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## The Watcher

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### Focus on Implementation Lacking in Hearing on Recovery Act

On July 8, the House Committee on Oversight and Government Reform held a hearing on the implementation of the Recovery Act to date. The hearing included testimony from a number of government officials and raised concerns that some members of Congress may lack a clear understanding of the challenges of implementing and tracking a large-scale economic recovery effort. As implementation progresses and new decisions are made, better oversight of these developments will become even more important.

The hearing, ["Tracking the Money: Preventing Waste, Fraud and Abuse of Recovery Act Funding."](#) featured testimony from Office of Management and Budget (OMB) Deputy Director Rob Nabors and Acting Comptroller General Gene Dodaro, as well as three governors – Martin O'Malley (D) of Maryland, Ed Rendell (D) of Pennsylvania, and Deval Patrick (D) of Massachusetts.

Despite the opportunity to probe the panelists on [many questions](#) that remain about Recovery Act implementation and some of the finer details of the reporting system outlined in [recent OMB guidance](#), members of the committee generally focused their attention elsewhere.

With the possibility of a second stimulus package framing the hearing, many representatives focused their questions on the merits of the Recovery Act itself, rather than its implementation. Several of the Republican committee members, for instance, pounced on the job creation numbers announced at the hearing. Nabors, at different points in the hearing, mentioned that the recovery effort has created or saved 150,000 jobs (according to the most recent Council of Economic Advisors estimate), and that, according to OMB, federal agencies have spent \$57 billion of the Recovery Act funding thus far. Using these numbers, several members of the committee asked Nabors why each job created or saved cost the government roughly \$400,000. Nabors attempted to rebut this argument by pointing out that those figures were measured at different times and that the act is having more of an effect on the economy than simply creating jobs. Nabors also noted that simply dividing the total disbursements by the number of jobs created is far too rudimentary a calculation to judge the full impact of the Recovery Act.

Many of the Democrats' questions revolved around defending the content of the Recovery Act, culminating in an exchange between Rep. Gerry Connolly (D-VA) and Rendell, in which Connolly asked a rapid string of seemingly leading questions designed to get the governor to say how great the Recovery Act has been for Pennsylvania. Rendell spent most of his testimony on that very subject, as well as on the perceived need for a second stimulus bill focused on infrastructure projects. The experiences Rendell has amassed as a governor charged with allocating and tracking Recovery Act spending went largely unaddressed.

Despite the focus on the Recovery Act itself, some committee members did ask questions related to implementation. In particular, Rep. Edolphus Towns (D-NY), the chair of the committee, highlighted the lack of a definition for a full-time equivalent (FTE – the number of hours that constitute a full-time job) when tracking Recovery Act job creation. This is an issue the [Coalition for an Accountable Recovery \(CAR\)](#) has [raised before](#). Currently, OMB leaves this definition up to the recipients receiving Recovery Act funds, which means each state or other recipient could potentially have a different measurement for full-time jobs. Unfortunately, Nabors essentially said that OMB would not be creating any standards to define an FTE.

O'Malley also touched on issues of implementation. He showcased his state's [recovery website](#), which is one of the most advanced state Recovery Act sites. O'Malley, building off of his experiences with [CitiStat](#) in Baltimore and [StateStat](#) in Maryland, created a website where citizens can view information on the state's stimulus activities [mapped out](#) and searchable by location.

The day after the hearing (July 9), the Recovery Accountability and Transparency Board (Recovery Board) [announced](#) it had awarded a \$9.5 million contract to redesign the federal website [www.recovery.gov](#) to Smartronix, a Maryland-based information technology company. The \$9.5 million covers work between now and January 2010, but the contract could be worth up to \$18 million over the next five years if all options are exercised. Details of this contract

award, including a copy of the contract, have yet to be disclosed, leading many advocates to question the large cost of the contract and what value the government will receive. In response to a [CAR request](#) to the government to post the contract online, the Recovery Board noted that the General Services Administration prohibits such disclosure until after the expiration of a bid protest period. Apparently, the Recovery Board will make the contract available after that period.

