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The Watcher

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2010 Year-in-Review Edition

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Customer Reviews of the Year in Federal Fiscal Policy

Fiscal policy determines a lot of things in your daily life. From the number of food inspectors that USDA can employ, to the availability of FBI agents to track down suspected terrorists, to the quality of the roads you drive on, fiscal policy is what makes this country tick. If you were running a country and were shopping around for fiscal policies, would those proposed in 2010 by Congress and President Obama be the first ones you'd grab off the shelf? Before you buy, you may want to consider what other customers thought about the Fiscal Policy of the United States of America in 2010.

* * *



Fiscal Policy of the United States of America in 2010[Used]
by [United States Congress](#) & [President Barack Obama](#)



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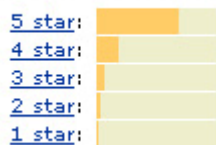
From United States Congress & President Barack Obama, 2010 Fiscal Policy of the United States of America determines a lot of things in your daily life. From the quality of the roads you drive on, to the availability of government services in your hometown, to the ability to understand what is going on in the entire fiscal process, Federal Fiscal Policy is important. This year, we have done great things with fiscal policy! We've made huge strides in spending transparency, contracting transparency, and government performance. We have yet to perfect the spending process or zero in on the perfect spending levels, but we are working on it.

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Customer Reviews

310,885,784 Reviews



Really Helpful Reviews

89 of 100 people find this useful:

☆☆☆☆☆ **Its spending process is as broken as my first marriage**

By BipartisanBlues535 (Des Moines, IA)

Ugh, why can't Congress ever pass the yearly federal budget on time? It's honestly one of the worst things about this year. Things were working okay when I first got it, but this year, the spending process completely broke down. Congress hemmed and hawed, dragging its feet on every aspect of the budget process, as congressional Democrats apparently couldn't get it together. They never [were able to agree](#) on overall spending levels, which meant no joint budget resolution. The House totally whiffed on passing a budget resolution (instead passing "the functional equivalent" of one), the first time it hasn't passed a budget resolution since the modern budget process was created in 1974.

Even worse, Congress did not pass any appropriations bills. None!!! At all! Usually by the start of the fiscal year, Congress would have passed at least some of the spending bills. Like one or two non-controversial ones, such as one for Agriculture or one funding the Legislative branch. But no, the House [only passed two](#) and the Senate didn't vote on any. So we're now almost three months into fiscal year 2011 and do not have a budget. What a joke. Now Congress is [trying to pass](#) either an omnibus or a year-long continuing resolution, but it's not clear if either will ever pass.

I gave this year zero stars because, honestly, I can't think of how it could be any worse. I mean, I guess they could have not even tried... [Government shutdown](#), here we come!

218 of 435 people find this useful:

☆☆☆☆☆ **but why r the spending levels soooo low???**

By DeficitHawkHuntr (Florence, MA)

You'd think with Congress taking so long, the budget would at least be large enough to protect the public, provide an important safety net for working families, and maintain the myriad services that all Americans depend on, right? WRONG. It seems like every time Congress debated spending, they were only talking about cutting, especially when it came to non-security discretionary funding, which is most of the human needs budget. First, in February, President Obama [put forward](#) an FY 2011 budget that included a three-year non-security discretionary freeze (what, security spending is better than everything else?). Then, two senators tried to set [draconian discretionary spending caps](#), which would have slashed non-security spending by 15 percent in FY 2012. Although legislators thankfully voted the caps down, the margin was [too close for comfort](#). More recently, the President's Deficit Commission came out with [its plan to reduce the deficit](#), which slashed federal spending and the federal work force. Double whammy!

Now, in the lame-duck, they're trying to pass some kind of spending bill, but it'll probably be at the FY 2010 level or below, meaning a cut in real dollars. We need more government spending, not less. Talk about disappointing!!!! I would not buy this again.

36 of 49 people find this useful:



Fiscal transparency isn't great, but way better than the 2009 model!

By hughesad313 (Los Angeles, CA)

Not bad. I was hoping for [full multi-tier reporting](#) in the Recovery Act, where anyone who touches at least \$25,000 of federal money has to report on how they used it. But while I didn't get it, the Obama administration did manage to enable [sub-award reporting](#) for [USAspending.gov](#), the website for all federal contract, grant, and loan spending. Now we can see further down the money trail than ever before, although hopefully the administration will go to full multi-tier soon!

