



» [The Watcher](#) » [February 23, 2004 Vol.5, No. 4](#)

In This Issue

Updates For Your Information

[Join the OMB Watch Team!](#)

Federal Budget

[U.S. Federal Debt Surpasses \\$7 Trillion](#)

[Budget Battles Loom](#)

[Economy and Jobs Watch: Another Administration Projection Bites the Dust](#)

Information Policy

[DHS Releases CII Rule](#)

[Office of Special Counsel Scrubs Website](#)

[Fighting Secrecy -- And Winning](#)

Nonprofit Issues

[FEC Sets Stage for Showdown on Scope of Campaign Finance Regulation](#)

[Bill to Repeal Restrictions on Broadcasts During Election Season Introduced in House](#)

[Anti-War Conference Attendees Issued Subpoenas](#)

[File Your Form 990 Electronically](#)

Regulatory Matters

[Leading Scientists Say Bush Administration Suppresses, Distorts Facts](#)

[Administration Asks Manufacturers for Regulatory Hit List](#)

[Lawmakers Accuse USDA of Misleading Public on Mad Cow](#)

Right-to-Know

[EPA Cancels Early TRI Release](#)

[EPA Reviews TRI Burden Reduction Comments](#)

Join the OMB Watch Team!

OMB Watch is currently looking for three bright, talented, hardworking individuals to join our team. We are seeking a Communications Coordinator to more effectively communicate our policy messages to key audiences and, to a lesser extent, raise the profile of the organization; our Federal Budget group is seeking a full or part time graduate or undergraduate intern to assist researchers with a wide range of activities including federal tax and budget analysis; and the Information Policy/Right-to-Know department is seeking an intern to work on freedom of information and right-to-know (RTK) issues.

[Click here to go to our Jobs web page to get a full announcement.](#)

U.S. Federal Debt Surpasses \$7 Trillion

The U.S. Treasury recently announced that the federal debt subject to congressional limits has for the first time surpassed \$7 trillion - approximately 62 percent of gross domestic product. In addition, in fiscal year 2003, over \$300 billion was spent on paying interest on the debt.

Rising federal deficits will push the debt level even higher in coming months and years. With projected deficits near \$500 billion for 2004, the congressionally mandated limit of \$7.384 trillion will likely be reached sometime this fall. Without congressional action to raise the debt limit, the U.S. would not be able to meet its obligations and would potentially be in default on some loan payments. If the date for raising the debt limit occurs before the election, it could turn into a political hot potato.

Budget Battles Loom

As the 2005 budget resolutions process gets on its way, spending for domestic programs could actually come out lower than the already grim projections set by President Bush's budget proposal. Given that it is an election year both the president and Congress' use of "spin" and shenanigans to mislead the American public will proceed. A big election year issue is budget deficits and the skyrocketing national debt – peaking now at \$7 trillion.

In his budget, Bush proposed cutting the deficit in half in five years by limiting all non-defense, non-domestic security discretionary spending (most of what government does outside of entitlements like Social Security) to a 0.5 percent increase (less than the cost of inflation) in fiscal year 2005. In addition, the Bush budget proposes to send 63 federal programs to the chopping block and make big cuts in another 65. Cuts to domestic discretionary spending, except for homeland security, are scheduled to continue throughout 2009 and beyond. Even with this radical proposal to shrink government, many experts think that the goal of cutting the deficit in half in five years is highly unlikely.

While Democrats have been busy pointing out the myriad of ways the Bush budget shortchanges ordinary Americans, conservative Republicans are searching for ways to further reduce spending. Some "deficit hawk" Republicans want to balance the budget in five years, by cutting all discretionary spending, including defense and homeland security, by 1 percent each year. This idea follows a plan developed by Stephen Moore, the President of the Club for Growth, a member based organization that "helps select candidates who support the Reagan vision of limited government and lower taxes." Others want to reduce domestic discretionary spending by 1 percent, but keep the exemptions for defense and homeland security.

