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Federal Budget

Congress Passes Irresponsible Budget Plan Providing for Nearly \$1.3 Trillion Tax Cut

The Budget Resolution has now been passed by the House (216-211) and by the Senate (51-50, with Vice President Dick Cheney casting the tie-breaking vote). This budget is, quite possibly, one of the worst examples of the failure of our elected representatives to meet their obligation to determine tax and spending outlines that address the priorities of the American people. Read the full story [here](#).

New Poll Reveals Administration's Priorities Are Out-of-Touch with Country's Needs

A recent [poll conducted by National Public Radio \(NPR\), the Kaiser Family Foundation, and the Kennedy School of Government](#) reveals much about how tax payers view current proposals to reduce taxes when compared with spending on education, Social Security, health care, and even reducing the deficit. The survey, conducted between February 5 and March 17, 2003, also revealed that many people feel they don't know enough about various tax cut proposals to offer an opinion on them. This result is disconcerting, surely, but is also very interesting given the efforts of Treasury Secretary John Snow and other White House officials in recent months to educate Americans on the administration's tax cut agenda through road shows across the country.

The poll shows that about 55 percent of those surveyed favor the generic category of "government services" over tax cuts, but this number soars to 80 percent when specific government services such as education, health care and Social Security are mentioned.

The President's tax cut proposals fared less well. Only 42 percent of those polled answered yes when asked, "When you hear the President talk about income tax cuts, do you think you and your family will benefit financially from these cuts?" – 50 percent said they would not benefit. Only 31 percent favor accelerating the rate cuts passed in 2001 and only 23 percent support making the 2001 cuts permanent, with 48 percent and 60 percent, respectively, reporting they lack enough information to give an opinion.

Only 38 percent of respondents have ever heard of the dividend tax cut proposal. Of these, only 40 percent favor it, 31 percent oppose it and a full 28 percent don't have enough information to form an opinion. In a later question, only 35 percent said they expected a "cut in taxes on dividends companies pay to stockholders" would stimulate the economy. This would seem to cast at least some doubt on the White House's argument that the centerpiece of its recent tax cut package, the dividend tax cut, is what is needed by most Americans to restore confidence in the country's economy.

White House Pushes for (Smaller, Delayed) Dividend Tax Cut

An April 21 Wall Street Journal article reports that Treasury Secretary Snow "would settle" for a 50% cut in the dividend tax this year, if Congress will phase in the remaining 50% cut over the next 10 years. Apparently the White House is also willing to consider delaying an additional cut in the top marginal tax rate from 38.6% to 35% in return for other rate cuts.

Even at 50% the dividend tax cut remains very expensive and still goes against the advice of most economists. Nevertheless, it does suggest that the White House expects this year's protected tax cut figure to be limited to \$550 billion.

Those working to prevent tax cuts in order to preserve funds for vital programs should take note. The same article reports that White House Budget Director Mitch Daniels "is looking for more spending cuts to free funds for tax reduction."

The American Dream Lives

49% of respondents think most families end up paying the estate tax

Actually, in 2002, less than 2% of estates paid the tax. Under current law, in 2009, this number will drop to less than 1%.

Though more respondents know something about the estate tax and many are opposed to the tax, the poll does suggest that more information about the estate tax's provisions dramatically increase support for the tax (with some changes in the exemption level).

Specifically, though 57 percent support repeal of the estate tax (28 percent don't know enough to say), 41 percent support the estate tax with an exemption for estates at \$1 million or less. If those who support an estate tax only on estates valued above \$5 million are included, support for retaining an estate tax rises to 52 percent. These results are similar to those of a poll conducted by OMB Watch in May 2002. View [results and notes on this poll](#) on the Americans for a Fair Estate Tax website.

Other issues covered by the poll include alternative tax structures including a consumption tax, general knowledge about the tax system (e.g., "Are people with higher incomes taxed at a higher percentage of their income than people who make less money?"), general views about fairness and levels of complexity

about the current tax system, and which party could best address the federal tax system. [The full report is available online.](#)

Fool Me Once, Shame on You, Fool Me Twice...

