



Week in Regulation

Costs Leap Forward

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For much of 2022, the net impact of all final rules resulted in economic savings. That changed this week. A Department of Transportation (DOT) corollary to the most expensive rule of the last 16 years swung the balance back to net costs. A pair of newsworthy proposed rules also came with price tags greater than \$1 billion. Across all rulemakings, agencies published \$17.5 billion in total net costs and added 168,764 annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 42
- Final Rules: 56
- 2022 Total Pages: 27,398
- 2022 Final Rule Costs: \$6.5 billion
- 2022 Proposed Rule Costs: \$74.1 billion

NOTABLE REGULATORY ACTIONS

The most significant final rule of the week was DOT's "[Corporate Average Fuel Economy Standards for Model Years 2024-2026 Passenger Cars and Light Trucks](#)." The rule is DOT's version of the Environmental Protection Agency's (EPA) "[Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards](#)," which had an estimated cost of [\\$180 billion](#), making it the most expensive rule the American Action Forum (AAF) has tracked in its [RegRodeo](#) database. DOT's version exceeds that rule's costs, but since most of its costs are redundant with the EPA rule, it counts for just an additional [\\$15.6 billion](#).

A second significant final rule offset a portion of DOT's increase. The Department of Homeland Security published a [temporary final rule](#) that extends the automatic extension period for certain work visas by 360 days due to backlogs. The rule includes estimated savings of [\\$3.1 billion](#) due to prevented labor turnover and lost productivity.

Among notable proposed rules, the Food and Drug Administration (FDA) published two separate actions dealing with tobacco products. The more expensive [proposal](#) would ban menthol flavoring in cigarettes and would cost an estimated [\\$4.1 billion](#). The [other](#) would ban certain cigar flavorings, which the FDA says makes cigars more appealing to minors. That rule would cost an estimated [\\$1.5 billion](#).

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 MAY 6th (Year 2)

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	333	\$207.5B	134.1M
TRUMP 2017	326	\$998M	8.2M
OBAMA 2009	456	\$105.1B	63.8M

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This week's DOT rule pushed the Biden Administration over the \$200 billion mark for the first time since February 7 and has the current administration at nearly double the total of the Obama Administration. For its part, the Obama Administration saw during the same week an increase of more than 2.5 million hours of paperwork spread over three separate rules. The Trump Administration reduced costs on net by nearly \$1 billion via a [rule](#) that extended the compliance date for certain food nutrition information labeling requirements.

THIS WEEK'S REGULATORY PICTURE

This week, DOT moves forward on dormant rulemaking affecting large commercial vehicles.



Source: “[Trailer Truck](#)” by Brian Staler

On May 4, the Federal Motor Carrier Safety Administration (FMCSA) [published](#) an advanced notice of supplemental proposed rulemaking pertaining to certain commercial motor vehicles (CMVs). The proposed rule, “Parts and Accessories Necessary for Safe Operations; Speed Limiting Devices,” resurrects an Obama Administration [proposed rule](#).

The Obama-era proposal, published in the final year of the administration, contained two similar components applying to CMVs with a gross vehicle weight rating of 26,000 pounds or greater. One was a Federal Motor Carrier Safety Regulation from FMCSA requiring covered CMVs to have a speed-limiting device and have them set at maximum speed. The second was a Federal Motor Vehicle Safety Standard from the National Highway Transportation Safety Administration (NHTSA) requiring speed limiting devices in CMVs to be operated at a maximum speed. The proposed rule did not specify what maximum speed the agencies would prescribe, but it offered three options: 60 miles per hour (mph), 65 mph, and 68 mph.

Following no further action during the Trump Administration, FMCSA has decided to move forward with its component of the Obama-era proposal. FMCSA is pursuing this new approach because it believes a vast majority of covered CMVs were built with electronic engine control units (ECUs), which limit speed of vehicles to prevent engine damage, that can be changed to a federally mandated maximum speed. The older proposal would have required those CMVs without ECUs to have mechanical limiters installed. FMCSA now wants feedback from industry to see if use of ECUs is widespread enough to forgo an installation requirement.

Like the Obama-era proposal, the advanced notice does not propose a certain maximum speed. Instead, it seeks feedback from industry on the speed to which operators currently have their ECUs set. A final rule is not expected soon, as FMCSA must incorporate the feedback from this advanced notice to formulate a specific proposal. This rulemaking does not preclude possible further action from NHTSA on its part of the original proposed rule.

TOTAL BURDENS

Since January 1, the federal government has published \$80.6 billion in total net costs (with \$6.5 billion in new costs from finalized rules) and 4.7 million hours of net annual paperwork burden increases (with 2.9 million hours in increases from final rules).

Year

[Select All]

2022

2021

2020

2019

2018

2017

2016

2015

2014

2013

2012

2011

2010

2009

2008

2007

2006

2005

Total Number of
Regulations
Finalized

88

Total Finalized Cost

\$6.5b

Paperwork Hours

2,901,317