Also, Congress used Recovery.gov for non-Recovery Act spending, which is an interesting development. Maybe they'll start extending Recovery Act reporting requirements, such as [recipient reporting and actually useful narrative fields](#), to all federal spending? The Troubled Asset Relief Program (TARP) did better [fiscally](#) than expected, but wasn't a hit as far as [transparency is concerned](#). The Federal Reserve refused to [disclose its recipients](#) until it was forced to by a court.

On my wish list for 2011 is improving [data quality](#) on USAspending.gov, which is not great right now. I'd also love to see it integrate [other data sets](#), like campaign contributions or the [text of contracts](#). Then I'd add a couple stars to my review. But all in all, the manufacturer is definitely proving that it's learning its lessons when it comes to fiscal transparency. Can't wait for the 2011 model!

123 of 456 people find this useful:



Sen. Landrieu is a Lew-ser

By LandrieuWatch52 (New Orleans, LA)

This isn't really about 2010's fiscal policy, but I've just got to rant here. Back in June of this year, Peter Orszag, Obama's OMB director, [stepped down](#) after almost two years on the job. Obama picked Jack Lew, one of President Clinton's OMB directors, to replace Orszag. Everyone loved Lew, and he cruised through [two Senate hearings](#) and easily passed two committee votes. Since Lew had presided over the last period of budget surplus, it was assumed he'd be a valuable asset given the current budget problems.

But, just as everything was looking good, a senator from Obama's own party, Sen. Mary Landrieu (D-LA), [placed a hold on Lew](#)! Landrieu objected to the administration's deepwater

drilling moratorium, so she wanted to make sure she was being heard. And she certainly got the administration's attention. After a month or so, Obama gave in and [agreed to drop its moratorium](#). But Landrieu still refused to let the Senate vote on Lew! What the heck?

Landrieu finally [agreed to drop her hold](#) when the administration promised to allow more drilling permits, among other things. When Lew came up for a vote that very night, the Senate approved his nomination unanimously, proving just how popular he was. Just goes to show you how broken the Senate is.

72 of 104 people find this useful:



Federal Tax Policy. What Federal Tax Policy?

By WhyDoTheRichGetToKeepAllTheirMoney (New York, NY)

Where to begin with this thing? When Congress convened at the beginning of the year, it knew that the Bush tax cut provisions would expire in twelve months' time. What did Congress do about it? Zip. It had already [allowed](#) the temporary expiration of the estate tax to come down to the wire and [failed](#) to do anything about it at the end of last year, so you would think that members would have kept that in mind with the rest of the Bush tax cuts. BUT NOOOOOOOO! They decided to let the issue drag on, and when it seemed like a perfect opportunity to deal with them right before the midterm elections, Democrats punted, deciding to take up the tax cut issue in the lame-duck session.

Where do we stand now? Well, the president just reached a compromise with the Republicans and had to give them [EVERYTHING](#) they wanted just so the government could help out poor and unemployed people. So take a guess as to why I'm not so hot on this.

Oh, and it's not like the rich can't afford to chip in a little more, either. In February, the IRS released [data on the 400 richest taxpayers from tax year 2007](#), and a blogger at the *Wall Street Journal* [noted](#) that these richest of the rich were worth three times (!) as much as they were in 1992 (and yes, that's adjusting for inflation) and paid an effective tax rate of just 16.6 percent. Over this same time period, the average income of the middle class increased by just 13 percent, and even the richest five percent, who aren't exactly poor, only saw a 27 percent jump in average income (when adjusted for inflation).

254 of 377 people find this useful:



Federal Contracting Not Flushing as Much Taxpayer Money Down the Toilet

By xxNorthrupGrumblingxx (St. Louis, MO)

This was a little good and a little bad. First the good. The Commission on Wartime Contracting continued to [call out](#) the cheaters, schemers, and crooks within and without the government

contracting racket. The administration also continued to follow through with the president's prescriptions laid out in his March 2009 contracting memo. The administration [reduced](#) no-bid and high-risk federal contracts and began taking the [first steps](#) toward making government contracts [universally recognizable](#) across government, which will allow the public to see what's going on.

And now, the bad. The International Stability Operations Association (ISOA) decided to put together a [code of conduct](#) that it said it will hold security contractors to and supposedly all the problems in that industry will go away. I'm not holding my breath. Also, the administration kept dragging its feet on [implementing](#) a high-road contracting policy that would really help the government get quality and affordable work from its contractors. Maybe [next year](#).

199 of 301 people find this useful:



Tough to Measure that Government Performance, but Getting Easier

By pencilpusher79 (Arlington, VA)

I've got to say that I was kind of impressed with this. Not only did the administration implement quite a few no-nonsense solutions within the [IT realm](#) – which will lead to better and much less wasteful spending on the basics that allow the government to operate in this digital age – but it put together systems to [crack down](#) on improper payments and contractors who avoid paying their taxes. The efforts, which are part of a larger package begun by the administration called the [Accountable Government Initiative](#), are designed to bring greater accountability and transparency to the federal government. Also, the administration began the process of [making more contracting information available](#).

