

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

March 21, 2016

To: Subcommittee on Energy and Power and Subcommittee on Environment and the Economy Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing entitled “Fiscal Year 2017 EPA Budget”

On **Tuesday, March 22, 2016, at 2:00 p.m., in room 2123 of the Rayburn House Office Building**, the Subcommittees on Energy and Power and on Environment and the Economy will hold a joint oversight hearing on the proposed budget for the Environmental Protection Agency (EPA) for fiscal year (FY) 2017.

I. THE FY 2017 EPA BUDGET REQUEST

The President’s FY 2017 budget requests \$8.267 billion for EPA. This request represents a \$127 million increase (1.56 percent) from the enacted level for FY 2016 and a \$325 million decrease (3.78 percent) from the FY 2016 budget request.

EPA’s FY 2017 budget request allocates \$1.13 billion to address climate change and improve air quality; \$3.75 billion to protect drinking water and clean up waterways; \$1.91 billion to clean up toxic contamination and promote sustainable communities; \$680 million to reduce the risk posed by chemicals in consumer products and the environment; and \$800 million to enforce the nation’s environmental laws.¹

Please see the table appended to the end of this memo for historical EPA budget data.

¹ U.S. Environmental Protection Agency (EPA), *Fiscal Year 2017 Budget in Brief* (hereinafter *FY 2017 Budget in Brief*), at 9 (Feb. 9, 2016) (online at www.epa.gov/sites/production/files/2016-02/documents/fy17-budget-in-brief.pdf).

A. State and Tribal Assistance Grants and Categorical Grants

Funding for states and tribes through the State and Tribal Assistance Grants (STAG) account and Categorical Grants amounts to \$3.28 billion in EPA's proposed FY 2017 budget, or roughly 40 percent of the total agency request.²

The STAG account includes the Clean Water and Drinking Water State Revolving Funds, Diesel Emissions Reduction grants, and infrastructure grants for Alaska Native villages and for communities along the border with Mexico. Categorical grants cover a range of programs, including air quality management (\$281 million), water pollution control (\$246 million), lead abatement (\$14 million), and brownfields (\$50 million).

Like the President's FY 2016 Budget, this year's request proposes eliminating two categorical grant programs: the state indoor air radon grants program (\$8.05 million) and the beaches protection grants program (\$9.55 million).³

Please see the table appended to the end of this memo for historical data on EPA grants to states and tribes for air quality management.

B. Funding for Drinking Water Infrastructure

For FY 2017, EPA is requesting \$1.02 billion for the Drinking Water State Revolving Funds (SRFs), an increase of approximately \$160 million (18 percent) from the FY 2016 enacted level.⁴

The Budget also calls for a \$1.6 million increase for the Water Infrastructure and Resilience Finance Center which launched on January 16, 2015. Although the center itself will not provide financing, it will provide information and assistance to communities looking to pursue innovative financing options for drinking water and wastewater infrastructure.⁵

The Drinking Water SRFs provide an important funding source for our nation's water systems, which serve almost 300 million people. Because of aging infrastructure, the most recent EPA Needs Survey estimates the costs to maintain and upgrade water systems are \$384

² U.S. EPA, *FY 2017 Budget in Brief*, at 89.

³ *Id.*

⁴ *Id.* at 102.

⁵ U.S. EPA, *About the Water Infrastructure and Resiliency Finance Center* (Jan. 2016) (online at www.epa.gov/waterfinancecenter/about-water-infrastructure-and-resiliency-finance-center#create).

billion over the 20 year period from 2011 to 2030.⁶ The needs estimate has steadily increased with successive assessments.

Needs surveys are conducted every four years and began in 1997. The steady increase in the estimates of need indicates that drinking water systems are falling further behind with respect to deferred maintenance. Even when past estimates are corrected for inflation, the estimate has increased by \$184.64 billion from the time of the first assessment in 1997, until the last published assessment in 2013.

