Insight

The Biden Regulatory Record

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EXECUTIVE SUMMARY

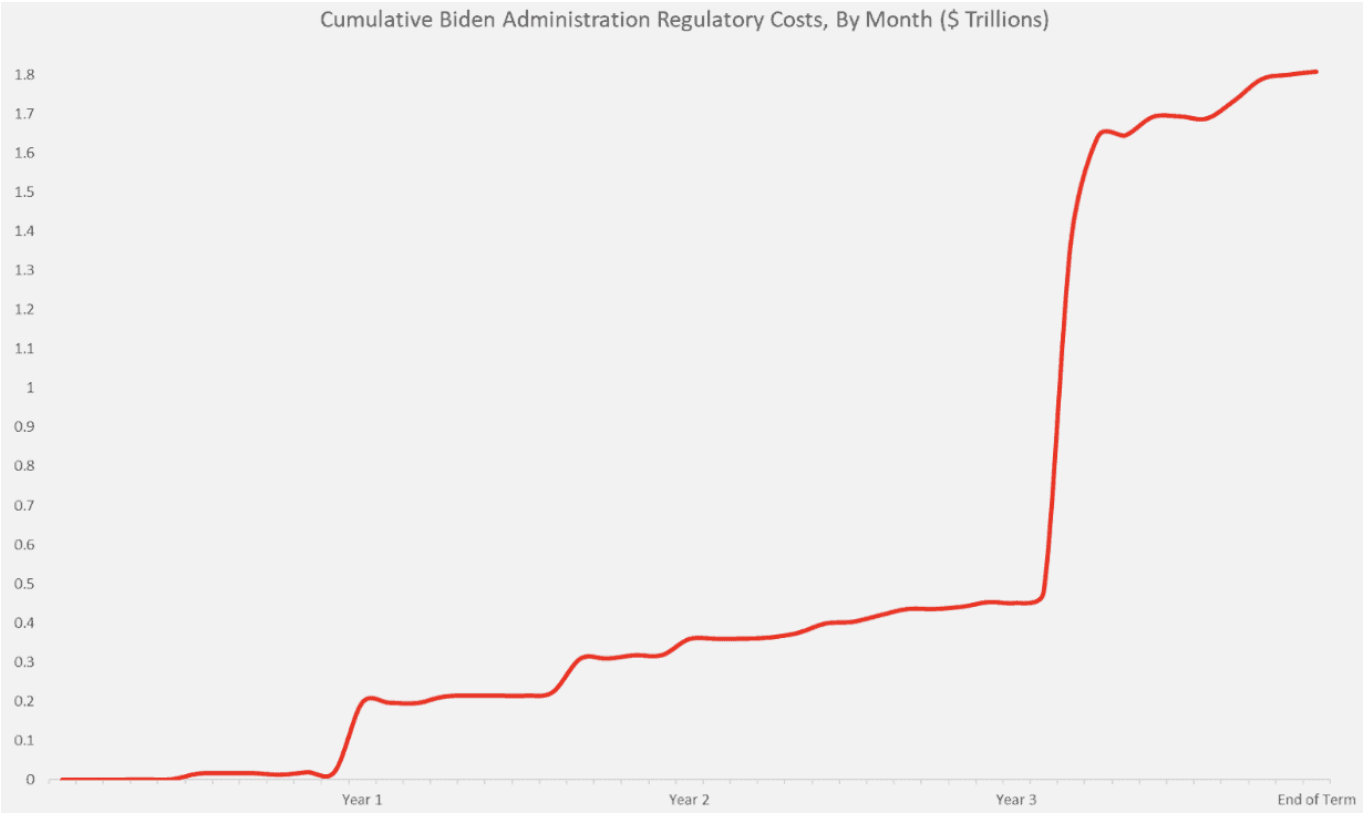
- According to the aggregated collection of self-reported estimates from federal agencies, the cumulative total of regulatory costs under the Biden Administration added up to more than $1.8 trillion – far exceeding any preceding administration on record.

- The Environmental Protection Agency was the main contributor of regulatory costs with more than $1.3 trillion, but multiple agencies had sizeable sets of rules that passed the billion-dollar threshold.

- While the paperwork burden trends did not represent as much of a historical outlier, a handful of agencies issued a series of notable reporting requirements that added up to roughly 356 million new hours of paperwork over the course of Biden's term.

