

Biden’s Spring 2024 Unified Agenda

By: Zhou dan Xie | July 10, 2024

The Office of Information and Regulatory Affairs published the Spring 2024 Unified Agenda in the beginning of July. This commentary gives an overview of the Agenda and highlights notable actions that agencies plan to take in the near term.

Introduction

At the end of the July 4th weekend, the Office of Information and Regulatory Affairs (OIRA) released the [Spring 2024 Unified Agenda](#). The Unified Agenda contains information about regulatory actions in development or recently completed by federal agencies. This release marks the Biden administration’s seventh Unified Agenda, and it could be the administration’s second to last Unified Agenda depending on the outcome of the 2024 presidential election. This commentary gives an overview of the Agenda and highlights notable actions that agencies plan to take in the near term.

What’s in the Spring 2024 Agenda?

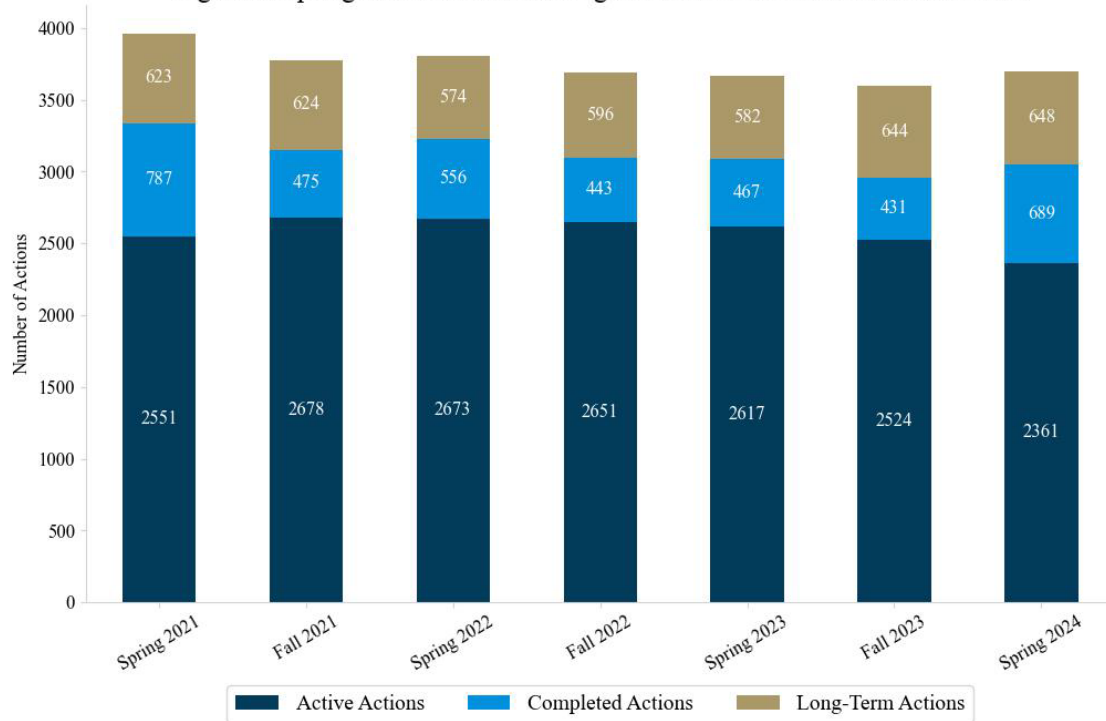
The Spring 2024 Unified Agenda contains a total of 3,698 agency actions, including 287 “section 3(f)(1) significant” actions—those with an expected annual effect of \$200 million or more as defined in [Executive Order \(EO\) 14094](#) (Table 1). The Agenda lists actions by stage of development: 2,361 are active (the next agency action is expected within 12 months), 648 are long-term (beyond 12 months), and 689 are completed (rules finalized or withdrawn since the previous Unified Agenda was published). Among the 2,361 active actions, 405 (approximately 17%) are being published for the first time in this Unified Agenda, and 180 are section 3(f)(1) significant actions (of which 15 are published for the first time).

