Week in Regulation

A Busy Net-savings Kind of Week

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Last week saw no shortage of action in the pages of the Federal Register. There were 14 rulemakings with some quantified economic impacts. Additionally, as noted in the preceding week, 2024 still has yet to see a week where such impacts did not surpass the billion-dollar level. This week, however, did provide a bit of wrinkle in that trend, with billions in net *savings*. A Food and Drug Administration (FDA) rule harmonizing medical device standards with those of other regulatory bodies abroad was the main reason for this downward trend. Across all rulemakings, agencies published $3.3 billion in total cost savings but added 667,118 annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 41
- Final Rules: 52
- 2024 Total Pages: 7,583
- 2024 Final Rule Costs: $2.8 billion
- 2024 Proposed Rule Costs: $10 billion

NOTABLE REGULATORY ACTIONS

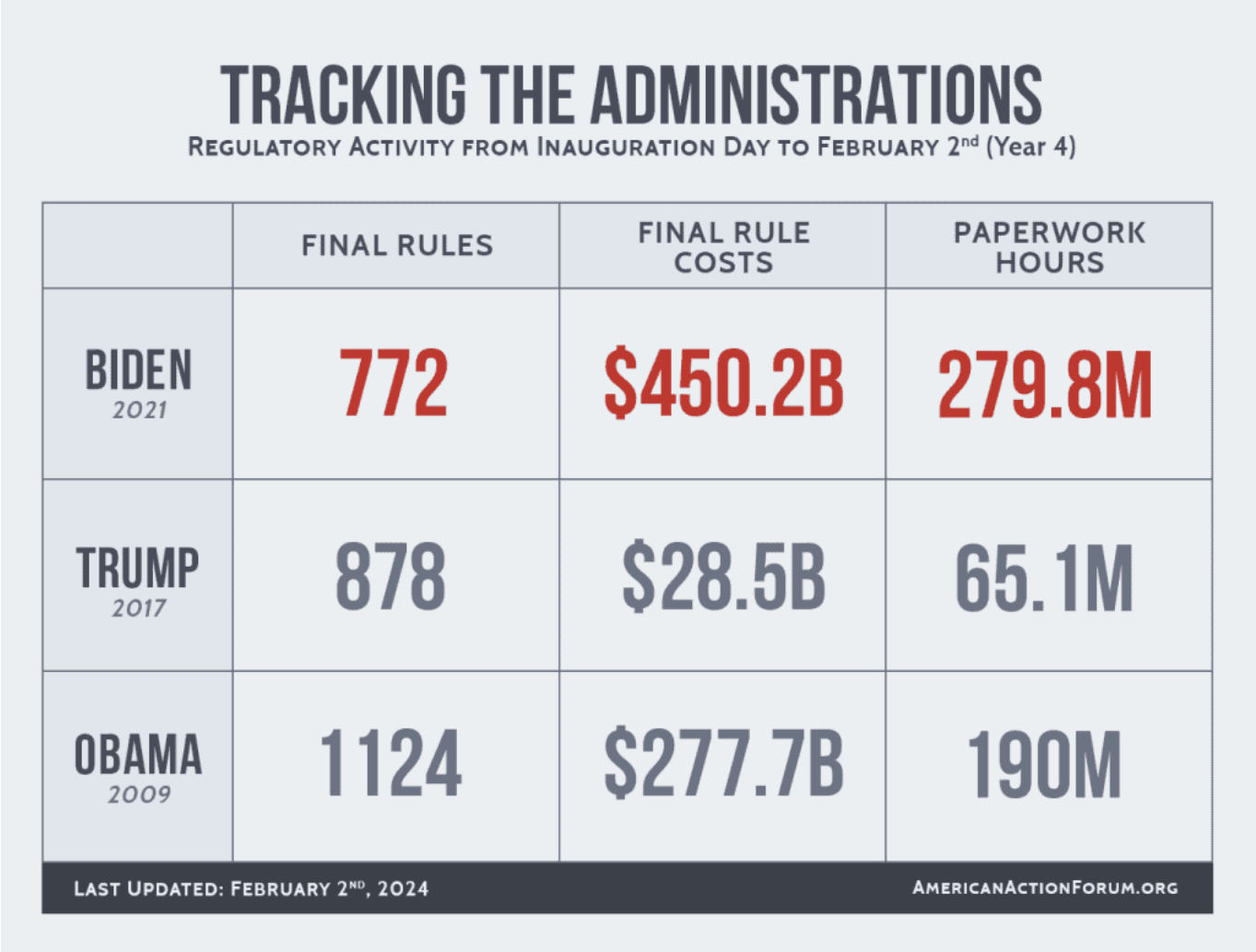
The most consequential rulemaking of the week was the FDA rule regarding “Medical Devices; Quality System Regulation Amendments.” The rule is incorporating by reference certain medical device manufacturing standards already established by the International Organization for Standardization. Prior to this rule, FDA had its own standards that were largely redundant to these international standards, but affected manufacturers demonstrate compliance with each set of standards nevertheless. The agency expects that this alignment