On July 13, more details about Recovery.gov were released when Earl Devaney, chairman of the Recovery Board, [stated](#) that the public will have access to recipient reporting data in its raw form on Oct. 11, one day after the first recipient reports are due. This access is a positive development, as many advocates worried the Recovery Board would prohibit releasing data to the public until after the 20-day correction and revision window had closed. Although this development will ensure public access to the raw data reported by Recovery Act recipients, it may also lead to confusion in the media and the public during the correction period as Recovery Act information is changed. Methods for handling error correction updates have yet to be worked out.

These recent developments, including the lack of information on the Smartronix contract award, make future hearings on the implementation of the Recovery Act even more important. Advocates and observers, including CAR, expressed hope that future Recovery Act oversight hearings will focus on delineating the systems and requirements for reporting information about the Recovery Act and where those systems and requirements are falling short of expectations about the transparency of Recovery Act spending.

## **IRS Set to Receive Substantial Funding Boost**

Congress is preparing to substantially increase the enforcement resources of the Internal Revenue Service (IRS) in the FY 2010 Financial Services appropriations bill, representing a reversal in the lethargic funding approved during the Bush administration. This much-needed increase in resources is only a first step in improving the enforcement of the tax code, however, as observers say the IRS also needs to improve how it uses its limited resources.

On July 9, the Senate Appropriations Committee near-unanimously approved its version of the FY 2010 Financial Services bill, which sets funding for the IRS, among other agencies, at \$12.2 billion. That is an increase of \$549.8 million over FY 2009 levels and \$26.4 million more than requested by the Obama administration.

The majority of the funding increase was directed to the enforcement budget of the IRS, which grew to \$5.5 billion, an increase of \$386.7 million over FY 2009 levels and equal to the president's request. With the House and Senate set to begin conference negotiations over the differences between its Financial Services bills, these funding levels could change somewhat before the final bill is passed. The House allocated \$22.4 million less to the total IRS budget than the Senate did, but regardless of the final compromise, enforcement activities are sure to

receive a significant increase in funding over FY 2009 levels since both the House and Senate included the president's requested increase.

The enforcement division of the IRS oversees activities including the examination of both domestic and international tax returns; the settlement of taxpayer appeals of examination findings; the detection and investigation of criminal violations of tax laws; and the collection of unpaid accounts. According to the Senate Committee on Appropriations' [report](#) on the bill, the IRS will work to strengthen these activities while also "launch[ing] a robust package of six enforcement initiatives."

Five of these six initiatives represent priorities of President Obama in his attempt to reduce the tax gap, the perennial \$300 billion-plus disparity between what all taxpayers owe in taxes and what they actually pay into the system. These initiatives, which focus on international tax issues and primarily seek to address abuse of the tax system by multinational corporations and wealthy individuals, include:

- Improving identification and coverage of complex international financial transactions
- Increasing coverage of smaller international businesses and individuals
- Increasing reporting compliance of domestic taxpayers with offshore activity by doubling the number of criminal investigation attachés in foreign ports of duty
- Expanding IRS's international presence in the tax-exempt and government sectors, including investigation of offshore tax shelters used by pension plans

Of course, money is not the sole solution to the problems contributing to the tax gap. As OMB Watch noted in [Bridging the Tax Gap: The Case for Increasing the IRS Budget](#), it is both the quantity and *quality* of enforcement activities performed by the IRS that matter. For example, face-to-face audits – the most effective type conducted by the IRS – produce the highest return-on-investment, yet they have dwindled in number and in duration, particularly for corporations. The IRS has managed to gradually increase the overall audit rate, shifting toward the less effective correspondence audit, yet these levels are still at historic lows and do not adequately enforce existing tax laws.

