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In This Issue

Open, Accountable Government

[Is Anhydrous Ammonia a Risk to Your Community?](#)

[Fixes Early in FOIA Process Offer Greatest Potential for Impact](#)

Revenue & Spending

[Hang Together or Hang Separately: The Battle Against Austerity](#)

Citizen Health & Safety

[OMB Report: Standards and Safeguards Have Produced Vast Benefits at Minimal Cost](#)

[Honoring Workers with Stronger Standards and Safeguards](#)

Is Anhydrous Ammonia a Risk to Your Community?

Anhydrous ammonia and ammonium nitrate are the two substances that have been investigated as possible causes of the April 17 explosion of the West Fertilizer Company plant in Texas. Though experts now believe the explosion was due to the ammonium nitrate, the facility did have two 12,000-gallon tanks of anhydrous ammonia, which could have exacerbated the tragedy in Texas had they leaked or exploded.

In the past 15 years, almost 10,000 facilities nationwide have stored large amounts of anhydrous ammonia. Communities in every state are living near large quantities of a dangerous toxin, and residents may not even know it. We hope their emergency personnel do. To allow citizens to see if there are facilities with anhydrous ammonia in their communities, the Center for Effective Government created [a new interactive map tool](#).

What Is Anhydrous Ammonia?

Anhydrous ammonia is a pungent gas, most often used as a source of nitrogen fertilizer for corn, milo, and wheat. It is also commonly used as an industrial refrigerant for cold storage facilities and meat-packing plants. If heated, it can explode.

Exposure to even small amounts of anhydrous ammonia can cause serious burning of the eyes, nose, and throat. Exposure to higher levels causes coughing or choking to occur and can cause death from a swollen throat or from chemical burns to the lungs. When the eyes are exposed to concentrated gas or liquid anhydrous ammonia, serious corneal burns or blindness can occur. In general, the severity of symptoms depends on the degree of exposure.

Anhydrous Ammonia Facilities Nationwide

The Clean Air Act requires facilities handling large quantities of toxic, flammable, or otherwise reactive chemicals to submit risk management plans. For anhydrous ammonia, the reporting threshold is 10,000 pounds. In the last 15 years, almost 10,000 facilities have filed risk management plans because they are storing or producing over 10,000 pounds of anhydrous ammonia. Since anhydrous ammonia is often used as a fertilizer, it isn't surprising that the states with the highest number of facilities are located across the Corn Belt, including Iowa, Illinois, and Kansas. Iowa is the only state that has had more than 1,000 facilities storing large quantities of the chemical. (See Table 1, next page.)

Currently, almost 8,000 facilities report storing large quantities of anhydrous ammonia. About 2,000 facilities have "deregistered" and no longer submit risk management plans to the U.S. Environmental Protection Agency (EPA). Deregistration does not necessarily mean that a facility no longer stores the chemical. It may just be that the quantity produced or stored has fallen below 10,000 pounds. Deregistration could also mean that the facility switched to a safer alternative, or the facility may have closed down entirely.

Questionable Safety Record

Over the past 15 years, almost 1,000 accidents have occurred at 678 of the facilities storing large quantities of anhydrous ammonia, and 133 of those facilities had multiple accidents. In other words, 6.8 percent of the facilities storing anhydrous ammonia had an accident in the past 15 years, and over a fifth of these had multiple accidents. These accidents resulted in 19 deaths, 1,651 injuries, and almost \$350 million in property damage. Moreover, 63,676 people in the facilities and surrounding communities had to be evacuated when accidents occurred. Although not all the accidents at these facilities were the result of anhydrous ammonia releases, many were.

Table 1. Facilities Using Anhydrous Ammonia (1996-2011)

[*click to enlarge as a PDF*](#)