The Bush budget was largely construed to hide the huge costs of his tax cuts by painting a rosy picture that favored making the cuts permanent after 5 years. It appears from recent news reports about the preliminary congressional leadership wheeling and dealing in preparation for the budget resolution that the resolution itself may also be limited to five years rather than the usual ten-year span. There is a good reason for this. As many of you will remember during the 2003 tax cut effort, tax cuts are much easier to pass when they are made a part of the "reconciliation" process in the budget resolution. Under Senate rules, tax cuts outside the budget resolution require 60 votes to pass if a point of order is raised. The tax cuts that do not expire until 2010 like the repeal of the estate tax, which only benefits multi-millionaires, or the higher marginal rate reductions, also benefiting wealthier Americans, will be outside of the 5-year window and would then require 60 votes and be unlikely to pass. If those cuts were included in a 10-year budget resolution, the massive 10-year deficits, estimated at \$990 billion by the Treasury Department, would also be hard to cover up.

It appears that Congress is going to quietly ignore Bush's call to make all the expiring tax cuts permanent. Their five-year strategy may be to include the extension of tax cuts that expire December 31, 2003, like the marriage "penalty" relief, the child credit, and the expanded 10 percent tax bracket. These tax cuts are perceived to benefit low- and middle-income people. This will put Democrats in a difficult position. Democrats will either provide the 60 votes to make the tax cuts permanent or be the party that wants to raise taxes on low- and middle-income Americans. And, since the cost of making the tax cuts permanent will require cuts in spending, Democrats will be stuck with making cuts to domestic programs because of their vote for the tax cuts. This plan would also get Republicans off the sharp hook of passing a ten-year budget resolution that either extends the tax cuts that expire at the end of 2010 and therefore massively increase the deficit, or defies Bush by allowing the

tax cuts to sunset. One sour note for Republicans is what to do with the 2003 reductions in capital gains and dividends – hardly able to be spun as a “benefit to ordinary Americans” - that expire in 2008. They can perhaps be characterized as benefiting the economy, given a liberal dose of spin.

No one wants their federal income taxes raised, but many ordinary Americans will be paying more - through cuts in services, increases in fees, and higher state and local taxes made because of the effect on states and localities of federal tax and budget policy. These are the real increased costs for low- and middle-income Americans. The simple fact is that the radical efforts to shrink government by reducing federal revenue will have a far more negative effect on the lives of most of us than fair, simple, reasonable and progressive taxes ever could. As the budget battles unfold during the coming months, the price that must be paid to reduce government, by paying fewer taxes, should not be ignored.

Economy and Jobs Watch: Another Administration Projection Bites the Dust

Yet another economic projection by the administration is falling short – and in record time. Just a couple weeks after the publication of the Economic Report of the President, which forecasted 3.8 million* new jobs would be created in 2004, administration officials appears to be backing off the job estimates. The forecast was for 320,000 new jobs every month – a number most observers agree is exceptionally high. Job growth has not reached even half this level in any month over the past three years, according to data from the Bureau of Labor Statistics.

Unfortunately, this is part of a pattern of forecasts from the administration that appear to be wildly inaccurate. While there is always a degree of uncertainty in any economic forecast, the size of the errors and revisions seems to be exceptionally large, and the direction of the errors always appear to be in the favor of the political goals of the administration.

Some examples include:

- The projected impact of the tax cuts on job creation is failing miserably – the administration’s estimate of new jobs is currently off by 1.8 million net jobs over the period from July 2003 through January 2004.
- In the president’s budget for fiscal year 2004, released last February, the baseline deficit showed, optimistically, a deficit of \$158 billion for 2004 (or a higher \$307 billion with the president’s proposals enacted). Just last summer, the administration had projected a \$475 billion deficit for 2004 (OMB Mid-session review, Table 1.) And now, this month they are predicting a \$527 billion deficit (FY2005 budget, Table S-14) for 2004. The estimates always seem to show the same pattern – projections of lower, “improving,” deficits in the future; but a growing deficit in reality.
- The estimated cost of the prescription drug bill was \$400 billion when Congress debated and passed the bill by a narrow margin last fall, and just a couple months later, the Office of Management and Budget increased the cost estimate to \$534 billion.

In addition to estimates that appear overly optimistic or politically convenient, there is also data that is not being released, such as full and complete distributional analyses of tax changes.

Accuracy and honesty in economic and budget projections is a necessity when formulating policy. By backing away from estimates produced by the president’s top economic advisors, the administration is turning budgetary and economic projections into a guessing game for those citizens concerned with the financial health of the country.

