

Biden’s Fall 2022 Unified Agenda

By: Zhou dan Xie | January 9, 2023

In brief...

The Fall 2022 Unified Agenda suggests that federal agencies are moving forward with regulations on a wide variety of policy areas including the environment, public health, labor, and immigration. Specific agency actions reflect the Biden administration’s priorities on advancing equity and tackling the climate crisis.

Introduction

At the beginning of the new year, the Office of Information and Regulatory Affairs (OIRA) released the [Fall 2022 Unified Agenda](#). The Unified Agenda contains summaries of regulatory actions in development or recently completed by federal agencies. This release marks the Biden administration’s fourth Unified Agenda. This commentary gives an overview of the Agenda and highlights several actions related to environmental, health, labor, and immigration policy that agencies plan to issue in the near term.

What’s in the Fall 2022 Agenda?

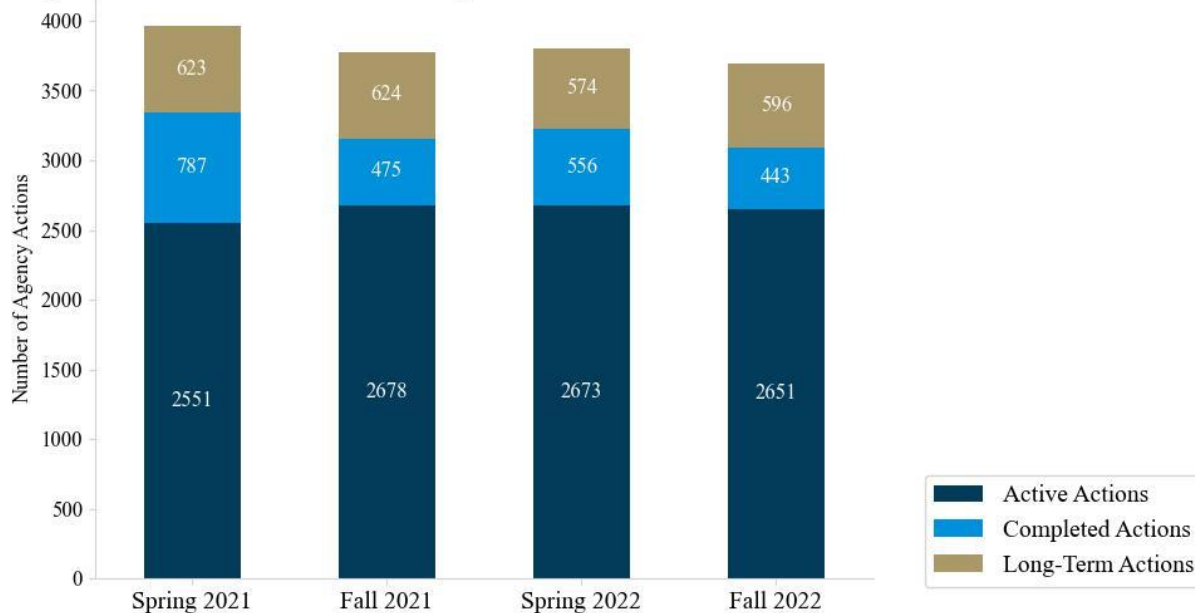
The Fall 2022 Unified Agenda contains a total of 3,690 agency actions, including 332 [economically significant](#) actions (Table 1). It lists actions by stage of development: 2,651 are active (the next agency action is expected within 12 months), 596 are long-term (beyond 12 months), and 443 are completed (rules finalized or withdrawn since the previous Unified Agenda was published).

Table 1: Contents of the Fall 2022 Agenda

Stage	All Agency Actions	Economically Significant Actions	First Time Published
Active	2,651	244	386
Long-term	596	53	52
Completed	443	35	23
Total	3,690	332	461

