

Regulations are a powerful tool for achieving policy goals and the [Unified Agenda of Regulatory and Deregulatory Actions](#) (Agenda) has for years served as the public's first notice of the federal government's planned regulatory activities. Rules issued by agencies such as the Transportation Department or Environmental Protection Agency have the force of law, yet unlike statutory law, they can be put in effect without approval from Congress. Given today's political climate—with concerns over the fiscal budget and divisions in Congress—regulations can be particularly attractive tools for achieving policy goals, and [experts expect an ambitious lineup](#) of new regulations over the next few years.

The Administration's most recent Agenda corroborates that expectation. It identifies 2,387 regulatory actions underway, of which 841 are listed for the first time. Some of these new regulations are mandated by legislation passed in President Obama's first term, such as the Affordable Care Act and Dodd-Frank Act, while others would rely on authority in older statutes to implement Presidential priorities such as climate change mitigation.

The Agenda is usually published twice a year, and the Administration faced a great deal of [criticism](#) for not publishing an Agenda in either the spring or the fall last year. Finally issued after the election on December 20, 2012, the current Agenda appears to be a substitute for both spring and fall agendas.

The Office of Information and Regulatory Affairs (OIRA) and the regulatory agencies clearly put more effort into scrutinizing each listed action than they have in the past. One immediately noticeable difference from past agendas is that "active" regulatory actions are listed separately from "completed" or "long-term" actions. Within the "active" category, the 2012 Agenda lists fewer actions at each of the "pre-rule," "proposed rule," and "final rule" stages than did the fall 2011 Agenda. The 2012 Agenda reports more "completed" actions and "long-term" actions than in 2011, however.

These changes are in response to an [OIRA memo to agencies](#) directing them not to list long-term "regulatory actions for which no real activity is expected within the coming year," and to remove regulations on which agencies do not "realistically intend to take action in the next 12 months." Ensuring that regulatory actions underway are accurately presented is important for public understanding and involvement in the regulatory system. However, to the extent that reclassifying actions reduces the public's ability to understand upcoming regulatory activity, the revisions could reduce transparency and accountability.

There appear to be at least some instances where the latter is the case. For example, the 2012 Agenda classifies several actions as "long-term" that were classified as "active" in previous Agendas. Many of these are scheduled to be issued as proposed or final rules in calendar year 2013, including such significant regulations as the Department of Justice's Americans with



Disabilities Act proposal regarding [Accessibility of Web Information and Services of Public Accommodations](#), the Department of Homeland Security's [Ammonium Nitrate Security Program](#), and the Environmental Protection Agency's [Risk and Technology Review for Ferroalloys Production](#). Since agencies are actively developing these regulations, excluding them from the list of active regulatory actions not only deviates from past practice, but denies the public information and opportunities to provide valuable input.

Also listed in the 2012 Agenda as “long-term” (and thus not visible in searches for “active” regulations) are three energy efficiency standards that are currently under OMB review. Since OMB makes an effort to review draft regulations in 90 days or less, and agencies can publish regulations on the conclusion of that review, it sends conflicting signals to have [regulations under review](#) that are not classified as active. (These particular regulations have been under review for a year or more.)

President Obama has pledged [“an unprecedented level of openness”](#) and [“a system of transparency, public participation, and collaboration.”](#) Particularly given the importance of regulations to achieving the Administration’s goals over the coming years, the Unified Agenda should be a more reliable tool for gathering information on upcoming regulatory actions.