*Note that it was widely reported that the new jobs number was forecast to be 2.6 million in 2004. This, however, is incorrect. The 2.6 million number was calculated using the average yearly employment number. A correct calculation shows that the true projection in the Economic Report of the President is 3.8 million. See DeLong or CNN for details.

DHS Releases CII Rule

Months after receiving comments on the proposed rule, the Department of Homeland Security (DHS) finally published the interim final rule for Critical Infrastructure Information (CII) in the Feb. 20 Federal Register. Although an interim final rule with a public comment period open until May 20, the rule went into effect immediately.

DHS hopes that by providing exemptions for public disclosure, restrictions on regulatory activities, and civil immunity, companies will be encouraged enough to voluntarily share information on the vulnerabilities of critical infrastructure. The agency published the proposed rule April 15, 2003 and received 64 substantive comments during the two-month public comment period. It is unclear why DHS needed 8 months from the close of the public comment period to publish the final rule. While the foundation of the rule, which was dictated by a congressional statute, remains the same from the proposed rule, there were some notable changes. On several minor issues public interest groups seem to have made some progress.

- The program is limited to only direct submissions to DHS. The rule contains strengthened statements explaining that information required by any other agencies can not be CII.
- Submitters must provide a fairly strong express statement attesting that the submitted information meets the criteria and is not required by any federal agency.
- The rule allows for the protection status of information to change based upon the information becoming available through other legal means, that information is now customarily in the public domain, or that it is required to be submitted to DHS;
- Any disclosure that qualifies as whistleblowing under the Whistleblowers Protection Act (WPA) is considered authorized and is exempt from penalties.

Unfortunately, these minor improvements do not affect many of the more serious and fundamental flaws in the CII program. In fact, several of the improvements noted above are either temporary or significantly limited.

- DHS plans to expand the program to allow submissions through other federal agencies in the final rule.
- The government still can not use submitted CII for any regulatory action (i.e. inspection, violation notice, fine, etc.)
- DHS still requires consent from the submitters (typically in writing) to share, disclose or basically use the information in any meaningful manner.
- Submissions are now automatically presumed to be made in good faith.
- The database tracking the submissions seems to be protected under the program.
- While the protected status can change, the rule does not include, nor do FOIA requests trigger, any standard procedures to provide for a secondary review of submissions.

Office of Special Counsel Scrubs Website

The new head of the Office of Special Counsel (OSC), Scott J. Bloch, recently scrubbed the agency's webpage removing references to protection from sexual orientation discrimination. The OSC is an independent agency with a primary mission to safeguard federal employees by protecting their workplace rights for activities such as whistleblowing.

The National Treasury Employees Union (NTEU) issued a press release Feb. 12 announcing the changes to OSC's website. Bloch, a Republican appointee, ordered the removal of reference to sexual orientation in a discrimination complaint form, training slides, and a federal employee rights brochure. Additionally, all references to a June 2003 OSC press release announcing the settlement of a sexual orientation discrimination case were removed.

Bloch defended his actions by stating the office is unclear on the interpretation of a civil service law provision that bans discrimination "on the basis of conduct which does not adversely affect the performance of the

employee or applicant.” Therefore, he decided to remove the information pending a review.

Government policy declares that anti-gay job discrimination is illegal in the federal workplace; this policy has been in place since 1975 and has been enforced by every president since. The Office of Personnel Management (OPM) still maintains information on sexual orientation discrimination, but the primary agency that enforces non-discrimination policies based on sexual orientation is OSC.

Several members of the Senate Governmental Affairs Committee sent Bloch a letter Feb. 19 expressing concern that his actions seem inconsistent with statements from his confirmation hearing, according to the Washington Post. During the hearing, Bloch stated “sexual conduct can clearly fall within the definition of conduct that is not adverse to the on-the-job performance of an employee, applicant or performance of others.” The letter was signed by Sens. Carl M. Levin (D-MI), Daniel K. Akaka (D-HI), Susan Collins (R-ME), and Joseph I. Lieberman (D-CT).

Gay rights groups have expressed outrage at the agency’s actions, and characterized it as a political offering to the conservative right.

Before accepting the position at OSC, Bloch served as deputy director and counsel to the Task Force for Faith-Based and Community Initiatives at the Justice Department.

