



Promoting open government,  
accountability, and citizen  
participation since 1983

[Subscribe](#)[Blog](#)[Donate](#)

## The Watcher

December 21, 2009

Vol. 10, No. 24

### **In This Issue**

#### **Fiscal Stewardship**

[Fiscal Policy in 2009 – A Review](#)

#### **Government Openness**

[Transparency: Change You can Trust](#)

#### **Protecting the Public**

[Beginning Steps toward a Regulatory Reform Agenda: Regulatory News in 2009](#)

#### **Protecting Nonprofit Rights**

[A Song about Nonprofit Speech Rights in 2009](#)

---

### **Fiscal Policy in 2009 – A Review**

Federal fiscal policy has been front and center throughout 2009 as the Obama administration and Congress have gone to extraordinary lengths to bring the country's economy back from the brink of disaster. It seems like every week, we saw a crucial vote or major policy proposal released. A massive Wall Street bailout, an economic stimulus effort with unprecedented transparency provisions, an attempted reform of the financial regulatory system, a new presidential effort to reform the contracting system, significant gains in proper enforcement of the tax code, and a Congress that continued to fail at passing appropriations and tax bills in a timely manner have made for a pretty exciting, if not chaotic, year. Below is a review of some of the major developments in federal fiscal policy in 2009 from an OMB Watch perspective.

#### **American Recovery and Reinvestment Act (Recovery Act)**

##### *Congress Passes Stimulus Law*

When President Barack Obama signed into law a \$787 billion economic stimulus package on Feb. 17, he also approved an unprecedented set of transparency and oversight provisions. The law called for the establishment of a Recovery Accountability and Transparency Board to

oversee the disbursement of more than \$500 billion in federal cash outlays and a website ([Recovery.gov](http://Recovery.gov)) to publicly track the spending.

With states reeling from budget shortfalls, the Recovery Act funds were timed to stop many layoffs within states and help states address needs of people who were facing economic hardship. Funds for Medicaid, unemployment assistance, and other direct assistance went out the door quickly. Once states submitted plans, the federal government also began distributing funds for the Education Stabilization Fund to states. With remarkable speed, federal agencies and states worked collaboratively to handle these new funds.

- [Stimulus Becomes Law; Implementation Begins](#)

#### *OMB Guidance Put in Place Quickly*

Within one day of Obama signing the Recovery Act into law, the Office of Management and Budget (OMB) released 62 pages of initial guidance to agencies on how to implement the law. On April 3, OMB updated the guidance and finalized it on June 22. Thus, within four months, OMB was able to develop a government-wide plan for implementing the Recovery Act, impressive by any standard. While speed and completeness were applauded, there were numerous concerns about the content of the guidance. The February version of the guidance did not provide for centralized reporting, and only provided for two tiers – with only the prime recipient and their sub-recipients reporting on use of Recovery Act funds. Critics maintained that without centralized reporting, it would be difficult to aggregate data about spending. Additionally, without the ultimate recipient reporting on how the money was being used, the public would be missing vital information. While the final guidance still lacks true multi-tier reporting, it does provide a useful framework for reporting to a central data collection service, called [FederalReporting.gov](http://FederalReporting.gov). The design of the system is also scalable to ultimately have all recipients of Recovery Act funds, including multi-tier sub-recipients, report directly to the federal government – something OMB Watch advocated for in early 2009.

- [Analysis of Guidance Implementing Recovery Act](#)
- [Coalition for an Accountable Recovery Submits Comments on Recovery.gov Guidance Memo](#)
- [Stimulus Becomes Law; Implementation Begins](#)

#### *Data Quality Issues*

The release of the first round of Recovery Act data on Oct. 30 marked the first time that recipients of federal funding have been required to report to the federal government on their use of the funds in a timely and transparent manner and the first time that sub-recipients reported such information. This represented an important milestone in government transparency and accountability. However, poor data quality, Recovery.gov's limited functionality for analysis, and an unclear definition of "full-time equivalent," which is the standard for reporting jobs saved or created under the Recovery Act, hindered the promise of this new era of fiscal transparency – at least for this first round of recipient reporting. The Recovery Board and OMB are rumored to making improvements to the reporting structure and to the guidance for future quarterly reports

from recipients. Recipients of Recovery Act funds are required to report on a quarterly basis on the use of their funds; the next round of recipient reports will be made available on Jan. 30.

- [Recovery Act Reporting: Data Quality vs Data Integrity](#)
- [Fuzzy Math: Recovery Act Job Counting Edition](#)
- [GAO Recovery Act Report Confirms Impending Data Quality Issues](#)
- [Poor Data Quality and Lack of Website Functionality Hobble Recovery Act Recipient Reports](#)
- [AP's Limited Review of Recovery Act Job Numbers](#)
- [About Those Recovery Act Job Numbers](#)

## **Budget and Appropriations**

### *Congress Finally Passes FY 2009 Appropriations Almost Six Months Late*

After a couple of days of voting down Republican-offered amendments, the Senate finally agreed to end debate on a \$410 billion omnibus spending bill for FY 2009. After the 62-35 vote, the Senate ended the FY 2009 appropriations process by a voice vote in early March (President Obama quickly signed to bill into law the next day). The bill funded government for the next six months. Congress only acted on three appropriations bills in FY 2009 (Defense, Homeland Security, and Veterans Affairs), covering the rest under a continuing resolution (a temporary extension of current funding levels). Democrats in Congress felt they could not resolve their differences with former President Bush and opted in December 2008 to continue funding the government under the continuing resolution until he left office. Work on completing appropriations legislation resumed in earnest during the week of Feb. 23, and Obama signed the final bill on March 6.

- [Congress Looks to Complete Fiscal Year 2009 Funding Bills](#)
- [Senate Votes to Quit Dithering, Sends '09 Omnibus to Obama](#)

### *FY 2010 Appropriations Still Unfinished*

Although the House passed all of its fiscal year 2010 appropriations bills on time, the Senate was not able to do so. With the beginning of the fiscal year rapidly approaching in September and eight out of twelve appropriations bills still unfinished, Congress was forced to pass not one, but two continuing resolutions, keeping the government running as legislators tried to finish all the appropriations bills. In early December 2009, as the second continuing resolution ran down, House and Senate appropriators agreed to a \$446.8 billion omnibus bill, combining all the unfinished bills, save one – the bill funding the Department of Defense. Work on that appropriations bill is still ongoing but should be finished by the end of 2009.

- [Post-July 4th Appropriations Update](#)
- [Busy, Busy, Busy: An Appropriations Update](#)
- [Congress Passes Continuing Resolution](#)
- [Congress Will Never Finish Appropriations](#)
- [Congress Passes Second Continuing Resolution](#)
- [Warp Speed: An Appropriations Update](#)

## **Troubled Asset Relief Program (TARP)**

### *COP and SIGTARP Push for More Transparency*

For most of the past year, the Congressional Oversight Program (COP) and the Special Inspector General for TARP (SIGTARP), two government offices which are charged with conducting TARP oversight, have been pushing the Treasury Department to be more transparent in its TARP operations. In particular, both COP and SIGTARP recommended that institutions should be required to report regularly on their use of TARP funds, and SIGTARP even went as far as surveying individual TARP recipients. COP and SIGTARP used the results of the survey to show that more TARP transparency is feasible.

