

# A Regulatory Surge in April 2024

By: Zhou dan Xie | May 10, 2024

## In brief...

In April 2024, federal agencies broke records by issuing an unprecedented number of significant final rules. The surge of rules is related to the expectation that rules finalized later in the year may be at risk of being overturned through the Congressional Review Act.

In April 2024, federal agencies broke records by publishing 66 significant final rules, as defined in Executive Orders 12866 and 14094. This number is higher than any previous month during the Biden administration and is nearly five times the average of the preceding 38 months (Figure 1). Of those, more than half (34) rules are economically (or section 3(f)(1)) significant, meaning that each of those rules is likely to have an annual impact of \$200 million or more on the economy.<sup>1</sup> That number is higher than any month going all the way back to the Reagan administration, including the “[midnight](#)” months, when we have typically seen a flood of regulatory activity before a president leaves office.

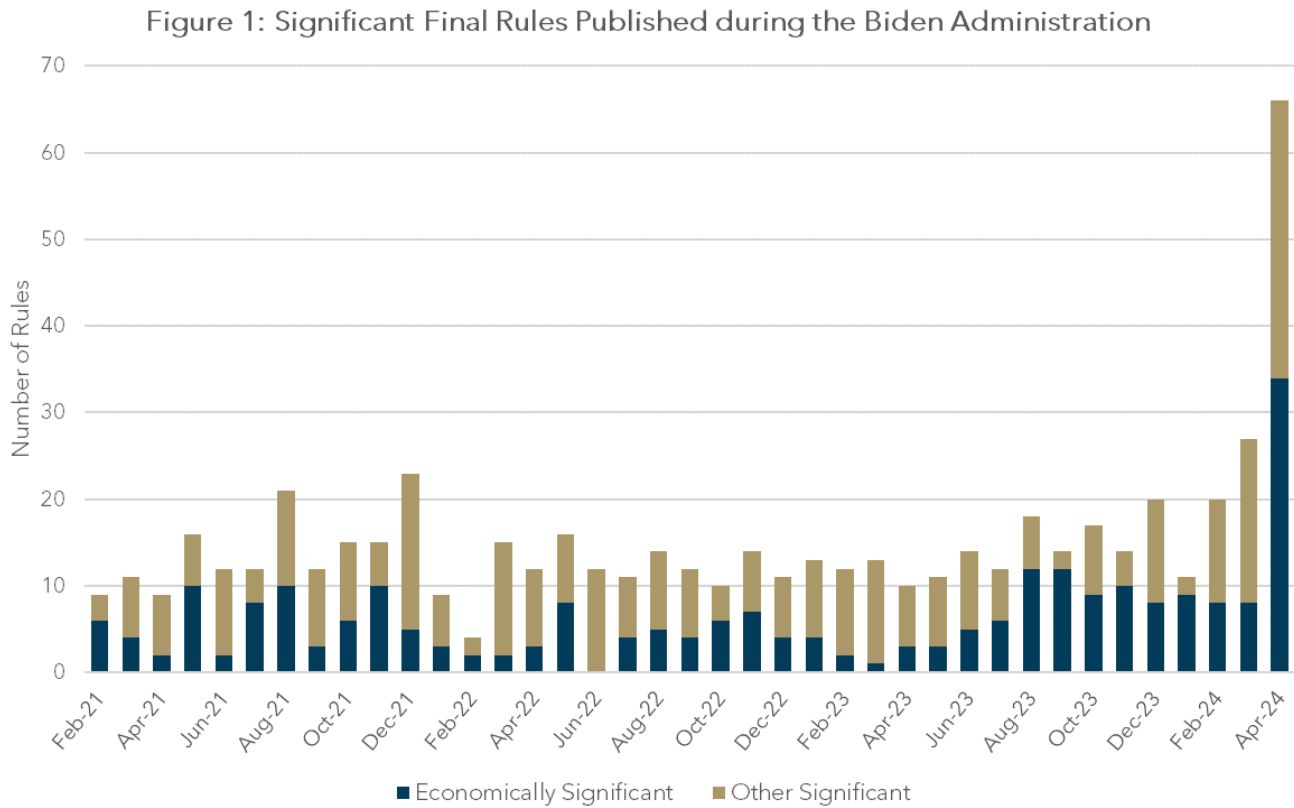
The surge of rules in April is related to the expectation that rules finalized later in the year may be at risk of being overturned through the [Congressional Review Act](#) (CRA). As my colleague Sarah Hay detailed in a previous [Regulatory Insight](#), the CRA provides a procedure by which Congress can overturn rules issued by federal agencies. Rules published within the “[lookback period](#),” starting 60 working days before the end of a session of Congress, are subject to congressional oversight in the subsequent session of Congress. If there is a presidential transition next year, the lookback period gives the incoming president and Congress a unique opportunity to overturn rules issued by the current administration. When exactly the lookback period starts is unclear at this point. The [estimate](#) ranges from as early as May 22, 2024 to the beginning of August. Clearly, agencies are [rushing to finalize rules](#) with the early deadline in mind.

The pace of rulemaking accelerated in late April. Of the 34 economically significant rules published, 27 were published during the last two weeks of April. With the estimated CRA deadline just a few weeks or months away, agencies are likely to push more rules out the door in the coming weeks. The pace, however, seems to be slowing. During the first week of May (May 1-7), agencies issued eight economically

---

<sup>1</sup> The “economically significant” rules issued before April 6, 2023 meet the original definition in section 3(f)(1) of Executive Order 12866, and those issued on and after April 6, 2023 are designated based on the new definition in Executive Order 14094.

significant final rules, a 50% decrease from the last week of April (while still a much larger number than an average week before April).



