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MID-TERM REPORT CARD: IS THE BUSH ADMINISTRATION DOING ENOUGH ON PAPERWORK REDUCTION?

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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MID-TERM REPORT CARD: IS THE BUSH ADMINISTRATION DOING ENOUGH ON PAPERWORK REDUCTION?

FRIDAY, APRIL 11, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154 Rayburn House Office Building, Hon. Doug Ose (chairman of the subcommittee) presiding.

Present: Representatives Ose and Janklow.

Staff present: Dan Skopec, staff director; Barbara Kahlow, deputy staff director; Danielle Hallcom, professional staff member; Melanie Tory, clerk; Yier Shi, press secretary; Alexandra Teitz, minority counsel; and Cecelia Morton, minority office manager.

Mr. OSE. Good morning.

Welcome to today's hearing before the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs.

Today's subject matter is, "A Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?"

Every April the subcommittee holds a hearing to assess progress in paperwork reduction. This week, as Americans prepare and file their Federal tax returns and their State returns, they will again get to experience firsthand the kind of paperwork that the government imposes. Today our subcommittee will examine if, after 2 years in office, the Bush administration is doing enough on paperwork reduction.

The Office of Management and Budget, which we are going to refer to as OMB hereafter, estimates the Federal paperwork burden on the public at over 8 billion hours. The IRS accounts for 81 percent of that total. Five additional agencies each levy over 140 million paperwork hours annually on the public and those agencies are: The Department of Health and Human Services, including Medicare and Medicaid, the Department of Transportation, Department of Labor, Environmental Protection Agency, and the Securities and Exchange Commission. In its March 2002 draft Regulatory Accounting Report, OMB estimated that the price tag for all paperwork imposed on the public is $230 billion a year. Let me just repeat that, $230 billion a year.

Much of the information that is gathered in this paperwork is important, sometimes even crucial, for the government to function. However, much is duplicative and unnecessarily burdensome.

In 1980, Congress passed the Paperwork Reduction Act, established an Office of Information and Regulatory Affairs [OIRA] in OMB. By law OIRA's principal responsibility is paperwork reduction. It is responsible for guarding the public's interest in minimizing costly, time-consuming and intrusive paperwork burden.

In 1995, Congress passed amendments to the Paperwork Reduction Act and set governmentwide paperwork reduction goals of 10 or 5 percent per year from fiscal year 1996 to fiscal year 2001. After annual increases in paperwork, instead of the decreases, in 1998, Congress required OMB to identify specific, expected reductions in fiscal years 1999 and 2000. OMB's resulting report was unacceptable. In response, in 2000, Congress required OMB to evaluate major regulatory paperwork and identify specific expected reductions in regulatory paperwork in fiscal years 2001 and 2002. Again, OMB's resulting report proved unacceptable.

Finally, last June, Congress passed the Small Business Paperwork Relief Act of 2002, as Public Law 107–198. This law required OMB to take certain actions by June 28, 2003. Also last July, Congress directed OMB to identify and review proposed and existing IRS paperwork. I look forward to the status report today from OMB on its implementation of this new law and on the changes it has made to specifically focus OMB's resources on IRS paperwork.

In last year's annual paperwork hearing, witnesses criticized the unnecessary complexity and burden of the Department of Labor's paperwork. After the hearing, I wrote Labor Secretary Chao to review this testimony and asked her to focus on the 38 Department of Labor paperwork requirements which each impose over 500,000 hours of burden on the public. Half of these, 19, are imposed by a single agency, the Occupational Safety and Health Administration. I look forward to Department of Labor's status report.

Congress' actions were taken to reduce red tape each year. However, paperwork burden has increased, not decreased, in each of the last 7 years. Today, the General Accounting Office [GAO] will report that last year saw the largest 1-year increase in paperwork since the 1995 law was enacted. Curiously, in November 2002, OMB told the agencies, "While we encourage you to identify additional paperwork reduction initiatives, it is not required." That is disturbing, to say the least.

Under the Paperwork Reduction Act, OMB is the watchdog for paperwork. However, the evidence seems to point to OMB's continued failure to focus on paperwork reduction. OMB has not pushed the IRS and other Federal agencies to cut existing paperwork in a satisfactory manner. Additionally, agencies continue to levy unauthorized paperwork burdens on the American people. Let me repeat that. Agencies continue to levy unauthorized paperwork burdens on the American people.

IRS also has a dismal record in paperwork reduction. Today GAO will report that, "IRS has some discretion that can affect paperwork burden," and some IRS burden increases were "at the agency initiative, not because of new statutes." Former IRS Commissioner Rossotti, who testified before this subcommittee in April 1999,

2000, 2001, and 2002, promised more initiatives each year, especially for small-business taxpayers. I hope IRS has initiatives planned to make a substantial dent in this burden.

OMB and the IRS are not doing an acceptable job in paperwork reduction. The subcommittee's Mid-Term Report Card, grading each agency's effort is on display. In sum, the administration is clearly not doing enough on paperwork reduction.

I do want to welcome our witnesses today. Again, we are joined by the Office of Management and Budget's Director of the Office of Information and Regulatory Affairs, OIRA's Administrator, John Graham. We have Acting IRS Commissioner Robert Wenzel; and the Assistant Secretary of Labor for Occupational Safety and Health, Department of Labor, John Henshaw. We have Victor Rezendes, who is the Managing Director of Strategic Issues at the GAO.

On our second panel we have Joanne Peterson, president and CEO of Abator in Pittsburgh, PA. We have Victor Schantz, who is the president of the Schantz Organ Co. in Orrville, OH, and Frank Fillmore, Jr., the president of the Fillmore Group in Ellicott City, MD.

[The prepared statement of Hon. Doug Ose follows:]

Chairman Doug Ose
Opening Statement
Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?
April 11, 2003

Every April, the Subcommittee holds a hearing to assess progress in paperwork reduction. This week, as Americans prepare and file their tax returns, they will again experience first hand the kind of burdensome paperwork that the government imposes. Today, the Subcommittee will examine if, after two years in office, the Bush Administration is doing enough on paperwork reduction.

The Office of Management and Budget (OMB) estimates the Federal paperwork burden on the public at over 8 billion hours. The Internal Revenue Service (IRS) accounts for 81 percent of the total. Five additional agencies each levy over 140 million paperwork hours annually on the public: the Department of Health and Human Services (including Medicare and Medicaid paperwork), the Department of Transportation, the Department of Labor (DOL), the Environmental Protection Agency, and the Securities and Exchange Commission. In its March 2002 draft regulatory accounting report, OMB estimated that the price tag for all paperwork imposed on the public is $230 billion a year - a huge amount.

Much of the information that is gathered in this paperwork is important, sometimes even crucial for the government to function. However, much is duplicative and unnecessarily burdensome.

In 1980, Congress passed the Paperwork Reduction Act (PRA) and established an Office of Information and Regulatory Affairs (OIRA) in OMB. By law, OIRA's principal responsibility is paperwork reduction. It is responsible for guarding the public's interest in minimizing costly, time-consuming, and intrusive paperwork burden. In 1995, Congress passed amendments to the PRA and set government-wide paperwork reduction goals of 10 or 5 percent per year from Fiscal Year (FY) 1996 to 2001. After annual increases in paperwork, instead of decreases, in 1998, Congress required OMB to identify specific expected reductions in FYs 1999 and 2000. OMB's resulting report was unacceptable. In response, in 2000, Congress required OMB to evaluate major regulatory paperwork and identify specific expected reductions in regulatory paperwork in FYs 2001 and 2002. Again, OMB's resulting report was unacceptable.

Finally, last June, Congress passed the "Small Business Paperwork Relief Act of 2002" (P.L. 107-198). This law required OMB to take certain actions by June 28, 2003. Also, last July, Congress directed OMB to "identify and review proposed and existing IRS paperwork." I look forward to OMB's status report today on its implementation of this new law and on the changes it has made to specifically focus OMB's resources on IRS paperwork.

In last year's annual paperwork hearing, witnesses criticized the unnecessary complexity and burden of DOL's paperwork. After the hearing, I wrote Labor Secretary Chao to review this testimony and asked her to focus on the 38 DOL paperwork requirements which each impose over 500,000 hours of burden on the public. Half of these - 19 of the 38 - are imposed by the Occupational Safety and Health Administration (OSHA). I look forward to DOL's status report.

Congress's actions were taken to reduce red tape each year. However, paperwork burden has increased, not decreased, in each of the last seven years. Today, the General Accounting Office (GAO) will report that last year saw the largest one-year increase in paperwork since the 1995 law was enacted. Curiously, in November 2002, OMB told the agencies, "While we encourage you to identify additional paperwork reduction initiatives, it is not required." This is disturbing.

Under the PRA, OMB is the watchdog for paperwork. However, the evidence points to OMB's continued failure to focus on paperwork reduction. OMB has not pushed the IRS and other Federal agencies to cut existing paperwork. Additionally, agencies continue to levy unauthorized paperwork burdens on the American people.

IRS also has a dismal record in paperwork reduction. Today, GAO will report that, "IRS has some discretion that can affect paperwork burden," and some IRS burden increases were "at the agency's initiative – not because of new statutes." Former IRS Commissioner Rossotti, who testified before this Subcommittee in April of 1999, 2000, 2001, and 2002, promised more initiatives each year, especially for small business taxpayers. I hope IRS has initiatives planned to make a substantial dent in this burden.

OMB and the IRS are not doing a credible job in paperwork reduction. The Subcommittee's mid-term report card, grading each agency's efforts, is on display. In sum, the Bush Administration is clearly not doing enough on paperwork reduction.

I want to welcome our witnesses today. They include: OMB's OIRA Administrator John D. Graham; Acting IRS Commissioner Robert E. Wenzel; John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, DOL; Victor S. Rezendes, Managing Director, Strategic Issues, GAO; Joanne E. Peterson, President and CEO, Abator in Pittsburgh, PA; Victor Schantz, President, Schantz Organ Company in Orrville, OH; and Frank C. Fillmore, Jr., President, The Fillmore Group, Inc. in Ellicott City, MD.

CONGRESSIONAL MANDATES ON PAPERWORK REDUCTION: 1995-2002

Date of Law/Report	Congressional Mandate
1995 Paperwork Reduction Act	"annual Governmentwide goal for the reduction of information collection burdens by at least **10%** during each of **FYs 1996 & 1997** and **5%** during each of **FYs 1998, 1999, 2000, & 2001**"
1998 FY 99 Treasury-Postal Appropriations Act	"submit a report by 3/31/99 ... that (1) identifies specific paperwork reduction accomplishments expected, constituting annual **5%** reductions in paperwork expected in **FY 1999 & FY 2000**"
2000 FY 01 Treasury-Postal Appropriations Act (Sec. 518)	"Not later than 7/1/01 ... submit a report ... that (1) evaluates, for each agency, the extent to which implementation of [the PRA] has reduced burden imposed by rules issued by the agency, including the burden imposed by each major rule issued by the agency; (2) ... evaluates the burden imposed by each major rule that imposes more than **10 million hours** of burden, and identifies specific reductions expected to be achieved in each of **FYs 2001 & 2002** in the burden imposed by all rules issued by each agency that issued such a major rule"
2002 FY 03 Treasury-Postal Appropriations House Report 107-575	"The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork."

Abbreviations
FY = Fiscal Year
IRS = Internal Revenue Service
OMB = Office of Management and Budget
PRA = Paperwork Reduction Act

Prepared for Congressman Doug Ose

Paperwork Reduction Scorecard

Department/ Agency	Paperwork Burden in millions of hours	Paperwork Score	Comment
Agriculture	90	**F**	66 violations; 1 large non-statutory increase
Commerce	19	**F**	increasing violations; 13 non-stat. increases
Defense	74	C	2 large electronic decreases, 1 non-stat. add
Education	43	C	3 large/many small decreases, small adds
Energy	3	D	1 large/other small decreases
HHS	**251**	**F**	7 violations w/o OMB ever; 6 non-stat. adds
HUD	27	**F**	24 violations; 2 non-statutory increases
Interior	8	**F**	only 1 small decrease
Justice	48	**F**	only 3 small decreases
Labor	**161**	**F**	**OSHA=74% of Labor; no large decreases**
State	24	**F**	no initiatives in ICB; 1 non-stat. increase
Transportation	**249**	**F**	42 M hrs. violation for mos.; 8 non-stat. adds
Treasury	**6,636**	**F**	**IRS=81% of gov't.**
Veterans Affairs	6	D	23 violations; 1 large/2 small decreases
EPA	**144**	D	2 large/1 small decreases
FAR	31	?	not mentioned in ICB
FCC	27	D	1 large/3 small decreases, 1 large increase
FDIC	10	**F**	no reduction initiatives in ICB
FEMA	10	**F**	8 violations w/o OMB ever; no decreases
FERC	4	C	1 large/3 small decreases, 2 small increases
FTC	68	**F**	no reductions; 1 large non-statutory increase
NASA	6	**F**	no reduction initiatives in ICB
NSF	5	**F**	no reduction initiatives in ICB
NRC	9	**F**	no reduction initiatives in ICB
SEC	**141**	**F**	6 small decreases; 10 non-statutory increases
SBA	3	**F**	no reduction initiatives in ICB
SSA	27	D	4 small decreases; 3 non-statutory increases
Government Total	8,122	F	

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April 4, 2003

MEMORANDUM FOR MEMBERS OF THE SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS

FROM: Doug Ose

SUBJECT: Briefing Memorandum for April 11, 2003 Hearing, "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?"

On Friday, April 11, 2003, at 10:00 a.m., in Room 2154 Rayburn House Office Building, the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs will hold a hearing on paperwork reduction. The hearing is entitled, "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?"

Paperwork Reduction

To reduce paperwork imposed on the public, in **1942**, Congress established a centralized review function for proposed paperwork. The Federal Reports Act (FRA) required the Bureau of the Budget (which became the Office of Management and Budget (OMB)) to review and approve each agency paperwork proposal. In **1980**, the Paperwork Reduction Act (PRA) replaced the FRA and established an Office of Information and Regulatory Affairs (OIRA) in OMB, whose principal responsibility is paperwork reduction. The PRA was principally intended to "minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and persons resulting from the collection of information by or for the Federal Government."

Attached is a chart that shows actions by Congress on paperwork reduction from 1995 to 2002, and the dates of OMB's responses to these Congressional mandates. In **1995**, Congress reauthorized the PRA and set government-wide paperwork burden reduction goals for Fiscal Years (FYs) 1996 to 2001. After annual increases in paperwork, instead of decreases, in **1998**, Congress, in a provision in the 1999 Treasury-Postal Appropriations Act, required OMB to issue a report identifying specific expected paperwork reduction accomplishments in FYs 1999 and 2000. OMB's 1999 report only identified a limited number of specific expected reductions. For example, the Internal Revenue Service (IRS), which accounts for over 80 percent of the government-wide paperwork burden on Americans, identified no specific expected reductions in tax paperwork in FY 2000.

As a consequence, in **2000**, Congress, in Section 518 of the 2001 Treasury-Postal Appropriations Act, required OMB to issue a report evaluating paperwork imposed by agency regulations ("regulatory paperwork"), including each major rule imposing over 10 million hours of burden, and identifying specific expected reductions in regulatory paperwork in FYs 2001 and 2002. OMB's August 2001 report did not fully respond to the statutory requirements. In fact, OMB limited its evaluation to only two major rules -- both from the Department of Labor (DOL) -- issued since March 1996. The statute did not include a March 1996 starting date for covered major rules. In fact, the Subcommittee identified an additional 15 non-IRS and 40 IRS covered major rules, which each impose more than 10 million hours of burden. These rules were issued by an additional seven agencies.

After OMB's April 2002 Information Collection Budget (ICB) for FY 2002 revealed another year of increases, instead of decreases, in paperwork and did not identify sufficient accomplishments and initiatives to reduce IRS paperwork, in July **2002**, the Appropriations Committee included a directive to OMB in House Report 107-575, which accompanied its 2003 Treasury-Postal Appropriations bill, to focus more of OMB staff attention on reducing IRS paperwork.

During 2001 and 2002, the Subcommittee sent eight oversight letters to OMB on paperwork reduction. Some of the points raised by the Subcommittee included: asking about OMB's willingness to disclose its role in paperwork reviews, similar to its disclosures relating to OMB's regulatory reviews; and criticizing OMB's FY 2001 and 2002 ICBs. The Subcommittee wrote, "The number of specific paperwork reduction initiatives, especially for information collections imposing huge burdens, is disappointing and the number of unresolved Paperwork Reduction Act (PRA) violations (including one dating back to 1978 and two from the 1980s) is of significant concern." The Subcommittee asked OMB to provide an expected resolution date for each outstanding PRA violation.

Also included in these letters were requests for OMB to work jointly with: (a) the Departments of Agriculture and Interior to reduce farm paperwork; (b) DOL to focus on April 2002 testimony before the Subcommittee by the business community about specifically burdensome DOL paperwork and on the 38 DOL requirements each imposing over 500,000 hours on the public; and, (c) the Centers for Medicare and Medicaid Services in the Department of Health and Human Services to correct violations of the PRA, which were not included in OMB's FY 2002 ICB.

In October 2001, OMB reduced from 27 to 15 the number of agencies required to make proposed FY 2002 ICB submissions to OMB so that they could be subject to paperwork budget controls. After the Subcommittee's April 2002 hearing, where this removal was questioned not only by the Subcommittee but also by the General Accounting Office (GAO), in November 2002, OMB restored coverage for the 12 previously-removed agencies. However, for the FY 2003 ICB, OMB stated, "In the FY 2002 Information Collection Budget (ICB), we asked each agency to 'identify at least two major initiatives to …reduce paperwork burden on the public.' …

While we encourage you to identify additional paperwork burden reduction initiatives, it is **not required**" (emphasis added) (p. A-1).

ICB submissions from the 27 agencies on last FY's paperwork reduction successes and this FY's initiatives were due to OMB on January 10, 2003. The Subcommittee has requested that OMB's FY 2003 ICB report (for the FY ending September 30, 2003) be provided 48 hours before the hearing.

P.L. 107-198

In June 2002, the President signed the "Small Business Paperwork Relief Act of 2002" (P.L. 107-198). This Congressional initiative required OMB to do the following by June 28, 2003: (a) publish the first annual list in the Federal Register and on OMB's website of all compliance assistance resources available to small businesses; (b) have each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements and the control of paperwork; and, (c) report to Congress on the findings of an interagency task force, chaired by OMB, on ways to integrate the collection of information across Federal agencies and programs, and the feasibility of requiring the agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system, and with synchronized reporting.

The law also requires three more OMB reports to Congress by June 2004, December 2003, and December 2004. The last two of these relate to enforcement actions in which civil penalties were assessed for violations of paperwork requirements.

The invited witnesses for the April 11, 2003 hearing are: OMB's OIRA Administrator John D. Graham; IRS Commissioner-Designate Mark W. Everson (who is expected to be confirmed before the hearing); John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, DOL; Victor S. Rezendes, Managing Director, Strategic Issues, GAO; Joanne E. Peterson, President and CEO, Abator, Pittsburgh, PA; Victor Schantz, President, Schantz Organ Company, Orville, OH; and, Frank C. Fillmore, Jr., President, The Fillmore Group, Inc., Ellicott City, MD.

Attachment

Congressional Mandates on Paperwork Reduction & OMB Reports: FYs 1996-03

Date of Law/Report	for FY	Due Date	OMB Report	Congressional Mandate
1/4/95 Paperwork Reduction Act	1996 1997 1998 1999 2000 2001	annual annual annual annual annual annual	9/97 ICB none 7/98 ICB 4/99 ICB 4/00 ICB 8/01 ICB	"annual Governmentwide goal for the reduction of information collection burdens by at least 10% during each of **FYs 1996 & 1997** and 5% during each of **FYs 1998, 1999, 2000, & 2001**"
10/21/98 FY 99 Treasury - Postal Approp-riations Act	1999 2000	3/31/99 -	4/99 in ICB 4/00 in ICB	"submit a report by 3/31/99 ... that (1) identifies specific paperwork reduction accomplishments expected, constituting annual 5% reductions in paperwork expected in **FY 1999 & FY 2000**"
12/21/00 FY 01 Treasury - Postal Approp-riations Act (Sec. 518)	2001 2002	7/1/01 annual	8/01 in ICB 4/02 in ICB	"Not later than 7/1/01 ... submit a report ... that (1) evaluates, for each agency, the extent to which implementation of [the PRA] has reduced burden imposed by rules issued by the agency, including the burden imposed by each major rule issued by the agency; (2) ... evaluates the burden imposed by each major rule that imposes more than 10 million hours of burden, and identifies specific reductions expected to be achieved in each of **FYs 2001 & 2002** in the burden imposed by all rules issued by each agency that issued such a major rule"
7/15/02 FY 03 Treasury - Postal Approp-riations House Report 107-575	2003	annual	?	"The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork."

Abbreviations
FY = Fiscal Year
ICB = Information Collection Budget
OMB = Office of Management and Budget
PRA = Paperwork Reduction Act

Mr. OSE. The manner in which this committee proceeds is that the members on the dais have opening statements. They make those. Then, we are going to swear in all of our witnesses. We have your testimony. We have received it. We have reviewed it to the extent that, when we get to your testimony, if you could summarize within the 5 minutes we will allot, that would be great, so then we can go directly to questions.

We are going to have some votes here shortly. So, we are going to have to work around that. I know my good friend, Mr. Janklow, has an opening statement, and I recognize him for 5 minutes.

Mr. JANKLOW. Thank you very much, Mr. Chairman.

I appreciate your comments, and I truly appreciate your setting this hearing.

You know, the reality of the situation is, this is a war, another war we're going to lose. Congress passes laws. Everybody says he is for paperwork reduction, and nothing happens. The reality of the situation is, it's like the old Shakespearean play, full of sound and fury, signifying nothing. That's really what it comes down to. We live in a society where the government forms, they ask for information that's unnecessary, absolutely unnecessary, and they will argue with you about whether or not the information is necessary.

I personally have dealt, as a chief executive in my State, on many occasions dealt with getting forms from the Federal agencies, the various Federal agencies, not all of them, but various Federal agencies that are using old forms competing with new forms. And, they don't get rid of the old forms, and God knows why they need the new forms.

We deal with a situation where you can't even deal with a lot of these agencies electronically. You can't even download their forms off the electronic media. Some of them you can. Some of them have done a good job of it. But, there shouldn't be a single form in this government that a citizen needs to go out of their home to collect, if they have technology at home. They ought to be able to download 100 percent of the forms in this country. They ought to be able to fill out 100 percent of the forms in this country at home and transmit them electronically.

Our National Government has to be one of the few places left that still has both legal-sized paper and letter-sized paper. We haven't figured out that you can get by with letter-sized paper, and they will give you an argument of how much more information they can get on a legal-sized document, as opposed to doing something about getting rid of those types of things.

The only way for the citizens in this country to be able to access the information they have to access, the only way the citizens of this country can be in the position where they can provide the information the government needs and get the information from the government that they need to conduct their affairs as we continuously, increasingly regulate their lives, is to do it on some type of electronic means. And, I don't blame OMB for this. There is no way they can handle this problem. No one listens to them, either.

And so, we live in a society where every agency of every government thinks it is sovereign. They do everything they can to sabotage everything that anyone from the outside wants to do, and the

reality of the situation is this is another war we are going to lose, but we are going to have a lot of fun fighting it.

And so, I think it is very timely that you have called this meeting, Mr. Chairman. And, I look forward to the testimony of the witnesses and the opportunity to ask them questions. The tragedy is that the citizens of this country, they hold out no hope for any real change. They hold out no hope at all for any real change in the reduction of paperwork and the reduction of—and the increased ability to deal with productivity in their lives, vis-a-vis on how they deal with their government and for an ever increasing amount of rules and regulations, most of which are not going to be able to be dealt with electronically, but they will be dealt with in the paper world.

The truth of the matter is, we are dealing with a revolution that has been started by the grade schoolers. They understand technologies. The grade schoolers know how to utilize technology. It's the adult community that hasn't figured it out. So, we need to go to the 8th graders and ask them how would you do it, what's an efficient, effective way to do it, and then maybe they can give us some advice on how we can transmit it electronically.

So, these are very timely hearings, and I really look forward to the testimony of the witnesses and seeing if there's something we can do. Although I know there probably won't be. Thank you.

Mr. OSE. On that happy note, I do appreciate your making it this morning. I know it can't be easy to be here given last night's schedule. So, we're grateful. Gentlemen, if you'd all rise please.

[Witnesses sworn.]

Mr. OSE. Let the record show that the witnesses answered in the affirmative.

Our first witness who joins us, as he has many times in the past, is John Graham, the Administrator of the Office of Information Regulatory Affairs, the Office of Management and Budget.

And, Dr. Graham, you are recognized for 5 minutes and welcome.

STATEMENTS OF JOHN D. GRAHAM, ADMINISTRATOR, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET; ROBERT E. WENZEL, ACTING COMMISSIONER, INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY; JOHN D. HENSHAW, ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH, DEPARMENT OF LABOR; AND VICTOR S. REZENDES, MANAGING DIRECTOR, STRATEGIC ISSUES, GENERAL ACCOUNTING OFFICE

Dr. GRAHAM. Thank you, Mr. Chairman, and good morning to you and members of the subcommittee.

In my exercise class this morning—Friday morning is my exercise day—I was laboring on the Stairmaster, and then doing those beloved crunches. To get myself going, I said to myself, this is not so bad. It's nothing compared to the delightful experience of Chairman Ose's annual paperwork hearing.

For OMB officials, we live to get through this day, and I already see the light at the end of the tunnel. But in seriousness, Mr. Ose, thank you for your leadership on this issue, the challenge of reining in government paperwork. It isn't fancy policy analysis. It isn't

the most enjoyable exercise, but it's hard work that needs to be done. We are working on it, and we need your encouragement and your leadership.

A few reminders before I get to a few of the good pieces of news that we have to offer this morning, and that is the Paperwork Reduction Act, while its first goal is to reduce burdens of paperwork on the public, it has as a second goal the promotion of utility of the information that agencies use in their various programs. And, the Paperwork Reduction Act has embodied in it, an understanding that there is a need for the government to have information to do its work and the challenges to make sure that we don't have unnecessary paperwork burdens.

We at the Office of Information and Regulatory Affairs realize that we are a cause of some paperwork burdens. For example, we require agencies to do Regulatory Impact Analyses, to support their regulatory proposals. In order for these analyses to be quality analyses, agencies must collect data from the public and this is burdensome.

So, as a starting point, understand we have a conflict of interest. We supposedly are part of the solution of the paperwork problem, but we also, to some extent, require agencies and the public to provide information to the government.

Now, you've already mentioned some of the bad news in the report that we have submitted prior to this hearing. This year's Information Collection Budget. I'd like to take a few moments to highlight some of the good news.

The first is, and I hope my staff has brought our nice little visual for you to take a peek at. That is, we have made some progress in slashing violations under the Paperwork Reduction Act. As you know, Mr. Chairman, this has been a theme of your efforts. I want to come out of this hearing today to say there is one little light of progress in the world. And, that is, we have been reducing, continuously, and in the last year, quite substantially, the number of unresolved violations under the Paperwork Reduction Act.

You might ask what is a violation under the Paperwork Reduction Act. Quite simply, this is a case where an agency actually places a burden on the public, a business, a farmer, or whatever, and they require that person to fill out information and send it to the public without any authorization from the Office of Management and Budget.

Each time the government collects information from the public, there should be an OMB review and clearance and an OMB control number put on that particular piece of paperwork. And, the typical paperwork violation is when an agency doesn't bother to get OMB approval in the first place, or more commonly, has their approval expire and doesn't make the effort to seek reapproval from the Office of Management and Budget. Not surprisingly, we at OMB view this as unacceptable. We have adopted a zero-tolerance policy for these Paperwork Reduction Act violations, and in the last year we have done a series of communications that you're aware of, Mr. Chairman, with the CIOs of the agencies, the General Counsels of the agencies, and in the case of several agencies, we have had to go to the Deputy Secretaries of those agencies to get paperwork violations on their radar screens as a problem.

The chart before you shows, in the last year, over 50 percent decline in the continued decline in the number of these violations. We realize we have more work to do, we haven't reached elimination of these violations, but I would like to add that two agencies that have been a persistent problem in this area, USDA and Department of Housing and Urban Development, have both made substantial progress in the last year in eliminating their paperwork violations. There are 62 of them remaining on that chart, and we are happy to report that all those are on the way to being corrected, and we can provide the subcommittee details on where they are in the process of being corrected.

The second piece of good news is in the reductions of discretionary paperwork burdens. While overall paperwork burden is up, the burdens that are within the control of the agencies are actually going down. They are going down by roughly 2 million hours, particularly at Treasury, at Education and at HHS.

And, I might say on millions of hours of reduction is that it is trivial compared to the billions of hours in total. And, I would suggest to you, that's not a constructive perspective to have on this problem. These burdens are real for the people who experience them. When agencies within their control can take out millions of hours of burden, we should say, "That's good work agencies, thank you. Please do more." We should also credit the agencies when they make this kind of progress, as well as criticize them when they do not make this progress.

And, we should also remember that the billions of hours that we have not been able to remove, they're partly OMB's responsibility. They are partly the agencies' responsibility. But they are also partly the responsibility of the U.S. Congress.

Thank you very much, Mr. Chairman. Keep the heat on us. We need it.

Mr. OSE. Thank you, Dr. Graham.

[NOTE.—The Office of Management and Budget's report entitled, "Managing Information Collection and Dissemination Fiscal Year 2003," can be found in subcommittee files.]

[The prepared statement of Dr. Graham follows:]

STATEMENT OF JOHN D. GRAHAM, PH.D.
ADMINISTRATOR
OFFICE OF INFORMATION AND REGULATORY AFFAIRS
OFFICE OF MANAGEMENT AND BUDGET
EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES

BEFORE THE
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES
AND REGULATORY AFFAIRS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
April 11, 2003

Good morning, Mr. Chairman, and Members of this Subcommittee. I am John D. Graham, Ph.D., Administrator, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. Thank you for providing me with this opportunity to discuss OIRA's ongoing efforts to improve the Federal government's performance in achieving the important goals and objectives of the Paperwork Reduction Act (PRA). I have enjoyed working with you and the Subcommittee to improve the manner in which Federal agencies collect, use, and disseminate information, while reducing the paperwork burdens that these activities impose on individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons.

With the recent submission to Congress of OMB's Fiscal Year 2003 Information Collection Budget (ICB), I am reporting to this Subcommittee on my first full fiscal year of PRA oversight as OIRA Administrator. In addition to responding to the questions that the Subcommittee posed in its invitation, I would like to focus on two major themes in my testimony:

First, I am pleased to report to this Subcommittee that we have made tremendous progress during the past 18 months in our "zero tolerance" policy, which is aimed at ensuring that Federal agencies fully comply with their statutory obligations under the PRA. In November of 2001, soon after I become OIRA Administrator, I sent a memorandum to Federal agencies making clear that the high numbers of PRA violations, associated with agencies allowing their OMB approvals for ongoing collections of information to expire, were simply unacceptable and that this situation could not be allowed to continue. In the subsequent months, OIRA worked with agencies to identify the violations and eliminate them, and to put into place procedures that would prevent additional violations from arising. Although we made progress during these early months in reducing PRA violations, I concluded that I needed to take further action to spur agency compliance. Accordingly, in June of last year, I sent a follow-up memorandum to agencies emphasizing once again the importance of eliminating these PRA violations. In addition, to this end, I personally met with officials from those agencies with the most violations, and we discussed their plans for ensuring that these agencies came into full compliance with the PRA. Subsequently, in November of last year, I wrote again to

agencies, outlining the substantial progress that had been made during the past year, but also emphasizing that further steps needed to be taken for the Federal Government to reach our goal of full compliance with the PRA. In the months since then, OIRA staff and I have worked with the agencies to resolve their existing violations and to prevent additional ones from arising. I am pleased to report that, while we have not yet reached our goal of full compliance, our "zero tolerance" policy has brought us near to reaching that goal. Moreover, for those "lapse" violations identified in the FY2003 ICB that have not already been fully resolved, the agency has taken concrete action in each case to bring the collection into compliance, by issuing the initial 60-day Federal Register notice seeking public comment or by taking the next step of submitting the proposed collection to OIRA for our review.

Second, I will focus on OIRA's efforts to reduce paperwork burden on individuals, small businesses, and other persons. In the ICB, and later in my testimony, we give a number of examples of collections that have been improved to reduce paperwork burden. Burden can be reduced in several ways: one is to eliminate questions from a form; another is to increase reporting "thresholds" and thereby exempt whole categories of persons from having to respond to a collection; and another is to use information technology to make it easier for the public to comply with Federal paperwork collections. And, in addition to the improvements that have been made in individual collections, the Executive Branch has been taking action to identify ways to reduce paperwork burden on a broader, across-the-board basis through our implementation of the laws that Congress has enacted in recent years to reduce paperwork burden. These laws include the Small Business Paperwork Reduction Act, the Government Paperwork Elimination Act, and Federal Financial Assistance Management Improvement Act. Finally, the importance of paperwork reduction needs to be understood in the context of larger efforts to reform the regulatory system and the tax code. Most paperwork burden is rooted in a statute or implementing regulations, and thus in some cases (the IRS Code is a notable example) one cannot easily reduce paperwork burden without reforms being made to the governing statute and program regulations. In fact, it is even the case that, in some instances, it is necessary to increase paperwork burden in order to provide greater regulatory relief with respect to the non-paperwork burdens that is imposed on the public by the tax code and Federal regulations. For example, a public health or safety goal might be better achieved, with greater benefits and at a lower overall cost, by substituting a disclosure or other paperwork requirement for some other form of non-paperwork regulatory approach.

My testimony will assess the current level of paperwork burden and describe OMB's efforts to resolve outstanding agency violations of the Paperwork Reduction Act, and briefly discuss various agency initiatives that improve the information collection process.

I would first, however, like to address a number of issues that you raised in your letter of invitation. Specifically, you asked that I discuss (1) expected resolution dates for each outstanding violation, (2) agency progress in reviewing non-Internal Revenue Service (IRS) regulations with more than 10 million burden hours, (3) OMB's response

to the July 2002 House Report (107-575), and (4) agency progress in implementing the Small Business Paperwork Relief Act of 2002.

Expected Resolution Dates for Outstanding Violations

Before addressing the expected resolution date for each violation of the Paperwork Reduction Act, I'd like to provide a summary of our progress in eliminating violations and highlight some of our major efforts to address this issue. I'd also like to acknowledge the leadership role that you have played in reducing violations of the PRA. Your Subcommittee has expressed concern about the number of PRA violations for several years and we appreciate your interest in this issue.

At last year's hearing on the Paperwork Reduction Act, the General Accounting Office noted that the decline in the number of PRA violations during fiscal year 1999 and 2000 appeared to stop in fiscal year 2001. They also noted that while "OIRA had taken several actions to address PRA violations, the OMB and the agencies responsible for the collections could do more to ensure compliance."[1] I'm happy to report that OMB has done more – much more – to address violations and the results are outstanding. There are only 62 remaining unresolved violations, a 55% reduction from last year's total. Even more impressive, a 60-day *Federal Register* notice has already been published (the first step in obtaining authority to collect information under the PRA) for each of these outstanding collections.

You are aware that OMB has adopted a "zero-tolerance policy" for violations of the PRA. We have been working diligently with agency staff and policy officials over the last 18 months to eliminate all existing violations and put procedures into place to avoid future violations. Since last year's hearing, OMB has taken the following actions directed at eliminating violations:

- June 6, 2002 memo to agencies: I sent a memo to the CIOs and GCs of the agencies, asking them for an update on the violations reported in last year's ICB, as well as the status of any new violations that had occurred since October 1, 2001. The memo also asked them to provide a detailed description of their procedures for avoiding future violations.

- Meetings with selected agencies: In August 2002, I met with the CIOs and GCs of USDA, HUD, VA, and HHS. These four agencies had the greatest number of violations or the highest burden associated with the collections in violation. In those productive meetings, we discussed the importance of PRA compliance as well as action plans for achieving this compliance.

- ICB Bulletin: In this year's ICB bulletin (describing the agency requirements for submission of ICB documents), OMB asked agencies to provide a list of violations that occurred in the past fiscal year, and to update previously reported violations, as was required in previous ICB bulletins. In addition, OMB required that for each

[1] U.S. General Accounting Office, GAO-02-598T.

violation, agencies include in their ICB submission a *Federal Register* publication citation and publication date for the initial 60-day *Federal Register* notices requesting public comment in their ICB submission. An agency's ICB submission was not considered complete until all existing violations (including those violations that have occurred during FY 2002) have had a *Federal Register* notice published. All agencies have published a *Federal Register* notice for each outstanding violation.

- Status memo to all agencies: I sent a memo to the agency CIOs detailing their progress toward our goal of eliminating PRA violations and establishing a goal of zero violations by April 1, 2003; OMB's General Counsel also shared that memo with the agencies' General Counsels and Solicitors. In addition to this progress report, a list of collections that had expired in the past month and those collections that would be expiring in the upcoming 150 days was attached. This report was identical to the report that agency staff receive monthly to assist them in their PRA review planning. OMB asked the CIOs to examine each of the expired and expiring collections and to determine if there were any systemic problems in the agency's procedures for PRA compliance. OMB required the agency to publish a 60-day *Federal Register* notice within a set timeframe for those collections that were already in violation, and asked agencies to publish a *Federal Register* notice at least four months in advance of the expiration date, and submit the information collection request to OMB no later than one month prior to the expiration date for currently-approved collections. This schedule should ensure that no currently approved information collections are allowed to expire in violation of the PRA.

- Letters to HUD and USDA: OMB also sent letters to the Deputy Secretaries of HUD and USDA that listed the collections that had expired in FY 2002 and asked them to take action on those that were in violation. These agencies, which seemed to have the most difficulty maintaining a process that results in full compliance with the PRA, have now made substantial progress on their violations. HUD and USDA have gone from being the agencies with the most PRA compliance problems to being the agencies that are leading the charge on PRA compliance. USDA has submitted all of their violations to OMB for approval and has put into place procedures for avoiding violations in the future. HUD has conducted a review of all of the information collections that they have conducted for the past 20 years to determine if any of those expired collections were still actually in use. HUD is confident that all existing violations of the PRA are accounted for, and have started the process of remedying each of those violations. They have also put into place procedures for avoiding violations in the future.

As you can see, OMB has dedicated considerable time and effort to addressing this issue. This effort has paid off. As I mentioned, there are only 62 PRA violations that had occurred prior to the end of FY 2002 that have not yet been resolved as of April 1, 2003. This is a significant reduction in the number of unresolved violations reported in previous ICBs.

I am pleased to report that all of these violations are in the process of being remedied. 21 of these collections are currently under review at OMB, and should be acted upon within the next 60 days. Of those collections that are not currently at OMB for review, agencies have reported that each and every collection that is listed as "unresolved" has at least had the first 60-day *Federal Register* notice published. If the agencies submit all of these collections to OMB soon after the 60-day public comment period closes, we could have all of these PRA violations resolved within the next 4 months.

We will continue to work with agencies to make sure that they are submitting these collections that are in violation as soon as possible after their *Federal Register* notices have closed, so that we can remedy all of these violations in a timely fashion. We will also continue to work with agencies to ensure that they are starting the clearance process well before collections expire so that we can prevent future violations.

Agency Progress in Reviewing Non-IRS Rules with 10 Million Burden Hours

In your letter of invitation, you requested that I provide a status update on OMB's review of the 15 regulations–issued by agencies other than the Internal Revenue Service (IRS)–that impose more than 10 million hours of paperwork burden. These are the regulations identified by the Subcommittee in their report accompanying the FY 2001 Treasury and General Government Appropriations Act, which requested that OMB review regulatory paperwork burden.

As you know, in OMB's March 2002 draft Report to Congress on the Costs and Benefits of Federal Regulations, we asked the public to consider problematic paperwork and regulatory requirements and suggest candidates for reform. We did this in response to the requirement in the Regulatory Right to Know Act that our report include recommendations for regulatory reform. As part of our ongoing regulatory reform initiative, we included the 15 regulations that impose over 10 million burden hours.

Our Final 2002 Report to Congress on the Costs and Benefits of Federal Regulations, entitled "Stimulating Smarter Regulation," described OIRA's preliminary review of the public comments that we received. During our review, we identified 267 rules that were nominated for reform by one or more commenters. Of the 267 regulations, OIRA referred 126 to agencies for their evaluation. Included in these 126 nominations were eight regulations that the Subcommittee identified as imposing at least 10 million hours of paperwork burden:

- Labor: Process Safety Management (PSM) of Highly Hazardous Chemicals
- Transportation: Inspection, Repair, & Maintenance
- HHS: Investigational New Drug (IND) Regulations
- EPA: Use or Disposal of Sewage Sludge
- Labor: Bloodborne Pathogens Standard
- Treasury: Recordkeeping & Reporting of Currency & Foreign Financial Accounts
- HHS: Medicare & Medicaid for Home Health Agencies

- HHS: Clinical Laboratory Improvement Amendments (CLIA)

As part of the interagency consultation process to consider the public reform nominations, OIRA has met with these agencies to discuss these and other regulatory reform candidates. Generally, we have asked agencies to identify candidates for reform, and report on their recent, ongoing, or future activities concerning the issues raised by public commenters. OIRA also is involving SBA's Office of Advocacy to ensure that the interagency review of the public nominations identifies opportunities to reduce unjustified regulatory burdens on small businesses.

During our review last year of public reform nominations, OIRA also identified 92 rules that are already under agency consideration or were recently the subject of agency consideration. These 92 rules included three on the list of 15 rules identified by the Subcommittee:

- Transportation: Hours of Service of Drivers
- Labor: OFCCP Recordkeeping & Reporting Requirements
- Education: Federal Family Education Loan Program

For these rules, OIRA requested that agencies provide status updates that describe their recent, ongoing, and/or future activities concerning the issues raised in the public comments. OMB intends to publish information on both these updates of agency activity already underway, as well as the results of agency decisions on the candidates for reform, in our forthcoming Final 2003 Report on the Costs and Benefits of Regulations.

The remaining four regulations imposing more than 10 million burden hours were the responsibility of two independent agencies: the Securities and Exchange Commission and the Federal Trade Commission. In our 2002 Final Report, OIRA requested that the independent agencies evaluate the nominations of their regulations, as well. The four regulations are:

- SEC: Confirmation of Securities Transactions
- SEC: Recordkeeping by Registered Investment Companies
- FTC: Truth in Lending Regulation
- FTC: Fair Packaging & Labeling Act Regulation

It is OIRA's intention that the interagency review of nominations be a merit-based process in which the consideration of nominations is objective, consistent, and grounded in the regulatory principles codified in Executive Order 12866 and the statutory authority of the agencies. In conducting this evaluation, we are recommending that agencies rely on three criteria: efficiency, fairness, and practicality.

In this regard, I would note that selecting targets based exclusively on hour burden fails to take into consideration the usefulness, or practical utility, of the information that agencies need to achieve important programmatic missions. I can assure you that our review of regulatory paperwork requirements will have a sound analytic

basis, which will allow us to determine that any paperwork burdens imposed through regulation are justified by their practical utility.

Moreover, given OIRA's information collection review responsibilities under the PRA, we regularly have the opportunity to carefully scrutinize regulatory monitoring and reporting requirements, both when they are first issued and when they are subsequently submitted to OMB for renewal of OMB's PRA approval. Our review of information collections in regulations focuses on minimizing paperwork burden while ensuring that agencies obtain the information they need to ensure compliance with applicable standards.

OMB's response to the July 2002 House Report (107-575)

The 2002 House Committee on Appropriations report accompanying the FY 2003 Treasury-Postal Appropriations Act bill contained the following language:

> The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork.

While OIRA realizes that IRS paperwork burden accounts for a disproportionate share of the government-wide total, we have not interpreted this report language to mean that OMB should conduct a specific analytical review of all IRS collections over a specific burden hour threshold. We have reviewed, and will continue to review, IRS collections to determine if burden is minimized to the extent possible given the statutory requirements of the Internal Revenue Code.

Recognizing the importance of the IRS burden on the public, we have devoted additional staff resources to the IRS paperwork issue and we have devoted a chapter in this year's Information Collection Budget to a discussion of IRS burden. In it, we discuss the difficulties faced by IRS in implementing the complex and prescriptive tax code. We do feel that IRS has taken meaningful steps to implement the Code in the least burdensome way possible, given the statutory requirements and the Service's responsibility.

In the ICB, we provide examples of recent statutory programs and how they have been implemented by the IRS. All of these examples show that the Code drives the increased burden associated with tax filings. In one of the examples, we look at the new tax benefit that allows teachers to subtract up to $250 from their taxable income for the purchase of classroom supplies. As is described in detail in the ICB, in order to implement this tax benefit, the IRS had to provide significant explanation on the Form 1040 about eligibility requirements to claim the tax benefit. In order for eligible taxpayers to compute the amount, up to $250, that could be claimed in this benefit, a separate worksheet form must be filled out. This burden is required in order to determine

if an individual taxpayer is claiming the benefit correctly. We have examined the IRS' implementation of this and other Code provisions, and have reduced the complexity and burden for eligible taxpayers seeking to claim the tax benefits and requirements set forth in the Code.

In addition to the efforts described above, IRS also plans to or has already initiated several burden reduction initiatives that I've highlighted below:

- Change Reporting Threshold for Schedule B. By changing the reporting threshold from $400 to $1,500, the number of people filing Schedule B was reduced from about 34 million to roughly 23 million. Burden was reduced by approximately 15 million hours.
- Redesign Form 941. This project to review and redesign this form will affect 6.6 million employers. Work is being conducted to identify what steps can be taken to simplify this form. IRS's form redesign group has determined that some existing space on the form is used for internal processing and can be made available for improved formatting and readability.
- Redesign Schedule K-1. This project to review and redesign this form will affect the 23 million K-1s filed each year. IRS will be balancing the need to simplify the form and make it less burdensome with the need to insure the integrity of the tax system and the compliance program.

Agency Progress in Implementing the Small Business Paperwork Relief Act of 2002

Mr. Chairman, your letter of invitation asked about OMB's progress in implementing the Small Business Paperwork Relief Act of 2002. The Act established a multi-agency task force on information collection and dissemination chaired by OMB. Mitch Daniels, the Director of OMB, appointed myself and Mark Forman, OMB's Associate Director for Information Technology and E-Government, to co-chair the task force. The task force includes representatives from the following agencies:

- Department of Labor (including the Bureau of Labor Statistics and the Occupational Safety and Health Administration)
- Environmental Protection Agency
- Department of Transportation
- Small Business Administration's Office of Advocacy
- Internal Revenue Service
- Department of Health and Human Services
- Department of Agriculture
- Department of Interior
- General Services Administration

Department of Commerce and additional representation from the Small Business Administration were also chosen to participate.

