The hectic December trend continues. Following a couple of noticeably busy weeks, this past one brought a dozen rulemakings with some quantifiable economic impact – a quarter of which had either costs or savings exceeding the billion-dollar threshold. The key topics of the week included: hydrofluorocarbons (HFCs), health care interoperability, and anti-money-laundering measures. Across all rulemakings, agencies published $1.1 billion in total costs and added 15.3 million annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 44
- Final Rules: 74
- 2022 Total Pages: 77,443
- 2022 Final Rule Costs: $116.9 billion
- 2022 Proposed Rule Costs: $154 billion

NOTABLE REGULATORY ACTIONS

The most consequential rulemaking of the week was the Environmental Protection Agency’s (EPA) proposed rule regarding “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) the American Innovation and Manufacturing Act of 2020.” This action builds upon other rulemakings that addressed HFCs in recent years. In particular, its core purpose is “facilitating the transition to next-generation technologies by restricting use of HFCs in the sectors or subsectors in which they are used.” Similar to the preceding rulemakings on the topic, there are some up-front implementation costs, but over the long-term EPA expects sizeable net cost savings “from assumed energy efficiency gains and lower cost refrigerants associated with the technological transitions.” In this proposal, EPA’s primary estimate for those savings is $4.2 billion in net present value, or $438 million on an annualized basis.

The most significant cost-adding rulemaking comes from the Department of Treasury (Treasury) with its proposal regarding “Beneficial Ownership Information [BOI] Access and Safeguards, and Use of FinCEN Identifiers for Entities.” This proposed rule follows a trend similar to the EPA HFC rule in that it builds upon another rulemaking on the issue at hand. The first Beneficial Ownership rule established what information affected entities needed to submit to Treasury; this current proposal establishes the framework for how relevant parties can access and assess said information. While a large portion of Treasury’s economic analysis examines the implications for federal agencies (which is outside our normal realm of tracking), this proposed rule involves notable administrative burdens for private actors as well as state and local governments. Treasury estimates that
the proposal would involve nearly 8 million hours of new paperwork annually, with $642.5 million in commensurate costs (or roughly $3.2 billion over a five-year period).

The final “billion-dollar” rulemaking of the week was a Department of Health & Human Services proposal on “Advancing Interoperability and Improving Prior Authorization Processes” for various programs under the agency’s purview. In particular, the proposed rule:

…Would place new requirements on Medicare Advantage (MA) organizations, state Medicaid fee-for-service (FFS) programs, state Children’s Health Insurance Program (CHIP) FFS programs, Medicaid managed care plans, CHIP managed care entities, and Qualified Health Plan (QHP) issuers on the Federally-facilitated Exchanges (FFEs) to improve the electronic exchange of healthcare data and streamline processes related to prior authorization…

HHS expects such measures to yield greater efficiencies in these programs down the line, but also notes that, “[A]s a result of data limitations and other analytic challenges,” it is not currently reasonable to account for potential savings in the same way the agency accounts for direct costs of the proposal. As such, the proposed rule’s current analysis focuses on the roughly $1.6 billion in total costs it would impose on affected entities.

**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.
With most of the week’s activity coming on the proposed rule side of the ledger, there was minimal movement in the Biden Administration’s final rule totals, with costs and paperwork rising by merely $9 million and 49,000 hours, respectively. Across the other two administrations, however, there were some notable shifts. Trump-era costs shot up by roughly $600 million, due largely to the 2018 iteration of EPA’s Renewable Fuel Standard. Obama-era paperwork spiked by roughly 40 million hours because of one of the first major paperwork requirements.

<table>
<thead>
<tr>
<th></th>
<th>Final Rules</th>
<th>Final Rule Costs</th>
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<tr>
<td>Biden 2021</td>
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<td>Trump 2017</td>
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<td>Obama 2009</td>
<td>709</td>
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From the Affordable Care Act.

**THIS WEEK’S REGULATORY PICTURE**

This week, the Federal Communications Commission (FCC) requires a transparency label for broadband services.

On December 16, the FCC published a final rule in the Federal Register titled “Empowering Broadband Consumers Through Transparency.” The crux of the rule requires that Internet service providers (ISPs) “display, at the point of sale, a broadband consumer label containing critical information about the provider’s service offerings.” A sample of the label format is shown above and resembles a nutrition facts label that most consumers should already be familiar with.

The rule stems from the Infrastructure Investment and Jobs Act. That law included language requiring the FCC to finalize a rule mandating ISPs to post the label, based on a proposal from 2016. The law also directed the agency to rely on the labels for any data related to price and subscription rates that it may use to fulfill its mission.

The label itself must include information about pricing, introductory rates, data allowances, performance metrics, and whether the provider participates in the Affordable Connectivity Program, which offers discounted...
services for lower income households. The label must also link to more information regarding the terms and conditions of the services.

While the rule will go into effect on January 23, the FCC has not yet set a compliance date for when ISPs must post the labels. The agency will issue a separate Federal Register notice with compliance dates once they are set.

**TOTAL BURDENS**

Since January 1, the federal government has published $270.9 billion in total net costs (with $116.9 billion in new costs from finalized rules) and 190.2 million hours of net annual paperwork burden increases (with 85.7 million hours in increases from final rules).
Total Number of Regulations Finalized: 252

Total Finalized Cost: $116.9b

Paperwork Hours: 85,670,351