State	Number of Facilities	Number of Accidents	Number of Facilities with Accidents	Accident Rate	Number of Facilities with Multiple Accidents	Multiple Accident Rate	Total Number of Deaths	Total Number of Injuries	Total Number of People Evacuated Due to Accidents	Total Amount of Property Damage
States with 300 or More Facilities (11) Using Anhydrous Ammonia										
IA	1,052	75	61	5.8%	10	1.0%	2	95	1,434	\$891,726
IL	969	57	50	5.2%	5	0.5%	0	339	4,983	\$821,370
KS	803	49	22	2.7%	6	0.7%	1	165	479	\$6,524,121
CA	685	75	56	8.2%	11	1.6%	0	91	31,048	\$2,102,248
NE	684	18	15	2.2%	2	0.3%	0	21	807	\$3,402,800
TX	587	84	52	8.9%	11	1.9%	2	136	1,153	\$45,509,391
MN	500	24	23	4.6%	1	0.2%	3	105	3,024	\$88,434
IN	420	51	36	8.6%	6	1.4%	1	23	413	\$6,372,325
ND	359	15	9	2.5%	1	0.3%	0	18	320	\$34,200
MO	355	26	23	6.5%	3	0.8%	0	7	603	\$2,688,000
OH	312	30	23	7.4%	6	1.9%	0	39	151	\$2,500
States with 100-299 Facilities (13) Using Anhydrous Ammonia										
OK	246	17	11	4.5%	4	1.6%	0	12	200	\$893,600
WI	243	15	15	6.2%	0	0.0%	1	19	202	\$524,786
WA	225	11	11	4.9%	0	0.0%	0	10	327	\$0
GA	182	26	18	9.9%	4	2.2%	0	28	1,065	\$10,051,100
MI	163	15	10	6.1%	3	1.8%	0	19	102	\$696,280
PA	158	18	16	10.1%	2	1.3%	0	27	724	\$586,400
FL	156	32	23	14.7%	7	4.5%	0	59	45	\$2,001,634
CO	147	11	9	6.1%	1	0.7%	0	31	0	\$251,100
KY	135	13	10	7.4%	3	2.2%	2	28	1,150	\$12,021,412
SD	121	4	4	3.3%	0	0.0%	0	2	0	\$0
NC	113	24	20	17.7%	4	3.5%	5	133	255	\$55,104,250
TN	104	27	10	9.6%	5	4.8%	0	16	0	\$2,500
AR	100	41	21	21.0%	9	9.0%	0	45	1,210	\$289,513
States with Fewer Than 100 Facilities (26) Using Anhydrous Ammonia										
MT	98	3	3	3.1%	0	0.0%	0	0	0	\$0
AL	92	17	14	15.2%	2	2.2%	0	20	1,415	\$4,517,490
OR	92	15	13	14.1%	2	2.2%	0	31	1,651	\$673,900
NY	88	9	8	9.1%	1	1.1%	0	6	2,629	\$131,595
VA	84	11	8	9.5%	2	2.4%	0	8	498	\$140,080
LA	83	47	25	30.1%	11	13.3%	0	27	6,971	\$10,985,747
AZ	80	11	8	10.0%	2	2.5%	0	2	35	\$1,200,000
ID	73	3	3	4.1%	0	0.0%	0	2	0	\$10,500
MS	60	6	6	10.0%	0	0.0%	0	0	3	\$190,000,000
SC	57	8	7	12.3%	1	1.8%	1	25	25	\$4,400
MD	56	3	1	1.8%	1	1.8%	0	3	0	\$0
UT	43	5	4	9.3%	1	2.3%	0	8	0	\$54,134
MA	40	5	5	12.5%	0	0.0%	0	2	45	\$141,562
AK	30	7	5	16.7%	2	6.7%	0	8	0	\$1,030,103
NJ	26	4	4	15.4%	0	0.0%	0	5	0	\$0
NM	25	4	4	16.0%	0	0.0%	0	8	0	\$1,000
WV	24	9	4	16.7%	2	8.3%	0	9	100	\$100
WY	19	1	1	5.3%	0	0.0%	0	2	0	\$0
DE	17	7	3	17.6%	1	5.9%	1	16	0	\$500
ME	17	0	0	0.0%	0	0.0%	0	0	0	\$0
NV	16	3	1	6.3%	1	6.3%	0	0	0	\$0
CT	13	0	0	0.0%	0	0.0%	0	0	0	\$0
NH	10	2	2	20.0%	0	0.0%	0	1	9	\$240,000
RI	8	0	0	0.0%	0	0.0%	0	0	0	\$0
HI	7	1	1	14.3%	0	0.0%	0	0	600	\$0
VT	5	0	0	0.0%	0	0.0%	0	0	0	\$0
Totals	9,982	939	678	6.8%	133	1.3%	19	1,651	63,676	\$359,990,801

[*click to enlarge as a PDF*](#)

Though accidents at facilities using anhydrous ammonia as a refrigerant do not usually involve fires or explosions, they can result in dangerous releases of toxins. Last month, Tyson Foods, Inc. [agreed to pay \\$4 million in civil penalties](#) to settle charges from eight releases of anhydrous ammonia in Iowa, Kansas, Missouri, and Nebraska that resulted in multiple injuries and one death.

Iowa has the largest number of facilities storing anhydrous ammonia (1,052) and a good safety record. Only 61 of these facilities experienced any accidents in the past 15 years, leaving its accident rate (5.8 percent) below the national average. Nonetheless, the Iowa accidents resulted in two deaths, 95 injuries, and almost 1,500 people evacuated over the past 15 years.

Among the eleven states with more than 300 anhydrous ammonia facilities, Texas had the largest number of accidents (84) and the highest accident rate (8.9 percent). Two people died, 136 were injured, and 1,153 were evacuated. Moreover, the most financially costly reported accident involving anhydrous ammonia in Texas over this period occurred at Bayer Material Science in Baytown, TX.

In September 2006, 39 workers at the facility were injured at the site when a process vessel containing toluene diisocyanate, a toxic chemical used to make household products and foam furniture cushions, exploded, [releasing](#) carcinogenic chemicals and anhydrous ammonia. The workers were treated for burns and eye, nose, and throat irritations, and the plant was closed down for three months.

The following year, workers injured in the explosion filed a class action lawsuit against the company, alleging that the explosion occurred as a result of unsafe workplace practices. Workers claimed that plant officials were having problems with the toluene diisocyanate unit before the explosion but failed to warn contractors. The claims were settled in 2008, but the amount of the settlement has not been made public.

The accident rate at California facilities was slightly higher than the national rate at 8.2 percent. The 75 accidents that occurred at 56 of California's 685 facilities over the past 15 years did not result in any deaths, but they did lead to over 30,000 people being evacuated and 91 injuries. The high evacuation rate in California appears to be related to population density around the facilities that use or produce anhydrous ammonia. For example, an August 2009 [incident](#) at Columbus Manufacturing, a meat processing facility located in South San Francisco, released approximately 200 pounds of anhydrous ammonia into the air from a leak in a rooftop cooling system. The release resulted in the evacuation of all facility employees and several neighboring businesses. Nearly 30 people from a nearby corporate campus sought medical attention, and 17 individuals were hospitalized. In addition, several local streets and highway off-ramps were shut down.

