GOVERNMENT MATTERS

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Congress Sets Stage for Second Budget Showdown

On Jan. 23, the House of Representatives sidestepped a battle over the debt ceiling and prepared itself instead for a coming fight over sequestration and a possible government shutdown. The No Budget, No Pay Act (H.R. 325), passed by the House, suspends the debt ceiling until May 18 and ties congressional pay to passage of budget resolutions in the House and Senate by April 15.

House Speaker John Boehner (R-OH) has said that the forthcoming House budget resolution will balance the federal budget within ten years. In the Senate, newly anointed Budget Committee Chair Patty Murray (D-WA) has indicated that the Senate plan will include new tax revenue beyond what was enacted earlier this year as part of the American Taxpayer Relief Act (ATRA) of 2012.

However, several other intervening events may force action much sooner than April 15. The president is expected to submit his annual budget proposal to Congress in late February or early March. He has already indicated that he would like to reduce the deficit by an additional $1.5 trillion over ten years, above the approximately $2.6 trillion that has already been achieved over the past two years, most of which came from spending cuts.

The president's budget proposal will come at about the same time that additional across-the-board spending cuts, called sequestration, are slated to begin on March 1. The president wants to replace these across-the-board cuts with a more balanced package of revenues and targeted spending cuts, but

House Republicans appear unwilling to agree to new revenues and may prefer to accept sequestration instead.

According to the Center on Budget and Policy Priorities, if sequestration occurs, it will cut nondefense discretionary spending on programs like education and health research by $26.4 billion (a cut of 5.1 percent), defense spending by $42.5 billion (7.3 percent), Medicare reimbursements to health care providers and insurance plans by $11.2 billion (2 percent), and other nondefense mandatory programs that are not exempt by $5 billion (5.3 percent). Most entitlement programs, including Social Security and Medicaid, are exempt from sequestration.

The high likelihood that sequestration may occur was underscored on Jan. 14 when OMB released a memo providing guidance to federal agencies on how to prepare. According to the memo, most agencies had already begun preparation late last year, and OMB instructed them to plan for possible furloughs, conduct reviews of grants and contracts, and consider reprogramming and transfers of existing funds within agencies. According to some reports, the Defense Department is preparing to submit a plan to Congress in mid-February that would include furloughs of civilian personnel.

As bad as the budget situation may become, with sequestration looming at the beginning of March, it could get worse after March 27. If Congress fails to pass an omnibus budget bill by that date, or at least a temporary bill funding federal agencies for another few weeks, the federal government may shut down.

Dueling Budget Plans

Set against this backdrop, both parties will be laying out competing budgetary visions for the future. House Budget Committee Chairman Paul Ryan (R-WI) has been tasked with developing a plan that would balance the federal budget within ten years. The plan is not expected to include new revenues, which means that it may contain spending cuts that are more severe than those in the 2012 House Republican budget plan, which included deep cuts in both Medicare and Medicaid.

The House budget plan would probably also lay the groundwork for revenue-neutral tax reform. A senior GOP leadership aide told *Politico* that Republicans would support comprehensive tax reform to eliminate loopholes and lower rates, but that in terms of additional revenue, “that issue is closed.”

Meanwhile, Senate Democrats announced they will develop their own competing plan, much of which will probably reflect President Obama's budget submission to Congress. Unlike the House plan, the Senate plan is expected to contain new tax revenue.

According to a Jan. 24 strategy memo from Murray, "We should ... keep in mind that [the just-enacted tax deal] is projected to result in a ten-year revenue average of 18.5% of GDP (reaching 19.1% of GDP in 2022). We know from historical experience that revenue at that level will not be sufficient to balance the budget — the last five times the budget was in balance, revenues ranged between 19.5 and 20.6% of GDP — especially as more and more baby-boomers enter their retirement years."

The memo explained some of the choices that will need to be made. "We must ask ourselves, is it worth preserving the tax break for corporate jets at the expense of cutting Pell grants that help Americans gain employment and opportunity? Or keeping the giveaways for the oil and gas companies while cutting worker training programs that help small business owners hire the skilled workers they need? Those are the tradeoffs we need to consider as we fight for our values and priorities."

