

(D.C. Cir. 1980) (“Where necessary, the court will look behind the particular label applied by the agency to challenge action in order to discern its real intent and effect”). Therefore, we must look at the effects of the Controller Alert.

When an agency’s actions “directly determine whether and in what amount an entity may receive funding under the program,” that action has a substantial effect on the rights or obligations of those non-agency parties. B-334146, June 5, 2023. In that decision, we examined documents from the United States Department of Agriculture (USDA) implementing four new financial assistance programs. *Id.* The documents, which included notices of funding opportunities, a request for applications, and a policy memorandum, established eligibility and application requirements for the new programs, defined selection criteria, imposed reporting requirements, and set funding ranges, among other things. *Id.* There, we determined that the documents failed to satisfy this exception because they each had a substantial effect on non-agency parties. *Id.* We had previously concluded that agency rules amending or clarifying the requirements of financial assistance programs had a substantial effect on non-agency parties. See B-333732, July 28, 2022. Because the USDA documents went even further than amending or clarifying existing requirements in establishing new programs, the documents clearly had a substantial effect on the rights or obligations of non-agency parties. B-334146, June 5, 2023.

Here, the Controller Alert does not establish federal funding programs under any of the statutes it covers. However, by “strongly” encouraging agencies to adopt the recommendations in the Controller Alert, it is intended to and has led agencies to incorporate new signage and public acknowledgment requirements into the terms and conditions of federal funding agreements beyond what is required by law. Controller Alert, at 1. Following issuance of the Controller Alert, several agencies implemented terms and conditions of their funding agreements that directly adopted its language.⁵ For example, a notice of funding opportunity issued by the Federal Railroad Administration contains the following language recommended by the Controller Alert: “In addition, recipients employing project signage are required to use the official Investing in America emblem in accordance with the Official Investing in America Emblem Style Guide. Costs associated with signage and public acknowledgements must be reasonable and limited. Signs or public acknowledgements should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or recipient burden. Recipients are encouraged to use recycled or recovered materials when procuring signs.” Compare 89 Fed. Reg. 42594 (May 15, 2024), with, Controller Alert, at 2.⁶

The adoption of the recommendations in the Controller Alert, in turn, results in the imposition of additional requirements on recipients of federal funding under the specified legislation. The Controller Alert has a substantial effect on the rights or interests of non-agency parties by providing new criteria for the receipt of federal funding. See B-334146, June 5, 2023; B-333732, July 28, 2022. Where agencies adopt the Controller Alert’s recommendations, such recommendations have a substantial effect on non-agency parties. See B-275178, July 3, 1997 (finding that the Forest Service’s Tongass National Forest Land and Resource Management Plan had a substantial impact on non-agency parties even though there were two layers of implementation involved before the Plan affected any given area of the forest).

Because this exception requires us to consider both the direct and indirect effects of

an agency action, and because the imposition of new conditions on the receipt of federal funding has a substantial effect on the rights or obligations of non-agency parties, the Controller Alert fails to satisfy the exception.

Based on the foregoing, we conclude that the Controller Alert is a rule of agency organization, procedure, or practice, but that it does not satisfy the exception because it has a substantial effect on the rights or obligations of non-agency parties. Therefore, no CRA exception applies.

CONCLUSION

The Controller Alert meets the APA definition of a rule and no exception applies. Therefore, the Controller Alert is subject to CRA’s requirement that it be submitted to Congress before it can take effect.

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ENDNOTES

1. The Controller Alert is available at <https://www.cfo.gov/assets/files/CA-23-06Enhancing%20Transparency%20Through%20Use%20of%20the%20Investing%20in%20America%20Emblem%20on%20Signs.pdf> (last visited Aug. 26, 2024).

2. The original Controller Alert, OMB, Enhancing Transparency Through Use of the Building a Better America Emblem on Construction Signs (Aug. 22, 2022)(2022 Controller Alert), is available at <https://www.cfo.gov/assets/files/Controller%20Alert%20EnhancingTransparencyBipartisanInfrastructureLaw.pdf> (last visited Aug. 26, 2024).

3. The legislative history of CRA is also instructive when evaluating what actions are intended to be covered by the Act. It states: “The committees intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review.” 142 Cong. Rec. E571, E578 (daily ed. Apr. 19, 1996) (statement of Rep. Hyde). The legislative history also notes that the committees were concerned, in particular, with “general statements of policy, ‘guidelines,’ and agency policy and procedure manuals” being given legal effect without review. *Id.*

4. The Controller Alert is directed to agency CFOs. Controller Alert, at 1. Twenty-four federal agencies across the government currently have CFOs designated under the Chief Financial Officers Act. 31 U.S.C. §901(b).