- [TARP IG Reports Underscore Need for Better Transparency in Financial Bailout](#)
- [SIGTARP Quarterly Report Highlights Lack of Treasury Action](#)
- [COP Evaluates TARP, Gives it a Passing Grade](#)

### *PPIP Conflict of Interest Problems*

Despite being created over a year ago, TARP still has not been used to actually alleviate the strain of troubled assets at the heart of the near-collapse of the financial sector. The Obama administration rolled out a revamped Public-Private Investment Program (PPIP) the week of Oct. 5 – the program is designed to accomplish the original goals of TARP. However, the program still contains too little disclosure of conflicts of interest among those charged with implementing it.

- [Latest TARP Program Poses Significant Conflict of Interest Issues](#)

## **Contracting**

### *Defense Acquisition Reform*

In May, the president signed the Weapon Systems Acquisition Reform Act of 2009 into law. The legislation's intent is to overhaul the Department of Defense's (DOD) acquisition process for major weapons systems. One provision establishes a high-level position within DOD, the Director of Independent Cost Assessment (DICA), to review weapons programs. Another provision requires program cancellation for excessively costly weapon systems, and extra certification of programs that begin to exceed cost estimates. However, Congress did not provide the DICA with a sufficiently wide jurisdiction of review, and the Secretary of Defense can override the cancellation of a program deemed "essential to national security." Because of these loopholes and restrictions, this otherwise well intentioned law will likely fall short of its intended goals.

- [Congress Meekly Moves toward DOD Acquisition Reform](#)
- [Commentary: Defense Acquisition Reform - Where Do We Stand?](#)

### *Presidential Memo on Contracting Reform*

In March, the White House released the Presidential Memorandum on Government Contracting that directed OMB to collaborate with federal agencies to review existing contracts in the short

term and then to develop new guidance to help reform future government contracting. In late July, OMB released the first set of memos to agencies requiring review of current acquisition processes with the goal of reducing contract spending over the next few years. Within this first set of memos, agency heads are tasked with two assignments. The first is to review existing contracts and acquisition practices and develop a plan to save seven percent of baseline contract spending by the end of FY 2011. The second is to reduce by 10 percent the share of dollars obligated in FY 2010 under high-risk contract vehicles, such as noncompetitive, cost-reimbursement, time-and-materials, and labor-hour contracts.

In late October, OMB released a second set of memos addressing longer-range goals for agencies to improve contracting, including requiring agencies to develop strategic five-year plans. It will be several years before the results of these efforts can be evaluated, and while there are still restrictions on contracting transparency, the indication is that these policies will have a net positive effect on federal contracting.

- [OMB Watch Submits Contracting Reform Comments](#)
- [Obama Administration Seeks to Curtail Award Fee Contracts](#)
- [OMB Watch Submits Comments on Contractor Database](#)

## **Estate Tax**

The debate over the estate tax has been a rollercoaster ride in 2009, and with the tax set to expire in January 2010, the stakes could not be higher. In the spring, Sens. Blanche Lincoln (D-AR) and Jon Kyl (R-AZ) successfully offered an amendment to the Senate budget resolution that would increase the exemption of the tax to include only those individuals with an estate worth \$5 million or more (\$10 million for a couple) and drop the rate from 45 percent to 35 percent. The conference committee did not include the Lincoln/Kyl language in the conference report and thus killed the measure. The estate tax issue remained silent until late in the fall when rumors began to surface about congressional designs. In early December, the House passed a permanent extension of the current estate tax, which taxes individuals with estates larger than \$3.5 million (\$7 million for a couple) at a 45 percent rate on all assets above the exemption. Despite this action in the House, the Senate has yet to take action on the estate tax. With only a few days left before Congress adjourns for the holidays, it is unclear if anything will end up passing the upper chamber.

If there is no Senate action, the tax will expire in 2010. It is set to return to the pre-Bush tax cuts level in 2011. This would be at an exemption level of \$1 million (\$2 million for couples) and a higher tax rate.

- [House, Senate Pass Budget Resolutions](#)
- [Estate Tax Reform Bill Passes House, Moves to Senate](#)

## **IRS Enforcement**

### *IRS Ends Private Tax Collection*

In March, the Internal Revenue Service (IRS) ended its use of private companies to collect the tax debts of citizens. This was a positive change in the collection policies of the IRS, as private collectors lacked the flexibility to work with individuals to create plans to pay taxes owed. Moreover, the program unnecessarily put taxpayers' sensitive personal information at risk and, according to government experts, was a waste of federal resources. OMB Watch had been a vocal critic of the IRS's private tax collection program and worked over the past three years to shift those resources to more efficient enforcement practices at the IRS.

- [The Beginning of the End for Private Tax Collection](#)
- [Congress Looks to Complete Fiscal Year 2009 Funding Bills](#)

### *IRS Gets More Funding*

During the appropriations process this spring, Congress allocated increased funds to the IRS. Out of the \$12.2 billion Congress allocated, \$5.5 billion went to enforcement activities. This represented an increase of \$386.7 million, or seven percent, over FY 2009 levels, and was equal to President Obama's request. This much-needed increase in IRS funding represents a reversal in the lethargic spending levels approved during the Bush administration. These additional funds, along with the aid of new tax treaties, will give a big boost to the IRS's efforts to track down tax cheats, both domestically and internationally.

- [IRS Set to Receive Substantial Funding Boost](#)

### *The UBS Tax Settlement*

In August, the Swiss government came to terms with U.S. demands that the Swiss bank UBS turn over information on U.S. clients suspected of tax avoidance. Along with revealing information about the identities of some 4,450 American UBS clients, the arrangement between the two governments included a new information exchange agreement. The agreement will allow the IRS and the Department of Justice (DOJ) to work with the Swiss government in prodding other Swiss financial institutions to disclose the identities of Americans suspected of hiding money in Swiss accounts. The agreement showed unexpected early results in tax enforcement at the IRS, as over 14,000 U.S. citizens came forward to take part in an IRS amnesty program to reveal hidden assets overseas.

- [The IRS Gets Serious about Tax Enforcement](#)

## **Performance**

After the government's first-ever Chief Performance Officer – Jeffrey Zients – was [confirmed](#) by the Senate in June, the Obama administration began its process of overhauling government performance systems. It was [made clear](#) throughout the first half of 2009 that the new administration was not happy with current performance measurement systems, including the

Program Assessment Rating Tool (PART). OMB Director Peter Orszag and Zients both made public statements about changes to come with PART. However, as of this writing, OMB has not revised PART.

