb Yackee. 2014. "Regulatory Delay and Rulemaking Deadlines." *Journal of Public Administration Research and Theory* 24(1):185–207.

Lewis, David E. 2003. *Presidents and the Politics of Agency Design: Political Insulation in the United States Government Bureaucracy.* Stanford: Stanford University Press.

Lowi, Theodore. 1969. *The End of Liberalism: The Second Republic of the United States.* New York: W.W. Norton.

MacDonald, Jason A. 2007. "Agency Design and Postlegislative Influence over the Bureaucracy." *Political Research Quarterly* 60:683.

MacDonald, Jason A. 2010. "Limitation Riders and Congressional Influence over Bureaucratic Policy Decisions." *American Political Science Review* 104(4):766–782.

MacDonald, Jason A. and Robert J. McGrath. 2016 (forthcoming). "Retrospective Congressional Oversight and the Dynamics of Legislative Influence over the Bureaucracy." *Legislative Studies Quarterly* .

Macey, Jonathan R. 1992. "Organizational Design and Political Control of Administrative Agencies." *Journal of Law, Economics, & Organization* 8:93–110.

McCubbins, Mathew D., Roger G. Noll and Barry R. Weingast. 1987. "Administrative Procedures as Instruments of Political Control." *Journal of Law, Economics, & Organization* 3(2):243–277.

McCubbins, Mathew D., Roger G. Noll and Barry R. Weingast. 1989. "Structure and Process, Politics and Policy: Administrative Arrangements and the Political Control of Agencies." *Virginia Law Review* 75:431–482.

McCubbins, Mathew D. and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms." *American Journal of Political Science* 28(1):165–179.

McCubbins, Mathew, Roger Noll and Barry R. Weingast. 1999. "The Political Origins of the Administrative Procedure Act." *Journal of Law, Economics, and Organization* 15(1):180–217.

McGrath, Robert J. 2013*a*. "Congressional Oversight Hearings and Policy Control." *Legislative Studies Quarterly* 38(3):353–380.

McGrath, Robert J. 2013*b*. "Legislatures, Courts, and Statutory Control of the Bureaucracy across the U.S. States." *State Politics & Policy Quarterly* 13(3):373–397.

Moe, Terry M. 1989. The Politics of Bureaucratic Structure. In *Can the Government Govern?*, ed. John Chubb and Paul Peterson. Washington, DC: Brookings Institution pp. 267–329.

Ogul, Morris S. and Bert A. Rockman. 1990. "Overseeing Oversight: New Departures and Old Problems." *Legislative Studies Quarterly* 15:5–24.

Parker, David C.W. and Matthew Dull. 2009. "Divided We Quarrel: The Politics of Congressional Investigations." *Legislative Studies Quarterly* 34:319–345.

Pierson, Paul. 2000. "Increasing Returns, Path Dependence, and the Study of Politics." *American Political Science Review* 94:251–267.

Potoski, Matthew. 1999. "Managing Uncertainty through Bureaucratic Design: Administrative Procedures and State Air Pollution Control Agencies." *Journal of Public Administration Research and Theory* 9:623–639.

Potter, Rachel Augustine. 2014. "Responsive or Preemptive Bureaucracy? Agency Choices in the Federal Rulemaking Process." Working Paper, University of Virginia.

Potter, Rachel Augustine. 2016. "Slow-Rolling, Fast-Tracking, and the Pace of Bureaucratic Decisions in Rulemaking." Working Paper, University of Virginia.

Reenock, Christpher and Sarah Poggione. 2004. "Agency Design as an Ongoing Tool of Bureaucratic Influence." *Legislative Studies Quarterly* 29:383–406.

Shepsle, Kenneth A. 1992. "Bureaucratic Drift, Coalitional Drift, and Time Consistency." *Journal of Law, Economics, & Organization* 8(1):111–118.

Shipan, Charles R. 1997. *Designing Judicial Review: Interest Groups, Congress, and Communications Policy.* Ann Arbor, MI: University of Michigan Press.

Shipan, Charles R. 2004. "Regulatory Regimes, Agency Actions, and the Conditional Nature of Congressional Influence." *The American Political Science Review* 98(3):467–480.

Thies, Michael F. 2001. "Keeping Tabs on Partners: The Logic of Delegation in Coalition Governments." *American Journal of Political Science* 45(3):580–598.

Wiseman, Alan E. and John R. Wright. 2015. "Delegation and Bureaucratic Policymaking in the Presence of Binding Legal Constraints: Like a Good Neighbor, State Farm is There..." Working Paper, Vanderbilt University.

Wood, B. Dan and John Bohte. 2004. "Political Transaction Costs and the Politics of Administrative Design." *Journal of Politics* 66:176–202.

Yackee, Jason Webb and Susan Webb Yackee. 2009. "Administrative Procedures and Bureaucratic Performance: Is Federal Rule-making "Ossified?"." *Journal of Public Administration Research and Theory* 1:261–282.