Funds from the Drinking Water SRFs are allotted to the states based on the needs survey, with no state receiving less than 1 percent of the fund.⁷ Each state then administers its fund according to an approved Intended Use Plan and provides loans to public water systems at below-market interest rates. The priorities for these funds, under existing law, address the most serious risks to human health, ensure compliance with Safe Drinking Water Act requirements, and assist systems most in need on a per household basis. The SRF was not intended to provide 100 percent of the funding for drinking water infrastructure. However, with an allocation of less than \$1 billion per year in 16 of the past 19 appropriations cycles and tight state budgets, drinking water systems have been unable to work through the backlog of their infrastructure needs.

EPA is currently analyzing results from the 2015 Needs Survey, which is expected to be published in FY 2017 and applied to FY 2018 grant allocations. Enacted levels for the Drinking Water SRF have steadily declined, while recent crises in Flint and Sebring have highlighted the need for proactive funding to adequately protect human health.

Please see the table appended to the end of this memo for historical data on the EPA budget for the Drinking Water SRF.

C. Superfund

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), establishing the Superfund program to address the nation's most serious hazardous waste sites.⁸ Primary responsibility for overseeing cleanup of the sites and administration of the program was vested in the EPA. In the early years of the program, the Superfund was paid for through a tax on polluters, but that tax expired in 1995 and funds were depleted in FY 2003.

As of January 2016, there were 1,714 sites on the National Priority List (NPL) for cleanup and an additional 53 sites proposed for addition to the list. In FY 2014, EPA completed

⁶ U.S. EPA, *Drinking Water Infrastructure Needs Survey and Assessment: Fifth Report to Congress* (Apr. 2013) (online at www.epa.gov/sites/production/files/2015-07/documents/epa816r13006.pdf).

⁷ 42 U.S.C. § 300j-12.

⁸ 42 U.S.C. § 9601 et seq.

work at only eight Superfund sites, by far the lowest number of construction completions since at least 1997. Because of the delay between construction completion at a site and the completion of cleanup at that site, EPA was able to delete 14 sites in FY 2014 based on work in past years.⁹ EPA deleted six sites from the NPL in 2015 and, to date, zero in 2016.¹⁰

The President's FY 2017 budget request includes \$1.13 billion for the Superfund program. Although this request is higher than the enacted amounts for FY 2016, it is the lowest request for Superfund in the last 14 years, without adjusting for inflation. The request includes a \$20 million increase in funding for long-term cleanups from FY 2016 enacted levels, and an increase of \$3.9 million for short-term removal actions.¹¹

Please see the table appended to the end of this memo for historical data on the EPA Superfund budget.

D. Toxic Substances

The Toxic Substances Control Act (TSCA) directs EPA to assess the risks associated with commercial and industrial chemicals. The House approved amendments to Title I of TSCA last June and the Senate passed companion legislation in December. The House and Senate are now negotiating to reconcile the differences in the two legislative proposals.

The FY 2017 budget proposes \$67.2 million to support EPA's work to evaluate new chemicals and significant new uses of existing chemicals being introduced to the market as well as EPA's work to evaluate the risks of existing chemicals in commerce.¹² The majority of this funding is devoted to the evaluation of existing chemicals. In response to recommendations of the Government Accountability Office and widespread criticism about the lack of health and safety information on existing chemicals, EPA has devoted additional effort to conducting assessments of existing chemicals. There are over 80,000 chemicals on the TSCA chemical inventory; approximately 75 percent of these are existing chemicals that have not been evaluated through the new chemicals program. Even with the additional effort, EPA projects they will only complete 12 partial risk assessments by the end of 2016 and another 21 in 2017.¹³ Combined with the 5 assessments finalized in 2014 and 2015, these 38 assessments are the first to be

⁹ U.S. EPA, *National Priorities List* (Feb. 9, 2016) (online at www.epa.gov/superfund/sites/npl/); U.S. EPA, *Number of National Priorities List (NPL) Site Actions and Milestones by Fiscal Year* (online at www.epa.gov/superfund/sites/query/queryhtm/nplfy.htm) (accessed Feb, 20, 2015).

¹⁰ *Id.*

¹¹ U.S. EPA, *FY 2017 Budget in Brief*, at 82.

¹² U.S. EPA, *Fiscal Year 2017; Justification of Appropriation Estimates for the Committee on Appropriations*, at 64 (Feb. 2016) (online at www.epa.gov/sites/production/files/2016-02/documents/fy17-congressional-justification.pdf).