For the second time, in as many years, the President and his tax-slashing allies in Congress have passed a budget that calls for massive tax cuts. Though the recent precedent-setting effort of congressional Republicans last week to pass a budget resolution by agreeing to [different tax cut packages](#) leaves much uncertainty about just how large a tax cut the country will be saddled with, a large tax giveaway seems assured. Within the next several weeks, we will learn whether this round of tax cuts will be limited to the Senate's \$350 billion or be as high as the House's \$550 billion, but this is just the beginning: the budget resolution actually provides for a total of \$1.3 trillion in tax cuts over the next 10 years. Whatever is decided, the tax cuts will be far more than the country can afford. As a result, most of us, and future generations, will be stuck footing the bill for a huge expenditure that will do little, if anything, to stimulate the economy, lower the unemployment rate, close the ever-widening gaps in state budgets, meet the educational needs of our children, or address the shortfall in Social Security or pay for a prescription drug plan for our seniors.

If House Republicans had had their way, cuts to Veterans' benefits, Medicaid, Food Stamps, child nutrition programs, the State Children's Health Insurance Program (SCHIP), TANF, and assistance for farmers would have paid part of the bill. Fortunately these programs were spared in the House-Senate compromise, but with a \$400 billion deficit looming for the coming fiscal year, money to fund the tax cuts has to be found somewhere. It is inconceivable that the annual defense budget (slated to rise to more than \$500 billion over the course of the next 5 years) will be scaled back in a time of ongoing war and uncertainty in the Middle East and Asia. Equally unlikely are cuts to homeland security efforts -- though states are still not getting the money they need to cover the costs of first-rate first responders and hospitals. All that remains, then, is the all-too-frequent target of spending cuts -- programs that protect and serve the needs of the poor and near-poor in this country. Such cuts are never good for the country, but are even more unwise and unfair when the economy is causing increasing hardship for low-income families. And, we should not fool ourselves, as [economist Paul Krugman pointed out in a recent op-ed](#), the price of big tax cuts for the wealthy will ultimately hurt the middle class as well.

The 2004 Conference Report approved by Congress expects a raise on the limit on the national debt from \$6.4 trillion to \$7.384 trillion. That increase -- \$984 billion -- will be the largest increase in the debt limit in the nation's history. Under the Conference Report, the debt limit would have to be increased to \$12 trillion by 2013. We wonder if that might just be larger than the number of McDonald's hamburgers sold over the years.

To pay for the tax cuts, the final budget resolution calls for \$168 billion less money than that which would be necessary just to keep up with inflation in domestic discretionary spending program areas over the next 10 years (according to [this Center on Budget and Policy Priorities report](#)). A reduction of \$168 billion over 10 years may seem rather small, but the real cuts are much higher when you account for population increases, the slowed economic recovery, as well as long-unmet needs for improvements in the programs. Worse, still, the budget resolution reinstates unrealistically low discretionary spending caps for five years, and any effort to override these caps will require a 60-vote "supermajority" in the Senate. These spending caps will cause more cuts in domestic discretionary spending because there is no "firewall" between defense and domestic spending. Domestic discretionary spending is almost everything

Caps on Discretionary Spending						
(\$ millions)	2003		2004		2005	
	BA	Outlays	BA	Outlays	BA	Outlays
General Purpose	839,118	805,146	782,999	822,563	812,598	817,883
Highways	---	31,264	---	31,555	---	33,393
Mass Transit	<u>1,436</u>	<u>6,551</u>	<u>1,461</u>	<u>6,634</u>	<u>1,488</u>	<u>6,726</u>
Total	840,554	842,961	784,460	860,752	814,086	858,002

that our federal government does outside of the military, Social Security and Medicare, and Veterans' benefits. Cuts in this spending will go beyond the most vulnerable among us, and extend to reductions in funding to improve our public schools, to ensure that our food is uncontaminated and our medicines safe and effective, and to maintain parks and open spaces – you have only to look at the measures that states are implementing to balance their budgets to get a good idea of what is ahead.

Specifically, according to the Senate Budget Committee's Democratic staff, the budget resolution's proposed funding cuts to education "more than offset the total of all amendments added on the Senate floor [to fund] the No Child Left Behind Act, the Individuals with Disabilities Act (IDEA), Pell Grants, and Impact Aid." Though the budget resolution provides for \$400 billion for the implementation of a Medicare prescription drug plan over the next 10 years, and a \$49.9 billion 10-year reserve fund for health insurance for the uninsured, this is about \$120 billion and \$38 billion less, respectively, than many in the Senate estimate is needed to adequately meet these needs.