The only minus was that the administration's [effort](#) still hasn't reformed the definition of "inherently governmental," and a federal pay freeze is really going to hurt efforts to beef up the procurement workforce with quality candidates and keep them in the government. All in all, though, things could be worse.

451 of 507 people find this useful:



Earmark bans aren't the answer

By P0rkUlus

Look, I happen to think a few bucks to study volcanoes might be well worth the \$ should [Yellowstone](#) blow, so I can't say I really hate the pork. Even if you're not a fan of [teapot museums](#), I really don't understand your hyperventilating over this tiny bit of the budget (a measly one percent!). It seems like every year someone is calling for a ban on them. This year, congressional Republicans finally [made good on a campaign promise](#) and [agreed to not request any earmarks for the coming fiscal year](#). Although, it looks like some Republicans are trying to get around the ban by redefining what an earmark is. You want "out-of-control" and non-

transparent spending? Take a [peek at the Pentagon's checkbook](#).

The Teas of Transparency

2010 was a banner year for government transparency, with many significant advances and only a few disappointments. However, there were other events outside the world of government openness that seeped into the collective consciousness, and one of the most notable was the rise of the Tea Party in American politics. For this year-in-review article, we decided to take a somewhat tongue-in-cheek approach to assessing and commenting on events in government openness, playing off the theme of tea. Thus, we present to you ... the Teas of Transparency.

Double-Brewed Tea

At the very end of 2009, the Obama administration [released](#) the Open Government Directive (OGD), which included an aggressive timeline of deliverables for 2010. This year, the OGD work received intense support and energy from both the White House and federal agencies. White House officials have overseen a robust interagency working group on open government that has as much interest and involvement at the end of the year as it did at the beginning.

Most agencies kicked off their 2010 OGD work by launching new Open Government [webpages](#) and engaging the public in [online discussions](#) to gather ideas on improving transparency, public participation, and collaboration. Then, on April 7, dozens of agencies across the federal government [released](#) their open government plans. Overall, the plans were heralded as a [major leap forward](#) for open government, even as some inconsistencies and disappointments were noted about particular aspects of individual plans.

The open government community moved fast to evaluate the agency plans. An effort coordinated by [OpenTheGovernment.org](#) had reviewers compare each plan against the specific requirements established by the OGD. The [evaluation](#) found some exceptional plans but noted that most plans needed at least some improvement. Many agencies incorporated much of this feedback and quickly produced updated plans that addressed many of the issues raised by the access advocates. These improvements were recognized with [improved evaluation scores in a second round of scoring](#) by access advocates.

During the latter half of 2010, agencies turned their focus from planning to implementation, with online tools and policies continuing to roll out from various agencies. The emphasis was on data disclosure under the OGD and contributed significantly to the explosion of datasets posted on [Data.gov](#), which now houses more than 300,000 datasets. Critics have raised concerns that agencies are not focusing on high-value datasets and that Data.gov is not designed for the average user, creating less enthusiasm for the hard work agencies have done on the OGD in 2010.

Slow-Brewed Tea

In November, President Obama signed a new [executive order](#) on controlled unclassified information (CUI), reforming the system of safeguarding information that is not classified but is still considered "sensitive." The order was praised by many government openness advocates. Previous practices for handling CUI stymied public access and inhibited information sharing inside government.

The new executive order establishes CUI as the sole system for controlling unclassified information, replacing an ad hoc system developed by agencies without clear public definitions or meaningful oversight. By May 2011, the National Archives and Records Administration (NARA) will establish government-wide procedures for CUI. Agencies will submit proposed CUI categories for review by NARA, citing a specific basis in statute, regulation, or government-wide policy. By November 2011, NARA will publish a list of the approved categories, including their definitions and associated procedures. Any future categories would also have to be approved by NARA. The order also makes clear that designating information as CUI does not exempt it from disclosure under the Freedom of Information Act (FOIA).

It took the administration almost the entire year to issue the CUI order, and while transparency advocates were pleased with the content, many important details remain to be worked out. We believe CUI is slow-brewed tea, and we'll find out in 2011 if it is weak or strong.