Further, in October, OMB released a memo to federal agencies that outlined a new initiative to bring a renewed emphasis and additional resources for program evaluation within agencies. The three-part plan included giving better access to agency program evaluations on the Internet that are both in progress and planned for the future; re-launching an interagency working group on evaluations; and a voluntary pilot program to provide additional resources to fund rigorous program evaluations or strengthen evaluation capacity within agencies. Although the initiative is not a comprehensive plan to reinvigorate performance measurement in the federal government, it is a positive first step toward creating real improvement in government performance.

- [Senate Likely to Confirm First-Ever Chief Performance Officer](#)
- [OMB Releases Plan to Elevate Performance Evaluation](#)

## Transparency: Change You can Trust

In 2008, we heard a lot about "change." In this 2009 year-end summary, we use another type of "change" to rate the Obama administration's transparency efforts thus far.

### Open Government Vision



2009 opened up with a roar when President Obama used his [inaugural address](#) to promise a new era of sunlight with regard to government actions. The president followed up the next day with a [memo](#) ordering certain top officials to develop an Open Government Directive in 120 days. The directive would establish actions to be taken by agencies in an effort to move toward a government that is transparent, participatory, and collaborative. Although the process for developing the directive was experimental and sometimes rough, and even though it took longer than anticipated, the administration [delivered the goods](#) in strong fashion. This and several additional actions by the new administration have begun to forge an expansive vision for open government that is unmatched by previous administrations.

The [Open Government Directive](#) earns an impressive one-dollar coin in change for its vision and breadth, setting a clear new direction for government transparency. Shortly after the directive was released, top cabinet agencies followed through with [commitments](#) to undertake specific open government initiatives. 2009 has been marked by much talk of "change," and this action represents no mere penny-ante change.

The president called for progress on three main principles – transparency, participation, and collaboration – and the directive delivers on all three with specific requirements and deadlines for all agencies. The directive comprises four main components centered on very simple but

important themes – publishing information; creating a culture of openness; improving data quality; and updating policies to allow for greater openness.

The proof will, of course, be in the pudding. The directive provides an ambitious timeline for implementation of its various requirements. The question remains how vigilant the White House will be in pushing agency compliance, how active agencies will be in pursuing the spirit of the directive, and how involved the public will be in holding agencies accountable for robust openness plans.

### **Nominees Boost Transparency Vision**



The administration's vision of a more transparent government was further expressed among the nominees chosen to run key agencies. A number of shiny quarters among Obama's nominees add up to some real change favoring transparency. The Office of Legal Counsel (OLC), plagued by secrecy and controversy during the previous administration, saw the nomination of transparency advocate [Dawn Johnsen](#) to lead the embattled office. Johnsen has written articles advocating for restrained executive power and increased government transparency, in particular at OLC. Unfortunately, [partisan politics](#) continues to hold up her Senate confirmation.

The nomination and confirmation of David Michaels to head the Occupational Safety and Health Administration (OSHA) also [bodes well](#) for open government. Michaels, a former Clinton administration official, has advocated for protecting the transparency and integrity of scientific research used to inform public policy. The selection of Lisa Jackson to head the U.S. Environmental Protection Agency (EPA) was at first greeted with some [trepidation](#) by open government advocates concerned about her record heading New Jersey's environmental office. However, Jackson quickly set a startling new tone at EPA – which was one of the most troubled agencies during the Bush administration. Not long after her confirmation, Jackson released memos to all EPA staff calling for a return to operating as if the agency were "[in a fishbowl](#)" and to "[uphold the values of scientific integrity](#)."

White House appointees have been aggressively advocating for government openness. Just to highlight a few: Cass Sunstein, a controversial nominee to run the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB), has called for expanding the public's right to know as an academic. He is now in a position to influence policies on public access and dissemination. Vivek Kundra was confirmed as the federal Chief Information Officer and head of e-government operations at OMB. Like a ball afire, Kundra has pushed for a new vision on use of information technologies in the government. He quickly added an Information Technology Dashboard on [USAspending.gov](#) to bring greater clarity and accountability to how billions of dollars are spent. He also created Data.gov, a new website that

provides access to databases from different agencies in government. His vision of “cloud computing” is refreshing and exciting.

Outside of OMB is a host of energized White House staff, including Aneesh Chopra, the federal Chief Technology Officer, who works out of the Office of Science and Technology Policy (OSTP). Chopra shares the policy vision that Kundra has and has the technology chops to make it happen. Beth Noveck, also in OSTP, is an academic with vision on how to use new media to make government more interactive and participatory. Norm Eisen, a special counsel to the president, has already been working tirelessly behind the scenes to put in place the strongest of government-wide policies for openness.

## Opening the White House



Candidate Obama pledged to run “the most open and transparent administration in history,” and the White House transparency is a very public example of putting that promise into action. Not all of the change has gotten delivered at the same time, but improvements have continued to pay off like a busted slot machine. And increased openness came to the White House itself. The official White House website was [rebuilt](#), utilizing an open-source Drupal [platform](#), and with many new features, including a blog; the text of signed legislation, Executive Orders, and memoranda; webcasts of presidential speeches and some meetings; and a link to the White House photo stream hosted by [Flickr](#). During the campaign, Obama promised to post all non-emergency legislation online five days prior to signing it for public comment; this fell by the wayside in the early weeks of the administration, but [legislation](#) awaiting the president’s signature is now available at [whitehouse.gov](#).

The White House also made progress on transparency policies. On his first full day in office, President Obama issued [Executive Order 13489](#), which revoked a President Bush order (Executive Order 13233) that allowed former presidents and vice presidents (and their representatives, if they are deceased) to veto the release of any of their presidential materials. Obama’s order makes clear that only the president or a former president (not a vice president) can make a claim of executive privilege, but that the government is not bound by such a claim if it is made. Obama’s actions, in essence, return implementation of the Presidential Records Act to how things worked prior to the Bush administration. However, as long as no legislation is passed by Congress with regard to this issue, any future president is free to issue yet another order undoing Obama’s order.

Transparency on White House visitor logs is an example of change that took a while to happen, but it ultimately did happen – and was widely perceived as monumental. Early in the Obama administration, the White House continued the Bush administration’s policy of withholding visitor logs, and a [lawsuit](#) was initiated by Citizens for Responsibility and Ethics in Washington (CREW) following denial of a FOIA request for the logs. Then the administration [agreed](#) to release its [visitor logs](#) from the start of the administration for those specifically requested. In December, the administration will disclose all visitor logs, except those dealing with national security and other key matters, for Sept. 15 onwards.

## FOIA



Also on his first full day in office, President Obama issued orders for the Attorney General to draft a new FOIA memorandum. When released, the [memo](#) was much like the earlier one used by the Clinton administration, including a similar foreseeable harm clause; however, it included more powerful language, backing it with enforcement and incentive mechanisms. Later, the Justice Department [clarified](#) the policy as it pertained to several exemptions and reinforced the idea that FOIA employees should make efforts to exercise greater discretionary disclosure. Taking an additional step toward implementation of this bold policy, the administration appointed Miriam Nisbett as director of a [new office](#) dedicated to resolving FOIA disputes.