The group's efforts will support the goal of the Government-to-Business, E-Government Portfolio: reducing the burden on businesses by adopting processes that enable collecting data once for multiple uses. In fact, as the managing partner for the Business Compliance One Stop(one of the cross-agency E-gov initiatives), SBA has already demonstrated in its prototype savings of one hour per user in reporting burden. Given IRS estimates that 2.4 million businesses annually apply for an EIN, this application could save $96 million per year from streamlining, harmonizing, and automating these processes. The initiative will use three strategies to accomplish this, including: reducing the information required from businesses through analyzing if information is needed; assessing whether definitions in different forms and forms in different agencies can be harmonized to reduce overlap; and increasing the effectiveness of data collections processes by collecting once and sharing data among programs and agencies. This initiative also represents the first Web service that fulfills both a state and a federal regulatory requirement at the same time. In addition, the BCOS team has developed a proof of concept for harmonizing coal miner reporting, where information is collected once and used several times, which is estimated to cut the reporting burden by 50 percent, from 50,000 hours annually to 25,000 hours.

Another related e-government example that reduces burden on businesses is the Expanding Electronic Tax Products for Businesses (EETPB) initiative. The objective of the EETPB is to reduce the tax-reporting burden on businesses while improving the efficiency and effectiveness of government operations. The initiative is comprised of seven projects that will deliver benefits by reducing the number of tax-related forms that businesses must file, providing timely and accurate tax information to businesses, increasing the availability of electronic tax filing, and modeling simplified Federal and state tax employment laws. These projects include Form 94x Series, Form 1120/1120S, Form 8850, Internet Employer Identification Number (EIN), and the Standardized EIN.

Further, the task force seeks to propose recommendations that will reduce the paperwork burden on small businesses and make it easier to find, understand and comply with government collections of information. Specifically, SBPRA charges the task force with examining five ideas:

1. Examine the feasibility and desirability of consolidating information collection requirements within and across Federal agencies and programs, and identify ways of doing so.
2. Examine the feasibility and benefits to small businesses of having OMB publish a list of information collections organized in a manner by which they can more easily identify requirements with which they are expected to comply.
3. Examine the savings and develop recommendations for implementing electronic submissions of information to the Federal government with immediate feedback to the submitter.
4. Make recommendations to improve the electronic dissemination of information collected under Federal requirements.
5. Recommend a plan to develop an interactive Government-wide Internet program to identify applicable collections and facilitate compliance.

The task force began its work with a meeting of the full membership to develop a common understanding of the law, project goals, scope, roles and responsibilities, resource requirements, strategy, timeline, and deliverables. A professionally facilitated brainstorming session followed, during which members began looking at the first three tasks for the 2003 report. After the initial meeting, the task force divided into three subcommittees to examine the three tasks in greater detail. The task force met again on April 4, 2003 to discuss the subcommittee findings and recommendations.

A report of findings and recommendations will be published for the first three ideas by June 2003, and the remaining two ideas by June 2004. The draft for this year's report is now under development in preparation for a public comment period during May 2003. SBA's Office of Advocacy already held a public meeting on March 4, 2003 to solicit views of interested persons regarding the SBPRA.

Federal Government's Paperwork Burden

As you might remember, the General Accounting Office (GAO) advised OMB to be more transparent in reporting the causes of agency burden changes. Specifically, GAO requested that OMB's Fiscal Year 2003 report's summary burden hour table identify in separate columns the program changes[2] that are attributable to new statutes[3], agency actions[4], and violations[5]. We appreciate GAO's and your interest in understanding the root cause of burden. Largely because of your interest and leadership, we asked agencies to report the cause of each burden change.

At first glance, it might appear that the Federal government is not performing well with respect to information collection burden. After all, burden hours increased by almost eight percent during FY 2002. However, most of these increases are due to resolving violations or factors outside the agencies' control. For those deliberate actions that affected burden within an agency's discretion, I am pleased to report that the Federal agencies reduced burden. As described in much greater detail in Chapter 1 of the ICB,

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[2] The change in burden associated with deliberate agency actions that often affect the time required to complete an information collection are considered "program changes." Program changes can be further subdivided into three categories: those changes due to new statute, those due to a lapse in OMB approval ("violations"), and those changes due to agency action.

[3] This type of program change accounts for the burden associated with the creation of new collections or the material revision or elimination of existing collections that an agency must undertake because a recent statute requires the action.

[4] This type of program change includes the creation of new collections or the material revision or elimination of existing collections that an agency undertakes without a specific and recent statutory mandate. Changes due to new or revised policies and collections that are authorized but not explicitly required by statute are also included in this category.

[5] This kind of program change occurs when an agency allows OMB approval for a collection to expire even though the agency continues to conduct or sponsor the collection. These program changes are the result of the burden hours associated with violations of the PRA. Overall, burden hour estimates decrease when a collection's approval lapses, and increase again upon reinstatement of approval. This burden change does not represent a true increase or decrease in the public's burden, only a change in the burden that is being reported.

Federal agencies reported a net decrease in burden hours of a little more than two million hours.

This is particularly notable because OMB has always stated that changes due to deliberate agency action within their discretion should be considered the most accurate measure of agency performance, rather than changes due to violations or statute. Changes due to a lapse in OMB approval are not a measurement of an actual change in burden on the public, but are simply a product of accounting. And, while the actual public burden is affected by changes due to statute, the agency often has little or no discretion over these changes. Therefore, to most accurately assess how agencies have performed, changes due to actual, deliberate action within an agency's discretion should be evaluated. By this measure, agencies performed well during FY 2002. In particular, the Treasury Department, Department of Education, and HHS have each performed extremely well, reducing burden by nine million hours, three million hours, and two million hours, respectively.

Specific Burden Reductions

In your letter of invitation, you asked about specific reductions in reporting and recordkeeping of at least 250,000 hours accomplished since last year's April 11, 2002 hearing, and specific reductions of at least 250,000 hours expected in the next 12-month period. As we describe in the FY 2003 ICB, agencies have and are undertaking serious efforts to improve the quality of Federal information collection and to reduce burden when it is possible and makes sense to do so. Below are a number of specific burden reductions of at least 250,000 hours that I offer for illustrative purposes. A complete listing of significant burden changes is provided in the FY 2003 ICB. Please note that the following examples are organized by fiscal year. As you know, our data collection efforts have always been organized by fiscal year, beginning October 1 and ending September 30.

FY 2002 Reductions

- *Department of Education: Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan and Master Promissory Note.* This promissory note is the means by which a Federal Direct Stafford Program Loan borrower promises to repay his or her loan. By consolidating the collection and eliminating the requirement for a student to sign a promissory note on an annual basis, burden has been reduced. Now, a student is permitted to sign one promissory note and it is good for 10 years. Change in burden: -1,325,360 hours
- *Department of Transportation: Capital Program and Urbanized Area Formula Program.* Primarily through these programs, FTA provides financial assistance to State and local governments, and public transportation authorities. The information submitted for this information collection ensures timely expenditure of Federal funds by grant recipients. Burden has been reduced as an increasing number of grantees submit their grant requirements electronically. Change in burden: -319,134 hours

- *Department of the Treasury: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules (Forms 5500 and 5500-C/R).* Forms 5500 and 5500-C/R are annual information returns filed by Employee Benefit Plans. IRS uses the information to determine if the plan appears to be operating properly as required under law. This form was replaced by a new and streamlined version that is generally filed electronically. This older form is only required for delinquent filers for those years when it was in general use. Other filers use the new form. Previously, this form was used by over 900,000 filers; now it is used by approximately 25,000. Change in burden: -26,928,784
- *Department of the Treasury: 2001 Form 1040 and Schedules, U.S. Individual Income Tax Return.* This form is used by individual taxpayers to report their taxable income and calculate their correct tax liability. Form 1040 (Schedule D) was revised and simplified to make it easier for the taxpayer to compute their capital gains and losses. Change in burden: -2,925,214 hours

FY 2003 Reductions

- *Department of Veterans Affairs: Health Benefits Application and Renewal (Forms 10-10EZ and 10-10EZR).* These forms are used to enroll individuals for health care benefits, establish basic eligibility, identify third-party health insurance coverage, identify prescription co-payment, and to update yearly finances. VA developed a new form (10-EZR) for updated information that eliminates much of the redundancy involved with using both forms. Change in burden: -563,750 hours
- *Department of Defense: Department of Defense Acquisition Process (Solicitation Requirements).* This information collection requirement specifies the information an offeror must submit in response to the Department of Defense solicitations. The Department reevaluated its information requirements to require the minimum information consistent with best business practices, including electronic submission of information. Change in burden: -14,115,462 hours
- *Department of the Treasury: Form 1120S and Schedules, U.S. Income Tax Return for an S Corporation.* This information required to be filed with the Service permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. Due to the Commissioner's Burden Reduction Initiative, corporations with total receipts and assets of less that $250,000 are not required to complete Schedules L and M-1. Change in burden: -61,969 hours
- *Department of the Treasury: 2002 Form 1040 and Schedules, U.S. Individual Income Tax Return.* This form is used by individual taxpayers to report their taxable income and calculate their correct liability. As part of the Burden Reduction Initiative, Treasury decided to increase the threshold for filing Schedule B (Form 1040) from $400 to $1,500. As a result of this change, the number of people filing Schedule B was reduced from 33,861,904 to 23,092,147. Change in Burden: -15,616,147 hours

Agency Initiatives to Improve Agency Performance and Reduce Burden

The significant burden reductions that agencies reported in the FY2003 ICB reflect ongoing efforts by the Government to alleviate paperwork whenever possible. For example, the Administration is committed to successfully implementing the Government Paperwork Elimination Act (GPEA), which along with the E-Government Act, is the legislative basis for e-government. By October 21, 2003, agencies are to provide the option for electronic filing and electronic signature capabilities for the full range of government activities and services unless it is not practicable to do so. However, implementing an electronic process does not automatically reduce the burden of the information collection. We have encouraged agencies to implement those projects with a positive return on investment for the agency and the public. Optimal burden reduction occurs when agencies reengineer and streamline the business process using available technology. You do not meet the requirements of GPEA by "slapping up" an e-form that automates an inefficient paper process.

To build on these efforts and make burden reduction an even higher priority, OMB also asked each agency to provide a summary progress report on initiatives identified in last year's ICB. For agencies not included in last year's ICB, OMB asked them to identify at least two initiatives that improve program performance by enhancing the efficiency of information collections; significantly reduce the burden per response on the public; or lead to a comprehensive review of an entire program, including regulations and procedures.

In response to these requests, agencies noted dozens of initiatives that have made or have the potential to make meaningful improvements for the public. In general, the identified initiatives can be placed into three categories: reducing burden, expanding electronic reporting, and improving program effectiveness. Here are a few of these initiatives:

Reducing Burden

Medicare/Medicaid Electronic Collection/Signatures. In 2002, the Centers for Medicare and Medicaid Services (CMS) identified 10 collections, reform of which will significantly reduce burden and improve program performance if electronic collection/signatures could be obtained. Since the FY02 ICB, CMS has identified ways to streamline, eliminate, and/or provide alternative reporting methods for five of the referenced collection activities. As a result of this effort, several regulatory requirements necessitating the submission of multiple hard copy forms will be eliminated, electronic reporting will be achieved, and reporting burden will be reduced for approximately 5,740,000 responses. For the remaining five collection activities, totaling 125,500 annual responses, the measurable objectives and proposed timetable remain the same as last year.

RCRA Burden Reduction Initiative. The Environmental Protection Agency, through rulemaking, will significantly reduce the paperwork burden imposed by regulations under

the Resource Conservation and Recovery Act (RCRA). EPA is undertaking this initiative to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce burden by 929,000 hours and save $120 million annually. A proposed rule was published in FY02.

Expanding Electronic Reporting

Forest Service Permit Program. The USDA Forest Service is implementing a web-enabled electronic government system to fully process permits for use of U.S. forest system lands and facilities. The agency will be able to readily analyze and measure improved program delivery in an electronic customer-centered environment. Burden is also reduced because the initiative will provide an expected decrease in customer data entry time (25%), internal processing time (33%), and customer search time (50%).

Automated Export System (AES). AES is a Commerce Department initiative that is part of the government-wide trade streamlining initiative. AES allows for electronic filing of Shipper's Export Declarations (SEDs), resulting in a significant reduction in the number of paper SEDs. Prior to the 1995 establishment of AES, the average number of paper SEDs filed monthly was more than 500,000. That number has been reduced to approximately 170,000 per month. The Department of Commerce has launched an aggressive marketing and training plan to reduce the number of SEDs to 85,000 by September 2003.

Improving Program Performance

Air Carrier Traffic and Capacity Data. As a result of a BTS final rule issued in July 2002, small certificated, commuter, and all-cargo air carriers are required to report their air traffic activity under the T-100 Traffic Reporting System. Prior to the final rule, there was a lack of market and segment data for domestic all-cargo, domestic charter and small aircraft operations. The regulatory changes were designed to fill the data gaps for these rapidly growing segments in the air transportation industry. Moreover, the final rule allows aviation data users to compare operations of commuter and certificated air carriers.

Streamlining Health Information Collections. The Centers for Disease Control and the Agency for Toxic Substances Disease Registry (CDC/ATSDR) have initiated a comprehensive initiative to reduce paperwork and increase program effectiveness. Specifically, all centers, institutes, and offices are reviewing information collections to streamline forms and procedures, collaborate within and outside CDC/ATSDR, meet GPEA requirements, and use the latest technology available. Among the notable achievements to date: the *Mortality and Morbidity Weekly Reports* series of publications are now available on the internet in a searchable database; CDC is now consulting with HRSA and NIH on data collections involving HIV/AIDS in order to better evaluate HIV prevention programs; and the two largest information collections for the National Center for Infectious Disease are in the process of being streamlined and converted to electronic reporting under the National Electronic Disease Surveillance System.

Aside from reporting their progress on past initiatives, a few agencies (e.g., Interior, Labor, and the Veterans Administration) identified new initiatives that emphasize their commitment to reducing burden, hastening electronic reporting, and/or improving program performance:

Electronic Permitting. The Office of Surface Mining (OSM) within the Department of Interior has identified electronic permitting as a long-term initiative that will result in significant monetary and time savings and provide more complete and up-to-date records. OSM is currently assisting States in developing and implementing electronic permitting. When implemented, electronic permitting provides permit reviewers with computer-based tools to access documents, maps, and data, and to perform necessary environmental analysis. The initiative will also reduce costs for surface coal mining applicants.

Application for Service Disabled Veterans Insurance. Currently, veterans only have a paper option when applying for service disabled veterans insurance. The Veterans Benefits Administration (VBA) proposes to offer the veteran the option of submitting the relevant form electronically. The VA anticipates offering this option no later than June 30, 2003.

Application for Designation of Beneficiary. Veterans only have the option of using a paper form to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The VA proposes to offer the veteran the option of completing the relevant form electronically. The electronic option should be available by June 30, 2003.

Current Employment Statistics Survey. The Current Employment Statistics (CES) Survey is a Federal/state program of the Bureau of Labor Statistics (BLS) within the Department of Labor. It produces monthly estimates of employment, hours, and earnings based on U.S. nonagricultural establishment payrolls. CES is employing a number of collection methods and techniques designed to ease reporting burden and simplify reporting. For example, by the end of FY 2003, BLS will use a probability sample to collect 327,000 reports. The probability sample design will reduce burden by approximately 50,586 hours through reducing the number of reports submitted by respondents.

Workplace Health Standards Improvement. The Occupational Safety and Health Administration (OSHA) is undertaking rulemaking to update numerous health standards that are inconsistent, duplicative, and outdated. The proposal affects 18 information collections and would result in a 207,892-burden hour reduction. Time for completion of this project hinges upon the number and complexity of public comments received on the proposed rule.

Review of Certification Records Requirements. Numerous OSHA standards contain certification records. OSHA is reviewing the requirements associated with these records to reassess the information. If some certification records requirements could be revoked without jeopardizing worker safety and health, burden hours could be reduced

significantly. OSHA is currently examining possible options regarding certification records and anticipates making a decision on this project during FY 2003.

ES-202 Program. The ES-202 program is a Federal/state cooperative effort, which compiles monthly employment and quarterly wage data submitted to state workforce agencies by employers subject to state unemployment insurance (UI) laws. The ES-202 Program provides a virtual census of nonagricultural employees and their wages, and nearly half of agricultural workers are covered as well. The Bureau of Labor Statistics (BLS) is in the process of automating this data collection. The initiative was originally scheduled as an FY02 burden reduction initiative, but was rescheduled for FY03.

OMB Efforts to Improve Program Performance

The Paperwork Reduction Act charges OMB with the responsibility of weighing the burdens of information collection on the public against the practical utility the information will have for the agency. While OMB and the Federal agencies have worked hard to reduce burden, OMB has not forgotten about working to improve program performance. To illustrate, I would like to provide a couple of examples of how we have worked with Federal agencies to improve their information collections.

Department of Health and Human Services, Substance Abuse and Mental Health Services Administration: An Assessment of the Status of PASRR and Mental Health Services for Persons in Nursing facilities. The Preadmission Screening and Resident Review (PASRR) program was enacted to prevent the inappropriate admission and erroneous retention of people with mental disabilities in nursing facilities. When the Department of Health and Human Services originally requested OMB approval for a study, they planned only to conduct case studies in four states to examine the implementation of PASRR and gain insights about its effectiveness. We were concerned about the practical utility of such a limited investigation, and asked SAMHSA to also do a nationally representative survey of State Medicaid and State Mental Health Authority Officials to gather systematic data on oversight responsibilities and procedures for implementing PASRR in all states to provide a core of representative findings and to better inform the selection of states for the case studies. SAMHSA agreed and conducted the national survey, and in coordination with the Centers for Medicare and Medicaid Services will use the results to gain a better understanding of how to provide guidance to State Mental Health Authorities, Medicaid Agencies, and nursing facilities on the use of PASRR.

Department of Housing and Urban Development: Section 8 Random Digit Dialing Fair Market Rent Surveys. Section 8 Fair Market Rents (FRS) for the certificate and voucher programs serve as the payment standard for approximately one million assisted rental units. The Department is required to update FMR standards annually, and has developed two telephone surveys to help obtain accurate and current estimates of FRS in areas where other data, such as the Consumer Price Index, are not available or cover too broad an area. In OMB's review of this information collection, we noticed a marked decline in response rates to these surveys and were concerned that no response bias could be impacting the quality of the estimates and therefore directly affecting the amount of

money the government spends for assistance. We outlined procedures for HUD and their contractor to calculate response rates that reflect accepted professional standards, made several suggestions for methodological improvements to increase response rates and requested HUD conduct additional research on no response bias. Recent communication with HUD indicated that the changes in methodology have significantly improved response rates.

That concludes my prepared testimony. I would be happy to answer any questions you may have.

Mr. OSE. Our next witness is Mr. Wenzel.

You're recognized for 5 minutes. We welcome you to our committee.

Mr. WENZEL. Thank you, Mr. Chairman. Thank you for this opportunity to testify on the IRS's continuing efforts to reduce unnecessary taxpayer burden, and, in particular, unnecessary paperwork burden.

Accompanying me today is Mr. Michael Chesman, Director of the Office of Taxpayer Burden Reduction. Michael's right behind me.

Mr. Chairman, our goal is to create the least amount of burden for taxpayers to meet their responsibilities under the law. Since last year's hearing, we've made progress on a number of fronts. For example, by raising the threshold for interest and dividend income an estimated $15 million, taxpayers no longer have to file a Form 1040 Schedule B, and, because of our Industry Issue Resolution Program, family day care providers no longer have to keep detailed records and receipts of food purchased for use in their business. They may now choose, instead, to use a standardized rate to claim the deduction for meals provided to children in their care.

These small businesses will see a reduction of an estimated 10 million burden hours a year. Other innovative programs, such as our Fast Track Mediation, Fast Track Settlement, and Limited Focus Examinations, are providing concrete burden reduction for taxpayers and the IRS. Each are saving us time and resources.

We're also simplifying forms and notices to make them clearer and more easily understood, and we're tackling the major redesign of those schedules and forms with a huge impact on individual and business taxpayers, such as the Schedule K–1 and Form 941.

New technology and access to the technology have also proved to be important tools in the fight to reduce burden. This year, over 2 million taxpayers are enjoying the benefits of the innovative Free File Program.

Businesses are also finding that they can unburden themselves of even more paper and perform more of their reporting and payment transactions on-line. Soon, they will even be able to apply for an Employer Identification Number by going to our Web site.

Clearly, we've made some progress. But, clearly, too, reducing unnecessary taxpayer burden, in all its many shapes and forms, is an enormous challenge. It is especially difficult when seen within the context of an extremely complex and ever-changing Tax Code.

On the one hand, we seek to cut lines, simplify or eliminate forms altogether and reduce the number of taxpayers having to file forms and schedules. On the other hand, we often must add lines to other tax forms to reflect new changes in the Tax Code that may benefit millions of taxpayers. For example, we added three lines to the Form 1040 for tax year 2002 to accommodate statutory changes. Frequent changes to the Tax Code and tax-law complexity are perhaps the greatest hurdle to overcome as we work to reduce unnecessary taxpayer burden. There is even anecdotal evidence that tax law complexity may be a source of noncompliance and even nonfiling.

Mr. Chairman, in conclusion, our many efforts to reduce unnecessary taxpayer burden are producing tangible results and benefits

for taxpayers. We will continue to seek administrative and other solutions to reduce taxpayer burden.

However, we must still address tax law complexity in a meaningful way. If we fail to, we will have failed in our mission to reduce taxpayer burden. Most importantly, we will have failed America's taxpayers.

Thank you.

Mr. OSE. Thank you Mr. Wenzel.

[The prepared statement of Mr. Wenzel follows:]

PREPARED TESTIMONY OF
ACTING COMMISSIONER OF INTERNAL REVENUE
ROBERT E. WENZEL
BEFORE THE HOUSE GOVERNMENT REFORM
SUBCOMMITTEE ON
ENERGY POLICY, NATURAL RESOURCES,
AND REGULATORY AFFAIRS
HEARING ON
PAPERWORK BURDEN REDUCTION
APRIL 11, 2003

INTRODUCTION

Mr. Chairman, thank you for this opportunity to testify on the Internal Revenue Service's continuing efforts to reduce unnecessary taxpayer burden, and in particular, unnecessary paperwork burden. Our goal is to create the least amount of burden for taxpayers to meet their responsibilities under the tax law. That is a guiding principle for our Office of Taxpayer Burden Reduction, which is the lead organization for our efforts in this critical area.

Since last year's hearing, we have made progress on a number of fronts. For example, by raising the threshold for interest and dividend income, an estimated 15 million taxpayers no longer have to file a Schedule B. And because of our Industry Issue Resolution Program, family day care providers no longer have to keep detailed records and receipts of food purchased for use in their businesses. They may now choose instead to use a standardized rate to claim the deduction for meals provided to children in their care. These small businesses will save an estimated 10 million hours a year.

In addition, over two million taxpayers are enjoying the benefits of the innovative Free File initiative launched in January 2003. Businesses are also finding that they can unburden themselves of even more paper and perform more of their reporting and payment transactions on line. Soon, they will even be able to apply for an Employer Identification Number by going to *www.irs.gov*. We are also simplifying forms and notices to make them clearer and more easily understood. And we are tackling the major redesign of those schedules and forms with a huge impact on individual and business taxpayers, such as Schedule K-1 and Form 941.

Clearly, we have made some progress, but clearly too, reducing unnecessary taxpayer burden in all its many shapes and forms is an enormous challenge, especially when seen within the context of an extremely complex and ever changing Tax Code.

Indeed, as we seek to cut lines, simplify or eliminate forms altogether, and reduce the number of taxpayers having to file forms and schedules, we often must add lines to other tax forms to reflect new changes in the Tax Code that may benefit millions of taxpayers. For example, we added three lines to the Form 1040 for tax year 2002 to

accommodate statutory tax law changes relating to retirement, deductions for educators' supplies, and tuition and fees.

Frequent changes to the tax code and tax law complexity are perhaps the greatest hurdles to overcome as we work to reduce unnecessary taxpayer burden. There is even anecdotal evidence that tax law complexity may be a source of non-compliance, and even, non-filing. Confounded and confused by the complexity, some taxpayers just give up. Moreover, we estimate the cost to taxpayers for complying with the Code to exceed $80 billion – more than 8 times the cost of the IRS budget.

In a speech delivered last month to the Federal Bar Association, Assistant Treasury Secretary for Tax Policy, Pam Olson, pointed to the fundamental problem that we as tax administrators and a nation of taxpayers face:

> *"A key way that companies have raised productivity is by simplifying. Take every process down to its constituent parts, and cut out the inefficiencies, the points of friction, the drags that prevent the most streamlined operation and the standardization of transactions. Instead of simplifying to increase productivity in tax compliance and administration, we keep adding complexity – more rules, more limitations, more terms, more conditions, more qualifiers, more provisos, more exceptions. The result is that our system gets slower and slower and more inefficient. We burn more fuel, and emit ever more heat and smoke, and yet with all that burning, there's less and less light to show for it."*

That is a fair and correct assessment of our present situation. Our myriad efforts to reduce unnecessary taxpayer burden are producing tangible benefits to taxpayers, but we must still address tax law complexity in a meaningful way. If we fail to, we will have failed in our mission to reduce taxpayer burden. Most importantly, we will have failed America's taxpayers.

PAPERWORK AND REGULATORY BURDEN REDUCTION INITIATIVES

Filing Requirements for Schedule B Changed

In September 2002, the IRS and Treasury Department announced an increase in the threshold for filing a separate schedule for interest or dividend income. The change means that more than 15 million taxpayers will have one less schedule to file with their tax returns this year. Based on the A. D. Little methodology – developed in the 1980s – the estimated burden reduction is 20 million hours.

For their 2002 tax returns, most taxpayers will no longer have to file a separate schedule if they have interest or dividend income of $1,500 or less. Form 1040 filers use Schedule B, Interest and Ordinary Dividends, to list the names of those who paid them along with the amount; Form 1040A filers use Schedule 1.

The new IRS standard replaces the existing reporting threshold of $400 that has been in place since 1974. Without the shift, more than 40 million taxpayers would have had to file Schedule B or Schedule 1 this year.

At the time of the announcement, Treasury Assistant Secretary for Tax Policy Pam Olson observed: "While much tax simplification and burden reduction requires Congress to change the law, there are a number of administrative measures the IRS and Treasury can take to reduce complexity and to reduce the paperwork burden on American taxpayers. This is one of those measures. We will continue our efforts to reduce the burden on taxpayers and simplify the tax code."

Our stakeholders also praised the change. Judith A. Akin, president of the National Association of Enrolled Agents commented: "We applaud IRS and Treasury for taking steps to simplify the income tax reporting requirements for taxpayers. We hope to see continued efforts toward tax simplification." NAEA represents approximately 10,000 tax professionals who are registered with the IRS and can represent taxpayers before the agency.

This change will also enable another 800,000 taxpayers to use the shorter Form 1040EZ or use TeleFile to file their tax returns by telephone by increasing the maximum amount of interest income they can report to $1,500.

As in past years, certain taxpayers with bank or other financial accounts in a foreign country (and certain taxpayers involved in foreign trust transactions) must continue to file Schedule B, regardless of the amount of interest or dividends they receive.

Taxpayers with ordinary dividends and taxable interest, each of which, do not exceed the $1,500 threshold will report only the totals on their Form 1040.

Increasing the filing threshold will not affect the IRS' efforts to ensure that individuals comply with tax law. The agency routinely receives third-party information returns from the thousands of banks and financial institutions that pay interest and dividends. The IRS then matches these figures to the interest and dividend income reported by taxpayers.

Under law, the threshold amount for filling out a Schedule B for Form 1040 or Schedule 1 for Form 1040A is set at the Commissioner of Internal Revenue's discretion.

Day Care Providers

Late last year, the IRS announced that family day care providers may now choose to use a standardized rate to claim the deduction for meals provided to children in their care. This is in lieu of keeping detailed records and receipts for food purchased for use in their business. Use of the standardized rate will significantly reduce the recordkeeping burden of family day care providers, which are predominantly small businesses.

The change means day care providers will save a conservatively estimated 10 million hours by using the standard meal rate. If these providers decide not to use the rates, they can continue to take the deduction based on the actual cost of the meals.

The guidance, detailed in Revenue Procedure 2003-22, is effective for tax years beginning after December 31, 2002. However, if taxpayers used the standard meal rates (USDA Tier I rates) for prior taxable years to claim their deductible food costs, then the IRS will not raise the issue of the amount of the deduction claimed in the prior years.

The Red Leaf Institute, a non-profit organization committed to improving the quality of family care, submitted the idea of allowing child care providers to use a standardized meal deduction to the IRS Industry Issue Resolution (IIR) Program. The IIR program is designed to address issues that are frequently disputed or burdensome and is discussed in greater detail later in this testimony.

The new rates for family day care providers are the same as the United States Department of Agriculture's Child and Adult Food Care Program (CACFP), Tier I rate in effect each December 31 of the year preceding the current calendar year. The current rate will soon be available on the small business section of the IRS Web site: *www.irs.gov/smallbiz* by clicking on "industries/professions" in the contents column and choosing "child care." The rates can also be found on the USDA site at *www.fns.usda.gov/cnd/care* by clicking on "Program Basics" and then selecting the notice under CACFP Reimbursement Rates for the appropriate year.

Checkbox on Social Security Benefits Worksheet

In November 2002, we deleted two checkboxes on the Social Security benefits worksheet used by individual taxpayers, reducing burden by as much as a million hours hours for filers of Form 1040.

Prior to 2002, if a taxpayer checked "No" on line 2, it meant the Social Security benefits reported in box 5 of Form SSA-1099 were less than zero and there would be no taxable benefits. If a taxpayer checked "Yes," the taxpayer would enter one-half of line 1. Since an amount reported in box 5 of Form SSA-1099 is rarely less than zero, the checkboxes have been deleted, thereby eliminating unnecessary burden. Line 2 has been replaced with "Enter one-half of line 1."

Paperwork Reduction in the Works for Tax Year 2003

For Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, we are eliminating two lines and providing a clear and simplified explanation and computation of "Split Gifts." Scheduled for completion this year, this change will reduce burden for the more than 150,000 taxpayers who elect to split their gifts.

We are also revising the Tax Year 2003 Form 4626, Alternative Minimum Tax – Corporations to remove 4 lines. Three of the lines were little-used adjustments and the other was a line made unnecessary when the form was reduced from two pages to one.

Lastly, we are revising Form T-Timber, Forest Industries Schedule, to remove a section for reporting losses.

FORM REDESIGN

The IRS has adopted a "zero-based" accounting approach to forms redesign. This approach requires us to review each and every line of a form to determine if it is truly needed. In essence, we require that each line be justified. In other words, why is it needed? How is the information used in tax administration? Is the information key entered, i.e. the data is transcribed/captured from the paper document and entered into our computer systems? What are the compliance consequences of not capturing this information? In addition, the Office of the Privacy Advocate evaluates privacy implications in the collection of personal taxpayer information to minimize the gathering of personal information to only that which is necessary to meet the particular business objective.

Our redesign efforts balance the need to minimize unnecessary taxpayer burden and safeguard our tax system and compliance programs. We are applying this approach to our current redesign of the Form 941, Employers Quarterly Tax Return, and Schedule K-1 (partnership, S corporation, and estate and trust distributions).

Form 941 Redesign

The initial vetting of the "vision draft" with stakeholders/partners is planned for September 30, 2003. Thus far, the redesign group has identified existing space on the form used for internal processing that can be made available to allow for improved information formatting and readability. Additional analysis is being conducted to determine what additional steps can be taken to simplify the form. This redesign will affect 6.6 million employers who file quarterly returns.

Schedule K-1 Redesign

The initial vetting of the "vision draft" with stakeholders/partners is planned for July 31, 2003. As with all forms redesign efforts, the need to simplify the form and make it less burdensome, is balanced with the need to insure the integrity of the tax system and the compliance program. This initiative will have significant burden reduction impact, since approximately 23 million schedules are filed each year.

NOTICE AND PUBLICATION SIMPLIFICATION

We continue our efforts to communicate with taxpayers in plain English. Since last year's hearing, we simplified 10 notices with a total volume of 5 million notices.

- LT-11, Collection Due Process, Intent to Levy
- 10, Math Error With Reduced Credit Elect
- 11, Math Error, Balance Due of $5 or More
- 11A, EIC Math Error – Balance Due of $5 or more
- 12A, EIC Math Error – Overpayment of $1 or more
- 13, Math Error, Balance Due < $5, Overpayment < $1
- 13A, EIC Math Error – Balance Due < $5, Overpayment < $1
- 138, Notification That the Overpayment on the Return was Offset Against Another Tax Period with a Balance Due
- 139, Form 941,942, or 940 may no longer be required
- 566B, EITC Examination Package – includes several forms and publications

The above notices are ones that caused significant hardship for taxpayers, or whose wording was perceived by some as intimidating or threatening. Since the simplification, we have received favorable feedback from practitioners on the EITC Examination Package because the new product has customized documents that require taxpayers to only respond to issues that relate to their specific account. The practitioners also praised the package's better organization. We will begin surveying certain notice recipients by June 2003 to capture their feedback.

From July 2003 through January 2004, we will simplify an additional 14 notices with a volume of 17 million. They are as follows:

- 21A, Data Processing Adjustment Notice, Balance Due of $5 or more
- 21B, Data Processing Adjustment Notice, Overpayment of $1 or more
- 21C, Data Processing Adjustment Notice, Balance Due <$5, Overpayment <$1
- 21E, Examination Adjustment Notice
- 22A, Data Processing Adjustment Notice, Balance Due of $5 or more
- 22E, Examination Adjustment Notice
- 161, No Math Error, Balance Due (Except Form 1065)
- 2000, Underreporter Program Notice
- 101, Math Error, Balance Due of $5 or more on Form 940/940EZ
- 102, Math Error Balance Due of $5 or more on Forms 941, 941SS, 942, 943, 945
- 112, Math Error, Overpayment of $1 or more on Forms 941, 941SS, 942, 943, 945
- 128, Balance Due remaining after offset
- 210, Audit/DP Tax Adjustment
- 220, Audit/DP Tax Adjustment, Notification

We are also revising a number of publications. For example, we are consolidating Publications 508, 520 & 970 into one publication about tax benefits for education, thereby making it easier for taxpayers and practitioners to research and get the

information they need about these important benefits. A total of approximately 500,000 copies of these publications were distributed last year.

In addition, we are evaluating customer satisfaction regarding the usefulness of Publication 17 – "Your Federal Income Tax" – the comprehensive tax guide for individuals. We will use information obtained last year from focus groups to determine what changes may be needed (including redesign) to better meet taxpayers' needs for clear information. A total of approximately of 2.4 million copies of Publication 17 were printed last year.

REDUCING TAXPAYER BURDEN THROUGH ELECTRONIC TAX ADMINISTRATION (ETA)

The enormous popularity of e-file and its continued growth can be attributed largely to its value to taxpayers – and one of the greatest values is burden reduction. Taxpayers switching from paper to electronic filing find their burden reduced in a number of key areas. They spend less time filing and paying their taxes. With direct deposit of refunds, they are spared a trip to the bank, ATM or post office. And there are fewer errors with e-file, thereby sparing taxpayers potentially time-consuming interactions with the IRS.

Since its modest beginnings as a pilot in 1986, we have added more options each year to e-file to make it more attractive to taxpayers. They range from payment by credit card, direct deposit of refunds, and self-select PINs to adding more forms and joint filing of federal and state returns. For the 2003 filing season, we kept many of the options popular with taxpayers and added some new ones.

INDIVIDUAL E-FILE

On January 16, 2003, the Treasury Department, the Office of Management and Budget (OMB) and the IRS launched a free online tax preparation and filing service called Free File. It was made possible through a partnership agreement between the IRS and the Free File Alliance, LLC – a private sector consortium of tax software companies.

Free File can be accessed by going to our redesigned web site at *www.irs.gov*, or by going to *www.firstgov.gov*. These free services will be available this year through April 15, 2003. Some companies will also offer free services through October 15, 2003 to accommodate taxpayers who may need an extension.

The partnership agreement requires that the Alliance as a whole provide free tax preparation and filing to at least 60 percent, or approximately 78 million American taxpayers. The primary candidates for Free File are those taxpayers who prepare their own taxes and still file paper returns. Over 2 million taxpayers have used Free File this filing season.

Each participating software company sets its own eligibility requirements. Generally, these requirements may be one, or any combination of the following: (1) age;

(2) Tax Year 2002 Adjusted Gross Income; (3) eligibility to file Form 1040EZ; (4) eligibility to claim the Earned Income Credit; (5) State residency; and (6) active duty military status (if applicable). Unless noted, if the taxpayer is married and filing jointly, only one taxpayer must meet the eligibility requirement.

For 2003, taxpayers are also able to electronically file seven new forms related to their Individual Income Tax Returns:

- Form 970 – Application to Use LIFO Inventory Method
- Form W-2G – Guam Wage and Tax Statement
- Form 1099-G – Certain Government and Qualified State Tuition Program Payments
- Form 1310 – Statement of Person Claiming Refund Due to a Deceased Taxpayer
- Form 8594 – Asset Allocation Statement Under Sections 338 and 1060
- Form 8880 – Credit for Qualified Retirement Savings Contributions
- Form 8885 – Health Insurance Credit for Eligible Recipients

This year, taxpayers can also quickly check the status of a refund with a new Internet-based service available on the IRS web site, called "Where's My Refund?" Taxpayers can get the information they need quickly, efficiently and safely. For FY 2003, we expect 15 million users of "Where's My Refund?"

Simple online instructions guide taxpayers through a process that checks the status of their refund after they provide identifying information shown on their tax return. Once the information is processed, results can include one of several responses, including:

- That a return was received and is in processing;
- The mailing date or direct deposit date of the taxpayer's refund; or
- Whether a refund has been returned to the IRS because it could not be delivered.

The results also include links to customized information that is based on the taxpayer's specific situation. The links guide taxpayers through the next steps needed to resolve any issues that may be affecting their refund.

"Where's My Refund?" is accessible to visually impaired taxpayers with the Job Access with Speech (JAWS) screen reader used with a Braille display and is compatible with different JAWS modes.

For the 2003 filing season, taxpayers are also able to select one of two options for signing their e-filed return. The Self-Select PIN and Practitioner PIN methods allow taxpayers to electronically sign their e-filed return by entering a five-digit PIN.

The Self-Select PIN Program began in 2001, and by 2002, PINs were used to e-file 9.8 million returns. For 2003, certain taxpayers under the age of 16, and those who are filing on behalf of a deceased taxpayer, can sign the return using a Self-Select PIN.

For 2003, the Practitioner PIN is open to all electronic return originators (no agreement required). First-time filers and taxpayers under the age of 16 are eligible to use the Practitioner PIN method.

ETA ALSO EASING BUSINESS TAXPAYER BURDEN

A strong ETA program may be even more important for reducing burden for businesses than for individual taxpayers. In addition to their annual income tax returns, businesses also have to file various employment tax returns and information returns. Businesses also make a lot of payments to the federal government, such as withholding and unemployment taxes. In fact, payments are a business' most frequent transaction with the IRS.

We want to convert all of these transactions to fast, accurate, paper-free electronic methods. And we are making progress on a number of fronts.

During FY 2002, over 3.2 million taxpayers made $1.5 trillion in electronic tax payments through the Electronic Federal Tax Payment System (EFTPS), which now includes an online option. For 2003, IRS expects more than 4 million taxpayers to pay their taxes using the EFTPS System.

In FY 2002, we also received more than 2.5 million 941 *e*-file program returns (Employer's Quarterly Federal Tax Return) and 855,000 returns for 941 TeleFile and On-Line Filing Programs. In CY 2002, over 320,000 businesses used the 940 e-*file* Program (Employers Annual Federal Unemployment Tax Return), and more than 24,000 partnerships chose 1065 e-file (U.S. Return of Partnership Income) in FY 2002.

In 2003, the IRS plans to make even further progress serving business' electronic tax administration needs. For example, tax professionals are able to file employment taxes for business clients for the first time as part of a new Employment Tax e-filing System.

We also expect that coming e-file upgrades will continue to reduce the paperwork burden on small businesses. The enhanced e-file system is part of an ongoing effort to reduce small business burden and barriers to electronic filing. This e-file option will replace outdated technology that was a burden to both businesses and the IRS. Key benefits of the new system are:

- More flexible filing – Forms 941 and 940 can be filed in a single transmission;

- More specific error conditions – New error conditions pinpoint the location of the error and provide complete information for each error identified;
- Faster acknowledgements – Transmissions are now processed upon receipt and acknowledgments are returned in near real-time; and
- Integrated payment options – Eligible filers may submit a required payment along with their return, subject to limitations imposed by the Federal Tax Deposit Rules.

Businesses will also soon be able apply for an employer identification number (EIN) by using our new on-line EIN Application at *irs.gov*. When a business applies, its EIN will display on the SS-4 for printing and record keeping and each applicant will receive their formal validation letter.

REDUCING TAXPAYER BURDEN THROUGH INNOVATIVE ISSUE MANAGEMENT/PROBLEM RESOLUTION

Mr. Chairman, for many taxpayers, particularly business taxpayers, burden takes the classic form of time and money – the time and expense it takes to resolve an issue or problem that may affect one business or even, an entire industry. Ideally, we want to shift from addressing taxpayer problems well after returns are filed to addressing them as early as possible in the process, and in fact preventing problems wherever possible. To this end, we have created a number of programs in our operating and functional divisions to address issue management and problem resolution.

The Industry Issue Resolution Program

The Industry Issue Resolution (IIR) program began more than two years ago as an initiative under our Large and Mid-Size Business Operating Division's Issue Management Strategy. The IIR program provides guidance on frequently disputed or burdensome business tax issues. Benefits of the program include reduced costs and burden, and eliminating uncertainty regarding proper tax treatment, for both taxpayers and IRS. We estimate that it has provided millions of hours in taxpayer burden reduction.

For each issue, a multi-functional team, including LMSB, Treasury, Counsel, Appeals, Small Business/Self-Employed representatives, was formed to receive input from taxpayers and develop a resolution position.

The pilot program was evaluated and determined to be successful. In 2002, Notice 2002-20 was issued to announce the decision to make IIR a permanent program, expand the program to include Small Business/Self-Employed business issues, establish burden reduction as an issue criterion and invite issue submissions. For 2002, 38 issues were submitted from businesses, tax practitioners and associations and seven were accepted for the IIR program.

To date, resolution positions on the following 8 IIR issues have been announced:

- Revenue Procedure 2003-20 provides a safe harbor method of accounting to value re-buildable motor vehicle cores inventory.

- Revenue Procedure 2003-22, provides family day care providers with the option to use standard meal and snack rates in computing the deductible cost of food provided to eligible children under their care.

- Revenue Procedure 2002-41 provides employers in the pipeline construction industry an optional deemed substantiated method for reimbursing certain employee business expenses.

- Revenue Ruling 2002-9 provides that impact fees incurred in connection with the construction of new residential rental buildings are a capitalized cost of the building.

- Revenue Procedure 2002-12 provides taxpayers engaged in the trade or business of operating a restaurant or tavern with a safe harbor method of accounting for the cost of "smallwares."

- Revenue Ruling 2001-59 clarifies the necessary steps to record a loan as a ''loss asset'' under the bad debt conformity method of accounting for banks.

- Revenue Procedure 2001-56 provides a simplified method for automobile dealerships to determine the amount to include in employees' pay for use of demo vehicles.

- Revenue Ruling 2001-60 allows certain golf course land improvement costs to be depreciated.

IIR Issues Pending:

- Depreciation of cable television systems under section 168
- Tax treatment of pre-production costs of creative property
- Recovery period for depreciation of gasoline pump canopies
- Definition of highway tractors subject to the heavy truck tax under section 4051
- Deduction and capitalization of costs incurred by utilities for assets used for power generation
- Determining recoverable reserves of oil and gas for cost depletion purposes

IRS expects to announce resolution positions on these pending issues by the end of June 2003.

Fast Track Mediation (FTM)

Fast Track Mediation evolved from the Modernization/Re-Engineering process. It is designed to help Small Business/Self Employed taxpayers resolve disputes resulting from examinations and collection (offer in compromise, trust fund recovery penalty, and certain collection due process) actions. FTM reduces taxpayer burden by resolving disputes in a fair and impartial manner, as well as on a timely basis. Disputes will be resolved within 30 to 40 days compared to several months through the regular appeals process.

FTM began as a pilot program in June 2000, in four cities. During the pilot, 56 cases were mediated. The average time to close a case during the pilot was 48 days. Taxpayers rated the overall satisfaction with the process at 4.2 on a scale of 1 to 5, with 5 being the highest rating.

Due to the success of the pilot, on June 1, 2002, FTM was rolled out nationwide. To date, a total of 313 Appeals employees have been trained in mediation. Appeals expects to hold another 5 classes this fiscal year. All FTM training is contracted through the Federal Mediation and Conciliation Service (FMCS). Since the rollout, case receipts have been rising. In Fiscal Year 2002, Appeals received 86 cases from June to September, while total current receipts for Fiscal Year 2003 are 96 cases. The current overall customer survey satisfaction result is 4.0.

The FTM process involves Appeals personnel who have been trained in mediation to facilitate communication between the taxpayer and the IRS. The purpose is to help the parties reach a mutually satisfactory resolution of the issues that is consistent with applicable law. The mediator does not have settlement authority. If an agreement is not reached, the taxpayer maintains his or her normal appeal rights. If agreement is reached, Compliance uses standard closing procedures. For mediation to be successful, all decision-making parties must be present at the conference.

A revenue procedure on FTM is being reviewed by Chief Counsel's office. Publication 3605, Fast Track Mediation-A Process for Prompt Resolution of Tax Issues, lists cases excluded from the program.

The LMSB Fast Track Settlement Program

The LMSB Fast Track Settlement Program has effectively and significantly reduced taxpayer burden in numerous ways. A recent survey of taxpayers who completed the process asked them to identify what they expected to gain from the Fast Track process. The three top expectations (in order of number of responses) were: (1) quicker resolution of their cases, (2) lower non-tax costs, and (3) reduction in staffing demands. When asked if their expectations had been substantially met, the average agreement rate was 4.21 on a five-point scale where five is "strongly agree."

The survey asked taxpayers what they felt was the effect on examination cycle time, case resolution cycle time, their staff days applied to the examination process, and the effect on non-tax costs. Their responses reflect the following:

- 75% said examination cycle time was reduced
- 88% said the case resolution cycle time was reduced
- 79% said their applied staff days were reduced
- 79% said the Fast Track process reduced their non-tax costs

We estimate that the overall case resolution cycle time is reduced by approximately 920 days for cases participating in the Fast Track process.