Tea that Shall Not Be Named

The Obama administration continued to assert the state secrets privilege in court cases in 2010. In September, the administration moved to dismiss [Al-Aulaqi v. Obama](#), a case regarding an American citizen allegedly targeted for killing by the government. The court did dismiss the case in December but did not rule on the government's state secrets claim. In 2009, Attorney General Eric Holder issued a [new policy](#) reforming the procedures for asserting state secrets claims. The reforms included a narrowing of the use of the privilege to specific evidence and limiting its use to dismiss whole cases. In the *Al-Aulaqi* case, the government stated that it had complied with these new policies. [Legislation to reform the state secrets privilege](#), introduced in 2009, did not move in 2010.

The Price of Tea in China

Spending transparency was also a major theme throughout 2010. [Recovery.gov](#) continued to provide transparency to over \$200 billion in federal stimulus spending with regular data updates, site improvements, and a shift to new cloud computing on the backend. [USAspending.gov](#), the government's main site for disclosing federal spending, received a major upgrade and a new interface in 2010. In October, USAspending.gov also began providing information from grant and contract recipients and sub-recipients for the first time since its launch. This upgrade, which had been intended since the Federal Funding Accountability and Transparency Act of 2009 required the creation of the site, had proven too difficult to

accomplish until the new reporting improvements established under the Recovery Act provided a successful model.

Of course, spending transparency isn't just about the numbers, it also depends on the quality of those numbers. The Sunlight Foundation launched a new site, [Clearspending](#), that revealed significant inconsistencies between spending being reported in USAspending.gov and the Catalogue of Federal Domestic Assistance. Quality of spending data was already on the government's agenda. In February, the White House issued a [framework](#) for federal spending data quality requiring agencies to finalize plans by May 14. Initially, few of the [agency plans](#) seemed to be available online, but most agencies have now published them to their websites.

Darjeeling Tea

Speaking at the United Nations (UN) in September, President Barack Obama moved beyond domestic transparency efforts like the OGD and the CUI executive order and called for [improved government openness worldwide](#). He challenged UN members to return in 2011 with "specific commitments to promote transparency; to fight corruption; to energize civic engagement." Exactly how the administration will follow up the president's call remains to be seen, but one hint came in November, when the U.S. and India announced a [Partnership on Open Government](#) to share experiences.

Spilled Tea

The whistleblower website Wikileaks sparked intense controversy this year. In April, the website released a [classified military video](#) of a 2007 Baghdad airstrike that killed two Reuters journalists – video that the military had refused to release under FOIA. In July, Wikileaks released [more than 70,000 classified documents from the Afghan war](#). Some transparency and human rights advocates criticized the site for not redacting the names of Afghans who had collaborated with the U.S. military, which led to redactions of such details from its next release of [nearly 400,000 classified documents](#) from the Iraq war.

But the biggest controversy came in November, when Wikileaks began publishing [more than 250,000 U.S. diplomatic cables](#), more than 100,000 of which are classified. Among the documents were revelations that [military contractors](#) in Afghanistan may have hired child prostitutes and that the State Department [ordered diplomats](#) to spy on top United Nations officials.

The White House [condemned the latest release](#), saying, "President Obama supports responsible, accountable, and open government at home and around the world, but this reckless and dangerous action runs counter to that goal." OMB [ordered federal employees](#) not to view the documents and [directed agencies](#) to review their policies to safeguard classified information. The Justice Department is considering [how it might prosecute](#) Wikileaks' editor-in-chief, Julian Assange. But the American Civil Liberties Union warned that prosecuting Assange or others associated with Wikileaks would raise [serious constitutional concerns](#). Transparency advocates such as the [Electronic Frontier Foundation](#) and the [Association for Progressive Communications](#)

also rushed to Wikileaks' defense. However, others, such as [Citizens for Responsibility and Ethics in Washington](#), argued that Wikileaks' actions would ultimately damage transparency efforts.

Cracked Teapot

The BP oil spill in the Gulf of Mexico brought tremendous public attention to numerous failings of the nation's oil drilling regulatory system and its emergency response capabilities. It also highlighted ongoing problems with federal, state, and local governments' understanding of key environmental right-to-know issues.

Response to the spill was hampered by restrictions on media access to the spill, confusion concerning the quantity and fate of the leaked oil, and criticism over the [delayed disclosure](#) of the chemical ingredients of the millions of gallons of dispersants used to combat the spill. BP initially directed its contracted cleanup workers to not speak with the media, an order that was later rescinded but continued to be sporadically enforced. The U.S. Coast Guard made huge portions of the Gulf and beaches [off-limits to reporters](#) with a rule threatening criminal penalties for entering a 65-foot "safety zone" around cleanup operations and equipment. The rule was eventually revised, but media still needed special permission to enter safety zones.