This policy was a significant shift from the Bush administration’s instructions that when they are in doubt or have a reasonable legal justification, agencies should withhold information from disclosure. Unfortunately, it is taking time for these new Obama policies to swim against the current of a long culture of entrenched secrecy. The new policies appear to have made little to no change in the agencies’ litigation of FOIA lawsuits brought by public interest groups. Without follow-through, FOIA falls short of the full dollar mark. Still, it seems that the administration is usually willing to compromise on stickier subjects. For instance, it will not recognize White House visitor logs as being subject to FOIA, but it has made agreements to release the logs on a limited basis.

## State Secrets



Early on, the Obama administration initiated a review into the use of the state secrets privilege and of pending cases in which the privilege had been invoked. Formally established by the 1953 Supreme Court decision in *United States v. Reynolds*, the state secrets privilege is an evidentiary privilege that permits the executive branch to withhold evidence at civil trial if the release of that information would prove detrimental to national security. Historically, its use has been limited; the privilege was invoked only a handful of times for the first several decades after *Reynolds*, and then only to exclude specific pieces of evidence. During the George W. Bush administration, the privilege was used with both unprecedented frequency and scope, as the administration used the privilege to argue that entire cases should be thrown out because the subject matter of the case – frequently extraordinary rendition, warrantless wiretapping, or other components of the “war on terror” – was itself a state secret. Unfortunately, all the while the Obama administration was reviewing the privilege, it was also repeatedly reiterating the broad state secrets claims of the Bush administration in every case still at trial.

In September, the Obama administration formally [announced](#) its public policy governing the assertion of the privilege, a first for any administration. In this [memorandum](#), the Attorney General announced that the privilege would only be invoked “to the extent necessary to protect against the risk of significant harm to national security,” and only after an extensive internal review. Prior to invocation, the department or agency requesting a claim needs to submit a detailed justification to the Department of Justice (DOJ), subject to the review and recommendation for further action of the relevant Assistant Attorney General. A review committee of senior DOJ officials is established to review his or her recommendation and to make a recommendation of their own to the Deputy Attorney General, who in turn makes his or her recommendation to the Attorney General for an ultimate decision. [Many](#) find this policy to be a strong first step in the right direction, but the policy failed to address several key issues, most especially judicial oversight. Public interest groups have asked for provisions that allow *in camera* review by judges, discovery of non-privileged material, and creation of substitute materials. Without clear judicial oversight commitments, the new policy will continue to shortchange the public and courts.

Legislation remains another major piece of change missing from this equation to ensure that the privilege is invoked uniformly and properly from administration to administration and is given proper scrutiny by the courts. A strong bill was recently [passed](#) out of the House Judiciary Committee, which would strengthen the hand of the courts by applying tools used in criminal cases under the Classified Information Protection Act and ensure that justice is done while

protecting legitimately classified information. However, neither this bill, nor the Senate counterpart still in committee, is likely to move any further in 2009.

## Chemical Security



A good deal of "change" happened in 2009 regarding efforts to pass comprehensive chemical facility security legislation. The Chemical and Water Security Act of 2009 ([H.R. 2868](#)) passed the House in November. This [action](#) earns a respectable fifty cents of change – halfway to becoming law. More than eight years after the September 2001 terrorist attacks, the action sends to the Senate legislation that seeks to greatly reduce the risks of terrorist attacks on chemical plants and water treatment facilities. Such facilities remain vulnerable to terrorist attacks that could release plumes of deadly poison gas to drift over U.S. cities and towns. The legislation is a compromise with the chemical industry and its supporters in Congress. Covered plants would be required to assess what safer and more secure alternative technologies are available and how difficult it would be for a plant to convert. By eliminating the unnecessary presence of toxic chemicals or dangerous processes, facilities could remove themselves from a terrorist's list of potential targets. The bill also gives the government the authority to require the riskiest facilities to implement the safer technologies that the facilities identify – but only under certain circumstances. Among other conditions, if converting to safer processes is not economically feasible, then the plant would not be required to convert.

The chemical security legislation still grants the Department of Homeland Security (DHS) and the EPA the authority to conceal information about the program, such as what facilities are covered and whether they are in compliance, thus hurting the public's ability to hold the facilities and the government accountable for following the law. Advocates will continue pushing for stronger accountability measures in the Senate version of the legislation.

## E-gov



Since taking office, the Obama administration has structured its [electronic government changes](#) along its three themes of open government: participation, collaboration, and transparency. The administration's focus on transparency was heavily demonstrated by its pursuits in expanding federal information technology systems. Going beyond the [Web 2.0](#) infrastructure of social media tools, the administration focused on using the web as a tool to push out data to the public. Although this focused largely on Recovery Act spending, the federal government quickly launched an IT dashboard and Data.gov to release other kinds of data to the public in machine-

readable formats. Further, we have recently seen this have a [trickle-down effect](#) on states and local governments. States like Massachusetts and cities like New York and San Francisco have launched similar programs to make data on transportation, health, environment, and education freely available.

Participation efforts have included engaging the public in town hall events with Facebook and Twitter; indeed, some of the administration's most notable efforts were those that focused on using social media tools as a way to involve the public in policymaking processes. The largest of these was the [solicitation process](#) for recommendations on an Open Government Directive to set the transparency goals of all government agencies. The [three-phased](#) process was a first attempt and a learning process not without its problems. Becoming more participatory and collaborative meant having to deal with those who would otherwise attempt to derail the policy discussion with off-topic issues or accusations. The administration used a similar process to collect public input on declassification policy, and we eagerly await the results.

### **Reforming Information Controls: CUI**



In 2009, the Obama administration created an [inter-agency task force](#) to investigate if there was any change hiding under the Controlled Unclassified Information (CUI) policies [established](#) by the Bush administration. As highlighted by OMB Watch in our [report](#), *Controlled Unclassified Information: Recommendations for Information Control Reform*, the new CUI regime, intended to replace over 100 disparate Sensitive But Unclassified (SBU) information control labels, was greatly in need of change. The Bush efforts focused solely on facilitating information sharing – particularly terrorism-related information – between government agencies, but there was almost no focus on information management or disclosure issues. We made a series of recommendations for reform of the existing CUI framework, including maximizing disclosure to the public by prohibiting reliance on control labels in making FOIA determinations, establishing time limits on labels, and embracing oversight to ensure reform efforts do not cause greater overuse of control labels.

The CUI task force [sent](#) its forty recommendations to the administration in August and publicly released them on Dec. 15. Among the recommendations included are the expansion of the CUI framework to apply to all SBU information across government, not just terrorism-related information; a series of improvements to the procedures for designation, identification, marking, safeguarding, dissemination, life cycle, training, accountability, standardization, and oversight provisions of the framework; a timeline and resource allocation strategy for implementation; and measures to track progress made toward implementation. The recommendations are half way to the policy change CUI needs. If these recommendations move beyond a policy proposal, and are actually implemented in full, it will be a significant improvement to the status quo.

