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PROMOTING SMALL BUSINESS REGULATORY COMPLIANCE AND ENTREPRENEURIAL EDUCATION: THE ROLE OF THE SBDC NETWORK

ROUNDTABLE

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

AUGUST 1, 2002

Printed for the Committee on Small Business and Entrepreneurship

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PROMOTING SMALL BUSINESS REGULATORY COMPLIANCE AND ENTREPRENEURIAL EDUCATION: THE ROLE OF THE SBDC NETWORK

THURSDAY, AUGUST 1, 2002

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP,
Washington, D.C.

The Committee met, pursuant to notice, at 2:11 p.m., in room SR–428A, Russell Senate Office Building, the Honorable John F. Kerry (Chairman of the Committee) presiding.

Present: Senators Kerry, Cleland, and Bond.

OPENING STATEMENT OF THE HONORABLE MAX CLELAND, A UNITED STATES SENATOR FROM GEORGIA

Senator CLELAND [presiding]. Our roundtable will come to order. I have been informed that Chairman Kerry has been delayed, but he would like us to go ahead and begin the roundtable.

I would like to thank everybody for participating in what I believe will be a good discussion about the merits of two pieces of legislation passed by the Committee last week to grant additional resources to the Small Business Development Centers so that they can provide regulatory compliance assistance to small businesses and entrepreneurial training to vocational education students.

I once was in the State legislature and a guy read everything that was on the sheet. He came to the bottom and it said "tell a joke." So this says "turn to opening statements."

[Laughter.]

Thank you all for being here. My thanks to the Chairman and to Kit, Senator Bond, and all the others and your staffs. Congressman Sweeney and the Association of Small Business Development Centers put together the Senate version of the National Small Business Regulatory Assistance Act.

S. 2483 makes substantial improvements to the House-passed version, we think, of this legislation including an improved funding formula to ensure all States participating in the pilot program receive resources to run the program effectively, a streamlined study on the types of regulatory assistance provided to small businesses under the pilot program, a revamped provision on privacy rights for SBDC clients derived from a memorandum of understanding between the SBDCs and the Small Business Administration, as well as technical changes such as updating the list of where SBDC services are provided.

I believe the support expressed for S. 2483 by a number of the Small Business Development Centers around the country, the National Association of Small Business, the National Association of the Self-Employed, and the chair of the National Steering Committee of the Ombudsman Small Business Assistance Program, as well as the letter from the House sponsor of the bill, Congressman Sweeney, Republican of New York, requesting that the Committee mark up S. 2483, are overwhelming and indicative of the strong grass roots support for my legislation.

It is no secret that small businesses want to comply with Federal regulations but often lack the knowledge of how to do so, and may be afraid to go to a regulatory agency for advice. S. 2483 will allow these small businesses to work with their trusted SBDC counselor, who can provide the confidential, free of charge, in-depth regulatory compliance assistance so desperately needed.

SBDCs can also coordinate with other service delivery organizations to arrange for additional and more in-depth compliance assistance.

I understand the SBA may be opposed to S. 2483, as it was opposed to the House version which passed the House on October 2, 2001. I am actually really troubled by the letter that SBA Administrator Barreto sent to the Commerce chairman the night before the markup, raising concerns about this legislation and stating that it duplicated other compliance assistance programs. I disagree and would point out that there is a provision in my legislation requiring the SBDCs to work with other compliance assistance programs to make sure that this does not occur.

In 1999 EPA's Innovations Task Force released a report entitled "Aiming for Excellence: Actions to Encourage Stewardship and Accelerate Environmental Progress." That report contained several action items, one of which was to "support a network of public and private organizations that provide assistance on environmental compliance."

According to that report, "many regulated groups, especially small and mid-sized businesses, are wary of seeking help from EPA and other Federal agencies. Because of this we are not in the best position to offer—" this is the letter now "—the best position to offer direct compliance assistance. But there are many organizations that are in a good position to help because they already have contact with a large number of regulated entities."

"Some examples are State and local governments, small business assistance programs, and Small Business Development Centers. These organizations already have an infrastructure in place to deliver information and assistance and businesses often turn to them." That's a great quote.

In addition, the legislation does not seek to duplicate current efforts underway at EPA or other regulatory agencies. Rather, it requires the SBDCs to form partnerships with Federal compliance programs. In fact, the SBDC Association is currently negotiating a memorandum of understanding with the EPA Section 507 Compliance Program Network to provide just this type of service in the anticipation of legislation.

I understand that similar concerns were expressed during the House's consideration of this version of my legislation and that

some believe the SBDCs would somehow "take over" regulatory compliance assistance.

I would just like to stress that this legislation does not seek to put forward the SBDCs as the lead provider of regulatory compliance assistance. But the fact does remain small businesses trust their local SBDCs and are demanding these services. That being said, as included in the House report, I would support the inclusion of report language stating that the SBDCs must form partnerships in order to participate in the pilot program.

Once again, I would like to thank the Chairman, Senator Kerry, and Senator Bond for their involvement. We look forward to today's discussion.

Senator Bond.

OPENING STATEMENT OF THE HONORABLE CHRISTOPHER S. BOND, A UNITED STATES SENATOR FROM MISSOURI

Senator BOND. Thank you very much, Senator Cleland. I want to thank all of the participants who showed up for the roundtable on short notice, after last weeks' markup. We are very busy, in the Senate, with the defense appropriations bill on the floor, but it is always important for us in this Committee to take time out to listen to what our friends in the small business community and the organizations and associations that work with them have to say.

Usually, I guess, to paraphrase Yogi Berra, "you can hear a lot just by listening." We try to apply that task.

Today's roundtable obviously focuses on the Small Business Development Centers and the role they can play in bringing regulatory compliance and entrepreneurial education to the small business communities.

For many years, those of you who work with SBDCs know that in spite of the fact that they've brought very valuable help and assistance to the small business community in many, many areas, they have always had to fight hard for the funding. Despite the fact that millions of small businesses and budding entrepreneurs have been helped, we in the Senate frequently have had to fight battles to restore budget cuts. Some of you may remember when we enacted legislation in 1997 to counter the insistence from the last administration to move the SBDCs to the segment of the small business community least capable of making these payments. Fortunately, I am proud to say we won the battles to maintain the annual appropriations to SBDCs, and the Bush Administration's Budget for fiscal year 2003 asks for $88 million, the same amount that Congress approved for the current year.

I wish the amount was higher, but given the pressing demands of homeland security, national defense, prescription drugs, and on and on, we are fortunate to be in a position where we are not struggling to restore budget cuts. I guess that is a small step forward for us.

Now we are looking to the SBDCs to help Federal agencies deliver regulatory compliance and entrepreneurial education to help strengthen the small business sector. These are all large tasks, particularly in the area of regulatory compliance assistance.

Now trying to convince EPA and OSHA to provide compliance assistance to small businesses has been a long-held goal of mine,

since I came to the Senate as a matter of fact. When I took over as Chairman of this Committee in 1995, there had been a regular chorus of small businesses complaining about the difficulty and even, I would say, the impossibility of complying with the multitude of Federal and State regulations.

This led to our inclusion in my Red Tape Reduction Act of a requirement that agencies create small entity compliance guides for those regulations that would significantly impact a substantial number of small entities. The Red Tape Reduction Act passed the Senate with no votes against it, was passed unanimously out of the House, and signed by the President in 1996.

As Chairman of the VA/HUD and Independent Agencies Appropriations Subcommittee—and this was during the same time—I tried for a number of years to convince, or perhaps the more appropriate verb would be coerce, the EPA to understand that their efforts to improve the environment would be more effective if they would reach out and help the small business community.

Year after year, we would add money, directives, and pressure on the EPA to improve and expand its level of regulatory compliance assistance to small entities. We won some battles, but we also lost a few. Let me share one example of the battles we fought.

In the fiscal year 2000 Budget request, compliance assistance was assigned a very low priority by that Administration. The EPA, under the previous administrator, sought to reduce funding for small business compliance assistance by $5 million, which would have been about a 22 percent cut. These cuts were restored on a bipartisan basis in our Appropriations Committee, which I was chairing at the time, I am pleased to say.

It is no secret that if you make regulatory compliance assistance available to small business you create a win-win situation. Small businesses win because they can be more effective in wading through the maze of Federal and State requirements. We can achieve a greater compliance with and achievement of both the rules and the goals of improving our environment, improving the safety of our workplaces, and a wide range of other requirements to aid employees.

For years I have received reports about the success of Sam Males, the director of the Nevada SBDC, who has been able to join us today. Sam and the Nevada SBDC have demonstrated how compliance assistance can help small business. His demonstrated success is much of the driving force behind legislation before the Committee today.

To provide effective regulatory compliance assistance, we should not give the Federal regulators however, in my view, a free pass by dumping all of their responsibilities in the laps of the SBDC community. Over the last 18 months, I have been pleased to see change in the attitude toward small business compliance assistance at the EPA and at OSHA.

The Bush Administration has made providing compliance assistance a high priority. It has implemented an ambitious plan to reach out and provide small businesses with the help they need to understand and comply with the myriad environmental regulations that they face.

At the same time, OSHA has established what may be a model for agency relationships with the SBDCs by entering into a partnership with SBDCs to facilitate and promote small business compliance assistance related to OSHA. Their partnership agreement makes it clear that OSHA will be the source of expertise and training information regarding how to comply with OSHA regulations. The SBDCs are to function with them as part of the delivery system for this information. That seems to make sense.

Equally important, the SBDC/OSHA partnership was struck because the Bush Administration recognized the imperative to do as much as possible to assist small businesses in complying with regulations and to explore all possible opportunities to create new methods of delivering this assistance to small businesses.

Significantly, and maybe as a result of, this landmark partnership was reached without specific mandates from Congress. We did not act, but good things happened.

Today we are fortunate to have key officials from the EPA and OSHA to help us analyze whether this legislation before us is on target. That is, whether the legislation as written helps bring their ongoing compliance assistance initiatives to the small business. Specifically, from the EPA I welcome Jay Benforado, EPA's Deputy Associate Administrator for Policy, Economics, and Innovation; and Lisa Lund, the Deputy Director for the EPA Office of Compliance. They are joined by Gary Visscher, the Deputy Assistant Secretary for OSHA at the Department of Labor.

I cannot ignore my good friend from the SBA, Lloyd Blanchard, the SBA COO is here with the Agency's Ombudsman and fellow Missourian, Michael Barrera. I think we have brought together an excellent group for the roundtable. We have officials from the State level, key players from the SBDC community, as well as the key central players at the Federal agency level.

I ask that you take a hard look at the bills we consider this week and give us your best guidance. For example, I notice in both the House and Senate versions of the Small Business Regulatory Compliance Assistance Bills, there is only a passing reference to the partnership or relationships between the SBDCs and the Federal agencies. At the same time, S. 2483 directs the SBDCs to establish programs similar to those established under Section 507 of the Clean Air Act Amendments of 1990.

With the initiatives currently underway at OSHA and EPA, I would urge the participants in the Roundtable to take a hard look at what the relationship should be between the SBDCs and the Federal agencies. Please help us address those roles in the bill. Let us not duplicate what the Federal agencies are supposed to be doing. Let us see that the job gets done and gets done very well.

It would be difficult, in my view, to convince appropriators to fund a program, a new program, when money is already being given to Federal agencies for the same task unless we can show that there is a significantly improved delivery of that kind of a assistance. Perhaps we could create a pilot program to deliver regulatory compliance assistance to small businesses by having SBDCs deliver valuable technical information to the small business community and serve perhaps as conduits for questions and answers.

Perhaps we could have the SBDCs side by side with small businesses as they navigate Federal environmental and work safety rules that otherwise could be very daunting roadblocks for most small businesses.

I appreciate the chance to address you and look forward to reading the comments we develop in this roundtable. I ask your forgiveness because we do have a lot of other matters going on in the Senate. There will be a full transcript of the proceedings available to all of the Members of the Committee. I expect that the real life information you give us from the constituencies and the agencies you represent will be of invaluable assistance to us in crafting something that helps move the ball forward and assures that we can have increased, more efficient, and more hassle-free compliance.

With that, I turn my side of the program over to my trusty staff, always willing, always anxious to hear good ideas, ask piercing questions, and provide wise observations on the proceedings.

Senator Cleland, I turn it back over to you.

Senator CLELAND. Thank you very much, Senator Bond. I would like to call on Don Wilson, president of the Association of Small Business Development Centers for his presentation regarding SBDC services, current and proposed.

Mr. Wilson.

STATEMENT OF DONALD WILSON, PRESIDENT, ASSOCIATION OF SMALL BUSINESS DEVELOPMENT CENTERS, BURKE, VA

Mr. WILSON. Mr. Chairman, I appreciate very much your inviting the ASBDC here today, and I appreciate your leadership and that of Chairman Kerry and Ranking Member Bond, and all of the Members of the Committee who last week looked favorably on this legislation.

We understand there are some questions. I think your rather eloquent statement at the start hopefully will put to rest some of the kind of urban rumors that SBDCs are trying to take over small business compliance assistance. Your legislation very clearly sets it up as a partnership program. I think Ranking Member Bond's reference to the landmark agreement with John Hinshaw and the folks at OSHA indicate that that is what SBDCs are all about.

SBDCs, for 20 years, have stressed partnerships. We partner with Congress. We partner with SBA. We partner with financial institutions. We partner with corporate entities, public entities, small businesses of all sorts in everything that we do. That is our model, is partnerships. For anyone to believe that what we are trying to do, or certainly what you are trying to do, Senator Cleland, with this legislation is to create a monopoly position for SBDCs, they need only to read the bill or to read your very eloquent statement.

SBDCs are in a unique position. We see 600,000 small businesses or pre-venture clients every year. That is for an hour face-to-face, or more. There is no other delivery system in the country that sees that many people face-to-face for that length of time. There is nothing comparable.

We have 1,000 brick and mortar centers across the country. Congress has invested millions of dollars in this remarkable infrastructure. It needs to be utilized to the max.

As your statement said, and as I think the various folks, Mr. Hughes, Mr. McCracken, and Mr. Satagaj know, constantly they hear, as I am sure you hear on the Hill, the regulatory burden, the regulatory burden. Our friends at SBA, the studies out of the Advocate's Office and other places, document how disproportionate the burden is on small businesses, how much more costly per employee it is for someone with one to 20 employees, or 20 to 50, compared to someone with 50 to 100.

Our clients, when they come in wanting to start a business or come in with other problems, or wanting to expand the business, they want to be sure that they are in compliance with regulations. Why would that be true? Their family, their nephews, their aunts, their uncles, their spouses work in these businesses. They do not want unsafe workplaces for their children or their brother or their wife. They want to know what the regulations are, and they want to know how to comply with them in the most effective, cost efficient way. And they ask us that constantly, and we need the resources to help deliver that.

We work in partnerships right now with all kinds of service providers. We work with the 507 program, the pollution prevention people. Sam's program in Nevada is an absolute model. We want to continue these partnerships. We want to expand the level of services because there is clearly, clearly a yawning gap between the availability of services and the need.

Certainly this legislation which Senator Cleland and Representative Sweeney, and the other Members of this Committee supported last week, will move us in that direction and direct the SBDCs to work jointly with all the other providers simply to expand the levels of service.

Mr. Chairman, we thank you for the time you have given us and we will be glad to respond to any questions that you may have.

[The prepared statement of Mr. Wilson follows:]

Prepared Remarks of Donald Wilson

Association of Small Business Development Centers

Senate Committee on Small Business and Entrepreneurship

Roundtable

Promoting Small Business Regulatory Compliance and Entrepreneurial Education – the Role of the SBDC Network

August 1, 2002

Chairman Kerry, Ranking Member Bond, and members of the Committee. I am Donald Wilson, President and CEO of the Association of Small Business Development Centers (ASBDC). I am here today representing the Association, whose members are the fifty-eight Small Business Development Center programs located in all fifty-states, the District of Columbia, Puerto Rico, The Virgin Islands, Guam and American Samoa. On behalf of the ASBDC, I would like to thank you, Mr. Chairman, and the members of the Committee for inviting the Association to participate in this roundtable discussion.

Our focus is on S. 2483, the National Small Business Regulatory Assistance Act of 2002, and H.R. 2666, the Vocational and Technical Entrepreneurship Development Act of 2001. The ASBDC supports both of these bills. I want to especially commend Senator Cleland, who introduced S. 2483, Senator Ensign who introduced a similar bill, and the eight members of this Committee who cosponsored those bills. Clearly, these Senators recognize the importance of regulatory assistance to the small business sector of our economy.

As you know, both of these bills were passed by this Committee on July 24, with nearly unanimous support from the members of this Committee, from both sides of the aisle. Now it is essential that the National Small Business Regulatory Assistance Act reach the Senate floor in time for it to be enacted into law before Congress adjourns for the year. It would be a travesty if this legislation were to die in the Senate as it did in the 106th Congress. Similar legislation passed in the House of Representatives by voice vote on October 2 of last year, with strong, bi-partisan support. There is no reason why this legislation should not receive the same bi-partisan and quick action in the Senate.

Mr. Chairman since April of FY 1996 federal agencies have adopted more than 21,653 major and minor rules. The Code of Federal Regulations fills 200 volumes, with more than 134,723 pages. The Code occupies roughly 19 feet of shelf space.

In FY 1999 alone, Federal regulatory agencies issued 4,495 non-major rules and 58 major final rules. The IRS issued 265 rules in an effort to clarify our nation's remarkably complex tax code. The EPA issued 701 final rules under the Clean Air Act, the Comprehensive Environmental Response Compensation, and Liability Act (CERCLA), The Clean Water Act, The Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The FCC issued 263 final rules. The Agricultural Marketing Service issued 91 final rules. And the nation's fishing industry saw NOAA issue 280 rules regulating their activities. And I did not even mention the Department of Labor and OSHA.

Now please understand, not all small businesses are directly impacted by all of these rules. But many are in one way or another. It has been said that small business is big business in America. Well, I would submit that regulation is big business in America as well. Professor Thomas Hopkins of the Rochester Institute of Technology estimates that the total cost of federal regulation in 2000 was $721 billion or $6,800 for each American family.

Look at the federal regulatory scheme from the perspective of many employers. First you have IRS regulations, Social Security regulations, Medicare regulations, and Federal Unemployment Insurance regulations. Next comes the Fair Labor Standards Act, Workers Compensation, the Equal Pay Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Davis-Bacon Act, and the Service Contract Act of 1965. These are followed by Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act of 1967, The Rehabilitation Act of 1973, The Federal Mine Safety And Health Act of 1977, the Worker Adjustment and Retraining Act of 1988, the Migrant and Seasonal Agricultural Worker Protection Act of 1983, the Immigration Control Act of 1986, the Employee Polygraph Protection Act of 1988, the Drug-Free Workplace Act of 1988, the Occupational Safety and Health Act of 1970 and a myriad of environmental regulations under the environmental statutes I mentioned earlier. And of course this is only a partial list. And I have not even raised the specter of state and local regulations with which employers must comply.

Mr. Chairman, I am not here to pass judgment on the laws mentioned above or the tens of thousands of pages of regulations those statutes have spawned. I am here to try and put in perspective the enormity of the regulatory compliance burden faced by small business owners as they try to operate their businesses, pay their employees, service their customers, deal with suppliers and try to make a profit so they can provide for their own families.

Many believe that the regulatory burden imposed on smaller and medium sized businesses is disproportionate to that of larger businesses. The evidence suggests this is true because smaller firms cannot spread the overhead costs associated with hiring accountants, hiring attorneys, and the general cost of paperwork burdens and cost of staff needed to try and comply with the maze of federal regulations.

A recent survey of small businesses by the National Federation of Independent Business (NFIB) found that "unreasonable government regulation" ranked fourth on the list of the 10 most severe problems faced by small businesses. By comparison, small businesses surveyed by NFIB in 1991 ranked unreasonable government regulation in eighth place.

According to the Small Business Administration, the average annual cost of regulation, paperwork and tax compliance for firms with fewer than 500 employees is about $5,000 per employee. For firms with more than 500 employees, the cost is about $3,400 per employee. The SBA reports that the costs for businesses with fewer than 50 employees run seven to 10 times higher than costs for firms with 50 to 100 employees. Firms with 20 to 49 employees spend, on average, 19 cents out of every revenue dollar on regulatory costs. The SBA report, "the Changing Burden of Regulation, Paperwork and Tax Compliance on Small Business" goes on to say that:

> "small business owners often fear that they will inadvertently fail to comply with some obscure rule, and that a government inspector will show up, close down the business, and drive them into bankruptcy. Many believe, with some justification, that the government is more interested in obtaining penalties than in promoting compliance with the law."
>
> (emphasis added)

Mr. Chairman, I had the privilege several years ago of serving as Administrative Assistant to three Members of the House of Representatives over a 10-year period. I remember well that letters from constituents frequently expressed concerns regarding the burdens of complying with federal regulations. When I am traveling across our country and have occasion to speak with small business owners, I find that those concerns are as real today as they were when I worked on the Hill, if not more so. I am sure your small business constituents have expressed similar concerns to you.

I also served for a number of years as Director of Government Affairs and General Manager for the National Tire Dealers and Retreaders Association, a small business retail trade association. The association is now the Tire Association of North America. In response to the obvious needs of that association's membership, I instituted a Regulatory Assistance Hotline and conducted seminars from coast to coast in an attempt to educate the association's membership on how to comply with federal regulations. I worked closely with OSHA, NHTSA, EPA and other federal agencies. I found dozens of dedicated federal employees in these agencies who were more than willing to help me help NTDRA's members; outstanding federal employees like Karen Brown, the Small Business Ombudsman at EPA. Utilizing resources within the agencies and the association's resources, we helped to educate and assist thousands of tire retailers and retreaders with regulatory compliance problems. However, the percentage we were able to help compared to the numbers in the whole industry was relatively small.

Contrary to what some believe, I have found most small business owners, while not fond of the regulations imposed on them, are willing to comply with regulations. They simply

want to know what is expected of them, and how to comply in the most cost effective manner. And why wouldn't they want to comply. Many small businesses are family owned and operated. Small business employees are frequently family or friends of the employer. Most small business owners don't want their employees working in an unsafe workplace and they want their children to grow up in a clean and health environment.

For twenty years, the Small Business Development Center Program has been assisting America's small business owners and aspiring entrepreneurs. Over the last twenty years the SBDC network has provided counseling and training assistance to over 8 million clients. Last year alone SBDC service centers provided counseling and training assistance to approximately 600,000 clients. When I speak of clients, I am referring to small business owners or pre-venture clients who our counselors and trainers meet with face to face for at least an hour or more. The SBDC network directly reaches hundreds of thousands more individuals annually through mail contact, telephone, fax on demand, and e-mail. Numerous small business owners walk into an SBDC, ask a question, get the answer they need and are on their way in a few minutes. These individuals are not included in the program's counseling and training statistics.

This Committee is fully familiar with the SBDC program. For twenty years you have supported it on a bi-partisan basis. You have repeatedly supported increases in the program's authorization level, recognizing what the program is accomplishing through its approximately 1,000 centers nationwide and roughly 5,000 plus employees. You, more than anyone else in Congress, are aware of the economic impact the program is having. You know that the sales growth of SBDC long term counseling clients is more than three times the rate of the average U.S. business. You know that SBDC long term counseling clients create jobs at a rate almost ten times that of the average U. S. business. You know that SBDC long term counseling clients generate additional federal tax revenues equal to over twice the amount of the program's annual appropriation. These statistics would not be possible without the support the SBDC program has received from the Small Business Committees of both the House and Senate over the past two decades and the hard work of the men and women who work in the SBDC program.

Mr. Chairman, in 1996, Congress amended Section 21(c)(3) of the Small Business Act, by directing Small Business Development Centers to assist the small business community by providing information to small business concerns regarding compliance with regulatory requirements. The network has struggled to effectively meet that mandate because in the half-decade since that amendment was enacted, increases in SBDC program resources have been very modest. Although there has been real growth in overall funding for the SBDC program since 1996, much of that growth went to provide increased resources to low population density states to enable them to simply have a respectable level of funding. SBA figures show that from FY 1996 to FY 1999, 44 of 57 state, regional and territorial SBDC programs were level funded. And for FY 2002, 24 of our 58 programs saw substantial budget cuts, some as high as 20%. It is simply not possible to effectively meet the compliance assistance needs of the small business community when resources to address the program's historical core responsibilities are increasing at less than the rate of inflation.

Despite limited resources, the SBDC network seeks to assists clients as best it can with regulatory compliance. Numerous SBDCs work with state, and federal regulatory agencies to try to get compliance assistance information to the network's clients. The ASBDC and individual SBDCs have worked with the Department of Labor, OSHA, the IRS, and EPA in efforts to improve cooperation and enhance the coordination of compliance assistance delivery. We are encouraged by many of these initiatives. But without adequate resources these efforts will never fulfill their potential and reach large numbers of small businesses.

A number of SBDCs have established working partnerships with other environmental compliance assistance providers in an effort to try more effectively to address the needs of the small business community. ASBDC's Board of Directors has formally endorsed the concept of partnering with other compliance assistance providers whenever possible. The Association has formed a regulatory compliance assistance interest section for those network programs and SBDC employees who have a particular interest in the regulatory compliance assistance area. That interest section is co-chaired by the SBDC State Director in Vermont and the SBDC State Director in Nevada. They have seen first hand what regulatory compliance assistance, even on a limited basis, can mean to their program's clients. It is why they and this Association are so committed to building greater capacity in the regulatory compliance assistance area.

The Association is seeking an expanded relationship with the Department of Labor's Crosscut program. We have also worked cooperatively with the IRS. The IRS and the SBDC network have already conducted a number of joint training programs using a curriculum developed cooperatively.

In the environmental compliance assistance area the Association and individual state SBDCs are seeking to strengthen and expand relationships with other environmental compliance assistance providers. This legislation, as you know Mr. Chairman, is designed to encourage partnerships among regulatory compliance assistance providers. It does not favor one delivery system over another. SBDCs have established and are establishing partnerships with the Small Business Ombudsmen and Small Business Assistance Programs. These programs provide stationary source technical and environmental compliance assistance under Section 507 of the Clean Air Act. A good example of such a cooperative effort is in the state of New Hampshire. New Hampshire SBDC state director Mary Collins, who also serves as ASBDC Vice Chair, worked cooperatively and effectively with New Hampshire's Small Business Ombudsmen, Rudy Cartier. SBDCs are also working with Pollution Prevention Programs and others. But like SBDCs, many of these environmental assistance programs have limited resources.

Many SBDC s envision their counselors addressing less complicated environmental compliance problems for their clientele and referring more difficult compliance problems to other assistance providers such as the SBAPs. This is not unlike a general practitioner referring a patient with a severe compound fracture to an orthopedic surgeon. However, if SBDCs refer clients with special needs to other environmental compliance assistance providers, those providers will need additional resources to effectively assist those

referrals. ASBDC has explored that issue with senior staff on the Senate Environment and Public Works Committee.

In 1999, the EPA's Innovations Task Force released a report entitled "Aiming for Excellence: Actions to Encourage Stewardship and Accelerate Environmental Progress." That report contained some action items, one of which was "Support a network of public and private organizations that provide assistance on environmental compliance". (See Attachment 1 of this testimony.)

Quoting from that report:

> "We [EPA] will focus on becoming a 'wholesaler' of compliance assistance tools and information...."
>
> "Many regulated groups, especially small and mid-sized businesses, are wary of seeking help from EPA and other federal agencies. Because of this we are not in the best position to offer direct compliance assistance. But there are many organizations that are in a good position to help because they already have contact with a large number of regulated entities. Some examples are state and local governments; **small business** assistance programs and **development centers** (emphasis added); manufacturing extension partnerships, pollution prevention programs; universities, licensing agencies and issuers of building permits; and trade and professional associations. **These organizations already have an infrastructure in place to deliver information and assistance and businesses often turn to them.**" (emphasis added)
>
> "We will bring together other organizations in the public and private sector that provide compliance assistance.... In this way, we can help build an effective environmental assistance network with the ability to reach a much larger audience than EPA could ever reach on its own. Our role will be primarily to enable other providers to work more effectively...."

The SBDC program has a nationwide infrastructure of approximately 1,000 service centers. No other small business assistance program has a comparable infrastructure. Congress has a significant investment in that infrastructure. Small business owners and aspiring entrepreneurs trust the SBDC network and utilize the networks many services. If resources can be enhanced, we are convinced that the SBDC network, working cooperatively with federal regulatory agencies and other compliance assistance providers, can make a significant contribution to improving regulatory compliance within the small business community.

SBDCs are in a unique position to effect change in the rate of regulatory compliance. Working with hundreds of thousands of startup businesses annually, SBDCs can influence regulatory compliance behaviors of entrepreneurs at the critical period when they are launching their businesses. SBDC counselors trained in regulatory compliance

issues, can often save startup businesses significant dollars by showing them the most cost effective methodologies for complying with regulations as facilities are being constructed or renovated and employees are being hired.

The National Small Business Regulatory Assistance bill is a solid beginning. ASBDC applauds this Committee for passing this legislation to assist small businesses comply with regulatory compliance burdens. This legislation recognizes the very real need of small and medium size employers for regulatory compliance assistance. It encourages SBDCs receiving grants to partner with other assistance providers for more coordinated, effective service delivery. This legislation should prove beneficial to employers and employees. It has the potential to improve the environment and enhance workplace safety. S. 2483 is something we could all take pride in and something America's small business owners would surely welcome and utilize.

ATTACHMENT 1 -- Excerpt from a report by the Environmental Protection Agency

Aiming for Excellence

Actions to Encourage Stewardship and Accelerate Environmental Progress

Report of the EPA Innovations Task Force

EPA

Office of the Administrator
(1801)
United States Environmental Protection Agency
EPA100-R-99-006, July 1999, www.epa.gov/reinvent

Key Actions (page 51)

Action 4: Support a network of public and private organizations that provide assistance on environmental compliance.

Objective:

We will focus on becoming a "wholesaler" of compliance assistance tools and information. We'll meet with compliance assistance providers to share our approach for developing materials that help businesses and communities comply with the law and prevent pollution, and we'll ask them to help us set priorities to determine which materials are needed most. We'll provide these materials, and help them develop training and peer mentoring programs.

Background:

Many regulated groups, especially small and mid-sized businesses, are wary of seeking help from EPA and other federal agencies. Because of this, we are not in the best position to offer direct compliance assistance. But, there are many organizations that *are* in a good position to help because they already have contact with a large number of regulated entities. Some examples are state and local governments; small business assistance programs and development centers; manufacturing extension partnerships; pollution prevention programs; universities; licensing agencies and issuers of building permits; and trade and professional associations. These organizations already have an infrastructure in place to deliver information and assistance, and businesses often turn to them.
Aiming for Excellence 52

Approach:

We will bring together other organizations in the public and private sector that provide

compliance assistance, and seek their ideas about what tools are still needed. We will seek their input on the best ways to get new compliance assistance tools delivered to them in a timely manner. In this way, we can help build an effective environmental assistance network with the ability to reach a much larger audience than EPA could ever reach on its own. Our role will be primarily to enable other providers to work more effectively, and to provide compliance assistance directly only in special circumstances (e.g. in cases where assistance networks may not sufficiently reach all affected parties). We will also work to encourage more collaboration and coordination among organizations that routinely provide assistance on business, environmental or other issues. This would be more efficient for small businesses and others seeking information, as well as for EPA and other organizations that provide it.

Tasks

1. We will convene a national compliance assistance forum to share information with participants on recently developed compliance assistance materials, get stakeholder input in setting priorities for new compliance assistance materials, and exchange compliance assistance tools. We will also use the forum to help identify industry sectors that have special compliance assistance needs.
Lead: Office of Enforcement and Compliance Assurance

2. We will also sponsor a national meeting of organizations that provide assistance to the regulated community. We hope to encourage simpler and more efficient "one-stop" shopping for assistance on a variety of inter-related issues, such as business management, technical process improvements, pollution prevention, and regulatory compliance.
Lead: Office of Prevention, Pesticides and Toxic Substances

3. We will assess EPA's current suite of environmental assistance services for small businesses. We'll assess the value and accessibility of the many hotlines, clearfinal. inghouses, and other EPA support functions. Working with other public and private sector assistance providers, we'll use these findings to improve our assistance to small businesses.
Lead: Office of Policy and Reinvention

4. We will create a clearinghouse of compliance assistance materials and tools. This clearinghouse will include information from federal, state, tribal, and local governments and from private providers, such as trade associations.
Lead: Office of Enforcement and Compliance Assurance

5. We will distribute and market compliance assistance tools to organizations that are likely to have contact with regulated groups.
Lead: All offices that prepare materials or tools to support regulatory action

6. We will support mentoring programs that help businesses and other organizations share environmental management information and expertise with one another.
Lead: Office of Policy and Reinvention, Office of Water, and Region 4

OPENING STATEMENT OF JOHN F. KERRY, CHAIRMAN, SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, AND A UNITED STATES SENATOR FROM MASSACHUSETTS

Chairman KERRY [presiding]. Thank you very much, Don.

Let me just apologize to everybody for my absence from the beginning here, but I think, as I hope somebody told you, I was down at a signing at the White House of a piece of legislation that I initiated called the Nurse Reinvestment Act, which is an effort to expand the availability of professional nursing in America. I apologize again for being late here.

Second, let me thank all those who helped us so much to get through a fairly steep markup agenda just a few days ago, which we did get through with the understanding we would proceed not only to have this roundtable, but to build the record appropriately so that colleagues were comfortable with where we are heading here. I am very appreciative to everybody on short notice coming together to help us do that.

I do not want to interrupt the flow at all. I can stay for a little bit, not long unfortunately, but I do want to just emphasize that I think that the regulatory side of the piece here that Senator Cleland and I particularly—and I am grateful to my colleague, who I know had to leave, for opening in my absence—that he is co-championing, along with myself and others, is really geared to try to facilitate the regulatory process. We are anxious to minimize the load on people, maximize the level of understanding, and compliance. Hopefully, people will feel this helps do it.

On the second piece, I know Senator Ensign has a statement in support and I would like to submit that to the record.

[The prepared statement of Senator Ensign follows:]

JOHN ENSIGN
NEVADA

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Senator John Ensign
Committee on Small Business and Entrepreneurship
Roundtable Discussion
"Promoting Small Business Compliance and Entrepreneurial Education – the Role of the SBDC Network"
August 1, 2002

Mr. Chairman, first I would like to thank you and Ranking Member, Senator Bond, for hosting this roundtable today. This format will allow our colleagues to get a better understanding of the legislation before us today, particularly the Small Business Regulatory Assistance Act.

This Congress I sponsored S. 2455, the National Small Business Regulatory Assistance Act that is supported by Senators Craig, Crapo, and Enzi. This legislation is similar to S. 2483 that has been introduced by Senator Cleland. I support Senator Cleland's legislation and am pleased to see that the Committee is moving forward with it.

Both my bill and Senator Cleland's legislation build off of the Small Business Regulatory Enforcement Fairness Act of 1996 that was sponsored by Senator Bond. Thanks to Senator Bond, the EPA and Occupational Safety and Health Administration (OSHA) must consult with affected businesses before proposed rules are published. While this legislation has been of great help to numerous small businesses nation-wide, I believe that many small business owners do not feel comfortable going directly to a federal agency to ensure that their business is compliant with federal regulations.

I was prompted to address this concern after seeing the fantastic work that has been done by the Nevada Small Business Development Center with the partnerships they have made with state and federal agencies. SBDCs across the country have been working to develop partnerships with federal agencies to develop policies on how SBDCs can help their clients understand federal regulations. In fact, numerous SBDCs, including Nevada's, have solicited partnerships with federal agencies, which have led to this legislation. The Nevada SBDC has pooled together numerous resources in an effort to give small businesses in Nevada the best service possible. In fact, the Nevada SBDC has the longest active program when it comes to working with both federal and state agencies to assist small businesses in complying with federal and state regulations.

I am glad that Senators Kerry and Bond agreed to have the Director of the Nevada SBDC, Mr. Sam Males as a member of this Roundtable today. Mr. Males' expertise in the area of regulatory assistance is surpassed by none; as the program that he has developed in Nevada is amenable both to state and federal agency representatives and small businesses.

It is important to note that this legislation has been drafted not only with small businesses in mind, but also the purpose of the federal regulations. The distinct purpose of this legislation is to ensure that small businesses have the assistance they need to comply with the myriad of federal regulations that have been put in place to protect not only the environment, but also the safety and health of employees at those businesses. In fact, the Nevada SBDC has partnered not only with federal regulatory agencies, but also with state regulatory agencies. The Nevada SBDC has truly become a one-stop shop for small businesses.

In closing, I believe that this legislation is the next step forward toward assisting small businesses in complying with federal regulations. Small Business Development Centers provide the most logical link between federal agencies and the small business community.

Chairman KERRY. Second, on the second component of this, the entrepreneurial vocational technical component of it, I just want to suggest that that is very much in keeping with sort of the larger purpose of the SBIC program and the small business efforts to help people transition, especially from trades and elsewhere where they may have a good idea and not a lot of knowledge to go with it. I think it is a really good complement to that effort.

So that is the spirit of being here and we certainly look forward to all of your practical input in the course of building this record so we can hopefully go to the floor. I think there is a lot of good will toward both of these bills, but perhaps not a full understanding of all of the components or some concerns about a piece here and there.

I certainly hope to work with Senator Bond on this issue. I think we can work out some language that hopefully meets both parties' interest with respect to that.

Then, when we get back, my hopes would be we could pass this in September. But I am very, very grateful to everybody for taking part in this today, and I do not want to interrupt further.

Jay Benforado, if we could go now immediately to you, thank you.

STATEMENT OF JAY BENFORADO, DEPUTY ASSOCIATE ADMINISTRATOR, OFFICE OF POLICY, ECONOMICS AND INNOVATION, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, D.C.

Mr. BENFORADO. Thank you, Mr. Chairman. Good afternoon, we appreciate the opportunity to participate in this roundtable discussion.

EPA has a long history of assistance to small business. In 1982, EPA established a program to provide regulatory compliance assistance for small business and we have grown since then. In particular, in 1996 this Committee passed the Small Business Regulatory Enforcement Fairness Act which provided the agency further impetus to improve its rulemaking process and regulatory compliance assistance to small business.

I would like today to describe the four main elements of our work. First, we have a Small Business Ombudsman Office, Karen Brown, sitting behind me, which is the one-stop gateway for small businesses to get information. The Small Business Ombudsman is an advocate for small business at EPA and provides several important services: toll-free hotline, answering over 1,000 calls a month; a newsletter with alerts and timely information; a dedicated small business website that provides immediate access; support to the State Small Business Assistance Programs, as mandated under the Clean Air Act; and finally, we've worked with the EPA programs to develop the compliance guides and the fact sheets and the checklists that need to accompany all rules.

The second area is the implementation of SBREFA, which focuses attention on small business issues prior to rulemaking and then after rulemaking during the compliance period. We actively encourage participation by small businesses in rulemaking. We have held about 25 SBREFA panels to date. Most importantly, I

think there has been a growth in change in EPA culture about the importance of addressing needs of small business concerns.

We have issued recently six SBREFA compliance guides and routinely develop the guidance material for rules with impacts of greater than $100 million per year.

The third area we operate is the National Regulatory Compliance Assistance program, which is the network that we use to get material to environmental assistance providers. We work with everyone—Small Business Development Centers, Small Business Assistance Providers, pollution prevention, Small Business Trade Associations, OSHA, SBA, Tribal Governments just to name a few.

We have learned that no one provider can really provide all the infrastructure tools, delivery mechanisms expertise needed to reach the multitude of small businesses, so we see ourselves more as a wholesaler. Let me give a few examples.

We do provide tools to assist other assistance providers. We have a National Environmental Compliance Clearinghouse which is a repository of over 5,000 State and Federal environmental compliance assistance documents. We produce sector notebooks—33 so far—that are guides that include the Federal regulatory requirements and pollution prevention information.

We also provide grants to States. Two years ago we provided over $1 million to actually evaluate the effectiveness so we can improve compliance assistance.

We also host conferences that link compliance assistance providers. We have 10 compliance assistance centers. In a 2001 survey, we found 90 percent of respondents found the centers helped them get the right information. 73 percent said they actually took actions after visiting a center.

Fourth and final area is EPA's technical and pollution prevention assistance programs. Since 1989 we have provided over $70 million to develop pollution prevention assistance programs and infrastructure in every State. We have a design for the environment program which is one of our first voluntary programs to help small businesses adopt environmentally friendly but cost effective technology.

Our most recent venture is a pollution prevention resource exchange, P2Rx, which is a national network of eight regional centers.

In closing, EPA has made great strides in our regulatory compliance assistance programs for small business. The key to success, as has already been said by the Senators and other panelists, is the partnerships to get the right people together to deliver information to small business.

I would like to just offer for the record, and I have handed out to the panel, background information about the publications and material we have at EPA.

Thank you and I look forward to the discussion.

[The prepared statement of Mr. Benforado follows:]

Jay Benforado
Deputy Associate Administrator
Office of Policy, Economics and Innovation
U.S. Environmental Protection Agency

Presentation for Senate Committee on Small Business and Entrepreneurship Roundtable: Promoting Small Business Regulatory Compliance and Entrepreneurial Education – the Role of the SBDC Network
August 1, 2002

Introduction

Good afternoon. I am Jay Benforado, Deputy Associate Administrator of the Office of Policy, Economics and Innovation at the United States Environmental Protection Agency (EPA). I am accompanied today by Lisa Lund, Deputy Director of EPA's Office of Compliance. We appreciate the opportunity to participate in the Roundtable discussion.