INTRODUCTION

As part of its ongoing RegRodeo project, the American Action Forum (AAF) tracks agency estimates of costs and paperwork going back to 2005. AAF has also made a point of reviewing the Obama and (first) Trump Administrations' records at the end of their respective terms. With the Biden Administration now also in the rear-view mirror, it is worth examining that administration's record in its totality as well. The results on the cost side are remarkable. With a grand total of $1.8 trillion in cumulative regulatory costs, the Biden Administration leaves its predecessors in the dust. As the following table illustrates, the Biden era arrived such a point via a steady rise in activity over its first few years, punctuated by a dramatic spike in early 2024 driven by the massive rulemakings from the Environmental Protection Agency (EPA) and other agencies.



MOST ACTIVE AGENCIES

Top 10 Agencies in Overall Costs

Agency	Total Costs ($ Billions)
Environmental Protection Agency	1,319.23
Health & Human Services	151.95
Treasury	98.09
Transportation	68.56
Energy	64.54
Defense	43.31
Securities and Exchange Commission	26.65
Labor	19.30
Interior	5.12
Homeland Security	4.71

The EPA was the runaway leader in terms of regulatory costs. This was, of course, due in large part to the "Model Year 2027 and Later" tailpipe emissions rule (see below) that stood out with $870 billion in total estimated costs. Nevertheless, if one excludes that single rule from the Biden-era EPA total, that agency still outpaces the next five agencies combined in terms of total costs. The Department of Health and Human Services landed in second place, primarily due to having 15 rules that imposed costs in the billions of dollars. The Department of Energy also had a relatively high volume of billion-dollar rules with 13. Most of the other agencies listed above, however, arrived at these totals via a more limited cohort of rules.

Top 10 Costliest Rules

Rule	Agency	Total Costs ($ Billions)
Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles	Environmental Protection Agency	870.00
Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards	Environmental Protection Agency	180.00
Beneficial Ownership Information Reporting Requirements	Treasury	84.10
PFAS National Primary Drinking Water Regulation	Environmental Protection Agency	63.41
Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027 and Beyond and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030 and Beyond	Transportation	45.20
Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting	Health & Human Services	43.15
National Primary Drinking Water Regulations for Lead and Copper: Improvements	Environmental Protection Agency	42.78
Cybersecurity Maturity Model Certification Program	Defense	42.26

Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards	Environmental Protection Agency	39.00
Medicaid Program; Medicaid and Children's Health Insurance Program Managed Care Access, Finance, and Quality	Health & Human Services	27.77

Top 10 Agencies in Overall Paperwork

Agency	Total Paperwork (Hours)
Labor	115,731,606
Treasury	81,086,642
Agriculture	44,596,560
Health & Human Services	24,730,461
Environmental Protection Agency	17,178,591
Homeland Security	16,118,757
Securities and Exchange Commission	14,847,136
Defense	6,474,787
Federal Communications Commission	5,715,278
Federal Trade Commission	5,089,146

Due primarily to the two COVID-19-related rules listed below, the Department of Labor took the top spot among Biden-era agencies in terms of paperwork. These rules had a relatively limited shelf life given their subject matter, however. The next agency up, the Department of Treasury, arrived at that position mostly through a series of Financial Crimes Enforcement Network rules emanating from the Corporate Transparency Act (CTA) – including the "Beneficial Ownership" rule below – that impose sizeable reporting requirements on various businesses with the aim of identifying potential criminal activities such as money laundering. Notably, the ultimate fate of the CTA remains an open question, with ongoing developments in both the judicial and legislative arenas.