## Environmental and Public Health Data



Several smaller actions in 2009 concerning EPA and access to environmental data are gradually adding up to a pocketful of "change." The bedrock environmental right-to-know program, the Toxics Release Inventory (TRI), experienced a number of advances. In March, after two years of being subject to a Bush-era reporting rule that weakened the public's right to know, [Congress restored](#) the previous reporting rule, ensuring that detailed information on pollution continues to be provided to the public. EPA followed the restoration of TRI with the [earliest public release](#) of the data in the history of the program and announced the development of several [new tools](#) to analyze the data.

Beyond TRI, EPA also finalized its plan to collect and report [greenhouse gas emissions data](#) from facilities in most economic sectors. The data will be used to inform climate change policies at the state and federal level. Following 2008's disastrous spill of toxic coal ash – the residue from burning coal to produce electricity – from an impoundment in Kingston, TN, EPA surveyed coal-burning power plants nationwide to identify the coal ash impoundments that could pose a similar threat of failure. After overriding complaints from the DHS, EPA [published the information](#) online.

## Classification/Declassification



The record on the administration's position on national security classification and declassification has been mixed at best, with the beginnings of work in a few places that haven't added up to any major change yet. Classification and declassification has been a major topic of discussion in the administration during its first year but remains a subject that it has not fully tackled. In May, the administration convened a panel to [develop recommendations](#) to the president for addressing this issue. To date, the administration has not released the recommendations, even though they were due in late summer.

While drafts of its executive order have been leaked, nothing is final. These leaked versions seem to call for a National Declassification Center that was also called for by the Public Interest Declassification Board. On the other hand, the administration has come under fire for giving

into intelligence agencies by overturning a previous executive order requirement that they declassify historical national security records that are at least 25 years old.

At the beginning of 2009, the administration appointed Adm. Dennis Blair as the Director of National Intelligence. Blair testified during his confirmation hearing that too much secrecy is an impediment to security and called for a smarter classification system that started by shifting the culture of secrecy in the intelligence community. Further, the administration released [several memoranda](#) written by the OLC under Bush that gave binding legal advice to agencies on the president's authority over detainees, the use of military force against terrorists, military detention of U.S. citizens, and the power to transfer captured suspects to foreign custody. On the other hand, it worked effectively with Congress to [exempt photographs](#) of detainees being tortured while in U.S. custody from FOIA. Also, a September [report card](#) on secrecy by OpenTheGovernment.org that primarily focused on 2008 noted that while original classification decisions decreased for the first time since 1999, the proportion of declassification spending to that of classification remained grossly disproportionate.

### **Data Gaps**



Despite the change concerning access to some types of environmental data, even searching the sofa cushions turned up no change regarding the public availability of other key types of information. These gaps in the data available to the public are made all the more evident as other sets of data are disclosed and the public seeks to link various types of information. One of the obstacles to disclosing information – especially information about the environmental and public health risks of commercial chemicals – is the excessive use of trade secrets claims. Businesses that submit information to regulatory agencies like EPA can label much of the information as proprietary, and the government will conceal that information from the public. Many public interest groups have decried the [unavailability of data](#) needed to identify the risks posed by the more than 80,000 chemicals now in commerce in the United States. Information on toxic chemicals used in natural gas drilling, which are linked to the contamination of drinking water wells across the country, are also concealed from the public as trade secrets. Legislation introduced this year would [require disclosing](#) the identities of these drilling chemicals. Information about the health risks of [nanomaterials](#) – the microscopic engineered particles that are finding their way into hundreds of consumer products – is hard to come by. EPA has announced [its intentions](#) to step up its data collection regarding certain nanoscale materials in 2010, but for now, lack of research and the industry's use of the trade secrets barrier have kept the public in the dark about the potential risks from this growing technology.

The data gaps extend beyond environmental and public health data to fiscal items such as the [Recovery Act](#). For the first time, there is timely and transparent reporting by recipients of federal Recovery Act funds and their sub-recipients on how the money is being used and how many jobs are being created or saved. This new model expands the opportunities for presenting information to the public about government spending. However, key elements of the contract to create the public website, [www.recovery.gov](#), remain [hidden](#), even after repeated FOIA requests.

Also, the new Federal Awardee Performance and Integrity Information System, required by the FY 2009 National Defense Authorization Act, is intended to help contracting officials make better award determinations by providing timely information on the honesty and reliability of contractors. However, among other problems, the public does not have the [ability to access](#) this database, and the contractor data collected by the government need extensive revision and standardization before they can be useful to contracting officials.

## **Beginning Steps toward a Regulatory Reform Agenda: Regulatory News in 2009**

In 2009, the Obama administration took steps toward rebuilding the federal government's ability to protect public health, workplace safety, and environmental quality. President Obama set out key principles to guide the administration's actions on transparency, regulatory reform, and scientific integrity. He appointed well qualified agency heads who reversed or halted many harmful regulations from the prior administration. In doing so, the president has created expectations for a renewal of government's positive role. The most vexing problems, however – changing a dysfunctional regulatory process and restoring badly needed resources to agencies – remain major hurdles.

When President Obama took office in January, the government's ability to protect the public through regulation had badly deteriorated. Agencies had lost scores of qualified workers, budgets had been slashed, and political considerations overruled regulatory science, laws mandating agency rulemaking, and enforcement programs. Moreover, the process by which these protections are developed had become burdened with obstacles that caused delays and de-emphasized science. The result was a wide range of food safety crises, consumer product recalls, and nearly dormant agencies responsible for worker safety and environmental concerns. In addition, the financial system was teetering on the brink of collapse.

### **The White House Agenda**

*Reforming the Process.* Obama promptly sought to reform the regulatory process, stating in a [Jan. 30 memo](#) that the principles set out in Executive Order 12866, the presidential order that defines much of the structure by which agencies produce regulations, "should be revisited."

On Feb. 4, Obama revoked President Bush's January 2007 order revising E.O. 12866. Bush's order further politicized the regulatory process and threatened to prevent regulatory agencies from setting new standards by expanding the authority of regulatory policy officers and the scope of OIRA's review powers. Obama's decision (E.O. 13497) sent a message that the administration recognizes that agencies need to address public problems more quickly.

In the call for a review of E.O. 12866, the president created a process in which both agency opinions and public comments would be considered for the first time. Obama's memo asked agencies to develop within 100 days recommendations for a new order. Subsequently, on Feb. 26, the Office of Management and Budget (OMB) published a request for public comment in the

[\*Federal Register\*](#). The administration received by the March 31 closing date approximately 180 comments to consider in drafting a new order.

To date, the administration has not issued a revised order, and the Office of Information and Regulatory Affairs (OIRA) continues to review agencies' rulemakings under E.O. 12866, issued in 1993. The public does not know what regulatory changes agencies recommended to OMB; none of the agencies' submissions have been disclosed.

