



## Week in Regulation

# Modest Week Caps Off First Six Months of Biden Administration

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Last week saw the Biden Administration pass the six-month mark. The regulatory haul to mark this occasion was relatively limited, at least in terms of quantified costs. Perhaps fittingly, however, the most consequential rulemaking of the week was a proposed rule seeking to implement President Biden’s executive order on increasing the minimum wage for federal contractors. Across all rulemakings, agencies published roughly \$70.4 million in total net costs but cut 22,592 paperwork burden hours.

## REGULATORY TOPLINES

- Proposed Rules: 45
- Final Rules: 72
- 2021 Total Pages: 39,871
- 2021 Final Rule Costs: \$16.6 billion
- 2021 Proposed Rule Costs: -\$13.3 billion

## NOTABLE REGULATORY ACTIONS

The most significant rulemaking of the week was a [proposed rule](#) from the Department of Labor (DOL) on “Increasing the Minimum Wage for Federal Contractors.” The proposal implements [Executive Order 14,026](#) that increases “the hourly minimum wage paid to workers performing on or in connection with covered Federal contracts to \$15.00 beginning January 30, 2022.” DOL expects this rulemaking to cover roughly 327,000 employees and represent a \$1.5 billion wage transfer from covered employers to employees. In terms of direct costs, DOL estimates that this rule would impose roughly \$17.1 million in regulatory familiarization and implementation costs. The proposal’s analysis also contains some discussion of how this shift could affect the covered labor market, but these discussions are generally limited and qualitative in nature. Interested parties have until August 23 to submit comment.

## 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 JULY 23<sup>rd</sup>

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
<b>BIDEN</b> 2021	<b>114</b>	<b>\$16.1B</b>	<b>41.0M</b>
<b>TRUMP</b> 2017	<b>98</b>	<b>\$7.9B</b>	<b>1.2M</b>
<b>OBAMA</b> 2009	<b>137</b>	<b>\$26.7B</b>	<b>10.9M</b>

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Since the most notable regulatory action was a proposed rule, the Biden Administration's final rule ledger experienced minimal change. Across the three administrations covered, the Trump Administration's total saw the largest shift with a roughly \$442 million spike in costs. The primary cause of this increase was a Consumer

Financial Protection Bureau [rule](#) on “Arbitration Agreements” that imposed nearly \$380 million in costs. These costs proved ephemeral, however, as the rule fell victim to a Congressional Review Act [rescission](#) in the fall of 2017.

## THIS WEEK’S REGULATORY PICTURE

This week, the Federal Aviation Administration (FAA) proposes a rule requiring airlines to refund passengers in certain situations.



On July 21, the FAA published a [proposed rule](#) in the Federal Register to implement two provisions of recent federal laws requiring refunds from airlines.

One provision requires airlines to issue refunds to passengers when their luggage is delayed beyond a reasonable amount of time. For domestic flights, the proposed rule would require a refund on baggage fees if a bag is delayed more than 12 hours after arrival *and* if the passenger notifies the airline. FAA proposes to set 15 hours as the limit for international flights, though it may consider extending that to anywhere from 18-30 hours depending on the feedback provided in the public comment period. This provision is required under [legislation](#) passed in 2016.

The second provision requires refunds for ancillary services paid for by the passenger ---- such as carry-on baggage, meals, and seat upgrades — that are not delivered by the airline. Refunds would only be available if the airline fails to provide a service, not if the passenger is unable to use the service. As an example, FAA describes a situation where a passenger is unable to connect to purchased wi-fi service due to a problem with their device. Since the airline still made the service available, no refund needs to be made. This provision stems

from a 2018 FAA [reauthorization](#).

As proposed, refunds would need to be made “promptly,” which is defined as within seven days for credit card transactions and within 20 days for transactions made by cash, checks, vouchers, or frequent-flyer miles.

FAA estimates that up to \$11.4 million worth of refunds could be made each year. In addition, airlines may spend up to \$4.4 million hiring additional personnel and equipment to handle the additional refunds.

## **TOTAL BURDENS**

Since January 1, the federal government has published \$3.2 billion in total net costs (with \$16.6 billion in new costs from finalized rules) and 31.9 million hours of net annual paperwork burden increases (with 43.5 million hours in increases from final rules).

Year

[Select All]

2021

2020

2019

2018

2017

2016

2015

2014

2013

2012

2011

2010

2009

2008

2007

2006

2005

Total Number of  
Regulations  
Finalized

**152**

Total Finalized Cost

**\$16.6b**

Paperwork Hours

**43,540,580**