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Commentary: Why Congress Needs to Pass a Clean Debt Ceiling Bill

Washington is embroiled in a massive debate over raising the debt ceiling, the statute that sets a limit on the amount of money the federal government can borrow. If the ceiling is not raised before Aug. 2, the nation could default on its debt, which could create immediate and long-term damage to an economy already beset with problems.

Austerity Budgets are Counterproductive

The debt ceiling debate has spiraled far from where it started, with both parties now focused on using the issue as an opportunity to force deficit reduction plans through Congress. Republicans are demanding trillions of dollars of spending cuts. Democrats are acceding to trillions of dollars of spending cuts and a few hundred billion dollars of revenue increases.

The last thing the nation needs is more budget cuts. Unemployment is at historic highs across the nation, the public sector [is shedding jobs](#), and the private sector is growing [at a snail's pace](#). Cutting federal spending now will exacerbate this trend, adding hundreds of thousands of federal, state, and local employees to unemployment rolls and undermining anemic growth in the private sector. Testifying before the Senate Banking Committee, Federal Reserve Chairman Ben Bernanke [warned](#) that "sharp and excessive cuts in the very short term would be potentially damaging to that recovery."

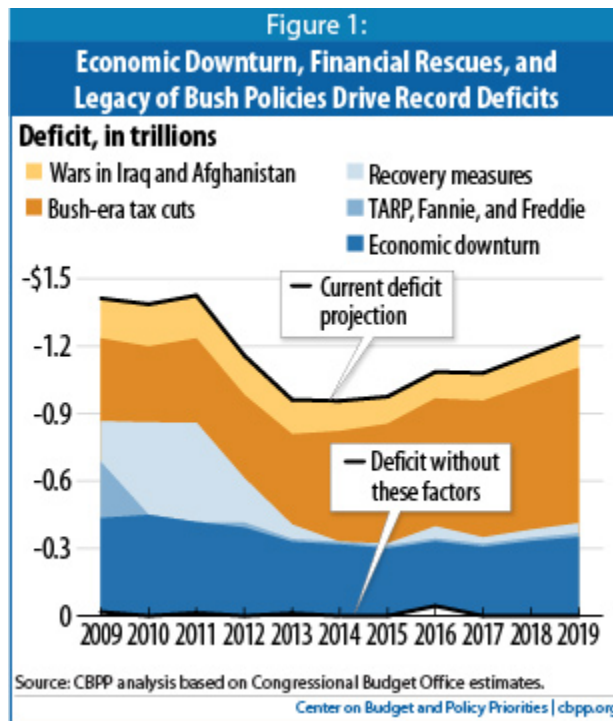
The Wrong Diagnosis Equals the Wrong "Solution"

Insisting that "out of control federal spending" is the source of our budget and economic ills is the wrong diagnosis. The Great Recession that began in 2007 resulted in a loss of 7.5 million jobs and pushed the unemployment rate to over 10 percent. It was the worst economic contraction since the Great Depression. Such mass unemployment causes federal spending to increase through so-called automatic stabilizers. Programs like unemployment insurance and Medicaid see funding levels rise in response to increased utilization during economic downturns. The severity of the Great Recession saw commensurate increases in these programs, which not only provided a vital safety net for struggling families, but also boosted economic activity, somewhat mitigating the depth of the recession.

While the recession technically ended in 2009, only corporations have seen their incomes bounce back. In fact, by the third quarter of 2010, American firms recorded [record-breaking profits](#) and [continue](#) to see their earnings increase. At the same time, households have seen their incomes virtually stagnate since the beginning of the recession while unemployment remains stuck around nine percent with some 14 million people unable to find work. The result has been a precipitous decline in federal revenue.

The tax cuts enacted in 2001 and 2003 under President George W. Bush have driven revenues even lower. The result of the economic downturn and these tax cuts is that currently, taxes as a share of the nation's gross domestic product (GDP) are at [the lowest level in generations](#). Any "deficit reduction" plan should focus on raising an appropriate amount of revenue to meet responsible levels of federal spending.

Fortunately, the Bush tax cuts, first passed in the early 2000s and extended in December 2010, are set to expire in 2012. Allowing this to happen will do a great deal to close the budget deficit. Over the next ten years, [the Congressional Budget Office estimates](#) that the nation will face close to \$7 trillion in deficits. Extending the package of cuts agreed to in 2010 would add about \$2.5 trillion to that deficit. Extending the cuts again is an exorbitant expenditure, one that we cannot afford to make if we're serious about finding a solution to the deficit issue. The American people understand this fact: faced with a choice between drastic cuts to services or ending the tax cuts for upper income people, [Americans have consistently preferred the latter option](#). Ending all of the tax cuts from the Bush era, of course, would have an even greater impact.