EPA's New Soot Rule Will Save Lives, Health Care Costs, and the Environment

Introduction

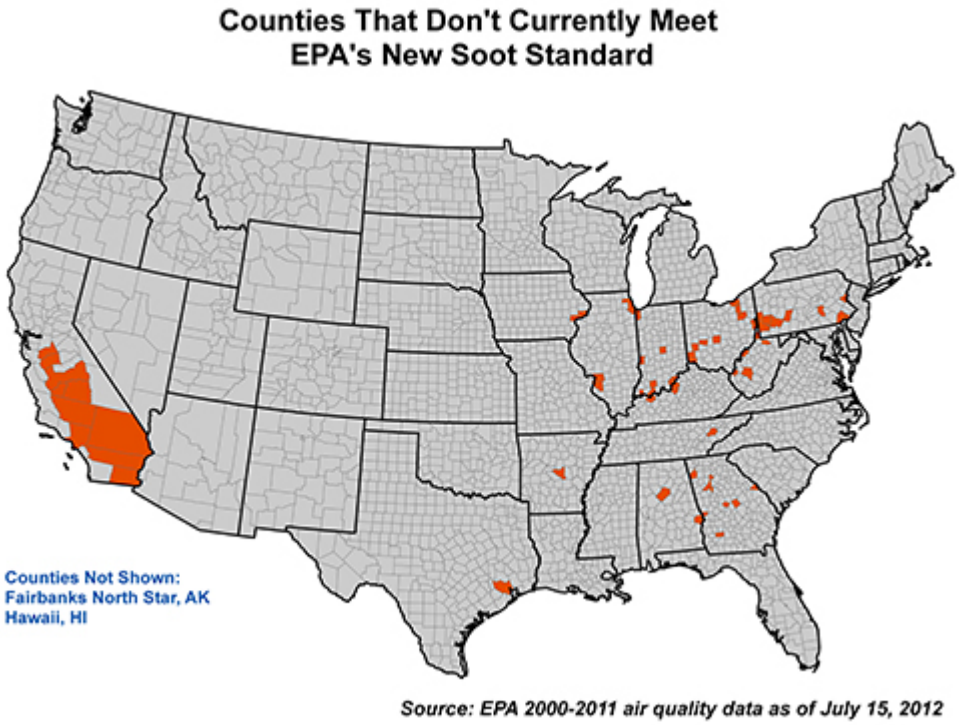
In December 2012, the U.S. Environmental Protection Agency (EPA) finalized a new national clean air standard for fine particulate matter (PM 2.5), commonly referred to as soot. These microscopic particles are often emitted from diesel engines and power plants. When inhaled, the particles lodge deep inside the lungs and can cause asthma, acute bronchitis, heart attack, stroke, and even premature death, especially in vulnerable populations such as children and the elderly. EPA moved forward to strengthen the standard after new data confirmed that the standard set in 1997 did not adequately protect the public.

The Clean Air Act and EPA's Review of the PM (Soot) Standard

Under the Clean Air Act, EPA is tasked with setting national ambient air quality standards (NAAQS) for air pollutants to a level that protects public health and includes an adequate margin of safety. Once EPA has set standards, the Clean Air Act requires the agency to review them every five years. EPA set standards for fine particulate matter (PM 2.5) in 1997 but failed to complete a review in 2002, and in 2006 failed to revise the standard to a level that would adequately protect public health.

In 2012, the American Lung Association and the National Parks Conservation Association successfully petitioned the D.C. Circuit Court of Appeals to compel EPA to complete another long overdue review of the air quality standards for particulate matter, which had been in progress since 2007. When the agency performed the review, EPA scientists found that the existing annual standard for fine particulate matter did not adequately protect people from the dangerous health effects of exposure, such as premature death.

EPA's new rule lowers the annual limit of PM 2.5 from 15 micrograms per cubed meter ($\mu g/m^3$, a measurement of the concentration of a pollutant in the air) to 12 $\mu g/m^3$ but does not revise the existing standards for coarse particulate matter. All counties have until 2020 to meet the new soot standard. On the day the new rule was issued, 66 counties failed to comply and will have to improve their air quality.



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Billions in Benefits Expected

EPA and state rules already in place are expected to bring 99 percent of counties into compliance with the new standard without requiring an additional investment in pollution control technology. EPA estimates that the benefits of the new rule will far outweigh its costs.

