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Biden-Harris Regulations Cost the Average Family Almost \$50,000

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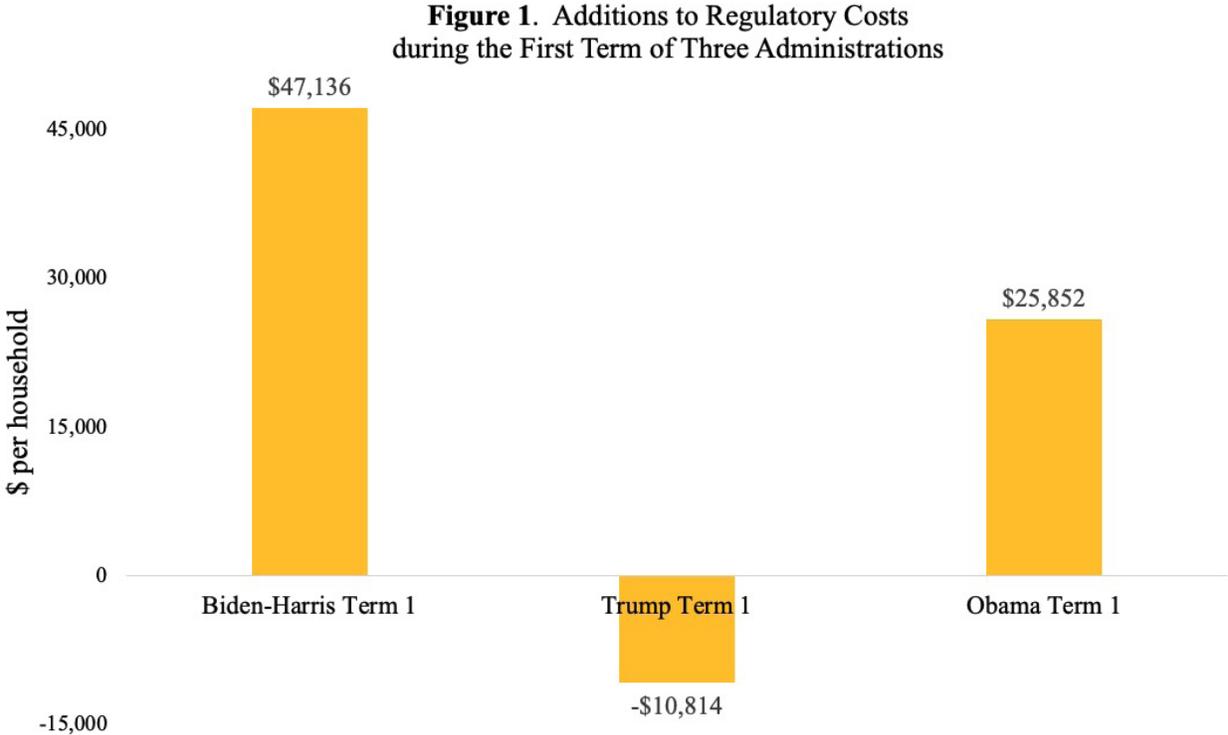
Introduction

Government regulation may be the single greatest policy barrier to prosperity. The federal executive branch alone issues thousands of new regulations each year that add to the 200,000 pages of federal rules already in place.

With so many components, regulation can be difficult to distill into important trends or even to comprehend its cumulative costs. This report compares the regulatory records of Presidents Biden, Trump, and Obama based on a dataset of more than 5,000 federal agency rules.

The main findings are:

- The Biden-Harris administration is on pace to add \$47,000 in net present value regulatory costs per household from rules finalized during its first term.
 - This is almost twice the costs imposed during President Obama’s first term.
 - \$47,000 in net present value corresponds to an annual cost of \$6,300 for ten years or an annual cost of \$3,300 forever.
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Sources: American Action Forum (regrodeo.com), Council of Economic Advisers, and author's calculations.
Notes: Each regulation, and therefore each administration, imposes a time profile of costs. Per agency practice, time profiles are summarized as net present values. The chart includes CRA disapprovals but not other statutes, guidance documents, antitrust cases, or Operation Warp Speed. It is assumed that regulatory costs will be created in the final seven months of Biden term 1 at the same average pace as the first 41 months.

- Even without counting Operation Warp speed, President Trump’s first term reduced regulatory costs by \$11,000 per household.
- The costs of new federal rules are more regressive than any of the major monetary taxes used by federal, state, and local governments. As a share of household income, the costs for the lowest income-quintile are seven times what they are for the top quintile.
- By reducing wages and increasing consumer prices, the rules finalized during the first term of the Biden-Harris administration are expected to reduce the purchasing power of the lowest-quintile households by five percent.
- The single greatest new regulatory cost comes from the “rule designed to ensure that the majority of new passenger cars and light trucks sold in the United States are all-electric or hybrids by 2032” (Davenport 2024). The various Biden-Harris and Obama-Biden emissions rules are expected to increase the price of a new car, SUV or pickup by more than \$6,000.
- While the automobile fuel economy and emissions standards are costly, they still account for only a third of the total regulatory costs, and even less for the Biden-Harris administration. Collectively, health, labor, telecommunications, and consumer finance regulations impose costs that exceed those of automobile regulations.

This report relies on several databases related to agency rules, which are introduced in the first section. Section II compares aggregate findings across administrations. Agency cost assessments typically do not adhere to federal standards for cost-benefit analysis, resulting in a massive, systematic and proven propensity to understate costs as shown in Section III. The fourth section shows the breakdown of regulatory costs across the household income distribution. While the bulk of this report does not assess regulatory benefits, its Section V outlines some of the measurement issues and provides references to relevant studies. A final section concludes. Appendices provide additional technical information as well as a list of acronyms used in the report.

I. Databases used in this study

This study merges seven sources into a single dataset listing almost 5,400 federal rules and regulations promulgated between January 1, 2009 and June 30, 2024 (hereafter, 2009-2024H1). The resulting dataset contributes to each of this report's results about aggregate costs by administration and type of regulation, as well as the distribution of regulatory costs across the income distribution.

One of the seven sources is a database of 5,338 final rules promulgated in the Federal Register as compiled weekly by the American Action Forum (AAF).¹ It indicates rule title, issuing agency, and the cost of the regulation as reported in the Federal Register by the issuing agency. Because two administrations issued final rules in each of 2009, 2017, and 2021, this study merges the AAF data with the results of Federal Register searches to assign each rule to a presidential administration.²

A handful of important rules that were absent from the AAF database have been included. Four of them were promulgated in 2016: a privacy rule from the Federal Communication Commission (81 FR 87274); the rule jointly promulgated by the Department of Treasury, Department of Labor, and Department of Health and Human Services that prohibited the sale of health insurance plans with duration between three months and 364 days (81 FR 75316); a Department of Labor “administrator interpretation” (U.S. Department of Labor, Wages and Hour Division 2016) regarding the definition of “joint employer;” and a Department of Labor rule creating an exception in federal law so that states could mandate employers to provide retirement-savings plans.³

According to the Government Accountability Office (U.S. Government Accountability Office 2023), the Department of Education misclassified its 2022 student loan action (87 FR 61512) as “Waivers and modifications of statutory and regulatory provisions” rather than as a rule as defined by the Administrative Procedure Act. The Department of Education did not indicate any cost for the action in its Federal Register publication. I therefore added it and three other records for rules in 2020 and 2023 that forgave or postponed federal student loans.⁴

A third database consists of the list of 362 Public Laws passed in the 117th Congress. Their titles and word counts were used to select those potentially containing economically significant regulations and deregulations during the first two years of the Biden-Harris administration. A fourth database consists of nine federal laws enacted pursuant to the Congressional Review Act (CRA) that disapprove of (in effect, rescind) specific rules promulgated by federal agencies. Each of the nine is added to the AAF data as a “final rule” from the same agency with the same title, but

- 1 The AAF data is publicly available at <http://regrodeo.com/>. It includes rules that quantify either regulatory costs or paperwork hours. While the Paperwork Reduction Act encourages agencies to at least consider paperwork hours, 90 percent of rules fail to quantify either (American Action Forum 2023). See also Crews (2015) and Ellig (2016).
- 2 Four rules finalized by the Consumer Financial Protection Bureau (CFPB) in 2017 are coded as the Obama administration because at that time President Trump had been unable to have his appointee head the CFPB. While the Obama appointee was still heading the agency, one of the 2017 rules was nullified as President Trump and the Republican Congress utilized their authority under the Congressional Review Act. President Biden was able to appoint his own acting CFPB director already on January 20, 2021.
- 3 The Department of Labor promulgated two similar but separate rules on the same day (81 FR 59464 and 81 FR 59581). I treat the two rules as one for the purposes of this report, as I do for the two public laws passed in 2017 rescinding these rules.
- 4 The other three records are 85 FR 49585, 85 FR 79856, and 88 FR 43820. The 2022 action (87 FR 61512) does not contribute regulatory costs to Table 1a, or anywhere else in this report, because its actions were blocked by the Supreme Court on June 30, 2023.

