Research

Trump Administration Regulatory Savings More Than Double Goal

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EXECUTIVE SUMMARY

- The Trump Administration established a "regulatory budget" for agencies in one of its first executive orders, EO 13,771. That order required agencies to achieve $687 million in annualized regulatory savings in Fiscal Year (FY) 2018.
- In fact, agencies achieved $1.65 billion in regulatory savings in FY 2018, with the Department of Health and Human Services, Department of the Interior, and Department of Labor achieving the greatest savings.
- Agencies shifted noticeably toward substantive deregulatory rulemaking in FY 2018, in contrast to FY 2017 when regulatory delays comprised a greater proportion of their deregulatory efforts.

INTRODUCTION

The first full fiscal year under the Trump Administration concluded September 30. For executive agencies, it marked the first time they had to meet a defined regulatory budget, i.e. a cap on how much cost an agency's new rules can impose on the economy. Given the Trump Administration's aggressive push for deregulation, this budget established an administration-wide net savings goal for Fiscal Year 2018 (FY 2018).

The American Action Forum (AAF) tracked agency progress throughout the fiscal year, using our methodology of tracking rules with quantified cost or savings estimates. We now take a final look at how agencies covered under the president's regulatory budget order finished.

HOW THE REGULATORY BUDGET WORKS

Executive Order 13,771, one of the first executive orders issued by President Trump in January 2017, established the principles for the regulatory budget. That order called for no new net costs through September 2017, with the Office of Management and Budget (OMB) setting a budget for FY 2018 and subsequent years. OMB established an administration-wide target for FY 2018 of $687 million in annualized savings from new rules, with each covered agency receiving a prescribed target.

Not all rules count under EO 13,771—in fact, most do not. The executive order, and its subsequent guidance, define an "EO 13,771 regulatory action" as one that has an annual effect on the economy of $100 million or more; creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency; materially alters the budgetary impact of entitlements, grants, user fees, or loan programs; or raises novel legal or policy issues *and* is finalized with costs greater than zero. An "EO 13,771 deregulatory action," however, is merely an action finalized with costs less than zero. To provide context on how this definition limits the universe of covered rules, AAF identified from October 1, 2017, through September 30, 2018, 316 final rules with quantified cost or savings estimates. AAF found 76 rules covered by EO 13,771 over the same period, and just 12 are EO 13,771 regulatory actions.

To hold agencies accountable to meet their targets, EO 13,771 requires that any covered agency failing to meet its target must develop a written plan explaining how they plan to make up for it in the future. It does not impose any penalty beyond that, however.

CUMULATIVE RESULTS

While agencies technically need to focus on their own regulatory budgets, the EO 13,771 implementation guidance also allows for transfers of costs and savings across agencies (see Q31). As a result, it is most useful to look at the overall picture. For all final rules subject to EO 13,771, the administration exceeded its cumulative goal by nearly $1 billion by securing approximately $1.65 billion in annualized savings. This total is also nearly three times the cost savings recorded in FY 2017.

This level of deregulation is further accentuated when one considers the actions *outside* of the executive order. While a number of regulations were outside of the purview of EO 13,771 (as noted above), when accounting for all executive agency final rules in FY 2018, there was still a net reduction of $1.13 billion in annualized costs. Therefore, the 179 rules that were exempt from EO 13,771 for one reason or another accounted for roughly $525 million in net annualized costs, or roughly $3 million per rule on average. Of this subset, 122 were relatively routine "Airworthiness Directive" rulemakings that accounted for $362 million in costs. Also, while independent agencies are outside the purview of an executive order, all FY 2018 final rules from them added up to a further $143.5 million in net annual savings.

AGENCY-BY-AGENCY RESULTS

On an individual basis, 13 of 22 agencies met or surpassed their FY 2018 savings target. The table below shows how departments and agencies fared.

Agency	FY2018 Budget (Annualized Costs/Savings $MM)	FY2018 Actual (Annualized Costs/Savings $MM)	Difference ($MM)	EO 13771 Deregulatory Actions	EO 13771 Regulatory Actions
HHS	-28.7	-602.1	573.4	11	3
Interior	-196	-284.7	88.7	4	0
Labor	-137	-235.3	98.3	6	0
Justice	-2	-156.0	154.0	2	0
Transportation	-35	-146.0	111.0	14	1