Taking a Balanced, Responsible Approach to Deficit Reduction

As the economy improves in the coming years, Congress can and should begin to balance its books and pay down the debt. Extending the Bush tax cuts, especially those for the super-wealthy, will make it much harder to balance the budget in a responsible, equitable way. However, allowing only the tax cuts for the wealthy to expire will still leave a large funding gap. On the spending side, Congress must turn toward cutting spending in the largest portion of the discretionary budget. At \$714 billion, national defense composes over 50 percent of discretionary spending and is replete with opportunities for significant reductions without compromising national security. Additionally, the wars in Iraq and Afghanistan are projected to add \$1.7 trillion to the deficit should current funding levels continue over the next decade.

In the end, with respect to both the tax cuts and the budget, Congress should let this opportunity for rushed "reform" pass it by. Congress must resist the urge to immediately "fix" the budget and instead pass a clean debt ceiling bill. Once we've averted default, we can then move on to a robust, systemic discussion about spending, taxes, and the national priorities that are important to the American people.

Army Report Highlights Need for More Contracting Officers

A [recently released review](#) of the U.S. Army's acquisition process reveals that the service must invest in more acquisition personnel and better training to help address failed weapons programs and their associated costs. Arresting staggering cost increases is an important objective for the Army, but Congress's current obsession with deficit reduction may become the greatest impediment to saving taxpayer dollars.

Ordered by Secretary of the Army John McHugh, the "2010 Army Acquisition Review" (the review) tasked Gilbert Decker, a former assistant secretary of the Army for research, development and acquisition, and retired Army Gen. Louis Wagner, formerly of the Army Materiel Command, to chair the six-member panel. The group's charge was to provide "a blueprint for actions" achievable in the near term "to improve the efficiency and effectiveness of the Army acquisition process."

Reforming the service's contracting process is essential, as the Army's ability to design, construct, and field vital weapons has steadily broken down over the last two decades. Indeed, the Army has terminated 22 major weapons programs over the last 20 years, with 15 of those terminations occurring since 2001. Since 1996, the Army has spent at least \$1 billion per year on programs that it has eventually cancelled; that number spiked to at least \$3 billion annually in 2004.

Like the Department of Defense's (DOD) inefficient contracting process, as well as the other service branches' acquisition troubles, one may trace the Army's contracting problems to the end of the Cold War and the Pentagon's attempts to cash in on the era's [so-called peace dividend](#). Not only were defense contractors encouraged to merge in an effort to increase efficiencies among the nation's industrial base, but DOD also dismissed large portions of its contracting staff and encouraged the service branches to do the same – all while eying a world without the Soviet Union.

Fast forward two decades and the anticipated contracting efficiencies have never materialized, as six industry giants have gobbled up most of the competition within the world of defense contracting, increasing costs and creating a vicious cycle of dependency where contractors are ["too big to debar."](#) The dramatic loss of acquisition personnel, as the review observes, has caused erosion among "requirements and acquisition core competencies," which are in "urgent need of repair." This has forced the Pentagon, along with the service branches, to turn back to contractors to perform tasks that either military or civilian government personnel used to perform.

The review tersely notes, "The Army needs a critical mass of analytical talent," and, specifically, must increase the number of qualified "systems engineers, operations and cost analysts, and contracting officers, particularly those in uniform." The panel also noted with concern "the growing number of contractors performing 'gray area' and what would appear to be inherently governmental jobs" because of this lack of internal talent.

Much of the increased use of contractors has occurred since 2001 with the introduction of the so-called "Global War on Terror" (GWOT) and the associated explosion of both defense spending and overall government contract spending. As the review points out, during this time, the Army has not seen a "significant increase in the number of authorized civilian analysts" and has witnessed "a decrease of 55 [percent] of authorized military analysts." More work for a decreasing acquisition labor force has translated into an increased reliance on contractors.

One risk to the proposed reforms are the current wars in Iraq and Afghanistan and the Army's resultant focus on what the review refers to as "force generation," which means that top brass are less concerned with making long-term investments in contracting staff than with funneling resources toward immediate combat-related functions. Former Secretary of Defense Robert Gates' [2010 announcement](#) of the Pentagon's goal to convert as much as three percent of spending from "tail" to "tooth," or from support services to combat forces, in an attempt to forestall defense cuts, does not bode well for the review's recommendations.