On the chemical side of things, manufacturers of the approximately 1.84 million gallons of dispersant used throughout the Gulf claimed the ingredients were trade secrets, which significantly delayed their disclosure despite serious concerns about health and environmental effects.

Government estimates consistently underestimated the flow rate of the gushing oil, and BP initially failed to provide information needed to make more accurate calculations. [Disclosure of the fate of the oil](#) once it was released into the water column also became an area of [controversy](#). The administration's estimate of what happened to the oil and how much remained in the Gulf – the so-called oil budget – presented an unexpectedly positive analysis. The [National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling](#), set up by President Obama, along with [other experts](#), criticized the lack of transparency surrounding the methods and science behind the government analysis.

EPA Steeps Its Tea in a Crystal Pot

Though the BP oil spill disaster sucked a lot of the air out of the room, 2010 was also a positive year for our environmental right to know. The year saw a continuation of significant transparency initiatives at the U.S. Environmental Protection Agency (EPA). The agency's [strategic plan](#) for fiscal years 2011-2015, released in the fall, seeks to increase openness throughout the agency's operations. Incorporated throughout the plan are the concepts of transparency, accountability, and community engagement.

The agency added an assortment of new online information tools intended to help the public access, understand, and put to use government data on environmental and public health issues.

The EPA launched the [Health and Environmental Research Online](#) (HERO) database on March 24. The free, online, searchable database contains thousands of scientific studies used by EPA to assess the risks of environmental and health impacts from exposure to hazardous pollutants and chemicals.

EPA also developed an [online interactive map](#) providing information on agency enforcement actions and cases involving violations of several environmental statutes since 2009, focusing on the Chesapeake Bay watershed and airshed. EPA developed a separate online interactive map of the whole United States that provides Clean Water Act violation and enforcement data for smaller facilities known as "non-major" facilities. Environmental and public health advocates have made improved access and searchability of enforcement information and mapping tools a right-to-know priority.

EPA in 2010 continued to expand its presence online, with issue-specific forums and webpages. In response to the BP spill, the agency launched an [informational website](#) – available in three languages – that provided news updates as well as air and water testing data for the Gulf region.

What's In My Tea?!

In 2010, the EPA took several steps toward disclosing more chemical health and safety information that has been inappropriately hidden from the public as alleged trade secrets. Chemical companies have long overused and abused their ability to claim information submitted to EPA as confidential business information (CBI) under the Toxic Substances Control Act (TSCA), thus hiding chemical health and safety information from the public.

In January, EPA [announced](#) that companies would no longer be allowed to claim that the identity of a chemical is CBI if the chemical's name is already public. Next, EPA made the non-confidential portions of the TSCA inventory available for [free online](#), instead of placing that information on a CD-ROM that users previously had to purchase. Finally, in May, the EPA [announced](#) it will review all claims by manufacturers that a chemical's identity should be treated as CBI when the identity is part of a health and safety study or the study's underlying data. The agency expects that unless the disclosure of the chemical identity explicitly reveals how the chemical is produced or processed, the secrecy claim will be rejected, allowing the public to link the chemical to its health and safety information.

Bitter Tea of Deadly Chemicals

Shifting gears from the administration to Congress, the year began hopefully for advocates of improved security and environmental right-to-know related to thousands of chemical plants across the country. In November 2009, the House had passed a compromise comprehensive chemical security bill that would have required facilities to assess options for reducing the risks of a terrorist attack that could send a poison gas cloud wafting into communities. The bill authorized the Department of Homeland Security (DHS) to require those chemical facilities that posed the greatest risk to convert to the safer methods that the facilities identified in their assessments – but only under certain conditions. The bill still lacked crucial accountability

measures, granting DHS the power to bury the program in excessive secrecy and deny to the public information needed to keep communities safe. Despite its shortcomings, the bill was headed for likely action in the Senate, presenting new opportunities to strengthen public and worker protections.

However, in 2010, the House-passed legislation ran into a [brick wall](#) in the obstructionist Senate. The Senate Homeland Security and Governmental Affairs Committee voted in July to merely extend the existing, inadequate chemical security program housed at DHS. The current program [exempts](#) hundreds of facilities and prohibits DHS from requiring specific security measures, including the adoption of proven and economical safer technologies. The current program also is devoid of any meaningful accountability or transparency measures. Hope is rapidly fading as the calendar runs out in the Senate for action on [separate legislation](#) introduced by Sen. Frank Lautenberg (D-NJ). The Lautenberg legislation mirrors many of the measures in the House-passed bill, including expanding chemical security protections to drinking and waste water treatment plants. It remains unclear what further actions will be taken by the next Congress when it convenes in January 2011.