A high overall satisfaction rating reflected on the Taxpayer LMSB Fast Track Survey also indicates burden reduction. The average satisfaction rating was 4.21 on a scale of 1 to 5, where 5 indicates a high degree of satisfaction.

A potential, but as yet unproven burden reduction method, involves the increased ability to utilize the LMSB Team Manager's ability to settle issues under the authority of Delegation Order 236. This delegation order gives the team manger the authority to settle issues on the same bases that Appeals has settled the issue in prior years' cases. Without Fast Track, the team manager frequently does not have the Appeals settlement in time to utilize it. Under Fast Track, the team manager will have settlement before the next examination cycle is started.

Limited Issue Focus Examinations

Our LMSB Division is implementing a new streamlined examination process called the Limited Issue Focused Examination, or LIFE.

This initiative will involve a formal agreement, a Memorandum of Understanding (MOU), between the IRS and taxpayer served by LMSB to govern key aspects of the examination. The MOU will contain dollar-limit thresholds, established on a case-by-case basis, below which the IRS will agree not to raise issues and the taxpayer will agree not to file claims. This will create, with the taxpayer's assistance, an atmosphere where the examination process is less difficult, less time-consuming, less expensive and less contentious for all involved.

Working together, both the IRS and the taxpayer will focus their resources and time on the issues most significant to the return under examination.

LIFE is a two-way street. Making it work will require taxpayers and the IRS to work cooperatively. Many of the resource benefits of this approach to taxpayers and the IRS will flow from taxpayers meeting the commitments they make at the commencement of a focused examination.

This new approach represents a major culture shift for LMSB. LIFE is an effort by LMSB to institutionalize best practices and provide consistency in the treatment of taxpayers. Training of IRS personnel is currently underway.

DEVELOPING A TAXPAYER BURDEN MEASUREMENT METHODOLOGY

In 1998, the IRS began work on a model that would provide better estimates of taxpayer burden. We wanted a tool both for measuring burden and for understanding how IRS administrative actions and tax legislation affect taxpayers' compliance burden. This new model could also satisfy the need for improved information for OMB's use in meeting the requirements of the Paperwork Reduction Act (PRA). Price Waterhouse, now IBM, was the contractor selected to do the work.

The project's massive scope necessitated doing it in steps. The initial work focused on individuals filing income tax Form 1040 and its many schedules and related forms. This was broken into two segments: Wage and Investment (W&I) and Self Employed (SE) taxpayers. Pre-filing and filing activities were included.

In March 2002, IBM delivered a burden simulation model, addressing the Federal income tax compliance burden of W&I taxpayers. The Integrated Taxpayer Burden Model (ITBM) was delivered in January 2003 and is undergoing final review. It integrates the W&I and Self-Employed populations to yield a comprehensive model of individual taxpayer compliance burden. Initial data from the new model indicate the time taxpayers spend complying with the federal tax code has been understated. The model will provide IRS with a new baseline for understanding the tax burden on our citizens.

The ITBM model will be able to provide the user with information unique to each taxpayer's burden. It can estimate taxpayer compliance costs in terms of time and out-of-pocket expenditures by: type of taxpayer (W&I, S/E), preparation method (paid preparer, self-prepared with software, self-prepared without software), submission method (paper, electronic), income classification (adjusted gross income), and taxpayer activities (e.g., record keeping, form completion).

The model has great potential for IRS because it can answer a variety of different needs. IRS management can prioritize initiatives by using the model to estimate the impact of an initiative on taxpayer burden. For example, the model could be used to estimate the impact of administratively changing various thresholds, e.g., interest and dividends. Also, the model can assist with the evaluation of tax policy. "What-if" scenarios reflecting potential legislative changes can be specified by model users to estimate the impact on burden. For example, the model could assess the effect on taxpayers of reducing the marriage penalty by increasing the standard deduction for married taxpayers.

IRS and IBM have recently begun work on a new model estimating the burden of income and employment taxes on small business taxpayers. The new model methodology will take into account the many differences between small business and individual taxes and be as consistent as possible with the ITBM. IBM is soliciting input from various individuals and stakeholder groups to validate assumptions and refine the focus and scope for the SB model covering filers of Forms 1065, 1120, 1120S and 940/941.

Ultimately, we hope to have taxpayer burden models covering most of the tax system, that is, mid-size corporations, tax-exempt entities, post-filing, and perhaps some other specialty taxes. In addition, the current work must be updated every five to seven years, depending on the changes in the law. These projects are costly, particularly because surveying is expensive; it has not been decided whether each of these projects will require surveys.

CONCLUSION

Mr. Chairman, in conclusion, I believe that the IRS continues to demonstrate progress in the fight against taxpayer burden in all of its forms. We will continue to seek administrative and other solutions to reduce taxpayer burden. However, at the same time, tax law complexity must be squarely addressed. Absent such a dual approach, we will never be able to reduce taxpayer burden in a meaningful fashion.

Mr. OSE. Our next witness is John Henshaw, who is the Assistant Secretary of Labor for Occupational Safety and Health at the Department of Labor. Welcome.

You're recognized for 5 minutes.

Mr. HENSHAW. Good morning Mr. Chairman, members of the subcommittee. Thank you for this opportunity to report on the Department of Labor's implementation of the Paperwork Reduction Act.

I am pleased to report that the Department of Labor has made great progress in reducing paperwork and will still strive to further reduce the burdens to employers. OSHA and DOL agencies have worked hard with the Department's Chief Information Officer and the Office of Management and Budget to fulfill the Department's commitment to reducing paperwork burdens for collection of information. Our efforts to date show that we are moving in the right direction. In fiscal year 2002, DOL reported no unresolved or new violations to the Paperwork Reduction and between fiscal year 1995 and fiscal year 2002, the Department reduced paperwork burdens by approximately 29 percent. During the same period, OSHA reduced its burden by 32 percent.

As part of the review of approximately one-third of OSHA's information collection requests each year, the public is invited to comment on both the usefulness of the information and on the accuracy of the estimated burden. As a result, the estimated burden that individual regulations impose may change substantially. It's important that we achieve accuracy.

For example, during the most recent 3-year review, the estimated burden of OSHA's Lockout/Tagout Standard was increased by approximately 1 million hours, while the estimated burden of OSHA's Process Safety Management Standard was decreased by approximately 28 million hours.

The subcommittee has expressed interest in DOL's Information Collection Requests that each require over 500,000 burden hours annually of the Nation's employers. In my written statement is a report listing the status of OSHA ICRs. All of the 19 OSHA ICRs on this list, either have been recently reviewed by the agency, or will be reviewed in the next year, to determine their burden hours usefulness and related cost.

In the past 3 years, OSHA has reviewed and refined a total burden associated with these paperwork requirements, which has led to a reduction of 22.3 million burden hours. This is approximately a 17 percent reduction for OSHA for OSHA's most burdensome collections.

Through our review of Information Collection Requests, we identified paperwork requirements in standards that need a closer examination for possible program changes. The process of systematically reviewing existing regulations, examining their requirements to determine whether they are necessary and useful, and eliminating those requirements that impose an unnecessary burden is a long process that requires careful analysis of the data, including public comment. Nevertheless, this is a priority of mine.

We have several initiatives. We have three initiatives underway to accomplish this. First, when we conduct reviews, under Section 610 of the Regulatory Flexibility Act, to examine the burdens and

effectiveness of individual standards, we review public comment on any paperwork requirement.

We are currently reviewing ethylene oxide evacuations and presence sensing device initiatives on mechanical power presses. Depending on the content of the public comments and the subsequent analysis, paperwork burden hours could substantially be affected. We also are looking at other standards for review.

Our second process is under the Standards Implementation Project, in which we are reviewing individual requirements of standards to see what can be modified or eliminated without diminishing worker safety and health. We are now in phase 2, which means that we have proposed a second set of changes. We have received comments on our proposal and will be conducting a public hearing in July.

By updating these health standards, the agency expects this project to reduce annual paperwork burdens by over 200,000 hours.

Finally, we are looking at reviewing various certification records requirements of OSHA standards to determine if they are still necessary and useful. In our crane standard for example, certification records provide written assurance that critical elements or items have been inspected and are in good working condition.

In conclusion, Mr. Chairman, I believe the Department and its agencies are working effectively to reduce unnecessary paperwork for employers wherever possible, thereby allowing employers to focus on what's important, ensuring safe and healthy workplaces, creating jobs, improving productivity, and keeping the economy strong.

I will be pleased to answer any questions after the opening statements.

Mr. OSE. Thank you Mr. Henshaw.

[The prepared statement of Mr. Henshaw follows:]

STATEMENT OF
JOHN L. HENSHAW
ASSISTANT SECRETARY FOR OCCUPATIONAL SAFETY AND HEALTH
U.S. DEPARTMENT OF LABOR
BEFORE
THE SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES AND REGULATORY AFFAIRS
HOUSE GOVERNMENT REFORM COMMITTEE

April 11, 2003

Mr. Chairman, Members of the Subcommittee:

Thank you for this opportunity to report on the Department of Labor's (DOL) implementation of the Paperwork Reduction Act. I would like to describe the process followed by DOL to meet the requirements of the Paperwork Reduction Act, and then address issues specific to the Occupational Safety and Health Administration (OSHA).

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies seek to reduce the paperwork burden imposed on individuals, small businesses and others resulting from collections of information. The Department's Chief Information Officer directs DOL's paperwork-reduction efforts. OSHA and other DOL agencies work with the Chief Information Officer and the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs to achieve this goal. Since OMB generally approves paperwork collections for three-year periods, each year DOL and its agencies review roughly one-third of their information collections.

For existing Information-Collection Requests (also know as ICRs), we determine whether the collection is still necessary, and whether revisions would be useful. For both new and extensions of existing ICRs, comments are solicited from the public to ensure the practical utility of the information and to assess potential burdens. DOL's agencies review the ICR's subject matter and its potential impact upon those required to maintain information. Through this process, agencies are reminded of the need to reduce paperwork while meeting their statutory responsibilities in the most efficient way. In Fiscal Year 2002, DOL reported no unresolved or new violations of the PRA. Between Fiscal Year 1995 and Fiscal Year 2002, the Department reduced paperwork burden hours by approximately 29%.

In terms of OSHA's paperwork requirements, the Occupational Safety and Health Act of 1970 (OSH Act) directs OSHA to assure, so far as possible, that every working man and woman in this Nation has safe and healthful working conditions. OSHA uses a variety of methods to achieve its mission, including standards setting, enforcement, compliance assistance, partnerships with industry and labor, and outreach to the regulated community. The Agency strives to protect workers without placing unnecessary burdens on employers.

I have spent my career working in the occupational safety and health profession. I realize that time and money spent by employers on unnecessary paperwork are resources that are not used to remove workplace hazards. My goal in leading OSHA is to minimize the former and maximize the latter.

I believe reducing reporting and recordkeeping requirements begins with a simplified regulatory agenda, the semi-annual list of rules to be proposed or finalized by DOL. In January 2001, the DOL's regulatory agenda contained 130 items pending action. Secretary of Labor Elaine L. Chao asked agencies to publish an agenda that reflected realistic priorities and informed the regulated community and employees exactly what rules each agency was promulgating and the status of each item during a certain period of time. During the last two years, the Department has shown significant progress in presenting a realistic regulatory agenda. We have stopped publishing a lengthy "wish list" of regulations and have begun focusing on regulations that are sensible and achievable. As a whole, the Department's most recent agenda, published on December 9, 2002, contained only 83 items. There were 35% fewer items contained in the OSHA section of DOL's regulatory agenda last Fall than in the Fall 2000 agenda. Employers and workers may now hold the Agency accountable for a realistic list of regulatory items, and OSHA can more carefully assess the need for the paperwork requirements associated with these items.

Most of the paperwork required by OSHA is documentation that employers maintain to serve as evidence of safety and health practices implemented for the protection of workers. The rulemaking authority in the OSH Act mandates that the Agency include in its health standards sensible practices to ensure a safe and healthy work environment, such as medical examinations and employee-exposure measures, which are collections of information and which are reflected in calculated PRA burden

hours. This is a major reason why OSHA's health standards produce large paperwork burden hours, and why it is so difficult to significantly reduce the Agency's total paperwork burden: In general, preparing and maintaining actual exposure-monitoring records under health standards takes perhaps 5 minutes, but it typically takes an additional 20 or 30 minutes to set up and take down the exposure-monitoring equipment used to produce the record. Similarly, the time to conduct medical examinations is added to the time required to produce a record of an examination, as is the time taken by an employee to travel to and from a medical examination. Under the Hearing Conservation Standard, for example, over 90% of the burden can be directly attributed to exposure assessment and medical surveillance. The standard requires audiometric testing and documentation to help ensure that employees are adequately protected from losing their hearing due to occupational noise exposure.

Most of OSHA's paperwork provisions require employers to collect and maintain information specific to each employer and their employees. This information is generally not duplicated or required by another source. Employers are rarely required to submit information to OSHA directly; however, collected information is of value to others, such as employers, safety and health consultants, and OSHA inspectors. As noted with the previous examples of health standards, virtually all of the paperwork requirements imposed by the Agency involve documentation of employers' efforts to comply with the Agency's standards that protect their employees. The paperwork that must be sent to OSHA regularly are the summaries of injury-illness records for 95,000 employers

surveyed by OSHA each year to determine where the Agency will target its inspections and outreach efforts.

The Bureau of Labor Statistics (BLS) also annually surveys 180,000 private-sector employers (of seven million nationwide) to collect injury-illness summaries; this information is used to generate national statistics on injuries and illnesses in the workplace. Both BLS and OSHA ask that employers merely record data from existing documents. According to OSHA's standards, employers with 10 or fewer employees are not required to compile injury-illness logs unless OSHA identifies them for participation in the survey. OSHA is working with BLS to develop a plan to reduce the burden on employers that may result from any overlap in data collection for illnesses and injuries. Each year, there are approximately 3,000 establishments included in OSHA's data-collection effort that are also sampled by BLS. Under this plan, employers in the overlap group will receive one questionnaire designed to gather data needed by both OSHA and BLS, which will eliminate the need to respond to separate collections from the DOL.

In January 2001, OSHA simplified its injury-illness reporting requirements. The new log of work-related injuries and illnesses gives employers maximum flexibility to keep information on computers or alternative forms, so long as the data can be produced when needed. In addition, there used to be different criteria for recording work-related injuries and illnesses; now the reporting has been simplified by using one set of criteria for both data sets. Also, employers are no longer required to record less severe illnesses. For example, most illnesses that require only first-aid treatment are no longer recordable.

In addition, OSHA -- along with representatives of the Chief Information Officer, BLS and other agencies -- is a member of the Task Force created under the Small Business Paperwork Relief Act of 2002. Under the direction of OMB, the Task Force is working to identify ways to simplify collections of information across government agencies that affect small-business employers. The Task Force also is looking at ways to coordinate Federal and State reporting requirements.

The Subcommittee has expressed interest in the Information-Collection Requests (ICRs) that require over 500,000 burden hours annually for the Nation's employers. Attached to this statement is a report listing the status of OSHA's ICRs. In the past three years, OSHA has reviewed and refined the total burden associated with these paperwork requirements, which has led to a reduction of 22.3 million burden hours. This is approximately a 17% reduction in burden hours for OSHA's most burdensome collections.

It is important to note that the high total burden hours often reflects broad employer coverage rather than a large burden on particular employers. We are sensitive to the overall burden that employers experience, and we continue to review our standards for paperwork reduction. The biggest paperwork burdens tend to be associated with those standards that cover large numbers of employers and employees. The burden per employer may be small, but multiplied by the number of employers covered the total

burden can quickly reach numbers above 500,000. Many of our less expansive standards that affect smaller numbers of employers do not impose significant paperwork burdens.

All of the ICRs on the Subcommittee's list have either been recently reviewed by the Agency or will be reviewed in 2003 to determine their burden hours and related costs. As required by the PRA, DOL publishes notices in the *Federal Register* requesting public comment each time it proposes to extend paperwork requirements. Although the Agency normally receives few comments from the public, the comments that are received are analyzed and, when appropriate, the burden hours are revised. The majority of the ICRs in the attached status report have been through this process at least twice since 1995.

I would like to give you some further examples of the types of requirements that are included in the 19 standards addressed in the Subcommittee's list. OSHA's Respiratory Protection Standard is designed to ensure that when employers use respiratory protection for employees exposed to airborne contaminants, physical hazards, and biological agents, they ensure that employees use the right respirator for the exposures encountered, and that employees use the respirator correctly for effective protection. The standard contains requirements for a written respiratory protection program, respirator selection, employee training, fit testing, and medical evaluation. Questionnaires and medical examinations provide information about medical conditions and physical symptoms that may prevent or limit employees from using some types of respirators. The employer must also certify in writing that emergency-use respirators have been inspected. An inspection record must include the date of the inspection,

employee's name, findings, and remedial action. Although the provisions of this standard generate paperwork for employers, these provisions ensure that respirators are safe and properly used.

In addition, there are more than 650,000 chemical products used in America's workplaces. These chemicals pose a myriad of potential hazards ranging from mild health effects, such as skin irritation, to serious health effects, such as cancer. OSHA's Hazard Communication Standard requires that chemical manufacturers and importers assess the hazards of the chemicals they produce or import, and provide information about these hazards to those using these chemicals, as well as appropriate protective measures to use when exposed to the chemicals. Having this information assists employers in ensuring that their employees do not experience adverse health effects. Employers are also required to inform and train their employees about the hazards associated with exposure to these chemicals, and to give them information about how to protect themselves from exposure. This information includes warning labels on containers, and safety data sheets with detailed information about the chemicals and their exposure effects. Employers who use chemicals in their workplaces also must collect and store information received from the manufacturer. OSHA has allowed employers to use improved information technology to more easily store and retrieve the information they need to comply with this standard.

OSHA also has ongoing activities to review old standards. Based on these reviews, the standards may be revised to reduce paperwork. For example, OSHA has

begun Phase II of its Standards Improvement Project (see attachment), which will have an impact on health standards containing collections of information. By updating these health standards, the Agency expects this project to reduce annual paperwork burden by over 200,000 hours. In addition, OSHA is reviewing certification-record requirements to determine if they are still needed and useful.

In conclusion, Mr. Chairman, I believe the DOL as a whole and OSHA specifically are working effectively to reduce unnecessary paperwork for employers whenever possible, thereby allowing employers to focus on what's important: ensuring safe and healthy workplaces, creating jobs, improving productivity, and keeping the American economy strong. I would be pleased to answer any questions.

Occupational Safety and Health Administration
Status Report on Information-Collection Requests
Greater than 500,000 hours

OSHA is using the PRA's Information-Collection Request (ICR) clearance process to review the 19 ICRs that have over 500,000 paperwork burden hours each. In developing the pre-clearance ICR, the Agency reviews the usefulness, the burden hours, and cost estimates of each requirement. As required by the PRA, OSHA publishes a notice in the *Federal Register* requesting the public to comment on its proposed extension of these ICRs. The Agency analyzes the comments and makes appropriate adjustments to the ICR. The majority of the ICRs shown below have gone through this clearance process at least twice since 1995.

Additionally, if the public identifies items where the practical utility of the requirement is in doubt, they are considered for revision through rulemaking. Such requirements are being addressed in OSHA's Standards Improvement Project – Phase II (67 FR 66494).

Three Status Report Charts appear below. ICRs designated as "Under Review" are, or soon will be, going through the ICR clearance process. "Upcoming" ICRs are those for which the Agency will soon be initiating the ICR OMB clearance process. ICRs that are "Completed" are those that OMB approved between February 1, 2002 and March 30, 2003.

OSHA has completed nine of the ICRs, four currently are under review, and six are set for future review.

Status Report on OSHA's Information Collection Requests (ICRs) Greater than 500,000 Burden Hours

I. ICRs CURRENTLY UNDER REVIEW

A. Review Under PRA Process

Title	Existing Burden Hours	Proposed Burden Hours	Change	Status
Personal Protective Equipment for General Industry (29 CFR 1910.146)	1,834,279	711,862	-1,122,417	The final ICR will be submitted to OMB prior to May 31, 2003.

B. Review Under the Standards Improvement Project - Phase II

The Standards Improvement Project - Phase II Notice of Proposed Rulemaking (NPRM) proposed changes to the burden hour estimates in 12 ICRs. Three of the 12 ICRs have burden hours in excess of 500,000 hours. The NPRM was published on October 31, 2002. The Agency anticipates holding hearings on the proposed changes during the 3rd quarter of FY2003.

The "Previous Burden Hours" listed in the following table are from OMB's February 23, 2002 Inventory of Active Information Collections. This list was used in Chairman Ose's April 17, 2002 communications to Secretary of Labor Elaine Chao and the Administrator of the Office Information and Regulatory Affairs, John D. Graham. Reductions are reflected in the "Current Burden Hours" column, which is based upon changes approved by OMB when the ICRs were submitted in December 2002.

Title	Previous Burden Hours	Current Burden Hours	Change
Lead in General Industry	1,280,916	1,229,515	-51,401
Lead in Construction	1,697,383	1,560,718	-136,665
Asbestos in Construction	5,569,659	5,569,963	304

II. UPCOMING ICRs TO BE REVIEWED

Title	Current Hours	Last Review Completed
Noise (29 CFR 1910.95)	5,175,645	February 2001
Formaldehyde	591,079	February 2001
Access to Employee Exposure and Medical Records (29 CFR 1910.1020)	613,127	February 2001
Construction Fall Protection Plans and Records	771,166	February 2001
Bloodborne Pathogens Standard	1,236,764	March 2001
Respiratory Protection	6,685,348	September 2001

III. COMPLETED ICR REVIEWS

Title	Previous Burden Hours	Current Burden Hours	Change	Result/Status
Needlestick Safety and Prevention Act	1,236,764	1,236,764	0	Review completed February 14, 2002. This ICR will be combined with the Bloodborne Pathogen Standard, with the next review starting May 2003.
Hazard Communication	7,560,232	7,553,465	-6,767	Review completed September 17, 2002.
Control of Hazardous Energy Sources	1,236,149	2,462,279	1,226,130	Review completed November 11, 2002.
Recording and Reporting Occupational Injury and Illnesses	4,425,351	3,353,237	-1,072,114	Last action January 2, 2003. OSHA published a final rule revising this collection of information in January 2001, which went into effect January 2002.
Process Safety Management of Highly Hazardous Chemicals	79,045,232	50,980,689	-28,064,543	Review completed March 24, 2003. Decrease primarily the result of adjusted calculations.
Hazardous Waste Operations and Emergency Response	1,412,915	1,404,369	-8,546	Review completed December 26, 2002.

Title	Previous Burden Hours	Current Burden Hours	Change	Result/Status
Permit Required Confined Spaces	1,634,663	1,666,663	32,000	Review completed October 2002
Mechanical Power Presses	1,372,930	1,372,930	0	Review completed November 11, 2002
Powered Industrial Trucks	822,191	949,505	127,314	Review completed April 1, 2002

Mr. OSE. Our fourth witness on the first panel is Mr. Victor Rezendes, who is the Managing Director of Strategic Issues at the GAO, the General Accounting Office.

Sir, we welcome you to our committee and you're recognized for 5 minutes.

Mr. REZENDES. Thank you, Mr. Chairman.

I really appreciate being here today to talk about the implementation of the Paperwork Reduction Act. As you mentioned earlier, the Act calls for a reduction in paperwork, but the burden has actually been increasing. As my first chart shows, which is also on Page 5 of my testimony for those of you who want to reduce their eyestrain, the burden estimate has increased 1.2 billion hours since the Act took effect in 1995. Nearly half of that increase occurred last year alone, 70 percent occurred over the last two fiscal years. IRS and DOT account for 90 percent of the increase last year. IRS increased its estimate by 330 million burden hours, most of which involved adjustments to the Form 1040. DOT's 165-billion-hour increase almost entirely was attributable to the reintroduction and re-estimation of one of its information collections.

Few agencies experienced decreases. Most notably the FCC had a 13-million-hour decrease.

Because IRS constitutes such a significant portion of the governmentwide burden, changes in the estimates that it has can have a significant and determinative effect on the governmentwide burden. For example, just one form, the IRS Form 1040 is estimated to impose more paperwork burden than all of the non-IRS collections combined. Just five IRS collections represent half of the total 8.2 billion-hour governmentwide burden estimate. One strategy to reduce paperwork burden governmentwide is to focus more of OIRA's resources on IRS.

Let me now turn to violations. During the past 5 years, violations have fallen markedly, 70 percent in 5 years, 40 percent last year alone as my second chart shows, which is on page 17 of the testimony.

The track record at individual agencies, however, varied. At Agriculture and Justice, the violations have gone down every year. At Commerce, they increased each year. HUD and VA exhibited inconsistent patterns. Notably, some cabinet departments—Treasury, Transportation, Labor and Energy—were able to completely eliminate violations last year. OIRA deserves a great deal of credit for these decreases in violations. Although OIRA has made good progress, 244 violations of law in 1 year is not acceptable.

In addition, some longstanding violations have not been addressed. Of the 120 unresolved violations at the end of the fiscal year, 45 had been occurring for over 1 year, 9, for over 5 years. The cost to the American taxpayer was $1.4 billion.

While agencies have brought a number of these violations into compliance up to January 2003, 74 still remained unresolved. Agencies can and should achieve OIRA's goal of zero violations.

Thank you, Mr. Chairman.

Mr. OSE. Thank you Mr. Rezendes.

[The prepared statement of Mr. Rezendes follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Energy, Policy, Natural Resources and Regulatory Affairs, Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 10 a.m. EDT
Friday, April 11, 2003

PAPERWORK REDUCTION ACT

Record Increase in Agencies' Burden Estimates

Statement of Victor S. Rezendes, Managing Director
Strategic Issues Team

GAO-03-619T

April 11, 2003

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-03-619T, testimony before the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, Committee on Government Reform, House of Representatives

PAPERWORK REDUCTION ACT

Record Increase in Agencies' Burden Estimates

Why GAO Did This Study

The Paperwork Reduction Act requires federal agencies to minimize the paperwork burden they impose on the public. The act also requires agencies to obtain approval from the Office of Management and Budget (OMB) before collecting covered information. At the Subcommittee's request, GAO examined changes during the past fiscal year in federal agencies' paperwork burden estimates and their causes, focusing on the Internal Revenue Service (IRS). GAO also examined changes in the number of violations of the Paperwork Reduction Act.

What GAO Recommends

GAO is not making any recommendations. However, because IRS accounts for most federal paperwork and for most of the increase in the governmentwide estimate, OMB could focus more of its burden reduction efforts on that agency. Also, OMB and the agencies could do more to reduce violations. For example, OMB could promote the use of "best practices" used in agencies with good compliance records.

www.gao.gov/cgi-bin/getrpt?GAO-03-619T.

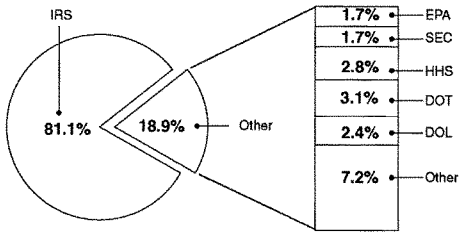
To view the full report, including the scope and methodology, click on the link above. For more information, contact Victor Rezendes at (202) 512-6806 or rezendesv@gao.gov.

What GAO Found

As of September 30, 2002, federal agencies estimated that there was about 8.2 billion "burden hours" of paperwork governmentwide. IRS accounted for about 6.7 billion burden hours (81 percent) of this estimate. The federal paperwork estimate increased by about 570 million burden hours during fiscal year 2002—nearly double the previous record increase for a 1-year period. IRS and the Department of Transportation (DOT) accounted for almost 90 percent of the increase. IRS increased its paperwork estimate by about 330 million burden hours during fiscal year 2002, which the agency said was primarily caused by growth in the number of taxpayers using Form 1040. DOT's burden estimate rose by about 165 million burden hours, an increase that the department said was almost entirely attributable to the reintroduction and reestimation of one information collection.

Federal agencies identified 244 violations of the PRA during fiscal year 2002—a significant reduction from the number of violations reported during the previous fiscal year. OMB deserves a great deal of credit for this decrease in violations. However, 244 violations of the law during a single fiscal year are still troubling and should not be tolerated. Also, although some longstanding violations have been resolved, others remained open at the end of the fiscal year and, in some cases, had been open for 2 years or more. OMB has not taken some of the actions that we previous recommended to improve compliance with PRA.

IRS Accounted for More than 80 Percent of the Estimated 8.2 Billion Hours of Federal Paperwork Burden as of September 30, 2002)



Source: OMB and the Department of the Treasury.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the implementation of the Paperwork Reduction Act of 1995 (PRA). As you requested, I will discuss changes in federal paperwork burden during the past year and their causes, with a particular focus on the Internal Revenue Service (IRS). I will also revisit an issue that we have discussed during previous hearings before this Committee—violations of the PRA in which information collections were either not authorized by the Office of Management and Budget (OMB) or those authorizations had expired.

In brief, the agencies' estimate of federal paperwork at the end of fiscal year 2002 stood at about 8.2 billion burden hours. The paperwork estimate increased by about 570 million burden hours from last year—nearly double the previous record increase for a 1-year period that I reported last year. Two agencies—IRS and the Department of Transportation (DOT)—accounted for almost 90 percent of the increase. IRS increased its paperwork estimate by about 330 million burden hours, most of which involved adjustments to the agency's burden-hour estimate for Form 1040. DOT's burden estimate rose by about 165 million burden hours, an increase that was almost entirely attributable to the reintroduction and reestimation of one information collection.

Also, federal agencies identified 244 violations of the PRA that occurred during fiscal year 2002—a more than 40 percent reduction in the number of violations that were reported during the previous fiscal year and about one-fourth the number reported for fiscal year 1998. Some agencies reported fewer violations in each of the last 3 fiscal years, but other agencies reported increases in 1 or more of those years. Although some longstanding violations were resolved, others remained open at the end of the fiscal year and had been in violation for 2 years or more at that point. OMB has taken several actions to address PRA violations since last year's hearing—and deserves a lot of credit for the reductions that have occurred in the past year. However, 244 violations of the law during a single year are still troubling and should not be tolerated. We continue to believe that OMB and the agencies can do more to ensure that the PRA is not violated and that long-standing violations are resolved.

Background

Before discussing these issues in detail, it is important to recognize that a large amount of federal paperwork is necessary and serves a useful purpose. Information collection is one way that agencies carry out their missions. For example, IRS needs to collect information from taxpayers and their employers to know the correct amount of taxes owed. The Bureau of the Census collects information that was used to reapportion congressional representation and is being used for a myriad of other purposes. The events of September 11, 2001, have demonstrated the importance of accurate, timely information. On several occasions, we have recommended that agencies collect certain data to improve operations and evaluate their effectiveness.[1]

However, under the PRA, federal agencies are required to minimize the paperwork burden they impose. The original PRA of 1980 established the Office of Information and Regulatory Affairs (OIRA) within OMB to provide central agency leadership and oversight of governmentwide efforts to reduce unnecessary paperwork and improve the management of information resources. Currently, the act requires OIRA to develop and maintain a governmentwide strategic information resources management (IRM) plan. In February 2002, we reported that OMB had not fully developed and implemented a strategic IRM plan that articulated a comprehensive federal vision and plan for all aspects of government information, including reducing information burdens, and we recommended that the agency develop such a plan.[2] During the past year OMB has taken a number of actions that demonstrate progress in fulfilling the PRA's requirement of providing a unifying IRM vision with a focus on burden reduction. For example, OMB's *E-Government Strategy* outlines the federal government's action plan for electronic government. One focus of that strategy is implementing initiatives that will reduce burden on

[1]See, for example, U.S. General Accounting Office, *Veterans' Health Care: VA Needs Better Data on Extent and Causes of Waiting Times*, GAO/HEHS-00-90 (Washington, D.C.: May 31, 2000); *Public Housing: HUD Needs Better Information on Housing Agencies' Management Performance*, GAO-01-94 (Washington, D.C.: Nov. 9, 2000); and *Environmental Information: EPA Needs Better Information to Manage Risks and Measure Results*, GAO-01-97T (Washington, D.C: Oct. 3, 2000).

[2]U.S. General Accounting Office, *Information Resources Management: Comprehensive Strategic Plan Needed to Address Mounting Challenges*, GAO-02-292 (Washington, D.C.: Feb. 22, 2002). Our conclusions in this report were similar to those in a report issued several years earlier. See U. S. General Accounting Office, *Regulatory Management: Implementation of Selected OMB Responsibilities Under the Paperwork Reduction Act*, GAO/GGD-98-120 (Washington, D.C.: July 9, 1998).

businesses by reducing redundant data collection and providing one-stop streamlined support. In addition, the *Federal Enterprise Architecture Business Reference Model* provides an integrated view of the federal government's activities, thereby allowing agencies to look at federal business operations and understand the gaps, overlaps, and opportunities for consolidation. Although OMB's strategies and models are promising, their ability to reduce paperwork burden and accomplish other objectives depends on how OMB implements them.

OIRA also has overall responsibility for determining whether agencies' proposals for collecting information comply with the PRA.[3] Agencies must receive OIRA approval for each information collection request before it is implemented. Section 3514(a) of the PRA requires OIRA to keep Congress "fully and currently informed" of the major activities under the act, and to submit a report to Congress at least annually on those activities. The report must include, among other things, a list of all PRA violations and a list of any increases in burden. To satisfy this reporting requirement, OIRA develops an Information Collection Budget (ICB) by gathering data from executive branch agencies. In November 2002, the OMB director sent a bulletin to the heads of executive departments and agencies requesting information to be used in preparation for the fiscal year 2003 ICB (reporting on actions during fiscal year 2002).

OIRA published its ICB for fiscal year 2002 (showing changes in agencies' burden-hour estimates during fiscal year 2001) in April 2002. OIRA officials told us that they did not expect to publish the ICB for fiscal year 2003 until today's hearing. Therefore, we obtained unpublished data from OIRA to identify changes in governmentwide and agency-specific "burden-hour" estimates and PRA violations during fiscal year 2002. We then compared the data to agencies' burden-hour estimates and violations in previous ICBs to determine changes in the data over time.

[3]The act requires the director of OMB to delegate the authority to administer all functions under the act to the administrator of OIRA but does not relieve the OMB director of responsibility for the administration of those functions. Approvals are made on behalf of the OMB director. In this testimony, we generally refer to OIRA or the OIRA administrator wherever the act assigns responsibilities to OMB or the director.

"Burden hours" has been the principal unit of measure of paperwork burden for more than 50 years and has been accepted by agencies and the public because it is a clear, easy-to-understand concept. However, it is important to recognize that these estimates have limitations. Estimating the amount of time it will take for an individual to collect and provide information or how many individuals an information collection will affect is not a simple matter.[4] Therefore, the degree to which agency burden-hour estimates reflect real burden is unclear. Nevertheless, these are the best indicators of paperwork burden available, and we believe they can be useful as long as their limitations are kept in mind.

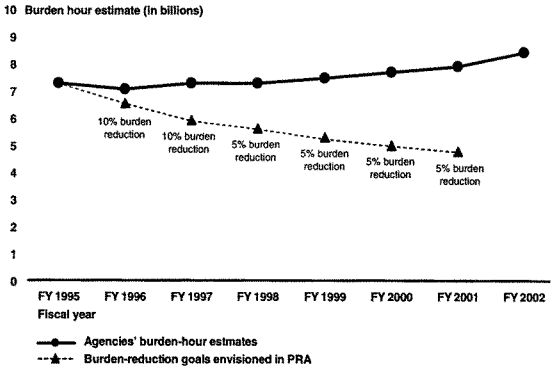
Governmentwide Paperwork Burden Estimate Has Increased

At the end of fiscal year 1995—just before the PRA of 1995 took effect—federal agencies estimated that their information collections imposed about 7 billion burden hours on the public. The amendment and recodification of the PRA that year made several changes in federal paperwork reduction requirements. One such change required OIRA to set a goal of at least a 10-percent reduction in the governmentwide burden-hour estimate for each of fiscal years 1996 and 1997, a 5 percent governmentwide burden reduction goal in each of the next 4 fiscal years, and annual agency goals that reduce burden to the "maximum practicable opportunity." Therefore, if federal agencies had been able to meet each of these goals, the 7-billion burden-hour estimate in 1995 would have decreased about 35 percent to about 4.6 billion hours by September 30, 2001.

However, as figure 1 shows, this anticipated reduction in paperwork burden did not occur. In fact, the data we obtained from OIRA show that the governmentwide burden-hour estimate stood at more than 8.2 billion hours as of September 30, 2002—about a 1.2 billion hour (17 percent) *increase* since the PRA of 1995 took effect. Nearly half of that increase (about 570 million hours) occurred during fiscal year 2002 alone, and about 70 percent (about 860 million hours) occurred during the last 2 fiscal years.

[4]See U.S. General Accounting Office, *EPA Paperwork: Burden Estimate Increasing Despite Reduction Claims*, GAO/GGD-00-59 (Washington, D.C.: Mar. 16, 2000) for how one agency estimates paperwork burden.

Figure 1: Governmentwide Paperwork Burden-Hour Estimate Continues to Grow



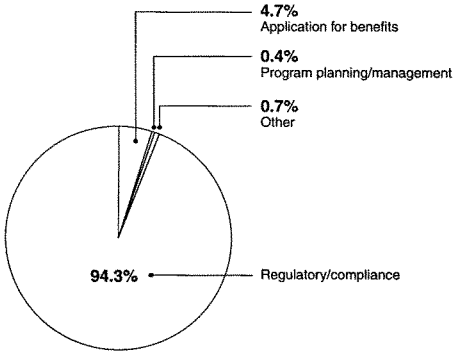
Source: OMB and agencies' ICB submissions.

Note: Data are as of the end of each fiscal year. The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours.

It is also important to understand how the most recent estimate of federal paperwork is allocated by the purpose of the collections. As figure 2 shows, data that we obtained from the Regulatory Information Service Center (RISC) indicate that almost 95 percent of the 8.2 billion hours of estimated paperwork burden in place governmentwide as of September 30, 2002, was being collected primarily for the purpose of regulatory compliance.[5] Less than 5 percent was being collected as part of applications for benefits, and about 1 percent was collected for other purposes.

[5]RISC is part of the General Services Administration but works closely with OIRA to provide information to the President, Congress, and the public about federal regulations. It maintains a database that includes information on all information collection review actions by OIRA.

Figure 2: As of September 30, 2002, Most Federal Paperwork Was Primarily Collected for Regulatory Compliance

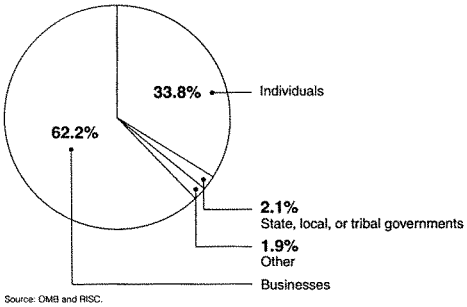


Source: OMB and RISC.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours. The "other" category includes program evaluation, general purpose statistics, audit, and research. Addition of individual elements does not total 100 percent due to rounding.

Figure 3 shows that more than 60 percent of the governmentwide burden estimate was primarily directed toward businesses or other for-profit organizations. About one-third of the burden was primarily on individuals or households, and less than 3 percent was on state, local, or tribal governments.

Figure 3: As of September 30, 2002, Most Federal Paperwork Was Primarily Directed at Businesses

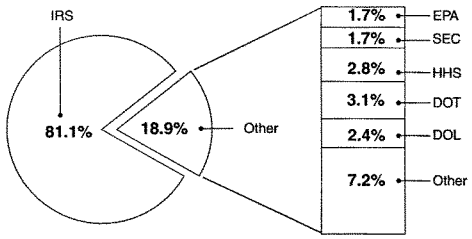


Source: OMB and RISC.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours. The "other" category includes farms, nonprofit organizations, and the federal government.

As of September 20, 2002, IRS accounted for about 99 percent of the Department of the Treasury's burden-hour estimate—nearly 6.7 billion burden hours. In fact, as figure 4 shows, IRS accounted for about 81 percent of the governmentwide burden-hour estimate (up from about 75 percent in September 1995). Other agencies with burden-hour estimates of 100 million hours or more as of that date were the departments of Health and Human Services (HHS) and Labor (DOL), DOT, the Environmental Protection Agency (EPA), and the Securities and Exchange Commission (SEC). Because IRS constitutes such a significant portion of the governmentwide burden-hour estimate, changes in IRS' estimate can have a significant—and even determinative—effect on the governmentwide estimate.

Figure 4: IRS Accounted for Most of the Federal Paperwork Burden-Hour Estimate as of September 30, 2002



Source: OMB and the Department of the Treasury.

Note: The governmentwide burden-hour estimate as of September 30, 2002, was about 8.2 billion hours.

Changes in Individual Agencies' Estimates During Fiscal Year 2002

As table 1 shows, only a few agencies' paperwork burden estimates decreased during fiscal year 2002, most notably the Federal Communications Commission (FCC)—from more than 40 million hours to less than 27 million hours. Other agencies, most notably the Department of the Treasury (including IRS), DOT, HHS, and SEC, significantly increased their burden hour estimates. Still other agencies with relatively small burden-hour totals experienced large percentage increases in their estimates—most notably the Department of Housing and Urban Development (HUD) (an 81 percent increase) and the Department of State (a 76 percent increase).

Table 1: Changes in Federal Agencies' Burden-Hour Estimates During Fiscal Year 2002

Burden hours in millions

		Program changes						
	FY 2001 estimate	New statutes	Lapses in OMB approval	Agency action	Total	Adjustments	Total change	FY 2002 estimate
Governmentwide	7,651.4						570.5	8,221.7
Non-Treasury	1,235.6						236.3	1,471.8
Departments								
Agriculture	86.7	1.5	0.5	(0.3)	1.8	0.0	1.8	88.5
Commerce	10.3	0.2	0.0	1.2	1.3	(0.5)	0.9	11.2
Defense	92.1	–	0.5	0.6	1.0	(0.7)	0.3	92.4
Education	40.5	0.2	(0.1)	(3.2)	(3.1)	1.0	(2.1)	38.4
Energy	3.9	–	–	0.1	0.1	(0.2)	(0.1)	3.8
Health and Human Services	186.6	35.9	1.4	(2.0)	35.3	1.9	37.2	223.8
Housing and Urban Development	12.1	0.0	9.9	0.0	9.9	(0.1)	9.8	21.9
Interior	7.6	0.1	0.1	0.3	0.4	(0.3)	0.1	7.7
Justice	40.5	5.1	(0.0)	0.8	5.9	0.2	6.1	46.6
Labor	186.1	0.1	–	2.4	2.5	0.7	3.1	189.2
State	16.6	12.1	0.4	–	12.5	0.1	12.6	29.2
Transportation	80.3	0.8	–	163.2	164.0	1.2	165.2	245.5
Treasury	6,415.9	64.1	(0.1)	(9.5)	54.6	279.6	334.2	6,750.0
Veterans Affairs	5.3	–	0.3	–	0.3	1.8	2.1	7.4
Agencies								
Environmental Protection Agency	130.8	0.1	–	0.6	0.7	9.0	9.7	140.5
Federal Acquisition Regulatory Council	23.8	–	–	0.7	0.7	–	0.7	24.5
Federal Communications Commission	40.1	(0.5)	–	(1.7)	(2.3)	(11.1)	(13.3)	26.8
Federal Deposit Insurance Corporation	10.5	–	–	0.1	0.1	(0.7)	(0.5)	10.0
Federal Emergency Management Agency	5.5	0.0	0.0	0.3	0.3	2.0	2.3	7.8
Federal Energy Regulatory Commission	4.4	–	0.0	0.0	0.0	–	0.0	4.4
Federal Trade Commission	72.6	–	–	–	–	(2.9)	(2.9)	69.7
National Aeronautic and Space Administration	6.9	–	(0.9)	0.0	(0.9)	0.0	(0.9)	6.0

(Continued From Previous Page)

Burden hours in millions

		Program changes						
	FY 2001 estimate	New statutes	Lapses in OMB approval	Agency action	Total	Adjustments	Total change	FY 2002 estimate
National Science Foundation	4.8	–	–	0.0	0.0	(0.3)	(0.3)	4.5
Nuclear Regulatory Commission	8.2	–	–	–	–	0.2	0.2	8.4
Securities and Exchange Commission	114.3	0.2	–	4.3	4.5	17.8	22.3	136.6
Small Business Administration	1.9	–	0.3	0.0	0.4	0.5	0.9	2.8
Social Security Administration	24.2	0.4	–	0.3	0.7	0.0	0.6	24.8

Source: OMB and agencies' ICB submissions.

Note: Data on the Federal Acquisition Regulatory Council were submitted by the General Services Administration. Data from the 27 departments and agencies may not equal the governmentwide figure because smaller agencies' requirements are also included. Cells with "0.0" values were non-zero values rounded to zero. Cells with "–"entries were zero values. Addition of individual elements may not equal totals due to rounding.

However, changes in agencies' bottom-line burden-hour estimates do not tell the whole story and can be misleading. It is also important to understand *how* the agencies accomplished these results. OIRA classifies modifications in agencies' burden-hour estimates as either "program changes" or "adjustments."

- Program changes are the result of deliberate federal government action (e.g., the addition or deletion of questions on a form) and can occur as a result of new statutory requirements, agency-initiated actions, or through the expiration or reinstatement of OIRA-approved collections.

- Adjustments are not the result of deliberate federal government action, but rather are caused by factors such as changes in the population responding to a requirement or agency reestimates of the burden associated with a collection of information. For example, if the economy declines and more people complete applications for food stamps, the resultant increase in the Department of Agriculture's (USDA) paperwork estimate is considered an adjustment because it is not the result of deliberate federal action.

The agencies' ICB submissions identified what drove the changes in agencies' bottom-line burden-hour estimates during fiscal year 2002. For

example, more than 80 percent of the 13 million hour decline in the FCC estimate was due to the adjustment of one information collection. However, OMB does not require agencies to explain the causes of significant adjustments in agencies' burden-hour estimates. Therefore, it is not clear whether the FCC adjustment reflected a real reduction in the burden felt by the public (e.g., a change in the population responding to the collection), or was simply a reestimation of the burden that already existed. In any event, it appears that most of the FCC decrease was not the result of agency burden-reduction initiatives.

In contrast, HHS indicated that the 37 million burden-hour increase in its paperwork estimate during fiscal year 2002 was almost entirely driven by a statutory program change in a single collection related to the enactment of the Health Insurance Portability and Accountability Act of 1996.[6] In its ICB submission, HHS said the purpose of this statutory change was "to establish standards for electronic transactions and for code sets to be used in those transactions." HUD indicated that the 87 percent increase in its burden estimate was entirely driven by program changes—specifically the reinstatement of two information collections that had been in violation of the PRA (i.e., HUD continued to collect the information without OMB approval). Therefore, although the department's burden estimate increased, the actual burden imposed on the public by the collection did not change.

