



Week in Regulation

Into a New Decade

DAN BOSCH | JANUARY 6, 2020

This week's edition covers the previous two weeks of federal rulemaking activity and brings us into 2020. A few sizeable rules were published during that time, including a Department of Health and Human Services (HHS) [rule](#) with an estimated \$2.6 billion in costs and a Federal Communications Commission [rule](#) with an estimated \$560 million cost, based on the midpoint of its range. Across all rulemakings, agencies published \$3.7 billion in total net costs and added more than three million hours of annual paperwork.

REGULATORY TOPLINES

- 2020 Proposed Rules: 13
- 2020 Final Rules: 21
- 2020 Total Pages: 418
- 2020 Final Rule Costs: \$557 million
- 2020 Proposed Rule Costs: \$22.9 million

TRACKING THE REGULATORY BUDGET

After a one-week stay in the net deregulatory side, this week the Trump Administration makes a big jump back into the net regulatory side of the ledger. The catalyst was the HHS final rule dealing with the program integrity of the exchanges created under the Affordable Care Act. In addition to its more than \$2.6 billion in costs, it also adds nearly three million hours in annual paperwork burden.

The Department of Transportation proposed two rules that will likely have future effects on the regulatory budget. A Federal Aviation Administration [rule](#) would require unmanned aircraft systems (drones) to be remotely identifiable and has an estimated total cost of \$473.5 million. A Federal Railroad Administration [rule](#) gives railroads more flexibility in how they monitor and inspect tracks and would save an estimated \$122.8 million. Each of these rules will have to be finalized for their estimates to count toward the regulatory budget.

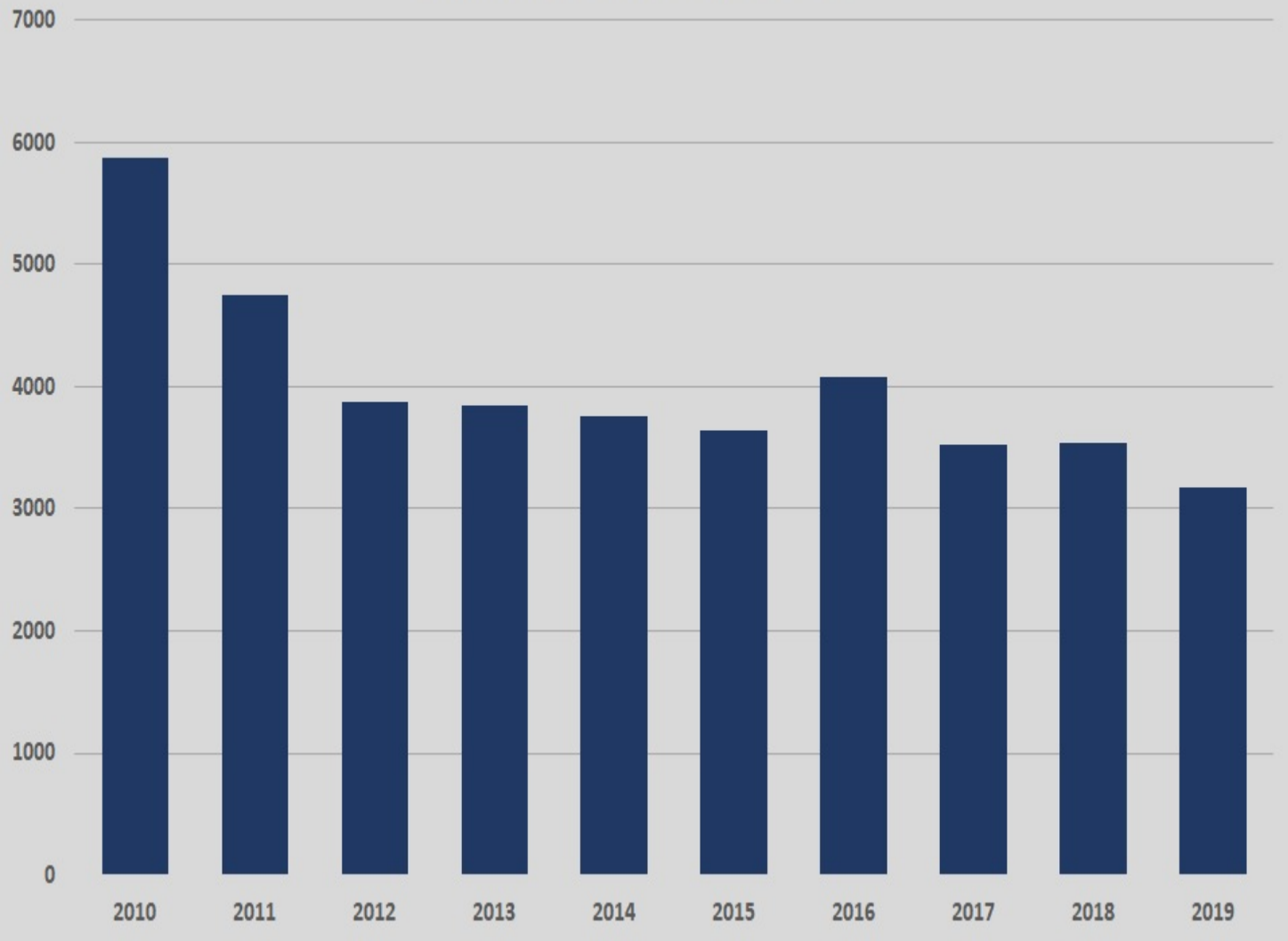
The Trump Administration expects to reach \$51.6 billion in cumulative net savings in [FY 2020](#). To date in the fiscal year, agencies have finalized 35 deregulatory actions and 13 regulatory actions, totaling \$2.6 billion in quantified total net costs.

