Insight

# Inside the Administration's Fall 2013 Regulatory Agenda

SAM BATKINS | DECEMBER 6, 2013

Shortly before Thanksgiving, the administration released its fall 2013 regulatory agenda, or "Unified Agenda." Every federal agency, including independent agencies, submits an upcoming schedule of pending or recently completed regulatory actions.

As the Office of Information and Regulatory Affairs (OIRA) noted, "[T]he Agenda is a more inclusive list, including numerous ministerial actions and routine rulemakings, as well as long-term initiatives that agencies do not plan to complete in the coming year." OIRA also stated that agencies will soon submit updated retrospective review plans this winter to improve "the actual results of regulatory requirements."

What's new in the regulatory front? Not much, as the Agenda lists an affirmative action measure for individuals with disabilities as the lone new regulation that contains unfunded private sector mandates. However, that final rule was published last month, and imposed $1 billion in costs, more than 3.3 million paperwork burden hours, and no quantified benefits.

The Agenda does list 15 new "major" rules, including a revised "Gainful Employment" rule from the Department of Education and two Department of Transportation measures, one for heavy vehicle speed limiters and a rule to update safety standards for passenger rail. In addition, the Department of Energy will soon begin to regulate efficiency standards for portable air conditioners, which is economically significant, but not major.

Most of the Agenda simply provides updates for completion time of pending regulatory measures. For example, EPA expects to propose greenhouse gas standards for existing and modified sources next June, but does not list a date for finalizing standards for new facilities.

The long-awaited Volcker rule is expected this month and Treasury expects to finalize special assessments on large banks by March. Dodd-Frank rules are below in *italics* and remaining Affordable Care Act rulemakings are **bolded**, presented with other notable rulemakings and possible compliance costs.

## December 2013

| Agency | Rule Stage | Title | RIN | Possible Cost (in Millions) |
|---|---|---|---|---|
| DOE | Proposed | Conservation Standards for Furnace Fans | 1904-AC22 | $5,800 |
| DOE | Final | Conservation Standards: Battery Chargers | 1904-AB57 | $4,200 |

| Agency | Rule Stage | Title | RIN | Possible Cost (in Millions) |
|---|---|---|---|---|
| HHS | Proposed | Serving Sizes of Foods | 0910-AF23 | |
| **HHS** | **Final** | **Provider Payment Reassignments** | **0938-AO53** | **$580** |
| *Treasury* | *Final* | *Volcker Rule* | *1557-AD44* | |
| *SEC* | *Proposed* | *Reporting and Recordkeeping Requirements for Security-Based Swaps* | *3235-AL45* | |

## January 2014

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|---|---|---|---|---|
| **EPA** | **Final** | **Standards for Cooling Water Intake** | **2040-AE95** | **$5,351** |
| HHS | Proposed | Sanitary Transportation of Human and Animal Food | 0910-AG98 | |

## February 2014

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|---|---|---|---|---|
| **HHS** | **Final** | **Calorie Labeling: Vending Machines** | **0910-AG56** | **$421.3** |
| **HHS** | **Final** | **Food Labeling for Restaurants** | **0910-AG57** | **$757.1** |
| DOE | Proposed | Conservation Standards: Refrigeration Equipment | 1904-AC19 | $1,967 |
| EPA | Final | Tier 3 Motor Vehicle Emissions | 2060-AQ86 | $35,100 |
| Education | Proposed | Gainful Employment | 1840-AD15 | |
| USDA | Final | Certification of Compliance With School Lunch Standards | 0584-AE15 | |

## March 2014

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|---|---|---|---|---|
| *Treasury* | *Final* | *Assessment of Fees for Large Banks* | *1505-AC42* | |

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| DOL | Final | Persuader Agreements | 1245-AA03 | |
| USDA | Proposed | Citizenship Implementation | 0575-AC86 | |

## April 2014

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|---|---|---|---|---|
| **DOE** | **Proposed** | **Conservation Standards: Walk-In Coolers** | **1904-AB86** | **$7,200** |
| DHS | Final | Worker Identification Credential | 1625-AB21 | $186.1 |

## May 2014

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|---|---|---|---|---|
| **HHS** | **Final** | **Covered Outpatient Drugs** | **0938-AQ41** | **$104** |
| CFPB | Proposed | Requirements for Prepaid Cards | 3170-AA22 | |
| EPA | Final | Underground Storage Tank Rules | 2050-AG46 | $210 |
| EPA | Final | Effluent Guidelines for Power Plants | 2040-AF14 | $954.1 |

## June 2014

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|---|---|---|---|---|
| **DOL** | **Final** | **Personal Fall Protection Systems** | **1218-AB80** | **$173.2** |
| EPA | Proposed | GHG Guidelines for Existing Sources | 2060-AR33 | |
| EPA | Proposed | GHG Guidelines for Modified Sources | 2060-AR88 | |
| HHS | Proposed | Updated Standards for Labeling of Pet Food | 0910-AG09 | |
| HHS | Final | Adoption of Operating Rules for HIPAA Transactions | 0938-AS01 | |

## August 2014

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|---|---|---|---|---|
| **DOL** | **Proposed** | **Conflict of Interest-Investment Advice** | **1210-AB32** | |
| DHS | Final | Importer Security Filing | 1651-AA70 | $70,000 |
| DHS | Proposed | General Aviation Security | 1652-AA53 | |

## September 2014

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| **EPA** | **Final** | **Formaldehyde Emissions Standards for Composite Wood Products** | **2070-AJ92** | **$512** |

## October 2014

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|---|---|---|---|---|
| ***SEC*** | ***Final*** | ***Rules for Security Swap Dealers*** | ***3235-AL12*** | ***$210*** |
| DOE | Prerule | Conservation Standards: Refrigerated Vending Machines | 1904-AD00 | |
| DOL | Final | Wage Methodology: H-2B Program | 1205-AB69 | |

## To Be Determined

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|---|---|---|---|---|
| **EPA** | **Prerule** | **Coal Combustion Residuals** | **2050-AE81** | |
| EPA | Long-Term | Review of NAAQS for Ozone | 2060-AP38 | |
| EPA | Final | GHG Guidelines for New Sources | 2060-AQ91 | |
| DOL | Final | Exposure to Crystalline Silica | 1218-AB70 | $6,524 |
| HHS | Final | Produce Safety Regulation | 0910-AG35 | $3,216 |

# TOTAL POSSIBLE COST: $143.4 BILLION

The possible cost of $143 billion is based on the listed total cost of the proposed rule, if applicable. Earlier this year, AAF predicted approximately $123 billion in total regulatory costs, and at the current pace, the regulatory burden for 2013 will eclipse $110 billion.

Finally, the calendar above does not predict future costs of pending proposed rules. For example, there are 18 pending energy efficiency rulemakings from the administration. The average cost of an efficiency rule in 2013 was $3.8 billion, so AAF's estimate of $143 billion for 2014 will depend on how quickly, or how slowly, agencies and OIRA actually finalize rulemakings.