



Week in Regulation

EPA Starts Off March in a Major Way

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After a relative lull to finish off February, significant regulatory actions have begun to bloom like the emerging blossoms around Washington, D.C. Last week was a relatively light one in terms of volume - there were only seven rulemakings with some quantifiable impact - but it marked a return to form in terms of the magnitude of impact. A pair of major rules from the Environmental Protection Agency (EPA) stood out as the main items of the week. Across all rulemakings, agencies published \$18.4 billion in total costs and added 380,572 annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 25
- Final Rules: 65
- 2024 Total Pages: 17,237
- 2024 Final Rule Costs: \$22.9 billion
- 2024 Proposed Rule Costs: \$31.4 billion

NOTABLE REGULATORY ACTIONS

The most consequential rulemakings of the week from a cost perspective were the two rules from EPA regarding “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review” and “Reconsideration of the National Ambient Air Quality Standards for Particulate Matter.” The [former](#) establishes new methane emissions standards for facilities involved in the extraction and distribution of petroleum and natural gas. EPA expects the rule to involve \$14 billion in costs over a 15-year window.

In the [latter rule](#), the agency lowers “the national ambient air quality standards (NAAQS) for particulate matter (PM)...from 12.0 µg/m³ to 9.0 µg/m³.” According to the [Regulatory Impact Analysis](#), this will involve \$3.7 billion in present value costs across a 20-year period. Interestingly, as noted in the American Action Forum’s (AAF) Congressional Review Act (CRA) [Tracker](#), this rule saw a CRA resolution of disapproval against it introduced on the very same day it officially hit the pages of the Federal Register.

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 8th (Year 4)

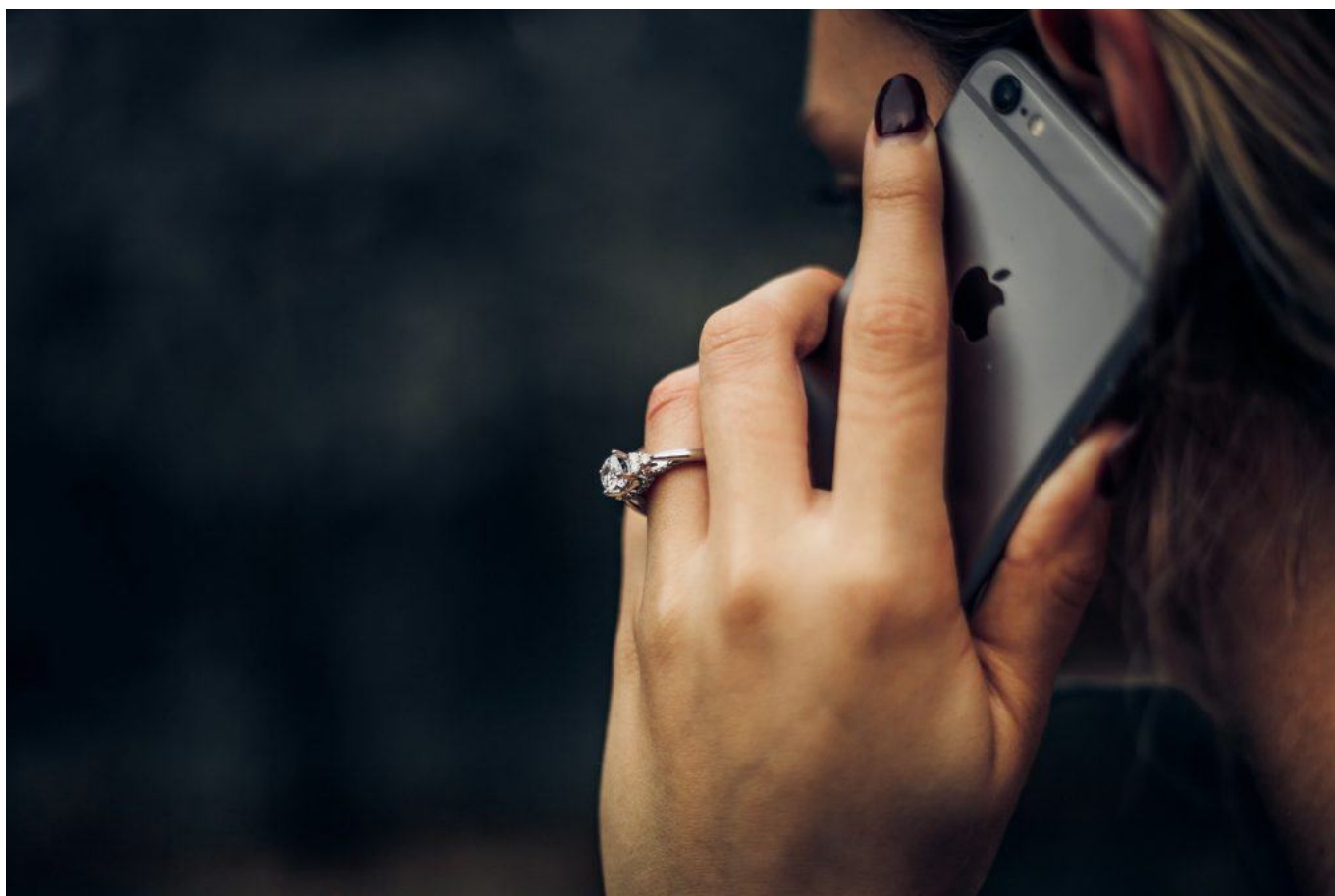
	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	798	\$470.2B	288M
TRUMP 2017	915	\$28.5B	66.6M
OBAMA 2009	1172	\$295.5B	200.5M