¹³ *Id.* at 1057.

finalized in the past 28 years.¹⁴ EPA has not yet moved to regulate these chemicals – the assessments are a preliminary step.

E. Efforts to Address Climate Change and Air Quality

The President’s FY 2017 budget request for programmatic actions related to climate change and air quality is \$1.13 billion, an increase of \$68 million (6.4 percent) above FY 2016 enacted levels.¹⁵ This funding will support both voluntary and regulatory actions to reduce domestic and international greenhouse gas emissions and their impacts, and to protect and improve air quality.

Climate change programs account for most of the funding increase. The President’s request seeks \$280 million for climate change programs, an increase of 44 percent above FY 2016 enacted levels.¹⁶

EPA plans to use this funding to continue its commitment to implementing the President’s 2013 Climate Action Plan. On August 5, 2015, EPA finalized the Clean Power Plan, which establishes carbon pollution standards for existing power plants – a key component of the President’s climate mitigation agenda. The Clean Power Plan gives states significant flexibility to develop their own approaches for reducing carbon emissions, which is reflected in the FY 2017 budget request. EPA will use funding to provide necessary technical assistance and guidance to states in the development and implementation of their Clean Power Plan strategies, including a \$25 million increase in grants to help states implement their plans.¹⁷

EPA also plans to support implementation of the second phase of fuel economy and greenhouse gas emissions standards for post Model Year 2018 medium- and heavy-duty vehicles, and to start a midterm evaluation of light-duty vehicle standards for model year 2022-2025. EPA intends to promote alternatives to hydrofluorocarbons and continue to lead the Global Methane Initiative to reduce global emissions of methane from the industrial, agricultural, and other sectors. In addition, EPA will support the President’s call to cut energy waste in homes, businesses, and factories, including ENERGY STAR’s efforts to increase energy efficiency in single and multifamily housing.¹⁸

¹⁴ *Id.* at 64.

¹⁵ U.S. EPA, *FY 2017 EPA Budget in Brief*, at 13.

¹⁶ *Id.*

¹⁷ On February 9, 2016, the U.S. Supreme Court granted a stay of the Clean Power Plan while litigation in lower courts continues. In response to the stay, the White House issued a statement saying, among other things, that, “even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need.”

¹⁸ U.S. EPA, *FY 2017 EPA Budget in Brief*, at 13-19.

The President's FY 2017 budget also proposes to establish a Climate Infrastructure Fund (CIF) at EPA as part of the Administration's 21st Century Clean Transportation Plan, a cross-cutting initiative. The proposed mandatory funding for the CIF is separate from the \$8.267 billion discretionary request for EPA. The CIF would provide \$1.65 billion over ten years for retrofitting, replacing, and repowering diesel vehicles to protect public health of the most vulnerable populations.¹⁹ As part of the program, school buses would receive top priority. Up to \$300 million would be used to renew the Diesel Emissions Reduction Grant Program, which expired in 2016, at increased funding levels.²⁰

II. WITNESS

The following witness has been invited to testify:

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency

¹⁹ U.S. EPA, *FY 2017 Proposed Budget Fact Sheet*, at 3 (Feb. 9, 2016) (online at www.epa.gov/sites/production/files/2016-02/documents/fy-17-proposed-budget-fact-sheet.pdf).

²⁰ *Id.*

Historical Budget Tables (Prepared by the Congressional Research Service)

**Table I. Environmental Protection Agency:
Total Requested and Enacted Appropriations, FY2003-FY2017**
(in billions of dollars not adjusted for inflation)

Fiscal Year	Requested	Enacted
2003	\$7.621	\$8.078
2004	\$7.631	\$8.366
2005	\$7.789	\$8.026 ^a
2006	\$7.521	\$7.712 ^b
2007	\$7.315	\$7.725
2008	\$7.199	\$7.461
2009	\$7.177	\$14.856 ^c
2010	\$10.486	\$10.290
2011	\$10.020	\$8.682
2012	\$8.973	\$8.449
2013	\$8.344	\$8.478 ^d
2014	\$8.153	\$8.200
2015	\$7.890	\$8.140
2016	\$8.592	\$8.140
2017	\$8.267	n/a