In some cases, we found the agencies' explanations in their ICB submissions for the changes in their burden estimates somewhat misleading and/or inconsistent. For example, DOT indicated in its summary table that virtually all of the department's 165 million burden-hour increase in its estimate was driven by program changes—specifically, an "agency action." However, the narrative that the department submitted to OMB indicated that almost all of this change was driven by the reinstatement of a collection that had been in violation ("Driver's Records of Duty Status") and an adjustment to the collection's burden estimate.[7] DOT's estimate of the burden associated with this collection declined about 42 million burden hours when the violation occurred during fiscal year

[6]Pub. Law 104-191.

[7]This collection is used by DOT to determine the compliance of motor carriers and commercial motor vehicle drivers with the maximum driving and duty time limitations prescribed in the Federal Motor Carrier Safety Regulations. For a discussion of how DOT's burden-hour estimate for this collection changed, see 67 Fed. Reg. 1396 (Jan. 10, 2002).

2001, so the adjustment was about 120 million hours. Documentation that we obtained from DOT's Office of the Chief Information Officer indicated that the adjustment was caused by significant increases in the department's estimates of the time needed for drivers and motor carriers to perform certain tasks. Therefore, the actual burden associated with this information collection did not change. The same information was being collected when the authorization had lapsed during fiscal year 2001 and when it was reinstated during fiscal year 2002. The rest of the increase was caused by the department's reestimation of the burden, not a change in the burden itself.

Reasons for Changes in IRS Burden Estimate

The increase in the IRS burden-hour estimate during fiscal year 2002 (about 330 million burden hours) was more than the increase in the rest of the government combined. Therefore, although all agencies must ensure that their information collections impose the least amount of burden possible, it is clear that the key to controlling federal paperwork governmentwide lies in understanding and controlling the increases at IRS.

The Department of the Treasury's ICB submission indicated that more than 80 percent of the increase in the department's estimate during fiscal year 2002 (about 280 million burden hours) was caused by adjustments. An IRS official told us that this adjustment was largely driven by an increase in the number of taxpayers using Form 1040.

IRS identified a number of burden-hour increases that it said were caused by the underlying statutes. For example, IRS said that it added more than 18 million burden hours to its estimate because of changes to Form 1040 and its associated schedules and instructions that were precipitated by the Economic Growth and Tax Relief Reconciliation Act of 2001.[8] Also, IRS said it added nearly 17 million hours to the burden associated with Form 4562 ("Depreciation and Amortization") because of changes made by the Job Creation and Worker Assistance Act of 2002.[9]

[8]Pub. Law 107-16.

[9]Pub. Law 107-147. IRS said that the provisions that affected Form 4562 include an additional 30 percent depreciation deduction for qualified property placed in service after September 10, 2001, and an increase in the section 179 expense deduction for property placed in service in the New York Liberty Zone.

However, IRS said that other increases in its burden-hour estimate were made at the agency's initiative—not because of new statutes. For example, the agency said that an increase of more than 22 million hours in its estimate for Form 941 and related forms were due to changes "requested by IRS."[10]

The Department of the Treasury also indicated in its ICB submission that it had taken a number of initiatives to reduce paperwork burden. For example, beginning with the 2002 tax year, Treasury said that IRS had eliminated the requirement on small corporate filers (i.e., those with total receipts and assets of less than $250,000) to file certain schedules with their returns, resulting in a reduction of about 26 million burden hours. Treasury also said it had decided to increase the threshold for taxpayers having to file Schedule B (Form 1040) from $400 to $1,500. As a result, the department said that more than 10 million fewer taxpayers would have to file the schedule—about one-third of those who previously had to file. However, Treasury did not estimate how many burden hours would be reduced as a result of that action.

Focusing on IRS to Control Paperwork

In summary, the agencies' information collection estimates for the ICB being released today indicate that federal paperwork continues to increase at a record pace, and that IRS continues to account for most of the increases in estimated burden. Because IRS constitutes such a significant portion of the annual increases and the governmentwide burden-hour estimate, one strategy to address increases in federal paperwork could be to focus more of OIRA's burden-reduction efforts on that agency. Just as increases in IRS's estimates have had a determinative effect on the governmentwide estimates, reduction in the IRS estimates can have an equally determinative effect. For example, just one IRS information collection (related to Form 1040) is estimated to impose more paperwork burden than all of the non-Treasury collections combined. Just five IRS information collections represent about half of the 8.2 billion hour paperwork estimate governmentwide. A small reduction in the burden associated with those five collections could have a major effect on the governmentwide effort to reduce paperwork burden.

[10]Form 941 is used by employers to report payments made to employees subject to income and social security/Medicare taxes and the amounts of those taxes.

However, significant reduction of the burden hours associated with these and other IRS information collections may ultimately depend upon congressional action. IRS officials maintain that the agency's paperwork burden totals reflect the information that is needed to administer the tax laws. Therefore, they suggest that significant reductions in IRS's paperwork burden would require changes to the tax laws. Within the current tax laws, however, IRS has some discretion that can affect paperwork burden. For example, in January 2001 IRS altered the threshold over which businesses must pay employment taxes on a quarterly rather than a more frequent basis. In general, when considering reductions in the amount or frequency of data collection, IRS must also balance the potential for decreasing its ability to ensure that taxpayers fulfill their tax obligations with the amount of burden imposed.

Agencies Identified Fewer PRA Violations

I would now like to turn to the other main topic that you asked us to address—PRA violations. The PRA prohibits an agency from conducting or sponsoring a collection of information unless (1) the agency has submitted the proposed collection and other documents to OIRA, (2) OIRA has approved the proposed collection, and (3) the agency displays an OMB control number on the collection. The act also requires agencies to establish a process to ensure that each information collection is in compliance with these clearance requirements. OIRA is required to submit an annual report to Congress that includes a list of all violations. Under the PRA, no one can be penalized for failing to comply with a collection of information subject to the act if the collection does not display a valid OMB control number. OIRA may not approve a collection of information for more than 3 years, and there are currently about 8,000 approved collections.

As table 2 shows, the agencies indicated in their ICB submissions that a total of 244 PRA violations occurred during fiscal year 2002 (i.e., were either carried over from the previous year or were new violations). As in previous years, most (217) of these violations were collections whose OIRA approvals had expired and had not been reauthorized. Four cabinet departments were responsible for nearly 60 percent of the violations—USDA, the Department of Commerce (DOC), HUD, and the Department of Veterans Affairs (DVA).

Table 2: Reported Violations of the PRA During Fiscal Year 2002

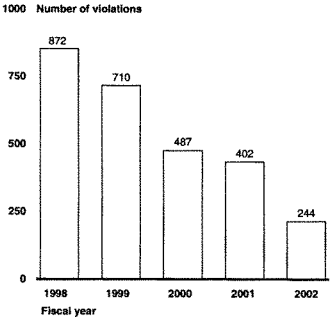
	Expired information collections	Other violations	Total violations
Departments			
Agriculture	65	1	66
Commerce	28	2	30
Defense	7	0	7
Education	3	1	4
Energy	0	0	0
Health and Human Services	11	7	18
Housing and Urban Development	24	0	24
Interior	6	0	6
Justice	16	1	17
Labor	0	0	0
State	4	0	4
Transportation	0	0	0
Treasury	0	0	0
Veterans Affairs	23	0	23
Agencies			
Environmental Protection Administration	0	1	1
Federal Acquisition Regulation	0	0	0
Federal Communications Commission	2	0	2
Federal Deposit Insurance Corporation	0	0	0
Federal Emergency Management Agency	6	8	14
Federal Energy Regulatory Commission	1	0	1
Federal Trade Commission	0	0	0
National Aeronautics and Space Administration	12	0	12
National Science Foundation	0	0	0
Nuclear Regulatory Commission	0	0	0
Securities and Exchange Commission	0	0	0
Small Business Administration	9	0	9
Social Security Administration	0	6	6
Total	**217**	**27**	**244**

Sources: OMB and agencies' ICB submissions.

Number of Violations Has Declined in Recent Years

As figure 5 shows, the number of PRA violations that the agencies identified has fallen markedly during the past 5 fiscal years—from 872 violations during fiscal year 1998 to 244 during fiscal year 2002. The decline in the number of violations between fiscal year 2001 and fiscal year 2002 is particularly notable. Last year, OIRA only asked the cabinet departments and EPA to report data on violations. The number of violations during fiscal year 2002 in just those agencies was less than half the number reported by the same agencies during fiscal year 2001 (200 versus 402).

Figure 5: The Number of PRA Violations Has Declined During the Past 5 Fiscal Years

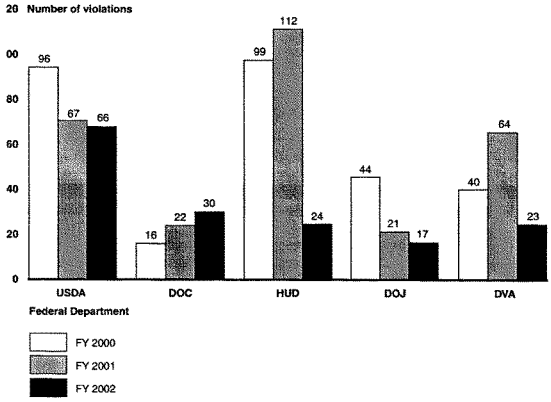


Source: OMB and agencies' ICB submissions.

Note: In fiscal year 2001, OMB reported the violations only for the cabinet-level departments and the EPA. Therefore, the data for that year does not include information for 12 independent agencies included in the other years.

As figure 6 shows, federal agencies vary in the extent and the consistency with which they have been able to reduce their number of violations. In some agencies, the number of violations has gone down in each of the last 3 fiscal years (e.g., USDA and the Department of Justice). In other agencies, the number of violations has gone up during this period (e.g., DOC) or exhibited an inconsistent pattern (e.g., HUD and DVA).

Figure 6: Agencies Exhibit Varying Patterns of Compliance with the PRA



ource: OMB and agencies' ICB submissions.

Notably, some cabinet departments were able to completely eliminate their violations during the past fiscal year—the Department of the Treasury (from 14 violations during fiscal year 2001 to zero during fiscal year 2002); DOT (from 12 violations to zero); DOL (from 8 violations to zero); and the Department of Energy (from 6 violations to zero).

OIRA Efforts to Reduce Violations

OIRA deserves a great deal of the credit for the reduction in the number of PRA violations during the past year. In June 2002—2 months after last year's hearing before this Committee—the OIRA Administrator sent a memorandum to agency chief information officers (CIOs), general counsels, and solicitors emphasizing the importance of compliance with the PRA. The Administrator said that, despite recent progress, the number of overall and unresolved violations was still "unacceptably high," and asked each agency to identify progress on violations reported in the ICB for fiscal year 2001 and to identify any new violations that had occurred since September 30, 2001. He also asked the agencies to describe the procedures

that they had in place to prevent future violations, and said OIRA was planning to meet with the CIOs and general counsels of the five agencies with the highest number of overall, long-standing, or high-burden violations—USDA, HHS, HUD, the Department of State, and DVA.

In November 2002, the OIRA Administrator sent another memorandum to the CIOs, noting that although most agencies had done a good job of resolving existing violations, some were still having problems in this area. He also reported that six agencies had reported 10 or more new violations from October 2001 through June 2002—USDA, DOC, the Department of State; the Federal Emergency Management Administration, the National Aeronautics and Space Administration, and the Small Business Administration. The Administrator said OIRA's goal was "to achieve zero violations by no later than April 1, 2003," and urged each agency to reexamine the efficacy of its PRA clearance system. To assist in that effort, he attached a list of collections that had expired in the previous 30 days and those that were due to expire in the next 150 days, and asked the agencies to take action to resolve existing violations and to prevent future ones.

Long-standing Violations Still a Problem

In our previous testimonies on the implementation of the PRA, we noted that many of the agencies' PRA violations had been occurring for years. The agencies appear to have made some progress in this area, resolving certain long-standing violations by either obtaining OMB clearance or discontinuing the collections. For example, during fiscal year 2002, the Department of the Interior resolved three violations that had been occurring since 1993 or 1994. DVA resolved five violations that had been occurring since 1996 or 1997.

However, the agencies also indicated that many other long-standing violations had not been addressed. Of the 244 violations that occurred during fiscal year 2002, 120 were still occurring at the end of the fiscal year (September 30, 2002). Forty-five of these 120 violations had been occurring for at least 1 year at that point, and 27 had been occurring for at least 2 years.

Some agencies had a particularly large number of long-standing unresolved violations.

- USDA indicated that 27 of its 66 violations were unresolved as of September 30, 2002. Of these, 14 had been occurring for more than 1

year, and 6 had been in violation for more than 2 years. Three of the USDA collections had been in violation for at least 5 years—since 1997.

- HUD indicated that 23 of its 24 violations during fiscal year 2002 were unresolved as of September 30, 2002. Of these, 17 had been occurring for at least 1 year, and 13 had been in violation for at least 2 years.

- SBA indicated that 8 of its 9 violations during fiscal year 2002 were unresolved as of September 30, 2002. Of these, 6 had been occurring for at least 1 year, and 4 had been occurring for at least 2 years.

Federal agencies brought a number of their unresolved violations into compliance after the fiscal year ended. For example, by the end of January 2003, HUD had resolved 15 of its 23 violations that were open at the end of fiscal year 2002. USDA resolved 12 of its 27 open violations by January 2003. Overall, 46 of the 120 violations that were still occurring as of September 30, 2002, were resolved between that date and the end of January 2003. However, that still leaves 74 violations occurring during fiscal year 2002 that had not been resolved by the end of January 2003.

Violations and Costs

In our testimony in previous years, we provided an estimate of the monetary cost associated with certain PRA violations. To estimate that cost, we multiplied the number of burden hours associated with the violations by an OMB estimate of the "average value of time" associated with each hour of paperwork.[11] Although the ICBs list the information collections that were in violation during the previous year, they do not show the number of burden hours associated with each of the violations. Therefore, we obtained data from OIRA on the estimated number of burden hours for the 45 information collections that had been in violation for at least 1 year as of September 30, 2002.

The data suggest that PRA violations may constitute significant costs for those who provide the related information. The 45 violations that we examined involved an estimated 48 million burden hours of paperwork, or

[11]Office of Management and Budget, *Draft Report to Congress on the Costs and Benefits of Federal Regulations*, 67 Fed. Reg. 15014 (Mar. 28, 2002). In this report, OMB used an average value of time of $30 per hour to estimate the cost associated with paperwork burden.

(at $30 per hour) about $1.4 billion in costs. Just 2 of the 45 collections accounted for more than $1 billion in estimated opportunity costs.

Many of the information collections that were in violation were being administered for regulatory purposes, so if the respondents knew that the collections were not valid they might not have completed the required forms. However, other violations involved collections in which individuals or businesses were applying for benefits such as loans or subsidies. Therefore, it is not clear whether these individuals or businesses would have refused to complete the required forms if they knew that the collections were being conducted in violation of the PRA.

OIRA Can Do More to Address Violations

Although OIRA and the agencies have clearly made progress in reducing the overall number of PRA violations in recent years, more progress is needed. As I am sure that the Administrator would agree, 244 violations of the law in 1 year is not acceptable. Agencies can and should achieve OIRA's goal of zero violations.

As I noted earlier, OIRA has taken a number of steps during the past year to try to address this problem. As we recommended last year, OIRA has used its database to identify information collections that (1) have recently expired and attempted to determine whether the agencies are continuing to collect the information and (2) are about to expire, thereby attempting to prevent future violations. OIRA has also asked the agencies to describe the procedures that they have in place to prevent future violations and has met with agencies that have the highest number of overall, long-standing, or high-burden violations. We believe that these actions precipitated the improvements that occurred during fiscal year 2002, and will have positive benefits for years to come.

However, OIRA still has not taken some of the actions that we previously recommended to improve compliance with the PRA. For example, OIRA could notify the budget side of OMB that an agency is collecting information in violation of the PRA and encourage the appropriate resource management office to use its influence to bring the agency into compliance. OIRA could also encourage the use of "best practices" learned from agencies with a good record of PRA compliance. Agencies that have recently eliminated their violations altogether (e.g., the Department of the Treasury, DOT, and DOL) may have much to teach agencies that continue to violate the act.

Although OIRA's current workload is clearly substantial, we do not believe the kinds of actions that we suggested would require significant additional resources. Primarily, the actions require a continued commitment by OIRA leadership to improve the operation of the current paperwork clearance process. However, we also recognize that OIRA cannot eliminate PRA violations by itself. Federal agencies committing these violations need to evidence a similar level of resolve.

Mr. Chairman, this completes my prepared statement. I would be pleased to answer any questions.

Mr. OSE. We're going to go to questions now.

I want to make sure—Mr. Rezendes, I'm going to take you first—we're going to go 10-minute rounds here.

I just want to make sure I understand something, and, if you could clarify it, I would appreciate it.

In order for an agency to put out a request for information to the public, that form that they use must go through Dr. Graham's shop for approval.

Mr. REZENDES. Correct.

Mr. OSE. And, if it doesn't go through Dr. Graham's shop for approval, do the citizens have to comply with the request for information?

Mr. REZENDES. Technically, they do not. However, there could be statutory requirements that would supersede whether OIRA has approved the form or not. And, in addition, a lot of the collections are applications for benefits. So, there is an incentive on the public to complete the forms.

Mr. OSE. All right.

Now, you also mentioned nine such instances that have been in existence for more than 5 years.

Mr. REZENDES. Yes, sir.

Mr. OSE. Do you have a list of those?

Mr. REZENDES. I just happen to have a list, yes, I do.

Mr. OSE. Would you submit that to the subcommittee for the record.

Mr. REZENDES. Be happy too, sure.

[The information referred to follows:]

Long-term Violations of the Paperwork Reduction Act
Nine Oldest Violations as of September 30, 2002

OMB Control Number	Collection Title	Agency	Date of Expiration	Date of Resolution	Number of years in expiration as of 9/30/02	Number of burden hours associated with the collection	Burden hours since expiration as of 9/30/02	Estimated costs as of 9/30/02
1405-0146	**Statement of Non-receipt of Passport**	Department of State/ Administration of Foreign Affairs	9/1/78	12/2/02	24.1	Unknown	-	
2502-0436	**Mortgagee Request for Extension of Time Requirements**	Department of Housing and Urban Development/ Office of Housing	1/31/96	1/8/03	6.7	1,800	12,003	$ 360,099
2502-0493	**Master Appraisal Report (MAR) for Proposed Construction**	Department of Housing and Urban Development/ Office of Housing	2/28/96	1/8/03	6.6	10,500	69,214	$ 2,076,411
2502-0470	**Capital Advance Program for Secs. 202/811 Housing for Elderly & Persons w/Disabilities**	Department of Housing and Urban Development/ Office of Housing	12/31/96	1/8/03	5.8	11,225	64,551	$ 1,936,543
3245-0205	**8(a) Update**	Small Business Administration	1/31/97	Open	5.7	13,000	73,655	$ 2,209,644
3245-0270	**S/A Report Service**	Small Business Administration	4/30/97	12/02	5.4	9,000	48,797	$ 1,463,918
0560-0004	**Report of Acreage**	Department of Agriculture/ Consolidated Farm Service Agency	6/30/97	Open	5.3	2,854,710	15,000,914	$450,027,434
0572-0059	**Electric & Telephone Standards/Specifications Acceptance, Telephone Field Trials, & Telephone**	Department of Agriculture/ Rural Utilities Service	9/30/97	Open	5.0	8,387	41,958	$ 1,258,739
0572-0076	**REA Specification for Quality Control and Inspection of Timber**	Department of Agriculture/ Rural Utilities Service	9/30/97	Open	5.0	39,166	195,937	$ 5,878,119

Source: OMB and agencies' ICBs

Mr. OSE. Thank you.

Dr. Graham, is it your understanding of the requirement for approval of forms, do you concur with Mr. Rezendes in terms of the form having to be approved by your shop before it's put out so to speak?

Dr. GRAHAM. Yes, sir.

Mr. OSE. OK. I just wanted to get that on the record. Those nine.

Dr. Graham, my invitation asked for your written testimony to address five specific subjects. The first of those was the specific reductions in reporting and recordkeeping of at least 250,000 hours accomplished since April 11th of last year and additional specific paperwork reductions of at least 250,000 hours expected in the remainder of fiscal year 2003. The question I have, well, it is a statement actually. The question I have is, when you put out the statement—this was to the agencies—OMB stated, "In the fiscal year 2002 Information Collection Budget, we asked each agency to identify at least two major initiatives to reduce paperwork burden on the public," and then went on to say, "That while we encourage you to identify additional paperwork burden reduction initiatives, it is not required."

Now, the question I have is that, I mean, you and I have gone round and round and round since I got here on this issue, and I think you're doing a lot of good work. Why didn't OMB require additional paperwork reduction initiatives for fiscal year 2003? It's the "require" issue that I'm trying to get at.

Dr. GRAHAM. Well, Mr. Chairman, last year, as you recall, we required all but 12 of the agencies to provide us initiatives and a number of them did. And, what we did this year is, we brought the remaining 12 which had not provided initiatives, we required them to come up to the pace of the rest of the agencies.

I think implicit in the question you're asking is the idea that these initiatives only take a year to do, and you are done. After this year, you could start a new initiative. We made the assessment that just layering on an OMB "requirement" for another set of initiatives on top of the ones that are still already in progress wasn't likely to reach tangible results.

Mr. OSE. So the previous year's request, if I recall correctly, was you had asked for two initiatives from a host of agencies and departments. And then this year, to those agencies and departments where no request had been made, you went back to them this year and asked for them to put forward their initiatives.

Dr. GRAHAM. That's right. And, as I recall, Mr. Chairman, you encouraged us to make sure that we didn't let those 12 agencies slide another year. That's my recollection of it.

Mr. OSE. I agree. I am interested in having across-the-board impact here. The paperwork reduction initiatives that have resulted in decreases of at least 250,000 hours due to an agency action, those that were accomplished since April 11, 2002, I would be interested in having that list for the record.

And then, I'd like to know what significant initiatives are planned for the remainder of fiscal year 2003 for the five following non-IRS agencies. For the five following non-IRS agencies, which each levy, according to our numbers, over 140 million paperwork hours of burden on the public.

I'm going to read them to you, and then we'll send you a question on this beyond, unless you know the answer today. The first is Health and Human Services, the second is Department of Transportation, the third is Department of Labor, the fourth is the Environmental Protection Agency, and the fifth is the Securities and Exchange Commission. Those five agencies have significant influence on the paperwork burden for the public, and we'd appreciate knowing what specific initiatives we've got going now to reduce the paperwork burden on those.

Now I'm going to recognize the gentleman, Mr. Janklow.

Thank you.

Mr. JANKLOW. Thank you very much, Mr. Chairman. Thank you.

If I could, Dr. Graham, I'm puzzled. You said, I believe, in your testimony, that, although there have been millions of hours worth of successes, we're dealing with billions of hours of paperwork. Well, if we assume we've had 10 million hours worth of success, versus 1 billion hours of paperwork, there's been a 1 percent reduction. At that rate, to get to zero, I'd have to be, like, 163 years old. And, I'm just wondering, is there better light at the end of the tunnel than a 1 percent reduction per year? And, I say this understanding that you showed up at the scene of this crime. You know, at least you're not one of the perpetrators yet. You're just an investigating officer. But, what does it take to get people moving? What's the problem. I mean, is it they ignore you? Is it that they don't understand you? Is it that they don't care? Or they're incompetent. You know, World War II only lasted 3½ years. And, it seems like this is going to take decades to do. What's the problem?

Dr. GRAHAM. Well, I think there is a problem. But let me try to break it into pieces for you, sir.

The chairman of this subcommittee has for several years been pushing us to report our data in a way that you could tell whether increases in paperwork burden were due to discretionary actions on the part of agencies or whether they related to statutory demands placed by Congress or whether they related to demographic factors or simply the growth of the economy or changes in the population, for that matter.

We have done that in this year's report, and that analysis is part of the ICB. And, what you'll find is, that, if you look at the subset of the paperwork burdens that are within the control of the agencies, the people at this table here today, if you can think of them in some ways as the more discretionary types of paperwork burdens, they're actually going down in net terms and at some of the agencies, the ones I mentioned, they're going down quite significantly.

So the big—and I hate to turn the table a little bit on you here. If we're going to make big progress on this problem, we can't do it alone at OMB. We can't do it alone with the agencies to my left. We need the U.S. Congress to join us in that effort.

Mr. JANKLOW. Look, nobody says this group's blameless. As a matter of fact, the public blames them more than they blame your agency. They think we're, you know, we're co-conspirators at least, if not principals in the crime.

But, I listened to Mr. Rezendes' testimony, and I listened to Mr. Wenzel's testimony, and they look like two trains passing in the

night on different tracks. Either Mr. Rezendes is correct with respect to the substantially increased burden in the IRS or Mr. Wenzel you are. What do you disagree with Mr. Wenzel with respect to what Mr. Rezendes said about your agency?

Mr. WENZEL. I want to comment on the example that was given regarding the three additional lines that were added to the Form 1040 this year, Line 23, Line 26, and Line 49. These lines deal with tax credits that the Congress passed into law that were required to be implemented for tax year 2002. These are good credits. They're really favorable. One was for teachers, one was for tuition, and one was for retirement credit. Obviously they needed to be added onto the 1040, and that increased the number of burden hours.

We view the changes as mandatory, required the law that was passed, and believe the form was changed that is as clear and as concise as possible to minimize taxpayer burden.

Mr. JANKLOW. Mr. Rezendes, have you had—were you asked to or have you estimated what percent or what volume of the paperwork problem, if I can call it that, within the government can be attributable to be Congress? How guilty are we in mandating the types of things that are creating problems for the American people.

Mr. REZENDES. You're asking me?

Mr. JANKLOW. Yes.

Mr. REZENDES. In looking at the ICBs, which are the documents that the agencies submit, there is one column that breaks out what is attributable to statutory increases. And, there was 120 million hours attributable to statutory increases this year.

But if I could comment on your question earlier, I think Dr. Graham correctly pointed out in his testimony earlier that there are three ways to cut paperwork. You're either going to reduce a question on a form or eliminate the form, you're going to provide categorical grant exclusion to a certain class of people from not having to fill out that form, or three, you're going to use technology. I think your point earlier was technology has not been utilized to the extent it needs to, and I think IRS is a good case example of that. While they're certainly making a lot of progress in technology, there's a lot further way to go. I also think at IRS there's some ways to look at their form design. We are about to issue a report this afternoon that's being released to the Senate Finance Committee, which will be talking about that. I can't talk about it too much now, but we are talking about the way to redesign forms and get others involved in the design of those forms.

Mr. JANKLOW. But, sir, do we really need to have a special report to the Congress on how to redesign a form?

Mr. REZENDES. Well, yes. If you are going to do a questionnaire to somebody, you want to pretest it. You want to see how are they answering the questions, are they flipping back, are they confused, are they in the right order? Are they getting the information you need in a timely way?

Mr. JANKLOW. You think that's the way the normal business does it, I mean the small business? They field test their forms?

Mr. REZENDES. Yeah. By and large, that's standard industry practice.

Mr. JANKLOW. That's why we need to change it.

Dr. Graham, a question for you. With respect to the—you testified that you had to go all the way to the Deputy-Secretary level at some agencies. What agencies were those?

Dr. GRAHAM. U.S. Department of Agriculture, Department of Housing and Urban Development.

Mr. JANKLOW. Why would you ever go to that level to get compliance with an act of Congress and your mandates, the mandates of the OMB? What's wrong within those two departments that you have got to go all the way to the Deputy/Secretary level to get compliance with the law?

Dr. GRAHAM. That's a good question. And frankly, you have more experience in the public sector management process than I do.

We were struck by the fact that at some agencies, when we started at the CIO level, we were able to make progress immediately. But, at other agencies, the way they're organized the CIO doesn't necessarily have the influence within the agency to make this kind of progress happen, that violation reduction. In other agencies, we went to the general counsel, who has a good bit of influence, and we made progress at those agencies. But, there were two of them, I just mentioned them, where we were not able to get attention of the people who need to the following whether or not they're violating the Paperwork Reduction Act. We couldn't get their attention without the Deputy Secretary.

Mr. JANKLOW. Let me ask you, sir, and I say it nonfacetiously. We're struggling to deal with a budget deficit this year that may be anywhere from $400 to $500 billion, or $300 to $500 billion. Would it be helpful, as we all talk about waste, fraud and abuse, if we were to be able to identify who these people, inefficient people, are so we can just eliminate them from the government and the funding and get them out. Would that be helpful and would that be an incentive to some of the others to maybe think that maybe they ought to follow the law?

Dr. GRAHAM. I think we definitely need to find ways to get people to take more seriously the paperwork.

Mr. JANKLOW. Would that be a way to make it——

Dr. GRAHAM. I don't have a good sense of what the best solution to that is. We have learned, at different agencies, different solutions work. And, I don't have a good sense of whether the particular proposal you have is well-intentioned. I just don't have a good feel of whether it would work.

Mr. JANKLOW. Then we should have a pilot project this year at HUD and Ag.

Dr. GRAHAM. Hey. HUD and Ag have made a lot of progress.

Mr. JANKLOW. Well, we keep saying a lot of progress, sir, but then the testimony is the amount of paperwork has gone up. And so, I don't understand.

Dr. GRAHAM. I was just, actually, referring narrowly to just the violations question. And, for those of us who have been here for several years at these hearings and who have seen what we have observed from those two agencies, for them to have made the progress they have made on paperwork violations, I mean, that is a lot of movement.

Mr. JANKLOW. Let me ask you this, sir, if I could ask you. Unfortunately, you're the focus of a lot of my questions. But could you

tell us what agencies we might want to ask to come before this committee, or this subcommittee to respond to questions? Is it HUD and Ag? Are there any others that are troublesome, so maybe we could help them discuss it in the public arena, that it might give them additional incentive?

Dr. GRAHAM. Well, I think—was it last year? The chairman may remember better than I do. I believe we had—it may have been USDA and some of those agencies. And, I think that is helpful. I mean, people have an image that OMB can make a requirement and these agencies are going to march off and devote resources to solving these problems. The process of government is more complicated than that. It requires a lot of encouragement on the part of the agency for multiple quarters to make things happen because agencies have a lot of issues and priorities in front of them.

Mr. JANKLOW. Mr. Rezendes. And, this will be my last question. Mr. Rezendes or you, Dr. Graham, do we have an estimate as to how many forms there are in the Federal Government that the public has to fill out?

Mr. REZENDES. I'm told 8,000.

Mr. JANKLOW. Do you know, Dr. Graham, whether or not you'd agree or disagree with that?

Dr. GRAHAM. I don't know for sure. But, I remember seeing some data that just a couple of forms account for a very high fraction of the overall burden. And, my colleague from IRS, sitting to my left could probably tell you which forms those are. So I think while it's useful to look at the number of forms out there, the burden is concentrated on a couple of key forms.

Mr. JANKLOW. My time's up.

Mr. OSE. Congressman Janklow, I have a form here regarding the paperwork burden in millions of hours by agency. It's got the Treasury, 81 percent of the government's paperwork burden primarily focused on the IRS.

I want to followup on something, Dr. Graham. In previous testimony, you have been very, very thorough, and you've talked about the necessity of evaluating whether or not information is worth collecting, as well as whether it's worth reporting. I mean, that's kind of been a consistent theme. What efforts have you made over the past year in giving, what I thought was one of the more creative things, prompt letters to agencies, asking the question do you really need this information? Could you give us some examples of that, if any?

Dr. GRAHAM. Well, we have been engaged not in prompt letters specifically, but in meetings in my office with officials from agencies on the subject of particular paperwork collections. And, I want you to understand, Mr. Chairman, that a year ago these meetings on paperwork-reduction issues were at my staff level, OK. There have been, in the past year, with HUD and with USDA particularly, meetings in my office, in my presence, looking people in the eye and asking why do we have to have the situation we're having.

So, sometimes a public prompt letter will do good, other times, simply gathering people in the room and asking, this seems like a pretty straightforward issue, can't we solve that problem, and we've done that. And, that's what violation reduction is about.

Mr. OSE. Well, one of the issues we talked about in this regard was, as it particularly relates to Agriculture and reporting requirements for different operating entities and what have you, whether or not we could simply add a box to the form that says, "No," and could you check that box, and it would say, "No change from last year."

Has that been the subject of any discussions such as you've described, or has it been focused more on the violations of the forms?

Dr. GRAHAM. We had a meeting on the subject with Bureau of Reclamation and another agency. But, we had a discussion on that subject.

Mr. OSE. Regarding the water use in the Central Valley Project?

Dr. GRAHAM. Yes.

Mr. OSE. What was their response?

Dr. GRAHAM. You know, I want to be careful I remember this exactly right. I may have to give this to you in writing, but I think there was an opportunity for people to express comment on the need for that, and the agency said they didn't get any comments so they don't have to do that.

But I will get you in detail, what the response was, if you are interested.

Mr. OSE. We are going to add the Bureau of Reclamation the next time, because we are going to have this discussion.

Dr. GRAHAM. Please get that question to me in writing so I can get a fair representation of exactly what the sequence of events was. It was not without attention that it got to the point where it was.

[NOTE.—The information is provided on page 20 of OMB's May 23, 2003 response to post-hearing questions located at the end of the hearing.]

Mr. OSE. I can guarantee you, if someone wants comment, we will get you comment on the necessity of having that little box there.

The other issue is that I'm looking at table A–2 in the Information Collection Budget and table A–1 going back to the question of the burden is it generated by congressional action with new statutes? Is it generated by agency action? Is it generated by something else?

And, if I look at the fiscal year 2002, changes due to agency action and the overall burden, it was a nominal decrease, statistically not meaningful against the total; in fact it is rated here at 0.0 percent in 2002, changes due to agency action. And, then in 2003, while the number is larger the meaningful impact remains at 0.0. And, this, again, is in terms of agency action; in other words, interaction with your office and the like.

Now, there was also a question earlier today about how much burden has been placed on the American public due to new statutory requirements. And, this Information Collection Budget reports on that. In fiscal year 2002, that number was 1.5 percent; in other words, there was 1.5 percent greater paperwork burden as a result of congressional action than in the previous year. And then, in fiscal year 2003, that number was 0.0, so it wasn't meaningful.

My point in bringing this up, there doesn't appear to be any significant change from 1 year to the next, whether it's agency action

or added burden from Congress. And, I just keep coming back to that question. This is table A1 and table A2 on pages 40 and 41. And, it shows 0.0 for fiscal year 03 as a net result, which I find unsatisfactory. And, that accounts for every agency and department in the aggregate, not by agency, but in the aggregate. And, I am trying to figure out how to push that 0.0 first to 1.0 and then 2.0 and then 3.0 so we get back to complying with the Paperwork Reduction Act.

What do you suggest we do in that regard? You are there on the front lines and interacting with the agencies. What's the key here?

Dr. GRAHAM. There is no one single key, but I think one thing that will be helpful is when we talk about the overall burden, which is on the order of billions of hours, we have to understand that agencies on their own actions are never going to move the dial on the billions, but they are responsible and they can make a difference on the order of millions. We have demonstrated to you at several agencies that they have made that net progress on the order of millions.

So, I think it is very important at the same time that we criticize the agencies and we criticize OMB for not moving the billions, that we understand that's not going to happen. We alone are not going to move the billions. We should acknowledge the agencies when they make progress on the order of millions, because that's the scale that's within their control on these types of issues. They cannot on their own change the size of the economy, they can't change the statutes they're implementing. Those are not within the control of the agencies.

Mr. OSE. Well, the primary burden as you pointed out is over at Treasury anyway. That's where the big-dog-hunts kind of thing.

Dr. GRAHAM. When you look at the change from year to year, when we make progress like that on that flip chart of reducing violations of paperwork, the recorded burden and the statistics that you're looking at are going up because now these burdens are counted accurately. So, the more progress we make on those violations, OK, the way these statistics are generated, burden will now go up because these data are in the system. So it's important to realize that you have to take out—when you look at the increases, the 8 percent in the last year, we can't control what Congress does, we can't control the violations problem. It's only that fraction which is in the control of the agencies that we can get our hands on.

Mr. OSE. Well, the same report that I just cited, tables A1 and A2 show in the aggregate the violation to be not meaningful, 0.1 percent of the total.

Dr. GRAHAM. When you're taking a percent of billions you are going to get a lot of zeroes. I think if you look at the question of why we are up 8 percent compared to last year, OK, and you break that out, it turns out that, what was in the agency's control, was a pretty small fraction of that. And, that I think is an important message.

Mr. OSE. Willy Sutton used to always say, "Why do you rob banks? That's where the money is." I keep looking at this chart, Treasury has got a huge piece of this. And, Mr. Wenzel, I do want to compliment you. When you do something right, you need to be complimented, applauded, and what have you. The discretionary

act you all took relative to the reporting of dividends and interest, that was discretionary. I mean, the Commissioner made the decision, raised the threshold, eliminated the reporting requirement for hundreds of thousands if not millions of Americans.

The question I have is are there other opportunities discretionary in nature that we need to be asking you to go ahead and implement?

Mr. WENZEL. Mr. Chairman, absolutely appropriate question in terms of the example you gave, and no we haven't stopped there. Our Office of Taxpayer Burden Reduction and the staff and other parts of the IRS, including our National Taxpayer Advocate Office, for example, are providing input in terms of opportunities like the Schedule B, and we have committed ourself in going forward to go over every single line on every form on every schedule that is currently part of the IRS's inventory. We are looking at both individual forms and business forms, and exempt organizations, to see where there's opportunities like the Schedule B where we can make changes that are at the discretion of the Commissioner, based on what the Secretary of the Treasury delegated to the Commissioner of the Internal Revenue Service.

Mr. OSE. One of the things on that particular issue is that you get this information in the form of W2s and the like from other sources. So, you have a source of information other than the taxpayer that's generally computer-generated or electronically-generated. Are there other such opportunities? For instance, mortgage interest, I suspect you get statements filed electronically or by magnetic tape?

Mr. WENZEL. That's correct, Mr. Chairman. It's the form 1098 and a very high percentage of that form is now transmitted to the Internal Revenue Service electronically as are the 1099s that include the dividends and interest.

Mr. OSE. If that's the case, why not set—I mean if that's the case that you're getting that information electronically transmitted to you, you're still requiring the taxpayer to turn in their form and what have you, and you got to write the number in and what have you, what's the purpose of asking the taxpayer to attach the form that they receive from the financial institution to whom they've paid interest?

Mr. WENZEL. Generally all we require in terms of attachments is the W2 statement. Attaching other forms, the 1099s and so forth are optional.

Mr. OSE. Do you have specific examples similar in nature to the dividend interest that we just talked about that we can talk about today, specific things that the IRS is looking at?

Mr. WENZEL. We have some of the initiatives underway with small business and with the larger corporations.

Mr. OSE. You talking about Schedule Cs and the like?

Mr. WENZEL. Schedule C is part of the 1040. And, as I mentioned, we are going over lines on every form and on every schedule and when I our new Commissioner appears before this committee next year, I believe he will report other positive results similar to what we have achieved with the Schedule B.

But, the area that we really need to start and we're doing it right now, is to reduce burden on business tax returns. One of the forms

that right now is under our scrutiny because it's required to be filed four times a year is the Form 941. As you know, that's where employers are required to report the withholding and Social Security taxes and it requires a lot of preparation and a lot of work.

Incidentally, I know that you were interested in this, but the one initiative that we took at the IRS that wasn't required by legislation was the four lines added to the 941 this last year, which when calculated, increased the burden hours. We added the four lines at the request of the taxpayer and his or her third-party preparer. All those four lines are is the name of the individual who prepared the form, the telephone number, and other important information, because the taxpayer has, through focus groups and other outreach activities has asked for them the taxpayer does not want to be burdened by taking a call from an IRS employee when they are paying somebody. So, we were able to add the four lines to the form at their request. So now, when a call comes in from a third-party preparer, we see it is already authorized by the taxpayer and we deal with that individual by taking the information from him.

Mr. OSE. Gentleman from South Dakota for 15 minutes.

Mr. JANKLOW. Thank you, Mr. Chairman. When Congress is contemplating legislation, do any of the administrative agencies let Congress know the extent to which they think it will add to the paperwork burden to the American people? Is any of that kind of testimony or information given to Congress at the time we're acting? Any of you know?

Dr. GRAHAM. I think there is an effort by the agencies and certainly by the OMB to indicate the impacts of legislative proposals. But, quite frankly, in the dialog between the executive branch and the legislative branch on the burdens and benefits of legislative proposals, oftentimes there are other sources of that information that are more credible than even the executive branch, and there are arms like the Congressional Budget Office, the GAO and so forth. And, my suggestion to you is to not rely exclusively on the executive branch.

Mr. JANKLOW. I wouldn't.

Dr. GRAHAM. And, I think you're on a good track.

Mr. JANKLOW. It's not the legislative agencies would have any expertise in understanding how great an additional burden this might be, and it's very valid to complain or to suggest that, while we criticize, we add to the burden. And, so that's why I was asking if anybody gives insight or any estimate to Congress or the various houses or committees as to what impact it might have.

Mr. Henshaw, if I could ask you, sir, what is it that could be done to make the Labor Department get to zero in a year to have no problems? What's it going to take?

Mr. HENSHAW. Congressman, I think zero—I don't know zero burden, and to carry out the statutes that are required under the Department of Labor, I don't know if zero is attainable to still fulfill the requirements under the statutes. I can speak directly to the occupational safety and health.

Mr. JANKLOW. When I say zero, it's zero within the framework of carrying out the statutes. I understand that, if you're ordered to do something by law, that shouldn't count against you. I am talking about the discretionary stuff.

Mr. HENSHAW. The discretionary stuff you referred to as a war, there's continuing battles. And, we are continuing to pursue to reduce those burdens, the discretionary burdens. To give you an example, at least from the Occupational Health and Safety Administration, what we are trying to do, we have the standards improvement project. Some of our standards are quite old. We ought to do away or improve those standards and do away with the requirements that don't add value. And, we're in the process of doing that. When we determine what they are, then we'll reduce those burdens.

Mr. JANKLOW. Is there anything we can do to help you?

Mr. HENSHAW. Keep the pressure on, and you're obviously doing a good job of that. I come from the business side and I understand the burdens that government places on business, small and large. My father was a small business person. And, we have to be mindful of everything we do, whether in fact it's going to cause a burden or does it add a benefit or is the benefit worth it.

Mr. JANKLOW. Do you think that psychology exists within the agency?

Mr. HENSHAW. I think it exists in parts of the agency. It needs to be up front and foremost in everything agencies do. And, I think in the Department of Labor and certainly in OSHA, it's up front and foremost in our agency.

Mr. JANKLOW. I think in your testimony, you said employers with 10 or fewer employees don't have to fill out the logs; is that correct?

Mr. HENSHAW. The recordkeeping log, yes.

Mr. JANKLOW. Would there be any effectiveness in increasing that number beyond 10? Let's say we were to take it to 12 or 14; has anyone estimated how much of a savings that would be?

Mr. HENSHAW. I don't know——

Mr. JANKLOW. Would that be a significant increase?

Mr. HENSHAW. Given the fact that most of the employers out there in this country are small businesses, I don't know what percentage are less than 10 or less than 20. I am sure we have that number somewhere. In the recordkeeping rule that was revised in the draft proposal that was out in 1996, there was a suggestion that the threshold be moved up to 19 employees. During the comment period, it was discussed whether that would add value, whether that's the right thing to do in respect to the tradeoffs of job safety and health, which is what our statute requires. And, it was determined based on those comments that bringing it up to 19 would not add any value in respect to accomplishing the requirements under the statute, so we left it at 10. And so, the new rule that came out in January 2001 maintained the same limitation. If you're 10 or less—10 or less, you don't have to fill out the logs.

Mr. JANKLOW. I am puzzled as to how—what's the basis that they would determine a 90 percent increase in the threshold would be—from 10 to 19 would not bring much value?

Mr. HENSHAW. The tradeoff in respect to the benefit versus the value. Certainly it would have reduced burden on those that were between 10 and 19.

Mr. JANKLOW. All right. But when you talk about the benefit ratio, what would be the negative side of it? What is it that you

wouldn't be giving? Is it a data base you need to make decisions? Is this what you utilize it for?

Mr. HENSHAW. That's correct. Not only for us but the employer. Keep in mind that the majority of our fatalities that occur in this country work for small employers. The majority of the injuries and illnesses or a lot of the injuries and illnesses that occur in workplaces are in small workplaces. Our techniques are around enforcement, developing the right kind of standards that impact those businesses. But, it's just not the standards, it is also outreach, education and assistance, compliance assistance. We wouldn't know which industries to focus on in our free consultation services, for example, to get those consultation services to those businesses—which is free of charge—so they can reduce the hazards.

Mr. JANKLOW. Are all these injury/illness logs submitted to OSHA?

Mr. HENSHAW. We don't require those to be submitted. They are required to keep them, but we don't require them to be submitted. However, we do do an initiative of about 95,000 workplaces where we do require those logs to be sent into the agency.

Mr. JANKLOW. Are they sent in electronically?

Mr. HENSHAW. Yes, partially. If it is available electronically, not all.

Mr. JANKLOW. It is the discretion of the filer?

Mr. HENSHAW. To do it electronically or hard copy.

Mr. JANKLOW. So 100 percent are available to be filed electronically?

Mr. HENSHAW. Absolutely.

Mr. JANKLOW. Now, with respect to having the businesses above 10 keep the logs—and you said you needed them for data base purposes—but they don't send them to you, what good is that? Why don't you have them send them to you if they can be done electronically and then you'll have the data and maybe you'll be able to raise thresholds then.

Mr. HENSHAW. We have 7 million work sites out there in this country sending all those data to us; we don't need those data. Our data initiative addresses about 95,000 workplaces and we request data from those workplaces so we can do our targeting. We don't want to do enforcement on facilities that have low injury rates. We want to focus on enforcement on those facilities that have high injury rates.

Mr. JANKLOW. I probably didn't ask it very well. If I am an employer with 12 employees, I am required to keep the logs. But unless you come around to my place, you don't know what's in the logs, correct?

Mr. HENSHAW. Unless they are part of the data initiative.

Mr. JANKLOW. Of the 95,000. How many people keep logs in the country? You have 95,000 over here that are part of the initiative. How many businesses keep logs?

Mr. HENSHAW. I don't have that figure.

Mr. JANKLOW. Tens of millions?

Mr. HENSHAW. If there are 7 million work sites out there——

Mr. JANKLOW. You have 95,000 versus 7 million. If it's 100,000 it would be, what, one, seven-hundredths?