While high-income individuals receive too little attention, the IRS also wastes significant resources over-auditing low-income filers claiming the Earned Income Tax Credit (EITC). Audits of EITC filers constituted about 40 percent of all audits performed on individual tax returns in FY 2006, even though EITC errors account for only three percent of the tax gap.

The key will be for IRS Commissioner Douglas Shulman to use the increased resources provided by Congress to start to correct some of the problems with IRS enforcement practices.

## **Phase Three of Open Government Directive Process Generates Recommendations**

The third phase of public participation in generating recommendations for the federal Open Government Directive wrapped up on July 6. The final phase sought draft recommendations within three broad topics – transparency, collaboration, and participation – which President Barack Obama [identified](#) in his January memo as the three principles of open government.

The transparency topic generated many thoughtful and useful recommendations. The administration proposed five categories within the overall topic: Transparency Principles, Transparency Governance, Open Government Operations, Data Transparency, and Information Access. This was the result of two earlier phases, one called a "brainstorming" phase to generate ideas and the other a "discussion" phase to share thoughts about the top ideas from the first phase.

### **Transparency Principles**

The first category asked participants to define transparency. What does government transparency mean? What are its goals? What should be the priorities for improving transparency? The leading vote getter – the definition from the [21st Century Right-to-Know Recommendations](#) (an effort spearheaded by OMB Watch) – stated:

An informed public is essential to democracy and can help create a more effective, accountable government. Transparency is a powerful tool to demonstrate to the public that the government is spending our money wisely, that politicians are not in the pocket of lobbyists and special interest groups, that government is operating in an accountable manner, and that decisions are made to ensure the safety and protection of all Americans.

Participants submitted 24 other responses in this category.

Another highly rated submission, also from the 21st Century Right-to-Know Recommendations, was a set of basic principles for government transparency, including proactive dissemination, timely disclosure, and clarity and usefulness of information, as well as making that information indexed and findable. Another top-scoring recommendation combined ideas from several submissions to discuss the importance of transparency in a functioning democracy and stressed what the transparency should accomplish – it should inform citizens about government actions, inform decision making, and provide context for evaluating data. Another submission offered principles derived from a survey of 500 government financial principles in the U.S. and Canada. Among the eight financial transparency principles were understanding what information people want and delivering it, being as open as possible without creating risk, and investing transparency money wisely.

## **Transparency Governance**

The administration also requested input in the category of transparency governance. It asked for recommendations concerning ways in which institutional changes could bring about a culture of transparency. The government appeared to be interested in structures and policies that would ensure thoughtful and considered progress toward transparency. Among the ideas submitted in previous phases that intrigued the administration were creating a transparency officer within each agency and the use of online dashboards to more easily convey information to the public.

The highest-rated recommendation in this category stressed the need for better protecting the rights of whistleblowers who disclose information about waste, fraud, and abuse when other governmental checks and balances fail. The second-ranked recommendation advocated for improving those checks and balances with the establishment of incentives and enforcement mechanisms for transparency. The third-ranked recommendation proposed modernization of agency information technology (IT) systems to better address the needs related to information access in the Internet age. The fourth-place recommendation called for establishment of design principles for data, including access to machine-readable data, open standards and formats, and reduced complexity of data, to allow it to be more easily distributed over the Internet. The top three recommendations were made by the 21st Century Right-to-Know Recommendations.

## **Open Government Operations**

The third category of transparency recommendations sought strategies for a more open government. The administration requested ideas that would help change the way business is done in Washington, such as rethinking the relationship between the government employee and the public. The administration also wanted help identifying what information would be most useful in holding government accountable. Input on balancing transparency with the need for confidential, trusted spaces and cost of implementation was also requested.