Sources: Prepared by CRS using the most recent information available from the Congressional Record, or House, Senate, and conference committee reports and tables accompanying the annual appropriations bills that fund the Environmental Protection Agency (EPA). In instances in which these committee reports did not specify or address the information for a program or activity you selected, we deferred to Administration budget documents, including the President's annual budget requests as presented by OMB, and EPA's accompanying annual congressional budget justifications. Tables in this memorandum use a combination of these sources to present the information requested, as no single source included all items. The FY2013 post-sequestration enacted amounts are as reported in EPA's FY2013 Operating Plan. Consistent with relevant supplemental appropriations in the earlier fiscal years in the table above, CRS combined the base appropriations and the Hurricane Sandy supplemental appropriations for FY2013 to present the aggregate of these amounts that EPA broke out separately. n/a = not available to date as FY2017 appropriations are not yet enacted.

- a. Within the total for FY2005, Congress provided \$3 million in supplemental appropriations (P.L. 108-324) for the repair of hurricane-related damage to EPA's Gulf Ecology Division Facilities in Gulf Breeze, FL.
- b. Within the total for FY2006, Congress provided \$15 million in supplemental appropriations (P.L. 109-234 and P.L. 109-148) to address underground storage tank needs in areas affected by Hurricanes Katrina and Rita, and an additional \$6 million (P.L. 109-234) for other hurricane-related assistance.
- c. Within the total for FY2009, Congress provided \$7.220 billion in supplemental appropriations (P.L. 111-5) for various programs and activities.
- d. Within the total for FY2013, Congress provided \$577.3 million in supplemental appropriations (post-sequestration) for various programs under the Disaster Relief Appropriations Act, 2013 (P.L. 113-2).

**Table 2. Hazardous Substance Superfund Account Totals (Prior to Transfers):
Requested and Enacted Appropriations, FY2003-FY2017**

(in billions of dollars not adjusted for inflation)

Fiscal Year	Requested	Enacted
2003	\$1.273	\$1.265
2004	\$1.390	\$1.258
2005	\$1.381	\$1.247
2006	\$1.279	\$1.242
2007	\$1.259	\$1.255
2008	\$1.245	\$1.254
2009	\$1.288	\$1.885 ^a
2010	\$1.309	\$1.309
2011	\$1.293	\$1.281
2012	\$1.236	\$1.214
2013	\$1.176	\$1.084 ^b
2014	\$1.180	\$1.089
2015	\$1.157	\$1.089
2016	\$1.154	\$1.089
2017	\$1.129	n/a

Source: Prepared by CRS using the most recent information available from the Congressional Record, or House, Senate, and conference committee reports and tables accompanying the annual appropriations bills that fund the Environmental Protection Agency (EPA). In instances in which these committee reports did not specify or address the information for a program or activity you selected, we deferred to Administration budget documents, including the President’s annual budget requests as presented by OMB, and EPA’s accompanying annual congressional budget justifications. Tables in this memorandum use a combination of these sources to present the information you requested, as no single source included all items. The FY2013 post-sequestration enacted amounts are as reported in EPA’s FY2013 Operating Plan. Consistent with relevant supplemental appropriations in the earlier fiscal years in the table above, CRS combined the base appropriations and the Hurricane Sandy supplemental appropriations for FY2013 to present the aggregate of these amounts that EPA broke out separately. n/a = not available to date as FY2017 appropriations are not yet enacted.

- a. Within the total for FY2009, Congress provided \$600 million in supplemental appropriations ([P.L. 111-5](#)) for Superfund Remedial Activities.
- b. Within the total for FY2013, Congress provided \$1.9 million in supplemental appropriations ([P.L. 113-2](#)) for the Superfund account (post-sequestration).