Mixed Tea

Beyond the failure on a key environmental right-to-know policy, Congress produced mixed results on transparency, passing a few measures and only debating a few others. After initially granting a broad FOIA exemption to the Securities and Exchange Commission in the financial reform bill, Congress quickly [reined in the loophole](#). Bills to [reduce overclassification at DHS](#) and [improve the clarity of government documents](#) also became law.

[Faster FOIA processing](#), [more robust campaign finance disclosure under the DISCLOSE Act](#), and a [media shield law](#) passed only one house of Congress and don't look likely to move in the remainder of the lame-duck session. [Improved whistleblower protections](#) did pass the Senate during the lame-duck session and may still become law. Other transparency bills, such as the [Public Online Information Act](#), never even made it to a floor vote in either house.

Tea Party (Boston or Alice)

November's midterm elections unleashed a wave of transparency gossip. Leaders in the newly Republican-controlled House have made [positive noises on some transparency issues](#), and President Obama said that he thinks [transparency could be common ground](#) between him and the House.

However, much remains to be seen. Within the House itself, Republicans have [pledged](#) to enact "Read the Bill" rules, [requiring legislation to be published](#) online three days prior to a vote in committee and on the floor. Incoming Rules Committee chair Rep. David Dreier (R-CA) wants to [broadcast video of the committee's meetings](#), as most other House committees already do. However, House Republicans have been less clear about their plans for the Office of Congressional Ethics, which was created in 2008 to investigate ethics violations and which

many good government and transparency advocates support. Some fear that the Republican leadership wants to limit appropriations for OCE and let it die a slow death.

The biggest questions, though, relate to how the House will approach transparency in the executive branch. Rep. Darrell Issa (R-CA), Transparency Caucus co-chair, will assume the chairmanship of the Oversight and Government Reform Committee. Issa has supported many thoughtful transparency measures, but he has also promised a battery of investigations of the Obama administration. Some of the described investigations could shed valuable light on executive actions, but others appear to be partisan hobbyhorses based on conspiracy theories and myth. Out of all of this, we could get principled oversight of government, or we could get political theater in oversight clothing. Only time will tell whether the 112th Congress will be a reform-minded Boston tea party or more like having tea with the Mad Hatter.

Corporate Failures Not Enough to Trigger Meaningful Regulatory Change in 2010

In 2010, Big Business was often in the news for the wrong reasons. The BP oil spill disaster, the explosion at a Massey Energy mine that killed 29, and the recall of millions of Toyota vehicles, to name a few, made headlines throughout the year, both for their human, economic, and environmental toll and for the negligence they exposed. Despite these failures, 2010 was an excellent year for America's corporate elite. Profits skyrocketed, lobbyists fended off new regulation, and corporate access to Washington decision makers grew even more robust.

American citizens weren't nearly as fortunate: Unemployment continued to hover around 10 percent; workplace hazards, contaminated foods, and environmental pollutants continued to threaten the health of communities and lives of individuals; and the democratic process continued to favor special interests over average citizens.

Time and time again in 2010, Congress let the American people down. Congress took a pass on numerous opportunities to enact policies that could protect the country from health, safety, and environmental hazards.

In the boxes below, OMB Watch briefly describes four major regulatory crises in 2010, each following a similar pattern: the exposure of a gap in regulation, the identification of the need for reform, and the failure of Congress to enact significant change, often under the corrupting influence of Big Business.

The crisis: On April 20, BP's Deepwater Horizon oil rig exploded, and the ensuing spill released at least 185 million gallons of oil into the Gulf of Mexico over the next several months. The explosion killed 11 rig workers.

The regulatory failure: [The crisis exposed](#) conflicts of interest and gross incompetence at the Department of the Interior's Minerals Management Service (MMS), the agency responsible for both managing leases and overseeing lessees.

The reform: Despite his expressed support for deepwater drilling just weeks earlier, President Obama ordered a six-month ban on new and existing deepwater drilling, which Interior [made official](#) on May 30. Interior [reorganized](#) MMS and renamed it the Bureau of Ocean Energy Management, Regulation and Enforcement. Meanwhile, clean energy advocates seized upon the crisis to push for limits on drilling as well as for clean energy legislation.

The corporate influence: The oil industry and its allies in Congress pushed back against Obama's moratorium, and the Interior Department [ended the ban](#) on Oct. 12, weeks before it was scheduled to do so. (However, the administration [will not offer](#) leases off the Atlantic coast or in the eastern Gulf.) Spill response legislation [passed in the House](#) in July but died in the Senate.