(i) with cost equal to the negative of the cost that the agency assessed for the rule disapproved by Congress and (ii) date equal to the date enacted. That brings the amended database to 5,355 rules.

The fifth source is the Council of Economic Advisers' (CEA) database of economically important federal rules, statutes, and guidance documents during the Obama and Trump administrations. This database includes reassessments of regulatory costs made by a team at CEA.⁵ Although not a database, another tool used in this study is CEA's model of the cost of automobile ("light-duty vehicle") regulations concerning fuel economy and greenhouse gas emissions (Council of Economic Advisers 2020b).

The final two sources provide the expenditure information necessary to allocate regulatory costs across the income distribution: annual expenditure means from the Consumer Expenditure Survey (U.S. Bureau of Labor Statistics 2023) and the distributional analysis of state and local tax systems published by the Institute for Taxation and Economic Policy (2024).

The federal agencies vary widely in the type and scope of rules they promulgate and the quality with which they assess the costs of their rules. I partition them in categories so that the rules are more similar within category. One important category are the rules from the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) regarding the emissions and fuel economy of autos ("light-duty vehicles"). I refer to these as the **CAFE/GHG rules**, in reference to DOT's Corporate Average Fuel Economy and EPA's attention to Greenhouse Gases. I count only eight rules in this category between 2009 and 2024H1 – about 0.1 percent of all rules during that period, but they are of outsized importance in terms of any estimate of their costs. In addition to the EPA and DOT cost estimates, I use CEA's cost model that is based on the inter-manufacturer market for compliance credits (Council of Economic Advisers 2020b). As the amount of real money that market participants pay to relax their compliance, and what other participants receive to voluntarily exceed the standards, the price of these credits is a market indicator of compliance costs that is useful to contrast with the engineering analysis used by the agencies.

Another important category are the rules from the Department of Health and Human Services (HHS), the Federal Communications Commission (FCC), the Department of Labor (DOL), and the Consumer Financial Protection Bureau (CFPB), which I call the **Big 4**. Many of their regulations have an unusually broad reach. Additionally, they have a particularly weak track record when it comes to quantifying their costs, as explained further below.

With much public attention to environmental rules and energy rules, I track **EPA** (apart from its CAFE/GHG rules) and the Department of Energy (**DOE**) separately. EPA is also worth tracking separately because their cost assessments are much more comprehensive than the Big 4.

A fifth category consists of the "**Airworthiness Directives**" promulgated by DOT. These are typically more than 100 rules per year with a combined cost of less than \$1 billion. They are the Federal Aviation Administration's notifications that inform owners of various aircraft of a safety deficiency. The final category is the residual of the first five.

A somewhat different set of categories is used later in this report to allocate regulatory costs across the income distribution.

5 For some of the larger rules, the CEA consulted with OIRA and the agency issuing the rule.

II. Comparing Three Administrations

II.A. Biden-Harris adds regulatory costs almost twice as fast as Obama-Biden did

Table 1a shows regulatory costs by rule category and administration. I present the results of the Obama administration through the end of 2012 for comparison with the Biden-Harris administration’s first term.⁶ Table 1b follows a similar structure for showing the numbers of rules.

Each category and administration has two cost estimates in Table 1a. One was prepared by the agency issuing the rule. The other is an estimate I prepared either from CEA’s cost analysis or imputed based on the empirical relationship between the agency cost and CEA’s cost, as explained further in what follows.

Regulatory costs have two time dimensions: the time at which the rule was promulgated and the time when market participants will experience the costs. For example, the most recent light-duty vehicle rule (89 FR 27842) was published on April 18, 2024. As such, the database codes the rule as a Biden-administration rule. At the same time, the issuing agency (EPA) estimates that the rule imposes costs in each model year 2027 through 2055, summarizing the time profile of costs as a single net present value. Table 1a shows the net present value summed across all rules in the rule category indicated by the rows and finalized during the presidential term indicated by the column.

Table 1a. Regulatory costs by administration and category

Includes CRA disapprovals but not other statutes, guidance documents, antitrust cases, or Operation Warp Speed

Category	Regulatory Costs, billions of 2024 \$ per 4 years of rulemaking					
	Biden-Harris		Trump Term 1		Obama Term 1	
	Estimated by:		Estimated by:		Estimated by:	
	Agency	This Report	Agency	This Report	Agency	This Report
Big 4 agencies: HHS, FCC, Labor, CFPB	177	3,112	29	-1,147	63	1,188
Auto fuel economy/GHG standards	1,328	1,512	-235	-636	288	1,465
Other EPA	249	427	-7	-12	52	86
Dept. of Energy	74	122	2	4	139	229
Airworthiness Directives (part of DOT)	1	1	2	2	4	4
All other	248	617	245	461	145	204
All regulations	2,077	5,792	36	-1,329	691	3,177

⁶ The full eight years of the Obama administration is shown in the 2023 edition of this report. I assume that regulatory costs will be created in the final seven months of Biden-Harris Term 1 at the same pace that they were during the first 41 months.

Table 1b. Regulatory counts by administration and category

Category	Numbers of regulations per 4 years of rulemaking								
	Biden-Harris Term 1			Trump Term 1			Obama Term 1		
	Large rules			Large rules			Large rules		
	Reg's	Dereg's	Other	Reg's	Dereg's	Other	Reg's	Dereg's	Other
Big 4 agencies: HHS, FCC, Labor, CFPB	22	2	163	9	9	223	12	1	202
Auto fuel economy/ GHG standards	5	0	0	0	1	0	3	0	0
Other EPA	16	2	61	2	4	77	10	0	80
Dept. of Energy	15	0	16	1	0	15	10	0	22
Airworthiness Directives (part of DOT)	0	0	363	0	0	441	0	0	632
All other	26	7	431	17	9	547	17	0	531
All regulations	84	12	1034	29	23	1303	53	1	1468

Notes for Tables 1a and 1b: All table entries are expressed as a rate for four years of rulemaking. It is assumed that regulatory costs will be created in the final seven months of Biden-Harris Term 1 at the same average pace as the first 41 months. Rule counts and agency costs are based on the American Action Forum's regulation database, which exclude rules that quantify neither regulatory costs nor paperwork burdens. A "large" rule involves a net present value cost, or cost savings, of at least \$1 billion, as estimated by the agency.