In addition to relying on cuts in domestic discretionary spending, Congress has decided that we can pay for these tax cuts by eliminating waste and fraud. The House and Senate Budget Committee Chairs are instructed by the budget resolution to find specified levels of "savings" that can be achieved from reductions in "waste, fraud and abuse." Unfortunately, efforts at eliminating waste, fraud and abuse are often directed at low-income programs. An example is the Treasury Department's initiative to pre-certify and delay refunds to "high-risk" Earned Income Tax Credit recipients (see [related article in this issue of the Watcher](#)). Even if these measures save money, low-income programs represent such a small percentage of federal funding that there will not be huge savings – not nearly enough to pay for the tax cuts.

The shrinking of government through funding reductions can no longer be mistaken for a mere side-effect of conservative efforts to reward wealthy constituents with tax breaks. Reducing and delimiting government is, instead, a prime motivation for the tax cutters' determination. Most Americans recognize that tax cuts are the real threat to fiscal discipline, but conservatives are working hard to make fiscal discipline synonymous with cutting government. The American people don't want more tax cuts for corporations and the wealthy and recognize that the country can't afford tax cuts. Congress is

unabashedly flying in the face of public opinion. It will be interesting to see at election time what the results of this Congressional overreaching will be.

Corporate Tax Havens and the EITC

While the administration continues to push for tax cuts for corporations and the very wealthy, whose tax avoidance is estimated to cost the government \$75 billion a year, it is also working to establish a rigorous pre-certification process for Earned Income Tax Credit (EITC) recipients.

Percentage Composition of Income Taxes		
Year	Individual Income Taxes	Corporate Income Taxes
1940	42.7%	57.3%
1960	65.8%	34.2%
1980	79.1%	20.9%
2000	82.9%	17.1%
2002	85.3%	14.7%

Source: Historical Tables, FY 2004 Budget of the U.S. Government

Recently, Business Week Magazine [reported](#) that in 1940 companies and individuals each paid about half of the federal income tax collected. Currently, companies pay an astoundingly low 13.7% while individuals pay 86.3%. The article cites a number of reasons including aggressive but legal “tax avoidance” strategies that make use of ever-widening loopholes in an increasingly complex tax code; intensive corporate lobbying efforts for tax breaks; sophisticated legal departments dedicated to reducing company taxes; and actual abuse – crossing the blurry line between legal tax “avoidance” and tax “evasion.” The IRS estimates that US corporations and rich individuals cost the country about \$75 billion a year. The Treasury Department released new regulations in February to attempt to curb the worst abuses. Most of us would agree that attention to corporate tax abuse is a good thing.

Simultaneously, though, the Treasury Department has turned its attention to Earned Income Tax Credit (EITC) recipients – working taxpayers who earn around \$35,000 or less. See the Department [press release](#) about both initiatives. The IRS has estimated that incorrect EITC payments cost from \$8.5 billion to \$9.9 billion in 1999, a fraction of the cost to the government of tax evasion by corporations and the wealthy. At the same time, national estimates of unclaimed EITC payments (refunds that could have been collected) amounted to \$2.7 billion in 1999. Net loss, then, would be from \$5.8 to \$7.2 billion, a fraction in comparison to corporate and high-end taxpayer costs; and some of these errors are due to honest mistakes, since the EITC rules are also complex and very few low-income families can afford tax advisors.

The pre-certification process proposed by the Treasury Department will require “high-risk” EITC taxpayers (especially those who are raising children other than their own, such as grandparents) to fill out long forms, obtain affidavits from authorities like landlords or doctors, and supply the IRS with marriage licenses and birth certificates. Tax refunds – money that many low-income people count on to catch up on bills, rent, utility payments, car repairs, and the like – will be delayed until verification is complete. Currently IRS audits delay refunds by about eight months.

Meanwhile, tax breaks to the wealthy and corporations continue to be enacted and take effect. With domestic spending being cut to the bare bones, military spending going up, and deficits as far as the eye can see, the 2004 Congressional Budget Resolution contains a provision requiring that savings be found by eliminating waste, fraud and abuse. It’s hard to argue with the premise, but given the numbers, why not crack down hardest on the corporations who are abusing the system to pay less than 14% of all income taxes? Targeting low-income EITC workers – causing a hardship to people who can least afford it for very little savings (and even less when you count the expenses of conducting the pre-certification process and verifying returns) seems the wrong way to go. If Congress gets its way, and any savings

from the elimination of waste, fraud and abuse are used to give yet more tax breaks to corporations and wealthy people, it's an outrage.