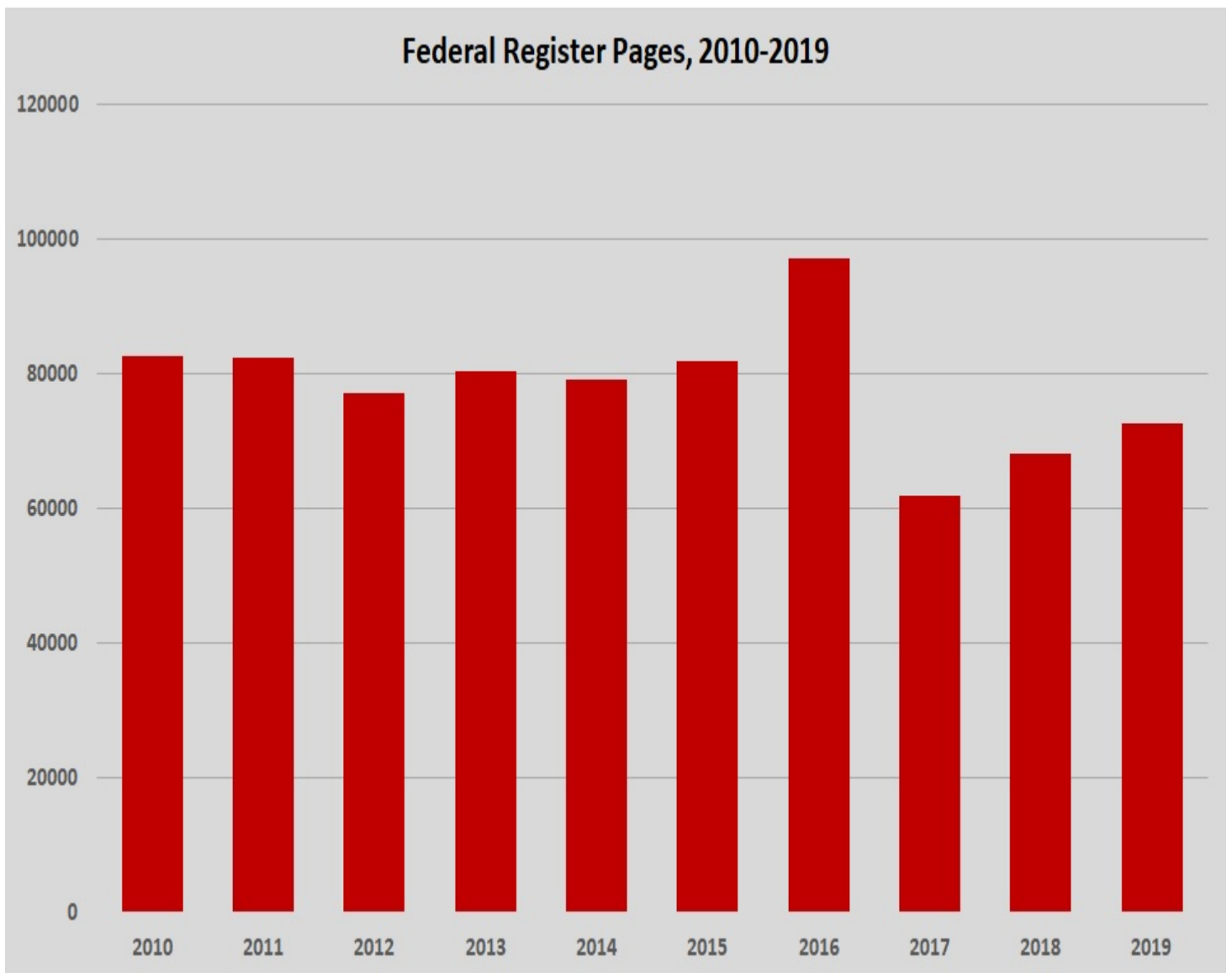
THIS WEEK'S REGULATORY PICTURE

This week, putting a bow on the 2010s in the pages of the Federal Register.

There are a lot of ways to gauge federal rulemaking activity. Two of the more common methods are by the number of final rules published and the number of total pages in the Federal Register. The two charts below show the number of final rules and pages published in the Federal Register from 2010-2019, respectively.

Final Rules Published, 2010-2019





As we can see, the two are not closely correlated. One reason is because the Federal Register includes many items that are not final rules, such as proposed rules and notices. A second reason is that not all rules are the same — some can be hundreds of pages while others a page or two.

But we can glean some insight from the data. The first is that every year of the Obama Administration (2010-2016) is higher in both rules and pages than any year of the Trump Administration, which tracks with the reputations of the regulatory priorities of each. Second, the number of pages remains generally constant during the Obama years even while the number of rules trends down. Why would this be? A likely reason is that the Obama Administration published more expensive rules, which tend to require more pages of explanation. This hypothesis is supported by the data on RegRodeo.com.

If that's the case then, why would the number of pages be going up while the number of rules drop during the Trump years? In 2017, the Trump Administration was heavily focused on pressing pause on many Obama-era rules and repealing or rescinding all or parts of those rules. While each of these actions counted as a rule, they also require less explanation and less regulatory text. 2018 offered more of the same, although the Trump

Administration began finalizing some regulatory actions along with more complicated deregulatory actions that required more explanation and factual support. In 2019, we see this trend continuing even further, with longer, more complicated deregulatory actions like the [overtime rule](#) and the first step of the [Waters of the United States rule](#). We also saw the Trump Administration finalize some sizeable regulatory actions, like the Securities and Exchange Commission's [Regulation Best Interest](#) and the replacement of the [Clean Power Plan](#).

TOTAL BURDENS

Since January 1, the federal government has published \$580 million in total net costs (with \$557 million in finalized costs) and 1,436 hours of net annual paperwork burden increases (with zero coming from final rules). [Click here](#) for the latest Reg Rodeo findings.