The Biden-Harris administration's regulatory costs exceed the first-term Obama administration's by a factor of 1.8. By both cost metrics, the Biden-Harris administration stands out in the "Big 4," "Other EPA," and "all other" categories. The Biden-Harris administration has been comparatively active in making HHS and DOL rules, such as vaccine mandates, rules expanding government health-insurance participation, and rules requiring more staff at nursing homes. It has also finalized costly rules that further restrict emissions of power plants and heavy-duty vehicles. The "all other" category includes actions on forgiving student loans at taxpayer expense. The American Enterprise Institute (2024) estimates the budgetary cost at \$405 billion, of which \$59 billion come from Trump administration rules. According to OMB (1992, 2019), I estimate the regulatory cost to be the product of the budgetary cost and the marginal excess tax burden.⁷

The Biden-Harris administration has fewer regulations per year than Obama and Trump in every category. The Biden-Harris administration stands out for a few relatively costly regulations, especially the student loan actions from the Department of Education and the vaccine mandates.

⁷ That is, the regulatory cost is a fraction of the transfer. Arguably student loan forgiveness also adds moral hazard costs on loan-seeking behavior, which I did not estimate.

II.B. Trump reduced costs

The Trump administration's results are entirely different. President Trump was on net reducing regulatory costs (more than \$1 trillion), as compared to increases of \$3 trillion (Obama Term 1) and \$6 trillion (Biden-Harris Term 1). The CAFE/GHG and Big 4 categories show a lot of deregulation. These include removing the net neutrality price controls (FCC), the prohibition on short-term health insurance plans, and various DOL rules discouraging competition in labor markets.

Table 1b shows 23 large deregulations (rules reducing regulatory costs by at least \$1 billion in present value 2024 dollars) per year for President Trump compared to 29 large regulations. This finding appears to contradict Executive Order 13771, which established a regulatory budget requiring (among other things) “that for every one new regulation issued, at least two prior regulations be identified for elimination” (82 FR 9339). The discrepancy reflects the fact that the AAF sample of rules differs from the rules included in the Trump administration's regulatory budget, with both samples excluding a large number of minor rules. Especially, the regulatory budget included any deregulatory rule, even if it did not quantify regulatory costs or paperwork burden.

An example is the 2018 HHS rule “Removing outmoded regulations regarding the Ricky Ray Hemophilia Relief Fund Program” (83 FR 30081), which officially terminated a program that “is no longer in effect or funded.” HHS designated the rule as neither a “significant regulatory action” under EO 12866 nor a “major rule” under the Congressional Review Act, adding that it “is not a substantive rule; rather it is administrative in nature and provides no cost savings ... [and] does not affect any information collections.” As such, it is not part of the AAF database, but was included in the regulatory budget because HHS “identifies this final rule as a deregulatory action (removing an obsolete rule from the Code of Federal Regulations).” While nonsubstantive deregulations are part of the regulatory budget, nonsubstantive regulations are not. With that said, the combined cost savings from the Trump administration's large deregulatory actions was substantial. By my estimates (Table 1a), the combined savings far exceeds the combined cost of its regulatory actions despite my imputation of large amounts of missing regulatory costs for the Big 4 category.

While the Biden-Harris administration deregulates far less than the Trump administration did, it has some deregulatory actions. By comparison, the Obama administration had only one rule finalized in its first term that it expected to save at least \$1 billion in regulatory costs.⁸ Appendix I provides additional details on the number and character of deregulatory actions finalized by the Biden-Harris administration.

II.C. Auto manufacturing regulation (CAFE/GHG) rules

I found eight rules between 2009 and 2024H1 that change either fuel economy or emissions standards for light-duty vehicles (cars, SUVs, pickup trucks, and passenger vans, but henceforth referred to as “autos”). Because their costs are potentially orders of magnitude more than the costs of other “major” rules, I treated them individually as follows.

⁸ The HHS rule was 77 FR 29034, expanding scope of practice in hospitals.

Between 2018 and 2020, the CEA constructed a model based on the inter-manufacturer market for compliance credits (Mulligan 2020). As the amount of real money that market participants pay to relax their compliance, and what other participants receive to voluntarily exceed the standards, the price of these credits is a market indicator of compliance costs. Furthermore, the credits are closely related to the effects of regulation on auto-industry real GDP as the national accounts traditionally assess them.

CEA used the model to assess the costs of the 2012 rule for 2017 and later model years, which it estimated to be almost \$1 trillion in net present value (converted to 2024 dollars). The 2020 “SAFE” rule rolled back that rule halfway in terms of fuel economy and emissions, but more than halfway in terms of costs because of the exorbitant costs of the last bits of abatement (in economics terms, “rising marginal cost”). In a report published in 2020, CEA estimated the cost savings to be about \$650 billion in net present value (Council of Economic Advisers 2020b). In preparing this report, I used the same model to estimate the cost of EPA’s 2021 rule for light-duty vehicle emissions. I estimated a cost of \$350 billion, which is about 70 percent more than the EPA reported.⁹ My cost estimate for the smaller 2009 and 2010 rules takes the agencies’ cost estimate and rescales it by a factor of 5.1, which is what CEA found for the 2012 rule.

When it comes to Biden-Harris’ 2024 CAFE/GHG rules, I use the agency estimates rather than the CEA model, for three reasons. Two are that the 2024 EPA rule includes heavy-duty vehicles and significant provisions specific to electric vehicles, neither of which were modeled by CEA. The third is that CEA warned that its model would “underestimate compliance costs” when “the standard is especially tight,” which is the case for the 2024 Biden-Harris rules that contemplate a particularly high EV market share.

The above sources provide the net present value regulatory costs used in Table 1a. The sources also provide estimates of the effect of the rules on the average price of a new light-duty vehicle, as shown in Table 2. President Trump partially reversed President Obama’s 2012 rule, which would have increased auto prices by \$3,511 (in 2024 dollars). The Biden-Harris administration tightened standards in both 2021 and 2024, for a total price increase of \$3,382. The Obama and Biden-Harris administrations together increased auto prices by \$6,893, but with the Trump deregulation in between the cumulative increase due to auto regulation is \$4,384.

Table 2. Effect of CAFE/GHG rules on new auto prices, 2024 dollars

Administration	Price effect, MY 2032
Obama	\$3,511
Trump	-\$2,509
Biden	\$3,382
Cumulative	\$4,384

Sources: CEA (2020), EPA (2024)

Note: Nominal amounts are converted to 2024Q1 dollars using the GDP deflator.

9 In 2022, DOT finalized a companion rule with comparatively little incremental cost. I rescaled that cost in the same 1.7 proportion that I found for the more costly 2021 EPA rule.

III. Federal Agencies Significantly Understate the Costs of Their Rules

III.A. The Mythical “Triumph of the Technocrats”

According to Professor Cass Sunstein, a former Administrator of the Office of Information and Regulatory Affairs (OIRA), federal agencies have witnessed a “triumph of the technocrats” via a “cost-benefit revolution [that] requires regulators to demonstrate a genuine need for government action ... weaken[ing] the hold of interest groups, popular opinion, anecdotes, and intuitions” (Sunstein 2018). Yet, despite executive orders and guidance from the Office of Management and Budget (OMB) mandating a cost-benefit analysis (CBA) for important new regulations, agencies neglect major categories of costs – or fail to quantify any costs – of their rules.

Although previous studies have documented agencies’ poor cost assessments, the 2023 edition of this report was the first to formulate and estimate a measurement error model. The model more reliably estimates regulatory costs created or saved by the agencies each year. This model, explained in what follows, is the basis for the alternative cost assessments presented in Tables 1a and 1b.

Aside from DOT and EPA, most prolific rulemaking agencies routinely overlook opportunity and resource costs. Perhaps motivated by the Paperwork Reduction Act, these agencies either leave costs unquantified (McLaughlin and Mulligan 2022) or only quantify clerical costs, often by estimating the number of hours required to perform the paperwork and multiplying by an estimate of the hourly wage of the personnel doing the paperwork.

To illustrate what is at stake, consider a hypothetical rule that shuts down schools for a period of time. The rule is promulgated on a single page, so families can read the rule in just 15 minutes. According to the typical (and flawed) HHS method, assessing a regulatory cost requires only assigning a monetary value to the 15 minutes of “regulatory review” time, without valuing the much larger opportunity costs of student learning.¹⁰ CFPB or FCC often will not even estimate the value of regulatory review time. This is why the regulatory costs assessed by the Big 4 agencies must be understood as a remarkably low lower bound. It is possible to more accurately assess costs, which is what this report does.