Nonprofit Issues

CARE Act Passes in Senate

WHITE HOUSE OPPOSES FUNDS FOR SOCIAL SERVICE BLOCK GRANT

By a vote of 95-5, the Senate passed the Charity Aid Relief and Empowerment Act of 2003 on April 9, acting to increase charitable giving for the first time in two decades. The [amended version of the bill](#) did not include the "equal treatment" provisions on grant rules for faith-based organizations. In addition to the giving incentives, it authorizes funding for the Compassion Capital Fund and provides a \$1.3 billion two-year increase in funding for programs under the Social Services Block Grant (SSBG). On the afternoon the bill passed the Associated Press reported that President Bush objected to the SSBG funding increase, saying it exceeds his budget request. However, the President supported this provision before the equal treatment provisions were dropped from the bill.

House Republicans have agreed not to push for the "equal treatment" provisions when they consider the bill. (These issues are being [considered in separate legislation](#).)

Here is a summary of the bill:

1. **Tax incentives for charitable giving, including:**

- The nonitemizer charitable deduction for amounts over \$250 for individuals (\$500 for couples), but not exceeding \$500 (\$1,000 for couples). It is only effective in tax years 2003 through 2005. The Secretary of the Treasury is required to conduct a study to determine if it results in increased giving and to compare taxpayer compliance between itemizer and nonitemizers. The report must be submitted to Congress by the end of 2004;
- Tax-free contributions made from rollover of Individual Retirement Accounts by taxpayers age 70 ½ and over, or by taxpayers age 59 ½ for contributions to split-interest entities (i.e., a charitable remainder trust);
- New deductions for donations of food and book inventories, scientific property used for research, artistic or scholarly compositions and incentives for contributions of land for conservation purposes.

The nonitemizer is by far the costliest item in the bill, with the Joint Committee on Taxation predicting losses to the Treasury of \$204 million in 2003, \$1.368 billion in 2004 and \$1.218 billion in 2005. But studies by the Congressional Budget Office and Congressional Research Service found it would be unlikely to increase giving by more than 4%. The bill would eliminate several tax shelters that would offset these costs, but only if Congress allows the nonitemizer to sunset at the end of 2004.

2. **Simplification of the rules for charity lobbying:**

- While the overall limits on lobbying would remain the same for those nonprofits that elected to file under an expenditure test, the current limitation on grassroots lobbying (25% of total allowed lobbying amount) would be lifted, and charities could engage in either direct or grassroots lobbying up to their limit, without the necessity of tracking which is which. This simplification of the rules was proposed by the Joint Committee on

Taxation in 2000 and is supported by a coalition of nonprofits including OMB Watch, Charity Lobbying in the Public Interest and the Alliance for Justice.

3. Improved oversight of charitable organizations, including:

- Expands IRS public disclosure requirements to include written determinations and background materials relating to exempt status of groups exempt under 501(c) or (d), and Section 527 (PACs). The IRS would also be required to notify the public that copies of Form 990 submissions are publicly available and share information with state charity regulators prosecuting fraud;
- Nonprofits would be required to include their website address (if they have one) and any name used for operations on their annual information returns. Professional return preparers could be fined \$250 for knowing omissions or misrepresentations of information;
- A new requirement for groups with budgets under \$25,000, who are exempt from filing Form 990, the annual information return, to file an annual statement giving their legal name, operating name (if different), mailing address, website address, taxpayer identification number, name and address of the principal officer and “evidence of the continuing basis for the organization’s exemption from the filing requirements under subsection (a)(1).” If the group dissolves, they must also notify the IRS. These statements will not be available to the public;
- Failure to file either Form 990 or an annual statement for three consecutive years would result in automatic revocation of exempt status. An organization could not appeal revocation through a declaratory judgment action in court, but would have to re-apply for exempt status (presumably paying a user fee). If, in the application, the group can show reasonable cause for failure to file the Form 990 or annual statement, tax-exempt status can be retroactively reinstated. The IRS can publish a list of groups whose exempt status has been revoked under this section.