That focus will only intensify, as Congress' current fascination with austerity – despite repeated efforts to protect defense spending – will likely affect the Army's acquisition reform objectives, even if overall defense spending is not reduced. As the review notes, "If the past is any prologue, Army research, development and acquisition budgets will be reduced as force structure, training and quality of life are given higher priority." The Pentagon's [statement](#) in 2010 that it would end an insourcing initiative undertaken for less than a year, despite [perennial evidence](#) that bringing acquisition functions in-house is less costly, only bolsters this assumption.

In response to the review, the Army [announced](#) that it would hire an additional 1,885 contracting personnel. It is unclear, however, whether the announced additions were wholly new or simply part of the already planned 5,385 acquisition personnel DOD slated for the Army to receive through the [aforementioned abandoned plan](#) to add 20,000 contracting staff through a combination of insourcing and new hires by 2015.

It is important that the Army, and to a larger degree the Pentagon and federal government, take this study seriously, because, as the review mentions, "[t]he overall military acquisition workforce ... has declined by 19 [percent] since 1994 despite the acquisition budget more than doubling," which is indicative of the entire federal contracting process. Unless overall contract spending significantly decreases – and there is no indication that it will – the Army, Pentagon, and federal government need to adequately plan for how to shore up their insufficient acquisition staffs.

In the Dark on Drinking Water Violations and Contaminants

In July, the Government Accountability Office (GAO) released two reports that evaluated the U.S. Environmental Protection Agency's (EPA) performance on protecting America's drinking water. The reports highlight EPA's long-standing problems with collecting accurate data on violations and identifying and regulating dangerous contaminants. Should EPA fail to address these issues, Americans' health could be in jeopardy.

Though drinking water in the United States is among the world's safest, threats to public health, including waterborne disease, still occur. Moreover, contaminants such as chlorine, arsenic, lead, and copper are often found in drinking water. Long-term exposure to these substances can cause stomach discomfort, eye or nose irritation, anemia, liver or kidney damage, cancer, and even death. Among infants and children, the threats include delays to physical and mental development and a serious illness known as blue-baby syndrome, which may lead to death.

States are Underreporting Drinking Water Violations to the EPA

In [*Drinking Water: Unreliable State Data Limit EPA's Ability to Target Enforcement Priorities and Communicate Water Systems' Performance*](#), released on July 19, the GAO found that states are significantly underreporting drinking water violations to the EPA. The resulting incomplete and misleading information hinders the agency's ability to effectively enforce rules aimed at protecting human health.

The GAO reviewed EPA audits from 2007 and 2009 for its report. The 2009 data revealed that states either failed to report or inaccurately reported 26 percent of health-related violations and 84 percent of monitoring violations of the Safe Drinking Water Act (SDWA). The 2007 data underscored similar missing and inaccurate reporting, indicating that the problem is not just a single year of poor performance. The report also notes that "state-reported data underreported the percentage of water systems with violations against which the states have taken enforcement actions."

According to the GAO, numerous factors contributed to the underreporting, including "inadequate training, staffing, and guidance, and inadequate funding to conduct those activities." The study confirms that, in the past, the EPA has conducted audits, identifying state inefficiencies, but that the EPA discontinued those audits in 2010 due to fiscal constraints.

The GAO offered four recommendations to improve states' compliance with the SDWA:

1. Resume routine data verification audits
2. Work with the states to establish a goal, or goals, for the completeness and accuracy of data on monitoring violations
3. Evaluate EPA's performance measures for community water systems to more clearly communicate the public health risk posed by noncompliance
4. Work with the EPA regions and states to assess the progress and any barriers in implementation

EPA partially agreed with the first and fourth recommendations, disagreed with the third, and neither agreed nor disagreed with the second recommendation.

The GAO report was compiled in response to a request from Reps. Henry Waxman (D-CA), Edward Markey (D-MA), and John Dingell (D-MI) of the House Energy and Commerce Committee. Following the report's release, Markey [stated](#):

They say that if it ain't broke, don't fix it – but when it comes to drinking water, it turns out that all too often, EPA has no idea whether it's broke. To add to the problem, House Republicans have just proposed to cut \$134 million dollars from the Drinking Water State Revolving Fund Program, which provides money to states and public water systems to comply with the law and increase public health protection.

EPA Isn't Adequately Regulating Drinking Water Contaminants

Released on July 12, the second report, [*Safe Drinking Water Act: EPA Should Improve Implementation of Requirements on Whether to Regulate Additional Contaminants*](#), focused specifically on unregulated contaminants. The study found "systemic limitations" with the EPA's ability to regulate contaminants. The GAO concluded that the EPA does not have criteria, including internal guidance and policies, to identify and regulate contaminants of greatest risk to public health.

