



Insight

Administration's Fall 2015 Regulatory Agenda Imposes \$118 Billion in Costs

SAM BATKINS | DECEMBER 1, 2015

The biannual tradition of delaying the release of the nation's regulatory agenda ended last week with the formal publication of the [Unified Agenda](#). An American Action Forum (AAF) review of the data found at least \$118 billion in planned regulatory costs.

Once again, there are few surprises in the regulatory agenda. The administration listed 22 new “economically significant” regulations, up from 18 in the previous agenda. It appears the administration wants to avoid the rush of “midnight regulation,” as the next three months will be busy. If all of the rules are released during the next quarter as planned, costs could reach \$33 billion. Notable rulemakings during that period include: the renewable fuels standard, workplace silica rules, Arctic drilling regulations, and the revision of nutritional labels.

The early flurry of activity next year could be in response to fears that the [Congressional Review Act](#) (CRA) could be used to rescind some rules in 2017. The later the administration publishes significant rulemakings in 2016, the more likely Congress and the next president will be able to repeal those rules. It's also notable that there are few significant rulemakings scheduled for November or December next year, the traditional “midnight” period.

In fact, some rules were actually moved out of this “midnight” period earlier in the year. Despite the narrative that regulations are always being delayed, several rules are being expedited, at least compared to previous schedules. For example, GHG standards for trucks was initially set for final publication in [January, 2017](#); that has been moved up to [July 2016](#). Silica standards for workers did not have a [firm deadline](#), but the administration now targets [February, 2016](#) for a final rule. Finally, revised nutritional labels also received an [expedited timeframe](#) for completion.

Below, there are approximately 40 notable rulemakings and their scheduled publication dates.

November 2015				
Agency	Rule Stage	Rule	RIN	Cost (in millions)
HHS	Final	Regulation on the Sale of Tobacco Products	0910-AG38	\$1,010
HUD	Proposed	Smoke-Free Public Housing	2577-AC97	\$212

November 2015				
HHS	Final	Covered Outpatient Drugs	0938-AQ41	\$104
Energy	Final	Conservation Standards: Warm Air Furnaces	1904-AD11	\$62
Energy	Proposed	Conservation Standards: Central Air Conditioners	1904-AD37	
December 2015				
<u>Agency</u>	<u>Rule Stage</u>		<u>RIN</u>	<u>Cost (in millions)</u>
Energy	Final	Conservation Standards: Large Commercial A/C	1904-AC95	\$8,800
Treasury	Final	Assessment of Fees for Large Banks	1505-AC42	
Energy	Final	Conservation Standards: Hearth Products	1904-AD35	\$1,004
EPA	Final	Renewable Fuels Standard	2060-AS22	\$676
January-February 2016				
<u>Agency</u>	<u>Rule Stage</u>		<u>RIN</u>	<u>Cost (in millions)</u>
Energy	Final	Conservation Standards: Gas Furnaces	1904-AD20	\$12,270
DOL	Final	Exposure to Crystalline Silica	1218-AB70	\$6,524
DOL	Final	Unified and Combined State Plans	1205-AB74	\$1,471
Interior	Final	Arctic Drilling Regulations	1082-AA00	\$1,324
Energy	Final	Conservation Standards: Boilers	1904-AC88	\$540

January-February 2016

DHS	Final	F-1 Nonimmigrant Students	1653-AA72	\$503
DOJ	Final	Implementation of ADA Amendments	1190-AA59	\$451
DHS	Final	Worker Identification Credential	1625-AB21	\$186.1
DOL	Proposed	Paid Sick Leave for Contractors	1235-AA13	

March 2016

<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
HHS	Final	Revision of Nutrition Labels	0910-AF22	\$2,008
HHS	Final	Serving Sizes of Foods	0910-AF23	\$2,008
DOT	Final	Commercial Driver's License Clearinghouse	2126-AB18	\$1,634
CFPB	Final	Requirements for Prepaid Cards	3170-AA22	\$17
DOL	Final	Persuader Agreements	1245-AA03	

April 2016

<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
Energy	Final	Conservation Standards: Ovens	1904-AD15	\$600
HHS	Final	Sanitary Transportation of Human and Animal Food	0910-AG98	\$179

April 2016

DOL	Final	Personal Fall Protection Systems	1218-AB80	\$173.2
HHS	Final	Medicaid, CHIP, and Managed Care	0938-AS25	\$111

June 2016

<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
HHS	Final	Head Start Performance Standards	0970-AC63	\$8,343
HHS	Final	Nondiscrimination: Health Programs	0945-AA02	\$939
EPA	Final	Emissions Standards for Fracking	2060-AS30	\$420

July-August 2016

<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
EPA	Proposed	Phase 2: GHG Standards for Heavy-Duty Engines, Vehicles	2060-AS16	\$31,100
Energy	Final	Conservation Standards: Dishwashers	1904-AD24	\$7,100
DOL	Final	Overtime Exemptions	1235-AA11	\$2,029

September-October 2016

<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
HHS	Final	Protection of Human Subjects	0937-AA02	\$13,342
HHS	Final	Requirements for Long-Term Care	0938-AR61	\$3,018

September-October 2016				
DOJ	Final	ADA Guidelines for Passenger Vessels	3014-AA11	\$1,088
SEC	Final	Investment Company Modernization	3235-AL42	\$989
SEC	Final	Standards for Covered Clearing Agencies	3235-AL48	\$225
SEC	Final	Rules for Security Swap Dealers	3235-AL12	\$210
Long-Term				
<u>Agency</u>	<u>Rule Stage</u>	<u>Rule</u>	<u>RIN</u>	<u>Cost (in millions)</u>
DOL	Final	Conflict of Interest-Fiduciary	1210-AB32	\$5,700
HHS	Final	Requirements for Discharge Plans	0938-AS59	\$1,895
EPA	Final	Formaldehyde Emissions Standards for Composite Wood Products	2070-AJ92	\$512

Possible Cost: \$118 Billion

The \$118 billion estimate contains just 38 monetized figures and an incredible amount of uncertainty. The public does not know the cost of proposed rulemakings not yet published, nor the countless other rules that will be final next year, but were excluded from this agenda. Final costs could balloon or diminish significantly compared to earlier versions.

The administration's time in office is coming to a close and there appears to be an effort to publish final rules during the first quarter of next year. As rulemaking timelines inch toward the end of 2016, lawmakers in the next Congress could take aim at these "midnight" regulations.