The damage from the release would have been much worse had it not occurred around 5.30 a.m. – before more people arrived for work and dropped their children off at three nearby daycare facilities, [said](#) Jared Blumenfeld, EPA's regional administrator in San Francisco. The leak was also the second one in 2009 for the meat-packing facility (there was a prior leak in February of that year). The meat processing company agreed to pay nearly a \$700,000 penalty to the EPA and spend about \$6 million on a new refrigeration unit. The company will also improve its alarm and ammonia release notification procedures.

Although not among the states with the highest number of anhydrous ammonia facilities, Louisiana and Arkansas have the highest accident rates, 30 and 21 percent, respectively. Louisiana has only 83 facilities that have stored anhydrous ammonia, but 25 of those facilities (30.1 percent) have had accidents and 11 facilities (13.3 percent) have had multiple accidents. These accidents have not resulted in any deaths but have caused 27 injuries, 6,971 evacuated, and just shy of \$11 million in property damage.

The single most expensive accident at an anhydrous ammonia facility in Louisiana occurred at Mosaic Fertilizer's Faustina Plant in St. James. On Oct. 11, 2006, a process vessel failed, resulting in an explosion and fire that caused an estimated \$3.5 million in damages. The vessel contained 16,450 pounds of process gas, including 2,405 pounds of ammonia.

Out of 100 Arkansas facilities that have used anhydrous ammonia, 21 had accidents and nine had more than one. No deaths occurred from these accidents, but 45 injuries did. These facilities, including Tyson Foods, Simmons Foods, and Zero Mountain Inc., mainly use anhydrous ammonia as a refrigerant for cold storage and meat packing. Following the West, TX explosion, the Arkansas Department of Emergency Management [stated](#) that anhydrous ammonia is not primarily used in Arkansas as a fertilizer but is mostly used as a refrigerant in the state. The Arkansas Department of Agriculture said that only one plant (out of 180 facilities that store fertilizer) has both anhydrous ammonia and ammonium nitrate (similar to the West Fertilizer Company plant) on site. The facility, El Dorado Chemical Co. in El Dorado, AR uses anhydrous ammonia to produce ammonium nitrate.

Property Damage

In the last 15 years, Mississippi had the highest amount of property damage (\$190 million) associated with accidents at anhydrous ammonia facilities, but it was almost entirely the result of a single accident. In August 2007, a fire broke out in Chevron's largest U.S. oil refinery, located in Pascagoula, MS. Although extinguished two hours later, the fire burned near the main part of the refinery, and 200-foot flames were visible for miles. Chevron [reportedly](#) offered free car washes to dislodge the black soot that fell on nearby cars as a result of the fire. The refinery's risk management plan report noted that although the fire did not initially involve any chemicals required to be reported under its risk management plan, as the fire progressed, more toxic chemicals became involved.

It is important to note that the property damage estimates recorded in the accident reports sent to the EPA only include damage to the facility's property. These estimates do not include additional costs to the community that resulted from the incident – such as medical costs for treating the injured or costs for emergency first responders, police, and any loss to other property or businesses. All of the damages reported in Table 1 are estimates of private damages to the companies, not the costs to the public.

Transportation Accidents

Anhydrous ammonia-related emergencies also occur during transportation accidents, such as train derailments or highway incidents involving tanker trucks. These accidents can release large quantities of anhydrous ammonia, sometimes forcing the evacuation of entire sections of a city or town. According to data from the Emergency Response Notification System, a database of reported spills,

releases, and incidents involving chemicals and oil, there were [870 reported incidents involving anhydrous ammonia in 2012](#). The majority of the incidents (662) were at fixed sites, but there were also 37 vehicle, 10 boat, nine pipeline, and seven railroad incidents.

One of the most well-known transportation accidents involving anhydrous ammonia occurred in January 2002, when a freight train [derailed](#) and 31 of its 112 cars careened off the tracks just outside of Minot, ND. Five tanker cars carrying anhydrous ammonia ruptured, and a plume covered the site and surrounding area. As a result of the accident, one resident died, 11 people sustained serious injuries, and 322 people, including the train's conductor and engineer, suffered minor injuries.

Six months earlier, in June 2001, a [tanker spill](#) at the Harvest Land Co-op near West Milton, OH created a "two-mile plume of anhydrous ammonia" in Ludlow Creek, which feeds the Stillwater River. The state's Environmental Protection Agency closed the West Milton water plant to protect the water in the village's emergency towers. The chemical discharge killed more than 103,300 fish, according to the Ohio Division of Wildlife.

Better Regulation of Dangerous Chemicals Critical

Anhydrous ammonia is just one of many dangerous but common chemicals that are used in various industrial processes and can pose a risk to communities and emergency personnel. Community groups, local officials, and public interest organizations have been pushing companies to replace dangerous substances with safer chemicals for decades. The EPA does not have sufficient authority under the outdated Toxic Substances Control Act (TSCA) of 1976 to effectively regulate these chemicals.

On April 10, Sen. Frank Lautenberg (D-NJ), who has been working on TSCA reform since 2005, [reintroduced the Safe Chemicals Act](#), which would increase chemical safety, improve consumer access to information on chemical hazards in products, and protect vulnerable populations, such as low-income communities, children, and pregnant women.

Some communities have heeded the call for safer alternatives. In 2009, the Clorox Company announced its replacement of bulk quantities of chlorine gas with safer chemicals. Reportedly, 220 facilities, including water treatment facilities, power plants, and fertilizer companies, have switched to safer and more secure chemicals and processes since 2001, but this represents a miniscule number of the plants that report high volumes of risky chemicals on site.