A major, long-term problem uncovered by the study was the agency's failure to properly assess the risks of contaminants on children's health. For example, in 2003 and 2008, EPA examined 20 contaminants and decided that drinking water regulations were not needed for any of the 20. In 11 out of those 20 decisions, the agency's Office of Water failed to consider separate risks to children's health. The report also notes that the Office of Water had not developed any guidance on considering the risks of drinking water contaminants on children.

The study also noted how long it took EPA to regulate perchlorate. Perchlorate, which has been found in water, soil, and sediment in 45 states, is a component of rocket fuel. When it contaminates drinking water and is ingested, it can affect the thyroid gland, leading to neurological problems in fetuses and delays in physical and mental development in infants. In 1998, the agency warned that perchlorate could require regulation, but it was not until 2008 that the agency made a formal decision on the chemical, opting not to pursue regulation. The EPA reversed this decision and finalized a perchlorate standard in February 2011, making it the first contaminant regulated under the SDWA since it was amended in 1996. The GAO found that EPA's process and analysis of perchlorate were "atypical" and "lacked transparency." Further, the agency lacked independence in developing and using scientific data.

Democratic members of the House and Senate, as well as environmental groups, blamed the Bush administration for manipulating science to justify its 2008 decision not to regulate perchlorate. Waxman [*stated*](#), "GAO's report raises serious questions about whether the Bush administration manipulated scientific findings and downplayed the risks of perchlorate exposure on sensitive subpopulations, including pregnant women and children." Also, having obtained documents from FOIA requests and lawsuits against the White House, the Department of Defense, and EPA, the Natural Resources Defense Council (NRDC) [*discovered*](#) that the Bush administration downplayed the chemical's risks to public health in efforts to prevent the EPA from regulating perchlorate in drinking water in 2005.

The actions of the previous administration notwithstanding, the GAO found that systemic faults contribute to the weakness in EPA's testing program for unregulated contaminants, including poor management decisions and program delays. The GAO provided 17 recommendations to address these long-term problems at the EPA, including:

1. Developing criteria to identify contaminants that pose the greatest health risk
2. Improving its unregulated contaminants testing program
3. Developing policies or guidance to interpret broad statutory criteria

The report notes that the EPA has only agreed with two recommendations, contending that "developing guidance and taking the other recommended actions are not needed." GAO maintains that the EPA needs to adopt all of the recommendations to better ensure safe drinking water for the American people.

The report was [highlighted](#) by Waxman and Markey, along with Sen. Barbara Boxer (D-CA).

House Questions Future of Government Printing Office

On July 22, the House passed an appropriations bill that makes deep cuts and policy changes to the Government Printing Office (GPO), an agency that plays an important role in current information dissemination for all three branches of the federal government. The bill raises troubling questions about Congress's understanding of and commitment to GPO's primary responsibility for making public documents available to the American people.

What is GPO?

Despite its name, GPO's responsibilities are not limited to printing: the agency is the official publisher of documents including the *Congressional Record*, bills, and laws, as well as the U.S. Code and the Code of Federal Regulations. GPO also maintains [FDsys](#), a website that provides online access to many of these documents, and manages the [Federal Depository Library Program](#), which distributes government publications to libraries nationwide. In addition, GPO undertakes projects to digitize historical government publications for free public access, including a recently approved [joint project](#) with the Library of Congress (LOC). These publications and programs provide the public with access to information about core functions of the federal government, including legislation and regulation.

Budget Cuts

The House Legislative Branch appropriations bill for FY 2012, [H.R. 2551](#), [passed](#) on July 22. The bill cuts \$27.3 million from the FY 2011 funding level for the agency – a 20.2 percent annual decrease, \$40.4 million less than the agency's request. These cuts, which are considerably deeper than other legislative branch agencies face, would constrain GPO's ability to publish, digitize, and disseminate important public records. For example, GPO requested \$5 million specifically to continue the development of FDsys, but the entire line item was cut from the bill.

Policy Changes

The bill also imposes several policy changes meant to limit costs and reduce GPO's responsibilities:

- Prohibits distributing printed copies of the *Congressional Record* to member offices
- Prohibits distributing printed legislation to member offices unless requested

- Reduces the publication frequency of the *Congressional Record Index* from semimonthly to monthly
- Removes responsibility for printing for the [Architect of the Capitol](#)

What Congress may have missed is that GPO's printing revenue subsidizes the agency's other activities, including preparing information electronically, so without additional funds for digital projects, a cut to the printing budget could make information more difficult to obtain. Indeed, instead of increasing funds for online public information, H.R. 2551 specifically targets cuts to GPO's online projects. The net result is that the public will have less access to government information and documents.

