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Regulatory Insight

2024 Regulatory Year in Review

Ten Important Regulatory Developments

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As in previous years, this *Regulatory Insight* highlights the ten most important regulatory developments of 2024. These developments range from overarching patterns in federal rulemaking activity to notable actions in specific policy areas, such as greenhouse gas (GHGs) and other air pollutant emissions, PFAS, energy efficiency, and immigration. As the final year of the Biden administration, 2024 was filled with actions concluding the administration's multi-year efforts to reverse previous Trump-era regulations, as well as "midnight" regulations that will be subject to congressional review under the Congressional Review Act (CRA) after Donald Trump returns to the White House.

1. Regulatory Rush, the CRA, and Midnight Regulations

As the final year of the Biden administration, 2024 displayed some notable (and unusual) patterns in federal rulemaking activity. As shown in Figure 1, two major spikes in the publication of significant final rules occurred during the year, one in April and another in December.

Federal agencies issued an exceptionally large number of significant rules in late April and early May. In April alone, 66 significant rules were published, of which 34 rules are estimated to have an annual impact of $200 million or more on the economy. This volume is unprecedented, exceeding any single month according to our data going back to the Reagan administration.

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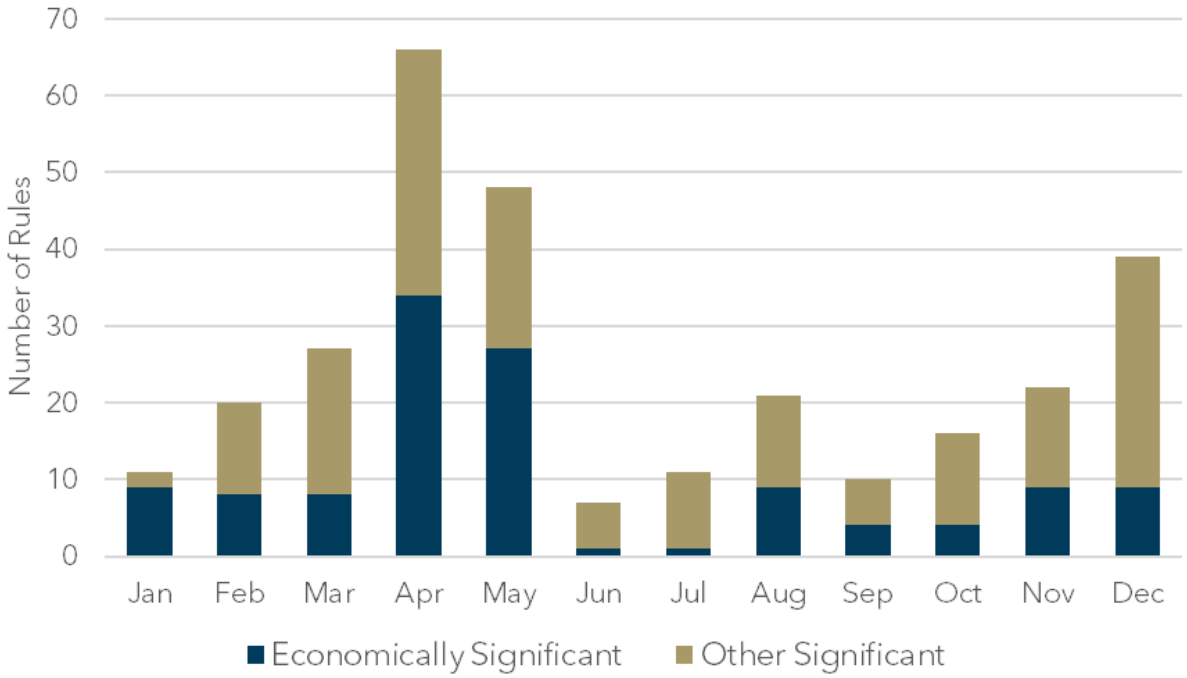
As we discussed in a previous commentary, this surge in rulemaking activity is related to the CRA. The CRA provides Congress with an expedited process for overturning federal regulations and includes a "lookback" provision that allows Congress to overturn regulations issued at the end of the most recent session of Congress. That provision makes the CRA particularly salient following presidential transitions by providing an effective tool for a new administration to work with Congress to reverse regulations issued by its predecessor. While the exact CRA lookback date is not foreseeable, an early estimate of the earliest start date for the lookback window was May 22. To minimize the risk of their rules being overturned through the CRA, agencies rushed to finalize the highest-impact rules in April.