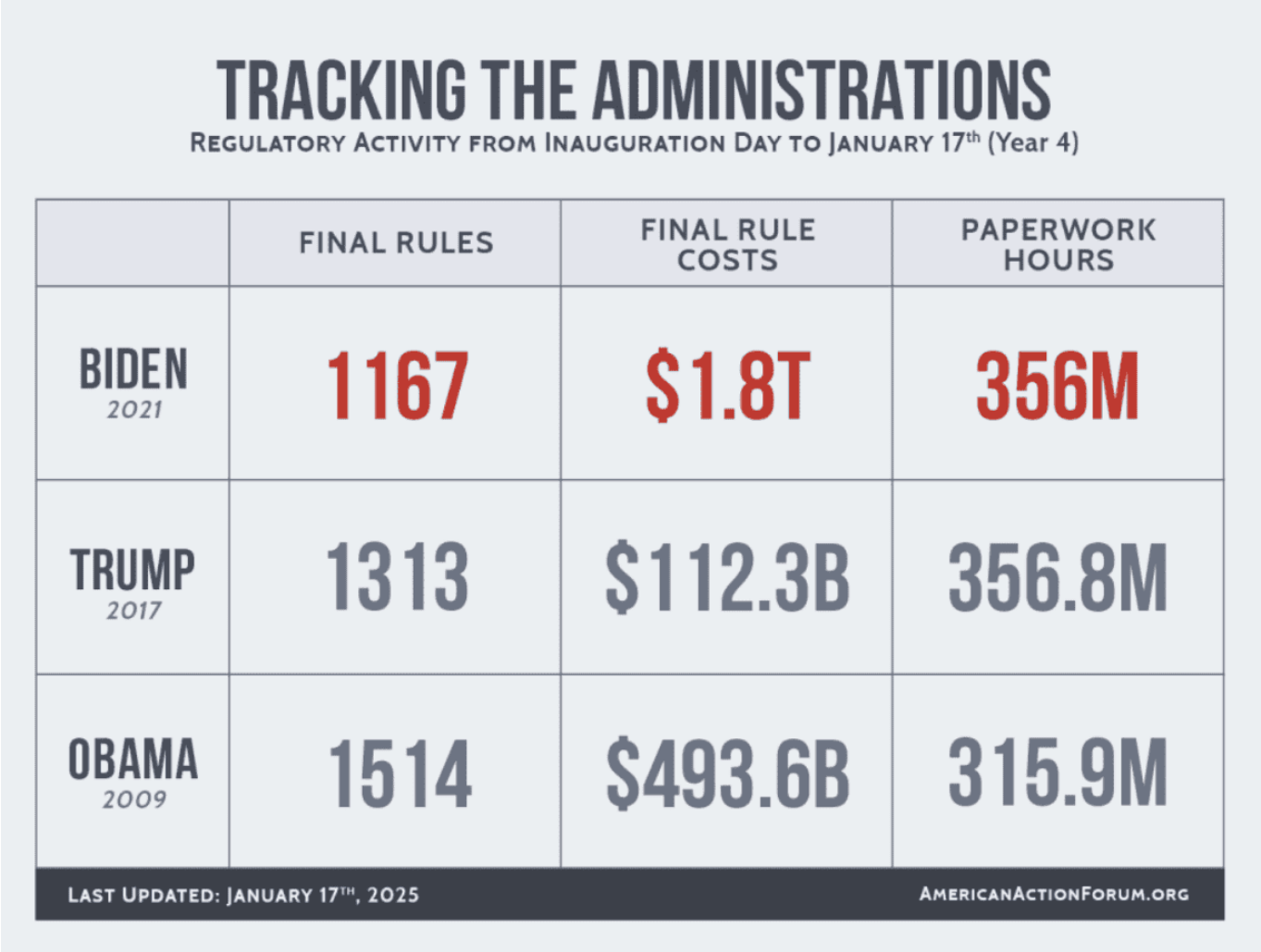
Top 10 Rules for Paperwork

Rule	Agency	Burden Hours

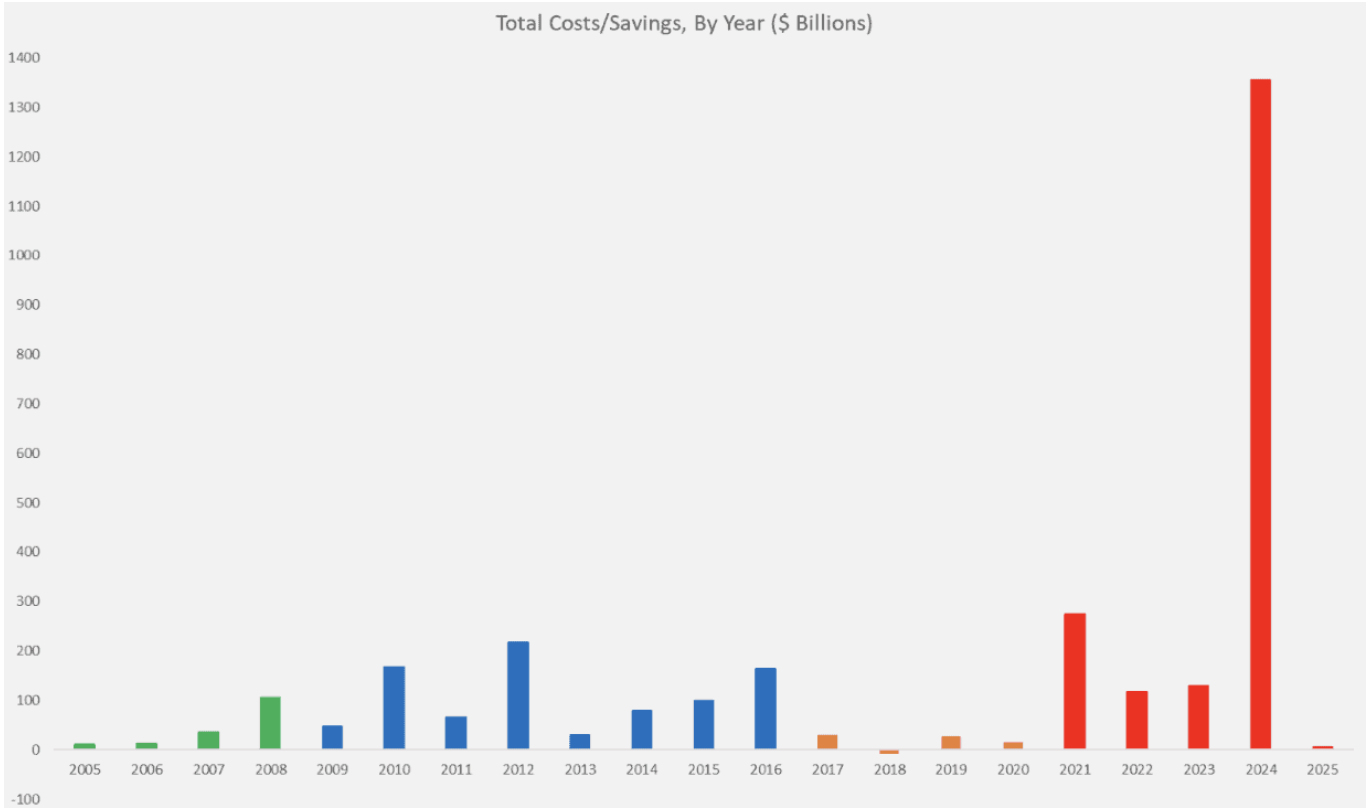
COVID-19 Vaccination and Testing; Emergency Temporary Standard	Labor	79,720,444
Beneficial Ownership Information Reporting Requirements	Treasury	53,309,290
Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs	Agriculture	35,748,276
Occupational Exposure to COVID-19; Emergency Temporary Standard	Labor	19,260,202
Requirements for Additional Traceability Records for Certain Foods	Food & Drug Administration	13,318,413
Wagner-Peyser Act Staffing	Labor	10,677,416
Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) Implementing Regulations Related to the Marking Rules, Tariff-Rate Quotas, and Other USMCA Provisions	Homeland Security	8,470,120
Gross Proceeds and Basis Reporting by Brokers and Determination of Amount Realized and Basis for Digital Asset Transactions	Treasury	7,884,633
Small Business Lending Under the Equal Credit Opportunity Act (Regulation B)	Consumer Financial Protection Bureau	7,052,552
Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Advancing Interoperability and Improving Prior Authorization Processes for Medicare Advantage Organizations…	Health & Human Services	6,896,438

HISTORICAL CONTEXT

As AAF noted in the final edition of the "Tracking the Administrations" series, as compared to the first terms for Presidents Obama and Trump, the Biden term stood out historically by a wide margin:



The following graph widens the historical lens and compares the year-by-year Biden-era cost totals to all the of years currently available in AAF's RegRodeo.com:



While the 2024 total represents a massive historical outlier, the overall Biden trend points to consistently high levels of costs across the board. Out of the 20 full calendar years currently logged in RegRodeo's data, the "Biden Years" represent the 1st (2024), 3rd (2021, when one excludes the $72 billion in costs attributable to Trump), 6th (2023), and 7th (2022) costliest years on record.

CONCLUSION

As AAF has previously noted, the Biden era's regulatory cost total of $1.8 trillion is on "a level of magnitude comparable to federal budget deficits and the gross domestic product of major countries." While the past year's rulemaking activity may have pushed this sum way over the top, it was built on a steady foundation of agency action in the early years, and although initial details are somewhat scarce, one expects the incoming Trump Administration to head in a very different direction. As such, the Biden "record" is likely secure for at least the next few years – and given its sheer scale, for some time thereafter.