Environmental activists believe the EPA could do more to push safer alternatives. The [National Environmental Justice Advisory Council](#) argues that EPA could use its authority under Section 112(r) of the Clean Air Act to require plants to shift to less toxic chemical alternatives.

State governments can also do more. After the Oklahoma City bombing in 1995, several states essentially regulated out of existence the use of ammonium nitrate as a fertilizer. In Michigan, [ammonium nitrate](#) (which was once commonly used in farming in the state) is "virtually nonexistent" thanks to a movement to encourage farmers to use safer alternative chemicals.

If they choose to do so, both state and federal agencies can reduce the risks that a disaster like West, TX will occur in the future. Let's hope they do so – before more lives are lost.

Fixes Early in FOIA Process Offer Greatest Potential for Impact

The Obama administration has released new data on the 333 lawsuits filed in 2012 under the Freedom of Information Act (FOIA). The data shows that although FOIA lawsuits can be high profile, they are rare and the vast majority of requesters never pursue litigation. But more importantly, the information indicates that FOIA reforms, currently being considered by both Congress and the administration, can generate greater improvements for public access when they address earlier stages of the FOIA process.

FOIA is a vital tool for government transparency and accountability, as it provides the public with information necessary to understand what government is doing. Under FOIA, citizens have a right to request information from federal agencies, on critical topics including food safety, compliance with environmental standards, and special interest influence in government decision making. Agencies must promptly provide the information unless it is covered by one of the law's specific exemptions, such as classified national security information. But the implementation of the law consistently falls short of open government advocates' expectations.

Access experts have argued that the law, at every stage of the process, is outdated and should be reformed. While reforms at any stage would be useful, increasing transparency earlier in the process – including before a FOIA request is ever filed – could benefit significantly more people.

The FOIA Process, by the Numbers

Statistics show that as the public looks for information, the great majority drop out at each new hurdle that they are required to overcome.

Looking Online: For most people, the process of seeking government-held information begins when a citizen decides to look online to see if the information has already been disclosed and posted on the web. In many ways, this is also the earliest step in the FOIA process. Consider each search conducted as an informal request for information. A 2010 [study](#) by the Pew Internet & American Life Project found that 82 percent of Internet users – representing 61 percent of all American adults, or approximately 143 million people – looked for information or completed a transaction on a government website in the past year, including:

- 48 percent of Internet users have looked for information about a public policy or issue online with their local, state, or federal government
- 35 percent have researched official government documents or statistics
- 25 percent have gotten advice or information from a government agency about a health or safety issue

FOIA REQUESTS BY THE NUMBERS

143 MILLION
VISITORS
TO GOVERNMENT
WEBSITES*



650,000
REQUESTS



12,000
APPEALS



333
LAWSUITS

**This is the approximate number of visitors to federal, state, and local government websites in 2009. Requests, appeals, and lawsuit counts are from 2012.*

Center for Effective Government

Filing a FOIA Request: If the citizen is unable to locate the information he or she is looking for, then he or she may file a FOIA request. In fiscal year (FY) 2012, 651,254 FOIA requests were filed, according to FOIA.gov. If we consider that each request may be from a separate person (though people often file

more than one request), less than half a percent of the 143 million people that looked online for government information filed FOIA requests.

Filing a FOIA Appeal: If the citizen is unsatisfied with the agency's response, then he or she may file an administrative appeal asking the agency to reconsider its decision. In FY 2012, 431,875 requests were denied in whole or in part or closed for other reasons. Despite that high rate of denials, only 11,899 administrative appeals were filed, according to FOIA.gov. That number represents less than three percent of the FOIA requests that were denied. Out of that number, 9,980 appeals affirmed the initial agency decision in whole or in part or were closed for other reasons.

Requesting Dispute Resolution: Another option for citizens unsatisfied with the agency's response, before or after filing an administrative appeal, is to seek dispute resolution services from the Office of Government Information Services (OGIS), the government's FOIA ombudsman housed in the National Archives and Records Administration. OGIS received 361 cases in FY 2012.

Agency FOIA Public Liaisons are also charged with resolving requesters' disputes, but statistics are not available on how frequently requesters seek their services.

Filing a FOIA Lawsuit: Finally, if the citizen is dissatisfied with the agency's decision on the administrative appeal, then he or she may file suit in a U.S. district court. In calendar year 2012, 333 FOIA lawsuits were filed in district courts, according to [data](#) released by the Justice Department on April 22. That number represents about three percent of the FOIA appeals that were denied in FY 2012.

Targeting Reforms for Greatest Impact

Because so many more people participate in the earlier stages of the FOIA process than in the later ones, it stands to reason that reforms to increase transparency in the earlier stages would have greater impact.

Improving the Quantity and Quality of Information Automatically Posted Online: Perhaps the greatest impact could come from reforms to improve the quantity and quality of government information posted online. If citizens are able to find the information they seek, they may not need to file a FOIA request. In addition, accessing information online is generally considered more convenient than filing a FOIA request and waiting for a response. To achieve that goal, more information must be posted online, and it must be easy for the public to find and use.

The FOIA Oversight and Implementation Act ([H.R. 1211](#)), which the House Committee on Oversight and Government Reform approved on March 20, would take useful steps to require agencies to post more information online. However, these provisions should be stronger: for instance, the bill should require agencies to post all records released under a FOIA request and clarify that judges can order agencies to publish information if required by law.

