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The Unified Agenda of Federal Regulatory and Deregulatory Actions: An Overview

Congress frequently delegates rulemaking authority to federal agencies in legislation. Having an early sense of the rules agencies are planning to issue and when they are planning to issue them can help Congress track and conduct oversight over the use of this delegated legislative authority.

One tool that Congress and the public can use to identify ongoing rulemaking activities is the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda is a government-wide, semiannual publication that lists proposed and final rules that agencies plan to issue in the next six to 12 months. It also lists rules that agencies plan to issue in the long term. Members of Congress, congressional committees, and staff may find the Unified Agenda to be a valuable source of information on upcoming rules, including rules issued by agencies within a committee's jurisdiction or within federal programs of interest.

The Unified Agenda is published in the spring and fall each year by the Regulatory Information Service Center, a component of the General Services Administration, for the Office of Information and Regulatory Affairs, the entity within the Office of Management and Budget that has primary oversight responsibilities over most agencies' rulemaking activities.

Overview of the Unified Agenda

Publication of the Unified Agenda helps agencies fulfill two transparency requirements.

First, Section 602 of the Regulatory Flexibility Act (RFA, 5 U.S.C. §602) requires that each agency publish a "regulatory flexibility agenda" each April and October in the *Federal Register*. In the regulatory flexibility agenda, each agency is to describe regulatory actions it is developing that may have significant economic impacts on a substantial number of small entities. *Small entity* is defined in the RFA to include small businesses, small organizations such as certain nonprofits, and municipalities. The RFA also requires that agencies "endeavor to provide notice" of the regulatory agendas to small entities and "invite comments upon each subject area on the agenda."

In addition, Section 4 of Executive Order (E.O.) 12866 on "Regulatory Planning and Review" requires that each agency, including independent regulatory agencies, "prepare an agenda of all regulations under development or review." The agenda and other planning requirements in the order are intended to "maximize consultation and the resolution of potential conflicts at an early stage" and to "involve the public and its State, local, and tribal officials in

regulatory planning." The executive order states that an agency may combine the information in this agenda with the information required under Title 5, Section 602, of the *U.S. Code*. The executive order also requires that each agency prepare a "regulatory plan" of the most important significant regulatory actions that it reasonably expects to issue in proposed or final form during the upcoming fiscal year. The regulatory plan is to be published annually in the fall edition of the Unified Agenda.

Neither the RFA nor E.O. 12866 contains a penalty for issuing a proposed or final rule without having first provided notice of the rule in the Unified Agenda, and some prospective regulatory actions listed in the Unified Agenda are never finalized.

All agencies, including independent regulatory agencies, participate in the Unified Agenda. Independent regulatory agencies are exempted from some rulemaking requirements, including much of E.O. 12866. However, the section of E.O. 12866 requiring publication of the Unified Agenda does apply to the independent regulatory agencies, as does the RFA.

The Unified Agenda is published in two places: on the website [Reginfo.gov](https://www.reginfo.gov) and in the *Federal Register*. The [Reginfo.gov](https://www.reginfo.gov) version contains more information for each entry, whereas the *Federal Register* version limits the amount of information provided for each rule listed. The *Federal Register* version may be viewed in hard copy or on [federalregister.gov](https://www.federalregister.gov).

Contents of the Unified Agenda

The Unified Agenda lists upcoming activities, by agency, in the following categories:

- "active" actions, including rules in the *pre-rule* stage (e.g., advance notices of proposed rulemaking or other preliminary regulatory actions that are expected to be taken in the next 12 months); *proposed* rule stage (i.e., notices of proposed rulemaking that are expected to be issued in the next 12 months or for which the closing date of the comment period is the next step); and *final* rule stage (i.e., final rules or other final actions that are expected to be taken in the next 12 months);
- "completed" actions (e.g., final rules that have been promulgated or rules that have been withdrawn since having previously been posted in the Unified Agenda); and

- “long-term” actions (i.e., items under development that agencies do not expect to take action on in the next 12 months).

All entries in the first bullet listed above have uniform data elements that are searchable in a database on [Reginfo.gov](https://www.reginfo.gov), including the department and/or agency issuing the rule, the title of the rule, the Regulation Identifier Number (RIN), and an abstract of the action being taken. Each entry also contains a timetable of past actions and a projected date (typically the projected month and year) for the next regulatory action (e.g., a proposed or final rule). Each entry also indicates the priority of the regulation (e.g., whether it is considered “economically significant” under E.O. 12866 or a “major” rule under the Congressional Review Act) and other characteristics of the regulation. Some of the data elements have varied across Administrations. For example, the Trump Administration’s Unified Agenda included a searchable element for deregulatory actions that were subject to the Administration’s regulatory “one-in, two-out” program under E.O. 13771. President Joseph Biden revoked that executive order, and it is no longer an included element in the Unified Agenda.

The Unified Agenda also contains a separate category of “inactive” rules. In April 2015, the Administrative Conference of the United States (ACUS) shed light on a practice that had developed under the Obama Administration in which the Unified Agenda contained a category of regulations (called “pending”) that was not visible to the public. According to ACUS, that category appeared to have been created in 2011. In 2017, the Trump Administration made the list of “pending” rules public and announced it would no longer have a list of rules as part of the Unified Agenda that was inaccessible to the public. Since 2017, a list of “pending” rules, which are now referred to as “inactive,” is posted on [Reginfo.gov](https://www.reginfo.gov) along with the rest of the Unified Agenda. [Reginfo.gov](https://www.reginfo.gov) states that “agencies designate actions as ‘inactive’ when they choose to take additional time to review a regulatory or deregulatory action but wish to preserve the regulatory identification number (RIN) and title for possible future use.”

Timing of the Unified Agenda

Section 602 of the RFA requires agencies to publish their regulatory flexibility agendas in April and October of each year. E.O. 12866 does not specify when the Unified Agenda shall be published, but it does state that the Unified Agenda can be published in conjunction with the RFA’s regulatory flexibility agenda. Despite the requirement for publication in April and October, the actual date of publication has varied and tends to be later than April and October, especially in recent years.

Table 1 lists the date of publication for each edition issued in the past 15 years.

Table 1. Dates of Federal Register Publication of the Unified Agenda of Federal Regulatory and Deregulatory Actions (2007-2021)

Year	Spring Edition	Fall Edition
2007	April 30	December 10
2008	May 5	November 24
2009	May 11	December 7
2010	April 26	December 20
2011	July 7	February 13, 2012
2012	Not published	January 8, 2013
2013	July 23	January 7, 2014
2014	June 13	December 22
2015	June 18	December 15
2016	June 9	December 23
2017	August 24	January 12, 2018
2018	June 11	November 16
2019	June 24	December 26
2020	August 26	March 31, 2021
2021	July 30	January 31, 2022

Source: Dates obtained from the U.S. Government Publishing Office at <https://www.govinfo.gov/collection/unified-agenda> (1993-2010); and the *Federal Register* at <https://www.federalregister.gov/documents/search#advanced> (2011-2021).

Note: The Unified Agenda is published in the *Federal Register* and online on the website [Reginfo.gov](https://www.reginfo.gov). The dates provided in this table are the dates of publication in the *Federal Register*.

Maeve P. Carey, Specialist in Government Organization and Management

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