## Week in Regulation

# CAFE and Chevron

**DAN GOLDBECK | JULY 1, 2024**

Following a one-week lull of sorts, the overall June trend reemerged: a handful of rulemakings that contained outsized impacts due to just one rule. There were seven rulemakings with some kind of quantified economic impact, but only one crossed into billion-dollar territory. That one was a doozie, however, with the Department of Transportation (DOT) finally releasing its latest round of Corporate Average Fuel Economy (CAFE) standards for passenger vehicles. Additionally, last Friday saw the Supreme Court bring a significant ruling for the administrative state as it overruled the doctrine of *Chevron* deference. Across all rulemakings, agencies published $45.3 billion in total costs and added 27,950 annual paperwork burden hours.

## REGULATORY TOPLINES

- Proposed Rules: 28
- Final Rules: 67
- 2024 Total Pages: 54,262
- 2024 Final Rule Costs: $1.24 trillion
- 2024 Proposed Rule Costs: $40.6 billion

## NOTABLE REGULATORY ACTIONS

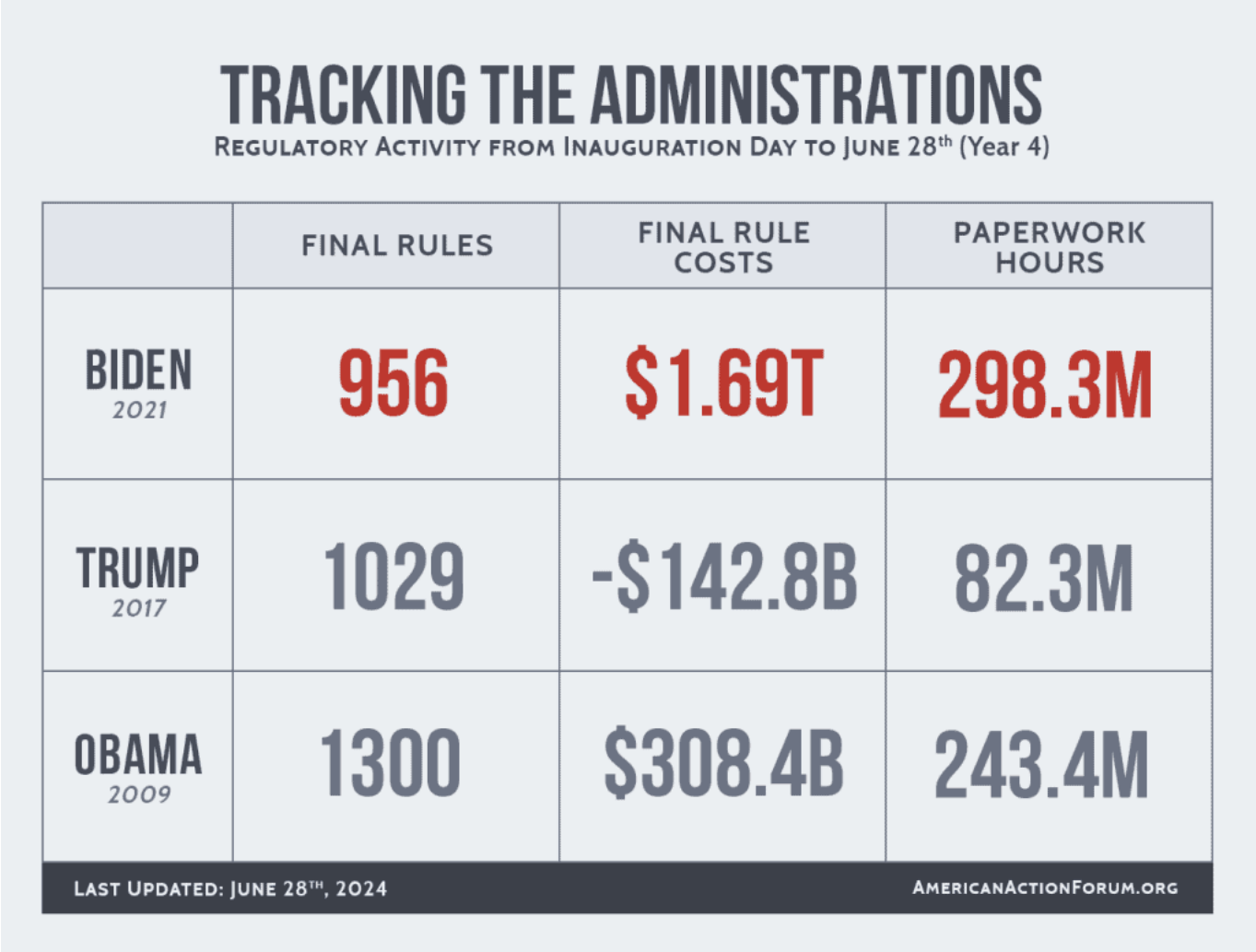
The most consequential rulemaking of the week was the rule from DOT regarding "Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks for Model Years 2027 and Beyond and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030 and Beyond." As the title suggests, the rule represents the latest round of fuel efficiency standards put forward by DOT under the Energy

Independence and Security Act of 2007. As long-time readers of the Week in Regulation will likely recognize, these rules mark some of the most sizeable actions of any recent administration and involve a somewhat-convoluted connection with the Environmental Protection Agency's (EPA) rule regarding greenhouse gas (GHG) emissions from vehicles – with the rules sometimes being joint ventures by the agencies or (as of most recently) their own separate rulemakings due to how they involve distinct statutory objectives. The final version of this rulemaking's Regulatory Impact Analysis, similar to its proposed version, includes only cost and benefit estimates "attributable to" the requirements of the CAFE standards at hand. As such, DOT estimates $45.2 billion in total costs, which amounts to a mere fraction of the contemporaneous EPA GHG emissions standards rule.

In the non-rulemaking category last week, the most consequential development will likely be the Supreme Court's decision in *Loper Bright vs. Raimondo* that overruled the doctrine established under *Chevron v. NRDC* that had courts defer to agency determinations when the underlying statutory authority of a given agency action was ambiguous. Despite some dramatic rhetoric immediately following the decision's release, it is not clear exactly how the recession of the *Chevron* doctrine will affect agency rulemaking in the near-term. Nevertheless, it does represent a significant change in the relative balance of power among the three branches of government and could have some substantial impacts on the regulatory state going forward. Click here for more preliminary thoughts from the American Action Forum (AAF) on the ruling's potential implications.

## 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 latest round of CAFE standards discussed above was the primary reason why the Biden regulatory cost total spiked by more than $45 billion. With roughly $1.69 trillion in total cost to-date, the "country" of Biden Regulatory Costs grows ever closer to the gross domestic product of South Korea. For the other two administrations, the most action came during the end of June 2020 from the Trump Administration. Thanks to a pair of rulemakings regarding asylum applicants, Trump-era costs and paperwork increased by $27.6 billion and 2.3 million hours, respectively.

## TOTAL BURDENS

Since January 1, the federal government has published $1.28 trillion in total net costs (with $1.24 trillion in new costs from finalized rules) and 53.3 million hours of net annual paperwork burden increases (with 21.1 million hours coming from final rules).


Year
[Select All]
2024
2023
2022
2021
2020
2019
2018
2017
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2015
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2012
2011
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2009
2008
2007
2006
2005
Total Number of Regulations Finalized
213
Total Finalized Cost
$1.2t
Paperwork Hours
21,099,560