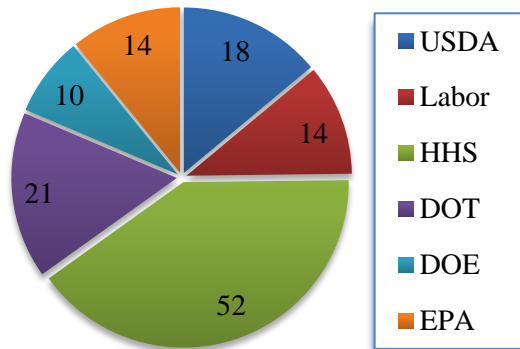


Feature Story

OMB's Spring 2013 Unified Agenda Lists 2,482 Active Regulatory Actions and 202 Major Rules

On July 3rd, the Office of Information and Regulatory Affairs within the Office of Management and Budget published its semiannual [Unified Agenda of Regulatory and Deregulatory Actions](#), which lays out agencies' regulatory agendas for the coming year. The Spring 2013 Unified Agenda identifies 3,503 regulatory actions at different stages of development. Of these, 556 have recently been completed, and 465 are long-term. The Agenda classifies the remaining 2,482 as active regulatory actions, 1,310 of which are proposed rules and 1,087 of which are final rules. Additionally, in the coming year regulatory agencies plan to promulgate 202 major rules, which are defined by the Congressional Review Act as having an expected annual economic impact of at least \$100 million (in either costs or benefits).

Major Rules by Agency,
Spring 2013 Unified Agenda

Opinion

- Obama's global-warming folly
- Delaying part of the Affordable Care Act is not a death knell
- Industry veterans don't always make bad regulators
- Regulatory Inflation
- Takeout Menus and the Specter of Red Tape
- The True Purpose of Bank Capital
- Where new bank rules may go to die
- Howard Shelanski's to-do list
- HHS gives up on Obamacare's anti-fraud measures
- ObamaCare's 'Liar' Subsidies
- Employer Mandate? Never Mind
- Reining In the Regulators

Marketplace of Ideas

American Action Forum

- The Week in Regulation: July 1-5, *Dan Goldbeck*
- Highlights from the Administration's Spring Regulatory Agenda, *Sam Batkins*
- Comments on 2013 Report to Congress on the Benefits and Costs of Federal Regulations, *Douglas Holtz-Eakin, Sam Batkins*

In the News

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[After criticism, administration releases belated regulatory roadmap](#), *The Hill*
[Health-care rule's delay is applauded by business groups](#), *Washington Post*
[Lawmakers Cite Risk of Banks in Commodities in Bernanke Letter](#), *Bloomberg*

[SEC to Vote July 10 to Lift U.S. Ban on Hedge-Fund Advertising](#), *Bloomberg*
[FDA Rule to Expose Generic-Drug Makers to Liability](#), *Wall Street Journal*
[Low Down-Payment Lending Avoids Regulatory Blitz](#), *Wall Street Journal*
[Senators Seek to Extend Swaps Rules to Offshore Trades](#), *Wall Street Journal*
[Health Law Delay Puts Exchanges in Spotlight](#), *New York Times*
[The Employer Mandate Has Been Delayed. Will It Be Rewritten?](#), *New York Times*

[FDA Rule Could Open Generic Drug Makers to Suits](#), *New York Times*

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[Obamacare Delay That Boosts Business Concerns Workers](#), *Bloomberg*

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[Insurers worry that young people will opt out of health insurance, potentially raising costs](#), *Washington Post*

[Farm groups sue EPA over farmers' privacy](#), *The Hill*

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[Dodd-Frank executive pay rule still in limbo amid pushback from corporate America](#), *Washington Post*

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[EPA set to unveil host of new regs](#), *The Hill*

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[It's not just the employer mandate: Three Obamacare delays you haven't](#)