The Future of GPO

Certain provisions of H.R. 2551 suggest that some members of Congress seriously question whether GPO is needed at all. Rather than simply reducing the agency's roles and capacities behind the rubric of cost savings, Congress needs to discuss how we are going to build and support the capacity to disseminate public information and data in the 21st century. Open government advocates argue that modernization and oversight of this function – a key element of enabling citizen engagement with government – should be resolved prior to making significant funding reductions that reduce GPO's capacity to meet its responsibilities.

Modernization: According to GPO testimony, up to 70 percent of its costs are incurred before printing begins, including activities such as editing and layout. GPO is surveying congressional offices about their needs for printed documents in an effort to reduce its printing requirements. The House is also examining ways to reduce its printing requirements, but this will require significant changes in the way the chamber conducts its business or revisions to the relevant provisions of the public printing and documents statutes of Title 44, United States Code, to reduce the volume of congressional printing. Logically, these changes should have been made before funding cuts were proposed.

Oversight: As a legislative branch agency, GPO is subject to unique oversight requirements. GPO is overseen by the Joint Committee on Printing (JCP), a joint House-Senate committee that has been ineffective and opaque; for instance, the committee does not have a website. Proposals to abolish JCP and transfer its responsibilities to each chamber's administration committees date back at least as far as 1995, when then-Rep. Jennifer Dunn (R-WA) and others proposed [a bill to do so](#). While such a shift could result in more active oversight of agency activities, it could also create inconsistent policy and implementation between the Senate and House, as well as risk subjecting the dissemination activities to partisan battles.

A central repository of public information: The centralized publishing and dissemination responsibilities of GPO have allowed the agency to develop expertise and standards to ensure that government information will continue to be accessible for years to come. However, the decreasing costs of print and decreasing hurdles to electronic information dissemination have allowed agencies to operate increasingly independent of GPO. In addition, LOC has played an increasing role in the dissemination of congressional information, particularly through its

[Thomas](#) system. Public access advocates are concerned that fully transferring and decentralizing responsibility for information publication to multiple agencies will result in inconsistent standards and formats, fragmented performance by agencies, and increased difficulty for citizens and researchers in tracking down activities and information generated from different sources.

H.R. 2551 previews the possibility of eliminating GPO entirely. Noting that "the Committee has some concern about the future of the GPO as a viable printing operation for the Federal Government," the [report](#) on the bill directs the Government Accountability Office (GAO) to study "the feasibility of Executive Branch printing being performed by the General Services Administration, the transfer of the Superintendent of Documents program to the Library of Congress, and the privatization of the GPO" – options nearly identical to those [proposed](#) by former Rep. Scott Klug (R-WI) in 1995. The committee asks GAO to report back by January 2012.

The American Library Association (ALA) is [asking to be consulted](#) as that study proceeds. The ALA passed a resolution urging Congress to reaffirm GPO's mission and fully fund the office. The association seems concerned that eliminating the GPO could impact the agency's mandate to disseminate public information to public libraries around the country. The Sunlight Foundation's Daniel Schuman [writes](#) that the real question is not what to do about GPO, but "how to improve how electronic information is distributed."

The core question of the GAO study should be whether moving GPO's responsibilities to GSA and LOC would strengthen the policy, oversight, and expertise needed for effective citizen access to public information or reduce the amount of information available to citizens seeking to engage government officials. These are the questions that need answers – before key funding decisions are made that could undermine the capacity of government to report its activities to the American people.

New Open Government Partnership Could Drive U.S. Commitments

A new global initiative could drive additional improvements to U.S. transparency policies. Launched on July 12, the [Open Government Partnership](#) (OGP) asks participating countries to make concrete commitments to increase transparency within the next year. Initial participants, including the U.S., are scheduled to announce their commitments in September.

President Obama launched the initiative in a speech at the United Nations in September 2010, during which he called on countries to make "[specific commitments to promote transparency; to fight corruption; to energize civic engagement; \[and\] to leverage new technologies.](#)" Seven countries have since joined the initiative, including Brazil, which is a co-chair of the partnership. The other six partner countries are Indonesia, Mexico, Norway, the Philippines, South Africa, and the United Kingdom. An eighth country, India, joined but [subsequently withdrew](#) from the partnership.