*Transparency.* In his first full day in office, the president issued two memos that set out transparency principles intended to drive his administration. The [first memo](#), *Transparency and Open Government*, called for "an unprecedented level of openness in Government." The second [memo](#) outlined how the Freedom of Information Act (FOIA) was to be applied during the Obama administration: a presumption of disclosure should inform agencies' FOIA decisions. As a corollary to Obama's FOIA memo, on March 19, Attorney General Eric Holder issued new guidelines for FOIA implementation that require agencies to adopt a presumption of openness. (For more, see OMB Watch's [2009 information policy review](#).)

*Scientific Integrity.* On March 9, Obama [issued a memo](#) aimed at restoring scientific integrity in the federal government. Many agencies, especially those charged with protecting the environment, workers, and public health and safety, rely heavily on scientific studies and conclusions.

The memo stated, "Science and the scientific process must inform and guide decisions of my Administration on a wide range of issues ...The public must be able to trust the science and the scientific process informing public policy decisions." The memo argued for the importance of disclosure and transparency. It also assigned to the director of the Office of Science and Technology Policy (OSTP) "the responsibility for ensuring the highest level of integrity in all aspects of the executive branch's involvement with scientific and technological processes." The memo identified six principles OSTP should consider when producing recommendations to the president.

To date, these recommendations, which OSTP was to produce in 120 days from the date of the memo, have not been publicly released.

*Nominations.* Obama's choices to lead his cabinet departments and other agencies represent a sea change from the Bush administration. His appointments are mostly former elected officials with government management expertise or public servants who have served at federal, state, and/or local levels. He has refrained from appointing people either unqualified or tied too closely to interests regulated by the agencies to which they are appointed.

Despite a flawed [senatorial confirmation process](#), high-quality appointees are leading key agencies responsible for protecting public health, workplace safety, and environmental quality. Changes in regulatory activity and enforcement are occurring at important agencies like the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the Consumer Product Safety Commission (CPSC). The recent confirmations of David Michaels at

the Occupational Safety and Health Administration (OSHA) and Joseph Main at the Mine Safety and Health Administration (MSHA) raise hopes that long-neglected workplace safety issues will soon be addressed.

As the office that governs federal rulemaking, leadership at OIRA is also critically important to reforming the regulatory process. On April 20, Obama nominated Cass Sunstein, a colleague of Obama's on the University of Chicago law faculty, to be OIRA administrator. Sunstein is a controversial figure when it comes to administrative law issues; he is an ardent supporter of using cost-benefit analysis in regulatory decisions, and he has written about the need to further centralize power in OIRA. He is also a strong proponent of government transparency. How Sunstein makes the transition from legal scholar to government administrator will be critical to defining the Obama regulatory agenda.

Sunstein's nomination was [fraught with controversy](#). Republican senators placed sequential holds on the nomination because of Sunstein's views that animals should enjoy meaningful legal rights, including the right to sue. Although Sunstein worked to assuage the concerns of those who raised objections to his views, the holds kept the Senate from debating the nomination before the chamber's August recess.

Meanwhile, the progressive community expressed different, albeit more salient concerns, fearing that Sunstein would support the status quo at OIRA. [OMB Watch and many others](#) have argued the role of the office should dramatically change from the rule-by-rule review of agencies' regulations, serve as facilitator for inter-agency reviews, and put greater emphasis on fulfilling its responsibilities under the Paperwork Reduction Act, the law that established OIRA. This changed role could avoid inevitable conflicts with agency heads over regulations and restore the primacy of science in agency decision making.

*Midnight Regulations.* Among the regulatory successes so far, the Obama administration has made progress in addressing numerous last-minute regulations, so-called midnight regulations, completed in the waning months of the Bush administration. Obama's appointees [used a range of strategies](#) to quash or limit the impact of many of those regulations. The White House issued a moratorium on regulations not yet in effect, and employed, on a case-by-case basis, other strategies to revise or stop many last-minute rules that went into effect on or before Jan. 20. Among other successes, agencies restored scientific integrity to the process for making decisions on endangered species, preserved crucial services for Medicaid beneficiaries, and cut back on fossil fuel development in western states. While the administration has largely proven effective in altering the regulatory path of those regulations it has targeted, some actions are still continuing – and some regulations remain unaddressed entirely.

*Financial Reform.* In January, the country was in the midst of the worst financial crisis since the Great Depression. The administration's immediate approach to the crisis was to spur economic recovery and rescue the financial system. In March, the Treasury Department released an outline of an ambitious comprehensive financial regulatory reform package that sought to restore responsibility and accountability to the financial system. Treasury released legislative language to, among other things: 1) create a watchdog agency, the Consumer Financial

Protection Agency (CFPA), which would set basic safety standards; 2) strengthen investor protections; 3) reform credit rating agencies; and 4) reform predatory mortgage and lending practices.

During the summer and fall, the Senate and House initiated their own proposals, basically modeled on the administration's legislative blueprint. Both chambers' packages address the taxpayer-financed rescue of Wall Street and efforts to protect retirement funds and savings, homes and businesses, and consumers from predatory lending abuses.

The House financial reform legislation, [H.R. 4173](#), the Wall Street Reform and Consumer Protection Act of 2009, passed Dec. 11 by a vote of 223 to 202. The Senate Banking Committee held hearings and in November released a 1,100-page [discussion draft](#) – an omnibus package of all major financial sector legislative reforms under consideration by the 111th Congress – but has not begun a mark-up of the draft.

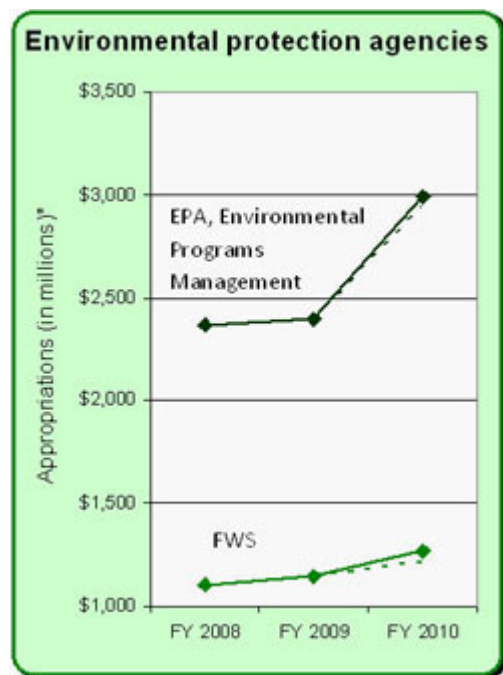
In the aftermath of the global financial meltdown, the new administration and Congress began the most ambitious rewriting of the nation's financial regulatory rules since the 1930s. As was the case then, this is proving to be a multi-year effort. Legislative progress has been slow – a reflection of industry resistance, the complexity of the issues, and other legislative priorities.

## Agency Reforms

*Resources.* Under new leadership in 2009, several agencies began to reform their approaches to providing public protections. One of the most severe challenges they face is the lack of resources – both human and financial – to address the myriad problems threatening the public. Although there was some progress in restoring resources, Congress and the administration have not yet reversed years of funding cuts and the exodus of qualified personnel.