The crisis: On April 5, an explosion at Massey Energy's Upper Big Branch mine in West Virginia killed 29 miners. It was the worst coal mine disaster in the U.S. in almost 40 years.

The regulatory failure: Despite Massey's track record of health and safety violations, the Mine Safety and Health Administration (MSHA) had been unable to more aggressively enforce safety regulations against the mining giant; Massey and others [had – and continue to –](#) tie up the bureaucracy by appealing many of the violations cited against them.

The reform: MSHA has [increased](#) its inspection presence at mines with historically poor health and safety records. Legislation to strengthen MSHA's hand and protect whistleblowers was introduced in both chambers.

The corporate influence: The National Mining Association and the National Association of Manufacturers both lobbied against the bill. The [bill failed](#) in a December House vote. In the Senate, [Republicans blocked](#) an attempt to pass the bill by unanimous consent.

The crisis: Beginning in 2009 and continuing into 2010, Toyota recalled more than seven million cars and trucks over concerns that the vehicles could suddenly accelerate out of drivers' control.

The regulatory failure: Since 2003, the National Highway Traffic Safety Administration (NHTSA) had investigated at least six complaints about unintended acceleration in Toyota vehicles but [failed to take action](#).

The reform: Bills were introduced in both the House and the Senate. The legislation would have strengthened NHTSA's enforcement authority and required new safety standards in vehicles.

The corporate influence: The auto industry and the U.S. Chamber of Commerce opposed many of the bills' requirements. The bills passed their respective committees in both chambers. Industry lobbying at the committee stage [appeared to be successful](#) in removing deadlines for new safety standards. Neither bill was taken up by the full chamber in either house.

The crisis: The string of high-profile foodborne illnesses that has drawn increasing attention over the last several years continued in the summer of 2010 when more than 1,800 people were sickened by salmonella-contaminated eggs. Two firms, Wright County Egg and Hillandale Farms, recalled more than 550 million eggs as a result.

The regulatory failure: The Food and Drug Administration (FDA) [does not possess](#) the power to order mandatory recalls, nor does it have sufficient resources to inspect food facilities on a consistent basis.

The reform: The House had [already passed](#) a food safety reform bill before the illness outbreak occurred. The Senate's health panel had approved a similar version, but the full Senate had yet to consider the bill. The Senate passed its bill in December but has since been [sidetracked](#) by procedural concerns.

The corporate influence: Large farm interests and the U.S. Chamber of Commerce support the bill. Small farms [won a concession](#) in the Senate when they were exempted from certain requirements. Larger farms [opposed](#) the small-farm exemption.

In response to these events, the administration attempted to make changes around the margins with policies like the drilling moratorium and increased safety inspections, but the systemic problems exposed by these crises beg for systemic fixes. Unfortunately, Congress chose to comply with industry demands, leaving the public behind.

While these examples clearly illustrate the corrupting influence of money in politics, corporations scored perhaps their biggest win in the courts where judges voted to *liberalize*

corporate spending and influence. On January 21, the U.S. Supreme Court overturned two tenets of the Bipartisan Campaign Reform Act, also known as the McCain-Feingold Act, which had restricted corporate contributions in elections. The Court's decision in [*Citizens United v. Federal Election Commission*](#) lifted the ban on corporate spending for express advocacy. It also removed the requirement that corporations set up political action committees (PACs) in order to make political contributions. Corporations [may now contribute](#) to PACs and other associations directly from their general accounts for the purpose of influencing elections.

[*SpeechNow.org v. Federal Election Commission*](#) extended the reasoning of the *Citizens United* decision to include not only campaign spending but certain campaign donations. In *SpeechNow.org*, the U.S. Court of Appeals for the District of Columbia ruled that there should be [no limits placed](#) on contributions to political action committees. Prior to this ruling, contributions to PACs were limited to \$5,000 annually per individual. Based on the *Citizens United* decision, the court struck down limitations on contributions to PACs.

The decisions' impacts were felt almost immediately. The *Citizens United* ruling opened up the possibility for significant additional spending in the 2010 congressional elections. Forty percent of outside contributions fell into the loopholes created by the decision, [according to the Sunlight Foundation](#), and the spending tilted toward Republican candidates generally favored by business interests.

Emboldened by their string of victories, business lobbyists ramped up their efforts to rollback existing regulations and fend off new ones. The Business Roundtable, a coalition of top corporate executives, launched the opening salvo when it [submitted to the White House](#) a list of laws, regulations, taxes, and other policies it wants to see reversed. The list, attached to a June letter to then-OMB Director Peter Orszag, leaves no regulatory stone unturned, arguing against scores of policies intended to help and protect Americans, including recently passed financial reform and health care laws; greenhouse gas emissions rules; worker health and safety policy (including mine safety); pending food safety and auto safety legislation; government contractor responsibility measures; and even oil spill prevention rules.