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The EPA rules discussed above accounted for most of the upward movement in the Biden Administration’s final rule cost and paperwork totals. After a series of weeks of relative stagnancy, the Biden-era cost tally shot up by a total of roughly \$18.3 billion. The other two administrations were rather quiet by comparison. There was virtually no movement in the Obama-era totals. The Trump Administration saw a modest \$140 million increase, with most of that coming from a Department of Labor [rule](#) regarding financial reporting requirements for labor unions.

THIS WEEK’S REGULATORY PICTURE

This week, the Federal Communications Commission (FCC) published a pair of rulemakings that seek to address “robocalls” and “robotexts.”



Source: Photo by [Taylor Grote](#) on [Unsplash](#)

Last Tuesday, FCC published two rulemakings - one [final](#) and one [proposed](#) - that seek to update the protections available to customers under the Telephone Consumer Protection Act (TCPA). While they are separate rulemakings in different stages of the regulatory process, they both carry the title of “Strengthening the Ability of Consumers To Stop Robocalls.” In particular, each of the rulemakings focuses on different aspects of how consumers can “revoke consent to unwanted robocalls and robotexts.”

The final rule - originally proposed [last summer](#) - establishes an overall framework for what happens in terms of when and how a revocation of consent applies. First, the rule builds out the mechanism by which consumers can declare their consent revocation. Primarily this would involve replying to a robo-caller or -texter - typically phrased throughout the rule as “call initiator” - with the “the words ‘stop,’ ‘quit,’ ‘end,’ ‘revoke,’ ‘opt out,’ ‘cancel,’ or ‘unsubscribe,’” although FCC notes that this is not the exclusive list of potential terms. The “call initiator” then has 10 business days to process the revocation request and provide the relevant consumer with a one-time confirmation that they will no longer receive such calls and/or texts.

The proposed rule focuses on a much more specific arrangement: whether the above framework “applies to robocalls and robotexts from wireless providers to their own subscribers.” Due to how the TCPA has generally been interpreted, the main issue historically has been whether consumers end up being charged for unwanted calls or texts regardless of the content or purpose of such contacts. In instances where these providers contact their subscribers for informational purposes, this financial dynamic does not generally apply. Despite this unique circumstance, however, FCC now “does not believe there is any reason to deprive wireless subscribers of the same right to exercise revocation of consent when they make an affirmative request not to receive such communications,” and seeks further comment from the public on whether to include provider-to-consumer contacts under a similar framework as established under the above final rule.

Interested parties have until April 4, 2024, to submit comments on the matter.

TOTAL BURDENS

Since January 1, the federal government has published \$54.3 billion in total net costs (with \$22.9 billion in new costs from finalized rules) and 28.8 million hours of net annual paperwork burden increases (with 10.8 million hours coming from final rules).