OGP is overseen by a steering committee consisting of the eight initial governments and a group of civil society representatives, including the [National Security Archive](#), a U.S. nonprofit organization focused on government openness. The [Transparency and Accountability Initiative](#), a group of donor organizations, provided funds for staff for the partnership and travel funds to support civil society participation. This unique role for civil society groups in a multilateral initiative reflects OGP's recognition of the importance of civil society in effective democratic governance.

The U.S. State Department hosted the July 12 meeting that formally launched the partnership. Representatives from more than 50 countries attended and were invited to join the partnership, along with more than 40 civil society organizations from around the world. Candidates for membership must meet certain eligibility criteria, including a minimum baseline of performance on basic open government. Those countries eligible and interested can join the partnership at its September event. Participants will endorse a declaration of open government principles at that time, which has not yet been released.

Each of the initial partners will also release their open government action plans. Countries that join in September will present their plans sometime in 2012. The action plans are meant to drive voluntary, innovative commitments to improve upon the foundation for open government that already exists in each country and in international law, including human rights instruments and the Convention Against Corruption.

The action plans will address the themes of transparency, participation, accountability, and innovation. The commitments are to "stretch government practice beyond its current baseline" and to contain "timeframes and benchmarks" to allow evaluation of progress. Plans will be organized around one or more of five "grand challenges": improving public services, increasing public integrity, effectively managing public resources, creating safer communities, and increasing corporate accountability. In addition to soliciting feedback from their domestic publics, countries will engage in peer consultation while developing their plans.

Countries will publish a self-assessment of their progress in the first year after adopting their action plans. Civil society organizations in each country will also produce an independent review of their government's performance.

In addition to the action plans, OGP includes a networking mechanism for governments to exchange ideas and solicit expertise from other governments and private experts worldwide. This mechanism could be a valuable source of new ideas for transparency improvements, which could allow countries to essentially import best practices and proven innovations from abroad while sharing knowledge in areas where they are leaders.

U.S. Action Plan

The American open government community is hopeful that the Obama administration will continue its transparency leadership by developing a robust OGP action plan. The emphasis on

concrete commitments achievable within one year will mean the administration's plan likely will not contain comprehensive reforms but could include innovative and meaningful steps forward.

With the short timeline between the launch and the September meeting, questions remain about the U.S. government's public consultations in developing its action plan. A July 12 White House [blog post](#) stated that "we look forward to your input and ideas as we develop our action plan going forward," and the administration has begun [invited meetings with select organizations](#), but it has not yet announced its plans for public consultation. If handled well, the consultations could be a powerful way for citizens to bring their ideas for transparency to the administration, including not just D.C. groups but grassroots organizations from across the country.

Open government groups also are eager to see the administration carry forward the momentum from its previous transparency commitments, build on these advances, and expand proactive disclosure of information across agencies. Advocates hope that Obama's personal commitment to OGP will motivate the administration to find creative ways to navigate resource constraints and political obstacles to achieve real improvements on delivering the open government that the American people deserve.

Studies Show Regulation Protects Health and Safety, Encourages Job Creation

Three recently published studies discuss the relationship between regulations and economic development. One study focuses on the job-creation potential of an individual environmental rule, and another touts the economic benefits of clean energy investments. The third study debunks a widely quoted but inaccurate report on the economic costs of regulations. All three reinforce an argument that public interest advocates have made for decades: government standards and public investments in clean energy protect health and safety and encourage job creation.

A study published July 14, [*Why EPA's Mercury and Air Toxics Rule is Good for the Economy and America's Workforce*](#), describes the economic benefits of the U.S. Environmental Protection Agency's (EPA) proposed [air toxics rule](#). Author Charles J. Cicchetti of Navigant Consulting finds that the air toxics rule would create more than 115,000 jobs by 2015 – eclipsing EPA's conservative estimate by nearly 80,000.

Cicchetti argues that the EPA's own cost-benefit analysis was scientifically sound but failed to account for possible inaccuracies in industry-supplied data and left out some secondary benefits of the rule, such as reduced health care and insurance costs. Sponsored by the Clean Air Council, the Environmental Law & Policy Center, the Conservation Law Foundation, and others, the study echoes [one published by the Economic Policy Institute \(EPI\)](#) in June. The EPI study estimated the rule could prompt the creation of up to 158,000 new jobs in the next four years.

