



Week in Regulation

DOE Proposal Stands Out in Relatively Light Week

DAN GOLDBECK | MARCH 20, 2023

Last week was not a particularly scintillating one in the pages of the Federal Register. There were only four rulemakings with some measurable economic impact. Of those, only one – yet another round of Department of Energy (DOE) efficiency standards – crossed the hundred-million-dollar cost threshold. Across all rulemakings, agencies published \$918.6 million in total costs and added 10,500 annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 31
- Final Rules: 40
- 2023 Total Pages: 16,502
- 2023 Final Rule Costs: \$41.8 billion
- 2023 Proposed Rule Costs: \$33.4 billion

NOTABLE REGULATORY ACTIONS

The only rulemaking of any real significance (at least from an economic perspective) was the DOE [proposed rule](#) regarding “Energy Conservation Program: Energy Conservation Standards for Battery Chargers.” As the title suggests, this proposal would focus on “devices that charge batteries for consumer products.” In particular, this rulemaking seeks to more fully build out the efficiency standards for [wireless chargers](#). As per usual with these efficiency standards rulemakings, DOE expects there to be near-term increases in consumer product costs in exchange for expected energy savings and other benefits over the long term. In this case, DOE estimates total costs of \$900 million.

TRACKING THE ADMINISTRATIONS

As we have already seen from [executive orders and memos](#), the Biden Administration will surely provide plenty of contrasts with the Trump Administration on the regulatory front. And while there is a general expectation that the current administration will seek to broadly restore Obama-esque regulatory actions, there will also be areas where it charts 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 MARCH 17th (Year 3)

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	549	\$359.9B	220.1M
TRUMP 2017	608	\$6.7B	42.8M
OBAMA 2009	778	\$209.1B	134.4M

LAST UPDATED: MARCH 17th, 2023 AMERICANACTIONFORUM.ORG

Since the major action of the week came on the proposed rule side of the ledger, there was virtually no change in the Biden Administration's final rule totals. Biden Administration final rule costs increased by a mere \$2.6 million while the paperwork tally stood pat. In fact, all three administrations were remarkably stagnant in this regard. The Trump Administration saw a \$2.9 million increase in costs and roughly 55,000 more hours of paperwork. The Obama Administration saw respective increases of \$3.7 million and 45,000 hours.

THIS WEEK'S REGULATORY PICTURE

This week, with some details that feel like they were pulled from an action movie script, the Nuclear Regulatory Commission (NRC) finalizes a rule that updates security measures for nuclear power plants.



Source: Photo by Dan Meyers on Unsplash

Last Tuesday, NRC published a [final rule](#) with the somewhat ominous title of “Enhanced Weapons, Firearms Background Checks, and Security Event Notifications.” The rule makes three main changes to nuclear plant security regulations:

- Establishes a pre-emptive process to allow certain facilities “to possess and use weapons that would otherwise be prohibited by State, local, and certain Federal firearms laws”;
- Updates the “physical security event notification” protocols to more clearly define the categories of threats involved; and
- Makes “the reporting of suspicious activities” to relevant authorities (law enforcement and certain federal agencies) mandatory instead of voluntary.

The first point involves NRC utilizing its authority under Section 161A of the Atomic Energy Act to grant certain plants the ability to arm their security personnel in ways other businesses or individuals otherwise could not under relevant firearms regulations and statutes. In particular, NRC seeks to standardize the process for granting such approvals. Currently, the agency must affirmatively issue a “confirmatory order” – essentially issuing a quasi-rulemaking in each instance – granting such a status to a facility. Under the rule’s new procedure, there would be an application process – with such requirements as background checks – that, once the applicant facility meets the criteria, is simply approved or denied on its merits.

The second point focuses on how and when facilities notify NRC of a “physical security event.” The current requirement is that such notifications “must be submitted to the NRC within 1-hour.” As the agency notes, this

requirement does not easily allow it to discern the relative severity of such events as they come up. In this rule, NRC establishes a graded series of notification timing thresholds (15 minutes, 1 hour, 4 hours, and 8 hours) that more clearly align severe or critical incidents with more immediate reporting while allowing flexibility with less dangerous events.

Finally, the rule would now *require* covered facilities to **report** “suspicious activities to law enforcement agencies, the NRC, and Federal Aviation Administration (for suspicious activities involving aircraft)” where they currently only need to do so on a voluntary basis. NRC states that the current voluntary process “has been inconsistent in terms of both the types of data reported and the timeliness of reports.” All told, the NRC expects relatively modest costs of roughly \$2.7 million across the industry from these new notification and reporting requirements.

TOTAL BURDENS

Since January 1, the federal government has published \$75.1 billion in total net costs (with \$41.8 billion in new costs from finalized rules) and 10.2 million hours of net annual paperwork burden increases (with 2.7 million hours in increases from final rules).