Mr. HENSHAW. The value of the employer keeping the log is one for their own records so they can make improvements or know where the injuries and illnesses are.

Mr. JANKLOW. I understand that, sir. But my point is if you're going to make them keep them, why can't all of them who want to submit them to you electronically and you have the software that compiles this and gives you the reports you need, now you really have a database that will give you the information; and maybe over time, once you have established that, you'll be able to reduce that as a burden also for people. Am I making sense?

Mr. HENSHAW. I think we are adding burden as opposed to taking away burden. We require all workplaces now to mail that.

Mr. JANKLOW. I said let them send it in voluntarily if they wanted to, only electronically.

Mr. HENSHAW. On the data initiative, they have the option.

Mr. JANKLOW. That's the 95,000. I am talking about the other 6,910,000.

Mr. HENSHAW. There's nothing to prohibit them from sending it to us if they want, but we're not asking them to do that. And, if we ask them to do that, I think that would be an additional burden.

Mr. JANKLOW. Dr. Graham, what's the most frustrating part about getting this done? Where are you really having the most difficulty?

Dr. GRAHAM. It's a good question. I think the biggest challenge in this area of reducing needless paperwork is, quite frankly, that there are so many other priorities that agencies face that, at the staff level, they would frankly prefer them spend their time doing. Apathy is our biggest enemy in the battle against government paperwork. And, that's why the efforts of this subcommittee are very important because we need to raise the profile of this issue. It's an accumulation of lots of little paperwork requirements that create billions. And, even if you look at non-IRS, it's still a big enough problem to care about and work hard on.

So, I think the root of the problem is there aren't enough people saying this needs to be a priority of the Federal Government. As much as I know this subcommittee has as its priority, I am not sure a lot of other subcommittees have it as a priority.

Mr. JANKLOW. Mr. Rezendes do you agree that those are the biggest issues?

Mr. REZENDES. IRS is 81 percent of the total governmentwide burden.

Mr. JANKLOW. I think what everybody is suggesting is we ought to ignore everybody else and focus on IRS for a while.

Mr. REZENDES. I'd agree to that. That's really where you have to put your money. That's really where it's going to have the biggest impact. And, there's two pieces to that. One is obviously legislation simplifying the Tax Code could probably do more to simplify IRS's paperwork burden requirement than anything else; and two, using technology at IRS in redesigning their forms on a more electronic basis will give an improvement pending simplification.

Mr. JANKLOW. Mr. Wenzel, when I listen to your testimony, I believe you indicate it's 31 million hours you were able to reduce in the last year; is that correct?

Mr. WENZEL. Yes.

Mr. JANKLOW. Of that 31 million hours, 20 million of it came from eliminating the reporting threshold. So eliminating a reporting threshold that is 20 million hours' worth of savings, 10 million hours was from reduced recordkeeping for day care centers and 1 million was just by taking out the less-than-zero checkbox. That's it? I mean, is that the result of a real hard year-long effort? How hard was it—I am not trying to be facetious. It couldn't have been very hard to change the threshold.

Mr. WENZEL. No. In that case, the change to Schedule B was at the discretion of the Commissioner.

Mr. JANKLOW. It couldn't have taken long once the decision was made, so that takes care of two-thirds of the savings. And then, getting rid of the less-than-zero checkbox couldn't have taken long. So, we're down to reduced recordkeeping for day care providers. I can't believe that's where the major focus of the IRS has ever been anyhow. Frankly most day care providers don't care what the recordkeeping is. They don't keep them.

Mr. WENZEL. You're absolutely right. As I mentioned earlier, based on just a couple of those examples, we are fully committed now, putting the resources that need to be put in for a complete review of every form and every schedule.

Mr. JANKLOW. Are you doing it now?

Mr. WENZEL. We have started it.

Mr. JANKLOW. How long will it take?

Mr. WENZEL. With the number of forms, it's difficult to estimate other than commit to you we want to get this done as quickly as we can.

Mr. JANKLOW. Are you starting with the forms that take the most amount of paperwork and then working down?

Mr. WENZEL. Absolutely. We do a complexity analysis anytime new legislation comes to the IRS in terms of implementing a new tax law provision early on in the process, determine the real complexity of what the new law is and the burden that's going to be placed on individuals or businesses. And, obviously in terms of the effort I described, we really need to look at those that would have the best effect in terms of the number of individuals or businesses and the quickest results.

Mr. JANKLOW. Thank you very much.

Mr. OSE. Thank the gentleman.

Dr. Graham, the small business paperwork law that was passed out of the House and the Senate and signed into law has a number of requirements. I'm trying to check on the status of those. The operative date is June 28th of this year. The requirement was that OMB publish a list of all compliance resources available to small businesses in the Federal Register. Is this list going to get done? Is it going to be up on the Web site for OMB by June 28th? Have you thought about how to organize the list so it will be useful for small business? And, we had a discussion last time you were here about the codes and which codes to use and all that sort of stuff. Which code standard is going to be used in terms of listing the categories?

Dr. GRAHAM. Mr. Chairman, the work that you're referring to is being done in the context of the interagency task force that is man-

dated within the statute. It's being co-chaired by myself and Mark Forman, who is sort of our electronic government guru. And, the agencies have been working for several months now on the project. They have had two plenary meetings and then three subgroups who have broken up pieces of the charge that were in the statute. They don't have the results yet and I haven't been briefed on the results of those activities. What I have been told at a general level is they're still on target for the date you mentioned, which was specified in the statute. My guess is that, if we were to miss it, we wouldn't miss it by a lot.

Mr. OSE. There is a requirement to simplify the point of contact as a liaison. Do you know how many agencies have identified that single point of contact requirement?

Dr. GRAHAM. I don't. My understanding is that's part of the work of the task force.

Mr. OSE. We're going to be sending a specific question on that and we'd like to get that down. How many meetings of the task force have been held?

Dr. GRAHAM. Two plenary meetings and there are three subgroups that are working. Some of that is electronic and phone. I don't know if those are full meetings, but there's been definite progress.

Mr. OSE. I'm not going to ask whether you are going to make the June 28th, because then I am going to have to ask if you don't make the June 28th, when will you? I don't want to encourage you to miss June 28th.

Dr. GRAHAM. We may make the June 28th. I haven't given up on that one bit. I just don't want to overpromise.

Mr. OSE. I understand. Underpromise and overdeliver. Mr. Henshaw, I want to go back to this illness injury log question. Your testimony is based on a 1996 rule and then you also mentioned a January 2001 rule that was published in the Federal Register.

Mr. HENSHAW. That was the completion of that rule.

Mr. OSE. Affirming the 10-employee level threshold.

Mr. HENSHAW. Correct.

Mr. OSE. The date of that publication is January——

Mr. HENSHAW. January 2001. I don't know the precise day in January.

Mr. OSE. OK. Now the question I have, if you were going to change that threshold, you would have to go back through due process, put it out for comment and the like; is that correct?

Mr. HENSHAW. That's correct.

Mr. OSE. And, yet following up on Mr. Janklow's testimony, you don't know how much of an impact; raising it to, say, 19 or keeping it at 10 or 14—you haven't quantified that?

Mr. HENSHAW. I didn't have the information when you asked it, Congressman, but I have it now from my compatriots behind me. The 10 and above represents 14 percent of the total 7 million work sites. So if we add—I don't know what the 19 would be, what percentage of that 14 percent. I don't know what percentage that would be, but what we have right now, the requirement impacts 14 percent of the 7 million work sites.

Mr. OSE. Following on Mr. Janklow's questions also, in terms of the work sites across the Nation, you mentioned 7 million work

sites. And, you're collecting data from 95,000 work sites off these illness/injury logs, which is roughly 1⅓ percent of the total work sites. How did you come to a sample size? How did you come to a sample size of that number?

Mr. HENSHAW. The rationale behind—this is part of our data initiative, which is used for our enforcement. So, we make sure we don't go to places that don't need enforcement. And so, what we look at is industries that have or you would expect to have a high injury and illness rates. So we look at SIC codes, first of all, and see whether, in fact, those SIC codes are typically those areas that have high injuries. Manufacturing is a good example. And, that's the basis by which we pick the 95,000, it is based on injuries and their historical injury and illness rates and our inspection history.

Mr. OSE. Now, how do you know—going back to the due process, how do you know as industry evolves that safety records don't also evolve and thereby invalidate where you're looking? If you're only sampling those 95,000 and it's based on basically almost 10-year-old data, I mean how do you know that something hasn't evolved to shift the——

Mr. HENSHAW. It's based on last year's data. So we're gathering the most recent annual injury and illness statistics for that facility.

Mr. OSE. So you use those 95,000 for the previous year to build your data inquiry base for the coming year?

Mr. HENSHAW. Yes. Every year we ask for 95,000 facility records and then we base our inspections on that last year's report.

Mr. OSE. We have a number of written questions that we will followup with you.

I have one last question I want to ask Mr. Henshaw. Last April, when Secretary Chao was here, we brought to her attention 38 Department of Labor information collections of 500,000 hours or more of burden. Now, you have attached to your testimony a status report for paperwork changes associated with about half of the 19 particular items and I have a list here of a significant nature. But, we haven't seen anything in the Federal Register relative to proposals for paperwork changes related to those.

What I'm trying to find out is what specific program decreases and increases were made for any of these 19 since last April or are planned for the coming fiscal year? And, I'd be happy to give you this list or send it to you in writing so you can see it. It's got things ranging from noise to access to employee exposure medical records, to powered industrial trucks. Every one of these is over 500,000 hours in paperwork burden.

You can expect this question in writing to find out what exactly Department of Labor has done in the past 12 months to affect either increase or decrease to the paperwork burden in these 19 areas. I just want to let you know that.

Now, Mr. Janklow, I'd be happy to yield for a final round to you.

Mr. JANKLOW. I'll be very brief, Mr. Chairman.

Mr. Graham, if I could ask you this. In reviewing the testimony of the next panel of witnesses—because you're going to be gone—one of the witnesses has submitted testimony that basically says that he's required to fill out forms for his business, that he received a 2002 economic census from the Department of Commerce, OMB form 0607–0887. He says in the 16 years of doing business, he's

never received this form before and that it asks for all kinds of information. He's been told by the Department of Commerce that the Department of Commerce has told NFIB that the information provided on this form doesn't have to be 100 percent accurate and that the responses can be estimates. He says then on page 6 it says you are notified, though, if you don't fill out the form, you could be subject to a $500 fine.

What efficiency could there possibly be in sending me a form from the Federal Government that tells me I have to fill it out or be fined $500, and then I can estimate whatever it is that I put down there? Who in the world could use that information? And, let me ask you this: Is this the information that we then collect and pass out to the American people as fact, these estimates that are given to us by tens of thousands, if not millions, of reporters?

Dr. GRAHAM. It's a good question and I will be eager to hear more about it. And, I'll be happy to look into it. If you determine after hearing the full testimony that there's questions there, I am happy to look into it.

Mr. JANKLOW. Thank you. No other questions, Mr. Chairman.

Mr. OSE. I want to followup on something. Is there an OMB number?

Dr. GRAHAM. He said there is an OMB number. It's not a violation apparently.

Mr. OSE. I want to thank the witnesses for joining us this morning. As always, it is a pleasure to be educated on these subjects and to interact. We do have a number of questions we'll be submitting to you in written form for response. The record will be open for 10 days. We would appreciate a timely response. Thank you for appearing. We're going to take a 2-minute recess here.

[Recess.]

Mr. OSE. We are going to move to our second panel here we are in a little bit of a time dilemma here. We expect some votes here in the next 20 minutes. There will be a series of votes. So, one of the things we do on this panel routinely, or on this committee routinely, is we swear in our witnesses so if you all please rise.

[Witnesses sworn.]

Mr. OSE. Let the record show that the witnesses have answered in the affirmative.

Joining us on our second panel today are Joanne Peterson, who is the president and CEO of Abator, Pittsburgh, PA; we have Mr. Victor Schantz, who is the president of Schantz Organ Co. from Orrville, OH, a constituent of a very good friend of mine, Mr. Regula; and we have Mr. Frank Fillmore, Jr., who is the president of the Fillmore Group in Ellicott City, MD, to give us a real life experience.

I do want to recognize in particular that Mr. Schantz is accompanied by his daughter. Welcome. Nice to see you. I believe you're up here on the Hill. Welcome. As you saw in the first panel, we have a 5-minute rule. Your testimony has been received. We've read it. We have a number of questions. We'll move through each. If you could take the 5 minutes allocated and summarize, that would be great.

So, Ms. Peterson, you're recognized first for 5 minutes. Welcome.

STATEMENTS OF JOANNE E. PETERSON, PRESIDENT AND CEO, ABATOR, PITTSBURGH, PA; VICTOR SCHANTZ, PRESIDENT, SCHANTZ ORGAN CO., ORRVILLE, OH; AND FRANK C. FILLMORE, JR., PRESIDENT, THE FILLMORE GROUP, INC., ELLICOTT CITY, MD

Ms. PETERSON. Thank you, Chairman Ose, for holding this hearing on the burden of Federal paperwork. I appreciate the opportunity to testify and I thank the members of the subcommittee for seeking ways to reduce the burden on small business. Small business faces complex and diverse challenges and priorities. One challenge that we have to overcome is the complicated and expensive process to do business with State and Federal agencies. Another is the significant cost in preparing and filing routine paperwork.

Ohio directed Abator to qualify for its State term list. This involves successful completion of a Federal GSA solicitation process. Federal acquisition and GSA clauses run 56 pages, the document itself another 84, and the attachment 68 pages. That's an awful lot of fine print. I'm not sure why Ohio has decided to use this Federal procurement process. I am certain, however, that it will be expensive. We have already spent $840 in labor and another $125 in processing fees for credit and customer satisfaction checks. We could spend another $175 an hour in legal reviews or engage a Federal procurement consultant that would run us $8,000 to $25,000. We won't do either, given our current economic position. By the way, the contractors pay the GSA an industrial funding fee of 1 percent of sales.

I applaud the GSA's efforts to recoup part of its operating costs through this mechanism, but I hope it will explore ways to reduce the paperwork burden on the small businesses that are striving to support them. We have no experience in bidding Federal contracts, so I'll talk about a recent State bid. It required 289 complete bid packages in triplicate and we hand-delivered over 44,000 pages to avoid the shipping charges since our other costs ran about $12,000. Adding the Federal solicitation to this already burdensome process puts small firms like us at a competitive disadvantage.

I am grateful for President Bush's Contract Unbundling Initiative. Abator, as a member of the Women Impacting Public Policy and the Women Business Entrepreneur National Council, supports this initiative. We hope that it will lead to greater Federal participation by small minority and historically underutilized businesses. Though our efforts go unrewarded, we have completed reams of paperwork to support prime vendors on various Federal contracts. We remain undeterred and we will complete the GSA solicitation process despite the intimidating amount of paperwork.

All business bears the burden of annual tax reporting. We spent about $7,700 last year, funds that we could have used to invest in equipment, hiring new employees, or coping with the increasing insurance cost. Streamlining the process would help reduce our cost.

Last year, we spent another $1,575 in reorganizing our pension plan's paperwork to comply with Federal regulations. We didn't change the plan, only the paperwork, and that money could have been used to provide larger pension contributions.

Independent employment status is another issue for us. We believe that section 1706 of the Tax Reform Act of 1986 discriminates

against technical experts restricting their access to entrepreneurial independent status. We filed our SS–8 form in 1986. Twenty questions ran 50 pages. We repeatedly requested a ruling. It took 11 years for the IRS to investigate. Eventually we received a letter that says we appear to be complying with the law. We felt relieved because an adverse ruling could have closed our doors, but we remain concerned because the text contains many gray areas and the IRS can always change its mind.

Since section 1706 we have lost revenues because customers feared their organizations may be at risk and they have canceled contracts because the regulations are murky and inconsistently applied.

Finally, we have had experience in filing three green card applications. The process was a nightmare. Immigration and Naturalization Service phone numbers always ring busy and we never once managed to speak to a live INS representative. Twice they lost the paperwork. In 36 months, no progress was made. We requested some assistance from Senator Santorum and, through his staff, we facilitated a subsequent approval and award process.

Small business is supposedly the backbone of the economy and a high-tech industry is a major slice of our economic future. Many small business owners find ourselves spending limited resources on excessive and often redundant paperwork. Any assistance your committee can offer in freeing up our resources to be used productively would be greatly appreciated.

Mr. OSE. Thank you Ms. Peterson. We got the cross hairs on paperwork up here.

[The prepared statement of Ms. Peterson follows:]

Paperwork Reduction Act Hearing
Business Paperwork Burden
April 11, 2002

Testimony of
Joanne E. Peterson
President & CEO
Abator
Pittsburgh, Pennsylvania

Before the
Committee on Government Reform
Subcommittee on Energy Policy, Natural Resources
and Regulatory Affairs
U.S. House of Representatives

The Honorable Doug Ose
Chairman

Thank you, Chairman Ose, for holding this important hearing on the federal paperwork burden. I appreciate the opportunity to testify regarding the costs and challenges required to comply with federal paperwork requirements, and I thank all members of the subcommittee for looking at ways to reduce and streamline such burdens, particularly for our nation's small businesses. My name is Joanne Peterson, and I am President and CEO of Abator -- a small women-owned and operated supplier of contingent information technology professional services. Today marks the 20th anniversary of Abator.

The challenges and priorities facing today's small businesses are complex and diverse. One such challenge is the significant costs encountered in preparing and filing routine paperwork to both federal and state agencies. In addition, those of us who want to take advantage of additional opportunities in government contracting – and Abator does -- face expensive and quite burdensome requirements in our efforts to conduct business with state and federal government agencies.

Federal Barriers for Small Business Participation in Government Procurement

Abator is pleased to support several state governments, including the state of Ohio. We provide information technology support for Medicaid Management Information Systems in Columbus. Recently, the state informed Abator that the only way to expand our potential business is to get on their State Term contract list. At first we thought this would be "no problem", then we discovered that the only way to achieve this goal is to successfully complete federal GSA SOLICITATION FCIS-JB-980001B - REFRESH #10-9 (issued 10/1/2002). The full text of Federal Acquisition Regulation (FAR) and General Services Administration Regulation (GSAR) clauses affecting this particular solicitation run 56 pages. Parts 1 and 2 of the solicitation document run another 84 pages and the attachment document another 68 pages.

In February 2001, I testified during the State of Ohio Predicate Study about how Ohio's request for proposal procedures essentially eliminated participation by most small businesses, regardless of minority, women or HUB ownership status/certification. I am not sure, but I suspect the state of Ohio has decided to use federal procurement paperwork procedures for state contracting processes to address increased participation by small business. Of one thing I am certain, the process itself will be very time-consuming and costly.

For example, the costs and time *to date*, include:

- 8 hours spent reviewing the documents (about $560 in direct labor)
- 4 hours preparing the past performance report application ($280 + $125 processing fee) to satisfy federal government requirements on Abator's credit rating and past customer satisfaction.

Now, I must determine whether we wish to incur the costs of the attorneys (at $175 per hour) to review the contract language and/or absorb the undetermined costs of a consultant (anecdotal evidence indicate prices running between $8,000 and $25,000 for this consulting fee) to aid in completing the solicitation documents. Then too, there will be the direct labor costs of our internal staff in preparing all of the attachments required. The issue of whether to contract with an outside consultant, or complete this internally without such expertise was a tough decision. I've opted to complete the application without an outside consultant – as a small business, Abator simply cannot commit the extra financial resources to an application process given our current financial position, but I am compelled to look for any opportunities to grow revenues and the company.

It is interesting to note that the federal government will collect service charge revenues from any business Abator acquires under this solicitation. The solicitation requires that: (a) The Contractor must pay the Federal Supply Service, GSA, an industrial funding fee (IFF). The Contractor must remit the IFF in U.S. dollars within 30 days after the end of each quarterly reporting period as established in clause 552.238-74, Contractor's Report of Sales [SEE C.22]. The IFF equals 1% (one percent) of total quarterly sales reported. The IFF reimburses the GSA Federal Supply Service for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. While I applaud the GSA's efforts to recoup part of its operating costs through this mechanism, I hope that the organization will explore ways to reduce the paperwork burden on the small businesses striving to support them.

As Abator has no direct experience in completing an RFP response for a federal agency, I thought it might prove illuminating to detail one state issued RFP. The project required 17 technical staff. A complete bid package was required for each position – each candidate was to be submitted for each of the 17 positions; in other words 289 complete bid packages in triplicate – 867 copies. Abator's bid package ran approximately 51 pages or 44,217 pages total – which was hand delivered to avoid shipping costs. Abator's cost in producing the RFP response ran roughly $12,232 in direct labor (about 640 man hours) and supplies.

Adding the federal GSA Solicitation requirement on top of an already complicated and burdensome state process puts small firms like Abator at a competitive disadvantage to large corporations that compete for this government work.

That is why I was particularly grateful for the Administration's unbundling initiative announced last year. Abator, as a member of Women Impacting Public Policy (WIPP) and the Women Business Entrepreneur National Council (WBENC), supports the unbundling of federal contracts in an effort to increase participation by small, minority

and historically underutilized businesses. Many times, over the last several years, Abator has completed the Women Business Enterprise (WBE) paperwork necessary to be considered by the prime vendors on various federal contracts, followed up by months of personal contacts. Efforts that to date go unrewarded. Abator remains undeterred and will continue to seek ways to grow its business with prime contractors to various federal agencies. We will also complete the GSA Solicitation process, despite the intimidating amount of paperwork.

Examples of other federal paperwork burdens

Like every other business, Abator has paperwork burdens associated with complying with federal tax law and other agencies' requirements. While we dutifully comply with such requirements and new changes to the law, costs of complying do add up to considerable amounts for a small firm like Abator. These are resources that could be spent investing in new equipment, hiring new employees or coping with increases in health insurance costs and other fixed expenditures.

Annual tax-related paperwork burden

Abator, of course, has the standard federal tax reporting functions required of any business, including:

- Preparing the year-end data for the CPA's use in completing Corporate Income Tax Returns; an activity that consumed at least 40 hours in direct labor (about $1716) and $1550 in CPA fees for FY2002.
- Preparing and filing 941 deposits bi-weekly, filed electronically via our relationship with Dollar Bank – perhaps 20 minutes per two weeks in direct labor (roughly $386.10 annually), plus and hour per quarter (~$171.60) completing and filing the quarterly 941 form for an estimated total of $557.70.
- Preparing and filing FUTA deposits quarterly consumes another 15 minutes each (about $42.90 annually), again filed electronically with an annual report consuming another hour of direct labor ($42.90) for a total of approximately $85.80.
- Preparing and filing quarterly 1120 deposits/reports – no cost data available as Abator has a credit balance running with the Internal Revenue Service (IRS) on this line item.
- Modifying the corporate accounting applications to adjust the withholding rates and FICA changes for W-2 employees requires approximately 5 hours of systems analysis, programming and compilation efforts at about $35 per hour or another $175 per year.
- Preparing and filing 1099 reports approximately 160 hours plus software and materials, $3664.00.
- Indirect costs are diffuse and spread over the entire year in maintaining accurate corporate accounting records and run roughly 72 cents per minute.

These costs totaled approximately $7748.50 for FY2002 – that's still a lot of money in Pittsburgh. Streamlining the processes for small business – say less frequent reporting or combined statements -- would be one way to reduce the annual costs.

GUST (GATT, USERRA, SBJPA, TRA '97 and IRRA '98) Pension Requirements. During 2002, Abator also incurred a $1400 fee from W&W Actuarial in a re-organization or re-writing of our nine year old profit-sharing/pension plan to comply with new GUST federal regulations. This activity incurred an additional direct labor cost of about $175. ***Note:*** *Abator's pension plan did not change one iota – only the documenting paperwork changed and cost us $1575 – monies that could have gone into larger pension contributions.*

Section 1706 of the Tax Reform Act of 1986. Independent consultant status has long been an issue in my industry. Section 1706, introduced in December 1986, in my view discriminates against programmers, systems analysts and engineers -- potentially preventing them from obtaining the entrepreneurial independent status enjoyed by doctors, lawyers, accountants, realtors, etc.. Abator invested a great deal of time and money in completing and filing its SS-8 forms (the 20 question test pertaining to employment status, which actually ran some 50 pages with attachments) on December 29th, 1986. We incurred costs on re-designing and implementing a revised automated payments application to temporarily withhold taxes from our independents until the IRS ruled on our petition. When they hadn't ruled by early April 1987, we refunded the monies to the independents so they could meet their federally required April 15th tax deposits. Abator repeatedly contacted the IRS for a final ruling. It was not until 1997 – 11 years later, that the IRS investigated. Abator again incurred the costs of preparing and submitting another SS-8 for an IRS audit. The audit itself took about four hours on-site (with the attendant direct and indirect labor costs of another $5000), in which our contracts and business practices were painstakingly evaluated. At the end of the process, Abator was sent a computer-generated letter (not even on IRS letterhead), advising us that Abator "appeared" to be complying with the law. The relief was palpable – had the ruling determined that the consultants were "casual employees", my company would likely have folded under the weight of back taxes and penalties. Occasionally, we relive the nightmare – after all, the tests contain many gray areas and the IRS ruling could conceivably change.

As a direct result of 1706, Abator has lost contracts. Customers fear that they may be liable for tax-related fines, benefits, etc. should Abator's consultants be deemed casual employees of their organizations. In point of fact, our contract with Abbott Laboratories was cancelled in December 2002 because of their insistence that Abator consultants be W-2 employees. The consultants declined.
This scenario has been repeated several times over the last 17 years.

Immigration and Naturalization Service (INS): H-1b and Permanent Residency Applications. Abator has had occasion to represent five consultants from other countries since 1994. The H-1b processes were fairly straightforward and awarded within six to eight weeks of application. The three applications filed for permanent green cards, however, were a nightmare. On two occasions, the Immigration and Naturalization Service (INS) lost complete application packages. The second set of originals was filed in April 2000. These three consultants, which included one married couple and a single gentleman, have been supporting the Illinois Medicaid Medical Information Systems since 1994. By September 2001 no progress had been made.

One consultant's paperwork had been split between Omaha and Chicago, while the Vermont Service Center who was purportedly processing the application had no record of the documents. After September 11th, I wrote letters to the distinguished Senators from Illinois and Pennsylvania seeking their assistance. Only Senator Rick Santorum's office responded. It was through his staff that we were finally able to learn the status of the three applications and facilitate the subsequent approval and award process. Beyond the time and material costs of preparing the applications and attachments, there was a substantial emotional cost incurred by the consultants throughout this four year process, simply from not knowing – and having no way to learn – their immigration status. One gentleman's final H-1b was due to expire when his father became ill in Australia and there was a great deal of concern over his ability to return to this country and his job if he chose to travel before the INS responded. He chose to stay here, and fortunately his father recovered.

Conclusion

Small business is the backbone of the United States economy, and the high technology industry is a major slice of our economic future. But many small business owners find ourselves expending limited resources on excessive and often redundant paperwork to satisfy state and federal government agencies. Any assistance this committee can offer in freeing our resources to be used productively would be very much appreciated.

Thank you for your time and consideration.

Mr. OSE. Mr. Schantz, I talked with Mr. Regula last night. I was hopeful that he would come to introduce you. I did call him a few minutes ago, or at least his office, to alert him. We can hold for 5 minutes and go to Mr. Fillmore and give Mr. Regula a chance to get out of his conference committee or you can go ahead. Your choice. What would you like to do?

Mr. SCHANTZ. Congressman, I know Ralph's busy and I know it's a busy day for him after last night and I would be happy to proceed and let him off the hook.

Mr. OSE. Gentleman is recognized for 5 minutes.

Mr. SCHANTZ. Chairman Ose and Congressman Janklow, I appreciate the opportunity to be here today and I want to thank the National Small Business United Group for making me aware of the fact that this opportunity existed.

Schantz Organ Co., in Orrville, OH, is a 130-year-old family business. My great granddad, my granddad, my dad, and I basically had the same job. My grandfather was a Swiss wood worker and he was a good mechanic and he became fascinated with musical instruments. Today, we build pipe organs for churches throughout the United States. We recently completed our first international project. We restored a famous pipe organ in Melbourne Town Hall in Melbourne, Australia.

We employ 95 craftsmen and women. Our annual sales volume is $7½ million. We build about 20 custom-designed hand-crafted instruments each year. And, there are about 65 firms engaged in the pipe organ business in the United States and probably account for 1,000 workers. We generate an estimated $80 million of sales revenue each year, so we are one of those tiny little micro-industries that are in community after community all across the United States. These businesses support the local churches, the libraries, the schools, United Ways, charitable organizations of all kinds, and help make America the kind of place it is.

As we have heard, small businesses are being pounded by regulatory burdens. And, the Small Business Administration reports that the average per-employee cost of all Federal regulation for companies with fewer than 20 is about $6,975 per year. That per-employee cost is $2,512 more than what firms in excess of 500 employees pay.

So, I am grateful to the committee and the chairman's leadership in passing the Small Business Paperwork Relief Act of 2002. I think it is a step in the right direction, but more has to be done. To illustrate this, I want to give you an idea of the forms that our company fills out each year. This file folder represents Federal income tax compliance forms. For a C corporation in the State of Ohio, we have the 1120 tax form. The 940 and 941 are quarterly reports. I only have one of each of those in here but they have to be done four times a year. The W3 reporting requirement is to get all the employee's information to the Federal Government on a form like this. 1096s are the duplication of the 1099 reporting.

But, in spite of the fact that this is what we go through each year for one small corporation, that's not why I am here today. This file folder contains one report from the Department of Labor 5500 report for health and pension plans. TEFRA, DEFRA, COBRA, ERISA, EGTRA, HIPAA, over the last number of years

have created a paperwork process in which employers have to report information that, in my opinion, has become such a difficult thing to do that small businesses have had to punt. Now the work is done by third-party administrators and insurance companies along with employers trying to find a way to comply with these data for which results are hard to figure out. But that's not why I'm here.

These are the annual censuses sent to us by the Department of Commerce, the Bureau of the Census, the Department of Labor, to annually have us fill out information. One is concerning our plant capacity. If there was a war and we had to have a defense industry, how much is the plant utilization in the United States currently being utilized? Another asks what the cost of health insurance in the United States?

This is the census data from OSHA. Not only do we keep our OSHA logs but we also have to send that information into the government as to what our accident rates are. The accidents and injuries are not occurring in little businesses like this. We're keeping the logs, but that's not where the problem is. And, this is not why I'm here.

This is the EPA toxic chemical reporting inventory. For the first time this year in the United States, little companies around the United States have to report because of the lead component—lead has been determined to be a toxic chemical; and the reporting threshold was decreased from 10,000 pounds to 100 pounds. And, for the first time, micro-industries all across the United States have to comply.

I am not going to make this in 5 minutes. I am sorry. The EPA inventory is the most egregious example I have been able to find. Now I want to point out the dripping irony. There are 195 pages of instructions on how to fill this form out. On page 30, your Paperwork Reduction Act notice estimates this form alone to take 52 hours to fill out, between form R and form A, it's 82 hours estimated for a company to fill this thing out. Do you see? If you make something of an alloy, if you make something that is bronze or stainless steel using lead in the alloy, the threshold is 25,000 pounds.

We make an alloy to make organ pipes. However, our threshold is 100 pounds. It doesn't make any sense. I came here today to try and get some common sense into this process, and I will just say this quickly and stop. If the Paperwork Reduction Act of 2002 is to have any validity as an effective piece of legislation that reduces the regulatory burden on small business in America, then there has to be a commonsense advocate for small business in the Congress that can recognize when regulation has gone too far. This lead rule came about because of an Executive order at midnight.

Two specific ways where this could be accomplished are simply to raise the reporting threshold of the Department of Labor 5500 report from companies like me, or smaller, up to 250 employees or 500 employees where the problem is. Raise the threshold for the EPA toxic substances reporting industry to 25,000 pounds for lead alloys across the board, or exempt small businesses from having to do it in the first place. Spending time on burdensome paperwork is not where productivity occurs in the United States.

If we can avoid wasting the labor of the people under the guise of caring for them, they will be happy: Thomas Jefferson. Thank you.

Mr. OSE. Thank you, Mr. Schantz.

[The prepared statement of Mr. Schantz follows:]

Written Statement of Victor Schantz,

Schantz Organ Company

On Behalf of
National Small Business United

House Government Reform Subcommittee on Energy
Policy, Natural Resources and Regulatory Affairs

Executive Paperwork Reduction Hearing

April 11, 2003

National Small Business United
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202.293.8830

I thank the Committee for inviting me here today and appreciate the opportunity to speak on behalf of National Small Business United. My name is Victor Schantz, and I am president and owner of Schantz Organ Company, a 130-year-old family-owned business that was started by my great grandfather, a Swiss woodworker who was fascinated with reed organs and decided he could build one.

Today we build pipe organs for churches throughout the United States and recently completed our first international project restoring and enlarging a historical pipe organ at Melbourne Town Hall in Melbourne, Australia. We employ 95 craftsmen and women. Our annual sales volume is $7.5 million dollars. We build about 20 custom designed hand crafted instruments per year. There are approximately 65 firms engaged in the pipe organ business in the United States with an estimated employment of about 1,000 workers. We generate an estimated eighty million dollars of sales revenue each year. We are a micro-industry, like many other small industries in community after community, we have a rich history and continue to build upon the work of our family. These businesses support the local churches, libraries, schools, United Ways, charitable organizations of all kinds and help make America the kind of place it is.

As we've all heard, small businesses are being pounded by regulatory burdens. The Small Business Administration reports that the average per-employee cost of all federal regulation for companies with fewer than 20 employees is approximately $6,975. That per-employee cost is $ 2,512 more than what firms with 500+ employees pay. I am grateful to this committee and the chairman's leadership in passing the Small Business Paperwork Relief Act of 2002. A step in the right direction, yet there is still much to do.

To give you an idea of just a few of the forms I have to fill out on an annual basis:

> This first pile of paperwork represents what we do annually to prepare our corporate federal income tax return.
>
> This next pile is the annual Department of Labor 5500 reports covering health and pension benefit plans.
>
> This third pile represents the Department of Labor, Department of Commerce and Bureau of Census reports that we have been asked to compile. I think you get the point here.

Finally, I'd like to call to your attention a recent addition of the EPA Toxic Substances Reporting Inventory. This is a newly mandated report that is due by June 2003 for the first time, because EPA lowered the threshold for reporting from 10,000 lbs. of lead used per year in a business to a mere 100 lbs. per year. Through their Web site, which includes 195 pages of instruction on how to complete the two different forms, the EPA estimates that both forms will take approximately 82 hours combined, to complete. I currently charge clients $50.00 per hour for labor costs. That

of 1980 was a catalyst in getting agencies to make changes to their requirements, however, many of those changes were minor and the total amount of paperwork had not significantly changed. The Small Business Paperwork Reduction Act of 2002 makes more wide-sweeping changes and creates stricter enforcement of the law.

Though this is a step in the right direction, it doesn't directly affect the amount of paperwork small businesses deal with. The new law outlines compliance assistance methods and ways a small business can intervene when he or she feels treated unfairly, yet no specific language to minimize the amount of paperwork. The Small Business Paperwork Relief Act of 2002 advocates for a more active online government presence, yet recent budgetary cuts may create problems with that.

As I mentioned earlier in my statement, small businesses pay approximately $7,000 per employee on regulatory compliance. The most important thing to remember is that the numbers mentioned above do not separate unfair or unreasonable regulations. Any regulation takes time away from the small business owner actually running the business. Let's break down the overall regulatory burden costs and examine on a topical basis. In the area of environmental regulation, small businesses (for these purposes, a small businesses is a firm with fewer than 20 employees, which is considered large within my industry) pay an average of $3,328 per employee where large firms, shall be defined as firms with more than 500 employees, pay an average of $717 per employee. That is more than $2000 difference per employee. The other area that begs our attention is tax compliance – small businesses pay, per-employee, $1202 where large firms pay only $562 per employee – again, a difference of more than $600 per employee. In discussing the blatant unfairness to small businesses in the regulatory process, let's not forget that these statistics only cover federal regulation. If we were to add the state, regional and local regulatory costs, the burden would truly be unimaginable.

The Small Business Paperwork Relief Act of 2002 is working towards helping small businesses get back to work instead of working on forms. Yet there is still a significant amount of unnecessary paperwork that must be eliminated or reduced. Has the Small Business Paperwork Relief Act of 2002 improved the situation? Yes. Is there much more to be done? Absolutely.

Mr. OSE. Mr. Fillmore, the bells that rang, those are kind of like our signals. We had two bells followed by five, which means we have two votes minimum. First is a 15-minute vote. We have 12 minutes and 40 seconds from being overdue. What I would like to ask is for you to do your 5-minute testimony.

The unfortunate circumstances we find ourselves in are that Mr. Janklow and I will be over in the House for probably 45 minutes voting, and to interrupt the hearing I think would be counterproductive. I want to ask if you all would be willing for us to submit our questions to you in writing and have you respond to them in writing as opposed to sitting here for 45 minutes, coming back and the like? Are you in agreement? We are talking productivity. We are trying to make the best use of our time. Mr. Janklow.

Mr. JANKLOW. I will be very brief. The eloquence of the first two witnesses—and I have read your testimony, Mr. Fillmore—I would have no questions for any of them. My questions would detract from the substance of what you had to say under oath before this committee. Thank you.

Mr. OSE. Mr. Fillmore, why don't you proceed for 5 minutes?

Mr. FILLMORE. Chairman Ose, Ranking Member Tierney, Member Janklow, I thank you for the opportunity to testify before you today on the impact of government paperwork on small businesses. My name is Frank Fillmore and I am a principal in the Fillmore Group, an international information technology consulting firm with offices in Baltimore and Ellicott City, MD. We have five full-time employees who provide data base software consulting and training to large companies like IBM and Freddie Mac and small not-for-profit firms like the U.S. Golf Association.

I also have the pleasure of serving on the Maryland Leadership Council, the National Federation of Independent Business, and I am honored to present this statement on behalf of NFIB's 600,000 small business members nationwide.

As the proprietor of a small business, especially one that bills by the hour, I am acutely aware of how I spend my time and constantly evaluate how to best spend the next hour, whether on a customer project, on marketing and sales leads, which is our seed corn, or on personnel and administrative issues to keep the ship from running aground. In many ways it is probably similar to the ways that you have to manage your House of Representatives offices.

Small businesses like mine are the greatest source of job growth in the economy. They unfortunately bear a disproportionate share of the regulatory burden. In fact, the burden of the regulatory compliance is as much as 50 percent more for small businesses. My business is no different. There is no single government requirement that causes us more headaches and lost time. Imagine when a form arrives in the mail from the Federal Government. It often comes with a strict deadline and, many times, with a penalty for failure to respond. Small businesses don't have the luxury of a special department or even one or two employees that can devote all of their time to work on government forms and regulations. The paperwork is left to be done by me, the proprietor, who has to divert precious management and sales time to filling out these time-consuming forms.

Since there is little time during the course of a normal workday, a colleague or I must complete these forms over weekends or late at night. It becomes even more frustrating when the information requested is redundant and available from other agencies or even other units of the same agency.

Right now I am holding a 2002 economic census form from the Department of Commerce. That's the OMB form number that you mentioned earlier, Member Janklow, 0607–0887. I don't remember completing this form before in over 16 years of business, so the government must have found other ways to develop policy without the data that it demands.

I understand the agency's need to gather information, but the financial data are certainly available from the Internal Revenue Service. Personnel and payroll data are readily available from the Maryland State Department of Labor, Licensing and Regulation. In other words this information is collected by other agencies. Why should I have to submit it time after time to agency after agency? This particular census form will probably take, in my estimation, between 4 and 8 hours to complete. Four hours may not seem like much, but multiplied dozen of times with requirements from Federal, State and local governmental agencies, the drain on the finite number of hours I have to sell my inventory becomes enormous.

The Commerce Department has told the NFIB that the information provided on the form does not have to be 100 percent accurate, again as Member Janklow mentioned before, and my responses to the questions can be estimates. Unfortunately, the form does not get around to telling me that until page 6. What it does tell me in big bold letters on the first page is that were I not to submit this form, I could be liable for a $500 fine.

Given the Federal Government's tendencies to come down very hard on businesses, I would be reluctant to provide incomplete or estimated information. Each request by itself may not seem like much. When accumulated together, however, it is like death by a 1,000 cuts.

The net result for our firm is stifled software development, eroded customer relationships, and diminished time to plan and just think, each of which is crucial to me as a business owner in these uncertain economic times.

Let me state this in clear language: Paperwork requirements directly impact the bottom line of my business. Time burdens are not the only problem I have with paperwork requirements. Often government forms require the disclosure of information that I consider proprietary and sensitive in nature. Particularly the census form requires financial data on sales and revenue. The Fillmore Group is privately held and we do not publish financial statements. The only two entities that receive that information today are the IRS and my banker. The form further requires that I split that revenue either via dollar amounts or percentage basis into 52 different categories and subcategories. While that may seem reasonable to a methodical analyst at the Department of Commerce, that's a far greater level of detail than we have ever used to manage our business in the past. To try to comply would be unduly burdensome, fraught with error over interpretations over the services we provide our customers versus the categorizations in the form.

I make recommendations in my testimony on how technology used in the private sector can solve many of the paperwork problems that plague small businesses. But, in the interest of time, I will just defer to those in the written testimony and conclude my remarks.

Mr. OSE. Mr. Fillmore, thank you.

[The prepared statement of Mr. Fillmore follows:]

Testimony of Frank C. Fillmore, Jr.
the Fillmore Group
on Behalf of the National Federation of Independent Business

Hearing before the
Committee on Government Reform
Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs

April 11, 2003

Chairman Ose, Ranking Member Tierney and Members of the subcommittee, I thank you for the opportunity to testify before you today on the impact of government paperwork on small businesses.

My name is Frank Fillmore, Jr., and I am a principal in The Fillmore Group, an international information technology firm with offices in Baltimore and Ellicott City, Maryland. We have five full-time employees who provide database software consulting and training to large companies like IBM and Freddie Mac and small not-for-profits like the U.S. Golf Association. I also have the pleasure of serving on the Maryland Leadership Council of the National Federation of Independent Business (NFIB) and am honored to present this statement on behalf of NFIB'S 600,000 small business members nationwide.

As the proprietor of a small business – especially one that bills by the hour – I am acutely aware of how I spend my time. I constantly evaluate how to best spend the next hour, whether on a customer project, on marketing and sales leads (our "seed corn"), or on personnel and administrative issues that keep the ship from running aground. In many ways, it's probably similar to the way you have to manage your offices here at the House of Representatives.

While small businesses like mine are the greatest source of job growth in the economy, they unfortunately bear a disproportionate share of the regulatory burden. In fact, the burden of regulatory compliance is as much as 50% more for small business. My business is no different; there is no single government requirement that causes us more headaches and lost time.

Imagine then when a form arrives in the mail from the federal government. It often comes with a strict deadline and, many times, with a penalty for failure to respond. Small businesses don't have the luxury of a special department or even one or two employees that can devote all of their time to work on government forms and requirements.

The paperwork is left to be done by the proprietor, mostly meaning me, who has to divert precious management and sales time to filling out these time-consuming forms. Since there is little time during the course of a normal workday, I or my colleague must complete these forms over weekends or late at night. It becomes even more frustrating when the information requested is redundant and available from other agencies or even other units of the same agency.

Right now I am looking at a 2002 Economic Census from the Department of Commerce (OMB form 0607-0887). I don't remember ever completing this form before in over sixteen years of conducting business, so the government must have had other ways to develop policy without the data it demands. I understand the agency's need to gather information, but the financial data are certainly available from the Internal Revenue Service, and personnel and payroll data are readily available from the Maryland State Department of Labor, Licensing, and Regulation. In other words, this information is collected by other agencies, why should I have to submit it time after time to agency after agency?

This particular census form would probably take between four and eight hours to accurately complete. Four hours may not seem like much, but multiplied dozens of times with requirements from federal, state, and local governmental agencies, the drain on the finite number of hours I have to sell my "inventory" becomes enormous.

The Commerce Department has told the NFIB that the information provided on this form doesn't have to be 100% accurate and that my responses to questions can be estimates. Unfortunately the form does not get around to telling me that until page six. What it does tell me, in big bold letters on the first page, is that, were I to not submit this form, I could be liable for a $500 fine. Plus, given the federal government's tendency to come down very hard on businesses, I would be reluctant to provide incomplete or estimated information.

Each request by itself may not seem like much. When accumulated together, however, it is like death by a thousand cuts. The net result for our firm is stifled software development, eroded customer relationships, and diminished time to plan and just think – each of which is crucial to me as a business owner in these uncertain economic times. Let me state this in clear language: paperwork requirements directly impact the bottom line of my business.

Time burdens are not the only problem I have with paperwork requirements. Often government forms require the disclosure of information that I consider proprietary and sensitive in nature. In particular, the census form requires financial data on sales and revenue. The Fillmore Group is privately held, and we do not publish financial statements. The only two entities that receive that information today are the IRS and my banker. The form further requires that I split that revenue, either via dollar amounts or on a percentage basis, into 52 different categories and subcategories. While that might seem reasonable to a methodical analyst at the Department of Commerce, that's a far greater level of detail than we have ever used to manage the business. To try to comply would be unduly burdensome and fraught with error over interpretations of the services we've provided our customers versus the categorizations in the form.

I'm certain that it would be easier for the Department of Commerce staff to design a form that delivers the data they want in precisely the format in which they would like to use it. In fact, software exists today to assemble information from multiple databases of different types, running on different computers, even from different software vendors. Private industry uses theses techniques all of the time to compare data, for example, from the manufacturing, sales, and logistics units of their businesses to match what has been made, with what has been sold, with what has been shipped. Companies frequently compare their internal information with data gleaned from public sources to gain insight into, say, the demographics of their customer set.

Information provided to agencies "of record," such as detailed financial data supplied to the IRS, might be stored in a "data warehouse" for approved access by other agencies and units of government. Again, I want to emphasize that standards of privacy be maintained, or even enhanced. Summarized data with individual identifiers removed can satisfy many of the requirements of economists, Federal Reserve bankers, and other parties who need financial information to make policy. That, indeed, is how the Census Bureau today uses some of the data it collects.

Many small businesses use one of a few standard software accounting packages such as QuickBooks from Intuit or Great Plains from Microsoft. Another possible solution to the paperwork problem is for agencies that collect financial data to use standard interfaces to these software products to extract the data. Right now, all of my payroll filings at the local, state, and federal level are performed automatically by my accounting software. I do pay a small monthly fee for this service, but the cost is much smaller than the professional services fees that I once paid to an accountant. The entire accounting field is undergoing a quiet revolution because the tedious, repetitive, time-consuming bookkeeping tasks that used to be its bread-and-butter have been automated by software that costs a few hundred dollars.