Figure 1: Significant Final Rules Published Each Month in 2024



Although the CRA has existed for nearly 30 years, such an early spike in regulatory activity is unusual. During all previous presidential election years dating back to 1996, including the final years of the Clinton, George W. Bush, Obama, and first Trump administrations, we have not observed a comparable surge of economically significant rules this early in the year. Agencies seemed to be more cautious in 2024. This increasing concern likely stemmed from 2017, when Congress and President Trump used the CRA to repeal an unprecedented number of Obama-era regulations. With the CRA lookback date now projected to fall in mid-August, the Biden administration's early actions successfully protected many of its key regulatory priorities from potential disapproval by the incoming Congress and Trump administration under the CRA.

In contrast to the early-year surge, a more familiar pattern in regulatory activity is a significant increase in regulatory output during the "midnight period," which we define as the roughly 3 months between election day and inauguration day. An outgoing administration often rushes to complete its policy priorities in the final months before a new administration takes office. Although we have only observed part of this midnight period so far, we can see a noticeable rise in significant rules published in December 2024, as shown in Figure 1. Agencies are racing to finalize more high-impact regulations before January 20, 2025. These midnight regulations, however, will remain vulnerable to congressional disapproval through the CRA.

2. Supreme Court Administrative Law Rulings

The 2023-2024 Supreme Court term was particularly notable for the number of major cases on administrative law issues. The most significant and controversial cases are routinely decided in the summer, at the end of the Supreme Court session. Last summer, the court issued three landmark decisions: *Loper Bright Enterprises v. Raimondo, Corner Post v. Board of Governors of the Federal Reserve System,* and *Securities and Exchange Commission (SEC) v. Jarkesy*.

In *Loper Bright*, the Supreme Court overruled *Chevron v. Natural Resources Defense Council*, overturning a 40-year-old precedent that established the practice of "*Chevron* deference." *Chevron* deference required courts to defer to an agency's statutory interpretation when the original statute was ambiguous, as long as the agency's interpretation was reasonable. In the *Loper Bright* ruling, Chief Justice Roberts wrote that courts, not agencies, are particularly well-suited to interpret and resolve statutory ambiguities. In the short term, Regulatory Studies Center (RSC) Founder Susan Dudley highlights that the ruling will affect how lower courts evaluate an agency's statutory interpretation, could affect the policymaking tools agencies employ most frequently, and could encourage Congress to pass clearer laws regarding agency actions. RSC Scholar Richard Pierce, Jr., notes that two potential effects of *Loper Bright* could be a reduction in "regulatory whiplash," or extreme flip-flopping between two statutory interpretations, and a reduction in use of the Major Questions Doctrine.

The Supreme Court in *Corner Post* established that the Administrative Procedure Act's (APA's) six-year statute of limitations does not accrue until the plaintiff is injured by final agency action. The Congressional Research Service (CRS) notes that prior to *Corner Post*, courts tended to hold that—barring any specific statute of limitations—statutes of limitations for cases brought under the APA accrue once an agency action becomes final. The Supreme Court's ruling could allow for legal action against regulations that are older than six years, if a plaintiff comes forward who has been harmed by that regulation recently.

Jarkesy held that a defendant facing civil penalties for securities fraud from the SEC has the right to a jury trial under the Seventh Amendment. In the short term, CRS highlights that *Jarkesy*

"prevent[s] the SEC from seeking civil monetary penalties for securities fraud before its own in-house tribunals." The ruling also calls into question the ability for other agencies to seek civil monetary penalties through adjudications.

These cases each have implications for central aspects of administrative law and regulation. The long-term effects of all of these cases will continue to play out in the months and years to come.