Simplifying FOIA Request Procedures: Making the procedures for filing and tracking a FOIA request simpler would also benefit a large number of people. Currently, each agency has its own address for

submitting FOIA requests. Additionally, each agency has its own system of tracking numbers to allow requesters to track their request's progress – usually not automated, so requesters have to wait for a manual response to their status inquiry. H.R. 1211 would establish a single, government-wide website for the public to submit and track requests to any agency, which would considerably streamline the process.

Improving FOIA Processing: Because most FOIA requesters will not go past the agency's initial response, it is particularly important that agency processing be timely, transparent, and compliant with the law and best practices.

H.R. 1211 would tighten the standards for agencies to withhold information, but Congress should do more to narrow when exemptions can be applied. The bill would also require agencies to bring their FOIA regulations up to date, strengthen oversight and compliance mechanisms, and encourage clearer communication with requesters. Congress should consider additional reforms in each of these areas, such as assigning more specific requirements for the Justice Department to oversee agency compliance. Congress should also do more to address the complex and sometimes misused fee provisions of FOIA, such as directing the Office of Management and Budget (OMB) to update its 25-year-old guidance to agencies on how to charge fees under FOIA.

Supporting Dispute Resolution: Recent reforms establishing dispute resolution services in OGIS and agency FOIA Public Liaisons offer promise as a more accessible alternative to litigation over denied requests. However, available statistics suggest that the new mechanisms have not been widely used. H.R. 1211 would encourage agencies to resolve FOIA disputes by requiring that requesters be notified of the availability of dispute resolution services. In addition, the bill would helpfully strengthen OGIS. But the legislation's provisions should be further strengthened, such as by directing other agencies to cooperate with OGIS and ensuring that the office receives the necessary resources to carry out its work.

Ask for More Reforms, Earlier

As Congress moves forward with FOIA reform legislation and the administration considers new steps to improve FOIA processing, make sure officials know that you want as many improvements earlier in the process so more people benefit.

Hang Together or Hang Separately: The Battle Against Austerity

Sequestration's automatic spending cuts were back in the news over the past few weeks. For a brief time, the Federal Aviation Administration (FAA) had to furlough employees, leading to nationwide flight delays. At roughly the same time, a researcher [exposed major flaws](#) in one of the key texts serving as an intellectual buttress to global austerity policies. While those fighting against economically damaging austerity measures received a boost from these events, many fiscal policy battles and pitfalls still lie ahead.

The Trouble with Austerity and Automatic Spending Cuts

One of the main criticisms of the sequester is its mindless, automatic cuts to programs that are not exempt. (Exempt programs include Social Security, Medicare, military compensation, and veteran's benefits, among others.) There are certainly better ways to save public funds, such as reducing agribusiness subsidies and eliminating wasteful defense projects, as well as giving Medicare the power to negotiate lower drug prices. However, austerity – the overall contraction of government spending during a time of economic distress – [isn't smart in any form](#).

In February, before automatic cuts hit, the Congressional Budget Office [estimated](#) that sequestration will cost Americans 750,000 jobs by the end of the year and cut economic growth in half, to an anemic 1.4 percent. This is just a projection, and it remains to be seen how bad the impacts will be, but sequestration is [already slowing the economy](#) (although its full effects have [yet to be felt](#)).

The Current, Piecemeal Approach to Fighting Sequestration

Instead of addressing sequestration in a systematic way, some advocates are currently engaged in a piecemeal fight against the policy's negative, real-world effects. Organizations and coalitions may seek to emulate the FAA's recent "success" in eliminating its staff furloughs, as well as somewhat similar victories won by U.S Department of Agriculture (USDA) meat inspectors and by the military in restoring funding for tuition assistance.

However, fighting the cuts individually, while helping a particular program or agency in the short run, will come at the cost of other programs. For example, when the USDA restored meat inspectors, it [took funding](#) from the School Breakfast Grant Program – a cut that could have long-term nutritional and health impacts on poor kids. Similarly, the FAA furlough "fix" required a decrease in planned, long-term airport and aviation infrastructure improvements.

Because the piecemeal approach to fighting sequestration is a zero-sum game, it is still austerity, and it should be opposed as such.

Most Proposed Budget "Solutions" Are Anything But

President Obama's "austerity-lite" budget proposal is far better than the House Republicans' proffered austerity plan, but even his proposal falls far short of what the nation needs. For instance, the president proposes a modest \$50 billion in infrastructure spending to boost the economy and job creation. However, Harvard economist Larry Summers, Obama's former National Economic Council chairman, [told The New York Times Magazine](#) that he believes there should be a "10-year commitment by the government to spend \$1 trillion on infrastructure" to spur job growth. This mirrors a report by the [American Society of Civil Engineers](#) that finds America's infrastructure – bridges, roads, dams, water systems, aviation systems, and more – to be deteriorating with an estimated \$1.1 trillion shortfall in planned spending over the next decade to deal with these problems. The only major federal budget proposal that seeks to meet this challenge is the House [Congressional Progressive Caucus plan](#) (the next closest is the [Congressional Black Caucus plan](#) that spends \$500 billion over three years on a jobs and infrastructure program).

However, the biggest obstacle to overcoming policymakers' austerity fixation is the Republican-dominated House. Congress has the power of the purse, which means we won't get a pro-jobs budget and investments to make America more competitive unless Congress passes such policies, which requires both the House and the Senate to agree. Unfortunately, the political math isn't there. House Republicans are dead-set against more government spending except in defense – [which does not create as many jobs](#) per dollar as investing in education or infrastructure.