III.B. Evidence on the Magnitude of Uncounted Costs

The basic idea is to conduct an audit of the rules finalized in 2016. This helps quantify patterns of missing costs, which can then be used to impute missing costs in the other years 2009-15 and 2017-2024. Because the

10 OMB (2003) Circular A-4, which instructs agencies on regulatory impact analysis, clearly directs rulemaking agencies to assess opportunity costs. Nevertheless, the Big 4 agencies, and others, routinely fail to do so despite promulgating economically significant rules.

purpose is to assess total costs in each category, the strategy is to audit the most important rules.¹¹ Table 6 of the 2023 edition of this report shows the overall results of the 2016 audit. For every dollar of costs that a Big 4 agency acknowledged in all its final rules, the audit found another \$16 in costs in just six rules. Conservatively assuming that there are no missing costs in the other 68 rules from the Big 4, I assume that the true costs of the Big 4's regulations in years other than 2016 are 17 times the costs that the combined agencies report for the year.¹² Whenever the Big 4 deregulates, I make no adjustment to the agency's cost savings except for the three deregulatory rules audited by CEA.¹³

The missing-cost ratio for the remaining rule categories is much less: only 0.7. For all rules that are not from DOT, not CAFECHG, and not Big 4, I assumed that the true costs and cost savings are 1.7 times the reported amount. I assume no missing costs for DOT rules. CAFE/GHG rules are each audited.

The \$16 missing costs per dollar reported for the Big 4 is measured in 2016, but imputed for other years. A significant fraction of the imputed (NPV) costs are in 2020 (about \$1 trillion, contributing to the Trump-administration total in the direction of more regulatory costs). Most of these are from HHS, including the "rebate rule" (see below), the "Transparency rule," and various rules special for the pandemic. \$474 billion of the imputed costs are for 2021, when HHS and Labor promulgated pandemic rules such as vaccine mandates and extensions of rent moratoria.

There is ample evidence that, before and after 2016, the Big 4 understated regulatory costs by an order of magnitude or more. For one, more than half of the FCC rules fail to quantify costs. HHS and DOL rarely consider opportunity or resource costs. Take the 2020 "rebate" rule imposing price controls on business-to-business transactions in the pharmaceutical supply chain. Although OMB circular A-4 instructs that "a particularly demanding burden of proof is required to demonstrate the need for ... price controls," the rule only quantified clerical costs. I estimate the costs to be about \$10 billion per year, compared to the \$56 million in annual clerical costs assessed by the agency (a ratio of at least 170). McLaughlin and Mulligan cite a 2012 HHS rule that mandated Medicare cover benzodiazepines, known to be at risk of "misuse and abuse" and subsequently identified in tens of thousands of fatal drug overdoses. No cost was reported by the rule for this coverage provision.

This pattern is also obvious during the Biden-Harris administration when, according to Table 1a, the Big 4 agencies failed to quantify almost \$3 trillion in present value costs – an annualized cost of about \$200 billion. CEA (2020a) found \$174 billion of costs (converted to 2024 dollars) that were unaccounted for by just 10 of Big 4 regulations finalized during half a presidential term (2015 and 2016). Many of those regulations have

11 By any assessment, the distribution of regulatory costs across a year's rules is highly skewed, with just a few rules accounting for most of the total. A random audit would therefore be unreliable because it would far understate the average in the likely case that the few large rules were not sampled. Conversely, if the sample happened to include one of the high-cost rules, the random sample method would significantly overestimate the costs of the unsampled rules.

12 The measurement-error model is designed as an adjustment for all rulemaking by the Big 4 combined. As such, it incorporates, among other things, tendencies of those agencies to finalize important rules with zero costs assessed. Conversely, the model implies that the ratio of true regulatory costs to agency-reported costs is less than 17 for the subset of rules reporting non-zero costs.

13 These are DOL's Fiduciary rule (82 FR 56545), DOL's rescission (83 FR 33826) of the Persuader rule, and the law enacted disapproving CFPB's prohibition of arbitration agreements in consumer finance transactions (Public Law 115-74).

been reinstated by the Biden-Harris administration, again without acknowledging costs. The Biden-Harris FCC, for example, elected to once again classify broadband Internet service as a regulated public utility under Title II of the Communications Act of 1934. In 2024 dollars, the annualized costs estimated by the Council of Economic Advisers are \$84 billion whereas the Biden-Harris FCC has not reported any cost estimate in the Federal Register.

A Biden-Harris HHS rule (89 FR 23338) eliminated about 2 million short-term health insurance policies without assessing any costs for those consumers, whereas CEA estimated that the annualized cost was \$16 billion. The agency also repeatedly extended the rent moratorium without assessing any costs. It assessed costs for its vaccine mandates, but only clerical and travel costs rather than the much greater opportunity costs for people put out of work or unable to follow their own vaccination preference. Biden-Harris' FCC promulgated many rules, including those related to the costly "Affordable Connectivity Program" (Winfree 2024), with zero costs assessed. Biden-Harris' DOL regulated franchise businesses (88 FR 81344) and independent contractors (89 FR 1638) yet only assessed trivial "regulatory familiarization costs." Given that the administration describes itself as taking "a whole-of-government approach to empower workers," it is likely these two rules are but a fraction of its executive actions intended to protect unions from competition.

More than a hundred other rules from Biden-Harris' Big 4 also report no substantial regulatory costs. Take the 2024 rule extending federal health insurance subsidies to undocumented immigrants (89 FR 39392). Because HHS only considers clerical costs, it reports a regulatory cost of only \$14.4 million, whereas OMB advises a straightforward accounting for opportunity costs that are about \$3.5 billion for this rule (243 times what HHS reports).¹⁴ In addition, three 2024 rules finalized by HHS increase annual government spending on Medicare and Medicaid by \$25 billion but, as with 89 FR 39392, treats this amount merely as a transfer rather than a cost.¹⁵

President Trump required HHS to regularly review its older rules or let them expire (86 FR 5694). President Biden's HHS withdrew the SUNSET rule (87 FR 32246). In genuine doublespeak, HHS refers to the withdrawal as *saving* costs because of the administrative burden it anticipates for its staff in considering whether patients and providers are unduly burdened. The rescission rule makes no attempt to quantify the burdens on patients or providers of adhering to outdated rules.

14 The primary costs of 89 FR 39392 considered by HHS are the costs to undocumented immigrations of filling out insurance applications. CBO estimates a \$7 billion budgetary cost in <https://www.cbo.gov/system/files/2024-06/60437-Arrington-Smith-Letter.pdf>.

15 89 FR 22780, 89 FR 40876, and 89 FR 41002. According to OMB (1992, 2019), the regulatory cost should include the marginal deadweight costs of taxes, debt, or other government spending displaced by transfer rules.

IV. Regulatory-cost Incidence: A Case of Reverse Robin Hood

So far, regulatory costs have been described in the aggregate, as the regulatory agencies do. To understand how those costs are distributed across the income distribution, it is essential to assess the extent to which the goods produced by regulated industries are necessities or luxuries (Sah 1983). A necessity good is one whose purchases may increase with income, but less than proportionally. That is, high-income households spend a lesser share of their income on necessities than low-income households do. The costs of regulations that increase the prices of necessities (luxuries) disproportionately fall on low-income (high-income) households, respectively.

