At the time of the Biden Administration’s inception, there was a widespread expectation that the Biden era would have large-scale administrative action and large regulatory costs. At least so far, anyway, the picture is not quite clear. (The easiest way to keep track is to subscribe to AAF’s Week in Regulation, see here.) As of this week, the Biden Administration had finalized 136 rules (compared to 119 for Trump and 160 for Obama at comparable points in their tenure) with a burden cost of $17.1 billion (compared to $8.1 billion for Trump and $26.7 billion for Obama). The Biden Administration does have the lead in new paperwork hours, however, with 40.1 million.

One reason for the “slow” start is that much of the regulatory activity at this juncture consists of undoing Trump-era regulations. These actions show up on the books as deregulation and keep the regulatory burden numbers down – for the moment. When they are replaced with new rulemakings, the pattern will change.

A second reason that the pace has been below expectations is exemplified by the Environmental Protection Agency’s (EPA) proposed rule on greenhouse gas emissions from light-duty vehicles. As noted by Daniel Bosch in his analysis of the proposed rule, “The proposed rule projects only modest emissions reductions, setting standards that are essentially equivalent to those adopted by the Obama Administration nearly a decade ago.”

Specifically, the proposed rule, “Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards,” would reverse a signature Trump Administration deregulatory action, the “Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks” (SAFE Rule). The SAFE Rule reduced the emissions improvements manufacturers faced to annual improvements of 1.5 percent in model years 2021 to 2026. The new standards will require a 9.8 percent improvement in model year 2023, followed by 4.7 percent, 4.9 percent, and 5.0 percent in 2024 to 2026, respectively.

As Bosch points out, a visual presentation – stolen from his work – best conveys the modest impact of this rule on projected emissions (measured in millions of metric tons).
The punch line, however, is simple: “The modest reductions stemming from this proposed rule mean more substantial emissions cuts will have to come from future rulemakings – at likely record-breaking costs.”

In other words, the regulatory costs are low so far because they have either not yet begun to regulate or are just doing warmup exercises in anticipation of the real effort in the years to come. Stay tuned.