**Table 3. Drinking Water State Revolving Fund (SRF) Program:
Requested and Enacted Appropriations, FY2003-FY2017**

(in millions of dollars not adjusted for inflation)

Fiscal Year	Requested	Enacted
2003	\$850.0	\$844.5
2004	\$850.0	\$845.0
2005	\$850.0	\$843.2
2006	\$850.0	\$837.5
2007	\$841.5	\$837.5
2008	\$842.2	\$829.0
2009	\$842.2	\$2,829.0 ^a
2010	\$1,500.0	\$1,387.0
2011	\$1,287.0	\$963.1
2012	\$990.0	\$917.9
2013	\$850.0	\$956.3 ^b
2014	\$817.0	\$906.9
2015	\$757.0	\$906.9
2016	\$1,186.0	\$863.2
2017	\$1,020.5	n/a

Source: Prepared by CRS using the most recent information available from the Congressional Record, or House, Senate, and conference committee reports and tables accompanying the annual appropriations bills that fund the Environmental Protection Agency (EPA). In instances in which these committee reports did not specify or address the information for a program or activity you selected, we deferred to Administration budget documents, including the President's annual budget requests as presented by OMB, and EPA's accompanying annual congressional budget justifications. Tables in this memorandum use a combination of these sources to present the information you requested, as no single source included all items. The FY2013 post-sequestration enacted amounts are as reported in EPA's FY2013 Operating Plan. Consistent with relevant supplemental appropriations in the earlier fiscal years in the table above, CRS combined the base appropriations and the Hurricane Sandy supplemental appropriations for FY2013 to present the aggregate of these amounts that EPA broke out separately. n/a = not available to date as FY2017 appropriations are not yet enacted.

- a. Within the total for FY2009, Congress provided \$2.00 billion in supplemental appropriations (P.L. 111-5).
- b. Within the total for FY2013, Congress provided \$95.0 million (post-sequestration) in supplemental appropriations ([P.L. 113-2](#)) for the Drinking Water SRF capitalization grants.

**Table 4. State, Local, and Tribal Air Quality Management Categorical Grants:
Requested and Enacted Appropriations, FY2003-FY2017**

(in millions of dollars not adjusted for inflation)

State and Tribal Assistance Grants (STAG) Account: Categorical Grants						
Fiscal Year	State and Local Air Quality Management Grants		Tribal Air Quality Management Grants		Total State, Local, and Tribal Air Quality Management Grants	
	Requested	Enacted	Requested	Enacted	Requested	Enacted
2003	\$221.54	\$223.54	\$11.04	\$11.00	\$232.58	\$234.50
2004	\$228.55	\$227.20	\$11.05	\$10.98	\$239.60	\$238.18
2005	\$228.55	\$223.20	\$11.05	\$10.74	\$239.60	\$233.94
2006	\$223.55	\$220.26	\$11.05	\$10.89	\$234.60	\$231.15
2007	\$185.18	\$199.76	\$10.94	\$10.89	\$196.12	\$210.65
2008	\$185.18	\$216.83	\$10.94	\$10.77	\$196.12	\$227.60
2009	\$185.58	\$224.08	\$13.30	\$13.30	\$198.88	\$237.38
2010	\$226.58	\$226.58	\$13.30	\$13.30	\$239.88	\$239.88
2011	\$309.08	\$236.11	\$13.57	\$13.27	\$322.65	\$249.38
2012	\$305.50	\$235.73	\$13.57	\$13.25	\$319.07	\$248.98
2013	\$301.50	\$223.44	\$13.57	\$12.56	\$315.07	\$236.00
2014	\$257.23	\$228.22	\$13.25	\$12.83	\$270.48	\$241.05
2015	\$243.23	\$228.22	\$12.83	\$12.83	\$256.06	\$241.05
2016	\$268.23	\$228.22	\$12.83	\$12.83	\$281.06	\$241.05
2017	\$268.23	n/a	\$12.83	n/a	\$281.06	n/a

Source: Prepared by CRS using the most recent information available from the Congressional Record, or House, Senate, and conference committee reports and tables accompanying the annual appropriations bills that fund the Environmental Protection Agency (EPA). In instances in which these committee reports did not specify or address the information for a program or activity you selected, we deferred to Administration budget documents, including the President's annual budget requests as presented by OMB, and EPA's accompanying annual congressional budget justifications. Tables in this memorandum use a combination of these sources to present the information you requested, as no single source included all items. The FY2013 post-sequestration enacted amounts are as reported in EPA's FY2013 Operating Plan. Totals may not add due to rounding. n/a = not available to date as FY2017 appropriations are not yet enacted.