



Week in Regulation

FY 2020 Savings Start to Flow

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The first few weeks of fiscal year (FY) 2020 have seen fairly modest regulatory cost increases on the regulatory budgeting front. This past week, however, brought a major turn back to the cost savings side of the ledger. Two rulemakings – one proposed, one final – dominated the week with billions of dollars in estimated savings. Across all rulemakings, agencies published \$3.7 billion in total net cost savings and cut 21,584 hours of annual paperwork.

REGULATORY TOPLINES

- New Proposed Rules: 34
- New Final Rules: 55
- 2019 Total Pages: 57,499
- 2019 Final Rule Costs: \$22.8 Billion
- 2019 Proposed Rule Costs: -\$4.3 Billion

TRACKING THE REGULATORY BUDGET

The most notable rule for the purposes of the FY 2020 regulatory budget was the final version of the Trump Administration’s contentious measure to recodify the pre-Obama regulations regarding the “Waters of the United States” (WOTUS). The [rule](#) – actually [released](#) a month and a half ago – is the first step in the administration’s plan to overhaul the regulatory categorization of bodies of water. The relevant agencies (the Environmental Protection Agency and the Army Corps of Engineers) estimate that restoring such regulations to their pre-2015 editions could save affected entities roughly \$1.3 billion in net present value.

While it does not yet count towards the FY 2020 regulatory budget given its proposed rule status, there was also a rulemaking that included even greater savings than the WOTUS revision. This [proposal](#) out of the Department of Labor (DOL) would establish a “Default Electronic Disclosure by Employee Pension Benefit Plans Under ERISA.” The rulemaking would allow certain plan administrators to offer their required disclosures electronically rather than via paper mailings. DOL estimates that that eliminating the printing and mailing costs involved in this process could save affected entities roughly \$2.4 billion over the course of a decade.

For FY 2020, agencies have finalized 11 deregulatory actions and three regulatory actions, totaling \$1.1 billion in net cost savings. The Trump Administration has yet to release its regulatory budget goal for FY 2020, though it is expected soon.

THIS WEEK’S REGULATORY PICTURE

This week, the Senate examines the challenges agencies face while collecting regulatory comments online.

ABUSES OF THE FEDERAL NOTICE-AND-COMMENT RULEMAKING PROCESS

STAFF REPORT

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

UNITED STATES SENATE



On October 24, two subcommittees of the Senate Committee on Homeland Security and Government Affairs, held a joint [hearing](#) to review electronic-rulemaking systems used by federal agencies. The Subcommittee on Investigations released a staff report the same day on [Abuses of the Federal Notice-and-Comment Rulemaking Process](#).

The Subcommittee surveyed 14 federal agencies, including the Federal Communications Commission, the Environmental Protection Agency, and the Consumer Financial Protection Bureau, on their processes for receiving and posting public comments on their proposed rules. The report found that most agencies do not have a process to deal with complaints that comments have been submitted under a fraudulent identity. This finding is consistent with a June 2019 Government Accountability Office (GAO) [report](#) and was reiterated by a GAO official in [testimony](#) at the hearing.

A second finding is that most agencies do not have consistent policies on screening and posting the comments they receive from the public. As a result, agencies often post comments that contain abusive language, threats, personal information, and other issues including files containing computer viruses. Another major finding is that none of the government's online-comment-filing systems use verification methods to prevent posting of comments from bots.

To address these problems that can undermine public participation in the rulemaking process the report recommends that Congress update the E-Government Act of 2002 to specify that agencies should “not accept or post abusive, profane, or threatening comments; irrelevant comments; or comments submitted under a false identity.” It also recommends that Office of Information and Regulatory Affairs and federal agencies work together to develop standards and training for handling problematic comments, including referring allegations of identity theft to law enforcement agencies. A final recommendation is for all commenting systems to consider using verification technology to ensure humans are submitting comments.

TOTAL BURDENS

Since January 1, the federal government has published \$18.4 billion in total net costs (with \$22.8 billion in finalized costs) and 47.1 million hours of net annual paperwork burden increases (with 42.7 million coming from final rules). [Click here](#) for the latest Reg Rodeo findings.

Year

☐ [Select All]

☒ 2019

☐ 2018

☐ 2017

☐ 2016

☐ 2015

☐ 2014

☐ 2013

☐ 2012

☐ 2011

☐ 2010

☐ 2009

☐ 2008

☐ 2007

☐ 2006

☐ 2005

Total Number of
Regulations
Finalized

217

Total Finalized Cost

\$22.8b

Paperwork Hours

42,738,367