



Week in Regulation

Energy Efficiency Proposals Drive Week Back into the Billions

DAN GOLDBECK | MARCH 6, 2023

After several quiet weeks of regulatory activity, this past week marked a return to the form seen in the opening weeks of 2023. There were 15 rulemakings with some measurable economic impact. The main events of the week, however, came in a pair of proposed efficiency standards – each with effects in the billions of dollars – from the Department of Energy (DOE). Across all rulemakings, agencies published \$14.4 billion in total costs and added 584,323 annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 45
- Final Rules: 71
- 2023 Total Pages: 13,633
- 2023 Final Rule Costs: \$41.3 billion
- 2023 Proposed Rule Costs: \$31.5 billion

NOTABLE REGULATORY ACTIONS

The most significant rulemakings of the week were a duo of proposed energy efficiency standards from DOE. These actions would cover “[Residential Clothes Washers](#)” and “[Refrigerators, Refrigerator-Freezers, and Freezers](#).” The former brings \$7.58 billion in “Incremental Product Costs” while the latter brings \$6.9 billion. So far into 2023, there have been a half-dozen proposed rules from DOE regarding efficiency standards that add up to a cumulative \$23.6 billion in potential new costs.

There was another proposed rule from the Department of Transportation (DOT) that was also notable, albeit more for its potentially awkward timing than the actual scale of its impacts. The [proposal](#) entitled “Hazardous Materials: Adoption of Miscellaneous Petitions and Updating Regulatory Requirements” is, on net, a deregulatory measure that “responds to 18 petitions for rulemaking submitted by the regulated community between May 2018 and October 2020.” Out of those petitions, DOT finds reason to update [seven regulatory provisions](#) that would have some quantifiable impact, resulting in \$15 million in total net savings. Such a result is relatively minimal in the grand scheme of things and – at least from a cursory view – there does not appear to be anything in the proposal that would have affected the outcome of the recent Norfolk Southern derailment. Still, it is curious timing on DOT’s part to release such a measure while [concerns remain](#) about the extent to which the handling of hazardous materials was a primary issue in that incident.

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 3rd (Year 3)

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	543	\$359.4B	218.9M
TRUMP 2017	598	\$6.9B	42.7M
OBAMA 2009	770	\$208.9B	134.3M

UPDATED: MARCH 3RD, 2023

AMERICANACTIONFORUM

With most of the week's action coming on the proposed rule side, there was minimal change in the Biden Administration's final rule totals. Costs and paperwork increased by \$15 million and roughly 10,000 hours, respectively. In fact, it was a quiet week all around for the three administrations. The most significant shift for any of them came from the Trump Administration [rule](#) on safety standards for trains carrying petroleum oil that brought roughly \$25 million in new costs and nearly 60,000 hours of paperwork.

THIS WEEK'S REGULATORY PICTURE

This week, a brief Federal Register rulemaking notice serves as a sort of regulatory time machine.



Source: Photo by [Mohamed Osama](#) on [Unsplash](#)

It is May 20, 2005. Facebook is still just an [Ivy League thing](#), the final installment of the Star Wars prequel trilogy was just [released](#), and you likely can't get Gwen Stefani's "[Hollaback Girl](#)" out of your head. If you were one of the unfortunate souls who handled regulatory issues back then, you may have come across a quaint [proposed rule](#) jointly released by the Food Safety and Inspection Service and Food and Drug Administration ("the agencies") entitled "Food Standards; General Principles and Food Standards Modernization." Fast forward nearly 18 years and there it is again in the pages of the Federal Register.

This past week, the agencies formally [withdrew](#) that 2005 proposal. The original rulemaking was not especially significant. The cost-benefit analysis described its potential effects in primarily [qualitative terms](#) and it involved only [nominal changes](#) in paperwork. The regulatory history on it – at least in terms of its original Regulation Identifier Number (RIN) – runs dry around 2010:

Unified Agenda And Regulatory Plan Search Results

Unified Agenda and Regulatory Plan Search Criteria: Terms=0583-AC72:

Number Of Records Found: 22

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Agency	Agenda Stage of Rulemaking	Title	Publication	RIN
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2010	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2010	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2009	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2009	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2008	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2008	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2007	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2007	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2006	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2006	0583-AC72
USDA/FSIS	Final Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2005	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2005	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2004	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; General Principles and Food Standards Modernization	Spring 2004	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; General Principles and Food Standards Modernization	Fall 2003	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Food Standards Modernization	Spring 2003	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Food Standards Modernization	Fall 2002	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Food Standards Modernization	Spring 2002	0583-AC72
USDA/FSIS	Long-Term Actions	Food Standards; Guiding Principles and Standards Modernization	Fall 2001	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Standards Modernization	Spring 2001	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Standards Modernization	Fall 2000	0583-AC72
USDA/FSIS	Proposed Rule Stage	Food Standards; Guiding Principles and Standards Modernization	Spring 2000	0583-AC72

So why are the agencies just now getting around to it? Based upon input received from stakeholders [in recent years](#), the agencies are revisiting the whole rulemaking thread to “reconsider how best to approach general principles and food standards modernization to ensure any future revised general principles are consistent with” relevant statutes. This resuscitated rulemaking is now set for a re-proposal this [October](#).

This action serves as a useful case study of how varied and winding the regulatory process can be sometimes. As noted in the Unified Agenda [entry](#) of this most recent iteration, the roots of this particular rulemaking go back even further to 1995! For reference, there are nearly [600 entries](#) in the most recent Unified Agenda tagged as “Long Term Actions,” or “items under development but for which the agency does not expect to have a regulatory action within ... 12 months.” One wonders how many of those ideas – in whatever form they may be by then – will still be around and kicking come 2041.

TOTAL BURDENS

Since January 1, the federal government has published \$72.8 billion in total net costs (with \$41.3 billion in new costs from finalized rules) and 6.5 million hours of net annual paperwork burden increases (with 1.5 million hours in increases from final rules).

Year

[Select All]

2023

2022

2021

2020

2019

2018

2017

2016

2015

2014

2013

2012

2011

2010

2009

2008

2007

2006

2005

Total Number of
Regulations
Finalized

34

Total Finalized Cost

\$41.3b

Paperwork Hours

1,544,305