3. Climate Regulations

In 2024, the Biden administration continued its effort to regulate GHG emissions. The most notable actions focused on establishing emission and reporting standards that apply to fossil fuel-fired power plants, oil and gas facilities, and vehicle emissions.

In May, the Environmental Protection Agency (EPA) finalized its action establishing GHG emission guidelines for existing fossil fuel-fired electric generating units (EGUs) and revising the new source performance standards (NSPS) for new, reconstructed, and modified units. The rule repealed the Affordable Clean Energy rule, issued by the first Trump administration in 2019, which had replaced the Obama administration's Clean Power Plan.

EPA also finalized several actions to control GHG emissions in the oil and gas sector. In March, EPA revised the NSPS for the crude oil and natural gas source category and finalized methane emission limitations from existing facilities in this source category. This rule also incorporated changes resulting from a CRA joint resolution that disapproved the 2020 Policy Rule, reinstating the NSPS requirements that the 2020 rule repealed.

In November, EPA issued a final rule to implement the waste emissions charge for the petroleum and natural gas systems source category, which will impose and collect an annual charge on methane emissions that exceed thresholds specified in the Inflation Reduction Act of 2022. In conjunction with the implementation of this program, EPA also amended the reporting requirements under the Greenhouse Gas Reporting Rule for applicable oil and gas facilities. The revised requirements allow for the reporting of empirical emission data to determine the extent of charges owed under the waste emissions charge.

Multiple agencies issued vehicle-related GHG regulations. In April, EPA established new GHG emission standards for model years (MY) 2027 and later light- and medium-duty vehicles and MY 2032 and later heavy-duty vehicles. Relatedly, in June, the National Highway Traffic Safety Administration finalized the Corporate Average Fuel Economy (CAFE) standards for MY 2027 and later passenger cars and light trucks, as well as MY 2030 and later heavy-duty pickup trucks and vans. Earlier in the year, the Department of Energy (DOE) issued a final rule revising the

value for the petroleum-equivalency factor, which is used by EPA in calculating light-duty vehicle manufacturers' compliance with CAFE standards.

Over the next few years, the incoming Trump administration is likely to pursue actions to revise or repeal Biden-era climate regulations issued in 2024 and earlier. For regulations finalized late in 2024, such as the waste emissions charge, Congress could use the CRA to expedite reversals.

4. Air Quality and Pollutant Standards

In addition to regulating GHGs, EPA issued several actions targeting other air pollutants, including updates to the national ambient air quality standards (NAAQS) and the national emission standards for hazardous air pollutants (NESHAP).

In March, EPA finalized its revisions to the NAAQS for particulate matter (PM), lowering the level of the primary annual PM2.5 standard. This decision followed the agency's reconsideration of the PM NAAQS final action issued in December 2020, which had retained the previous standards. The reconsideration, initiated in June 2021, reflects another multi-year effort by the Biden administration to overturn a Trump-era decision.

EPA also completed a review of the secondary NAAQS for oxides of nitrogen (NO_x), oxides of sulfur (SO_x), and PM and published a final decision at the end of the year. The final rule revises the secondary sulfur dioxide (SO_2) standard from a 3-hour standard to an annual average while retaining the existing secondary standards for NO_x and PM. Due to its late publication, this rule will fall within the CRA lookback window.

Throughout 2024, EPA issued multiple actions revising the NESHAP that apply to various sectors. Among the most significant was the final rule published in May 2024, amending the NESHAP for coal- and oil-fired EGUs, commonly known as the Mercury and Air Toxics Standards (MATS). This rule sets more stringent standards on non-mercury HAP metal surrogate filterable particulate matter (fPM) emissions for all existing coal- and oil-fired EGUs and on mercury emissions from lignite-fired EGUs. This action marked the conclusion of EPA's review of the 2020 final decision that reversed the 2016 MATS finding, as directed by one of President Biden's first-day executive orders, Executive Order 13990.