4. Expedited determination of tax exempt status and waiver of user fees:

- Available to 501(c)(3) organizations applying for government grants to provide social services if the group is organized and operated primarily for the purpose of providing social services, is seeking a grant that requires exempt status and attaches a copy of its grant application to its exempt status application. The IRS is authorized to require “other criteria it deems appropriate for expedited consideration.”

5. Individual Development Accounts

A new program which was added to the bill as a separate title called Savings for Working Families Act of 2003 to encourage saving by low-income households by giving financial institutions tax incentives to match qualified deposits.

6. Compassion Capital Fund

The bill authorizes \$150 million in FY 2003 for technical assistance and capacity building grants for “community based organizations,” as follows:

- Health and Human Services: \$85 million
- Corporation for National and Community Service: \$15 million
- Department of Justice: \$35 million
- Department of Housing and Urban Development: \$15 million

For FY 2004 the bill authorizes “such sums as may be necessary.” The money can be used for grants or cooperative agreements with nongovernmental organizations to provide assistance to community based organizations with:

- Technical assistance, including grant writing, legal assistance with incorporation or tax exempt status or referrals to other groups with expertise in these areas;
- Capacity building information
- Information on best practices for assisting people and communities in need;
- Information on using regional intermediary organizations to increase capacity;
- Assistance with replicating social services programs that have demonstrated effectiveness;
- Research on best practices for social services organizations.

A community based organization is defined as a nonprofit with no more than six full time equivalent employees providing social services and a current annual budget of less than \$450,000. The agencies are required to coordinate their efforts so that funds are distributed equitably and duplication is avoided. In addition, no agency can award more than one grant to the same group for the same purpose.

7. **Social Services Block Grant**

Since 1995, the Social Services Block Grant (SSBG) has been cut by more than \$1 billion, to a current level of \$1.7 billion. The CARE Act restores \$1.3 billion to bring total funding to its previous level of \$2.8 billion. SSBG programs include child protective services, foster care, and services for the elderly and disabled persons. Should the funding increase for SSBG drop from the legislative package, OMB Watch would withdraw its support from the bill.

In the [debate on the bill](#) several Senators that opposed the "equal treatment" provisions that were dropped from the bill commented on issues relating to separation of church and state and the need for the Senate to thoroughly consider and debate these issues when they arise in other legislation.

The [votes against the bill](#) were cast by:

- Sen. Larry Craig (R-ID)
- Sen. Michael Crapo (R-ID)
- Sen. Michael Enzi (R-WY)
- Sen. Don Nickles (R-OK)

- Sen. Craig Thomas (R-WY)

Opposite Sides of Faith-Based Debate Publish Consensus Statement

While Congress has been unable to agree on what standards should apply to religious organizations that receive government funding for social services programs, the Working Group on Human Needs and Faith-Based and Community Initiatives, composed of experts with diverse views, has published [Harnessing Civic and Faith-Based Power to Fight Poverty](#), a statement of 38 specific consensus recommendations. The top priority is increased government funding for social services programs. The project is sponsored by the Roundtable on Religion and Social Welfare Policy.

The recommendations fall into five categories:

- Increased resources to meet human needs;
- Responsibilities for government agencies, including neutral standards and transparency;
- Responsibilities of faith-based organizations, including respect for the religious freedom of program beneficiaries, transparency, and "to the extent practicable" a separate 501(c)(3) affiliate for houses of worship that wish to receive funding for social services programs;
- Community empowerment, including training and technical assistance for faith-based and community organizations; and
- Closing knowledge gaps, through research and data collection.

In the controversial area of employment practices, the group agreed that religious organizations should be transparent about their hiring policies. While there was not agreement on whether religious discrimination should be allowed when hiring for government funds, there was agreement on a clear statement of current law.

OMB Looking for Comments on Uniform Grant Application, Financial Reporting

[Two Federal Register notices](#) were published April 8, 2003, by the Office of Management and Budget's (OMB) Office of Federal Financial Management (OFFM) that move the federal government's grant streamlining process forward. The first, Notice of Proposed Requirement to Establish Standard Data Elements, proposes uniform information requirements for all federal grant applications. The second proposes consolidation of several financial reporting forms into a single, uniform report for grant recipients. It would apply to discretionary and formula grants and cooperative agreements. OFFM is seeking public comment by June 9, 2003. Its goal is to have an electronic application system operational by October 2003. See our [Grant Streamlining Webpage](#) for more background.