Recall that much of the regulatory costs serve to increase the prices of automobiles, internet, energy, and major appliances. Each of these is a necessity. The income share of wireless internet for the lowest-quintile households is 4.7 percent, compared to 0.76 percent for the top quintile. I refer to the ratio of the two shares – 6.2 in this case – as a “regressivity index.” The index is the factor by which a regulation increasing prices creates a burden disproportionately falling on the bottom quintile. For the case of internet regulation, the burden for the bottom quintile is 6.2 times what it is for the top quintile.¹⁶

Table 3 shows the regressivity index for eight regulatory categories and the sources I used for calculating it, which is primarily the Consumer Expenditure Survey (CEX). The methods for auto manufacturing and labor are slightly different. The CEX indicates the average number of “vehicles” owned by each type of household. If all vehicles experience the same price increase, then the number of vehicles is proportional to a household’s loss in purchasing power.¹⁷ Because labor regulations often create a cost of employment, such as requiring the provision of a fringe benefit that has not passed the market test, that is independent of the employee’s salary, I assume the costs of labor regulation are proportional to the number of earners in the household as measured in the CEX.

Because much of Table 1a’s regulatory cost for the Biden-Harris administration’s Big 4 agencies is imputed from the CEA audit, it cannot be directly linked to the reference markets shown in Table 3. Instead, for the purpose of estimating income-incidence of some of those agencies’ regulations, I focus on regulations reimposed by the Biden-Harris administration that were part of the CEA audit: such as regulating internet as a public utility, joint employer rules, the Persuader rule, and payday loans. The provided regulatory costs that indicate the relative importance of the various regulations shown in Table 3. Because, according to Table 1a, costs of the Big 4 and “all other” exceed the costs of regulations audited by CEA, Table 3 and what follows includes a significant “all other, unallocated” category.

16 For regulations that result in small price changes, Shephard’s Lemma from microeconomics says that there is no need to account for the ease with which consumers can substitute away from the regulated product.

17 Used-auto prices will also increase, both because they compete with new autos and because today’s new autos are the future’s used autos. The proportional increase may be less for used autos but greater for autos with internal combustion engines – both segments more disproportionately owned by low-income households. Indeed, the regulations may decrease the price of electric vehicles, which high-income households are far more likely to own.

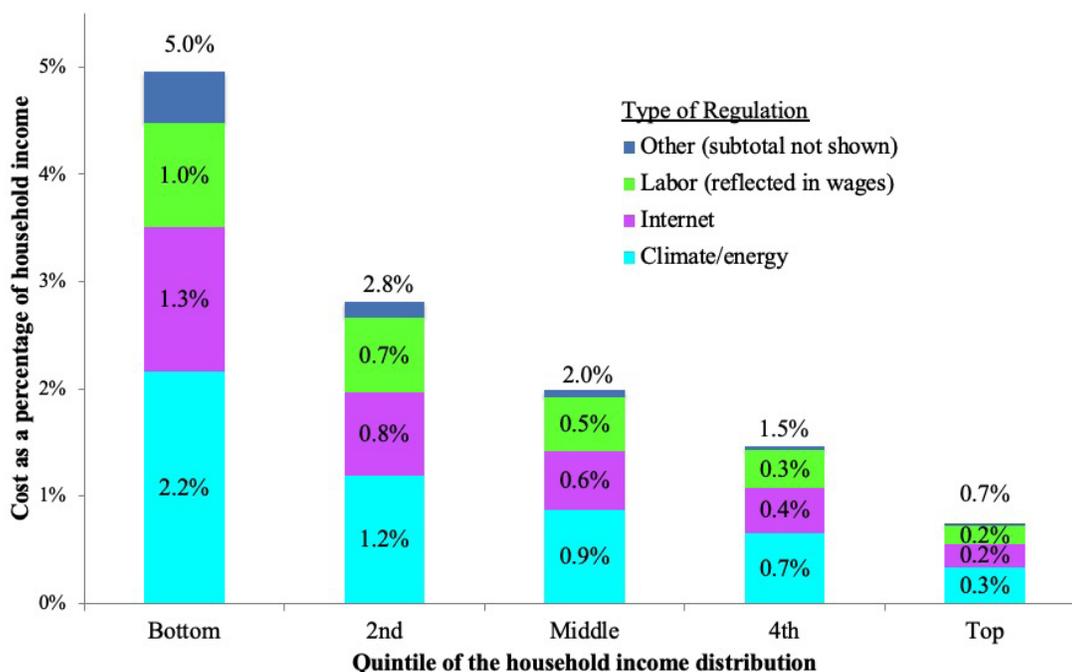
Table 3. Allocating regulatory costs across the income distribution

Regulatory Category	% of Aggregate Biden-Harris Regulatory Cost	Reference Market	Data source for reference-market income shares	Regressivity index	Chart category
Auto mfr. regulation	26%	New autos	Vehicle ownership from 2022 CEX	6.5	Climate/ Energy
Internet	23%	Cellular phone service	2022 CEX	6.2	Internet
Labor	19%	Uniform absolute reduction in earnings	Earners per household from 2022 CEX	6.0	Labor
Other EPA	7%	Gasoline, natural gas, electricity, fuel oil	2022 CEX	6.8	Climate/ Energy
Dept. of Energy	2%	Major appliances	2022 CEX	4.4	
Regulations with state or local government burden	2%	State and local taxes	Institute for Taxation and Economic Policy (2024)	1.3	Other
Payday loans	2%	Small-dollar loans	82 FR 54829	2740.2	
FDA	1%	Prescription drugs	2022 CEX	7.4	
All other, unallocated	19%		-- Data not available --		
All Biden-Harris Reg's	100%				

Notes: CEX = Consumer Expenditure Survey. The regressivity index is the ratio of the bottom-quintile's income share to the top-quintile's. Regulatory cost shares differ somewhat for incidence analysis (Figure 2) than for aggregate analysis (Figure 1, Table 1a, and Figure 3) due to data availability.

Figure 2 shows the results for the 81 percent of Biden-Harris administration regulatory costs that can be allocated across the income distribution. For ease of graphical presentation, the eight rows of Table 3 are aggregated to four broader categories: Climate/energy, internet, labor, and other, as indicated by the table's final column. For categories combined, the regulatory costs range from 0.7 percent of income in the top quintile and 5.0 percent at the bottom. That is a regressivity index of 6.6.

Figure 2. Who Pays for Biden-Harris Regulations?



Sources: CEA, Census, BLS, American Action Forum, author's calculations.
 Notes: The top of each bar shows the sum across regulation types. The subtotal for "Other" is not shown due to limited space.
 19% of regulatory costs are not shown due to lack of quintile data.

The climate and energy regulations are particularly interesting because (i) they are intended to make fossil fuel use more expensive and (ii) low-income households disproportionately use fossil fuels. Table 1a suggests that Trump's cost savings and Obama Term 1 cost increases were more climate/energy intensive. Trump's CAFE/GHG and "Other EPA" cost savings were 49 percent of his total cost savings. Obama Term 1's cost increases were 49 percent of his total cost increases, as compared to 33 percent for Biden-Harris.

Therefore, versions of Figure 2 for Trump and Obama term 1 would be more intensive in the Climate/Energy category and show lesser magnitudes.¹⁸ Most important, a Trump version of Figure 2 would have the bars *below zero*. Low-income households disproportionately experience the cost savings from deregulation.

The major sources of state and local revenue are known to be more regressive than federal income taxes. Nevertheless, the costs of new regulations are even more regressive than the major state and local revenue sources. According to the Institute on Taxation and Economic Policy (2024), state and local property taxes have a regressivity index of less than two. The index for general sales taxes is about three. The only major revenue source with a regressivity index approaching six is "excise and selective excise taxes," which include tobacco and gasoline taxes.

18 Because the four largest categories shown in Table 3 have essentially the same regressivity index, the allocation of regulatory costs across categories hardly affects the quintile pattern shown in Figure 2.

V. Regulatory Benefits

The report is dedicated to estimating costs of new regulations, which itself is a worthy goal. It is a metric of how much the public sector is expanding (or, in the case of cost reductions, contracting) its direct control over the economy. Any reasonable enterprise should have some understanding of what its actions cost, which may explain why both Congress and presidential Executive Orders have called for a tracking of regulatory costs.

