



Trump Administration Releases Spring 2020 Unified Agenda

July 8, 2020

On June 30, 2020, the Trump Administration released the Spring 2020 edition of the [Unified Agenda of Federal Regulatory and Deregulatory Actions](#) (hereinafter Unified Agenda). The Unified Agenda, which is generally published twice a year, is a government-wide publication of rulemaking actions that agencies expect to take in the coming 12 months. The Unified Agenda lists upcoming regulatory actions (i.e., new proposed and final regulations) and deregulatory actions (i.e., reductions in or elimination of current regulations). The Unified Agenda provides Congress and the public transparency into federal agencies' upcoming rulemaking activities—which can be particularly useful given that most regulatory activities are not made public until they are published in the *Federal Register*.

In addition, the Unified Agenda may be especially informative during presidential election years in the context of the Congressional Review Act (CRA). As discussed briefly below, the CRA contains a “lookback” mechanism that allows a new Congress and administration to overturn rules issued in the final months of an outgoing administration. The Unified Agenda's list of upcoming rules and projected completion dates can provide some information about upcoming rules that could potentially be subject to this lookback mechanism in 2021.

Overview of the Unified Agenda

The Unified Agenda lists upcoming regulatory activities, by agency, in three separate categories:

- “active” actions, including rules in the *prerule* stage (which includes advance notices of proposed rulemaking and some reviews of existing regulations that agencies may take action on 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 such as interim final rules that are expected to be issued in the next 12 months);
- “completed” actions (i.e., final rules or other actions that have been withdrawn since the last edition of the Unified Agenda); and

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

Detailed information on each rule can be found by searching through various data elements on the Unified Agenda’s [advanced search page](#), including (but not limited to) the issuing agency, whether the rule is deregulatory, whether the rule is considered “major” under the CRA, and whether the rule is expected to have significant effects on small businesses. For each rule listed, the agency also provides a projected date of completion. During the Trump Administration, the release of each Unified Agenda has also sometimes been accompanied by [information on implementation](#) of the President’s “one-in, two-out” executive order, [E.O. 13771](#).

Requirements for Publication of the Unified Agenda

The Unified Agenda helps agencies fulfill two transparency requirements: [Section 602 of the Regulatory Flexibility Act](#), which requires all agencies to publish semiannual regulatory agendas describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities, and Section 4 of [Executive Order 12866](#) on “Regulatory Planning and Review,” which requires that agencies “prepare an agenda of all regulations under development or review.”

Role of the Unified Agenda in Rulemaking

There is no penalty for issuing a rule without a prior notice in the Unified Agenda, and some prospective regulatory actions listed in the Unified Agenda are never finalized. [E.O. 13771](#), which President Trump issued in 2017, contains the following provision pertaining to the Unified Agenda: “Unless otherwise required by law, no regulation shall be issued by an agency if it was not included on the most recent version or update of the published Unified Regulatory Agenda as required under Executive Order 12866, as amended, or any successor order, unless the issuance of such regulation was approved in advance in writing by the Director [of the Office of Management and Budget].” There is also no penalty if an agency misses the projected date of completion provided in the Unified Agenda.

The Unified Agenda and the Congressional Review Act

The CRA is a tool that allows Congress to consider legislation that would overturn federal regulations under fast-track procedures. The CRA is arguably more relevant during times of presidential transition than at other times, as it contains [a provision](#) allowing a new Congress and President to overturn regulations issued by the previous administration. Sometimes referred to as the CRA’s “lookback” mechanism, this provision makes the CRA a more powerful tool if a new President shares a party affiliation with majorities in both houses of Congress and if that party affiliation is different from the prior administration. Because 2020 is a presidential election year, rules issued this year, especially in the later months of the year, could potentially be subject to this lookback mechanism in 2021. The Unified Agenda may help Congress anticipate upcoming rules that could be subject to the CRA in 2021. (For more information about the CRA, see CRS Report R43992, *The Congressional Review Act (CRA): Frequently Asked Questions*.)

Author Information

Maeve P. Carey
Specialist in Government Organization and Management

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