EPA's Long History of Assistance to Small Businesses

In 1982, EPA established a program to provide regulatory compliance assistance for small businesses. The Agency's small business assistance programs have grown over the years. In particular, in 1996, when this Committee passed the Small Business Regulatory Enforcement Fairness Act (SBREFA), you provided the Agency further impetus to improve its rulemaking processes and regulatory compliance assistance for small businesses. I would like to describe some of the Agency's main efforts in working with small businesses: 1. Role of our Small Business Ombudsman, 2. implementation of SBREFA, 3. compliance assistance program, and 4. technical assistance programs.

1. Small Business Ombudsman Office -- the One-Stop Gateway into EPA Small Business Services

- Established in 1982, EPA's Small Business Ombudsman (SBO) provides one-stop assistance to help small businesses find answers to their environmental questions. The Small Business Ombudsman serves as an advocate for small business within EPA.

- As EPA's *gateway* for small businesses, the SBO serves the needs of small businesses by providing several important services including:

  - Toll-Free Hotline: Professional engineers staff the hotline and answer small businesses' questions about environmental questions. Answers 1,000 to 1,200 calls a month!

- SBO Newsletter: We publish a newsletter twice a year that reports on important Agency activities and provides timely alerts to small businesses and interested service providers about EPA actions. Distribute 12,000 copies to small business community.

- Dedicated Small Business Website: This resource provides immediate access to relevant environmental and pollution prevention information from EPA, state small business assistance providers and other useful sources. It is maintained "off-site" to address small business concerns about accessing EPA website. www.smallbiz-enviroweb.org.

- State Small Business Assistance Programs(SBAPs): SBO provides support to state programs that were mandated under the Clean Air Act to help small businesses comply with Title V requirements. *Over 75% now provide multi-media compliance assistance. Many can provide confidential assistance.*

- Regulatory Assistance: SBO works with the program offices to identify and address small business issues and continues to urge program offices to go beyond the Small Business Regulatory Enforcement Fairness Act (SBREFA) and develop compliance guides, fact sheets and checklists for all rules.

Small business ombudsman fosters partnerships with small business compliance and technical assistance providers to help small businesses:

- Develops Tools to get word out on resources available to small businesses. Overall, EPA has initiated over 100 small business initiatives! *Opening Doors for America's Small Businesses*: New brochure highlighting key programs and activities EPA has initiated to help small businesses.

- Maintains extensive network of small business assistance provider contacts. SBO publishes *Small Business Environmental Assistance Providers Directory*: The Directory is an easy-to-use reference of the key federal, state and private environmental programs. It provides all of the relevant environmental contacts and small business needs in one convenient location. The Directory includes Small Business Administration and the Small Business Development Centers (SBDCs).

2. Implementation of SBREFA – has encouraged EPA to consider unique needs of small businesses before rulemaking begins through implementation of regulatory requirements.

- Since SBREFA, Agency has formed partnerships with small businesses and small business interests in rulemaking activities. Actively encourage early and meaningful participation by small businesses in rulemaking. EPA has held approximately 25 SBREFA Panels to date.

- Tremendous growth in EPA's culture regarding need to address small business concerns in writing regulations and support of compliance assistance for small businesses. Issued 6 SBREFA Small Entity Compliance Guides. In addition, routinely develop guides for rules with impacts of $100 million or more on regulated community.

- SBREFA has enabled Agency to develop long term continuing relationships with small businesses. The Agency's commitment to addressing small business needs is evident by the growth of the national environmental compliance assistance program.

3. National regulatory compliance assistance program – ensures small business compliance by building network of environmental assistance providers

- We've learned no one provider can do it all to create infrastructure, tools and delivery mechanisms to reach a multitude of small businesses to get them information they need to understand and comply with regulations.

- We establish partnerships with experts such as other EPA offices, states, federal agencies and other assistance providers to get compliance information to small businesses. For example, we work with: Small Business Development Centers (SBDCs), State Small Business Assistance Providers, P2 providers, Small Business Trade Associations, OSHA, SBA and Technical Assistance Providers (TAPs) and Tribes - to name a few.

- We develop and deliver tools to assist other small business assistance providers in serving as first-line deliverers of information to small businesses.

  - For example, we created a *"National Environmental Compliance Assistance Clearinghouse"* - web-based repository of more than 4,800 state and federal environmental compliance assistance documents/web links. Helps providers easily find assistance materials they can use, modify and deliver to businesses. Of course businesses can use Clearinghouse too. Getting private sector assistance materials on line. In FY2001, there were 184,000 requests to download web pages and targeted assistance documents.

- EPA developed *"Sector Notebooks"* - a series of 33 industry sector specific guides many directed at small businesses (e.g., Printing, Metal Finishing, Dry Cleaning) providing information on specific industry processes, Federal regulatory requirements, compliance history and P2 information - helps providers understand business and deliver better assistance to businesses.
  - Provide *grants* to providers: $1.3million to 10 states in FY2000 to measure the outcomes of their compliance assistance activities.

EPA holds conferences and assembles experts to share information and facilitate collaboration with other providers.

- In November, holding 3rd annual *National Compliance Assistance Providers Forum*. Last year over 300 attendees from 25 states.
- EPA has established a *Compliance Assistance Advisory Committee* to provide recommendations to Agency on its compliance assistance program. Its 29 members include 1 SBDC, 4 SBAPs, 2 small businesses and 2 small business trade associations.

EPA delivers a wide range of compliance assistance tools and provides direct on-site compliance assistance to small businesses:

- Provides diverse types of assistance to small and other businesses: on-site visits, checklists, compliance guides, expert systems, sector notebooks, internet based tools, workshops and presentations. In FY2001, we reached over 551,000 businesses through presentations workshops, distributed tools and on-site visits in industry sectors including marinas, dry cleaning, printing, small chemical manufacturers, auto service/repair shops, small agricultural ventures and metal services.

- Compliance Assistance Centers have been successful tool to reach small business community through partnerships with other providers. EPA sponsored partnerships with industry, academic institutions, states, environmental groups and other federal agencies to launch 10 sector specific centers for industry and government sectors, with focus on small business sectors. Provide comprehensive, easy to understand federal and state compliance and P2 information in language the business sector understands.

  - Users are satisfied. Of respondents to a 2001 survey, 90% of regulated community and 91% of assistance provider community said Center helped them understand applicable environmental regulations.
  - Users are taking action. Of survey respondents, 73% took one or more actions as result of center use i.e. contacting regulatory agency; changing a process/practice; conducting a self-audit.

EPA uses partnerships to help target and plan compliance assistance activities to address most important compliance assistance needs:

- *Collaborate with other providers to identify where greatest need is for compliance assistance and how to address problems.* Work with partners to identify priorities, e.g, patterns of noncompliance with existing rules; new/existing rules impacting small businesses; business sectors which have limited contact with officials and limited resources.

- Across Agency, offices writing rules focus their compliance assistance guidance on new rules to help businesses understand and comply with new requirements and use partnerships developed during rule making process to disseminate information. Agency

uses partnerships to encourage technical and P2 assistance which can actually help businesses avoid the need to be regulated.

4. Technical and pollution prevention assistance programs -- results through partnerships among state technical assistance and P2 providers

- Since 1989, EPA has provided nearly $70 million to help develop and sustain *pollution prevention assistance programs and infrastructure* in every state, which provide a variety of compliance and technical assistance in the field to hundreds of small firms each day. Engineers, environmental specialists and business experts offer hands-on technical assistance, as well as training, education and recognition activities. Grants require partnerships among key state business and environmental assistance providers.

  - Several years ago, EPA provided *funds to Pennsylvania and Vermont SBDCs* to enable them, in partnership with other major business and environmental assistance providers, to create a plan to ensure effective, efficient service delivery *to small businesses* in these states – programs that remain effective today.

- The Agency's *Design for the Environment (DfE)* program was one of EPA's first voluntary, partnership -based programs to help small businesses better integrate environmental concerns to improve their performance and competitiveness. DfE has *promoted risk reduction in small businesses by examining the hazardous of chemicals and processes used and assessing alternative formulations and processes. These* more cost-effective and environmentally-protective technologies *have been provided* for small firms that do auto refinishing, fabric care, such as dry cleaning, or that manufacturer computer displays and printed wiring boards.

- One of EPA's latest ventures is the *Pollution Prevention Resource Exchange*, or P2Rx — a national network of eight regional centers that provide easy access to high-quality environmental information and expertise for small businesses and those *technical assistance programs who advise them.* Business providers, like Small Business Development Centers and Manufacturing Extension Partnerships work in partnership with state environmental assistance programs, regions, the Compliance Assistance Centers and others nation wide to help firms improve their business bottom line and environmental performance. In the past six months over 408,400 users have visited the 8 regional web sites.

Conclusion

Sustainable, effective small business compliance assistance requires meaningful collaboration and reliance on partners' expertise:

EPA has made great strides in our regulatory compliance assistance program for small businesses. The key to success is working closely with partners who possess the relevant expertise, not duplicating their efforts, but providing tools and infrastructure for partnerships to flourish.

United States
Environmental Protection
Agency

Office of the Administrator
(1801)

EPA100-R-99-006
July 1999
www.epa.gov/reinvent

EPA

Aiming for Excellence

Actions to Encourage Stewardship and Accelerate Environmental Progress

Report of the EPA Innovations Task Force

Printed on paper that contains at least 30 percent postconsumer fiber.

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Aiming for Excellence

Actions to Encourage Stewardship and Accelerate Environmental Progress

Report of the EPA Innovations Task Force

Reinvention at EPA

Shortly after taking office, Vice President Gore took charge of a new National Partnership for Reinventing Government to radically change the way our government performs. The challenge given to all agencies was to be more efficient, less bureaucratic, and to provide better service to the American people. At the U.S. Environmental Protection Agency (EPA), that challenge led us to rethink how we go about achieving environmental and public health protection goals.

In March 1995, we launched a small set of high-priority projects that quickly evolved into a broader reinvention agenda for the Agency. Today, we have numerous reinvention efforts under way. Many focus on improving well-established programs, such as permitting and compliance assurance. The emphasis is on streamlining regulatory processes and introducing innovations that can make these programs more efficient and effective. Others focus on finding fundamentally new approaches for the future. Our reinvention initiatives are designed to address environmental problems that have yet to be solved through the current system.

We'd like to tell you about all of our reinvention efforts, but for this brief overview, we'll focus on a few programs we think are especially significant. For starters, we've slashed obsolete or unnecessary requirements representing nearly 27 million hours of paperwork a year without sacrificing protec-

"Our reinvention initiatives are designed to address environmental problems that have yet to be solved through the current system."

tion capabilities. We've dramatically increased public access to environmental information, enabling citizens to go online and find out about environmental conditions and issues that affect their community. We're providing flexibility to meet new pollution reduction targets in cost-effective ways, using emissions averaging, trading, and other alternative compliance options. We're collaborating with others to make environmental progress; a recent agreement we helped negotiate between the automobile industry, state governments, and other stakeholders, which should reduce emissions from new cars by 70 percent, is just one example. We've launched special programs, such as the Common Sense Initiative and Project XL (which stands for excellence and leadership), to test innovative environmental management strategies that work more effectively for businesses, their customers, and the people who live and work around them. We're involving stakeholders earlier in the rulemaking process and we're developing new compliance assistance tools to help people understand environmental requirements and comply more easily.

Recent actions within the Agency prepare us to do more. We're in the midst of setting up a new office to significantly improve the way we collect, manage, and report environmental data. We're applying what we've learned from working with industry to improve the effectiveness of EPA programs and policies. And through agreements that clarify how we will work together to foster innovation and increase environmental results, we're building stronger relationships with state governments.

If you'd like to learn more about any of these efforts, we invite you to look at EPA's 1998 annual report on reinvention. Or take a look at the annual report highlights, presented in Appendix 1. These materials provide helpful background for the report that follows on the additional reinvention actions we will carry out in the next 12 to 18 months as our ongoing reinvention efforts proceed.

Introduction

While we take pride in of the progress we've made through reinvention efforts, we're also interested in additional ideas about ways to accomplish even more. So we decided to talk with the people who know environmental issues the best-business and community representatives, state government and EPA staff—people who have important suggestions for actions and solutions.[2] We received a great response to this outreach. (See Appendix 2 for more details about stakeholder comments). Comments, reactions, and suggestions came in by the hundreds. Some were specific, others more general. But two themes emerged:

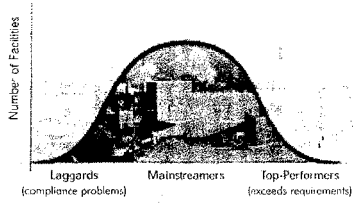
- EPA needs to do more to help organizations comply with the law.
- EPA needs to encourage those who are willing and able to do more.

These themes underscore how far we've come and how far we still have to go in learning to protect the environment. Here in the United States, we still have tremendous variability in how well businesses and other organizations manage their environmental responsibilities. It's helpful to think of this variability as a bell curve along a performance spectrum. At one end, we have companies acting as environmental leaders, adding business value and gaining competitive advantages along the way; they are setting standards of excellence that will define future business practices for themselves and their peers. In the middle, we have the "main streamers"-businesses, industries, and other regulated parties that typically meet requirements, but do little else. And then there are those that have been left behind, who do not meet the most basic environmental standards.

As we consider this, we see evidence of environmental achievements. Yes, we have made a great deal of progress over the past 3 decades, and yes, we have companies setting high standards for others to follow. But overall, we still can do better. And we must if we are to successfully address unsolved problems such as global warming and the environmental consequences of popu-

"We believe a system that promotes stewardship, in addition to compliance with environmental requirements, has the greatest potential for advancing environmental management capabilities and solving environmental problems."

Environmental Performance Among Regulated Facilities



lation growth and economic expansion. Stakeholders reminded us of what might be accomplished if we could improve capabilities across the board, shifting the curve toward better performance. Clearly, such action could help us achieve significant, long-lasting environmental results on a much wider scale.

With this in mind, we believe a system that promotes stewardship, in addition to compliance with environmental requirements, has the greatest potential for advancing environmental management capabilities and solving environmental problems. For us, the goal is not just compliance, but getting more of our society to achieve environmental excellence.

This vision calls for an ethic of environmental stewardship, where everyone takes more responsibility to reduce adverse impacts upon the world in which they live. It applies to the environmental engineer in charge at the local manufacturing plant. It also applies to the local officials faced with community development and transportation issues, and the millions of private citizens who make lifestyle choices each and every day.

We realize that no one *has* to do more than just comply with environmental requirements. But with a growing number of environmental leaders in the public and private sectors practicing environmental stewardship, we hope more organizations and the people who run them will begin to see its advantages. We also realize we can't expect more without doing more ourselves. That's why we're committed to using our resources to provide businesses and communities with the additional help they need to comply and to create new incentives and tools to encourage them to achieve even more.

We know we cannot just talk about such a vision —we must take steps to make it happen. As the next section describes, that's exactly what we intend to do.

Our Commitments

[illegible] where everyone takes more responsibility for protecting the environment is going to require some changes. In thinking about the future, we believe what we need most is a system with more incentives, rewards, and assistance. We should recognize and provide meaningful rewards to those who are already environmental leaders, using their bench-marking practices to guide others; we should give assistance and incentives to the "main streamers" to help them not only comply, but take extra steps to do more; and we must use all available means to bring those with poor environmental track records up to speed.

These changes won't be made overnight, but we can take action to make them a reality in the foreseeable future. We believe we can help accelerate environmental progress most effectively if we:

- Use incentives and promote environmental management systems (EMSs).
- Provide timely and accessible compliance assistance.
- Create flexible and streamlined permitting.
- Help communities make sound environmental decisions.

The following sections highlight where we are in each of these areas, why more needs to be done, and what we'll do in the next 12 to 18 months to make further headway. Appendix 3 provides more specific details about these commitments. The steps EPA will take to achieve success-including working with our state and tribal partners and promoting innovations within the Agency's culture-are outlined in the last section of this report.

Our Commitment:

Use Incentives and Promote Environmental Management Systems

Getting more of our society to continuously improve environmental performance will require new ways of thinking and new ways of doing business. Clearly, one way is by providing special assistance to help organizations comply with the law. The compliance assistance program we talk about in the next section will do that. But what can we do to encourage organizations to pursue more ambitious improvements? As a first step, we will:

- Use incentives to encourage actions beyond what is required.
- Promote use of EMSs that can help organizations incorporate environmental issues into their business operations.
- Develop a "performance track" that rewards environmental leaders.

The first step-using incentives-will provide distinct advantages to motivate organizations to go the extra mile. The second-promoting EMS use -will help organizations make better business decisions by taking environmental issues more

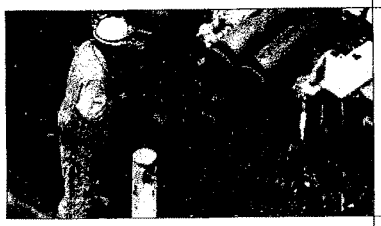
fully into account. The third-developing a performance track-will enable us to recognize and reward those who excel environmentally.

We believe that by using these new approaches, we can help organizations see the value and strategic advantages in improving environmental performance and lead them to increase their environmental commitments. We can also help these relatively new environmental management concepts evolve. By giving them more prominence in our programs and policies, we have an opportunity to help develop their full potential for increasing environmental results.

Using Incentives More Widely

We believe meaningful incentives can be a powerful force for achieving environmental results. Providing incentives to "main streamers" encourages them to become leaders. Providing incentives to top performers encourages them to continue improving and create cutting-edge, efficient practices that can be adopted by others. Over time, the cumulative effect should be a safer, cleaner environment.

Incentives are already at work. EPA has them in several voluntary partnership programs and in regulatory programs. (See Box 1: *Incentives Used by EPA*). We've also used incentives in our compliance assurance program. EPA has waived or reduced penalties for companies that voluntarily



audit, disclose, and correct environmental violations and that take action to prevent future ones. Many states also are experimenting with incentives for stewardship; some have established "ladders" that recognize and reward different levels of performance. These experiments will give us useful information about what works and help us use incentives more widely to achieve environmental goals.

We've already learned that different kinds of incentives and assistance are necessary. We know that what works for one business sector might not work for another. Likewise, companies within the same industry might have different environmental management capabilities and levels of performance. The challenge is finding the right kinds of incentives to motivate different types of organizations to improve their performance and get better results.

Incentives Used by EPA

Box 1

Some examples that we use in our voluntary partnership programs

What is the program?	It gives. . .	To . . .
WasteWise	Public recognition.	Encourage recycling and waste reduction.
Water Alliances for Voluntary Efficiency (WAVE)	Software and technical assistance.	Encourage facilities to evaluate and improve water-use efficiency.
Design for the Environment (DfE)	Information about alternative products and processes.	Help them manage their operations in a more environmentally sound manner.

Some examples that we use in our regulatory programs

What is the program?	It gives...	If organizations...
Certain Clean Air Act MACT standards and Clean Water Act NPDES requirements	Reduced reporting.	Consistently meet environmental requirements.
Project XL, Pollution Prevention in Permitting Program	Flexible permits, such as pre-approvals for certain operational changes.	Commit to meet or perform better than current air emission standards.
Acid Rain Trading Program	Option to sell SO_2 credits.	Reduce emissions below what is required.

There are different opinions about what can be used to motivate performance:

- A recent industry-sponsored report identified many incentives that could improve environmental results, including streamlined permit procedures, consolidated and streamlined reporting, and tax breaks for investing in advanced technologies.
- Based on results from the Toxic Release Inventory, many see benefit from making more information about the environmental performance of individual companies publicly available.
- As Box 1 showed, our own experiments have offered public recognition, technical assistance, regulatory flexibility, and market-based trading options.

It will take time to find out which incentives are most effective. To find our way, we'll work with all interested parties-Congress, state and tribal governments, industry, environmental groups, communities-to identify and develop incentives that work. We'll make incentives a more routine part of our regulatory and voluntary programs.

Promoting the Use of Environmental Management Systems

We believe incentives will motivate organizations to comply and even improve their environmental performance. But we also think companies

Use incentives and voluntary partnerships more widely to encourage better environmental performance.

We will work with all interested parties to identify, test, and evaluate incentives that can be used to encourage better environmental performance by a wide range of businesses and other organizations. We'll also use voluntary partnership approaches to help address unsolved environmental problems and/or unique challenges facing communities or specific business sectors.

should take action on their own. One way to do this is by making environmental responsibilities part of "business as usual." Today, more and more businesses and other organizations are doing just that by using EMSs. Like other evolving tools, such as lifecycle management and full cost accounting, EMSs help integrate environmental issues into business decisions and practices. Basically, they provide a framework for managing environmental responsibilities in a more systematic way. We want to encourage the use of EMSs that improve compliance and other measures of environmental performance.

So far, the business community has led the way in developing EMSs-at both the corporate and plant level. Some EMSs have been developed for specific business sectors, such as metal finishing and printing. EMSs have great potential for helping small businesses, in particular, improve environmental performance because they offer a type of operational template that can be easily modified and adopted. Based on their potential for helping organizations gain a better awareness of how environmental responsibilities fit into their overall operations, EPA has been requiring companies with compliance problems to develop EMSs when we settle enforcement cases.

Stakeholders told us the Agency needs to continue to champion EMSs by working with industry, the environmental community, and others to support their use. We've already started working with states to evaluate how well EMSs actually improve environmental performance. This evaluation will provide "lessons learned" and will help us move from experimenting with EMSs to understanding how they can complement environmental programs and policies.

Promote the use of environmental management systems.

We will encourage organizations to use EMSs that improve compliance, pollution prevention, and other measures of environmental performance. We'll continue evaluation efforts to learn more about which EMS elements and applications are most effective, and we'll determine how these systems might be used to strengthen environmental programs and policies.

Developing a "Performance Track" for Environmental Leaders

We've already talked about using incentives to promote environmental improvements. But what about companies that *already* excel? We believe we should find a way to encourage leaders to continue striving for improvement. Environmental leaders help advance state-of-the-art practices that ultimately bring progress.

How can we do this? Several national policy reports have recommended that EPA develop an "alternative track" or "performance track" to encourage companies to use innovative environmental performance strategies.[4] Definitions of a "performance track" vary; they generally refer to allowing top-performers more flexibility in how they meet regulatory requirements *if* they do more to protect the environment and assure accountability. Doing more could mean using an EMS that improves compliance, pollution prevention, and other measures of environmental performance; involving the community in decision-making; and reporting to the public about their environmental performance.

EMSs have the potential to form the foundation of a performance track. A company's environmental performance could be demonstrated through an EMS that measures progress toward specific environmental goals. Currently, EMSs used in the private sector, including ISO 14001

"The challenges we face as a growing, dynamic society demand that we go beyond mere compliance in the future."

[illegible]

(an internationally recognized EMS standard) measure how well an organization meets its own *self-defined* environmental goals. These goals alone will not be sufficient. To create a performance track that is fair and publicly supported, we need goals that are broadly understood and applied. And we need mechanisms to verify performance, which could potentially include self-auditing and third party certification.

The concept of a performance track is still relatively new. Up to this point, most experimentation has been limited to certain industry sectors or companies. Recently EPA and the states

EPA and the States Test Leadership Approaches

Box 2

At EPA, we've created several innovative programs that experiment with ways to provide incentives and reward leadership in environmental protection:

- Project XL is testing innovative approaches that offer companies flexibility in how they meet environmental requirements if they can produce results that are better than what would otherwise be expected.
- Under the Environmental Leadership Program, facilities that demonstrated strong environmental performance were given rewards, such as public recognition through certificates and logo usage and a reduction in discretionary inspections.

Several states also have created programs that provide incentives and reward leadership:

- Colorado has created a voluntary environmental leadership program that offers financial incentives to companies that prevent pollution, reduce toxic use, improve energy efficiency, and perform other environmentally beneficial activities.
- Wisconsin is starting a program that will allow select businesses to experiment with regulatory innovations that remove administrative burdens, clear the way for better environmental performance, preserve environmental and public health protections, and provide for public accountability.
- Oregon has launched the EMS Incentives Program, which includes four tiers with increasing rewards for facilities meeting increasingly higher standards of environmental performance.

Develop a "performance track" to motivate and reward top environmental performance.

We will work with states, tribes, industry, and environmental and other interest groups to define what it means to be a top environmental performer and to identify appropriate building blocks for a new "performance track" that enhances the current regulatory system.

began experimenting with different programs to give incentives to environmental leaders [See Box 2: EPA and the States Test Leadership Approaches]. We want to continue to learn more about this type of approach, and will work with states, tribes and other stakeholders to create a system that makes it worth an organization's time and effort to go the extra mile.

Our Commitment:

Provide Timely and Accessible Compliance Assistance

While we will focus on rewarding those who do more than what is required, making sure that businesses and other organizations comply with the law will continue to be one of our most important responsibilities. In the past, EPA and state governments have relied on a strong enforcement program to do this. We'll continue using this effective tool, but we must look for new and creative ways to help regulated parties achieve compliance and improve performance capabilities.

For some, the failure to comply comes down to a simple lack of understanding about what's required. We need to do a better job of providing information in timely, helpful ways so people can fulfill their environmental responsibilities.

In recent years, we've developed new ways to improve our compliance assistance efforts by setting up compliance assistance centers on the Internet that provide certain sectors with quick, easy access to the latest regulatory requirements and pollution prevention information; developing compliance assistance tools, such as plain

language compliance guides, training modules, and compliance checklists; and launching national and regional compliance campaigns for priority industry sectors. Now we intend to do more by:

- Becoming a more effective "wholesaler" of compliance assistance information.
- Providing compliance assistance tools in a more timely manner.
- Using compliance assistance in strategic combination with enforcement, monitoring, and incentives to achieve environmental results.

Becoming a More Effective "Wholesaler" of Compliance Assistance Information

The stakeholders who work directly with businesses and other regulated parties to improve environmental performance told us how they think we could most effectively assist with compliance: by supplying compliance assistance tools and information. In other words, they thought we should develop materials, but rely on an extensive network of environmental assistance providers in the public and private sector to actually deliver them. We agree, and believe this is a sound way for us to leverage our compliance resources.

Support a network of public and private organizations that provide assistance on environmental compliance.

We will focus on becoming a "wholesaler" of compliance assistance tools and information. We'll meet with compliance assistance providers to share our approach for developing materials that help businesses and communities comply with the law and prevent pollution, and we'll ask them to help us set priorities to determine which materials are needed most. We'll provide these materials, and help them develop training and peer mentoring programs.

Providing Compliance Assistance Tools in a More Timely Manner

The stakeholders we talked to consistently suggested that we begin thinking about compliance assistance at the start of the rulemaking process. We need to do more than issue sound regulations to address today's problems; we need to give people the tools, assistance, and resources they need to comply with those requirements before those rules take effect.

"EPA needs to support and provide resources to the state and local networks that are in place to deliver these services rather than creating new networks."

Deliver compliance assistance information for new, "economically significant" rules when and where it's needed [5]

We will provide compliance assistance information typically within 90 days of issuing these rules so it is available before new requirements take effect. We will continue to make general assistance widely available through the Internet, toll-free telephone lines, and other distribution channels. We'll also evaluate the need for additional compliance assistance centers as we maintain support for existing ones.

"Compliance assistance often plays a critical role in improving the overall environmental performance of regulated entities, especially smaller businesses."

Using Compliance Assistance in Strategic Combination With Enforcement, Monitoring, and Incentives to Achieve Environmental Results

Compliance assistance is one of several avenues that can lead to compliance and better environmental performance. Incentives, public reporting on performance, and enforcement are a few others. Before we decide on a course of action to address a particular problem, our stakeholders recommended that we consider the options for getting the desired result and then determine how they might be combined or sequenced for greatest strategic advantage.

This approach would allow EPA and states and tribal governments to target limited resources more effectively. When a new rule takes effect for a certain small business sector, for example, the most effective course of action might very well be an intensive campaign of compliance assistance and a later date when monitoring would begin to assure performance. In the case of a larger, more mature industry, there might be less need for compliance assistance, and more opportunity for incentives that produce environmental, economic, and social benefits. Clearly, different problems require different solutions. We should become more flexible and responsive at using the tools we have to improve compliance problems.

Combine compliance assistance, incentives, monitoring, and enforcement in order to implement environmental laws in a more strategic manner.

To make better use of limited resources, we will design new strategies that incorporate a range of options to address major compliance problems.

Our Commitment:

Create Flexible and Streamlined Permitting

When our stakeholders told us we need to help businesses and communities comply, we thought about ways to change the permitting system. After all, by specifying levels of environmental performance that must be met, permits are one of the primary ways we assure compliance with environmental laws. And they are where most people first encounter the regulatory process.

Through the combined efforts of environmental regulatory agencies, businesses, environmentalists, and the general public, we've created a permit system that has dramatically improved environmental conditions in the United States.

"In an industry where being quick to market with a new product is a requirement for financial success, delays from frequent permit revisions are a huge concern..."

[illegible]

Box 3

Examples of Pilot Programs to Test Innovative Approaches to Permitting

Through a variety of pilot projects, we have tested new permitting approaches that give companies and communities greater flexibility if they agree to take additional steps for preventing pollution and protecting public health and the environment.

- In the Common Sense Initiative, which focused on creating a better environmental protection system for specific industry sectors, we looked for ways to avoid unnecessary burden. Because of CSI recommendations, each of the major permitting programs has been working to eliminate excessive backlogs of permit reviews and approvals and to implement regulatory changes to streamline permitting procedures.
- Through Project XL and the Pollution Prevention Permitting Program, we've tested facilitywide permits that use an overall "cap" on air emissions as an alternative to permitting each individual new emissions source.

Now we're working with states-who issue the majority of permits today-to make this system more effective at meeting environmental goals without creating unnecessary social and economic burdens. Box 3: *Examples of Pilot Programs To Test Innovative Approaches to Permitting* shows some of the pilot projects we've used to test new permitting approaches.

Earlier this year, EPA announced "The Next Generation in Permitting," an effort to move permitting toward measuring performance while providing regulated parties more flexibility in how standards are met. This and other permitting reform efforts show we're committed to strengthening the role of the public in important decisions, focusing on results instead of procedures, and reducing unnecessary burden.

To accelerate progress, we'll proceed with some additional improvements within the two permit programs that affect the largest number of facilities: the NPDES (waste-water discharge) program under the Clean Water Act, and the New Source Review and Title V Operating Permit programs under the Clean Air Act.

We want to continue to find ways to make permitting easier on businesses and communities, while also making permits more effective for protecting public health and the environment. With these efforts, we hope to reduce the unnecessary delays and administrative burdens permits have often created in the past.

Develop more flexible air permitting policies for protecting the environment.

Based on our experiences in pilot projects, we will identify those approaches that increase permitting flexibility while providing equal or better levels of environmental and public health protection, provide incentives for pollution prevention, and ensure public participation in permitting decisions.

Speed up the review and issuance of NPDES (water discharge) permits.

We will streamline NPDES permitting by providing training to improve understanding of the NPDES permitting process, and by encouraging applicants to submit draft permit limits or conditions that can expedite regulatory review and approval. We will also encourage more public involvement in permitting actions.

Our Commitment:

Help Communities Make Sound Environmental Decisions

Along with encouraging better performance among regulated parties, we must do more to support environmental management and problem-solving at the community level. EPA, States, and Tribes need to help communities find solutions that take local social, economic, and environmental conditions into account, and that maintain the same level of protection provided under national standards.

Box 4

Some of EPA's Community-Based Projects

- The Brownfields Initiative helps communities clean up and restore abandoned industrial properties, bringing them back into productive use.
- The National Estuary Program provides financial and technical support to help coastal communities protect their watersheds and estuaries.
- Sustainable development challenge grants offer seed money to help communities leverage additional resources for sustainable development activities with environmental, economic, and social benefits.
- New monitoring and reporting projects give citizens in 68 urban areas more timely information about the quality of local beaches, outdoor air, and other environmental conditions.

At EPA, we've already started to help communities help themselves. We've created tools to support environmental decision-making and established programs that enable communities to address problems such as abandoned waste sites, loss of wetlands, and poor air quality. Some of our successful partnering efforts with communities are shown in Box 4: *Some of EPA's Community-Based Projects*.

These partnering activities show the many roles EPA plays in working with communities. In the majority of communities, our role is to provide the tools and information resources that build local capacity for tackling environmental problems. In many cases, we are just one of many partners involved in a local effort. Sometimes, we play a stronger role, getting directly involved with the local stakeholders.

We want to continue to offer communities the help they need to find practical, workable solutions to their unique challenges and assure environmental justice for their citizens. This will include offering

tools that help them have open, constructive dialogues among citizen groups, industry representatives, and other stakeholders. And it will include tools that enable them to see the environmental consequences of planning and development decisions before those decisions are made.

Build leadership capacity in communities to participate in local environmental problem-solving.

We will help communities make decisions about issues that improve public health and their local environment by developing new environmental management tools, offering technical assistance, and providing facilitation support for dialogue on environmental issues. We'll also include community representatives in Agency decisions about programs or policies that directly affect them.

Provide "smart growth" support to state, tribes, and communities to help them find local solutions to livability issues.

Because community development patterns have a great impact on environmental conditions and overall quality of life, we will support and encourage smart growth decisions by individuals; communities; businesses; and state, tribal, and local governments.

Ensuring Success

The plan that we've outlined in this report will take work but we are committed to doing everything we can to ensure its success. The actions we've committed to take will be launched through our national and regional planning processes, so we need to work closely with our state and tribal partners and with staff throughout EPA who manage environmental programs.

Working With Our State and Tribal Partners

Today, more than 70 percent of environmental programs that can be delegated are being run at the state level. Like EPA, states and tribes have shown commitment to finding innovative strategies to cut costs and improve environmental results. As described earlier in this report, innovations are under way to improve permitting, to provide recognition for those who deserve it, and to streamline

unnecessary requirements. We know any progress we make toward our vision of environmental excellence will depend on good communication and a close working partnership with our fellow innovators. We will:

- Consult and coordinate with states and tribes through associations, especially the Environmental Council of the States (ECOS), EPA's Tribal Operations Council, and through contact with states and tribes individually.
- Rely on well-established planning processes, such as those conducted under the National Environmental Performance Partnerships System (NEPPS) and annual or biennial planning cycles for environmental programs.
- Create additional communication forums so that states and tribes are fully informed and involved with our reinvention efforts.
- Seek out states and tribes that have pioneered innovative projects to learn from and build on their experiences.

Making Changes Within EPA

Within EPA, we need to make changes to ensure all the actions in this report happen. We will:

- Continue to encourage an organizational culture that promotes innovation and learning.
- Be accountable for producing results.

Continue to Encourage an Innovative Organizational Culture

Like many organizations, EPA has focused on improving its effectiveness through steps that influence organizational culture. Given our mission, we're striving for an organizational culture that promotes creativity, fosters learning, encourages testing and adoption of innovative approaches, works in partnership with others, expands public involvement in environmental decision-making, and supports efforts of businesses and others to protect the environment.

EPA's organizational culture has already evolved significantly over the last few years. As evidenced by the numerous initiatives and achievements discussed in EPA's 1998 annual reinvention report, our staff has shown a commitment to creating an environmental protection system that works better for everyone. As many of our colleagues in the public and private sector already know, however, changing organizational culture is a continuous and challenging task.

To realize our own ideals about what our Agency can and should be, and to support implementation of the actions in this report, we will:

- Create new budgetary mechanisms for making resources available to innovators within the Agency.

- Identify and act upon our own internal rules or practices that promote or inhibit innovation and learning.
- Reward employees who make significant achievements that demonstrate innovation and creativity.
- Provide career development opportunities, including training and exchange programs with outside organizations, that allow people to gain new skills and bring new insights to their jobs.
- Develop guidelines for evaluating how well innovative approaches work so we have an objective way to identify lessons learned and determine the most appropriate next steps.
- Bring together EPA front line staff to share experiences and information about innovative approaches and to develop new approaches to improve environmental programs.

Be Accountable for Producing Results

In Appendix 3, you'll find our plans for implementing each of the report's key actions. For each action, we've identified a lead office and specific steps to measure progress. In order for these commitments to have an impact and produce results, we need to be accountable for performance. We will take several steps to do this.

- The Office of Policy and Reinvention will track how well we follow through on specific tasks, and report quarterly on progress to the Deputy Administrator and to the Reinvention Action Council (comprised of the Agency's most senior career staff from Headquarter's programs and EPA regional offices).
- The Reinvention Action Council will identify and resolve any implementation problems.
- We will assign personnel critical to complete each task and support them with resources and training. They will be held accountable for making progress in their projects.
- We will post our progress on EPA's reinvention Web site at <epa.gov/reinvent> and in the Agency's annual reinvention report.

[1]U.S. EPA. 1999. *Reinventing Environmental Protection*. U.S. Environmental Protection Agency. EPA100-R-99-002. March. Available at <www.epa.gov/reinvent>.

[2]At the request of Administrator Browner, EPA created a task force in January 1999 to work with stakeholders on identifying next steps for reinvention activities.

[3]Global Environmental Management Initiative. 1999. Environmental Improvement through Business Incentives.

[4]See, for example: The Aspen Institute. 1996. *The Alternative Path: A Cleaner, Cheaper Way to Protect and Enhance the Environment*. Series on the Environment in the 21st Century.

[5]Under the Congressional Review Act, "economically significant" rules are generally those expected to have an impact of $100 million or more.

"We believe a system that promotes stewardship, in addition to compliance with environmental requirements, has the greatest potential for advancing environmental management capabilities and solving environmental problems."

Appendix 1

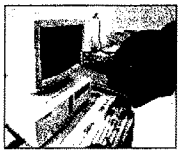
Reinvention Accomplishments

1998 marked another year of steady progress in the U.S. Environmental Protection Agency's (EPA's) efforts to reinvent environmental programs. EPA began its reinvention efforts in 1995 when President Clinton, Vice President Gore, and EPA Administrator Carol Browner announced a reinvention agenda to make environmental and public health protection programs more efficient and effective. Since that time, EPA has pursued common sense reforms and new ideas that can help us achieve national goals, such as clean air, clean water, and better waste management.

Last year, Administrator Browner made several strategic decisions that should advance our reinvention capabilities even further. She laid out a vision for improving the way EPA manages and disseminates environmental information, and called for a new information office to be set up—the first in the Agency's history. Harnessing the many lessons learned about working effectively with industry sectors and other stakeholders through the Common Sense Initiative, the Administrator approved plans to apply this learning broadly within EPA programs. After working on the details for more than a year, she signed an agreement with the states that provides the

additional flexibility and assurance they need to proceed with their own reinvention initiatives. These decisions were milestones in a year when we followed through and delivered on some of our earliest reinvention commitments. But the year also brought new challenges and initiatives with the potential to significantly shape how environmental management is conducted in the 21st century.

Better Environmental Information



With more than 40 million hits on EPA's Web site every month, public demand for high-quality environmental information has never been greater. To meet this and other related demands, EPA began setting up its first information office. In addition to improving data quality and streamlining reporting, this move will advance community right-to-know opportunities for citizens and improve our ability to analyze environmental conditions.

Established a National Center for Environmental Information and Statistics
A new online center launched in August is putting EPA's vast reserves of environmental data to work for citizens. The center makes it faster and easier than ever before to retrieve, compile, and present data stored in numerous environmental databases. Users can request easy-to-understand reports about drinking water, surface water, air quality, hazardous waste, and toxic releases in their communities—just by typing in their zip code.

Developed Real-Time Reporting Capabilities
To enable citizens to make decisions about their daily lives by taking actual environmental conditions into account, we worked with select communities on an environmental reporting breakthrough—offering real-time, rather than historical, data. This advance offers answers to basic questions, such as "Is the air quality safe for me to go jogging today" or "Is the water safe for a swim?"

Pushed for More Environmental Disclosures
Recognizing the effect that public disclosure can have on environmental performance, the Agency took actions to make more environmental information publicly

available. We proposed to expand reporting under the Toxic Release Inventory for persistent, bioaccumulative chemicals, such as dioxin and mercury, by almost 25 percent. Other actions will give Americans access to information about the hazards from lead-based paint when renovating or remodeling their homes, whether their drinking water meets federal public health standards, and the potential risks from facilities in their neighborhoods that produce, use, or store chemical products.

Challenged the Chemical Industry to Make Product Toxicity Data Publicly Available

A new program, announced by Vice President Gore, challenges the chemical industry to provide missing information on about 2,800 of the nation's most widely used toxic chemicals to the public. By agreeing to conduct any necessary toxicity testing and to publicly report the results, companies can help resolve remaining questions about risk levels and avoid the need for further regulation.

Offered Citizens Tools for Evaluating Environmental Performance

New databases were made publicly available that allow citizens to evaluate and compare the environmental performance of individual facilities or industry sectors as a whole. A database created under the Agency's Sector Facility Indexing project offers compliance and other environmental performance information on facilities in six industrial sectors. Another database, known as E-GRID, provides extensive data on the environmental performance and efficiency of electric utilities—information that might become more valuable as deregulation gives consumers more choice in determining their energy provider.

Stronger Partnerships

Industries, businesses, community groups and many other organizations are increasingly working with EPA as partners to improve environmental performance, cut costs, and avoid new regulations. These partnerships are leveraging limited resources and spawning new ideas that can produce better results more quickly and more cost-effectively than what might be expected through regulatory actions alone.

Collaborated on Joint Ventures With the States

With two-thirds of the states now working with EPA under the National Environmental Performance Partnership System, special attention was given to creating more meaningful environmental performance measures that demonstrate the results from federal and state programs. The year also brought agreement on a process that gives states the flexibility and assurance they need to engage in their own regulatory reinvention initiatives and still meet federal standards.

Offered Assistance for Smart Growth

To help more communities avoid poorly planned development, urban decay, and loss of valuable green space, we supported "smart growth" through Agency programs. We led a national network to help expand smart growth tools and information. And by expanding a $500,000 pilot project into a $5 million national grant program, EPA offered 45 communities seed money to launch sustainable development initiatives in agricultural, rural, and urban settings.

