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Trump Regulatory Policy for Transportation & Logistics Sector

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Our expectations for a new regulatory policy from the Trump Administration are quickly taking shape. The White House wasted no time kicking off changes to our regulatory environment and compliance enforcement posture. One theme is an intention to alleviate the regulatory burden on domestic operations while taking a starkly different approach on international trade. This article explores where we stand to date and the potential impact of those changes for the transportation and logistics sector.

Trump Administration Regulatory Policy

The White House published an Executive Order outlining its regulatory approach on January 31 of this year. The President's objective was described as seeking to "significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life." The strategy for achieving this objective is two-fold: (1) reducing the compliance cost on regulated businesses, and (2) simultaneously reducing the risk of non-compliance with "ever-expanding morass of complicated Federal regulation."

Ten to One Deregulation Initiative

The President also announced a new Ten to One initiative in the Executive Order and a separate Fact Sheet on January 31. The initiative aims to "unleash prosperity through deregulation" by removing ten regulations for every new regulation that goes into effect. The regulatory compliance cost of this approach is intended to reduce incremental costs to less than zero. Many will remember the Two to One deregulation initiative during the first Trump Administration, which the White House says was greatly exceeded during that term.

Regulatory Freeze and Review

The White House published a Presidential Memorandum establishing a freeze on new rulemaking on Inauguration Day, January 20. All new rulemaking must be reviewed by a department or agency head appointed by President Trump. All pending rules not yet published were withdrawn. The effective dates for final or proposed rules already published were postponed for sixty days to permit review. The review is intended to identify any "substantial questions of fact, law, or policy" that require action to align with White House policy initiatives. Some agencies with new rulemakings falling within this review window include the: National Highway Traffic Safety Administration ("NHTSA"), Federal Highway Administration ("FHWA"), Federal Aviation Administration ("FAA"), and Federal Railroad Administration ("FRA").

Recission of Biden Executive Orders

The White House published an Executive Order rescinding certain Biden Administration Executive Orders effective on January 20. Among the revocations was Executive Order 14037 from 2021 titled "Strengthening American Leadership in Clean Cars and Trucks." This Biden Executive Order set the ambitious policy that fifty percent of all new passenger cars and light trucks sold in 2030 will be zero-emission vehicles. This Biden Executive Order also directed the then-current Environmental Protection Agency to develop new rules for Medium- and Heavy-Duty Engines and Vehicles for model years 2027 and beyond. President Trump's rescission of this Executive Order also requires elimination or change of ancillary actions used by the Biden Administration to implement those legacy policies.

Another significant rescission was elimination of a Biden-era Executive Order aimed at fostering AI development in the U.S. The Order sought to enhance AI infrastructure by establishing data centers and clean power facilities in the U.S., in alignment with national security, economic competitiveness, and clean energy goals. Revocation of this Order is in response to concerns from the tech industry over the potential to stifle U.S. innovation in the face of growing competition from China. Some industry leaders have expressed that potential obligations under the Biden Order could limit the flexibility and growth of the U.S. AI sector.

Federal Enforcement Posture

Many of these early signs indicate a pro-business Trump Administration, but international trade policy may be an exception to the rule. The swift roll-out of additional duties on our largest trading partners and several key commodities is a challenge for businesses including those in the transportation and logistics sector that support movements of impacted goods. Enforcement of new duty requirements by U.S. Customs and Border Protection ("CBP") is anticipated to be far more aggressive under the Trump '47 Administration than in prior years. For example, the White House published its Executive Orders on steel and aluminum on February 10th and 11th that specifically direct CBP to enforce customs duty evasion to the maximum extent permitted by law without consideration of mitigating factors. This is a meaningful departure from past CBP enforcement policy where the agency would generally try to work with domestic importers to resolve cases by considering mitigating and aggravating factors when arriving at a civil penalty amount.

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