Fighting Secrecy -- And Winning

Government secrecy has undermined the public’s ability to hold our leaders accountable for keeping our country secure and community safe. Yet the government’s claims that providing citizens with information harms national security may be overblown.

Case One: The Project On Government Oversight (POGO), a critic of government and corporate misconduct in defense and military matters, recently was threatened with criminal prosecution for releasing sensitive information in a letter to the Nuclear Regulatory Commission (NRC) outlining shortcomings in tests of nuclear plant security. Government officials wanted POGO to rewrite the letter, but refused to explain their specific concerns. POGO agreed to pull the letter off its web site until it could resolve the government’s concerns. According to POGO, after much back and forth between their lawyers and NRC lawyers, the NRC finally explained their concerns. The commission officials claimed they did not want to give terrorists any hints on how to research weaknesses at nuclear facilities and POGO’s letter had clearly done so. POGO’s letter documented interviews with security guards to identify the shortcomings in security testing. Thus, the letter disclosing POGO’s research methods would help terrorists and should be amended.

So what did POGO write? After interviewing scores of nuclear plant guards, POGO worried that government officials were gaming tests of nuclear plant security. In these tests, teams stage a mock attack on a plant. The plant’s security equipment and guards are tested on their ability to defend the plant and prevent a catastrophe. According to POGO, mock attacks were staged during daylight hours, plant officials knew in advance when the tests were going to occur, and other limits all but assured the nuclear facility would pass the test, without regard for the plant’s actual ability to foil trained terrorists’ plans.

Case Two: In a separate incident, a group of concerned neighbors had been working for years in what the group’s lawyers said was a constructive relationship to track drinking water supplies contaminated with perchlorate, a rocket fuel that causes developmental problems in children. After 9/11, the Army refused to share critical information with the community groups, including maps of drinking water test wells. What confused community groups the most was the fact that these maps were already shared publicly -- but the Army refused to acknowledge them and claimed they were “sensitive” information not for public release. The community group refused to back down and is now suing the Army for information under an environmental law that gives community groups the right to be informed about toxic chemical threats.

These examples follow a growing trend in government to disclose information on a need-to-know basis, making it harder for the public to ensure safe drinking water and secured nuclear facilities. In denying the public information about such threats and keeping unnecessary secrets, government officials are cutting the public out of efforts to make our communities safer.

FEC Sets Stage for Showdown on Scope of Campaign Finance Regulation

On Feb. 18 the [Federal Election Commission \(FEC\)](#) approved [Advisory Opinion 2003-37](#), which was requested by a Republican group Americans for a Better Country (ABC). It expands regulation of political committees registered with the FEC, but does not impact other groups, including 501(c)(3) organizations. However, the commissioners' deliberations indicated that further consideration of a "range of options" for setting new boundaries of regulation would be considered in a rulemaking proceeding beginning in March.

There was widespread interest in the outcome of the Advisory Opinion for ABC, since the draft submitted by staff two weeks earlier proposed a new theory of regulation that would have greatly expanded activities covered by the Federal Election Campaign Act. Hundreds of groups, including OMB Watch, signed on to [comments objecting to the staff draft](#), saying it would extend campaign finance regulation to genuine issue advocacy and other non-partisan activities. The Republican National Committee submitted [comments](#) supporting the staff draft. Campaign finance reform groups were split on the issues, with [Public Citizen](#), [Common Cause](#) and the [Brennan Center for Justice](#) opposing the draft because it "could chill the First Amendment rights of activists and non-profit organizations that seek to influence public policy." [Public Campaign](#) also opposed the staff draft. [Democracy 21](#), the Center for Responsive Politics and the Campaign Legal Center supported the draft, saying it would only apply to political committees registered with the FEC. In the end the FEC compromised on a limited draft from FEC Vice-Chair Ellen Weintraub, agreeing that the big questions should be decided in a rulemaking proceeding.

Issues raised by the Advisory Opinion request, which will be considered in the upcoming rulemaking proceeding address the new legal framework created by the Bipartisan Campaign Reform Act of 2002 and the Supreme Court decision in *McConnell v. FEC* that upheld it. FEC regulation is limited to registered federal political committees, but the threshold for requiring registration is one of the questions left open by the Supreme Court decision. The ABC staff draft took the approach that registration should be required if a group says its "major purpose" is to influence federal elections. While this sounds simple at first, it leaves open many problematic details, such as how "major purpose" would be defined. Prior to the *McConnell* decision, the FEC limited its authority to "express advocacy" or specific calls for election or defeat of federal candidates.