Tables

Table 1: Logistic Regression of Deadlines in Public Laws, 1993-2010

	Coefficients	Discrete Changes for Pr(y=1)
Unified Government	.388***	0 - 1 → .069
	(.117)	
Sponsor is a Democrat	-.145	0 - 1 → -.025
	(.102)	
House Bill	-.141	0 - 1 → -.024
	(.0896)	
Democratic House Control	.534**	0 - 1 → .099
	(.269)	
Democratic Senate Control	.476***	0 - 1 → .086
	(.157)	
Democratic President	.988***	0 - 1 → .172
	(.133)	
Time	.579***	
	(.0547)	
Time^2	-.0444***	
	(.00504)	
Constant	-2.586***	
	(.375)	
Policy Topic (Policy Agendas Project) FE	Yes	
Chi^2 (df)	529.3 (26)	
Pseudo R^2	.125	
Observations	3643	

*$p < 0.10$, **$p < 0.05$, ***$p < 0.01$
Note:

Table 2: Cox Models of the Duration of Economically Significant Final Rulemakings, 1997-2010

	No Interactions	Δ in Hazard	With Interactions	Δ in Hazard
Unified Government	1.478***	0 - 1 → 338.52%	1.106***	0 - 1 → 202.26%
	(.177)		(.267)	
Oversight Hearings	.00102		.000369	
	(.00415)		(.00432)	
Statutory Deadline	.249*	0 - 1 → 28.23%	.0704	0 - 1 → 7.30% (DG)
	(.148)		(.175)	0 - 1 → 91.24% (UG)
Unified Govt × Hearings			.00437	
			(.00440)	
Unified Govt × Stat. Deadline			.578*	0/0 - 1/1 → 224.31%
			(.311)	
Judicial Deadline	.288	0 - 1 → 33.44%	.244	
	(.224)		(.223)	
Regulatory Flexibility Analysis Required	.0503		.0483	
	(.183)		(.185)	
Small Business Affected	-.0652		-.0848	
	(.188)		(.191)	
Government Entities Affected	.270		.297	
	(.200)		(.201)	
No. of Legal Authority Cites	.0151		.0138	
	(.0225)		(.0226)	
Obama Administration	.323		.328	
	(.249)		(.250)	
Clinton Administration	.168		.201	
	(.290)		(.292)	
Time	.0116		.0169	
	(.0356)		(.0359)	
Agency FE	Yes		Yes	
N	354		354	
Time at Risk (Days)	300,996		300,996	
Log-Likelihood	-1,570.51***		-1,568.39***	
Global Proportional Hazards Test	47.98		59.95	

*$p < 0.10$, **$p < 0.05$, ***$p < 0.01$
Note:

Figures

Figure 1: Public Laws with Regulatory Deadlines

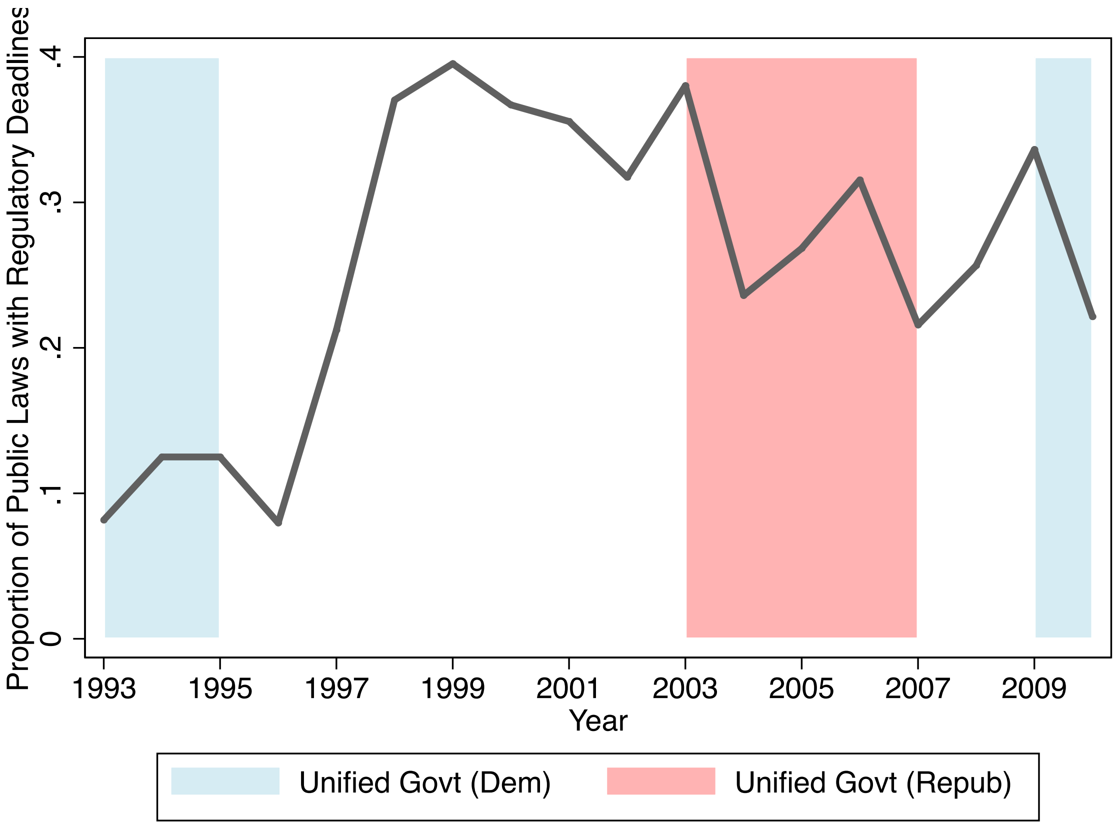

Figure 2: Hazard Rates of Rule Completion (from Table 2, Column 1)