of standards “will reduce the burden on industry to prepare documents and/or records for inspections and audits.” FDA estimates that this will yield roughly $532 million in net annualized cost savings (or $5.3 billion over a 10-year horizon).

The most significant rulemaking from a *cost-increasing* side was the Department of Homeland Security (DHS) rule regarding “U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements.” As the title suggests, the rule makes a series of changes to fees collected during the immigration and naturalization processes. The American Action Forum (AAF) provided a brief look at the potential fiscal implications here. On the regulatory side, however, DHS expects the rule to involve $1.1 billion in additional administrative burdens over the course of a 10-year period.

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.



The two rules discussed above were the main drivers of the relative shifts in the Biden Administration's final rule cost tally. As such, that total dipped by a net of roughly $4 billion. There was not much else to report on from the other two administrations though. Perhaps the most notable shift was a nearly 260,000-hour increase in Obama-era paperwork. A Department of Education rule regarding data collection practices provided the bulk of that increase.

THIS WEEK'S REGULATORY PICTURE

This week, the Department of Transportation (DOT) looks to update the standards involved in training and licensing commercial motor vehicle (CMV) drivers.



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Last Friday, DOT published a proposed rule entitled "Amendments to the Commercial Driver's License [CDL] Requirements; Increased Flexibility for Testing and for Drivers After Passing the Skills Test." As one can likely gather from the title, the agency is seeking to make it easier for prospective CDL holders to attain such a designation. Some of the specific changes include:

> *Expanding applicants' ability to take a CDL skills test in a State other than their State of domicile; permitting a commercial learner's permit (CLP) holder who has passed the CDL skills test to operate a commercial motor vehicle (CMV) on public roads without having a qualified CDL holder in the passenger seat; eliminating the requirement that an applicant wait at least 14 days to take the CDL skills test following initial issuance of the CLP.*

The proposal would also loosen some restrictions for prospective drivers of "CMVs designed to carry passengers."

To facilitate this more flexible training framework, DOT is proposing an expansion of "third-party knowledge examiners" that could operate outside of the current state-based examination structure. As such, the agency is also updating "the training, certification, and record check standards" that these third-party examiners will need to meet. Such standards would largely align with those set by relevant state-based examiners but would provide some operational flexibility to applicants since they would now have an additional testing option that may not be as constraining geographically as going to a specific state examiner office, for instance.

DOT expects that this rulemaking will:

> *Improve the efficiency and convenience of CDL issuance, provide needed flexibility for CLP holders who have demonstrated their ability to safely operate a CMV by passing the CDL skills test, improve highway safety by ensuring the integrity of third-party CDL knowledge testing, and enhance flexibility in the transport of empty passenger CMVs from the manufacturer to the distributor or in a driveaway-towaway operation.*

Since the agency does not currently know many states and/or drivers will avail themselves of these adjustments, however, it is currently unable to quantify what such savings may be. The only quantitative analysis included in the proposal is roughly $9 million in annualized

costs for covered third-party examiners updating their practices to meet DOT's baseline quality standards.

Interested parties have until April 2, 2024, to submit comments on the proposal.

TOTAL BURDENS

Since January 1, the federal government has published $12.9 billion in total net costs (with $2.8 billion in new costs from finalized rules) and 5.4 million hours of net annual paperwork burden increases (with 2.6 million hours coming from final rules).