The most popular, by far, of the 23 ideas submitted was a recommendation to strengthen whistleblower protection legislation so that government employees could expose waste, fraud, and abuse without fear of retaliation. Comments on the whistleblower recommendation noted that it was a legislative proposal, which fell outside the president's control. Despite that issue, the recommendation received top votes, with several commenters recommending reworking it into an executive policy proposal. The recommendation was made by a representative of the [Make It Safe Coalition](#), an alliance of good government groups working to secure better whistleblower protections.

Other high-scoring recommendations in this category suggested that the records of meetings between government officials and outside entities should be made public; that campaign finance reform was necessary; and that there should be databases with information on public revenues, allegations of contractor misconduct, and the backgrounds of the government officials who run each agency. One suggested a commission to work out the gray area between the right to privacy and the need for transparency. There was also widespread sentiment that the government should continue to solicit public input.

## **Data Transparency**

Another category the administration wanted to address was data transparency. The quick launch of [Data.gov](https://data.gov), to provide greater access to raw data and online tools for tracking and analyzing the data, indicated the administration's level of interest in this area. The government requested suggestions on how agencies should be directed to supply more data for Data.gov, and which data they should provide. The materials also asked for input on government-wide approaches to data and metadata that would ensure data transparency.

Data transparency received the least amount of input, with only seven recommendations submitted. The top-rated recommendation advocated for machine-readable data and metadata for three major types of public data – public reference data, public records, and public statistics. It came from the 21st Century Right-to-Know Recommendations. The second-ranked recommendation focused on tasks chief technology officers should pursue, including providing access to well defined bulk files, use of interactive and transparent Web 2.0 technologies, assessments of agencies' capabilities, and surveying the high-priority information needs of users.

Other ideas submitted under this category included a recommendation that science.gov be re-envisioned as one-stop location for government scientific information that would help citizens identify government experts and would organize scientific activities by topic and geographic area. Another suggestion took inspiration from the popularity of Google Earth and recommended the creation of a Government Universe map with 6 galaxies – the Executive, Congressional, Judicial, States, Business Sectors, and Public Sector galaxies. Each galaxy would have its major components circling around it as stars, and users could drill down to access to government information in that area.

## **Information Access**

The final transparency category for which the administration wanted specific recommendations was improving the government's ability to disclose information proactively. Processing requests made under the Freedom of Information Act (FOIA) can be a costly endeavor for many agencies, so the government has increasingly accepted proactive dissemination as a way to both serve the public interest and save costs. The administration requested input on translating the need for better policy and compliance into actionable recommendations.

This category received 15 proposals, of which the top-rated recommendation suggested modernizing the FOIA system by creating a centralized digital system to streamline the process and better comply with requirements under E-FOIA to post repeatedly requested materials online. The second-ranked recommendation focused on improving electronic records management in the government and establishing requirements that electronic records be maintained in a searchable form. The third-ranked proposal recommended launching an interagency effort to track online the interactions between government and lobbyists and others who wield monetary influence. All three recommendations came from the 21st Century Right-to-Know Recommendations.

Other suggestions in this category included increasing public access to the results of publicly funded research and establishing a standard format for FOIA archives. Another proposal advanced the idea of creating a global navigation (taxonomic) index to organize all governmental offices and information into a framework that would allow users to easily search and locate federal information.

### **Other Recommendations**

A sixth category asked for any transparency recommendations that did not fit into the previous categories. These 16 responses were principally related to national security. Recommendations called for reform of controlled unclassified information (CUI) to ensure adequate public disclosure and the preservation of checks and balances; classification reform to avoid over-classification and the preemption of state and local sunshine laws; the use of the state secrets privilege only when there is a reasonable risk of significant harm resulting from disclosure and never using the privilege to cover up illegal or unconstitutional conduct; and conducting regular oversight of security secrecy. All of the top-rated items came from the 21st Century Right-to-Know Recommendations.