A second report, this one peer-reviewed and published by the Union of Concerned Scientists, takes a close look at the economic impacts of clean energy investments in the Midwest. Entitled

[*A Bright Future for the Heartland: Powering the Midwest Economy with Clean Energy*](#), the July 19 report finds that if Midwest states invest in a [clean energy strategy](#) produced in 2009 by the Midwestern Governors Association (MGA), it could save the average household \$78 per year on electricity and natural gas bills, create 85,700 new jobs in the region, and bring \$1 billion in new income to farmers and clean energy companies. The Midwest was hit hard by the recent recession, and the study's authors indicate that the region has a "great renewable energy potential, a strong manufacturing base and the skilled workforce needed to realize that potential."

Also on July 19, [EPI released](#) a critique of a controversial [study](#) by Nicole and Mark Crain, which was commissioned by the Small Business Administration's (SBA) Office of Advocacy in 2010. Corporate interests and their allies in Congress have been incessantly repeating the Crains' faulty conclusion that regulations cost the U.S. economy \$1.75 trillion per year.

In its critique, EPI noted that "[a] substantial majority of these costs—\$1.2 trillion or 70 percent—are based on the author's use of an econometric regression analysis to determine the costs of 'economic' regulations, such as those rules affecting the financial industry." This means that, by EPI's assessment, the costs of health, safety, and environmental regulations would be a much smaller portion of overall regulatory costs than critics claim. These important social regulations are smart investments because the burden they place on the economy is minor while their far-reaching economic and quality-of-life benefits are great.

Because of its limited focus, Crain and Crain did not calculate the benefits of regulations – just their costs – making it difficult for the authors to accurately determine the true value of regulations. Furthermore, EPI found that the study relied on flawed methodology and incomplete data to reach its conclusions. Setting the record straight on Crain and Crain is important because congressional Republicans and business organizations like the U.S. Chamber of Commerce have been using the controversial estimate to support their attacks on critical air, water, food safety, and workplace safety standards that protect Americans from harm.

Independent studies that look at the costs and benefits of regulations are important because they double-check agency numbers and often consider additional factors that are outside of the agency's purview. When agencies perform their own cost-benefit analyses, they usually rely on industry-supplied cost numbers, and industries tend to overstate the potential costs of a new regulation. There is [substantial evidence](#) that once implemented, regulations do not cost nearly as much as anticipated. Therefore, independent studies help to inform agencies of the true expected costs of regulations. They also document the often overlooked benefits of public protections, offering yet more evidence that the American people do not have to – and should not be asked to – choose between job creation and safeguarding the health and safety of their families and communities.

CPSC Approves Lower Lead Limit for Children's Products, but Divided Commission Faces Hurdles

The U.S. Consumer Product Safety Commission (CPSC) recently adopted a new standard that reduces the amount of lead allowed in children's products, providing a clear health benefit to American families. In voting July 13 to implement the lowest limit prescribed by statute, the 3-2 majority drew hostile objections from minority members. Such clashes are familiar to CPSC and could have implications for product safety in the future.

The [Consumer Product Safety Improvement Act](#) (CPSIA), enacted in 2008 in response to the recall of millions of toys and products, set new limits for the total lead content in children's products. The CPSIA required the commission to decrease the maximum amount of lead in children's products in phases between February 2009 and August 2011. By statute, the CPSC is required to lower the lead content limit to 100 parts per million (ppm) unless the commission determines that the limit is not technologically feasible. Beginning Aug. 14, manufacturers, importers, retailers, and distributors of products designed or intended primarily for children 12 and younger must comply with the new limit. The commission agreed, however, to hold off enforcing a third-party testing requirement for total lead content until the end of 2011.

Decades of research has shown that ingestion of lead, even at extremely low levels, can [cause](#) severe developmental delays in children, especially those under the age of six, as well as myriad other health problems. In 2006 and 2007, a rash of lead-contaminated toys and jewelry designed for children plagued the marketplace, prompting multiple product recalls.

Commissioners Nancy Nord and Anne Northup opposed the lower limit, [but Chairman Inez Tenenbaum](#) declared the CPSIA orders the CPSC to implement the lower limit if the statutory definition of technological feasibility is satisfied. Staff research identified products in the marketplace that are already in compliance with the 100 ppm limit, demonstrating that technologies and strategies exist to help manufacturers achieve the standard.

Tenenbaum commended the commission for fulfilling its statutory duty and protecting children from lead exposure. Because of the lower lead limit and "other protective provisions of the CPSIA," she said, "parents can have confidence that we should not have a repeat of the leaded toy scares of years past."