The FEC's challenge in the rulemaking will be to find a standard that does not impact non-partisan advocacy, including grassroots lobbying and public criticism of the president or members of Congress. One standard proposed by the staff draft ABC Advisory Opinion failed to achieve this; it would have extended FEC regulation to any communication that "promotes, supports, attacks or opposes" a federal candidate, even if the election is not mentioned. Vice-Chair Weintraub said the rulemaking will give the FEC the opportunity to look at a broader range of options, including the [IRS's recent Revenue Ruling 2004-6](#), which lays out factors that distinguish genuine issue advocacy from partisan electoral communications.

The scope of the FEC's authority to expand the reach of its regulatory authority will be hotly contested in the rulemaking. Some reform groups and the FEC's counsel have taken the position that the *McConnell* decision requires expansion of federal regulation to all political committees seeking to influence federal elections. This would bring current soft money activities under the FEC's restrictions on contributions and expenditures. Others argue that the FEC is limited to the authority Congress provides, and that BCRA only addressed soft money and political parties and political committees funded or controlled by parties.

The FEC has said it will begin the rulemaking process in early March, and after taking public comments, will issue final rules by the end of May in time for the general election. The stakes are high in a presidential election year, with Republicans hoping to limit the activities of soft money Democratic leaning groups like America Coming Together. However, in the deliberations on the ABC Advisory Opinion, FEC Chair Bradley Smith, a Republican appointee, warned that the party should not seek to win the election by silencing its opponents.

More information on this issue can be found at www.nonprofitadvocacy.org, which is hosted by [Alliance for Justice](#), [Charity Lobbying in the Public Interest](#), [National Committee for Responsive Philanthropy](#), [National Council of Nonprofit Associations](#), and [OMB Watch](#).

Bill to Repeal Restrictions on Broadcasts During Election Season Introduced in House

On Feb. 11, Rep. Roscoe Bartlett (R-MD) introduced [HR 3801](#), a bill to repeal “electioneering communications” restrictions in the Bipartisan Campaign Reform Act (BCRA) that ban broadcasts that refer to federal candidates 60 days before a general election or 30 days before a primary election or nominating convention.

House Majority Whip Roy Blunt (R-MO), one of the [12 cosponsors](#), may improve the bill’s chance of getting serious consideration. The bill has been assigned to the Committee on House Administration. Titled the “First Amendment Restoration Act,” the bill removes the ban on most payments by corporations, including nonprofits, and labor unions for radio, television, cable and satellite communications that refer to federal candidates in the period before elections. It also removes requirements for disclosure of expenditures for these communications for groups that are allowed to make them.

All the cosponsors opposed BCRA two years ago. Rep. Bartlett held a [press conference](#) to announce the bill and had the support of organizations including the American Civil Liberties Union, the American Conservative Union and the National Rifle Association. Rep. Bartlett said many members of Congress voted for BCRA believing the restrictions on “electioneering communications” would be held unconstitutional. However, the Supreme Court upheld the restrictions, and Bartlett said many of these members might now be willing to support his bill. He indicated a companion bill might be introduced in the Senate.

The Federal Election Commission’s regulations on “electioneering communications” exempt 501(c)(3) organizations because of the ban on such groups to take sides in elections. The regulation also exempts unpaid broadcasts given that it was written to limit soft money contributions. BCRA’s House sponsors, Reps. Chris Shays (R-CT) and Marty Meehan (D-MA), have challenged these exemptions in court.

Anti-War Conference Attendees Issued Subpoenas

A FBI Joint Terrorism Task Force subpoena was issued early this month to Drake University in Des Moines, Iowa. The subpoena asked the university to produce all records relating to its November antiwar conference.

The conference, ‘Stop the Occupation! Bring the Iowa National Guard Home!’ was sponsored by the Drake University chapter of the National Lawyers Guild (NLG). The conference included workshops on nonviolent philosophies, how to convey feelings about Iraq into acts of civil disobedience, and concluded with a peaceful demonstration outside the Iowa National Guard base. The subpoena asked for extensive information about the NLG chapter, including leadership lists, annual reports, office location, and about the conference itself. The Justice Department also subpoenaed at least four conference attendees to appear in front of a federal grand jury.