## **EPA Calls for Transparency as "First Step" to Improving Water Quality**

In a July 2 [memo](#) to top staff, the administrator of the U.S. Environmental Protection Agency (EPA), Lisa Jackson, called for greater transparency of water quality enforcement and compliance information. Jackson acknowledged that U.S. waters do not meet public health and environmental goals, and she listed enhancing transparency as the first of several steps toward improving compliance and water quality.

Stating that "Americans have a right to know how their government is doing in enforcing laws to protect the nation's water," Jackson directed staff to improve, expand, and enhance the amount of information on water quality available to the public. She added, "[G]overnment has an obligation to clearly inform the public about water quality and our actions to protect it."

Jackson's memo lays out several actions to expand public access to government data, improve the analysis and presentation of compliance data, and use new technologies to link such regulatory data to real-time environmental conditions.

The administrator called for enhanced information on compliance and enforcement of water quality laws to be posted on the agency's website, including Clean Water Act compliance data for each state. Jackson stated, "An informed public is our best ally in pressing for better compliance." Where possible, the website will show connections between local water quality and the state's enforcement record.

Jackson set broad standards for the data to be available online. The information must be easy to access, simple to understand, and provide the user with ways to analyze the performance of

individual businesses, as well as states and the nation's performance overall. Online tools to analyze state performance reports should also be made available.

Jackson ordered state performance reports that have been released under the Freedom of Information Act (FOIA) to be posted online. Government transparency advocates [have recommended](#) posting all materials disclosed under FOIA on agencies' websites. Providing public access to already-disclosed information would reduce the burden of future FOIA requests for the same information. It is unclear whether Jackson intends to expand this approach into a policy that would place all FOIA-released materials online.

Complementing the administrator's call for greater transparency is her plan to "move EPA's information technology into the 21st century." Recognizing how much more powerful information is when presented clearly to the public, Jackson is demanding that EPA be an "analytical resource" that provides – over the Web – easily understandable, useable, real-time data, including facility-level compliance data, water quality data, and other environmental data.

Jackson's memo also calls for raising the bar on performance of Clean Water Act enforcement. She pushed for putting resources into the highest-priority problems that will yield the largest impact on water quality, such as "wet weather pollution," which would include storm water runoff.

The memo continues an emerging trend at EPA of greater transparency – at least [rhetorically](#). Shortly after her confirmation as head of EPA, Jackson released a memo to all employees calling for greater transparency, followed by a memo emphasizing a restoration of [scientific integrity](#).

In a [September 2008 report](#), the Government Accountability Office (GAO) listed several problems inhibiting the accuracy and transparency of EPA's reporting of enforcement for all environmental regulations. GAO recommended several actions for EPA to improve transparency. Among them, GAO recommended disclosure of additional enforcement data and the methods for calculating them. It is not clear from the administrator's memo how these recommendations would be incorporated into Clean Water Act enforcement reporting.

A July 2005 GAO [report](#) identified gaps and discrepancies in data that impeded EPA's ability to efficiently allocate resources to protect environmental health. Jackson's memo does not address data gaps or data quality.

The new memo from Jackson only addresses enforcement of and compliance with one statute, the Clean Water Act. No such memo or other instructions have been released regarding transparency in the enforcement of the numerous other environmental statutes under EPA's jurisdiction.

Jackson's memo was addressed to Cynthia Giles, the new head of the EPA's Office of Enforcement and Compliance Assurance (OECA). Working with the agency's Office of Water, OECA will develop an "action plan" to increase transparency, improve compliance, and transform the information systems dealing with water quality programs. The offices are to

gather ideas from states, the EPA regional offices, and outside stakeholders; develop recommendations; and report to the administrator within 90 days.

## **OMB Watch Submits Recommendations on Handling Sensitive, Unclassified Information**

On July 8, OMB Watch released a report that explores the impact of secrecy labeling practices within the federal government. The report, [\*Controlled Unclassified Information: Recommendations for Information Control Reform\*](#), was submitted to the newly formed presidential task force established to review current policies and to reform the overuse of Sensitive but Unclassified (SBU) control markings.