The U.S. Chamber of Commerce (Chamber), a lobbying and campaign expenditure powerhouse, has been the most vocal critic of the Obama administration's regulatory record. In November, the group launched [ThisWaytoJobs.com](#), a website that maligns regulation, and announced the formation of a lobbying task force dedicated to halting regulations and fighting public protections. [The Chamber said](#) it will first target energy and labor standards and attempt to undermine implementation of health care and financial reform.

It should be noted that the business representatives and corporate lobbyists patrolling Washington do not necessarily speak for the entire business community. For example, three business groups, the Small Business Majority, American Businesses for Clean Energy, and We Can Lead, commissioned a [poll](#) released in July that surveyed small business owners about their views on climate and energy legislation and its impact on the economy. Fifty percent of the respondents said they support legislation, while 42 percent said they oppose it. Many small businesses are optimistic about legislation's potential effects and recognize that resolving these

issues may be better for small business in the long run by reducing uncertainty about federal policy.

Nonetheless, in 2010, Big Business and organizations purporting to represent small business found an audience on Capitol Hill for their anti-regulatory message. In the House, centrist Democrats did not hesitate to join Republicans in voting against public protections. For example, 27 Democrats and 166 Republicans teamed up to [defeat](#) mine safety legislation, and 39 Democrats joined 154 Republicans in [voting](#) against an oil spill response bill.

In the Senate, procedural holds continued to be used with little discretion, forcing bills to first clear a 60-vote threshold to invoke cloture and end debate before coming up for a simple-majority vote. The strategy meant that corporate lobbyists needed to attract only 41 opponents to legislative proposals, such as energy or mine safety reform, in order to scuttle the bills. Even the Senate's food safety legislation, which enjoyed broad bipartisan support, [was subject to a hold](#), lengthening the amount of time the Senate spent considering the bill on the floor.

After the 2010 elections, congressional Republicans began laying the groundwork for what will likely be a full assault on regulation when they assume control of the House – and close the gap in the Senate – in 2011. House Republicans' [Pledge to America](#) – a document outlining their policy agenda – includes a [proposal for legislation](#) that would require congressional approval for all new major regulations. The bill would further politicize regulation by forcing rules through the legislative process and creating yet another locus where anti-regulatory interests can exercise their influence. Even rules supported by Congress would suffer: If an agency were to finalize a rule during congressional recess, or if approval of a rule was not a priority for one or both chambers, implementation could be delayed.

Republicans and some Democrats are also likely to continue to target greenhouse gas emissions standards set by the U.S. Environmental Protection Agency (EPA). In 2010, two senators led serious challenges against EPA's efforts to curb climate-warming emissions. Sen. Lisa Murkowski (R-AK) and 40 co-sponsors [pushed legislation](#) to overturn EPA's scientific finding that declared greenhouse gases a threat, a finding that underpins the agency's greenhouse gas standards. The resolution lost on a narrow, [47-53](#) procedural vote in June. Separately, Sen. Jay Rockefeller (D-WV) [introduced a bill](#) targeting a specific EPA regulation imposing emissions limits on stationary sources like oil refineries and power plants. The Senate did not vote on Rockefeller's bill.

The congressional power shift is likely to foster an even more favorable climate for Big Business and groups like the Chamber in 2011. Prospects for positive legislative reform in mine safety, worker safety, auto safety, energy policy, or other regulatory areas are all but dashed, and the problems exposed by the regulatory crises of 2010 will remain.

What this means for public protections overall is somewhat unclear. As already noted here and in two recent OMB Watch reports (see [The Obama Approach to Public Protection: Rulemaking](#) and [The Obama Approach to Public Protection: Enforcement](#)), the Obama administration has

been quite active in some areas of regulation, but it needs legislative authority to do more to protect our air, our water, our food, and our public health.

Furthermore, the Office of Information and Regulatory Affairs has been reluctant to reform the regulatory process in any meaningful way, leading to some frustrating rulemaking delays and less transparency than hoped during 2010. The administration has also not been immune to the corrupting influence of Big Business, demonstrated by its actions related to the oil spill moratorium and EPA's [pending coal ash rule](#).

If it is to be successful in protecting the public and blocking congressional and industry assaults on regulation, the Obama administration and the agencies charged with enforcing our nation's laws and regulations will need to show greater resolve. They will have to stand firm and make a solid commitment to ensure that special interests are not put ahead of the public interest.

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