In addition, EPA finalized several other NESHAP amendments last year, including those for gasoline distribution facilities, lime manufacturing plants, primary copper smelters, and coke ovens. In general, EPA concluded that the current risks from HAP emissions in these source categories are unacceptable, based on its latest technology reviews pursuant to the Clean Air Act, and amended the NESHAP to impose more stringent emission limitations and requirements.

5. PFAS Regulations

Over the past year, the Biden administration continued its efforts to regulate per- and polyfluoroalkyl substances (PFAS), also known as "forever chemicals." In February, EPA submitted a proposed rule with the intent of designating nine PFAS as "hazardous constituents" under the Resource Conservation and Recovery Act (RCRA). This designation requires substances to "have been shown in scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms." This rule, if finalized, would include these nine PFAS among the hazardous constituents that must be considered during both standard RCRA facility assessments and corrective action processes undertaken in response to suspected contamination.

Two months later, EPA issued a final rule, the National Primary Drinking Water Regulation, that set evidence-based Maximum Contaminant Level Goals (MCLG) for six PFAS due to their adverse effects on human health. In addition to establishing thresholds for individual PFAS, EPA also considered both the dose-additive health effects and the co-occurrence of these substances in drinking water. MCLG were set for any mixture containing two or more of a subset of PFAS regulated in the rule. To facilitate the monitoring of these substances, EPA finalized monitoring and reporting requirements for public water systems and associated primary agencies. It also added public "right to know" provisions to its Safe Drinking Water Act regulations in order to alert the public when elevated levels of PFAS are detected.

In May, EPA finalized a rule designating two PFAS as hazardous substances in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. Superfund is a federal fund which is drawn upon to finance the cleanup of uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment in cases where the responsible party cannot be identified or is unable to pay. CERCLA also gives EPA the power to hold responsible parties liable for the costs of the cleanup and assures their cooperation during the process.

Since May 2024, EPA has also issued two final rules and one proposed rule adding certain PFAS to the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA). This list is more commonly known as the Toxics Release Inventory (TRI). These actions were undertaken in accordance with the National Defense Authorization Act for Fiscal Year 2020 (NDAA) which mandates that PFAS or classes of PFAS be added to the TRI when referenced in certain types of regulatory activities including the finalization of a toxicity value, inclusion in a significant new use rule, addition to an existing new use rule, and addition as an active chemical substance.

6. Energy Conservation Standards

Throughout 2024, DOE issued a number of regulations amending energy conservation standards. Under the Energy Policy and Conservation Act, DOE is authorized to regulate the energy efficiency of a wide range of consumer products and industrial equipment and is required to review existing standards at least every six years. In 2024, some actions were issued through the standard notice-and-comment rulemaking process as part of periodic reviews, while others were implemented using direct final rules.

Between January and May, DOE issued seven direct final rules amending energy conservation standards for refrigerators and freezers, cooking products, clothes washers and dryers, dishwashers, miscellaneous refrigeration products, and commercial package air conditioners and heat pumps. The first six rules adopted standard levels proposed in a joint letter from manufacturers, energy and environmental advocates, consumer groups, and a utility. The standards for commercial package air conditioners and heat pumps were developed through working group negotiations, initiated after a request for information in May 2020. DOE determined that both the joint agreement and working group recommendations met statutory requirements, setting the standards to take effect four months after issuance unless adverse comments were received during the comment period. Later in the year, DOE published separate notices confirming the effective dates of these direct final rules.

In addition, DOE finalized its previously proposed standards for general service lamps, distribution transformers, gas-fired instantaneous and all other consumer water heaters, circulator pumps, and walk-in coolers and freezers. Two of these rules were issued in December, making them potential targets for CRA disapproval. The new standards for fans and blowers and commercial refrigerators and freezers are still at the proposed rule stage, but DOE is planning to issue final actions on these standards before the end of the current administration according to the latest Unified Agenda.

Also notable in 2024 were a series of actions related to "short-cycle" product classes for dishwashers, residential clothes washers, and consumer clothes dryers. DOE initially established these "short-cycle" product classes in 2020, exempting them from existing energy conservation standards with plans to set new standards in future rulemaking. In 2022, however, DOE revoked these product classes, citing procedural issues and reinstating the previous standards. Following a legal challenge, the Fifth Circuit Court ruled in 2024 that DOE's revocation was improper and required further consideration. In response, DOE conducted additional analysis, including a request for information in March 2024, and ultimately confirmed the elimination of the short-cycle product classes in December 2024.