5. Although here we cite the impact of the Controller Alert on non-agency behavior, such evidence is not necessary to determine that an agency action has a substantial effect on non-agency parties for purposes of the third exception. For example, we have previously held that “[w]hen an agency rule actively attempts to induce the regulated community to take preferred steps, the rule has a substantial impact on the regulated community and does not qualify for the third CRA exception.” B-334032, Dec. 15, 2022. Moreover, in many instances, the type of direct evidence that we have here will not be readily available at the time of our review.

6. Other agencies have also adopted provisions of the Controller Alert. For example, the Environmental Protection Agency (EPA) requires that “[f]or construction projects funded in whole or in part by the Bipartisan Infrastructure Law or Inflation Reduction Act through [EPA], recipients must place a sign at construction sites that display the Investing in America emblem and identify the project as a ‘project funded by President Biden’s Bipartisan Infrastructure Law’ or ‘project funded by President Biden’s Infla-

tion Reduction Act.’” Compare EPA, Investing in America Signage, available at <https://www.epa.gov/invest/investing-america-signage> (last visited Aug. 26, 2024), with, Controller Alert, at 2.

NATIONAL POW/MIA RECOGNITION DAY

Mr. CRAPO. Mr. President, I join in acknowledging National POW/MIA Recognition Day this September 20, 2024, in heartfelt memory of Idaho’s and all of America’s prisoners of war (POWs) and missing in action (MIA).

In August, Idaho welcomed home Lieutenant Allan Wesley Knepper. He was finally laid to rest at home in Lewiston, ID, on August 2, 2024, after making the ultimate sacrifice in service to our great Nation during World War II. The airplane he was piloting was shot down on July 10, 1943, and he was listed as MIA for decades. He was brought home because of the love and respect of his family and people who knew him and many others who worked together to share information, find him, and return him home. This included the diligent research of his friend’s son and work of the Defense POW/MIA Accounting Agency (DPAA) the Agency primarily responsible for recovering America’s servicemembers.

Lieutenant Knepper’s return and the steady return of other veterans across our country is encouraging as they show what can be achieved when relatives, friends, and investigators are able to share knowledge and work together. That is one of the reasons I continue to press for the enactment of the Bring Our Heroes Home Act, which I joined Senator JEANNE SHAHEEN, in re-introducing this Congress. This legislation would help eliminate obstacles preventing families and caseworkers from accessing the records needed for recovering America’s POWs and MIA.

Thank you to the POW/MIA families and veterans who keep the pursuit of facts at the forefront of our national conscience. I commend the individuals and groups, such as the POW/MIA Awareness Rally Corp. of Pocatello, ID, and across our country who keep a steady spotlight where it needs to be, on pressing forward until every American servicemember is brought home.

Idahoan Lieutenant Knepper’s service and return were highlighted at the June unveiling of the DPAA’s 2024 POW/MIA Recognition Day Poster. This year’s poster features the words “Honoring their sacrifice. Earnestly searching for those still missing.” In honor of their sacrifice and POW/MIA Recognition Day and with a heavy but hopeful heart, I join our grateful country in praying for all those who await answers about lost servicemembers and thanking America’s servicemembers,

veterans, and their families for their extraordinary commitment to our country. May our country continue to earnestly search for those still missing until they are all at last returned home.

TRIBUTE TO BOB NEWHART

Mr. WELCH. Mr. President, in late July, Vermonters and Americans mourned the passing of Bob Newhart, a talented and award-winning actor who changed the history of comedy forever. His celebrated television show, "Newhart" aired on CBS from 1982 to 1990 and gave the United States a window into dreamy, rural Vermont's picturesque Green Mountain view. As Dick Loudon, Mr. Newhart brought laughter and Vermont Values into the living rooms of millions of Americans.

In "Newhart," Dick and his wife escape New York City and buy the Stratford Inn, better known by the real-world residents of Middlebury, VT, as the Waybury Inn. The production crew saw the Waybury Inn while scouting locations and knew it was the perfect location. The inn still has props from the show on display, and the 214-year-old inn hosts travelers and diners to this day. Over the show's 184 episodes, Mr. Newhart and his cast centered their show around the fictional Stratford Inn, capturing the very real spirit and beauty of Vermont and the hard-working people that make it home.

Television and the arts play the important role in our lives and culture, bringing together friends and families, bridging cultural divides, and helping heal during times of difficulty. Mr. Newhart's Grammy and Emmy award winning performances and countless television shows and movies exemplify the power of comedy—and the essential role the arts play in our social fabric.

Mr. Newhart was an icon of comedy and Hollywood, but Vermonters will always remember his time as our favorite innkeeper.

ADDITIONAL STATEMENTS

TRIBUTE TO BAYARD TRACY

• Ms. HASSAN. Mr. President, I am honored to recognize Bayard Tracy of Spofford as August's Granite Stater of the Month. For almost 20 years, Bayard has volunteered with the Spofford Lake Association, helping to ensure that the community can use the lake for generations to come.