Table 1: Overview of the Spring 2024 Agenda

Stage	All Agency Actions	Section 3(f)(1) Significant	First Time Published
Active	2,361	180	405
Long-term	648	28	56
Completed	689	79	90
Total	3,698	287	551

The total number of actions in this Agenda is slightly larger than Biden’s [Fall 2023 Agenda](#) (Figure 1), representing a small increase of 2.8% (from 3,599 to 3,698). The increase is mostly driven by the number of completed actions, which rose by 60% (from 431 to 689). This is not surprising, as [evidence](#) suggests that the Biden administration [rushed to finalize](#) rules in April and May before the expected [Congressional Review Act \(CRA\) window](#).

Figure 1: Spring 2024 and Previous Agendas under the Biden Administration



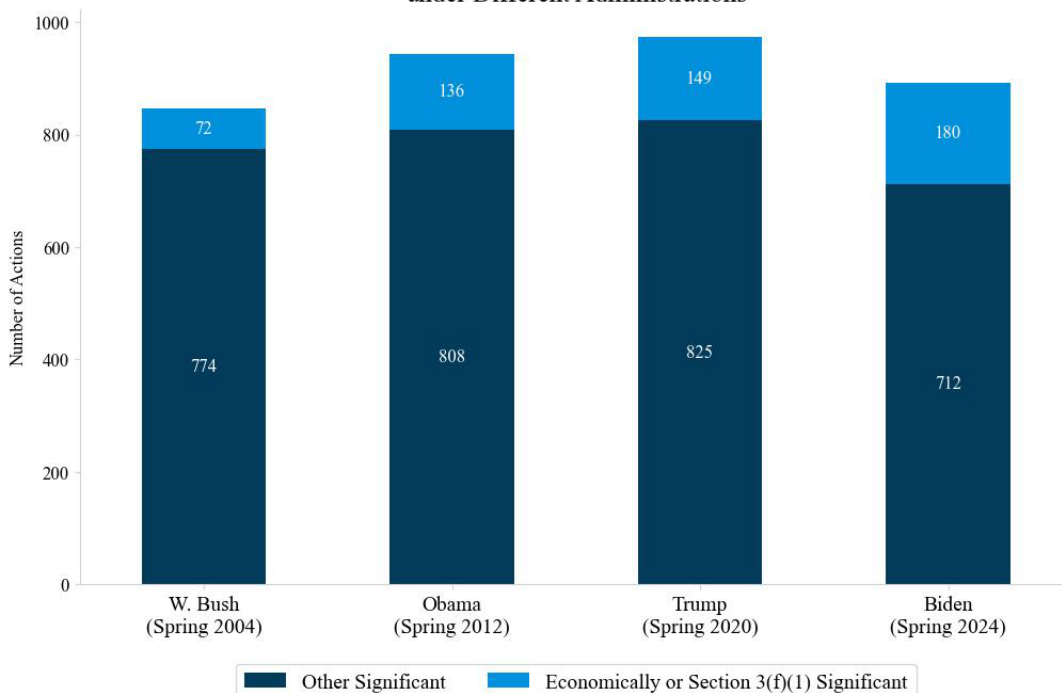
The number of section 3(f)(1) significant actions decreased from 304 in the Fall 2023 Agenda to 287 in the current Agenda, a 6% reduction (Table 2). Notably, the number of section 3(f)(1) significant actions that agencies have completed since the previous Agenda increased by 88% (from 42 to 79). However, the total number of section 3(f)(1) significant actions still decreased, because the current Agenda indicates that agencies are planning to move forward with a smaller number of such actions within the next 12 months. Specifically, the number of active section 3(f)(1) significant actions decreased by 22% from the Fall 2023 Agenda (from 232 to 180), and this number is smaller than any of Biden’s previous Agendas. Both trends suggest that agencies have likely already finalized the highest impact rules before the expected CRA deadline, rather than leaving those for the final few months of this presidential term.