Doubled Support for Brownfields Redevelopment

By offering $21 million to 107 communities, the Agency doubled its investment for revitalizing brownfields—abandoned, idle, or unused properties tainted by environmental contamination. Since 1995, EPA has awarded more than $42 million to 227 communities with a goal of supporting 300 brownfield projects by the end of 1999. In March, Administrator Browner joined Vice President Gore to announce that 16 projects would collectively receive an additional $28 million and other assistance to create "Brownfield Showcase" communities for the nation.

Promoted Environmental Stewardship Through Partnership Programs

To spark interest among potential new members, the Agency compiled and publicized the latest annual results on the environmental and economic benefits from participating in its voluntary partnership programs. The results showed that about 6,000 partners—ranging from Fortune 500 companies to small family-owned businesses—saved $1.6 billion through voluntary improvements that eliminated 7.6 million tons of solid waste, prevented the release of 79 million metric tons of the pollution linked to global warming, saved nearly 6 million gallons of clean water, and conserved enough energy to light 56 million households for a year.

Shared Business Risks

In April, EPA offered to become a financial partner with responsible parties under Superfund that are willing to invest in innovative cleanup technologies. We agreed to share up to one half of the additional cost that would be incurred in cases where an innovative technology might fail and necessitate further investment. In so doing, the Agency reduced the responsible parties' financial risks and bolstered support for new technology use and development.

More Tailored, Flexible Approaches

Increasingly, EPA is relying on a mix of regulatory and nonregulatory approaches to solve environmental problems in common sense ways. In some cases, this means offering incentives that prompt voluntary environmental improvements. In others, regulations are needed, but can be tailored to offer more flexibility in choosing among compliance options.

Offered Flexible, Cost-Effective Program for Reducing Smog

In September, EPA issued a flexible, cost-effective plan that would allow most areas of the county to meet the 1997 antismog standards without having to implement costly new controls. The plan offers compliance options for states, which include an emission trading program for power plants and other sources of nitrogen oxide—a primary ingredient in smog formation. This approach has the potential to drop the per-ton cost of controlling these emissions from as much as $10,000 to about $1,500.

Launched Clean Water Action Plan

In February, President Clinton unveiled a comprehensive Clean Water Action Plan to finish the job of protecting the nation's waters. Developed with unprecedented cooperation at the federal level, this plan offers the first-ever, multiagency budget for clean water programs and specifies more than 100 actions to address high-priority problems, such as polluted runoff from livestock operations.

Rewarded Pollution Prevention Achievements

The Agency supported technical innovations that minimize waste and the use of toxic chemicals and that help avoid the need for new requirements. This included offering Presidential awards for outstanding green chemistry achievement. In 1998, awards were given to four companies and two university research teams whose discoveries offer more environmentally sound alternatives to current products and processes.

Focused on the Needs of Industrial Sectors and Other Stakeholders

After 4 years of unprecedented collaboration involving many diverse parties, Administration Browner concluded the Common Sense Initiative as an experimental program for testing a fundamentally different approach to environmental protection. Lessons learned from working with six industrial sectors and other stakeholders formed the basis of new plans to adopt sector-based approaches more broadly across Agency programs and to improve EPA's ability for involving stakeholders in decision-making processes.

Used Project XL to Pursue Innovative Approaches

The Agency approved three new projects in 1998, and developed a simplified process for approving additional projects in the future. One participating company is exploring how environmental management systems might be used to simplify permitting, recordkeeping and reporting requirements. In Massachusetts, the state environmental agency is testing self-certification procedures as an alternative to traditional environmental permits.

Promoted Innovative Technologies

Recognizing the financial risks and regulatory barriers faced by companies trying to develop and market innovative environmental technologies, EPA offered information and sponsored trade shows and award programs to showcase new technologies. In a new role, we also helped broker discussions between technology developers and representatives from the financial community in order to secure more capital for new technology development.

Getting to Compliance—and Beyond

Throughout the year, we looked for ways to help businesses and communities improve their environmental performance. Often, this meant providing more information or technical assistance, particularly for the smaller entities that do not always have the resources they need to understand what is required. Increasingly, it meant creating incentives that encourage companies to reach for performance goals that go beyond compliance.

Responded to Growing Interest in Environmental Management Systems

Recognizing the interest and questions still surrounding use of Environmental Management Systems, EPA launched pilot projects to test their effectiveness and gather information that will be used in future policy decisions. In a move that sent an important signal to the regulated community, we issued a policy statement clarifying EPA's support for environmental management systems that "help an organization achieve its environmental obligations and broader environmental performance goals."

Opened Five More Compliance Assistance Centers

In partnership with other organizations, EPA opened new compliance assistance centers on the Internet to serve five more sectors: the printed wiring board manufacturers, the paints and coatings industry, the transportation sector, chemical manufacturers, and local governments. With the four centers opened previously, nine centers are now up and running. These centers are tailored to serve small and medium-sized organizations, providing users with round-the-clock access to information about environmental regulations, pollution prevention techniques, and related issues.

Encouraged Environmental Improvements Through Self-Auditing

More companies had environmental penalties reduced or eliminated under an incentive-based policy EPA announced in 1996 that encourages self-auditing, along with quick correction and public disclosure of any environmental violations. As of December 1998, 318 companies had corrected and publicly disclosed environmental violations at 1,668 facilities, a twofold increase over the number of facilities doing so the year before.

Supported Corporate Environmental Mentoring

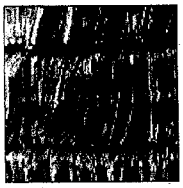
Recognizing that businesses can often help each other improve environmental performance, EPA offered funding to support what could become a new trend in corporate America-environmental mentoring. These funds are being used to create an institute that will provide the information and tools needed to support mentoring relationships between companies that have environmental expertise to offer and those in need of special assistance.

Provided Funding to Improve Drinking Water Compliance

More than 300 small communities facing new requirements under the 1996 Safe Drinking Water Act got special help in 1998 when the Agency began administering the federal government's first-ever loan program for drinking water improvements. Rather than one-time grants to select communities, financial assistance was offered through state revolving loan programs. All but the most needy recipients repay their low interest loan, enabling the states to maintain a reliable source of capital for other communities needing assistance.

Less Regulatory Burden

Many reinvention efforts had the effect of reducing the regulatory burden imposed by environmental requirements in 1998, but the requirements imposed for record-keeping and reporting continued to be a major focal point. By the end of the year, EPA had cut 26.9-million hours of paperwork burden by streamlining processes, eliminating outdated provisions, or consolidating duplicative requirements-without sacrificing the Agency's ability to ensure environmental and public health protection. These reductions, which surpassed the Agency's 1995 goal of reducing burden by 25 million hours, offset additional requirements that have taken effect in recent years to increase environmental protection and accountability. They should also save businesses and communities an estimated $807 million a year.



Proposed a Consolidated Air Rule for Chemical Manufacturers

A proposed rule that consolidates 16 federal air regulations into a single guideline could save the average U.S. chemical plant about 1,700 hours or $80,000 a year in the future. The proposal, which represents the first consolidated rule ever under the Clean Air Act, would be voluntary. Plant managers could opt to comply with the consolidated rule or continue operating under the existing 16 rules.

Streamlined Certification Process for Auto Makers

A streamlined process for certifying that new passenger cars and trucks meet federal standards for air pollution emissions is expected to save automobile manufacturers an estimated $55 million a year. Under the proposed process, testing would be performed on vehicles actually in use on the nation's highways rather than on brand new vehicles. In addition to cutting burden, the new process creates an incentive for manufacturers to produce more durable emissions control equipment and gives EPA better data for managing air quality programs.

Simplified Hazardous Waste Management Requirements

The Agency addressed several barriers that have prevented common sense practices in managing hazardous wastes. Reforms to the 20-year-old program for managing polychlorinated biphenyls, or PCBs, are expected to produce cost savings estimated at between $178 million and $736 million each year. New treatment standards for land disposal of hazardous waste will facilitate cleanups of contaminated sites. Another regulation simplifies the cleanup and closure of hazardous waste disposal facilities.

Offered Compliance Alternatives to Small Drinking Water Systems

Based on the 1996 amendments to the Safe Drinking Water Act, the Agency issued new regulations that will give small community water systems less expensive treatment alternatives to comply with federal drinking water standards in the future. Smaller systems can also request more time to achieve compliance and variances from federal requirements, as long as such actions do not threaten public health.

Eliminated Barriers That Discourage Removal of Lead-Based Paint

We proposed a new rule to expedite the removal of lead-based paint because doing so will help protect children from exposure to lead. Based on studies showing that lead-based paint debris could be safely placed in ordinary landfills (under the Toxic Substances Control Act), we proposed that this disposal option be provided as an alternative to the tracitional, but more expensive disposal currently required under hazardous waste regulations.

Published Plain Language Regulations

In 1998, the Agency issued several regulations using plainer language and simpler formats than ever before. Among them were important requirements explaining what gas station owners, industrial facilities, and others operating underground injection wells must do to protect local drinking water supplies, and what industries must do to respond in a chemical emergency situation. These improvements were possible because of a pilot program began in 1997 to improve the understanding of EPA regulations.

Appendix 2

Summary of Comments Received By The Innovations Task Force

March through May 1999

Encouraging Improved Performance

Encourage stewardship: Many stakeholders agreed that compliance alone should not be the end goal for environmental management. We can and should do more. Specifically, we should encourage environmental stewardship, where everyone—individuals, communities, and companies—takes more responsibility for their actions. Fostering stewardship needs to be interdisciplinary, taking social, economic, and other issues into account. It will require a different approach than enforcement.

Recognize top performers or improved performance: Many stakeholders urged EPA to establish programs for regulated facilities that go beyond compliance with environmental requirements. Suggestions ranged from a voluntary program recognizing sound performance, based on a set of specific criteria, to "case-by-case" actions for the truly outstanding performers. Some stakeholders felt that the former, a program with broader applicability, would be well-received and a step in the right direction. Others felt this would be neither bold nor effective enough. They felt that focusing on the top performers would allow EPA to offer more meaningful incentives and make participation more attractive. It would also help to create new leaders that others could follow. They suggested bench marking performance levels in facilities that are already widely recognized as top performers as a way to get started quickly.

They also felt that criteria for defining exceptional performance should be multimedia, emphasize sustainability and include measures such as:

- Public disclosure
- Public involvement
- How well a company addresses particular environmental problems
- Product stewardship
- Mentoring other companies

A number of stakeholders suggested using a "ladder" that recognizes several different performance levels. Those who still have compliance problems would be at the lower level; those with better performance would be higher up; the best would be at the very top. Incentives and assistance could be provided to help organizations move upward.

Incentives: Recognition can be an incentive, especially when it is in the local community and with clients and customers. However, incentives for superior performance are important and these can and should go much further. They could involve such things as fewer compliance inspections, more flexibility in regulatory programs, reduced reporting and monitoring, and tax credits.

Tools for Improving Environmental Performance

Environmental Management Systems (EMSs): Stakeholders identified EMSs as key tools for improving environmental performance. However, they felt that EMSs are just a tool, and to work best, they need to be tailored to industry sectors. They also felt that special attention was needed to help small businesses develop and implement EMSs. This would help overcome a common perception that EMSs are for big companies, not small ones. There are successful examples of tailoring EMSs to smaller business (e.g., printers) and this is an area where EPA can help. Stakeholders also explained that EMS use would likely increase if insurers, bond raters and others were encouraged to use a company's EMSs when evaluating their performance.

Some stakeholders were sensitive about the role that EPA should take in promoting EMSs. Many states and business already are using EMSs, and they felt the Agency should not try to step into the leadership roles established by others. EPA's role should be to promote their use, support their development, evaluate their effectiveness, and make recommendations on how to improve them. Conversely, others felt EPA should play a more active role in EMS development and testing.

Integrating environmental and business decisions: Stakeholders noted many other tools that could also help businesses account for environmental impacts and make more cost effective decisions. These tools include: life-cycle analysis, full cost accounting, product stewardship and product "take-back" programs, industrial ecology, etc. They thought EPA should help develop these tools, and support business assistance networks that help companies use them.

Voluntary programs: Stakeholders emphasized that voluntary programs can help companies and individuals address unsolved environmental problems. These programs can encourage stewardship in several ways, such as by offering technical or financial assistance, or by providing public recognition for environmental actions. There were suggestions for new voluntary programs to address certain issues, such as reducing use of persistent bioaccumulative and toxic chemicals, reducing nutrient loadings into watersheds, implementing innovative air quality improvement projects, and improving labeling and creating awards for environmentally friendly products.

Apply lessons from successful pilots: Our stakeholders emphasized that when an innovation proves successful in a pilot project, we need to move quickly to institute the innovation more broadly. EPA has tried new approaches through its reinvention programs, such as developing flexible permits and working with specific industry on sector-based environmental management approaches. Where successful, they felt the Agency should expand use of new approaches or integrate them into existing programs so that benefits can be realized on a wider scale.

Market-based or economic incentives: Some stakeholders emphasized the potential of market-based approaches for addressing problems. For example, effluent trading in watersheds is one way to help address nonpoint source pollution.

Promoting Compliance

Improved regulations: Some suggestions for improving our regulations were:

- *Continue to use plain language.* Plain language is important because it helps people understand what they need to do and increases their ability to comply. Stakeholders felt that if EPA can do a better job in this area, there would be less need for additional compliance assistance materials, because the requirements would be clear. They also suggested that we provide flowcharts and checklists along with rules so applicability and requirements can be determined more easily.
- *Develop more performance-based regulations.* There were a number of specific suggestions for more regulatory changes that would increase flexibility in meeting permit limits, especially in meeting air requirements.
- *Promote sector-based rulemaking.* Through the Common Sense Initiative and other reinvention efforts, EPA has seen benefits from tailoring environmental management strategies for specific industry sectors. EPA should use this approach more in rulemaking so that regulations are more effective at addressing problems associated with specific industries.
- *Provide more openness during rulemaking and pilot-test rules prior to issuance.* This will allow the regulation writers to receive input from front line agency staff and from people in companies and communities. In this way, EPA can help assure that new requirements are understandable and doable.

Permitting, monitoring, and reporting reforms: A number of stakeholders urged EPA to build on its successful initiatives to reduce regulatory burden. Specifically, they called for more efforts to consolidate monitoring and reporting. To further reduce burden, they also encouraged more use of electronic reporting. On permitting, they suggested a number of specific projects from testing permit reforms developed through the Common Sense Initiative (PrintSTEP), to one-stop permitting, to sector-based permits. They also had media-specific suggestions, such as expanding the Pollution Prevention in Permitting Program (for air emissions).

Compliance assistance: Stakeholders explained that we need to do a better job of providing compliance assistance. They had many ideas about how we could do so. Some of these were:

- Develop compliance assistance materials and tools that are targeted to the needs of the regulated parties. EPA should prepare these materials along with regulation development so that more consideration is given to how the new requirements will actually be met. This approach would allow the Agency to develop assistance materials that are more timely and helpful.
- Coordinate with industries and their trade associations to develop materials that work well for the people who will use them.
- Ensure that EPA inspectors and the regulated facilities use the same inspection checklists.
- Continue to build on traditional approaches for providing assistance, including the existing compliance assistance centers. But also provide more help for small businesses who often have fewer resources to deal with environmental issues than larger companies.
- Use electronic tools (such as the Internet and computer software programs), but don't rely too heavily on them. Gear these tools to the front line, shop floor people who are most likely to use them.
- Turn to other assistance providers to deliver compliance assistance. There are existing networks of organizations (such as local governments, state agencies, universities, non-profits, trade associations, small business and technology assistance centers) that all have frequent interactions with businesses. Businesses prefer to go to them for help with compliance issues rather than dealing with EPA. EPA should be a "broker" rather than a "retailer" for compliance assistance materials. In other words, the Agency should develop materials and make them available, but let others actually deliver them to the regulated community.

- Use existing assistance networks and compliance assistance materials to deliver pollution prevention assistance as well. Also, keep in mind that many of these providers are ideal for delivering additional tools for integrating environmental and business decision-making.
- Deliver compliance assistance separately from enforcement, so that companies build some trust in working with those who offer assistance.
- Revise EPA's Audit Policy, Small Business Policy and penalty mitigation protocol to give people more incentives to self-disclose and correct environmental violations.
- Continue to measure the effectiveness of EPA's compliance assistance activities to see what is working well.
- Integrate compliance assistance with incentives, monitoring and enforcement to address specific environmental priorities.

Cross-Cutting Issues

Information management: A number of comments dealt with information-related issues. Some suggested that making data about the environmental performance of specific facilities more user-friendly and accessible would be a strong incentive for corporations to improve or maintain high standards. Others suggested that EPA needs to do more to integrate data about ecological conditions, individual facilities, and other issues so people can gain a more complete understanding of factors influencing conditions at the watershed, ecosystem or community level.

Still others felt that Agency databases should be designed so that state and EPA staff can input and update data more easily.

Support for community-based activities: Stakeholders spoke about how communities and citizens want and need EPA to deliver information and technical assistance that will help them use environmental data and participate in environmental decision-making. In particular, some stakeholders urged EPA to provide additional support and tools to help local governments address urban sprawl.

Appendix 3

Key Actions

Action 1: Use incentives and voluntary partnerships more widely to encourage better environmental performance.

Objective:

We will work with interested parties to identify, test, and evaluate incentives that can be used to encourage better environmental performance by a wide range of businesses and other organizations. We'll also use voluntary partnership approaches to address unsolved problems and/or unique challenges facing communities or specific industry sectors.

Background:

Our program and regional offices are already developing ways to promote stewardship. Experimental programs, such as Project XL, and partnership programs, such as Energy Star, have used incentives to encourage organizations to make environmental improvements. Additionally, we have started to use incentives to enhance our regulatory programs.

Our rapidly-growing partnership programs continue to show strong promise for effecting stewardship. These programs typically improve efficiency, cut waste, and conserve resources, lowering costs and yielding environmental benefits. As such, we've used partnership programs to address a variety of issues, including climate

change, solid waste, pesticide risks, and to advance new environmental technologies and practices. These experiences have shown that voluntary approaches can be a strong complement to our regulatory system, and a tangible means for getting better environmental results.

Approach:

We will work with states, tribes industry, public interest groups, and other stakeholders to:

- Evaluate ongoing pilots and programs that use incentives.
- Look for new opportunities to use incentives.
- Make changes in policies and regulations to remove barriers and promote stewardship.

For voluntary programs, we will study the experience gained over the past few years, to find out what kinds of voluntary programs work best and why. We will use this information to help identify new areas where a voluntary partnership approach could achieve significant environmental results, and how we might accomplish more through existing programs.

Tasks:

1. We will partner with several states to further test incentives (such as expedited permitting, consolidated or streamlined reporting, increased permit flexibility).
   Lead: Office of Policy and Reinvention
2. We will co-sponsor a national conference in 1999 on how economic and information incentives can be used to promote environmental stewardship.
   Lead: Office of Policy and Reinvention
3. We will award competitive research grants to identify and evaluate incentive-based approaches and investigate the relationship between environmental stewardship and financial return and growth.
   Lead: Office of Research and Development

4. We will work to improve the accessibility and increase the potential of voluntary partnership programs:

   - First, we'll establish a central point of contact for basic information on EPA partnership programs to make it easier for current and potential new partners to discover the full range of programs available. (This will augment outreach efforts by individual programs).

   - Second, we will work with interested sectors to determine which programs have greatest value for their specific operations, how these programs might best be packaged to simplify use, and whether new features are needed to meet their needs.

   - Third, we'll explore additional areas where partnership programs might be created to achieve environmental improvements.

   - Fourth, we will publish annual results achieved by partnership programs to demonstrate environmental and economic benefits. We will also work with our partners to develop better performance measures, where needed. These measures will enable us to more thoroughly evaluate the effectiveness of these programs, and prepare a report on their collective contribution to achieving national environmental and public health protection goals.
   Lead: Partnership Programs Coordinating Committee

5. Working with industry and other stakeholders, we will explore incentives to encourage further toxicity testing (under the Agency's chemical right-to-know program), and to promote improved product stewardship based on the toxicity testing results.
   Lead: Office of Prevention, Pesticides and Toxic Substances

6. We will work with industry and other stakeholders to explore an environmental stewardship initiative that challenges U.S. companies to voluntarily meet U.S. environmental and public health standards at their facilities in other countries whose standards are less protective.
   Lead: Office of Prevention, Pesticides and Toxic Substances

Action 2: Promote the use of environmental management systems.

Objective:

We will encourage organizations to use EMSs that improve compliance, pollution prevention, and other measures of environmental performance. We'll continue evaluation efforts to learn more about which EMS elements and applications are most effective, and we'll determine how these systems might be used to strengthen environmental programs and policies.

Background:

An environmental management system applies standard business principles to the management of an organization's environmental responsibilities. This kind of system looks at environmental concerns in a more systematic way, and as a part of all business decisions and practices. An EMS does not determine the organization's legal obligations; rather, it is a sophisticated tool used by the organization to manage compliance and other environmental issues. A strong EMS does not just set rules for employees: it tracks performance, identifies and corrects problems, and tries to prevent the problems from recurring.

Many organizations are adopting EMSs as a management tool. We encourage the use of EMSs because they have the potential to improve compliance rates and environmental performance. In 1998, EPA issued a policy statement endorsing the use of EMSs that focus on improved environmental performance, including compliance and source reduction.

It is now time for EPA to take a more prominent role in encouraging organizations to use EMSs. Already, a number of our programs and regions have helped selected sectors, or organizations in particular geographic areas, to develop strong EMSs. We've also incorporated EMSs into a number of settlement agreements in enforcement cases. We need to look strategically at what else we can do to help promote EMSs.

At the same time, we still have much to learn about how effective different types of EMSs actually are in improving environmental performance, and about how they may affect our programs and policies. We are currently working in partnership with

a number of states (through the Multi-State Working Group) to develop a national database to help us build an understanding of EMSs and their effects. This work will be continued and expanded.

Approach:

Working with states, tribes, and other stakeholders, we will assess the real-world use of EMSs and look at their implications for environmental programs and policies. We will help selected sectors (especially smaller businesses) develop and test EMSs, and we'll promote EMSs in selected geographic areas. To do this, we will:

- Develop a stronger, more far-reaching assistance program.
- Develop additional tools that can help organizations integrate environmental planning with other business decisions.
- Continue and expand research on what kinds of EMSs are most effective, and how the growing use of EMSs may affect our programs and policies.

Tasks:

1. We will designate a single office to provide leadership on Agency EMS policy and planning.
   Lead: Deputy Administrator, with advice from Reinvention Action Council

2. We will promote the use of EMSs to address known compliance and performance problems. Within six months, we will prepare a strategy to increase EMS use in targeted sectors or geographic areas, and begin developing tools such as training, best practice manuals, mentoring programs, short-term and long-term measures of environmental performance, and incentives that encourage improved environmental performance.
   Lead: Office of Policy and Reinvention

3. We will evaluate the environmental and economic results of EMSs, building on and expanding current research efforts. (These results will form the basis of an evaluation report to be issued within 3 years).
   Lead: Office of Policy and Reinvention

4. We will look at other business decision-making tools and evaluate how well they improve environmental performance. We will also assess how these other tools may work with or enhance a firm's EMS.
   Lead: Office of Prevention, Pesticides and Toxic Substances

Action 3: Develop a "performance track" to motivate and reward top environmental performance.

Objective:

We will work with States, Tribes, industry, environmental, and other interest groups to define what it means to be a top environmental performer, and to identify appropriate building blocks for a new "performance track" that enhances the current regulatory system.

Background:

States and EPA have already started using incentives to promote top environmental performance (see Box 1, page 10). Project XL, the Environmental Leadership Program, and leadership programs in Oregon, Colorado, and other states are preliminary efforts to motivate top performers. In addition to these programs, a number of policy studies have called for creation of an "alternative track" or "performance track."

There is broad support for a "performance track" that rewards top performers, but there are diverse ideas about how this approach should be designed and operated. Unresolved issues include:

- Finding the right incentives to motivate top performance, and identifying the changes that are needed in policy, regulations, or statutes to use incentives.
- Defining and measuring top environmental performance.
- Ensuring that companies and communities are accountable for performance, in part by publicly reporting on their performance to the public.

- Determining the appropriate role for government agencies and the appropriate allocation of government resources.

We are already learning from the past several years of experimentation, and we now need to agree on a next phase of activities to create a performance track. This track should include both meaningful incentives, and a way to account for results. Because this performance track concept is not fully defined, it is not without controversy. But we believe it holds strong promise for motivating and rewarding stewardship in companies that are willing to be leaders and achieve better environmental results.

Approach:

A process will be established so that diverse interests can work with the Agency in developing a performance track that promotes top performance and assures accountability for results. This collaborative process will assess what has been effective in previous pilot tests and programs, develop a framework for a performance track, and propose practical implementation steps.

Tasks:

1. We will convene a group of leaders from state and tribal environmental agencies, industry, environmental and other interest groups to evaluate options for a performance track and propose practical steps for demonstration and implementation. This will include:

   - Defining and measuring environmental excellence, for example by "bench marking" the performance of 25 to 30 top performers identified by the group participants.
     Lead: Office of Prevention, Pesticides and Toxic Substances

   - Defining the characteristics of EMSs and accountability measures that will demonstrate top environmental performance.
     Lead: Office of Policy and Reinvention

   - Identifying the best incentives for motivating organizations to improve environmental performance.
     Lead: Office of Policy and Reinvention

2. We will work with two industry sectors to develop sector-specific performance standards that demonstrate a more comprehensive, system-based approach to environmental management. This will involve assessing industry trends and conditions, developing environmental performance goals, and designing EMSs to help individual facilities improve environmental performance.
Lead: Office of Policy and Reinvention

Action 4: Support a network of public and private organizations that provide assistance on environmental compliance.

Objective:

We will focus on becoming a "wholesaler" of compliance assistance tools and information. We'll meet with compliance assistance providers to share our approach for developing materials that help businesses and communities comply with the law and prevent pollution, and we'll ask them to help us set priorities to determine which materials are needed most. We'll provide these materials, and help them develop training and peer mentoring programs.

Background:

Many regulated groups, especially small and mid-sized businesses, are wary of seeking help from EPA and other federal agencies. Because of this, we are not in the best position to offer direct compliance assistance. But, there are many organizations that are in a good position to help because they already have contact with a large number of regulated entities. Some examples are state and local governments; small business assistance programs and development centers; manufacturing extension partnerships; pollution prevention programs; universities; licensing agencies and issuers of building permits; and trade and professional associations. These organizations already have an infrastructure in place to deliver information and assistance, and businesses often turn to them.

Approach:

We will bring together other organizations in the public and private sector that provide compliance assistance, and seek their ideas about what tools are still needed. We will seek their input on the best ways to get new compliance assistance tools delivered to them in a timely manner. In this way, we can help build an effective environmental assistance network with the ability to reach a much larger audience than EPA could ever reach on its own. Our role will be primarily to enable other providers to work more effectively, and to provide compliance assistance directly only in special circumstances (e.g. in cases where assistance networks may not sufficiently reach all affected parties). We will also work to encourage more collaboration and coordination among organizations that routinely provide assistance on business, environmental or other issues. This would be more efficient for small businesses and others seeking information, as well as for EPA and other organizations that provide it.

Tasks

1. We will convene a national compliance assistance forum to share information with participants on recently developed compliance assistance materials, get stakeholder input in setting priorities for new compliance assistance materials, and exchange compliance assistance tools. We will also use the forum to help identify industry sectors that have special compliance assistance needs.
   Lead: Office of Enforcement and Compliance Assurance

2. We will also sponsor a national meeting of organizations that provide assistance to the regulated community. We hope to encourage simpler and more efficient "one-stop" shopping for assistance on a variety of inter-related issues, such as business management, technical process improvements, pollution prevention, and regulatory compliance.
   Lead: Office of Prevention, Pesticides and Toxic Substances

3. We will assess EPA's current suite of environmental assistance services for small businesses. We'll assess the value and accessibility of the many hotlines, clear-

inghouses, and other EPA support functions. Working with other public and private sector assistance providers, we'll use these findings to improve our assistance to small businesses.
Lead: Office of Policy and Reinvention

4. We will create a clearinghouse of compliance assistance materials and tools. This clearinghouse will include information from federal, state, tribal, and local governments and from private providers, such as trade associations.
Lead: Office of Enforcement and Compliance Assurance

5. We will distribute and market compliance assistance tools to organizations that are likely to have contact with regulated groups.
Lead: All offices that prepare materials or tools to support regulatory action

6. We will support mentoring programs that help businesses and other organizations share environmental management information and expertise with one another.
Lead: Office of Policy and Reinvention, Office of Water, and Region 4

Action 5: Deliver compliance assistance information for new "economically significant" rules when and where it's needed.

Objective:

We will provide compliance assistance information, typically within 90 days of issuing an "economically significant" rule, so it is available before new requirements take effect[1]. We will continue to make general assistance widely available through the Internet, toll-free telephone lines, and other distribution channels. We'll also evaluate the need for additional compliance assistance centers as we maintain support for existing ones.

Background:

Clear, understandable regulations and compliance assistance tools improve a facility manager's ability to comply, and they strengthen the public's ability to effectively

participate in environmental and public health protection issues. Over the last several years, EPA has begun to write plain language regulations. We have also developed a variety of compliance assistance tools and mechanisms for delivering them. These include plain language guides, compliance assistance centers, hotlines, self-audit checklists, and special software. We have begun and will continue to evaluate these tools, with a special focus on how well they meet the needs of small business. Still, as we talked to our stakeholders about compliance, we heard that we need to do more. In particular, we need to integrate compliance assistance planning into the rulemaking process.

A more integrated approach should have several positive effects. Earlier consideration of compliance assistance issues during regulation development will allow us to develop more effective, understandable regulations designed for application in real-world situations. Providing more timely compliance assistance information will give the regulated community the time they need to understand regulatory obligations and to focus planning on how to comply through pollution prevention or other appropriate controls. Finally, the interaction between facilities and regulatory agencies, and public involvement in environmental decision-making will become more positive as all parties gain a clearer understanding about what is required.

Approach:

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA is required to prepare a compliance guide for new regulations that have a "significant impact on a substantial number of small entities[2]." In the future, we'll extend this type of service more broadly. Specifically, we will provide compliance assistance guides or self-audit checklists for economically significant rules that apply to companies or government facilities and that are not already covered by the SBREFA requirement. These materials will help regulated entities in other words, companies or government facilities comply with EPA rules that apply to them. (Rules that aren't directly applicable to companies or government facilities may warrant different forms of guidance, such as state program guidance.)

Because guides and checklists must be tailored to each rule and to diverse audiences (e.g., small businesses versus large manufacturers), they will vary substantially in format and length. Where appropriate, they will include information about how to

comply through pollution prevention options. We will prepare these materials as soon as possible after issuing the rule, typically within 90 days so that requirements can be understood *well before* the actual compliance date. Longer time frames may be needed in some cases for stakeholder input on draft assistance materials, for highly complex rules or for special circumstances, but these extensions will be subject to the Deputy Administrator's approval.

There may be cases in which EPA decides to produce a compliance guide for a rule that does not meet the economically significant threshold rather than for a rule that does because it would be more beneficial overall, considering factors such as the needs of the regulated community and the potential benefit to public health and the environment. These "substitutions" will be made as part of an annual compliance assistance planning process. In addition, EPA will produce compliance materials for other rules that do not meet the economically significant threshold, within budget limitations.

EPA's media offices will integrate compliance assistance planning into rule development, with active assistance and participation from our enforcement and compliance assurance staff at Headquarters and in the regions. We'll also seek input from State program staff, the regulated community and other stakeholders, as appropriate. As part of this process, we may identify and develop other materials to supplement guides and checklists.

Tasks:

1. We will develop compliance assistance guides and/or self-audit checklists for economically significant rules that apply to companies and/or government facilities (or rules that were "substituted" because of greater benefit), typically within 90 days of issuance. Extensions beyond this time frame will be subject to approval by the Deputy Administrator. EPA also will produce compliance materials for additional rules that do not meet the economically significant threshold, within budget limitations.
   Lead: EPA National program office that prepares regulation, with assistance from enforcement and compliance assurance program.

2. We will develop an annual compliance assistance plan, in consultation with State, Tribal, and other compliance assistance providers, to ensure that compliance assistance resources are focused on areas where they are most needed. Based on their input, we will consider developing compliance assistance tools for other new rules that do not meet the economically significant threshold or for existing rules known to have compliance problems.
   Lead: Office of Enforcement and Compliance Assurance

3. We will field test certain compliance assistance tools before issuing them. For one or two rules, the Agency will also develop special software to guide facility operators through regulations and provide answers on applicability, deadlines, and what must be done to comply.
   Lead: EPA National program office that prepares regulation, with assistance from enforcement and compliance assurance staff

4. We will field test certain draft regulations prior to promulgation. This will be done through simulated trial application of a draft rule with one or more regulated entities, with opportunity for public involvement.
   Lead: EPA National program office that prepares regulation

Action 6: Combine compliance assistance, incentives, monitoring, and enforcement in order to implement environmental laws in a more strategic manner.

Objective:

To make better use of limited resources, we will design new strategies that incorporate a range of options to address major compliance problems.

Background:

During the last several years EPA and States have experimented with integrated compliance and enforcement strategies. These strategies usually include some or all of the following tools: compliance assistance, compliance incentives (such as penalty

relief for firms that conduct self-audits, disclose violations, and quickly correct problems), monitoring, and targeted enforcement actions. Several examples of how these tools were strategically applied are described below:

- Steel mills: EPA Region 5 provided steel mini-mills with a 6-month period to self-audit, disclose, and correct violations in accordance with the Audit Policy or Small Business Policy; offered outreach and technical assistance; and followed up with inspections, and enforcement as appropriate, at facilities that did not audit and disclose.
- Chemical companies: This national strategy gave organic chemical manufacturers compliance assistance, including auditing protocols, and an opportunity to audit, disclose, and correct violations. It also included compliance monitoring and appropriate enforcement for non-participating companies.
- Universities laboratories: By combining targeted enforcement actions regarding hazardous waste violations with customized assistance opportunities, EPA's New England region was able to address RCRA compliance and other performance problems at laboratories.

These and other experiences have shown that strategic combination of enforcement with other environmental management tools can be effective for addressing environmental and compliance problems. During focus groups, our stakeholders voiced support for this approach.

Approach:

As part of future planning processes, we will consult with states, tribes and other stakeholders to identify new opportunities for strategically combining compliance assistance, incentives, monitoring, and enforcement. Through this approach, we will tailor actions to the particular compliance issue and/or sector involved. While the combinations and sequences in these strategies may vary, we would likely start with compliance assistance first. We would then give incentives, such as extended compliance periods or penalty relief for auditing and correcting problems. Monitoring would come next, followed by enforcement, where necessary.

Task:

1. We will talk to states, tribes and other stakeholders to identify the priorities where combined enforcement strategies are appropriate. We will then develop the appropriate strategy for each priority area and begin implementation.
   Lead: Office of Enforcement and Compliance Assistance and EPA Regions

Action 7: Develop more flexible air permitting policies for protecting the environment.

Objective:

Based on our experiences in pilot projects, we will identify those approaches that increase permitting flexibility while providing equal or better levels of environmental and public health protection, provide incentives for pollution prevention, and ensure public participation in permitting decisions.

Background:

For the past 6 years, we have looked for ways to provide greater flexibility under the air permit program without sacrificing environmental protection. We have done this in connection with ongoing rule development, and through a number of experimental pilot permits in Project XL and the "Pollution Prevention in Permitting Project" (P4).

Approach:

Because of our pilot programs, we have enough experience to identify approaches that can be taken beyond the pilot stage and used more broadly. Currently, permits are issued through a decentralized system of state and regional permit writers. We will build an extensive support system to disseminate information on new approaches among this network. We will do this through EPA staff, a variety of publicly available information sources, and training programs for federal and state permit writers.

Tasks:

1. We will identify approaches that provide greater flexibility in the New Source Review and Title V permitting programs, without sacrificing environmental results or weakening the role of the public in permit decisions.

2. We will publicize those new approaches so that permit writers at EPA and other regulatory agencies understand and know how to use them, and so that permit applicants and holders become aware of the approaches and their benefits.

3. We will identify and work with selected sectors for which the new approaches offer the greatest benefits.
   Lead: Office of Air and Radiation

Action 8: Speed up review and issuance of NPDES (water discharge) permits.

Objective:

We will streamline NPDES permitting by providing training to improve understanding of the NPDES permitting process, and by encouraging applicants to submit draft permit limits or conditions that can expedite regulatory review and approval. We will also encourage more public involvement in permitting actions.

Background:

The National Pollutant Discharge Elimination System (NPDES) permitting program controls the discharge of pollutants from industrial and municipal sources into U.S. waters. Approximately 71,000 facilities have been issued individual NPDES permits, primarily by their State environmental agency. Under the Clean Water Act, permits are issued for a 5 year period. Permit holders must reapply at least 180 days before the day their permit expires. However, if the permitting authority does not send a new permit before the expiration date, the operations can be continued under the existing permit conditions.

The number of facilities requiring permits has grown substantially since the program's inception in 1972. In addition, the complexity of developing permits has increased due to new technology-based requirements (e.g., new effluent limitations guidelines), the adoption of comprehensive water quality standards by States, and the development and incorporation of total maximum daily loads (TMDL). For these reasons, the process for permit issuance has become increasingly costly and time-consuming for EPA and the States who issue permits and for the facilities that need them to operate. The result is a "backlog" of expired (administratively extended) NPDES permits. The Agency estimates that as many as 35 percent of individual permits are currently expired.

Approach:

We will work with an outside organization and several select states to improve NPDES permitting for the regulated community and the public. As a first step, we will work with them to modify NPDES training materials (originally developed for permit writers at regulatory agencies) for permit holders (or applicants), their environmental consultants, and interested citizens. Using these materials, we will then develop a certification course for NPDES permit preparation. The certified individuals will be trained to prepare complete permit applications and to prepare draft permit limits or conditions that could be submitted to expedite regulatory review and approval. Members of environmental groups, and other citizens interested in the NPDES permit development process will also be encouraged to attend the training. Based on the results, EPA will decide whether training and/or the option to submit preliminary permit information should be offered nationally.

Task:

1. Working with a national organization and two or three states, we will develop a training program to improve understanding and execution of NPDES permitting. Together, we will:

   - Modify NPDES training materials (originally developed for permit writers at regulatory agencies) for permit holders, their environmental consultants, and interested citizens.

- Design, publicize and offer training courses that improve understanding of NPDES permitting and provide professional certification for assisting with NPDES permit applications.

2. In the pilot states, we will encourage permit applicants to use certified professionals to submit draft permit limits or conditions that can be used to expedite permitting decisions.

3. After a 3 year demonstration period, we will evaluate the experience and make recommendations on whether this permitting approach should be implemented nationally.
   Lead: Office of Water

Action 9: Build leadership capacity in communities to participate in local environmental problem-solving.

Objective:

We will help communities make decisions about issues that improve public health and their local environment by developing environmental management tools, offering technical assistance, and providing facilitation for dialogue on environmental issues. We'll also include community representatives in Agency decisions about programs or policies that directly affect them.

Background:

Often, environmental problems are best addressed at the state, tribal, or local level, where unique social, economic, and cultural priorities can be better recognized and considered in the decision-making process. Many individuals also want the opportunity to participate in environmental decisions that affect them. The Agency has made significant progress in developing tools and providing assistance to support community involvement. Our overall strategy has been to work in partnership with communities, states, and tribes on collaborative, flexible approaches to environmental protection.

Approach:

Because there are already a wide variety of Agency activities related to communities, including many recent initiatives, we've chosen to focus on tasks that will increase technical assistance to communities and provide additional support for community involvement in environmental decisions. We hope that these activities will

- Create more public participation in EPA activities that will affect them;
- Foster constructive dialogues among public and private stakeholders and local, state, and tribal governments to address environmental and public health concerns; and
- Encourage all stakeholders to work cooperatively together to set community priorities for environmental action.

Tasks:

1. Increase technical assistance to communities

As part of a national program on hazardous material research, we support five regional university consortiums in carrying out basic and applied research, technology transfer and training. These centers provide technical outreach services for communities in their area, with a special emphasis on providing technical assistance for brownfields cleanup and redevelopment.

As part of the next solicitation to establish new centers, we will place greater emphasis on providing technical support activities, including outreach to communities. These centers will:

- Provide high-quality technical assistance materials for communities and other stakeholders on challenging redevelopment issues.
- Conduct forums for researchers, vendors, regulatory agencies, developers, and community leaders to discuss potential applications and benefits of cleaning up and redeveloping brownfield sites.
  Lead: Office of Research and Development

2. Establish "Good Neighbor Groups" in each EPA region

Good Neighbor Groups are voluntary groups facilitated by EPA that bring together industry; state, tribal and local government; and community representatives in economically disadvantaged areas with major industrial sources. These groups meet regularly for discussions and have often led to agreements about new efforts to address pollution issues. EPA's Region 5 office has sponsored several "Good Neighbor Groups" with key industries in a South Chicago community; the Agency is now ready to expand this program more broadly.

- Our Region 5 staff with work with other regions to develop a *Good Neighbor Group* guidance document to be used in other parts of the country.
  Lead: EPA Region 5

- Each EPA Region will establish two "Good Neighbor Groups" over the next 2 years to facilitate communication among community groups, industry, and state, tribal, and local governments.
  Lead: EPA Regions

3. Improve access to conflict resolution support

Early and meaningful stakeholder participation in Agency decision-making can increase satisfaction with results and help reduce or avoid conflicts. While we've already adopted a number of regulatory changes and new policies to increase meaningful participation, we need to do more to routinely involve stakeholders in all Agency programs. When conflicts do arise, we need to turn to non-adversarial, collaborative approaches for dealing with them. To do this, we will improve the ways we involve stakeholders in discussions, and we will improve the ways we prevent and resolve disputes.