Large federal agencies should be encouraged to develop a series of standard information request formats that could be built into these software products by the vendors. The addition of these features would represent a competitive advantage and selling point for the vendors. The agencies would be assured of data in a standard format and, quite likely, higher levels of and more timely compliance with their mandates. Large enterprises like automobile manufacturers have developed standard electronic data interchange (EDI) formats with which their suppliers and vendors must provide common business transaction documents like invoices and bills-of-lading.

For example, the paper invoices I use to provide to IBM, one of my largest customers, were mailed via U.S. Postal Service to a central office and then remitted via paper check. The transit time in the mail alone added ten days to my carrying costs. Then, if an invoice was incorrect or improperly formatted, that time could double or triple. Now I submit all of my invoices via the Internet using a web browser. The invoice is formatted using an electronic purchase order. All of this information exchange takes minutes to prepare and seconds to transmit – rather than hours to prepare and days to transmit. There is no reason that the U.S. government cannot employ these same techniques to exchange forms and data with its citizen- business owners.

I don't wish to paint too rosy a picture of technology. It is not a panacea; I know - I work with it every day. What I am proposing is that the business-as-usual approach of creating a new paper form for each different governmental request that has to be mailed to a business person, which is filled out manually using pen or pencil from data possibly already stored in a computer, returned via USPS, and then entered into a computer again is just plain foolish for the 21st century.

There is also the risk that less technically savvy business owners will be placed at a disadvantage; paper forms are a great leveler. But there remains a great opportunity to improve the data that the government collects to support the common welfare while reducing the burden on the backbone of the U.S. economy: the proprietors of small businesses and the men and women they employ.

Are federal agencies doing enough to reduce this burden on small businesses? They seem to be only starting – and in light of laws like the Small Business Paperwork Relief Act, need to do much, much more. Given the history of agency efforts to craft simpler and less burdensome regulations, I suspect that they will have to be pushed and prodded continuously in order to follow congressional mandates. It will require discipline and coordination among federal agencies – something that only this august body can provide. But such leadership is going to be essential, as the benefits go far beyond just the impacts on my business alone. For if the burdens my business faces are like death by a thousand cuts, one can only imagine the cumulative benefit as those cuts are healed—not just for my business, but for millions of businesses nationwide!

Thank you for your time and your interest in my thoughts on this matter. I will be happy to answer any questions that you may have.

Mr. OSE. Mr. Schantz, thank you. Ms. Peterson, thank you.

I am looking at a clock that is clicking down to 5 minutes here and I've got to get over there and vote. We have a number of questions for each of you individually we would like to forward to you in writing for you to respond.

Mr. Schantz, the items you have in front of you, I could take them into the public record, but, if they have proprietary information, I'm not sure you want to do that. So we will decline your offer to submit them to the public record.

Mr. SCHANTZ. We will give you examples.

Mr. OSE. We will ask for a list without the specific proprietary data, being respectful of your privacy. This issue is not going away. Four and a half years ago I was on the other side of this dais, and I have not forgotten. So I do thank you all for coming.

Again, I apologize for the abrupt ending of this hearing. We will send you questions in writing. If you could respond timely in 10 days, that would be great. It is good to see business people down here and I appreciate all of you for taking up the fight. Thank you.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

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INDEPENDENT

April 14, 2003

BY FACSIMILE

The Honorable John D. Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Tuesday, May 6, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney

Q1. Paperwork Reduction Initiatives in 2002-2003. In your written statement, you report total government-wide program decreases due to agency actions of "a little more than 2 million hours" (p. 11) on a base of 8 billion hours.

a. No Additional Initiatives Required. In its November 2002 Bulletin to request annual input from the agencies to compile the Fiscal Year (FY) 2003 Information Collection Budget (ICB), the Office of Management and Budget (OMB) stated, "In the FY 2002 Information Collection Budget (ICB), we asked each agency to 'identify at least two major initiatives to ... reduce paperwork burden on the public.' ... While we encourage you to identify additional paperwork burden reduction initiatives it is **not required**" (emphasis added) (p. A-1).

Given seven years of annual increases versus decreases in paperwork and few Initiatives in the FY 2002 ICB, which would result in substantial paperwork reduction, why did OMB not require additional paperwork reduction initiatives for FY 2003?

b. Non-Use of ICB "Budget" to Manage Paperwork. In your March 11, 2003 regulatory accounting testimony before this Subcommittee, you stated, "While we do have what's called an information collection budget, it is not one where we impose on each agency ... limited amount of paperwork that they're allowed to do, and then they can choose which paperwork burdens to impose and which not to impose" (pp. 37-38). Why aren't you using the ICB process to budget paperwork, i.e., to set priorities and manage overall burden, as the ICB process was originally intended?

c. Decreases. What significant paperwork reduction initiatives - with at least a 250,000 hours decrease due to an agency action (i.e., reduced frequency, sample versus universe reporting, smaller samples, fewer questions, introduction of a threshold below which reporting is not required, etc.) - were accomplished since April 11, 2002, and what significant initiatives are planned in the remainder of FY 2003 for the following five non-Internal Revenue Service (IRS) agencies which each levy over 140 million paperwork hours of burden on the public?

- Department of Health and Human Services (HHS)?
- Department of Transportation (DOT)?
- Department of Labor (DOL)?
- Environmental Protection Agency (EPA)?
- Securities and Exchange Commission (SEC)?

d. Grantees. The "Federal Financial Assistance Management Improvement Act of 1999" (P.L. 106-107, 11/20/99) required OMB to "direct, coordinate, and assist

Federal agencies in establishing – (1) a common application and reporting system" **by May 20, 2001**. The law further required that "All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act."

On April 8, 2003, OMB published proposed standard data elements for grant applications and for grantee financial reports. The proposal is to add four and five data elements, respectively, to the Standard Forms in use for many years.

To reduce paperwork burden on grantees, when does OMB expect to establish/implement a common application and reporting system for all grantees?

e. Selective Groups. What significant paperwork reduction initiatives were accomplished and are planned to reduce burden on the following key groups?
- Farmers? *[OMB-83 #11d]*
- Small businesses? *[OMB-83 #5]*
- State and local governments? *[OMB-83 #11f]*

Q2. Resolution of Agency PRA Violations. I previously asked OMB to provide resolution dates for each agency violation of the Paperwork Reduction Act (PRA). To date, OMB has not fully provided this information. Your testimony reports 62 unresolved violations (p. 3) and states, "we could have all of these PRA violations resolved within the next 4 months" (p. 5).

Will you provide specific information for the hearing record on each of these 62, including the number of years in violation, their paperwork hours, and an expected resolution date?

Q3. Progress in Reviewing Regulatory Paperwork. The FY 2001 Treasury and General Government Appropriations Act required an OMB report to Congress which: (a) evaluated the extent to which the PRA reduced burden imposed in agency rules ("regulatory paperwork"), (b) evaluated the burden imposed by each major rule imposing more than 10 million hours of burden, and (c) identified specific expected reductions in regulatory paperwork in FYs 2001 and 2002.

On September 6, 2001, I asked OMB to reexamine 15 specific non-IRS rules each imposing over 10 million hours of burden in August 2001. In your May 9, 2002 reply to our post-hearing questions, you stated, "OIRA will make final decisions about whether to work on these 15 rules when OIRA's public comment process on existing rules and information collections ends at the end of the month." In your testimony for the April 11, 2003 hearing, you stated that, instead of OIRA's reviewing the 15, OIRA referred 12 to the agencies for review and three are currently under review by the agencies (pp. 5-6).

Will you provided a detailed status report for the record of the paperwork reduction results expected from reexamining the paperwork in each of the following rules?:

- DOL: Process Safety Management of highly hazardous chemicals (79 million hours on 8/30/01)
- SEC: confirmation of Securities Transactions (56 million hours)
- DOT: Hours of Service of Drivers regulations (42 million hours)
- DOT: Inspection, Repair, & Maintenance (35 million hours)
- SEC: recordkeeping by Registered Investment Companies (21 million hours)
- Federal Trade Commission (FTC): Truth in Lending regulation (20 million hours)
- HHS: Investigational New Drug regulations (17 million hours)
- EPA: standards for the use or disposal of Sewage Sludge (13 million hours)
- DOL: Bloodborne Pathogens standard (13 million hours)
- FTC: Fair Packaging & Labeling Act regulation (12 million hours)
- Department of the Treasury: recordkeeping & reporting of Currency & Foreign Financial Accounts (12 million hours)
- DOL: OFCCP recordkeeping & reporting requirements (11 million hours)
- HHS: Medicare & Medicaid for Home Health Agencies (10 million hours)
- HHS: Clinical Laboratory Improvement Amendments (10 million hours)
- Department of Education: Federal Family Education Loan program (10 million hours)

Q4. Staffing for IRS Paperwork. IRS accounts for 81 percent of all government-wide paperwork burden. In the last few years, its paperwork reduction initiatives have barely made a dent in this burden. For years, OMB had only one person working part-time on IRS paperwork. I have repeatedly asked if OMB would increase its staffing devoted to IRS paperwork reduction. In your May 9, 2002 reply to our post-hearing questions, you stated, "It is our judgment that OMB's current staffing level for IRS paperwork review is appropriate."

In response to your reply, last July, The House Report for the FY 2003 Treasury and General Government Appropriations Act directed, "the [Appropriations] Committee believes that OMB should work to identify and review proposed and existing IRS paperwork." In your written statement for the April 11, 2003 hearing, you stated, "we have devoted additional staff resources to the IRS paperwork issue" (p. 7). The General Accounting Office's (GAO's) April 11th testimony recommended to "focus more of OIRA's burden-reduction efforts" on IRS (p. 13).

Since the House Appropriations Report last July, how many OMB staff are now devoted to IRS paperwork reduction, i.e., from one staffer part-time to what number? And, how will you assure this Subcommittee that next year will show sizeable paperwork reduction results by the IRS?

Q5. Progress in Reviewing Tax Paperwork. What has OMB done in response to the July 2002 House Appropriations Report directive? How many of the 43 IRS information collections, which each impose more than 10 million paperwork hours, has OMB staff reviewed for burden reduction opportunities? When will OMB review the rest?

Q6. Implementation of New Small Business Paperwork Law. What is the status of OMB's implementation of the June 2002 "Small Business Paperwork Relief Act of 2002" (P.L. 107-198) generally and the specific deliverables due June 28, 2003:

a. OMB's publication of the first annual list in the Federal Register and on OMB's website of all compliance assistance resources available to small businesses – Will the first annual list be posted on OMB's website by June 28th? How will OMB organize this list to be most useful for small businesses? Will it be organized by NAICS codes?

b. Having each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements and the control of paperwork – How many agencies will have a single point of contact? Which agencies have already established their single point of contact? How many more are expected to do so by June 28th?

c. Report to Congress on the findings of an interagency task force on ways to integrate the collection of information across Federal agencies and programs, and the feasibility of requiring agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system, and with synchronized reporting. During the April 11, 2003 hearing, you stated that the task force has met only twice. – Will there be complete findings by the June 28th statutory deadline? If not, when will they be submitted?

Q7. Public Disclosure. In April 2001, I asked if OMB would publish a monthly OMB Notice in the Federal Register identifying: (a) all expirations of OMB PRA approval and (b) information describing action by the executive branch to achieve each major program reduction. Such a Notice could be widely circulated by interest groups to the affected public and will more fully actualize the PRA "Public Protection" provision. In October 2001, OMB replied that, from information on its website, "the public can determine whether a particular agency collection has a currently valid OMB approval."

I do not believe that OMB's website provides sufficient information for the public to assess **monthly results** in paperwork reduction and paperwork for which the public is **no longer required to comply**. As a consequence, I asked if OMB would publish such a Federal Register Notice?

In your May 9, 2002 reply to our post-hearing questions, you stated, "OMB has determined that we will not publish such a Federal Register notice." You cited three reasons: (1) OMB would have to make individual case-by-case determinations, (2) the information could easily become out-of-date, and (3) you believe that a "zero tolerance" policy is preferable.

At the April 11, 2003 hearing, GAO reported that 45 violations had been occurring at least one year and 27 had been occurring for at least two years. Based on this unacceptable resolution track record, will you reconsider my request?

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MAY 2 2 2003

The Honorable Doug Ose
Chairman, Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of April 14, 2003, enclosing additional questions as a follow-up to your April 11, 2003, hearing on the Paperwork Reduction Act (PRA). I appreciated the opportunity to testify before the Subcommittee and share Office of Management and Budget's (OMB) views on how we can work with you and the agencies to improve the Federal government's performance under the PRA.

Enclosed are OMB's responses to your follow-up questions. If you would like any additional information, please contact me at your convenience.

Sincerely,

John D. Graham, Ph.D.
Administrator

Enclosure

cc: The Honorable Dan Burton
The Honorable John Tierney

4/11/03 PRA Hearing

Q1. *Paperwork Reduction Initiatives in 2002-2003. In your written statement, you report total government-wide program decreases due to agency actions of "a little more than 2 million hours" (p.11) on a base of 8 billion hours. This is unacceptable!*

a. No Additional Initiatives Required. In its November 2002 Bulletin to request annual input from the agencies to compile the FY 2003 Information Collection Budget (ICB), OMB stated, "In the FY 2002 Information Collection Budget (ICB), we asked each agency to 'identify at least two major initiatives to ... reduce paperwork burden on the public.' ...While we encourage you to identify additional paperwork burden reduction initiatives it is ***not required****" (emphasis added) (p. A-1).*

Given 7 years of annual increases vs decreases in paperwork and few initiatives in the FY 2002 ICB, which would result in substantial paperwork reduction, why did OMB not require additional paperwork reduction initiatives for FY 2003?

Answer: In the FY 2003 ICB bulletin, we asked each agency included in last year's ICB to provide a summary progress report on the initiatives identified last year. In addition, they were encouraged, but "not required," to identify additional initiatives. We did not require the agencies included in last year's ICB process to identify additional initiatives because most of the agencies' initiatives that were identified last year are still ongoing. We want to ensure that agencies approach these initiatives seriously and achieve meaningful outcomes. For the 12 agencies that were not part of the ICB process last year, we asked them to identify at least two initiatives that improve program performance by enhancing the efficiency of information collections.

That said, several agencies (e.g., Interior, Labor, and the Veterans Administration) that participated in the ICB process last year identified additional initiatives that emphasize their commitment to reducing burden. The additional initiatives are highlighted below:

Electronic Permitting. The Office of Surface Mining (OSM) within the Department of Interior has identified electronic permitting as a long-term initiative that will result in significant monetary and time savings and provide more complete and up-to-date records. OSM is currently assisting States in developing and implementing electronic permitting. When implemented, electronic permitting provides permit reviewers with computer-based tools to access documents, maps, and data, and to perform necessary environmental analysis. The initiative will also reduce costs for surface coal mining applicants.

Application for Service Disabled Veterans Insurance. Currently, veterans only have a paper option when applying for service disabled veterans insurance. The Veterans Administration (VA) proposes to offer the veteran the option of submitting the relevant form electronically. The VA anticipates offering this option no later than June 30, 2003.

Application for Designation of Beneficiary. Veterans only have the option of using a paper form to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The VA proposes to offer the veteran the option of viewing the relevant form electronically. The electronic option should be available by June 30, 2003.

Current Employment Statistics Survey. The Current Employment Statistics (CES) Survey is a federal/state program of the Bureau of Labor Statistics (BLS) within the Department of Labor. It produces monthly estimates of employment, hours, and earnings based on U.S. nonagricultural establishment payrolls. CES is employing a number of collection methods and techniques designed to ease reporting burden and simplify reporting. For example, by the end of FY 2003, BLS will use a probability sample to collect 327,000 reports. The probability sample design will reduce burden by approximately 50,586 hours through reducing the number of reports submitted by respondents.

Workplace Health Standards Improvement. The Occupational Safety and Health Administration (OSHA) is undertaking rulemaking to update numerous health standards that are inconsistent, duplicative, and outdated. The proposal affects 18 information collections and would result in a 207,892-burden hour reduction. Time for completion of this project hinges upon the number and complexity of public comments received on the proposed rule.

Review of Certification Records Requirements. Numerous OSHA standards contain certification records. OSHA is reviewing the requirements associated with these records to reassess the information. If some certification records requirements could be revoked without jeopardizing worker safety and health, burden hours could be reduced significantly. OSHA is currently examining possible options regarding certification records and anticipates making a decision on this project during FY 2003.

ES-202 Program. The ES-202 program is a federal/state cooperative effort, which compiles monthly employment and quarterly wage data submitted to state workforce agencies by employers subject to state unemployment insurance (UI) laws. The ES-202 Program provides a virtual census of nonagricultural employees and their wages, and nearly half of agricultural workers are covered as well. The Bureau of Labor Statistics (BLS) is in the process of automating this data collection. The initiative was originally scheduled as an FY02 burden reduction initiative, but was rescheduled for FY03.

b. *Non-Use of ICB "Budget" to Manage Paperwork. In your March 11, 2003 regulatory accounting testimony before this Subcommittee, you stated, "While we do have what's called an information collection budget, it is not one where we impose on each agency ... limited amount of paperwork that they're allowed to do, and then they can choose which paperwork burdens to impose and which not to impose" (pp. 37-38). Why aren't you using the ICB process to budget paperwork, i.e., to set priorities and manage overall burden, as the ICB process was originally intended?*

Answer: The Paperwork Reduction Act directs OMB to work with Chief Information Officers—the officials designated by the PRA as responsible for the management of information resources within their agencies—to reduce information collection burdens on the public that "represent[s] the maximum practicable opportunity in each agency" and improve "agency management of the process for review of collections of information." In addition, with respect to OMB's review of individual collections of information that agencies submit for our review and approval, OMB must determine under the PRA whether each collection is "necessary for the proper performance of the functions of the agency" (44 U.S.C. 3508). If a collection satisfies this "necessary" test, then OMB must approve it, regardless of the impact that this collection would have (in isolation or in aggregate with other collections) on the overall Information Collection Budget.

The annual process of developing the Information Collection Budget is a key component of OMB's oversight of agencies. As OMB states in its regulation implementing the 1995 PRA, each agency "shall develop and submit to OMB ... an annual comprehensive budget for all collections of information from the public to be conducted in the succeeding twelve months." Each year, through our efforts to prepare the ICB, we ask agencies to review their information collections, keeping in mind the PRA's burden reduction goals and OMB's commitment to burden reduction. Agency CIOs send their agencies' annual submission to OMB. They identify the "maximum practicable" paperwork burden reduction consistent with the agency's statutory and programmatic missions, and they review how information collections and the information collection review process fit into the CIO's information resources management strategy. While we use the ICB process to encourage agencies to balance their programmatic needs for information with the burden they impose on the public, we do not have authority to disapprove an agency collection because it exceeds some government-wide or agency paperwork budget.

In addition, the PRA does not give OMB the authority to modify new or existing agency statutes in order to make agencies attain a budgetary target. When Congress passes laws that create more paperwork, the agencies must implement them. As we report in the FY 2003 ICB, agency implementation of recently enacted statutes increased paperwork burden by approximately 119 million hours. For example, HHS established standards for electronic transactions and codes to implement the Health Insurance Portability and Accountability Act of 1996. This resulted in a burden increase of 34 million hours. The Internal Revenue Service also had to make several changes to the 1040 schedules to implement the Economic Growth and Tax Relief Reconciliation Act of 2001. These

statutorily driven revisions increased the burden on taxpayers by 47 million hours. We will continue to work with HHS, IRS, and other agencies to reduce paperwork burden for specific information collections, but our efforts will remain bounded by the law.

c. *Decreases. What significant* ***paperwork reduction initiatives*** *- with at least a 250,000 hours decrease due to an agency action (i.e., reduced frequency, sample vs universe reporting, smaller samples, fewer questions, introduction of a threshold below which reporting is not required, etc.) - were accomplished since April 11, 2002, and what significant initiatives are planned in the remainder of FY 2003 for the following four non-IRS agencies which each levy over 140 million paperwork hours of burden on the public?*
   - *HHS? [The ICB shows 3.]*
   - *Transportation? [The ICB shows 2.]*
   - *Labor? [The ICB shows none.]*
   - *EPA? [The ICB shows 2.]*
   - *SEC? [The ICB shows none.]*

Answer:

HHS:
As you noted, the ICB identifies 3 burden reduction initiatives of at least 250,000 hours for HHS. One of those initiatives was accomplished since April 11, 2002. By requiring less information on the provider cost report reimbursement questionnaire and instructions, HHS reduced burden by 335,786 hours. This form provides the basic data elements to develop hospital and physician component cost, allowing Medicare funds to be properly allocated.

With respect to future projects, HHS has several ongoing burden reduction initiatives to note. While HHS has not quantified the burden reduction, these projects are expected to significantly reduce burden and improve program performance. The projects, which are also listed in the ICB, are described below:

MedSun. The Medical Product Surveillance System (MedSuN) initiative is a pilot program designed to enable the Food and Drug Administration (FDA) to obtain higher quality reports for its user facility medical adverse event reporting program. For the reporting facilities, reporting time should be reduced using this web-based tool. Ease in submitting the information will be vastly improved, and the need to mail paper copies will be eliminated. Reporting adverse events about medical devices will become simpler. FDA will formally evaluate the burden reduction once the goal of recruiting 100 more sites in FY 2003 is reached.

Medicare/Medicaid Electronic Collection/Signatures. In 2002, the Centers for Medicare and Medicaid Services (CMS) identified 10 collections, reform of which will significantly reduce burden and improve program performance if electronic collection/signatures could be obtained. Since the FY02 ICB, CMS has identified ways

to streamline, eliminate, and/or provide alternative reporting methods for five of the referenced collection activities. As a result of this effort, several regulatory requirements necessitating the submission of multiple hard copy forms will be eliminated, electronic reporting will be achieved, and reporting burden will be reduced for approximately 5,740,000 responses. For the remaining five collection activities, totaling 125,500 annual responses, the measurable objectives and proposed timetable remain the same as last year.

Electronic Research Administration (eRA). This National Institutes of Health (NIH) initiative represents a conversion of the extramural award program (application, initial peer review, secondary council review, award and post-award administrative process) from a paper to an electronic medium. Since the FY02 ICB, NIH successfully launched a pilot program. Full implementation is not expected until later in FY 2003.

Streamlining Health Information Collections. The Centers for Disease Control and the Agency for Toxic Substances Disease Registry (CDC/ATSDR) have initiated a comprehensive initiative to reduce paperwork and increase program effectiveness. Specifically, all centers, institutes, and offices are reviewing information collections to streamline forms and procedures, collaborate within and outside CDC/ATSDR, meet GPEA requirements, and use the latest technology available. Among the notable achievements to date: the *Mortality and Morbidity Weekly Reports* series of publications are now available on the internet in a searchable database; CDC is now consulting with HRSA and NIH on data collections involving HIV/AIDS in order to better evaluate HIV prevention programs; and the two largest information collections for the National Center for Infectious Disease are in the process of being streamlined and converted to electronic reporting under the National Electronic Disease Surveillance System.

DOT:

For DOT, the ICB notes two examples of burden reduction in excess of 250,000 hours. Both of these reductions occurred prior to April 11, 2002. As far as future initiatives, DOT identified several burden reduction initiatives that are still ongoing. The exact burden reduction potential has not been estimated for each of these projects, but the following initiatives are expected to reduce burden and improve program performance:

Railroad Locomotive Safety Standards and Event Recorders. This Federal Railroad Administration (FRA) initiative pertains to requests for waivers by the Burlington Northern Santa Fe Railroad (BNSF) and the Union Pacific Railroad (UP) to keep the daily locomotive inspections records required under 49 CFR 229 (§ 229.21) in an electronic format. A conversion from paper to electronic records has the potential to reduce the overall burden by 96,250 hours and reduce the expense incurred by railroads to create, retrieve, and maintain paper records.

OE/AAA Automation. The Federal Aeronautics Administration (FAA) annually conducts more than 50,000 aeronautical studies. Such studies are conducted when FAA is notified of any proposed construction or alteration around public use airports or higher than 200 feet above sea level. Such notification is required by law. The new obstruction evaluation/airport airspace analysis (OE/AAA) automation program is a web-based

application that is accessed through the FAA's intranet via the user's workstation browser. With the deployment of the OE/AAA automation system to all nine regions, the reliance on paper transactions has been dramatically reduced.

Integrated Airman Certification and Rating Application (IACRA). The FAA developed a computer-based program that automates the airman certification process. The program, known as IACRA, standardizes and streamlines the airman certification process for all persons responsible for airman certification. In addition, the final program will provide an interface between ACRA and multiple FAA databases for a comprehensive and integrated electronic airman certification process. Beta testing for the web-based submission tool is scheduled to begin in August of 2003; project completion is scheduled for September 2003.

Hours of Service Regulations. This initiative pertains to the conversion of the Hours of Duty records that railroads are required to account for the time covered employees spend on the job from a paper to an electronic format. To date, both time and cost burdens have been substantially reduced. The conversion from a paper to an electronic format reduced the burden on railroads by 733,333 hours. The Federal Railroad Administration (FRA) estimates that an additional 295,000 records will be generated and kept electronically, instead of on paper, over the next year. This further conversion will reduce the hourly burden for this information collection by an additional 39,333 hours.

Air Carrier Traffic and Capacity Data. As a result of a BTS final rule issued in July 2002, small certificated, commuter, and all-cargo air carriers are required to report their air traffic activity under the T-100 Traffic Reporting System. Prior to the final rule, there was a lack of market and segment data for domestic all-cargo, domestic charter and small aircraft operations. The regulatory changes were designed to fill the data gaps for these rapidly growing segments in the air transportation industry. Moreover, the final rule allows aviation data users to compare operations of commuter and certificated air carriers.

National Bridge Inventory System (NBIS). During FY 2002, the Federal Highway Administration (FHWA) developed a new national bridge inventory system (NBIS). This new system greatly improves FHWA capability for administering the agency's bridge program. The new NBIS system allows states to make submissions directly to FHWA using the internet so that separate data submittals (hard copies, diskettes, etc.) and cover letters are no longer needed.

National Transit Database (NTD). At the direction of Congress, the Federal Transit Administration (FTA) undertook a top-to-bottom evaluation of the National Transit Database (NTD). As a result, the new NTD system was launched in October 2002. One objective of the new system is to ease reporting burden. Another objective is to reduce the validation processing time. FTA hopes to cut validation time in half.

DOL:

As you noted, the FY 2003 ICB does not identify any specific DOL initiatives that reduced burden by more than 250,000 hours. DOL has initiated several significant

burden reductions since April 11, 2002. For example, DOL has introduced a probability-based sampling methodology for its Current Employment Statistics Survey. This survey is a Federal and State program of the Bureau of Labor Statistics (BLS) that produces monthly estimates of employment, hours, and earnings based on U.S. nonagricultural establishment payrolls. The program provides current monthly statistics on employment, hours, and earnings by industry. The new probability sample design reduces the number of reports, yielding a burden reduction of 50,586 hours. In addition, DOL has initiated a regulatory change, often referred to as the Standards Improvement Project, to revise health provisions contained in standards for general industry, shipyard employment, and construction that are out of date, duplicative, unnecessary, or inconsistent. These changes, which would affect 18 information collections, are also expected to simplify and clarify the requirements of these provisions, thereby facilitating employer compliance, improving employee protection and reducing paperwork burden by an estimated 207,893 hours.

While the specific burden reduction potential has not yet been quantified, DOL has identified several additional burden reduction initiatives planned for FY 2003, including:

Review of Certification Records Requirements. Numerous OSHA standards contain certification records. OSHA is reviewing the requirements associated with these records to reassess the information. If some certification records requirements could be revoked without jeopardizing worker safety and health, burden hours could be reduced significantly. OSHA is currently examining possible options regarding certification records and anticipates making a decision on this project during FY 2003.

ES-202 Program. The ES-202 program is a Federal/State cooperative effort, which compiles monthly employment and quarterly wage data submitted to state workforce agencies by employers subject to state unemployment insurance (UI) laws. The ES-202 Program provides a virtual census of nonagricultural employees and their wages, and nearly half of agricultural workers are covered as well. The Bureau of Labor Statistics (BLS) is in the process of automating this data collection. The initiative was originally scheduled as an FY02 burden reduction initiative, but was rescheduled for FY03.

DOL also continues to work on a burden reduction initiative identified in last year's ICB:

Electronic Reporting Initiative. The Labor-Management Reporting and Disclosure Act (LMRDA) requires the filing of various reports by labor organizations, union officers and employees, employers, labor relations consultants, and surety companies. The Department of Labor (DOL) recently added an electronic reporting option. Since July 2002, labor organization officers required to file certain forms have been able to purchase digital signature certificates and file the reports electronically.

EPA:
The FY 2003 ICB notes two EPA initiatives that yielded burden reductions of 250,000 hours or more. One of these initiatives, a revision to the oil pollution and prevention

regulation, was completed before April 11, 2002. EPA continues to work on the other initiative, the "RCRA Burden Reduction Initiative." This project will significantly reduce the paperwork burden imposed by regulations under the Resource Conservation and Recovery Act (RCRA). EPA is undertaking this initiative to ensure that only the information actually needed to run the RCRA program is collected. EPA estimates that the initiative will reduce burden by 929,000 hours and save $120 million annually. A proposed rule was published in FY 2002.

In addition to this important initiative, EPA continues to work on another promising initiative that is expected to reduce burden and improve program performance:

TRI-ME. The Environmental Protection Agency has developed software to improve the quality of information in the Toxics Release Inventory. The goal of TRI-ME (TRI Made Easy) is to reduce burden on facilities reporting to TRI and improve data quality without diminishing data collection. EPA is currently working on completing the TRI-ME software for reporting year (RY) 2002. The software is expected to be made available to facilities in March 2003. Major enhancements will allow facilities to prepare their submission with electronic signature, and allow users the ability to load data from prior years and current-year third-party software.

SEC:

The FY 2003 ICB does not identify any SEC burden reductions of at least 250,000 hours. This should be viewed in the context and nature of the SEC. The SEC is a civil law enforcement agency. Since its creation in 1934, the Commission's mission has been to administer and enforce the federal securities laws of the United States in order to protect investors, and to maintain fair, honest and efficient markets.

One of the traditional goals of the SEC is to strive to improve the quality of, and method of collection for, existing information collections. To accomplish its mission, the SEC established the following priorities:

- ***Collect from the public only the amount and type of information pertaining to securities.*** Information collection will comply with requirements of the Paperwork Reduction Act by not placing any unnecessary burden on the filing community. Information collected will assist the SEC in fulfilling its role as a regulatory and law enforcement agency.

- ***Process collected information in the most economic and efficient manner.*** This includes ensuring that timely disseminated full disclosure data consists of all information collected by the agency for investor protection.

- ***Ensure that processing systems are modern, cost effective, and serve efficiently the mission of the agency.*** Agency information collection systems are revised to exploit evolving technology through the development of applications designed specifically to assist the agency in keeping up with the

ever-changing financial world and research innovative methods to collect and disseminate information.

To accomplish these objectives, the Commission established the Electronic Data Gathering Analysis and Retrieval (EDGAR) system to increase the efficiency and fairness of the securities markets for the benefit of investors, corporations, and the economy by accelerating the processing, dissemination, and analysis of time-sensitive corporate information filed with the Commission.

The SEC's recently modernized EDGAR system was again recognized of its innovative information technology. In 2002, EDGAR was selected to receive Computerworld's Honors Laureate for Innovations in Technology Achievement Award, and Post Newsweek's Excellence in Government Award for Innovative IT Accomplishments. These and other awards recognized EDGAR for both its technological advancements in electronic filing as well as for delivering significant value to the investment public.

The required information to be filed with and submitted to the SEC permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. This information is needed by security holders, investors, brokers, dealers, investment banking firms, professional securities analysts and others in evaluating securities and making investment and voting decisions. The SEC rules, schedules, and forms are reviewed when they are published for notice and comment to assess their continued utility.

It should be noted that the frequency of response, number of respondents, and resulting information collection burden of certain rules depends on the number of investment advisers and investment companies registered with the Commission and on the quantity of assets managed by these advisers and investment companies.

Notwithstanding the challenges that result from the rapid growth of the U.S. securities markets and the increase in the use of advanced technology, the SEC continues to strive to ensure that the information collected from the public is not duplicative and unnecessary.

d. *Grantees. The "Federal Financial Assistance Management Improvement Act of 1999" (P.L. 106-107, 11/20/99) required OMB to "direct, coordinate, and assist Federal agencies in establishing – (1) a common application and reporting system* ***by 5/20/01****. The law further required that "All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act."*

Earlier this week [on Tues. 4/8/03], OMB published proposed standard data elements for grant applications and for grantee financial reports. The proposal is to add 4 and 5 data elements, respectively, to the Standard Forms in use for many years.

To reduce paperwork burden on grantees, when does OMB expect to establish/implement a common application and reporting system for all ***grantees****?*

Answer: The Administration's grant streamlining team (comprised of OMB and agency staff) has been working together to provide a set of common forms and standard data elements for use in the pre-award, award, and post-award phases of agency grant-making. Included in the government-wide plan for implementing P. L. 106-107, which was submitted to Congress on 5/18/01, we indicated that "significant time is required to review the hundreds of data elements currently contained in myriad application forms and formats, consult with the Federal and non-Federal users, and develop the set of core data elements for applications." The common application form (which was published for a 60-day comment period on April 8) should be finalized by October 2003, and many agencies will be using it for a variety of their grant applications at that time. We expect that all of the agencies will use the form for most or all of their grant applications in the coming months and years. We are also streamlining and consolidating four financial forms (also published for a 60-day comment period on April 8). We expect to finalize these forms by this fall.

Because of the E-grants initiative, one of the 24 E-Gov initiatives, grant applicants will be able to find and apply for most grants online by October of this year. For many of these grants, the applicant will be able to apply for the grant using the standard form.

e. Selective Groups. *What significant* ***paperwork reduction initiatives*** *were accomplished and are planned to reduce burden on the following key groups?*

- *Farmers? [OMB-83 #11d - on OMB's standard form for agencies to request OMB PRA approval]*
- *Small businesses? [OMB-83 #5]*
- *State and local governments? [OMB-83 #11f]*

Answer: As you know, OMB's ability to monitor burden hours imposed on farmers has been hampered by Congress' decision to exempt Title I and II of the Farm Security and Rural Investment Act of 2002 from the PRA for program implementation and administration. A lower bound estimate of the burden exempted from the PRA is approximately 10.4 million hours, or roughly 12 percent of USDA's entire burden hour inventory.

That said, USDA has made efforts to reduce burden during FY 2002. For example, USDA reduced burden on farmers by developing and allowing an electronic submission of marketing assistance loans and loan deficiency payments program forms. The information collected by these forms is used to determine the eligibility of participants to receive loan benefits. This initiative reduced burden by 79,835 hours, or about 35 percent of this program's burden.

The Bureau of Reclamation (BOR) has been working with USDA to examine other information collections that might be duplicative or revised to reduce burden. Working with NASS and FSA, BOR has examined ways in which the information collected by these USDA agencies might be substituted for the BOR "crop census" information collection.

For small businesses, agencies have initiated several projects expected to reduce burden. As mentioned in the written testimony, the Business Compliance One Stop (one of the cross-agency e-gov initiatives), has already demonstrated savings of one hour per user in reporting burden. Given IRS estimates that 2.4 million businesses annually apply for an EIN, this application could save $96 million per year from streamlining, harmonizing, and automating these processes. The initiative will use three strategies to accomplish this, including: reducing the information required from businesses through analyzing if information is needed; assessing whether definitions in different forms and forms in different agencies can be harmonized to reduce overlap; and increasing the effectiveness of data collections processes by collecting once and sharing data among programs and agencies. This initiative also represents the first Web service that fulfills both a state and a federal regulatory requirement at the same time. In addition, the Business Compliance One Stop team has developed a proof of concept for harmonizing coal miner reporting, where information is collected once and used several times, which is estimated to cut the reporting burden by 50 percent, from 50,000 hours annually to 25,000 hours.

Another related e-government project that is expected to significantly reduce burden on businesses is the Expanding Electronic Tax Products for Businesses (EETPB) initiative. The objective of the EETPB is to reduce the tax-reporting burden on businesses while improving the efficiency and effectiveness of government operations. The initiative is comprised of seven projects that will deliver benefits by reducing the number of tax-related forms that businesses must file, providing timely and accurate tax information to businesses, increasing the availability of electronic tax filing, and modeling simplified Federal and state tax employment laws. These projects include Form 94x Series, Form 1120/1120S, Form 8850, Internet Employer Identification Number (EIN), and the Standardized EIN.

Regulations.gov is another e-government project expected to reduce burden on small businesses. This portal makes it quicker and easier for citizens and small businesses to find and comment on hundreds of proposed rules. Regulations.gov is estimated to save $94 million by creating a single system that makes the rulemaking process more efficient. Since its launch on January 23rd of this year, the site has had approximately 1.5 million hits.

The Federal government must make it easier for states and localities to meet reporting requirements, while promoting performance, especially for grants. State and local governments will see significant administrative savings and will be able to improve program delivery through collaboration tools for e-government. Enhanced and more visible performance reports will help make government at all levels more accountable for results and wise use of resources. Moreover, improving the way that information is shared among levels of government will improve the nation's ability to provide for homeland security. Many of the intergovernmental initiatives are designed to improve homeland security, as identified in the President's Budget and in the National Strategy for Homeland Security released in July. For example, one initiative is a secure portal that will improve the disaster management process by simplifying and unifying the interaction between Federal, state, and local public safety personnel. Please see Chapter 4 of the FY 2003 ICB for a more complete description of various additional e-government initiatives that have or will make it easier for states and local governments to meet reporting requirements.

Q2. *Resolution of Agency PRA Violations. I previously asked OMB to provide resolution dates for each agency violation of the Paperwork Reduction Act (PRA). To date, OMB has not fully provided this information. Your testimony reports 62 unresolved violations (p. 3) and states, "we could have all of these PRA violations resolved within the next 4 months" (p. 5).*

Will you provide specific information for the hearing record on each of these 62, including the number of years in violation, their paperwork hours, and an expected resolution date?

Answer: Please see attached spreadsheet, which details the status of the 62 unresolved violations reported in the ICB (updated as of May 6, 2003). We gave you a similar spreadsheet at the April 11, 2003 hearing. As of the date of the hearing, 12 had been approved by OMB; 8 were pending at OMB; and the rest had a 60-day *Federal Register* notice published. Since the hearing, 4 additional collections that were pending have been approved, and 3 additional collections have been submitted to OMB. The collections currently pending at OMB should be resolved within 60 days, and those with a *Federal Register* notice published should be resolved within 120 days.

Q3. *Progress in Reviewing Regulatory Paperwork. The FY 2001 Treasury and General Government Appropriations Act required an OMB report to Congress which: (a) evaluated the extent to which the PRA reduced burden imposed in agency rules ("regulatory paperwork"), (b) evaluated the burden imposed by each major rule imposing more than 10 million hours of burden, and (c) identified specific expected reductions in regulatory paperwork in FYs 2001 and 2002.*

Over 1½ years ago (on 9/6/01), I asked OMB to reexamine 15 specific non-IRS rules each imposing over 10 million hours of burden in August 2001. In your May 2002 reply (5/9/02) to our post-hearing questions, you stated, "OIRA will make final decisions about whether to work on these 15 rules when OIRA's public comment process on existing rules and information collections ends at the end of the month." In your testimony today, you stated that, instead of OIRA's reviewing the 15, OIRA referred 12 to the agencies for review and 3 are currently under review by the agencies (pp. 5-6).

Will you provided a detailed status report for the record of the paperwork reduction results expected from reexamining the paperwork in each of the following rules?:

DOL: Process Safety Management (PSM) of highly hazardous chemicals (79M hrs on 8/30/01)
SEC: confirmation of Securities Transactions (56M hours)
DOT: Hours of Service of Drivers regulations (42M hours)
DOT: Inspection, Repair, & Maintenance (35M hours)
SEC: recordkeeping by Registered Investment Companies (21M hours)

FTC: Truth in Lending regulation (20M hours)
HHS: Investigational New Drug (IND) regulations (17M hours)EPA: standards for the use or disposal of Sewage Sludge (13M hours)
DOL: Bloodborne Pathogens standard (13M hours)
FTC: Fair Packaging & Labeling Act regulation (12M hours)
Treasury: recordkeeping & reporting of Currency & Foreign Financial Accounts (12M hours)
DOL: OFCCP recordkeeping & reporting requirements (11M hours)
HHS: Medicare & Medicaid for Home Health Agencies (10M hours)
HHS: Clinical Laboratory Improvement Amendments (CLIA) (10M hours)
Education: Federal Family Education Loan program (10M hours)

Answer: Yes. OMB will provide a detailed status report on the paperwork reduction results from our review of the 15 non-IRS regulations imposing over 10 million hours of burden. As I stated in my testimony, we included these 15 rules in the Administration's regulatory reform initiative, which we launched with our solicitation of public reform nominations in the March 2002 draft *Report to Congress on the Costs and Benefits of Federal Regulations*.

We explained the interagency process for reviewing the nominations of regulatory reforms in the Final 2002 *Report to Congress on the Costs and Benefits of Federal Regulations*, entitled "Stimulating Smarter Regulation." Again, OMB referred many of the nominations to the agencies for their consideration. When we were aware of recent or ongoing activities related to specific rules, we asked agencies to provide OMB with status updates.

By including the 15 rules in our reform initiative, we are taking advantage of a tremendous opportunity to subject them to careful interagency scrutiny. The process we have developed is merit-based. We are committed to ensuring that our consideration of nominations is grounded in the regulatory principles codified in Executive Order 12866 and the statutory authority of the agencies and is consistent with the criteria of efficiency, fairness, and practicality. OMB plans to publish information on both the updates of agency activity already underway, as well as the results of agency decisions on the candidates for reform, in the Final 2003 *Report on the Costs and Benefits of Federal Regulations*, which we will publish later this year.

Q4. *Staffing for IRS Paperwork. IRS accounts for 81 percent of all government-wide paperwork burden. In the last few years, its paperwork reduction initiatives have barely made a dent in this burden. For years, OMB had only one person working part-time on IRS paperwork. I have repeatedly asked if OMB would increase its staffing devoted to IRS paperwork reduction. In your May 2002 reply (5/9/02), to our post-hearing questions, you stated, "It is our judgment that OMB's current staffing level for IRS paperwork review is appropriate."*

In response to your reply, last July, The House Report for the FY 2003 Treasury and General Government Appropriations Act directed, "the [Appropriations] Committee believes that OMB should work to identify and review proposed and existing IRS paperwork." In your written statement today, you stated, "we have devoted additional staff resources to the IRS paperwork issue" (p. 7). GAO's testimony today recommends to "focus more of OIRA's burden-reduction efforts" on IRS (p. 13).

Since the House Appropriations Report last July, how many OMB staff are now devoted to IRS paperwork reduction, i.e., from one staffer part-time to what number? And, how will you assure this Subcommittee that next year will show sizeable paperwork reduction results by the IRS?

Answer: In response to the 2002 House Committee on Appropriations report accompanying the FY 2003 Treasury-Postal Appropriations Act, I directed the analyst responsible for overseeing the PRA activities of the IRS to devote additional time to IRS paperwork burden. Chapter 3 of the FY 2003 ICB describes IRS' recent efforts to implement new provisions of the Tax Code in a manner that minimizes, as well as its ongoing work to improve the way in which taxpayer burden is measured and analyzed. OIRA staff have worked closely with IRS on these important efforts.

In addition, multiple OIRA staff have a played a central role in implementing IRS-related elements of the Administration's E-Government Strategy. Two such initiatives are described in Chapter 4 of the FY 2003 ICB: the Expanding Electronic Tax Products for Businesses initiative, which will reduce the tax-reporting burden on businesses while improving the efficiency and effectiveness of government operations, and IRS Free Filing, which will allow over 78 million Americans to file their taxes online for free this year.

I am pleased to say that we do not have to wait until next year to report sizeable paperwork reduction results by the IRS. As you will see in Table A1, in FY 2002 the Treasury Department achieved a net program change reduction due to agency actions of 9.51 million hours, largely as a result of actions within the control of IRS (i.e., changes in paperwork not due to new statutory requirements, violations). Several notable examples of such IRS actions include:

- Revisions made to Form 6251 – This form is used to implement the requirements of the Alternative Minimum Tax for individuals. IRS eliminated several lines and made other simplifying changes that resulted in a change in taxpayer burden of 5.5 million hours.

- Changes to Form 1040-EZ – This form is used by individuals who are single or joint filers with no dependents. IRS reduced taxpayer burden by 4.3 million hours by deleting several worksheets and a number of lines to this form.

- Changes made to Schedule D of Form 1040 – This form is used by individual taxpayers to report taxable income and calculate their correct tax liability. It was revised and simplified to make it easier for taxpayers to compute their capital gains and losses. These changes resulted in a reduction of 2.9 million burden hours.

After years of reporting increases, we are encouraged by this result and fully intend to build on this important accomplishment by achieving further reductions in the future.

Q5. *Progress in Reviewing Tax Paperwork. What has OMB done in response to the July 2002 House Appropriations Report directive? How many of the 43 IRS information collections, which each impose more than 10 million paperwork hours, has OMB staff reviewed for burden reduction opportunities? When will OMB review the rest?*

Answer: The results of OMB's response to the July 2002 Conference Report are described in my testimony and more fully in the FY 2003 ICB. Our discussion of IRS burden reduction efforts addresses the challenge faced by IRS in implementing complex and prescriptive tax legislation and acknowledges IRS's efforts to implement the Code in the least burdensome way possible. The actions taken in FY 2002 by IRS that were within its discretion allowed OMB to report that Treasury achieved a net program change reduction (due to agency actions) of 9.51 million hours. Of course, Treasury's FY 2002 program changes due to new statutes more than offset the reductions that IRS achieved administratively.

As with all information collections subject to the PRA, OMB reviews and approves all IRS collections at least once every three years, including the 43 (according to your accounting) that impose over 10 million burden hours. OIRA's information collection review responsibilities under the PRA provide us with regular opportunities to carefully scrutinize IRS reporting and recordkeeping, both when IRS first issues them and when they are subsequently submitted to OMB for renewal of OMB's PRA approval. Our review of IRS information collections focuses on minimizing paperwork burden while ensuring that IRS obtains the information it needs to implement new tax legislation and administer its tax collection responsibilities in an efficient and fair manner.

Q6. Implementation of New Small Business Paperwork Law. What is the status of OMB's implementation of the June 2002 "Small Business Paperwork Relief Act of 2002" (P.L. 107-198) generally and the specific deliverables due June 28, 2003 (i.e., in 2 ½ months):

a. OMB's publication of the first annual list in the Federal Register and on OMB's website of all compliance assistance resources available to small businesses – Will the first annual list be posted on OMB's website by June 28th? How will OMB organize this list to be most useful for small businesses? Will it be organized by NAICS codes?