[David D. Cole](#), a Georgetown law professor told the [New York Times](#), “I’ve had heard of such a thing, but not since the 1950’s, the McCarthy era. It [the subpoenas] sends a very troubling message about government officials’ attitudes toward basic civil liberties.”

In May 2002, Attorney General John Ashcroft announced elimination of the 1978 regulation that prevented the FBI from monitoring “open to the public” events held by domestic religious, political, and civic organizations unless it had a specific cause for doing so. “These regulations had been specifically developed to counter the COINTELPRO domestic spying program that has led to massive civil rights era abuses during the 1960s and 70s. Now, these regulations no longer exist – and such abuses may well be repeating themselves,” [Find Law](#) commentator, [Noah Leavitt](#) explains.

Stephen Patrick O’Meara, the prosecutor for the United States attorney’s office for the southern district of Iowa, told the [New York Times](#), “the narrow purpose and scope of that inquiry has been narrowed to determine whether there were any violations of federal law, or prior agreements to violate federal law, regarding unlawful entry onto military property...” The attorney’s office believed that a demonstrator attempted to jump the fence and enter the property of the Iowa National Guard base. However, demonstrators said they were unaware of such an action by any one of the 21 participants.

The subpoenas were withdrawn after public outcry drew attention to the case, but a few days later a new set of subpoenas was issued.

The administration's use of protest zones, retaliatory grant audits, and now federal subpoenas suggests a campaign to silence organizations and communities that disagree with its policies. It is important for nonprofit organizations not to be chilled by such tactics.

File Your Form 990 Electronically

The Internal Revenue Service (IRS) announces online filing for Form 990.

The IRS is set to accept online submissions of Form 990, the annual report filed by nonprofits, beginning in March. The IRS has made online filing of nonprofit financial reports a top priority because of the increased scrutiny by Congress, the media and others. The eventual goal is to have most 990s filed electronically, and the information made available to the public in a searchable database.

Benefits of filing Form 990 electronically for nonprofits include:

- reduction of the paperwork burden,
- the re-allocation of scarce government resources to real problem
- organizations, instead of intruding on tax abiding groups,
- data quality will increase because incorrect forms will not be able to be submitted,
- real-time verification that your organization's return has been filed, and
- greater efforts of collaboration between federal and state regulators to
- make registration and filing in multi-states easier.

Free software for preparing Form 990 for e filing is available through the National Center for Charitable Statistics. Other software providers with e filing compatible packages are listed on the IRS website.

For more information, see the web site of EDIN, the Electronic Data Initiative for Nonprofits, a partnership between the Council on Foundations, GuideStar, Independent Sector, the National Council of Nonprofit Associations and OMB Watch.

Leading Scientists Say Bush Administration Suppresses, Distorts Facts

More than 60 distinguished scientists, including 20 Nobel laureates, blasted the Bush administration last week for suppressing and distorting scientific information that does not support its predetermined agenda.

"When scientific knowledge has been found to be in conflict with its political goals, the administration has often manipulated the process through which science enters into its decisions," according to a statement signed by the scientists. "This has been done by placing people who are professionally unqualified or who have clear conflicts of interest in official posts and on scientific advisory committees; by disbanding existing advisory committees; by censoring and suppressing reports by the government's own scientists; and by simply not seeking independent scientific advice."

The statement accompanied the release of a comprehensive report by the Union of Concerned Scientists (UCS), which documents numerous cases of the administration putting politics over science. For example:

- The White House Council on Environmental Quality and the Office of Management and Budget forced EPA

to substantially alter findings on global warming for a draft "Report on the Environment." For instance, EPA deleted a temperature record covering 1,000 years in order to emphasize, "a recent, limited analysis [which] supports the administration's favored message," according to an internal EPA memo obtained by UCS.