Compared across administrations, the number of active section 3(f)(1) significant actions is still higher than the number of active economically significant actions published in the prior three administrations’ seventh Agendas (Figure 2).¹ The number of active “other significant” actions is lower than the prior administrations’ seventh Agendas. This difference may reflect the change to the definition in section

¹ Note that the two are not entirely comparable. EO 14094 applies a higher monetary threshold (i.e., an annual impact of \$200 million) to the designation of section 3(f)(1) significant actions, while the economically significant actions are based on the \$100 million threshold set in EO 12866.

3(f)(4) of EO 12866, which now requires the OIRA Administrator’s explicit confirmation and thus narrowed the definition of “other significant” actions.²

Figure 2: Active Significant Actions Published in the 7th Unified Agenda under Different Administrations



Note: This figure plots section 3(f)(1) significant actions published in the Spring 2024 Unified Agenda and economically significant actions in the previous Agendas. Economically significant actions have a lower impact threshold of \$100 million.

Active Section 3(f)(1) Significant Actions by Agency

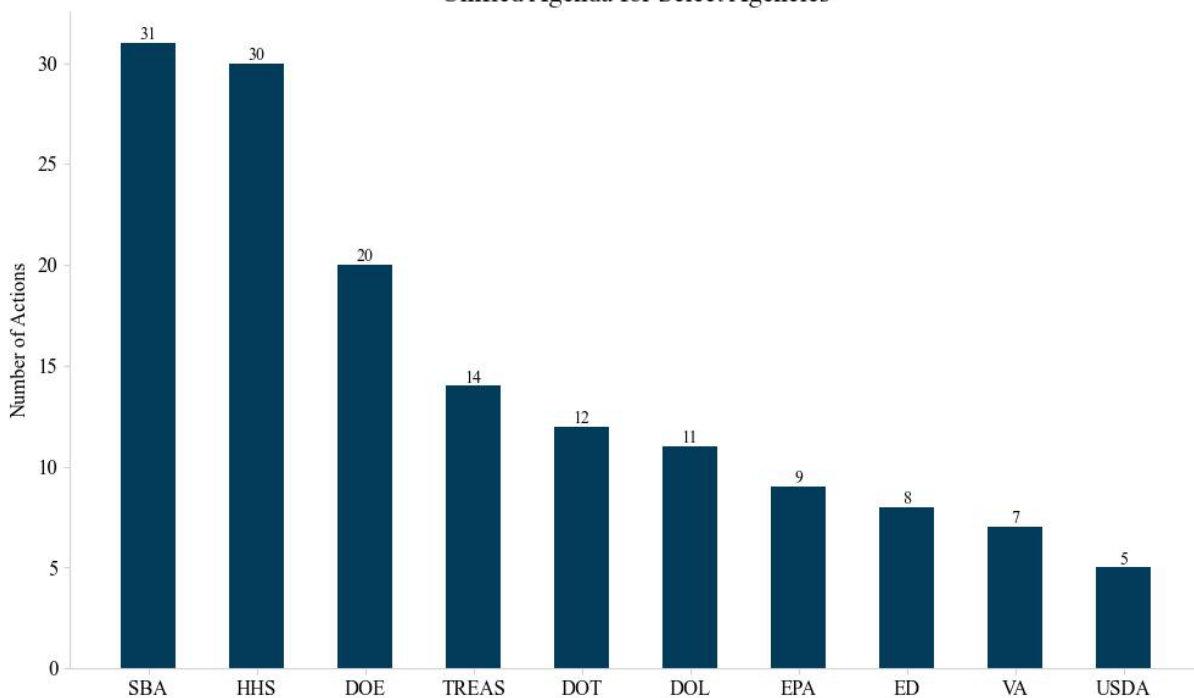
Breaking down the active section 3(f)(1) significant actions by agency reveals the Biden administration’s priorities before a possible presidential transition. As shown in Figure 3, the agencies with the highest number of active section 3(f)(1) significant actions planned include the Small Business Administration (SBA), the Department of Health and Human Services (HHS), the Department of Energy (DOE), the Department of the Treasury (TREAS), the Department of Transportation (DOT), the Department of Labor (DOL), the Environmental Protection Agency (EPA), the Department of Education (ED), the Department of Veterans Affairs (VA), and the Department of Agriculture (USDA). Together, these agencies are responsible for 147 active section 3(f)(1) significant actions, over 80% of such actions in the current Agenda.