Although the Clean Air Act prohibits EPA from considering the costs of new air quality standards, the Office of Information and Regulatory Affairs (OIRA) at the White House Office of Management and Budget (OMB) requires the EPA to prepare a cost-benefit analysis for air quality rules under Executive Order 12866. EPA makes the analysis available to the public for informational purposes.

EPA estimates that the monetary value of public health benefits produced by this rule will range from $4 billion to $9.1 billion by 2020, and the costs of pollution reduction will range from $53 million to $350 million. Even if the rule produces the lowest estimated benefits and highest costs, benefits will exceed costs at a 12 to 1 ratio. Under the best-case scenario, every dollar spent on pollution reduction would have a corresponding gain of $171 in public health benefits. In real-life terms, here are some of the health benefits of the standard:

Health Effect	Estimated Number of Avoided Health Impacts
Adult mortality	460-1,000
Infant mortality	1
Non-fatal heart attacks (Age >18)	52-480
Hospital admissions - Respiratory (all ages)	110
Hospital admissions - Cardiovascular (age >18)	140
Emergency department visits for asthma	230
Acute bronchitis (age 8-12)	870
Lower respiratory symptoms (age 7-14)	11,000
Upper respiratory symptoms (asthmatics age 9-11)	16,000
Asthma exacerbation (age 6-18)	40,000
Lost work days (age 18-65)	71,000
Minor restricted-activity days (age 18-65)	420,000

Source: EPA, http://www.epa.gov/pm/2012/finalria.pdf
(Table ES-4, at pg. ES-17)

Several small business organizations commended EPA's work on the new standard in a joint statement, in which they explained that the rule "will result in decreased mortality rates and fewer incidents of heart attacks, strokes, and asthma, consequently avoiding lost work days and pollution-related health care costs for businesses across the economy." The American Lung Association has also praised the new rule, noting that the more protective standard "will prevent heart attacks and asthma attacks, and will keep children out of the emergency room and hospitals."

EPA's cost-benefit analysis also noted several important benefits from improved air quality that the agency could not quantify: improved visibility from clearer skies, reduced injury to wildlife, and fewer greenhouse gas emissions.

New State Implementation Rules for Soot Will Also Be Required

Before the new soot standards were released, the Natural Resources Defense Counsel, Sierra Club, American Lung Association, and Medical Advocates for Healthy Air filed suit against EPA asking the D.C. Circuit Court to compel the agency to re-examine two implementation rules. The groups charged that EPA issued these rules under the wrong (and weaker) provision of the Clean Air Act, which allowed states too much flexibility in implementing the old soot standards. On Jan. 4, the D.C. Circuit agreed with the environmental groups, so EPA will have to use the correct provision of the Clean Air Act as it decides how to implement the new standard.

The new standard for fine particulates is a big step forward. As EPA issues and revises other standards to better protect the public and the environment, it will also need to ensure that its rules for

implementation do not provide too much leeway for states, especially in areas that are not currently in compliance with EPA's air quality standards.