- OMB and the Office of Science and Technology Policy suppressed and sought to manipulate an EPA report on children's health, which concluded that 8 percent of women ages 16 to 49 have mercury levels in the blood that could lead to reduced IQ and motor-skills for their offspring. The report was released only after it was leaked to the press by frustrated EPA staff, as OMB Watch discussed in a previous article. In place of strong action on mercury emissions, most of which come from coal-fired power plants, the administration has instead put up a political smokescreen. As UCS notes, "In a more recent development, the new rules the EPA has finally proposed for regulating power plants' mercury emissions were discovered to have no fewer than 12 paragraphs lifted, sometimes verbatim, from a legal document prepared by industry lawyers."
- The administration blocked the Centers for Disease Control (CDC) from adequately assessing the effectiveness of abstinence-only sex education programs. Among other things, CDC was prevented from charting the birth rate of female program participants. "In place of such established measures, the Bush administration has required the CDC to track only participants' program attendance and attitudes, measures designed to obscure the lack of efficacy of abstinence-only programs," UCS reports. Along similar lines, the administration altered information on the CDC's web site to raise doubts about the efficacy of condoms to prevent the spread of HIV/AIDS and suggest a link between abortion and breast cancer.
- The administration has blocked a USDA microbiologist, James Zahn, from publishing research on the potential hazards of airborne bacteria from farm waste. Zahn had discovered significant levels of antibiotic-resistant bacteria near hog farms in Iowa and Missouri. In Feb. 2002, USDA instructed staff scientists that they need to seek prior approval before publishing research or speaking publicly on "sensitive issues," including "agriculture practices with negative health and environmental consequences, e.g., global climate change; contamination of water by hazardous materials (nutrients, pesticides, and pathogens); animal feeding operation or crop production practices that negatively impact soil, water, or air quality." Zahn told UCS this represents "a choke hold on objective research."
- Tommy Thompson, secretary of Health and Human Services, stacked a CDC advisory panel on childhood lead poisoning with scientists likely to oppose a tougher lead standard, at least two of which had financial ties to the lead industry. Likewise, numerous other scientific advisory bodies have been stacked to reach a predetermined conclusion. This includes committees on ergonomics, reproductive health, and nuclear weapons and arms control.

UCS contends that this manipulation of science is unprecedented, and provides testimonials from political appointees of past Republican and Democratic administrations. In the case of EPA, for example, Russell Train, former EPA administrator under President Nixon, commented, "The agency has had little or no independence. I think that is a very great mistake, and one for which the American people could pay over the long run in compromised health and reduced quality of life."

Administration Asks Manufacturers for Regulatory Hit List

OMB's Office of Information and Regulatory Affairs (OIRA), headed by John Graham, is soliciting recommendations for regulatory revisions that would reduce costs for the U.S. manufacturing sector, brazenly putting special interests over the public interest.

This request, which was made as part of a draft report to Congress on the costs and benefits of regulation, notes that the manufacturing sector bears higher regulatory costs than other sectors of the economy. However, it ignores the clear reason for this: The manufacturing sector accounts for much of the country's pollution as well as workplace deaths and injuries. The only way to significantly reduce the regulatory burden on manufacturers, which OIRA says is essential, is to scale back crucial health, safety and environmental protections.

Given the track record, this appears to be the direction the administration is headed. OIRA conducted similar exercises in 2001 and 2002, both of which were followed by a series of rollbacks. In fact, OIRA is still following through on the nearly 300 regulatory recommendations it received in 2002.

Nonetheless, this year's request stands apart for its audacity. Previously, OIRA sought recommendations on any regulation, for any purpose, including strengthening it (even if such recommendations were ultimately ignored). This year, following the advice of a recent Commerce Department report, OIRA makes no secret of its agenda. It is chiefly concerned with costs to industry, not the health and safety of the American public.

Lawmakers Accuse USDA of Misleading Public on Mad Cow

The U.S. Department of Agriculture (USDA) understated the risks of mad cow disease and misled the public, according to a bipartisan investigation by the House Government Reform Committee.

At issue is whether the cow that recently tested positive for the disease in Washington state was a "downer," meaning that it was unable to walk. Contrary to the USDA's contention, three eyewitnesses say that the cow was able to walk and did not appear to be sick at all.

This is of critical importance because the USDA bases its testing and surveillance program for mad cow by sampling only downer and other sick animals. USDA officials, including Secretary Ann Veneman, have argued that the discovery of the infected cow is proof that this program is working.

However, the House investigation found that this discovery was made only because USDA had an agreement with the plant where the cow was slaughtered to accept samples from nondowner cattle.

