

Week in Regulation



Final Full Week of Trump Administration Lands on Net-Costs Side

DAN GOLDBECK, DAN BOSCH | JANUARY 19, 2021

Last week marked the last full week of the Trump Administration. With these waning days, the administration released its final report on its signature regulatory budgeting framework. In contrast to the savings claimed in that report, however, a significant Environmental Protection Agency (EPA) rule drove the week into the net-cost column of the regulatory ledger. Across all rulemakings, agencies published \$2.2 billion in total net costs but did cut 35,075 hours of annual paperwork.

REGULATORY TOPLINES

- Proposed Rules: 50
- Final Rules: 118
- 2021 Total Pages: 4,868
- 2021 Final Rule Costs: \$452.8 million
- 2021 Proposed Rule Costs: -\$120.9 million

TRACKING THE REGULATORY BUDGET

As noted above, the administration finally released its [report](#) on its accounting of the fiscal year (FY) 2020 regulatory budget under Executive Order (EO) 13,771. See the “This Week’s Regulatory Picture” section below for more details on that report. While EO 13,771 is likely winding down soon, there were still some notable actions taken under its auspices.

The most consequential rulemaking of the week was an EPA [rule](#) on “National Primary Drinking Water Regulations: Lead and Copper Rule Revisions.” The rule makes a variety of changes to bolster regulatory requirements regarding water safety standards. For instance, the “final rule requires, for the first time, community water systems to conduct lead-in-drinking-water testing and public education in schools and child care facilities.” EPA estimates that these requirements could impose between \$167 million and \$372 million in annualized costs. Taking the present value of the midpoint of that range yields \$3.9 billion in total costs.

The most significant *deregulatory* action of the week comes from the Department of Transportation (DOT). This DOT [rule](#) on “Pipeline Safety: Gas Pipeline Regulatory Reform” amends relevant regulatory code “to ease regulatory burdens on the construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety.” According to the rule’s [Regulatory Impact Analysis](#), these actions will – for EO 13,771 purposes – yield roughly \$87 million in annualized savings (or \$1.2 billion in present value).

Today marks the final day of official government work under the Trump Administration. Considering the transition in administrations, there is little reason to expect the regulatory budgeting exercise to continue past this point. In the interest of documenting the current administration’s actions, however, through last week agencies have published 76 deregulatory actions and 32 regulatory actions (as defined by EO 13,771), totaling \$34 billion in quantified total net costs in what would have been the FY 2021 budgetary window. Next week the American Action Forum (AAF) will provide its final update on the truncated-FY 2021 regulatory budget picture.

THIS WEEK’S REGULATORY PICTURE

This week, the Trump Administration releases its regulatory budget accounting for FY 2020.

On January 14, the Office of Information and Regulatory Affairs (OIRA) unveiled its final regulatory budget [accounting](#) for FY 2020, which concluded September 30, 2020. OIRA determined that covered agencies collectively achieved \$144 billion in net present value savings. OIRA also [counted](#) 145 deregulatory actions (of which 58 were significant) against 45 significant regulatory actions.

For the most part, OIRA’s final numbers are directionally similar to AAF’s September 2020 [projection](#). The table below shows OIRA’s cost/savings values and action counts against AAF’s.

Agency	OIRA Results	AAF Projection	OIRA Deregulatory	OIRA Regulatory	AAF Deregulatory	AAF Regulatory
Agriculture	-\$1,249.2	-\$271.3	12	2	15	2
Commerce	-\$46.3	-\$19.3	30	3	19	2
Defense	-\$2,322.3	-\$2,691.1	3	0	3	0
DHS	\$38,949.1	\$27,551.6	6	5	2.5	3
Education	-\$5.8	\$289.6	3	2	3	1
Energy	-\$11.3	-\$8.1	2	0	2	0
EPA	-\$96,247.9	-\$104,197.3	25	4	23.5	5
FAR	-\$3,057.4	-\$1,085.6	2	2	4	1
GSA	-\$9.8	-\$0.7	1	0	1	0
HHS	\$21,981.9	\$15,706.5	13	10	13	11
HUD	-\$633.1	-\$99.6	5	0	4	0
Interior	\$0.0	\$0.0	3	0	1	0
Justice	-\$0.1	\$0.0	1	0	5	0
Labor	-\$5,452.2	-\$3,671.9	11	3	9.5	3
NASA	\$0.0	\$0.0	1	0	1	0
OPM	\$118.2	\$84.3	0	1	0	1
SBA	\$27.4	-\$154.9	4	3	5	3
SSA	\$130.2	\$90.0	1	1	0	1
State	\$0.0	\$205.5	2	0	3	1
Transportation	-\$96,047.9	-\$104,200.3	15	1	15.5	2
Treasury	-\$1,562.6	-\$237.5	5	7	2	8
VA	\$1,413.0	\$1,007.2	0	1	1	2
Totals	-\$144,026.1	-\$171,702.9	145	45	133	46

(dollar values in millions)

The discrepancies are due to how each accounting is put together. AAF's projection comes from Federal Register notices of final rules that indicate the agency's determination of whether or not the rule is covered by EO 13,771, the order that created the regulatory budget. If such a rule includes an estimate of savings or costs, then AAF includes those values.

OIRA, on the other hand, makes a final determination after the conclusion of the fiscal year which rules count toward the budget what value each action has. Unfortunately, OIRA does not include a cost or savings value for each rule along with its list of covered actions, so it is impossible to determine how OIRA's methodology is different than the agencies' published estimates. This [lack of transparency](#) has been one of the deficiencies of the regulatory budget.

The accounting for FY 2020 will likely be the final one for some time. The Biden Administration is likely to revoke EO 13,771 soon after inauguration.

TOTAL BURDENS

Since January 1, the federal government has published \$331.9 million in total net costs (with \$452.8 million from finalized rules) and 3.2 million hours of net annual paperwork burden increases (with 3.1 million hours due to final rules).