American Enterprise Institute

- Progress on housing finance reform, *Phillip Swagel*

Center for Progressive Reform

- Mission Critical: Under New Regulatory Czar Shelanski, OIRA Must Begin to Affirmatively Help Reinvigorate the Regulatory System, *James Goodwin*
- By the Numbers: The Costs of New Regulatory Delays Announced in the Spring 2013 Regulatory Agenda, *James Goodwin*

Competitive Enterprise Institute

- EPA's Woeful Deadline Performance Raises Questions About Agency Competence, Climate Change Regulations, "Sue and Settle", *William Yeatman*
- New Study: EPA's Shocking Record of Failure on Statutory Deadlines Raises Serious Questions
- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*

Federal Regulations Advisor

- Monday Morning Regulatory Review – 7/8/13, *Leland E. Beck*

Federalist Society

- Presidential Government, *Mark Rutzick*

Free State Foundation

- Hearing on "Improving FCC Process" before the Subcommittee on Communications and Technology Committee on Energy and Commerce U.S. House of Representatives, *Randolph May*

The George Washington University Regulatory Studies Center

- New Regulatory Agenda Lists Thousands of New Rules, *Sofie E. Miller*

Government Accountability Office

- INVESTMENT ADVISERS: Requirements and Costs Associated with the Custody Rule, *Angela Clowers*

The Mercatus Center

- Testimony before the House Committee on the Judiciary: The Effects of Regulation on Low-Income Households, *Diana Thomas*
- Testimony before the House Committee on the Judiciary: Regulation, Growth, and Labor Market Recovery, *Keith Hall*

Penn Program on Regulation

- The Regulatory Week in Review: July 5, 2013, *Christina Reichert*
- A Flexible Approach to Cybersecurity

[heard about](#), *Washington Post*

[DOE to toughen energy efficiency standards for new federal buildings](#), *The Hill*

[FCC warns companies not to skip income check for 'Obama phones'](#), *The Hill*

[New regs tighten labeling standards for dolphin-safe tuna](#), *The Hill*

[House to pass deregulation bill backed by biotechnology companies](#), *The Hill*

[Federal regulators proposing to require a stricter measure of strength for 8 big US banks](#), *Washington Post*

[Credit unions raising overdraft fees faster than banks, report says](#), *Washington Post*

[Regulators Proposing Stricter Rule For 8 Big Banks](#), *NPR*

[Critics of trade talks warn of reckless deregulation](#), *The Hill*

[GOP Rep. Hunter: Administration changing calculations to justify new rules](#), *The Hill*

[Volcker: Why Are We Here With No Regulation?](#), *Bloomberg TV*

[Global Regulators Weigh Moves to Simplify Bank Capital Rules](#), *Bloomberg*

[U.S. Said to Plan Separate Leverage Ratios for Bank Firms](#), *Bloomberg*

[Dodd-Frank revolving door spins quickly](#), *The Examiner*

[Renteria Withdraws Name for CFTC Spot](#), *Wall Street Journal*

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[Plan Reins In Biggest Banks](#), *Wall Street Journal*

[Federal regulators propose leverage-ratio increases for big banks](#), *The Hill*

[Air Pollution Linked to Higher Risk of Heart Failure](#), *Bloomberg*

[Boxer calls on states, EPA to strengthen safety regs after Texas factory blast](#), *The Hill*

[Obama's planned 2013 regs would cost more than \\$130B, study says](#), *The Hill*

[U.S. Boosts Bank Capital Demands Above Global Standards](#), *Bloomberg*

[U.S. Derivatives Regulator Weighs Delay in Cross-Border Rule](#), *Bloomberg*

[Regulators Faulted by U.S. Senator for Lax Chemicals Oversight](#), *Bloomberg*

[U.S. Boosts Bank Capital Demands Above Global Standards](#), *Bloomberg*

[Regulators probe GM screening test after vehicle fire](#), *Reuters*

[Regulators move to tighten capital requirements for big banks](#), *The Examiner*