- We will develop a user-friendly toolkit that explains dispute resolution processes and identifies supporting resources that are available for community members and other stakeholders.

- We will develop an Agency policy on alternative dispute resolution. We will establish a permanent office of dispute resolution to oversee and coordinate

alternative dispute resolution activities. The office will assist communities, as well as EPA programs and regions, in preventing and resolving dispute issues.
Lead: Office of the Administrator

4. Assist communities through Supplemental Environmental Projects

When settling environmental enforcement cases, we require alleged violators to comply with Federal environmental laws and regulations and to pay a civil penalty. Sometimes, we may include Supplemental Environmental Projects (SEPs) as part of the settlement. These projects provide environmental improvements or other forms of compensation to the community in which the violation occurred. We encourage community involvement in the development of these projects, and we've developed a brochure to explain the policy to communities. To foster more use of these projects, we will:

- Develop a guidance document for companies that explains how to involve communities in selecting and developing SEP proposals.
  Lead: Office of Enforcement and Compliance Assurance

5. Evaluate and update EPA's public participation requirements

We will assess how well our regulations and policies ensure public participation in decision-making. We will report on what we find and develop an action plan to upgrade requirements and fill gaps.
Lead: Office of Policy and Reinvention

Action 10: Provide "smart growth" support to states, tribes, and communities to help them find local solutions to livability issues.

Objective:

Because community development patterns have a great impact on environmental conditions and overall quality of life, we will support and encourage smart growth decisions by individuals, communities, businesses, and state, tribal and local governments.

Background:

The development patterns in the United States over the last half of this century have resulted in voracious land consumption and the loss of farmland, open space, and wildlife habitat. Some unintended consequences of these development patterns include growing traffic congestion and air pollution, diminished access to nature and open space, and more contaminated stormwater runoff. These changes have driven communities across the country to take a new look at development patterns and use innovative growth strategies. In search of smarter growth, communities are considering policies that will deliver more compact, community-oriented development centered around mass transit hubs, with walkable neighborhoods, convenient access to shopping and services, open space and access to nature.

Approach:

Our role in smart growth is not to provide regulatory directives or mandates, but to support others' smart growth efforts. The positive impacts of smart growth directly support EPA's goals of protecting human health and the environment. To encourage this type of development, we will:

- Ensure that EPA regulations do not present barriers to smart growth efforts.
- Provide guidance or policy on how smart growth strategies can be used to meet regulatory requirements.
- Support and promote voluntary activities that encourage smart growth.
- Offer tools to help states, tribes, and communities analyze the environmental benefits associated with smart growth decisions.

Our approach involves advancing smart growth through EPA National programs, providing information and tools that link environmental, economic, and social issues, and promoting financial reforms that encourage more livable communities.

Tasks:

1. Assist in establishing commuter choice programs across the country

"Commuter Choice" is a voluntary program to improve air quality and reduce traffic congestion by educating employers and employees about tax incentives for public transit, van pooling and parking benefits. We are partnering with members of the business community, environmental interests, and state and local governments to extend this program throughout the country.

- We will provide commuter choice training workshops for business and other interested parties; support new and existing commuter choice pilot programs; develop a model commuter choice program for federal agencies; and develop Internet-accessible commuter choice training and implementation materials for individual employees, employers, and metropolitan areas. *Lead: Office of Air and Radiation*

2. Safely return Superfund sites to productive use

The Superfund Site Recycling Initiative is a nationally coordinated effort to return Superfund sites to productive use. More than 100 Superfund sites, many thought to be unusable, have already been recycled without an organized effort on the Agency's part. By focusing more on recycling Superfund sites, we can increase the number of sites in productive use. We will do this by involving states, tribes, and local governments, potentially responsible parties (PRPs) and community organizations in determining the reasonably anticipated future uses of sites and in designing cleanups that are consistent with those uses.

- We will select 50 pilot sites for Superfund recycling. For each site, we will provide up to $100,000 for a reuse assessment and for public outreach activities to determine future uses of the site.

- We will evaluate policies and guidelines to determine where refinements can be made to facilitate site reuse.

- We will work with all regions and with real estate developers and associations to share information about reuse successes, how to replicate those successes, and how to assess the reuse potential of sites.
  Lead: Office of Solid Waste and Emergency Response

3. Incorporate smart growth principles into the water pollution program

The Clean Water Act requires EPA to identify sources of pollution within a watershed and to allocate pollutant loadings among those sources in a way that assures water quality standards are met. Collectively, these allocations represent the watershed's total maximum daily load, or TMDL. By specifying how much pollutant loadings need to be reduced for the waterbody to attain water quality standards, TMDLs can play an important role in preventing water pollution problems and creating more sustainable communities.

- We will propose changes to the TMDL regulations and guidance. To encourage smart growth principles, we will include incentives for redeveloping urban lands and encouraging the protection of critical habitat, agricultural lands, and open space. (For example, in allocating the pollutant load reductions needed to meet water quality standards, smaller loadings would be allowed in limited growth zones compared to designated growth zones).
  Lead: Office of Water

4. Provide tools for States, Tribes, and communities to evaluate smart growth decisions

Communities around the country are supporting new transit, land conservation, and open space preservation. Because of the direct link between development patterns and pollution problems, we will work with states and other stakeholders to encourage local efforts that will reduce or prevent pollution.

- We will provide information and modeling tools to help communities evaluate the impacts of different development choices. The tools will include indicators for analyzing environmental conditions; tracking the performance of transportation investments; and predicting the impacts of development choices on air quality, water quality, automobile use, Brownfields, and open space.
  Lead: Office of Policy and Reinvention

5. Promote financial reforms that encourage more livable communities

A key barrier to creating more livable communities is financing. Current financing trends favor low density, single use, automobile-dependent development on the edges of communities. EPA will work with financial institutions that are beginning to develop reforms in financing that encourage more livable communities.

- We will work with Fannie Mae, BankAmerica, the development community, federal agencies, states and other stakeholders to implement innovative financing options that will prevent or reduce pollution.
  Lead: Office of Policy and Reinvention

[1]Under Executive Order 12866, "economically significant" rules are generally those that have an economic impact of $100 million or more.

[2]Under SBREFA, the definition of small entity varies by industry. Some definitions are based on annual revenues, others on the number of employees. Where not specified for a particular industry, the definition is generally a business with 500 or fewer employees.

Chairman KERRY. Thank you.

I just received notice that we have two roll call votes coming up in a few minutes.

Greg Higgins, thank you. Welcome, good to have you here.

STATEMENT OF GREGORY L. HIGGINS, JR., STATE DIRECTOR, PENNSYLVANIA SMALL BUSINESS DEVELOPMENT CENTERS, PHILADELPHIA, PA

Mr. HIGGINS. Thank you, Mr. Chairman. It is a pleasure to be here and have this opportunity.

I want to very quickly summarize a few things relative to the vocational technical entrepreneurship bill. First of all, I would like to speak to the need for the program, the SBDC's performance relative to meeting the need, the proposal itself, and the perceived benefits.

Relative to the need, it is no secret to the folks in this room that small businesses are responsible for creating almost all the net new jobs in the current economy. The good news is that at any one time in the United States, about 10 percent of the adult population is considering starting a business. The bad news is that they fail at a significant rate.

We think we have a pretty good handle on why they fail. If you look at the clients of the Small Business Development Centers you find that about 80 percent of the people who are coming to us for business assistance have not been in business before. And 80 percent of the businesses, these are individuals who are coming to us, do not have an educational background that would provide them the kind of management skills they need to successfully start and operate a business.

I think when you wonder about why that happens, the reality is that in the United States, most of the publicly funded educational systems do not provide a coherent curriculum on how to start and operate a business. And this goes to the high schools, it goes to the vocational and technical schools, it includes the community colleges and quite frankly, it includes the colleges and universities as well. So we have an economy substantially dependent upon small business and an educational system that really doesn't deliver the tools that people need to compete in that business.

Let me turn then to the SBDCs' performance. We know—and we have been operating these programs now for better than 20 years—we know that if we work with small businesses we can greatly increase their level of success, their capacity to survive, and the rate of growth of those businesses. The firms that we work with have a 35 percent higher survival rate than other small businesses. At 8 years, 60 percent of the firms we are working with are still in business.

We also know that they grow much faster. The firms that we have surveyed in Pennsylvania grow at a compound rate of about 20 percent a year over 5 years. They also increase employment at a much higher rate than other small businesses, about 16 percent a year.

So currently you have a program that is meeting this, I think, clearly demonstrated need in terms of the educational system. But the reality is that Small Business Development Centers can only

touch a tiny percentage of the individuals out there, the 10 percent, that are looking to start a business.

So in that context, the question becomes what are we going to do about it? It seems to me, and Senator Bond spoke to the Senate's efforts to help us obtain funding in the past. But the reality is we understand that the Small Business Development Centers by themselves are never going to meet all of the demand that is out there. It makes more sense for us to take the knowledge that we have gained over 20 years of doing this, and export it to the institutions that are touching businesses first.

Particularly, we think it is a very good idea to start with the vocational and technical schools because we know by looking at our client base and by looking at what the vocational and technical schools are doing that they are graduating people with terrific technical expertise but who, in most cases, lack the business management expertise it takes to start and be successful. Your own experience probably with small businesses of that sort in your community would verify that.

What the Act proposes that we do is work with these schools to provide the kind of curriculum that small businesses and potential small business owners need in order to succeed.

The primary benefit is fairly obvious. We think through this we can greatly reduce the failure rate of many of these folks coming out of these institutions that are interested in starting a business.

A second benefit is, even if you're not starting a business coming right out of a school, it is our sense that you make a much better employee, if you understand customer relations, if you understand how money is made in a business, you are a significantly better employee than if you just understand the technical aspects of the job.

The third benefit is that if these folks are starting businesses, then they are going to be creating additional employment. They are going to be hiring other people that are also going to be adding value to the economy.

So in summary, we think there is a clear need for this. You have two sets of institutions that I think perform very well in their separate responsibilities, and we think it makes great good sense to put these two together to benefit the small business population of the United States.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Higgins follows:]

STATEMENT

of

GREGORY L. HIGGINS, Jr.
State Director
Pennsylvania Small Business Development Centers

on the

Vocational and Technical Entrepreneurship Development Program Act of 2001

before the

Committee on Small Business and Entrepreneurship

United States Senate

August 1, 2002

Statement From Gregory L. Higgins, Jr.,
State Director of the Pennsylvania Small Business Development Centers,
on the Vocational and Technical Entrepreneurship Development Act of 2001

Chairman Kerry, Senator Bond and members of the committee, I am Gregory Higgins, state director of the Pennsylvania Small Business Development Centers. I would like to thank you Mr. Chairman and the members of this committee for inviting me to testify at this roundtable discussion on the Vocational and Technical Entrepreneurship Development Program Act of 2001.

As you well know, this nation's economy is dependent upon the initiation and growth of small businesses for its vitality. Small firms are creating almost all the net new jobs in the economy.

The good news is that recent studies have found, at any given time, one in ten adults are considering starting a business. To start a new, successful business, one must have sound business management skills.

The bad news is our educational institutions are doing little to prepare students to participate in our entrepreneurial economy.

What we continue to see on a daily basis in the Small Business Development Center program is many people who have technical skills and an entrepreneurial disposition, but no formal training to prepare them to start and grow a business. Eighty per cent (80%) of our pre-venture clients have not owned or operated a business before and eighty per cent (80%) do not have the educational background to prepare them to start and operate a business.

As a result, too many small businesses fail because these entrepreneurs have not had any formal training on what is involved in operating a profitable company. Most schools – high schools, vocational and technical schools, community colleges, and universities – do not offer curriculum that teaches students how to run a business.

Our vocational and technical schools represent a substantial public investment in education and annually turn out thousands of individuals who have excellent technical skills. Yet, while students are learning a skill or trade, they are not being provided training on how to work independently as a small business.

There is no reason for many of these students to fail as entrepreneurs when we have resources that can help them succeed.

This bill, the Vocational and Technical Entrepreneurship Development Act of 2001, establishes a pilot program to use the Small Business Development Centers to provide training to students in vocational and technical schools on how to start a business. With over twenty years of experience in helping hundreds of thousands of people turn their dreams into profitable businesses, the Small Business Development Centers have developed excellent educational programs that train people on what is required to operate a successful business. By providing business management training at the same time students are learning a trade-skill (e.g., mechanic, machinist or HVAC repair), career opportunities are expanded. Students not only become more employable, they can become a small business owner (e.g., auto repair service, machining and tooling business, or HVAC repair service). In addition, as a small business owner they then become an employer, thus expanding local job markets and revitalizing the economic growth of communities.

You are probably wondering – why the SBDC program? Because it is an established program with established relationships with educational institutions and has developed training programs on starting a business that are proven to be effective.

Independent research studies have consistently shown that entrepreneurs who start businesses with help from the Small Business Development Centers survive and grow at a rate far in excess of other businesses.

Starting a business is relatively easy compared to staying in business and growing that business in a competitive environment. However, entrepreneurs who avail themselves of SBDC assistance in starting their businesses are far more likely to survive and grow at rates that greatly surpass those of the average small firm. The results of the most recent impact study of Pennsylvania SBDC assisted start-up clients are dramatic:

> Survival
> SBDC clients survive at a rate approximately 35% higher than the general population of new businesses in the US. In fact, nearly 60% of start-up clients are still in business after eight years.
>
> Growth
> SBDC assisted businesses grow at rates far in excess of the average small firm. For example, businesses started with SBDC assistance in 1992 have compound sales growth of nearly 20% and employment growth of over 16%.
>
> Innovation
> The primary contribution of the SBDCs to our clients' ventures is making them aware of the importance of innovation and competitive advantage. Companies that develop innovations and competitive advantages survive longer and grow faster than the average small firm.

Currently, the SBDCs are operating at capacity and are only able to assist a tiny fraction of the population of prospective entrepreneurs. Thus, if the SBDCs are to serve a greater number of these potential entrepreneurs, we must transfer our knowledge of the entrepreneurial process to those educational systems having the capacity to reach and to educate a much larger segment of the population than can currently be served by the SBDCs.

With some isolated exceptions, very few vocational and technical schools currently provide any cohesive curricula on small business management. Furthermore, there are no programs being offered at vocational and technical schools that are based upon over 20 years of experience in educating entrepreneurs that have been rigorously evaluated and can demonstrate as significant level of impact as the programming developed and provided by the Small Business Development Centers.

This bill will provide funding to the Small Business Development Centers to adapt and deliver their "How to Start and Manage a Business" courses as part of the curriculum in selected vocational and technical schools. The training will focus on the essential business operational areas such as management, marketing and finance. Additionally, the programs will be modified to provide information that is relevant to the particular industry sectors in which students are learning skills. The program will be evaluated on an annual basis and refinements made to ensure it achieves a high level of impact. Furthermore, the bill calls for establishing a clearinghouse of information and expertise regarding vocational and technical entrepreneurship programs that can be used by all SBDCs across the country.

The primary benefit of this bill is that students graduating from our vocational and technical schools will not only be skilled in a particular trade, but also will be armed with the knowledge and tools relevant to

building a successful business in their field. As a result, you can expect to see more trades-people start, operate and grow successful new businesses across the country. A second benefit accrues to employers of individuals who have gone through this training. Whether or not a person starts a business, the knowledge of such key aspects of operating a business as customer relations, controlling costs, and how money is made, creates a more effective employee. A third benefit of this pilot program is, once we demonstrate the value of this type of training, it will, we believe, be easier to transfer these processes to additional vocational and technical schools and to other educational systems, such as high schools, community colleges and colleges and universities.

This bill represents an excellent vehicle to combine the resources of two well established, proven programs to begin to make entrepreneurial education available to a larger pool of prospective business owners if provided the resources to do so by Congress. Our economy and our communities depend on it. I urge the Committee's approval of this bill.

Thank you.

Chairman KERRY. Thank you, Greg.

Our fourth and final presenter, Dr. Lloyd Blanchard, the COO of SBA. Thank you.

STATEMENT OF LLOYD A. BLANCHARD, PH.D., CHIEF OPERATING OFFICER, U.S. SMALL BUSINESS ADMINISTRATION, WASHINGTON, D.C.

Dr. BLANCHARD. Thank you, Mr. Chairman, and good afternoon.

I want to thank the Committee for holding this roundtable and inviting SBA to share its concerns in the National Small Business Regulatory Assistance Act, S. 2483, and the Vocational and Technical Entrepreneurship Development Act, H.R. 2666.

S. 2483 would establish a 4-year pilot program under which Small Business Development Centers, SBDCs, would provide regulatory compliance assistance to small businesses. We note, however, that Section 21(c)(3)(H) of the Small Business Act already requires SBDCs to maintain current information concerning Federal, State and local regulations that affect small businesses and counsel small businesses on the methods of compliance.

In addition, Section 21(c)(3)(Q) mandates that SBDCs provide information to small business concerns regarding compliance with regulatory requirements.

These mandates are part of the annual SBDC program announcement and are included in the cooperative agreement. This bill would not only duplicate activities already mandated for SBDCs, but would also duplicate activities mandated for the Office of Advocacy and the National ombudsman, Michael Barrera, who is here with me today.

Despite our concerns, we agree that small businesses face an overwhelming maze of regulations. In fact, as part of the President's management and small business agendas, SBA has already started to create an Internet-based business compliance one-stop. Toward this effort, SBA is the managing partner of a 24-agency working group designed to compile all Federal and State regulations that affect small businesses into a single portal called BusinessLaw.gov.

This portal goes beyond serving simply as a library of information. It provides expert tools to walk the small business owner through the compliance process. The biggest advantage of this portal is that it would be available anywhere and any time to all small businesses, a feat that one-on-one service providers cannot match.

The other bill we are discussing today, H.R. 2666, would establish a vocational and technical entrepreneurship development program to provide grants to SBDCs, to assist secondary schools or postsecondary vocational or technical schools in developing curricula to promote entrepreneurship.

SBA's programs, including its technical assistance programs, are designed to assist small businesses and entrepreneurs, not schools. SBA believes that this is an educational development program more properly administered by the Department of Education.

Moreover, Section 18 of the Small Business Act expressly prohibits SBA from duplicating activities of other Federal agencies. The Department of Education already has programs headed by the Assistant Secretary for Vocational and Adult Education which offer

support in designing high quality vocational and technical programs.

In conclusion, SBA believes that these two bills are redundant of existing programs and authority. Nevertheless, SBA stands ready to work more closely with the SBDCs to determine whether their existing efforts for regulatory compliance assistance meet the goals of this Committee.

Thank you for the opportunity to address this roundtable. We look forward to a productive discussion.

[The prepared statement of Dr. Blanchard follows:]

STATEMENT OF

LLOYD A. BLANCHARD

CHIEF OPERATING OFFICER

U.S. SMALL BUSINESS ADMINISTRATION

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

UNITED STATES SENATE

AUGUST 1, 2002

Good afternoon. I want to thank the Committee for holding this roundtable and inviting SBA to share its concerns on the National Small Business Regulatory Assistance Act (S.2483) and the Vocational and Technical Entrepreneurship Development Act (HR.2666).

S. 2483 would establish a 4-year pilot program under which Small Business Development Centers (SBDCs) would provide regulatory compliance assistance to small businesses. We note, however, that Section 21(c)(3)(H) of the Small Business Act already requires SBDCs to maintain "current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on the methods of compliance." In addition, Section 21(c)(3)(Q) mandates that SBDCs provide "information to small business concerns regarding compliance with regulatory requirements." These mandates are part of the annual SBDC program announcement and are included in the cooperative agreement. This bill would not only duplicate activities already mandated for SBDCs but would also duplicate activities mandated for the Office of Advocacy and the National Ombudsman, Michael Barrera, who is here with us today.

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Business Compliance One Stop. SBA is the managing partner of a 24-agency working group designed to compile all federal and state regulations that affect small businesses into a single portal called *BusinessLaw.gov*. This portal goes beyond serving simply as a library of information; it provides expert tools to walk the small business owner through the compliance process. The biggest advantage of this portal is that it would be available anywhere and anytime to *all* small businesses, a feat that one-on-one service providers cannot match.

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In conclusion, SBA believes that these two bills are redundant of existing programs and authority. Nevertheless, SBA stands ready to work more closely with the SBDCs to determine whether their existing efforts toward regulatory compliance assistance meet the goals of this Committee.

Thank you for the opportunity to address this roundtable. We look forward to a productive discussion.

Mr. DASILVA [presiding]. Thank you, Dr. Blanchard.

My name is John DaSilva. I work for Chairman Kerry. He had to leave for the floor votes. I am the staff person who is going to be conducting the roundtable and serving as the moderator today.

I am going to be including, at this time, two items into the record on behalf of the Chairman. One is a letter to the Chairman from Congressman Robert Brady of Pennsylvania in support of his legislation, H.R. 2666.

The second is a letter from SBA's Chief Counsel for the Office of Advocacy, Thomas Sullivan, in support of Senator Cleland's legislation, S. 2483, the National Small Business Regulatory Assistance Act.

[The letters referred to follow:]

ROBERT A. BRADY
1ST DISTRICT, PENNSYLVANIA

COMMITTEES:
ARMED SERVICES
SUBCOMMITTEE ON MILITARY PROCUREMENT
SUBCOMMITTEE ON
MILITARY INSTALLATIONS AND FACILITIES

SMALL BUSINESS
SUBCOMMITTEE ON REGULATORY REFORM
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www.house.gov/brady

July 29, 2002

Senator John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, DC 20510

Dear Chairman Kerry:

I would like to express my appreciation in your including my bill, HR 2666, *Vocational and Technical Education Act of 2001,* during your Committee mark up last week. I realize that the Senate, like the House is quite busy before the August recess and I thank you for giving my bill an opportunity to be considered before the Senate Committee.

It is my understanding that Senator Bond, had some concerns about the need for this bill. He referenced a portion of a letter sent from the SBA to you, in which the SBA mentions that they consider my bill duplicative of activities engaged in through the Department of Education. I strongly disagree with this assessment. The U.S. Department of Education provides vocational-technical education programs under the Carl D. Perkins Vocational and Applied Technology Education Act. The vocational-technical education programs administered under this act do not include entrepreneurial training, making my proposal unique from any other program administered under the Department of Education. There are many programs, either through tax credits or deductions, business/education partnerships, or government funded programs, that train future workers for skilled employment, but these programs do not provide the entrepreneurial skills to begin their own business.

The traditional emphasis on vocational-technical programs has been on training individuals as potential employees and not as employers. According to an ERIC digest report, which is funded by the Department of Education, "starting a business is a natural outgrowth of vocational skills training."

There are more than 20 million small businesses in the United States, and each year nearly a quarter of a million new ones are started. Small Businesses employ six out of every ten people and account for the majority of new jobs, yet according to a report by the National Center for Research in Vocational Education, almost half of all new businesses fail within two years of their initial creation. Most studies contribute such failures to lack of management and planning skills which translates into poor entrepreneurial skills.

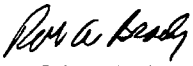
PRINTED ON RECYCLED PAPER

In order to combat this deficiency, there needs to be a curricula that has proven to be effective, and the Small Business Development Centers have an established curriculum. Many of the people working within the SBDC have had hands on experience being business owners themselves. They are able to offer a unique prospective in entrepreneurial learning that can not be achieved through traditional textbook teaching.

America's future depends on the continued emergence of successful small businesses. To be successful, those who start a new business must be prepared. My bill will prepare entrepreneurs by giving them the tools necessary to meet an increasingly changing job market, whether that be in the role of a successful employee or employer.

Thank you for your consideration.

Sincerely,



Robert A. Brady
Member of Congress

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

OFFICE OF THE CHIEF COUNSEL FOR ADVOCACY

July 30, 2002

The Honorable John F. Kerry
Chairman, Committee on Small Business
428 a Russell SOB
United States Senate
Washington, DC 20510-6136

Dear Mr. Chairman :

I am writing in response to your request for the Office of Advocacy's views on S. 2483, the National Small Business Regulatory Assistance Act and H.R. 2666, the Vocational and Technical Entrepreneurship Development Act.

It is my understanding that both these bills were discussed at a mark-up last week and will be the topic of a roundtable discussion this week. I appreciate your interest in our views and I apologize for not being able to present them in person because of a scheduling conflict.

First, let me start by explaining that as an office charged with independently representing the views of small business, these opinions do not necessarily reflect the positions of SBA Administrator Hector Barreto, or the Administration.

The Office of Advocacy promotes a small business agenda by publishing research on the economic benefits of small business and by ensuring agency compliance with the Regulatory Flexibility Act, as amended in 1996 by the Small Business Regulatory Enforcement Fairness Act. Additionally, my office is required by law to help small business understand rules and regulations mandated by federal agencies. It is that obligation, codified in 15 U.S.C. § 634(b), which prompted me to respond to your request for comment on the legislation before the Committee on Small Business and Entrepreneurship.

FEDERAL RECYCLING PROGRAM PRINTED ON RECYCLED PAPER

H.R. 2666, the Vocational and Technical Entrepreneurship Development Act

The Office of Advocacy does not believe that H.R. 2666 would affect our programs and ability to advocate effectively on behalf of small business. Nor do we believe that H.R. 2666 in any way affects the statutory obligations of the Office of Advocacy. We therefore respectively decline to comment on the legislation.

S. 2483, the National Small Business Regulatory Assistance Act

The Office of Advocacy strongly endorses any cost-effective method of providing small-business owners with federal regulatory compliance information. We are supportive of S. 2483 to the extent that it encourages the sharing of information between compliance assistance providers and we are pleased to understand that this legislation does not favor one avenue of information dissemination over another.

It is an honor for me to serve the President and I am grateful that you regularly solicit my office's views while considering legislation that will benefit small business. Most importantly, I am pleased that you thoroughly consider my views as an independent advocate for small business when balancing the various interests that affect the outcome of legislation. Please do not hesitate to call if I may clarify any of the statements or positions outlined in this correspondence.

Sincerely,

Thomas M. Sullivan
Chief Counsel for Advocacy

Mr. DASILVA. Before we begin, I would just like to go over a couple of housekeeping items for everyone participating in today's roundtable.

Today's meeting is an official function of the Committee on Small Business and Entrepreneurship, and as such there will be a record of today's discussion. I would ask that before making any comments, you remember to clearly state your name so that the court reporter can indicate who is speaking for the record.

Participants are asked to keep their remarks as concise as possible, as discussion time tends to move quickly and everyone deserves a chance to be heard.

If you have a comment or a question you would like to say, please turn your name card up like so and you will be placed in the speaking order. Please wait to be called upon by the moderator before addressing the group.

The Chairman has stated that he would like the record held open for 2 weeks for people to submit additional comments. So if anybody does not get a chance to address a topic today, you can submit comments for the record by contacting the Committee clerk, Jaime Hyatt.

At this time, I would like to have all the participants briefly state their name and affiliation and introduce themselves. If we could begin to my right with Paul Cooksey of Ranking Member Bond's staff.

Mr. COOKSEY. I am Paul Cooksey. I am Minority Chief Counsel for the Small Business Committee.

Mr. FREEDMAN. I'm Marc Freedman, I am Regulatory Counsel for Senator Bond.

Mr. HIGGINS. I am Greg Higgins. I am the State Director of the Pennsylvania Small Business Development Centers at the Wharton School of the University of Pennsylvania.

Mr. CONROY. Good afternoon. I am Christian Conroy. I am the Associate State Director with the Pennsylvania Small Business Development Centers.

Mr. WILSON. My name is Don Wilson. I am president of the Association of Small Business Development Centers.

Mr. MALES. I am Sam Males. I am the State Director for the Nevada Small Business Development Center and Co-Chairman of the ASBDC Regulatory Interest Section Group.

[The prepared testimony of Mr. Males follows:]

STATEMENT

of

SAM MALES

State Director
Nevada Small Business Development Center

on the

National Small Business Regulatory
Assistance Act of 2002

before the

Committee on Small Business and Entrepreneurship

United States Senate

August 1, 2002

Statement From Sam Males,
State Director of the Nevada Small Business Development Center,
On the National Small Business Regulatory Assistance Act of 2002

Chairman Kerry, Senator Bond and members of the committee, I am Sam Males, State Director of the Nevada Small Business Development Center. I would like to thank you, Mr. Chairman, and members of the committee for inviting me to participate at this roundtable discussion on the National Small Business Regulatory Assistance Act of 2002.

As we all know, small businesses face many challenges. They must not only compete to provide a successful product or service in the marketplace, but must also comply with a multitude of government regulations. Unfortunately, these small businesses are facing an increasing number of more stringent requirements. Small businesses have a difficult time understanding regulatory requirements, how to comply with these regulations, and ways to reduce their impacts. Small businesses typically do not have regulatory personnel on staff and often lack resources to find or hire outside help. To make matters worse, compliance requirements typically impose greater costs per employee for small businesses than large corporations. These businesses need help.

At the federal level, different programs have been developed to provide assistance to small businesses. Additional programs have been developed at the state and local level. Some regulatory service providers focus on regulatory compliance, others on prevention approaches, while still others focus on assistance for problems in a single medium. Some assistance programs focus on business planning, management, and finance, while still others work with specific sectors (e.g. manufacturing) on technological modernization, logistics, and material and labor utilization. While most of these programs offer high quality service, there is no coordinated effort to efficiently meet the needs of small businesses.

In addition to its traditional business assistance role, the Nevada Small Business Development Center has, since 1988, provided environmental regulatory assistance through a partnership with the Nevada Division of Environmental Protection. Since its inception, the NSBDC has demonstrated its effectiveness as a third party, non-regulatory, friend of business to deliver regulatory compliance assistance. The NSBDC has been so successful with its regulatory assistance programs, it expanded in 1997 to include OSHA compliance assistance and currently we are initiating a program to provide technical assistance on IRS issues. Starting in the mid 1990s, the Nevada SBDC has been actively engaged in efforts to promote the development of partnerships between SBDCs, environmental agencies and environmental assistance providers in other states. Through these efforts, approximately ten state/regional SBDC programs have been able to acquire minimal resources to begin providing regulatory assistance to small businesses.

My experience and discussion with other regulatory service providers around the country leads me to strongly believe that SBDCs can play a critical role in delivering regulatory compliance information and accessing existing assistance providers. Why?

Through its national infrastructure of over 1,000 centers, SBDCs have the capacity to reach existing small businesses in all areas of the country and entrepreneurs as they are starting their businesses… an excellent time to prepare small business for the regulatory issues they will be confronting.

As non-regulatory organizations, SBDCs can help to reach and educate small businesses on regulatory compliance issues through Partnerships with existing state and local regulatory assistance service providers (like SBAPs and other state and local environmental assistance programs). Many small businesses are unaware that they either need an environmental permit or are regulated under environmental laws until they get caught in a permitting battle (causing expensive delays or project withdrawals) or regulatory inspections. The same applies to OSHA and IRS regulations, though there are no permits involved.

You notice I have highlighted the word Partnerships above. The SBDC programs around the country are built on partnerships, whether through chambers of commerce, economic development groups, other private sector groups, and government entities interested in economic development. For the SBDCs to be successful in delivering technical assistance on regulatory issues, I believe it will be most effective when conducted in partnership and cooperatively with federal, state, and local regulatory programs and other service providers. Enhancing the coordination and cooperation of these existing programs will lead to minimizing the duplication of services while maximizing the effectiveness of their combined services. These partnerships will allow clients to operate more efficiently and with minimal impacts. This coordinated approach is necessary not only to achieve compliance but also to assist a large segment of the small business population to move beyond compliance.

The coordination of programs with different assistance specialties is not an easy task. The competition for scarce resources is significant and "turf battles" commonplace. However, when successful, these partnerships can achieve improvements in regulatory performance of the business clients that surpass anything that would be achieved if programs provided assistance individually. By coordinating assistance programs, the partnerships avoid duplication of services. By expanding upon existing program efforts, an easily accessible network can be established providing first-stop shopping for environmental, business, and manufacturing assistance services. By leveraging resources, we significantly increase the opportunity to help small businesses make the fundamental operational changes to meet their regulatory requirements. Small businesses now have the opportunity to effectively address these regulatory issues because the partnerships are successful in:

1. Increasing a client's access to assistance services.
2. Bringing a wider array of resources to bear on a client's problem.
3. Addressing a client's problem with a multi-faceted approach involving complementary areas of expertise.
4. Giving a client longer-term assistance with suggested solutions through the various phases of implementation.

In closing, I strongly support S.B. 2483 that will authorize funding for SBDCs to participate in the delivery of regulatory compliance assistance. SBDCs need this funding to support the development of partnerships, the coordination and networking with other environmental assistance providers, and for outreach, marketing, and compliance assistance delivery. Thank you again for the opportunity to participate in this discussion on small business regulatory assistance.

Mr. VISSCHER. Gary Visscher. I am the Deputy Assistant Secretary for OSHA.

Mr. BARRERA. I am Michael Barrera, National Ombudsman, Small Business Administration.

Dr. BLANCHARD. Lloyd Blanchard, Chief Operating Officer, Small Business Administration.

Ms. LUND. Lisa Lund, Deputy Director of the Office of Compliance with the U.S. Environmental Protection Agency.

Mr. BENFORADO. Jay Benforado, Deputy Associate Administrator for EPA's Policy Office.

Mr. ZARKER. My name is Ken Zarker. I am the manager for Pollution Prevention and Industry Assistance at the Texas Natural Resource Conservation Commission, and also chair of the National Pollution Prevention Roundtable.

Mr. SHANAHAN. I am Mark Shanahan. I am the Small Business Ombudsman for the Clean Air Act for the State of Ohio. I also serve as the chair of the National Steering Committee for the 507 Program.

[The statement of Mr. Shanahan follows:]

S. 2483
National Small Business Regulatory Assistance Act of 2002

Statement of

Mark R. Shanahan, Ph.D.
Executive Director
Ohio Clean Air Resource Center

representing the

National Steering Committee
of the
Small Business Technical Assistance Programs
and Small Business Ombudsmen

before the

United States Senate
Committee on Small Business and Entrepreneurship

August 1, 2002

Chairman Kerry, Senator Bond and Senator Cleland, thank you for the opportunity to participate in today's roundtable: "Promoting Small Business Regulatory Compliance and Entrepreneurial Education—the Role of the SBDC Network."

I am Mark R. Shanahan, Executive Director of the Clean Air Resource Center, which is the small business program of the Ohio Air Quality Development Authority. I am also the Executive Director of the Authority and have been appointed by Governor Bob Taft to serve as Ohio's Clean Air Act Small Business Ombudsman.

I appear before you today in my capacity as Chair of the National Steering Committee of the Small Business Technical Assistance Programs and Small Business Ombudsmen created under Section 507 of the Clean Air Act Amendments (CAAA) of 1990.

Background on the 507 Program

Section 507 directed each state to develop a state specific technical assistance and advocacy program to help small businesses understand, comply with, and have representation in the development of regulations with an impact on small business promulgated under the Clean Air Act. In addition, each program is required to have an appointed Compliance Advisory Panel made up of small business owners or their representatives, a representative from the environmental regulatory agency and at least two members of the general public to oversee the effectiveness of the Programs

Although initially created to address Clean Air Act issues, the programs have evolved into repositories and/or referral agencies where small business owners and operators can go for a myriad of environmental assistance and direction to other business services. This is accomplished through a variety of options. These include:

1. formal (and informal) state level expansion of the Program responsibilities;

2. the development of networking systems; and, most importantly,

3. the development of strategic partnerships with other assistance providers.

Indeed, the vast majority of states have developed effective outreach assistance efforts in conjunction with state Pollution Prevention Programs, Small Business Development Centers, Economic Development agencies, trade associations and local governmental agencies to name a few. In addition, the partners regularly conduct regional and national conferences, seminars and workshops to increase our effectiveness in providing accurate, timely and appropriate assistance.

The Programs were also instrumental in the formulation and development of the "507 Enforcement Response Policy" and the "Small Business Compliance Incentives Policy" with the U.S. Environmental Protection Agency, which, for the first time, granted "safe haven" status for small business owners who voluntarily identified and agreed to remedy violations of environmental regulations. These policies encourage sound environmental practices and minimize the threat of punitive fines or the need to remain confidential.

I am very pleased to be able to report that the Programs are active in all 50 states and U.S. territories and are very well received by small business. Collectively, we provide environmentally related assistance to about 1 million businesses and owners yearly through direct contact and in partnership with others. The programs have found that demand for our services usually exceeds individual state capabilities, which further increases our need to utilize existing partnerships and create new ones when possible. An indicator of the demand is that, in 1995, our programs served 75,000 businesses; by 2000, that number had grown to 850,000.

As a final note on the Programs, I would like to mention that our basic services provided are currently accomplished without any federal funding. Under the Act, funding for the state level programs is to be provided under the individual state air permitting program emissions based fee systems. This has proven to be beneficial in ensuring that the programs were developed to address the differing needs of each state and to assure a strong level of support from trade associations concerned with increased government subsidies.

The Issue Before Us

We believe that S. 2483, the National Small Business Regulatory Assistance Act of 2002, has the potential to improve significantly the provision of regulatory assistance to small business. We base this belief on three key points:

1. Regulatory programs are not usually designed with small business in mind. Their complexity, cost in dollars, and demands on time can quickly become an onerous burden that contributes to noncompliance. It is essential that these businesses be provided the technical assistance necessary to continue to make their contribution to our economy while complying with the law. Although a number of assistance programs are in place, resources are insufficient to meet the need.

2. Small business assistance programs at the state and local levels are developing critical expertise in various areas of regulation. Resources are too scarce to waste through duplication of expertise and service delivery. Effective partnerships must be created to leverage available resources to reach as many small businesses as possible. Each state and territory has its own blend of needs and effective response. Any model developed must include the flexibility necessary to create and deliver that response. Additional resources will allow the development of creative and innovative models to leverage service, providing maximum efficiency.

3. Congress envisioned a new approach to small business when it created the 507 Program. For the first time, in national environmental legislation, it recognized that small business faces a very different set of problems in interpreting, and complying with, regulations. More importantly, Congress provided a mechanism through which small business could begin to receive the help it needs. It is essential to continue to support and improve that practice.

The 507 Program is prepared to continue to build partnerships and to develop innovative service delivery mechanisms. When the regulatory issue is environmental, we are anxious to continue working with Small Business Development Centers to see that small business is helped quickly, efficiently and effectively. S. 2483 can provide resources necessary to that effort.

Again, thank you for inviting us to participate in today's Roundtable.

Mr. SATAGAJ. John Satagaj, President and General Counsel, the Small Business Legislative Council.

Mr. MCCRACKEN. I am Todd McCracken. I am President of National Small Business United.

Ms. LONG. Brenda Long, President of the Virginia Association for Career Technical Education.

[The statement of Ms. Long follows:]

Comments of the Association for Career and Technical Education (ACTE) Regarding Entrepreneurship Education

August 15, 2002

The Association for Career and Technical Education (ACTE) is pleased to provide comments to the Senate Committee on Small Business and Entrepreneurship regarding entrepreneurship education and the Vocational and Technical Entrepreneurship Development Act (H.R. 2666). ACTE was pleased to participate in the Committee's recent roundtable discussion on these issues with our representatives, Brenda Long from the Virginia Association for Career and Technical Education and Nancy King from Fairfax County Public Schools.

ACTE represents educators across the nation who provide career related programs to students in secondary and postsecondary institutions. In many states, career and technical education starts even earlier, with career exploration activities in elementary and middle school levels. Entrepreneurship education is an integral part of career and technical education, as it should be since small business plays a vital role in the global economy.

States and local school districts take differing approaches to entrepreneurship education. Some offer specific courses in entrepreneurship while others prefer to integrate it throughout their curricula. With education being a very local undertaking, each community decides what fits best for its students and schools.

Career and technical educators recognize that creating economic opportunity in a constantly changing global environment has been a part of America's culture since the industrial revolution. Businesses started by entrepreneurs today and tomorrow will play a fundamental role in propelling the American economy through the 21st century.

Entrepreneurs create economic growth and new wealth for reinvestment in our country. According to the National Commission on Entrepreneurship, each year America starts 600,00-800,000 businesses with employees and about two million Americans start their own self-employed ventures.

One of the most important factors that lead to the development of new businesses is education. A study by the Ewing Marion Kauffman Foundation, the London School of Economics and Babson College, indicates that providing individuals with quality **entrepreneurship education** on converting a market opportunity into a commercial reality is the **single most important issue in developing and fostering an entrepreneurial environment**. Another study done by Kauffman and Babson concludes that education at the elementary, secondary and post secondary levels, as well as at technical and engineering schools is critical. The study includes entrepreneurship education among its top policy recommendations to cultivate an entrepreneurial environment.

While some entrepreneurship education is available to students, more is clearly needed to benefit students and the economy. Students themselves say they want more. A recent Gallup study has found that while 70% of high school students are interested in starting their own

business, 85% reported that they were taught little or nothing about how a business works and wish their school would do more to teach them about entrepreneurship and starting a business.

Another study notes that in our nation, enthusiasm and respect for entrepreneurship is waning. According to the Global Entrepreneurship Monitor (GEM) study, 76% of the population respects entrepreneurs, down from 91 percent in 1999. For the economy's sake, we must turn this around, and education is one way to do that. With the importance of small businesses in the economy, as an employer and producer of goods and services, it is fitting that Congress seek ways to assist schools in providing effective entrepreneurship education to promote entrepreneurship and to teach students how to be successful at it.