"If the information we have received is true, a key premise of the USDA [mad cow] testing program is subverted," wrote Reps. Tom Davis (R-VA), chairman of the Government Reform Committee, and Henry Waxman (D-CA), the ranking Democrat, in a letter to Veneman. "It is self-evident that if the only [infected] cow to be discovered in the United States was able to walk and had no symptoms of central nervous system disease, USDA should not assume that all infected cattle will be either downer cows or cows that exhibit symptoms of central nervous system disease."

This bolsters the case of importers of American beef, including Japan and South Korea, which have argued that USDA's testing program is insufficient, and should also sample seemingly healthy cows -- something strongly opposed by the beef industry.

A USDA advisory body, comprised of foreign experts who have dealt with mad cow, also released a report earlier in the month advising that USDA's surveillance program "must be significantly extended in order to measure the magnitude of the problem," and that the agency should strongly consider randomly sampling healthy cattle.

Unfortunately, USDA has shown no indication that it is willing to take this step. On the contrary, in the

Washington case, Veneman and other USDA officials seemingly ignored information that did not support their predetermined policy. On Jan. 6, 2004, one eyewitness -- the co-manager of the slaughterhouse where the infected cow was discovered -- wrote to USDA warning that the cow was not a downer; however, USDA continued to publicly insist that it was.

As a result, wrote Davis and Waxman, "Public confidence in USDA may suffer. Confidence in the food supply requires that the public be able to rely on statements of USDA officials."

The other eyewitnesses cited by Davis and Waxman include the hauler who took the cow to slaughter and the plant employee who killed the cow. The [Government Accountability Project](#) brought all three to the attention of the committee.

EPA Cancels Early TRI Release

The Environmental Protection Agency (EPA) has apparently abandoned plans to provide an early release of the 2001 Toxic Release Inventory, as OMB Watch reported in a [previous Watcher article](#).

While EPA originally intended to release the preliminary data in February or March, organizational delays pushed the likely release back into April. Evidently, the agency determined that expending resources on an early release this year would be wasteful since the full public data release is scheduled for two months later in June. However, EPA appears to be considering utilizing the early release plan next year, with a possible release date as early as November. OMB Watch will continue to push for EPA to release the TRI data earlier so the public can gain access to valuable right-to-know information.

EPA Reviews TRI Burden Reduction Comments

The Environmental Protection Agency (EPA) continues to review the hundreds of comments it received on burden reduction proposals for the Toxic Release Inventory (TRI) program. EPA outlined the proposed changes in a 2003 white paper in Phase II of the TRI Stakeholder Dialogue.

EPA received over 650 comments from individuals, corporations, public interest groups and government agencies. It appears that various public interest groups were able to mobilize a significant number of individuals to submit comments on the TRI proposals. Public interest groups and citizens consistently raised concerns that the proposals would significantly weaken the TRI program. Not surprisingly, the industry comments appear to be supportive of all the burden reduction options put forth in the white paper with no concern for the integrity of the TRI program. OMB Watch, in its comments to EPA, strongly opposed the options proposed in EPA's White Paper. To look through all the comments EPA received [click here](#) and search for TRI-2003-0001.

The only burden reduction options that reportedly received fairly broad support is the option to allow facilities to simply report "no significant change" rather than calculating and reporting detailed figures on their toxic waste. The general reaction was that if properly defined, this option could reduce reporting burden for certain facilities without a serious loss of information.

OMB Watch disagrees with this assessment. A facility must complete all of the standard reporting calculations to determine if it could use this option. Therefore, the facility would only avoid a small amount of paper work. Additionally, if the option is implemented with a broad definition of "no significant change" to ease use, it would likely diminish the accuracy of the ranges reported and consequently the accuracy of the TRI program. To read all of OMB Watch's comments on the burden reduction options [click here](#).

It is unclear how long it will take EPA to fully review all of the comments received or which, if any, of the burden reduction options it will develop further. OMB Watch will continue monitor EPA's activities on TRI.



© 2001 OMB Watch
1742 Connecticut Avenue, N.W., Washington, D.C. 20009
202-234-8494 (phone)
202-234-8584 (fax)
ombwatch@ombwatch.org

Warning: (null)() [[ref.outcontrol](#)]: output handler 'ob_gzhandler' cannot be used twice in **Unknown** on line **0**