[U.S. Struggles to Meet Health-Law Deadline](#), *Wall Street Journal*

[Meat-Industry Groups Sue to Block Labeling Rules](#), *Wall Street Journal*

[Regulators Seek Stiffer Bank Rules on Capital](#), *New York Times*

[Federal limits on truck drivers' hours fuel controversy](#), *USA Today*

[Meat labeling rules face legal challenge from industry](#), *The Hill*

[Federal regulators propose stricter measure of strength for 8 big US banks](#), *Washington Post*

[Regulators ponder value to traders of a couple of seconds](#), *Washington Post*

[U.S. regulators place GE Capital, AIG under additional supervision](#), *Washington Post*

[US regulators name AIG, GE Capital as nonbank firms that are potential threats to system](#), *Washington Post*

[A 'too big to fail' crackdown: U.S. regulators hit big banks with tougher standards](#), *Washington Post*

[EPA vows to improve transparency removing 1 obstacle to Senate vote on new chief](#), *Washington Post*

[Vitter drops filibuster threat on EPA nominee Gina McCarthy](#), *Washington Post*

[Meat Producers Sue Over Country-of-Origin Labeling Rules](#), *Bloomberg*

[Regulators Faulted by Boxer for Lax Chemicals Oversight](#), *Bloomberg*

[U.S. Banks Seen Freezing Payouts as Harsher Leverage Rules Loom](#), *Bloomberg*



- Will Proposed Federal Rule Effectively Relax Stricter State Bans on Shark Finning?, *Christina Reichert*
- HHS Issues Another Rule on Contraceptive Mandate, *Brady Sullivan*

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Rulemaking

Department of Energy

DOE Proposes Rule Determining Portable Air Conditioners as Subject to EPCA Energy Requirements

The Department of Energy has [determined](#) that portable air conditioners (ACs) qualify as a covered product under the Energy Policy and Conservation Act (EPCA). The EPCA enables the Department of Energy (DOE) to designate energy efficiency standards for certain consumer products known as “covered products.” To meet qualification as a covered product, the Secretary must conclude that “classifying the product as a covered product is necessary for the purposes of EPCA” and “the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year.” The DOE has estimated that the increase in the use of portable ACs will increase by over 80% by 2018, and this staggering increase allows the product to be classified as a covered product under the first classification. Furthermore, the DOE has calculated that “the average per-household annual electricity consumption to be approximately 650 kWh/yr,” which greatly exceeds 100 kWh/year needed for action. [Comments](#) are due on August 5th.

DOE Finalizes Rule Updating Energy Efficiency Standards for Federal High Rise Residential Buildings

The Department of Energy published a [final rule](#) updating building energy efficiency standards for new Federal high rise residential buildings. This rule reflects the most recent revisions of the voluntary consensus code for commercial buildings, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1. DOE compared the 2010 ASHRAE Standard 90.1 to the previous 2007 one and found that the new standards would save 18.2% more source energy. Additionally, it was calculated that the average life-cycle cost net savings in year one was to be \$2.64 per square foot. This rule will go into effect on September 9th.

Federal Trade Commission

FTC Proposes Rule Banning Certain Payment Methods Used by Telemarketers

The Federal Trade Commission published a [proposed rule](#) that would ban the following payment methods used in telemarketing: remotely created checks and payment orders, cash-to-cash money transfers, and cash reload mechanisms. This rule amends a previously adopted rule, the Telemarketing Sales Rule, instituted “to curb the deceptive and abusive practices in telemarketing and provide key anti-fraud and privacy protections for consumers receiving telephone solicitations to purchase goods or services.” The Federal Trade Commission (FTC) has cited the lack of systemic monitoring for fraud of these payment methods as the reasoning for this rule. [Comments](#) are due July 29th.