While career and technical education is rooted in business-education partnerships, ACTE recognizes that there is always more to be done. We encourage Congress to focus not only on technical assistance to schools through small business development centers, but also to provide seed money to schools for the purpose of starting entrepreneurship education activities or to upgrade existing programs. Further, it can be difficult to engage small business owners in entrepreneurship education programs due to lack of resources, both on the part of the small businesses and on the part of education systems. As a result, education and business partnerships tend to involve large corporations rather than small businesses.

To alleviate this problem Congress might consider supporting small businesses by providing stipends to interns. This will help to make small businesses more competitive in getting interns, while helping students who need to earn money to support their education and families. Some of our members tell us that this is often among the biggest barrier to a small business's participation in career and technical education – it can't afford to bring in an intern and some students can't afford to work for free.

ACTE also encourages you to coordinate your efforts with the initiatives under the Carl D. Perkins Vocational and Technical Education Act to ensure funds are used effectively and efficiently. We do not see that HR 2666 is duplicative, but feel that the funds provided under the bill could have the greatest impact if coordinated with the funds provided under Perkins to ensure that career and technical education efforts are bolstered with specific initiatives regarding entrepreneurship education.

ACTE greatly appreciates the opportunity to provide additional comments to the roundtable discussion on entrepreneurship education. We support H.R. 2666 and are pleased to be able to offer suggestions to make it even stronger. Further, we greatly appreciate the interest of the House and Senate Small Business Committees in facilitating connections between the small business community and educators.

For further information, please contact Nancy O'Brien, ACTE senior director for public policy, at 703/683-3111, x311 or at nobrien@acteonline.org.

Ms. KING. Nancy King, Career Experience specialist, Fairfax County Public Schools.

Mr. HUGHES. Robert Hughes, president, National Association for the Self-Employed and also a self-employed CPA from Dallas, Texas.

Mr. DASILVA. Thank you, everybody.

At this point I would like to open up the roundtable discussion. I am going to begin the discussion today on Federal regulatory compliance assistance. The first question I am going to put out before the group is: Are small businesses being adequately served through current Federal programs? Anybody who wants to address the topic can turn up their card and I will place them into the speaking order.

Mr. SATAGAJ. First of all, we can solve this problem with less regulation rather than more regulatory assistance, so why do we not start with that?

The second thing, we clone Karen. We tried to do that in SBREFA. If we had more Karen Browns, we would also have a lot better assistance.

And third, the SBDC is a great program. If you look far enough back in the record, you would have to look a long way. There is more and more programs, unfortunately I have been around longer than the programs have, and this is one of them. But if you look back at its beginnings, I was one of the great skeptics about the SBDC. I talked all the time when it was first started up that this thing was going to be a waste of money.

You get this on the record, John Satagaj admits I was wrong. It does not happen often.

It worked well, it has worked well all these years. You can never get enough assistance. I think the Senators all alluded to it, some of the statements did, you cannot reach everybody through any single program. So we have to use a variety of ways to reach folks. And the SBDC does reach a part of the community that no one else does.

Greg said it well, we all know about checkbook business people. A lot of folks that really, whether it is from the regulatory environment or whatever, they do not have the opportunity to go to a wonderful site, and I am sure BusinessLaw is going to be terrific. But unless somebody is there helping them through it, they are still not going to get through it, no matter how much you do. That is what these folks do better than anybody, is take those folks, work with them, and take them, whether it is balancing the checkbook or whether it is dealing with the regulatory responsibility, they still need the help. All the websites in the world will not solve that problem. You still need that one-on-one help.

So the answer is yes, we need it very much and let us go to it.

Mr. DASILVA. Thank you, John.

Dr. Blanchard.

Dr. BLANCHARD. Yes, thank you, John.

I agree with John, in the statements he just made. We do need less regulation, in response to what the real problem for small businesses is.

In reducing that regulation, the role of the National Ombudsman and the role of the Chief Counsel for Advocacy spend all of their

time fighting agencies to help think more about small businesses in the development of their regulations.

With regard to the question that you posed, are small businesses currently being properly served? The Administration believes they are not being properly served. That is precisely why it has begun an interagency initiative to build the business compliance one-stop which is a one-stop portal that will consolidate all regulations.

Is that enough? Of course not. There is a role for one-on-one counseling for small businesses in assisting them to comply with regulations. That role is already authorized in the Small Business Act and we believe that the SBDCs do a good job in this area. But for some reason, I am confused about their support for this bill because it seems as if they feel as if they do not have enough authority to meet this particular goal.

Mr. DASILVA. Thank you, Dr. Blanchard.

Mark Shanahan.

Mr. SHANAHAN. I guess from the perspective of programs that deliver the assistance on the ground, obviously we agree that there does need to be an increase in the resources and the service provision to small businesses, but I think the issue in this bill that we find particularly encouraging is the provision of resources that encourage and provide incentive for the building of partnerships that let us make use of the existing successful expert networks that are out there, but who are stretched to their limit in terms of the services they can provide.

We need help in developing pilot programs to learn better how to interact without duplicating resources and recreating expertise that is already there, but instead to figure out better ways to efficiently deliver the combined services in a way that gets to the small businesses in a useful manner.

We believe that the 507 Program represented a real vision when Congress included that in the Clean Air Act Amendments of 1990, that very specific recognition that small businesses face different challenges dealing with regulations. So we are very supportive of the notion of encouraging new types of partnerships and experiments to deliver that service efficiently.

Mr. DASILVA. Thank you.

Sam Males.

Mr. MALES. Yes, thank you.

First of all, I would like to say thank you to everybody that made kind remarks about the Nevada SBDC and being actively involved in this. We certainly appreciate it. I wish I could take all the credit, but the credit goes to the partnership that we developed with our State of Nevada Division of Environmental Protection and working together to solve a problem.

I just heard Dr. Blanchard say about the SBDCs having the authority. That is correct. What we do not have is the resources to address those issues. What we have is a tremendous bunch of small business counselors that are well-versed in a lot of different areas, but not necessarily in technical expertise.

If we go back to our beginnings, when we started our program in 1988, we were approached to provide assistance for regulatory outreach and the reason they came to us is they were not very successful in outreaching to small businesses.

Our program just started with training. But by 1990, when we got a full-time person, it began to flourish. Somebody that was able, within our network, to work with the technical assistance providers and work with them on all kinds of not only the technical consistency within the program, what the State was trying to accomplish, but outreaching through the small business network, which is the Chambers of Commerce, the economic development authorities, and everybody else involved in small and medium-sized communities to understand what is taking place and getting information, confidential, friend to business.

Once that began to occur, our program has begun to flourish. Just for the record, we use no funds from our SBDC allotment from SBA. We get funds from alternative areas. Again, a lot of that credit goes to our State for seeing the vision. But there is a lot of my compatriots and colleagues out there that need some support so that they can get engaged in the program.

Mr. DASILVA. Michael Barrera.

Mr. BARRERA. Good afternoon, everyone.

First of all, I want to thank the SBDCs, they have been a good partner of mine. As you know, I have hearings all across the country and I have had the chance to talk to businesses all across the country about some of the issues that they have. Of course, they really want to cut down on regulations.

But I think by adding another statute, we are just creating more of a maze of red tape. We have got two statutes that really address this already. If you look at SBREFA, this thing almost mirrors what SBREFA has in it. As far as SBREFA, there is a section that says the agencies are to provide compliance guides for the specific trades.

So I think what we've got to do is if you look at SBREFA, we have to make sure it is working. The stuff is already there. We have to make sure that we are measuring it and that we are seeing what kind of results are coming out of it.

I think we also have the Small Business Paper Reduction Act. In the Small Business Paper Reduction Act, it calls for a task force of the SBA, Advocacy, OMB, EPA, USDA, and all the major agencies to really look at some of the paper maze for small businesses and see how we can reduce that and make it easier for them.

That Act, that was just passed, also calls for us to develop a Government Internet portal for small business to go to. So a lot of the things that we are talking about, it is already in the statutes. So I do not think we need to recreate the wheel. I think we need to let that one wheel that we have go all the way around and see if it works.

This task force that is supposed to be formed on the Small Business Paper Reduction Act, we ought to let this task force get together and come back with some findings and they should work with the Pennsylvanias, the Nevadas, and see what systems are working. Let us come up with recommendations from the task force, because right now, like we said, one of the things we are trying to cut down is regulations. But now we are creating another law which basically says the same thing.

So that would be my comments for this.

Mr. DASILVA. Ken.

Mr. ZARKER. For the record, I am Ken Zarker with the Texas Natural Resource Conservation Commission.

I would also like just to join my colleagues Sam and Mark, in terms of the types of deliveries of services that we provide on the front lines at the local level.

The National Pollution Prevention Roundtable is a coalition of States, local governments, businesses, NGO's that have been working collaboratively to promote pollution prevention, helping small businesses comply with regulations, plus to show them ways that they can save money in terms of their environmental costs.

We support the goals of the bill, but we think that under the Section 3(c)(1) where it talks about the agreements established by the Administrator to provide the Small Business Development Centers, the development of these partnerships, I believe it would be helpful to have a more formal mechanism, through something like a memorandum of agreements among these service providers.

What we have done traditionally in the past is worked together informally. I think we are now at the point, through this legislation, where we can begin to build a more formal partnership with the various service providers out there.

So we stand ready to do that. A number of our programs have been funded under the Pollution Prevention Act of 1990 which Jay Benforado had referred to in terms of the State grants that are out there. So I think we can collectively leverage our Federal dollars in a way that promotes compliance assistance, promotes pollution prevention, and stewardship among the small businesses that we work with.

We thank you for the opportunity to participate today.

Mr. DASILVA. Thank you. Ken, if I can just ask you a quick follow-up on Section 3(c)(1) and requiring agreements, I am just highlighting quickly the legislation. Section 3(c)(1) starts out in carrying out the pilot program established under this section, the Administrator shall enter into arrangements with participating Small Business Development Centers. Such centers shall list A, B, C, D, and then E is give referrals to experts and other providers of compliance assistance who meet such standards for educational, technical and professional competency as are established by the Administrator and form partnerships with Federal compliance programs.

So you are saying in addition to the requirements that they form partnerships and give referrals to experts, what more would be needed, in your view?

Mr. ZARKER. Well, we had suggested a couple of items i there. One, in addition to referencing the Section 507 programs under the Federal Clean Air Act, we thought it would be helpful to reference Section 13–104 of the Pollution Prevention Act of 1990.

We also thought that, for those SBDCs that have not developed environmental assistance capacity, that they refer those small businesses to existing environmental compliance assistance programs where that capacity does not really exist at the SBDC.

In terms of the partnerships under item F, we think that we should maybe expand that language a little bit so that we should form partnerships with local, State, and Federal compliance programs.

Finally, the idea of this memorandum of agreement, we think there should be a formal memorandum of agreement with the local and State programs to buildupon the existing compliance and environmental assistance programs, again to leverage our Federal funding, share information and resources, and to build these partnerships that we are talking about today.

Mr. DASILVA. Thank you.

Todd McCracken.

Mr. MCCRACKEN. Thank you very much.

I want to just make a general comment and then start talking specifically about this bill. One thing we cannot, I think, underestimate and I think often gets overlooked when you are talking about the small business community as if it were one monolithic thing, is the incredible size and diversity of the small business community.

To think and suggest for a minute that we can say whether small businesses are being adequately served by current Federal programs, I think sort of misses the point. That is that I think many kinds of small businesses probably are very adequately served by the current system. But there is a whole section of them that inevitably gets missed. When we have a small business community as enormous and as versatile as we have in this country, we need a lot of different ways of reaching those people and lots of different avenues for talking to them.

That is why involving the SBDCs, I think really makes sense. Is a company that has 200 employees and simply has a technical question on some regulation going to rely on SBDCs for assistance? Of course not. But there is a whole swath of companies out there, that in many cases do not even know that they are supposed to be complying with those particular kinds of regulations. They may be in visiting the SBDC for a totally unrelated reason, but they have that expertise in-house to say you know, something else you need to be thinking about, given the kind of business you are in, is X, Y and Z. That could be an enormous benefit to a part of the small business community that I do not think is very well touched by the programs that we have now.

If you do not know you are supposed to be complying with regulation Y, why would you go to the EPA website to find out about it? But there has to be a certain level of expertise within the SBDCs for them to offer up those opinions in the first place.

So the discussion, to me, of whether it is redundant or not is sort of beside the point because lots of different kinds of businesses get touched in lots of different ways. We just have to remember that.

Mr. DASILVA. Thank you, Todd.

Marc.

Mr. FREEDMAN. Thank you, John.

So you all did not get the impression that only the Democrats had questions here, I just want to pose a little thought to the folks from the SBDCs and the groups that work most closely with them.

As Mr. Higgins pointed out earlier, in his statement, the SBDCs can only really touch a very small percentage of the small business out there, I think is the way you phrased it. I have seen some numbers out of the NFIB that indicate only about 12 percent of small businesses turn to the SBDCs for assistance in the last 5 years.

So my basic question is, to the folks from the SBDCs and some of the agencies who are in touch with them and the other interest groups that connect with them, what ideas do you have for increasing the traffic into your centers from the small businesses so that they can take advantage of all this great work that is going on?

I do not think anybody disputes the idea that there is some tremendous information available and assistance that small businesses can get through the SBDCs. My big question, I think, is given this new program idea, how are we going to make it work well? And how are we going to justify it in the context of getting more people to know about it?

Mr. DASILVA. Don.

Mr. WILSON. I am really taken aback by the question. The issue that we are only serving 12 percent of the population probably says we only have so many counselors. And as Greg and Sam can tell you, in some centers you have folks who are waiting 2 weeks, a month, 45 days to see a counselor. It is lack of capacity because of lack of resources.

I am very disheartened by my good friend, Dr. Blanchard's comments. Yes, we have been given the authority earlier to do this, in 1996. The fact of the matter is from 1996 to 1999, 40 of the 58 SBDCs were level-funded. How could we take on a new responsibility when we were not even keeping up with inflation.

Then we came to the Census. As a result of the Census, 24 States were scheduled to lose dollars, significant dollars.

To say that we are not serving enough people is to say no, we do not have enough resources. What I would like to hear from the SBA quite frankly, is to say why, with small businesses sending 42 percent of the revenues to the Treasury, that agency gets .04 percent of the budget?

Mr. DASILVA. I think the Chairman would like to know the answer to that, as well.

Mr. FREEDMAN. If I could just comment on the question that I asked, my thought is that more people, more of the small business community, needs to be turned on to what you do. Not that you are not working at your capacity, but how do we bring more people and make them aware of your efforts and get them to, as Todd suggested, when they find out they have a regulation they need to deal with, how do we get them to come to you?

Mr. WILSON. Marc, I think one of the issues is they are already coming to us. When folks are starting businesses, I can tell you very few of them have ever heard of the general duty clause. So when you are starting a business or you are starting a retread plant and you do not even know you are supposed to have a baghouse for your buffing dust, that is the type of information that our counselors can provide because they work very closely with EPA and OSHA.

Let me tell you, I ran a small business regulatory hotline for 15 years. Thousands of phone calls came in every year from the automotive industry. Who did I work with? I worked with OSHA and I worked with EPA to have that information. They have wonderful programs.

I can tell you there is not a greater—in my opinion—public servant in this city than that lady right there. Any time I called her,

Karen Brown would get me any information that I needed, and we disseminated tons of EPA information to our members.

That is what I began to try to do when I got here and found people like Sam and others who were trying to do it. We lack the resources. Do Sam and Greg get out and market for more people when they cannot even handle the people they have got now? They have got waiting lists. Why would they invest money in marketing to try to get more clients in the door when they cannot serve the ones they have got?

We need resources. This bill needs resources. I am astounded that my good friends at the SBA would not back that concept.

Mr. DASILVA. I would turn to Dr. Blanchard next.

Dr. BLANCHARD. Thank you and thank you for considering me a friend, Don.

Mr. WILSON. I certainly do, always have.

Dr. BLANCHARD. Obviously, there are resource tradeoffs that have to be made in this society, in general, this government, and of course in any agency including the SBA and its fine partner, the SBDCs.

If 1,000 centers only serve 12 percent of the small businesses, then it takes 2,000 to serve 24 percent. If you keep going on and on, you're talking about somewhere upwards of 8,000 centers if we're working at the full capacity that I am sure the SBDCs work at.

It is very difficult, given the resource constraints, to serve all small businesses and to provide the kind of regulatory relief assistance that we all, I think, are interested in providing. That is why this President has not only blessed the efforts that have already been undertaken in the area of the Small Business Compliance Alliance, where the Iowa SBDC is working on this, they are managing the alliance. The Southern Texas SBDC is working with IRS on their regulations. Nevada has already been mentioned, working with OSHA. And others out there are already doing this. The authority is already there.

What we need is a mechanism by which we can reach many more small businesses at a more cost effective and efficient fashion. What we are trying to do, in addition again to the work of our National Ombudsman and our Office of Advocacy, and the fine work that has been laid out by my partners in Labor and EPA, is to create this portal, this business compliance one-stop where businesses can dial into one website, have all regulations of participating States, as well as all regulations in the Federal Government, compiled in such a way that it is not just a library, but that has expert tools that walks the small business owner through the process of complying with the regulation. So that by the time they leave that website they are done complying with the regulations they need to move forward.

Now this is something that could be made available to the Small Business Development Centers. The Paperwork Relief Act and the web portals that it authorizes, as well as the SBREFA provisions, the Small Business Development Centers can work with these sorts of things.

We do not disagree that this is an important component of your job in helping small businesses. We simply believe that the author-

ity is there and if we are lacking in our ability to address this important need, we need to work more closely together.

This bill that addresses this need is simply duplicative. Thank you.

Mr. DASILVA. Let me ask you, in his letter to the Committee regarding S. 2483, SBA Administrator Barreto stated that, in addition to the concerns that you mentioned that it duplicates existing programs, he believed the legislation would also open the SBDCs to possible liability issues.

I know when Senator Cleland, who drafted the legislation, in his remarks today had stressed the legislation was one of forming partnerships with the Federal agencies that are out there providing these sorts of regulatory compliance assistance. I have read through the legislation, the Chairman has read through the legislation. And I cannot find anything within the Act that is duplicative of something that is currently going on within the Federal Government, unless you count the fact that some SBDCs currently provide these services.

To me it seems as if the portal program you are talking about, it sounds as if that is not off the ground yet. And you are also not talking about the counselor role that the SBDCs play.

I would like to give you a chance to respond to that, and I would also like to give the SBDCs a chance to respond to that, as well.

Dr. BLANCHARD. You are right, the portal is not off the ground. We are working, this is something that has been proposed in the President's Budget for 2003. Five million dollars has been proposed for the building of this portal. We have already begun work in this area with resources that we have already identified across agencies. But this is something that we are asking for in the 2003 Budget.

With regard to the work that SBDCs already provide, they provide excellent work. We do not dispute the need for the SBDCs to address this important issue for small businesses. The authority is there. We are simply confused why it is being reauthorized.

Mr. DASILVA. Don or Sam.

Mr. MALES. There is a basic assumption here that small businesses one, have the time to look at regulatory issues that are confronting them and they are going to go through a website or something of that nature. In reality, that is not true.

The small businesses, in many cases, the regulatory manager is the financial manager is the marketing manager, and is constantly exposed to all these different ideas. The things that rise to the top are what they address first, of their most pressing concern.

What they want, and my experience in 14 years is they want the information what is required of them, and then leave them alone. It is pretty simple, but if somebody can give it and they feel comfortable with them that they are working on their behalf, and you have to build trust over time. It is not necessarily a regulatory agency. But if they trust you, you give them the information, and we find that the vast majority of the small businesses want to comply. Give them the information and leave them alone.

Mr. DASILVA. Greg.

Mr. HIGGINS. I guess I would just simply reiterate what Sam said. Number 1, regulatory issues are not at the top of the list of

things that small businesses or individuals are looking at when they are starting small businesses.

Number 2, we think that the best time to deal with these regulatory issues is when they are starting the business. In Pennsylvania, and I expect the same is true in Nevada, and I know it is true around the United States, about half of the folks that we are dealing with are in the process of starting a business.

The question is where you get to them. That is the key place at which an intervention can make some difference. They are not going to look at the website, I am sorry. Pennsylvania has websites, everybody has got websites. Not many people are very interested, I am sorry. That is the reality.

Mr. DASILVA. Thank you, Greg.

I am going to switch topics right now and we can come back to the regulatory issue, but I do want to make sure that the roundtable does address all the topics that were on the agenda for today. We are going to switch topics now to the need for vocational entrepreneurial training. I am going to put out the first question for the group.

I understand that according to the House Committee report on this legislation, H.R. 2666, it concluded that there is a critical need for vocational entrepreneurial training. I wanted to put out a general question.

What are the benefits of providing entrepreneurial training to vocational students, and what is the need for it?

Ms. LONG. The Association for Career and Technical Education represents educators across the country who provide career-related programs to students in both secondary and post-secondary. In many States, career and technical education starts even earlier at even elementary and middle school. Notice that I say career and technical education, rather than vocational education.

Entrepreneurship and education is an integral part of career and technical education programs, as it should be since small businesses play such a vital role in the global economy.

We also know that State and local school districts take differing approaches to this entrepreneurship education, whether it is a stand-alone training class, whether it is integrated within the career technical programs within the school and curriculum.

The Federal role in education has been to assist in creating educational opportunities for individuals in communities, as well as to focus on management issues and management importance.

With the role of small businesses in the economy, it is fitting that Congress seek ways to assist local schools in providing effective entrepreneurship education. I can speak as a career and technical educator that we would like nothing more than to be involved in partnering with businesses to work with and to develop and expand and enhance entrepreneurship programs.

We do encourage you to look at and coordinate your efforts with the initiatives under the Quality Vocational and Technical Education Act and work to ensure that a duplication is avoided and that funds are used effectively and efficiently, so that we can merge and mesh these two processes together.

We also encourage you to focus not only on the technical assistance to schools, but to provide seed money to schools to start entre-

preneurship education or to upgrade existing programs. Again, as I see it, we would take and love to take the opportunity to enhance, expand and develop that partnership with small businesses.

Mr. DASILVA. Thank you very much.

Nancy.

Ms. KING. Nancy King, Fairfax County Public Schools.

Fairfax County, which is right across the river, has 24 high schools and 24 middle schools, and many more elementary schools. We are the 11th largest school system in the country.

Frankly, we piloted entrepreneurship education, a separate program, 12 years ago for the State. What happened at that time is it did not go. We tried a separate stand-alone course, it was a semester course, and it did not make, mainly because graduation requirements today are becoming more and more dramatic for students. This is considered an elective program. In addition to that, we have a lot more accountability issues today in core courses and our SOLs, of course, which we have all read about.

We choose to deliver entrepreneurship education through our career and technical courses. Frankly, 85 percent of students in middle and high schools in Fairfax County take those career and technical courses at some point. It may be one class, it may be what we call completer classes, which means they take two or more classes in their high school or middle school education.

In addition to that, what has happened in Fairfax County is 5 years ago we added an academy concept where we have higher level career and technical education courses and, through that, we have two components which is career experience, which is what I do. I work with businesses in the community to provide career experiences for students. All students who go through our academies are required to have a career experience.

In addition, we have a Career Connections program which is K–12. Frankly, I think most of our academy students express a desire to open their own business one day.

Anyway, what we like to see is some more career experiences that include entrepreneurship activities. I work a lot with large businesses, but frankly, small businesses—and I realize they do not have the time to mentor or to take on job shadow day opportunities—but they are a perfect opportunity for students to get basic entrepreneurship information by going out and spending a day with a small business owner.

We would also like to see more funding at the local level to implement more programs, to deliver more entrepreneurship education to these students.

As Brenda said, the Carl Perkins Funds drive what happens in our career and technical programs. It could possibly be a duplication. We would love to see the inclusion of entrepreneurship education throughout our programs and feel that it would be win-win.

Mr. DASILVA. Thank you, Nancy.

I am going to throw out another question on this topic.

Mr. COOKSEY. Could I ask a question? Thank you, John.

Nancy, I am a resident of Fairfax County and I have four children in your school system, four very lucky kids because it is an excellent school system.

And my son, this past school year, one of the programs he was involved in he was led through the process and created his own business with a financial plan and a management plan and all the hoo-haa that goes with it.

Mr. DASILVA. You did not help him with that, did you?

Mr. COOKSEY. No, as a matter of fact, if I had helped him he probably would have failed. He succeeded in spite of my help, let us say.

But you raised a point, and I want to touch on something that Dr. Blanchard has talked about when he started talking about the duplication. And then Brenda brought up Carl Perkins money. Unfortunately, people from the Department of Education are not here, because this would have been something I would have hoped that the Assistant Secretary for Vocational and Adult Education would have been able to address.

As I understand it, and you mentioned something about duplication just now. As I understand it, the Carl Perkins Funds, not the student loan funds, but the voc-ed type funds, they go as a block grant to the State education department. And then the State education department makes subgrants to whatever the local education group is, the school boards here, the independent school districts in Texas or wherever.

Are you saying that when those funds are coming down there is insufficient funds or there are no funds or you are not permitted to use these funds to provide this kind of entrepreneurial education at the vocational and technical level?

Ms. LONG. No, we certainly can use those funds for any career and technical program that has been approved by your State office as a part of that curriculum. So we certainly can use that.

Any time though that you are talking about resources, you are talking about career and technical education programs, you are talking about a large amount of resources required to keep these programs updated so that we are preparing our students for the work force that small businesses need.

So these funds are available, if not always sufficient.

Mr. COOKSEY. In the amount or in the scope that you can use them for?

Ms. LONG. In the amount. The scope that we can use them for, yes. We have, in the State of Virginia, we embed and have tried to embed entrepreneurship education within each of our career and technical programs, whether they are technology programs, whether they are trade programs, business, whatever.

So we have the flexibility of using our funds in any of our career and technical programs. But as in any fund or grant that you get, you always need additional resources, and we supplement that from funds from the local school budget.

But we certainly can use those funds for entrepreneurship and we do use those because, as I said in Virginia—and I do not know what the other States do—but in Virginia it is embedded within the competencies that we teach, for each program across the board.

Mr. COOKSEY. This vocational adult education legislation, this Carl Perkins legislation, is up for renewal next year and Congress will be, for a good portion of next year at the committee level and the floor, will be debating this. Obviously, this kind of practical

input from the ground level, in order to make sure that the legislation meets the needs of the local areas.

Ms. LONG. One of the things that we do as a part of our national association, the Association for Career and Technical Education, is work very closely with that committee in providing input on whatever they request. At the State levels, across the Nation, our career and technical educators certainly network with their Congressmen and Representatives to support that legislation and to support the funding.

We can show you where the impact comes right back to the individual school districts, the localities, and how that funding impacts that. So we certainly do provide that.

Mr. COOKSEY. Thank you, Brenda.

Mr. DASILVA. Christian.

Mr. CONROY. I am Christian Conroy, Pennsylvania Small Business Development Centers.

I wanted to just comment on the issue and the concern about duplication of services. It is something that we are very sensitive to in this program. We have structured our program, as we have developed it, to ensure that it does not duplicate other programs and services that are out there.

In Pennsylvania, we have been doing this since 1980, so 22 years. Over the course of that we have developed some strong partnerships with the various types of organizations and institutions that are out there in the community. It is from that experience that we have brought this bill, we have worked with Congressman Brady to develop the Vocational and Technical Entrepreneurship Development Program.

One of the things about the Carl Perkins program out of the Department of Education, that is really focused on developing people for employment. There is not anything in there, in terms of our interpretation, that really directs that to gear people toward operating their own business.

So what we are looking at here is this would be taking an established program that has been proven to work, that has over 20 years of experience, that has been fine-tuned and has demonstrated an impact, and using that as a resource to reach more people.

Mr. DASILVA. Thank you.

Brenda.

Ms. LONG. I would just like to say that we would like to use every effort to work with the Small Business Development Centers to partner with you on developing and expanding entrepreneurship programs. It is certainly what our association would look at to want to be that positive part.

I guess we talk about it in terms of coordinating our efforts. You have the expertise, we have the students. So we need to come together in that vein.

Mr. DASILVA. Brenda, I take it that you feel that the SBDCs are the appropriate folks to provide that kind of expertise?

Nancy.

Ms. KING. I agree 100 percent with Brenda, and I do not think I meant duplication in the vein that you took it. What is important to us is to work—we already partner a lot with local businesses, as I said. We send students out a lot in Career Experiences with

local businesses. The only reason the small businesses have not taken part in that is because they are just too busy. But we would love to have—we will welcome any training we can get.

One of the questions I had was how that would be delivered, too? Is that training for our educators? Guest speakers in the classroom? Whatever we can take, we would be very happy to get.

Mr. COOKSEY. Real quickly, a clarification here.

Your opinion, Christian, is that the Carl Perkins funds are more for job training and not entrepreneurship or training to start up and run a company. Is that your understanding?

Ms. LONG. It is embedded. Entrepreneurship is embedded as a part of career and technical education. So it is embedded in the Perkins legislation. It is part of that. Entrepreneurship is also a part of career and technical programs, so it is embedded in that.

Mr. DASILVA. I am going to turn to Dr. Blanchard.

Dr. BLANCHARD. Thanks, John.

I think, as was mentioned by our colleagues, Nancy King and Brenda Long, entrepreneurship education exists all around the country. Do we need more to help small businesses and small business startups? Sure.

But the real question is what is the means by which we create more entrepreneurial education? The SBDCs do very well to provide technical assistance and counseling to small business and would-be entrepreneurs. They do very well at this.

The question is should they extend their role to do this for schools and for school teachers to develop curricula? This is the problem. Administrator Barreto has charged this agency with really focusing on what we do very well. Resources are tight and there are many programs that our agency has that sometimes are so diffuse that we are not able to really do well on the most effective programs.

The SBDC program is an effective program. We simply want to be careful with expanding their role in areas where provision is already there. The Department of Education is the appropriate department to provide curricula assistance, to schools. The SBDCs are the appropriate means for providing technical assistance to entrepreneurs. Thank you.

Mr. DASILVA. Gregory.

Mr. HIGGINS. Let me respond to this mission issue because every year the Small Business Development Centers respond to a program announcement which is put out by SBA. Let me quote from the activities in the program announcement on whether this is an appropriate role.

It says:

> Activities which promote and/or develop other funding partners to assist the SBDC in its mission. Activities may include recruiting, developing and overseeing private and public resource organization individuals for the purpose of providing business development, counseling, training, and outreach efforts.

That, essentially, is what we are proposing to do in this bill. We are not going to take over the career and vocational operations. We cannot do it. We acknowledge that from the outset. What we are proposing to do is work with them to work with their clients, their students, to make them more effective business owners.

Now I recognize that in many systems there are courses that are described as entrepreneurial education, business education. Our point is that there is not a coherent curriculum. There is no question that there is some in some places, but for the most part there is not a coherent curriculum that would teach somebody the step-by-step process to starting and managing a business.

That is what we do, we think, very well. But we think the impact of our program has been demonstrated year after year. It is that that we want to work with these other institutions to increase their capability at the same time helping students. I think we are doing both, Dr. Blanchard, working with businesses while we are trying to help other organizations increase their capacity, which is something that SBA charges us to do every year.

Mr. DASILVA. Christian.

Mr. CONROY. I just want to follow up on Greg. I would hate to put an age limit on the availability of SBDC assistance for folks who are looking to start a business by saying you need to be over 18 and having graduated from high school, because otherwise we are not going to make this training available.

The other thing I think that is important is the training for folks here is not just for folks who are in high school. I mean, people who are in vocational and technical schools, in community colleges, many times this is after they have graduated from high school.

One other point I just wanted to comment on, getting back to the Perkins Act, is I think one of the interesting points that Brenda pointed out is that when the money is given out, decisions have to be made as to what that is going to be used for. That all gets back down to what Don had said initially. It is about resources.

What this bill is looking to do is it is looking to provide additional resources so that more folks who are interested in starting a business have access to the type of information that they need to be successful when they venture into that.

Mr. DASILVA. Nancy.

Ms. KING. I just wanted to address how we embed entrepreneurship in our career and technical programs. I taught for 25 years in a career and technical classroom. I probably was able to touch on entrepreneurship for about 3 weeks out of that 36-week course. I was able to most likely give some competency awareness of entrepreneurship through my vocational student organization. I was able to give students creative applications, doing the kinds of projects that your son was able to do.

What we cannot touch on in the local school system is the start-up. That person who has decided "now I am going to do it." And also those people that decide they want to grow their business. I am sure that those are the ones that come through your door.

I just wanted to address what Christian just said and say that yes, beyond that, those career and technical schools are probably good venues for that, as well.

Mr. DASILVA. I am going to let Don make a comment and then I want to turn it over to specific questions regarding the bills themselves.

Don.

Mr. WILSON. Thank you, John, very much.

Let me harken back to a previous life of mine, when I was in the automotive aftermarket industry. The Nation had a terrible, terrible shortage of auto mechanics. It was a huge issue for the industry and finding trained workers continues to be a major problem for businesses.

But as we delved into that issue and looked at what was being provided, we discovered that whether it was auto mechanics, brick masons, or whatever, vo-tech schools in many areas—now I live in Fairfax County, too, and my children are products or Fairfax County Public Schools. They have some outstanding curriculums that are certainly head and shoulders above so many school systems around the country.

But whether it is in the general secondary schools or vo-tech schools, so much of the vocational and technical education is teaching someone to be a brick mason, teaching someone to be an auto mechanic, teaching someone to be an electrician. They get out of that course and, at some point in their life, maybe originally or a few years later, they suddenly decide "Gee, I would like to do it myself." We would refer our people who did that constantly to the SBDCs when I was in the automotive aftermarket.

But what Greg understands is failure rates. People without some exposure in their education to what entrepreneurship is, and meaningful exposure, will often try it and fail. What we want to reduce is the failures. We know who is creating jobs in this country. We know who is driving this economy. We know that 1-in-10 want to do it.

The last 3 days, the newspaper indicated that of people who are now working, who are now employed, I think it is something like 30 percent expect to be doing something else within the year. A significant number of those want to form small businesses.

Now we have got to expand entrepreneurial training. These people have the expertise to work with these people. They want to do it. They want to partner. I think this Government, with this kind of dollars—and $7 million is not a whole lot—can find the resources to create these kind of partnerships to improve the entrepreneurial climate in this country.

Mr. DASILVA. Paul has some specific questions he wants to propose to the group on the legislation.

Mr. COOKSEY. I want to refer back to S. 2483, the Small Business Regulatory Compliance bill, because I have listened intently to everything that has been said. I met with Sam Males for a while yesterday afternoon and we talked some about this.

Everything seems to center around partnerships between the SBDCs and the Federal regulatory agencies. It talks about the two working together, going to and going out and helping small businesses contend with Federal regulations.

The legislation that is before the Committee is different from that. The legislation does refer to partnership in two places. Under what it directs SBDCs to do, it is the sixth thing listed. After the SBDCs are directed to set up programs similar to the 507 program, to conduct training and educational activities, to offer confidential free-of-charge counseling, to provide technical assistance, to give referrals. Then it mentions partnerships at the end.

I have spent a little bit of time at SBA and spent a little bit of time here and one thing I have learned is if you want to get something done with SBA, you better be very specific about exactly what it is you want them to do. Because if you kind of waffle around it and are not specific about it, heaven knows where you are going to end up.

It almost seemed to me today, based on the discussion, that the bill should be talking about the Federal regulatory compliance assistance partnership act, and it should define what that partnership should be. What this bill does not even begin to address, it should define the relationship between the SBDCs and the Federal regulatory agencies.

None of that is done here. But that is what we have to have if we are going to have effective legislation. Because what Senator Bond—and he would go off and be much more eloquent on this than I am and much more specific. But the problems that he would have to face is going to the appropriators because John, you say the regulatory bill is $5 million a year, the education bill is $7 million. In the overall scheme of things it is a drop in the bucket. But still, you have got to go to the CJS Appropriations Subcommittee.

If you have a program that looks like something that is already there and Federal agencies that say it is duplicative of what is already being done, you have got one chance out of one-hundred that you may get partial funding.

On the other hand, if you have got legislation that has been developed working with the Federal regulatory agencies, working with Gary Visscher and his team at OSHA did in developing the partnership and have them working with you on developing the legislation, working with Jay and Lisa and their team at EPA, and defining the partnership and the role.

Then you have legislation which I think we could probably convince the 19 Senators on this Committee to unanimously support. But that also the Federal agencies would say yes, this make sense.

Mr. DASILVA. Paul, I am sorry. Is there a question in there for the group?

Mr. COOKSEY. What I am trying to get to is what is it that you are trying to do? Is it that you are really trying to do a partnership? Or are you trying to do what is set forth in this bill?

Mr. WILSON. I think, Paul, that Mr. Sweeney, the unanimous vote of the House Small Business Committee, and it seemed to me the vote last week, and certainly Senator Cleland's very eloquent comments today made clear that we are trying to establish partnerships.

Now you and I know that when you draft legislation, most of the time you leave things to regs. One of the things we discovered is that there are certain folks that like to micromanage things. We did not need any micromanagement for SBDCs to go to their States or go to their 507s or go to the pollution prevention people. Did not need micromanagement for me to go down and work with John Hinshaw and his remarkable staff. Did not need micromanagement for me to go and work with Karen Brown.

It is very clear that SBDCs, the statute already says, that we are to provide regulatory management assistance. It stresses—that is

one of the great things in this legislation—it stresses that we are to establish partnerships. It is really rather clear.

I do not think there is not anybody in this room that does not understand from listening to Senator Cleland's comments, and I know the comments that Ms. Velázquez and Chairman Manzullo and Mr. Sweeney, Mr. Smith and folks on the other side, they all understood that this bill was about partnerships and that we were to go out and establish them, enhance them, nourish them.

We know who the other deliverers are. We know that Karen Brown has resources and Mr. Visscher has resources. That is what we do. We go and find those resources, utilize them, maximize them, coordinate them.

Now I read through this thing over and over and over and over again and if the appropriators do not understand that we are trying to set up partnerships and maximize things, certainly Mr. Sweeney is an appropriator on the House side and he understands it thoroughly.

I have not met anybody on the Senate Appropriations Committee who cannot read this bill and understand what we are trying to do. But if there needs some clarification, I would be delighted, and I am sure all the folks in this room would be glad to try to do that.

But what we truly hope is that this discussion that we have got to tinker and tinker and tinker, you know this bill has been around for a long time. We have been talking about doing this for about 8 years. You have been a friend on this, and so forth.

What I would hate to see, after 2 years of solid work in this Congress, for us to tinker around and everybody go home and it still not get done. Because the people who would be the real losers are the small businesses out there in America's economy.

Now we can tinker and we can keep trying to find perfection, but there will always be somebody who will say "that phrase bothers me a little bit." You keep referring that we are going to create duplicate programs to the 507, but the way I read it is that we are to use them as a resource, the reference to the 507 program. I may be reading that incorrectly, and you are far sharper at reading legislation than I.

But I think everybody knows what is trying to be done here. We have got a small window of opportunity. If we fail to achieve this opportunity and let this Congress run out, we will have to start all over again for 2 years. Once again, I am sure there will be somebody that it is not quite right for them. So let us decide whether or not we want to help small businesses in this country with the—you know, I noticed that since 1996, 21,000 new regs and so forth.

My good friend down here in the corner, he is working to help all he can. But you know, 21,000 new regs that apply to small businesses. They are just swamped, Paul. Let us get the job done. We can work with regulations. We work with SBA. We can work with EPA. We have proved it with OSHA.

Let us get the job done and focus on who the client is, the small business people in this economy.

Mr. DASILVA. Thank you, Don.

Mark.

Mr. SHANAHAN. Mark Shanahan.

I guess I would raise the issue, really a question for you, Paul. It is something that you said in your statement. Certainly, my network had the concern and then we read the bill. I, also, I guess am echoing Don and saying from our perspective I want to make sure we are reading it correctly.

We also had a concern that the legislation said that SBDCs should create something like the 507 program, and then looked at this language. It appeared to us that what the language says is they shall provide access to programs like ours, which we interpreted to include other programs like the P2 programs and similar programs on non-environmental issues.

Our whole network would be very concerned if they felt that the language does not say what we think it does, because that is certainly the concept we are supportive of.

Mr. DASILVA. Mark, let me just quote the language. It says:

> Specifically provide access to information and resources, including current Federal and State, non-punitive compliance and technical assistance programs similar to those established under Section 507 of the Clean Air Act Amendments of 1990.

So it says "provide access to information and resources."

Mr. WILSON. That seems pretty clear to me.

Mr. DASILVA. Dr. Blanchard.

Dr. BLANCHARD. Yes, thank you, John.

Mr. Wilson, I will tell you, we all share your passion to help small businesses. We surely applaud, and I speak for SBA obviously, we applaud your efforts, your ingenuity and your initiative to establish the partnerships that you have with the agencies represented here today. We support your further initiative to establish other partnerships with similar agencies who impose onerous regulations on small businesses.

What does this bill provide you that you are not already authorized to do? That is all I have to ask.

Mr. WILSON. Doctor, I think it expresses very clearly and very articulately the will of Congress that we establish partnerships so that it is perfectly clear to everyone concerned, and it also authorizes new resources that this program has not had since Congress first told us to help small businesses deal with their regulatory burdens.

Mr. DASILVA. John.

Mr. SATAGAJ. It is all about the money. I mean, let us get it on the table. I am tired of this debate only in who cares, the U.S. statutes are replete with redundant deals. I mean, we would not have, Michael, as good a job as you do, if it was up to me we would not have your office because we have the Office of Advocacy.

When they were developing these things, and Paul knows this, as the legislation was developed, I said why do we have to have an Ombudsman for? We have got an Office of Advocacy.