EPA	-40	-91.8	51.8	5	3
Agriculture	-56	-68.1	12.1	4	3
HUD	-29	-31.2	2.2	2	0
Energy	-80	-23.3	-56.8	2	0
Education	-3	-20.0	17.0	4	0
Defense	-70.9	-4.3	-66.6	4	0
NASA	0	-0.1	0.1	1	0
GSA	0	-0.1	0.1	1	0
Commerce	-0.7	-0.1	-0.6	1	0
VA	-2.4	0.0	-2.4	1	1
SBA	-3.6	0.0	-3.6	0	0
AID	-1.2	0.0	-1.2	0	0
State	-1.1	0.0	-1.1	0	0
FAR	0	0.0	0.0	0	0
OMB	0	0.0	0.0	0	0
Treasury	0	0.1	-0.1	0	1
DHS	0	10.3	-10.3	3	0
Total	**-686.6**	**-1,652.6**	**966**	**65**	**12**

The annualized savings are calculated using final rules published in the Federal Register that are identified as deregulatory or regulatory actions under EO 13,771 and include a quantified costs or savings estimate. Agencies may have categorized some rules as either deregulatory or regulatory but only provided a qualitative cost/benefit analysis, and these rules fall outside the scope of this analysis.

The figures included here all come from agency estimates in either the rule's preamble or supporting documents such as a Regulatory Impact Analysis (RIA). When available, the estimate included from each rule is the annualized costs or savings over a perpetual horizon at a 7 percent discount rate in 2016 dollars (per the section on "Accounting Methods under EO 13771"). In cases where such a figure was unavailable in the rule or RIA, the clearest annualized estimate available was included instead.

The agency-level results changed substantially from our review at the end of July. The most notable change is that the Department of Health and Human Services (HHS) moved to the top of the list of agencies with the largest savings total and the largest regulatory budget surplus. HHS rode savings from a Medicare rule —formalizing a policy change to Medicare Advantage and other actions that made rate changes under Medicare—to more than $600 million in estimated annualized savings, topping its target by more than $570 million.

The Department of the Interior (DOI) published a significant deregulatory rule in FY 2018's final edition of the Federal Register. With that action, the agency not only exceeded its savings target, but also rose to second in finalized savings. DOI finalized roughly $285 million in annualized savings, for a surplus of nearly $89 million.

The Department of Labor (DOL) fell from first to third in this accounting due mostly to the methodological change in the accounting of an 18-month delay of the fiduciary rule. DOL issued six deregulatory actions for estimated annualized savings of $235 million. AAF's July review had the same number of actions, but the savings have been reduced substantially as a result of applying the accounting methods described above. Our previous review accounted for savings from the fiduciary rule delay over a 10-year period, instead of the perpetual horizon. HHS would have surpassed DOL regardless of the change, however.

The most curious agency in terms of its regulatory costs is the Department of Homeland Security (DHS). Despite finalizing three deregulatory actions compared to zero regulatory actions, DHS imposed $10.3 million in annualized costs. This quirk emerged from a legislatively mandated rule that increased the number of available H-2B visas. The cost to businesses to fill out the required paperwork associated with 15,000 additional workers accounted for the costs above. Because OMB considers the rule to be burden-reducing due to how it opens the labor pool, however, it carries a deregulatory action designation under EO 13,771.

DHS was one of nine agencies that failed to meet its regulatory budget for FY 2018. The Department of Defense missed its budget by the largest amount, more than $66 million. The Department of Energy also missed significantly, by $57 million. As mentioned above, agencies that fail to meet their target must develop a plan to achieve their required savings. Based on the results of our review, it appears DOD, DOE, DHS, and several others will have to develop such plans. Because this review looks only at published cost and savings estimates, however, it is not official. OMB is expected to report later this fall on agency compliance with the executive order, as it did last year.

HOW AGENCIES ACHIEVED SAVINGS

AAF looked at each of the deregulatory actions above to determine how agencies achieved their savings. Savings estimates were categorized by type based on a description of those savings offered in the Federal Register notice for each rule.

AAF identified five categories of savings in FY 2018:

- Regulatory changes (modifications in how the regulation functions);
- Delays (such as extending compliance deadlines);
- Legislative action that mandated specific regulatory changes;
- Paperwork (including information collection requests, applications, and reporting); and
- Withdrawal of rules.