Amount of Toxics Released in the U.S. Increased for the Second Year in 2011

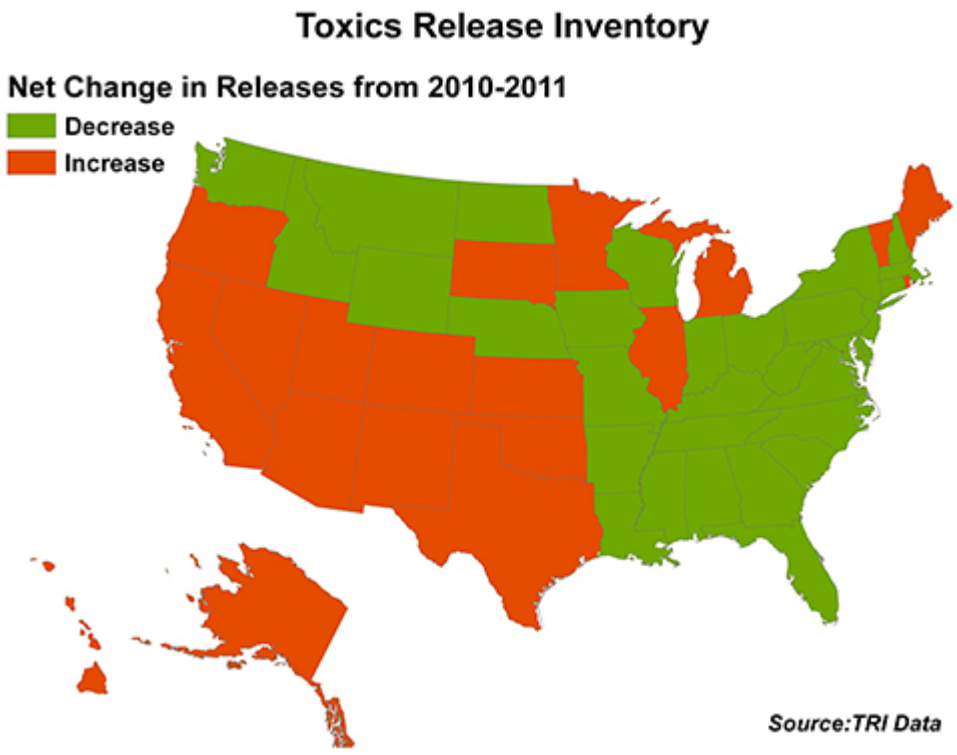
Total releases of toxic chemicals in the U.S. increased for the second year in a row according to Toxics Release Inventory (TRI) data reported to and analyzed by the U.S. Environmental Protection Agency (EPA). The TRI program, established as a part of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, requires the EPA to make information on the release and transfer of toxic chemicals (above a certain threshold) available to the public in order to provide Americans with a better understanding about toxic pollution in their communities.

The regular disclosure of chemical releases generates enormous public pressure on companies to reduce the waste they produce. As a result, the amount of toxic wastes reported has been dropping steadily for years until recently.

More Carcinogens Counted, More Chemicals Released

In 2011, TRI aggregated information from almost 21,000 facilities across the country and reported on over 600 chemicals, including 16 that were newly classified as carcinogens by the National Toxicology Program and added to the data. Over 4.09 billion pounds of toxic chemicals were released into the environment nationwide, an eight percent (300 million lbs) increase from 2010. The 16 new chemicals accounted for almost 1 million pounds. This is the second year of increases in total toxic releases; the two-year increase erases progress made in 2008 and 2009, leaving the country near the level of toxic releases seen in 2007.

The metal mining industry accounts for the largest increase in toxic releases reported by TRI industries. Toxics released from metal mining facilities increased 28 percent (409 million lbs) from 2010 to 2011. According to EPA, this was the result of small changes in ore and rock composition. Given the massive amount of waste rock generated by mining, even small changes can result in large increases in toxic releases.



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Alaska had the highest TRI releases in the country, due in large part to extensive metal mining activity. The state had a 25 percent increase in releases from last year and accounted for 26 percent of the U.S. total. Vermont had the lowest TRI releases of any of the states reporting to the program.

In 2010, EPA added 16 new cancer-causing chemicals to the list of toxic substances that must be reported to TRI, the first time chemicals had been added to the list since 1999. These chemicals are typically found in industry sectors that manufacture basic organic chemicals, dyes, pigments, plastics, and resins. Twelve of the new chemicals were listed individually, while four were added to the polycyclic aromatic compounds (PAC) category. This category is of special concern because it represents Persistent Bio-Accumulative Toxins (PBT) chemicals, meaning they remain in the environment for long periods of time and the harm from exposure builds up over time. The generation of tetrafluoroethylene, or TFE (a colorless odorless gas used in making plastics), was the highest toxic release of the new chemicals, although the most numerous reports were on isoprene (a chemical used in processing petroleum or coal tar).

Despite the overall increase in toxic releases, total toxic air releases in 2011 declined eight percent from 2010, continuing a trend seen over the past several years. Specific hazardous air pollutants, including hydrochloric acid and mercury, were among the declines in air releases. The agency cited the installation of control technologies at coal-fired power plants and a shift to other fuel sources as reasons for the decrease in air releases. Electric utilities reported a 12 percent drop in toxic releases in 2011, and chemical companies reported a three percent drop.