And things could get worse. First, midterm elections don't historically go well for the president's party, and they're coming up next year. Second, more conservative, elderly white voters usually disproportionately comprise the midterm electorate, which could further shift the political balance away from constructive policymaking. This could be especially true next year given Obama's proposed long-term decreases in Social Security benefits. Even though the White House has [tried to distance itself](#) from its chained Consumer Price Index ("chained CPI") proposal for Social Security, [some Republicans](#) are already trying to spin the idea that the president wants to cut Social Security to court voters.

Austerity Exposed, but Is Anyone Paying Attention?

But what about the discovery of numerous, fundamental flaws in the work of Harvard economists Kenneth Rogoff and Carmen Reinhart, which has been used to justify austerity policies the world over? Does this help convince policymakers that [austerity is not](#) a path to prosperity?

At least in the short term, this reality hasn't mattered much to most deficit-obsessed lawmakers. Even before Rogoff and Reinhart's paper came out, these policymakers largely did not see a contradiction between their opposition to Keynesian economics (government spending as a way out of economic downturns) and their support for defense spending that creates and keeps jobs in their districts, known by some as "[military Keynesianism](#)." Simply put, many conservatives don't like government as an ideological stance, except for the parts of government that politically benefit them.

Sequestration should be seen in a larger context: it is the latest salvo in the decades-long war conservatives have waged against government spending. They've [starved the government of revenue](#) in order to manufacture fiscal crises – which become acute during times of economic weakness as tax revenue drops – and to create opportunities to further slash spending. These policy decisions have exacerbated income inequality, shrunk the middle class, reduced social mobility, and erased the gains made by previous generations that created a strong, prosperous America for decades. As a nation, we're not broke, but some legislators have tried their best to make it seem that way.

Systemic Problems Call for Comprehensive Solutions

So what can be done? Sequestration should be canceled and public investments in education, infrastructure, and scientific research should be expanded. Assistance for our nation's most vulnerable needs to be preserved. Defense spending needs to be appropriate for our national security needs, and we need to maximize the bang for our buck there and in other areas of spending.

To achieve these goals, the political math in Congress needs to change with a shift toward lawmakers who will pass legislation and approve federal funding that helps everyday Americans, not just a few wealthy special interests.

Activists working against sequestration, against austerity more generally, and for more revenue from the wealthy and corporations need to stay focused on the goal – implementing an equitable economic growth agenda – and the strategy for how to get there – putting pressure on policymakers to pass such an agenda and represent the priorities of the American people. An array of tactics could be deployed in support of the strategy, from writing letters to the editor and more traditional media work, to Occupy Wall Street-style direct action and protests, to supporting political campaigns.

The piecemeal fight against shrink-the-government policies is unworkable; we need comprehensive solutions to achieve [prosperity](#) for all. To make such an agenda a reality, the American people will need to stick together in pursuit of a Congress, government, and economy that effectively represent and benefit them.

As Benjamin Franklin [said](#) at the signing of the Declaration of Independence on July 4, 1776, "We must all hang together, or assuredly we shall all hang separately."

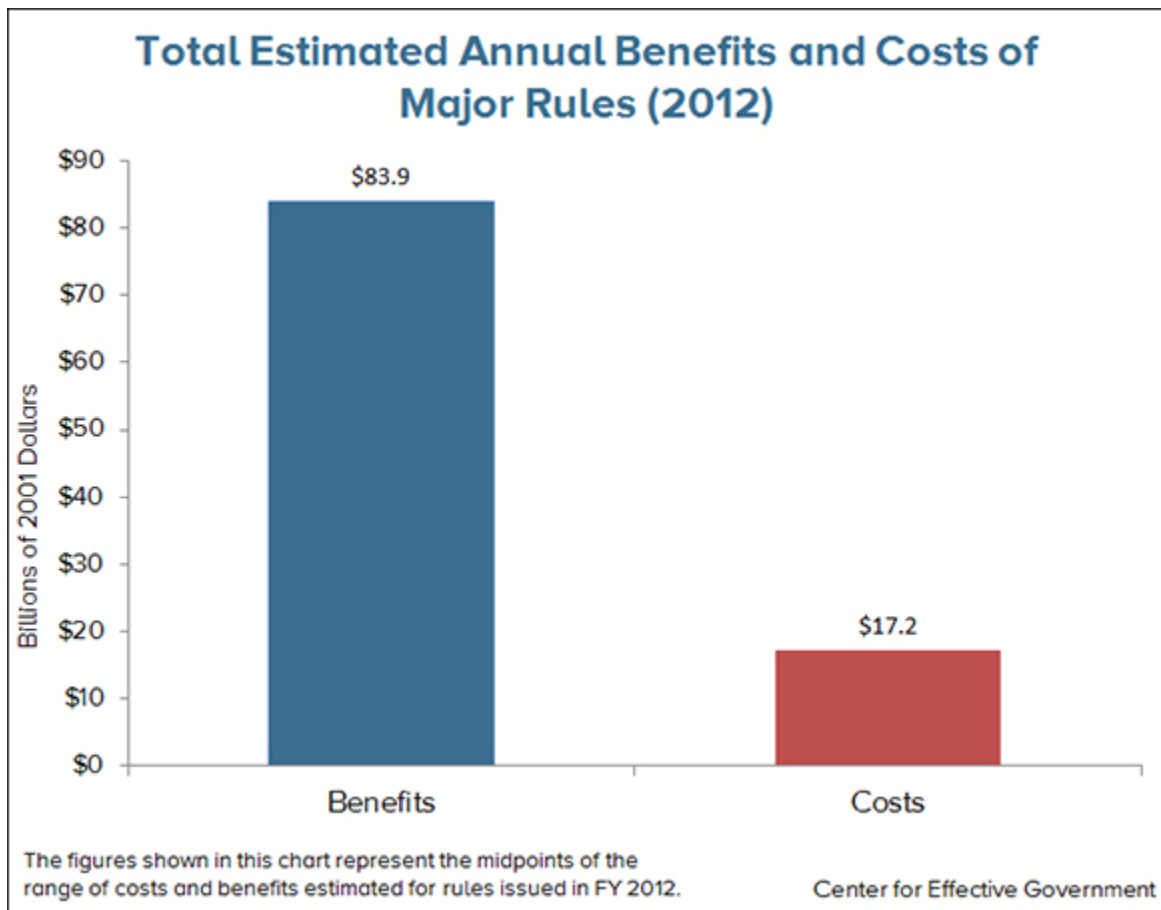
OMB Report: Standards and Safeguards Have Produced Vast Benefits at Minimal Cost