7. Other Environmental Regulations

Beyond EPA's climate, air pollutant, and PFAS regulations, and DOE's energy conservation standards, 2024 saw other notable environmental regulations. Two of those rules considered lead exposure. EPA finalized the Lead and Copper Rule Improvements in October, which update the National Primary Drinking Water Regulations for lead and copper. The rule requires water systems to replace all lead service lines within ten years of the rule's compliance date, regardless of the lead levels detected in the water system. The rule also lowers the lead action level from 0.015 mg/L to 0.010 mg/L, lowering the threshold at which water systems must implement corrosion control treatments. The rule's ambitious timeline and high cost—$20 billion to $30 billion over the course of ten years—raised eyebrows; in December, the American Water Works Association filed a petition to review the rule.

In November, EPA also issued a final rule to amend the dust-lead hazard standards and dust-lead post-abatement clearance levels. The dust-lead reportable level, or DLRL (formerly known as the dust-lead hazard standard), and the dust-lead action level, or DLAL (formerly known as the dust-lead clearance level), were historically linked at the same level. EPA noted in the rule's preamble that the Court of Appeals for the Ninth Circuit directed the agency to consider only health factors in the DLRL, but permitted the agency to consider other factors for the DLAL. As a result, EPA decoupled the two standards in this rule. EPA reduced the DLRL from the numerical standard issued in a 2019 final rule to "any reportable level of dust-lead," acknowledging that there is no safe level of lead exposure. EPA reduced the DLAL for floors, window sills, and window troughs from the levels the agency set in 2021, lowering the threshold at which corrective action is needed.

EPA issued two rules addressing pollution from electric power generation facilities in May 2024. In one rule, EPA established minimum criteria for existing and new coal combustion residual—more commonly known as coal ash—landfills and surface impoundments. The rule also established new regulatory requirements for inactive coal ash facilities, as directed by the Court of Appeals for the D.C. Circuit in 2018. EPA also issued supplemental effluent limitation guidelines for the steam electric power generating sector. The rule established effluent limitations based on best available technology, including a zero-discharge limitation for all pollutants in flue gas desulfurization wastewater, bottom ash transport water, and combustion residual leachate.

Beyond EPA's regulatory efforts, the Council on Environmental Quality (CEQ) finalized the Phase 2 revisions to the National Environmental Policy Act (NEPA) Implementing Regulations in May, concluding CEQ's efforts to replace the 2020 NEPA implementation revisions. The regulations aim to provide an effective environmental review process by promoting full public engagement—particularly with Indigenous communities—enhancing efficiency, and promoting decisionmaking that considers environmental, climate, and environmental justice effects. In November, though,

the D.C. Circuit Court of Appeals ruled that CEQ does not have any legal authority to issue regulations implementing NEPA.

8. Contractual Regulations

Agencies across the government and across industries issued rules that limit contractual terms firms may set for their consumers. A common theme among these rules is an effort to decrease information asymmetry between consumers and companies.

The Federal Trade Commission (FTC) issued some of the most high- profile rules in this category. Most notable is the final rule on unfair or deceptive fees. The final rule, which FTC announced in December, marks the culmination of a years-long effort to regulate "junk fees." Junk fees include practices such as hiding mandatory fees from advertised prices and misrepresenting the purpose of fees. The effort began with an advance notice of proposed rulemaking (ANPRM) in 2022. The commission issued a notice of proposed rulemaking (NPRM) in late 2023 that would prohibit a wide variety of fees across the entire economy. The final rule narrowed its scope to focus only on across-the-board drip pricing in short-term lodging and live event ticketing, aligning with RSC scholar Mary Sullivan's recommendation in her comment on the NPRM. The rule requires businesses to clearly disclose fees and their purpose to a customer up front.