The George W. Bush administration first established the term Controlled Unclassified Information (CUI) in a May 2008 [memorandum](#) intended to simplify the proliferation of terms used by federal agencies to label non-classifiable, but sensitive, information. The memo created the single CUI designation to refer to terrorism-related information, with an emphasis on increasing interagency information sharing. The need for improved information sharing increased considerably after the 9/11 Commission's report identified the failure to share information as a critical governmental problem in the months before the attacks.

The OMB Watch report addresses certain key concerns with the CUI system and recommends the creation of a new CUI policy that ensures better public access to CUI-designated records. Although the current CUI reform effort simplifies the label framework and establishes consistent definitions and practices, the report argues that it falls short in important areas. These include the overuse of CUI markings, time limits and the implications for public access to the information, congressional and judicial use of CUI information, and the lack of oversight involved with CUI.

The report offers 15 specific policy recommendations for revising the CUI instructions that the Bush administration issued. Included in these recommendations are:

- Affirm that a goal of the program is to reduce the amount of information being labeled CUI and include provisions to help limit use of the label
- Make it a goal of the program, once the policies have been proven to work, to address the overuse of SBU labels in non-terrorism-related information
- Establish clearer criteria of what information qualifies to be designated as CUI
- Reliance on control labels in making FOIA determinations should be clearly prohibited
- To maximize disclosure, require the use of portion marking of records so partial disclosures can be more readily implemented
- Establish a time limit of no more than five years, after which CUI markings will automatically expire unless renewed by the agency that produced the record
- Make clear that whistleblowers disclosing CUI records to uncover waste, fraud, and abuse will be protected from reprisal

- Mandate training for agency officials and mechanisms, such as annual audits, for monitoring the system and ensuring compliance

On May 27, the Obama administration [ordered](#) the creation of a task force of agency representatives to address existing problems in the CUI reform effort. The presidential memo stated that issues the task force must consider in making recommendations include "protecting legitimate security, law enforcement, and privacy interests as well as civil liberties, providing clear rules to those who handle SBU information, and ensuring that the handling and dissemination of information is not restricted unless there is a compelling need." The interagency task force is to review existing practices on SBU and CUI, create metrics for measuring agency progress in implementing the CUI framework, and report back to the president on how to proceed further.

The task force has 90 days from its establishment to generate recommendations and submit them to the president. The task force has been receiving input from those outside of government through meetings with groups and through written comments and recommendations. The National Security Archive, for example, submitted comments expressing concerns that SBU labeling increases the likelihood that records will be withheld under the Freedom of Information Act. OMB Watch also provided its report to the CUI task force.

## **New Food Safety Agenda Emphasizes Prevention and Protection**

The Obama administration unveiled a broad food safety agenda July 7, pledging to recraft a national food safety system that focuses on preventing, rather than reacting to, foodborne illness outbreaks. The agenda includes a raft of new policies and longer-term proposals that aim to empower officials and strengthen food safety regulation.

[The new food safety agenda](#) is the product of President Obama's Food Safety Working Group, [which was formed in March](#). The working group's policy priorities were accompanied by a set of key findings that emphasize prevention. "Preventing harm to consumers is our first priority," the working group wrote. "Key to this approach is setting rigorous standards for food safety and providing regulatory agencies the tools necessary to ensure that the food industry meets these standards."

The emphasis on prevention marks a dramatic shift in the way food safety, and government regulation at large, has been pursued in recent years. The Bush administration [preferred](#) a more conservative, market-based approach to regulation, leaving industry to sort out controls and methods of prevention.

Health and Human Services Secretary Kathleen Sebelius and Secretary of Agriculture Tom Vilsack chair the working group. Other agencies, including the Centers for Disease Control and Prevention, the U.S. Environmental Protection Agency, and the Department of Homeland Security, participate in the working group.