In April, the Office of Management and Budget (OMB) released a draft [report](#) on the benefits and costs of federal standards and safeguards. The report shows that over the past 10 years, public protections have produced vast benefits at minimal cost. In all, the estimated annual benefits of these rules ranged from \$192.7 billion to \$799.7 billion, while costs ranged from \$56.6 billion to \$83.7 billion.

Each year, in compliance with the [Regulatory Right-to-Know Act](#), OMB submits a benefits and costs report to Congress after a public comment period. The report focuses on "major rules" – those anticipated to have an annual economic impact of \$100 million or more and subject to review by the Office of Information and Regulatory Affairs (OIRA) at OMB.

Key Findings for 2012

In 2012, OMB estimated that monetary benefits of 14 major rules ranged from \$53.2 billion to \$114.6 billion, dwarfing costs that ranged from \$14.8 billion to \$19.5 billion.



[click to enlarge](#)

Two rules accounted for the majority of monetary benefits and costs in 2012. One rule, issued by the U.S. Environmental Protection Agency (EPA), limits the amount of hazardous air pollutants emitted from coal-fired power plants. Benefits include reductions in cases of childhood asthma, premature deaths from breathing polluted air, and the amount of mercury that finds its way into the fish we and our loved ones eat.

The second rule, issued jointly by EPA and the U.S. Department of Transportation (DOT), requires cars and trucks to meet higher fuel efficiency standards, which will reduce greenhouse gas emissions, generate fuel savings, promote energy security, and provide other economic benefits.

Actual Benefits Likely Much Higher than Reported

OMB's draft report shows that the benefits of rules issued in 2012, and over the past ten years, have far outweighed the costs. But the actual benefits are likely much higher because many benefits cannot be quantified or easily translated into dollars and cents.

As OMB explains in the report, "If a rule would reduce the incidence of rape, prevent the denial of health insurance to children with preexisting conditions, or allow wheelchair-bound workers to have access to bathrooms, a consideration of dignity is involved, and relevant law may require or authorize

agencies to take that consideration into account." Congress has prohibited some agencies from using cost-benefit analysis in making regulatory decisions where such quality-of-life benefits are commonly involved. Likewise, [Executive Order 13563](#) permits agencies to exercise discretion when issuing rules, recognizing that some rules include "values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts."

Additionally, as the [Coalition for Sensible Safeguards](#) recently explained, some studies show that actual costs are lower than estimated, including those in OMB's draft report. (The Center for Effective Government is a co-chair of the coalition.) These overestimates may stem from data being provided by regulated industries, which have an interest in stopping standards from moving forward. In addition, regulated industries frequently receive some benefits from implementing rules, including greater innovation and improved efficiency, which serve to offset the projected costs. Unfortunately, OMB does not adequately or consistently identify the primary beneficiaries of the rules analyzed in its report.

[Some opponents](#) of regulation have attempted to spin OMB's findings by focusing solely on the costs of new rules. However, OMB's draft report shows that despite underestimated benefits and overestimated costs, federal regulations consistently generate more benefits than costs.

OMB's Proposed Reforms Do Not Address Unique Agency Features and Social Goals

In addition to reviewing the benefits and costs of past federal standards and safeguards, OMB's draft report provides multiple recommendations for reforms that it believes will lead to more efficient and cost-effective rules.

As in previous reports, OMB recommends agencies continue to perform regulatory reviews, or "look-backs," of existing rules. Retrospective review may provide valuable information to agencies about the actual benefits and costs of existing regulations, but continually looking back at old rules requires agencies to divert precious staff time and resources that may be better spent looking forward by addressing outstanding and emerging risks, completing rules already in the pipeline, and performing critical enforcement activities. Furthermore, OMB should acknowledge in future reports that the timing of retrospective review is critical. If done too early, such review may suggest a rule is not producing benefits, even though it will actually prove to be an efficient and cost-effective rule in the long run.

In past reports, OMB has recommended that agencies increase focus on international harmonization as detailed in Executive Order 13563. The executive order asks agencies to "address unnecessary differences in regulatory requirements between the United States and its major trading partners" as it conducts retrospective reviews of existing rules. In the current draft report, OMB highlights the upcoming negotiations between the United States and the European Union to forge a Trans-Atlantic Free Trade Agreement (TAFTA) as an opportunity to address conflicting standards. However, the focus of harmonization to date has been on eliminating or severely weakening standards that impose costs on businesses. As the Center for Progressive Reform has [explained](#), asking agencies to make decisions based on trade-related factors may violate federal law and compromise public safeguards.