Regulations presumably survive the political process because they benefit someone. Sometimes, as with highway safety, the benefits may broadly accrue to the general public. Other times, the beneficiaries are concentrated special interests, especially those seeking protection from competition in labor or product markets.¹⁹ Assessing the relative prevalence of these two types of regulation was unnecessary for conducting this study.²⁰

Furthermore, considering a broad array of potential regulatory benefits relevant to the thousands of rules would require a lengthy report itself. However, with Table 1a and Table 3 identifying climate regulations as a major policy focus, what follows is a sampling of the economic literature on possible climate benefits of federal climate policy.

The primary mechanism for expected climate benefits is that the rules would reduce carbon emissions beginning in the near term, which would reduce future global temperatures through complex natural processes. When they occur, the reduced temperatures are said to generate benefits in the future such as increased productivity in the U.S. and elsewhere.

Quantitative analysis of this mechanism is often implemented by the agencies through a shortcut known as the “social cost of carbon” (SCC). The future benefits of carbon-emission abatement are said to exceed the costs if and only if the regulatory costs per ton abated exceed the SCC, which the Obama administration judged to be \$50 per ton from a global perspective. CEA (2020b) found that the Obama-administration’s CAFE/GHG would result in a regulatory cost of almost \$300 per ton at the margin. Regulations, such as Biden-Harris’, that went beyond Obama’s targets would impose abatement costs beyond \$300 per ton. This is one way of seeing that, for the auto regulations at least, the climate benefits are likely just a fraction of the regulatory costs indicated in Tables 1a and 3. Another way to put it is that the included climate policies have a relatively minor impact on global temperatures, even according to the models used by the Obama-Biden and Biden-Harris administrations. Appendix II provides more detail on this point.

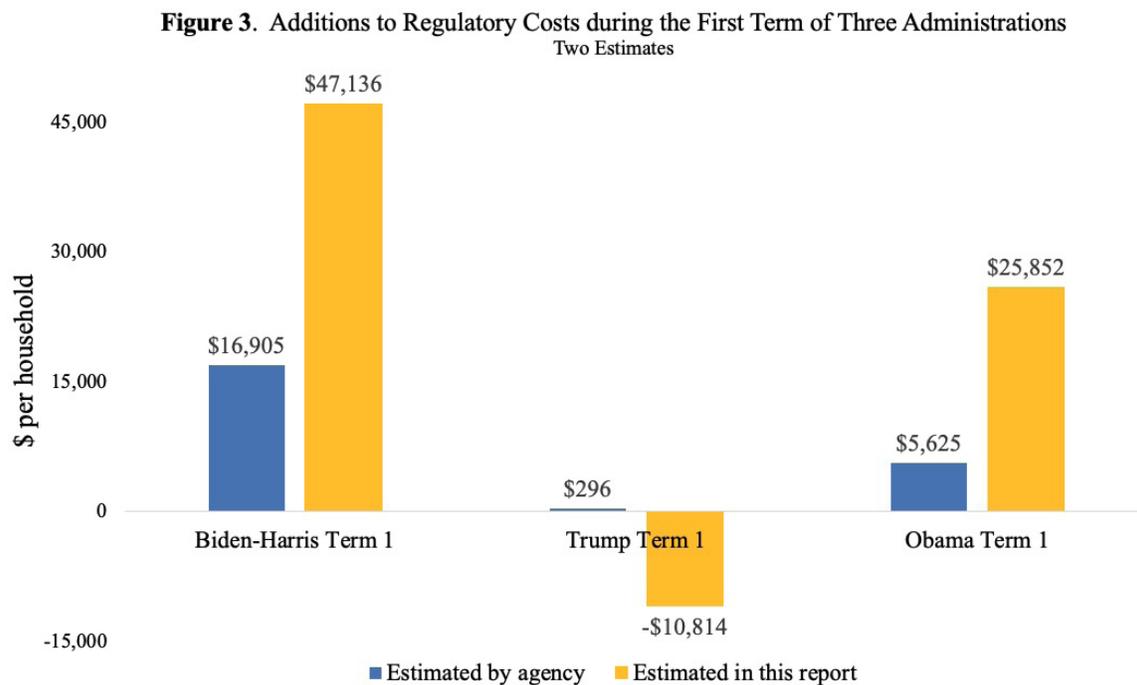
19 For example, the “rebate rule” (finalized at 85 FR 76666) imposed business-to-business price controls that were lobbied for by pharmaceutical manufacturers (Mulligan 2020). Labor unions lobbied for rules that would treat franchise workers as employed by the franchisor (e.g., 88 FR 81344), rules requiring more staff at nursing homes (89 FR 40876), and rules that treat university students as employees (86 FR 14297).

20 At the same time, one’s assessment is affected by examining individual regulations, each one algorithmically selected from a comprehensive regulatory database, such as the one used in this study.

VI. Conclusions

Table 1a shows that the Biden-Harris administration’s first-term rulemaking is on pace to add \$5.8 trillion in net present value. Assuming that the U.S. has 123 million households, the amount shown in Table 1a is equivalent to about \$47,000 per household. Because these costs are spread over time rather than concentrated in the first year that the rule takes effect, they can be alternatively summarized as an annual cost of \$6,300 for ten years or an annual cost of \$3,300 forever.

Table 1a’s results are shown graphically in Figure 3. The Figure contrasts my best estimates (yellow; see also Figure 1) with the aggregate of cost estimates published by the federal regulatory agencies, which are known to be grossly understated.



Sources: American Action Forum (regrodeo.com), Council of Economic Advisers, and author’s calculations.

Notes: Each regulation, and therefore each administration, imposes a time profile of costs. Per agency practice, time profiles are summarized as net present values. The chart includes CRA disapprovals but not other statutes, guidance documents, antitrust cases, or Operation Warp Speed. It is assumed that regulatory costs will be created in the final seven months of Biden term 1 at the same average pace as the first 41 months.

President Trump showed that regulatory costs can be subtracted rather than perpetually added. President Trump’s first term reduced regulatory costs by about \$11,000 per household. The difference between the two presidential terms is therefore \$58,000 in regulatory costs per household.

Many of the regulations that increase the prices of necessities such as automobiles, internet access, and energy, while deregulations reduce their prices. As such, the \$47,000 in added regulatory costs fall disproportionately on low-income households. For the same reason, the cost savings from the Trump administration’s deregulatory agenda would be disproportionately experienced by low-income households. This “Reverse Robin Hood” pattern is particularly obvious with auto manufacturing rules that, by all accounts, increase the prices of cars and other vehicles powered by fossil fuels.

With the datasets used in this study largely limited to administration rulemaking, it omits the costs of federal regulations stemming from other sources. Those include executive actions, new federal statutes, and policy enforcement decisions, as detailed in Appendix III. Especially notable is the Trump administration's Operation Warp Speed, with deregulation that allowed vaccines for Covid-19 to become available to the public before the end of 2020 – many months, if not years, ahead of experts' predictions. The opportunity costs reduced by Warp Speed are a trillion dollars or more (Mulligan 2022), which by themselves would roughly double the cost reductions shown for the Trump administration in Table 1a.

Some regulations are intended to reduce output and productivity in order to advance environmental and other goals. Others discourage competition in product or labor markets. Either type typically reduces productivity and GDP while pursuing environmental, safety, and distributional goals. Anti-competitive regulations particularly reduce employment. With overall regulatory costs on the order of two percent of GDP, it is likely that new federal regulations will contribute to low or negative rates of productivity growth and wages that fail to keep up with inflation.

Appendix I: Does the Biden-Harris administration deregulate?

The Biden-Harris administration’s deregulations largely fit into four categories: following through on deregulations proposed in the Trump administration, reversing price-control regulations imposed by the Trump administration, updating regulations to reflect technological progress, and accounting gimmicks.

