Week in Regulation

# An Active End to October

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This past month may have started on a mild note, but it went out with a bang. In terms of both impact and regulatory volume, there was plenty happening in the pages of the Federal Register. There were 15 rulemakings with some kind of measurable economic impact. The main item of the week was the Environmental Protection Agency (EPA) rule on replacing lead pipes over the next decade. The Department of Transportation (DOT), however, led the way in terms of the number of rules published – including a substantial cost-saving measure. Across all rulemakings, agencies published $47.5 billion in total costs and added 9.4 million annual paperwork burden hours.

## REGULATORY TOPLINES

- Proposed Rules: 31
- Final Rules: 56
- 2024 Total Pages: 87,356
- 2024 Final Rule Costs: $1.33 trillion
- 2024 Proposed Rule Costs: $125.5 billion

## NOTABLE REGULATORY ACTIONS

The most consequential rulemaking of the week was the rule from EPA regarding “National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI).” The rule, announced earlier in October, sets the standard of “requiring drinking water systems across the country to identify and replace lead pipes within 10 years.” The agency estimates that “the quantifiable annual benefits of the final rule will be $13.49 to $25.14 billion and the quantifiable annual costs of the rule will be $1.47 to $1.95 billion in 2022 dollars.” EPA further notes:

> The agency estimated the year or years in which all costs and benefits accrue over a 35-year period of analysis. The 35-year window was selected to capture costs associated with rule implementation as well as water systems conducting service line replacement and installing and operating optimal corrosion control treatment.

Taking the mid-point of the estimated cost range ($1.71 billion) and extrapolating out across the agency’s stated analysis window yields $42.8 billion in total present value costs.

Outside of the EPA lead pipe rule, it was also a busy week for the DOT. Of the 15 rules containing some quantified economic estimate, a majority came from DOT. The most significant of these was a proposed rule regarding “Hazardous Materials: Advancing Safety of Highway, Rail, and Vessel Transportation.” The proposal seeks to update a variety of rules and regulations regarding the transportation of hazardous materials – some cost-adding and some cost-saving. Per the agency's analysis, the proposed rule would bring $857 million in total net savings across a decade. The main savings driver appears to be a change is how motor carriers hauling fuel can "placard" their cargo:

> The proposed exception would allow the cargo tanks transporting petroleum distillate fuels to placard for the lowest flashpoint material carried by the cargo tank in the previous or current business day. This exception primarily would apply to trucks hauling gasoline and diesel fuel; a cargo tank that hauls both a load of gasoline and a load of diesel fuel in the previous or current business day would be allowed to placard only for gasoline even when diesel is the only material being hauled. This saves the driver and company from having to change the placards on the vehicle when the commodity being hauled changes within the timeframe of the proposed exception.

DOT estimates that this seemingly mundane change will apparently result in more than $800 million in savings for affected operators.

## TRACKING THE ADMINISTRATIONS

As we have already seen from executive orders and memos, the Biden Administration has provided plenty of contrasts with the Trump Administration on the regulatory front. And while there have been areas where the current administration has sought to broadly restore Obama-esque regulatory actions, there are also areas where it has charted its own course. Since the AAF RegRodeo data extend back to 2005, it is possible to provide weekly updates on how the top-level trends of President Biden's regulatory record track with those of his two most recent predecessors. The following table provides the cumulative totals of final rules containing some quantified economic impact from each administration through this point in their respective terms.

## TRACKING THE ADMINISTRATIONS

REGULATORY ACTIVITY FROM INAUGURATION DAY TO NOVEMBER 1st (Year 4)

| | FINAL RULES | FINAL RULE COSTS | PAPERWORK HOURS |
|---|---|---|---|
| BIDEN 2021 | 1070 | $1.8T | 339.5M |
| TRUMP 2017 | 1180 | $3B | 292.7M |
| OBAMA 2009 | 1439 | $490.5B | 281.5M |

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The lead pipe rule discussed above was the primary reason why the Biden Administration's final rule costs and paperwork totals both had a substantive increase. Of particular note, the Biden Administration to-date cost total now stands at nearly $1.78 trillion. To give a sense of the scale involved here, this total is now roughly equivalent to the gross domestic product of Australia or the fiscal year 2024 federal budget deficit. As for the other administrations covered here, there was virtually no movement during the end of October 2012 for the Obama Administration. The Trump Administration, however, did see a noticeable uptick that put it back on the net-cost side of the ledger. Due primarily to a conservation rule from the Department of Agriculture, Trump-era costs increased by roughly $4.2 billion.

## TOTAL BURDENS

Since January 1, the federal government has published $1.46 trillion in total net costs (with $1.33 trillion in new costs from finalized rules) and 135 million hours of net annual paperwork burden increases (with 62.3 million hours coming from final rules).