Research

A Mid-Fiscal Year Review and Projection of the Regulatory Budget

DAN BOSCH, DAN GOLDBECK | APRIL 18, 2019

EXECUTIVE SUMMARY

- Through the midpoint of fiscal year 2019, the Trump Administration is currently well behind its regulatory budget savings target of nearly $18 billion.
- In fact, through final rules published by April 5, the administration had *added* more than $10 billion in total regulatory costs.
- Projecting final rules through September 30, however, shows the administration has more than enough expected savings to surpass its regulatory budget target.

INTRODUCTION

A little more than halfway through the second full fiscal year (FY) of the Trump Administration's regulatory budget, agencies are collectively well behind on reaching the administration's goal of publishing nearly $18 billion in total net savings. Looking ahead to the remainder of FY 2019, however, shows agencies poised to make up that ground and achieve the government-wide savings target – and then some.

This study analyzes the 55 final actions tagged by the Office of Information and Regulatory Affairs (OIRA) as "Regulatory" or "Deregulatory" for the purposes of implementing Executive Order 13,771 – the order that put in place the regulatory budget – published in the Federal Register through April 5. It finds that not only have executive agencies collectively failed to make progress toward the administration's savings goal, but they have *added* net costs – with a couple of key caveats.

This study then, using the fall 2018 Unified Agenda of Regulatory and Deregulatory Actions, projects the administration-wide outcome through the remainder of FY 2019, which ends on September 30. This projection shows that not only will the Trump Administration make up the needed ground and achieve its savings target, it will do so by about $15 billion.

AGENCY DEREGULATORY PROGESS

The table below shows how each agency listed in the Trump Administration's FY 2019 regulatory budget stacks up against its cap through final rules published in the Federal Register through April 5, 2019.

Agency	FY2019 Budget (Costs/Savings $millions)	Year to Date ($millions)	Difference ($millions)
HHS	-8,995.6	-3,003.8	-5,991.8
Education	-3,173.0	0.0	-3,173.0

DOT	-1,869.5	-2,170.1	300.6
USDA	-981.3	5,485.4	-6,466.7
EPA	-817.8	567.2	-1,385.0
Interior	-793.6	0.0	-793.6
Labor	-723.2	-71.8	-651.4
HUD	-490.7	-30.0	-460.7
Commerce	-51.2	0.0	-51.2
SBA	-8.8	0.0	-8.8
Treasury	0.0	9,653.2	-9,653.2
Justice	0.0	312.1	-312.1
Defense	0.0	1.8	-1.8
EEOC	0.0	0.0	0.0
FAR	0.0	0.0	0.0
GSA	0.0	0.0	0.0
NASA	0.0	0.0	0.0
OMB	0.0	0.0	0.0
OPM	0.0	0.0	0.0
SSA	0.0	0.0	0.0
State	0.0	0.0	0.0
USAID	0.0	0.0	0.0
VA	0.0	-5.2	5.2
Energy	0.0	-37.5	37.5
DHS	0.0	-568.0	568.0
Total	**-17,904.8**	**10,133.3**	**-28,038.0**

The results show that the administration has substantial work to do to hit its target of nearly $18 billion in net present value savings. Instead of generating savings toward that goal, agencies have cumulatively *added* more than $10 billion in costs.

Of the 10 agencies expected to achieve savings in FY 2019, only the Department of Transportation (DOT) has achieved its target. Three other agencies have achieved net savings so far – though the Departments of Energy, Homeland Security, and Veterans Affairs were all slated for zero net costs rather than savings.

Two unique rules help explain why the administration is in its current predicament. The first is an Internal Revenue Service (IRS) rule applied to the Department of the Treasury. The Qualified Business Income Deduction rule stems from a requirement in the Tax Cuts and Jobs Act of 2017 and comes with total costs of $9.6 billion, mostly from new paperwork burdens. To the credit of both the IRS and OIRA, this is the type of cost that would not have been accounted for prior to a 2018 memo bringing IRS rules under OIRA review.

The second rule affecting the bottom line of the regulatory budget is a rule from the Department of Agriculture (USDA) establishing a National Bioengineered Food Disclosure Standard. Against a baseline of no national standard, the rule costs an estimated $5.6 billion. Accordingly, this study counts it as imposing costs. OIRA, however, determined it to be deregulatory in nature – arguing that since Vermont's state standard represents a *de facto* national standard, the USDA rule will *save* $1.1 billion in comparison. Adjusting for this change would still put the administration's net costs from EO 13,771 rules at $3.3 billion.

REGULATORY BUDGET PROJECTION

The table below includes general findings for regulatory actions during the first six months of FY 2019 (up until the beginning of April 2019) and what may happen in the remaining months of the fiscal year. For the prospective part of this analysis, AAF examined Unified Agenda entries A) in the final rule stage, B) with either "Economically Significant" or "Other Significant" designations, C) that agencies had explicitly tagged as a "Regulatory" or "Deregulatory" action under EO 13,771, and D) that they expect to finalize by the end of September 2019. All cost or savings figures below come from agency estimates in the proposed version of that rulemaking. These calculations show some *potential*, quantified impact. Some of the figures used to compile this projected estimate may not be the same in the final version.

	Regulatory Final Rules	Deregulatory Final Rules	Regulatory Costs ($billions)	Deregulatory Savings ($billions)	Net Totals ($billions)
First Half FY 2019	17	38	$16.7	-$6.6	$10.1
Second Half FY 2018 (Projected)	13	15	$10.4	-53.8	-$43.4
Potential Total	30	53	$27.1	-$60.4	-$33.3

Despite the current net cost figure, the administration appears poised to see net savings on the back end of FY 2019. The overwhelmingly largest component of the upcoming deregulation is the Environmental Protection Agency's (EPA) expected repeal of the "Clean Power Plan," with $51.6 billion in currently estimated total "avoided costs." Other rules with notable cost reductions include a pair of significant rules also affecting energy production as well as the first stage of the administration's reconsideration of the "Water of the United States" rule. In terms of the estimated $10.4 billion in potential new costs, it is important to note that the vast majority (11 out of the 13) had their proposed version published under the Obama Administration. Thus, while agencies still intend to finalize them per the Unified Agenda, the new administration may make significant changes that substantially alter the final total.

THE SAFER AFFORDABLE FUEL-EFFICIENT VEHICLES RULE

One massive deregulatory action is not included in this study's projection. The Safer Affordable Fuel-Efficient Vehicles Rule, proposed jointly by the DOT and the EPA, was published in August 2018 and was scheduled to be finalized in March 2019. Though the agencies missed that date, they still may finalize the rule by the end of FY 2019. As proposed, the rule would result in an estimated $563.6 billion in total savings – an amount that would cover the entire FY 2019 regulatory budget more than 31 times. OIRA did not include this rule in its regulatory budget, however, due to the unique size of its savings estimate, and so this study does not include it, either.

CONCLUSION

The Trump Administration enters the second half of FY 2019 well behind its projected savings target. Just one agency is currently on pace for its cost savings goal. Projecting the rest of FY 2019, however, shows the administration can more than make up its current deficit, primarily due to a few rules with large estimated savings.