Shortly after he moved to Spofford in 2006, Bayard got involved with the Spofford Lake Association, first by helping with water testing and then with obtaining grants and conducting studies to understand and improve the lake's water quality. The studies showed that stormwater runoff is the largest source of phosphorus and other pollutants entering the lake—and this can create an unsafe environment for fish and wildlife. Using the information from the studies, Bayard and his fellow association volunteers worked with the State, the town of Chesterfield, and

property owners to develop a multiyear water management plan to improve Spofford Lake's water quality. As part of this plan, the town's select board established a watershed committee and created a wastewater management ordinance for the lake district. Additionally, they created a fund to help protect the lake in case of an invasive species infestation. All of these efforts will help make safe swimming, boating, and fishing on the lake.

Bayard has also led efforts to raise awareness among Spofford residents about the importance of protecting Spofford Lake and to increase the role of the community in the stewardship of the lake. Understanding that everyone needs to have a stake in maintaining the water quality of the lake so that people can continue to enjoy it for years to come, Bayard has encouraged individual landowners to take steps to stop erosion and runoff from their property—which can lead to increased pollution in the lake—and has worked to inform the community about other steps that individuals can take in order to keep the lake clean.

Bayard's commitment to protecting Spofford Lake by volunteering directly at the lake and by increasing community involvement in lake conservation efforts is a great example of the Granite State spirit of environmental stewardship and civic engagement. I am honored to name him August's Granite Stater of the Month. •

RECOGNIZING THE 70TH ANNIVERSARY OF MACOMB COMMUNITY COLLEGE

• Mr. PETERS. Mr. President, I rise today to recognize the 70th anniversary of Macomb Community College. Over the last 70 years, Macomb Community College (MCC) has become a significant partner for local industry, providing high-quality, accessible, and affordable education opportunities to the residents of Macomb County and Southeast Michigan. It is an honor to recognize Macomb Community College's 70th anniversary on September 13, 2024.

Founded in 1954, Macomb Community College was created in response to the Macomb community's growing need for advanced educational opportunities and skilled labor for the growing workforce. A passionate group of educators from the Van Dyke School District came together to form the "South Macomb Community College," which would later be changed to "Macomb Community College." The first classes were held after hours in Van Dyke School District's Lincoln High School for just 84 students.

By 1962, the number of enrolled students at MCC had grown to 3,000, prompting Macomb County to advance a millage with voters and create the Community College District of Macomb. Since then, the college has kept pace with the growing needs of Macomb County and currently operates the Center and East Campus locations in Clinton Township, as well as the South Campus and Michigan Technical

Education Center (M-TEC) locations in the city of Warren.

Today, MCC serves over 28,000 students annually. The programs and courses at Macomb Community College aim to empower students and prepare them for future careers and continued education. With more than 170 degree and certificate programs, in addition to workforce and continuing education (WCE) courses and diverse apprenticeship opportunities, MCC helps prepare its students for a variety of careers and futures. MCC's nationally acclaimed University Center, opened in 1991, was among the first of its kind in the U.S. and, through partnerships with Michigan colleges, offers students the opportunity to attend classes locally and work towards completing a bachelor's, master's, or doctoral degree from the partner school. Graduates from MCC's academic and workforce programs go on to support Macomb County's workforce in critical areas such as healthcare, public safety, education, and more.

MCC continues to be a key partner in the region that delivers on workforce development needs through continual innovation and investment in their students' success. They further enrich the cultural fabric of the Macomb community by fostering a diverse and inclusive environment across their campuses, supporting the Macomb Center for the Performing Arts and the Lorenzo Cultural Center, and by demonstrating a steadfast philanthropic spirit by hosting annual campaigns and events, such as the annual MCC Dr. Martin Luther King Jr. Day of Service. Alma mater to current leaders in Macomb, including Macomb County Drain Commissioner Candice Miller and Macomb County Executive Mark Hackel, and future leaders of tomorrow, MCC continues to deliver on its mission to transform lives and communities through the power of education, enrichment, and economic development.

Macomb Community College has greatly and positively impacted the lives of generations of students and has helped to shape Macomb County and Southeast Michigan as we know it. I ask you to join me in recognizing Macomb Community College as they celebrate their 70th anniversary. •

REMEMBERING JOSEPH W. KITTINGER, JR.

• Mr. SCOTT of Florida. Mr. President, I rise to honor the life of Air Force Col. Joseph Kittinger. Joe Kittinger was born in 1928 in Tampa, FL, and today, his service and life were honored at Arlington National Cemetery. Kittinger's incredible story includes setting a world record by skydiving from a height of over 19 miles and serving three combat tours as a fighter pilot in Vietnam, among many more achievements. His record-setting experiments helped American's human space exploration. I had the honor of meeting Joe a few years before he passed away in 2022 at the age of 94. It was a great joy to hear his story firsthand. He was a true American hero, and we are forever