Answer: The statute requires us to "publish in the *Federal Register* and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses ...". This is to be done no later than June 28, 2003, and annually thereafter.

We are working with the SBA National Ombudsman to collect this information from the agencies and consolidate it into a coordinated report. It is our intent to make this information available on or before June 28, on both of our web sites. We have not yet decided how to organize the information we are receiving from the agencies.

b. Having each agency establish one point of contact to act as a liaison between small businesses and the agency regarding paperwork requirements and the control of paperwork – How many agencies will have a single point of contact? Which agencies have already established their single point of contact? How many more are expected to do so by June 28th?

Answer: The statute requires agencies to "establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns" no later than June 28th. We are, similarly, working with the SBA National Ombudsman to collect the agency designations and have this information included in the reports that we will both put on our web sites by June 28. At this point, we do not know how many agencies have a single point of contact, although we are aware that many agencies have groups of people responsible for liaison with small businesses.

c. Report to Congress on the findings of an interagency task force on ways to integrate the collection of information across Federal agencies and programs, and the feasibility of requiring agencies to consolidate reporting requirements in order that each small business may submit all information required by the agency to one point of contact at the agency, in a single format or using a single electronic reporting system, and with synchronized reporting – How many meetings has the task force had? Will there be complete findings by the June 28th statutory deadline? If not, when will they be submitted?

Answer: As I describe in my testimony, the Task Force had a full meeting. Thereafter, it divided into three subcommittees to examine the three assigned topics in greater detail. The Task Force met again on April 4, to discuss the three assigned topics. Task Force members have now prepared a draft Task Force report, which is to be published in Part 3 of the *Federal Register* on Friday, May 9. We plan to publish a final report prior to the June 28th deadline.

Q7. *Public Disclosure. In April 2001, I asked if OMB would publish a monthly OMB Notice in the Federal Register identifying: (a) all expirations of OMB Paperwork Reduction Act (PRA) approval and (b) information describing action by the executive branch to achieve each major program reduction. Such a Notice could be widely circulated by interest groups to the affected public and will more fully actualize the PRA "Public Protection" provision. In October 2001, OMB replied that, from information on its website, "the public can determine whether a particular agency collection has a currently valid OMB approval."*

I do not believe that OMB's website provides sufficient information for the public to assess ***monthly results*** *in paperwork reduction and paperwork for which the public is* ***no longer required to comply****. As a consequence, I asked if OMB would publish such a Federal Register Notice?*

In your May 2002 reply (5/9/02) to our post-hearing questions, you stated, "OMB has determined that we will not publish such a Federal Register notice." You cited three reasons: (1) OMB would have to make individual case-by-case determinations, (2) the information could easily become out-of-date, and (3) you believe that a "zero tolerance" policy is preferable.

Today, GAO reported that 45 violations had been occurring at least 1 year and 27 had been occurring for at least 2 years. Based on this unacceptable resolution track record, will you reconsider my request?

Answer: While I appreciate the reasons behind your request, I still believe that a zero-tolerance policy for violations is the most effective tool. We have made considerable progress in implementing our zero-tolerance policy, as evidenced by the sharp decline in the number of unresolved violations. We have been working, and will continue to work,

closely with all agencies to ensure that their procedures are adequate to avoid any future violations of the PRA. As I said in my written testimony and in the ICB report, all currently unresolved violations are in the process of being resolved; all have had at least a 60-day *Federal Register* notice published. I am confident that we are close to attaining our goal of zero violations.

In addition, the concerns that we noted last year are still relevant. As we said in our response last year, it would be legally problematic to issue the type of notice you describe. In order to issue the notice, OMB would have to make individual, case-by-case legal determinations for each item that OMB included in the announcement. These legal reviews, and the necessary consultations with agencies, would impose a very substantial burden on OMB. We believe that these agency and OMB resources are better directed, instead, at implementing the reforms that are necessary to resolve past PRA violation and prevent future violations from occurring.

Second, the information on violations could easily become out-of-date in the intervals between each *Federal Register* notice. An agency, for example, could obtain OMB's approval of a collection after it appeared in the *Federal Register* notice but before the next notice is published. This "out of date" problem would leave members of the public in the position of relying on an OMB notice that is no longer correct.

At the April 11th hearing, you noted interest in the status of the Bureau of Reclamation's information collection regarding water use. You also expressed interest in knowing whether various concerns regarding this information collection had been addressed.

Answer: We examined two concerns related to "Individual Landholder's Certification and Reporting Forms for Acreage Limitation" (OMB # 1006-0005): (1) Duplicative information collection; and (2) Simplification of the Collection through the use of a "verify" form.

Duplicative Information Collection

The Bureau of Reclamation (DOI), USDA, and OMB completed a review of the Bureau of Reclamation information collection in March 2002. During the review, OMB, DOI, and USDA staff examined both the universe of respondents for their collections and the data elements required to implement each agency's programs.

DOI, USDA, and OMB staff concluded that while there is some overlap in DOI and USDA respondents (in the implementation of farm programs, USDA also collects information on Acreage), statutory and regulatory program requirements for the agencies require different information collection from different categories of respondents. For example, if the Bureau of Reclamation requires irrigation water users to file a form, their filing status and the information required depends on whether the respondent is an individual, entity, charitable organization, trust, or public entity and if the respondent is subject to the new law or the old law. USDA does not require separate forms for these

classes of respondents, nor do they always require respondents to identify themselves according to the Bureau of Reclamation categories.

Similarly, while both DOI and USDA collect detailed information, the nature of the detail required by each agency differs in such a way that it is not possible to disaggregate, aggregate, or otherwise transform one agency's collection of information to serve the other's purpose. For example, the Bureau of Reclamation collects information on irrigable and irrigation land located in certain water districts that have a contract with Reclamation. Information on the location of the land within the water district and whether it is irrigable or irrigated land are critical to implementation of the program. Lease and acreage information are required to meet statutory requirements. USDA collects some acreage and lease information, but they collect this information based on who will receive benefits. Information on irrigation may be collected if it affects benefits, but USDA does not collect information on whether land is irrigable. Perhaps more important, USDA does not collect information on either leases or acreage by water district. As a result, it would be difficult if not impossible, to transform the current USDA collected data into a form that could be used by the Bureau of Reclamation.

Although DOI, USDA, and OMB concluded that the information collections are not duplicative, DOI and USDA recognized that information technology might be used to address concerns of their common customer base. At the end of the DOI, USDA, and OMB review, USDA and DOI agreed to examine opportunities for reducing burden through increased use of information technology for this collection and for others.

Use of a "Verify" form

OMB and the Bureau of Reclamation (BOR), DOI, also discussed whether farm operators should be allowed to verify that their operations have remain unchanged through use of a "verify" form, rather than through filing the existing more detailed form.

Under BOR regulations, farm operators that provide services to more than 960 nonexempt acres westwide held by trusts or legal entities are required to provide information about the land for which they provide service, their subsidiaries, and ownership on an annual basis. They are not required to file information through the year if they provide services for land not listed in their annual filing. Farm Operators are individuals or legal entities that perform more than one specialized farm related service. They are not owners, lessees or sublessees.

BOR regulations specifically prohibit the use of a "verify" form for farm operators (43 CFR 428.4c). These requirements are relatively new and were imposed as the result of a very contentious court case. BOR believes that revising the regulatory requirement would result in substantial controversy and the process could be quite lengthy.

From BOR's perspective, they didn't believe the prohibition on use of a verify form would cause undue burden when the rule was drafted because they believed that it would be highly unlikely that a farm operator would maintain the same customer base, with no change, from year to year. BOR also believed that many individuals and entities might have inferred incorrectly that they were subject to these requirements and that as implementation of the program progressed and BOR clarified the definition of services, this would not be an issue.

BOR is currently in the process of requesting an extension of OMB approval for this information collection. As part of this process, they have published their 60 day notice requesting comment on the information collection. They have received no comments, nor have they received other complaints about the forms over the past year. They believe this is evidence that implementation of the program and further clarification of who is required to respond has mitigated the need for a "verify" form.

Additional Efforts to Reduce Burden

The Bureau of Reclamation has been working with USDA to examine other information collections that might be duplicative or revised to reduce burden. Working with NASS and FSA, BOR has examined ways in which the information collected by these USDA agencies might be substituted for the BOR "crop census" information collection.

Status of Unresolved Violations (Q2)

OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
0560-0004	6/30/1997	Approved 4/9	N/A	755,325 hours
0560-0121	10/31/2000	Approved 4/9	N/A	83 hours
0560-0148	2/28/2002	Approved 4/9	N/A	257 hours
0560-0182	9/30/2002	Approved 4/9	N/A	29,556 hours
0560-0183	2/28/2001	Approved 4/9	N/A	11,778 hours
0560-0192	3/31/2002	Approved 4/9	N/A	11,180 hours
0560-0205	9/30/2002	Approved 4/9	N/A	351,257 hours
0560-0217	3/31/2002	Approved 4/9	N/A	187,504 hours
0551-0031	5/31/2002	Pending at OMB	Within 60 days	10,476 hours
0572-0059	9/30/1997	Approved 5/2	N/A	3,123 hours
0572-0076	9/30/1997	Approved 4/2	N/A	40,763 hours
0702-0064	12/31/2002	Pending at OMB	Within 60 days	750 hours
0703-0006	9/30/2002	Federal Register	Within 120 days	680 hours
0704-0377	7/31/2002	Pending at OMB	Within 60 days	153,600 hours
0720-0003	6/30/2002	Federal Register	Within 120 days	9,833 hours
0720-0020	5/31/2002	Federal Register	Within 120 days	333 hours
0720-0021	9/30/2002	Federal Register	Within 120 days	50 hours
0970-0204	8/31/2002	Approved 4/3	N/A	9,720 hours

0938-0227	12/31/1997	Federal Register	Within 120 days	547,000 hours
0938-0366	10/31/1996	Federal Register	Within 120 days	6,839,873 hours
OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
0990-0162	3/31/1999	Federal Register	Within 120 days	2,744 hours
2506-0161	1/31/2000	Federal Register	Within 120 days	18,750 hours
2502-0117	1/31/1995	Pending at OMB	Within 60 days	5,000 hours
2502-0190	1/31/2001	Federal Register	Within 120 days	5,250 hours
2502-0331	6/30/2002	Approved 4/25	N/A	60,605 hours
2502-0445	1/31/1991	Federal Register	Within 120 days	115 hours
2502-0464	10/31/1997	Pending at OMB	Within 60 days	24,273 hours
2502-0468	3/30/1994	Federal Register	Within 120 days	375 hours
2502-0477	7/31/1996	Federal Register	Within 120 days	18,750 hours
2577-0007	11/30/1995	Federal Register	Within 120 days	203 hours
2577-0026	6/30/2001	Federal Register	Within 120 days	429,600 hours
2577-0028	5/31/2001	Pending at OMB	Within 60 days	3,400 hours
2577-0062	9/30/1996	Federal Register	Within 120 days	6,236 hours
2577-0157	2/28/2002	Pending at OMB	Within 60 days	55,162 hours
2577-0159	12/31/1994	Federal Register	Within 120 days	980 hours
2510-0006	12/31/1996	Federal Register	Within 120 days	9,334 hours
2510-0009	7/31/1997	Federal Register	Within 120 days	400 hours
2510-0010	3/31/1997	Approved 4/22	N/A	700 hours

2510-0012	10/31/1999	Federal Register	Within 120 days	475 hours
2501-0011	10/31/1983	Federal Register	Within 120 days	1,167 hours
OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
1110-0021	4/30/2002	Approved 4/7	N/A	925 hours
1103-0036	7/31/2001	Federal Register	Within 120 days	24 hours
1105-0071	7/31/2002	Approved 4/7	N/A	1,750 hours
1121-0148	5/31/2002	Federal Register	Within 120 days	41 hours
1121-0177	4/30/1999	Federal Register	Within 120 days	26,829 hours
1121-0185	6/30/1999	Federal Register	Within 120 days	14 hours
1121-0186	3/31/1998	Federal Register	Within 120 days	5 hours
1121-0217	9/30/1999	Federal Register	Within 120 days	26 hours
1405-0011	2/28/2002	Federal Register	Within 120 days	15,333 hours
3067-0026	9/30/1996	Federal Register	Within 120 days	30 hours
3067-0034	9/30/1996	Federal Register	Within 120 days	30 hours
3067-0166	7/31/2002	Federal Register	Within 120 days	4,896 hours
3067-0229	6/30/1998	Federal Register	Within 120 days	4,013 hours
3067-0271	10/31/2002	Approved 4/18	N/A	116,624 hours
3245-0062	2/28/2002	Federal Register	Within 120 days	14,400 hours
3245-0075	10/31/2000	Federal Register	Within 120 days	6,500 hours
3245-0077	3/31/2000	Federal Register	Within 120 days	960 hours
3245-0080	5/31/2002	Federal Register	Within 120 days	75 hours

3245-0083	8/31/2001	Federal Register	Within 120 days	300 hours
3245-0131	2/28/2002	Pending at OMB	Within 60 days	3,089 hours
OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
3245-0183	10/31/2000	Federal Register	Within 120 days	476 hours
3245-0205	1/31/1997	Federal Register	Within 120 days	13,000 hours

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INDEPENDENT

May 28, 2003

BY FACSIMILE

The Honorable John D. Graham
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

Dear Dr. Graham:

On April 14, 2003, I sent you a series of post-hearing questions after the April 11th hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" This letter follows up on some of your May 22nd responses.

In your answer to Question 1a about the Office of Management and Budget's (OMB) not requiring additional agency paperwork reduction initiatives for Fiscal Year 2003, you stated, "We did not require the agencies included in last year's ICB process to identify additional initiatives because most of the agencies' initiatives that were identified last year are still ongoing" (p. 2). Due to the government's dismal track record in paperwork reduction, I ask that you require additional initiatives from each agency for Fiscal Year 2004 and each year thereafter.

I disagree with your answer to Question 1b about the reason OMB is not using its Information Collection Budget (ICB) to manage paperwork. You stated, "If a collection satisfies this 'necessary' test, then OMB must approve it, regardless of the impact that this collection would have (in isolation or in aggregate with other collections) on the overall Information Collection Budget" and "we do not have the authority to disapprove an agency collection because it exceeds some government-wide or agency paperwork budget" (p. 4). Congressional intent since the 1942 Federal Reports Act, followed by the 1980 Paperwork Reduction Act and the 1995 Amendments, is clear. OMB is responsible for managing the government's paperwork burden on the public and can disapprove an agency's information collection for any reason.

In your answer to Question 1e about initiatives to reduce paperwork on farmers, you stated, "OMB's ability to monitor burden hours imposed on farmers has been hampered by

Congress' decision to exempt Title I and II of the Farm Security and Rural Investment Act of 2002 from the PRA … A lower bound estimate of the burden exempted from the PRA is … roughly 12 percent of USDA's entire burden hour inventory" (p. 12). I recognize this problem and intend to introduce a legislative remedy.

Your answer to Question 4 about current OMB staffing to reduce IRS paperwork stated, "I directed the analyst responsible for overseeing the PRA activities of the IRS to devote additional time to IRS paperwork burden" (p. 16). Since IRS accounts for 81 percent of all governmentwide paperwork burden and Congress has repeatedly asked OMB to increase its staffing devoted to IRS paperwork reduction, I intend to introduce legislation in this area as well.

Success in paperwork reduction is important to Congress. Thank you for considering my views on some of your responses to this end.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

cc: The Honorable Tom Davis
The Honorable John Tierney

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 14, 2003

BY FACSIMILE

Mr. Robert E. Wenzel
Acting Commissioner
Internal Revenue Service
Department of the Treasury
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Mr. Wenzel:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Tuesday, May 6, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney

Q1. IRS Paperwork Reduction Initiatives in 2002-2003. The Office of Management and Budget's (OMB's) March 2003 inventory shows that the Internal Revenue Service (IRS) has 774 approved information collections, imposing 6.5 **billion** hours of burden on the public. Your April 11, 2003 testimony mentions only three paperwork reduction initiatives in 2002 and to date in 2003, resulting in only 31 **million** fewer hours of burden on the public: 20 million by raising the reporting threshold for Schedule B *[OMB estimates this reduction at 15 vs 20 million – pp. 8 & 12, Graham]*, 10 million for reduced recordkeeping for family day care providers, and 1 million by removing a "less than zero" checkbox on the SSA-1099. IRS has 130 information collections that impose over 1 million hours each, 43 of which imposed over 10 million hours each.

a. Your testimony explains that IRS was able to make the **threshold** change for the Schedule B because the statute provides the IRS Commissioner with discretion to set an appropriate threshold (p. 3). In your discussion of Limited Issue Focus Examinations involving a Memorandum of Understanding (MOU) between IRS and a taxpayer, you state, "The MOU will contain dollar-limit thresholds, established on a case-by-case basis, below which the IRS will agree not to raise issues" (p. 13). For which IRS reporting, does the Tax Code provide the IRS Commissioner with discretion to set thresholds? Have you examined each of these for burden reduction opportunities?

b. How many of IRS's 774 information collections were included in its proposed information collection budget (ICB) submission to OMB for **reductions** in burden in 2002 and 2003? How many hours of burden reduction are associated with each of these initiatives? And, what are the burden reduction hours expected from the four additional initiatives described on pp. 4-5 of your written statement: eliminating two lines on Form 709, removing four lines on Form 4626, redesigning Form 941, and redesigning Schedule K-1?

c. The General Accounting Office's (GAO's) written statement says that some IRS **increases** in burden "were made at the agency's initiative – not because of new statutes" (p. 13). Why did IRS decide to increase burden hours on the public?

d. What specific decreases and increases of **250,000 hours or more** did IRS submit to OMB in its proposed ICB? Please submit a full accounting for the hearing record.

Q2. IRS Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration, found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 IRS forms, including more than 8,000 lines, boxes, and data requirements. In the Subcommittee's paperwork hearings in April of 1999,

2000, 2001, and 2002, former IRS Commissioner Rossotti acknowledged that there is much duplication in IRS' reporting requirements for small businesses.

What specific paperwork reduction candidates did IRS pursue in 2002 and 2003 to date and will IRS pursue in the rest of 2003 to actually reduce the paperwork burden on small businesses -- i.e., not notice simplifications, electronic filing, guidance documents, mediation, fast track settlements, etc. which form the majority of your written testimony? What is IRS' estimate for the burden reduction hours associated with these initiatives?

Q3. Efforts to Reduce Top IRS Paperwork. In your written statement, you discuss developing a new model to re-estimate the burden of IRS information collections so that "IRS management can prioritize initiatives by using the model to estimate the impact of an initiative on taypayer burden" (p. 14). OMB's March 2003 inventory reveals that IRS has 43 information collections which each impose over 10 million hours of burden on the public. Ten of these each levy from 95 million to 1.7 billion hours of burden.

The Subcommittee reviewed all IRS Notices and Proposed Rules in the Federal Register during 2002 and to date in 2003 relating to the IRS "top 10." Only one - the sixth most burdensome form – the Form 941, Employer's Quarterly Federal Tax Return, had an IRS proposed revision during this period but the proposal included no reduction in burden hours.

Why did IRS not propose revisions in any of its other nine "top 10" information collections?

• individuals (Form 1040)	1.7 billion hours
• partnerships (Form 1065)	1.2 billion hours
• US S corporations (Form 1120S)	479 million hours
• estates & trusts (Form 1041)	399 million hours
• US corporations (Form 1120)	368 million hours
• employer's quarterly Federal tax (Form 941)	338 million hours
• depreciation & amortization (Form 4562)	315 million hours
• individuals (Form 1040A)	265 million hours
• employee's withholding (Form W-4)	116 million hours
• individuals estimated taxes (Form 1040-ES)	95 million hours

Q4. Alternative Minimum Tax Reporting. IRS's December 31, 2001 report entitled, "National Taxpayer Advocate: FY 2001 Annual Report to Congress," identified computing the Alternative Minimum Tax (AMT) as one of the most serious problems encountered by taxpayers. IRS estimates that Form 6251, "Alternative Minimum Tax – Individuals," requires nearly **4 hours** for each affected taxpayer to complete. Apparently, in 1998, more than 3.4 million taxpayers included Form 6251 "just to demonstrate that they did not owe AMT" (p. 58). The report states, "the number of taxpayers affected by

AMT is expected to increase significantly over the next 10 years, from approximately 1.4 million to approximately 35.5 million" (p. 59). According to IRS records, during the 1999 filing year, paid preparers completed 93 percent of all returns with AMT. I do want to acknowledge that your testimony mentions that IRS removed four lines from its related AMT Form 4626 (p. 5).

What plans does IRS have to simplify the applicable law and/or Form 6251?

Q5. Reporting by Small Partnerships. According to the National Taxpayer Advocate's Fiscal Year (FY) 2002 Annual Report to Congress, taxpayers encounter a number of serious problems. Two are especially noteworthy because the burden seems both onerous and unnecessary. The first concerns Form 1065, Schedule K. This requires a married couple with a small business to devote from 165 to 200 hours of their time. The aggregate burden for this form - which is second only to the Form 1040 - falls heavily on lower and middle income taxpayers. It is especially unwarranted given that the IRS does not enforce the requirement for partnerships with 10 or fewer partners.

Will IRS consider introducing a threshold so that partnerships with 10 or fewer partners are exempt from this reporting requirement?

Q6. EITC Reporting. Similarly, Form 8862, which is required to claim the Earned Income Tax Credit (EITC), is also unduly complicated and unutilized by the IRS. The FY 2002 National Taxpayer Advocate Report stated, "Though there is significant burden to the taxpayer in completing Form 8862, the IRS does not routinely review or utilize the form in conducting the examination" (p. 83). Moreover, the report stated that, in 1999, GAO recommended that IRS cease using this form.

a. How does the IRS justify this burden? Why must taxpayers waste their time filling out forms that the IRS does not use? How many other forms are taxpayers required to fill out that the IRS does not review?

b. IRS began a research study to evaluate the effectiveness of Form 8862 and to determine revisions that would "improve communication, reduce taxpayer burden and aid the recertification/examination process" (p. 85). How is this study progressing? Will it be completed by this June, as IRS projected?

Q7. Rossotti Ideas. In the April 2003 issue of the Washingtonian magazine, former Commissioner Rossotti made several recommendations to reduce tax reporting complexity, including: (a) unifying the four or five existing definitions of a child and family; (b) eliminating the AMT; and (c) consolidating education credits. What is your reaction to these recommendations?

Q8. Duplicative Reporting.

a. Has IRS made a crosscutting analysis to identify any duplication of identical information required to be provided in more than one tax form? If not, why not?

b. Please explain why taxpayers are asked to provide identical information in multiple places, e.g., on capital gains and losses *[Schedule D plus]*, and supplemental income and losses from rental real estate *[Schedule E & Form 8582, Passive Activity Loss Limitations]*. Is IRS planning to simplify any of this reporting or any other duplicative reporting in the rest of 2003 and, if not, why not?

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 2, 2003

The Honorable Doug Ose
Chairman, Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs
Committee on Government Reform
Washington, D.C. 20515-1102

Dear Mr. Chairman:

I am responding to your April 14, 2003, request for information following the April 11, 2003, hearing before your subcommittee titled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" I have enclosed the answers to your eight questions.

I hope this information is helpful. If you have any questions, please contact Floyd Williams at (202) 622-4725.

Sincerely,

Bob Wenzel
Acting Commissioner

Enclosure

cc: The Honorable John F. Tierney

Q1. IRS Paperwork Reduction Initiatives in 2002-2003. The Office of Management and Buget's (OMB's) March 2003 inventory shows that the Internal Revenue Service (IRS) has 774 approved information collections, imposing 6.5 **billion** hours of burden on the public. Your testimony mentions only three paperwork reduction initiatives in 2002 and to date in 2003, resulting in only 31 **million** fewer hours of burden on the public: 20 million by raising the reporting threshold for Schedule B *[OMB estimates this reduction at 15 vs 20 million – pp. 8 & 12, Graham]*, 10 million for reduced recordkeeping for family day care providers, and 1 million by removing a "less than zero" checkbox on the SSA-1099. IRS has 130 information collections that impose over 1 million hours each, 43 of which imposed over 10 million hours each.

a. Your testimony explains that IRS was able to make the **threshold** change for the Schedule B because the statute provides the IRS Commissioner with discretion to set an appropriate threshold *(p. 3)*. In your discussion of Limited Issue Focus Examinations involving a Memorandum of Understanding (MOU) between IRS and a taxpayer, you state, "The MOU will contain dollar-limit thresholds, established on a case-by-case basis, below which the IRS will agree not to raise issues" *(p. 13)*. For which IRS reporting, does the Tax Code provide the IRS Commissioner with discretion to set thresholds? Have you examined each of these for burden reduction opportunities?

The Office of Taxpayer Burden Reduction (OTpBR) is conducting an extensive review of the Internal Revenue Code to identify all the Code Sections that provide for "thresholds." In general, Congress has provided no discretion in its statutory language that delegates to the Commissioner the authority to adjust statutory thresholds. (See, for example, Section 213.) Under the authority delegated to him by the Secretary of the Treasury, in general, the Commissioner is granted the authority to prescribe all needful rules and regulations to administer the provisions of the Code. (See Section 7805). OTpBR is reviewing the regulations and all administrative provisions to identify such thresholds, elections, tolerances, etc. that could be adjusted, without requiring legislation, to reduce unnecessary taxpayer burden while maintaining appropriate levels of compliance.

b. How many of IRS's 774 information collections were included in its proposed information collection budget (ICB) submission to OMB for **reductions** in burden in 2002 and 2003? How many hours of burden reduction are associated with each of these initiatives?

FY 2002 CHANGES IN BURDEN HOURS (DEDUCTIONS)	
Form CT-1	**-6,380**
Form 706	**-7,020**
Forms 940, 940-PR	**-21,978**
Forms 941, 941-PR, 941-SS	**-400,000**
Form 1040	**-1,840,157**
Form 1040C	**-20**
Form 1042	**-8,640**
Forms 2290	**-4,578,560**
Form 3115	**-16**
Form 3520-A	**-160**
Form 4136	**-12,786**
Form 6251	**-9,689,900**
Form 6406	**-5,000**
Form W-4P	**-120,000**
Form 1040-EZ	**-4,326,193**
Forms 5500/5500 C/R	**-26,928,784**
Forms 8329, 8830	**-80**
Form 1120-RIC	**-14,386**
Notice 87-61	**-25,000**
Form 5305-A-SEP	**-74,000**
Form 8594	**-224,000**
Form 1120-PC	**-5,434**
Form 8697	**-20**

Form 8801	**-387**
Form 8814	**-11,000**
Form 8825	**-7,050**
Form 8823	**-200**
Form 8884	**-5,671**
Form W-5	**-7,358**
REG-107047-00	**-95,000**
Form 8848	**-6,300**
Form 8837	**-7,950**
Notice 97-12	**-5,000**
Revenue Procedures 97-36, 97-38, and 2002-9	**-1,935**
Form 8839	**-135**
Form 8863	**-70,000**
Self-Employed Taxpayer Prefiling and Filing Burden Study	**-2,980**
Electronic Tax Payment Systems Focus Group Study	**-84**
LMSB 1120 E-File Marketing Design	**-51**
ETA Interview	**-270**
ETA Payment System	**-281**
Focus Group Self-Selection PIN	**-95**
Reg. 10691799	**-3,000**
Survey Measuring Impact of IRS Rebate	**-380**
IR EITC Advertising Tracking Study	**-1,400**
Announcement 2002-2	**-450**
REG-209135-88; Reg-142299-01	**-372**
Form 1041-N	**-3,777**
Religious Freedom Restoration Act Study	**-44**

Study to Measure Customer Satisfaction of IRS Wage and Investment Customers	**-1,837**
Revenue Procedure 2002-32	**-100**

FY 2003 CHANGES IN BURDEN HOURS (DEDUCTIONS)	
Form 720	**-211**
Form 2688	**-14,530**
Form 1040	**-12,776,046**
Form 1040A	**-6,802,155**
Forms 1040-SS, 1040-PR	**-222,640**
Form 1120	**-33,756,031**
Form 1120-F	**-79,122**
Form 1120S	**-14,262,930**
Form s 2210/2210-F	**2,000**
Form 2220	**-856,440**
Form 5884	**-2,658**
Form 6251	**-84,260**
Form 706-NA	**-7**
Form 6765	**-34,005**
LR-274-81 (Final)	**-10,010**
Form 5498	**-812,082**
Form 1120-W	**-549,735**
Form 8606	**-27,050**
Form 8826	**-6,272**
Form 8379	**-3,000**
TeleFile 1040	**-102,000**
Form 8834	**-120**
Form 8843	**-2,775**

Form 8847	**-8**
Third -Party Disclosure Requirements in IRS Regulations	**-1,041,645**
Form 8839	**-818**
Form 8861	**-120**
Form 8860	**-144**
Form 5500	**-4**
Form 8862	**-420,000**
REG-103735-00	**-1,249**
Wage and Investment Taxpayer Prefiling and Filing Burden Study	**-2,330**
Market Segment Satisfaction Survey	**-5,671**

And, what are the burden reduction hours expected from the four additional initiatives described on pp. 4-5 of your written statement *[eliminating 2lines on Form 709, removing 4 lines on Form 4626, redesigning Form 941, and redesigning Schedule K-1]*?

Form 709 - 6,500 hours
Form 4626 - 58,200 hours
Forms 941 and Schedule K-1 - (Burden estimates are unknown because the redesign initiatives are not completed.)

c. The General Accounting Office's (GAO's) written statement says that some IRS **increases** in burden "were made at the agency's initiative – not because of new statutes" *(p. 13)*. Why did IRS decide to increase burden hours on the public?

Four new lines were added to Forms 941, 941-PR, and 941-SS to allow taxpayers to designate another person (the so-called "third party designee") to discuss their tax return with the IRS. The four lines are a "Yes" or "No" checkbox for the designee option, the designee's name, designee's phone number, and his or her 5 -digit PIN. Although technically a burden "increase, " the new lines are designed to assist taxpayers during the processing of their return.

d. What specific decreases and increases of **250,000 hours or more** did IRS submit to OMB in its proposed ICB? Please submit a full accounting for the hearing record.

Decreases and Increases of 250,000 hours or more (FY 2003)

Form 1040	**(12,776,046)**
1040A	**(3,575,716)**
1041	**780,287**
1065	**9,803,439**
1120	**(33,756,031)**
1120S	**(9,812,670)**
2220	**(856,440)**
5498	**(812,082)**
1120-W	**(549,735)**
8582	**2,100,924**
3rd Party Disclosure Requirements in IRS Regulations (OMB no. 1545-1466)	**(1,041,645)**
8862	**(420,000)**
8880	**1,310,000**
8885	**294,000**
8802	**324,000**

Q2. IRS Burden Reduction for Small Businesses. Drs. Mark Crain and Thomas Hopkins in their August 2001 Report, commissioned by the Small Business Administration (SBA), found that small firms (with less than 20 employees) spend twice as much on tax compliance as large firms (with over 500 employees): $1,202 per employee versus $562 per employee. Small businesses face more than 200 IRS forms, including more than 8,000 lines, boxes, and data requirements *[point to our 3 visual huge notebooks]*. In the Subcommittee's paperwork hearings in April of 1999, 2000, 2001, and 2002, former IRS Commissioner Rossotti acknowledged that there is much duplication in IRS' reporting requirements for small businesses.

What specific paperwork reduction candidates did IRS pursue in 2002 and 2003 to date and will IRS pursue in the rest of 2003 to actually reduce the paperwork burden on small businesses -- i.e., not notice simplifications, electronic filing, guidance documents, mediation, fast track settlements, etc. which form the majority of your written testimony? What is IRS' estimate for the burden reduction hours associated with these initiatives?

2002

- *Filing Requirements for Schedule B*
  In September 2002, the IRS and Treasury Department announced an increase in the threshold for filing a separate schedule for interest or dividend income. For their 2002 tax returns, most taxpayers will no longer have to file a separate schedule if they have interest or dividend income of $1,500 or less. Form 1040 filers use Schedule B, Interest and Ordinary Dividends, to list the names of those who paid them along with the amount; Form 1040A filers use Schedule 1. The change means that more than 15 million taxpayers will have one less schedule to file with their tax returns this year. The estimated burden reduction is 20 million hours.

- *Day Care Providers*
  Late last year, the IRS announced that family day care providers may now choose to use a standardized rate to claim the deduction for meals provided to children in their care. This is in lieu of keeping detailed records and receipts for food purchased for use in their business. Use of the standardized rate will significantly reduce the recordkeeping burden of family day care providers, which are predominantly small businesses. Savings of 10 million hours.

- *Checkbox on Social Security*
  In November 2002, we deleted two checkboxes on the Social Security benefits worksheet used by individual taxpayers, reducing burden by as much as a million hours for filers of Form 1040.

2003

- *Form 941 Redesign*
  A burden hour increase or decrease can not be determined at this time because the project is not complete.

- *Schedule K-1 Redesign*
  A burden hour increase or decrease can not be determined at this time because the project is not complete.

- *Form 4626-Alternative Minimum Tax Corporations*
  We are revising the 2003 Form 4626 to remove 4 lines- a burden reduction of 58,200 burden hours.

- *Form T-Timber, Forest Industries Schedule*
  We are revising this form by removing a section for reporting losses- a burden reduction of 44,770 hours.

Q3. Efforts to Reduce Top IRS Paperwork. In your written statement, you discuss developing a new model to re-estimate the burden of IRS information collections so that "IRS management can prioritize initiatives by using the model to estimate the impact of an initiative on taypayer burden" *(p. 14)*. OMB's March 2003 inventory reveals that IRS has 43 information collections which each impose over 10 million hours of burden on the public. 10 of these each levy from 95 million to 1.7 billion hours of burden.

The Subcommittee reviewed all IRS Notices and Proposed Rules in the Federal Register during 2002 and to date in 2003 relating to the IRS "top 10." Only 1 - the sixth most burdensome form – the Form 941, Employer's Quarterly Federal Tax Return, had an IRS proposed revision during this period but the proposal included no reduction in burden hours.

Why did IRS not propose revisions in any of its other 9 "top 10" information collections?

- individuals (Form 1040) 1.7 billion hours
- partnerships (Form 1065) 1.2 billion hours
- US S corporations (Form 1120S) 479 million hours
- estates & trusts (Form 1041) 399 million hours
- US corporations (Form 1120) 368 million hours
- employer's quarterly Federal tax (Form 941) 338 million hours
- depreciation & amortization (Form 4562) 315 million hours
- individuals (Form 1040A) 265 million hours
- employee's withholding (Form W-4) 116 million hours
- individuals estimated taxes (Form 1040-ES) 95 million hours

The IRS is always trying to minimize taxpayer burden and reviews annually each of the top ten tax forms and related schedules. Our objective is to balance taxpayer burden with the need to ensure compliance with the tax laws. For the top ten forms, here is a summary of our recent accomplishments and the redesign efforts currently under way:

- **For 2002, we increased the threshold for filing Schedule B (Form 1040) and Schedule 1 (Form 1040A) to report interest and dividends from more than $400 to more than $1,500. The estimated burden reduction is 20 million hours.**
- **For tax years beginning in 2002, we reduced burden by approximately 61 million hours on Forms 1120, 1120-A, and 1120S by exempting small corporations from having to complete certain schedules on those forms.**
- **For tax years beginning in 2002, we reordered and consolidated lines on Schedule I (Alternative Minimum Tax) of Form 1041. This resulted in**

the elimination of five lines on Form 1041 and a total burden reduction of 2.2 million hours.

- **We are working on a redesign of Schedule K-1 (Form 1065) to simplify the form and make it less burdensome.**
- **We are working on a redesign of Form 941 to improve the format and readability of the information on the form. We are also looking at ways to simplify the form.**

Q4. Alternative Minimum Tax Reporting. IRS's 12/31/01 report entitled, "National Taxpayer Advocate: FY 2001 Annual Report to Congress," identified computing the Alternative Minimum Tax (AMT) as one of the most serious problems encountered by taxpayers. IRS estimates that Form 6251, "Alternative Minimum Tax - Individuals," requires nearly **4 hours** for each affected taxpayer to complete. Apparently, in 1998, more than 3.4 million taxpayers included Form 6251 "just to demonstrate that they did not owe AMT" *(p. 58)*. The report states, "the number of taxpayers affected by AMT is expected to increase significantly over the next 10 years, from approximately 1.4 million to approximately 35.5 million" *(p. 59)*. According to IRS records, during the 1999 filing year, paid preparers completed 93% of all returns with AMT. I do want to acknowledge that your testimony mentions that IRS removed 4 lines from its related AMT Form 4626 *(p. 5)*.

What plans does IRS have to simplify the applicable law and/or Form 6251?

For tax year 2002, we reduced complexity and taxpayer burden by eliminating 11 lines on Form 6251. We accomplished this by eliminating unnecessary subtotal lines and consolidating other lines. We estimate that 4.2 million taxpayers will benefit from these changes and paperwork burden will be reduced by more than 1 million hours.

Q5. Reporting by Small Partnerships. According to the National Taxpayer Advocate's Fiscal Year (FY) 2002 Annual Report to Congress, taxpayers encounter a number of serious problems. Two are especially noteworthy because the burden seems both onerous and unnecessary. The first concerns Form 1065, Schedule K. This requires a married couple with a small business to devote from 165 to 200 hours of their time. The aggregate burden for this form - which is second only to the Form 1040 - falls heavily on lower and middle income taxpayers. It is especially unwarranted given that the IRS does not enforce the requirement for partnerships with 10 or fewer partners.

Will IRS consider introducing a threshold so that partnerships with 10 or fewer partners are exempt from this reporting requirement?

The IRS does not have the authority to introduce a threshold for Schedule K of Form 1065. Internal Revenue Code section 6031 requires every partnership to make a return "stating specifically the items of its gross

income and the deductions allowable by subtitle A." Schedule K is used to fulfill this statutory requirement to report the partnership's items of gross income and deductions as well as other items required to be separately stated under the Code and regulations. In addition, the partnership needs Schedule K to properly allocate the distributable share of the partnership's income and deductions to each of its partners on Schedule K-1.

Q6. EITC Reporting. Similarly, Form 8862, which is required to claim the Earned Income Tax Credit (EITC), is also unduly complicated and unutilized by the IRS. The FY 2002 National Taxpayer Advocate Report stated, "Though there is significant burden to the taxpayer in completing Form 8862, the IRS does not routinely review or utilize the form in conducting the examination" *(p. 83)*. Moreover, the report stated that, in 1999, GAO recommended that IRS cease using this form.

a. How does the IRS justify this burden? Why must taxpayers waste their time filling out forms that the IRS does not use? How many other forms are taxpayers required to fill out that the IRS does not review?

The Tax Relief Act of 1997 requires taxpayers to re-certify for EIC if their EIC was disallowed in a prior year through deficiency procedures. It does not stipulate the manner in which the taxpayers will re-certify. The Commissioner has the authority to determine the information the taxpayer must provide to show he or she is entitled to the claim the EIC.

Per Regulations 1.32-3(c), "In the case of a taxpayer to who paragraph a of this sections applies, and except as otherwise provided by the Commissioner in the instructions for Form 8862 "Information to Claim Earned Income Credit After Disallowance," no claim for the EIC filed subsequent to the denial is allowed unless the taxpayer properly completes Form 8862."

The IRS will use the results from the study mentioned below to make communications clearer, reduce taxpayer burden, and aid in the re-certification and examination process. A part of this study is a possible revision to improve Form 8862.

b. IRS began a research study to evaluate the effectiveness of Form 8862 and to determine revisions that would "improve communication, reduce taxpayer burden and aid the recertification/examination process" *(p. 85)*. How is this study progressing? Will it be completed by this June, as IRS projected?

The IRS is currently reviewing actual returns to determine the effectiveness of Form 8862 and to also determine any changes that should be made. The study is also reviewing current business practices and

policies to determine if changes can be made. Preliminary results should be available by the end of June.

Q7. Rossotti Ideas. In the April 2003 issue of the Washingtonian magazine, former Commissioner Rossotti made several recommendations to reduce tax reporting complexity, including: (a) unifying the 4 or 5 existing definitions of a child and family; (b) eliminating the alternative minimum tax (AMT); and (c) consolidating education credits. What is your reaction to these recommendations?

Unifying the 4 or 5 existing definitions of a child and family is included in the Administration's tax proposals this year, and we certainly endorse this proposal. We welcome all ideas for reducing tax complexity, but of course defer to the Department of Treasury, which sets tax policy, and decides which proposals should be adopted.

Q8. Duplicative Reporting.

a. Has IRS made a crosscutting analysis to identify any duplication of identical information required to be provided in more than one tax form? If not, why not?

The development process for tax forms and publications generally assures no duplication exists. Therefore, we believe a crosscutting analysis is not necessary.

b. Please explain why taxpayers are asked to provide identical information in multiple places, e.g., on capital gains and losses *[Schedule D plus]*, and supplemental income and losses from rental real estate *[Schedule E & Form 8582, Passive Activity Loss Limitations]*. Is IRS planning to simplify any of this reporting or any other duplicative reporting in the rest of 2003 and, if not, why not?

We are not aware of any duplicative reporting requirements on these forms. However, taxpayers must often carry amounts from one form (such as Form 4797) to another form (such as Schedule D). We do this to ensure each transaction reported on the tax return receives the correct tax treatment.

For example, the sale of a business asset may result in an ordinary gain, ordinary loss, or a capital gain. If the taxpayer entered such a transaction directly on Schedule D, instead of on Form 4797, a net loss would be incorrectly subject to the capital loss limit of $3,000 or be incorrectly used to offset capital gains that are entitled to a more favorable capital gains tax rate. However, if the transaction when combined with all other business sales results in a net gain, the transaction is treated as a capital gain and must be transferred to Schedule D to get the correct tax treatment.

TOM DAVIS, VIRGINIA
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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 14, 2003

BY FACSIMILE
The Honorable John L. Henshaw
Assistant Secretary of Labor for
Occupational Safety and Health
Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Mr. Henshaw:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" As discussed during the hearing, please respond to the enclosed followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Tuesday, May 6, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

Enclosure

cc: The Honorable Tom Davis
The Honorable John Tierney

Q1. DOL & OSHA Paperwork Reduction Initiatives in 2002-2003. The Office of Management and Budget's (OMB's) March 2003 inventory shows that the Department of Labor (DOL) has 414 approved information collections, imposing 189 million hours of burden on the public. Of these, the Occupational Safety and Health Administration (OSHA) has 96 approved information collections, imposing 140 million hours or 74 percent of Labor's total burden.

a. How many of DOL's 414 information collections were included in its proposed information collection budget (ICB) submission to OMB for **reductions** in burden in 2002 and 2003? And, how many hours of burden reduction are associated with each of these initiatives?

b. In a review of each OSHA Notice, Proposed Rule and Final Rule published in the Federal Register during 2002 and to date in 2003, the Subcommittee found only one OSHA initiative to reduce paperwork burden. This initiative, called the Standards Improvement Project – Phase II, proposed reduced burdens across 12 of the 17 different information collections covered by the Notice. However, the total proposed reduction was for only -207,892 hours. In addition, the Subcommittee found one initiative to increase burden (+31,663 hours): more information about hearing loss under the Recordkeeping and Reporting Occupational Injuries and Illnesses.

In your written statement, you also mentioned a January 2001 burden reduction of unspecified hours (p. 5), but this is not in the period of interest for the April 11, 2003 hearing: 4/02 - 12/03. And, your attached chart shows one large and two tiny decreases, all which probably occurred before the period of interest for this hearing and may be adjustments versus program changes.

OMB's final ICB only includes details on the two initiatives found by the Subcommittee. How many of OSHA's 96 information collections were included in Labor's proposed ICB submission to OMB for **reductions** in burden in 2002 and 2003? And, how many hours of burden reduction are associated with each of them?

Q2. OSHA's Analysis of Top 19. Last April, I asked Secretary Chao to examine the 38 DOL information collections imposing 500,000 hours or more, half of which were imposed by OSHA. Attached to your testimony is a status report - without any Federal Register citations - for paperwork changes associated with about half of the 19. However, since OSHA did not publish for public comment proposals for paperwork changes in any of the 19 OSHA information collections, what specific program decreases and increases (not adjustments) were made for any of the 19 since last April or are planned during the rest of 2003?

- Process safety management of highly hazardous chemicals – 79 million hours
- Bloodborne pathogens standard – 12.7 million hours

- Hazard communication – 7.6 million hours
- Respiratory protection – 6.7 million hours
- Asbestos in construction – 5.6 million hours
- Noise – 5.2 million hours
- Personal protection equipment in general industry – 1.8 million hours
- Lead in construction – 1.7 million hours
- Permit-required confined spaces – 1.6 million hours
- Hazardous waste operations and emergency response (HAZWOPER) – 1.4 million hours
- Mechanical power presses, inspection certification records – 1.4 million hours
- Lead in general industry – 1.3 million hours
- Bloodborne pathogens standard – Needlestick Safety and Prevention Act – 1.2 million hours
- Control of hazardous energy sources (lockout/tagout) – 1.2 million hours
- Powered industrial trucks – 800,000 hours
- Construction fall protection plans and records – 800,000 hours
- Access to employee exposure and medical records – 600,000 hours
- Formaldehyde – 600,000 hours

Q3. OSHA's Improperly-Claimed Results. Attached to your testimony is a "status report" chart. Under "Completed ICR Reviews," there are nine information collections cited. After reviewing the applicable Federal Registers, the Subcommittee found:

- 2 had no change in burden – Needlestick Safety and Mechanical Power Presses

- 1 was a burden re-estimation adjustment – Process Safety Management

- 5 were extensions (without change) of currently approved collections but with burden hour adjustments – Hazard Communication, Control of Hazardous Energy Sources, HAZWOPER, Permit Required Confined Spaces, and Powered Industrial Trucks, and

- 1 had a Federal Register Notice (67 FR 44037) which included no estimated burden hour change; instead, it stated, "OSHA will modify its previously approved information collection requirements prior to the January 1, 2003 effective date" – Recordkeeping and Reporting Occupational Injury and Illnesses

How can you claim any of these nine as accomplishments when OSHA made no program changes that resulted in decreases in burden hours?

Q4. Thresholds. In your testimony, you mention that employers with 10 or few employees are not required to compile injury-illness logs (p. 5). Can this threshold be increased to cover more small businesses? And, can you either introduce a threshold or raise existing

thresholds in any other areas? Or, are there statutory impediments to doing so? Please provide a detailed analysis for the hearing record.

Q5. Guidance Documents. During the 106th Congress, the Subcommittee investigated the agencies' use of guidance documents - some as backdoor rulemaking - and then, after coordinated input from each of the agencies' General Counsels, issued a House Report entitled "Non-Binding Legal Effect of Agency Guidance Documents" (H. Rept. 106-1009). Are you ensuring that all new and old OSHA guidance documents merely provide safe harbor information and are not being used by OSHA to issue either citations or sanctions regarding paperwork or other regulatory noncompliance?

