



Week in Regulation

EPA Vehicle Emissions Rule Caps Off 2021 in Epic Fashion

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Over the past year, loyal readers of the Week in Regulation likely noticed many a week in 2021 marked by relatively dull or stagnant rulemaking hauls. The final week of the year bucked that trend – with gusto. For one, there were 19 regulatory actions with some measurable economic impact. The volume of rules, however, was merely a side story. The real headline item was the costliest final rule ever recorded for the American Action Forum’s (AAF) RegRodeo getting published on the *final day* of 2021 Federal Register entries. Across all rulemakings, agencies published \$179.8 billion in total net costs and added 2.3 million annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 42
- Final Rules: 52
- 2021 Total Pages: 74,414
- 2021 Final Rule Costs: \$201.5 billion
- 2021 Proposed Rule Costs: \$205.2 billion

NOTABLE REGULATORY ACTIONS

The most significant final rule of the week – and of our records going back to 2005 – was the Environmental Protection Agency’s (EPA) [rule](#) on “Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas [GHG] Emissions Standards.” The rule stands as the Biden Administration’s core entry into the ongoing regulatory saga of tailpipe emissions from light-duty passenger vehicles. AAF’s detailed analysis of the rule’s implications can be found [here](#).

In terms of overall economic impact, however, the rule’s \$180 billion in estimated total costs makes it the most expensive final rule on RegRodeo. This is, in its own way, not terribly shocking considering the company it keeps. The runner-up to it is the Obama-era [rule](#) on the matter. Meanwhile, the most significant *deregulatory* rule on record was the Trump-era [entry](#) to the canon: the “SAFE Vehicle Rule.”

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 new 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 DECEMBER 30th

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	245	\$201B	131.2M
TRUMP 2017	239	\$5.8B	8.7M
OBAMA 2009	312	\$40.1B	25.8M

UPDATED: DECEMBER 24TH, 2021

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Thanks primarily to the updated vehicle emissions rule discussed above, the Biden Administration closes out 2021 as the leader in the clubhouse – by a massive margin – for both regulatory costs and paperwork burdens as compared to the Trump and Obama Administrations through the end of 2017 and 2009, respectively. The Biden paperwork lead also grew modestly due largely to a 2.4 million increase in estimated hours for certain labor [reporting requirements](#)

. In terms of the action across the preceding administrations, there was not much to close out the years in question. The Obama Administration saw mild increases in both costs and paperwork with a [rule](#) on “Enhancing Airline Passenger Protections” providing the bulk of the action by increasing costs by roughly \$100 million and annual paperwork by just over 100,000 hours.

THIS WEEK’S REGULATORY PICTURE

This week, the National Highway Traffic Safety Administration (NHTSA) scraps a key Trump Administration environmental rule.

FEDERAL REGISTER
The Daily Journal of the United States Government



Corporate Average Fuel Economy (CAFE) Preemption

by the National Highway Traffic Safety Administration on 12/29/2021

On December 29, NHTSA published a final [rule](#) in the Federal Register that rescinded the less-economically significant of two Trump-era rules covering motor vehicle fuel economy. That [rule](#), finalized in September 2019, withdrew a long-standing waiver granted to California that allowed the state to set more stringent standards than the federal government. It also allowed other states to follow California’s lead. The Trump Administration justified its rule as necessary to set a uniform national limit. The rule also allowed it to reduce future fuel economy increases finalized during the Obama Administration.

The Biden Administration rescission continues the trend of reversing Trump Administration rules. In finalizing the new rule, NHTSA expressed skepticism that the Trump Administration rule was legal under the Clean Air Act and held that it did not properly account for “the substantial federalism interests of states and local jurisdictions who had long relied on programs to address environmental hazards in their local communities or comply with other federal air pollution requirements.”

The new rule comes the same week that EPA published its part of the more-economically significant motor vehicle emissions rule. NHTSA is expected to soon follow by finalizing its corollary rule achieving the same effect. While EPA’s rule sets limits on greenhouse gas emissions from motor vehicles, NHTSA will

correspondingly set fuel efficiency requirements to reach those emissions limits.

TOTAL BURDENS

Since January 1, the federal government has published \$406.7 billion in total net costs (with \$201.5 billion in new costs from finalized rules) and 159.8 million hours of net annual paperwork burden increases (with 133.8 million hours in increases from final rules).