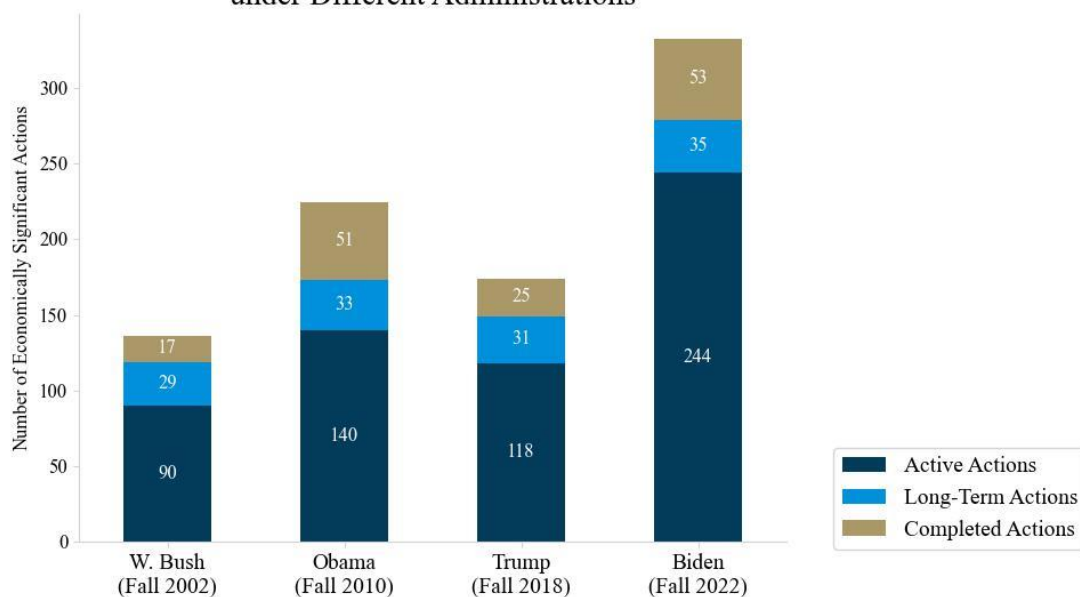
Among the 2,651 active actions, 386 (nearly 15%) are being published for the first time in this Unified Agenda and 244 are economically significant actions (of which 31 are published for the first time).

Figure 1: Fall 2022 and Previous Agendas under the Biden Administration



The numbers of actions in this Agenda are comparable to previous Biden administration Agendas (Figure 1). The total number of actions decreased from 3,803 in the [Spring 2022](#) Agenda to 3,690 (a 3% decrease), mostly driven by a smaller number of completed actions. The number of active actions remains almost the same, with a small reduction of 0.8%. However, the number of economically significant actions increased by 13% compared to the Spring 2022 Agenda (from 294 to 332), of which the number of active economically significant actions increased by 11% (from 220 to 244).

Figure 2: Economically Significant Actions Published in the 4th Unified Agenda under Different Administrations



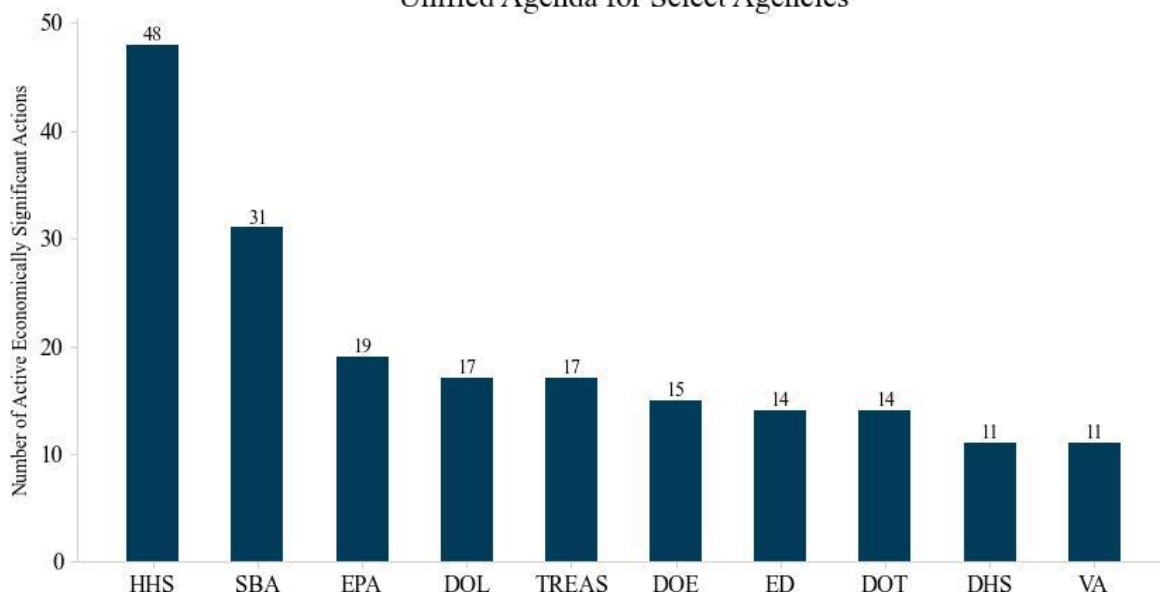
Economically significant actions are a particularly [useful measure](#) to gauge the priorities and regulatory output of a presidential administration. The number of economically significant actions published in the [Regulatory Studies Center](#)

Fall 2022 Unified Agenda is substantially higher than those published in previous administrations' fourth Agenda (Figure 2). The increase is mostly driven by the number of active rulemakings, partially attributable to continued agency actions addressing the COVID-19 pandemic.

