



The Daily Dish

# The Biden Regulatory Agenda

DOUGLAS HOLTZ-EAKIN | JUNE 23, 2022

The Biden Administration released its “[Spring 2022 Unified Agenda of Federal Regulatory and Deregulatory Actions](#)” and Dan Bosch has a nice analysis of it [here](#). His main points are about the pace of rulemaking and the rules newly added. Eakinomics’ observation is the negative implications for growth.

First, a theme of the Unified Agenda is that the timetables for major rules are slipping. (Bosch notes that ironically the “spring” agenda was released on the first day of summer.) Bosch writes: “The Environmental Protection Agency’s (EPA) pair of rules dealing with reducing greenhouse gas emissions from coal and natural gas fired power plants have been pushed back significantly. In December, those proposal were expected in [June](#) and [July](#) 2022, but both have now been pushed back until [March 2023](#).” Similarly, he notes: “The Department of Labor’s latest effort to increase the salary threshold below which employees must receive overtime pay has been delayed. A proposed rule was expected in [April](#) but is now anticipated for [October](#). Another significant labor proposal, this one from the National Labor Relations Board regarding a definition of ‘joint employer,’ had been expected in [February](#) but is now expected next [month](#).”

A second item of interest is that some 400 new rulemakings are listed, including my favorite: “[Canned Tuna Standard of Identity](#).” Some, however, are major undertakings. In the Department of the Interior, there is [carbon sequestration](#), a rule establishing regulations governing carbon transportation and storage on the Outer Continental Shelf, as well as a rule for [micromobility devices](#) (scooters, hoverboards, etc.) in national parks.

There is also the [Tobacco Product Standard for Nicotine Level of Certain Tobacco Products](#), which has been in the headlines recently. The Food and Drug Administration (FDA) says the action would make it easier to quit smoking and would prevent older kids and younger adults from becoming addicted. Having said all that, the FDA is in no rush; the proposed rule is not expected for nearly a year, in May 2023.

That’s just a sampling; see Bosch’s piece for a complete list.

My final observation is what the Spring Unified Agenda tells us about the scale of the Biden regulatory state. To satisfy my curiosity, I pulled the [companion piece](#) by Dan Bosch on the 2018 Spring Unified Agenda – the agenda of the Trump Administration at the same point in its tenure.

As shown in the table (below), there is a significantly higher level of activity in the Biden Administration plans – total actions are 19 percent higher at 2,673 than in the Trump plan. The economic burden of those regulations appears to be vastly higher, too. The number of major rules (those over \$100 million of costs imposed annually on the private sector) is more than two and a half times higher. The number of “significant” (in economic impact or from a policy perspective) is one and a half times higher and the number of rules requiring a Regulatory Flexibility Act (RFA) analysis is 15 percent higher.

Comparison of 2018 and 2022 Spring Unified Agendas

	Trump	Biden
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Total Actions	2,224	2,673
Major	88	217
Significant	707	1,055
RFA	189	218

The Biden Administration regulatory motto is evidently “Go Big, or Go Home,” which is fine for an OIRA (Office of Information and Regulatory Affairs) softball T-shirt, but likely a major headwind to economic growth.