Well, you do a great job. So we got it right there. The truth is it is another way to try and find money.

Mr. BARRERA. You do not like things starting out, do you?

[Laughter.]

Mr. SATAGAJ. No, I do not. But I can be proven wrong more than once.

The point is on the table, if it is redundant, so what? Let it be on the books because there are a zillion other ones redundant.

Is it the point that you do not want it to go for more money a different way? If it is, let us get that on the table and understand it, rather than this debate on these other things. I mean, let us say what it really is. Let us make some progress here instead of it is in, it is out.

Are you against the funding of the program from another way?

Dr. BLANCHARD. You know, I work with other program offices within the agency to develop a resource base that we can use to support and help small businesses, whether it is through our finance programs, through our entrepreneurial training programs, or our programs that help provide access to Government contracting.

Obviously, we do not exist in a vacuum. There are other demands on resources that are managed by agencies that are mandated to manage those.

Am I against having more resources? No. Am I able and willing to manage and try to fund ways to increase our ability to serve small businesses with the resources that the President has provided us? Yes.

Mr. DASILVA. I would also like to point out one particular instance, in regard to the resource issue, that I think we are overlooking in the legislation. Within the authorization for the legislation, unless I am completely misremembering, but since I have it highlighted I can just read it.

Limitation on the use of other funds. The Administrator may carry out the pilot program only with amounts appropriated in advance specifically to carry out this section. Meaning if the appropriation does not happen, the money does not come, the SBA does not do the program.

So I think the concern that SBA is going to have to do this regardless does not really factor in here, at least just looking at the legislation the way it is drafted. There is a limitation. So if the money is not appropriated, the program does not happen.

Dr. BLANCHARD. We understand that.

Mr. DASILVA. Then is the objection to the appropriators giving more money to the program?

Dr. BLANCHARD. The Administration, this is an Administration position, John. We are at war. Resources are very, very tight. SBA just received—there was just a rescission that was made. Rescissions are being made across the Government to help pay for the new Homeland Security Department.

The Administration is managing the resources that it has. This President pushed for a tax cut for the American people and small businesses, more than any group in this country, benefited from that tax cut. The President ran and is being successful in managing fiscal resources in a way that few have. He faces a difficult challenge now with the challenges we face in regards to the war on terrorism, providing economic security which means providing economic security for small businesses, and to provide homeland security.

The resources are tight. The Administration is not in a position to ask for more money for a program that has resources, plenty of resources, that are leveraged sometimes 2-, 3-, 4-to-1. That is based on the success of the SBDCs. They are a wonderful partner to

have. But those resources that are provided are leveraged very, very well.

To ask for more money suggests that this group, this organization, this partnership, this network is operating at 100 percent and cannot go farther without it.

Mr. DASILVA. So the objection is to the funding?

Dr. BLANCHARD. The objection is to the duplication of the authorization.

Mr. DASILVA. Let me ask you a question, since you mentioned the President's agenda and SBA's opposition to the legislation, of all the legislation that has passed the House Committee and the Senate Committee in this Congress, has the Administration supported any piece of legislation passed out of the committees?

Dr. BLANCHARD. I am sure the Administration is in the process of reviewing that legislation and will soon come up with a position on each one of those.

Mr. DASILVA. The Administration has sent up some letters in opposition to several pieces of legislation? Have they sent up any letters in support of any of the legislation?

Dr. BLANCHARD. I do not believe they have. I do not believe they have just yet.

Mr. DASILVA. Thank you.

Don.

Mr. WILSON. Mr. DaSilva, no one could be more cognizant of the difficult job that the President has and OMB in trying to allocate resources. And I appreciate Dr. Blanchard, who is from OMB, reflecting that position.

But in the 27 years that I have been in this city, I must be very candid with you, I have rarely seen OMB be an advocate for resources for small business. They advocate all manner of programs for all manner of groups, but rarely do they advocate for small business.

Now what I am going to say is politically incorrect and I apologize if I offend anybody, because the struggle for how to find the resources is always there. I noticed recently in the House, and you are talking about the lack of resources and the difficulty of the economy and fighting a war on two fronts, at home and abroad.

But we found $10 million for the National Endowment for the Arts, new money. Now if the National Endowment for the Arts is a higher priority for our Government than the small business community that drives this economy, then there are some misplaced priorities, in my personal opinion. But that is my personal opinion.

I noticed in the Ag bill that you will probably do about $8 million for oilseed farmers. You could probably get all of them in this room. You could not get 25 million small businesses in this room.

So it is a matter of how you allocate those resources and we just believe that with a little effort Dr. Blanchard and his friends at SBA and others could reflect the will of so many we find in the Congress who understand that if we are going to get the resources to run these other programs, we have got to get the economy going again.

If the economy is going to go again, the only person who has done it—just look at the last recession. Who got us out of the last recession? It was not big business. Look what is happening with

the Fortune 500 laying off people. If we get out of this current recession and the 1 percent growth that was about one-third of what people had predicted, it is going to be small business.

So you better start taking care of the golden goose or the egg is not going to come out.

Mr. DASILVA. Thank you, Don. Any further comments?

I am going to propose a question on the second bill before the Committee, H.R. 2666. I am going to ask specifically for the SBDCs, since they would be the primary beneficiary of the grants, in regard to the authorized level and the grant funding level within the legislation, if they felt that the specific level set and the minimum grant level of $200,000 was enough to provide these programs, to run these programs effectively?

Mr. HIGGINS. Yes.

Mr. DASILVA. So that is a yes.

I am going to ask the same of the SBDCs, one of the differences between the Cleland bill and the Sweeney bill is in regard to the funding formula. The Cleland bill has a simpler funding formula of grants between, I believe $150,000 and $200,000, depending on the State's size. I wanted to know if that was an adequate level that was set for the pilot program?

Mr. WILSON. Mr. DaSilva, as you know, we had had some discussions on the House side about the funding formula and there is an anomaly there that if certain large States were chosen for grants with a group of small States, there would be a great unevenness there and would probably result in some of the smaller States not having the adequate resources.

We appreciate the work of Senator Cleland and Senator Kerry's staff, we think, in improving that. I think Mr. Sweeney, in his letter to you in supporting this bill, fully understands that the language in this bill is an improvement in the funding formula and we fully support and are grateful for it.

Mr. MALES. I would just like to second that, as well. I think having that flexibility gives the States the opportunity to meet their needs. Some may not need the dollar amount that is listed there as a minimum, and I think by raising it somewhat it will help the larger States who will need those resources to meet their demand.

Mr. DASILVA. Did anybody have any questions specifically?

Mike.

Mr. BARRERA. I'm looking at the bill, getting off all the funding stuff. I'm staying away from that specifically.

On the bill itself, you talk about giving referrals to experts and other providers of compliance assistance, and it is up to the Administrator to come up with a way to determine whether these experts are going to be acceptable. That is putting the SBA in a situation that we are supposed to determine whether someone is an expert or not, or can they be an expert.

Mr. DASILVA. A regulatory role, yes.

Mr. BARRERA. A regulatory, so you are going to put us in the role of determining whether EPA's people are going to be a proper expert. With EPA you have got several, Clean Air Act, Superfund stuff. Even though you are talking about funds, you are putting a lot of extra, I guess time and resources to determining who is going to be an expert or not.

We talked about the potential legal liability. I am a former lawyer and if we have some SBDCs possibly referring people to an expert and that person is not an expert and that small business gets into trouble, that is where you may run into some potential problems. An inventive lawyer will find ways.

I just wanted to make that comment.

Mr. DASILVA. Thank you. Any further comments?

I thank the participants for coming today. We ran a little over, which is not unusual for the Committee. With the Chairman's compliments, I thank you for coming.

The record will be held open for 2 weeks. With that, we're adjourned.

[Whereupon, at 4:03 p.m., the roundtable was adjourned.]

COMMENTS FOR THE RECORD

Summary of S. 2483, the "National Small Business Regulatory Assistance Act of 2002"

Introduced on May 8, 2002
by Senators Cleland, Kerry, Landrieu, Jeffords, Harkin, Bingaman, Carnahan, Leahy, Lieberman and Johnson. Additional cosponsors: Miller, Stabenow and Cantwell.

Purpose
To establish a four-year pilot program, the purpose of which is to provide resources to Small Business Development Centers (SBDC) so they may provide free-of-charge, non-punitive regulatory compliance assistance to small business owners. The legislation also establishes statutory privacy protections for small businesses that use SBDC counseling services.

Pilot Program
The legislation requires the Small Business Administration (SBA) to provide grants to the SBDC programs of two states in each of the SBA's 10 regions. The grants shall be more than $150,000, but less than $300,000 and shall be made without a matching requirement.

Grant Purpose
SBDCs are required to use the grants to provide: access to information and resources, including current Federal and State non-punitive compliance and technical assistance programs; conduct training and educational activities; and, offer confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations derived from Federal law.

SBDC Reporting Requirement
SBDCs participating in the pilot program would be required to submit a quarterly report that includes: a summary of the regulatory compliance assistance provided by the center under the pilot program; the number of small business concerns assisted under the pilot program; and for every fourth report, any regulatory compliance information based on Federal law that a Federal or State agency has provided to the center during the preceding year and requested that it be disseminated to small business concerns.

SBA Requirements
The SBA would have responsibility for evaluating the pilot program and making recommendations on the extension of the program to other SBDCs. The SBA must also promulgate final regulations to carry out the pilot program within 180 days of passage.

Privacy Provisions
The legislation contains a provision that prohibits SBDCs from disclosing the name, street address or phone number of a client. Exemptions are made for court orders and audits. SBDC program activity data would still be available to the SBA under this provision for evaluation purposes.

II

107TH CONGRESS
2D SESSION

S. 2483

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2002

Mr. CLELAND (for himself, Mr. KERRY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. HARKIN, Mr. BINGAMAN, Mrs. CARNAHAN, Mr. LEAHY, Mr. LIEBERMAN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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A BILL

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Small Busi-
5 ness Regulatory Assistance Act of 2002".

SEC. 2. PURPOSE.

The purpose of this Act is to establish a 4-year pilot program to—

(1) provide confidential assistance to small business concerns;

(2) provide small business concerns with the information necessary to improve their rate of compliance with Federal and State regulations derived from Federal law;

(3) create a partnership among Federal agencies to increase outreach efforts to small business concerns with respect to regulatory compliance;

(4) provide a mechanism for unbiased feedback to Federal agencies on the regulatory environment for small business concerns; and

(5) utilize the service delivery network of Small Business Development Centers to improve access of small business concerns to programs to assist them with regulatory compliance.

SEC. 3. SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration, acting through the Associate

1 Administrator for Small Business Development Cen-
2 ters.
3 (2) ASSOCIATION.—The term "Association"
4 means the association, established pursuant to sec-
5 tion 21(a)(3)(A) of the Small Business Act (15
6 U.S.C. 648(a)(3)(A)), representing a majority of
7 Small Business Development Centers.
8 (3) PARTICIPATING SMALL BUSINESS DEVELOP-
9 MENT CENTER.—The term "participating Small
10 Business Development Center" means a Small Busi-
11 ness Development Center participating in the pilot
12 program established under this Act.
13 (4) REGULATORY COMPLIANCE ASSISTANCE.—
14 The term "regulatory compliance assistance" means
15 assistance provided by a Small Business Develop-
16 ment Center to a small business concern to facilitate
17 the concern in complying with Federal and State
18 regulatory requirements derived from Federal law.
19 (5) SMALL BUSINESS DEVELOPMENT CEN-
20 TER.—The term "Small Business Development Cen-
21 ter" means a Small Business Development Center
22 described in section 21 of the Small Business Act
23 (15 U.S.C. 648).
24 (6) STATE.—The term "State" means each of
25 the several States, the District of Columbia, the

1 Commonwealth of Puerto Rico, the Virgin Islands,
2 American Samoa, and Guam.
3 (b) AUTHORITY.—In accordance with this section,
4 the Administrator shall establish a pilot program to pro-
5 vide regulatory compliance assistance to small business
6 concerns through participating Small Business Develop-
7 ment Centers.
8 (c) SMALL BUSINESS DEVELOPMENT CENTERS.—
9 (1) IN GENERAL.—In carrying out the pilot
10 program established under this section, the Adminis-
11 trator shall enter into arrangements with partici-
12 pating Small Business Development Centers under
13 which such centers will—
14 (A) provide access to information and re-
15 sources, including current Federal and State
16 nonpunitive compliance and technical assistance
17 programs similar to those established under
18 section 507 of the Clean Air Act Amendments
19 of 1990 (42 U.S.C. 7661f);
20 (B) conduct training and educational ac-
21 tivities;
22 (C) offer confidential, free-of-charge, one-
23 on-one, in-depth counseling to the owners and
24 operators of small business concerns regarding
25 compliance with Federal and State regulations

1 derived from Federal law, provided that such
2 counseling is not considered to be the practice
3 of law in a State in which a Small Business
4 Development Center is located or in which such
5 counseling is conducted;
6 (D) provide technical assistance;
7 (E) give referrals to experts and other pro-
8 viders of compliance assistance who meet such
9 standards for educational, technical, and profes-
10 sional competency as are established by the Ad-
11 ministrator; and
12 (F) form partnerships with Federal compli-
13 ance programs.
14 (2) REPORTS.—Each participating Small Busi-
15 ness Development Center shall transmit to the Ad-
16 ministrator and the Chief Counsel for Advocacy of
17 the Small Business Administration, as the Adminis-
18 trator may direct, a quarterly report that includes—
19 (A) a summary of the regulatory compli-
20 ance assistance provided by the center under
21 the pilot program;
22 (B) the number of small business concerns
23 assisted under the pilot program; and
24 (C) for every fourth report, any regulatory
25 compliance information based on Federal law

1 that a Federal or State agency has provided to
2 the center during the preceding year and re-
3 quested that it be disseminated to small busi-
4 ness concerns.

5 (d) ELIGIBILITY.—A Small Business Development
6 Center shall be eligible to receive assistance under the
7 pilot program established under this section only if such
8 center is certified under section 21(k)(2) of the Small
9 Business Act (15 U.S.C. 648(k)(2)).

10 (e) SELECTION OF PARTICIPATING STATE PRO-
11 GRAMS.—

12 (1) IN GENERAL.—In consultation with the As-
13 sociation and giving substantial weight to the rec-
14 ommendations of the Association, the Administrator
15 shall select the Small Business Development Center
16 programs of 2 States from each of the following
17 groups of States to participate in the pilot program
18 established under this section:

19 (A) Group 1: Maine, Massachusetts, New
20 Hampshire, Connecticut, Vermont, and Rhode
21 Island.

22 (B) Group 2: New York, New Jersey,
23 Puerto Rico, and the Virgin Islands.

1 (C) Group 3: Pennsylvania, Maryland,
2 West Virginia, Virginia, the District of Colum-
3 bia, and Delaware.
4 (D) Group 4: Georgia, Alabama, North
5 Carolina, South Carolina, Mississippi, Florida,
6 Kentucky, and Tennessee.
7 (E) Group 5: Illinois, Ohio, Michigan, Indi-
8 ana, Wisconsin, and Minnesota.
9 (F) Group 6: Texas, New Mexico, Arkan-
10 sas, Oklahoma, and Louisiana.
11 (G) Group 7: Missouri, Iowa, Nebraska,
12 and Kansas.
13 (H) Group 8: Colorado, Wyoming, North
14 Dakota, South Dakota, Montana, and Utah.
15 (I) Group 9: California, Guam, American
16 Samoa, Hawaii, Nevada, and Arizona.
17 (J) Group 10: Washington, Alaska, Idaho,
18 and Oregon.
19 (2) DEADLINE FOR SELECTION.—The Adminis-
20 trator shall make selections under this subsection
21 not later than 60 days after publication of final reg-
22 ulations under section 4 of this Act.
23 (f) MATCHING NOT REQUIRED.—Subparagraphs (A)
24 and (B) of section 21(a)(4) of the Small Business Act (15
25 U.S.C. 648(a)(4)) shall not apply to assistance made

1 available under the pilot program established under this
2 section.

3 (g) GRANT AMOUNTS.—Each State program selected
4 to receive a grant under subsection (e) shall be eligible
5 to receive a grant in an amount—

6 (1) not less than $150,000 per fiscal year; and
7 (2) not to exceed $300,000 per fiscal year.

8 (h) EVALUATION AND REPORT.—Not later than 30
9 months after the disbursement of the first grant under
10 the pilot program, the General Accounting Office shall—

11 (1) initiate an evaluation of the pilot program;
12 and

13 (2) within 6 months of the initiation of the
14 evaluation under paragraph (1), transmit, to the Ad-
15 ministrator, the Committee on Small Business and
16 Entrepreneurship of the Senate, and the Committee
17 on Small Business of the House of Representatives,
18 a report containing—

19 (A) the results of the evaluation under
20 paragraph (1); and

21 (B) any recommendations as to whether
22 the pilot program, with or without modification,
23 should be extended to include the participation
24 of all Small Business Development Centers.

25 (i) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section—
3 (A) $5,000,000 for the fiscal year begin-
4 ning after the enactment of this Act; and
5 (B) $5,000,000 for each of the 3 fiscal
6 years following the enactment of this Act.
7 (2) LIMITATION ON USE OF OTHER FUNDS.—
8 The Administrator may carry out the pilot program
9 only with amounts appropriated in advance specifi-
10 cally to carry out this section.
11 (j) TERMINATION.—The authorization to carry out
12 the Small Business Regulatory Assistance Pilot Program
13 established under this section shall terminate 4 years after
14 the disbursement of the first grant.
15 **SEC. 4. PROMULGATION OF REGULATIONS.**
16 After providing notice and an opportunity for com-
17 ment, and after consulting with the Association (but not
18 later than 180 days after the date of enactment of this
19 Act), the Administrator shall promulgate final regulations
20 to carry out this Act, including regulations that
21 establish—
22 (1) priorities for the types of assistance to be
23 provided under the pilot program;

(2) standards relating to educational, technical, and support services to be provided by participating Small Business Development Centers;

(3) standards relating to any national service delivery and support function to be provided by the Association under the pilot program;

(4) standards relating to any work plan that the Administrator may require a participating Small Business Development Center to develop; and

(5) standards relating to the educational, technical, and professional competency of any expert or other assistance provider to whom a small business concern may be referred for compliance assistance under the pilot program.

SEC. 5. PRIVACY REQUIREMENTS APPLICABLE TO SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended by adding at the end the following:

"(9) PRIVACY REQUIREMENTS.—

"(A) IN GENERAL.—No Small Business Development Center, consortium of Small Business Development Centers, or contractor or agent of a Small Business Development Center shall disclose the name, street, address, or tele-

1 phone number of any individual or small busi-
2 ness concern receiving assistance under this
3 section without the consent of such individual
4 or small business concern, except that—
5 "(i) the Administrator shall require
6 such disclosure if ordered to do so by a
7 court in any civil or criminal enforcement
8 action commenced by a Federal or State
9 agency; and
10 "(ii) if the Administrator considers it
11 necessary while undertaking a financial
12 audit of a Small Business Development
13 Center, the Administrator shall require
14 such disclosure for the sole purpose of un-
15 dertaking such audit.
16 "(B) REGULATIONS.—The Administrator
17 shall issue regulations to establish standards for
18 requiring disclosures during a financial audit
19 under subparagraph (A)(ii).
20 "(C) ADMINISTRATION USE OF INFORMA-
21 TION.—This section shall not be interpreted
22 to—
23 "(i) restrict Administration access to
24 program activity data; or

1 "(ii) prevent the Administration from
2 using client information (other than the in-
3 formation listed in subparagraph (A)) to
4 conduct client surveys.".
5 (b) EFFECTIVE DATE.—This section shall take effect
6 30 days after the date of enactment of this Act.

○

107TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT 107–210

NATIONAL SMALL BUSINESS REGULATORY ASSISTANCE ACT OF 2001

SEPTEMBER 21, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MANZULLO, from the Committee on Small Business, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 203]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 203) to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Small Business Regulatory Assistance Act of 2001".

SEC. 2. PURPOSE.

The purpose of this Act is to establish a pilot program to—

(1) provide confidential assistance to small business concerns;

(2) provide small business concerns with the information necessary to improve their rate of compliance with Federal and State regulations;

(3) create a partnership among Federal agencies to increase outreach efforts to small business concerns with respect to regulatory compliance;

(4) provide a mechanism for unbiased feedback to Federal agencies on the regulatory environment for small business concerns; and

(5) utilize the service delivery network of Small Business Development Centers to improve access of small business concerns to programs to assist them with regulatory compliance.

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SEC. 3. DEFINITIONS.

In this Act, the definitions set forth in section 36(a) of the Small Business Act (as added by section 4 of this Act) shall apply.

SEC. 4. SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.

The Small Business Act (15 U.S.C. 637 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following new section:

"SEC. 36. SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Small Business Administration, acting through the Associate Administrator for Small Business Development Centers.

"(2) ASSOCIATION.—The term 'Association' means the association, established pursuant to section 21(a)(3)(A), representing a majority of Small Business Development Centers.

"(3) PARTICIPATING SMALL BUSINESS DEVELOPMENT CENTER.—The term 'participating Small Business Development Center' means a Small Business Development Center participating in the pilot program.

"(4) PILOT PROGRAM.—The term 'pilot program' means the pilot program established under this section.

"(5) REGULATORY COMPLIANCE ASSISTANCE.—The term 'regulatory compliance assistance' means assistance provided by a Small Business Development Center to a small business concern to enable the concern to comply with Federal regulatory requirements.

"(6) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'Small Business Development Center' means a Small Business Development Center described in section 21.

"(7) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"(b) AUTHORITY.—In accordance with this section, the Administrator shall establish a pilot program to provide regulatory compliance assistance to small business concerns through participating Small Business Development Centers, the Association, and Federal compliance partnership programs.

"(c) SMALL BUSINESS DEVELOPMENT CENTERS.—

"(1) IN GENERAL.—In carrying out the pilot program, the Administrator shall enter into arrangements with participating Small Business Development Centers under which such centers will provide—

"(A) access to information and resources, including current Federal and State nonpunitive compliance and technical assistance programs similar to those established under section 507 of the Clean Air Act Amendments of 1990;

"(B) training and educational activities;

"(C) confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations, provided that such counseling is not considered to be the practice of law in a State in which a Small Business Development Center is located or in which such counseling is conducted;

"(D) technical assistance; and

"(E) referrals to experts and other providers of compliance assistance who meet such standards for educational, technical, and professional competency as are established by the Administrator.

"(2) REPORTS.—

"(A) IN GENERAL.—Each participating Small Business Development Center shall transmit to the Administrator a quarterly report that includes—

"(i) a summary of the regulatory compliance assistance provided by the center under the pilot program; and

"(ii) any data and information obtained by the center from a Federal agency regarding regulatory compliance that the agency intends to be disseminated to small business concerns.

"(B) ELECTRONIC FORM.—Each report referred to in subparagraph (A) shall be transmitted in electronic form.

"(C) INTERIM REPORTS.—During any time period falling between the transmittal of quarterly reports, a participating Small Business Development Center may transmit to the Administrator any interim report containing data or information considered by the center to be necessary or useful.

"(D) LIMITATION ON DISCLOSURE REQUIREMENTS.—The Administrator may not require a Small Business Development Center to disclose the name or

address of any small business concern that received or is receiving assistance under the pilot program, except that the Administrator shall require such a disclosure if ordered to do so by a court in any civil or criminal enforcement action commenced by a Federal or State agency.

"(d) DATA REPOSITORY AND CLEARINGHOUSE.—

"(1) IN GENERAL.—In carrying out the pilot program, the Administrator shall—

"(A) act as the repository of and clearinghouse for data and information submitted by Small Business Development Centers; and

"(B) transmit to the President and to the Committees on Small Business of the Senate and House of Representatives an annual report that includes—

"(i) a description of the types of assistance provided by participating Small Business Development Centers under the pilot program;

"(ii) data regarding the number of small business concerns that contacted participating Small Business Development Centers regarding assistance under the pilot program;

"(iii) data regarding the number of small business concerns assisted by participating Small Business Development Centers under the pilot program;

"(iv) data and information regarding outreach activities conducted by participating Small Business Development Centers under the pilot program, including any activities conducted in partnership with Federal agencies;

"(v) data and information regarding each case known to the Administrator in which one or more Small Business Development Centers offered conflicting advice or information regarding compliance with a Federal or State regulation to one or more small business concerns;

"(vi) any recommendations for improvements in the regulation of small business concerns; and

"(vii) a list of regulations identified by the Administrator, after consultation with the Small Business and Agriculture Regulatory Enforcement Ombudsman, as being most burdensome to small business concerns, and recommendations to reduce or eliminate the burdens of such regulations.

"(e) ELIGIBILITY.—

"(1) IN GENERAL.—A Small Business Development Center shall be eligible to receive assistance under the pilot program only if the center is certified under section 21(k)(2).

"(2) WAIVER.—With respect to a Small Business Development Center seeking assistance under the pilot program, the Administrator may waive the certification requirement set forth in paragraph (1) if the Administrator determines that the center is making a good faith effort to obtain such certification.

"(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 2001.

"(f) SELECTION OF PARTICIPATING STATE PROGRAMS.—

"(1) IN GENERAL.—In consultation with the Association and giving substantial weight to the Association's recommendations, the Administrator shall select the Small Business Development Center programs of 2 States from each of the following groups of States to participate in the pilot program established by this section:

"(A) Group 1: Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

"(B) Group 2: New York, New Jersey, Puerto Rico, and the Virgin Islands.

"(C) Group 3: Pennsylvania, Maryland, West Virginia, Virginia, the District of Columbia, and Delaware.

"(D) Group 4: Georgia, Alabama, North Carolina, South Carolina, Mississippi, Florida, Kentucky, and Tennessee.

"(E) Group 5: Illinois, Ohio, Michigan, Indiana, Wisconsin, and Minnesota.

"(F) Group 6: Texas, New Mexico, Arkansas, Oklahoma, and Louisiana.

"(G) Group 7: Missouri, Iowa, Nebraska, and Kansas.

"(H) Group 8: Colorado, Wyoming, North Dakota, South Dakota, Montana, and Utah.

"(I) Group 9: California, Guam, Hawaii, Nevada, and Arizona.

"(J) Group 10: Washington, Alaska, Idaho, and Oregon.

"(2) DEADLINE FOR SELECTION.—The Administrator shall make selections under this subsection not later than 60 days after promulgation of regulations under section 5 of the National Small Business Regulatory Assistance Act of 2001.

"(g) MATCHING NOT REQUIRED.—Subparagraphs (A) and (B) of section 21(a)(4) shall not apply to assistance made available under the pilot program.

"(h) DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—Each State program selected to receive a grant under subsection (f) in a fiscal year shall be eligible to receive a grant in an amount not to exceed the product obtained by multiplying—

"(A) the amount made available for grants under this section for the fiscal year; and

"(B) the ratio that—

"(i) the population of the State; bears to

"(ii) the population of all the States with programs selected to receive grants under subsection (f) for the fiscal year.

"(2) MINIMUM AMOUNT.—Notwithstanding paragraph (1), the minimum amount that a State program selected to receive a grant under subsection (f) shall be eligible to receive under this section in the fiscal year shall be $200,000.

"(i) EVALUATION AND REPORT.—Not later than 3 years after the establishment of the pilot program, the Comptroller General of the United States shall conduct an evaluation of the pilot program and shall transmit to the Administrator and to the Committees on Small Business of the Senate and House of Representatives a report containing the results of the evaluation along with any recommendations as to whether the pilot program, with or without modification, should be extended to include the participation of all Small Business Development Centers.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2002 and each fiscal year thereafter.

"(2) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out the pilot program only with amounts appropriated in advance specifically to carry out this section.".

SEC. 5. PROMULGATION OF REGULATIONS.

After providing notice and an opportunity for comment and after consulting with the Association (but not later than 180 days after the date of the enactment of this Act), the Administrator shall promulgate final regulations to carry out this Act, including regulations that establish—

(1) priorities for the types of assistance to be provided under the pilot program;

(2) standards relating to educational, technical, and support services to be provided by participating Small Business Development Centers;

(3) standards relating to any national service delivery and support function to be provided by the Association under the pilot program;

(4) standards relating to any work plan that the Administrator may require a participating Small Business Development Center to develop; and

(5) standards relating to the educational, technical, and professional competency of any expert or other assistance provider to whom a small business concern may be referred for compliance assistance under the pilot program.

SEC. 6. PRIVACY REQUIREMENTS APPLICABLE TO SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended by adding at the end the following:

"(9) PRIVACY REQUIREMENTS.—

"(A) IN GENERAL.—No Small Business Development Center, consortium of Small Business Development Centers, or contractor or agent of a Small Business Development Center shall disclose the name or address of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, except that—

"(i) the Administrator shall require such disclosure if ordered to do so by a court in any civil or criminal enforcement action commenced by a Federal or State agency; and

"(ii) if the Administrator considers it necessary while undertaking a financial audit of a Small Business Development Center, the Administrator shall require such disclosure for the sole purpose of undertaking such audit.

"(B) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under subparagraph (A)(ii).".

PURPOSE

The purpose of H.R. 203, the "National Small Business Regulatory Assistance Act of 2001," is to utilize existing Small Business Administration infrastructure to provide regulatory compliance assistance to small businesses. The United States Small Business Administration oversees the operations of Small Business Development Centers. Located in every state, these centers are associated with colleges and universities and provide operational assistance to small business owners. They are authorized to provide regulatory compliance assistance but they do not have an organized program for providing such assistance. H.R. 203 would establish a pilot project for selected small business development center state programs to develop regulatory compliance assistance programs.

The bill mandates that the Administrator of the United States Small Business Administration establish a pilot project in which twenty small business development center state programs will be selected to test whether the centers within those state programs would be an appropriate vehicle for providing regulatory compliance assistance to small business owners. It is the expectation of the Committee that the program should be expanded to include all small business development centers should the pilot program prove successful.

NEED FOR LEGISLATION

During the past twenty years, the Federal Register—the compendium of federal regulatory initiatives and changes—almost doubled in size from 42,000 pages to a record 83,289 pages in 2000. This crush of federal dictates is particularly troubling to small businesses who find it increasingly difficult to meet these burgeoning regulatory requirements while at the same time trying to successfully operate their businesses in an expanding competitive global environment. Often, small business owners do not learn about their failure to comply with a regulation or that a new regulatory requirement has been imposed until an inspector or auditor walks through the door.

The result is neither beneficial to the small business owner nor the federal government. Federal regulations exist to achieve some statutory objective; noncompliance hinders the reaching of these statutory goals. Small business owners certainly would be more interested in complying with federal regulations than paying penalties and fines. However, the amount of information, including regulations and concomitant guidance, simply overwhelms small business owners.

In 1966, Congress took action in an effort to alleviate this problem. The Small Business Regulatory Enforcement Fairness Act provided that federal agencies are required to produce plain-English compliance guides for any regulation that would have a significant economic impact on a substantial number of small businesses. Of course, if small business owners do not know about the regulatory changes, the existence of such compliance guides does little to assist them. Some mechanism must exist to make small businesses more aware of their regulatory obligations.

Even more important than making small businesses aware of the regulations is providing them with assistance needed to understand

and comply with the regulations. A regulation may only take up ten or eleven pages of text, but the explanation for what those ten or eleven pages mean may encompass as much as three hundred pages of dense, triple-columned, single-spaced pages in the Federal Register. Most small business owners do not have the time to go through this dense prolixity. And even if they did, they would not understand it unless they were knowledgeable in the field. The Committee believes that greater assistance must be provided to small business owners in helping them comply with complex regulatory issuances. Otherwise, a divide could develop between those businesses, usually large, with the resources to comply and those, usually small, without such resources. The small business will be at risk for penalties, fines, and audits while large businesses will not. A regulatory compliance assistance program operated through the small business development centers could provide substantial assistance in ensuring such a divide does not occur.

The Small Business Administration oversees a number of mechanisms for delivering advice to small business owners. One of the most effective is the Small Business Development Center program. Operated in conjunction with colleges and universities, the small business development centers assist small businesses in solving problems concerning the operations, manufacturing, engineering, technology, exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, and business strategy development. The small business development centers utilize the resources and the expertise of colleges and universities. In addition, the small business development centers, like the Agricultural Extension Service, also provide a focal point for information retrieval, coordination of federal and state government services, and referral to experts. Historically, the small business development centers have focused on financial, management, and marketing activities of small businesses despite the requirement that they also provide regulatory compliance assistance. See § 21(c)(3)(H) of the Small Business Act (codified at 15 U.S.C. § 648(c)(3)(H)).

The Committee believes that small business development centers can provide an effective mechanism for dispensing regulatory compliance information and advice. However, regulatory compliance, unlike many of the other activities undertaken by the small business development centers, has significant legal consequences. Therefore, the Committee believes that a pilot program to examine how the regulatory compliance assistance will operate in selected small business development centers is a preferred strategy to simply providing an authorization of additional funding so that the small business development centers can provide regulatory compliance assistance.

COMMITTEE ACTION

The Committee on Small Business held a field hearing to consider predecessor versions of H.R. 203. The hearing was held on September 2, 1999 at the Columbia Greene Community College in Hudson, NY. During that hearing, small businesses testified concerning the complexity of federal regulations, their desire for better understanding of federal regulatory requirements, and the need for easy access to compliance assistance. The Committee's Sub-

committee on Workforce, Empowerment, and Government Programs held a hearing on H.R. 203 on July 19, 2001. At the hearing, witnesses, the sponsor of the bill, Mr. Sweeney (R–NY), noted that he continues to hear from small business constituents that they still are being overwhelmed with regulation and need compliance assistance. The Association of Small Business Development Centers also voiced support for the bill. Finally, the American Industrial Hygiene Association also endorsed the bill but suggested that amendments should be made to ensure that regulatory compliance assistance is provided by properly credentialed individuals.

CONSIDERATION OF H.R. 203

At 10:00 a.m. on August 1, 2001, the Committee on Small Business met to consider and report H.R. 203. Following a brief opening statement by the Chairman, he declared the bill open for amendment.

Ms. Valázquez (D–NY), the Ranking Democratic Member, introduced an amendment which was accepted by unanimous voice vote, a quorum being present. Mr. Pence (R–IN) then introduced an amendment which was accepted by unanimous voice vote, a quorum being present. Chairman Manzullo then moved the bill be reported, and at 10:30 a.m. by unanimous voice vote, a quorum being present, the Committee passed H.R. 203, as amended and ordered it reported.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill as the "National Small Business Regulatory Assistance Act of 2001."

Section 2. Purpose

This section expresses the purpose of the legislation—to establish a pilot project within certain Small Business Development Centers to provide and coordinate regulatory compliance assistance to small businesses.

Section 3. Definitions

The definitions of the Small Business Act shall apply to this pilot program unless a different definition is utilized in the new § 36 created by this Act. In those cases in which the definition is different, the definitions in new § 36 shall apply to the pilot program created by this Act.

Section 4. Small Business Regulatory Assistance Pilot Program

This section establishes the pilot program by creating a new Section 36 of the Small Business Act.

Section 36(a)(1) defines the term "Administrator" as the Administrator of the Small Business Administration.

Section 36(a)(2) defines the term "Association" to be the association established pursuant to Section 21 of the Small Business Act which represents the majority of small business development centers. That organization is the Association of Small Business Development Centers.

Section 36(a)(3) defines the term "Participating Small Business Development Center" as a small business development center selected to participate in the pilot program established under this section.

Section 36(a)(4) defines the term "Pilot Program" as the three-year program established under this section.

Section 36(a)(5) defines the term "Regulatory Compliance Assistance" as assistance provided by a participating small business development center to a small business concerning compliance with federal regulations.

Section 36(a)(6) defines the term "Small Business Development Center" means a small business development center described in section 21 of the Small Business Act.

Section 36(a)(7) defines the term "State" to include all fifty states and the District of Columbia, the Virgin Islands, and Guam.

Section 36(b) authorizes the Administrator of the Small Business Administration to establish a pilot program for selected small business development centers to provide small businesses with regulatory compliance assistance.

Section 36(c)(1) authorizes the Administrator to enter into arrangements with the small business development centers selected under this section for the provision of regulatory compliance assistance.

The participating small business development centers are required to provide access to information and resources on regulatory compliance, including contact information for federal and state compliance and technical assistance similar to those established under section 507 of the Clean Air Act Amendments of 1990. Numerous other federal and state agencies have non-punitive compliance assistance programs (such as the federal Occupational Safety and Health Administration) and the Committee expects that the participating small business development centers will maintain all necessary contact information with those federal and state agencies. Furthermore, the Committee expects that the quality of coordination of these assistance resources will be a significant factor in selecting the small business development centers for the pilot project.

Section 36(c)(1) also requires that the selected small business development centers establish various training and educational activities. The Committee expects that selected centers will utilize their contacts with federal and state agencies to obtain compliance pamphlets, videos, books, and any compliance guides issued pursuant to the Small Business Regulatory Enforcement Fairness Act. In addition, the Committee expects that participating centers will hold lectures and seminars on regulatory compliance including updates on compliance based on regulatory changes. The Committee expects that the Administrator will consider the quality of proposed educational programs in determining which centers are selected to participate in the pilot program.

Section 36(c)(1)(C) also mandates that the selected small business development centers provide confidential counseling on a one-on-one basis at no charge to small businesses seeking regulatory compliance assistance. The Committee recognizes that compliance with regulations inculcates legal rights and responsibilities of small business owners. Therefore, section 36(c) prohibits any regulatory

compliance counseling that would be considered the practice of law in the jurisdiction in which the small business development center is located or in which such counseling is conducted. Furthermore, the Committee supports efforts in which the participating development centers establish contacts with lawyers in the community willing to provide seminars and other consultative service on regulatory compliance matters.

Section 36(c)(1) also requires the provision of technical assistance. Such counseling may include the arrangement of meetings with technical experts known to the participating small business development centers as long as such counseling again is done on a one-on-one basis at no charge to the small business.

Section 36(c)(1)(E) makes explicit the Committee's concern that small businesses are directed to those individuals who have appropriate credentials and certifications to provide regulatory compliance assistance. While the Committee fully understands that many very successful businesses, including Microsoft, Apple, and Dell Computer, started in garages and those businessmen are quite capable of providing advice on starting, financing, and marketing a business, they are not necessarily qualified to provide guidance on compliance with OSHA, EPA, or IRS regulations. In fact, due to the potential legal consequences resulting from a small business owner following incorrect guidance, the Committee determined that it is necessary to make explicit the requirement that the participating centers only refer businesses to individuals with appropriate expertise in the regulatory compliance matter for which advice is sought.

Section 36(c)(2) requires each participating center to file a quarterly report with the Administrator. The report shall provide a summary of the compliance assistance provided under the pilot program. The report also must contain any data and information obtained by the participating small business development center from a federal agency concerning compliance which the federal agency intends to be disseminated to small business concerns. The Committee believes that this latter requirement will enable the Administrator or the Chief Counsel for Advocacy to raise issues of agency inconsistencies, to the extent that they exist, to the appropriate decisionmakers.

Section 36(c)(2) requires that reports be filed with the Administrator in an electronic format. The Committee expects the Administrator to promulgate regulations which will provide for a consistent format of the report. The Committee believes that such consistency is necessary for the accurate compilation of data and proper assessment of the effectiveness of the pilot program.

Section 36(c)(2) also permits, but does not require, participating small business development centers to make interim reports if such reports are necessary or useful. For example, a participating small business development center may receive inconsistent compliance information from a federal agency. By alerting the Administrator prior to the issuance of the quarterly report, the federal agency may be able to issue a clarification that may eliminate confusion, save compliance costs, and improve small business compliance.

One of the critical concerns to small businesses is that discussions of compliance assistance could be revealed to federal agencies which would lead to fines and penalties. Furthermore, the Com-

mittee is concerned that small business development centers have been revealing the names of businesses which seek their advice to the Administrator for functions unrelated to the financial auditing of small business development centers. The Committee believes that such behavior is simply intolerable. Without any assurances of privacy, small businesses will be less likely to use small business development centers. And this would be especially true for regulatory compliance assistance efforts. The Committee recognizes the concern about revealing the names of businesses that utilize the resources of small business development centers. Therefore, §36(c)(1)(D) prohibits the disclosure of the names or addresses of any concern receiving compliance assistance under this pilot program unless the Administrator is ordered to make such disclosure pursuant to a court order or civil or criminal enforcement action commenced by a federal or state agency. The committee expects that participating small business development centers will only respond to formal agency requests such as civil investigative demands, subpoenas, requests from Administrator's Associate Administrator for Small Business Development Centers when performing a financial audit of the small business development center, or requests from the Inspector General of the Small Business Administration. The committee expects the small business development centers will not provide information concerning the identity of businesses simply upon the verbal request of a federal or state agency.

Section 36(d) requires the Administrator to act as repository of data and information submitted by the participating small business development centers. Given the oversight role and importance of the Associate Administrator for Small Business Development Centers, section 36(d) requires that the functions of maintaining the database be housed with the Associate Administrator. The Committee believes that a central repository is necessary in order to determine whether federal agencies are providing consistent compliance information on a national basis. However, the Committee expects that the information received under this subsection be made available to other offices within the Small Business Administration, particularly the Chief Counsel for Advocacy and the Small Business and Agriculture Regulatory Ombudsman so those offices can more effectively carry out their mission of representing the interests of small businesses before federal agencies.

