



Insight

White House Delaying \$34 Billion in Regulations Post-Election?

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Recently, numerous [reports have highlighted](#) how the White House delayed controversial regulations until after Election Day in 2012. There is a very real phenomenon of “[midnight regulations](#),” where the outgoing administration releases its remaining regulations before the next president enters office.

After reviewing the administration’s most recent [agenda](#) of federal rulemakings, it appears there are at least 15 major regulations scheduled for release after the upcoming midterms. Combined, just six of these rules could impose more than \$34 billion in costs. The scheduled publication dates of the rules and possible costs are listed below. Rules without a cost estimate either are in the proposed stage or omitted cost-benefit data in the proposed form.

Major Rules Scheduled Post-Election			
<u>Agency</u>	<u>Scheduled Publication</u>	<u>Rule</u>	<u>Possible Cost</u>
Energy	November	Conservation Standards: Gas Furnaces	
Energy	November	Conservation Standards: Lamps	\$12.8 Billion
EPA	November	New Residential Wood Heaters	\$125 Million
HHS	November	<i>Medicare Shared Saving Program</i>	
HHS	November	<i>Process for Exchange Eligibility</i>	
EPA	December	Coal Combustion Residuals	\$20.3 Billion
EPA	December	Review of National Ozone Standards	
Justice	December	Implementation of ADA Amendments	\$451 Million
Labor	December	Persuader Agreements	

Major Rules Scheduled Post-Election

Treasury	December	Assessment of Fees for Banks	
HHS	December	<i>Application of Mental Health Parity</i>	
Energy	January 2015	Conservation Standards: Ice Makers	\$364 Million
EPA	January 2015	GHG Guidelines for New Sources	
DHS	January 2015	Worker Identification Credential	\$186 Million
Labor	January 2015	Conflict of Interest: Investment Advice	
			Total Possible Cost: \$34 Billion

The most notable of these regulations actually does not have an attached cost. In December, EPA could release its long-awaited standards for ground-level ozone. In 2011, the White House [formally vetoed](#) the initial standards, partly in an effort to “minimize regulatory costs and burdens, particularly in this economically challenging time.” Commenters assumed that the potential [\\$90 billion](#) price tag played a role in the delay of the regulation. However, the table above does not include cost-benefit data on the proposed ozone rule scheduled for December.

In addition, EPA should finalize its greenhouse gas (GHG) regulation for new sources by next January. Although this rule does not directly impose compliance costs on power plants, it would drastically limit [fuel options](#) in the future. The rule is also legally important to the president’s effort to regulate [existing power plants](#); a rule for new sources most likely needs to be final before regulating existing GHG sources.

The two rules that could impose the highest costs, new standards for fluorescent lamps and regulation of coal ash, are due in November and December. The fluorescent lamp measure would impose roughly [\\$13 billion](#) in long-term costs, \$863 million on an annualized basis, and raise prices for consumers between 40 and 70 percent.

The coal ash measure was originally proposed in 2010 and has been the subject of intense debate in the policy and legal community. The regulation is in response to [several well publicized](#) spills of coal ash into nearby rivers and towns. The cost of the rule could eclipse \$20 billion and it now appears the four-year rulemaking process will conclude this December.

Finally, there are three Affordable Care Act rules (in italics above) that will likely be released after the midterm election. The most significant regulation, “Process of Exchange Eligibility,” is the final step in “implementing Medicaid eligibility ... and other state health subsidy programs.” This measure is deemed “[major](#),” meaning it will have an economic impact of \$100 million or more. The other two rulemakings apply mental health parity provisions to Medicaid programs and regulate Accountable Care Organizations (ACOs).

CONCLUSION

Many of these regulations are controversial, including the GHG rule, and have spent years in the courts and the rulemaking process. Regardless of possible motive, if this schedule remains in place, there will be no shortage

of major regulations issued immediately after Election Day.