Although almost 21,000 facilities reported their toxic releases to the EPA, this is the 10th consecutive year in which the number of facilities reporting has decreased. This represents a 16 percent decrease

in the number of facilities reporting to TRI since 2001. The agency is unsure why this decrease is occurring. It could represent a decrease or consolidation of chemical plants overall, or more facilities could have dropped below the threshold number of employees and/or amount of toxic releases for required reporting to TRI. Or it could be that an increasing number of facilities are simply failing to comply with reporting requirements. It is troubling that the agency does not know why this decline is occurring.

New Tools to Track Industry Efforts

EPA has improved this year's national analysis by adding deeper analysis on facilities' efforts to reduce pollution, insights into why air releases are declining, and expanded analysis of releases on tribal lands. The expanded analysis of the TRI data is a welcome step toward greater transparency and will strengthen the public's understanding of the toxics that are in their communities.

In 2011, only 12 percent (8,430) of all TRI facilities indicated that they initiated new pollution prevention activities. This represents a slight increase from almost 11 percent (7,976) of facilities that reported initiating pollution prevention in 2010. The report examined the types of pollution prevention activities that were most common, such as good operating practices, modifications to raw materials, processes and products, cleaning and degreasing, and spill and leak prevention. In addition, EPA has a new tracking tool that features facilities that reported that new pollution prevention practices were installed to reduce their releases of toxic chemicals. The public can use the tool to track pollution prevention performance, compare waste management practices of facilities within a sector, and view trends in waste management practices over several years. The tool does not specify the exact activities that were undertaken or their impact but does help identify which companies and industries are taking steps to clean up their operations.

Though not discussed in the findings document, EPA issues several online tools alongside the national analysis that review toxics in several geographic-specific areas, including 13 major urban communities, large aquatic ecosystems, Indian country and Alaska native villages, and states. These tools offer an easy way for the public to review toxic releases in areas of most concern to them. For example, the report on urban communities shows that in the Greater Houston Area, the 492 TRI facilities released or disposed of 81.8 million pounds of toxics in 2011, a nine percent increase since 2010.

Another addition compares TRI and greenhouse gas reporting data. Beginning in 2010, EPA started collecting information on emissions of greenhouse gases under the Clean Air Act. Comparisons show, for example, that electric utilities accounted for 32 percent of toxic air emissions reported to TRI in 2011, and they accounted for 73 percent of greenhouse gas emissions in 2010. Unfortunately, the programs have different reporting thresholds and define sectors differently.

Expanding Right-to Know-Coverage to Other Toxic-Producing Industries

The National Analysis is improving and offering the public better information about the toxics released in their communities. However, the program is limited in that it does not require reporting

on all chemicals or reporting by all industry sectors. But the EPA has been slowly expanding its coverage despite intense opposition from chemical producers.

For the first time in over a decade, the EPA has announced it is considering expanding its reporting requirements to new industry sectors. It is considering adding six sectors: Iron Ore Mining, Phosphate Mining, Municipal Waste Incineration, Industrial Dry Cleaning, Petroleum Bulk Storage, and Steam-Only Production from Fossil Fuels.

The EPA is also considering a petition that the Center for Effective Government and 16 local, regional, and national organizations filed, calling on the agency to require the oil and gas industry (including companies engaged in hydraulic fracturing, or fracking) to report their toxic emissions. Currently, oil and gas extraction facilities are not covered under the TRI program, even though they use numerous toxic chemicals and produce tons of hazardous waste. For example, EPA estimates that the industry as a whole emits 127,000 tons of hazardous air pollutants every year, including benzene (known to cause cancer).

There are also efforts to improve the timeliness and accuracy of the data. In 2011, the agency announced a plan to require electronic reporting for all TRI data. Unfortunately, this proposal has yet to be finalized, so facilities may still submit TRI data on paper, which slows analysis.

Conclusion

The TRI program has been, and remains, a vital tool for tracking toxic releases that endanger public health in communities around the country. The second straight year of increases demonstrates that despite years of progress reducing toxic releases, these pollutants remain a major concern. Expansions of the TRI program with additional chemicals and industries are valuable improvements that will maximize the benefits of this program and ensure that we keep a close watch on new chemicals and industries that pose risks to public health.

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