Selecting from all 29 Biden-Harris rules 2021-2024H1 with cost savings (as estimated by the agency) of at least \$100 million, Table A-1 shows three agency rules, as well as a statute, that follow through deregulatory projects initiated during the Trump administration. Hearing aids have traditionally required a prescription, making them expensive and more difficult for patients to access. The 2017 Over-the-Counter Hearing Aid Act required the FDA to, within three years, propose (via rulemaking) a category of hearing aids that could be sold over the counter. The proposed rule was open for comment and was then supposed to be followed by a final rule 180 days later. As Table A-1 shows, the FDA missed the first deadline, but the Biden-Harris administration did finalize the rule.

Table A-1. Deregulating by following Trump through

Type of deregulation	Trump initiative	Biden finishing	Savings (agency est.)
Allow hearing aids to be sold over the counter	Over-the-Counter Hearing Aid Act (Aug 2017)	FDA proposed rule Oct 2021 Final rule Aug 2022	\$0.6B
Undo Michelle Obama’s school nutrition program, reducing expense and waste by allowing a wider range of foods	Proposed rule Nov 2020	Final rule Feb 2022	\$4.6B
Federal Acquisition Regulation: Revision of Limitations on Subcontracting	Proposed rule Dec 2018	Final rule Aug 2021	\$0.2B
Reduce restrictions on telehealth provided through Medicare	2020 CARES Act and CMS waivers	Consolidated Appr. Act Dec 2022	NA

The next two rows show rules that the Trump administration proposed in the second half of its term and the Biden-Harris administration finalized. During the pandemic, the Trump administration removed barriers to the use of telehealth in the Medicare program, which is the federal health insurance program for the elderly and disabled. The Biden-Harris administration made some of the changes permanent by statute at the end of 2022.

At the same time, the Biden-Harris administration promulgated costly rules pursuant to the No Surprises Act signed by President Trump.²¹ Those rules contribute about the same to my estimate of the Biden-Harris cost total as the student loan actions and more than offset the cost savings of the rules shown in Table A-1.

Table A-2 shows four instances of Biden-Harris administration rules that reduce cost by adapting old rules to new technology. The first rule allows manufacturers of driverless cars to skip those mandatory parts and specifications, such as the placement of a steering wheel, that are intended for cars driven in the traditional manner. The second rule, which could also be in Table A-1 because it was proposed in 2019, allows certain types of bridges to be inspected biannually rather than annually because better data and trained personnel became available.

Table A-2. Deregulation by modernizing

Rule name	Rule description	Savings (agency est.)
Occupant Protection for Vehicles with Automated Driving Systems	“eliminate the need for [driverless car] manufacturers to equip vehicles with redundant manual driving controls in vehicles that do not have manual driving capabilities...”	\$0.9B
National Bridge Inspection Standards	New technologies “allow[] for a potentially large number of bridges that currently use a 24-month inspection interval to use Method 1 48-month inspection interval instead.”	\$0.1B
Flight Training Security Program	Reduces the frequency of training requirements from annual to biannual	\$0.1B
Updating Manual Requirements to Accommodate Technology	Commercial aircraft can use electronic manuals rather than updating, printing, and carrying paper ones	\$0.1B

The Office of Management and Budget has long viewed price control regulations with significant skepticism based on “economic theory and actual experience” with their unintended harms. The Biden-Harris administration implemented several price control schemes through the so-called Inflation Reduction Act alone. Table A-3 shows two cases – aptly understood as deregulations – where the Biden-Harris administration removed price controls. One such price control prohibited health insurance plans serving Medicare patients, and their agents, from receiving discounts (known as rebates) from pharmaceutical manufacturers. The Office of the Actuary and the Congressional Budget Office estimated that the rule would transfer billions of dollars annually from taxpayers to pharmaceutical manufacturers by reducing competition

21 As part of the 2021 Consolidated Appropriations Act, the bill received bipartisan support in Congress. President Biden’s HHS refers to the subsequent rules as “the Biden-Harris Administration’s Actions to Prevent Surprise Billing” (Centers for Medicare and Medicaid Services 2021).

among manufacturers. A significant part of funding the 2022 Inflation Reduction Act was achieved by delaying the implementation of that price control until at least 2032. A second Trump price control would set drug prices in another part of Medicare (Part B) equal to the price control determined by another OECD country. President Biden’s Health and Human Services Department (HHS) rescinded the rule, which was already at risk of being vacated by the courts.

Table A-3. Deregulating by removing price controls

Type of deregulation	Trump regulation	Biden deregulation	Savings (agency est.)
Business-to-business price controls in pharmaceuticals (“Rebate rule”)	Final rule Nov 2020	2022 Inflation Recovery Act	\$1.1B
Mirroring European prescription price controls (“Most Favored Nation”)	Final rule Nov 2020	Final rule Dec 2021	\$0.2B

Table A-4 lists seven Biden-Harris administration rules that might be called deregulation because their agency authors estimate that they reduce costs, but the purported reductions are gimmicks. A common pattern in these rules is to focus on the costs saved by bureaucrats and ignore costs created elsewhere in the market. In one instance, President Trump required HHS to periodically review its old rules or let them expire. This SUNSET rule might have been a kind of automatic deregulation machine, but would have required some effort from the bureaucracy at HHS. The Biden-Harris administration halted it, yet show cost savings due to the reduced bureaucratic effort.

Table A-4. Biden-Harris administration gimmicks that give the appearance of deregulation, 2021-2024H1

Rule description	Why it is a gimmick	Savings (agency est.)
Part of Obamacare annual parameters allows exchanges to do less auditing to confirm eligibility for subsidies	Only exchange effort is counted, with no estimate of the amount of fraud and its consequences	\$0.6B
Repeal Trump’s requirement that HHS periodically review its rules or let them expire.	Only counts the effort of HHS bureaucrats and not the costs associated with letting HHS rules go on too long.	\$0.4B
Two rules prohibiting hydrocarbons commonly used for refrigeration	Markets have revealed a preference for the refrigerants and the associated services, so eliminating them has an opportunity cost that EPA ignored.	\$8.5B
Inadmissibility on Public Charge Grounds	These costs were already saved when the rule was vacated by the courts.	\$0.4B
Electronic filing with the Department of Justice changed from optional to mandatory	Some parties have revealed a preference for paper filing. Removing that option is an opportunity cost that is ignored.	\$0.1B
Ends (in 2023) a staff Covid-vaccination requirement imposed in 2021.	The baseline costs of continuing the 2021 rule were not acknowledged in the 2021 rule itself.	\$2.1B
Reverses a Trump rule that had relaxed ACA requirements that abortions and other procedures be offered by providers	The rule counts savings on paperwork but ignores costs imposed on providers who object to providing those services.	\$0.6B

Appendix II: Possible temperature and future GDP effects of climate policy

Particularly during the Biden-Harris and Obama-Biden administrations, the agencies expect climate rules to significantly reduce U.S. carbon emissions and therefore global emissions.²² The Biden-Harris administration’s goal is for net U.S. emissions to be reduced to zero by 2050 (Council of Economic Advisers and Office of Management and Budget 2023). The rules finalized through mid 2024 do not fully achieve that goal, but are represented as significant progress. For concreteness, let’s say that those rules reduce U.S. emissions by 40 percent.

The International Panel on Climate Change’s Model for the Assessment of Greenhouse Gas Induced Climate Change predicts that a 40 percent U.S. reduction would reduce global average surface temperatures in the year 2050 by 0.05 – 0.07 degrees Fahrenheit. In the year 2100, the reduction would be 0.07 – 0.16 degrees. With global temperatures increasing for other reasons, including but not limited to emissions outside the U.S., 97 percent of the projected climate change would remain despite U.S. policy. These calculations were made with the Heritage Calculator (Hamm and Simon 2024), but align with those published by the Biden-Harris administration’s CEA.²³

The Biden-Harris administration’s CEA also reviews “damage models” that translate global temperature changes into U.S. GDP changes. The most aggressive damage models predict an increase of less than one percentage point in U.S. GDP for each degree Fahrenheit reduction in global temperatures. According to those models, the climate policies covered in this report would increase U.S. GDP (and presumably world GDP) in the year 2100 by less than 0.16 percent.