OFFM is proposing to use the data elements and definitions, which are listed in ten separate tables at the end of the Federal Register Notice, in Standard Form 424- "Application for Federal Assistance" (SF-424). They also propose to add five additional pieces of information, including:

- Applicant's Universal Identifying Number (see [OMB Watch Comments on OMB's proposal to use the Dun and Bradstreet DUNS number](#) for this purpose);

- E-Mail address;
- Country location;
- Fax number; and
- Type of Applicant (e.g. local government, nonprofit, university, etc.)

In addition, the notice proposes consolidation of “Assurance of Compliance” forms, by which applicants can certify that they have reviewed policy requirements (such as civil rights and environmental protection goals) and administrative requirements (such as audits) in the grant application. Agencies' grant announcements will list all required assurances, and if the grant application were approved, the group would receive another notice of these requirements. This gives potential applicants the opportunity to review these requirements in one place prior to making a decision to apply for the grant.

The proposed financial information form consolidates the current “Financial Status Report” (SF-269 and 269a) and the “Federal Cash Transaction Report (SF 272 and 272a). Four new information items are proposed, including: Universal identifying number, total required match, the remaining match to be provided and the grantee's email address.

OMB Watch will be filing comments based on feedback from nonprofits as part of the Streamlining Grants Management Project, a joint effort with the Urban Institute and Guide Star. You can review the proposed data elements and provide feedback through our [online forum](#), send your comments to Kay Guinane at guinane@ombwatch.org, or submit your own comments. (See [Federal Register notice](#) for specific instructions.)

IRS Restores Exempt Status of Gingrich Groups

The Internal Revenue Service (IRS) has reversed its 1998 revocation of 501(c)(3) tax exempt status for the Abraham Lincoln Opportunity Foundation (ALOF), a nonprofit associated with former U.S. Rep. Newt Gingrich (R-GA), in a "special review" process for "sensitive and difficult" cases. ALOF was a Colorado based organization formed by Howard "Bo" Calloway to help inner-city youth, but had been inactive for years before it became involved with funding Gingrich's televised citizen workshops in 1990. Prior to that the shows had been funded by GOPAC, the political action committee headed by Gingrich in his successful campaign for a Republican takeover of the House of Representatives in 1994.

Although ALOF dissolved in 1995, the IRS retroactively revoked its tax-exempt status in 1998, finding that their activities had been partisan and political in nature. The joint funding of the Gingrich programs with GOPAC were also part of a House ethics investigation into Gingrich's activities. While the Ethics Committee did not find a violation of law on Gingrich's part, it did say he should have sought legal advice.

ALOF had appealed revocation of its 501(c)(3) status in federal court, but the case was dismissed in 2000, for lack of jurisdiction, since the group had dissolved. ALOF founder Calloway then petitioned the IRS for review. The IRS has denied that the process was specially created for ALOF, stating that the special review process was established in 1999, as part of the IRS's reorganization. Thomas Terry, a senior technical advisor at the IRS, said the process is not limited to revocation of exempt status cases, and that ALOF's case is not the only one to be considered under the program. However, specific information on other cases is not available due to confidentiality rules.

Court Hears Arguments in Challenge to Legal Aid Restrictions

On Friday April 18, 2003, the Federal District Court in Brooklyn, New York, heard arguments on a challenge to regulations which force legal aid offices receiving federal funds to establish separate offices and staff if they wish to spend their non-federal funds on activities that are ineligible for federal funding. These include lobbying, participating in agency rule-making, claiming court ordered attorneys' fee awards, and filing class actions on behalf of low-income clients and communities.

The Plaintiffs, South Brooklyn Legal Services and Mobilization for Youth, based in Manhattan, are seeking an injunction barring enforcement of the rules. The South Brooklyn group, which gets about one-third of its budget from federal funds, said compliance with the rules would force it to spend 8% of its \$4.3 million budget on separate facilities, reducing services by 400 clients a year. As a result, they have decided to stop filing class action lawsuits. See [more background](#) information in the June 2002 issue of the Watcher.