Active Economically Significant Actions by Agency

Breaking down the active economically significant actions by agency reveals ongoing priorities reflected in the Unified Agenda. As shown in Figure 3, the agencies with the highest number of active economically significant actions planned include the Department of Health and Human Services (HHS), the Small Business Administration (SBA), the Environmental Protection Agency (EPA), the Department of Labor (DOL), the Department of the Treasury (TREAS), the Department of Energy (DOE), the Department of Education (ED), the Department of Transportation (DOT), the Department of Homeland Security (DHS), and the Department of Veterans Affairs (VA). These same agencies listed the most active economically significant actions in the Spring 2022 Agenda.

Figure 3: Active Economically Significant Actions in the Fall 2022 Unified Agenda for Select Agencies



In line with the previous Biden Agendas, HHS is working on the largest number of economically significant rules. The majority of these active actions come from the Centers for Medicare and Medicaid Services (CMS). Many of these CMS rules deal with recurring actions, such as [payment system rates](#) and [quality reporting updates](#) for the upcoming fiscal and contract year. The Food and Drug Administration (FDA) plans to take several actions related to tobacco products. Those include final rules setting the tobacco product standards for [characterizing flavors in cigars](#) and [menthol in cigarettes](#) and proposed standards for [nicotine levels of certain tobacco products](#). FDA is also working on a [final rule](#) to increase the minimum age of sale for tobacco products from 18 to 21 years.

Pursuant to the administration's expressed goal of advancing equity, HHS is planning on two [rulemaking actions](#) to prohibit discrimination in its health programs and activities. Other agencies' planned actions

related to equity include the Department of Justice's intended [proposal](#) to make state and local governments' websites more accessible to individuals with disabilities, DHS's [plan](#) to revise its regulations to increase equity and ease of entry to the disaster assistance programs, and DOL's [plan](#) to modify nondiscrimination obligations for federal contractors and subcontractors.

Another noteworthy [action](#) from HHS is a proposed rule by the Substance Abuse and Mental Health Services Administration (SAMHSA) to make permanent some regulatory flexibilities for opioid treatment programs granted under the COVID-19 public health emergency. A recent [report](#) by Bridget Dooling and Laura Stanley from the Regulatory Studies Center confirms that SAMHSA has the legal authority to extend the flexibilities without additional authorization from Congress. Before this Agenda was released, SAMHSA [published](#) its proposal on the *Federal Register*.

As with the Spring 2022 Agenda, SBA is the agency with the second largest number of active economically significant actions in the current Agenda, with almost all the actions pertaining to the Paycheck Protection Program. Six of the 17 actions from the Treasury Department also deal with the Paycheck Protection Program. Other Treasury actions include IRS guidance related to the [elimination of interbank offered rates](#), [treatment of transaction costs](#), and [foreign tax credit](#).

EPA expects to take 19 economically significant actions during the coming year, reflecting the administration's continued environmental policy priorities and focus on tackling the climate crisis. Among other things, EPA plans to [finalize](#) its [proposed rule](#) on reducing emissions of greenhouse gases and other air pollutants from crude oil and natural gas facilities and [reconsider](#) a [2020 rule](#) on the Mercury and Air Toxics Standards (MATS) for coal-and oil-fired electric utility steam generating units. In addition, EPA is working on rulemakings related to its [PFAS Strategic Roadmap](#), including a [final action](#) designating perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) as hazardous substances and [regulating](#) PFOA and PFOS in drinking water.

In partnership with the Army Corps of Engineers, EPA is also moving forward with the rulemakings on the definition of "waters of the United States" (WOTUS). The agencies intend to [finalize](#) their [2021 proposed rule](#) that would generally restore the pre-definition 2015 definition of WOTUS¹ and [propose](#) a second rule to consider further revisions to the definition.

Other notable actions include a DOL plan to [finalize](#) its regulations on the classification of workers as employees or independent contractors. DHS is planning to revise the regulations governing H-1B specialty occupation workers and F-1 students who are the beneficiaries of timely filed H-1B cap-subject petitions. The Department of the Interior is working on a [proposed rule](#) to revise regulations on renewable energy production in offshore waters as part of its efforts to comply with [Executive Order 14008](#) on tackling the climate crisis.

¹ A pre-publication version of the [final rule](#) was released on December 30, 2022, and the official version will be published in a forthcoming *Federal Register* issue.

Conclusion

Compared to the Biden administration's previous Agendas, there are minimal changes in the total number of actions published in the Fall 2022 Unified Agenda, but the number of economically significant actions increased. Federal agencies are moving forward with regulations on a wide variety of policy areas including the environment, public health, labor, and immigration. Specific agency actions reflect the administration's priorities on equity and climate issues.