The administration announced several new standards that aim to prevent food contamination and outbreaks of foodborne illnesses. The Food and Drug Administration (FDA) finalized a [regulation](#) that will reduce the risk of salmonella contamination posed by shell eggs. The agency estimates the new regulation will prevent 79,000 illnesses and 30 deaths every year. The regulation was published July 9 and will go into effect Sept. 8.

According to the [Center for Science in the Public Interest](#), the new rule "will require on-farm controls and expanded microbial testing to eliminate" salmonella contamination in eggs. The rule also requires producers to keep better records and to develop and implement a salmonella prevention plan. FDA estimates the regulation will cost producers \$81 million per year, which amounts to "less than 1 cent per dozen eggs produced in the United States."

The salmonella standard has been [under development](#) for more than a decade. The Clinton administration published a public notice on the issue in 1998, and the Bush administration formally proposed the rule in 2004 but then allowed the rulemaking to founder.

The Obama administration will also address salmonella contamination in poultry and turkey. The Food Safety and Inspection Service (FSIS) – the food safety arm of the U.S. Department of Agriculture (USDA) and regulator of meat products – will by year's end issue new standards to reduce the risk of salmonella.

Other standards were placed on a longer-term agenda and appear less concrete. The FDA will soon issue "commodity-specific draft guidance on preventive controls that industry can implement to reduce the risk of microbial contamination in the production and distribution of tomatoes, melons, and leafy greens," which could prevent outbreaks of *E. coli*.

However, guidance does not have the force of law the way regulation does. The administration says mandatory standards will come later: "Over the next two years, FDA will seek public comment and work to require adoption of these approaches through regulation."

In addition to new regulations, Obama's food safety plan also aims to expand regulators' capacity to investigate foodborne illness outbreaks and trace those outbreaks back to the offending product or food facility. The administration pledged to give investigators new tools to better monitor the food supply, including a new "incident command system," which "will link all relevant agencies, as well as state and local governments, more effectively to facilitate communication and decision-making in an emergency."

In addition, FDA will ask the food industry to implement measures to improve product tracing. Currently, officials often cannot quickly determine the origin of a contaminated product because of supply-chain complexities or poor recordkeeping.

However, leaving the responsibility for tracing in the hands of the food industry may not yield significant improvements. Two recent foodborne illness outbreaks illuminate the complexity of tracking food through multiple handlers and facilities and detecting the point of contamination. In the summer of 2008, an outbreak of a rare strain of salmonella was initially blamed on

tomatoes, prompting retailers and restaurants to pull the product; however, months later, officials identified Mexican-grown jalapeño peppers as the culprit.

Investigators are currently struggling to solve a mystery surrounding *E. coli*-contaminated cookie dough. The outbreak was traced to a Nestlé plant in Danville, VA, but investigators [have been unable](#) to pinpoint the source of the contamination or the exact strain of *E. coli* responsible. The incident also [sparked a controversy](#) when the FDA revealed that Nestlé had for several years refused to provide the agency with information about the company's food safety practices.

The administration also pledged to improve on-the-ground enforcement. FSIS is instructing its inspectors to more aggressively ensure "that establishments handling beef are acting to reduce the presence of *E. coli*."

The Food Safety Working Group is also addressing organizational issues. The working group will continue to operate in order to coordinate food safety issues across the federal government, and it will aim to clarify responsibilities among agencies. Although FDA and FSIS carry most of the responsibility for food safety issues, "at least a dozen Federal agencies, implementing at least 30 different laws, have roles in overseeing the safety of the nation's food supply," the working group said.

If implemented as written, the administration's plan would mend several of the major holes in the nation's food safety net while Congress works on a more comprehensive overhaul. Both the House and the Senate are considering bills that would help federal regulators better prevent and control foodborne illness outbreaks. For example, lawmakers are considering giving FDA the authority to order companies to recall contaminated food, a power the agency currently lacks. A House bill would also improve traceback mechanisms.