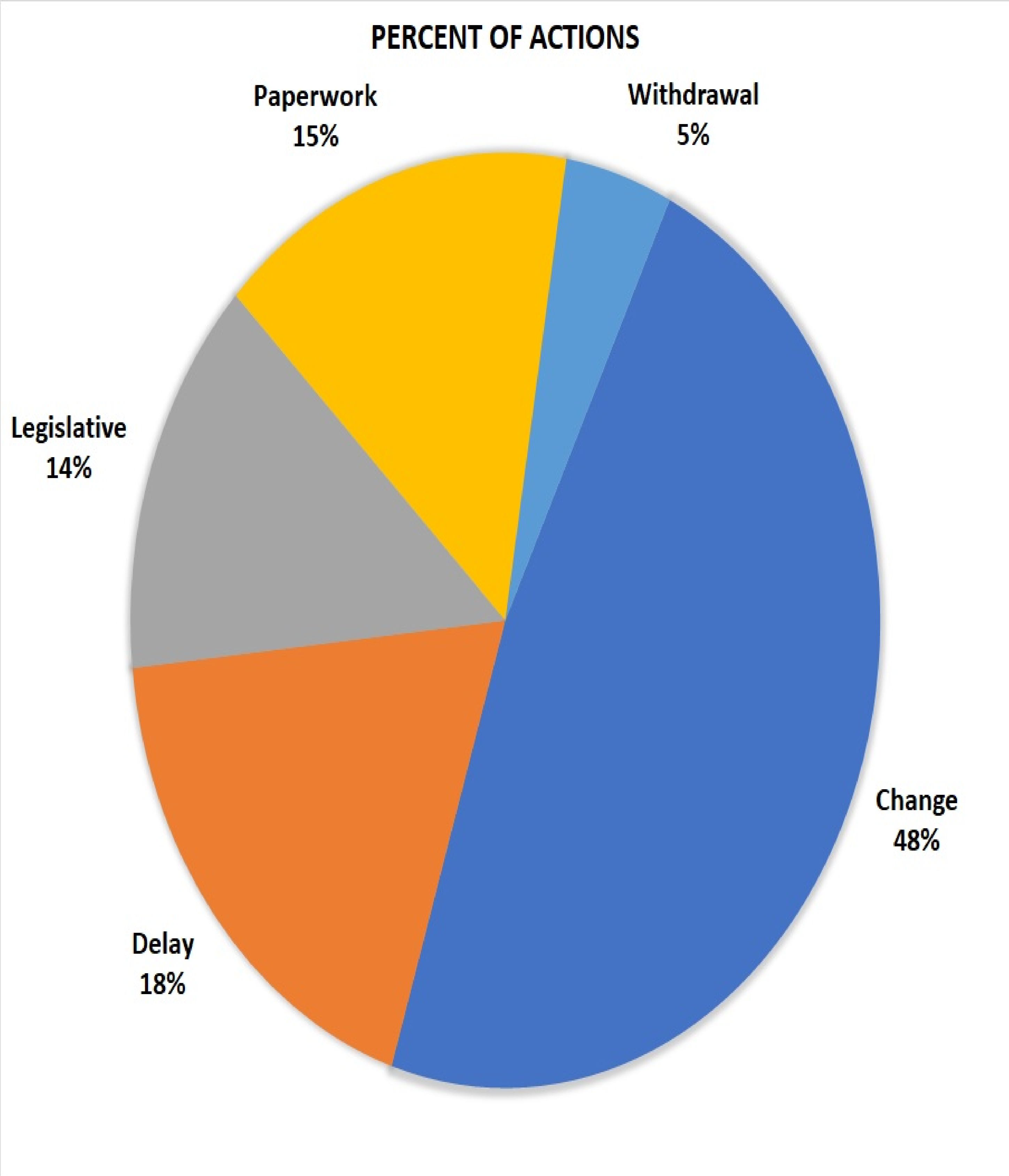
The table and charts below show how the deregulatory actions with quantified estimates in FY 2018 broke down.