Even though 0.16 percent seems large from some perspectives, it could easily be swamped by even a small reduction in the rate of productivity growth resulting from the abatement required to obtain this benefit. For example, if the central planning and/or tax enforcement required for abatement were to reduce the annual productivity growth rate from 2.00 percent per year to 1.99, that itself would reduce productivity by 0.26 percent in the year 2050 and 0.76 percent in the year 2100. Indeed, Table 1a’s regulatory costs expressed as a flow are 1.4 percent of GDP, not to mention the costs of federal regulations from other sources. If that cost is borne proportionally by those segments of the economy that create productivity growth, the annual rate would fall from, say, 2.00 percent to 1.972 percent ($= 2*(1-0.014)$), which would reduce productivity in the year 2100 by 2.15 percent. In this example, the productivity-growth cost of abatement is an order of magnitude greater than the indirect benefit through global temperature reduction.

22 Arguably U.S. reductions would be largely offset, and potentially more than 100 percent offset, by increased emissions outside the U.S. due to their effect on the economic equilibrium. My purpose here is to characterize possible climate benefits by taking the agencies’ incidence model literally, despite its flaws.

23 The Heritage Calculator is available at <https://calculators.heritage.org/climate/calculate-the-temperature-changes-for-alternative-carbon-dioxide-reduction-policies/>. CEA (2023, Appendix Figure 2) estimated that a global net zero policy would reduce global average surface temperature in 2050 by about 0.4 degrees Fahrenheit. Note that CEA is considering a scenario with at least ten times the global emissions reductions – costing an order of magnitude more than the policies included in Tables 1a and 3 – that would occur because of U.S. emissions fell by 40 percent.

Appendix III: Other sources of regulatory costs

Other executive actions

The executive branch sometimes regulates or deregulates without rulemaking. Such administrative actions include guidance documents, “administrator interpretations,” and “Secretary’s Orders.” The latter appear to be contributing to, among other things, low production of fossil fuels in the U.S. since 2020 (Moore and Mulligan 2022). These actions are not reflected in Tables 1a and 1b, which are limited to final rules and Congressional disapproval thereof.²⁴

To some extent, executive orders are just precursors to rulemaking and other executive actions. As such, they help households and businesses anticipate future regulations, which may increase or decrease the costs of those regulations relative to what they would be if the regulations took effect more suddenly. Anticipation of future regulations may also play a role in low production of fossil fuels of late.

Two other significant examples of regulation without rulemaking occurred at the FDA during the Trump administration. In one, FDA commissioner Scott Gottlieb facilitated generic drug approvals beginning in 2017; it was followed by increases in the number of manufacturers and the first reduction in the consumer price index for prescription drugs in 46 calendar years (Mulligan 2022). Another instance was the improved regulatory procedures under Operation Warp Speed, which allowed vaccines for Covid-19 to become available to the public before the end of 2020 – many months, if not years, ahead of experts’ predictions. Warp Speed reduced the opportunity costs of regulation – months without a vaccination opportunity – by a trillion dollars or more. That alone would roughly double the cost reductions shown for the Trump administration in Table 1a.

Antitrust policy

While many federal agencies issue rulemaking to clarify their interpretation of the public laws under their jurisdiction, antitrust enforcement is largely conducted on a case-by-case basis. The Department of Justice’s Antitrust Division, the Federal Trade Commission, or private parties may bring a case against a specific company it believes has violated antitrust law. The court decisions in those cases are public information that other companies can use to assess what actions might be permissible for them.

Therefore, Table 1a does not reflect regulatory costs created or saved by changes in antitrust policy over time. Some indicators suggest significant opportunity costs from the Biden-Harris administration’s stance against corporate mergers (Nylen and Davis 2023).

24 One DOL administrator interpretation was included for the reasons cited at the beginning of this report.

Statutes: The Inflation Reduction Act

Congress creates regulation too, ranging from the Merchant Marine Act of 1920 (Jones Act) to the so-called Inflation Reduction Act (IRA). The IRA is already famous for its spending, but it also creates several new regulations including at least four regulations that are, from an economic perspective, price controls. The IRA has the federal government setting three types of price ceilings on prescription drugs as well as price ceilings on drug-insurance premiums. The IRA also has a deregulation element, which is to delay the aforementioned rebate rule.

Among the regulatory costs of the IRA's price controls is a reduced pace of drug innovation (Philipson and Durie 2021). A rigorous analysis of the IRA's various regulatory provisions is beyond the scope of this report, but the costs could easily exceed \$100 billion in present value.

Note that the costs and cost savings of new statutes like the IRA, Dodd-Frank, or the Affordable Care Act may be counted in whole or in part as the agencies make rules pursuant to the statute. A simple example is the FDA rule allowing hearing aids to be sold over the counter (87 FR 50698). The rule assessed cost savings relative to a baseline of having no rule, even though it would be illegal to have no rule: the 2017 Over-the-Counter Hearing Aid Act required it. The point is not that FDA erred, but rather that it would be double counting to assess the costs savings of the 2017 Over-the-Counter Hearing Aid Act and add it to the cost savings reported in the FDA rule.

Statutes: The Congressional Review Act

Pursuant to the Congressional Review Act, 19 rules have been overturned since 2009: 16 during the Trump administration and 3 so far during the Biden-Harris administration. I added the latter 3 as records in the rulemaking database, as I did for the six most economically important of the 16 during the Trump administration. Each is added as a rule from the same agency having the same title but with (i) cost equal to the negative of the cost that the agency assessed for the rule disapproved by Congress and (ii) date equal to the date enacted.

Statutes: PAYGO rule for Executive Branch Actions

The Administrative Pay-as-you-go Act of 2023 requires agencies engaging in discretionary rulemaking that affects federal spending to estimate the rule's budgetary effects. Those that increase spending must include a proposal for additional administrative actions to reduce spending by a commensurate amount.

Note that the budgetary effects of a regulation, while relevant to preparing the federal budget, are distinct from regulatory costs which can be the result of transfers from taxpayers to others but are not identical to those transfers. As OMB Circular A-4 directs rule makers, "Transfers occur when wealth or income is redistributed without any direct change in aggregate social welfare. To the extent that regulatory outputs reflect transfers rather than net welfare gains to society, you should identify them as transfers rather than benefits or costs. ... If transfers have sufficient efficiency effects ... you should report them [as costs]" (Office

of Management and Budget 2003). An example is the aforementioned rebate rule, which was expected to transfer about \$20 billion per year from taxpayers to pharmaceutical manufacturers, but the net efficiency cost of that transfer is some fraction of the \$20 billion. Moreover, regulations can impose costs on households and businesses without any commensurate effect on the federal budget.

The relationship between transfers and regulatory costs also sheds light on the relationship between administrative PAYGO and the regulatory budget that President Trump initiated with his Executive Order 13771. The regulatory budget required each agency to initially have net regulatory costs of zero (negative in subsequent years) but put no official limit on budgetary costs. PAYGO limits the budgetary costs but not the regulatory costs.

Appendix IV: List of Acronyms

Table A-5. List of Acronyms

AAF	American Action Forum
CBA	Cost-Benefit Analysis
CEA	Council of Economic Advisers
CEX	Consumer Expenditure Survey
CFPB	Consumer Financial Protection Bureau
CMS	Centers for Medicare and Medicaid Services
CRA	Congressional Review Act
DOL	Department of Labor
DOT	Department of Transportation
EPA	Environmental Protection Agency
FCC	Federal Communications Commission
FDA	Food and Drug Administration
GDP	Gross Domestic Product
HHS	Department of Health and Human Services
IPCC	Intergovernmental Panel on Climate Change
IRA	Inflation Reduction Act
NPV	Net Present Value
OECD	Organisation for Economic Co-operation and Development
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
SCC	Social Cost of Carbon

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