Regulatory Matters

EPA Proposes Tough Diesel Standards

The Environmental Protection Agency (EPA) recently unveiled [a proposal](#) to significantly reduce harmful emissions from non-road diesel engines used in construction, agricultural and industrial equipment.

Non-road diesel engines “emit roughly two-thirds of vehicle-related particulate (or soot) emissions nationally, and almost one-fourth of the country’s total emissions of nitrogen oxides (NOx), the main ingredient in smog,” [according to the Natural Resources Defense Council](#).

The proposed standards, which would take effect for new engines starting in 2008 and be fully phased in by 2014, call for more than 90 percent reductions in emissions of particulate matter and NOx, and are expected to prevent more than 9,600 premature deaths annually by 2030, [according to EPA](#). This action would bring diesel emissions from non-road sources in line with [recently issued standards](#) for heavy-duty trucks and buses.

[As OMB Watch previously reported](#), EPA announced in June of 2002 that the Office of Management and Budget (OMB) would be involved in the development of these standards, yet the agency’s press release makes no mention of this “unusual collaboration,” and the extent of OMB’s involvement remains unclear.

EPA plans to solicit input on the proposal, which is opposed by some in industry, at [three public hearings](#) in June and will accept [public comments](#) through August 20.

Norton: No New Wilderness Areas

The Bush administration recently revealed plans to suspend reviews of potential wilderness areas and to withdraw protected status from nearly three million acres in Utah.

In an [April 11 letter to Congress](#), Interior Secretary Gale Norton announced her intent to withdraw a Clinton-era guidance document -- known as the Wilderness Handbook -- that allows federal officials to reconsider land initially passed over in wilderness protection inventories conducted in the 1970s and 1980s. "The Wilderness Inventory Handbook is a valuable tool that corrects past BLM [Bureau of Land Management] errors, and ensures that both the agency and the public know what irreplaceable jewels are at stake as we face unprecedented pressure to pave and drill our most cherished landscapes," [according to Heidi McIntosh of Southern Utah Wilderness Alliance](#).



By revoking the handbook, the administration is limiting wilderness protection to 23 million acres and leaving millions of unspoiled acres vulnerable to development. DOI has also decided to disregard a 1996 reinventory conducted by the previous administration that found 3 million acres of land in Utah (some of which is pictured above) -- initially overlooked -- eligible for wilderness protection.

The policy changes announced by Norton come as part of a legal settlement with the state of Utah, which sued DOI to overturn the 1996 reinventory. This settlement is "consistent with this administration's history of settling environmental disputes behind closed doors, without the benefit of public oversight or involvement," [according to Earthjustice](#).

Administration Stifles Objections to Pentagon Pollution Exemptions

Environmental Protection Agency (EPA) Assistant Administrator John Peter Suarez has expressed strong support for [proposals to exempt the Department of Defense](#) from a host of environmental laws despite serious objections from his own staff.

In [recently publicized documents](#) submitted to the Office of Management and Budget and obtained by [Public Employees for Environmental Responsibility \(PEER\)](#), EPA staff raised concerns about risks to human health and the environment, attacked the exemptions for being overly broad, and expressed doubt about whether they were even needed -- adding that the proposals would "interfere with the ability of States to enforce air pollution and drinking water requirements that protect public health and the environment."

Suarez [made no mention of such internal dissent when he testified](#) before the Senate Committee on Environment and Public Works April 2, stating that the proposed exemptions preserve "the Agency's ability to protect public health and the environment."

"Mr. Suarez perpetrated a fraud on the Congress and the American people by failing to be candid about the real consequences of the Pentagon plans," [remarked PEER Executive Director Jeff Ruch](#). "In an effort to present a unified front, EPA is muzzling its own experts to maintain a facade that we have nothing to fear from Pentagon toxic practices."

Court Blocks Administration From Weakening Dolphin-Safe Tuna Label

A federal district court [preliminarily enjoined](#) efforts by the Bush administration to allow countries, such as Mexico, to label their tuna "dolphin safe" even if dolphins were chased and encircled in nets in order to catch fish swimming beneath them.

More than seven million dolphins have been killed by this fishing technique, [according to Earth Island Institute](#), one of several environmental groups challenging the [2002 decision by the Commerce Department](#). The court's April 10 action reinstates the old standard -- under which imported tuna cannot be labeled "dolphin safe" if caught by using nets on dolphins -- pending the trial's outcome.