Department of Commerce

NOAA Extends Comment Period for Proposed Rule Prohibiting Shark Finning

The National Oceanic and Atmospheric Administration [extended](#) the comment deadline for its proposed rule [Magnuson-Stevens Act Provisions; Implementation of the Shark Conservation Act of 2010](#). The proposed rule would implement portions of the Magnuson-Stevens Shark Conservation Act (SCA) prohibiting “any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached...Neither the [Shark Finning Prohibition Act] nor the SCA suggest that Congress intended to amend the Magnuson-Stevens Act to prohibit the possession or sale of shark fins. Rather, Congress chose to prohibit discarding shark carcasses at sea, and required that fins be naturally attached to the carcass of the corresponding shark. The SCA therefore reflects a balance between addressing the wasteful practice of shark finning and preserving opportunities to land and sell sharks harvested consistent with the Magnuson-Stevens Act. Although state shark fin laws are also intended to conserve



sharks, they may not unduly interfere with the conservation and management of federal fisheries.” [Comments](#) are now due on July 31st.

Department of Homeland Security

CBP Publishes Rule Increasing Agency's Responsibility for Enforcing EPCA

The Customs and Border Protection Agency and Treasury Department jointly published a [final rule](#) expanding CBP’s role in enforcing the mandate laid out in the 1975 Energy Policy and Conservation Act (EPCA). Under the new rule, CBP “will refuse admission into the customs territory of the United States to consumer products and industrial equipment found to be noncompliant with energy conservation and labeling standards pursuant to the... EPCA and its implementing regulations.” However, if the Department of Energy or the Federal Trade Commission can authorize the action, “CBP may conditionally release...to the importer such noncompliant products or equipment for purposes of reconditioning, re-labeling, or other action so as to bring the subject product or equipment into compliance.” As DOE identified “only a small number of businesses importing noncompliant articles,” all of which ceased after receiving notice of noncompliance, CBP does not expect the rule to have significant impact.

Environmental Protection Agency

EPA Publishes Direct Final Rule Delegating NESHAPs and NSPS Authority to Southern Ute Indian Tribe

The Environmental Protection Agency issued a [direct final rule](#) and published an accompanying [proposed rule](#) approving the Southern Ute Indian Tribe’s (SUIT) request for a delegation of authority. This request “establishes and requires SUIT to administer a National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) program per EPA regulations.” The Clean Air Act authorizes the Environmental Protection Agency (EPA) “to delegate authority to any state or tribal agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS and NESHAP.” [Comments](#) are due on August 7th.

Department of Agriculture

APHIS Interim Final Rule Updates Definitions for Lacey Act Declarations

The Animal and Plant Health Inspection Service published an [interim final rule](#) updating definitions in the regulations enforcing the Lacey Act, “the nation’s oldest wildlife protection statute.” After the Lacey Act was amended by the Food, Conservation, and Energy Act of 2008, APHIS has been working to update the definitions for “common cultivars” and “common food crop,” two types of plants that are categorically excluded from the Act’s requirements but not defined by the statute. According to APHIS, “the definitions presented in this rule and the related exclusions will not result in additional costs for importers based on their current activities... APHIS has estimated that about 5 percent of declarations being made under the current stage of phased-in enforcement of the Act are either for common cultivars or common food crops that would be excluded under the definitions in this rule... [APHIS] estimate[s] the total annual cost savings associated with not making these declarations alone will be between \$1 million and \$3 million.” [Comments](#) on the rule are due August 8th.

Agencies

Department of Energy

DOE Releases Updated Plan for Deepwater and Unconventional Petroleum Research

The Department of Energy has [released](#) its 2013 [plan](#) for the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program. “Onshore, research... focuses on protecting groundwater and air quality, understanding rock and fluid interactions, and integrated environmental protection, including water treatment technologies and water management...Offshore, research on Ultra-Deepwater emphasizes improved understanding of systems risk, reducing risk through the acquisition of real-time information, and reducing risk through the development of advanced technologies...The research activities described in this plan will be administered by the Research Partnership to Secure Energy for America (RPSEA), which operates under the guidance of the Secretary of Energy.”

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