Similarly, FTC issued a final rule in November requiring firms to inform consumers of negative option practices. The "Negative Option Rule" highlights unfair practices such as when firms fail to provide relevant information to consumers about the terms of their contract, bill consumers without consent, or make it unnecessarily difficult to cancel. The rule targets "all negative option features in all media" and requires firms to provide important information before billing consumers, requires firms to get the consumer's unambiguous consent before enrolling them in negative option features, and requires sellers to make cancellation easy, such as offering a "click-to-cancel" option.

The Federal Communications Commission (FCC) finalized its reinstatement of net neutrality in May. The rule—which reimplemented regulations initially introduced during the Obama administration and repealed during the first Trump administration—classified broadband internet as a telecommunications service. The net neutrality rule would have given the commission more latitude in regulating internet service providers. However, the U.S. Court of Appeals for the Sixth Circuit ruled on the basis of *Loper Bright* that FCC lacks authority to issue such regulations.

The Department of Transportation (DOT) issued a flurry of rules regulating airlines. In response to the executive order "Promoting Competition in the American Economy," DOT issued a rule requiring transparency in airline ancillary service fees. That rule, finalized in April, requires air carriers and ticket agents to disclose fees when fare and schedule information is provided. Another

final rule DOT issued in April regulates airline refunds. The rule requires air carriers to provide automatic refunds to consumers when they experience a significant change in a scheduled flight, and the consumer is not provided with or refuses alternative transportation, travel credits, or other forms of compensation. The regulation also requires that airlines and ticket agents inform consumers of their right to a refund so the consumer can make an informed choice.

DOT proposed additional regulations on air travel: one proposed rule would require air carriers to offer family seating for travelers with children aged 13 and under with no additional cost. The department also issued an ANPRM to solicit feedback on air passenger rights. The ANPRM considers what compensation and resources consumers should receive from airlines during significant flight disruptions, how to determine whether disruptions are within the airline's control, and how to communicate best with customers. With a change in administration in 2025, it is unclear what will become of these proposals.

Finally, the Consumer Financial Protection Bureau (CFPB) issued a final rule on personal financial data rights in November. The rule requires financial providers to make consumers' data available on request, while also implementing a set of common security standards across the market. This rule continues in the theme of rules from FTC and DOT, among others, to attempt to create standards for the ways consumers and companies engage in the marketplace.

9. Immigration

In our 2023 review, we highlighted the Biden administration's effort to enact immigration reforms in anticipation of a surge of migration at the Southwest border following the termination of the Centers for Disease Control and Prevention's Title 42 public health order. Despite this preemptive measure, the administration reported that the border crisis worsened over the course of the year, reaching a record high of 301,981 monthly enforcement encounters in December of 2023.

In an attempt to rectify this situation, the Biden administration adopted a two-pronged approach. It first negotiated stricter enforcement of Mexico's immigration system to form a buffer between northbound migrant caravans and the United States' Southwest border. Next, President Biden signed a proclamation in June that temporarily suspended the entry of aliens at the Southwest border with certain exemptions for as long as migration remained at a heightened level. This suspension was to remain in effect until the Secretary of Homeland Security determined that there had been a seven-consecutive-calendar-day average of less than 1,500 encounters, after which the suspensions would be lifted following a 14-day waiting period. The suspension was to resume if the Secretary determined that there had been a seven-consecutive-calendar-day average of 2,500 encounters or more.

Meanwhile, the Department of Homeland Security (DHS) and the Department of Justice (DOJ) jointly issued an interim final rule in June followed by a final rule in October. The interim final rule raised the evidence threshold an alien is required to meet in order to prove the likelihood of imminent danger or harm before applying for asylum. It also made referral for credible fear interviews contingent upon unprompted expressions of fear of return, instead of explicitly asking probing questions. Finally, it penalized migrants who attempted to cross the border during this crisis period by requiring a higher standard of proof during their credible fear interviews.