Section 36(d) also requires that the Administrator submit an annual report to the President and the Committees on Small Business of the Senate and the House Representatives. The report will contain: (a) data on the types of information provided by the participating small business development centers; (b) the number of small businesses that contacted the participating small business development centers; (c) the number of small businesses assisted by participating small business development centers; (d) information on the outreach activities of the participating small business development centers; (e) information regarding each case known to the Administrator in which participating small business development centers provided conflicting advice regarding compliance with federal regulation to one or more small businesses; (f) and any recommendations for improving the regulatory environment of small businesses. The Committee believes that this information is necessary to properly evaluate the utility of the pilot program. More

importantly, the report will reveal whether similarly situated small businesses are receiving consistent regulatory compliance assistance. In preparing the report, the Committee recognizes that the Administrator may wish to consult with the Chief Counsel for Advocacy and the Small Business and Agriculture Regulatory Ombudsman. The Committee supports such consultative efforts but notes that the Administrator may not delegate the responsibility of preparing the report required by this subsection to any office within the Small Business Administration except the Associate Administrator for Small Business Development Centers.

Section 36(e) limits participation in the pilot program only to those small business development centers certified under § 21(k)(2) of the Small Business Act. The Committee is limiting participation in the pilot program so those small business centers selected are of the highest quality. Some small business development centers have not completed their certification programs. Nevertheless, some of these centers may be developing or already have exceptional regulatory compliance assistance programs. The Committee does not believe that such centers should be prohibited from participating in the pilot program. Therefore, § 36(e)(2) authorizes the Administrator to waive the requirement for certification if the center is making a good faith effort to obtain such certification.

Section 36(f) requires the Administrator to select two participating state programs from each of the Small Business Administration's ten federal regions as those regions exist on the date of enactment of this Act. The Administrator shall consult with the Association and give the Association's recommendations substantial weight. The Administrator is required to complete the selection of the participating centers within 60 days after the regulations to implement the pilot program have been promulgated.

Section 36(g) ensures that no matching funds currently allocated to the operation of the Small Business Development Centers will be utilized to fund the pilot program. In order to ensure proper funding, the Committee is authorizing a separate funding authorization for the program.

Section 36(h) establishes the procedures for distributing grants among the selected state programs. The formula is based on the principle that a state which has a smaller population also will have, in absolute terms, fewer small businesses than a larger state. The formula therefore allocates funds according to the relative size of each state. The Committee believes that the minimum funds needed to initiate a state program will be $200,000. Because the Committee has authorized $5,000,000, it is making extra resources available to the larger states who will require more resources to initiate the pilot project.

Section 36(i) requires the Comptroller General of the United States to provide a report three years after the establishment of the pilot program evaluating the effectiveness of the program. The report also should contain any suggested modifications to the pilot program. Finally, the Comptroller General should provide its opinion concerning whether the program should be continued and expanded to include more small business development centers. The report shall be transmitted to the Committees on Small Business of the Senate and House of Representatives. The Committee ex-

pects that the pilot program will be sufficiently successful to expand the program to other small business development centers.

Section 36(j) limits the operation of the pilot program only to the funds appropriated in advance for the program. Section 36(j) provides an authorization of appropriations of $5,000,000 for fiscal year 2002 and each year thereafter. Section 36(j) also prohibits the Administrator from using other funds, including other funds made available for the operation of Small Business Development Centers, to operate this pilot project. The Committee authorized the additional appropriations because it determined that funding of the regulatory compliance program should not detract from the available funding for the delivery of other Small Business Development Center programs.

Section 5. Promulgation of regulations

Section 5 authorizes the Administrator to promulgate regulations to implement this pilot program no later than 180 days after the enactment of the Act. Such regulations only shall be promulgated after the public has been given an opportunity for notice and comment. The Committee believes that the Administrator can and should accomplish the issuance of regulations within the deadline set by statute. The Committee considers this Act to be some other law for purposes of section 603 of Title 5 of the United States Code.

The regulations shall include the priorities for the type of assistance to be provided, standards relating to the educational, technical, and support services to be provided by the Association to the participating centers, and standards for work plans that the participating centers will provide to the Administrator. The Committee believes that given the potential interest in the program by Small Business Development Centers, it is appropriate for the Administrator to have a set of standards by which it can determine which state programs shall be chosen. More importantly, the standards will provide an appropriate baseline for the Comptroller General's evaluation of the pilot project.

Section 5 also requires the Administrator to develop appropriate standards for ensuring the technical qualifications of experts to whom small businesses will be referred. The Committee does not intend that someone must have a college or advance degree to qualify. For example, a contractor licensed in a state with 20 years experience (who is a high-school graduate) may be as well-equipped to provide advice on compliance with OSHA construction standards as a professor of civil engineering. On the other hand, that same contractor might not be an appropriate individual to provide tax compliance advice. The Committee does not expect that this aspect of the Administrator's regulations shall be all encompassing, i.e., delineate every profession and the appropriate qualifications. However, the Committee does expect that the Administrator will recognize, as qualified, those individuals certified by nationally-recognized accrediting bodies (whose members must demonstrate substantial educational and practical experience), meet educational and work standards established by a federal agency, or are licensed to practice a particular profession or job pursuant to state law. The Committee expects that the regulations will provide participating centers with enough information that the centers can determine

whether the person providing the advice is competent in the field of regulation.

Section 6 amends section 21 of the Small Business Act. The Committee has been contacted on a number of occasions by small business development centers that employees of the Small Business Administration have attempted to obtain the names and addresses of businesses that sought the services of the small business development centers. The Committee believes that any attempts by the Administrator or the employees of the Small Business Administration to obtain the names and addresses of persons seeking small business development center assistance is inappropriate because it would act as a distincentive for small businesses to utilize the centers.

Section 6 prohibits the Administrator, any other employee of the Small Business Administration, or any agent of the Administrator (including contractors) from obtaining the names and addresses of businesses that sought assistance. The Committee's bill provides for two exceptions: (1) if the Administrator is ordered by a court in any civil or criminal action initiated by federal or state agency; or (2) the Administrator requires the information while undertaking a financial audit of the Small Business Development Center.

To ensure that the Administrator does not unduly abuse the second exception for disclosure, section 6 requires the Administrator to promulgate regulations specifying when such disclosures in an audit shall be made. The Committee expects that the regulations will strictly limit disclosure during the audit process and severely circumscribe those individuals who will have access to the audit information during the audit. The Committee recognizes that the information collected during the audit may have to be retained for a variety of purposes, such as management reviews by the Inspector General or Congressional oversight. The Committee expects the Administrator's regulations to cover who, if anyone, shall have access to the raw data, including the names and addresses of the small business development center's users, after the audit is complete. The Committee does not intend that information obtained during the audit concerning identifiable individuals or businesses that is retained by the Administrator shall be releasable pursuant to the Freedom of Information Act.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 13, 2001.

Hon. DONALD MANZULLO,
Chairman, Committee on Small Business,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 203, the National Small Business Regulatory Assistance Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ken Johnson.

Sincerely,

DAN L. CRIPPEN,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 203—National Small Business Regulatory Assistance Act of 2001

Summary: H.R. 203 would require the Small Business Administration (SBA) to establish a pilot program for small business development centers (SBDCs) to counsel small business owners on compliance with federal and state regulations. SBDCs are cooperative efforts of the private sector, schools, and federal, state, and local governments to provide management assistance to current and prospective small business owners.

H.R. 203 would authorize the appropriation of $5 million a year to fund the new program. Based on the SBA's historical spending patterns, CBO estimates that implementing the bill would cost $23 million over the 2002–2006 period, assuming the appropriation of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 203 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no significant costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 203 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	5	5	5	5	5
Estimated Outlays	3	5	5	5	5

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 203 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no significant costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Ken Johnson. Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMMITTEE ESTIMATE OF COSTS

Pursuant to the Congressional Budget Act of 1974, the Committee estimates that the amendments to the Small Business Act contained in H.R. 4946 will not significantly increase discretionary spending over the next fiscal years. The Committee also estimates that H.R. 203 will not affect direct spending. These estimates concur with Congressional Budget Office (CBO) estimates.

Furthermore, pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementation of H.R. 203 will not significantly increase other administrative costs.

OVERSIGHT FINDINGS

In accordance with clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been made by the Committee on Government Reform with respect to the subject matter contained in H.R. 203.

In accordance with clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 203 are incorporated into the descriptive portions of this report.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, clause 18, of the Constitution of the United States.

COMPLIANCE WITH P.L. 104–4

H.R. 203 contains no unfunded mandates.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 203 does not relate to the terms and conditions of employment or access to public services or accommodations with the meaning of section 102(b)(3) of P.L. 104–1.

FEDERAL ADVISORY COMMITTEE STATEMENT

This legislation does not establish or authorize the establishment of any new advisory committees.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * * * *

SEC. 21. (a) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(9) PRIVACY REQUIREMENTS.—

(A) IN GENERAL.—No Small Business Development Center, consortium of Small Business Development Centers, or contractor or agent of a Small Business Development Center shall disclose the name or address of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, except that—

(i) the Administrator shall require such disclosure if ordered to do so by a court in any civil or criminal enforcement action commenced by a Federal or State agency; and

(ii) if the Administrator considers it necessary while undertaking a financial audit of a Small Business Development Center, the Administrator shall require such disclosure for the sole purpose of undertaking such audit.

(B) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under subparagraph (A)(ii).

* * * * * * *

SEC. 36. SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration, acting through the Associate Administrator for Small Business Development Centers.

(2) ASSOCIATION.—The term "Association" means the association, established pursuant to section 21(a)(3)(A), representing a majority of Small Business Development Centers.

(3) PARTICIPATING SMALL BUSINESS DEVELOPMENT CENTER.—The term "participating Small Business Development Center" means a Small Business Development Center participating in the pilot program.

(4) PILOT PROGRAM.—The term "pilot program" means the pilot program established under this section.

(5) REGULATORY COMPLIANCE ASSISTANCE.—The term "regulatory compliance assistance" means assistance provided by a Small Business Development Center to a small business concern to enable the concern to comply with Federal regulatory requirements.

(6) SMALL BUSINESS DEVELOPMENT CENTER.—The term "Small Business Development Center" means a Small Business Development Center described in section 21.

(7) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(b) AUTHORITY.—In accordance with this section, the Administrator shall establish a pilot program to provide regulatory compliance assistance to small business concerns through participating Small Business Development Centers, the Association, and Federal compliance partnership programs.

(c) SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) IN GENERAL.—In carrying out the pilot program, the Administrator shall enter into arrangements with participating Small Business Development Centers under which such centers will provide—

(A) access to information and resources, including current Federal and State nonpunitive compliance and technical assistance programs similar to those established

under section 507 of the Clean Air Act Amendments of 1990;

(B) training and educational activities;

(C) confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations, provided that such counseling is not considered to be the practice of law in a State in which a Small Business Development Center is located or in which such counseling is conducted;

(D) technical assistance; and

(E) referrals to experts and other providers of compliance assistance who meet such standards for educational, technical, and professional competency as are established by the Administrator.

(2) REPORTS.—

(A) IN GENERAL.—Each participating Small Business Development Center shall transmit to the Administrator a quarterly report that includes—

(i) a summary of the regulatory compliance assistance provided by the center under the pilot program; and

(ii) any data and information obtained by the center from a Federal agency regarding regulatory compliance that the agency intends to be disseminated to small business concerns.

(B) ELECTRONIC FORM.—Each report referred to in subparagraph (A) shall be transmitted in electronic form.

(C) INTERIM REPORTS.—During any time period falling between the transmittal of quarterly reports, a participating Small Business Development Center may transmit to the Administrator any interim report containing data or information considered by the center to be necessary or useful.

(D) LIMITATION ON DISCLOSURE REQUIREMENTS.—The Administrator may not require a Small Business Development Center to disclose the name or address of any small business concern that received or is receiving assistance under the pilot program, except that the Administrator shall require such a disclosure if ordered to do so by a court in any civil or criminal enforcement action commenced by a Federal or State agency.

(d) DATA REPOSITORY AND CLEARINGHOUSE.—

(1) IN GENERAL.—In carrying out the pilot program, the Administrator shall—

(A) act as the repository of and clearinghouse for data and information submitted by Small Business Development Centers; and

(B) transmit to the President and to the Committees on Small Business of the Senate and House of Representatives an annual report that includes—

(i) a description of the types of assistance provided by participating Small Business Development Centers under the pilot program;

(ii) data regarding the number of small business concerns that contacted participating Small Business De-

velopment Centers regarding assistance under the pilot program;

(iii) data regarding the number of small business concerns assisted by participating Small Business Development Centers under the pilot program;

(iv) data and information regarding outreach activities conducted by participating Small Business Development Centers under the pilot program, including any activities conducted in partnership with Federal agencies;

(v) data and information regarding each case known to the Administrator in which one or more Small Business Development Centers offered conflicting advice or information regarding compliance with a Federal or State regulation to one or more small business concerns;

(vi) any recommendations for improvements in the regulation of small business concerns; and

(vii) a list of regulations identified by the Administrator, after consultation with the Small Business and Agriculture Regulatory Enforcement Ombudsman, as being most burdensome to small business concerns, and recommendations to reduce or eliminate the burdens of such regulations.

(e) ELIGIBILITY.—

(1) IN GENERAL.—A Small Business Development Center shall be eligible to receive assistance under the pilot program only if the center is certified under section 21(k)(2).

(2) WAIVER.—With respect to a Small Business Development Center seeking assistance under the pilot program, the Administrator may waive the certification requirement set forth in paragraph (1) if the Administrator determines that the center is making a good faith effort to obtain such certification.

(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 2001.

(f) SELECTION OF PARTICIPATING STATE PROGRAMS.—

(1) IN GENERAL.—In consultation with the Association and giving substantial weight to the Association's recommendations, the Administrator shall select the Small Business Development Center programs of 2 States from each of the following groups of States to participate in the pilot program established by this section:

(A) Group 1: Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

(B) Group 2: New York, New Jersey, Puerto Rico, and the Virgin Islands.

(C) Group 3: Pennsylvania, Maryland, West Virginia, Virginia, the District of Columbia, and Delaware.

(D) Group 4: Georgia, Alabama, North Carolina, South Carolina, Mississippi, Florida, Kentucky, and Tennessee.

(E) Group 5: Illinois, Ohio, Michigan, Indiana, Wisconsin, and Minnesota.

(F) Group 6: Texas, New Mexico, Arkansas, Oklahoma, and Louisiana.

(G) Group 7: Missouri, Iowa, Nebraska, and Kansas.

(H) Group 8: Colorado, Wyoming, North Dakota, South Dakota, Montana, and Utah.

(I) Group 9: California, Guam, Hawaii, Nevada, and Arizona.

(J) Group 10: Washington, Alaska, Idaho, and Oregon.

(2) DEADLINE FOR SELECTION.—The Administrator shall make selections under this subsection not later than 60 days after promulgation of regulations under section 5 of the National Small Business Regulatory Assistance Act of 2001.

(g) MATCHING NOT REQUIRED.—Subparagraphs (A) and (B) of section 21(a)(4) shall not apply to assistance made available under the pilot program.

(h) DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—Each State program selected to receive a grant under subsection (f) in a fiscal year shall be eligible to receive a grant in an amount not to exceed the product obtained by multiplying—

(A) the amount made available for grants under this section for the fiscal year; and

(B) the ratio that—

(i) the population of the State; bears to

(ii) the population of all the States with programs selected to receive grants under subsection (f) for the fiscal year.

(2) MINIMUM AMOUNT.—Notwithstanding paragraph (1), the minimum amount that a State program selected to receive a grant under subsection (f) shall be eligible to receive under this section in the fiscal year shall be $200,000.

(i) EVALUATION AND REPORT.—Not later than 3 years after the establishment of the pilot program, the Comptroller General of the United States shall conduct an evaluation of the pilot program and shall transmit to the Administrator and to the Committees on Small Business of the Senate and House of Representatives a report containing the results of the evaluation along with any recommendations as to whether the pilot program, with or without modification, should be extended to include the participation of all Small Business Development Centers.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2002 and each fiscal year thereafter.

(2) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out the pilot program only with amounts appropriated in advance specifically to carry out this section.

SEC. [36.] *37.* All laws and parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

ADDITIONAL VIEWS

Democrats agree strongly that some targeted, uniform delivery system must exist to make small businesses more aware of their regulatory obligations. If greater assistance is not targeted to small businesses, a divide could develop between large businesses that have the resources to comply with regulatory requirements and small businesses that do not. As a result, we strongly support a regulatory compliance assistance program operated through SBA's Small Business Development Center Program and believe that its overall success will ensure the success of the pilot program established under H.R. 203.

Small businesses have often been overwhelmed by the growing and constantly changing Federal, State and local regulatory requirements. They fear, with the onslaught of federal regulations, that they will inadvertently fail to comply with some obscure rule, their business will be shut down by the government, and they will be driven into bankruptcy because they cannot afford the cost of compliance. On the other hand, small businesses also fear that going to the very agencies that create and enforce the regulations is tantamount to turning themselves in, and will ultimately result in penalties being levied on their businesses. In fact, many believe that the government is more interested in recovering penalties than in promoting compliance with the law.

Although Federal and State regulations and regulatory programs usually provide substantial benefits, they can be confusing, burdensome and incur significant costs that disproportionately fall on small businesses. Small businesses are not only in need of quality regulatory compliance assistance programs, but also programs that are uniformly developed nationwide and targeted to small businesses.

An important aspect raised during the Committee's most recent hearing is the technical expertise one must have to understand each individual regulatory requirement. Providing that knowledge to small businesses is as important, if not more important, as providing advanced notice of any regulatory requirement they must comply with. Therefore, we believe that the purpose of this new pilot program is to establish an initial contact that results in a referral to the appropriate program or experts. It is our belief that the new pilot program is required to utilize existing Federal or State compliance assistance programs and avoid competing with them. Some of these existing compliance assistance programs, such as those created under Section 507 of the Clean Air Act Amendments (e.g. EPA's State Small Business Assistance Program), have established a level of expertise in compliance assistance and provide invaluable technical assistance targeted to small businesses. In addition, SBDCs must be careful in the type of counseling they provide and the liability that can result from such counseling.

During the Committee mark-up session, there was some confusion on who would be receiving the grant awards. We concur with the report language that directs the Administrator to select two State SBDC programs from each of the ten SBA regions across the nation. The State SBDC program, not an individual center or subcenter, will receive the grant money to implement the assistance statewide.

As introduced, H.R. 203, required assistance with only Federal regulations. However, Congress often defers the authority to promulgate and enforce Federal regulatory requirements to the States. Therefore, small businesses must also comply with regulations on the State level and many times, these regulations either conflict or are even more stringent and complicated than Federal regulations. A prime example is EPA's TMDL regulations, where EPA promulgates the regulations but States are given the authority to enforce those regulations. Thus, States can also, and often do, promulgate their own regulations to enforce the requirements under the TMDL regulation. The Committee Democrats proposed and supported an en bloc amendment to H.R. 203 in committee, containing language that included assistance with State regulations within the pilot program.

Democrats are also concerned with privacy protections. During this day and age of new information technologies, privacy protection is one of the most critical issues facing all individuals, including small businesses. Although confidentiality provisions were included in H.R. 203 as introduced, these provisions applied only to participants of the pilot program. Therefore, Democrats sought strong privacy protections throughout the existing SBDC program.

Since its inception, privacy protections have been an inviolate principle of the SBDC program. However, in recent years, SBA began seeking the names and addresses of SBDC clients. At first, the agency assured the SBDCs that the information would be kept confidential, but later informed them that the agency could not ensure the confidentiality of their client information. This puts the SBDCs in a precarious position for two important reasons.

First, each SBDC client signs a liability waiver when it seeks SBDC assistance. As part of that waiver agreement, the SBDC agrees to never disclose the identity of the client. Therefore, this can create liability problems for the program that could result in expensive litigation, not to mention the possibility of large court imposed penalties and fines. Second, and possibly the most important, is the loss of trust from clients. SBDC assistance includes assisting small business who struggle against Federal and State regulations that could lead to possible investigations or penalties against the small business owner. If the SBDC clients believe that their identities will not be held in confidence, they will no longer seek the assistance. This could potentially threaten the success of the program and quite possibly terminate its existence.

As a result, the en bloc amendment to H.R. 203, proposed and supported by the Democrats, included language prohibiting the SBDCs, or an agent of an SBDC, from disclosing the name or address of any SBDC client. However, to ensure the integrity of the program, these privacy protection provisions will not pertain to financial auditors who must review each State SBDC program.

In addition, we believe that fees must not be charged in conjunction with this pilot project. Although the SBDCs are permitted to charge fees under limited circumstances, one-on-one counseling is provided free of charge. Current and past Administrations have attempted to implement a fee-for-service structure for SBDC services that are, and have been, historically free. However, implementing such a structure would not only be detrimental to the pilot program, but to the overall SBDC program. Democrats have consistently opposed such a move and will continue to oppose future attempts.

The proposal also establishes a repository and clearinghouse for the information obtained by the SBDCs, primarily to provide unbiased feedback to agencies and to detect inconsistencies in information regarding compliance with a regulation. This will also work to identify government-wide trends in regulatory rulemaking and enforcement. This will facilitate the ability of the agencies and Congress to improve, not only compliance, but compliance assistance, on a government-wide level.

This pilot program will be able to offer small businesses a voluntary, confidential, and nonpunitive means in which to obtain assistance in complying with the numerous regulations that could determine the success or failure of their businesses. By utilizing SBDCs as a delivery network, small businesses will be able to obtain counseling, training, and education, in an environment that is not perceived as intimidating or threatening.

NYDIA M. VELÁZQUEZ.

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IIB

107TH CONGRESS
1ST SESSION

H. R. 203

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2001

Received; read twice and referred to the Committee on Small Business and Entrepreneurship

AN ACT

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "National Small Busi-
3 ness Regulatory Assistance Act of 2001".

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to establish a pilot pro-
6 gram to—

7 (1) provide confidential assistance to small
8 business concerns;

9 (2) provide small business concerns with the in-
10 formation necessary to improve their rate of compli-
11 ance with Federal and State regulations;

12 (3) create a partnership among Federal agen-
13 cies to increase outreach efforts to small business
14 concerns with respect to regulatory compliance;

15 (4) provide a mechanism for unbiased feedback
16 to Federal agencies on the regulatory environment
17 for small business concerns; and

18 (5) utilize the service delivery network of Small
19 Business Development Centers to improve access of
20 small business concerns to programs to assist them
21 with regulatory compliance.

22 **SEC. 3. DEFINITIONS.**

23 In this Act, the definitions set forth in section 36(a)
24 of the Small Business Act (as added by section 4 of this
25 Act) shall apply.

1 **SEC. 4. SMALL BUSINESS REGULATORY ASSISTANCE PILOT**
2 **PROGRAM.**

3 The Small Business Act (15 U.S.C. 637 et seq.) is
4 amended—

5 (1) by redesignating section 36 as section 37;
6 and

7 (2) by inserting after section 35 the following
8 new section:

9 **"SEC. 36. SMALL BUSINESS REGULATORY ASSISTANCE**
10 **PILOT PROGRAM.**

11 "(a) DEFINITIONS.—In this section, the following
12 definitions apply:

13 "(1) ADMINISTRATOR.—The term 'Adminis-
14 trator' means the Administrator of the Small Busi-
15 ness Administration, acting through the Associate
16 Administrator for Small Business Development Cen-
17 ters.

18 "(2) ASSOCIATION.—The term 'Association'
19 means the association, established pursuant to sec-
20 tion 21(a)(3)(A), representing a majority of Small
21 Business Development Centers.

22 "(3) PARTICIPATING SMALL BUSINESS DEVEL-
23 OPMENT CENTER.—The term 'participating Small
24 Business Development Center' means a Small Busi-
25 ness Development Center participating in the pilot
26 program.

1 "(4) PILOT PROGRAM.—The term 'pilot pro-
2 gram' means the pilot program established under
3 this section.
4 "(5) REGULATORY COMPLIANCE ASSISTANCE.—
5 The term 'regulatory compliance assistance' means
6 assistance provided by a Small Business Develop-
7 ment Center to a small business concern to enable
8 the concern to comply with Federal regulatory re-
9 quirements.
10 "(6) SMALL BUSINESS DEVELOPMENT CEN-
11 TER.—The term 'Small Business Development Cen-
12 ter' means a Small Business Development Center
13 described in section 21.
14 "(7) STATE.—The term 'State' means each of
15 the several States, the District of Columbia, the
16 Commonwealth of Puerto Rico, the Virgin Islands,
17 and Guam.
18 "(b) AUTHORITY.—In accordance with this section,
19 the Administrator shall establish a pilot program to pro-
20 vide regulatory compliance assistance to small business
21 concerns through participating Small Business Develop-
22 ment Centers, the Association, and Federal compliance
23 partnership programs.
24 "(c) SMALL BUSINESS DEVELOPMENT CENTERS.—

1 "(1) IN GENERAL.—In carrying out the pilot
2 program, the Administrator shall enter into arrange-
3 ments with participating Small Business Develop-
4 ment Centers under which such centers will
5 provide—
6 "(A) access to information and resources,
7 including current Federal and State nonpuni-
8 tive compliance and technical assistance pro-
9 grams similar to those established under section
10 507 of the Clean Air Act Amendments of 1990;
11 "(B) training and educational activities;
12 "(C) confidential, free-of-charge, one-on-
13 one, in-depth counseling to the owners and op-
14 erators of small business concerns regarding
15 compliance with Federal and State regulations,
16 provided that such counseling is not considered
17 to be the practice of law in a State in which a
18 Small Business Development Center is located
19 or in which such counseling is conducted;
20 "(D) technical assistance; and
21 "(E) referrals to experts and other pro-
22 viders of compliance assistance who meet such
23 standards for educational, technical, and profes-
24 sional competency as are established by the Ad-
25 ministrator.

1 "(2) REPORTS.—

2 "(A) IN GENERAL.—Each participating
3 Small Business Development Center shall trans-
4 mit to the Administrator a quarterly report that
5 includes—

6 "(i) a summary of the regulatory com-
7 pliance assistance provided by the center
8 under the pilot program; and

9 "(ii) any data and information ob-
10 tained by the center from a Federal agency
11 regarding regulatory compliance that the
12 agency intends to be disseminated to small
13 business concerns.

14 "(B) ELECTRONIC FORM.—Each report re-
15 ferred to in subparagraph (A) shall be trans-
16 mitted in electronic form.

17 "(C) INTERIM REPORTS.—During any time
18 period falling between the transmittal of quar-
19 terly reports, a participating Small Business
20 Development Center may transmit to the Ad-
21 ministrator any interim report containing data
22 or information considered by the center to be
23 necessary or useful.

24 "(D) LIMITATION ON DISCLOSURE RE-
25 QUIREMENTS.—The Administrator may not re-

1 quire a Small Business Development Center to
2 disclose the name or address of any small busi-
3 ness concern that received or is receiving assist-
4 ance under the pilot program, except that the
5 Administrator shall require such a disclosure if
6 ordered to do so by a court in any civil or
7 criminal enforcement action commenced by a
8 Federal or State agency.
9 "(d) DATA REPOSITORY AND CLEARINGHOUSE.—
10 "(1) IN GENERAL.—In carrying out the pilot
11 program, the Administrator shall—
12 "(A) act as the repository of and clearing-
13 house for data and information submitted by
14 Small Business Development Centers; and
15 "(B) transmit to the President and to the
16 Committees on Small Business of the Senate
17 and House of Representatives an annual report
18 that includes—
19 "(i) a description of the types of as-
20 sistance provided by participating Small
21 Business Development Centers under the
22 pilot program;
23 "(ii) data regarding the number of
24 small business concerns that contacted
25 participating Small Business Development

1 Centers regarding assistance under the
2 pilot program;
3 "(iii) data regarding the number of
4 small business concerns assisted by partici-
5 pating Small Business Development Cen-
6 ters under the pilot program;
7 "(iv) data and information regarding
8 outreach activities conducted by partici-
9 pating Small Business Development Cen-
10 ters under the pilot program, including any
11 activities conducted in partnership with
12 Federal agencies;
13 "(v) data and information regarding
14 each case known to the Administrator in
15 which one or more Small Business Devel-
16 opment Centers offered conflicting advice
17 or information regarding compliance with a
18 Federal or State regulation to one or more
19 small business concerns;
20 "(vi) any recommendations for im-
21 provements in the regulation of small busi-
22 ness concerns; and
23 "(vii) a list of regulations identified
24 by the Administrator, after consultation
25 with the Small Business and Agriculture

1 Regulatory Enforcement Ombudsman, as
2 being most burdensome to small business
3 concerns, and recommendations to reduce
4 or eliminate the burdens of such regula-
5 tions.
6 "(e) ELIGIBILITY.—
7 "(1) IN GENERAL.—A Small Business Develop-
8 ment Center shall be eligible to receive assistance
9 under the pilot program only if the center is certified
10 under section 21(k)(2).
11 "(2) WAIVER.—With respect to a Small Busi-
12 ness Development Center seeking assistance under
13 the pilot program, the Administrator may waive the
14 certification requirement set forth in paragraph (1)
15 if the Administrator determines that the center is
16 making a good faith effort to obtain such certifi-
17 cation.
18 "(3) EFFECTIVE DATE.—This subsection shall
19 take effect on October 1, 2001.
20 "(f) SELECTION OF PARTICIPATING STATE PRO-
21 GRAMS.—
22 "(1) IN GENERAL.—In consultation with the
23 Association and giving substantial weight to the As-
24 sociation's recommendations, the Administrator shall
25 select the Small Business Development Center pro-

1 grams of 2 States from each of the following groups
2 of States to participate in the pilot program estab-
3 lished by this section:
4 "(A) Group 1: Maine, Massachusetts, New
5 Hampshire, Connecticut, Vermont, and Rhode
6 Island.
7 "(B) Group 2: New York, New Jersey,
8 Puerto Rico, and the Virgin Islands.
9 "(C) Group 3: Pennsylvania, Maryland,
10 West Virginia, Virginia, the District of Colum-
11 bia, and Delaware.
12 "(D) Group 4: Georgia, Alabama, North
13 Carolina, South Carolina, Mississippi, Florida,
14 Kentucky, and Tennessee.
15 "(E) Group 5: Illinois, Ohio, Michigan, In-
16 diana, Wisconsin, and Minnesota.
17 "(F) Group 6: Texas, New Mexico, Arkan-
18 sas, Oklahoma, and Louisiana.
19 "(G) Group 7: Missouri, Iowa, Nebraska,
20 and Kansas.
21 "(H) Group 8: Colorado, Wyoming, North
22 Dakota, South Dakota, Montana, and Utah.
23 "(I) Group 9: California, Guam, Hawaii,
24 Nevada, and Arizona.

1 "(J) Group 10: Washington, Alaska,
2 Idaho, and Oregon.
3 "(2) DEADLINE FOR SELECTION.—The Admin-
4 istrator shall make selections under this subsection
5 not later than 60 days after promulgation of regula-
6 tions under section 5 of the National Small Business
7 Regulatory Assistance Act of 2001.
8 "(g) MATCHING NOT REQUIRED.—Subparagraphs
9 (A) and (B) of section 21(a)(4) shall not apply to assist-
10 ance made available under the pilot program.
11 "(h) DISTRIBUTION OF GRANTS.—
12 "(1) IN GENERAL.—Each State program se-
13 lected to receive a grant under subsection (f) in a
14 fiscal year shall be eligible to receive a grant in an
15 amount not to exceed the product obtained by
16 multiplying—
17 "(A) the amount made available for grants
18 under this section for the fiscal year; and
19 "(B) the ratio that—
20 "(i) the population of the State; bears
21 to
22 "(ii) the population of all the States
23 with programs selected to receive grants
24 under subsection (f) for the fiscal year.

1 "(2) MINIMUM AMOUNT.—Notwithstanding
2 paragraph (1), the minimum amount that a State
3 program selected to receive a grant under subsection
4 (f) shall be eligible to receive under this section in
5 the fiscal year shall be $200,000.
6 "(i) EVALUATION AND REPORT.—Not later than 3
7 years after the establishment of the pilot program, the
8 Comptroller General of the United States shall conduct
9 an evaluation of the pilot program and shall transmit to
10 the Administrator and to the Committees on Small Busi-
11 ness of the Senate and House of Representatives a report
12 containing the results of the evaluation along with any rec-
13 ommendations as to whether the pilot program, with or
14 without modification, should be extended to include the
15 participation of all Small Business Development Centers.
16 "(j) AUTHORIZATION OF APPROPRIATIONS.—
17 "(1) IN GENERAL.—There are authorized to be
18 appropriated to carry out this section $5,000,000 for
19 fiscal year 2002 and each fiscal year thereafter.
20 "(2) LIMITATION ON USE OF OTHER FUNDS.—
21 The Administrator may carry out the pilot program
22 only with amounts appropriated in advance specifi-
23 cally to carry out this section.".

1 **SEC. 5. PROMULGATION OF REGULATIONS.**

2 After providing notice and an opportunity for com-
3 ment and after consulting with the Association (but not
4 later than 180 days after the date of the enactment of
5 this Act), the Administrator shall promulgate final regula-
6 tions to carry out this Act, including regulations that
7 establish—

8 (1) priorities for the types of assistance to be
9 provided under the pilot program;

10 (2) standards relating to educational, technical,
11 and support services to be provided by participating
12 Small Business Development Centers;

13 (3) standards relating to any national service
14 delivery and support function to be provided by the
15 Association under the pilot program;

16 (4) standards relating to any work plan that
17 the Administrator may require a participating Small
18 Business Development Center to develop; and

19 (5) standards relating to the educational, tech-
20 nical, and professional competency of any expert or
21 other assistance provider to whom a small business
22 concern may be referred for compliance assistance
23 under the pilot program.

1 **SEC. 6. PRIVACY REQUIREMENTS APPLICABLE TO SMALL**
2 **BUSINESS DEVELOPMENT CENTERS.**

3 Section 21(c) of the Small Business Act (15 U.S.C.
4 648(c)) is amended by adding at the end the following:
5 "(9) PRIVACY REQUIREMENTS.—
6 "(A) IN GENERAL.—No Small Business
7 Development Center, consortium of Small Busi-
8 ness Development Centers, or contractor or
9 agent of a Small Business Development Center
10 shall disclose the name or address of any indi-
11 vidual or small business concern receiving as-
12 sistance under this section without the consent
13 of such individual or small business concern, ex-
14 cept that—
15 "(i) the Administrator shall require
16 such disclosure if ordered to do so by a
17 court in any civil or criminal enforcement
18 action commenced by a Federal or State
19 agency; and
20 "(ii) if the Administrator considers it
21 necessary while undertaking a financial
22 audit of a Small Business Development
23 Center, the Administrator shall require
24 such disclosure for the sole purpose of un-
25 dertaking such audit.

1 "(B) REGULATIONS.—The Administrator
2 shall issue regulations to establish standards for
3 requiring disclosures during a financial audit
4 under subparagraph (A)(ii).".

Passed the House of Representatives October 2, 2001.

Attest: JEFF TRANDAHL,
Clerk.

Legislative Overview of
HR 2666, the
"Vocational and Technical Entrepreneurship Development Act"
Introduced by Congressman Brady (D-PA)

From House Report 107-212

The Act establishes a three-year pilot project providing Small Business Administration ('SBA') grants to SBDCs for technical assistance to secondary schools and post-secondary vocational and technical schools, to develop and implement curricula to promote vocational and technical entrepreneurship.

The purpose of the Act is to assist the development and implementation of curricula that will encourage skilled persons to start their own businesses and to provide needed entrepreneurial training to support the success of such businesses. The Act provides the necessary entrepreneurial support to expand the career opportunities for persons receiving vocational training and, thus use their newly gained skills to become the owners of their own business.

In the grant application, an applicant must outline its goals and objectives for the assistance to be provided and the educational curricula to be implemented with grant funds. Grants are to be awarded to State small business development centers to carry out the pilot program on a statewide basis. It is the desire of the Committee that State small business development centers pay particular focus to helping underserved subcenters in the area of vocational and technical entrepreneurship training. Those SBDCs receiving grants under the pilot program must report to SBA within 18 months from receiving the grant monies, detailing how all the grant funds were used. In addition, not later than March 31, 2004, SBA must conduct an evaluation of the program and report to Congress the results of each such evaluation.

The Act designates the Association of Small Business Development Centers as a clearinghouse for the collection of information and expertise regarding vocational and technical entrepreneurship programs. The minimum amount of a grant under the pilot program is $200,000 and the annual authorization for the 3-year pilot program is $7 million.

This legislation passed the House on 10/21/01.

Section by Section

Section 1. Short title

The section establishes the short title as the 'Vocational and Technical Entrepreneurship Development Act of 2001.'

Section 2. Vocational and Technical Entrepreneurship Development Program

This section amends the Small Business Act by adding a new section at the end entitled:

`Vocational and Technical Entrepreneurship Development Program.'

Subsection (a) defines the terms: `Administrator,' `program,' and `small business development center.'

Subsection (b) requires the Administrator to establish a program by which the Administrator makes grants to SBDCs to enable such centers to provide technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship. The Committee expects that SBDCs will work in cooperation with secondary schools and post secondary vocational and technical schools to develop and implement curricula designed to promote entrepreneurial skills.

Subsection (c) establishes the minimum grant that the Administrator can make with respect to the pilot program as not less than $200,000.

Subsection (d) requires the Administrator to design a grant application that must be completed by any SBDC seeking a grant. The application shall include information regarding the applicant's goals and objectives for the educational programs to be funded. The Committee expects that the Administrator will consider the quality of the proposed programs in determining which centers are selected to participate in the pilot program in order to provide a baseline by which the Administrator and the Committee can evaluate the success of the program.

Subsection (e) requires the Administrator, as a condition of each grant under the program, that the grantee shall transmit to the Administrator, within 18 months after receipt of grant funds, a report describing how the grant funds were used. The Committee encourages these reports to include whether each center met its goals and how the center met its objectives.

Subsection (f) permits the Administrator to enter into a cooperative agreement or contract with a small business development center receiving a grant under this section to provide additional assistance that furthers the purposes of the program.

Subsection (g) requires the Administrator to transmit a report to Congress, no later than March 31, 2004, that evaluates the program.

Subsection (h) requires the Administrator to select an association established under section 21(a)(3)(A) of the Small Business Act to act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs. In each fiscal year, 2002, 2003, and 2004, the Administrator shall provide additional assistance to the association selected to serve as the clearinghouse. The Committee expects that the Association of Small Business Development Centers will act as the repository and clearinghouse.

Subsection (i) authorizes $7,000,000 be appropriated for each of the fiscal years 2002, 2003, and 2004. The funds are to remain available until expended.

107TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT 107–212

VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT ACT OF 2001

SEPTEMBER 21, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MANZULLO, from the Committee on Small Business, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2666]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 2666) to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the Act is to provide entrepreneurial assistance to persons with vocational and technical skills to help them own and operate their own businesses rather than being employees of companies in which they have no direct ownership interest. A further purpose of the Act is to stimulate economic activity, to create new job opportunities, and to help tradesmen and women realize the full potential of a free enterprise system.

Specifically, H.R. 2666 aims to utilize the existing network of small business development centers who will then provide technical assistance to secondary schools, or to post secondary vocational or technical schools, for the development and implementation of curricula that can help students enrolled in these institutions to obtain entrepreneurial skills.

89–006

Small businesses are the cornerstone of the U.S. economy, accounting for more than 50 percent of this Nation's private gross domestic product. The small business community represents 99.7 percent of all employers. In 1996, small businesses produced approximately 75 percent of the 2.5 million new jobs and for the one-year period from 1995–1996, small businesses created over 78 percent of the net new jobs. As the statistics establish, the small business sector of the economy is a proven job-creator. It is anticipated that implementation of the Act will add to and reinforce the central role of small businesses in the economic fabric of this Nation.

NEED FOR LEGISLATION

Many persons within the United States have technical and vocational skills, but do not have business experience or training to help them succeed in the small business community. Presently, small businesses employ mechanics, technicians, carpenters, plumbers, machinists, and draftsmen. However, the Act is needed to provide the essential training and business counseling necessary for these skilled workers to start their own businesses, to survive in the business world, and to grow.

In providing these needed services, the Act relies upon the present infrastructure of the Small Business Development Centers ("SBDCs" or "centers"), which has proven by past performance to deliver services that greatly enhance the chances of a small business surviving as compared with those who do not receive such assistance.

The centers provide a focal point for studies, research, and counseling concerning the managing, financing, and operation of small business enterprises, including information retrieval, coordination of federal and state government services, and referral to experts. Therefore, the Committee believes that the Small Business Development Center Program can serve a greater number of potential entrepreneurs, by working with institutions, both at the secondary and post secondary level, that provide vocational and technical education.

Historically, the centers have focused on counseling entrepreneurs or small business owners that are in a position to either start their own business or take it to the next level. However, a limited number of centers have begun sharing their knowledge to provide vocational students, or "future entrepreneurs," the proper business tools while learning their trade skills. Thus, these "future entrepreneurs" can begin their own business venture after graduating with their new skills instead of working for someone else, perhaps at a large firm.

The Committee believes that the centers can provide an effective mechanism for dispensing information and advice on developing and implementing entrepreneurial curricula. Therefore, the Committee believes that a targeted pilot program to determine how assistance with entrepreneurial curricula by selected small business development centers will operate is a preferred strategy to generally requiring such assistance be provided by all centers throughout the entire system.

OVERVIEW OF THE ACT

The Act establishes a three-year pilot project providing Small Business Administration ("SBA") grants to SBDCs for technical assistance to secondary schools and post-secondary vocational and technical schools, to develop and implement curricula to promote vocational and technical entrepreneurship.

The purpose of the Act is to assist the development and implementation of curricula that will encourage skilled persons to start their own businesses and to provide needed entrepreneurial training to support the success of such businesses. The Act provides the necessary entrepreneurial support to expand the career opportunities for persons receiving vocational training and, thus use their newly gained skills to become the owners of their own business.