Though the commission was successful in developing the new lead standard, CPSC commissioners have struggled to carry out Congress's mandates, often citing problems with the underlying legislation. The Democratic commissioners have shown support for legislation that would provide more flexibility to the CPSC, such as allowing existing products to stay on the market past the August effective date. They emphasize, however, that such amendments must not override the mandate to significantly and adequately limit child lead exposure. Meanwhile, Nord and Northup, both highly critical of the CPSIA, continue to [push an agenda](#) that includes legislatively lowering the age range for determining what constitutes children's products and eliminating third-party testing and certification requirements in many cases.

Although the CPSC is making progress in executing the requirements of the CPSIA, future implementation of the law remains uncertain. The debate over allowing exemptions and enforcement stays for products or product categories will continue. Some of the commission's own members echo sentiments of [the anti-regulatory community](#), focusing exclusively on the costs of regulations while ignoring or downplaying their health, safety, and quality-of-life benefits. In addition, funding cuts and [legislation aimed at "fixing" the CPSIA](#) could significantly impact the commission's authority and ability to act.

Product safety advocates assert that any changes to the CPSIA should not weaken CPSC's role in protecting families from dangerous products. Clear authority to develop such safeguards is necessary to prevent faulty cribs, toxic toys, and other hazardous items from reaching consumers.

Witnesses at Senate Hearing Examine Regulatory Change Proposals

On July 20, a panel of experts and advocates told the Senate Homeland Security and Governmental Affairs Committee their views on the many proposals to alter the regulatory process. Disagreements revolved around the economic impacts of public protections and whether legislative action on regulation is necessary.

The hearing was the second in a series called "Federal Regulation: A Review of Legislative Proposals" that took a broad look at regulatory reform legislation. The [first hearing](#) was held June 23, at which senators introduced various bills to reform parts of the regulatory process, and Cass Sunstein, the administrator of the Office of Information and Regulatory Affairs (OIRA), told the committee [the reforms were unnecessary](#).

The proposals aired in the first hearing would erect more procedural hurdles in a rulemaking process that is already staggeringly complex. The bills would, among other things, duplicate analyses federal agencies are already legally required to perform and expand the list of analyses to include requirements that government produce even more studies attempting to estimate the potential *indirect* costs of any new rule. Other proposals call for allowing judicial review of individual parts of the regulatory process and expanding OIRA's reviews of agency rules to include independent regulatory commissions. While cast as procedural reforms, these changes could completely transform the prospects for enforcing current and future standards. This could lead to increased litigation and even greater delays of crucial public protections needed to safeguard the public health and safety of the American people.

At the second hearing, Sen. Sheldon Whitehouse (D-RI) was the lone senator to [propose legislation](#). He introduced two bills ([S. 1338](#) and [S. 1339](#)) that focus on the "capture" of agencies by regulated entities (private industry). When this happens, agencies stop making the public interest their prime concern and instead see themselves as serving the interests of regulated industry.

Other witnesses included Sally Katzen, former OIRA administrator during the Clinton administration; Susan Dudley, former OIRA administrator during the George W. Bush administration; David Goldston, Director of Government Affairs at the Natural Resources Defense Council; and Karen Harned, Executive Director of the Small Business Legal Center at the National Federation of Independent Business.

Katzen and Goldston argued there was no need for additional legislation that would cause more delay by requiring duplicative assessments of costs and benefits of rules. They criticized the reform proposals as one-size-fits-all legislative solutions in search of a problem and argued against expanding judicial review of specific parts of the regulatory process, like agencies' cost-benefit analyses. The courts are ill-prepared to deal with these kinds of highly technical tools, they argued, and the result would be more opportunity for delay. Dudley and Harned supported most of the regulatory reform bills that are before the committee as a way of reducing the "burden of regulation" on business and ignored the bills' potential negative effects on public health and safety.

This split in opinions occurred over a range of issues raised during questions from committee members: codifying elements of regulatory executive orders, including so-called indirect costs of regulations in cost-benefit calculations, and including guidance documents (a wide range of materials used by agencies to clarify or further explain regulatory requirements and to help regulated industries to comply with rules).

On the question of whether the centralized power of OIRA should be extended to allow it to review rules generated by independent regulatory commissions (such as the Securities and Exchange Commission and the Consumer Product Safety Commission), only Goldston argued that the agencies should remain independent of such executive branch control.

Sen. Joseph Lieberman (I-CT), chair of the committee, and Susan Collins (R-ME), ranking member, indicated the members would try to craft a bipartisan bill from the many proposals for a potential markup, though the contours and timeline of such a bill remain vague.

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