Q6. Combined Recordkeeping Requirements. Have you considered combining OSHA's many different recordkeeping requirements in its many standards to reduce duplication and burden on business? If so, please elaborate. If not, why?

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

MAY 27 2003

The Honorable Doug Ose, Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs
Committee on Government Reform
B-377A Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your queries following the April 11, 2003 hearing entitled, "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" I again wish to express my appreciation for being invited to testify before the Subcommittee on the progress that the Department of Labor (DOL) and the Occupational Safety and Health Administration (OSHA) have made, and will continue to make, in reducing paperwork.

The enclosed pages include the DOL and OSHA responses to the questions of your April 16, 2003 letter. Please contact Bryan Little in the Department of Labor's Office of Congressional and Intergovernmental Affairs at 202-693-4600 if you have other questions.

Sincerely,

John L. Henshaw

Enclosure

cc: The Honorable John Tierney
The Honorable Tom Davis

Question 1a:

How many of DOL's 414 information collections were included in its proposed Information Collection Budget (ICB) submission to OMB for **reductions** in burden in 2002 and 2003? And, how many hours of burden reduction are associated with each of these initiatives?

Answer 1a:

Since the enactment of the Paperwork Reduction Act of 1995 (PRA), the Department of Labor (DOL) has proceeded to demonstrate its success in reducing the burden its information collection activities impose on the American public. For example, between FY95 and FY02, DOL reduced paperwork burden hours by approximately 29 percent (from 266,445,545 to 189,232,706). In contrast, during the same period, Federal government-wide burden hours increased 17 percent.

Of the 414 active information collections in DOL's current inventory, each year approximately a third of them are in process for OMB approval. Most Information Collection Request (ICR) approvals are due for OMB renewal in three-year intervals. ICRs can receive approval for 18 months or other lengths of time, but never more than 36 months.

The January 2003 DOL ICB reported reductions in 69 ICRs completed in FY02 totaling 2.3 million hours, and projected reductions for 58 ICRs in FY03 totaling 30.4 million hours. Indicated by fiscal year, the type of change (i.e., program vs. adjustment) and the burden-hour reduction are specified for each of the 127 ICRs listed in the attached Tables 1 and 2.

Based on the OMB Summaries of Active Information Collections between September 30, 2002 and March 31, 2003, the Department has realized a reduction of 29,397,153 burden hours. This 15 percent reduction, however, only accounts for actual or net reductions, without including any offsets due to possible future burden hour increases.

Question 1b:

OMB's final ICB only includes details on the two initiatives found by the Subcommittee. How many of OSHA's 96 information collections were included in Labor's proposed ICB submission to OMB for **reductions** in burden in 2002 and 2003? And, how many hours of burden reduction are associated with each of them?

Answer 1b:

Of the 96 OSHA ICRs included in the January 2003 DOL submission to OMB, there are 33 ICRs associated with burden-hour reductions: 14 were completed and approved in FY02, and 19 more ICRs are projected to reduce burden hours throughout FY03. Net decreases in the burden-hour estimates for three of these 19 ICRs result from both "program changes" and "adjustments" proposed by the agency. Revisions in burden-hour estimates are reported to OMB as either program changes or adjustments. An ICR can be impacted by one, or several, of both. Program changes are the result of deliberate Federal Government action (e.g. new collections), while adjustments are based on changes not controllable by the government.

In FY02, OMB approved burden hour reductions for: a) 2 ICRs resulting from OSHA program changes, and b) 12 others resulting from ICR adjustments (see Table 3).

For FY03, 12 ICRs are expected to be impacted by proposed program changes associated with the Standard Improvement Project -- Phase II (SIP) OSHA rulemaking, also known as "DOL Initiative Number 3" in the January 2003 ICB. Projected reductions for a 13th ICR on a final State-Plan rule are based on a small adjustment, along with a non-SIP related OSHA program change. The other six non-SIP related ICRs projected to have burden hour reductions in FY03 are based solely on estimate adjustments (see Table 4).

Question 2:

Last April, I asked Secretary Chao to examine the 38 DOL information collections imposing 500,000 hours or more, half of which were imposed by OSHA. Attached to your testimony is a status report—without any *Federal Register* citations—for paperwork changes associated with about half of the 19. However, since OSHA did not publish for public comment proposals for paperwork changes in any of the 19 OSHA information collections, what specific program decreases and increases (not adjustments) were made for any of the 19 since last April or are planned for during the rest of 2003?

Answer 2:

Since April 2002, OSHA has made program changes to four Information Collection Requests (ICRs) with more than 500,000 burden hours. Three ICRs had program change reductions and one ICR had a program change increase.

The three ICRs that had program change reductions were part of the SIP Notice of Proposed Rulemaking, published October 31, 2002. The three ICRs -- Lead in General Industry (51,401 hours), Lead in Construction (136,665 hours), and

Asbestos in Construction (1 hour) -- are also listed in Table 4. The Agency has scheduled public hearings on the Standards Improvement Project for July 8-9, 2003.

The one ICR that had a program increase since April 2002 is for the regulation on Recordkeeping and Reporting of Occupational Injuries and Illnesses. In January 2003 the Agency added 31,663 hours to the existing Recordkeeping ICR to reflect the revised criteria for recording occupational hearing loss on OSHA 300 and 301 forms. The revised criteria went into effect on January 1, 2003.

During the rest of 2003 OSHA will begin reviewing six ICRs: Noise (29 CFR 1910.95); Formaldehyde (29 CFR 1910.1048); Access to Employee Exposure and Medical Records (29 CFR 1910.1020); Construction Fall Protection Plans and Records (29 CFR 1926, Subpart M); Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030 as amended by the Needlestick Safety and Prevention Act); and Respiratory Protection (29 CFR 1910.134). Since 6(b) rulemaking would have been required to remove or modify the existing collections of information in these ICRs, no program change reductions will occur this year.

Question 3:

Attached to your testimony is a "status report" chart. Under "Completed ICR Reviews," there are nine information collections cited. After reviewing the applicable Federal Registers, the subcommittee found:

- 2 had no change in burden—Needlestick Safety and Mechanical Power Presses
- 1 was a burden re-estimation adjustment—Process Safety Management
- 5 were extensions (without change) of currently approved collections but with burden hour adjustments—Hazard Communication, Control of Hazardous Energy Sources, HAZWOPER, Permit Required Confined Spaces, and Powered Industrial Trucks, and
- 1 had a Federal Register Notice (67 FR 44037) that included no estimated burden hour change; instead, it stated, "OSHA will modify its previously approved information collection requirements prior to the January 1, 2003 effective date" —Recordkeeping and Reporting Occupational Injury and Illnesses

How can you claim any of these nine as accomplishments when OSHA made no program changes that resulted in decreases in burden hours?

Answer 3:

I believe the status report included in my testimony does demonstrate success on OSHA's part, and the nine completed ICRs can be considered accomplishments because they accurately reflect the burden hours OSHA must place on employers in order to protect worker safety and health. The Agency has a duty under the PRA to ensure that existing (and yet-to-be-promulgated) paperwork provisions have practical worker safety and health utility, and are not placing unnecessary burdens on employers.

The three status report charts focus only on the 19 standards with 500,000 burden hours or greater, identified by the February 23, 2002 OMB Inventory of Active Information Collections. The charts do not address the majority of OSHA's ICRs, but they do provide a current timeline for OSHA's ongoing implementation of the ICR review process, and, for the sake of accuracy, indicate whether burden hour changes have risen, fallen or remained constant.

In addition to the ICR review process OSHA completed on the nine aforementioned standards, in which OSHA was unable to find any provisions requiring collections of information that did not have on-going practical utility for achieving the mission of the Agency, eight of the nine standards were developed through notice-and-comment rulemaking. Thus, a lengthy and thorough public record exists that justifies the practical utility of the collections of information needed to support and implement each of these standards; therefore, no unnecessary burden is being imposed.

For FY03, the latest DOL ICB lists 13 OSHA ICRs for which reductions from program changes have been proposed, resulting in a projected decrease totaling 208,985 burden hours. One of the 13 (not shown in the status report charts, but listed in Table 4) includes both a program change and an adjustment in an Occupational Safety and Health State-Plan related final regulation. The January 2003 DOL ICB also lists another nine OSHA ICRs with reductions from adjustment changes projecting a decrease totaling more than 28 million burden hours.

Program changes related to the OSHA SIP rulemaking affect 12 OSHA ICRs, and are projected to result in a 207,893 burden-hour reduction. Of these 12, 3 assessed total burden hours greater than 500,000. The most significant of these was in the lead in construction standard. By reducing the frequency for updating compliance plans from semi-annually to annually, and by allowing employers to post (in an appropriate location accessible to affected employees) employee exposure monitoring results, OSHA removed 136,665 burden hours. This latter employee notification change was applied to the lead in general industry standard as well, resulting in a reduction of 51,401 burden hours.

Question 4:

In your testimony, you mention that employers with 10 or few employees are not required to compile injury-illness logs. Can this threshold be increased to cover more small businesses? And, can you either introduce a threshold or raise existing thresholds in any other areas? Or are there statutory impediments to doing so? Please provide a detailed analysis for the hearing record.

Answer 4:

In establishing the small employer exemption, OSHA considered two important factors for the Recording and Reporting Occupational Injuries and Illnesses rulemaking (29 CFR 1904). Several times over the past thirty years the Agency has sought comments on the need to gather quality data on the number and means in which workers are hurt or sickened on the job, and the desire to provide paperwork relief for small businesses.

By exempting employers of ten or fewer workers, OSHA successfully cuts paperwork burdens for the vast majority of U. S. workplaces—75 percent of all employers nationwide. Collecting data on workplace injuries and illnesses is mutually beneficial to the functions of the Agency and employers - helping the Agency to collect appropriate data, as required by Section 8(c) of the OSHA Act, while also providing employers and their employees with uniform data that can lead to reduced work-related costs through injury and illness trend analysis. Exempting more businesses would diminish these mutual benefits.

In addition to excluding most employers based on size, OSHA also has lessened the paperwork burden on the least dangerous workplaces, exempting a further 11 percent of all U.S. employers from having to comply with the recordkeeping aspects of the regulation. By implementing a threshold of occupational danger to identify low-hazard employers (see Appendix A of Subpart B of 29 CFR 1904.2), the resources of the Agency and employers can be focussed on those industry sectors associated with higher occupational safety and health risks.

Question 5:

During the 106th Congress, the Subcommittee investigated the agencies' use of guidance documents -- some as backdoor rulemaking -- and then, after coordinated input from each agencies' General Counsels, issued a House Report entitled "Non-Binding Legal Effect of Agency Guidance Documents" (H. Rept. 106-1009). Are you ensuring that all new and old OSHA guidance documents merely provide safe harbor information and are not being used by OSHA to issue either citations or sanctions regarding paperwork or other regulatory noncompliance?

Answer 5:

I can assure you that guidance documents are not used as a basis for issuing citations or sanctions regarding paperwork or other regulatory noncompliance. OSHA has emphasized this policy repeatedly and recently reaffirmed it with the disclaimer on the ergonomics nursing-home guidelines.

Question 6:

Have you considered combining OSHA's many different recordkeeping requirements in its many standards to reduce duplication and burden on business? If so, please elaborate. If not, why?

Answer 6:

Opportunities for the Agency to share collections of information across programs and/or Federal agencies are limited because most OSHA standards require employers to collect and maintain information that is specific to each employer and employee involved. Contributing to this difficulty is the fact that the information to be collected is not duplicated or required from another source. High burden hours accrued in an information collection are almost always attributable to safe health-related requirements for employee exposure monitoring and medical surveillance.

For example, OSHA's health standard regarding occupational exposure to noise (29 CFR 1910.95) is a prime example illustrating the inability to combine recordkeeping requirements and the challenges OSHA faces with its attempts to eliminate unnecessary paperwork burdens. An overwhelming 73 percent of the burden hours associated with the standard are attributable to audiometric testing of employees (i.e., a type of medical exam), and 14 percent are due to exposure monitoring to measure workplace noise levels. Together these two requirements, necessary to assess and evaluate employee-hearing loss, account for 4,520,847 hours out of the current burden-hour total of 5,175,645.

Notably, employers are rarely required to submit information to OSHA; much more common is the need to perform an information collection, record it in some fashion, and then maintain that record. Record retention is not only for the benefit of employers—allowing for injury and illness trend analysis and other valuable industrial hygiene (exposure monitoring) or epidemiological (medical surveillance) investigations that can be used to improve working conditions—but these records are also held for employees as referenced in Section 6(b)(7) of the OSH Act.

Out of the seven million U. S. employers, OSHA surveys a tiny fraction of them annually (approximately 1.3 percent), and only in order to best target

enforcement and consultation efforts. In 2002, about 93,000 employers were asked to submit to OSHA their 2001 injury and illness data. This enabled the Agency to calculate company-specific injury and illness rates. An ICR, separate from the one for the Recordkeeping rule, is performed for this survey, and has always received OMB approval.

Table 1

DOL Burden Hour Reductions
October 1, 2001 to September 30, 2002 (FY02)

#	OMB #	Date of Action	Program Reduction	Adjustment Reduction
1	1218-0003	10/15/01		-12
2	1218-0007	03/07/02	-766	
3	1218-0011	03/19/02		-174
4	1218-0054	11/01/01		-3
5	1218-0061	04/02/02		-1,429
6	1218-0072	06/11/02		-6,767
7	1218-0150	03/25/02		-127,109
8	1218-0179	10/10/01		-421,333
9	1218-0185	02/07/02		-23,913
10	1218-0206	10/10/01		-2,140
11	1218-0219	09/24/02		-5
12	1218-0220	09/23/02		-45
13	1218-0226	08/06/02		-9,600
14	1218-0241	02/07/02	-56,848	
15	1205-0132	03/21/02		-16
16	1205-0172	10/15/01		-972
17	1205-0310	01/11/02		-381,760
18	1205-0359	11/21/01		-318
19	1205-0397	04/25/02	-1,186	
20	1205-0419	01/31/02	-2,703	
21	1205-0420	08/23/02		-8,215
22	1210-0034	02/21/02		-487
23	1210-0048	02/19/02		-132
24	1210-0060	03/06/02		-7,995
25	1210-0091	11/14/01		-48
26	1210-0105	11/01/01		-2,829
27	1210-0106	10/31/01		-107
28	1210-0115	04/30/02		-59,050
29	1210-0117	05/21/02		-77,683
30	1215-0022	02/12/02		-225
31	1215-0031	10/02/01		-838
32	1215-0032	08/09/02		-331
33	1215-0056	04/15/02		-818
34	1215-0060	10/02/01		-115
35	1215-0072	07/30/02		-928,004

Table 1 (continued)

DOL Burden Reductions
October 1, 2001 to September 30, 2002 (FY02)

#	OMB #	Date of Action	Program Reduction	Adjustment Reduction
36	1215-0084	06/26/02		-442
37	1215-0090	04/02/02	-377	-2,627
38	1215-0103	08/01/02		-1,782
39	1215-0131	11/16/01		-133
40	1215-0154	05/24/02		-13
41	1215-0171	11/19/01		-350
42	1215-0182	08/09/02		-1,750
43	1215-0187	02/25/02		-12,266
44	1215-0197	05/22/02		-750
45	1219-0007	04/01/02		-5,062
46	1219-0008	02/14/02		-712
47	1219-0003	10/16/01		-7,200
48	1219-0009	11/19/01		-48
49	1219-0015	03/29/02		-935
50	1219-0024	10/29/01		-163
51	1219-0042	10/29/01		-94
52	1219-0046	11/19/01		-1,936
53	1219-0048	02/12/02		-1,738
54	1219-0049	03/29/02		-29
55	1219-0066	07/24/02	-172	-5,733
56	1219-0070	11/19/01		-28,100
57	1219-0127	04/25/02		-2,133
58	1219-0128	02/14/02	-109	
59	1220-0008	05/16/02		-4
60	1220-0011	02/26/02	-88,530	
61	1220-0076	08/31/02	-6,250	
62	1220-0102	02/28/02	-240	
63	1220-0104	08/31/02	-7,733	
64	1220-0110	02/28/02	-6,987	
65	1220-0171	07/31/02	-20,000	
66	1225-0044	12/03/01	-510	
67	1225-0074	10/22/01	-500	
68	1230-0001	02/28/02	-4,382	
69	1293-0002	02/12/02		-125
		TOTAL REDUCTIONS:	-197,293	-2,136,598
		GRAND REDUCTION:	-2,333,891	

Table 2

Projected DOL Burden Hour Reductions
October 1, 2002 to September 30, 2003 (FY03)

#	OMB #	Program Reduction	Adjustment Reduction
1	1218-0010	-1,938	
2	1218-0061	-3,927	
3	1218-0085	-1,164	
4	1218-0092	-51,401	
5	1218-0104	-2,516	
6	1218-0126	-1,511	
7	1218-0128	-4,426	
8	1218-0133		-19,348
9	1218-0134	-1	
10	1218-0176		-1,072,114
11	1218-0185	-2,903	-12
12	1218-0186	-1,440	
13	1218-0189	-136,665	
14	1218-0195	-1	-56
15	1218-0196		-13,527
16	1218-0200		-27,746,075
17	1218-0202		-8,546
18	1218-0224		-7,360
19	1218-0247	-1,092	-260
20	1205-0009	-5,300	
21	1205-0016		-1,197
22	1205-0134		-1
23	1205-0154		-477
24	1205-0176		-1,653
25	1205-0219	-16,442	
26	1205-0223		-381
27	1205-0224		-384
28	1205-0404		-453
29	1215-0024		-100
30	1215-0066		-6,237

Table 2 (continued)

Projected DOL Burden Hour Reductions
October 1, 2002 to September 30, 2003 (FY03)

#	OMB #	Program Reduction	Adjustment Reduction
31	1215-0083		-25
32	1215-0137		-125
33	1215-0149		-6
34	1215-0166		-116
35	1215-0188		-12,478
36	1215-0192		-500,000
37	1215-0197	-5,009	-80,538
38	1219-0006		-2,760
39	1219-0007		-20,107
40	1219-0054		-3,540
41	1219-0065	-178	
42	1219-0066	-172	-5,733
43	1219-0073		-4,284
44	1219-0101	-16	
45	1219-0120		-21,247
46	1219-0133		-453,883
47	1219-0137		-764
48	1220-0011	-50,586	
49	1220-0032		-42,869
50	1220-0044	-1,934	
51	1220-0050		-13,782
52	1220-0090	-81,547	
53	1220-0109	-3,297	
54	1220-0134	-9,689	
55	1220-0141	-8,000	
56	1220-0164	-2,005	
57	1220-0170	-3,165	
58	1220-0176	-5,800	
TOTAL REDUCTIONS:		-402,125	-30,040,438
GRAND TOTAL:		-30,442,563	

Table 3

OSHA Burden Hour Reductions
October 1, 2001 to September 30, 2002 (FY02)
from
DOL's January 2003 Information Collection Budget Submission to OMB

#	Title	OMB #	Date of Action	Program Reduction	Adjustment Reduction
1	Gear Certification	1218-0003	10/15/01		-12
2	Reporting of Fatality & Multiple Hospitalization Incidents	1218-0007	03/07/02	-766[1]	
3	Confined Spaces & Other Dangerous Atmospheres (Subpart A, General Provisions & Subpart B)	1218-0011	03/19/02		-174
4	Cranes & Derricks Standards for Construction; Recording Tests for Toxic Gases & Oxygen-Deficient Atmospheres in Enclosed Spaces	1218-0054	11/01/01		-3
5	Cotton Dust	1218-0061	04/02/02		-1,429
6	Hazard Communication	1218-0072	06/11/02		-6,767
7	Standard on the Control of Hazardous Energy Sources (Lockout/Tagout)	1218-0150	03/25/02		-127,109
8	Methylene Chloride	1218-0179	10/10/01		-421,333
9	Cadmium in General Industry	1218-0185	02/07/02		-23,913
10	Grain Handling Facilities	1218-0206	10/10/01		-2,140
11	Servicing Multi-Piece & Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv))	1218-0219	09/24/02		-5
12	Shipyard Employment Standards (29 CFR 1915.113(b)(1) & 1915.172(d))	1218-0220	09/23/02		-45
13	Standard on Manlifts (29 CFR 1910.68(e)(3))	1218-0226	08/06/02		-9,600
14	Safety Standards for Steel Erection (29 CFR 1926.750-1926.761; Subpart R)	1218-0241	02/07/02	-56,848[2]	
			TOTAL:	-57,614	-592,530
			GRAND REDUCTION:	-650,144	

[1] The program change resulted from combining this ICR with the Recordkeeping ICR (OMB #1218-0176).
[2] After OMB approved an ICR for the 1998 NPRM (63 FR 43451), OSHA requested and received approval renewal from OMB to reflect the program change OSHA made (removal of a certification record) in the final rule (01/18/01; 66 FR 5265).

Table 4

Projected OSHA Burden Hour Reductions
October 1, 2002 to September 30, 2003 (FY03)
from
DOL's January 2003 Information Collection Budget Submission to OMB

#	SIP RELATED ICR TITLES	OMB #	PROGRAM REDUCTION	ADJUSTMENT REDUCTION
1	Vinyl Chloride	1218-0010	-1,938	
2	Cotton Dust[3]	1218-0061	-3,927	
3	The 13 Carcinogens Standard	1218-0085	-1,164	
4	Lead in General Industry[4]	1218-0092	-51,401	
5	Inorganic Arsenic	1218-0104	-2,516	
6	Acrylonitrile	1218-0126	-1,511	
7	Coke Oven Emissions	1218-0128	-4,426	
8	Asbestos in Construction[4]	1218-0134	-1	
9	Lead in Construction[4]	1218-0189	-136,665	
10	Cadmium in Construction	1218-0186	-1,440	
11	Cadmium in General Industry	1218-0185	-2903	-12
12	Asbestos in Shipyards	1218-0195	-1	-56
		SIP RELATED SUBTOTALS:	-207,893	-68
	NON-SIP RELATED ICR TITLES			
13	Occupational Safety & Health State Plan Information[5]	1218-0247	-1,092	-260
14	Asbestos in General Industry	1218-0133		-19,348
15	Recordkeeping & Reporting Occupational Injuries & Illnesses	1218-0176		-1,072,114
16	Longshoring & Marine Terminal Operations	1218-0196		-13,527
17	Process Safety Management of Highly Hazardous Chemicals	1218-0200		-27,746,075
18	Hazardous Waste Operations & Emergency Response (Hazwoper)	1218-0202		-8,546
19	Overhead & Gantry Cranes Standard (29 CFR 1910.179(b)(3), (b)(5), (j)(2)(iii), (j)(2)(iv), (k)(2), (m)(1), & (m)(2))	1218-0224		

[3] Re-submitted in FY03 as part of OSHA's SIP, proposing to allow employers to post employee exposure monitoring results instead of informing each employee individually of their results. Prior submission in FY02 to meet OMB approval renewal schedule.
[4] ICRs with burden hours greater than 500,000.
[5] The program change reduction is the result of a final regulation that standardized timeframes and streamlined several State-Plan State processes governed by 18(b) of the OSH Act.

Table 4 (continued)

Projected OSHA Burden Hour Reductions
October 1, 2002 to September 30, 2003 (FY03)
from
DOL's January 2003 Information Collection Budget Submission to OMB

NON-SIP RELATED SUBTOTALS:	-1,092	-28,867,230
TOTAL SIP & NON-SIP RELATED ADJUSTMENT REDUCTIONS:		-28,867,298
TOTAL SIP & NON-SIP RELATED PROGRAM REDUCTIONS:	-208,985	
PROGRAM CHANGES + ADJUSTMENTS = GRAND REDUCTION:	-29,076,283	

TOM DAVIS, VIRGINIA,
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May 28, 2003

BY FACSIMILE

The Honorable John L. Henshaw
Assistant Secretary of Labor for
Occupational Safety and Health
Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Mr. Henshaw:

On April 14, 2003, I sent you a series of post-hearing questions after the April 11th hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" This letter follows up on your May 27th incomplete answer to Question 4 about thresholds.

Question 4 included the following subsidiary requests for information: "can you either introduce a threshold or raise existing thresholds in any other areas? Or, are there statutory impediments to doing so? Please provide a detailed analysis for the hearing record." Your reply did not provide this requested information. As a consequence, please submit a supplemental response for the hearing record.

Please hand-deliver your response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building by June 12, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

cc: The Honorable Tom Davis
The Honorable John Tierney

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CHAIRMAN

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INDEPENDENT

April 14, 2003

BY FACSIMILE
Ms. Joanne E. Peterson
President and CEO
Abator
2400 Ardmore Blvd. - Suite 400
Pittsburgh, PA 15221

Dear Ms. Peterson:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" First, let me thank you for your extremely helpful written and oral testimony. You obviously spent a lot of time and effort analyzing your experience and preparing helpful recommendations for the Federal government to reduce paperwork burden on small businesses.

Second, as discussed during the hearing, I am enclosing only a few followup questions for the hearing record since I am mindful of the time and effort more extensive questions would impose on you.

Please send your response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Tuesday, May 6, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs

cc The Honorable Tom Davis
The Honorable John Tierney

Q1. Thresholds. What raised or new thresholds do you recommend for specific Federal reporting in order to relieve small business owners? Please provide the Federal agency, information collection title, and 8-digit OMB approval number (usually in the upper right hand corner of the first page) for each of them?

Q2. Tax Paperwork. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Internal Revenue Service's (IRS) reporting and recordkeeping requirements for your business?

Q3. Annual Burden. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Federal Government's non-IRS paperwork requirements? And, which Federal agencies impose this burden on your small business?

Q4. Associated Cost for Federal Paperwork. In your oral statement, you mentioned that, to avoid the additional cost of shipping multiple copies, you had to hand-deliver some of your responses to Federal agencies. What is your estimate of the additional cost shipping would have entailed?

Paperwork Reduction Act Hearing
Business Paperwork Burden
April 11, 2002

Testimony of
Joanne E. Peterson
President & CEO
Abator
Pittsburgh, Pennsylvania

Before the
Committee on Government Reform
Subcommittee on Energy Policy, Natural Resources
and Regulatory Affairs
U.S. House of Representatives

The Honorable Doug Ose
Chairman

Question 1. Thresholds for specific Federal Reporting.
Because I do not understand the end use of the federal forms completed by Abator, I hesitate to suggest changes – I don't do the job of the agencies' personnel and consequently do not understand how, when or what information collected is of value.

That being said, one major reduction – that of replacing bi-weekly 941 depositing with monthly or every four week deposits would be a tremendous boon to small business, the least of it being the few minutes one saves in filling out the form and making the bank deposit. (The threshold for how often this deposit must be made can be found in the IRS Circular E, Employer's Tax Guide.) The largest benefit to my small business would be relative to cash flow. Today's customers are simply paying their bills more slowly. And a small business is faced with a couple of options – reduce cash flow needs by reducing staff or incur interest costs to pay its workers and make its deposits in a timely manner.

Question 2. Annual Cost of Tax-related Paperwork (hours and dollars)

- Preparing the year-end data for the CPA's use in completing Corporate Income Tax Returns; an activity that consumed at least 40 hours in direct labor (about $1716) and $1550 in CPA fees for FY2002 – total dollars $3266.
  Forms included: 1120 – Schedules A, C, E, J, K, L, M-1, M-2, the NOL & Contribution Carryover Worksheets for Regular Tax and another for AMT; Carryover Worksheet Sections Net Capital Loss, 1231 Loss and General Business Credit with the attachment of three Federal Statements (e.g. Income statement and balance sheet) and the 4562 Depreciation Schedule.
- 941 deposits bi-weekly 8.67 hours; $374.40
- 941 quarterly summary reports 4 hours at $557.70.
  Note: 941 deposits encompass federal income tax withholding, FICA withholding and corporate matching FICA, Medicare withholding and corporate matching Medicare and FUTA deposits. The deposit form number is 8109, Abator however, files electronically.
- FUTA deposits quarterly 1 hour; $42.90
- FUTA annual report 1 hour; $42.90
- Quarterly 1120 deposits/reports – no cost data available as Abator has a credit balance running with the Internal Revenue Service (IRS) on this line item.
- Circular E - Systems analysis to modify corporate accounting applications to adjust the withholding rates and FICA changes for W-2 employees requires approximately 5 hours, $375.00
- Circular E - Programming & documentation tasks to modify corporate accounting applications to adjust the withholding rates and FICA changes for W-2 employees requires approximately 5 hours, $175.00
- Prepare and deliver 1099-Misc reports with 1096 summary & transmittal cover sheet approximately 160 hours plus software and materials, $3664.00.
- Prepare and deliver 1096-Int reports with 1096 summary & transmittal coversheet approximately 2 hours plus software and materials, $105.80
- Prepare and deliver W-2 reports with W-3 summary & transmittal coversheet approximately 5 hours plus software and materials, $224.50
- Indirect costs are diffuse and spread over the entire year in maintaining accurate corporate accounting records and run roughly 72 cents per minute.

Question 3. Annual Burden (hours & dollars on non-IRS paperwork)
Abator does not currently report to any other federal agency.

Question 4. Associated costs – hand delivered responses
In my verbal testimony I indicated that as Abator had no direct experience with federal proposal processes I would talk about one state proposal. The delivery charges on the state's 44,000 pages of proposal documents? The box would have weighed around 467.5 pounds. A ream (500 sheets) weighs approximately 5.3 pounds, this shipment would have been about 88 reams -- Federal Express quoted a rate of $729.17 in overnight shipping charges.

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April 14, 2003

BY FACSIMILE
Mr. Victor Schantz
President
Schantz Organ Company
626 South Walnut Street
Orrville, OH 44667

Dear Mr. Schantz:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" First, let me thank you for your extremely helpful written and oral testimony. You obviously spent a lot of time and effort analyzing your experience and preparing helpful recommendations for the Federal government to reduce paperwork burden on small businesses.

Second, as discussed during the hearing, I am enclosing only a few followup questions for the hearing record since I am mindful of the time and effort more extensive questions would impose on you.

Please send your response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Tuesday, May 6, 2003. If you have any questions about this request, please call Subcommittee Deputy Staff Director Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

cc The Honorable Tom Davis
The Honorable John Tierney

Q1. Your Visuals. During your oral testimony before the Subcommittee, you displayed several folders - that included Federal reporting forms and recordkeeping requirements and accompanying instructions for them - for Federal paperwork imposed on you as a small businessman. Could you provide a listing of each of these information collections, including the Federal agency, information collection title, 8-digit OMB approval number (usually in the upper right hand corner of the first page), number of pages for each information collection, and number of pages for the accompanying instructions?

Q2. Threshold for TRI. In your written statement, you say, "Micro industries like ours should be exempted from these types of reporting requirements" (p. 3). What threshold do you recommend that the Environmental Protection Agency set for its toxic release inventory (TRI) lead reporting in order to relieve small business owners, while also maintaining safety levels?

Q3. Inapplicable TRI Questions. In your written statement, you stated that parts of the TRI form are "intended for large businesses" and that much of the form is "irrelevant." Which items do you believe are more applicable to large businesses as opposed to small businesses? Do you recommend that all small businesses be exempt from reporting these items?

Q4. Thresholds. What raised or new thresholds do you recommend for other specific Federal reporting in order to relieve small business owners? Please provide the Federal agency, information collection title, and 8-digit OMB approval number for each of them?

Q5. Tax Paperwork. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Internal Revenue Service's (IRS) reporting and recordkeeping requirements for your business?

Q6. Annual Burden. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Federal Government's non-IRS paperwork requirements? And, which Federal agencies impose this burden on your small business?

Combining traditions of the past with a vision of the future to build pipe organs of distinction.

Organ Company

April 21, 2003

Barbara Kahlow
Subcommittee Deputy Staff Director
Congress of the United States
House of Representatives
B-377 Rayburn House Office Building
Washington DC 20515-6143

Dear Barbara:

I am enclosing the answers to the questions posed in the FAX dated April 14, '03.

We hope this information will assist you with your efforts.

We appreciate your sympathetic ear and all your efforts to simplify the paperwork burden for small business.

Sincerely,

SCHANTZ ORGAN COMPANY

Victor B. Schantz
President

VBS/dmf

Schantz Organ Company • P.O. Box 156 • Orrville, Ohio 44667 • 330.682.6065 • Fax 330.683.2274 • www.schantzorgan.com

Answers to Questions 1 – 6 4/21/03

Question one:

The attached list is in order of priority. Also, given the fact that some regulation is inevitable. I have only listed the ones that are the most burdensome, and have the best chance of being changed in our opinion.

Question two:

Threshold for TRI – other industries that make alloys such as bronze or stainless steel have a 25,000-lb. threshold. Pipe organ builders make an alloy of tin and lead. Other types of businesses use other alloys. They should all be grouped under the 25,000-lb. threshold. As micro-industries, their utilization of lead is too small to matter.

The most egregious issue here is that the lead threshold was reduced from 10,000 lbs. to 100 lbs. by executive order. This should not have happened. A simple change would be to relax the standard for small quantity users. The lead threshold could go back to 10,000 lbs. and micro-industries like pipe organ builders with alloys could be grouped under the 25,000-lb. threshold. This would be of great help.

Question three:

Large companies use underground wells, landfills and treatment facilities, to process or dispose of chemicals. Page 3 of Form R contains questions pertaining to those sorts of facilities. Small companies do not handle enough material to make use of things like that.

Large companies often have their own on-site waste treatment. Page 4 of Form R covers such things. Again this doesn't pertain to small businesses like mine.

Question four:

OMB	1210 – 0110	The Dept. of Labor 5500 Report
OMB	0607 – 0899	Economic Census
OMB	0607 – 0175	Plant Utilization Survey

These are 3 examples where the threshold could be raised to companies with 250 or more employees. The burden on small companies would be relieved considerably by these steps alone.

Question five:

We estimate our bookkeeper spends 75 to 100 hours per year complying with IRS reports and record keeping [100 hrs. x $30/hour (cost) = $3,000].

Question six:

We estimate our bookkeeper spends an additional 65 to 75 hours per year on non-IRS paperwork: Dept. of Labor 5500 Report, OSHA reporting, Dept. of Commerce Reports.

But the most worrisome by far of all the burdens is the paperwork caused by the EPA Toxic Chemical Release Inventory which is estimated to require 52 hours of our time for just this one report. We think it will take more the first time through.

Notice this one report is nearly as much time as all the other non-IRS reporting requirements combined. Clearly small businesses are being lumped into a large business category where they do not belong.

Question 1 (attachment)

1. EPA Toxic Chemical Release Inventory Reporting Form R
   OMB Number 2070-0093
   Form R – 5 pages
   Instructions – 195 pages

2. Dept. of Labor Annual Return/Report of Employee Benefit Plan
   OMB numbers – 1210 – 0110
   1210 – 0089
   Form 5500 – 3 pages
   Schedule A – 4 pages
   Schedule D – 3 pages
   Schedule I – 2 pages
   Schedule P – 1 page
   Schedule R – 1 page, plus all the detail information required for each employee – 132 pages

   Instructions – 11 pages

3. U.S. Dept. of Commerce – Economic Census
   Musical Instruments
   OMB Number – 0607 – 0899
   Form – MC – 33913 12 pages, plus 11 pages of detail info.
   Instructions – 6 pages

4. U.S. Dept. of Commerce – Survey of Plant Capacity Utilization
   OMB number – 0607 – 0175
   Form – MQ – C1 – 2 pages
   Instructions – 6 pages

5. Dept. of the Treasury, IRS – Employers Quarterly Federal Tax Return
   OMB number – 1545-0029

   Form 941 – 2 pages Schedule B – 1 page, Appendix C – 14 pages
   Instructions – 4 pages

Schantz

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 14, 2003

BY FACSIMILE
Mr. Frank C. Fillmore, Jr.
President
The Fillmore Group, Inc.
3213-A Corporate Court
Ellicott City, MD 21042-2247

Dear Mr. Fillmore:

This letter follows up on the April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" First, let me thank you for your extremely helpful written and oral testimony. You obviously spent a lot of time and effort analyzing your experience and preparing helpful recommendations for the Federal government to reduce paperwork burden on small businesses.

Second, as discussed during the hearing, I am enclosing only a few followup questions for the hearing record since I am mindful of the time and effort more extensive questions would impose on you.

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Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy, Natural
Resources and Regulatory Affairs

cc The Honorable Tom Davis
The Honorable John Tierney

Q1. Economic Census. In your written statement, you say, "The Commerce Department has told the NFIB *[National Federal of Independent Business]* that the information provided on this form *[the 2002 Economic Census]* doesn't have to be 100% accurate" (p. 3). Considering this situation, how do you feel about the hours it will take for you to participate in the 2002 Economic Census? Please provide an estimate for these hours and the associated compliance cost to your small business.

Q2. Thresholds. What raised or new thresholds do you recommend for specific Federal reporting in order to relieve small business owners? Please provide the Federal agency, information collection title, and 8-digit OMB approval number (usually in the upper right hand corner of the first page) for each of them?

Q3. Tax Paperwork. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Internal Revenue Service's (IRS) reporting and recordkeeping requirements for your business?

Q4. Annual Burden. What are your estimates for the total number of hours and dollars your company spends annually to comply with the Federal Government's non-IRS paperwork requirements? And, which Federal agencies impose this burden on your small business?

Q5. Duplicative Paperwork. In your testimony, you mentioned some information which you are asked to provide both to the Federal government and your State. How often do you encounter different Federal agencies asking for essentially the same information?

April 11, 2003 hearing of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs
"Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?"

Answers to questions posed to Frank C. Fillmore, Jr.

A1. Economic Census. If accuracy were not a concern, I could complete the form in about an hour. The Fillmore Group's standard billing rate is $187.50 per hour, so that would be a representative opportunity cost to fill out the Census Bureau survey. Of course, it's not at all clear how useful the resulting information would be. Multiplied over thousands of "guesstimate" replies, government policy might be based on data that are wildly inaccurate.

A2. Thresholds. I propose a simple threshold that has nothing to do with number of employees or annual revenue: I recommend that in order for the request for information to be compliant with OMB paperwork reduction initiatives, a federal agency would have to certify that the information requested does not currently exist anywhere else in the federal government. Right now, when an agency requires data, the *easiest* thing to do is to ask the people: as individuals, small business proprietors, and officers of publicly held corporations. Adhering to my proposal, citizens would not be burdened with a request unless a search for the data within the government demonstrated that it wasn't there. The practical effect would be that the entire federal government would have to document and rationalize the fantastic amounts of data that they collect, store, process, and analyze. Large corporations have been creating these "data dictionaries" for years so that, for example, a large insurance company wouldn't ask a policy holder for name, address, and phone number in order to underwrite a new automobile policy if that subscriber already held a home-owners policy. Right now, I'm certain that most federal agencies couldn't begin to describe all of the data that they maintain. That needs to change.

A3. Tax Paperwork. We will probably pay an accountant $1,500.00 to prepare our 2003 corporate tax returns for the IRS and the State of Maryland. In addition, we pay $77.00 per month to an online payroll preparation service. The bulk of the benefits provided are electronic federal and state payroll forms preparation and submission.

A4. Annual Burden. Aside from the IRS - and the aforementioned Census Bureau survey - The Fillmore Group's federal paperwork burden is relatively light. Since we don't manufacture or cultivate anything in the traditional sense (I tell customers that we "carry our factories between our ears"), we don't have most of the common interactions with the federal government that many other small businesses might have.

A5. Duplicative Paperwork. The census bureau form to which I referred in my testimony (received in February 2003) is the most recent example that I can provide.

TOM DAVIS, VIRGINIA,
CHAIRMAN

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May 12, 2003

VIA FACSIMILE

The Honorable Secretary Ann Veneman
U.S. Department of Agriculture
Jamie L. Whitten Federal Building - Room 200A
14th Street and Independence Avenue, S.W.
Washington, DC 20250

Dear Secretary Veneman:

On April 11, 2003, the House Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held its annual Paperwork Reduction Act (PRA) hearing, entitled "Mid-Term Report Card: Is the Bush Administration Doing Enough on Paperwork Reduction?" The hearing revealed that, from 1996 to 2002, paperwork annually increased, not decreased, in spite of the burden and costs imposed on Americans. Additionally, the U.S. General Accounting Office (GAO) reported that nine violations of the PRA had been in existence for over five years.

According to GAO, the Department of Agriculture is responsible for three of these nine violations: Report of Acreage (Office of Management and Budget (OMB) #0560-0004); Electric and Telephone Standards/Specifications Acceptance, Telephone Field Trials, and Telephone (OMB #0572-0059); and, REA Specification for Quality Control and Inspection of Timber (OMB #0572-0076). Required approval by OMB for their use expired on June 30, 1997, September 30, 1997, and September 30, 1997, respectively. Since their expiration to September 30, 2002, these collections illegally imposed 15,238,809 burden hours on the public and cost taxpayers an estimated $457,164,292.

As Chairman of the Subcommittee, I am particularly concerned with the Department of Agriculture's unresolved long-term violations of the PRA. Why have these collections been in violation of law for over five years? What is your timetable to resolve each of these violations of law?

Please provide me with a written response to this letter by May 27, 2003. If you have any questions about this request please call Subcommittee Clerk Melanie Tory on 225-4407. Thank you for your attention to this request.

Sincerely,

Doug Ose
Chairman
Subcommittee on Energy Policy,
Natural Resources and Regulatory Affairs

cc The Honorable Tom Davis
The Honorable John Tierney

The following chart labeled "Status of 'Unresolved' Violations In the Fiscal Year 2003 ICB" was submitted by John Graham, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Status of "Unresolved" Violations
In the Fiscal Year 2003 ICB

OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
0560-0004	6/30/1997	Approved 4/9	N/A	755,325 hours
0560-0121	10/31/2000	Approved 4/9	N/A	83 hours
0560-0148	2/28/2002	Approved 4/9	N/A	257 hours
0560-0182	9/30/2002	Approved 4/9	N/A	29,556 hours
0560-0183	2/28/2001	Approved 4/9	N/A	11,778 hours
0560-0192	3/31/2002	Approved 4/9	N/A	11,180 hours
0560-0205	9/30/2002	Approved 4/9	N/A	351,257 hours
0560-0217	3/31/2002	Approved 4/9	N/A	187,504 hours
0551-0031	5/31/2002	Pending at OMB	Within 60 days	10,476 hours
0572-0059	9/30/1997	Pending at OMB	Within 60 days	3,123 hours
0572-0076	9/30/1997	Approved 4/2	N/A	40,763 hours
0702-0064	12/31/2002	Pending at OMB	Within 60 days	750 hours
0703-0006	9/30/2002	Federal Register	Within 120 days	680 hours
0704-0377	7/31/2002	Federal Register	Within 120 days	153,600 hours
0720-0003	6/30/2002	Federal Register	Within 120 days	9,833 hours
0720-0020	5/31/2002	Federal Register	Within 120 days	333 hours
0720-0021	9/30/2002	Federal Register	Within 120 days	50 hours
0970-0204	8/31/2002	Approved 4/3	N/A	9,720 hours

OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
0938-0227	12/31/1997	Federal Register	Within 120 days	547,000 hours
0938-0366	10/31/1996	Federal Register	Within 120 days	6,839,873 hours
0990-0162	3/31/1999	Federal Register	Within 120 days	2,744 hours
2506-0161	1/31/2000	Federal Register	Within 120 days	18,750 hours
2502-0117	1/31/1995	Federal Register	Within 120 days	5,000 hours
2502-0190	1/31/2001	Federal Register	Within 120 days	5,250 hours
2502-0331	6/30/2002	Pending at OMB	Within 60 days	60,605 hours
2502-0445	1/31/1991	Federal Register	Within 120 days	115 hours
2502-0464	10/31/1997	Federal Register	Within 120 days	24,273 hours
2502-0468	3/30/1994	Federal Register	Within 120 days	375 hours
2502-0477	7/31/1996	Federal Register	Within 120 days	18,750 hours
2577-0007	11/30/1995	Federal Register	Within 120 days	203 hours
2577-0026	6/30/2001	Federal Register	Within 120 days	429,600 hours
2577-0028	5/31/2001	Pending at OMB	Within 60 days	3,400 hours
2577-0062	9/30/1996	Federal Register	Within 120 days	6,236 hours
2577-0157	2/28/2002	Pending at OMB	Within 60 days	55,162 hours
2577-0159	12/31/1994	Federal Register	Within 120 days	980 hours
2510-0006	12/31/1996	federal Register	Within 120 days	9,334 hours
2510-0009	7/31/1997	Federal Register	Within 120 days	400 hours

OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
2510-0010	3/31/1997	Pending at OMB	Within 60 days	700 hours
2510-0012	10/31/1999	Federal Register	Within 120 days	475 hours
2501-0011	10/31/1983	Federal Register	Within 120 days	1,167 hours
1110-0021	4/30/2002	Approved 4/7	N/A	925 hours
1103-0036	7/31/2001	Federal Register	Within 120 days	24 hours
1105-0071	7/31/2002	Approved 4/7	N/A	1,750 hours
1121-0148	5/31/2002	Federal Register	Within 120 days	41 hours
1121-0177	4/30/1999	Federal Register	Within 120 days	26,829 hours
1121-0185	6/30/1999	Federal Register	Within 120 days	14 hours
1121-0186	3/31/1998	Federal Register	Within 120 days	5 hours
1121-0217	9/30/1999	Federal Register	Within 120 days	26 hours
1405-0011	2/28/2002	Federal Register	Within 120 days	15,333 hours
3067-0026	9/30/1996	Federal Register	Within 120 days	30 hours
3067-0034	9/30/1996	Federal Register	Within 120 days	30 hours
3067-0166	7/31/2002	Federal Register	Within 120 days	4,896 hours
3067-0229	6/30/1998	Federal Register	Within 120 days	4,013 hours
3067-0271	10/31/2002	Pending at OMB	Within 60 days	116,624 hours
3245-0062	2/28/2002	Federal Register	Within 120 days	14,400 hours
3245-0075	10/31/2000	Federal Register	Within 120 days	6,500 hours

OMB #	Expiration	Point in Process	Expected Resolution	Burden Hours
3245-0077	3/31/2000	Federal Register	Within 120 days	960 hours
3245-0080	5/31/2002	Federal Register	Within 120 days	75 hours
3245-0083	8/31/2001	Federal Register	Within 120 days	300 hours
3245-0131	2/28/2002	Pending at OMB	Within 60 days	3,089 hours
3245-0183	10/31/2000	Federal Register	Within 120 days	476 hours
3245-0205	1/31/1997	Federal Register	Within 120 days	13,000 hours

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2577-0159	12/31/1994	Federal Register	Within 120 days	980 hours
2510-0006	12/31/1996	federal Register	Within 120 days	9,334 hours
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