In the grant application, an applicant must outline its goals and objectives for the assistance to be provided and the educational curricula to be implemented with grant funds. Grants are to be awarded to State small business development centers to carry out the pilot program on a statewide basis. It is the desire of the Committee that State small business development centers pay particular focus to helping underserved subcenters in the area of vocational and technical entrepreneurship training. Those SBDCs receiving grants under the pilot program must report to SBA within 18 months from receiving the grant monies, detailing how all the grant funds were used. In addition, not later than March 31, 2004, SBA must conduct an evaluation of the program and report to Congress the results of each such evaluation.

The Act designates the Association of Small Business Development Centers as a clearinghouse for the collection of information and expertise regarding vocational and technical entrepreneurship programs. The minimum amount of a grant under the pilot program is $200,000 and the annual authorization for the 3-year pilot program is $7 million.

COMMITTEE ACTION

HEARING ON H.R. 2666

On Thursday, July 19, 2001, the Subcommittee on Workforce, Empowerment and Government Programs of the Committee on Small Business held a hearing, commencing at 10:00 a.m., to hear testimony with regard to H.R. 203, H.R. 2538, and H.R. 2666. The Subcommittees received the testimony of eight witnesses. Panel 1 included: Congressman John E. Sweeney of New York, Congressman Robert A. Brady of Pennsylvania, and Congressman Tom Udall of New Mexico. Panel 2 included: Mr. Thomas G. Grumbles, CIH, Vice President, American Industrial Hygiene Association; Mr. Donald T. Wilson, President and CEO, Association of Small Business Development Centers; Mr. Rudolph Cartier, Jr., Small Business Ombudsman, State of New Hampshire; Mr. Christian Conroy, Associate State Director, Pennsylvania Small Business Development Centers; and, Mr. Leonard Lopez, Sun Valley Express, Navajo Reservation, Shiprock, New Mexico.

The hearing showed that some SBDCs were already providing, on a limited basis, the services which are the subject of the three

bills. The hearing evidenced a need for expansion of the services to other locations.

CONSIDERATION OF H.R. 2666

At 10:05 a.m. on August 1, 2001, the Committee on Small Business met to consider and report four bills, that included H.R. 2666. The bill H.R. 2666 was introduced. Chairman Manzullo asked unanimous consent that H.R. 2666 be considered as read and open for amendment at any point. No amendments were offered. Chairman Manzullo then moved to pass H.R. 2666 and to report it to the House. At 10:38 a.m., a quorum being present, the Committee passed the bill, H.R. 2666, and ordered it reported.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section establishes the short title as the "Vocational and Technical Entrepreneurship Development Act of 2001."

Section 2. Vocational and Technical Entrepreneurship Development Program

This section amends the Small Business Act by adding a new section at the end entitled: "Vocational and Technical Entrepreneurship Development Program."

Subsection (a) defines the terms: "Administrator," "program," and "small business development center."

Subsection (b) requires the Administrator to establish a program by which the Administrator makes grants to SBDCs to enable such centers to provide technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship. The Committee expects that SBDCs will work in cooperation with secondary schools and post secondary vocational and technical schools to develop and implement curricula designed to promote entrepreneurial skills.

Subsection (c) establishes the minimum grant that the Administrator can make with respect to the pilot program as not less than $200,000.

Subsection (d) requires the Administrator to design a grant application that must be completed by any SBDC seeking a grant. The application shall include information regarding the applicant's goals and objectives for the educational programs to be funded. The Committee expects that the Administrator will consider the quality of the proposed programs in determining which centers are selected to participate in the pilot program in order to provide a baseline by which the Administrator and the Committee can evaluate the success of the program.

Subsection (e) requires the Administrator, as a condition of each grant under the program, that the grantee shall transmit to the Administrator, within 18 months after receipt of grant funds, a report describing how the grant funds were used. The Committee encourages these reports to include whether each center met its goals and how the center met its objectives.

Subsection (f) permits the Administrator to enter into a cooperative agreement or contract with a small business development cen-

ter receiving a grant under this section to provide additional assistance that furthers the purposes of the program.

Subsection (g) requires the Administrator to transmit a report to Congress, no later than March 31, 2004, that evaluates the program.

Subsection (h) requires the Administrator to select an association established under section 21(a)(3)(A) of the Small Business Act to act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs. In each fiscal year, 2002, 2003, and 2004, the Administrator shall provide additional assistance to the association selected to serve as the clearinghouse. The Committee expects that the Association of Small Business Development Centers will act as the repository and clearinghouse.

Subsection (i) authorizes $7,000,000 be appropriated for each of the fiscal years 2002, 2003, and 2004. The funds are to remain available until expended.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 2001.

Hon. DONALD MANZULLO,
Chairman, Committee on Small Business,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2666, the Vocational and Technical Entrepreneurship Development Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ken Johnson.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2666—Vocational and Technical Entrepreneurship Development Act of 2001

Summary: H.R. 2666 would require the Small Business Administration (SBA) to issue grants to small business development centers (SBDCs) so that they can help schools design curricula for teaching vocational and technical entrepreneurship. SBDCs are jointly funded by the private sector, schools, and federal, state, and local governments to provide management assistance to current and prospective small business owners.

H.R. 2666 would authorize the appropriation of $7 million a year during the 2002–2004 period to fund the new program. CBO estimates that implementing the bill would cost $20 million over the 2002–2006 period, assuming the appropriation of the authorized amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 2666 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit state and local governments by providing grants to promote vocational and technical entrepreneurship. Any

costs to entities receiving grants under this program would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2666 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit). For this estimate, CBO assumes that the authorized amounts will be appropriated for each year and that outlays will follow historical spending patterns for similar SBA programs.

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
Changes in spending subject to appropriation:					
Authorization level	7	7	7	0	0
Estimated outlays	5	6	7	2	(1)

1. Less than $500,000.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 2666 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state and local governments by providing grants to promote vocational and technical entrepreneurship. Any costs to entities receiving grants under this program would be incurred voluntarily.

Estimate prepared by: Federal Cost: Ken Johnson. Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMMITTEE ESTIMATE OF COSTS

Pursuant to the Congressional Budget Act of 1974, the Committee estimates that the amendments to the Small Business Act contained in H.R. 2666 will increase appropriations by no more than $7 million annually over the next three fiscal years, i.e., 2002 through 2004. Furthermore, pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementation of H.R. 2666 will not significantly increase the administrative costs. This concurs with the estimate of the Congressional Budget Office.

OVERSIGHT FINDINGS

In accordance with clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been made by the Committee on Government Reform with respect to the subject matter contained in H.R. 2666.

In accordance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 2666 are contained in the descriptive portions of this report.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, Clause 18 of the Constitution of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * * * *

SEC. 36. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(2) PROGRAM.—The term "program" means the program established under subsection (b).

(3) SMALL BUSINESS DEVELOPMENT CENTER.—The term "small business development center" means a small business development center described in section 21.

(b) ESTABLISHMENT.—In accordance with this section, the Administrator shall establish a program under which the Administrator shall make grants to small business development centers to enable such centers to provide technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship.

(c) MINIMUM GRANT.—The Administrator may make no grant under the program for an amount less than $200,000.

(d) APPLICATION.—Each small business development center seeking a grant under the program shall submit to the Administrator an application in such form as the Administrator may require. The application shall include information regarding the applicant's goals and objectives for the educational programs to be assisted.

(e) REPORT TO ADMINISTRATOR.—The Administrator shall make a condition of each grant under the program that not later than 18 months after the receipt of the grant the recipient shall transmit to the Administrator a report describing how the grant funds were used.

(f) COOPERATIVE AGREEMENTS AND CONTRACTS.—The Administrator may enter into a cooperative agreement or contract with a small business development center receiving a grant under this section to provide additional assistance that furthers the purposes of this section.

(g) EVALUATION OF PROGRAM.—Not later than March 31, 2004, the Administrator shall transmit to Congress a report containing an evaluation of the program.

(h) CLEARINGHOUSE.—

(1) SELECTION.—Before making grants under the program, the Administrator shall select an association established pursuant to section 21(a)(3)(A) to act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs.

(2) ADDITIONAL ASSISTANCE AUTHORIZED.—In each fiscal year in which grants are made under the program, the Administrator shall provide additional assistance to the association selected under paragraph (1) to carry out the functions described in such paragraph.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2002, 2003, and 2004. Such sums shall remain available until expended.

SEC. [36] *37.* All laws and parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency.

ADDITIONAL VIEWS

Democrats understand that to start a new, successful business, one must have sound management and organizational skills. The necessity of increasing productivity, the difficulties in recruiting qualified workers from a shrinking labor force, and the importance of devising ways to meet workers' benefits, will challenge small business owners. The future of the economy depends on the continued emergence of successful small businesses.

Small business owners continue to demonstrate their extraordinary capacity to mobilize resources and generate new jobs. There are more than 20 million small businesses in the U.S., and each year, nearly a quarter of a million new ones are started. However, the majority of entrepreneurs start without receiving some form of formal business training. Many are drawn into starting their own business by the possibility of being their own boss, but to be a successful entrepreneur, one must be prepared.

In addition, many of today's workers participating in career training or vocational education, fail to obtain the necessary entrepreneurial skills that can assist them to grow and develop their own business venture successfully. This legislation will give them the tools they need to balance their trade-skill with sound business practices.

The pilot program established by H.R. 2666 utilizes the existing network of the Small Business Administration's Small Business Development Center (SBDC) Program. SBDCs awarded grants will utilize their statewide network of service centers to partner with secondary schools, or postsecondary vocational or technical schools, in developing a cohesive curriculum on starting and operating a successful business venture.

The teacher of the secondary schools, or postsecondary vocational or technical schools, will use the curriculum developed through the partnership, to provide their students with entrepreneurial skills. In addition, the teacher can modify the training to provide assistance relevant to the particular industry sector for which the students are learning the skills.

By providing entrepreneurial knowledge at the same time workers are learning a trade-skill (e.g., mechanic, machinist or HVAC repair), career opportunities are expanded. Students not only become more employable, they can become a small business owner (e.g., auto repair service, machining and tooling business, or HVAC repair service). In addition, they become the employer, thus expanding the local job market, and revitalizing and developing the economic growth of the community.

H.R. 2666 will also enhance the productivity and strength of the overall SBDC Program. By expanding the number of potential entrepreneurs, the number of potential SBDC clients will also increase. It also enhances the effectiveness of current SBDC assist-

ance by offering entrepreneurial knowledge during the learning phase and before the initial entrepreneurial phase. After graduating from their career or vocational training, students will have the basic tools and understanding enabling future SBDC assistance to be more efficient and productive, thus increasing the rate of successful start-ups.

However, we feel the report language needs to emphasize that SBDCs will only work in partnership with secondary schools, or postsecondary vocational or technical schools, in developing and implementing the curricula and will not replace the teacher. SBDC resources should not be used to staff educational institutions. It is also important to emphasize that the curriculum will be implemented into the educational plan of secondary schools, or postsecondary vocational or technical schools, and not postsecondary educational institutions whose school curriculum already offers their own entrepreneurial or business classes.

In addition, SBDCs that are the most qualified, and with the most experience, should be given priority in awarding grants and the opportunity to expand on their current efforts. This will ensure the quality and success of the overall pilot project, especially if there are experienced programs that can ensure and produce positive results. If these results are realized, these successes may then be used as examples for the expansion of the program to other areas, where such programs have not been implemented.

One of the purposes for establishing this program as a pilot, and not as a permanent program, is to build upon the current practices, experience and innovation of SBDCs to expand the scope of their services. If proven successful, the pilot could then be made permanent and also expanded, as stated earlier, to other areas in further need. To do otherwise, stifles or discourages innovation and discriminates against those SBDCs that have taken that first step. If SBDCs develop new, innovative ways to assist entrepreneurs, they should be encouraged to expand and develop that assistance further.

Lastly, we believe that fees must not be charged in conjunction with this pilot project. Although the SBDCs are permitted to charge fees under limited circumstances, one-on-one counseling is provided free of charge. Current and past Administrations have attempted to implement a fee-for-service structure for SBDC services that are, and have been, historically free. However, implementing such a structure would not only be detrimental to the pilot program, but to the overall SBDC program. Democrats have consistently opposed such a move and will continue to oppose future attempts.

If the SBDC program is to serve a greater number of potential entrepreneurs, the centers must transfer their knowledge and expertise to those educational systems having the capacity to reach and to educate a much larger segment of those potential entrepreneurs. The centers are authorized to provide assistance of many types, but they do not have an organized program for providing the assistance established under H.R. 2666. We believe that under the pilot program, the centers can provide an effective mechanism for dispensing information and advice on developing entrepreneurial

curricula. Therefore, we support this pilot program and the entrepreneurial assistance it will provide.

NYDIA M. VELÁZQUEZ.

○

IIB

107TH CONGRESS
1ST SESSION

H. R. 2666

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2001

Received; read twice and referred to the Committee on Small Business and Entrepreneurship

AN ACT

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vocational and Technical Entrepreneurship Development Act of 2001".

SEC. 2. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following new section:

"SEC. 36. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Small Business Administration.

"(2) ASSOCIATION.—The term 'Association' means the association of small business development centers recognized under section 21(a)(3)(A).

"(3) PROGRAM.—The term 'program' means the program established under subsection (b).

"(4) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'small business development center'

1 means a small business development center described
2 in section 21.
3 "(5) STATE SMALL BUSINESS DEVELOPMENT
4 CENTER.—The term 'State small business develop-
5 ment center' means a small business development
6 center from each State selected by the Adminis-
7 trator, in consultation with the Association and giv-
8 ing substantial weight to the Association's rec-
9 ommendations, to carry out the program on a state-
10 wide basis in such State.
11 "(b) ESTABLISHMENT.—In accordance with this sec-
12 tion, the Administrator shall establish a program under
13 which the Administrator shall make grants to State small
14 business development centers to enable such centers to
15 provide, on a statewide basis, technical assistance to sec-
16 ondary schools, or to postsecondary vocational or technical
17 schools, for the development and implementation of cur-
18 ricula designed to promote vocational and technical entre-
19 preneurship.
20 "(c) MINIMUM GRANT.—The Administrator may
21 make no grant under the program for an amount less than
22 $200,000.
23 "(d) APPLICATION.—Each State small business de-
24 velopment center seeking a grant under the program shall
25 submit to the Administrator an application in such form

1 as the Administrator may require. The application shall
2 include information regarding the applicant's goals and
3 objectives for the educational programs to be assisted.

4 "(e) REPORT TO ADMINISTRATOR.—The Adminis-
5 trator shall make a condition of each grant under the pro-
6 gram that not later than 18 months after the receipt of
7 the grant the recipient shall transmit to the Administrator
8 a report describing how the grant funds were used.

9 "(f) COOPERATIVE AGREEMENTS AND CON-
10 TRACTS.—The Administrator may enter into a cooperative
11 agreement or contract with any State small business devel-
12 opment center receiving a grant under this section to pro-
13 vide additional assistance that furthers the purposes of
14 this section.

15 "(g) EVALUATION OF PROGRAM.—Not later than
16 March 31, 2004, the Administrator shall transmit to Con-
17 gress a report containing an evaluation of the program.

18 "(h) CLEARINGHOUSE.—The Association shall act as
19 a clearinghouse of information and expertise regarding vo-
20 cational and technical entrepreneurship education pro-
21 grams. In each fiscal year in which grants are made under
22 the program, the Administrator shall provide additional
23 assistance to the Association to carry out the functions
24 described in this subsection.

1 "(i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 $7,000,000 for each of fiscal years 2002, 2003, and 2004.
4 Such sums shall remain available until expended.".

Passed the House of Representatives October 2, 2001.

Attest: JEFF TRANDAHL,

Clerk.

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

JUL 23 2002

OFFICE OF THE ADMINISTRATOR

The Honorable John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to express the U.S. Small Business Administration's (SBA) concerns with S. 2483, the National Small Business Regulatory Assistance Act and H.R. 2666, the Vocational and Technical Entrepreneurship Development Act. These bills mirror legislation acted on in the House on which we expressed our views in a letter to Chairman Manzullo on September 28, 2001. SBA has not had sufficient time to analyze the other bills that the Committee is considering but will provide comments at a later date.

S. 2483 would establish a pilot program under which Small Business Development Centers (SBDCs) would provide regulatory compliance assistance to small business concerns. SBA's concerns include expecting SBDCs to provide expert guidance on a broad range of Federal regulatory questions would be at best duplicative of assistance provided by the regulatory agencies throughout the executive branch and could result in the provision of contradictory or erroneous guidance that would harm small businesses and expose the SBDCs to liability. In addition, S. 2483 would provide the SBDC Association, a non-governmental entity, with a role in promulgation of regulations and criteria mandated under the legislation.

SBA recognizes the importance of providing assistance to small businesses to help them comply with regulatory issues and believes that SBDCs can continue to play an important role in bringing small businesses together with subject matter experts in the regulatory agencies who can assist them with their particular problems. The President has made regulatory compliance an important part of his small business agenda and if the Committee chooses to review the actions undertaken by agencies in response to the President's guidance we believe it would indicate no need for legislation.

H.R. 2666 would establish a vocational and technical entrepreneurship development program to provide grants to SBDCs to assist secondary schools or postsecondary vocational or technical schools in developing curricula to promote entrepreneurship. SBA's technical assistance programs are designed to assist small businesses and entrepreneurs, not schools. This is an educational development program more properly administered by the Department of Education. Section 18 of the Act

Federal Recycling Program Printed on Recycled Paper

prohibits SBA from duplicating activities of other agencies. The Department of Education already has programs headed by the Assistant Secretary for Vocational and Adult Education, which offer support in designing high quality vocational-technical programs.

Sincerely,

Hector V. Barreto
Administrator

Cc: The Honorable Christopher S. Bond

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

SEP 28 2001

Honorable Don Manzullo
Chairman
Committee on Small Business
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter is to express the concerns of the U. S. Small Business Administration (SBA) on H.R. 203, the National Small Business Regulatory Compliance Assistance Act; H.R. 2666, the Vocational and Technical Entrepreneurship Development Program Act of 2001; and H.R. 2538, the Native American Small Business Development Act. While the SBA recognizes the need and importance of providing assistance to small businesses and helping them comply with these issues, we do not support these amendments to the Small Business Act (Act).

H.R. 203 would establish a pilot program under which Small Business Development Centers (SBDCs) would provide regulatory compliance assistance to small business concerns. SBA recognizes the importance of providing assistance to small businesses to help them comply with regulatory issues and believes that SBDCs can continue to play a useful role in bringing small businesses together with subject matter experts in the regulatory agencies who can assist them with their particular problems. However, expecting SBDCs to provide such expert guidance themselves, on a broad range of Federal regulatory questions would be at best duplicate assistance provided by the regulatory agencies, and could result in the provision of contradictory or erroneous guidance that would harm small businesses and expose the SBDCs to liability.

H.R. 2666 would establish a vocational and technical entrepreneurship development program, to provide grants to SBDCs to assist secondary schools or postsecondary vocational or technical schools in developing curricula to promote entrepreneurship. SBA's technical assistance programs are designed to assist small businesses and entrepreneurs, not schools. This is an educational development program more properly administered by the Department of Education. Section 18 of the Act prohibits SBA from duplicating activities of other agencies. The Department of Education already has programs, headed by the Assistant Secretary for Vocational and Adult Education, which offer support in designing high quality vocational-technical programs.

Federal Recycling Program Printed on Recycled Paper

H.R. 2538 would establish a three-year pilot program for SBDC outreach to Native Americans, Native Hawaiians and Native Alaskans. This program would offer grants for outreach, development and enhancement of startups and expansions of small businesses owned by Indian tribe members, Native Alaskans and Native Hawaiians. The SBA supports activities designed to improve opportunities for success for business owners owned by Native Americans. However, SBA believes the funding and authority currently made available to SBDCs is sufficient to provide the services contemplated for the Native American, Native Hawaiian and Native Alaskan populations. Furthermore, SBA has a Native American initiative in place and the proposed program is duplicative of the Department of Treasury's Community Development Financial Institutions Fund, Native American Program.

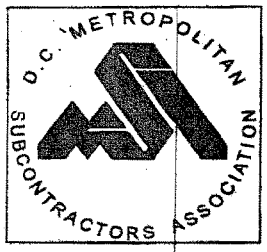
The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's Programs.

Thank you for the opportunity to express our concerns regarding these proposed amendments to the Small Business Act.

Sincerely,

Kaaren Johnson Street
Associate Deputy Administrator for
Entrepreneurial Development

Richard Spence
Assistant Administrator for
Congressional and Legislative Affairs



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STAFF
NANCY A. ECKERT
Executive Director
GENERAL COUNSEL
JOEL S. RUBINSTEIN
Bell, Boyd & Lloyd

August 14, 2002

Senator John Kerry — Via FAX
Chair, Senate Committee on Small Business and Entrepreneurship
428 A Russell Senate Office Building
Washington, DC 20015

Dear Senator Kerry:

Thank you for the opportunity to submit our comments for the record with regard to The Vocational and Technical Entrepreneurship Development Program Act of 2001.

We are the Washington DC metropolitan area chapter of the American Subcontractors Association (ASA). ASA is a non-profit trade association representing subcontractors and specialty trade contractors. It is the only construction association that concentrates exclusively on the business issues effecting all subcontractors and specialty trade contractors. Our membership includes both union and non-union firms from virtually every trade specialty.

We fully support the initiatives contained in HR 2666. As a direct result of the decreasing supply of quality employees and skilled labor, our organization has become increasingly involved in the issue of workforce development. We have spent a great deal of time, particularly in Northern Virginia, working with our public schools to encourage students to pursue careers in the construction trades.

However, we are finding this is only the first step. Our membership is made up of small businessmen who all too often became successful by trial and error. Anything that can be done to improve both the opportunities and chances for success of the next generation would be a great asset.

Although the amounts of money proposed in the bill are relatively low, we believe they would be a good investment in the future of America's construction industry.

We thank the Committee for its support and look forward to both participating in and benefiting from this program once it is signed into law.

Sincerely,

Nancy Eckert

Nancy Eckert
Executive Director

9105 A OWENS DRIVE UNIT #102 MANASSAS PARK, VIRGINIA 20111
Phone: 703-366-3666 Fax:703-366-2646
Website: www.dcmsa.com E-mail: dcmsa@aol.com

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Carol Rinderer
Services and Events Coordinator

Jan Stash
Southern Arizona Chapter Director

Ron Logan
Legal Counsel
Logan & Geonas, PLC

Norman Miller
Legislation
Miller, LaSota & Peters, PLC

August 15, 2002

SENT VIA FAX TO (202) 224-5619

The Honorable John F. Kerry
Chairman
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP
United States Senate
SR-428A Russell Senate Office Building
Washington DC 20510

Attn: Jaime Hyatt, Hearing Clerk

Dear Chairman Kerry,

I am writing in support of the National Small Business Regulatory Assistance Act of 2002 (S-2483), for the record of the Committee's Roundtable discussion of this legislation.

We represent nearly 3,000 Arizona businesses with over 100,000 employees. These small businesses (less than 100 employees), need help with compliance with government regulations.

Federal regulations, not to mention state and local government regulations, are so numerous and often so complicated that they can cause a real burden to small business owners. These businesses, unlike larger enterprises, some with compliance departments, cannot easily absorb the cost of regulatory compliance.

Although some Federal government agencies have developed regulatory compliance assistance programs, small businesses are hesitant to contact regulatory enforcement agencies about regulatory issues. Our small business members, as well as over thousands of other small businesses need the ability to obtain confidential advice from a trusted source of counseling, such as their local Small Business Development Center (SBDC).

We urge the Committee to move this important legislation to the full Senate in time to be enacted into law this session.

Sincerely,

Thomas A. Gunn, Jr.

Thomas A. Gunn, Jr.
Executive Director
Member, Arizona Governor's Vocational Education Advisory Council
Member, Arizona Business Education Advisory Council

Phoenix Office: 4130 East Van Buren Street, Ste. 150 • Phoenix, AZ 85008 • 602/265-4563 • Fax: 602/265-3681
Tucson Office: 4444 East Grant Road, Ste. 119 • Tucson, AZ 85712 • 520/327-0222 • Fax: 520/327-0440

July 29, 2002

The Honorable Mike Crapo
304 North 8th Street, Room 338
Boise, Idaho 83702

Dear Senator Crapo:

We are writing to respond to the U.S. Small Business Administration's (SBA) concerns with S. 2483, the National Small Business Regulatory Assistance Act. SBA listed two concerns in their letter to The Honorable John F. Kerry, Chairman of the Committee of Small Business and Entrepreneurship. The first concern was that the Act would duplicate assistance provided by regulatory agencies. The second concern was that contradictory or erroneous guidance might be provided opening up the SBDCs to liability.

Idaho, we recognized the potential for these problems early on and created a partnership of agencies to deliver assistance to small businesses. This eliminates duplication and contradiction and therefore, the concerns expressed by SBA. Should this Act pass and Idaho be chosen as a pilot state, the regulatory agencies in Idaho would all work together (the Idaho Department of Environmental Quality, the BSU OSHA outreach Program, and the state and federal tax agencies, among others) to establish the most efficient and reliable way to deliver this assistance. There is certainly enough need that agencies do not need to compete. This letter demonstrates our commitment to collaboration.

Small businesses face an enormous quantity of complex regulations and are under-served with assistance. The passage of this act and the creation of a coordinated assistance effort will greatly enhance small businesses' ability to understand and comply with these regulations. This in turn, allows them to focus on building strong businesses that support a robust economy.

The Idaho SBDC has proven experience in bringing together regulatory agencies to solve small business problems. The RIB (Reducing Idaho's Bureaucracy) Committee; composed of representatives of local, state and federal regulatory agencies; conceived the idea of a website to guide small businesses through the complex maze of regulatory requirements. The Idaho SBDC lead the effort to create the Idaho Business Solutions website (www.idahobizhelp.org), launched in June 2001 to address this problem. The site uses a simple 5-question "wizard" to create a list of applicable regulations for a particular business. The business can then find links to forms, agency websites, and contact information. The website was one of eight winners (out of 350 applicants) of the Council of State Government's Innovation Award.

We are confident the outcome of this program will be greater regulatory compliance and reduced costs for small businesses. If you have any questions, you may contact Jim Hogge by phone at 208.426.3799 or via e-mail at jhogge@boisestate.edu.

Sincerely,

Jim Hogge, State Director
Idaho Small Business Development Center

C. Stephen Allred, Director
Department of Environmental Quality

Lisa Hill, Program Director
Idaho OSHA Consultation Program

Boise State University 1910 University Drive, Boise, ID 83725-1655 *phone* 208.426.1640 *1.800.225.3815* *fax* 208.426.3877 **www.idahosbdc.org**
The Idaho SBDC is a partnership of Idaho's institutes of higher education, the private sector, and the U. S. Small Business Administration.

July 23, 2002

Hon. John F. Kerry, Chairman
Committee on Small Business and Entrepreneurship
U.S. Senate—304 Russell
Washington, D.C. 20510

Dear Senator Kerry:

I serve as chair of the National Steering Committee of the Small Business Ombudsman/Small Business Assistance Program, established by Section 507 of the Clean Air Act Amendments of 1990. I write in support of S. 2483.

In ten years of helping small business meet the requirements of the Clean Air Act, our programs have assisted millions of businesses. We have learned some key lessons:

1. Regulatory programs are not usually designed with small business in mind. Their complexity, cost in dollars, and demands on time can quickly become an onerous burden which contributes to noncompliance. It is essential that these businesses be provided the technical assistance necessary to continue to make their contribution to our economy while complying with the law.

2. Small business assistance programs at the state and local levels are developing critical expertise in various areas of regulation. Resources are too scarce to waste through duplication of expertise and service delivery. Effective partnerships must be created to leverage available resources to reach as many small businesses as possible.

3. Each state and territory has its own blend of needs and effective response. Any model developed must include the flexibility necessary to create and deliver that response.

I believe that S. 2483 offers a tremendous opportunity to provide critical support to state and local programs to build innovative and exciting partnerships which will deliver effective and efficient assistance to small business. The "507 network" I represent stands ready to work closely with the Small Business Development Center program to extend our combined assistance expertise to the businesses which need, and deserve, it.

Thank you for your leadership on this issue.

Sincerely,

Mark R. Shanahan, Executive Director
Clean Air Resource Center
50 W. Broad St., #1901
Columbus, OH 43215
614-728-3540

8990 Burke Lake Road, 2nd Floor Burke, VA 22015 Tel: 703/764-9850 Fax: 703/764-1234 E-Mail: info@asbdc-us.org

July 16, 2002

The Honorable John F. Kerry
Chairman, Committee on Small Business and Entrepreneurship
United States Senate
VIA FACSIMILE: 202-224-5619

Dear Mr. Chairman:

I am writing in strong support of the National Small Business Regulatory Assistance Act, S. 2483. As you know, this legislation establishes a pilot program to award competitive grants to 20 selected Small Business Development Centers (SBDCs) to provide regulatory compliance assistance to small businesses. With these grants, the SBDCs would form partnerships with Federal compliance programs, provide education and training, and offer free compliance counseling to small businesses. The legislation also provides privacy protections to small business owners who seek assistance under the pilot program, and also extends privacy guarantees to all small businesses that seek assistance from their local SBDCs.

SBDCs are in a unique position to provide regulatory assistance to small businesses. With more than 1,000 centers across the nation, the SBDC network assists about 600,000 small business owners each year in face-to-face counseling and training, in addition to hundreds of thousands more small businesses that SBDCs assist through the mail, telephone, fax-on-demand and e-mail.

Small business owners try to comply with government regulations. Many small businesses are family-owned and operated. Small business employees are frequently family or friends of the employer. Small business owners do not want their employees working in unsafe workplaces, and they want their children to grow up in a clean and healthy environment. However, small business owners may not know what is expected of them and how they can comply with regulations in a cost-effective manner.

Legislation similar to S. 2483 was passed by the House of Representatives by voice vote on October 2 of last year, with strong, bi-partisan support from the House Committee on Small Business. S. 2483, which you are cosponsoring, includes changes to the House-passed bill that are supported by the ASBDC. These changes include technical corrections, an improved funding formula to distribute grants more evenly among grant recipients, improved study provisions, and clarification of privacy protections. I sincerely appreciate your openness in working with the ASBDC on these changes, and I want to commend John DaSilva of your staff for his work on this bill.

S. 2483 recognizes the very real need of small and medium-size employers for regulatory compliance assistance. Thank you for your leadership on this important small business development legislation.

Sincerely,

Don Wilson
President

Statement by Diane Wolverton
Chairman of the Board, Association of Small Business Development Centers (ASBDC), and State Director, Wyoming Small Business Development Center (SBDC)

For the Senate Committee on Small Business and Entrepreneurship Roundtable
"Promoting Small Business Regulatory Compliance and Entrepreneurial Education – the Role of the SBDC Network"

August 1, 2002

Mr. Chairman, Ranking Member Bond, Senator Enzi and members of the Committee, my name is Diane Wolverton. I am Chairman of the Board of the Association of Small Business Development Centers (ASBDC), and State Director of the Wyoming Business Development Center.

I want to thank Senator Enzi for submitting my statement for the record of the Committee's roundtable discussion on the National Small Business Regulatory Assistance Act (S. 2483), and the Vocational and Technical Entrepreneurship Development Act (H.R. 2666). The ASBDC strongly supports both of these important small business development bills.

The National Small Business Regulatory Assistance Act recognizes the very real need of small businesses for regulatory assistance. This legislation will establish a pilot program to award competitive grants to 20 selected Small Business Development Centers (SBDCs) to provide regulatory compliance assistance to small businesses. With these grants, the SBDCs will form partnerships with Federal compliance programs, provide education and training, and offer free counseling to small businesses. The legislation will also provide important privacy protections to small business owners who seek assistance under the pilot program, and it will extend privacy guarantees to all small businesses that seek assistance from their local SBDCs.

Small business owners try to comply with government regulations. Many small businesses are family-owned and operated. Small business employees are frequently family or friends of the employer. Small business owners do not want their employees working in unsafe workplaces, and they want their children to grow up in a clean and healthy environment. However, small business owners may not know what is expected of them and how they can comply with regulations in a cost-effective manner.

Since 1996, Federal agencies have adopted more than 20,000 major and minor rules. The Code of Federal Regulations fills 200 volumes with more than 134,000 pages, and occupies about 19 feet of shelf space. The quantity and complexity of regulatory requirements places a serious burden on small businesses, which often struggle just to run their businesses in an increasingly competitive marketplace.

Smaller firms cannot spread the overhead cost of paperwork and staff needed to find one's way through complicated government regulations. The average annual cost of regulation, paperwork

and tax compliance for businesses with fewer than 500 employees is $1,600 higher per employee than it is for firms with more than 500 employees.

SBDCs are in an excellent position to provide regulatory assistance to small businesses. With more than 1,000 centers across the nation, the SBDC network assists about 600,000 small business owners every year through face-to-face counseling and training, in addition to assisting hundreds of thousands more small businesses through the mail, telephone, fax-on-demand and e-mail.

The National Small Business Regulatory Assistance Act was passed by this Committee on July 24, with nearly unanimous support from members of this Committee, from both sides of the aisle. It is now essential that the National Small Business Regulatory Assistance Act reach the Senate floor in time to be enacted into law before Congress adjourns. It would be a travesty if this legislation were to die in the Senate as it did in the 106th Congress. Similar legislation passed in the House of Representatives by voice vote on October 2 of last year, with strong, bi-partisan support. There is no reason why this legislation should not receive the same bi-partisan and quick action in the Senate.

The second bill that the Committee is considering, the Vocational and Technical Entrepreneurship Development Act (H.R. 2666), will establish a pilot grant program to enable SBDCs to provide technical assistance to secondary schools and postsecondary vocational and technical schools for the development and implementation of curricula to teach students how to start a business. It will also establish a clearinghouse for the collection of information and expertise regarding vocational and technical entrepreneurship programs.

Our nation's vocational and technical schools teach technical skills to thousands of individuals every year. However, though many of these graduates have an entrepreneurial disposition and the desire to start their own businesses, they graduate from vocational and technical schools without any training in starting and running a small business. The result is that they are discouraged from starting their own businesses, or they fail in their efforts to start their own businesses because they lack the knowledge of what it takes to run a profitable company.

The SBDC network has more than two decades of experience helping thousands of Americans turn their dreams into successful businesses. H.R. 2666 will give the SBDC network the resources it needs to help vocational and technical schools develop cohesive curricula on small business management.

Again, I thank the Committee and Senator Enzi for allowing me to submit this statement for the record of the Roundtable on these two important small business development bills. I urge the Senate to move expeditiously to enact these bi-partisan bills this year, and not let them die when Congress adjourns for the year.

ComplianceAssistance Centers

"Innovative Solutions for your Environmental Challenges"

Access the Compliance Assistance Centers at **www.assistancecenters.net**

The U.S. Environmental Protection Agency has sponsored partnerships with industry, academic institutions, environmental groups, and other federal and state agencies to establish Compliance Assistance Centers for ten industry and government sectors.

Use these resources to help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply.

CCAR-GreenLink®

Helps the automotive service and repair community identify flexible, common sense ways to comply with environmental requirements. *www.ccar-greenlink.org*

ChemAlliance

Provides innovative Web site features to direct chemical manufacturers to information resources and plain-language compliance assistance material. *www.chemalliance.org*

Local Government Environmental Assistance Network (LGEAN)

Serves as a "first-stop-shop" by providing environmental management, planning, and regulatory information for local government officials, managers, and staff. *www.lgean.org*

National Agriculture Compliance Assistance Center (Ag Center)

Offers comprehensive easy-to-understand information on environmentally protective and agriculturally sound approaches to compliance. *www.epa.gov/agriculture*
(This is a government run center)

National Metal Finishing Resource Center (NMFRC)

Provides comprehensive environmental compliance, technical assistance, and pollution prevention information to the metal finishing industry. *www.nmfrc.org*

Paints and Coatings Resource Center

Provides regulatory compliance and pollution prevention information to organic coating facilities, industry vendors and suppliers, and others. *www.paint-center.org*

Printed Wiring Board Resource Center

Provides regulatory compliance and pollution prevention information to printed wiring board manufacturers, industry vendors and suppliers, and others. *www.pwbrc.org*

Printers' National Environmental Assistance Center (PNEAC)

Provides compliance and pollution prevention fact sheets, case studies, and training, as well as two e-mail discussion groups on technical and regulatory issues. *www.pneac.org*

Transportation Environmental Resource Center (TERC)

Provides compliance assistance information for each mode of transportation - air, shipping and barging, rail, and trucking. *www.transource.org*

Fed Site

Serves as the "first stop" for information about environmental laws and regulations that affect Federal departments and agencies. *www.www.epa.gov/fedsite*
(This is a government run center)

For more information, contact Tracy Back, 202-564-7076 or e-mail: back.tracy@epa.gov

Building on success

What do the Centers Provide?

The Centers help small business in specific sectors, local governments, and federal agencies by providing relevant environmental regulatory assistance in plain language. Visit the Centers for:

- Regulatory updates affecting your operations
- Sector-specific regulatory explanations
- Toll-free help lines
- Compliance tools
- E-mail update services
- Calendar of events
- Virtual facility tours
- On-line training opportunities
- Technologies and techniques databases
- Streaming videos on key environmental issues
- Pollution prevention tips and ideas
- Links to other assistance providers, vendors & suppilers
- Direct access to experts in the field

"I am made aware of topics that I normally would not be notified of for several months."

"Identified requirements that I was unaware of and information on different means to comply"

Are the Centers being used?

Businesses, local governments, federal agencies, and assistance providers are using the Centers to get answers to their compliance questions. In FY 2001, target audiences and the public visited the Centers more than 485,000 times, an increase of 19 percent from FY 2000. These visits included over 150,000 requests for web pages and targeted compliance documents.

Are Center Users Satisfied?

Center survey respondents expressed a high degree of satisfaction with Center services. 91% of the assistance provider community strongly agreed or agreed that the Centers helped them understand regulations that apply to a sector, local government, or federal facility. Likewise, 90% of the regulated community respondents strongly agreed or agreed that the Centers helped them understand applicable environmental requirements.

How Is Center Information Being Used?

Survey responses indicate that Center information is well used. In fact, 73% of the regulated entity respondents took one or more actions as a result of Center use. Actions ranged from contacting a regulatory agency, changing a process or practice to conducting a self audit.

Benefits are two-fold, both the regulated community saves money and the environment is improved. 69% of the survey respondents indicated a cost savings from actions taken as a result of using a Center. Furthermore, 85% of respondents indicated an environmental improvement from actions taken as a result of using a Center.

The Centers are being used - and use is on the rise. Through use, the Centers are helping the regulated community address environmental problems, save money, and make environmental improvements.

Visit the Centers as a "first stop" for sector-specific compliance assistance support. www.assistancecenters.net

Compliance Assistance Centers
Innovative Solutions To Environmental Problems

The U.S. Environmental Protection Agency (EPA) has sponsored partnerships with industry, academic institutions, environmental groups, and other agencies to launch ten sector-specific Compliance Assistance Centers (Centers) since 1996. Each Center addresses real world issues in language that speaks to the regulated entities. Through Internet Web sites, telephone assistance lines, fax-back systems, and e-mail discussion groups, the Centers are helping businesses, local governments, and federal facilities understand and comply with federal environmental requirements and save money through pollution prevention techniques.

Visit all Centers at <www.assistancecenters.net>.

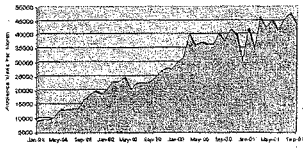
How is Center Satisfaction and Use Assessed?

The Centers use several methods to evaluate site activity, user satisfaction, and use of Center information. First, the Centers uniformly filter and evaluate their site activity data to reflect as closely as possible Center use by their intended audiences. Second, the Centers biannually survey their users.

Is Center Use Growing?

In FY 2001, the Centers were visited over 501,000 times by their target audiences and the public, and experienced over 1.5 million requests for web pages and compliance assistance documents. Currently, the Centers are visited over 1,467 times a day by businesses, farms, government, the public, and other assistance providers. Center activity for FY 1999 was double FY 1998 activity, and monthly activity increased over 50% in FY 2000 and 23% in FY 2001.

Center Activity: January 1998 to October 2001



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"Provided greater awareness of regulations and resources for helping me to come into compliance with regulations"
(survey respondent)

ComplianceAssistance Centers

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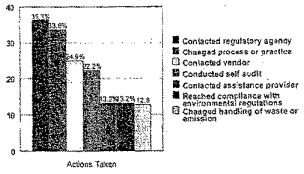
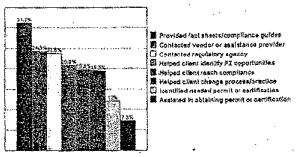
Regulated Community Takes Action



The assistance provider community is also making changes based on Center information. 71% of the assistance provider community respondents took one or more actions as a result of Center use. Actions included: providing fact sheets or compliance guides; helping clients identify pollution prevention opportunities; and helping clients change processes or practices.

Assistance Provider Community Takes Action



What Are The Benefits Of These Actions?

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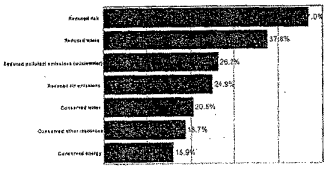
Environmental Improvements



In Summary:

- The Centers are serving their intended purpose: appropriate and current information is provided; and information increases understanding of applicable regulations.
- Center information is being put to good use. Respondents took action as a result of using the Centers, realized cost savings, and indicated environmental improvements.

For more information on Center results, visit <www.assistancecneters.net/results>

ComplianceAssistance Centers