In FY 2009, Obama signed into law an omnibus spending bill that included significant budget increases for CPSC and FDA. However, the bill included only marginal increases for other agencies with budgetary challenges, including MSHA, the Food Safety and Inspection Service (FSIS), and EPA.

For FY 2010, the president initially sought significant funding increases for FDA, OSHA, and EPA. However, Obama proposed only modest increases for other regulatory agencies such as FSIS, MSHA, the National Highway Traffic Safety Administration (NHTSA), and the U.S. Fish and Wildlife Service. Congress showed greater commitment toward regulatory agency funding, boosting the budgets of several key agencies, often above Obama's requests. (See graphs at right, which refer to enacted appropriations for



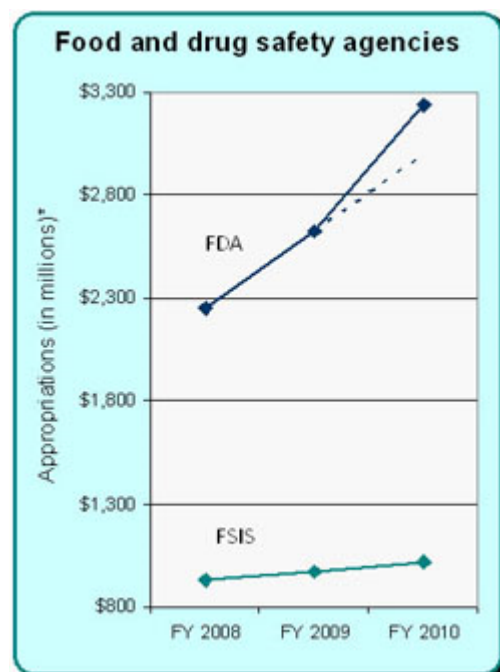
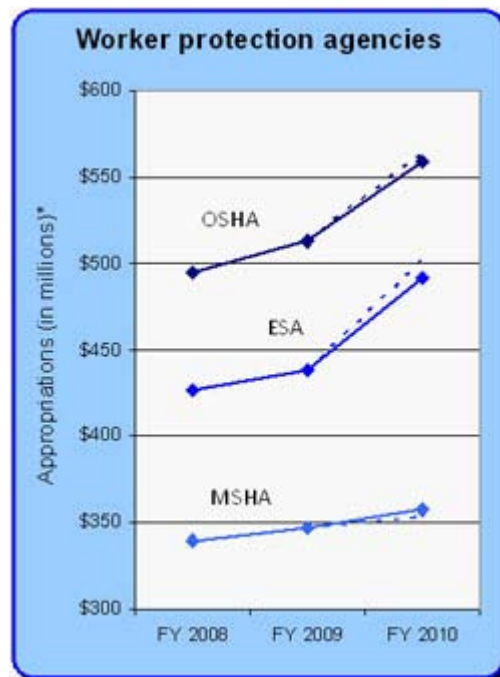
regulatory agencies from FY 2008 to FY 2010. (Dashed lines represent President Obama's FY 2010 request.)

*Transparency and participation.* Throughout 2009, some agencies began to implement the president's call for a more open and participatory government. EPA Administrator Lisa Jackson reinstated principles many considered ignored by the previous administration when she issued on April 23 [a memo](#) to staff outlining broad principles of transparency to govern the agency's interactions with the public. By promising to operate EPA as if it were "in a fishbowl," she explained that to gain the public's trust, EPA "must conduct business with the public openly and fairly." Jackson pledged that all agency programs "will provide for the fullest possible public participation in decision-making," including groups that have been historically underrepresented, such as minorities and those affected disproportionately by pollution.

FDA has also taken steps to improve transparency and public participation at the agency. On June 24, FDA published [a notice](#) in the *Federal Register* asking the public to submit comments to its newly created transparency task force. The task force also held public meetings to gather additional comments. The task force is charged with finding ways the agency can better communicate its decisions and information about public health threats and is to develop recommendations approximately six months after its formation.

Some agencies have begun to change their FOIA policies as well as take other open government actions similar to FDA and EPA. At the same time, other agencies, such as MSHA, seem not to have received the messages the president has sent about a presumption of openness and continue [to stonewall public requests](#) for information generally in the public sphere.

*Scientific Information.* Without OSTP's recommendations to the president on scientific integrity or increased resources, the state of science in the agencies has not been greatly enhanced. For example, little has been done publicly to reverse the Bush-era policies chilling scientists' ability



to speak openly about their work, to change media access to agency scientists, or to require scientific information to be disclosed and published.

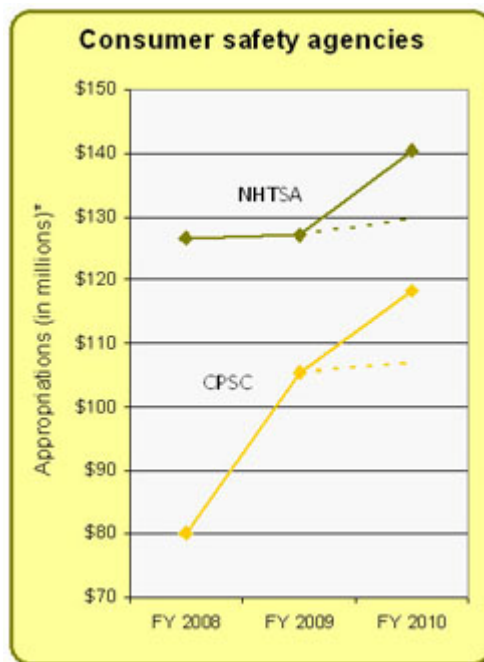
One notable action in 2009 was EPA's decision to change its process for assessing the public health risks of potentially toxic chemicals. EPA's Integrated Risk Information System (IRIS) staff studies industrial chemicals and posts final risk assessments on EPA's [website](#). On May 21, EPA announced changes it says will decrease the time it takes to conduct the assessments and afford EPA more control over the pace of the process and content of the assessments. Under the Bush administration, EPA and OIRA had added unnecessary steps to the process and provided other agencies with opportunities to interfere with EPA's scientific determinations.

A role for the White House in the revised IRIS process is preserved, giving OMB and possibly other White House offices two opportunities to review IRIS assessments before they are finalized. EPA has insisted that it will maintain control over the process, including the White House review, at all times. The revised process also sets a time limit of 45 days for each review phase and is more transparent. EPA also says that comments on draft assessments should focus solely on science.

**Rulemaking.** At several agencies, writing regulations in the public interest sat at or near the top of the agenda. On Dec. 7, after months of development, the EPA announced its [endangerment finding](#) for greenhouse gases, declaring emissions a threat to "the public health and welfare of current and future generations."

The finding allows agencies to formulate specific regulations. For example, on Sept. 15, EPA and NHTSA jointly issued a proposed regulation covering carbon dioxide emissions from passenger cars and light-duty trucks. EPA also proposed a rule limiting stationary sources emitting more than 25,000 tons of carbon dioxide annually to install best available control technology. The agency plans to finish the rule by April 2010.