Many of the agency patterns are similar to those in previous Agendas. In this Agenda, SBA surpasses HHS in the number of active section 3(f)(1) significant actions, but all the actions except one are related to the Paycheck Protection Program. HHS is still working on a large number of section 3(f)(1) significant actions, of which 60% (18 out of 30) come from the Centers for Medicare and Medicaid Services. The

² EO 14094 now defines 3(f)(4) actions as those that “raise legal or policy issues for which centralized review would meaningfully further the President’s priorities or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.”

Food and Drug Administration (FDA) plans to take seven actions in the near term. Six of those actions were included in a previous Unified Agenda, indicating the agency’s continued efforts in those areas. Examples include [nutrition labeling](#), [registration of commercial importers of drugs](#), and [restrictions on sunlamp products](#). One action is published for the first time in the Unified Agenda, concerning [good manufacturing practice regulations for drug products](#), but FDA plans to issue a proposed rule in February 2025, suggesting a lower priority compared to its other actions. Interestingly, FDA put aside several actions on tobacco product standards, which were listed as active section 3(f)(1) significant actions in Biden’s previous Agendas. Two of [those actions](#), including the rule on [menthol in cigarettes](#), are categorized as long-term actions in the current Agenda. The [third action](#) has a statutory deadline but has been reclassified as an “other significant” action.

Figure 3: Active Section 3(f)(1) Significant Actions in the Spring 2024 Unified Agenda for Select Agencies



EPA is planning a much smaller number of section 3(f)(1) significant actions than previous Agendas. In contrast with over 20 actions included in the Fall 2023 Agenda, EPA is only working on nine actions according to the current Agenda. The agency was able to finalize several of its highly controversial rulemakings by May 2024, including vehicle [emission standards](#) for model years 2027 and later, [greenhouse gas emission guidelines](#) for fossil fuel-fired electric generating units (EGUs), [national ambient air quality standards for PM2.5](#), reconsideration of the [Mercury and Air Toxics Standards \(MATS\)](#), and [PFAS regulations](#). The Spring 2024 Agenda indicates that EPA is still working on amendments to [dust-lead hazard standards](#), and greenhouse gas emission standards for [existing fossil fuel-fired combustion turbine EGUs](#). Its [proposed](#) action from December 2023, addressing [lead and copper in drinking water](#), is now reclassified as an “other significant” action and is scheduled to be finalized by October 2024.

With the reduced activity from EPA, DOE now has the third highest number of active section 3(f)(1) significant actions. Among the 20 actions planned by DOE, 17 are Energy Conservation Standards; two [are related](#) to the Advanced Technology Vehicles Manufacturing Loan Program; and one [concerns](#) clean energy for federal buildings. The Treasury Department is working on 14 section 3(f)(1) significant actions, of which six deal with the Paycheck Protection Program.

To follow up on several other notable actions that I discussed in my [previous commentary](#), DOL [finalized](#) its [2022 proposal](#) on the classification of a worker's status as an employee or independent contractor in January 2024. The Council on Environmental Quality [finalized](#) its action that revises the National Environmental Policy Act (NEPA) implementing regulations in May, completing phase 2 of its rulemaking to revise the 2020 NEPA regulations.

Conclusion

The Spring 2024 Unified Agenda retains many similar patterns from previous Agendas, such as the total number of actions and the list of agencies with the largest number of active section 3(f)(1) significant actions. However, this Agenda includes a notably higher number of completed actions—the actions that agencies have completed since December 2023. This change reflects the Biden administration's effort to minimize the risk of CRA disapproval by finalizing many high-impact rules earlier this year. With that, the administration is leaving fewer section 3(f)(1) significant actions for the final months of this presidential term. If there is a presidential transition in 2025, we may still see the [midnight regulation phenomenon](#) before the new administration takes office. However, it may be a less salient one, as the current administration has likely already published its high-priority regulations.