Right-to-Know

Lawyers Criticize Administration Secrecy

The [Lawyers Committee for Human Rights](#) recently released a report titled "Imbalance of Powers" which details how the Bush Administration has steadily rolled back basic human rights protections and civil liberties since the September 11 attacks. The shroud of secrecy in which the executive branch has cloaked itself is among the troubling trends. The excessive secrecy makes effective oversight impossible and significantly reduces government accountability.

The report, [Imbalance of Powers: How Changes to U.S. Law and Policy since 9/11 Erode Human Rights and Civil Liberties](#), covers changes that have taken place in four key areas: (1) Open Government; (2) Right to Privacy; (3) Treatment of Immigrants, Refugees and Minorities; and (4) Security Detainees and the Criminal Justice System.

DHS Broadens CII in Proposed Rule

Last week the new [Department of Homeland Security \(DHS\)](#) proposed its rule for handling Critical Infrastructure Information (CII). While it was encouraging that DHS is engaging in an open rulemaking process, complete with a public comment period, the content of the proposed rule was troubling. The CII provisions of the Homeland Security Act of 2002 were already widely criticized, resulting in proposed legislation to fix the provisions. The CII provisions requested that corporations voluntarily submit information on infrastructure vulnerabilities and would be, in return, guaranteed secrecy, civil immunity, preemption of state and local disclosure laws, and criminal penalties for government employees that reveal the information. The DHS proposed rule raises new concerns.

The [proposed rule](#) broadens the scope of the Homeland Security Act's protections for CII by allowing any agency in the federal government to receive CII submissions from companies and withhold them from disclosure. The Homeland Security Act itself specifies that the provisions only apply to information submitted to DHS. In fact, during debate on the legislation in the House, an amendment to expand the scope of the information provisions to all federal agencies was proposed and voted down. However, the proposed rule attempts to skirt around this by redefining "submission to DHS" as being either directly from companies or indirectly through other agencies. This expansion could confuse the process of managing CII submissions and could lead to the withholding of more information than was originally intended. For instance, suppose a company filed a required report with a federal agency but included some additional critical infrastructure information with the report. The report would be withheld from the public while DHS figured out how to handle the mixed submission and it is very possible that portions of the required report, or possibly the entire report, could be withheld from the public under the CII protections.

There are additional concerns with the proposed CII rule including the unclear validation process, a presumption of protection for all submitted information, the ability to withdraw or have the government destroy invalid submissions, and the severe limitation on the government's ability to use the submitted information. The proposed rule has a public comment period that is open until June 16, and OMB Watch will be submitting comments.

Permanent Patriot Act?

Recently the Bush administration and several lead Republicans in Congress have begun pushing to make permanent the governmental powers temporarily expanded by the USA Patriot Act. The USA Patriot Act, which greatly expanded the government's ability to spy on citizens, only gained wide support when many of the critical provisions were designed to expire or sunset at the end of 2005, unless Congress re-authorizes them.

A recent proposal drafted by Sen. Orrin Hatch (R-UT) would repeal the sunset provisions and make all of the new powers permanent. The idea faces strong opposition from many Democrats and even some key Republicans. House Judiciary Committee Chairman James Sensenbrenner (R-WI) has already voiced deep reservations about making the new powers permanent. Sensenbrenner stated that the Department of Justice has not been sharing enough information with Congress to allow a fair evaluation of how well or poorly the USA Patriot Act is working. The debate may bring needed attention to the expansion of secrecy and reduction in government accountability that has occurred under the USA Patriot Act and the Homeland Security Act.

Another Non-Disclosure First

In a decision that seems almost Kafkaesque, the Central Intelligence Agency (CIA) has achieved new heights in secrecy with its refusal to release the CIA Headquarters Handbook on releasing information to the public. The policy handbook was requested in a Freedom of Information Act letter from a reporter. The CIA confirmed the existence of the manual but claimed that no portion of it, including the cover page, could be released. The CIA asserted that the handbook was being withheld under two separate FOIA exemptions: the agency claimed that the information pertains solely to the internal personnel rules and practices of the Agency, the b(2) FOIA exemption; and the second justification given for withholding was based on the agency's claims that the document describes intelligence sources and methods, the b(3) FOIA exemption.