OMB is beginning to recognize that public protections do not impede economic growth, and in many cases can foster innovation and create jobs. OMB recommends agencies look at the effects of technological progress in assessing rules by accounting for the ease of accessing vast amounts of information available on the Internet, which may increase productivity, speed the flow of consumer products, and facilitate innovation. Such information may show benefits that offset the projected costs or economic impacts of a rule. To the extent this information is available, OMB should provide it in its report in a helpful and understandable format.

Conclusion

Since OMB first issued its annual report on the benefits and costs of federal rules in 1997, the office has made great strides in improving the information and underlying analyses contained in the report. Moving forward, OMB must be careful not to focus its attention solely on reducing costs, and it should give adequate consideration to removing unnecessary constraints to agency rulemaking, increasing transparency, and assisting agencies with achieving their missions to protect public health, safety, and welfare. This next year will be especially interesting as Sylvia Mathews Burwell begins her new position as director of OMB and a new OIRA administrator is confirmed.

Honoring Workers with Stronger Standards and Safeguards

April 28 marked Workers' Memorial Day, a day to remember and honor those who have died on the job. Workers' Memorial Day also serves as a reminder of how much progress has been made in protecting Americans at work since the passage of the Occupational Safety and Health Act of 1970 (OSH Act) and how much work remains to ensure all Americans are safe at work.

In the forty-plus years since the OSH Act was passed, our country has made significant progress in improving the health and safety of working Americans. Injury and fatality rates are down substantially, although there are still far too many preventable accidents and illness in the workplace. In 1970, more than 14,000 workers died on the job; in 2011, 4,609 workers [were killed at work](#), and an estimated 50,000 died from occupational illnesses. Because of comprehensive Occupational Safety and Health Administration (OSHA) standards, exposure to known killers, such as lead, asbestos, and cotton dust, have been dramatically reduced; grain dust explosions occur less frequently; and workers are less likely to get caught in equipment as it unexpectedly starts up. OSHA's [recent emphasis](#) on protecting workers who report health and safety hazards from retaliation is long overdue.

Unfortunately, OSHA is limited in what it can accomplish, and occupational illnesses and injuries still cost an estimated \$250-300 billion each year. Too many workers are not protected by OSHA at all. Much has been written lately about the tragic fire and explosion at the West Fertilizer plant in Texas that killed at least 15, many first responders, and the lack of OSHA inspections at the facility. In addition, the OSH Act does not apply to public employees, flight attendants and rail workers, or employees of Department of Energy contractors working at nuclear facilities. None of the first responders who died in West, TX were covered by OSHA.

OSHA does not have the resources to routinely inspect most workplaces. OSHA's annual budget is \$535 million, and it employs only 2,000 inspectors, but is responsible for ensuring safety at more than 8 million worksites. According to the AFL-CIO's annual [Death on the Job report](#), given current resources, it would take OSHA more than 130 years to inspect every workplace in America.

Even when it does inspect, OSHA standards are woefully out of date, and it seems unable to adopt new standards. Most OSHA standards were adopted shortly after the OSH Act was passed in 1970 and are based on voluntary consensus standards from the 1960s. When OSHA seeks to update those out-of-date standards or protect workers from unregulated hazards, on average, it takes more than seven years to do so, [according to the Government Accountability Office](#). And throughout those seven years, the Small Business Administration's Office of Advocacy and the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) may be working to weaken exposure limits.

OSHA has been trying to comprehensively regulate silica exposures since the 1970s. Silica dust – long recognized as causing debilitating lung disease – is now widely recognized as causing lung cancer. Expanded reliance on hydraulic fracturing to increase natural gas production exposes thousands of workers to excessive silica levels. OSHA has drafted a proposal to protect these and other workers from the dangers of silica, but its proposal has been stuck at OIRA for more than two years. [This delay](#) has cost at least 120 workers their lives.

Moreover, OSHA cannot assess penalties large enough to really deter violators of workplace safety standards. OSHA may assess only a \$7,000 fine for a serious safety violation – one that was deemed likely to cause death or serious physical injury. That amount has not been increased since 1991. And criminal prosecutions for OSHA violations are rare. Criminal charges may be filed only when an employee dies as the result of a willful violation of an OSHA standard. An employer who commits a willful violation that kills a worker can only be charged with a misdemeanor; the penalty for harassing a wild burro on federal land is higher than that.

In honor of Workers' Memorial Day, let's resolve to do better. The [Protecting America's Workers Act](#), introduced by Sen. Patty Murray (D-WA) and Rep. George Miller (D-CA) (S. 665/H.R. 1648), is a step in the right direction. The legislation would expand and strengthen workplace safety law. It amends the OSH Act to cover more workers, increases civil and criminal penalties so they are large enough to deter violations, better protects employees who report safety and health hazards from retaliation from their employers, and ensures that serious safety violations are corrected promptly, even while employers challenge them.

Our basic workplace safety law has not been updated for more than 40 years, and it needs an overhaul. OSHA should be given the resources to effectively monitor workplace hazards and protect workers. The haphazard, incomplete system of workplace safeguards currently in place in this country must be strengthened and better aligned to provide better oversight of facilities like the West Texas Fertilizer Company. It should not take a tragic explosion for us to resolve to do better by American workers.



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