OSHA has begun to address a series of workplace issues that have been [stuck in the regulatory pipeline](#) for years. Protections against exposure to diacetyl (a chemical compound used to give



Legend	
EPA	= U.S. Environmental Protection Agency
FWS	= U.S. Fish and Wildlife Service
OSHA	= Occupational Safety and Health Administration
ESA	= Employment Standards Administration
MSHA	= Mine Safety and Health Administration
NHTSA	= National Highway Traffic Safety Administration
CPSC	= Consumer Product Safety Commission
FDA	= Food and Drug Administration
FSIS	= Food Safety Inspection Service
*All appropriations levels are taken from appropriations bills as passed by Congress and signed by the president. Levels may not represent an agency's entire available budget due to exclusion of user fees, carryover balances, and other funding sources. Figures are not adjusted for inflation.	

foods like microwave popcorn a buttery flavor) and silica dust, safety rules for cranes and derricks, prevention of combustible dust explosions, and plans for other workplace hazards are on OSHA's agenda.

The CPSC has also taken on [new regulatory tasks](#) after wallowing for years with too few commissioners and inadequate legal authority to address consumer safety issues. CPSC's top priority in 2009 was implementing the Consumer Product Safety Improvement Act (CPSIA), passed by Congress in late July 2008. Consistent with CPSIA, in 2009, the agency began enforcing stricter standards for lead in children's products and began requiring manufacturers to mark children's products with information that will allow consumers to identify the products' origins.

OMB's regulatory office, OIRA, has noted that it has been quickly moving agency rules through the process. The office says that they have reviewed more rules than the past two administrations and at a faster pace. OMB Watch analyzed all notices (proposed and final rules and other regulatory documents published in the *Federal Register*) sent to and reviewed by OIRA during the first year of the Bush and Obama administrations, up to Dec. 15, 2001, and 2009, respectively. Our analysis shows that OIRA under Obama has approved rules at an average rate of 38.2 days, compared to 44.8 days under Bush. Economically significant rules, those expected to have economic costs or benefits exceeding \$100 million per year, have been approved at only a slightly faster rate – 27.8 days for Obama's OIRA compared to 30.1 days under Bush.

*Enforcement.* Recent years have illustrated that strong enforcement needs to accompany protective standards. Without resources and the political will to enforce the law, rules are meaningless. It is still early in the administration to have real indicators of agency enforcement, even for those agencies that have received budget increases, but some agencies seem to have made enforcement a higher priority.

In October, EPA released a [Clean Water Act Enforcement Action Plan](#) that lays out a broad vision for clean water enforcement as well as specific steps the agency will take in the coming months and years to improve enforcement at the state and federal level.

In July, Jackson [publicly committed](#) to emphasizing environmental justice issues and described ways in which the agency intends to reflect environmental justice concerns in the future as EPA formulates rules and emphasizes enforcement.

The administration unveiled a broad food safety agenda July 7, the product of Obama's inter-agency Food Safety Working Group. The agenda pledges to recraft a national food safety system that focuses on preventing, rather than reacting to, foodborne illness outbreaks. To accomplish this, the plan aims to expand regulators' capacity to investigate outbreaks and trace them back to the offending product or food facility. The administration pledged to give investigators at FDA and FSIS, among other agencies, 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."

## Conclusion

President Obama and the 111th Congress took the stage at a point in U.S. history when our financial and social regulatory systems were failing and scarce federal resources were stretched to the limit. Health care and stabilizing the financial system became the overriding concerns of the administration. Nevertheless, through sound appointments and policy commitments to transparency and scientific evidence, 2009 may mark the beginning of a new era for government in protecting the public. Still, substantial hurdles remain. Without a reformed regulatory process that reduces delay and political interference, and without resources to restore agencies' capabilities, these small steps may lead nowhere.

## A Song about Nonprofit Speech Rights in 2009



Jingle Bells, Jingle Bells, Speech Rights are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

Dashing through the year  
In a less hostile terrain  
With amended lobbyist guidance  
Lobbyist influence waned  
The administration [tried](#)  
Not to be [influenced by](#) corporate fears  
But restrictions have barred some [nonprofit leaders](#)  
From the administration for [two years](#)

Oh!

Jingle Bells, Jingle Bells, Speech Rights are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

Federally registered lobbyists

[Terminated throughout](#) 2009

But this [does not necessarily](#) mean

That outside influences have declined

[Recovery Act](#) and TARP lobbying guidance

Have provisions for [restricted](#) communications

We think [all meetings](#) should be [disclosed](#)

In a database searchable throughout the nation

Oh!

Jingle Bells, Jingle Bells, [Speech Rights](#) are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

New restrictions may cause

Qualified [experts](#) to be excluded

But the [misguided focus](#) on federal lobbyists

Won't cause influence to be diluted

The [forged letter scandal](#) highlights

The need for "paid grassroots lobbying" disclosure

Which would have resulted in highlighting this conduct

And giving it unwanted exposure

Oh!

Jingle Bells, Jingle Bells, Speech Rights are the thought of the day  
Oh what fun it is to work  
When [nonprofits](#) have a say, hey!

Due to *EMILY's List* being [struck down](#)

Nonprofits that receive PAC donations

Will no longer have those contributions

Limited by [FEC](#) regulations

[Citizens United](#) won't be decided

Until early in the [next year](#)

Allowing corporate political spending

Is something that we fear

Oh!

Jingle Bells, Jingle Bells, [Speech Rights](#) are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

The Supreme Court said [states aren't required](#)  
Under [Section 2](#) of the [Voting Rights Act](#)  
To create a crossover district  
When racial minorities are less than half  
The [Military/Overseas Voter Empowerment Act](#)  
Would usher in reform  
It received [bipartisan support](#) from legislators  
Decrying uncounted ballots as the norm

Oh!

Jingle Bells, Jingle Bells, Speech Rights are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

Appropriations are complete  
[Advocacy restrictions](#) are still in place  
[LSC-funded](#) groups can't advocate  
Even when it's not funded by the state  
The [Serve America Act](#) without Foxx  
Was a major victory  
The [amendment](#) sought to restrict recipients'  
Lobbying and advocacy

Oh!

Jingle Bells, Jingle Bells, Speech Rights are the thought of the day  
Oh what fun it is to work  
When nonprofits have a say, hey!

Jingle Bells, Jingle Bells, Speech Rights 'til the end  
We're continuing to follow these issues  
And much more in 2010!

\* \* \*

Nonprofit organizations play a vital role in our democracy. OMB Watch seeks to encourage and cultivate greater rights for nonprofit engagement, which in turn lead to more and richer citizen participation throughout the country.

[Comments Policy](#) | [Privacy Statement](#) | [Press Room](#) | [OMB Watch Logos](#) | [Contact OMB Watch](#)

OMB Watch • 1742 Connecticut Avenue, N.W. • Washington, D.C. 20009  
202-234-8494 (phone) | 202-234-8584 (fax)

© 2009 | Please credit OMB Watch when redistributing this material.

Combined Federal Campaign #10201