Type	Actions	Savings ($MM)
Change	31	624.87
Delay	12	276.95

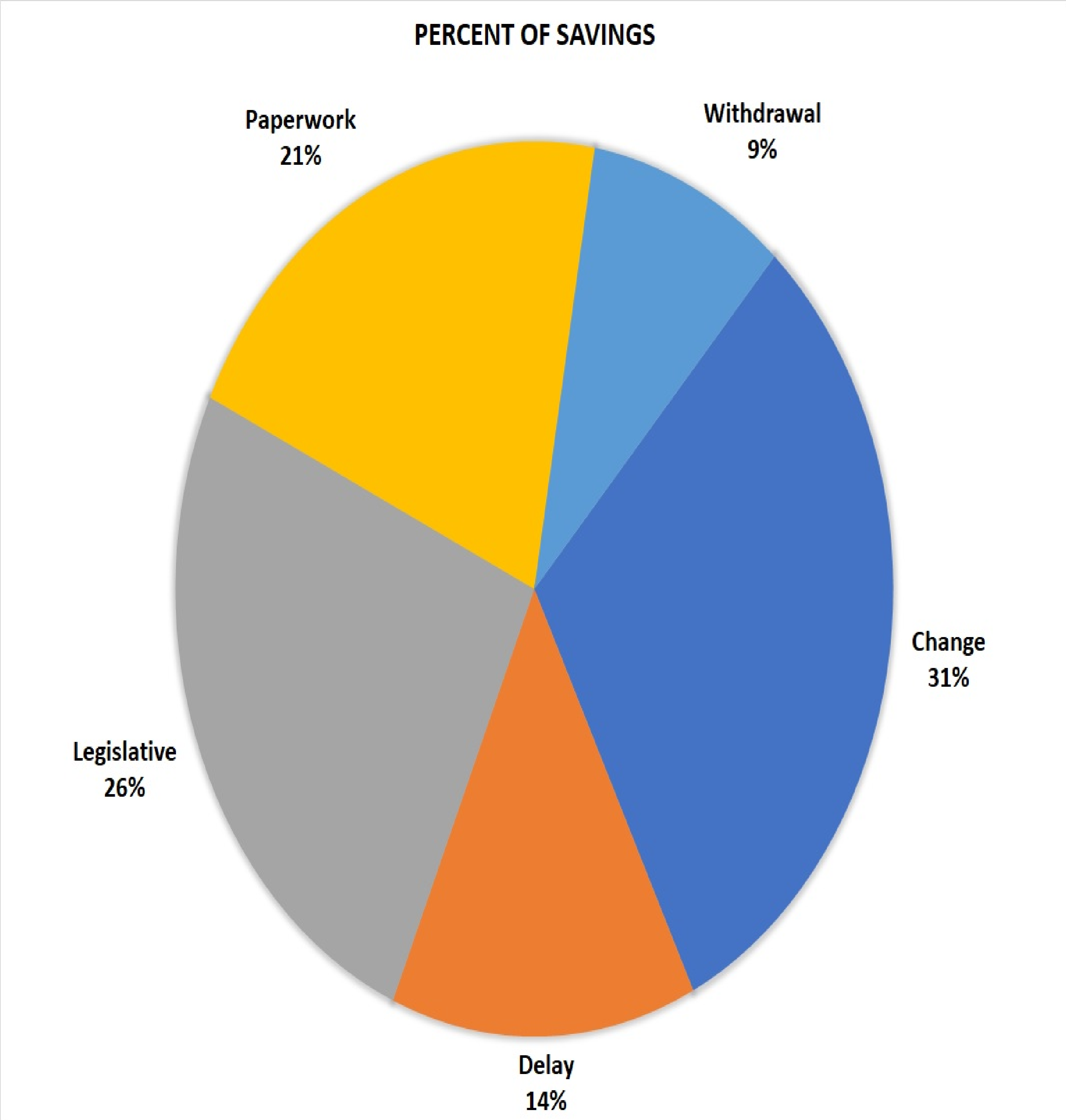
Legislative	9	515.64
Paperwork	10	416.01
Withdrawal	3	180.65
Total	**65**	**2,014.12**

AAF predicted in a previous review of deregulatory actions that a larger portion of deregulatory activity from substantive changes would be likely in the administration's second year. These figures bear out this suggestion.

In terms of number of deregulatory actions, 48 percent were substantive changes, compared with 17 percent from the previous review. Delays made up 19 percent of actions, and paperwork reductions made up 15 percent.



While substantive changes made up nearly half of the actions, they accounted for a noticeably smaller percentage of deregulatory savings. 31 percent of savings came from such actions, which was good enough to be the biggest contributor. Legislative mandates and paperwork reductions accounted for 26 percent and 21 percent, respectively.



CONCLUSION

The Trump Administration easily surpassed its annualized savings goal, with savings more than double the target. By and large, the agencies covered by EO 13,771 adhered closely to its principles, reversing a long trend of escalating regulatory costs. Encouragingly, the administration's regulatory savings have shifted from delays and withdrawals of Obama-era rules to substantive deregulatory changes. Considering there is already more than half a trillion in *proposed* rule savings to date this year, some of the administration's most significant measures may be a major part of agencies' FY 2019 budgets.

NOTE: This piece has been updated to reflect an additional deregulatory action from the Department of Energy.