



Week in Regulation

Vaccine Mandates Inject Massive Costs

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For the most part, last week was looking to be a rather boring one on the regulatory front. Coming in at the tail-end of the week, however, a pair of rules from the Departments of Labor (DOL) and Health and Human Services (HHS) changed all that. The long-anticipated measures represent the most dramatic federal regulatory actions yet in terms of driving increased COVID-19 vaccination rates and, unsurprisingly, have potential economic impacts in the billions of dollars. Across all rulemakings, agencies published \$4.7 billion in total net costs and added 81.3 million annual paperwork burden hours.

REGULATORY TOPLINES

- Proposed Rules: 33
- Final Rules: 63
- 2021 Total Pages: 61,566
- 2021 Final Rule Costs: \$19.7 billion
- 2021 Proposed Rule Costs: \$185.8 billion

NOTABLE REGULATORY ACTIONS

The duo of rules from DOL and HHS were far and away the most significant actions of the week. The [DOL rule](#) requires most employers with more than 100 employees to either have their employees vaccinated by January 4, 2022, or set up a weekly testing regime for those that continue to go unvaccinated. The [HHS rule](#) establishes a full vaccine mandate (no testing option) for any company or organization that participates in Medicare or Medicaid, effectively covering a vast amount of health care facilities. The former would impose roughly \$3 billion in costs and 79.7 million new hours of paperwork, and the latter comes with a price tag of \$1.4 billion in costs and 1.6 million hours of paperwork. The American Action Forum (AAF) broke down the specific details of those regulatory burdens [here](#).

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 NOVEMBER 5th

	FINAL RULES	FINAL RULE COSTS	PAPERWORK HOURS
BIDEN 2021	184	\$19.2B	124.9M
TRUMP 2017	177	\$8B	1.8M
OBAMA 2009	242	\$30.4B	20.1M

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Thanks to the vaccine rules, the Biden Administration both continues to steadily chase the Obama cost total while opening up a *massive* lead in terms of new paperwork. In contrast, the start of November 2017 saw limited shifts in the Trump Administration's regulatory ledger. There was, however, some movement at this

point in the Obama Administration. Most of those increases came from a rule requiring “Mandatory Reporting of Greenhouse Gases” that yielded \$192 million in costs and 1.2 million hours of annual paperwork.

THIS WEEK’S REGULATORY PICTURE

This week, the Federal Aviation Administration (FAA) proposes longer rest breaks for flight attendants.



FEDERAL REGISTER
The Daily Journal of the United States Government



PR Proposed Rule

Flight Attendant Duty Period Limitations and Rest Requirements

A Proposed Rule by the Federal Aviation Administration on 11/02/2021



In the November 2 edition of the Federal Register the FAA published a [notice of proposed rulemaking](#) to extend the length of the minimum rest that air carriers must provide flight attendants following an on-duty period. The proposed rule would extend the minimum rest period following a 14- or fewer-hour shift from nine hours to 10. The proposal would also remove a provision in the regulatory code that allowed that nine-hour period to be shortened to eight hours if followed by an off-duty period of at least 10 hours starting within 24 hours of the shortened rest break.

The proposed rule stems from the 2018 [FAA Reauthorization Act](#), which included language mandating the change the FAA has proposed. The bill required FAA to act within 30 days of the bill’s passage, meaning the agency is more than three years late in acting. Following a public comment period on an [advanced proposal](#) in 2019, several groups representing flight attendants filed comments concerned about the length of time of the rulemaking, though that does not appear to have pushed the FAA to accelerate its pace.

Because the language included in the legislation was so specific for how the FAA should modify the rule, some air carriers have already changed their internal policies to account for the forthcoming change. That does not mean the rule is costless, however. Air carriers anticipate additional hiring, onboarding, and scheduling costs. According to the FAA’s estimate, the change will cost a total of \$277 million over five years. Had some air carriers not voluntarily changed their policies, the agency estimates it would have cost \$484 million over the same period.

TOTAL BURDENS

Since January 1, the federal government has published \$205.5 billion in total net costs (with \$19.7 billion in new costs from finalized rules) and 133.9 million hours of net annual paperwork burden increases (with 127.6 million hours in increases from final rules).

