



Insight

Administration's Regulatory Freeze Halts \$181 Billion in Pending Rules

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On day one in office, President Trump's Chief of Staff, Reince Priebus, [signed a memo](#) to all executive agencies imposing a regulatory moratorium. This may sound like an extraordinary action, but President Obama's then-Chief of Staff, Rahm Emanuel, penned an almost [identical memo](#) eight years ago. According to American Action Forum (AAF) research, this memo put a hold on \$181 billion in total regulatory costs, including \$17 billion in annual costs, and 5.5 million hours of paperwork. This moratorium freezes 22 rulemakings with annual costs above \$100 million and 16 measures with more than \$1 billion in long-term costs.

The Details

Broadly, [the memo](#) takes three approaches to a regulatory moratorium:

1. Subject to some exceptions for emergencies, no regulation should leave the Office of Information and Regulatory Affairs (OIRA) or agencies to be published in the Federal Register.
2. For regulations sent for formal publication, they should be withdrawn and reviewed.
3. For recent regulations that have been published, temporarily postpone the effective date by 60 days, subject to certain exceptions. In addition, agencies should consider proposing for notice and comment a rule to delay the effective date beyond 60 days.

This memo not only applies to traditional regulation, but also to guidance documents. According to an AAF review of pending rulemakings, there are 206 measures that are in the proposed rule stage or fit one of the criteria above. At the time of the memo, there were 12 rules pending review, which based on their proposed versions, combined for \$4.9 billion in costs and 8.3 million paperwork burden hours. There were also 16 rulemakings that had concluded OIRA review, but have not been officially published. Combined, those measures could add \$3.8 billion in costs.

The Rules

The largest rules subject to the moratorium are a mix of those still in the proposed stage, recently finalized, and concluded but not yet published. Below are the top five rules likely subject to the regulatory freeze:

- [Vehicle-to-Vehicle Communications](#): \$108 billion in total costs;
- [Efficiency Standards for Air Conditioners](#): \$12.3 billion in total costs;
- [Efficiency Standards for Furnaces](#): \$9.2 billion in total costs;
- [Hospital and Critical Access Reform](#): \$5.7 billion in total costs;

- Efficiency Standards for Uninterruptible Power Supplies: \$4.6 billion in total costs.

This list of the five largest rulemakings is headlined by the “[Vehicle-to-Vehicle](#)” (V2V) proposed rule from the Department of Transportation. At \$5 billion in annual costs and \$71 billion in annual benefits, it stands as one of the costliest and most beneficial proposed rules, unlikely to move before the new administration has time to review the measure. In fact, the comment period on V2V doesn’t end until April 12, 2017. Although not explicitly captured by the Priebus memo, White House officials will almost surely veto any immediate attempt to move V2V to final-rule status.

The efficiency standards for air conditioners measure was published as a direct final rule just days before President Trump took office. Thus, it likely falls into the third criteria under the regulatory moratorium. The rule lists an effective date of May 8, 2017, but the Department of Energy (DOE) could withdraw the rule if it receives adverse comment, a virtual certainty. Once DOE receives comments, it could either withdraw the final rule or extend the effective date of the measure. The former is the most likely scenario.

The furnace measure is another orphaned proposed rule from 2015 that did not make it to White House review. The comment period concluded on November 22, 2015 for this rulemaking and it is assumed DOE is currently reviewing comments, but don’t expect a final rule anytime soon.

The “Hospital and Critical Access” proposed rule is also related to Affordable Care Act implementation, so there are two executive memos pertaining to its status. It was proposed last June, but the final rule never arrived at OIRA for review. Initially, regulators estimated a [2019 timeline](#) for a final rule and the new administration will surely scrutinize the regulation’s substance before then.

Finally, the uninterruptible power supply measure was an instance where the Obama Administration couldn’t act fast enough to officially publish the final rule. OIRA concluded review on December 22, 2016, but the \$2.6 billion measure was never published. It likely falls under the second criteria listed above for the moratorium. The rule’s final status will be evaluated in the next few months by agency officials.

EPA Measures

In response to the Priebus memo, the Environmental Protection Agency (EPA) [suspended 30](#) regulations and extended their effective date until at least March 21. There are some notable EPA regulations contained in this moratorium action. For example, the Renewable Fuels Standard ([\\$1.5 billion in costs](#)), risk management programs ([\\$131 million](#)), and emissions standards for wood products ([\\$105 million](#)) are all temporarily frozen. All three notable regulations were published as final rules, but it now appears implementation is delayed until at least the spring, and possibly longer.

Like EPA, other agencies will soon release lists of regulations with extended effective dates. DOE did so for its recent standards on ceiling fans and freezers.

Deregulatory Measures

There are some regulations the Trump Administration might consider allowing soon. There are at least 18 recently-finalized or still-proposed measures that reduce compliance burdens. There are five additional regulations that claim notable reductions in federal paperwork. Combined, these deregulatory rules could save

\$1.9 billion in total costs and 41.4 million hours of paperwork.

The largest measure by far is a DOE proposal on [general service lamps](#). It claims to eliminate \$1.4 billion in regulatory burdens (\$93 million annually) by lowering the purchase price of lamps and increasing their efficiency. The rulemaking also claims \$481 million in benefits.

In a bit of a last-minute surprise, the Obama Administration revised its Food Stamp Program (SNAP) for eligibility and certification. As AAF [detailed in the past](#), the previous Food Stamp paperwork burden went from 24 million hours to 118 million hours. The revised SNAP rule aims to cut 40.5 million hours of paperwork and save \$286 million annually. The rule has an effective date of March 7, 2017, so it could fall under criteria three of the moratorium, but after a review, the measure could be a good candidate to keep.

Finally, the Federal Aviation Administration (FAA) has two rulemakings relating to aviation training devices (proposed) and pilot physical examination (final) that could save \$154 million combined. The [training device proposal](#) removes requirements to have an instructor present during certain flights, reduces the frequency of instrument recency, and removes the “three-hour flight time requirement.” The rule eliminating certain physical examinations for [pilots rule](#) was published on January 11, 2017, with an effective date of May 1. It would cut \$42.4 million in annual costs or \$8.8 million annually. These rulemakings, in addition to other small deregulatory rules should be scrutinized by the incoming administration, and given its desire to [cut regulatory costs](#), their path to final rule status could be eased.

Conclusion

The regulatory moratorium from Reince Priebus was anything but an extreme measure. It is standard operating procedure for a new president to take stock of the existing regulatory landscape. What was extraordinary was that the previous administration had \$181 billion in regulatory burdens, 16 billion-dollar rules, and millions of hours of new paperwork pending in the system. It’s unlikely the regulatory freeze lasts for longer than a few months, but it’s a certainty that the administration will scrutinize all pending major rules and determine those that adequately protect public health and safety and those that could harm economic growth.