The Daily Dish

Crunch Time for the Regulatory Budget

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Eakinomics: Crunch Time for the Regulatory Budget

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As of today, there are 33 days of Federal Register publication left in fiscal year (FY) 2019. Why might this astounding non sequitur of a factoid be of interest to you? Well, dear reader, it concerns something called a "regulatory budget."

One of the longest-running initiatives of the Trump Administration has been its implementation of this concept wherein, broadly speaking, agencies have "regulatory costs" and "cost savings" as two columns on a ledger. Each regulation put forward essentially represents a "line item" in this "budget." The goal has been for the savings column to exceed the cost column. After two fiscal years (2017 and 2018) that saw total net savings, FY 2019 has taken a turn to the net cost side. An American Action Forum (AAF) mid-year review found that the balance sheet stood at roughly $10 billion in net costs, as opposed to the administration's goal of $18 billion in net savings. Since then, the balance sheet has tipped even further toward the cost side of the ledger, with federal agencies' net regulatory costs for FY 2019 totaling $11.4 billion as of last week.

How did the administration's regulatory "books" get to this point? The Affordable Clean Energy (ACE) rule is one of the primary reasons. As AAF's Dan Bosch explains here, most expected the ACE rule to bring savings that would single-handedly clear the administration's goal (and then some), but instead the rule projected roughly $1 billion in net costs. The only other rule of that magnitude on the horizon is the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule, but in its FY 2019 budget, the administration explicitly put the SAFE rule off-budget *because* its scale would overwhelm the accounting of all other actions. With a little over a month to go, it is becoming increasingly difficult to see how – outside of the SAFE rule going "on the books" – agencies will be able to reach the administration's regulatory budget goal.

Yet there is something to be said for agencies potentially falling short of that overall goal, and it speaks to the nature of budgets and policy design. Some of the critiques levelled against regulatory budgeting involve such programs arbitrarily constraining agencies in some inflexible framework that unduly restricts their mission. Agencies falling short of this goal implicitly negates the idea that regulatory budgeting locks agencies into some predetermined course of action. It is also worth noting that the only stated penalty for agency "non-compliance" with the regulatory budget is the requirement that it… write a report (see Q39).

A regulatory budget, particularly when implemented this broadly, is a tool to help set priorities. Some of the goals will be met, while some will not. Nevertheless, such a budget focuses activity directionally. FY 2019 will still likely have one of the lowest levels of total costs for any comparable period in recent memory. While there may be some disappointment at the White House if the balance sheet stays as-is through September 30, there is still merit to the concept, and policymakers should consider ways to improve its ongoing implementation.