The final rule modified the criteria by which the period of elevated migration is determined to have concluded. Under the rule, the seven-consecutive-calendar-day average must remain below 1,500 encounters for 28-consecutive-calendar-days before the 14-calendar-day waiting period is triggered. After this, the suspension would be lifted. It would resume if there is a seven-consecutive-calendar-day average of 2,500 encounters or more. This modification is intended to ensure that heightened border measures are only discontinued in response to a sustained decrease in migration rather than a short-term lull. Additionally, the rule includes unidentified children from non-contiguous countries in the encounter calculations.

DHS also reformed the H-1B and H-2 visa programs for nonimmigrant foreign workers this past year. The H-1B final rule issued in December made several updates to the H-1B program requirements, including refining the definition of "specialty occupation," streamlining filing and evidence requirements, expanding cap exemptions, and providing flexibility for F-1 students. The H-2 final rule updated the H-2A and H-2B visa programs by revising the provisions on prohibited fees, establishing new mandatory and discretionary grounds for denying H-2 petitions, providing whistleblower protections, extending grace periods for H-2 workers, and eliminating the country eligibility requirement.

10. Labor Regulations

Tightening worker protections continued to be a major theme of the administration in 2024. Most notable was FTC's final rule issued in May banning non-compete clauses from new and existing contracts. Previously, only four states had banned non-compete clauses. Under the new rule, existing non-compete clauses are no longer enforceable, and companies are banned from including them in new contracts with all workers. The rule provides a carve out for senior leadership who may have non-competes grandfathered in, but prohibits companies from including non-compete clauses in new contracts for senior leadership. This rule intends to ensure both that wages are not artificially suppressed and to facilitate new business formation, stimulating marketplace competition.

The Occupational Safety and Hazard Administration (OSHA) revisions to the walkaround rule were also politically contentious. The April rule clarified that both employers and employees may

have a third-party representative accompany OSHA Compliance Safety and Health Officers to aid in and conduct inspections. If employees choose a third party, they must show that it is "reasonably necessary" because of "their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills." This rule aims to clarify previous ambiguities around non-employee representatives in inspections, stating that it allows for "a wide variety of third parties" to take part in such inspections rather than being limited to industrial hygienists or safety engineers as was suggested by the previous rule.

The Department of Labor (DOL) targeted the gig economy last year in a notable rulemaking. Particularly visible was the revised interpretation of the Fair Labor Standards Act (FLSA) classification provision which clarifies when a worker is an independent contractor versus an employee. DOL finalized this action in January 2024, rescinding the 2021 Independent Contractor rule published at the end of the previous Trump administration. The new rule employs a six-factor test to determine a workers' status focusing on the worker's skill, control over their work, and investments made in their job. The rule was quickly the subject of several lawsuits challenging DOL's interpretation of the FLSA as being too broad.

Looking Ahead

While we highlight these themes, this is not an exhaustive list of important regulatory themes and actions from the year. Some other important regulatory developments include the Centers for Medicare and Medicaid Services's May final rule establishing minimum staffing standards for long-term care facilities, the Substance Abuse and Mental Health Services Administration's February rule making permanent COVID-era flexibilities for treating opioid use disorder, and the CFPB's October advisory opinion on medical debt collection, to name a few.

Looking ahead to 2025, we expect regulation—and particularly deregulation—to continue to be a key part of the conversation. With the second inauguration of Donald Trump later this month and Republican majorities in both houses of Congress, the incoming administration has a potent opportunity to overturn regulations issued at the end of the Biden administration through the CRA. President Trump's advisors Elon Musk and Vivek Ramaswamy aim to cut the size and scope of the federal government through their "Department of Government Efficiency," which Susan Dudley has written about here.

2025 might also provide additional clarity on the longer-term implications of the Supreme Court cases discussed earlier in this piece. As new cases work their way through the court system, the new precedents set last year will affect how judges rule on cases. Beyond the traditional court systems, *Loper Bright* could lead agencies to establish policy through adjudication rather than the notice-and-comment process. Agencies already started "regulating by enforcement" in the cryptocurrency industry in 2024; with the change of administration, it is unclear how agencies will

approach enforcement actions related to cryptocurrency. As the year progresses, we will continue to monitor these and other regulatory trends.