However, reform efforts are moving slowly while competing with other priorities on Capitol Hill. The House bill, the Food Safety Enhancement Act ([H.R. 2749](#)), cleared a major hurdle June 17 when it was approved by the House Energy and Commerce Committee, clearing the way for a debate before the full chamber. Several bills addressing food safety improvements were introduced in the Senate early in the 111th Congress but have languished in the Agriculture, Nutrition, and Forestry Committee and the Health, Education, Labor, and Pensions Committee.

Congress is poised to fulfill Obama's request to increase funding for both FDA and FSIS. The House approved a spending bill for FY 2010 that would boost FDA's funding 14 percent to about \$3 billion. The bill would also give FSIS a 4.5 percent increase. However, Obama's budget request indicates the funding increase at FSIS will only provide for an additional 25 employees – a less-than-one-percent increase in staff. The Senate Appropriations Committee approved identical levels for both agencies.

## **Advocacy Groups File Suit over Violations of Voter Registration Law**

A coalition of voting rights groups has filed lawsuits against two states, Indiana and New Mexico, for failing to adequately implement a section of the National Voter Registration Act (NVRA), commonly known as the Motor Voter law. The groups charge that the states' public assistance agencies and motor vehicle offices have not met their responsibilities to offer residents the opportunity to register to vote.

According to [Project Vote](#), "full implementation of this law could improve lagging voter registration rates among low-income citizens by two to three million new voters per year nationwide."

Section 7 of the NVRA requires that all state offices that provide public assistance programs, including Food Stamps, Temporary Assistance for Needy Families (TANF), and Medicaid, and offices providing services to persons with disabilities distribute voter registration application forms. The offices are also required to assist applicants in completing the forms and sending the applications to the appropriate state election officials.

In New Mexico, the [lawsuit](#) was filed on behalf of the Association of Community Organizations for Reform Now (ACORN) and four New Mexico residents who were not offered the opportunity to register to vote when they went to a state agency.

In Indiana, the [complaint](#) was filed on behalf of ACORN, the Indiana State Conference of the NAACP, and Paris Alexander, an Indiana resident and Food Stamp program client who was not provided the opportunity to register to vote.

The Indiana suit details that registration applications from the Family and Social Services Administration offices have declined, despite an increase in participation in the Food Stamp program. And according to the New Mexico complaint, Project Vote conducted a study of 74 New Mexico Motor Vehicle Division offices in March 2009 and found that 80 percent are not in compliance with the law.

According to the coalition of advocacy groups, New Mexico and Indiana are not exceptional cases; they allege that states across the country are violating the Motor Voter law. A Demos [fact sheet](#) reports, "Registrations from public assistance agencies nationwide has declined almost 80 percent in the 10 years after initial implementation of the NVRA, from over 2.6 million registrations in 1995-1996 to only 540,000 in the most recent reporting period of 2005-2006."

Because state agencies are not doing their jobs, nonprofit organizations have to increase already stretched resources and help low-income residents with voter registration. According to [Project Vote](#), "Compliance with the NVRA since its inception in 1993 has been spotty at best, non-existent at worst, leaving third-party groups with the hefty responsibility of picking up the slack by conducting expensive registration drives in disenfranchised communities."

To increase the number of registered voters, Demos, ACORN, and the Lawyers' Committee for Civil Rights Under Law have [joined forces](#) and are working to improve states' compliance with the public assistance provisions of the NVRA through their National Voter Registration Act Implementation Project.

In the midst of this activity, the Election Assistance Commission (EAC) released a [report](#) on the impact of the NVRA on the administration of elections during 2007 and 2008. The EAC report verifies the extent of the implementation of public agency registration and problems that have been reported. One of the recommendations of the EAC report was that departments of motor vehicles, public assistance offices, and disability agencies should be encouraged to remind voters to check and update their registrations.

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