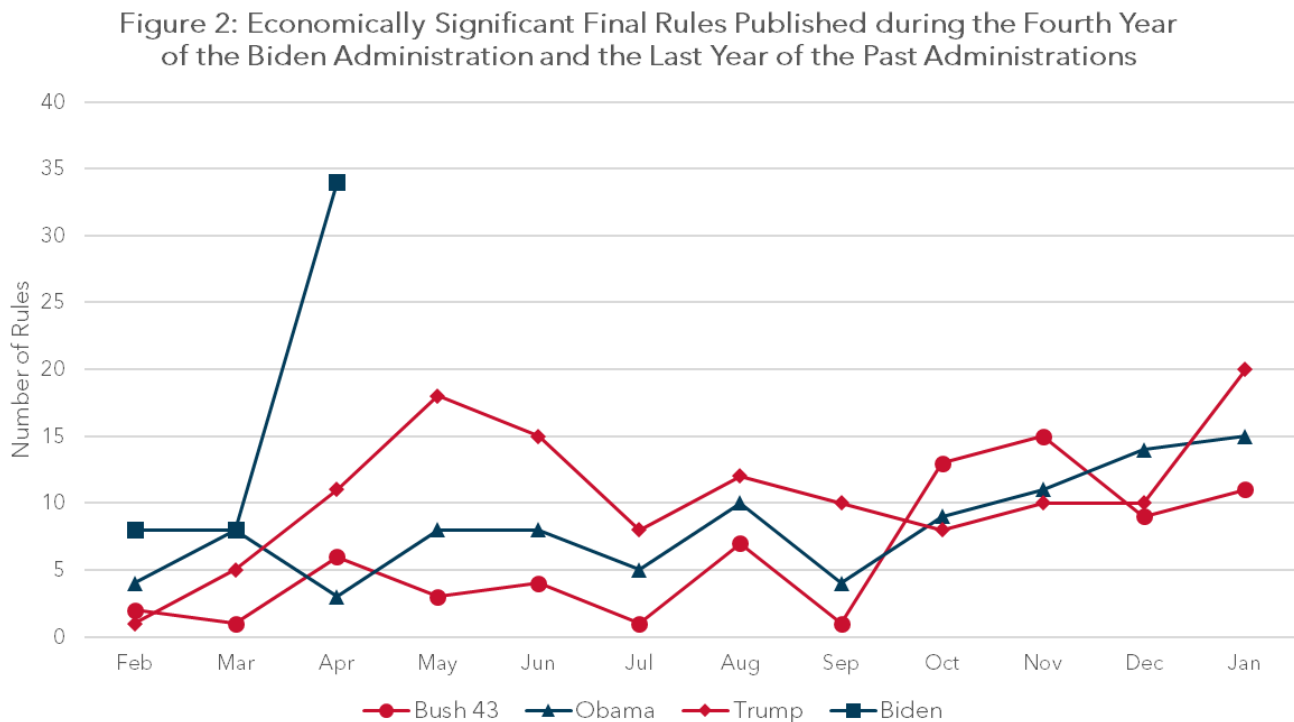
Note: The figure is created by the author using data from the Federal Register collected by the Regulatory Studies Center.

While the number of significant final rules issued in April is unprecedented, the number of total final rules is not. Agencies published 300 final rules in total in April, not significantly different from the past months under Biden. On average, the Biden administration published 262 final rules each month from February 2021 to March 2024, of which 5% tend to be significant and 2% are economically significant. In contrast, 22% of the rules in April are significant rules, and 11% are economically significant. That comparison suggests that agencies have likely been [prioritizing](#) publication of the most controversial, high impact rules to minimize the risk of CRA disapproval in case of a presidential transition. Examples include the Federal Trade Commission’s [non-compete clause rule](#), the Environmental Protection Agency’s [PFAS rules](#) and [emission standards for coal-fired power stations](#), and the Labor Department’s [new overtime rule](#).

Among the 34 economically significant rules, nine rules were issued by the Labor Department, more than any other department. That coincides with my colleagues’ [analysis](#) showing that past successful resolutions of disapproval targeted labor regulations more than other rules at the beginning of the Trump administration. Perhaps coincidentally, the first resolution that passed under the CRA was the Labor Department’s ergonomics regulation back in 2001.

The CRA was enacted in 1996 and while Congress has used it as a messaging tool [frequently](#) (e.g., resolutions were introduced that did not result in a disapproval), until 2017, it had only led to one

disapproved regulation. The 115<sup>th</sup> Congress and the Trump administration changed that. As shown in Figure 2, we don't see spikes in the publication of economically significant rules around this time during the last year of the George W. Bush and Obama administrations. That is also true for all the other presidential election years dating back to 1996, when the CRA was enacted. The disapproval of 16 rules at the beginning of the Trump administration clearly drew substantial attention and raised the awareness of the effectiveness of this tool. In 2016, agencies under Trump showed some effort to circumvent the risk of their rules being eliminated through the CRA by issuing more economically significant rules in May and June. That spike, however, is nothing compared to the one we just observed last month. Agencies are becoming more cautious and acting sooner.



*Note: The figure is created by the author using data from the Federal Register and reginfo.gov collected by the Regulatory Studies Center.*

We expect to continue seeing an elevated number of rules published in the coming weeks, but the rate is likely declining. The policy team at the Regulatory Studies Center will continue monitoring rulemaking activity and will update routinely the statistics on the rules published on our [Reg Stats](#) page.